

<b>Tab 1</b>	<b>CS/SB 78</b> by <b>EN, Rodriguez (CO-INTRODUCERS) Farmer</b> ; (Similar to H 00169) Public Financing of Construction Projects						
<b>Tab 2</b>	<b>SB 230</b> by <b>Gruters</b> ; (Identical to H 00131) Voter Registration Maintenance						
<b>Tab 3</b>	<b>CS/SB 328</b> by <b>JU, Brandes</b> ; (Compare to CS/H 00337) Courts						
754472	D	S		IS, Brandes	Delete everything after	04/08 09:40 AM	
<b>Tab 4</b>	<b>SB 622</b> by <b>Brandes (CO-INTRODUCERS) Diaz, Mayfield</b> ; (Similar to H 06003) Traffic Infraction Detectors						
664770	D	S		IS, Brandes	Delete everything after	04/08 09:45 AM	
<b>Tab 5</b>	<b>CS/SB 826</b> by <b>JU, Rouson</b> ; (Similar to CS/H 00347) Towing-storage Operator Liens						
<b>Tab 6</b>	<b>SB 1494</b> by <b>Perry</b> ; (Identical to H 06017) Small-scale Comprehensive Plan Amendments						
<b>Tab 7</b>	<b>SB 1610</b> by <b>Montford (CO-INTRODUCERS) Gainer, Broxson</b> ; Emergency Mitigation and Response						
<b>Tab 8</b>	<b>CS/SB 1730</b> by <b>CA, Lee</b> ; (Compare to CS/H 00207) Community Development and Housing						
611290	D	S	RCS	IS, Lee	Delete everything after	04/10 03:07 PM	
327506	—AA	S	WD	IS, Perry	btw L.86 - 87:	04/10 03:07 PM	
457232	—A	S	WD	IS, Perry	btw L.147 - 148:	04/10 03:07 PM	

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**INFRASTRUCTURE AND SECURITY**

**Senator Lee, Chair**  
**Senator Perry, Vice Chair**

**MEETING DATE:** Tuesday, April 9, 2019  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Lee, Chair; Senator Perry, Vice Chair; Senators Bean, Cruz, Hooper, Hutson, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 78</b> Environment and Natural Resources / Rodriguez (Similar H 169)	Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; providing for enforcement; requiring the department to publish such studies on its website, subject to certain conditions, etc.  EN 03/12/2019 Fav/CS IS 04/09/2019 Favorable AEG AP	Favorable Yeas 7 Nays 0
2	<b>SB 230</b> Gruters (Identical H 131)	Voter Registration Maintenance; Requiring supervisors of elections to enter into agreements with clerks of the circuit courts to receive specified information; requiring the Department of Highway Safety and Motor Vehicles to furnish monthly to the Department of State a list of persons who identified themselves as aliens; requiring the Department of State to compare the list with the statewide voter registration system and provide the names of registered voters who are aliens to the supervisors of elections of the counties in which the voters are registered, etc.  EE 03/20/2019 Favorable IS 04/09/2019 Favorable AP	Favorable Yeas 5 Nays 3
3	<b>CS/SB 328</b> Judiciary / Brandes (Compare CS/H 337, CS/H 639, CS/S 762, S 7072)	Courts; Authorizing certain Supreme Court justices to have an appropriate facility in their district of residence designated as their official headquarters; revising the appellate jurisdiction of the circuit courts; requiring sheriffs to coordinate with the board of county commissioners and the chief judge of the circuit on a comprehensive plan for the provision of security for trial court facilities, etc.  JU 02/04/2019 Fav/CS IS 04/09/2019 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 2

**COMMITTEE MEETING EXPANDED AGENDA**

Infrastructure and Security

Tuesday, April 9, 2019, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 622</b> Brandes (Similar H 6003, S 306)	Traffic Infraction Detectors; Repealing provisions relating to the installation and use of traffic infraction detectors to enforce specified provisions when a driver fails to stop at a traffic signal, provisions that authorize the Department of Highway Safety and Motor Vehicles, a county, or a municipality to use such detectors, and the distribution of penalties collected for specified violations; repealing provisions relating to the authorization to use traffic infraction detectors, etc.  IS 04/02/2019 Temporarily Postponed IS 04/09/2019 Temporarily Postponed ATD AP	Temporarily Postponed
5	<b>CS/SB 826</b> Judiciary / Rouson (Similar CS/H 347)	Towing-storage Operator Liens; Requiring certain lien notices be sent through a third-party notification service; revising requirements for the inspection and release of vehicles or vessels and personal property in such vehicles or vessels; requiring third-party notification services to apply to the Department of Highway Safety and Motor Vehicles for approval, etc.  JU 03/18/2019 Fav/CS IS 04/09/2019 Favorable AP	Favorable Yeas 8 Nays 0
6	<b>SB 1494</b> Perry (Identical H 6017)	Small-scale Comprehensive Plan Amendments; Removing the acreage limitations that apply to small-scale comprehensive plan amendments, etc.  CA 03/26/2019 Favorable IS 04/09/2019 Favorable RC	Favorable Yeas 8 Nays 0
7	<b>SB 1610</b> Montford	Emergency Mitigation and Response; Creating the Hurricane Michael Recovery Task Force adjunct to the Division of Emergency Management of the Executive Office of the Governor to make recommendations to the Legislature regarding additional assistance needed in the response to, recovery from, and mitigation of the effects of Hurricane Michael in certain areas; requiring the task force to review the effectiveness of local, state, and federal activities in those areas, as well as the availability of resources and any additional assistance needed, etc.  IS 04/09/2019 Favorable ATD AP	Favorable Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Infrastructure and Security

Tuesday, April 9, 2019, 10:00 a.m.—12:00 noon

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>CS/SB 1730</b> Community Affairs / Lee (Compare CS/H 207, CS/H 7103, S 144, S 1632)	Community Development and Housing; Prohibiting a county from adopting or imposing a requirement in any form relating to affordable housing which has specified effects; requiring that a county review the application for completeness and issue a certain letter within a specified period after receiving an application for approval of a development permit or development order; requiring a local government to credit certain contributions, constructions, expansions, or payments toward any other impact fee or exaction imposed by local ordinance for public educational facilities, etc.  CA 03/20/2019 Fav/CS IS 04/09/2019 Fav/CS RC	Fav/CS Yeas 7 Nays 1

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 78

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Public Financing of Construction Projects

DATE: April 8, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	<b>Fav/CS</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	_____	_____	<u>AEG</u>	_____
4.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 78 requires a public entity that commissions or manages a construction project within the coastal building zone using funds appropriated from the state to conduct a sea level impact projection study prior to commencing construction. The study must be conducted and submitted to the Department of Environmental Protection before construction can commence.

The bill requires the Department of Environmental Protection to adopt rules establishing standards for the studies, and the standards must include certain requirements for how the studies will be conducted and the information they must contain. The department must publish and maintain copies of the studies for ten years after receipt. The bill requires the department to adopt rules as necessary to administer the section. The bill authorizes the department to enforce the requirements of the section.

The bill authorizes the Department of Environmental Protection to bring a civil action in order to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure. The bill states that the section may not be construed to create a cause of action for damages.

The bill may have a positive but indeterminate fiscal impact on the private sector, and may have both negative and positive fiscal impacts on the government sector in indeterminate amounts. See the Fiscal Impact Statement heading for additional information. The bill takes effect July 1, 2019.

## II. Present Situation:

### Sea Level Rise

Sea level rise is an observed increase in the average local sea level or global sea level trend, and it is an effect of climate change.<sup>1</sup> The two major causes of global sea level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (such as glaciers and ice sheets) due to melting.<sup>2</sup> Between 1993 and 2017, the global mean sea level rose 3 inches.<sup>3</sup> A regional working group in southeastern Florida found that, when compared to the sea level in 1992, sea level is projected to rise: 6 to 10 inches by 2030, 14 to 34 inches by 2060, and 31 to 81 inches by 2100.<sup>4</sup> However, due to unpredictable factors such as Antarctic ice sheet instabilities, more extreme scenarios are possible.<sup>5</sup>

Rising sea levels result in flooding, as properties in coastal areas face inundation with salt water. In Florida, the area at risk from one foot of projected sea level rise contains more than 65,000 homes and 121,909 people.<sup>6</sup> The state's 35 coastal counties contain 76% of Florida's population and contribute 79% of the state's total economy as of 2012.<sup>7</sup> Coastal communities must find ways to adapt to sea level rise, so residents can protect themselves and their property. This adaptation will require careful planning and investment based on scientific projections of sea level rise and its impacts.<sup>8</sup>

Another related issue that threatens Florida's coastal areas is severe weather events, particularly hurricanes. Rising sea levels are expected to increase the threat of storm surge flooding during

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<sup>1</sup> DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018), available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Mar. 9, 2019); Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, 5, 16, 42, 48 (2015), available at [https://www.ipcc.ch/site/assets/uploads/2018/02/SYR\\_AR5\\_FINAL\\_full.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/SYR_AR5_FINAL_full.pdf) (last visited Mar. 10, 2019); U.S. Global Change Research Program, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 25, 30-31, 43 (2018), available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf) (last visited Mar. 10, 2019); Southeast Florida Regional Climate Change Compact, *Unified Sea Level Rise Projection, Southeast Florida*, 13, 33 (2015), <http://www.southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Mar. 10, 2019).

<sup>2</sup> DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018); NOAA, *Is Sea Level Rising?*, <https://oceanservice.noaa.gov/facts/sealevel.html> (last visited Mar. 10, 2019).

<sup>3</sup> NOAA, *Climate Change: Global Sea Level*, <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited Mar. 10, 2019).

<sup>4</sup> Southeast Florida Regional Climate Change Compact, *Unified Sea Level Rise Projection, Southeast Florida*, 4 (2015).

<sup>5</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 74 (2018).

<sup>6</sup> DEP, *Florida Adaptation Planning Guidebook*, iii (2018).

<sup>7</sup> *Id.*

<sup>8</sup> See Broward County, *Climate Toolbox, Sea Level Rise*, <http://www.broward.org/Climate/Toolbox/Pages/SeaLevelRise.aspx> (last visited Mar. 10, 2019).

hurricanes.<sup>9</sup> Furthermore, warmer waters yield stronger hurricanes with heavier rainfall, and scientists are studying how warming sea surface temperatures and related factors may increase the average intensity and rainfall rates of future hurricanes in the Atlantic Ocean.<sup>10</sup> Storms cause coastal erosion that removes sediment from the shore, causing sandy beaches to become narrower and lower in elevation.<sup>11</sup>

### Coastal Construction

The “mean high-water line” (MHWL) is the point on the shore marking the average height of the high waters over a 19-year period.<sup>12</sup> Above the mean high-water line is the “seasonal high-water line,” (SHWL) which accounts for variations in the local mean high water.<sup>13</sup> The seasonal high-water line is at a higher elevation than the mean high water line, and it is used to create 30-year erosion projections (30-YEP).<sup>14</sup>

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<sup>9</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 1482 (2018).

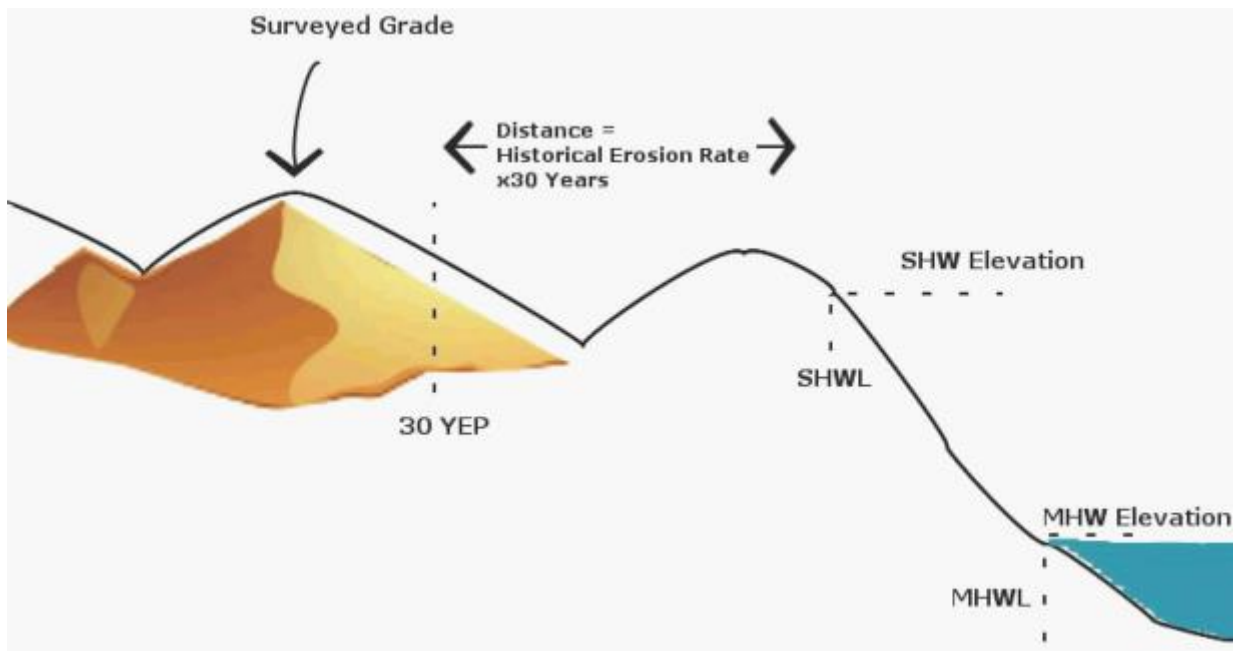
<sup>10</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 66, 74, 1482 (2018); see NOAA, Geophysical Fluid Dynamics Laboratory, *Global Warming and Hurricanes*, <https://www.gfdl.noaa.gov/global-warming-and-hurricanes/> (last visited Mar. 10, 2019).

<sup>11</sup> U.S. Geological Survey, Coastal Change Hazards: Hurricanes and Extreme Storms, *Beach Erosion*, <https://coastal.er.usgs.gov/hurricanes/coastal-change/beach-erosion.php> (last visited Mar. 10, 2019).

<sup>12</sup> Section 177.27(14), (15), F.S. “Mean high water” is defined as “the average height of the high waters over a 19-year period.” “Mean high-water line” is defined as “the intersection of the tidal plane of mean high water with the shore.”

<sup>13</sup> Section 161.053(5)(a)2, F.S. “Seasonal high-water line” is defined as “the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water”; DEP, *The Homeowner’s Guide to the Coastal Construction Control Line Program*, 6 (2017), available at [https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206\\_2012%20%28002%29\\_0.pdf](https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206_2012%20%28002%29_0.pdf) (last visited Mar. 9, 2019). DEP describes the seasonal high-water line as “essentially a ‘spring tide’ line”; NOAA, *What Are Spring and Neap Tides?*, <https://oceanservice.noaa.gov/facts/springtide.html>, (last visited Mar. 9, 2019). Spring tide, or King Tide, refers to the times during full or new moons when average tidal ranges are slightly larger.

<sup>14</sup> Fla. Admin. Code R. 62B-33.024. Figure 3 from DEP’s regulation is provided above. The MHWL is the mean high-water line. The SHWL is the seasonal high-water line. 30 YEP is the 30-year erosion projection.



A 30-year erosion projection is a projection of long-term shoreline recession occurring over a period of 30 years based on shoreline change information obtained from historical measurements.<sup>15</sup> The Department of Environmental Protection (DEP) makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis, when applications are submitted for certain coastal construction projects.<sup>16</sup> With certain exceptions, DEP or local governments may not issue permits for structures that, based on DEP's projections, will be seaward of the seasonal high-water line within 30 years after the date of application for the permit.<sup>17</sup>

### ***Coastal Construction Control Line***

DEP is the beach and shore preservation authority for the state.<sup>18</sup> Coastal construction projects may require permits from DEP depending on the location of the project.<sup>19</sup> The coastal construction control line is meant to define the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes.<sup>20</sup> Seaward of the coastal construction control line, new construction and improvements to existing structures require a coastal construction control line permit from DEP.<sup>21</sup> The line defines the landward limit of DEP's authority to regulate

<sup>15</sup> Fla. Admin. Code R. 62B-33.024(1).

<sup>16</sup> *Id.* Applicants may submit a proposed 30-year erosion projection for a property, certified by a professional engineer licensed in the state of Florida.

<sup>17</sup> Section 161.053(5), F.S.

<sup>18</sup> Section 161.101(2), F.S.

<sup>19</sup> See sections 161.041 and 161.053, F.S.

<sup>20</sup> Section 161.053, F.S.; Fla. Admin. Code R. 62B-33.005(1); DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 3 (2017), available at

[https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206\\_2012%20%28002%29\\_0.pdf](https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206_2012%20%28002%29_0.pdf) (last visited Mar. 9, 2019).

<sup>21</sup> DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 2 (2017).



construction.<sup>22</sup> DEP's Coastal Construction Control Line Program regulates structures and activities which can cause beach erosion, destabilize dunes, damage upland properties, or interfere with public access.<sup>23</sup>

Due to the potential environmental impacts and greater risk of hazards from wind and flood, the standards for construction seaward of the coastal construction control line are often more stringent than those applied in the rest of the coastal building zone.<sup>24</sup> Approval or denial of a permit application is based upon a review of factors such as the location of structures and their potential impacts on the surrounding area.<sup>25</sup> Coastal construction control lines are established by DEP on a county basis, but only after such a line has been determined necessary for protecting upland structures and controlling beach erosion, and after a public hearing has been held in the affected county.<sup>26</sup> Coastal construction control lines currently exist for large portions of Florida's coast.<sup>27</sup>

The Florida Building Code applies to structures seaward of a coastal construction control line.<sup>28</sup> The code's section relating to the coastal construction control line contains various standards for withstanding flooding and storm surges. The Florida Building Code also contains other standards for flood resistant construction that can be applied to increase coastal resiliency and contribute to sea level rise adaptation strategies.<sup>29</sup>

### ***Coastal Zone Protection***

The Coastal Zone Protection Act of 1985 (Act) was created to minimize the impacts that activities or construction near the coast have on Florida's coastal areas.<sup>30</sup> The Legislature intended the Act to impose strict construction standards in Florida's coastal areas to protect the natural environment, private property, and life.<sup>31</sup> The Act covers activities and construction within the "coastal building zone:" an area stretching landward from the seasonal high-water line, to a line 1,500 feet landward from the coastal construction control line.<sup>32</sup> The Act uses the term "construction" to mean both the act of construction and the result of construction, and defines construction as "the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land."<sup>33</sup>

<sup>22</sup> *Id.*

<sup>23</sup> DEP, *Coastal Construction Control Line Program*, <https://floridadep.gov/water/coastal-construction-control-line> (last visited Mar. 9, 2019).

<sup>24</sup> Fla. Admin. Code Ch. 62B-33.

<sup>25</sup> Fla. Admin. Code Ch. 62B-33.005.

<sup>26</sup> Section 161.053(2), F.S.

<sup>27</sup> DEP Geospatial Open Data, *Coastal Construction Control Lines (CCCL)*, [http://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923\\_2?geometry=-102.41%2C25.011%2C-60.596%2C31.77](http://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923_2?geometry=-102.41%2C25.011%2C-60.596%2C31.77) (last visited Mar. 9, 2019).

<sup>28</sup> Florida Building Code, *Section 3109 Structures Seaward of a Coastal Constructional Line*, <https://codes.iccsafe.org/content/FBC2017/chapter-31-special-construction> (last visited Mar. 9, 2019).

<sup>29</sup> South Florida Regional Planning Council, *Adaptation Action Areas, A Planning Guidebook for Florida's Local Governments*, 54 (2014) available at [https://floridadep.gov/sites/default/files/AAA-Planning-Guide\\_1.pdf](https://floridadep.gov/sites/default/files/AAA-Planning-Guide_1.pdf) (last visited Mar. 9, 2019).

<sup>30</sup> Sections 161.52-161.58, F.S.

<sup>31</sup> Section 161.53(1),(4), and (5), F.S.

<sup>32</sup> Section 161.54(1), F.S.

<sup>33</sup> Section 161.54(5), F.S.

The Act defines certain types of structures regulated within coastal building zones.<sup>34</sup> “Major structure[s]” are residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.<sup>35</sup> “Nonhabitable major structure[s]” are structures that people would generally not reside in, such as parking garages, drainage structures, electrical power plants, transmission lines, and underground storage tanks.<sup>36</sup> “Minor structure[s]” are structures that are considered to be expendable under wind, wave, or storm forces, and examples include walkways, bathhouses, fences, and uncovered paved areas.<sup>37</sup>

The Act generally requires construction to be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and preserve dune stability.<sup>38</sup> Nonhabitable major structures and minor structures must be designed to produce the minimum adverse impact on the beach and dune system.<sup>39</sup> Minor structures must be designed to produce the minimum adverse impact to adjacent properties and reduce the potential for water or wind-blown material.<sup>40</sup> The Act states that both DEP and local governments have the authority to adopt or enforce requirements that are as restrictive or more restrictive than these standards.<sup>41</sup>

The Act requires that, at or before the sale of real property located partially or totally seaward of the coastal construction control line, the seller must give prospective purchasers a certain written disclosure statement, which states that the property may be subject to coastal erosion and to federal, state, and local regulations that govern coastal property.<sup>42</sup> The disclosure statement indicates that DEP can provide additional information on whether significant erosion conditions are associated with the shoreline of the property being purchased.<sup>43</sup> The Legislature found it necessary to ensure that purchasers of interests in real property located in coastal areas are fully aware that such lands are subject to frequent and severe fluctuation.<sup>44</sup>

### ***State Programs***

DEP’s Florida Resilient Coastlines Program prepares coastal communities and habitats for the effects of climate change and sea level rise by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.<sup>45</sup> In 2018, the program was awarded funding for numerous projects providing assistance for coastal Florida communities.

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<sup>34</sup> Section 161.54(6), F.S.

<sup>35</sup> Section 161.54(6)(a), F.S.

<sup>36</sup> Section 161.54(6)(c), F.S.

<sup>37</sup> Section 161.54(6)(b), F.S.

<sup>38</sup> Section 161.55(3), F.S. The Act makes exceptions for certain structures such as piers, beach access ramps, or shore protection structures.

<sup>39</sup> Section 161.55(1), (2), F.S. Special requirements for flood proofing exist for sewage treatment plants, public water supply systems, and underground utilities. These are intended to prevent infiltration of surface water from a 100-year storm event, or else loss of function during submersion.

<sup>40</sup> Section 161.55(1), F.S.

<sup>41</sup> Section 161.56(1), F.S.

<sup>42</sup> Section 161.57(2), F.S.

<sup>43</sup> *Id.*

<sup>44</sup> Section 161.57(1), F.S.

<sup>45</sup> DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program> (last visited Mar. 9, 2019).

The program has published the Florida Adaptation Planning Guidebook to be used by local governments to develop and update adaptation plans for sea level rise.<sup>46</sup> The guidebook breaks down the sea level rise adaptation planning process into four steps:

- **Context:** delineating the geographic boundaries of the planning area, including the assets and structures contained therein, and engaging stakeholders.
- **Vulnerability Assessment:** an exposure analysis to determine how much sea level rise will occur and where, a sensitivity analysis to provide an inventory of community assets and features located in areas at risk, and assigning focus areas that will receive attention in adaptation strategies.
- **Adaptation Strategies:** assess adaptive capacities such as planning capabilities and fiscal capacity, prioritize adaptation needs, and identify adaptation strategies, which may include strategies in the following categories:
  - “Protection” strategies that are structurally defensive measures;
  - “Accommodation” strategies that alter the design of vulnerable structures so they can stay in place;
  - “Retreat” strategies; and
  - “Avoidance” strategies, which guide development away from areas subject to coastal hazards, by implementing policies or offering incentives.
- **Implementation:** survey funding options, create a schedule of activities, actions and actors, and monitor and evaluate adaptation strategies.<sup>47</sup>

Between 2011 and 2017, the Department of Economic Opportunity (DEO) led the Community Resiliency Initiative.<sup>48</sup> DEO is another agency that provides services and resources on adaptation planning related to sea level rise and coastal resiliency.<sup>49</sup> DEO emphasizes that adaptation strategies for coastal flooding and sea level rise are complimentary of each other, and should be applied based on a community’s particular needs and vulnerabilities.<sup>50</sup>

Florida’s water management districts must also evaluate and adjust to sea-level rise and increased flood risk. For example, the South Florida Water Management District is conducting studies and projects on sea level rise and evaluating strategies for flood protection.<sup>51</sup> In evaluating its flood protection services for the future, the district will identify at-risk structures and make improvements to infrastructure.<sup>52</sup>

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<sup>46</sup> DEP, *Florida Adaptation Planning Guidebook* (2018), available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Mar. 11, 2019).

<sup>47</sup> *Id.* at 1-61.

<sup>48</sup> DEP, *Community Resilience Initiative Documents*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/community-resilience-initiative-documents> (last visited Mar. 9, 2019).

<sup>49</sup> DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Mar. 9, 2019).

<sup>50</sup> *Id.*

<sup>51</sup> See Akintunde Owosina, South Florida Water Management District, Chief, Hydrology and Hydraulics Bureau, *Sea Level Rise Update Flood Protection Level of Service Program* (Nov. 8, 2018) available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/18672> (last visited Mar. 10, 2019).

<sup>52</sup> *Id.* at 12.

### *Local Governments*

Florida's coastal local governments are required to have a coastal management element in their comprehensive plans.<sup>53</sup> These coastal management elements must have redevelopment components that accomplish the following:

- Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
- Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.
- Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in Florida.
- Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.
- Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053, F.S., be consistent with ch. 161, F.S.
- Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.<sup>54</sup>

Florida's Community Planning Act authorizes local governments to establish an "adaptation action area" designation in their comprehensive plan, enabling them to develop policies to improve resilience and plan for sea level rise in coastal zones.<sup>55</sup> An adaptation action area is defined as "a designation in the coastal management element of a local government's comprehensive plan which identifies one or more areas that experience coastal flooding due to extreme high tides and storm surge, and that are vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure needs and adaptation planning."<sup>56</sup> Using this designation as a planning tool, local governments may improve coastal resiliency through new standards for activities and construction.

Some of Florida's local governments have begun integrating scientific sea level rise projections into their planning documents and policies.<sup>57</sup> As of 2015, over 15 local governments consider certain sea level rise projections in local plans such as comprehensive plans, local hazard mitigation strategies, and climate action plans.<sup>58</sup> Comprehensive plans of coastal local governments may include construction standards designed to adapt to future sea level rise: Monroe County uses setbacks for coastal construction that protect structures from long-term sea level rise; Key West considers increased heights for new construction in coastal hazard areas;

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<sup>53</sup> Section 380.24, F.S.; Section 163.3177(6)(g), F.S.

<sup>54</sup> Section 163.3178(2)(f), F.S.; *See* Ch. 2015-69, Laws of Fla.

<sup>55</sup> Section 163.3177(6)(g)(10), F.S.; *See* Ch. 2011-139, Laws of Fla.

<sup>56</sup> Section 163.3164(1), F.S.

<sup>57</sup> Southeast Florida Regional Climate Change Compact, *Integrating the Unified Sea Level Rise Projection into Local Plans*, 4, 6 (2016), available at <http://www.southeastfloridaclimatecompact.org/wp-content/uploads/2017/01/SLRGuidance-Doc.pdf> (last visited Mar. 10, 2019).

<sup>58</sup> *Id.* at 18-20.

and Broward County incorporates adaptation to sea level rise in the planning and construction of public infrastructure, which maximizes its use throughout its expected life span.<sup>59</sup>

### ***Flood Insurance***

The National Flood Insurance Program (NFIP) was created to offer federally subsidized flood insurance to property owners and to encourage land-use controls in floodplains.<sup>60</sup> The Federal Emergency Management Agency administers the NFIP.<sup>61</sup> The federal government will make flood insurance available within a community, if that community adopts and enforces a floodplain management ordinance to reduce future flood risk to new construction in floodplains.<sup>62</sup> Communities that participate in the NFIP's community rating system receive discounts on flood insurance premiums.<sup>63</sup>

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 161.551, F.S., establishing requirements for construction projects using state-appropriated funds within the coastal building zone.

The bill creates definitions for five terms, defining them as they are used in the section.

- “Coastal structure” is defined as “a major structure or nonhabitable major structure within the coastal building zone.” As used within the section, the term “coastal structure” would include structures located landward of the seasonal high-water line to a line 1,500 feet landward from the coastal construction control line, and would include residential, commercial, and public buildings that could substantially impact coastal zones, as well as major uninhabited structures such as parking garages, drainage structures, electrical power plants, transmission lines, and underground storage tanks.
- “Public entity” means “the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served by an appropriate governmental unit.”
- “SLIP study” is defined as “a sea level impact project study” as established by the Department of Environmental Protection (DEP) pursuant to requirements specified in the bill.
- “State-financed constructor” is defined as “a public entity that commissions or manages a construction project using funds appropriated from the state.”

<sup>59</sup> Thomas Ruppert and Alexander Stewart, *Summary and Commentary on Sea-Level Rise Adaptation Language in Florida Local Government Comprehensive Plans and Ordinances*, 10, 17, 19, 30 (2015), available at [https://www.flseagrant.org/wp-content/uploads/Ruppert-Updated-Sea-Level-Language\\_7.2.15.pdf](https://www.flseagrant.org/wp-content/uploads/Ruppert-Updated-Sea-Level-Language_7.2.15.pdf) (last visited Mar. 10, 2019).

<sup>60</sup> 42 U.S.C. § 4001 *et seq.*; FEMA, *The National Flood Insurance Program*, <https://www.fema.gov/national-flood-insurance-program> (last visited Mar. 8, 2019).

<sup>61</sup> 44 C.F.R. §§ 59-80; *see* FEMA, *National Flood Insurance Program: Laws and Regulations*, <https://www.fema.gov/national-flood-insurance-program-laws-regulations> (last visited Mar. 8, 2019).

<sup>62</sup> FEMA, *National Flood Insurance Program, Program Description*, (Aug. 1, 2002), available at [https://www.fema.gov/media-library-data/20130726-1447-20490-2156/nfipdescrip\\_1\\_.pdf](https://www.fema.gov/media-library-data/20130726-1447-20490-2156/nfipdescrip_1_.pdf) (last visited Mar. 8, 2019).

<sup>63</sup> FEMA, *Fact Sheet: Community Rating System* (2017), available at [https://www.fema.gov/media-library-data/1507029324530-082938e6607d4d9eba4004890dbad39c/NFIP\\_CRS\\_Fact\\_Sheet\\_2017\\_508OK.pdf](https://www.fema.gov/media-library-data/1507029324530-082938e6607d4d9eba4004890dbad39c/NFIP_CRS_Fact_Sheet_2017_508OK.pdf) (last visited Mar. 9, 2019).

- “Substantial flood damage” is defined to mean “flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.”

The bill requires DEP to create regulations establishing the standards for a sea level impact projection study (SLIP study). DEP’s standards must require state-financed constructors, at a minimum, to do all of the following for conducting a SLIP study:

- Utilize a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study;
- Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less. The assessment must:
  - Take into account potential sea level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less;
  - Provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk;
  - Use and consider available scientific research and generally accepted industry practices;
  - Provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less; and
  - Analyze potential public safety and environmental impacts resulting from damage to the coastal structure including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.
- Provide alternatives for the coastal structure’s design and siting, including discussion of how such alternatives would affect the potential public safety and environmental impacts assessed in the study, as well as the risks and costs associated with maintaining, repairing, and constructing the coastal structure.

DEP is authorized to require in its standards for a SLIP study that a professional engineer sign off on the study.

The bill requires DEP to publish and maintain a copy of all SLIP studies it receives. The SLIP studies must be published on DEP’s website for a period of at least 10 years following receipt. However, the bill requires DEP to redact, prior to publication, any portion of a SLIP study containing information that is exempt from Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., which provide for access to public records.

The bill’s definition of “state-financed constructor” applies only to government entities that are commissioning or managing a construction project. The bill requires state-financed constructors to conduct a SLIP study pursuant to DEP’s standards. The state-financed constructor is solely responsible for ensuring that the study meets the standards established by DEP. The bill prohibits a state-financed constructor from commencing construction without:

- Conducting a SLIP study meeting the standards established by DEP.
- Submitting the SLIP study to DEP. If a project is building multiple coastal structures, the state-financed constructor may conduct and submit one SLIP study for the entire project.
- Receiving notification from DEP that the study was received by DEP and published on DEP’s website for at least 30 days.

If a state-financed constructor begins construction of a coastal structure without first submitting a SLIP study and receiving notification of DEP's approval of the study, then DEP is authorized to institute a civil action. Such civil action may be brought to: seek injunctive relief to cease further construction of the coastal structure; enforce compliance with s. 161.551, F.S., or rules adopted pursuant to it; or, if the coastal structure has been completed or substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure. The bill states that s. 161.551, F.S. may not be construed to create a cause of action for damages.

DEP is required to adopt rules as necessary to administer the section. DEP is authorized to enforce the requirements of the section.

**Section 2** states that the act shall take effect on July 1, 2019.

#### **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:

The bill requires procedures that identify long-term risks to coastal structures, and potentially avoid some of the large costs of mitigating and dealing with future damage to, or even loss of, coastal structures. These coastal structures may be used or owned by residents or private businesses. Therefore, the bill may have a positive, indeterminate impact on the private sector.

**C. Government Sector Impact:**

The bill would require DEP to promulgate and administer new regulations. Implementing the requirements in the bill may cause DEP to incur additional costs.

Requiring public entities to provide additional studies when conducting construction projects may result in an indeterminate, negative fiscal impact in the short-term for the cost of the required studies and any associated delays in project construction. However, the bill requires procedures that identify risks and potentially avoid damage and loss of coastal structures that are constructed, at least in part, using funds appropriated from the state. This may result in state funds being used for coastal structures that have less risk of damage over time, or coastal structures that may remain undamaged for a longer period of time. Therefore, the bill may result in a positive, indeterminate impact on the government sector in the long-term.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 161.551 of the Florida Statutes.

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

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

**CS by Environment and Natural Resources Committee on March 12, 2019:**

- Adds the definition of “public entity”.
- Changes the definition of “state-financed constructor” to mean “a public entity that commissions or manages” a construction project using state-appropriated funds.
- Removes the requirement that DEP approve the SLIP study as properly conducted.
- Specifies that the state-financed constructor is solely responsible for ensuring that the SLIP study meets DEP’s standards.
- Authorizes DEP to require in its standards for a SLIP study that a professional engineer must sign off on the study.
- Specifies that s. 161.551 may not be construed to create a cause of action for damages.
- Changes the requirement that DEP enforce the requirements of the section to an authorization that DEP may enforce the requirements of the section.



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.

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By the Committee on Environment and Natural Resources; and  
Senator Rodriguez

592-02964-19

201978c1

1 A bill to be entitled  
2 An act relating to public financing of construction  
3 projects; creating s. 161.551, F.S.; defining terms;  
4 prohibiting state-financed constructors from  
5 commencing construction of certain structures in  
6 coastal areas without first conducting a sea level  
7 impact projection study; requiring the Department of  
8 Environmental Protection to develop by rule a standard  
9 for such studies; providing for enforcement; requiring  
10 the department to publish such studies on its website,  
11 subject to certain conditions; requiring the  
12 department to enforce certain requirements and to  
13 adopt rules; providing an effective date.  
14  
15 Be It Enacted by the Legislature of the State of Florida:  
16  
17 Section 1. Section 161.551, Florida Statutes, is created to  
18 read:  
19 161.551 Public financing of construction projects within  
20 the coastal building zone.—  
21 (1) As used in this section, the term:  
22 (a) "Coastal structure" means a major structure or  
23 nonhabitable major structure within the coastal building zone.  
24 (b) "Public entity" means the state or any of its political  
25 subdivisions, or any municipality, county, agency, special  
26 district, authority, or other public body corporate of the state  
27 which is demonstrated to perform a public function or to serve a  
28 governmental purpose that could properly be performed or served  
29 by an appropriate governmental unit.

Page 1 of 4

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

592-02964-19

201978c1

30 (c) "SLIP study" means a sea level impact projection study  
31 as established by the department pursuant to subsection (3).  
32 (d) "State-financed constructor" means a public entity that  
33 commissions or manages a construction project using funds  
34 appropriated from the state.  
35 (e) "Substantial flood damage" means flood, inundation, or  
36 wave action damage resulting from a single event, such as a  
37 flood or tropical weather system, where such damage exceeds 25  
38 percent of the market value of the coastal structure at the time  
39 of the event.  
40 (2) A state-financed constructor may not commence  
41 construction of a coastal structure without:  
42 (a) Conducting a SLIP study that meets the requirements  
43 established by the department;  
44 (b) Submitting the study to the department; and  
45 (c) Receiving notification from the department that the  
46 study was received and that it has been published on the  
47 department's website pursuant to paragraph (5)(a) for at least  
48 30 days. The state-financed constructor is solely responsible  
49 for ensuring that the study submitted to the department for  
50 publication meets the requirements under subsection (3).  
51 (3) The department shall develop by rule a standard by  
52 which a state-financed constructor must conduct a SLIP study and  
53 may require that a professional engineer sign off on the study.  
54 At a minimum, this standard must require that a state-financed  
55 constructor do all of the following:  
56 (a) Use a systematic, interdisciplinary, and scientifically  
57 accepted approach in the natural sciences and construction  
58 design in conducting the study.

Page 2 of 4

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592-02964-19

201978c1

59 (b) Assess the flooding, inundation, and wave action damage  
 60 risks relating to the coastal structure over its expected life  
 61 or 50 years, whichever is less.

62 1. The assessment must take into account potential sea  
 63 level rise and increased storm risk during the expected life of  
 64 the coastal structure or 50 years, whichever is less.

65 2. The assessment must provide scientific and engineering  
 66 evidence of the risk to the coastal structure and methods used  
 67 to mitigate, adapt to, or reduce this risk.

68 3. The assessment must use and consider available  
 69 scientific research and generally accepted industry practices.

70 4. The assessment must provide the mean average annual  
 71 chance of substantial flood damage over the expected life of the  
 72 coastal structure or 50 years, whichever is less.

73 5. The assessment must analyze potential public safety and  
 74 environmental impacts resulting from damage to the coastal  
 75 structure including, but not limited to, leakage of pollutants,  
 76 electrocution and explosion hazards, and hazards resulting from  
 77 floating or flying structural debris.

78 (c) Provide alternatives for the coastal structure's design  
 79 and siting, and how such alternatives would impact the risks  
 80 specified in subparagraph (b)5. as well as the risk and cost  
 81 associated with maintaining, repairing, and constructing the  
 82 coastal structure.

83  
 84 If multiple coastal structures are to be built concurrently  
 85 within one project, a state-financed constructor may conduct and  
 86 submit one SLIP study for the entire project for publication by  
 87 the department.

Page 3 of 4

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

592-02964-19

201978c1

88 (4) If a state-financed constructor commences construction  
 89 of a coastal structure but has not complied with the SLIP study  
 90 requirement under subsection (2), the department may institute a  
 91 civil action in a court of competent jurisdiction to:

92 (a) Seek injunctive relief to cease further construction of  
 93 the coastal structure or enforce compliance with this section or  
 94 with rules adopted by the department pursuant to this section.

95 (b) If the coastal structure has been completed or has been  
 96 substantially completed, seek recovery of all or a portion of  
 97 state funds expended on the coastal structure.

98 (5) This section may not be construed to create a cause of  
 99 action for damages.

100 (6) The department:

101 (a) Shall publish and maintain a copy of all SLIP studies  
 102 submitted pursuant to this section on its website for at least  
 103 10 years after receipt. However, any portion of a study  
 104 containing information that is exempt from s. 119.07(1) and s.  
 105 24(a), Art. I of the State Constitution must be redacted by the  
 106 department before publication.

107 (b) Shall adopt rules as necessary to administer this  
 108 section.

109 (7) The department may enforce the requirements of this  
 110 section.

111 Section 2. This act shall take effect July 1, 2019.

Page 4 of 4

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

# THE FLORIDA SENATE APPEARANCE RECORD

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

4/9/19

Meeting Date

78

Bill Number (if applicable)

Topic Public Financing of Construction Projects

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Parkway, Ste 200

Phone (954) 465-1081

Street

Coconut Creek, FL

City

33066

State

Zip

Email cbowen@associatedbuilders.com

Speaking:  For  Against  Information

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

Representing Associated Builders and Contractors

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

4-9-19

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

78

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

Speaking:  For  Against  Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/09/19  
Meeting Date

SB 78  
Bill Number (if applicable)

Topic Public Financing of Construction Projects

Amendment Barcode (if applicable)

Name Holly Parker Curry

Job Title Florida Regional Manager

Address 1229 Mitchell Ave.  
Street

Phone 850-567-3393

Tallahassee FL 32303  
City State Zip

Email hparker@surfrider.org

Speaking:  For  Against  Information

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

Representing Surfrider Foundation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4-9-2019  
Meeting Date

78

Bill Number (if applicable)

Topic sea level rise

Amendment Barcode (if applicable)

Name Susan Colickman

Job Title Florida Director

Address PO Box 310

Phone 777-742-9003

Indian Rocks Bch FL 33785  
City State Zip

Email susan@cleanenergy.org

Speaking:  For  Against  Information

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

Representing Southern Alliance for Clean Energy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/2019

Meeting Date

78

Bill Number (if applicable)

Topic Public Finance Const.

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 176 N Mills

Phone 407 264 2001

Street

Orlando FL 32801

City

State

Zip

Email

Speaking:  For  Against  Information

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

Representing New Florida Majority

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/18

Meeting Date

SB 78

Bill Number (if applicable)

Topic Public Financing of Construction Projects

Amendment Barcode (if applicable)

Name Paul Owens

Job Title President, 1000 Friends of Florida

Address 308 N. Monroe St.,

Phone 850-222-6277

Tallahassee, FL

32301

Email powens@1000fof.org

City

State

Zip

Speaking: [X] For [ ] Against [ ] Information

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

Representing 1000 Friends of Florida

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

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-9-14

Meeting Date

~~78~~ 78

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name DAVID CULLER

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing SIERRA CLUB FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/09/2019

Meeting Date

0078

Bill Number (if applicable)

Topic PUBLIC FINANCING

Amendment Barcode (if applicable)

Name BETH ALVI

Job Title POLICY DIRECTOR

Address 308 N. MONROE

Phone

Street

TALLAHASSEE FL 32301

City

State

Zip

Email balvi@audubon.org

Speaking: [X] For [ ] Against [ ] Information

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

Representing

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

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4 1 9 / 2 0 1 9

Meeting Date

Topic \_\_\_\_\_

Bill Number 78  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG      FLORIDA      33705  
*City*                                      *State*                                      *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)

# APPEARANCE RECORD

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

4/9/19

Meeting Date

78

Bill Number (if applicable)

Topic Public FINANCING of Construction Projects

Amendment Barcode (if applicable)

Name JONATHAN WEBBER

Job Title Deputy Director

Address 1700 N. MONROE ST.

Phone 954 593-4449

Street

TALAHASSEE

City

FL

State

32303

Zip

Email JWEBBER@FCVOTERS.ORG

Speaking:  For  Against  Information

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

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Ethics and Elections

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BILL: SB 230

INTRODUCER: Senator Gruters

SUBJECT: Voter Registration Maintenance

DATE: April 8, 2019

REVISED: 03/20/19

---

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Roberts</u>	<u>EE</u>	<b>Favorable</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

---

**I. Summary:**

SB 230 requires each supervisor of elections (supervisor) to enter into an agreement with the clerk of the circuit court in his or her jurisdiction to receive, on a monthly basis, change-of-address information for jurors and potential jurors and a list of potential jurors who have identified themselves as aliens. Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number.

The bill also requires the Department of Highway Safety and Motor Vehicles (DHSMV) to furnish to the Department of State (DOS) a list of persons who have identified themselves as aliens. Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number. DOS must compare the list received from DHSMV with the information in the Florida voter registration system (FVRS). If DOS determines that a registered voter in the FVRS is an alien, it must provide the name of that voter to the supervisor for the county in which that voter is registered.

**II. Present Situation:**

**Department of State**

The Department of State<sup>1</sup> is headed by the Secretary of State (Secretary) who serves as Florida's chief election officer.<sup>2</sup> The Secretary is charged with a variety of responsibilities in his or her capacity as Florida's chief election officer, including:

- Obtaining and maintaining uniformity in the interpretation and implementation of the election laws;

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<sup>1</sup> Section 20.10(1), F.S.

<sup>2</sup> Section 97.012, F.S.

- Providing uniform standards for the proper and equitable implementation of the registration laws;
- Providing technical assistance to the supervisors of elections (supervisors) on voter education, election personnel training services, and voting systems; and
- Creating and administering a statewide voter registration system as required by the Help America Vote Act of 2002.<sup>3</sup>

### **Florida Voter Registration System**

The Secretary implements, operates, and maintains the Florida voter registration system (FVRS).<sup>4</sup> The FVRS is the official list of registered voters in the state and is required to contain the name and registration information of every legally registered voter in Florida.<sup>5</sup> Voter registration officials, such as supervisors, are provided secure access to the FVRS and may update the voter registration information contained therein.<sup>6</sup> DOS is prohibited from contracting with any other entity for the operation of the FVRS.<sup>7</sup>

### **Voter Eligibility**

Each supervisor is charged with ensuring that each voter registration application is processed in accordance with the law.<sup>8</sup> The Florida Election Code sets forth the reasons that a supervisor may deem a voter registration applicant ineligible.<sup>9</sup> Under current statutory requirements, an applicant may be ineligible based on any of the following:

- Failure to complete the voter registration application;
- The applicant is deceased;
- The applicant has been convicted of a felony<sup>10</sup> for which his or her civil rights have not been restored;
- The applicant has been adjudicated mentally incapacitated;
- The applicant is not 18 years old;
- The applicant is not a United States Citizen;
- The applicant is a fictitious citizen;
- The applicant has provided an address that is not his or her legal residence; or
- The applicant has provided a driver license number, Florida identification number, or the last four digits of a social security number that is not verifiable by DOS.<sup>11</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> Section 98.035(1), F.S.

<sup>5</sup> Section 98.035(2), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Section 98.035(3), F.S.

<sup>8</sup> Section 98.045(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> With the passage of Amendment 4 in 2018, Florida's Constitution now provides that, except for a conviction of murder or felony sex offense, disqualification from voting arising from a felony conviction terminates and voting rights are restored upon completion of all terms of sentence, including parole or probation. FLA. CONST., Art. VI, s. 4 (a) and (b).

<sup>11</sup> Section 98.045(1)(a)-(i), F.S.

### **Voter Registration List Maintenance**

Once registered, a voter may only be removed from the FVRS in the following limited circumstances:

- The voter is deceased;
- The voter has been convicted of a felony;<sup>12</sup>
- The voter has been judged mentally incapacitated;
- Pursuant to a prescribed registration list maintenance activity (see below), or
- The voter has requested in writing to be removed.<sup>13</sup>

### **Supervisor Voter Registration List Maintenance Activities**

Each supervisor, to protect the integrity of the electoral process, is required to conduct voter registration list maintenance at least every odd-numbered year.<sup>14</sup> The list maintenance program must be completed at least 90 days before any federal election, and all actions must be entered, tracked, and maintained in the FVRS.<sup>15</sup> The program must be uniform, nondiscriminatory,<sup>16</sup> and in compliance with federal election law.<sup>17</sup> Each supervisor must incorporate at least one of the following methods in his or her list maintenance program:

- Use of change of address information provided by the United States Postal Service through its licensees to identify registered voters whose addresses might have changed;
- Use of change of address information that is known from returned nonforwardable return-if-undeliverable mail sent to all registered voters in a county; or
- Use of change of address information that is known from returned nonforwardable return-if-undeliverable address confirmation requests mailed to every registered voter who has not voted in the last two years and who did not make any written request to update his or her registration record during that two-year period.<sup>18</sup>

A supervisor must change the registration records to reflect a new address if the supervisor receives change of address information from:

- One of the methods listed above;
- Jury notices returned to the courts and signed by the voter;
- The DHSMV; or
- From other sources which reveal that a registered voter's legal address might have changed.<sup>19</sup>

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<sup>12</sup> *Supra* note 10.

<sup>13</sup> Section 98.045(2)(a), F.S.

<sup>14</sup> Section 98.065(3), F.S.

<sup>15</sup> Section 98.065(3), F.S.; *see also* 52 U.S.C. s. 20507(c)(2)(A).

<sup>16</sup> The term "nondiscriminatory" applies to and includes persons with disabilities. Section 98.065(1), F.S.

<sup>17</sup> Section 98.065(1), F.S.

<sup>18</sup> Section 98.065(2), F.S.

<sup>19</sup> Section 98.065(4)(a), F.S.



The supervisor must then send the registered voter an address change notice.<sup>20</sup> If the supervisor receives information that a registered voter has moved his or her legal residence outside the state, the supervisor must send an address confirmation final notice to the registered voter at his or her new address.<sup>21</sup> Voters who are sent an address confirmation final notice who do not return the prepaid, preaddressed return form within 30 days or for whom the notice is returned as undeliverable are designated as inactive.<sup>22</sup> If the voter does not update his or her information by the second general election<sup>23</sup> after being designated as inactive, the voter's name must be removed from the FVRS.<sup>24</sup>

### **DOS Voter Registration List Maintenance Activities**

DOS is required to perform voter registration list maintenance activities to ensure the accuracy of the FVRS.<sup>25</sup> Specifically, DOS is required to identify:

- Duplicate registrations;<sup>26</sup>
- Deceased persons;<sup>27</sup>
- Persons adjudicated to be mentally incapacitated,<sup>28</sup>
- Persons convicted of a felony,<sup>29</sup> and
- Other ineligible voters contained in the FVRS.<sup>30</sup>

### **Duty of Agencies to Furnish Information to DOS**

Certain agencies are required to submit information to DOS in order to help identify ineligible voters.<sup>31</sup> The following chart lists the agencies required to submit information, the information required, and the frequency of the submissions.

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<sup>20</sup> *Id.*

<sup>21</sup> Section 98.065(4)(b), F.S.

<sup>22</sup> Section 98.065(4)(c), F.S.

<sup>23</sup> The Florida Constitution requires that a "general election" shall be held in each county on the first Tuesday after the first Monday in November of each even-numbered year. FLA. CONST., art. VI, s. 5; *see also* s. 97.021(16), F.S.

<sup>24</sup> Section 98.065(4)(c), F.S.

<sup>25</sup> Section 98.075(1), F.S.

<sup>26</sup> Section 98.075(2), F.S.

<sup>27</sup> Section 98.075(3), F.S.

<sup>28</sup> Section 98.075(4), F.S.

<sup>29</sup> Section 98.075(5), F.S. *Supra* note 10.

<sup>30</sup> Section 98.075(6), F.S.

<sup>31</sup> Section 98.093, F.S.

Agency	Frequency	Information Submitted
Department of Health	Monthly	List containing the name, address, date of birth, social security number, race, and sex of each deceased person 17 years of age or older
Clerk of the Circuit Court	Monthly	<ul style="list-style-type: none"> <li>• List of persons adjudicated mentally incapacitated with respect to voting during the preceding calendar month</li> <li>• List of those persons whose mental capacity with respect to voting has been restored during the preceding calendar month</li> <li>• List of those persons who have returned signed jury notices during the preceding months to the clerk of the circuit court indicating a change of address</li> </ul>
Department of Law Enforcement	In a time and manner that enables the Department to meet its obligations under state and federal law	The identity of those persons who have been convicted of a felony <sup>32</sup> who appear in the voter registration records supplied by the FVRS
Florida Commission on Offender Review	Bimonthly	The identity of those persons granted clemency in the preceding month or any updates to prior records which have occurred in the preceding month
Department of Corrections	In a time and a manner that enables the Department to identify registered voters who are convicted felons and to meet its obligations under state and federal law	The identity of those persons who have been convicted of a felony <sup>32</sup> and committed to its custody or placed on community supervision
Department of Highway Safety and Motor Vehicles	Monthly	List of those persons whose names have been removed from the driver license database because they have been licensed in another state

<sup>32</sup> *Supra* note 10.

## Voter Registration Ineligibility Determinations

Currently, DOS identifies ineligible voters contained in the FVRS.<sup>33</sup> The supervisor<sup>34</sup> whose jurisdiction includes that particular voter is then made aware of this finding and, after notifying the voter and giving him or her a chance to respond,<sup>35</sup> makes a final determination regarding the voter's eligibility.<sup>36</sup> A person determined to be ineligible by a supervisor may appeal the determination in circuit court.<sup>37</sup>

## Voter Registration

In 1993, the U.S. Congress passed the National Voter Registration Act of 1993 (NVRA),<sup>38</sup> requiring state motor vehicle agencies to offer persons applying or renewing a driver license the opportunity to register to vote.<sup>39</sup> Florida implemented the NVRA by requiring DHSMV to offer individuals applying, modifying, or renewing a driver license or identification card the opportunity to register to vote.<sup>40</sup> DHSMV is required to electronically submit completed voter registration applications, within 24 hours of receipt, to the FVRS.<sup>41</sup>

The Florida Election Code requires DHSMV to enter into an agreement with DOS to match the information contained in the FVRS with information in the DHSMV database to verify the accuracy of driver license numbers, identification numbers, or the last four digits of the social security number.<sup>42</sup>

## Driver Licenses and Identification Cards

DHSMV requires proof of identity whenever a person applies for a driver license or an identification card.<sup>43</sup> State law provides a list of documents a person may submit to satisfy the proof of identity requirement.<sup>44</sup> For instance, if a person is a U.S. citizen, he or she may provide a certified copy of a U.S. birth certificate, a valid unexpired passport, a Consular Report of Birth Abroad, or naturalization certificate issued by the U.S. Department of Homeland Security.<sup>45</sup> If the applicant is not a U.S. citizen, he or she may provide a valid unexpired alien registration receipt card (green card), an unexpired employment authorization card issued by the U.S. Department of Homeland Security, or other proof of nonimmigrant classification provided by the U.S. Department of Homeland Security, to satisfy the requirement that he or she provide proof of identity.<sup>46</sup>

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<sup>33</sup> Section 98.075, F.S.

<sup>34</sup> In some circumstances, supervisors are also able to remove the name of a voter based on evidence without DOS having notified them. *See s. 98.075(6)*, F.S.

<sup>35</sup> No notification is given to those determined to be deceased. *Section 98.075(3)*, F.S.

<sup>36</sup> *Section 98.075(7)*, F.S.

<sup>37</sup> *Section 98.0755*, F.S.

<sup>38</sup> National Voter Registration Act of 1993, P.L. 103-31 (1993).

<sup>39</sup> 52 U.S.C. s. 20504.

<sup>40</sup> *Section 97.057(1)*, F.S.

<sup>41</sup> *Section 97.057(4)*, F.S.

<sup>42</sup> *Section 97.057(11)*, F.S.

<sup>43</sup> *Sections 322.051 and 322.08*, F.S.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

### **Clerks of the Circuit Court**

A juror in Florida is required to be:

- At least 18 years of age;
- A citizen of the United States; and
- A legal resident of the state and of his or her respective county.<sup>47</sup>

Each juror must either possess a driver license or identification card issued by DHSMV or have signed an affidavit attesting that he or she meets the qualifications to be a juror.<sup>48</sup> Each clerk of circuit court is required to generate a set of juror candidate lists from which potential jurors will be selected.<sup>49</sup> The list is derived from two sources: persons who have submitted an affidavit swearing that they meet the qualifications to be a juror, and those persons who have a driver license or identification card issued by DHSMV.<sup>50</sup> For the clerk to obtain the latter, DHSMV is required to submit, on a quarterly basis, to the clerk of the circuit of each county a list of names of persons in that county, who are:

- At least 18 years of age;
- Citizens of the United States; and
- Legal residents of Florida.<sup>51</sup>

### **III. Effect of Proposed Changes:**

The bill requires each supervisor to enter into an agreement with the clerk of the circuit court in his or her jurisdiction to receive, on a monthly basis, change-of-address information for jurors and potential jurors and a list of potential jurors who have identified themselves as aliens.<sup>52</sup> Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number. Each supervisor must compare the information included in the monthly list with the FVRS.

The bill also requires DHSMV to furnish monthly to DOS a list of persons who have identified themselves as aliens during the preceding calendar month. Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number. DOS must compare the list received from DHSMV with the information in the FVRS. If DOS determines that a registered voter in the FVRS is an alien, it must provide the name of that voter to the supervisor of the county in which that voter is registered.

This bill will take effect on July 1, 2019.

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<sup>47</sup> Section 40.01, F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 40.011(1), F.S.

<sup>50</sup> Section 40.011, F.S.

<sup>51</sup> Section 40.011(2), F.S.

<sup>52</sup> The term "alien" is defined to mean a person who is not a citizen of the United States. Section 327.02(2), F.S.

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

None. The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution because it is a law relating to elections.

**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:**

The bill may result in a negative fiscal impact due to the new monthly report the bill requires DHSMV to provide to DOS. DHSMV estimates that the software programming necessitated by the new report and its implementation will require 486 hours in FTE and contracted resources resulting in overall cost of \$32,010.<sup>53</sup>

The bill may have an indeterminate fiscal impact on local governments. Clerks of court will now be required to provide information to supervisors on a monthly basis.

**VI. Technical Deficiencies:**

None.

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<sup>53</sup> DHSMV Agency Bill Analysis for SB 230 (2019), on file with the Senate Committee on Ethics and Elections.

**VII. Related Issues:**

DHSMV noted that while it could provide information obtained during driver license/identification card issuances that would indicate whether an individual is an ‘immigrant’ or ‘non-immigrant,’ a driver license/identification card can be valid for up to eight years during which time an individual’s citizenship may change.<sup>54</sup>

**VIII. Statutes Affected:**

This bill substantially amends sections 98.065 and 98.093 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.

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<sup>54</sup> *Id.*

By Senator Gruters

23-00492-19

2019230\_\_

A bill to be entitled

An act relating to voter registration maintenance; amending s. 98.065, F.S.; requiring supervisors of elections to enter into agreements with clerks of the circuit courts to receive specified information; requiring supervisors of elections to compare the information with the statewide voter registration system; amending s. 98.093, F.S.; requiring the Department of Highway Safety and Motor Vehicles to furnish monthly to the Department of State a list of persons who identified themselves as aliens; requiring the Department of State to compare the list with the statewide voter registration system and provide the names of registered voters who are aliens to the supervisors of elections of the counties in which the voters are registered; providing an effective date.

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

Section 1. Present paragraphs (a), (b), and (c) of subsection (4) of section 98.065, Florida Statutes, are redesignated as paragraphs (b), (c), and (d), respectively, and a new paragraph (a) is added to that subsection, to read:

98.065 Registration list maintenance programs.—

(4)(a) The supervisor shall enter into an agreement with the local clerk of the circuit court to receive monthly from the clerk change-of-address information and a list of potential jurors who identified themselves as aliens, as defined in s. 327.02(2), during the preceding calendar month. Each list must

Page 1 of 3

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

23-00492-19

2019230\_\_

include the name, address, date of birth, sex, and either the Florida driver license number or Florida identification card number, whichever is available, of each such person. The supervisor shall compare all of the information included in the list each month with the statewide voter registration system.

Section 2. Paragraph (h) is added to subsection (2) of section 98.093, Florida Statutes, to read:

98.093 Duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, ~~and~~ persons convicted of a felony, and persons identified as aliens.—

(2) To the maximum extent feasible, state and local government agencies shall facilitate provision of information and access to data to the department, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local government agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(h) The Department of Highway Safety and Motor Vehicles shall furnish monthly to the department a list of persons who identified themselves as aliens, as defined in s. 327.02(2), during the preceding calendar month. Each list must include the name, address, date of birth, sex, and either the Florida driver license number or Florida identification card number, whichever is available, of each such person. The department shall compare all of the information included in the list each month with the statewide voter registration system and, if the department determines that a registered voter is an alien, provide the name of that voter to the supervisor of elections of the county in

Page 2 of 3

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

23-00492-19

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59 which the voter is registered.

60 Section 3. This act shall take effect July 1, 2019.



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

April 9, 2019  
Meeting Date

SB 230  
Bill Number (if applicable)

Topic Voter Registration Maintenance

Amendment Barcode (if applicable)

Name Kenneth C. Morrow Jr

Job Title President

Address P.O. Box 667605

Phone (904) 414 0644

Pompano Beach Florida 33066  
City State Zip

Email ken@flimn.org

Speaking:  For  Against  Information

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

Representing FLIMEN, FLORIDIANS for Immigration Enforcement

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

4/9/2019

Meeting Date

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

230

Bill Number (if applicable)

Topic Voter Registration Maintenance

Amendment Barcode (if applicable)

Name Iida V. Eskamani

Job Title Public Policy

Address 126 N. Mills

Phone 4073764501

Street

Orlando FL 32801

City

State

Zip

Email iida.eskamani@gmail.com

Speaking:  For  Against  Information

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

Representing Florida Immigrant Coalition

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/2019

Meeting Date

Topic \_\_\_\_\_

Bill Number 230  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG      FLORIDA      33705  
*City*                                      *State*                                      *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/CS/SB 328

INTRODUCER: Infrastructure and Security Committee, Judiciary Committee, and Senator Brandes

SUBJECT: Courts

DATE: April 10, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	<b>Fav/CS</b>
2.	Price	Miller	IS	<b>Fav/CS</b>
3.			ACJ	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 328 amends or creates substantive provisions relating to the court system. The bill: (1) amends provisions affecting the jurisdiction of the county and circuit courts; (2) adjusts county and circuit court filing fees based on jurisdiction amounts; and (3) limits when the \$1 mediation/arbitration fee may be collected by the court clerks.

(1) *Jurisdiction*—The bill gradually raises the county courts’ maximum jurisdictional amount for civil cases demanding money as follows:

- For cases filed on or before June 30, 2019, \$15,000;
- For cases filed on or after July 1, 2019, \$30,000; and
- For cases filed on or after July 1, 2021, \$50,000.

The bill effectively raises the circuit courts’ original jurisdiction to amounts exceeding the county court’s new jurisdictional amounts. The bill also explicitly clarifies that the circuit courts have appellate jurisdiction over county court decisions involving the county court’s new jurisdictional amounts.

The amendments to the jurisdiction of a court made by the bill apply with respect to the date of filing the cause of action, regardless of when the cause of action accrued.

The bill also authorizes a defendant in any civil action in which the court's jurisdiction is dependent on the amount in controversy to demand proof of the reasonableness of the amount in controversy within 30 days after the complaint is filed.

Additionally, the bill requires the State Courts Administrator to submit recommendations regarding the adjustment of county court jurisdiction resulting from the changes to the jurisdictional amounts by March 1, 2021. The report must include a review of fees to ensure that the court system is adequately funded, and a review of the appellate jurisdiction of the district courts and the circuit court.

(2) *Filing Fees*—The bill adjusts the filing fees in sections 28.241 and 34.041, F.S., to maintain the current applicable filing fees and their statutory distribution to various funds, based on the case's monetary value. Specifically, effective July 1, 2019, although the county courts will now have jurisdiction over cases demanding between \$15,000 and \$30,000, the current circuit court level filing fee of \$395 will still apply based on the amount demanded. Likewise, although circuit courts will now have appellate jurisdiction over cases demanding between \$15,000 and \$30,000, the current district court of appeal level filing fee of \$400 will still apply based on the amount demanded.

(3) *Mediation/Arbitration Fee*—The bill provides that the \$1 filing fee levied on all county and civil court cases to fund mediation and arbitration may not be levied on appeals from the county to the circuit court for claims exceeding \$15,000.

The fiscal impact of the bill is indeterminate. See the Fiscal Impact Statement heading for additional information.

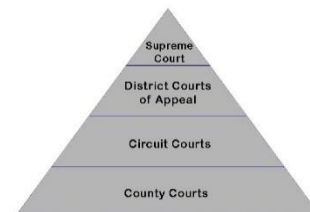
The bill takes effect July 1, 2019.

## II. Present Situation:

### Florida's Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.<sup>1</sup>



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”<sup>2</sup> Additionally, the Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.<sup>3</sup>

<sup>1</sup> FLA. CONST. art. V., s. 1.

<sup>2</sup> *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

<sup>3</sup> FLA. CONST. art. V, s. 2.

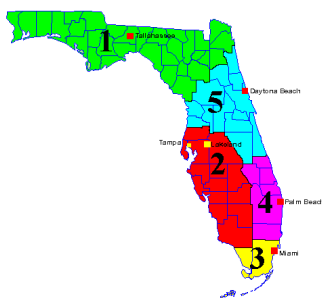
**Legislative Powers Concerning Court Jurisdiction**

The Constitution confers some authority over the jurisdiction of the courts to the Legislature. Although the territorial and subject matter jurisdiction of the Florida Supreme Court is primarily defined by the Constitution, the Legislature has constitutional authority to provide for the territorial jurisdiction and the subject matter jurisdiction of the courts.<sup>4</sup>

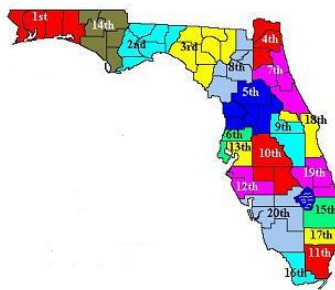
***Territorial Jurisdiction***

The Legislature is constitutionally required to establish the territorial or geographic jurisdiction of the appellate court districts and the judicial circuits “following county lines.”<sup>5</sup> Currently, there are five district courts of appeal,<sup>6</sup> 20 judicial circuits, and 67 county courts, one in each of Florida’s 67 counties<sup>7</sup> as constitutionally required.<sup>8</sup>

The following maps illustrate the territorial jurisdictions of these courts:<sup>9</sup>



Five District Courts of Appeal



Twenty Judicial Circuits



Sixty-Seven Counties

***Subject Matter Jurisdiction***

The Legislature’s authority over the subject matter jurisdiction of the Florida Supreme Court and district courts of appeal is fairly limited. With a few exceptions,<sup>10</sup> the Constitution sets out the subject matter jurisdiction of the Supreme Court and the appellate courts.

<sup>4</sup> “Jurisdiction” is defined as “[a] government’s general power to exercise authority over all persons and things within its territory; esp., a state’s power to create interests that will be recognized under common-law principles as valid in other states <New Jersey’s jurisdiction>.” BLACK’S LAW DICTIONARY (10th ed. 2014). For courts, jurisdiction is defined as “[a] court’s power to decide a case or issue a decree <the constitutional grant of federal-question jurisdiction>.” *Id.* Additionally, jurisdiction is defined geographically: “A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>.” *Id.*

<sup>5</sup> FLA. CONST. art. V, s. 1.

<sup>6</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Jan. 29, 2019). The First District sits in Tallahassee; the Second District sits in Lakeland; the Third District sits in Miami; the Fourth District sits in West Palm Beach; and the Fifth District sits in Daytona Beach. Florida Courts, *District Courts of Appeal*, <https://www.flcourts.org/Florida-Courts/District-Courts-of-Appeal> (last visited Jan. 29, 2019).

<sup>7</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Jan. 29, 2019).

<sup>8</sup> FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

<sup>9</sup> Ron DeSantis, 46<sup>th</sup> Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited Jan. 29, 2019).

<sup>10</sup> See Art. V, s. 3(b)(2), FLA. CONST. (“When provided by *general law*, [the supreme court] shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.”) (emphasis added);

On the other hand, under the Constitution, the Legislature is granted broad authority to define the jurisdiction<sup>11</sup> of the county courts: “The county courts shall exercise the jurisdiction *prescribed by general law*. Such jurisdiction shall be uniform throughout the state.”<sup>12</sup>

Because the jurisdiction of the circuit court is limited by the jurisdiction of the county courts under the Constitution, the Legislature’s authority to define the jurisdiction of the circuit courts is also fairly broad:

The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals *when provided by general law*. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action *prescribed by general law*.<sup>13</sup>

### ***County Court Jurisdiction***

As provided by the Legislature in s. 34.01, F.S., the county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional (monetary) amount of \$15,000:

- All criminal misdemeanor cases not cognizable by the circuit courts;
- All violations of municipal and county ordinances;
- All actions at law involving damages up to \$15,000, not including interest, costs, and attorney’s fees, unless the cause of action is within the exclusive jurisdiction of the circuit courts;
- Concurrent jurisdiction with the circuit courts over disputes between homeowners’ associations and parcel owners;
- Concurrent jurisdiction with circuit courts to hear uncontested dissolution of marriage petitions under the simplified dissolution procedures;
- Any subject matter jurisdiction previously exercised by the county courts prior to the adoption of the 1968 Constitution, including that of the small claims courts; and
- Any matter in equity (such as an eviction)<sup>14</sup> that is within the jurisdictional amount of the county court.

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FLA. CONST. art. V, s. 4(b)(2) (“District courts of appeal shall have the power of direct review of administrative action, *as prescribed by general law*.”) (emphasis added).

<sup>11</sup>See *Alexdex Corp. v. Nachon Enterprises, Inc.*, 641 So. 2d 858, 861 (Fla. 1994) (“The jurisdiction of the courts of the state is broadly defined by our State Constitution; however, the legislature may further define a court’s jurisdiction so long as the jurisdiction, as redefined, is not in conflict with the Constitution. . . . Absent a constitutional prohibition or restriction, the legislature is free to vest courts with exclusive, concurrent, original, appellate, or final jurisdiction.”) (citing *State v. Sullivan*, 95 Fla. 191, 116 So. 255 (1928)).

<sup>12</sup> FLA. CONST. art. V, s. 6(b) (emphasis added). Additionally, the Legislature establishes the number of judges to serve in each county. *Id.* at s. 6(a).

<sup>13</sup> FLA. CONST. art. V, s. 5(b) (emphasis added).

<sup>14</sup> Section 34.011, F.S. (providing that county and circuit courts generally have concurrent jurisdiction over landlord tenant cases, although county court will have exclusive jurisdiction over proceedings relating to the right of possession so long as matter is under \$15,000.).

The effective date of the last increase to the monetary limit on the jurisdiction of the county courts was July 1, 1992.<sup>15</sup> If adjusted for inflation, the \$15,000 jurisdictional limit would be \$26,822.03 in today's dollars (as of December 2018).<sup>16</sup>

The county court is also the small claims court. Small claims courts are not separate, constitutionally recognized courts;<sup>17</sup> rather, they are the county courts functioning under the Florida Small Claims Rules of procedure adopted by the Supreme Court.<sup>18</sup> The goal of the Small Claims Rules is to “reach a ‘simple, speedy, and inexpensive’ resolution of [small claims] cases” in which the parties often represent themselves.<sup>19</sup> The court rules apply to civil actions in county courts where money is demanded,<sup>20</sup> and set the jurisdictional limit of small claims demands at \$5,000,<sup>21</sup> where it has remained since January 1, 1997.<sup>22</sup> If adjusted for inflation to December 2018, the jurisdictional limit of the Small Claims Rules would be \$7,895.44.<sup>23</sup>

### ***Circuit Court Jurisdiction***

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the circuit court’s current jurisdictional amount is \$15,000 or above for cases demanding money judgments.<sup>24</sup>

Additionally, with two exceptions, the circuit court has appellate jurisdiction over county court cases. Under the two exceptions, the district court of appeal has appellate jurisdiction when a county court either (1) declares a statute or constitutional provision invalid or (2) certifies a question of great public importance.<sup>25</sup> Additionally, if the law applied by the circuit court sitting in its appellate capacity is in question, a party may seek review by the appropriate district court of appeal by filing a petition for writ of certiorari.<sup>26</sup>

<sup>15</sup> Chapter 90-269, Laws of Fla.

<sup>16</sup> The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm).

<sup>17</sup> *LaSalla v. Pools by George of Pinellas County, Inc.*, 125 So. 3d 1016, 1016 (Fla. 2d DCA 2013) (“[F]or purposes of the concept of subject matter jurisdiction, a county court that applies the Florida Small Claims Rules in a particular proceeding is not a separate court from a county court that applies the Florida Rules of Civil Procedure. This is true even if a county court has elected to create a ‘small claims division’ to handle cases under the Florida Small Claims Rules. To the extent that *Tax Certificate Redemption’s, Inc. v. Meitz*, 705 So. 2d 64 (Fla. 4th DCA 1997), discusses the ‘jurisdiction’ of a small claims court as distinct from the jurisdiction of county court, we believe that discussion is incorrect.”).

<sup>18</sup> *Id.* at 1017 (The Small Claims Rules “do not create a ‘small claims court.’ They simply create rules of procedure for use in county court when the amount in controversy is small.”). When the amount in controversy exceeds the jurisdictional limits of the Small Claims Rules, the more complex requirements of the Rules of Civil Procedure apply. *See Hilton v. Florio*, 317 So. 2d 83 (Fla. 3d DCA 1975).

<sup>19</sup> *In re Amendments to Florida Small Claims Rule 7.090*, 64 So. 3d 1196 (Fla. 2011); Fla. Sm. Cl. R. 7.010(a).

<sup>20</sup> *In re Amendments to Florida Small Claims Rules*, 123 So. 3d 41, 43 (Fla. 2013) (amending Fla. Sm. Cl. R. 7.010).

<sup>21</sup> Fla. Sm. Cl. R. 7.010(b).

<sup>22</sup> *In re Amendments to the Florida Small Claims Rules*, 682 So. 2d 1075, 1076 (Fla. 1996) (raising amount from \$2,500 to \$5,000).

<sup>23</sup> The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm).

<sup>24</sup> Section 26.012(2)(a), F.S.

<sup>25</sup> Section 26.012(1), F.S.

<sup>26</sup> FLA. CONST. art. V, s. 4(b)(3) (authorizing district courts of appeal to issue writs of certiorari among others). Philip J. Padovano, *Appellate Practice*, 2 Fla. Prac., § 30:5 (2017 ed.) (“A party may file a petition for writ of certiorari to review . . . an appellate decision of a lower court[.]”). On petition for writ of certiorari, the district court reviews for whether the circuit



Notably, foreclosure cases, which are cases in equity, are not one of the subject areas statutorily defined as being within the exclusive jurisdiction of the circuit court.<sup>27</sup> Rather, in resolving a conflict between the statutes setting forth the county court’s and the circuit court’s equity jurisdiction in foreclosure cases, the Florida Supreme court concluded in *Alexdex Corp. v. Nachon Enterprises, Inc.* that “the legislature intended to provide concurrent equity jurisdiction in circuit and county courts, except that equity cases filed in county courts must fall within the county court’s monetary jurisdiction, as set by statute.”<sup>28</sup>

***Jurisdictional Amount in Controversy/Transfer of Actions***

The Florida rules of Civil Procedure currently provide for the transfer of actions that appear to be pending in the wrong court of any county. Rule 1.060, *Transfer of Actions*, provides “If it should appear at any time that an action is pending in the wrong court of any county, it may be transferred to the proper court within said county by the same method as provided in rule 1.170(j).”<sup>29</sup> The referenced method relates to the transfer of actions if the demand of any counterclaim or crossclaim exceeds the jurisdiction of the court in which the action is pending. This method is as follows:

- If the party asserting the demand exceeding the jurisdiction deposits with the court having jurisdiction the applicable clerk’s service charge<sup>30</sup> in the court to which the action is transferred, he court must order the transfer of the action, along with transmittal of all documents in it, to the proper court.
- The original documents and deposit must then be filed with a certified copy of the order to the transferee court, at which time such court “shall have full power and jurisdiction over the demands of all parties.”<sup>31</sup>

***Filing Fees***

Filing fees are constitutionally required to fund the clerks of the circuit and county courts,<sup>32</sup> and vary depending on the court. In **county court**, the filing fee for civil actions at law demanding money judgments vary based on the amount:

- For all claims less than \$100..... \$50.
- For all claims of \$100 or more but not more than \$500..... \$75.
- For all claims of more than \$500 but not more than \$2,500..... \$170.
- For all claims of more than \$2,500..... \$295.<sup>33</sup>

The clerk of court also collects an additional \$4 filing fee.<sup>34</sup>

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court departed from the essential requirements of the law; or, put another way, whether the circuit court “(1) afforded the parties due process of law[,] and (2) applied the correct law.” *Id.*

<sup>27</sup> Section 26.012(2), F.S.

<sup>28</sup> 641 So. 2d 858, 862 (Fla. 1994).

<sup>29</sup> See Florida Rules, available at <https://floridarules.net/civil-procedure/> (last viewed April 9, 2019).

<sup>30</sup> See ss. 28.231 and 28.24, F.S.

<sup>31</sup> Fla.R.Civ.P. 1.170(j), *supra* note 29.

<sup>32</sup> FLA. CONST. art. V, s. 14(b) (requiring that all funding for clerks of circuit and county courts come from adequate filing fees).

<sup>33</sup> Section 34.041(1)(a), F.S.

<sup>34</sup> Section 34.041(1)(b), F.S.

When the clerk of court collects the \$295 filing fee, the fee is allocated as follows:

- The first \$15 of the filing fee is deposited in the State Courts Revenue Trust Fund.
- \$3.50 is transferred to the Department of Revenue (DOR) for deposit in the Court Education Trust Fund.
- Another \$0.50 is transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.<sup>35</sup>

Additionally, when any portion of the fees for court functions collected in the prior month exceeds one-twelfth of the clerk's total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.<sup>36</sup>

In **circuit court**, the filing fee for civil actions at law demanding money judgments vary based on the type of action filed<sup>37</sup> and the number of defendants, but is generally \$395 for the first five defendants.<sup>38</sup> Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher.<sup>39</sup>

The filing fee collected by the clerk of court is allocated as follows:

- Of the first \$200 in filing fees, \$195 must be remitted to the DOR for deposit into the State Courts Revenue Trust Fund.
- \$4 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation.
- \$1 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services.<sup>40</sup>

Additionally, as in county court, when any portion of the circuit court fees collected in the prior month exceeds one-twelfth of the clerk's total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.<sup>41</sup>

The clerk of court also collects an additional \$4 fee. Of that \$4 fee, \$3.50 is transferred to the DOR for deposit into the Court Education Trust Fund. The other \$0.50 is also transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.<sup>42</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Section 28.241(1)(a)1.a., F.S. The filing fee is only \$295 for civil suits filed under chapters 39 (dependency), 61 (family law), 741 (domestic violence), 742 (determination of parentage), 747 (conservatorship), 752 (grandparental visitation rights), or 753 (supervised visitation). Section 28.241(1)(a)1.b., F.S. Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher. Section 28.241(1)(a)2, F.S.

<sup>38</sup> *Id.* It is \$2.50 per defendant in excess of five. *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Section 28.241(1)(a)1.a., F.S.

<sup>41</sup> *Id.*

<sup>42</sup> Section 28.241(1)(a)1.c., F.S.

Effective January 1, 2019, \$50 of the \$100 fee collected by the clerk of the circuit court from each attorney appearing *pro hac vice* (an attorney licensed in another state permitted to specially appear in a case by court order) will be deposited into the State Courts Revenue Trust Fund.<sup>43</sup>

Additionally, the clerks of court collect a \$1 filing fee in all proceedings, whether filed in circuit or county court, to fund **mediation and arbitration services**. The fee is deposited in the State Courts Revenue Trust Fund<sup>44</sup> to be used to provide access to mediation and arbitration for all parties “regardless of financial status.”<sup>45</sup> This fee goes toward the state-funded mediation program, which is available to parties in county civil cases (under \$15,000) for free or reduced costs, but not in circuit civil cases.<sup>46</sup> This fee is not levied in appellate proceedings filed in the District Courts of Appeal or the Florida Supreme Court.

Currently, the per-person, per-scheduled session fee for court-ordered mediation services provided by a circuit-court’s mediation program is \$60 in county court cases.

For **appeals from the county to the circuit court**, the clerk of the circuit court may collect up to \$280.<sup>47</sup>

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,<sup>48</sup> and the clerk of the district court of appeal collects a filing fee of \$300 for civil cases.<sup>49</sup> Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remainder is deposited into the State Treasury to be credited to the General Revenue Fund.<sup>50</sup>

### III. Effect of Proposed Changes:

#### **Raised Jurisdictional Amounts of the County and Circuit Courts**

Section 2 of the bill gradually raises the maximum jurisdictional amount of the county courts (except for those actions within the exclusive jurisdiction of the circuit courts). If an action is filed on or before June 30, 2019, the jurisdictional amount remains at \$15,000. Thereafter :

- For cases filed on or after July 1, 2019, \$30,000.
- For cases filed on or after July 1, 2021, \$50,000.

Section 7 provides that the amendments to the jurisdiction of a court made by the bill apply with respect to the date of filing the cause of action, regardless of when the cause of action accrued.

<sup>43</sup> Section 28.241(6), F.S. All \$100 was deposited into the general revenue fund prior to January 1, 2019. *Id.*

<sup>44</sup> Section 44.108(1), F.S.

<sup>45</sup> *Id.*; see also Fla. Att’y Gen. Op. 2002-09 (2002) (“Funds generated from filing fees designated solely for mediation or alternative dispute resolutions may be used only for those purposes”).

<sup>46</sup> Section 44.108(1), F.S.; Office of the State Courts Administrator, *Senate Bill 328 Judicial Impact Statement* (Jan. 31, 2019)(on filed with the Senate Judiciary Committee).

<sup>47</sup> Section 28.241(2), F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 35.22(2)(a), F.S.

<sup>50</sup> Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the bill also effectively raises the jurisdictional amount of the circuit courts to cases demanding money judgments over \$50,000

The bill also directs the Office of State Court Administrator (OSCA) by March 1, 2021, to make recommendations regarding the adjustment of county court jurisdiction, including, but not limited to, an analysis of workflow, timely access to court by litigants, and any resulting fiscal impact to the state as a result of adjusted jurisdictional limits. The OSCA must also include a review of fees to ensure that the court system is adequately funded and a review of the appellate jurisdiction of the district courts and the circuit courts.

### ***Jurisdictional Amount in Controversy/Transfer of Actions***

Section 5 of the bill creates a new provision of law authorizing a defendant, as a matter of right in any civil action in which the court’s jurisdiction is dependent on the amount in controversy, to file within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. The bill deems such a demand to be a responsive pleading for the purposes of the rules of procedure and requires the following:

- The court must promptly hold a hearing to determine whether the amount in controversy as alleged in the complaint is reasonable.
- At the hearing, the plaintiff must demonstrate, by a preponderance of the evidence, a reasonable likelihood of recovering at least the amount alleged in the complaint.
- If the court finds that the plaintiff has not made the required demonstration, the court must transfer the matter to the appropriate court.

### **Filing Fees**

Sections 1 and 3 of the bill adjust the filing fees based on the new jurisdictional amounts of the circuit and county courts in order to maintain the current level of funding for the courts system and the county clerks’ offices. Section 1 adjusts the appellate filing fees collected by the clerks’ offices and subsequently distributed to various funds based on the new jurisdiction of circuit courts over county court appeals valued over \$15,000 (until June 30, 2019; \$30,000 on or after July 1, 2019; and \$50,000 on or after July 1, 2021). The circuit court’s appellate filing fees for county court appeals over \$15,000 are now aligned with the district court of appeals’ fees and the statutory distribution of those fees.

Likewise, section 3 adjusts the case filing fees collected by the clerks’ offices and subsequently distributed to various funds based on the new jurisdiction of county courts over cases exceeding \$15,000 (until June 30, 2019; \$30,000 on or after July 1, 2019; and \$50,000 on or after July 1, 2021). The county court’s filing fees for cases valued over \$15,000 are now aligned with the circuit court fees and the statutory distribution of those fees.

### **Mediation and Arbitration Fee**

Section 4 of the bill amends s. 44.108, F.S., to limit the \$1 filing fee levied and collected by the clerk of court in all county and civil proceedings. The bill provides that the \$1 filing fee will not be levied on appeals in cases involving \$15,000 or more from the county court to circuit court.

This limitation appears to make appellate filing fees in the circuit court consistent with those of the district courts of appeal and the Florida Supreme Court, neither of which levy the \$1 fee on appellate filings. This section of the bill also clarifies that the existing \$60 per person, per scheduled session fee for court-ordered mediation services provided by a circuit court's mediation program applies in county court cases *involving an amount in controversy not exceeding \$15,000*.

**Effective Date:** Section 7 provides the bill takes effect July 1, 2019.

#### 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:

Under the 2018 amendment to the Florida Constitution, Article VII, Section 19 requires “a supermajority vote” of 2/3 of the membership of each house to pass legislation which will “raise” or increase a state tax or fee.<sup>51</sup> A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”<sup>52</sup> The term “raise” means, in pertinent part, “[t]o increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis[.]”<sup>53</sup>

It does not appear that the adjustment to the court filing fees is a “raise” in these fees for purposes of requiring a supermajority vote. The adjustment to the fees is intended to maintain the status quo in terms of how those fees are distributed to fund the state courts system and the county clerks of court. The adjustment is a stop gap measure that pins the fees and statutory fee distribution to the monetary value of the case rather than to the court where it is filed. In other words, although the court with jurisdiction to hear a case worth over \$15,000 will change, the filing fee charged for cases worth over \$15,000 will remain the same, as will the current distribution of that fee to various funds.<sup>54</sup>

<sup>51</sup> FLA. CONST. art. VII, s. 19(b).

<sup>52</sup> FLA. CONST. art. VII, s. 19(d)(1).

<sup>53</sup> FLA. CONST. art. VII, s. 19(d)(2)b.

<sup>54</sup> Email from Sarah Naf Biehl, Chief of Legislative Affairs, Office of the State Courts Administrator, on February 4, 2019 (“We took the approach of keeping the filing fees exactly as they are today, thereby avoiding any negative impact to the courts and others who are funded by a portion of the existing fees. The amendment would not raise fees - it would maintain the same filing fee amount for each case value as currently required. The only change would be by which judge affected cases are heard. However, the judicial branch has not taken an official position on this issue.”).

E. Other Constitutional Issues:

**Jurisdictional Amount in Controversy/Transfer of Actions**

Article V, section (2)(a) of the Florida Constitution provides:

The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, *the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked*, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.<sup>55</sup>

Section 5 of the bill creates a new provision of law authorizing a defendant, as a matter of right in any civil action in which the court's jurisdiction is dependent on the amount in controversy, to file within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. The plaintiff must demonstrate, by a preponderance of the evidence, a reasonable likelihood of recovering at least the amount alleged in the complaint. This section of the bill appears to contain both substantive and procedural elements.

“Florida law is well-settled [sic] that substantive statutes may permissibly include procedural elements without violating the separation of powers clause.”<sup>56</sup> However, whether this section of the bill is an impermissible inclusion of procedural elements in the granting of the substantive right of a defendant to make a demand for proof is unclear. This section of the bill may be subject to constitutional challenge on grounds that the statute, if enacted, unconstitutionally encroaches upon the Supreme Court's authority to adopt rules for court practice and procedure.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>55</sup> Emphasis added.

<sup>56</sup> See *State Farm Florida Ins. Co. v. Buitrago*, 100 So.3d 85 (Fla. 2d DCA 2012), citing *Morejon v. Am. Sec. Ins. Co.*, 829 F.Supp.2d 1258, 1260 (M.D.Fla. 2011).

## B. Private Sector Impact:

Section 5 of the bill creates a new provision of law authorizing a defendant to file as a matter of right within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. Under the bill, the plaintiff is required to demonstrate a reasonable likelihood of recovering at least the amount alleged in the complaint. The process set out in the bill may increase expenses for plaintiffs, as the bill requires a hearing that may include the testimony of witnesses and introduction of other evidence on the part of the plaintiff.

The bill will likely result in an increase in the jurisdictional limit of the Small Claims Courts, which will permit more cases to be expeditiously resolved in the county courts under the simplified Small Claims Rules. Based on a similar proposed bill last session, the Florida Supreme Court formed the Work Group on County Court Jurisdiction and directed the Work Group to study and make recommendations on, among other issues, how the Small Claims jurisdictional amount should be adjusted.<sup>57</sup> The Work Group recommended that the jurisdiction of the Small Claims Court be raised from \$5,000 to \$8,000, assuming the jurisdiction of the county court was raised to \$25,000.<sup>58</sup>

The Florida Supreme Court supports the Work Group's recommendation.<sup>59</sup>

## C. Government Sector Impact:

### County and Circuit Court Jurisdictional Adjustments

*Work Group on County Court Jurisdiction Recommendations and Reports*—Based on proposed legislation in 2018,<sup>60</sup> the Florida Supreme Court created the Work Group on County Court Jurisdiction to evaluate the impact of raising the jurisdictional amount of the county courts.<sup>61</sup> The full impacts could not be determined but the Work Group noted that the distribution of filing fees could result in a loss of funding for the judiciary, while positively impacting the clerk's offices.<sup>62</sup>

In one of the Work Group's preliminary reports explaining its recommendation that the county courts' jurisdiction should increase to \$25,000, the Work Group noted that county courts are not as well equipped currently as the circuit courts to carry out long, complex trials. The Work Group noted that certain types of complex cases which frequently go to

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<sup>57</sup> *In re: Work Group on County Court Jurisdiction*, Fla. Admin. Order No. AOSC18-39 (Aug. 1, 2018), available at <https://www.floridasupremecourt.org/content/download/421915/4558246/AOSC18-39.pdf>. See also *In re: Certification of Need for Additional Judges*, 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018) (noting Legislature's interest in increasing county court jurisdiction may be a factor in determining the need for additional judges)(citing AOSC18-39). , 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018).

<sup>58</sup> Florida Supreme Court, *Recommendations from the Judicial Management Council's Work Group on County Court Jurisdictions*, pp. 4-6, 18-21 (Interim Report)(Nov. 30, 2019) (updated to reflect Supreme Court actions in December 2018)(on file with the Senate Judiciary Committee).

<sup>59</sup> *Id.*

<sup>60</sup> See SB 1384, SB 1396.

<sup>61</sup> See n. 71, *supra*.

<sup>62</sup> See n. 72, *supra*.

trial, such as insurance cases (especially those with water damage claims), should not exceed \$25,000 so as to minimize the impact on county court resources.<sup>63</sup>

Section 5 of the bill creates a new provision of law authorizing a defendant to file as a matter of right within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. Under the bill, the plaintiff is required to demonstrate a reasonable likelihood of recovering at least the amount alleged in the complaint. The process set out in the bill may increase expenses for courts, as the bill requires a hearing that may include the testimony of witnesses and introduction of other evidence on the part of the plaintiff.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

The OSCA indicates that the July 1, 2019, effective date does not allow sufficient time for administrative changes necessary to implement the bill's provisions.<sup>64</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.241, 34.01, 34.041, and 44.108.

The bill creates section 45.21, Florida Statutes.

## IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

### **CS by Infrastructure and Security on April 9, 2019:**

The Committee Substitute removes from the bill provisions:

- Allowing Supreme Court justices to have a remote headquarters.
- Revising the appellate jurisdiction of the circuit courts related to insurance cases carved out of county court jurisdiction.
- Relating to courthouse security.
- Allowing refunds of qualifying fees for candidates for circuit or county court judge who run unopposed.

The Committee Substitute also:

- Revises the phase-in of the increase of the county court monetary jurisdiction.

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<sup>63</sup> Florida Courts, Trial Court Budget Commission, *Agenda Item 1: Work Group on County Court Jurisdiction- Provision of Comments*, p. 5, *Types of Cases Impacted* (Nov. 15, 2018), available at <https://www.flcourts.org/content/download/411958/3703779/11.15.18-tcbc-final-meeting-packet.pdf>.

<sup>64</sup> See email to committee staff dated April 9, 2019 (on file in the Infrastructure and Security Committee).



- Adds to the reporting requirements for the OSCA to include a review of fees to ensure that the court system is adequately funded, and a review of the appellate jurisdiction of the district courts and the circuit court.
- Authorizes a defendant to dispute the reasonableness of the amounts in controversy for the purpose of the court determining whether a case was filed in the proper court.
- Further revises filing fees for higher value cases in the county courts to maintain the current applicable filing fees based on the case's monetary value.

**CS by Judiciary on February 4, 2019:**

The Committee Substitute:

- Corrects a technical problem in the new jurisdictional language in 34.01, F.S.
- Further amends the new jurisdictional language of section 34.01, F.S., to provide for a two-step increase in the county courts' jurisdictional amount (to only \$30,000 by 2020; then to \$50,000 by 2022).
- Adds two additional sections to the bill, sections 6 and 7, amending sections 28.241 and 34.041, F.S. to adjust the case filing fee amounts and the statutory distribution of those fees to align with the current fee structure for cases worth more than \$15,000.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Infrastructure and Security (Brandes)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (2) of section 28.241, Florida  
Statutes, is amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(2) (a) Upon the institution of any appellate proceeding  
from any lower court to the circuit court of any such county,  
including appeals filed by a county or municipality as provided



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11 in s. 34.041(5), or from the circuit court to an appellate court  
12 of the state, the clerk shall charge and collect from the party  
13 or parties instituting such appellate proceedings:

14 1. A filing fee not to exceed \$280 for filing a notice of  
15 appeal from the county court to the circuit court, excluding a  
16 civil case in which the matter in controversy was more than  
17 \$15,000.

18 2. A filing fee not to exceed \$400 for filing a notice of  
19 appeal from the county court to the circuit court for a civil  
20 case in which the matter in controversy was more than \$15,000.  
21 The clerk shall remit \$250 of each filing fee collected under  
22 this subparagraph to the Department of Revenue for deposit into  
23 the General Revenue Fund and the clerk shall remit \$50 of each  
24 filing fee to the Department of Revenue for deposit into the  
25 State Courts Revenue Trust Fund to fund court operations as  
26 authorized in the General Appropriations Act. The clerk shall  
27 retain an accounting of each such remittance. and,

28 3. In addition to the filing fee required under s. 25.241  
29 or s. 35.22, \$100 for filing a notice of appeal from the circuit  
30 court to the district court of appeal or to the Supreme Court.

31 (b) If the party is determined to be indigent, the clerk  
32 shall defer payment of the fee otherwise required by this  
33 subsection.

34 Section 2. Subsection (1) of section 34.01, Florida  
35 Statutes, is amended to read:

36 34.01 Jurisdiction of county court.—

37 (1) County courts shall have original jurisdiction:

38 (a) In all misdemeanor cases not cognizable by the circuit  
39 courts.†



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40 (b) Of all violations of municipal and county ordinances.~~†~~

41 (c) Of all actions at law, except those within the  
42 exclusive jurisdiction of the circuit courts, in which the  
43 matter in controversy does not exceed ~~the sum of \$15,000,~~  
44 exclusive of interest, costs, and attorney ~~attorney's~~ fees:~~†~~  
45 ~~except those within the exclusive jurisdiction of the circuit~~  
46 ~~courts; and~~

47 1. If filed on or before June 30, 2019, the sum of \$15,000.

48 2. If filed on or after July 1, 2019, the sum of \$30,000.

49 3. If filed on or after July 1, 2021, the sum of \$50,000.

50 (d) Of disputes occurring in the homeowners' associations  
51 as described in s. 720.311(2)(a), which shall be concurrent with  
52 jurisdiction of the circuit courts.

53  
54 By March 1, 2021, the State Courts Administrator shall submit a  
55 report to the Governor, the President of the Senate, and the  
56 Speaker of the House of Representatives. The report must make  
57 recommendations regarding the adjustment of county court  
58 jurisdiction, including, but not limited to, an analysis of  
59 workflow, timely access to court by litigants, and any resulting  
60 fiscal impact to the state as a result of adjusted  
61 jurisdictional limits. The report must also include a review of  
62 fees to ensure that the court system is adequately funded and a  
63 review of the appellate jurisdiction of the district courts and  
64 the circuit courts.

65 Section 3. Paragraphs (a), (b), and (c) of subsection (1)  
66 of section 34.041, Florida Statutes, are amended, and paragraph  
67 (e) is added to that subsection, to read:

68 34.041 Filing fees.—



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69 (1) (a) Filing fees are due at the time a party files a  
70 pleading to initiate a proceeding or files a pleading for  
71 relief. Reopen fees are due at the time a party files a pleading  
72 to reopen a proceeding if at least 90 days have elapsed since  
73 the filing of a final order or final judgment with the clerk. If  
74 a fee is not paid upon the filing of the pleading as required  
75 under this section, the clerk shall pursue collection of the fee  
76 pursuant to s. 28.246. Upon the institution of any civil action,  
77 suit, or proceeding in county court, the party shall pay the  
78 following filing fee, not to exceed:

- 79 1. For all claims less than \$100.....\$50.  
80 2. For all claims of \$100 or more but not more than  
81 \$500.....\$75.  
82 3. For all claims of more than \$500 but not more than  
83 \$2,500.....\$170.  
84 4. For all claims of more than \$2,500 but not more than  
85 \$15,000.....\$295.  
86 5. For all claims more than \$15,000.....\$395.  
87 6.5- In addition, for all proceedings of garnishment,  
88 attachment, replevin, and distress.....\$85.  
89 7.6- Notwithstanding subparagraphs 3. and 6. 5-, for all  
90 claims of not more than \$1,000 filed simultaneously with an  
91 action for replevin of property that is the subject of the  
92 claim.....\$125.  
93 8.7- For removal of tenant action.....\$180.

94  
95 The filing fee in subparagraph 7. 6- is the total fee due under  
96 this paragraph for that type of filing, and no other filing fee  
97 under this paragraph may be assessed against such a filing.



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98 (b) The first \$15 of the filing fee collected under  
99 subparagraph (a)4. and the first \$10 of the filing fee collected  
100 under subparagraph (a)8. ~~subparagraph (a)7.~~ shall be deposited  
101 in the State Courts Revenue Trust Fund. By the 10th day of each  
102 month, the clerk shall submit that portion of the fees collected  
103 in the previous month which is in excess of one-twelfth of the  
104 clerk's total budget for the performance of court-related  
105 functions to the Department of Revenue for deposit into the  
106 Clerks of the Court Trust Fund. An additional filing fee of \$4  
107 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
108 the Department of Revenue for deposit into the Court Education  
109 Trust Fund and shall transfer 50 cents to the Department of  
110 Revenue for deposit into the Administrative Trust Fund within  
111 the Department of Financial Services to fund clerk education  
112 provided by the Florida Clerks of Court Operations Corporation.  
113 Postal charges incurred by the clerk of the county court in  
114 making service by mail on defendants or other parties shall be  
115 paid by the party at whose instance service is made. Except as  
116 provided in this section, filing fees and service charges for  
117 performing duties of the clerk relating to the county court  
118 shall be as provided in ss. 28.24 and 28.241. Except as  
119 otherwise provided in this section, all filing fees shall be  
120 retained as fee income of the office of the clerk of the circuit  
121 court. Filing fees imposed by this section may not be added to  
122 any penalty imposed by chapter 316 or chapter 318.

123 (c) A party in addition to a party described in paragraph  
124 (a) who files a pleading in an original civil action in the  
125 county court for affirmative relief by cross-claim,  
126 counterclaim, counterpetition, or third-party complaint, or who



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127 files a notice of cross-appeal or notice of joinder or motion to  
128 intervene as an appellant, cross-appellant, or petitioner, shall  
129 pay the clerk of court a fee of \$295 if the relief sought by the  
130 party under this paragraph exceeds \$2,500 but is not more than  
131 \$15,000 and \$395 if the relief sought by the party under this  
132 paragraph exceeds \$15,000. The clerk shall remit the fee if the  
133 relief sought by the party under this paragraph exceeds \$2,500  
134 but is not more than \$15,000 to the Department of Revenue for  
135 deposit into the General Revenue Fund. This fee does not apply  
136 if the cross-claim, counterclaim, counterpetition, or third-  
137 party complaint requires transfer of the case from county to  
138 circuit court. However, the party shall pay to the clerk the  
139 standard filing fee for the court to which the case is to be  
140 transferred.

141 (e) Of the first \$200 in filing fees payable under  
142 subparagraph (a)5., \$195 must be remitted to the Department of  
143 Revenue for deposit into the State Courts Revenue Trust Fund, \$4  
144 must be remitted to the Department of Revenue for deposit into  
145 the Administrative Trust Fund within the Department of Financial  
146 Services and used to fund the contract with the Florida Clerks  
147 of Court Operations Corporation created in s. 28.35, and \$1 must  
148 be remitted to the Department of Revenue for deposit into the  
149 Administrative Trust Fund within the Department of Financial  
150 Services to fund audits of individual clerks' court-related  
151 expenditures conducted by the Department of Financial Services.  
152 By the 10th day of each month, the clerk shall submit that  
153 portion of the filing fees collected pursuant to this subsection  
154 in the previous month which is in excess of one-twelfth of the  
155 clerk's total budget to the Department of Revenue for deposit



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156 into the Clerks of the Court Trust Fund.

157 Section 4. Section 44.108, Florida Statutes, is amended to  
158 read:

159 44.108 Funding of mediation and arbitration.—

160 (1) Mediation and arbitration should be accessible to all  
161 parties regardless of financial status. A filing fee of \$1 is  
162 levied on all proceedings in the circuit or county courts to  
163 fund mediation and arbitration services which are the  
164 responsibility of the Supreme Court pursuant to the provisions  
165 of s. 44.106. However, the filing fee may not be levied upon an  
166 appeal from the county court to the circuit court for a claim  
167 that is greater than \$15,000. The clerk of the court shall  
168 forward the moneys collected to the Department of Revenue for  
169 deposit in the State Courts Revenue Trust Fund.

170 (2) When court-ordered mediation services are provided by a  
171 circuit court's mediation program, the following fees, unless  
172 otherwise established in the General Appropriations Act, shall  
173 be collected by the clerk of court:

174 (a) One-hundred twenty dollars per person per scheduled  
175 session in family mediation when the parties' combined income is  
176 greater than \$50,000, but less than \$100,000 per year;

177 (b) Sixty dollars per person per scheduled session in  
178 family mediation when the parties' combined income is less than  
179 \$50,000; or

180 (c) Sixty dollars per person per scheduled session in  
181 county court cases involving an amount in controversy not  
182 exceeding \$15,000.

183  
184 No mediation fees shall be assessed under this subsection in





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185 residential eviction cases, against a party found to be  
186 indigent, or for any small claims action. Fees collected by the  
187 clerk of court pursuant to this section shall be remitted to the  
188 Department of Revenue for deposit into the State Courts Revenue  
189 Trust Fund to fund court-ordered mediation. The clerk of court  
190 may deduct \$1 per fee assessment for processing this fee. The  
191 clerk of the court shall submit to the chief judge of the  
192 circuit and to the Office of the State Courts Administrator, no  
193 later than 30 days after the end of each quarter of the fiscal  
194 year, a report specifying the amount of funds collected and  
195 remitted to the State Courts Revenue Trust Fund under this  
196 section and any other section during the previous quarter of the  
197 fiscal year. In addition to identifying the total aggregate  
198 collections and remissions from all statutory sources, the  
199 report must identify collections and remissions by each  
200 statutory source.

201 Section 5. Section 45.21, Florida Statutes, is created to  
202 read:

203 45.21 Reasonableness of amount in controversy; procedures.-

204 (1) In any civil action in which the court's jurisdiction  
205 is dependent on the amount in controversy, the defendant may, as  
206 a matter of right, demand proof of the reasonableness of the  
207 amount in controversy within 30 days after the complaint is  
208 filed. The defendant need not offer any evidence or argument to  
209 support the demand.

210 (2) A demand pursuant to subsection (1) is deemed a  
211 responsive pleading for purposes of the rules of procedure and  
212 the following procedures shall apply:

213 (a) The court must promptly hold a hearing to determine



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214 whether the amount in controversy as alleged in the complaint is  
215 reasonable.

216 (b) At the hearing, the plaintiff must demonstrate, by a  
217 preponderance of the evidence, a reasonable likelihood of  
218 recovering at least the amount alleged in the complaint.

219 (c) If the court finds that the plaintiff has not made the  
220 showing as required in paragraph (b), the court must transfer  
221 the matter to the appropriate court.

222 Section 6. The amendments to the jurisdiction of a court  
223 made by this act shall apply with respect to the date of filing  
224 the cause of action, regardless of when the cause of action  
225 accrued.

226 Section 7. This act shall take effect July 1, 2019.

228 ===== T I T L E A M E N D M E N T =====

229 And the title is amended as follows:

230 Delete everything before the enacting clause  
231 and insert:

232 A bill to be entitled  
233 An act relating to courts; amending s. 28.241, F.S.;  
234 requiring specified filing fees for appeals from  
235 certain county courts; amending s. 34.01, F.S.;  
236 increasing the jurisdictional limit for actions at law  
237 by county courts on specified dates; requiring the  
238 State Courts Administrator to submit a report  
239 containing certain recommendations and reviews to the  
240 Governor and the Legislature by a specified date;  
241 amending s. 34.041, F.S.; providing county court civil  
242 filing fees for claims of specified values; providing



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243 for distribution of the fees; amending s. 44.108,  
244 F.S.; prohibiting the levy of certain fees for  
245 mediation and arbitration services in certain cases;  
246 creating s. 45.21, F.S., authorizing certain  
247 defendants to demand that a court issue a ruling  
248 related to proper court venue; authorizing a court to  
249 transfer certain civil cases if specified criteria are  
250 met; providing applicability; providing an effective  
251 date.

By the Committee on Judiciary; and Senator Brandes

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1 A bill to be entitled  
 2 An act relating to courts; creating s. 25.025, F.S.;  
 3 authorizing certain Supreme Court justices to have an  
 4 appropriate facility in their district of residence  
 5 designated as their official headquarters; providing  
 6 that an official headquarters may serve only as a  
 7 justice's private chambers; providing that such  
 8 justices are eligible for a certain subsistence  
 9 allowance and reimbursement for certain transportation  
 10 expenses; requiring that such allowance and  
 11 reimbursement be made to the extent appropriated funds  
 12 are available, as determined by the Chief Justice;  
 13 requiring the Chief Justice to coordinate with certain  
 14 persons in designating official headquarters;  
 15 providing that a county is not required to provide  
 16 space for a justice in a county courthouse;  
 17 authorizing counties to enter into agreements with the  
 18 Supreme Court for the use of county courthouse space;  
 19 prohibiting the Supreme Court from using state funds  
 20 to lease space in specified facilities to allow a  
 21 justice to establish an official headquarters;  
 22 amending s. 26.012, F.S.; revising the appellate  
 23 jurisdiction of the circuit courts; amending s.  
 24 29.008, F.S.; providing applicability and  
 25 construction; amending s. 30.15, F.S.; requiring  
 26 sheriffs to coordinate with the board of county  
 27 commissioners and the chief judge of the circuit on a  
 28 comprehensive plan for the provision of security for  
 29 trial court facilities; requiring sheriffs to retain

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30 operational control over how they provide security for  
 31 such facilities; specifying that the chief judge  
 32 retains certain decisionmaking authority; specifying  
 33 that sheriffs and their deputies, employees, and  
 34 contractors are officers of the court when providing  
 35 security for trial court facilities; amending s.  
 36 34.01, F.S.; increasing the limit on the amount in  
 37 controversy in certain actions at law under which the  
 38 county court has original jurisdiction, beginning on a  
 39 specified date; specifying that certain actions  
 40 relating to damages or losses covered by insurance  
 41 policies are not within the jurisdiction of the county  
 42 court; providing for adjustments to limits at  
 43 specified intervals due to inflation or deflation;  
 44 requiring the State Courts Administrator to make  
 45 certain recommendations to the Governor and the  
 46 Legislature by a specified date; amending s. 28.241,  
 47 F.S.; adjusting filing fees for appeals of certain  
 48 county court cases; amending s. 34.041, F.S.;  
 49 adjusting county court civil filing fees based on  
 50 claim values; providing for distribution of the fees;  
 51 amending s. 44.108, F.S.; prohibiting a filing fee  
 52 from being levied on an appeal from the county court  
 53 to the circuit court for a claim for more than a  
 54 specified amount; amending s. 105.031, F.S.; requiring  
 55 the Department of State or the supervisor of elections  
 56 to refund the full amount of certain qualifying fees;  
 57 conforming a cross-reference; providing effective  
 58 dates.

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

62 Section 1. Section 25.025, Florida Statutes, is created to  
63 read:

64 25.025 Headquarters.-

65 (1) (a) A Supreme Court justice who permanently resides  
66 outside Leon County shall, if he or she so requests, have a  
67 district court of appeal courthouse, a county courthouse, or  
68 other appropriate facility in his or her district of residence  
69 designated as his or her official headquarters pursuant to s.  
70 112.061. This official headquarters may serve only as the  
71 justice's private chambers.

72 (b) A justice for whom an official headquarters is  
73 designated in his or her district of residence under this  
74 subsection is eligible for subsistence at a rate to be  
75 established by the Chief Justice for each day or partial day  
76 that the justice is at the Supreme Court Building for the  
77 conduct of the business of the court. In addition to the  
78 subsistence allowance, a justice is eligible for reimbursement  
79 for transportation expenses as provided in s. 112.061(7) for  
80 travel between the justice's official headquarters and the  
81 Supreme Court Building for the conduct of the business of the  
82 court.

83 (c) Payment of subsistence and reimbursement for  
84 transportation expenses relating to travel between a justice's  
85 official headquarters and the Supreme Court Building must be  
86 made to the extent that appropriated funds are available, as  
87 determined by the Chief Justice.

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88 (2) The Chief Justice shall coordinate with each affected  
89 justice and other state and local officials as necessary to  
90 implement paragraph (1) (a).

91 (3) (a) This section does not require a county to provide  
92 space in a county courthouse for a justice. A county may enter  
93 into an agreement with the Supreme Court governing the use of  
94 space in a county courthouse.

95 (b) The Supreme Court may not use state funds to lease  
96 space in a district court of appeal courthouse, county  
97 courthouse, or other facility to allow a justice to establish an  
98 official headquarters pursuant to subsection (1).

99 Section 2. Effective January 1, 2020, subsections (1), (2),  
100 and (4) of section 26.012, Florida Statutes, are amended to  
101 read:

102 26.012 Jurisdiction of circuit court.-

103 (1) (a) The appellate jurisdiction of the circuit courts  
104 includes: ~~Circuit courts shall have jurisdiction of~~

105 1. Appeals from county court orders or judgments in actions  
106 at law within the jurisdiction of the county court under s.  
107 34.01(1) (c).

108 2. Appeals from county court orders or judgments in  
109 misdeemeanor cases.

110 3. Appeals from county court orders or judgments relating  
111 to family law matters and other matters within the jurisdiction  
112 of the county court under s. 34.01(2).

113 4. Appeals from final administrative orders of local  
114 government code enforcement boards.

115 (b) The appellate jurisdiction of the circuit courts does  
116 not include ~~courts except~~ appeals of county court orders or

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117 judgments that:

118 1. Declare ~~declaring~~ invalid a state statute or a provision  
119 of the State Constitution, ~~and except orders or judgments of a~~  
120 ~~county court which~~

121 2. Are certified by the county court to the district court  
122 of appeal to be of great public importance and that ~~which~~ are  
123 accepted by the district court of appeal for review. ~~Circuit~~  
124 ~~courts shall have jurisdiction of appeals from final~~  
125 ~~administrative orders of local government code enforcement~~  
126 ~~boards.~~

127 (2) Circuit courts ~~They shall~~ have exclusive original  
128 jurisdiction:

129 (a) In all actions at law not cognizable by the county  
130 courts;

131 (b) Of proceedings relating to the settlement of the  
132 estates of decedents and minors, the granting of letters  
133 testamentary, guardianship, involuntary hospitalization, the  
134 determination of incompetency, and other jurisdiction usually  
135 pertaining to courts of probate;

136 (c) In all cases in equity including all cases relating to  
137 juveniles except traffic offenses as provided in chapters 316  
138 and 985;

139 (d) Of all felonies and of all misdemeanors arising out of  
140 the same circumstances as a felony which is also charged;

141 (e) In all cases involving legality of any tax assessment  
142 or toll or denial of refund, except as provided in s. 72.011;

143 (f) In actions of ejectment; and

144 (g) In all actions involving the title and boundaries of  
145 real property.

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146 (4) The chief judge of a circuit may authorize a county  
147 court judge to order emergency hospitalizations pursuant to part  
148 I of chapter 394 in the absence from the county of the circuit  
149 judge; and the county court judge has ~~shall have~~ the power to  
150 issue all temporary orders and temporary injunctions necessary  
151 or proper to the complete exercise of such jurisdiction.

152 Section 3. Subsection (1) of section 29.008, Florida  
153 Statutes, is amended to read:

154 29.008 County funding of court-related functions.—

155 (1) Counties are required by s. 14, Art. V of the State  
156 Constitution to fund the cost of communications services,  
157 existing radio systems, existing multiagency criminal justice  
158 information systems, and the cost of construction or lease,  
159 maintenance, utilities, and security of facilities for the  
160 circuit and county courts, public defenders' offices, state  
161 attorneys' offices, guardian ad litem offices, and the offices  
162 of the clerks of the circuit and county courts performing court-  
163 related functions. For purposes of this section, the term  
164 "circuit and county courts" includes the offices and staffing of  
165 the guardian ad litem programs, and the term "public defenders'  
166 offices" includes the offices of criminal conflict and civil  
167 regional counsel. The county designated under s. 35.05(1) as the  
168 headquarters for each appellate district shall fund these costs  
169 for the appellate division of the public defender's office in  
170 that county. For purposes of implementing these requirements,  
171 the term:

172 (a) "Facility" means reasonable and necessary buildings and  
173 office space and appurtenant equipment and furnishings,  
174 structures, real estate, easements, and related interests in

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175 real estate, including, but not limited to, those for the  
 176 purpose of housing legal materials for use by the general public  
 177 and personnel, equipment, or functions of the circuit or county  
 178 courts, public defenders' offices, state attorneys' offices, and  
 179 court-related functions of the office of the clerks of the  
 180 circuit and county courts and all storage. The term "facility"  
 181 includes all wiring necessary for court reporting services. The  
 182 term also includes access to parking for such facilities in  
 183 connection with such court-related functions that may be  
 184 available free or from a private provider or a local government  
 185 for a fee. The office space provided by a county may not be less  
 186 than the standards for space allotment adopted by the Department  
 187 of Management Services, except this requirement applies only to  
 188 facilities that are leased, or on which construction commences,  
 189 after June 30, 2003. County funding must include physical  
 190 modifications and improvements to all facilities as are required  
 191 for compliance with the Americans with Disabilities Act. Upon  
 192 mutual agreement of a county and the affected entity in this  
 193 paragraph, the office space provided by the county may vary from  
 194 the standards for space allotment adopted by the Department of  
 195 Management Services.

196 1. As of July 1, 2005, equipment and furnishings shall be  
 197 limited to that appropriate and customary for courtrooms,  
 198 hearing rooms, jury facilities, and other public areas in  
 199 courthouses and any other facility occupied by the courts, state  
 200 attorneys, public defenders, guardians ad litem, and criminal  
 201 conflict and civil regional counsel. Court reporting equipment  
 202 in these areas or facilities is not a responsibility of the  
 203 county.

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204 2. Equipment and furnishings under this paragraph in  
 205 existence and owned by counties on July 1, 2005, except for that  
 206 in the possession of the clerks, for areas other than  
 207 courtrooms, hearing rooms, jury facilities, and other public  
 208 areas in courthouses and any other facility occupied by the  
 209 courts, state attorneys, and public defenders, shall be  
 210 transferred to the state at no charge. This provision does not  
 211 apply to any communications services as defined in paragraph  
 212 (f).

213 (b) "Construction or lease" includes, but is not limited  
 214 to, all reasonable and necessary costs of the acquisition or  
 215 lease of facilities for all judicial officers, staff, jurors,  
 216 volunteers of a tenant agency, and the public for the circuit  
 217 and county courts, the public defenders' offices, state  
 218 attorneys' offices, and for performing the court-related  
 219 functions of the offices of the clerks of the circuit and county  
 220 courts. This includes expenses related to financing such  
 221 facilities and the existing and future cost and bonded  
 222 indebtedness associated with placing the facilities in use.

223 (c) "Maintenance" includes, but is not limited to, all  
 224 reasonable and necessary costs of custodial and groundskeeping  
 225 services and renovation and reconstruction as needed to  
 226 accommodate functions for the circuit and county courts, the  
 227 public defenders' offices, and state attorneys' offices and for  
 228 performing the court-related functions of the offices of the  
 229 clerks of the circuit and county court and for maintaining the  
 230 facilities in a condition appropriate and safe for the use  
 231 intended.

232 (d) "Utilities" means all electricity services for light,

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233 heat, and power; natural or manufactured gas services for light,  
 234 heat, and power; water and wastewater services and systems,  
 235 stormwater or runoff services and systems, sewer services and  
 236 systems, all costs or fees associated with these services and  
 237 systems, and any costs or fees associated with the mitigation of  
 238 environmental impacts directly related to the facility.

239 (e) "Security" includes but is not limited to, all  
 240 reasonable and necessary costs of services of law enforcement  
 241 officers or licensed security guards and all electronic,  
 242 cellular, or digital monitoring and screening devices necessary  
 243 to ensure the safety and security of all persons visiting or  
 244 working in a facility; to provide for security of the facility,  
 245 including protection of property owned by the county or the  
 246 state; and for security of prisoners brought to any facility.  
 247 This includes bailiffs while providing courtroom and other  
 248 security for each judge and other quasi-judicial officers.

249 (f) "Communications services" are defined as any reasonable  
 250 and necessary transmission, emission, and reception of signs,  
 251 signals, writings, images, and sounds of intelligence of any  
 252 nature by wire, radio, optical, audio equipment, or other  
 253 electromagnetic systems and includes all facilities and  
 254 equipment owned, leased, or used by judges, clerks, public  
 255 defenders, state attorneys, guardians ad litem, criminal  
 256 conflict and civil regional counsel, and all staff of the state  
 257 courts system, state attorneys' offices, public defenders'  
 258 offices, and clerks of the circuit and county courts performing  
 259 court-related functions. Such system or services shall include,  
 260 but not be limited to:

261 1. Telephone system infrastructure, including computer

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262 lines, telephone switching equipment, and maintenance, and  
 263 facsimile equipment, wireless communications, cellular  
 264 telephones, pagers, and video teleconferencing equipment and  
 265 line charges. Each county shall continue to provide access to a  
 266 local carrier for local and long distance service and shall pay  
 267 toll charges for local and long distance service.

268 2. All computer networks, systems and equipment, including  
 269 computer hardware and software, modems, printers, wiring,  
 270 network connections, maintenance, support staff or services  
 271 including any county-funded support staff located in the offices  
 272 of the circuit court, county courts, state attorneys, public  
 273 defenders, guardians ad litem, and criminal conflict and civil  
 274 regional counsel; training, supplies, and line charges necessary  
 275 for an integrated computer system to support the operations and  
 276 management of the state courts system, the offices of the public  
 277 defenders, the offices of the state attorneys, the guardian ad  
 278 litem offices, the offices of criminal conflict and civil  
 279 regional counsel, and the offices of the clerks of the circuit  
 280 and county courts; and the capability to connect those entities  
 281 and reporting data to the state as required for the transmission  
 282 of revenue, performance accountability, case management, data  
 283 collection, budgeting, and auditing purposes. The integrated  
 284 computer system shall be operational by July 1, 2006, and, at a  
 285 minimum, permit the exchange of financial, performance  
 286 accountability, case management, case disposition, and other  
 287 data across multiple state and county information systems  
 288 involving multiple users at both the state level and within each  
 289 judicial circuit and be able to electronically exchange judicial  
 290 case background data, sentencing scoresheets, and video evidence



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291 information stored in integrated case management systems over  
 292 secure networks. Once the integrated system becomes operational,  
 293 counties may reject requests to purchase communications services  
 294 included in this subparagraph not in compliance with standards,  
 295 protocols, or processes adopted by the board established  
 296 pursuant to former s. 29.0086.

297 3. Courier messenger and subpoena services.

298 4. Auxiliary aids and services for qualified individuals  
 299 with a disability which are necessary to ensure access to the  
 300 courts. Such auxiliary aids and services include, but are not  
 301 limited to, sign language interpretation services required under  
 302 the federal Americans with Disabilities Act other than services  
 303 required to satisfy due-process requirements and identified as a  
 304 state funding responsibility pursuant to ss. 29.004, 29.005,  
 305 29.006, and 29.007, real-time transcription services for  
 306 individuals who are hearing impaired, and assistive listening  
 307 devices and the equipment necessary to implement such  
 308 accommodations.

309 (g) "Existing radio systems" includes, but is not limited  
 310 to, law enforcement radio systems that are used by the circuit  
 311 and county courts, the offices of the public defenders, the  
 312 offices of the state attorneys, and for court-related functions  
 313 of the offices of the clerks of the circuit and county courts.  
 314 This includes radio systems that were operational or under  
 315 contract at the time Revision No. 7, 1998, to Art. V of the  
 316 State Constitution was adopted and any enhancements made  
 317 thereafter, the maintenance of those systems, and the personnel  
 318 and supplies necessary for operation.

319 (h) "Existing multiagency criminal justice information

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320 systems" includes, but is not limited to, those components of  
 321 the multiagency criminal justice information system as defined  
 322 in s. 943.045, supporting the offices of the circuit or county  
 323 courts, the public defenders' offices, the state attorneys'  
 324 offices, or those portions of the offices of the clerks of the  
 325 circuit and county courts performing court-related functions  
 326 that are used to carry out the court-related activities of those  
 327 entities. This includes upgrades and maintenance of the current  
 328 equipment, maintenance and upgrades of supporting technology  
 329 infrastructure and associated staff, and services and expenses  
 330 to assure continued information sharing and reporting of  
 331 information to the state. The counties shall also provide  
 332 additional information technology services, hardware, and  
 333 software as needed for new judges and staff of the state courts  
 334 system, state attorneys' offices, public defenders' offices,  
 335 guardian ad litem offices, and the offices of the clerks of the  
 336 circuit and county courts performing court-related functions.

337  
 338 This subsection applies only to matters relating to court  
 339 funding and may not be construed to enhance, limit, or define  
 340 the authority of any court.

341 Section 4. Subsection (4) is added to section 30.15,  
 342 Florida Statutes, to read:

343 30.15 Powers, duties, and obligations.—

344 (4) (a) In accordance with each county's obligation under s.  
 345 14, Art. V of the State Constitution and s. 29.008 to fund  
 346 security for trial court facilities, the sheriff of each county  
 347 shall coordinate with the board of county commissioners of that  
 348 county and the chief judge of the circuit in which that county

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349 is located on the development of a comprehensive plan for the  
 350 provision of security for trial court facilities. Each sheriff  
 351 shall retain authority over the operational control and  
 352 provision of law enforcement services associated with the plan.  
 353 The chief judge of the circuit shall retain decisionmaking  
 354 authority to ensure the protection of due process rights,  
 355 including, but not limited to, the scheduling and conduct of  
 356 trial and other judicial proceedings, as part of his or her  
 357 responsibility for the administrative supervision of trial  
 358 courts under s. 43.26.

359 (b) Sheriffs and their deputies, employees, and contractors  
 360 are officers of the court when providing security for trial  
 361 court facilities under this subsection.

362 Section 5. Subsection (1) of section 34.01, Florida  
 363 Statutes, is amended to read:

364 34.01 Jurisdiction of county court.—

365 (1) County courts shall have original jurisdiction:

366 (a) In all misdemeanor cases not cognizable by the circuit  
 367 courts.~~†~~

368 (b) Of all violations of municipal and county ordinances.~~†~~

369 (c) 1. Of all actions at law filed on or before December 31,  
 370 2019, in which the matter in controversy does not exceed the sum  
 371 of \$15,000, exclusive of interest, costs, and attorney  
 372 attorney's fees, except those within the exclusive jurisdiction  
 373 of the circuit courts.~~†~~ ~~and~~

374 2. Of all actions at law filed on or after January 1, 2020,  
 375 in which the matter in controversy does not exceed the sum of  
 376 \$30,000, exclusive of interest, costs, and attorney fees,  
 377 except:

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378 a. Actions within the exclusive jurisdiction of the circuit  
 379 courts; and

380 b. Actions relating to damages or losses covered by an  
 381 insurance policy, including coverage disputes, in which the  
 382 matter in controversy exceeds the sum of \$25,000, exclusive of  
 383 interest, costs, and attorney fees.

384 3. Of all actions at law filed on or after January 1, 2022,  
 385 in which the matter in controversy does not exceed the sum of  
 386 \$50,000, exclusive of interest, costs, and attorney fees,  
 387 except:

388 a. Actions within the exclusive jurisdiction of the circuit  
 389 courts; and

390 b. Actions relating to damages or losses covered by an  
 391 insurance policy, including coverage disputes, in which the  
 392 matter in controversy exceeds the sum of \$25,000, exclusive of  
 393 interest, costs, and attorney fees.

394 The limits in subparagraph 3. must be adjusted every 10 years  
 395 after January 1, 2022, to reflect the rate of inflation or  
 396 deflation as indicated in the Consumer Price Index for All Urban  
 397 Consumers, U.S. City Average, All Items, or successor reports as  
 398 reported by the United States Department of Labor, Bureau of  
 399 Labor Statistics, or its successor. Such adjustments must be  
 400 rounded to the nearest \$5,000.

401 (d) Of disputes occurring in the homeowners' associations  
 402 as described in s. 720.311(2)(a), which shall be concurrent with  
 403 jurisdiction of the circuit courts.  
 404

405  
 406 By March 1, 2021, the State Courts Administrator shall make

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407 recommendations regarding the adjustment of county court  
408 jurisdiction to the Governor, the President of the Senate, and  
409 the Speaker of the House of Representatives. The recommendation  
410 must include an analysis of workflow, timely access to court by  
411 litigants, and any resulting fiscal impact to the state as a  
412 result of adjusted jurisdictional limits.

413 Section 6. Subsection (2) of section 28.241, Florida  
414 Statutes, is amended to read:

415 28.241 Filing fees for trial and appellate proceedings.-

416 (2) (a) Upon the institution of any appellate proceeding  
417 from any lower court to the circuit court of any such county,  
418 including appeals filed by a county or municipality as provided  
419 in s. 34.041(5), or from the circuit court to an appellate court  
420 of the state, the clerk shall charge and collect from the party  
421 or parties instituting such appellate proceedings:

422 1. A filing fee not to exceed \$280 for filing a notice of  
423 appeal from the county court to the circuit court, excluding a  
424 civil case where the matter in controversy was more than  
425 \$15,000. ~~and,~~

426 2. A filing fee not to exceed \$400 for filing a notice of  
427 appeal from the county court to the circuit court for a civil  
428 case where the matter in controversy was more than \$15,000. The  
429 clerk shall remit \$250 of each filing fee collected under this  
430 subparagraph to the Department of Revenue for deposit into the  
431 General Revenue Fund, and the clerk shall remit \$50 of each  
432 filing fee to the Department of Revenue for deposit into the  
433 State Courts Revenue Trust Fund to fund court operations as  
434 authorized in the General Appropriations Act. The clerk shall  
435 retain an accounting of each such remittance.

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436 3. In addition to the filing fee required under s. 25.241  
437 or s. 35.22, \$100 for filing a notice of appeal from the circuit  
438 court to the district court of appeal or to the Supreme Court.

439 (b) If the party is determined to be indigent, the clerk  
440 shall defer payment of the fee required by this subsection.

441 Section 7. Subsection (1) of section 34.041, Florida  
442 Statutes, is amended to read:

443 34.041 Filing fees.-

444 (1) (a) Filing fees are due at the time a party files a  
445 pleading to initiate a proceeding or files a pleading for  
446 relief. Reopen fees are due at the time a party files a pleading  
447 to reopen a proceeding if at least 90 days have elapsed since  
448 the filing of a final order or final judgment with the clerk. If  
449 a fee is not paid upon the filing of the pleading as required  
450 under this section, the clerk shall pursue collection of the fee  
451 pursuant to s. 28.246. Upon the institution of any civil action,  
452 suit, or proceeding in county court, the party shall pay the  
453 following filing fee, not to exceed:

- 454 1. For all claims less than \$100.....\$50.
- 455 2. For all claims of \$100 or more but not more than
- 456 \$500.....\$75.
- 457 3. For all claims of more than \$500 but not more than
- 458 \$2,500.....\$170.
- 459 4. For all claims of more than \$2,500 but not more than
- 460 \$15,000.....\$295.
- 461 5. For all claims more than \$15,000.....\$395.

462 ~~6.5-~~ In addition, for all proceedings of garnishment,  
463 attachment, replevin, and distress.....\$85.

464 ~~7.6-~~ Notwithstanding subparagraphs 3. and ~~6.5-~~, for all

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465 claims of not more than \$1,000 filed simultaneously with an  
 466 action for replevin of property that is the subject of the  
 467 claim.....\$125.

468 ~~8.7-~~ For removal of tenant action.....\$180.

469  
 470 The filing fee in subparagraph ~~7.6-~~ is the total fee due under  
 471 this paragraph for that type of filing, and no other filing fee  
 472 under this paragraph may be assessed against such a filing.

473 (b) The first \$15 of the filing fee collected under  
 474 subparagraph (a)4. and the first \$10 of the filing fee collected  
 475 under subparagraph ~~(a)8.(a)7-~~ shall be deposited in the State  
 476 Courts Revenue Trust Fund. By the 10th day of each month, the  
 477 clerk shall submit that portion of the fees collected in the  
 478 previous month which is in excess of one-twelfth of the clerk's  
 479 total budget for the performance of court-related functions to  
 480 the Department of Revenue for deposit into the Clerks of the  
 481 Court Trust Fund. An additional filing fee of \$4 shall be paid  
 482 to the clerk. The clerk shall transfer \$3.50 to the Department  
 483 of Revenue for deposit into the Court Education Trust Fund and  
 484 shall transfer 50 cents to the Department of Revenue for deposit  
 485 into the Administrative Trust Fund within the Department of  
 486 Financial Services to fund clerk education provided by the  
 487 Florida Clerks of Court Operations Corporation. Postal charges  
 488 incurred by the clerk of the county court in making service by  
 489 mail on defendants or other parties shall be paid by the party  
 490 at whose instance service is made. Except as provided in this  
 491 section, filing fees and service charges for performing duties  
 492 of the clerk relating to the county court shall be as provided  
 493 in ss. 28.24 and 28.241. Except as otherwise provided in this

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494 section, all filing fees shall be retained as fee income of the  
 495 office of the clerk of the circuit court. Filing fees imposed by  
 496 this section may not be added to any penalty imposed by chapter  
 497 316 or chapter 318.

498 (c) A party in addition to a party described in paragraph  
 499 (a) who files a pleading in an original civil action in the  
 500 county court for affirmative relief by cross-claim,  
 501 counterclaim, counterpetition, or third-party complaint, or who  
 502 files a notice of cross-appeal or notice of joinder or motion to  
 503 intervene as an appellant, cross-appellant, or petitioner, shall  
 504 pay the clerk of court a fee of \$295 if the relief sought by the  
 505 party under this paragraph exceeds \$2,500. The clerk shall remit  
 506 the fee to the Department of Revenue for deposit into the  
 507 General Revenue Fund. This fee does not apply if the cross-  
 508 claim, counterclaim, counterpetition, or third-party complaint  
 509 requires transfer of the case from county to circuit court.  
 510 However, the party shall pay to the clerk the standard filing  
 511 fee for the court to which the case is to be transferred.

512 (d) The clerk of court shall collect a service charge of  
 513 \$10 for issuing a summons or an electronic certified copy of a  
 514 summons. The clerk shall assess the fee against the party  
 515 seeking to have the summons issued.

516 (e) Of the first \$200 in filing fees payable under  
 517 subparagraph (a)5., \$195 must be remitted to the Department of  
 518 Revenue for deposit into the State Courts Revenue Trust Fund, \$4  
 519 must be remitted to the Department of Revenue for deposit into  
 520 the Administrative Trust Fund within the Department of Financial  
 521 Services and used to fund the contract with the Florida Clerks  
 522 of Court Operations Corporation created in s. 28.35, and \$1 must

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523 be remitted to the Department of Revenue for deposit into the  
 524 Administrative Trust Fund within the Department of Financial  
 525 Services to fund audits of individual clerks' court-related  
 526 expenditures conducted by the Department of Financial Services.  
 527 By the 10th day of each month, the clerk shall submit that  
 528 portion of the filing fees collected pursuant to this subsection  
 529 in the previous month which is in excess of one-twelfth of the  
 530 clerk's total budget to the Department of Revenue for deposit  
 531 into the Clerks of the Court Trust Fund.

532 Section 8. Subsection (1) of section 44.108, Florida  
 533 Statutes, is amended to read:

534 44.108 Funding of mediation and arbitration.—

535 (1) Mediation and arbitration should be accessible to all  
 536 parties regardless of financial status. A filing fee of \$1 is  
 537 levied on all proceedings in the circuit or county courts to  
 538 fund mediation and arbitration services which are the  
 539 responsibility of the Supreme Court pursuant to ~~the provisions~~  
 540 ~~of~~ s. 44.106. However, the filing fee may not be levied on an  
 541 appeal from the county court to the circuit court for a claim of  
 542 more than \$15,000. The clerk of the court shall forward the  
 543 moneys collected to the Department of Revenue for deposit in the  
 544 State Courts Revenue Trust Fund.

545 Section 9. Effective upon this act becoming a law,  
 546 subsections (3) and (5) of section 105.031, Florida Statutes,  
 547 are amended to read:

548 105.031 Qualification; filing fee; candidate's oath; items  
 549 required to be filed.—

550 (3) QUALIFYING FEE.—

551 (a) Each candidate qualifying for election to a judicial

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552 office or the office of school board member, except write-in  
 553 judicial or school board candidates, shall, during the time for  
 554 qualifying, pay to the officer with whom he or she qualifies a  
 555 qualifying fee, which shall consist of a filing fee and an  
 556 election assessment, or qualify by the petition process. The  
 557 amount of the filing fee is 3 percent of the annual salary of  
 558 the office sought. The amount of the election assessment is 1  
 559 percent of the annual salary of the office sought. Except as  
 560 otherwise required by paragraph (b), the Department of State  
 561 shall transfer all filing fees to the Department of Legal  
 562 Affairs for deposit in the Elections Commission Trust Fund ~~and-~~  
 563 the supervisor of elections shall forward all filing fees to the  
 564 Elections Commission Trust Fund. The election assessment shall  
 565 be deposited into the Elections Commission Trust Fund. The  
 566 annual salary of the office for purposes of computing the  
 567 qualifying fee shall be computed by multiplying 12 times the  
 568 monthly salary authorized for such office as of July 1  
 569 immediately preceding the first day of qualifying. This  
 570 ~~paragraph subsection~~ does not apply to candidates qualifying for  
 571 retention to judicial office.

572 (b) Not later than 20 days after the close of qualifying,  
 573 the Department of State or the supervisor of elections, as  
 574 appropriate, shall refund the full amount of the qualifying fee  
 575 to a candidate for the office of circuit court judge or county  
 576 court judge who is unopposed at the time the qualifying period  
 577 closes.

578 (5) ITEMS REQUIRED TO BE FILED.—

579 (a) In order for a candidate for judicial office or the  
 580 office of school board member to be qualified, the following

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581 items must be received by the filing officer by the end of the  
582 qualifying period:

583 1. Except for candidates for retention to judicial office,  
584 a properly executed check drawn upon the candidate's campaign  
585 account in an amount not less than the fee required by paragraph  
586 (3) (a) subsection (3) or, in lieu thereof, the copy of the  
587 notice of obtaining ballot position pursuant to s. 105.035. If a  
588 candidate's check is returned by the bank for any reason, the  
589 filing officer shall immediately notify the candidate and the  
590 candidate shall, the end of qualifying notwithstanding, have 48  
591 hours from the time such notification is received, excluding  
592 Saturdays, Sundays, and legal holidays, to pay the fee with a  
593 cashier's check purchased from funds of the campaign account.  
594 Failure to pay the fee as provided in this subparagraph shall  
595 disqualify the candidate.

596 2. The candidate's oath required by subsection (4), which  
597 must contain the name of the candidate as it is to appear on the  
598 ballot; the office sought, including the district or group  
599 number if applicable; and the signature of the candidate, duly  
600 acknowledged.

601 3. The loyalty oath required by s. 876.05, signed by the  
602 candidate and duly acknowledged.

603 4. The completed form for the appointment of campaign  
604 treasurer and designation of campaign depository, as required by  
605 s. 106.021. In addition, each candidate for judicial office,  
606 including an incumbent judge, shall file a statement with the  
607 qualifying officer, within 10 days after filing the appointment  
608 of campaign treasurer and designation of campaign depository,  
609 stating that the candidate has read and understands the

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610 requirements of the Florida Code of Judicial Conduct. Such  
611 statement shall be in substantially the following form:

612  
613 Statement of Candidate for Judicial Office

614  
615 I, ...(name of candidate)..., a judicial candidate, have  
616 received, read, and understand the requirements of the Florida  
617 Code of Judicial Conduct.

618 ... (Signature of candidate) ...  
619 ... (Date) ...

620  
621 5. The full and public disclosure of financial interests  
622 required by s. 8, Art. II of the State Constitution or the  
623 statement of financial interests required by s. 112.3145,  
624 whichever is applicable. A public officer who has filed the full  
625 and public disclosure or statement of financial interests with  
626 the Commission on Ethics or the supervisor of elections prior to  
627 qualifying for office may file a copy of that disclosure at the  
628 time of qualifying.

629 Section 10. Except as otherwise expressly provided in this  
630 act and except for this section, which shall take effect upon  
631 becoming a law, this act shall take effect October 1, 2019.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

04.09.19

Meeting Date

Topic Courts

Bill Number 328  
(if applicable)

Name William Lorge (Lorge?)

Amendment Barcode 754472  
(if applicable)

Job Title President

Address 210 S. Monroe Street

Phone 850 222 0170

Tallahassee FL 32301  
City State Zip

E-mail William@Justice.org

Speaking:  For  Against  Information

Representing Florida Justice Reform Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/19  
Meeting Date

CS 328  
Bill Number (if applicable)  
754472  
Amendment Barcode (if applicable)

Topic Jurisdiction of Courts

Name William Cotterell

Job Title \_\_\_\_\_

Address 218 S. Monroe  
Street

Phone \_\_\_\_\_

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Justice Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

04.09.19

Meeting Date

Topic Courts

Bill Number 328  
*(if applicable)*

Name William Lenge

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title President

Address 210 S. Monroe Street

Phone 850.222.0170

Street

Tallahassee FL 32301

City

State

Zip

E-mail William@fljustice.org

Speaking:  For  Against  Information

Representing Florida Justice Reform Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.9.19

328

Meeting Date

Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida Smart Justice Alliance

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

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/19

Meeting Date

328

Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name Daphnee Sainvil

Job Title Legislative Policy Advisor

Address 100 S. Andrews Ave, Main Library, 9th FL

Phone 954-253-7320

Street

Ft. Lauderdale

City

FL

State

33301

Zip

Email dsainvil@broward.org

Speaking:  For  Against  Information

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

Representing Broward County Bd. of County Cmsrs.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4 1 9 / 2019

Meeting Date

Topic \_\_\_\_\_

Bill Number 328

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG      FLORIDA      33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

---

BILL: SB 622

INTRODUCER: Senator Brandes and others

SUBJECT: Traffic Infraction Detectors

DATE: April 1, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	<b>Pre-meeting</b>
2.			ATD	
3.			AP	

---

**I. Summary:**

SB 622 repeals and amends various provisions of law effective July 1, 2022, to remove authorization for the use of traffic infraction detectors, commonly known as “red light cameras,” which are currently used to enforce specified provisions of traffic law by automatically photographing vehicles whose drivers run red lights. The bill leaves intact the express preemption to the state of regulation of the use of red light cameras, thereby prohibiting implementation of red light camera programs by local ordinance.

The Revenue Estimating Conference (REC) has estimated that the bill will reduce state and local government revenues by increasing annual amounts over the next five years. In Fiscal Year 2019-2020, the estimated reductions will be \$2.7 million, increasing to \$159.6 million in Fiscal Year 2023-2024. See the “Fiscal Impact Statement” heading for further detail.

**II. Present Situation:**

**Traffic Infraction Detectors Generally**

Traffic infraction detectors, or “red-light cameras,” are used to enforce traffic laws by automatically photographing vehicles whose drivers run, or fail to yield at, red lights. The cameras are connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously photographs vehicles that enter the intersection above a pre-set minimum speed after the signal has turned red. In some cases, video cameras are used. These video cameras and accompanying sensors record the license plate number, the date and time of day, the time elapsed since the signal has turned red, and the vehicle’s speed.

## Traffic Infraction Detectors in Florida

In 2010, the Florida Legislature enacted ch. 2010-80, L.O.F. The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of ch. 316, F.S.<sup>1</sup> The law authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to authorize officials to issue notices of violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when such violation was identified by a traffic infraction detector.<sup>2</sup>

Municipalities may install or authorize installation of traffic infraction detectors on streets and highways in accordance with Florida Department of Transportation (FDOT) standards, and on state roads within the incorporated area when permitted by the FDOT.<sup>3</sup> Counties may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards, and on state roads in unincorporated areas of the county when permitted by the FDOT.<sup>4</sup> The DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of the FDOT, when permitted by the FDOT.<sup>5</sup>

If the DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must install signage notifying the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.<sup>6</sup> Such signage must meet the specifications for uniform signals and devices adopted by the FDOT pursuant to s. 316.0745, F.S.<sup>7</sup>

### *Notifications and Citations*

If a traffic infraction detector identifies a vehicle violating ss. 316.074(1) or 316.075(1)(c)1., F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer. Notices of violation and traffic citations may not be issued for failure to stop if the driver is making a right-hand turn "in a careful and prudent manner" at an intersection where right-hand turns are permissible,<sup>8</sup> and may not be issued if the driver of the vehicle came to a complete stop after crossing the stop line and before turning right but failed to stop before crossing over the stop line.<sup>9</sup>

A notification must be issued to the registered owner of a vehicle within 30 days of an alleged violation,<sup>10</sup> notifying the alleged violator that he or she must pay the required penalty to the county or municipality,<sup>11</sup> furnish an affidavit setting forth an authorized defense (see below), or

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<sup>1</sup> Section 316.0076, F.S.

<sup>2</sup> *See generally* s. 316.0083, F.S.

<sup>3</sup> Section 316.008(8), F.S. and s. 316.0776(1), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Section 321.50, F.S. DHSMV has not undertaken any effort to install or authorize traffic infraction detectors.

<sup>6</sup> Section 316.0776(2), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 316.0083(1)(a) and (2), F.S.

<sup>9</sup> Section 316.0083(1)(a), F.S.

<sup>10</sup> Notifications of violation must be sent by first-class mail, and mailing of the notifications of violation constitutes notice.

<sup>11</sup> However, payment or a fee may not be required before any hearing requested by the alleged violator.

Section 316.0083(1)(b)1.c., F.S.

request a hearing within 60 days of the date of the notification to avoid issuance of a uniform traffic citation. The notification must include notice that the owner has the right to review the photographic or electronic images or the streaming video evidence, which constitute(s) a rebuttable presumption against the vehicle owner, and must state the time and place, or the Internet location, where the evidence may be examined and observed.<sup>12</sup> The notification must also direct the alleged violator to a website that provides information on the right to request a hearing and on all related court costs, and a form to request a hearing.<sup>13</sup>

If the registered owner of the vehicle does not submit payment, request a hearing, or submit an affidavit setting forth an authorized defense within 60 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a uniform traffic citation<sup>14</sup> to the registered owner (first name on registration in cases of joint registration).<sup>15</sup> The citation must also include the statements described above regarding review of the photographic or video evidence.<sup>16</sup> The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and create a rebuttable presumption the vehicle was used in a violation.<sup>17</sup> A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of the citation to the violator, or, if a hearing is requested, to the clerk for the local hearing officer having jurisdiction over the alleged offense within 14 days.<sup>18</sup>

### *Defenses*

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer; or
- Was, at the time of the violation, in the care, custody, or control of another person.

Additional defenses are available if a law enforcement officer issues a uniform traffic citation for the alleged violation or if the owner was deceased on or before the date the uniform traffic citation was issued.<sup>19</sup>

To establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity within 30 days after the date of issuance of the uniform traffic citation that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the uniform traffic citation, if issued.<sup>20</sup> If the owner submits an affidavit that another driver was

<sup>12</sup> Section 316.0083(1)(b)1.b., F.S.

<sup>13</sup> Section 316.0083(1)(b)1.c., F.S.

<sup>14</sup> Citations must be sent by certified mail, and delivery constitutes notification. Section. 316.0083(1)(c)1.a. and b., F.S.

<sup>15</sup> Section 316.0083(1)(c)1.c., F.S.

<sup>16</sup> Section 316.0083(1)(c)2., F.S.

<sup>17</sup> Section 316.0083(1)(e), F.S.

<sup>18</sup> Section 316.650(3)(c), F.S.

<sup>19</sup> Section 316.0083(1)(d), F.S.

<sup>20</sup> Section 316.0083(1)(d)2., F.S.

behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the other driver.<sup>21</sup> Upon receipt of an affidavit and required documentation, the appropriate governmental entity must dismiss the citation and provide proof of such dismissal to the person that submitted the affidavit.<sup>22</sup> A notice of violation may then be issued to the person identified in the affidavit as having care, custody or control of the vehicle at the time of the alleged violation, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.<sup>23</sup> Submission of a false affidavit is a second degree misdemeanor.<sup>24</sup>

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.<sup>25</sup> If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.<sup>26</sup>

### ***Penalties***

A fine of \$158 is levied on violators who fail to stop at a traffic signal as required by ss. 316.074(1) or 316.075(1)(c)1., F.S. When the \$158 fine is the result of a local government's traffic infraction detector, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).<sup>27</sup> DOR subsequently distributes the fines by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health Emergency Services Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>28</sup>

If a law enforcement officer cites a motorist for the same offense, the fine is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Emergency Services Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.<sup>29</sup>

Violations of ss. 316.074(1) or 316.075(1)(c)1., F.S., enforced by traffic infraction detectors may not result in points being assessed against the operator's driver's license and may not be used for the purpose of setting motor vehicle insurance rates.<sup>30</sup> However, the clerk of the court is required to notify the DHSMV of persons who were mailed a notice of violation but failed to pay the penalty, comply with the terms of a payment plan or order, or failed to appear at a hearing. In such cases, the DHSMV is prohibited from issuing a license plate or revalidation sticker for any

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<sup>21</sup> Section 316.0083(1)(d)2.a., F.S.

<sup>22</sup> Section 316.0083(1)(d)2., F.S.

<sup>23</sup> Section 316.0083(1)(d)3., F.S.

<sup>24</sup> Section 316.0083(1)(d)5., F.S.

<sup>25</sup> Section 316.0083(1)(d)3., F.S.

<sup>26</sup> Section 318.18(15)(c), F.S.

<sup>27</sup> Section 318.18(15)(a)3., F.S. and s. 316.0083(1)(b)3.b., F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 318.18(15)(a)1., F.S.

<sup>30</sup> Section 322.27(3)(d)6., F.S.



vehicle owned or co-owned by such persons until the amounts assessed have been paid. Challengers are authorized solely on the grounds that the outstanding fines have been paid.<sup>31</sup>

### ***Actual State Revenues***

According to the DOR website, from July 2015 through June 2016, 68 jurisdictions operated red light camera programs throughout the state; from July 2016 through June 2017, 63 jurisdictions; and from July 2017 through June 2018, 56 jurisdictions. DOR reports the *state* portion of the fines collected, and their distribution, for the time periods indicated is as follows:<sup>32</sup>

Time Period	Total	General Revenue	Health Admin. TF	Brain & Spinal CI TF
7/2015 – 6/2016	\$59,986,371	\$50,535,262	\$7,287,991	\$2,163,118
7/2016 – 6/2017	\$58,186,173	\$49,129,230	\$6,950,182	\$2,106,761
7/2017 – 6/2018	\$64,142,013	\$54,239,985	\$7,749,565	\$2,324,689

### ***Impact of Red Light Cameras and Other Countermeasures on Crashes and Fatalities***

Research reveals numerous studies of the impact of red light cameras on crashes and fatalities, and the studies are contradictory. In a 2014 Research Memorandum, the Office of Program Policy Analysis & Governmental Accountability (OPPAGA) OPPAGA cited “many” studies reviewing red light camera safety effectiveness which “concluded that there is no well-accepted consensus on whether red light cameras are effective at improving public safety because of wide variation in research techniques and considerations.”<sup>33</sup>

However, a number of countermeasures, including red light cameras, are recognized by the Federal Highway Administration (FHWA) as tools for significant reduction in red light camera violations. Those measures include:

- Intersection engineering improvements, such as modifying traffic signal timing, improving signing and marking, improving sight lines, modifying grades and/or grade separation, adjusting the prevailing speeds, changes in surface treatments, altering lane configuration, and replacing the traffic signal with some other form of traffic control device or intersection type;
- Education campaigns to assist motorists and the general public in understanding the safety issues inherent to red light running;
- Traditional enforcement by law enforcement officers specifically targeting red light running violators at problem locations; and
- Red light camera systems.

According to the FHWA, once a problem at an intersection is documented, an engineering study should be undertaken that considers each of the possible solutions and results in selection of the

<sup>31</sup> Section 318.15(3), F.S.

<sup>32</sup> See *Red Light Camera State Portion Collection Report by Jurisdiction*, available by scrolling down on the DOR website at: <http://dor.myflorida.com/dor/taxes/distributions.html>. (Last visited January 30, 2017).

<sup>33</sup> See OPPAGA’s research memorandum, *Florida Red Light Camera Programs*, February 7, 2014, at p. 8, available at <http://www.thenewspaper.com/rlc/docs/2014/fl-oppaga.pdf> (last viewed March 28, 2019).

most appropriate measure given the individual characteristics at a particular intersection.<sup>34</sup> Whether municipalities and counties are conducting engineering studies and selecting the most appropriate measure for addressing red light violations based on those studies is unclear.

***DHSMV Red Light Camera Summary Report***

Section 316.0083(4), F.S., requires each county or municipality operating a red light camera program to annually self-report data to the DHSMV, which includes red light camera program results over the preceding fiscal year, the procedures for enforcement, and other statistical data and information required by the DHSMV. The DHSMV must compile the information and submit a summary report to the Governor, Senate President, and House Speaker.

The DHSMV issued its most recent report in December of 2018, covering the period between July 1, 2017, and June 30, 2018.<sup>35</sup> According to the report, during the identified period of time:

- Local jurisdictions reporting red light cameras in operation totaled 49.
- Active red light cameras as of June 30, 2018, totaled 508 (121 fewer cameras than the previous year).
- Intersections equipped with red light cameras totaled 310 (99 fewer intersections than the previous year.)
- Agencies issued 1,159,392 notices of violation, of which 718,835 (62 percent) were paid and approximately 4,216 (0.3 percent) were contested and dismissed.<sup>36</sup>

The DHSMV report reflects the following breakdown of the number of crashes at red light camera intersections before and after the cameras were installed:

	Before	After	Percent Change
Total Crashes	8,907	10,252	15.10%
Angle Crashes	1,839	2,072	12.67%
Rear-End Crashes	4,841	5,451	12.60%
Crashes Involving Non-Motorists	230	230	0.00%
Crashes Involving Running a Red Light	304	304	0.00%
Non-Injury Crashes	6,425	7,622	18.63%
Injury Crashes	2,463	2,609	5.93%
Fatal Crashes	19	21	

According to the most recent DHSMV report and those from 2015-16<sup>37</sup> and 2016-17,<sup>38</sup> the total number of crashes occurring at intersections before and after red light cameras were installed has increased over the identified period of time.

<sup>34</sup> See the Federal Highway Administration *Red Light Camera Systems Operational Guidelines*, available at: <https://safety.fhwa.dot.gov/intersection/conventional/signalized/rlr/fhwas05002/#toc89679996>. (Last visited January 31, 2017.)

<sup>35</sup> The DHSMV uses an on-line questionnaire to facilitate its collection of data. See FLHMSV, *Red Light Camera Summary Report*, available at <https://www.flhsmv.gov/pdf/cabinetreports/redlightcameraanalysis2018.pdf> (last viewed March 28, 2019).

<sup>36</sup> *Id.* at pp. 2-3.

<sup>37</sup> Available at <https://www.flhsmv.gov/pdf/cabinetreports/redlightcameraanalysis2016.pdf> (last viewed March 28, 2019).

<sup>38</sup> Available at <https://www.flhsmv.gov/pdf/cabinetreports/redlightcameraanalysis2017.pdf> (last viewed March 28, 2019).

### *Judicial Decisions*

The Fourth District Court of Appeal (DCA) in October of 2014 dismissed a red light camera citation, holding that the city had improperly delegated its police powers when it contractually outsourced its statutory obligations to a red light camera vendor.<sup>39</sup> In that case, the city's contract with the vendor provided that the vendor was responsible for:

- Deciding which cases are sent to the city's traffic infraction enforcement officer to review;
- Initially determining who is subject to prosecution for a red light violation;
- Obtaining the information necessary for completion of the citation;
- Creating the actual citation;
- Issuing the citation to the registered vehicle owner; and
- Eventually transmitting the traffic citation data to the court.

Given the circumstances, the court found that the contractual process was not the equivalent of a traffic infraction enforcement officer issuing the citation,<sup>40</sup> "especially when it is the third-party vendor that controls what information is, or is not, made available for the officer's consideration." On April 13, 2015, the Florida Supreme Court declined to accept jurisdiction in denying the city's petition for review.<sup>41</sup>

However, in July of 2016, the Third DCA, on different contractual provisions and processes, reached a different conclusion.<sup>42</sup> The court held that the review of red light camera images authorized by Florida law does allow a city's vendor, as its agent, to review and sort red light camera images to forward to a police officer when:

- The vendor's decisions are essentially ministerial and non-discretionary in that such decisions are strictly circumscribed by the contract language, guidelines promulgated by the city, and actual practices;
- These ministerial decisions are additionally restricted by a broad policy that requires the vendor to automatically forward "close calls" to law enforcement for review;
- The police officer, not the vendor, makes the actual decision whether probable cause exists and whether a notice and citation should be issued; and
- The officer's decision that probable cause exists and the citation should be issued are supported by the responsible officer's full, professional review which does not merely acquiesce to any decision by the vendor.<sup>43</sup>

Distinguishing the circumstances presented from the *Arem* case, the Third DCA certified certain questions relating to the Florida Supreme Court as having great public importance.

On May 3, 2018, the Florida Supreme Court approved the Third DCA's decision in the *Jimenez* case, holding that "section 316.0083(1)(a) authorizes a local government to contract with a

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<sup>39</sup> *City of Hollywood v. Arem*, 39 Fla. L. Weekly D2175 (Fla. 4<sup>th</sup> DCA).

<sup>40</sup> In Florida, only traffic infraction enforcement officers and sworn law enforcement officers are authorized to issue traffic citations. Sections 316.0083(1)(b)3. and 316.650(3)(c), F.S.

<sup>41</sup> *City of Hollywood v. Arem*, Case No. SC 15-236 (Fla. 2015).

<sup>42</sup> See also *City of Oldsmar and Pamela Jo Bondi, Attorney General vs. Trinh*, Case No. 2D15-4898, (Fla. 2<sup>nd</sup> DCA), in which the Second District Court of Appeal certifies conflict with the Fourth District in the *Arem* case.

<sup>43</sup> *State of Florida, by and through the City of Aventura, et. Al. vs. Jimenez*, Case Nos. 3D15-2303 & 3D15-2271. Opinion filed July 27, 2016.

private third-party vendor to review and sort information from red light cameras, in accordance with written guidelines provided by the local government, before sending that information to a trained traffic enforcement officer who determines whether probable cause exists and a citation should be issued.”<sup>44</sup>

### III. Effect of Proposed Changes:

The bill repeals authorization for the use of red light cameras in Florida and leaves in place the express preemption to the state of regulation of the use of such cameras. Because the preemption provisions of s. 316.0076, F.S., remain in statute, local governments will have no authority to implement red light camera programs.

**Section 1** of the bill amends s. 316.003, F.S., to repeal the current subsection (36) definition of “local hearing officer,” currently defined to mean the person, designated by a department, county, or municipality that elects to authorize traffic infraction enforcement officers to issue traffic citations under s. 316.0083(1)(a), who is authorized to conduct hearings related to a notice of violation issued pursuant to s. 316.0083. Authorization of a charter county, noncharter county, or municipality to use a currently appointed code enforcement board or special magistrate to serve as the local hearing officer, as well as authorization of the Department of Highway Safety and Motor Vehicles to enter into interlocal agreements to use a county or municipal local hearing officer, is likewise removed.

This section of the bill also amends s. 316.003, F.S., to repeal the current subsection (91) definition of “traffic infraction detector,” currently defined to mean a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Also removed is the requirement to include in any notice of violation or traffic citation issued by the use of a traffic infraction detector a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.

**Section 2** amends s. 316.008, F.S., to repeal the current subsection (8) authorization of counties or municipalities to install, or authorize the installation of, and use traffic infraction detectors to enforce specified provisions of traffic law relating to obedience to traffic control signals and stopping a vehicle facing a steady red signal.

**Section 3** repeals s. 316.0083, F.S., the “Mark Wandall Traffic Safety Program,” which currently:

- Authorizes DHSMV, a county, or a municipality to authorize a traffic infraction enforcement officer to issue traffic citations for specified provisions of traffic law relating to obedience to traffic control signals and stopping a vehicle facing a steady red signal;

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<sup>44</sup> *Luis Torres Jimenez vs. State of Florida, etc., et al.*, Case No. SC16-1976. Opinion filed May 3, 2018, available at <https://caselaw.findlaw.com/fl-supreme-court/1895123.html> (last viewed March 28, 2019). The Court also approved the Second DCA’s decision in *Trinh* and disapproved the Fourth DCA’s opinion in *Arem* to the extent of inconsistency with the Supreme Court’s opinion.

- Prohibits issuance of notices of violation or traffic citations for failing to stop while making rolling, “right-on-red” turns in a “careful and prudent manner” and for failing to stop before crossing the stop line or other point at which a stop is required when making a “right-on-red” turn;
- Provides the process and requirements for issuance of notices of violation, sets forth specific information to be included in such notices; provides alternative options for an alleged violator, including providing a specified affidavit, requesting a hearing, or paying the penalty stated in the notice; provides penalty amounts and fine distributions; and prohibits certain individuals, manufacturers, or vendors from receiving commissions, fees, or remuneration relating to the use of traffic infraction detectors;
- Provides the process and requirements for issuance of traffic citations; sets forth specific information to be included in such notices; provides for defenses to be established by affidavit, states requirements for information to be included in such affidavits, provides penalties for submission of false affidavits; provides for dismissal of citations and issuance of notices of violation and traffic citations to the person designated in an affidavit as having care, custody, or control of the motor vehicle at the time of the violation; and provides for supplemental enforcement;
- Requires each county or municipality that operates traffic infraction detectors to provide a specified annual summary report to DHSMV regarding the use and operation of traffic infraction detectors, and requires DHSMV to prepare an annual report to the Governor, Senate President, and House Speaker; and
- Sets forth procedures for hearings on notices of violation and authorizes a specified appeal of a final administrative order.

**Section 4** repeals s. 316.00831, F.S., which currently provides for retention by a county or municipality and subsequent remission to the Department of Revenue, as appropriate, of penalties collected for notices of violation during the interim between passage of the Mark Wandall Safety Program in 2010 and DOR’s notification of its ability to receive and distribute the retained funds.

**Section 5** repeals s. 316.07456, F.S., which currently requires deployed traffic infraction detectors to meet specifications published by the FDOT and be tested at regular intervals according to FDOT specifications; requires the FDOT to establish such specifications on or before December 31, 2010; and provides that any detectors in operation before July 1, 2011, are not required to meet FDOT specifications until July 1, 2011.

**Section 6** repeals s. 316.0776, F.S., which currently provides permitting, placement, and installation standards for traffic infraction detectors; and for signage, public announcement, and public awareness campaigns under certain conditions.

**Section 7** amends s. 318.15, F.S., to repeal provision in current subsection (3) for withholding of a license plate or revalidation sticker for any motor vehicle owned or co-owned by a person who failed to pay the penalty, comply with the terms of a payment plan or order, or failed to appear at a hearing; as well as authorization to challenge the withholding solely on the basis that the outstanding fines and civil penalties have been paid.

**Section 8** repeals s. 321.50, F.S., which currently authorizes DHSMV to use traffic infraction detectors to enforce specified provisions of traffic law relating to obedience to traffic control signals and stopping a vehicle facing a steady red signal on state roads under FDOT jurisdiction when permitted by the FDOT.

**Sections 9, 12, 13, and 15** amend ss. 28.37, 318.121, 318.14, and 320.03, F.S., respectively, to remove and correct cross references to conform to changes made by the act.

**Section 10** amends s. 316.640(1)(b) and (5)(a), F.S., to remove DHSMV authorization to designate employees as traffic infraction enforcement officers; instruction and training requirements for such officers; provisions relating to such officers carrying firearms or other weapons and making arrests; the requirement that such officers be physically located in the state; authorization of such officers to issue traffic citations under the Mark Wandall Traffic Safety Program; and authorization of any sheriff's department or police department of a municipality to designate employees as traffic infraction officers.

**Section 11** amends s. 316.650(3)(a) and (c), F.S., to remove a cross reference to conform to changes made by the act and to remove requirements relating to provision of replicas of traffic citations and notices of violation issued under the Mark Wandall Traffic Safety Program.

**Section 14** amends s. 318.18(15) and (22), F.S., to remove penalty amounts for red light violations enforced by a traffic infraction enforcement officer; distribution requirements for fines collected from traffic infraction detector programs; provisions for dismissal of notices of violation or traffic citations issued in error; the prohibition against certain individuals manufacturers, or vendors receiving commissions, fees, or remuneration relating to the use of traffic infraction detectors; and authorization of local hearing officers to order payment of county or municipal costs, not to exceed \$250.

**Section 16** amends s. 322.27(3)(d), F.S., to remove prohibitions against imposition of driver license points for red light violations enforced by a traffic infraction enforcement officer and against using red light violations enforced by a traffic infraction enforcement officer to set motor vehicle insurance rates.

**Section 17** provides the act takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

To the extent that local governments did not anticipate the possible repeal of authority to implement red light camera programs and did not include provision for termination of vendor contracts in the event of such repeal, some vendors may raise impairment of contract claims.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The REC has not considered the fiscal impact of SB 622 but has reviewed HB 6003 (2019), which also repeals authorization for red light camera programs and related provisions effective July 1, 2022. The REC estimated that the bill will reduce state and local government revenues by increasing annual amounts over the next five years. While the bill does not repeal authorization for the red light camera program until July 1, 2022, the REC expects that, due to the 2022 repeal, some local governments will not renew contracts that are due to expire before July 1, 2022. The “Cash” columns in the table below show each year’s expected reductions.<sup>45</sup>

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
19-20	(1.1)	(64.3)	(0.2)	(12.4)	(1.4)	(75.3)	(2.7)	(152.0)
20-21	(4.7)	(65.1)	(0.9)	(12.6)	(5.5)	(76.3)	(11.1)	(154.0)
21-22	(7.1)	(65.9)	(1.4)	(12.8)	(8.3)	(77.2)	(16.8)	(155.9)
22-23	(54.0)	(66.7)	(10.5)	(13.0)	(63.2)	(78.1)	(127.7)	(157.8)
23-24	(67.5)	(67.5)	(13.1)	(13.1)	(79.0)	(79.0)	(159.6)	(159.6)

**B. Private Sector Impact:**

Individuals would no longer be subject to a citation for a red light violation detected by a red light camera, thereby also eliminating costs such as those associated with disputing notices of violations and paying court costs.

**C. Government Sector Impact:**

The Department of Revenue would no longer incur expenses associated with processing the payments from municipalities and counties and distributing the revenues to the appropriate funds.

The DHSMV would experience a reduction in administrative expenses with respect to the annual red light camera reports but estimates it will require 45 hours of programming

<sup>45</sup> See the January 24, 2019, Revenue Estimating Conference analysis of HB 6003 available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/pdf/page23-25.pdf> (last viewed March 28, 2019).

time to implement the bill's provisions,<sup>46</sup> which likely can be absorbed within existing resources.

Local governments that currently are required to self-report data for the annual DHSMV summary report would no longer incur expenses to respond to the DHSMV's annual on-line survey.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.008, 318.15, 28.37, 316.640, 316.650, 318.121, 318.14, 318.18, 320.03, and 322.27.

This bill repeals the following sections of the Florida Statutes: 316.0083, 316.00831, 316.07456, 316.0776, and 321.50.

**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.

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<sup>46</sup> See the DHSMV analysis of HB 6003, which also repeals the red light camera authorization and related provisions effective July 1, 2022, at p. 4 and p. 7. (Copy on file in the Senate Infrastructure and Security Committee.)





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LEGISLATIVE ACTION

Senate

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House

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The Committee on Infrastructure and Security (Brandes)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (c) of subsection (1) of section  
316.075, Florida Statutes, is amended to read:

316.075 Traffic control signal devices.—

(1) Except for automatic warning signal lights installed or  
to be installed at railroad crossings, whenever traffic,  
including municipal traffic, is controlled by traffic control



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11 signals exhibiting different colored lights, or colored lighted  
12 arrows, successively one at a time or in combination, only the  
13 colors green, red, and yellow shall be used, except for special  
14 pedestrian signals carrying a word legend, and the lights shall  
15 indicate and apply to drivers of vehicles and pedestrians as  
16 follows:

17 (c) *Steady red indication.*—

18 1. Vehicular traffic facing a steady red signal shall stop  
19 before entering the crosswalk on the near side of the  
20 intersection or, if none, then before entering the intersection  
21 and shall remain standing until a green indication is shown;  
22 however:

23 a. The driver of a vehicle which is stopped at a clearly  
24 marked stop line, but if none, before entering the crosswalk on  
25 the near side of the intersection, or, if none then at the point  
26 nearest the intersecting roadway where the driver has a view of  
27 approaching traffic on the intersecting roadway before entering  
28 the intersection in obedience to a steady red signal may make a  
29 right turn, but shall yield the right-of-way to pedestrians and  
30 other traffic proceeding as directed by the signal at the  
31 intersection, except that municipal and county authorities may  
32 prohibit any such right turn against a steady red signal at any  
33 intersection, which prohibition shall be effective when a sign  
34 giving notice thereof is erected in a location visible to  
35 traffic approaching the intersection. A traffic infraction  
36 detector may not be used to enforce a violation of this sub-  
37 subparagraph and the department, a county, or a municipality may  
38 not authorize a traffic infraction enforcement officer under s.  
39 316.640 to issue a traffic citation based on traffic infraction



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40 detector evidence for a violation of this sub-subparagraph.

41       b. The driver of a vehicle on a one-way street that  
42 intersects another one-way street on which traffic moves to the  
43 left shall stop in obedience to a steady red signal, but may  
44 then make a left turn into the one-way street, but shall yield  
45 the right-of-way to pedestrians and other traffic proceeding as  
46 directed by the signal at the intersection, except that  
47 municipal and county authorities may prohibit any such left turn  
48 as described, which prohibition shall be effective when a sign  
49 giving notice thereof is attached to the traffic control signal  
50 device at the intersection.

51       2.a. The driver of a vehicle facing a steady red signal  
52 shall stop before entering the crosswalk and remain stopped to  
53 allow a pedestrian, with a permitted signal, to cross a roadway  
54 when the pedestrian is in the crosswalk or steps into the  
55 crosswalk and is upon the half of the roadway upon which the  
56 vehicle is traveling or when the pedestrian is approaching so  
57 closely from the opposite half of the roadway as to be in  
58 danger.

59       b. Unless otherwise directed by a pedestrian control signal  
60 as provided in s. 316.0755, pedestrians facing a steady red  
61 signal shall not enter the roadway.

62       Section 2. Paragraph (a) of subsection (2) of section  
63 316.0776, Florida Statutes, is amended to read:

64       316.0776 Traffic infraction detectors; placement and  
65 installation.—

66       (2)(a) If the department, county, or municipality installs  
67 a traffic infraction detector at an intersection, the  
68 department, county, or municipality shall notify the public that



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69 a traffic infraction device may be in use at that intersection  
70 ~~and must specifically include notification of camera enforcement~~  
71 ~~of violations concerning right turns.~~ Such signage used to  
72 notify the public must meet the specifications for uniform  
73 signals and devices adopted by the Department of Transportation  
74 pursuant to s. 316.0745.

75 Section 3. Paragraph (a) of subsection (1) and subsection  
76 (2) of section 316.0083, Florida Statutes, are amended to read:

77 316.0083 Mark Wandall Traffic Safety Program;  
78 administration; report.-

79 (1) (a) For purposes of administering this section, the  
80 department, a county, or a municipality may authorize a traffic  
81 infraction enforcement officer under s. 316.640 to issue a  
82 traffic citation for a violation of s. 316.074(1) or s.  
83 316.075(1)(c)1. A notice of violation and a traffic citation may  
84 not be issued by the traffic infraction enforcement officer for  
85 failure to stop at a red light if the driver is making a right-  
86 hand turn, if such violation is based on traffic infraction  
87 detector evidence. A traffic infraction detector may not be used  
88 to enforce any violation for failure to stop at a red light if  
89 the driver is making a right-hand turn in a careful and prudent  
90 manner at an intersection where right-hand turns are  
91 permissible. A notice of violation and a traffic citation may  
92 not be issued under this section if the driver of the vehicle  
93 came to a complete stop after crossing the stop line and before  
94 turning right if permissible at a red light, but failed to stop  
95 before crossing over the stop line or other point at which a  
96 stop is required. This paragraph does not prohibit a review of  
97 information from a traffic infraction detector by an authorized



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98 employee or agent of the department, a county, or a municipality  
99 before issuance of the traffic citation by the traffic  
100 infraction enforcement officer. This paragraph does not prohibit  
101 the department, a county, or a municipality from issuing  
102 notification as provided in paragraph (b) to the registered  
103 owner of the motor vehicle involved in the violation of s.  
104 316.074(1) or s. 316.075(1)(c)1.

105 ~~(2) A notice of violation and a traffic citation may not be~~  
106 ~~issued for failure to stop at a red light if the driver is~~  
107 ~~making a right hand turn in a careful and prudent manner at an~~  
108 ~~intersection where right hand turns are permissible.~~

109 Section 4. This act shall take effect July 1, 2022.

110  
111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113 Delete everything before the enacting clause  
114 and insert:

115 A bill to be entitled  
116 An act relating to traffic infraction detectors;  
117 amending s. 316.075, F.S.; prohibiting a traffic  
118 infraction detector from being used to enforce a  
119 violation of a right turn against a steady red signal  
120 at any intersection; prohibiting the department, a  
121 county, or a municipality from authorizing a traffic  
122 infraction enforcement officer to issue a traffic  
123 citation based on traffic infraction detector evidence  
124 for such a violation; amending s. 316.0776, F.S.;  
125 conforming a provision to changes made by the act;  
126 amending s. 316.0083, F.S.; prohibiting a notice of



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127 violation and a traffic citation from being issued by  
128 a traffic infraction enforcement officer for failure  
129 to stop at a red light if the driver is making a  
130 right-hand turn and such violation is based on traffic  
131 infraction detector evidence; prohibiting a traffic  
132 infraction detector from being used to enforce any  
133 violation for failure to stop at a red light if the  
134 driver is making a right-hand turn; conforming a  
135 provision to changes made by the act; providing an  
136 effective date.

By Senator Brandes

24-01478-19

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1 A bill to be entitled  
 2 An act relating to traffic infraction detectors;  
 3 repealing s. 316.003(36) and (91), F.S., relating to  
 4 the definitions of "local hearing officer" and  
 5 "traffic infraction detector," respectively; repealing  
 6 ss. 316.008(8), 316.0083, and 316.00831, F.S.,  
 7 relating to the installation and use of traffic  
 8 infraction detectors to enforce specified provisions  
 9 when a driver fails to stop at a traffic signal,  
 10 provisions that authorize the Department of Highway  
 11 Safety and Motor Vehicles, a county, or a municipality  
 12 to use such detectors, and the distribution of  
 13 penalties collected for specified violations;  
 14 repealing s. 316.07456, F.S., relating to transitional  
 15 implementation of such detectors; repealing s.  
 16 316.0776, F.S., relating to placement and installation  
 17 of traffic infraction detectors; repealing s.  
 18 318.15(3), F.S., relating to failure to comply with a  
 19 civil penalty; repealing s. 321.50, F.S., relating to  
 20 the authorization to use traffic infraction detectors;  
 21 amending ss. 28.37, 316.640, 316.650, 318.121, 318.14,  
 22 318.18, 320.03, and 322.27, F.S., relating to  
 23 distribution of proceeds, enforcement by traffic  
 24 infraction enforcement officers using such detectors,  
 25 procedures for disposition of citations, preemption of  
 26 additional fees or surcharges, compliance, amount of  
 27 penalties, registration and renewal of license plates,  
 28 and points assessed for certain violations, to conform  
 29 provisions to changes made by the act; providing an

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30 effective date.  
 31  
 32 Be It Enacted by the Legislature of the State of Florida:  
 33  
 34 Section 1. Subsections (36) and (91) of section 316.003,  
 35 Florida Statutes, are repealed.  
 36 Section 2. Subsection (8) of section 316.008, Florida  
 37 Statutes, is repealed.  
 38 Section 3. Section 316.0083, Florida Statutes, is repealed.  
 39 Section 4. Section 316.00831, Florida Statutes, is  
 40 repealed.  
 41 Section 5. Section 316.07456, Florida Statutes, is  
 42 repealed.  
 43 Section 6. Section 316.0776, Florida Statutes, is repealed.  
 44 Section 7. Subsection (3) of section 318.15, Florida  
 45 Statutes, is repealed.  
 46 Section 8. Section 321.50, Florida Statutes, is repealed.  
 47 Section 9. Subsection (5) of section 28.37, Florida  
 48 Statutes, is amended to read:  
 49 28.37 Fines, fees, service charges, and costs remitted to  
 50 the state.—  
 51 (5) Ten percent of all court-related fines collected by the  
 52 clerk, except for penalties or fines distributed to counties or  
 53 municipalities under s. 318.18(15) ~~s. 316.0083(1)(b)3. or s.~~  
 54 ~~318.18(15)(a)~~, shall be deposited into the fine and forfeiture  
 55 fund to be used exclusively for clerk court-related functions,  
 56 as provided in s. 28.35(3)(a).  
 57 Section 10. Paragraph (b) of subsection (1) and paragraph  
 58 (a) of subsection (5) of section 316.640, Florida Statutes, are

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59 amended to read:

60 316.640 Enforcement.—The enforcement of the traffic laws of  
61 this state is vested as follows:

62 (1) STATE.—

63 (b)1. The Department of Transportation has authority to  
64 enforce on all the streets and highways of this state all laws  
65 applicable within its authority.

66 2.a. The Department of Transportation shall develop  
67 training and qualifications standards for toll enforcement  
68 officers whose sole authority is to enforce the payment of tolls  
69 pursuant to s. 316.1001. Nothing in this subparagraph shall be  
70 construed to permit the carrying of firearms or other weapons,  
71 nor shall a toll enforcement officer have arrest authority.

72 b. For the purpose of enforcing s. 316.1001, governmental  
73 entities, as defined in s. 334.03, which own or operate a toll  
74 facility may employ independent contractors or designate  
75 employees as toll enforcement officers; however, any such toll  
76 enforcement officer must successfully meet the training and  
77 qualifications standards for toll enforcement officers  
78 established by the Department of Transportation.

79 ~~3. For the purpose of enforcing s. 316.0083, the department~~  
80 ~~may designate employees as traffic infraction enforcement~~  
81 ~~officers. A traffic infraction enforcement officer must~~  
82 ~~successfully complete instruction in traffic enforcement~~  
83 ~~procedures and court presentation through the Selective Traffic~~  
84 ~~Enforcement Program as approved by the Division of Criminal~~  
85 ~~Justice Standards and Training of the Department of Law~~  
86 ~~Enforcement, or through a similar program, but may not~~  
87 ~~necessarily otherwise meet the uniform minimum standards~~

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88 ~~established by the Criminal Justice Standards and Training~~  
89 ~~Commission for law enforcement officers or auxiliary law~~  
90 ~~enforcement officers under s. 943.13. This subparagraph does not~~  
91 ~~authorize the carrying of firearms or other weapons by a traffic~~  
92 ~~infraction enforcement officer and does not authorize a traffic~~  
93 ~~infraction enforcement officer to make arrests. The department's~~  
94 ~~traffic infraction enforcement officers must be physically~~  
95 ~~located in the state.~~

96 (5) (a) Any sheriff's department or police department of a  
97 municipality may employ, as a traffic infraction enforcement  
98 officer, any individual who successfully completes instruction  
99 in traffic enforcement procedures and court presentation through  
100 the Selective Traffic Enforcement Program as approved by the  
101 Division of Criminal Justice Standards and Training of the  
102 Department of Law Enforcement, or through a similar program, but  
103 who does not necessarily otherwise meet the uniform minimum  
104 standards established by the Criminal Justice Standards and  
105 Training Commission for law enforcement officers or auxiliary  
106 law enforcement officers under s. 943.13. Any such traffic  
107 infraction enforcement officer who observes the commission of a  
108 traffic infraction or, in the case of a parking infraction, who  
109 observes an illegally parked vehicle may issue a traffic  
110 citation for the infraction when, based upon personal  
111 investigation, he or she has reasonable and probable grounds to  
112 believe that an offense has been committed which constitutes a  
113 noncriminal traffic infraction as defined in s. 318.14. ~~In~~  
114 ~~addition, any such traffic infraction enforcement officer may~~  
115 ~~issue a traffic citation under s. 316.0083. For purposes of~~  
116 ~~enforcing s. 316.0083, any sheriff's department or police~~

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117 ~~department of a municipality may designate employees as traffic~~  
 118 ~~infraction enforcement officers. The traffic infraction~~  
 119 ~~enforcement officers must be physically located in the county of~~  
 120 ~~the respective sheriff's or police department.~~

121 Section 11. Paragraphs (a) and (c) of subsection (3) of  
 122 section 316.650, Florida Statutes, are amended to read:

123 316.650 Traffic citations.—

124 (3) (a) Except for a traffic citation issued pursuant to s.  
 125 316.1001 ~~or s. 316.0083~~, each traffic enforcement officer, upon  
 126 issuing a traffic citation to an alleged violator of any  
 127 provision of the motor vehicle laws of this state or of any  
 128 traffic ordinance of any municipality or town, shall deposit the  
 129 original traffic citation or, in the case of a traffic  
 130 enforcement agency that has an automated citation issuance  
 131 system, the chief administrative officer shall provide by an  
 132 electronic transmission a replica of the citation data to a  
 133 court having jurisdiction over the alleged offense or with its  
 134 traffic violations bureau within 5 days after issuance to the  
 135 violator.

136 ~~(c) If a traffic citation is issued under s. 316.0083, the~~  
 137 ~~traffic infraction enforcement officer shall provide by~~  
 138 ~~electronic transmission a replica of the traffic citation data~~  
 139 ~~to the court having jurisdiction over the alleged offense or its~~  
 140 ~~traffic violations bureau within 5 days after the date of~~  
 141 ~~issuance of the traffic citation to the violator. If a hearing~~  
 142 ~~is requested, the traffic infraction enforcement officer shall~~  
 143 ~~provide a replica of the traffic notice of violation data to the~~  
 144 ~~clerk for the local hearing officer having jurisdiction over the~~  
 145 ~~alleged offense within 14 days.~~

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146 Section 12. Section 318.121, Florida Statutes, is amended  
 147 to read:

148 318.121 Preemption of additional fees, fines, surcharges,  
 149 and costs.—Notwithstanding any general or special law, or  
 150 municipal or county ordinance, additional fees, fines,  
 151 surcharges, or costs other than the court costs and surcharges  
 152 assessed under s. 318.18(11), (13), (18), and (19), ~~and (22)~~ may  
 153 not be added to the civil traffic penalties assessed under this  
 154 chapter.

155 Section 13. Subsection (2) of section 318.14, Florida  
 156 Statutes, is amended to read:

157 318.14 Noncriminal traffic infractions; exception;  
 158 procedures.—

159 (2) Except as provided in s. 316.1001(2) ~~ss. 316.1001(2)~~  
 160 ~~and 316.0083~~, any person cited for a violation requiring a  
 161 mandatory hearing listed in s. 318.19 or any other criminal  
 162 traffic violation listed in chapter 316 must sign and accept a  
 163 citation indicating a promise to appear. The officer may  
 164 indicate on the traffic citation the time and location of the  
 165 scheduled hearing and must indicate the applicable civil penalty  
 166 established in s. 318.18. For all other infractions under this  
 167 section, except for infractions under s. 316.1001, the officer  
 168 must certify by electronic, electronic facsimile, or written  
 169 signature that the citation was delivered to the person cited.  
 170 This certification is prima facie evidence that the person cited  
 171 was served with the citation.

172 Section 14. Subsections (15) and (22) of section 318.18,  
 173 Florida Statutes, are amended to read:

174 318.18 Amount of penalties.—The penalties required for a

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175 noncriminal disposition pursuant to s. 318.14 or a criminal  
176 offense listed in s. 318.17 are as follows:

177 (15)(a)~~1~~. One hundred and fifty-eight dollars for a  
178 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
179 has failed to stop at a traffic signal ~~and when enforced by a~~  
180 ~~law enforcement officer~~. Sixty dollars shall be distributed as  
181 provided in s. 318.21, \$30 shall be distributed to the General  
182 Revenue Fund, \$3 shall be remitted to the Department of Revenue  
183 for deposit into the Brain and Spinal Cord Injury Trust Fund,  
184 and the remaining \$65 shall be remitted to the Department of  
185 Revenue for deposit into the Emergency Medical Services Trust  
186 Fund of the Department of Health.

187 ~~2. One hundred and fifty eight dollars for a violation of~~  
188 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
189 ~~stop at a traffic signal and when enforced by the department's~~  
190 ~~traffic infraction enforcement officer. One hundred dollars~~  
191 ~~shall be remitted to the Department of Revenue for deposit into~~  
192 ~~the General Revenue Fund, \$45 shall be distributed to the county~~  
193 ~~for any violations occurring in any unincorporated areas of the~~  
194 ~~county or to the municipality for any violations occurring in~~  
195 ~~the incorporated boundaries of the municipality in which the~~  
196 ~~infraction occurred, \$10 shall be remitted to the Department of~~  
197 ~~Revenue for deposit into the Department of Health Emergency~~  
198 ~~Medical Services Trust Fund for distribution as provided in s.~~  
199 ~~395.4036(1), and \$3 shall be remitted to the Department of~~  
200 ~~Revenue for deposit into the Brain and Spinal Cord Injury Trust~~  
201 ~~Fund.~~

202 ~~3. One hundred and fifty eight dollars for a violation of~~  
203 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~

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204 ~~stop at a traffic signal and when enforced by a county's or~~  
205 ~~municipality's traffic infraction enforcement officer. Seventy-~~  
206 ~~five dollars shall be distributed to the county or municipality~~  
207 ~~issuing the traffic citation, \$70 shall be remitted to the~~  
208 ~~Department of Revenue for deposit into the General Revenue Fund,~~  
209 ~~\$10 shall be remitted to the Department of Revenue for deposit~~  
210 ~~into the Department of Health Emergency Medical Services Trust~~  
211 ~~Fund for distribution as provided in s. 395.4036(1), and \$3~~  
212 ~~shall be remitted to the Department of Revenue for deposit into~~  
213 ~~the Brain and Spinal Cord Injury Trust Fund.~~

214 ~~(b) Amounts deposited into the Brain and Spinal Cord Injury~~  
215 ~~Trust Fund pursuant to this subsection shall be distributed~~  
216 ~~quarterly to the Miami Project to Cure Paralysis and shall be~~  
217 ~~used for brain and spinal cord research.~~

218 ~~(c) If a person who is mailed a notice of violation or~~  
219 ~~cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as~~  
220 ~~enforced by a traffic infraction enforcement officer under s.~~  
221 ~~316.0083, presents documentation from the appropriate~~  
222 ~~governmental entity that the notice of violation or traffic~~  
223 ~~citation was in error, the clerk of court or clerk to the local~~  
224 ~~hearing officer may dismiss the case. The clerk of court or~~  
225 ~~clerk to the local hearing officer may not charge for this~~  
226 ~~service.~~

227 ~~(d) An individual may not receive a commission or per-~~  
228 ~~ticket fee from any revenue collected from violations detected~~  
229 ~~through the use of a traffic infraction detector. A manufacturer~~  
230 ~~or vendor may not receive a fee or remuneration based upon the~~  
231 ~~number of violations detected through the use of a traffic~~  
232 ~~infraction detector.~~

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233 ~~(e)~~ Funds deposited into the Department of Health Emergency  
 234 Medical Services Trust Fund under this subsection shall be  
 235 distributed as provided in s. 395.4036(1).

236 ~~(22) In addition to the penalty prescribed under s.  
 237 316.0083 for violations enforced under s. 316.0083 which are  
 238 upheld, the local hearing officer may also order the payment of  
 239 county or municipal costs, not to exceed \$250.~~

240 Section 15. Subsection (8) of section 320.03, Florida  
 241 Statutes, is amended to read:

242 320.03 Registration; duties of tax collectors;  
 243 International Registration Plan.—

244 (8) If the applicant's name appears on the list referred to  
 245 in s. 316.1001(4), s. 316.1967(6), ~~s. 318.15(3)~~, or s.  
 246 713.78(13), a license plate or revalidation sticker may not be  
 247 issued until that person's name no longer appears on the list or  
 248 until the person presents a receipt from the governmental entity  
 249 or the clerk of court that provided the data showing that the  
 250 fines outstanding have been paid. This subsection does not apply  
 251 to the owner of a leased vehicle if the vehicle is registered in  
 252 the name of the lessee of the vehicle. The tax collector and the  
 253 clerk of the court are each entitled to receive monthly, as  
 254 costs for implementing and administering this subsection, 10  
 255 percent of the civil penalties and fines recovered from such  
 256 persons. As used in this subsection, the term "civil penalties  
 257 and fines" does not include a wrecker operator's lien as  
 258 described in s. 713.78(13). If the tax collector has private tag  
 259 agents, such tag agents are entitled to receive a pro rata share  
 260 of the amount paid to the tax collector, based upon the  
 261 percentage of license plates and revalidation stickers issued by

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262 the tag agent compared to the total issued within the county.  
 263 The authority of any private agent to issue license plates shall  
 264 be revoked, after notice and a hearing as provided in chapter  
 265 120, if he or she issues any license plate or revalidation  
 266 sticker contrary to the provisions of this subsection. This  
 267 section applies only to the annual renewal in the owner's birth  
 268 month of a motor vehicle registration and does not apply to the  
 269 transfer of a registration of a motor vehicle sold by a motor  
 270 vehicle dealer licensed under this chapter, except for the  
 271 transfer of registrations which includes the annual renewals.  
 272 This section does not affect the issuance of the title to a  
 273 motor vehicle, notwithstanding s. 319.23(8)(b).

274 Section 16. Paragraph (d) of subsection (3) of section  
 275 322.27, Florida Statutes, is amended to read:

276 322.27 Authority of department to suspend or revoke driver  
 277 license or identification card.—

278 (3) There is established a point system for evaluation of  
 279 convictions of violations of motor vehicle laws or ordinances,  
 280 and violations of applicable provisions of s. 403.413(6)(b) when  
 281 such violations involve the use of motor vehicles, for the  
 282 determination of the continuing qualification of any person to  
 283 operate a motor vehicle. The department is authorized to suspend  
 284 the license of any person upon showing of its records or other  
 285 good and sufficient evidence that the licensee has been  
 286 convicted of violation of motor vehicle laws or ordinances, or  
 287 applicable provisions of s. 403.413(6)(b), amounting to 12 or  
 288 more points as determined by the point system. The suspension  
 289 shall be for a period of not more than 1 year.

290 (d) The point system shall have as its basic element a

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291 graduated scale of points assigning relative values to  
 292 convictions of the following violations:

293 1. Reckless driving, willful and wanton-4 points.  
 294 2. Leaving the scene of a crash resulting in property  
 295 damage of more than \$50-6 points.  
 296 3. Unlawful speed, or unlawful use of a wireless  
 297 communications device, resulting in a crash-6 points.  
 298 4. Passing a stopped school bus:

299 a. Not causing or resulting in serious bodily injury to or  
 300 death of another-4 points.  
 301 b. Causing or resulting in serious bodily injury to or  
 302 death of another-6 points.  
 303 5. Unlawful speed:

304 a. Not in excess of 15 miles per hour of lawful or posted  
 305 speed-3 points.  
 306 b. In excess of 15 miles per hour of lawful or posted  
 307 speed-4 points.  
 308 6. A violation of a traffic control signal device as  
 309 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.  
 310 ~~However, no points shall be imposed for a violation of s.~~  
 311 ~~316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
 312 ~~stop at a traffic signal and when enforced by a traffic~~  
 313 ~~infraction enforcement officer. In addition, a violation of s.~~  
 314 ~~316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
 315 ~~stop at a traffic signal and when enforced by a traffic~~  
 316 ~~infraction enforcement officer may not be used for purposes of~~  
 317 ~~setting motor vehicle insurance rates.~~  
 318 7. All other moving violations (including parking on a  
 319 highway outside the limits of a municipality)-3 points. However,

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24-01478-19 2019622\_\_

320 no points shall be imposed for a violation of s. 316.0741 or s.  
 321 316.2065(11); and points shall be imposed for a violation of s.  
 322 316.1001 only when imposed by the court after a hearing pursuant  
 323 to s. 318.14(5).  
 324 8. Any moving violation covered in this paragraph,  
 325 excluding unlawful speed and unlawful use of a wireless  
 326 communications device, resulting in a crash-4 points.  
 327 9. Any conviction under s. 403.413(6)(b)-3 points.  
 328 10. Any conviction under s. 316.0775(2)-4 points.  
 329 11. A moving violation covered in this paragraph which is  
 330 committed in conjunction with the unlawful use of a wireless  
 331 communications device within a school safety zone-2 points, in  
 332 addition to the points assigned for the moving violation.  
 333 Section 17. This act shall take effect July 1, 2022.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 826

INTRODUCER: Infrastructure and Security Committee and Judiciary Committee and Senator Rouson

SUBJECT: Towing-storage Operator Liens

DATE: April 9, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 826 revises the process for notifying a registered owner, insurance company, or lienholder that a vehicle or vessel has been towed or stored and that a lien has been placed on it for those services. The bill also revises the rights a vehicle or vessel owner or other specified party has to inspect, remove personal property from, and recover a vehicle or vessel that has been towed and stored.

Currently, the towing-storage operator is responsible for sending a lien notice by certified mail to the interested parties. The bill prohibits the towing-storage operator from sending the notice and places that responsibility on a neutral entity called a third-party notification service that will send the notice by certified mail. The third-party notification service will receive the notice request through its website from the towing-storage operator, access specified databases to gather the necessary information, and electronically generate, print, and send by certified mail the notice on behalf of the towing company. The service must be approved by the Department of Highway Safety and Motor Vehicles and meet its qualifications.

The bill also requires a storage facility operator to permit an owner, the owner's agent, or a lienholder or insurance company representative to immediately inspect a towed vehicle or vessel and release the personal property in the vehicle or vessel to that person before paying any charges. Also, the bill specifies what evidence of ownership or other documents are required for a person to claim a motor vehicle or vessel in the possession of a towing-storage operator.

The fiscal impact of the bill is indeterminate. See the Fiscal Impact Statement and Related Issues headings for additional information.

The bill takes effect January 1, 2020.

## II. Present Situation:

### Background

When someone is regularly engaged in the lawful business<sup>1</sup> of recovering, towing, or storing vehicles or vessels, he or she is entitled to have a lien on the vehicle or vessel for a reasonable towing and storage fee, if the vehicle is stored for at least 6 hours.<sup>2</sup> The person who claims a lien for recovery, towing, or storage services must give notice to the registered owner, the insurance company insuring the vehicle, and to anyone claiming a lien as disclosed in the records of the Department of Highway Safety and Motor Vehicles (DHSMV) or the records of a similar agency in another state where the vehicle is identified through a records check of the National Motor Vehicle Title Information System or a comparable system.<sup>3</sup>

Some have suggested that unscrupulous towing-storage operators do not comply with the lawful requirements for providing notice to an owner, insurance company, or lienholder. They submit false information or even an empty envelope to prevent the owner, insurance company, or lienholder from being able to recover a vehicle or vessel. Moreover, some have also stated that unscrupulous towing-storage operators do not permit people to inspect or retrieve their personal items from a towed or stored vehicle upon request and do not surrender vehicles and vessels to their rightful owners when towing and storage fees are fully paid.

### Notice Requirements

#### *When the Owner, Insurance Company, or Lienholder is Located*

The notice must be sent by certified mail<sup>4</sup> within seven business days after the date of storage to the registered owner, the insurance company insuring the vehicle, and all people of record claiming a lien against the vehicle or vessel. The notice must state that the item is held and include the following:

- A lien is claimed;
- Charges have accrued and the amount of the charges;
- The lien is subject to enforcement pursuant to law;

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<sup>1</sup> Section 713.78(2), F.S., states that a person is entitled to have a lien on the vehicle or vessel for a reasonable towing fee and for a reasonable storage fee whenever he or she is regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier and recovers, removes, or stores a vehicle or vessel based upon the instructions from: the owner; the owner or lessor, or a person authorized by the owner or lessor, of property on which the vehicle or vessel is wrongfully parked and the removal is done in compliance with s. 715.07; the landlord or a person authorized by the landlord when the vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104, or any law enforcement agency.

<sup>2</sup> Section 713.78(2), F.S.

<sup>3</sup> Section 713.78(4)(a), F.S.

<sup>4</sup> Certified mail is described as “a special USPS service that provides proof of mailing via a receipt to the sender.” With electronic tracking, a sender is notified when the mail is delivered or that an attempted delivery was made.

<https://www.stamps.com/usps/what-is-certified-mail/>.

- The owner or lienholder, if any, has the right to a hearing as set forth in statute; and
- Any unclaimed vehicle or vessel that remains unclaimed or for which the charges remain unpaid, may be sold free of all prior liens after 35 days if the item is more than three years old or after 50 days if the item is three years old or less.<sup>5</sup>

***When the Owner or Lienholder is not Located***

If the attempts to locate the name and address of the owner or lienholder are not successful, then the towing-storage operator must, after seven working days from the initial tow and storage, excluding Saturday and Sunday, provide a written notice:

- To the public agency of jurisdiction where the vehicle or vessel is stored;
- Using certified mail or acknowledged hand delivery;
- Stating that the company has not been able to locate the name and address of the owner or lienholder;
- That a physical search of the vehicle or vessel has not disclosed ownership information; and
- A “good faith effort”<sup>6</sup> has been made, including records checks to the DHSMV database and the National Motor Vehicle Title Information System or a comparable system.<sup>7</sup>

**Public Sale, Notice by Certified Mail and Publication in Newspaper**

A lawfully stored vehicle or vessel that remains unclaimed or one for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents that are not released pursuant to law,<sup>8</sup> may be sold by the owner or operator of the storage space for the towing or storage charge after 35 days from the time the vehicle is stored if the vehicle is more than three years old, or after 50 days if the vehicle or vessel is three years old or less. The sale must be a public sale for cash.<sup>9</sup>

If the date of the sale was not included in the notice, then notice of the sale must be given to the person in whose name the vehicle or vessel is registered and to all people claiming a lien on the vehicle or vessel as stated on the DHSMV records or records of a similar agency in another state identified through the National Motor Vehicle Title Information System or an equivalent system. The notice must be sent by certified mail to the owner and the person having a recorded lien at the address shown on the records of the registering agency. The notice may not be mailed less than 15 days before the date of the sale.

If, after a diligent search and inquiry, the name and address of the registered owner or the owner of record lien cannot be determined, then there is no need to follow the requirements of notice by

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<sup>5</sup> Section 713.78(4)(c), F.S.

<sup>6</sup> Eleven checks or requirements that constitute a “good faith effort” by the company to establish a prior state of registration and title are set forth in s. 713.78(4)(d), F.S. Among those requirements are checking DHSMV and national databases, checking the vehicle for any type of tag or tag record, checking the law enforcement report for tag number or identifying information if law enforcement requested the tow, checking the trip sheet or tow ticket, checking the law enforcement report for an out-of-state address if indicated from the driver license information, checking for an inspection sticker or decal that may indicate a state for possible registration, checking the interior of the vehicle for information regarding a state of registration, and checking for a vehicle identification number.

<sup>7</sup> Section 713.78(4)(d), F.S.

<sup>8</sup> See 713.78(1), F.S.

<sup>9</sup> Section 713.78(6), F.S.

mail. In addition to the notice by mail, a public notice of the time and location of the sale must be published once, at least ten days before the date of the sale, in a newspaper of general circulation in the county where the sale will be held. The proceeds of the sale, after payment of reasonable towing and storage charges and costs of the sale, are then deposited with the clerk of the circuit court for the county if the owner or lienholder is absent and the clerk shall hold the proceeds subject to the claim of the lienholder who is entitled to them.<sup>10</sup>

Whoever violates the notice provisions contained in section 713.78(4), F.S. is guilty of a first degree misdemeanor which is punishable by a fine that does not exceed \$1,000<sup>11</sup> and imprisonment that does not exceed one year.<sup>12</sup>

### **Recovery of a Vehicle or Vessel from a Towing-Storage Operator**

Section 713.78(10), F.S., provides that towing and storage operators must permit vehicle or vessel owners, lienholders, insurance company representatives, or agents to inspect a towed vehicle or vessel and release to that person all personal property that was not affixed when the vehicle or vessel came into the custody of the towing or storage operator. The authorization of agency must be documented in an original writing acknowledged by the owner before a notary public or someone authorized to administer oaths. This subsection, however, does not provide guidance on how an interested party may take possession of the vehicle or vessel once it has been towed or stored.

Whoever violates the inspection provisions contained in s. 713.78 (10) , F.S., is guilty of a third degree felony which is punishable by a fine that does not exceed \$5,000<sup>13</sup> and imprisonment that does not exceed five years.<sup>14</sup>

## **III. Effect of Proposed Changes:**

### **Changes Made to the Process for Sending Notices to Interested Parties**

The bill changes the current procedure for notifying a registered owner, insurance company, or lienholder that a vehicle or vessel has been towed or stored. By creating an independent third party, as a buffer, to send a notice to the intended recipient by certified mail, the bill reduces the possibility that a towing-storage operator would dishonestly send incomplete or inaccurate information or even an empty envelope as a lien notice to the interested parties.

#### ***When the Owner, Insurance Company, or Lienholder is Located***

Under the bill, a towing-storage operator will send a notice through a “third-party notification service,” to the registered owner, insurance company, and lienholders by certified mail, within seven business days after storing a vehicle or vessel. The third-party notification service, discussed below, must be approved by DHSMV.

<sup>10</sup> *Id.*

<sup>11</sup> Section 775.083(1)(d), F.S.

<sup>12</sup> Section 775.082(4)(a), F.S.

<sup>13</sup> Section 775.083(1)(c), F.S.

<sup>14</sup> Section 775.082(3)(e), F.S.



***When the Owner or Lienholder is not Located***

If attempts to locate the name and address of the owner or lienholder are not successful after seven business days<sup>15</sup> of the initial tow or storage, the towing-storage operator, working through a third-party notification service, must send notice by certified mail to the public agency of jurisdiction where the vehicle or vessel is stored and let the agency know: where the vehicle or vessel is stored, that the towing-storage company has not been able to locate the name and address for the owner or lienholder; a physical search of the vehicle or vessel has not provided ownership information and a good faith effort has been made, including records checks of the databases of DHSMV and the National Motor Vehicle Title Information System or an equivalent system.

**Third-Party Notification Service**

A “third-party notification service” is defined as a qualified business entity that, upon a request submitted through a website by a towing-storage operator:

- Accesses the DHSMV’s vehicle database and the National Motor Vehicle Title Information System to obtain any owner, lienholder, or insurer information necessary for sending a notice required by this section;
- Electronically generates and provides for the printing and mailing of the notice on behalf of the towing-storage operator;
- Electronically returns tracking information or other proof of mailing and delivery of the notice to the towing-storage operator; and
- Electronically reports to DHSMV, through an electronic data exchange process that uses the Internet, necessary information, as applicable, related to the notice.

The information that must be reported to the DHSMV includes:

- The vehicle identification number or vessel hull identification number;
- The license plate number;
- The name and address of the towing-storage operator;
- The physical location of the vehicle or vessel;
- The date of the tow;
- The amount of towing and storage charges owed when the notice is generated; and
- The date the notice is mailed and delivered.

A third-party notification service must apply to DHSMV and be approved in order to provide notice services. The DHSMV will prescribe an application format and approve an applicant if the applicant:

- Provides a performance bond of \$1 million issued by a surety company that is authorized to do business in the state;
- Submits an acceptable level two internal control and data security audit, or its equivalent, from an independent certified public accountant licensed in the state, and the audit must have been conducted within one year before applying to DHSMV; and

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<sup>15</sup> The bill provides a window of “7 business days” for attempts to locate the interested parties before notifying the public agency of jurisdiction. Current law provides for 7 working days, excluding Saturday and Sunday.

- Successfully demonstrates an ability to electronically report to the DHSMV the required information related to a lien notice through an electronic data exchange process that uses the Internet.

In order to remain eligible to provide notices, a service must annually provide DHSMV with proof that it has maintained the performance bond and annually submit to DHSMV an acceptable audit conducted within the previous year.

The DHSMV may deny, suspend, or revoke approval of a service if it determines that the service has committed an act of fraud or misrepresentation related to a notice required by this bill. A third-party notification service must maintain all notice-related records for five years and allow the DHSMV to inspect and copy the records upon request. The records may be maintained in an electronic format.

### **Default Provision If No Third-Party Notification Services Are Approved**

If no third-party notification services are approved by DHSMV, the towing-storage operator may send any notice required by this section of statutes on its own behalf. However, if a towing-storage operator submits an application for a certificate of title or certificate of destruction, then it must submit proof to DHSMV that it has complied with the statutory requirements of obtaining title and the certificate of destruction.<sup>16</sup>

### **Recovery of a Vehicle or Vessel from a Towing-Storage Operator**

The bill also revises the rights a vehicle or vessel owner or interested party has to inspect and recover a vehicle or vessel that has been towed and stored. Under existing law, a storage facility operator must permit an owner, the owner's agent, a lienholder, or insurance company representative to inspect a towed vehicle or vessel. The bill requires that the towing-storage operator fulfill this duty and immediately release the personal property contained in the vehicle or vessel to that person before the vehicle owner or other party pays any charges. The personal property is defined as the property that is not affixed to the vehicle or vessel and that was in the vehicle or vessel at the time that it came into the custody of the towing-storage operator.

Additionally, the bill specifies what supporting documents are required for a person, including an owner, lienholder, or insurer, to be authorized to take possession of a motor vehicle or vessel held by a towing-storage operator upon the payment for service. These supporting documents include evidence of ownership, a recorded claim of lien, a vehicle or vessel registration, a lease or contract, a title certificate or electronic title, or a lien sale notice. Existing law did not specify any particular documentation required to have authority to claim a vehicle or vessel.

The bill takes effect January 1, 2020.

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<sup>16</sup> When a vehicle or vessel is going to be sold for purposes of being dismantled, destroyed, or changed such that it is not the one described in the certificate of title, the towing-storage operator must report it to the National Motor Vehicle Title Information System and apply to DHSMV for a certificate of destruction. The certificate authorizes the dismantling or destruction of the vehicle or vessel. The application for a certificate of destruction must include proof of reporting to the National Motor Vehicle Title Information System and an affidavit from the applicant that it has complied with all applicable requirements. Section 713.78(11)(a), F.S.

**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:

Towing-storage operators will likely incur additional costs to use electronic third-party mailing services. The costs are unknown at this time.

## C. Government Sector Impact:

The DHSMV advises the bill does not appear to impact its technology systems.<sup>17</sup> Fulfilling the bills administrative requirements will have an indeterminate negative fiscal impact on DHSMV related to the costs of rule development and application processing, and potential administrative hearing legal expenses.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>17</sup> See the DHSMV SB 826 Agency Bill Analysis at p. 6, (on file in the Senate Infrastructure and Security Committee).

**VIII. Statutes Affected:**

This bill substantially amends section 713.78 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Judiciary on March 18, 2019:**

The committee substitute makes the following changes to the underlying bill:

- The term “electronic third-party mailing service” is replaced with the term “third party notification service” throughout the bill.
- A new provision is added to the bill which gives certain enumerated people the right to immediately inspect a vehicle or vessel and take possession of personal property inside. This subsection also requires a towing-storage operator, upon receiving proper documentation and payment for services and fees, to release the vehicle or vessel to the person who pays the charges.
- Provisions are added detailing what a third party notification service must provide to DHSMV to qualify for approval.
- A default provision is inserted which states that, if no third-party notification services qualify with DHSMV, then the towing-storage operator may send notices but must provide proof of compliance with the section.
- The effective date of the bill is extended from July 1, 2019, to January 1, 2020.

**B. Amendments:**

None.

By the Committee on Judiciary; and Senator Rouson

590-03197-19

2019826c1

1 A bill to be entitled  
 2 An act relating to towing-storage operator liens;  
 3 amending s. 713.78, F.S.; requiring certain lien  
 4 notices be sent through a third-party notification  
 5 service; deleting a provision authorizing the award of  
 6 attorney fees to the prevailing party in court  
 7 proceedings determining the respective rights of  
 8 owners or lienholders of vehicles or vessels and  
 9 towing-storage operators; revising requirements for  
 10 the inspection and release of vehicles or vessels and  
 11 personal property in such vehicles or vessels;  
 12 defining the term "third-party notification service";  
 13 requiring third-party notification services to apply  
 14 to the Department of Highway Safety and Motor Vehicles  
 15 for approval; authorizing the department to approve an  
 16 application if certain conditions are met; requiring  
 17 approved third-party notification services to provide  
 18 the department with proof that it has maintained the  
 19 performance bond; requiring approved third-party  
 20 notification services to submit a specified annual  
 21 audit to the department; authorizing the department to  
 22 deny, suspend, or revoke its approval under certain  
 23 circumstances; requiring a third-party notification  
 24 service to maintain certain records for a specified  
 25 period and allow for the inspection and copying of  
 26 such records by the department; authorizing towing-  
 27 storage operators to send notices on their own behalf  
 28 if there are no approved third-party notification  
 29 services; providing an effective date.

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30  
 31 Be It Enacted by the Legislature of the State of Florida:  
 32  
 33 Section 1. Paragraphs (c) and (d) of subsection (4),  
 34 subsection (6), and subsection (10) of section 713.78, Florida  
 35 Statutes, are amended, and subsection (14) is added to that  
 36 section, to read:  
 37 713.78 Liens for recovering, towing, or storing vehicles  
 38 and vessels.—  
 39 (4)  
 40 (c) ~~Notice by certified mail shall be sent~~ Within 7  
 41 business days after the date of storage of the vehicle or  
 42 vessel, the towing-storage operator shall, through a third-party  
 43 notification service approved by the Department of Highway  
 44 Safety and Motor Vehicles, send notice by certified mail to the  
 45 registered owner, the insurance company insuring the vehicle  
 46 notwithstanding the provisions of s. 627.736, and all persons of  
 47 record claiming a lien against the vehicle or vessel. The notice  
 48 must ~~it shall~~ state the fact of possession of the vehicle or  
 49 vessel, that a lien as provided in subsection (2) is claimed,  
 50 that charges have accrued and the amount thereof, that the lien  
 51 is subject to enforcement pursuant to law, and that the owner or  
 52 lienholder, if any, has the right to a hearing as set forth in  
 53 subsection (5), and that any vehicle or vessel which remains  
 54 unclaimed, or for which the charges for recovery, towing, or  
 55 storage services remain unpaid, may be sold free of all prior  
 56 liens after 35 days if the vehicle or vessel is more than 3  
 57 years of age or after 50 days if the vehicle or vessel is 3  
 58 years of age or less.

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59 (d) If attempts to locate the name and address of the owner  
 60 or lienholder prove unsuccessful, ~~the towing-storage operator~~  
 61 ~~shall~~, after 7 ~~business working~~ days, excluding Saturday and  
 62 Sunday, of the initial tow or storage, the towing-storage  
 63 operator, through a third-party notification service approved by  
 64 the Department of Highway Safety and Motor Vehicles, shall send  
 65 notice by certified mail to notify the public agency of  
 66 jurisdiction where the vehicle or vessel is stored ~~in writing by~~  
 67 ~~certified mail or acknowledged hand delivery~~ that the towing-  
 68 storage company has been unable to locate the name and address  
 69 of the owner or lienholder and a physical search of the vehicle  
 70 or vessel has disclosed no ownership information and a good  
 71 faith effort has been made, including records checks of the  
 72 Department of Highway Safety and Motor Vehicles database and the  
 73 National Motor Vehicle Title Information System or an equivalent  
 74 commercially available system. For purposes of this paragraph  
 75 and subsection (9), "good faith effort" means that the following  
 76 checks have been performed by the company to establish prior  
 77 state of registration and for title:

- 78 1. Check of the Department of Highway Safety and Motor
- 79 Vehicles database for the owner and any lienholder.
- 80 2. Check of the electronic National Motor Vehicle Title
- 81 Information System or an equivalent commercially available
- 82 system to determine the state of registration when there is not
- 83 a current registration record for the vehicle on file with the
- 84 Department of Highway Safety and Motor Vehicles.
- 85 3. Check of vehicle or vessel for any type of tag, tag
- 86 record, temporary tag, or regular tag.
- 87 4. Check of law enforcement report for tag number or other

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- 88 information identifying the vehicle or vessel, if the vehicle or  
 89 vessel was towed at the request of a law enforcement officer.
- 90 5. Check of trip sheet or tow ticket of tow truck operator
  - 91 to see if a tag was on vehicle or vessel at beginning of tow, if
  - 92 private tow.
  - 93 6. If there is no address of the owner on the impound
  - 94 report, check of law enforcement report to see if an out-of-
  - 95 state address is indicated from driver license information.
  - 96 7. Check of vehicle or vessel for inspection sticker or
  - 97 other stickers and decals that may indicate a state of possible
  - 98 registration.
  - 99 8. Check of the interior of the vehicle or vessel for any
  - 100 papers that may be in the glove box, trunk, or other areas for a
  - 101 state of registration.
  - 102 9. Check of vehicle for vehicle identification number.
  - 103 10. Check of vessel for vessel registration number.
  - 104 11. Check of vessel hull for a hull identification number
  - 105 which should be carved, burned, stamped, embossed, or otherwise
  - 106 permanently affixed to the outboard side of the transom or, if
  - 107 there is no transom, to the outmost seaboard side at the end of
  - 108 the hull that bears the rudder or other steering mechanism.
  - 109 (6) Any vehicle or vessel which is stored pursuant to
  - 110 subsection (2) and which remains unclaimed, or for which
  - 111 reasonable charges for recovery, towing, or storing remain
  - 112 unpaid, and any contents not released pursuant to subsection
  - 113 (10), may be sold by the owner or operator of the storage space
  - 114 for such towing or storage charge after 35 days from the time
  - 115 the vehicle or vessel is stored therein if the vehicle or vessel
  - 116 is more than 3 years of age or after 50 days following the time

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117 the vehicle or vessel is stored therein if the vehicle or vessel  
 118 is 3 years of age or less. The sale shall be at public sale for  
 119 cash. If the date of the sale was not included in the notice  
 120 required in subsection (4), notice of the sale shall be given to  
 121 the person in whose name the vehicle or vessel is registered and  
 122 to all persons claiming a lien on the vehicle or vessel as shown  
 123 on the records of the Department of Highway Safety and Motor  
 124 Vehicles or of any corresponding agency in any other state in  
 125 which the vehicle is identified through a records check of the  
 126 National Motor Vehicle Title Information System or an equivalent  
 127 commercially available system as being titled. The towing-  
 128 storage operator, through a third-party notification service  
 129 approved by the Department of Highway Safety and Motor Vehicles,  
 130 shall send notice ~~shall be sent~~ by certified mail to the owner  
 131 of the vehicle or vessel and the person having the recorded lien  
 132 on the vehicle or vessel at the address shown on the records of  
 133 the registering agency and shall be mailed not less than 15 days  
 134 before the date of the sale. After diligent search and inquiry,  
 135 if the name and address of the registered owner or the owner of  
 136 the recorded lien cannot be ascertained, the requirements of  
 137 notice by mail may be dispensed with. In addition to the notice  
 138 by mail, public notice of the time and place of sale shall be  
 139 made by publishing a notice thereof one time, at least 10 days  
 140 before ~~prior to~~ the date of the sale, in a newspaper of general  
 141 circulation in the county in which the sale is to be held. The  
 142 proceeds of the sale, after payment of reasonable towing and  
 143 storage charges, and costs of the sale, in that order of  
 144 priority, shall be deposited with the clerk of the circuit court  
 145 for the county if the owner or lienholder is absent, and the

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146 clerk shall hold such proceeds subject to the claim of the owner  
 147 or lienholder legally entitled thereto. The clerk shall be  
 148 entitled to receive 5 percent of such proceeds for the care and  
 149 disbursement thereof. The certificate of title issued under this  
 150 law shall be discharged of all liens unless otherwise provided  
 151 by court order. The owner or lienholder may file a complaint  
 152 after the vehicle or vessel has been sold in the county court of  
 153 the county in which it is stored. Upon determining the  
 154 respective rights of the parties, the court may award damages,  
 155 ~~attorney's fees,~~ and costs in favor of the prevailing party.  
 156 (10) Persons who provide services pursuant to this section  
 157 shall permit:  
 158 (a) A vehicle or vessel owner, a lienholder, or an owners,  
 159 lienholders, insurance company representative, upon presentation  
 160 of documentation of ownership or recorded claim of lien,  
 161 including the vehicle or vessel registration, lease or contract,  
 162 title certificate, electronic title, or lien sale notice; or  
 163 (b) An agent of the vehicle or vessel owner  
 164 ~~representatives, or their agents,~~ which agency is evidenced by  
 165 an original writing acknowledged by the owner before a notary  
 166 public or other person empowered by law to administer oaths,  
 167 immediately upon his or her arrival at the storage facility and  
 168 before payment of any charges, to inspect the towed vehicle or  
 169 vessel and shall release to the owner, lienholder, or agent ~~the~~  
 170 ~~vehicle, vessel, or~~ all personal property not affixed to the  
 171 vehicle or vessel which was in the vehicle or vessel at the time  
 172 the vehicle or vessel came into the custody of the person  
 173 providing such services. Upon receiving the documentation

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175 required under paragraph (a) or paragraph (b) and payment of the  
 176 towing and storage charges, the person providing such services  
 177 must release the vehicle or vessel to the owner, lienholder, or  
 178 agent who paid the charges.

179 (14)(a) For purposes of this section, the term "third-party  
 180 notification service" means a qualified business entity that,  
 181 upon a request submitted through a website by a towing-storage  
 182 operator:

183 1. Accesses the Department of Highway Safety and Motor  
 184 Vehicles' database and the National Motor Vehicle Title  
 185 Information System to obtain any owner, lienholder, or insurer  
 186 information necessary for sending a notice required by this  
 187 section;

188 2. Electronically generates, and provides for the printing  
 189 and mailing of, the notice on behalf of the towing-storage  
 190 operator;

191 3. Electronically returns tracking information or other  
 192 proof of mailing and delivery of the notice to the towing-  
 193 storage operator; and

194 4. Electronically reports to the Department of Highway  
 195 Safety and Motor Vehicles, through an electronic data exchange  
 196 process that uses the Internet, the following information, as  
 197 applicable, related to the notice:

198 a. The vehicle identification number or vessel hull  
 199 identification number;

200 b. The license plate number;

201 c. The name and address of the towing-storage operator;

202 d. The physical location of the vehicle or vessel;

203 e. The date of the tow;

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204 f. The amount of towing and storage charges owed when the  
 205 notice is generated; and

206 g. The date the notice is mailed and delivered.

207 (b) A third-party notification service must apply to the  
 208 Department of Highway Safety and Motor Vehicles and be approved  
 209 in order to provide notices under this section. The department  
 210 shall prescribe the format for such applications. The department  
 211 may approve a third-party notification service applicant as  
 212 qualified to provide the services described in paragraph (a) if  
 213 the applicant:

214 1. Provides the department with a performance bond in the  
 215 amount of \$1 million issued by a surety company authorized to do  
 216 business in this state;

217 2. Submits an acceptable level 2 internal control and data  
 218 security audit, or the equivalent, from an independent certified  
 219 public accountant licensed in this state, which audit must have  
 220 been conducted within 1 year before applying to the department;  
 221 and

222 3. Successfully demonstrates its ability to electronically  
 223 report to the department the required information related to a  
 224 towing-storage notice through an electronic data exchange  
 225 process that uses the Internet.

226  
 227 To remain eligible to provide notices under this section, an  
 228 approved third-party notification service must annually provide  
 229 the department with proof it has maintained the performance bond  
 230 required under subparagraph 1. and must annually submit to the  
 231 department an acceptable audit required under subparagraph 2.  
 232 which was conducted within 1 year after the previously submitted



590-03197-19

2019826c1

233 audit.

234 (c) The department may deny, suspend, or revoke approval of  
235 a third-party notification service if the department determines  
236 that the third-party notification service has committed an act  
237 of fraud or misrepresentation related to a notice required by  
238 this section.

239 (d) A third-party notification service must maintain all  
240 records related to providing notices under this section for 5  
241 years and allow the department to inspect and copy such records  
242 upon request. The records may be maintained in electronic  
243 format.

244 (e) In the event there are no third-party notification  
245 services approved by the department, the towing-storage operator  
246 may send any notice required by this section on its own behalf  
247 and must, upon submission of an application for a certificate of  
248 title or certificate of destruction, submit proof of compliance  
249 with this section.

250 Section 2. This act shall take effect January 1, 2020.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/9/19

Meeting Date

826

Bill Number (if applicable)

Topic Towing Liens

Amendment Barcode (if applicable)

Name Jose Diaz

Job Title \_\_\_\_\_

Address 108 E. Jefferson St. B  
Street

Phone 850-294-7583

Tallahassee FL 32301  
City State Zip

Email jdiazje@aol.com

Speaking:  For  Against  Information

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

Representing Professional Wrecker Operators of Florida.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 1494

INTRODUCER: Senator Perry

SUBJECT: Small-scale Comprehensive Plan Amendments

DATE: April 8, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1494 revises the conditions under which local government “small-scale” comprehensive plan amendments may be adopted. Specifically, the bill repeals the 120-acre cumulative annual limit on small-scale development amendments that may be approved by a local government.

The fiscal impact of the bill is indeterminate. See the Fiscal Impact Statement heading for additional information.

The bill takes effect July 1, 2019.

**II. Present Situation:**

**Community Planning Act**

The Community Planning Act provides counties and municipalities the power to plan for future development by the adoption of comprehensive plans.<sup>1</sup> Each county and municipality must maintain a comprehensive plan.<sup>2</sup> Municipal comprehensive plans cover the total area of the municipality’s jurisdiction, as well as any unincorporated areas adjacent to the municipality that the municipality and the county have agreed should be covered by the municipality’s plan.<sup>3</sup> County comprehensive plans cover the total unincorporated area of the county, but may include municipalities in charter counties.<sup>4</sup> Counties and municipalities may also enter into interlocal agreements with other counties and/or municipalities to exercise their planning powers.<sup>5</sup>

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<sup>1</sup> Section 163.3167(1), F.S.

<sup>2</sup> Section 163.3167(2), F.S. The Ready Creek Improvement District, an independent special district created by ch. 67-764, Laws of Fla., may exercise the powers of the act as if it were a municipality. Section 163.3167(6), F.S.

<sup>3</sup> Section 163.3171(1), F.S.

<sup>4</sup> Section 163.3171(2), F.S.

<sup>5</sup> Section 163.3171(3), F.S.

Each county and municipality must establish a local planning agency.<sup>6</sup> The local planning agency is responsible for managing the comprehensive planning program.<sup>7</sup> The duties of the local planning agency include:<sup>8</sup>

- Preparing the comprehensive plan and plan amendments;
- Monitoring the effectiveness and status of the comprehensive plan and recommending changes to the local governing body, including periodic evaluation and appraisal of the plan as required by s. 163.3191, F.S.;
- Reviewing proposed land development regulations and land development codes for consistency with the adopted comprehensive plans; and
- Performing any other functions, duties, and responsibilities assigned by local governing body, general law, or special law.

The local governing body may designate itself as the local planning agency or assign the powers to a local planning commission, a planning department, or another body.<sup>9</sup>

The Department of Economic Opportunity serves as the state land planning agency.<sup>10</sup>

### **Comprehensive Plans and Plan Amendments**

Comprehensive plans are intended to provide for “orderly and balanced future economic, social, physical, environmental, and fiscal development” in a county or municipality.<sup>11</sup> A comprehensive plan must take into account:<sup>12</sup>

- Projected seasonal and permanent population growth;
- Current and existing public facilities needs;
- Coordination with the local comprehensive plans of adjacent municipalities and counties;
- Consideration of two planning periods, one covering at least five years and another covering at least ten years; and
- A future land use plan element.<sup>13</sup>

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<sup>6</sup> Section 163.3174(1), F.S. If a county or municipality has entered into an interlocal agreement under s. 163.3171, F.S. to exercise its planning powers under the Community Planning Act, those counties and municipalities may establish a joint local planning agency.

<sup>7</sup> Section 163.3174(4), F.S.

<sup>8</sup> Section 163.3174(4)(a)-(d), F.S.

<sup>9</sup> Section 163.3174(1), F.S.

<sup>10</sup> Section 163.3164(44), F.S.

<sup>11</sup> Section 163.3177(1), F.S.

<sup>12</sup> Section 163.3177(1), (3)-(6), F.S.

<sup>13</sup> A future land use plan element designates proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land and includes the approximate acreage and the general range of density or intensity of use for the gross land area included in each existing land use category. This element of a local comprehensive plan is intended to “establish the long-term end toward which land use programs and activities are ultimately directed.” Section 163.3177 (6)(a), F.S.

Comprehensive plan amendments fit into one of three categories based on both the size and nature of the area impacted by the proposed amendment. These categories include:<sup>14</sup>

- General amendments subject to the expedited state review process;<sup>15</sup>
- Small-scale development amendments subject to the small-scale review process; and
- Amendments subject to the state coordinated review process.<sup>16</sup>

### **Small-Scale Comprehensive Plan Amendments**

A small-scale comprehensive plan amendment must meet four criteria for local government adoption:<sup>17</sup>

- The proposed amendment involves a use of ten acres of land or fewer (20 acres in a rural area of opportunity);<sup>18</sup>
- The cumulative annual effect for all small-scale development amendments adopted by the local government does not exceed 120 acres in a calendar year;
- The amendment does not involve a text change to the goals, policies, and objectives of the local government’s comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity, except for text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment.; and
- The property is not located in an area of critical state concern, unless the project involves the construction of housing units meeting the definition of “affordable” in s. 420.0004(3), F.S., and is located within an area of critical state concern designated by s. 380.0552, F.S., (the Florida Keys) or by the Administrative Commission<sup>19</sup> pursuant to s. 380.05(1), F.S.

All comprehensive plan amendments, including small-scale development amendments, must preserve the internal consistency of the overall local comprehensive plan.

Small-scale comprehensive plan amendments require only a single hearing before the governing body of the county or municipality for approval.<sup>20</sup> Small-scale comprehensive plan amendments do not require review by DEO or other state agencies.<sup>21</sup>

<sup>14</sup> Section 163.3184(2), F.S.

<sup>15</sup> This process applies to all comprehensive plan amendments statewide, except for small-scale development amendments and amendments subject to the state coordinated review process. *See* Section 163.3184(3) and (4), F.S.

<sup>16</sup> Section 163.3184(2)(c), F.S. The amendments include amendments which are in areas of critical state concern pursuant to s. 380.05, F.S., propose a rural land stewardship area pursuant to s. 163.3248, F.S., propose or amend a sector plan pursuant to s. 163.3245, F.S., update a comprehensive plan based on evaluation and appraisal pursuant to s. 163.3191, F.S., propose a development that is subject to state coordinated review pursuant to s. 380.06, F.S., and plans for newly incorporated municipalities adopted pursuant to s. 163.3167, F.S.

<sup>17</sup> Section 163.3187(1)(a)-(d), (4), F.S. *See also* Department of Economic Opportunity, Small Scale Amendments Defined; Adoption; Challenge; Effective Date, *available at* <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/small-scale-amendments-defined-adoption-challenge-effective-date> (last visited March 11, 2019).

<sup>18</sup> Section 163.3187(3), F.S.

<sup>19</sup> The Administration Commission is composed of the Governor and Cabinet (The cabinet is composed of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Section 20.03(1), F.S.). Section 14.202, F.S.

<sup>20</sup> Section 163.3187(2), F.S.

<sup>21</sup> *Compare* s. 163.3187, F.S. (small-scale plan amendments are only reviewed by DEO if the plan is challenged) *with* s. 163.3184(3)-(4), F.S. (expedited state review process and state coordinated review process for comprehensive plan amendments require review by DEO and other state agencies).

Any affected person may challenge the amendment by filing a petition with the Division of Administrative Hearings.<sup>22</sup> The challenge must be filed within 30 days of the local government's adoption of the amendment. The challenge must be heard in the affected jurisdiction by an administrative law judge (ALJ) between 30 to 60 days after the petition is filed. The ALJ must determine the plan amendment to be in compliance if the local government's determination that the amendment is in compliance is "fairly debatable."<sup>23</sup>

If the ALJ finds that the amendment is in compliance, the ALJ sends a recommended order to DEO. Upon receipt of the recommended order, DEO may issue a final order within 30 days or send the matter to the Administration Commission (if DEO thinks the amendment is not in compliance).<sup>24</sup> If the ALJ does not find that the amendment is in compliance, the ALJ must send the recommended order directly to the Administration Commission, which has 90 days to issue a final order upon receipt.<sup>25</sup>

A small-scale comprehensive plan amendment may not become effective until 31 days after adoption by the governing body of the county or municipality.<sup>26</sup> If the amendment is challenged, the amendment may not become effective until DEO or the Administration Commission issues a final order determining that the amendment is in compliance with the overall comprehensive plan.

### III. Effect of Proposed Changes:

**Section 1** amends s. 163.3187, F.S., to repeal the 120-acre cumulative annual limit on small-scale development amendments that may be approved by a local government. Local government adoption of small-scale development amendments to their comprehensive plans would no longer be subject to the cumulative annual acreage restriction, thereby allowing amendments to local comprehensive plans that meet the remaining three criteria for adoption.

**Section 2** provides that the bill takes effect July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>22</sup> Section 163.3187(5)(a), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 163.3187(5)(b), F.S.

<sup>25</sup> Section 120.569, F.S. *See also* s. 120.57, F.S.

<sup>26</sup> Section 163.3187(5)(c), F.S.

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 provisions of the bill would expedite the granting of small-scale development amendments, to the extent local governments are currently limited by the annual acreage cap, potentially reducing costs for developers. However, the number of applications for, and the nature and complexity of, any proposed plan amendments are unknown; therefore, the fiscal impact is indeterminate.

C. Government Sector Impact:

The bill will enable local governments to process more small-scale comprehensive plan amendments per year, increasing revenue to the extent additional applications are filed. However, the number of applications for, and the nature and complexity of, any proposed plan amendments are unknown. The bill would increase expenditures by local governments to the extent additional staff may be needed to review the increase in applications for small-scale comprehensive plan amendments. The extent to which, if any, the potential increased revenue would be offset by possibly increased expenditures to local governments is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 163.3187 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.

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By Senator Perry

8-01235-19

20191494\_\_

1                                   A bill to be entitled  
2           An act relating to small-scale comprehensive plan  
3           amendments; amending s. 163.3187, F.S.; removing the  
4           acreage limitations that apply to small-scale  
5           comprehensive plan amendments; providing an effective  
6           date.  
7  
8   Be It Enacted by the Legislature of the State of Florida:  
9  
10           Section 1. Paragraph (b) of subsection (1) of section  
11   163.3187, Florida Statutes, is amended to read:  
12           163.3187 Process for adoption of small-scale comprehensive  
13   plan amendment.—  
14           (1) A small scale development amendment may be adopted  
15   under the following conditions:  
16           ~~(b) The cumulative annual effect of the acreage for all~~  
17   ~~small scale development amendments adopted by the local~~  
18   ~~government does not exceed a maximum of 120 acres in a calendar~~  
19   ~~year.~~  
20           Section 2. This act shall take effect July 1, 2019.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

9 19 2019

Meeting Date

Topic \_\_\_\_\_

Bill Number 1494

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 1610

INTRODUCER: Senator Montford and others

SUBJECT: Emergency Mitigation and Response

DATE: April 9, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	<b>Favorable</b>
2.			ATD	
3.			AP	

**I. Summary:**

SB 1610 is a bill relating to Emergency Mitigation and Response, the bill:

- Creates a Hurricane Michael Recovery Task Force to review local, state and federal activities related to disaster response, recovery and mitigation and to make recommendations to the legislature regarding additional assistance needs;
- Requires the Division of Emergency Management (DEM) to conduct an after-action report on shelter operations during Hurricane Michael;
- Requires the DEM to contract to conduct a statewide study for communities' needs for Emergency Operations Centers;
- Creates the Hurricane Housing Recovery Program within the Florida Housing Finance Corporation (FHFC) to respond to housing needs after hurricanes;
- Directs the Department of Economic Opportunity (DEO) to include a shelter retrofit or repair program as a portion of any mitigation funds received from the federal Department of Housing and Urban Development (HUD);
- Directs the DEO to include single family housing recovery programs in any funding from HUD specifically for Hurricane Michael;
- Directs the Florida Building Commission to make recommendations to strengthen and enhance the building codes for storm impacts;
- Creates a loan program for local governments and school boards to apply for to repair or restore damaged facilities;
- Expands the use of the Agricultural Loan Program, and allows for individuals affected by Hurricane Michael to apply; and
- Allows third graders advancing and seniors graduating high school to advance or graduate without meeting assessment requirements in areas impacted by Hurricane Michael;

The bill has a nonrecurring fiscal impact of \$15.3 million from the General Revenue Fund and \$300 million from the Budget Stabilization Fund.

The provisions of the bill take effect upon becoming law.

## II. Present Situation:

### **Task Force Requirements under Section 20.03, Florida Statutes**

Section 20.03(8) defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of the task force terminates upon the completion of its assignment.

### **Statewide Public Emergency Shelters**

Sections 1013.372(2) and 252.385(2)(b), F.S., requires the DEM to prepare a Statewide Emergency Shelter Plan<sup>1</sup> (the Plan). The Plan is a guide for local emergency planning. It also provides advisory assistance to school districts contemplating construction of educational facilities and the need to provide public shelter space within those facilities. The Plan is submitted to the Governor and Cabinet for approval by January 31 of each even-numbered year and identifies the general location and square footage of existing general population (GP) and special needs shelter (SpNS) space, by Regional Planning Council (RPC) region, and needed space during the next five years. The Plan also includes information on the availability of shelters that accept pets. In accordance with the statute, the Plan must:

- Identify the general location and square footage of existing shelters by RPC regions;
- Identify the general location and square footage of needed shelters by RPC regions for the next five years;
- Identify the types of facilities which should be constructed to comply with the public shelter design criteria; and
- Recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within those public facilities.

With publication of the 2006 Plan, the DEM began monitoring the status of the statewide inventory of SpNS. Historically, SpNS had been included in total population hurricane evacuation shelter demand estimates and hurricane evacuation shelter capacities. Given the findings from the 2004 hurricane season where about half of the designated SpNS were located in facilities that did not meet the same minimum hurricane safety criteria as GP shelters, the DEM was asked to separate the two shelter types and monitor progress towards improving SpNS hurricane safety, client capacity and provision of standby electric power supported air-conditioning.<sup>2</sup>

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<sup>1</sup> Division of Emergency Management, *2018 Statewide Emergency Shelter Plan*, <https://www.floridadisaster.org/dem/response/infrastructure/statewide-emergency-shelter-plan/> (last visited April 5, 2019).

<sup>2</sup> Division of Emergency Management, *2018 Statewide Emergency Shelter Plan* at i.

### **Community Development Block Grant**

The Community Development Block Grant (CDBG) Program is a federal program that provides funding for housing and community development activities. Congress created the program when it passed the Housing and Community Development Act of 1974.<sup>3</sup>

The federal HUD provides flexible grants to help cities, counties, and States recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations. In response to presidentially declared disasters, Congress may appropriate additional funding for the CDBG Program as Disaster Recovery grants to rebuild the affected areas and provide crucial funding to start the recovery process. Since CDBG Disaster Recovery (CDBG-DR) assistance may fund a broad range of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources.<sup>4</sup>

The state of Florida has currently been allocated federal funding to support disaster recovery through the CDBG-DR for the following events:

- Hurricane Irma: \$773,598,000; and
- Hurricanes Hermine and Matthew: \$117,937,000.<sup>5</sup>

CDBG-DR funding is designed to address housing, infrastructure and economic development needs that remain after other assistance has been exhausted, including federal assistance as well as private insurance.<sup>6</sup>

### **State Housing Initiatives Partnership Program**

In 1986<sup>7</sup> the Legislature found that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.<sup>8</sup>

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<sup>3</sup> Department of Economic Opportunity, *Florida Small Cities Community Development Block Grant Program*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited April 5, 2019).

<sup>4</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery Program*, <https://www.hudexchange.info/programs/cdbg-dr/> (last visited April 5, 2019).

<sup>5</sup> Department of Economic Opportunity, *Office of Disaster Recovery*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited April 5, 2019).

<sup>6</sup> *Id.*

<sup>7</sup> Chapter 86-192, Laws of Fla.

<sup>8</sup> Section 420.6015, F.S.

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,<sup>9</sup> low<sup>10</sup> and moderate<sup>11</sup> incomes. In 1986, part VI of ch. 420, F.S., was titled as the “Florida Affordable Care Act of 1986”<sup>12</sup> and programs and funding mechanisms were created over the years to help remedy low-income housing issues.

The State Housing Initiatives Partnerships (SHIP) Program was created in 1992<sup>13</sup> to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very-low, low, and moderate-income families and is administered by the FHFC. A dedicated funding source for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. The SHIP Program is funded through a statutory distribution of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program under an established formula.<sup>14</sup> A county or eligible municipality seeking funds from the SHIP Program must adopt an ordinance that:

- Creates a local housing assistance trust fund;
- Adopts a local housing assistance plan to be implemented through a local housing partnership;
- Designates responsibility for administering the local housing assistance plan; and
- Creates an affordable housing advisory committee.<sup>15</sup>

### **State Apartment Incentive Loan Program**

The State Apartment Incentive Loan (SAIL) program was created by the Legislature in 1988<sup>16</sup> for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.<sup>17</sup>

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<sup>9</sup> Section 420.602(12), F.S., defines “Very-low-income persons” to mean one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

<sup>10</sup> Section 420.602(9), F.S., defines “Low-income persons” to mean one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the MSA or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

<sup>11</sup> Section 420.602(10), F.S., defines “Moderate-income persons” to mean one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the MSA or, if not within an MSA, within the county in which the household is located, whichever is greater.

<sup>12</sup> Chapter 86-192, Laws of Fla., Part VI, was subsequently renamed the “Affordable Housing Planning and Community Assistance Act.” Chapter 92-317, Laws of Fla.

<sup>13</sup> Chapter 92-317, Laws of Fla.

<sup>14</sup> Section 420.9073, F.S.

<sup>15</sup> Section 420.9072, F.S.

<sup>16</sup> Chapter 88-376, Laws of Florida.

<sup>17</sup> Section 420.5087, F.S.

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year. This funding often serves to bridge the gap between the primary financing and the total cost of the development. SAIL program funds are available to individuals, public entities, and not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families.<sup>18</sup>

The FHFC has the authority to make SAIL loans that exceed 25 percent of the project cost under the following circumstances:

- When the developer is a not-for-profit organization or a public entity that is able to secure grants, donations of land, or contributions from other sources;
- When the project sets aside at least 80 percent of the total units over the life of the loan for farmworkers, commercial fishing workers, homeless persons, or persons with special needs; and
- When the project serves extremely-low-income persons.<sup>19</sup>

The FHFC has the authority to forgive indebtedness for a share of a SAIL loan attributable to the units in a project reserved for extremely-low-income persons.<sup>20</sup>

SAIL program funds must be distributed in a manner that meets the need and demand for very-low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low-income rental housing market studies available. The SAIL program funding is reserved for use within statutorily defined counties (large, medium, and small)<sup>21</sup> and for properties providing units for specified tenant groups. The University of Florida's Shimberg Center for Housing Studies prepares the rental housing market study for the Florida Finance Housing Corporation (FHFC).<sup>22</sup>

During the first 6 months of loan or loan guarantee availability, SAIL program funds are required to be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Under current law, the statutory requirement to reserve funds for the commercial fishing worker and farmworker household tenant group significantly exceeds the actual housing need for this group. The current statutory "cap" on the reservation for the persons with special needs (no more than 10 percent) does not allow the program to address the actual housing need for this group (13 percent) during the first 6 months of loan or loan guarantee availability.

Funding for the SAIL Program is subject to an annual appropriation.<sup>23</sup>

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<sup>18</sup> Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: <https://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan> (last visited April 5, 2019).

<sup>19</sup> Section 420.507(22)(a) and (b), F.S.

<sup>20</sup> Section 420.507(22)(c), F.S.

<sup>21</sup> Section 420.5087(1), F.S., provides that funds must be allocated to the following categories of counties: counties that have a population of 845,000 or more ("large"); counties that have a population of more than 100,000 but less than 825,000 ("medium"); and counties that have a population of 100,000 or less ("small").

<sup>22</sup> Shimberg Center for Housing Studies, University of Florida, *Florida's Affordable Rental Housing Needs: An Update*, 2015, available at [http://www.shimberg.ufl.edu/publications/Rental\\_Market\\_Study\\_Fact\\_Sheet\\_2015.pdf](http://www.shimberg.ufl.edu/publications/Rental_Market_Study_Fact_Sheet_2015.pdf) (last visited April 5, 2019).

<sup>23</sup> *Id.*

### **Statewide Florida Building Code**

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.<sup>24</sup>

When Hurricane Andrew hit South Florida in 1992, it revealed the deficiencies of the state's existing building code compliance and enforcement processes. Andrew broke all records for insurance losses, and was the direct cause of Florida's worst insurance crisis in history. It became obvious that building codes and their administration and enforcement was a statewide issue with statewide implications. Poor compliance or enforcement in a single county could wreak havoc with homeowners, developers and commercial interests in every corner of the state.<sup>25</sup>

In 1996, the Florida Building Code Study Commission (Commission) was appointed to review the system of local codes created by the 1974 law, and to make recommendations for modernizing the entire system. During 16 months of study, what the Commission found was a complex and confusing patchwork system of codes and regulations, developed, amended, administered and enforced differently by more than 400 local jurisdictions and state agencies with building code responsibilities. One of the most pressing issues identified was compliance.<sup>26</sup>

The Commission recommendations called for strengthened compliance through greater predictability and accountability in the building code system. The reforms proposed included a streamlined uniform family of codes, strengthened administration and enforcement of codes and enhanced compliance with codes through education, training and discipline. The 1998 Legislature adopted the Study Commission's recommendations and amended Chapter 553, F.S., Building Construction Standards to create a single minimum standard building code that is enforced by local governments. As of March 1, 2002, the Florida Building Code, which is developed and maintained by the Florida Building Commission, supersedes all local building codes. The Florida Building Code is updated every three years and may be amended annually to incorporate interpretations and clarifications.<sup>27</sup>

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<sup>24</sup> Florida Housing Finance Corporation, *Overview of the Florida Building Code*, <http://www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab4.pdf> (last visited April 5, 2019).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*



### **Agricultural Loan Program**

In 2000, the Legislature enacted the Agricultural Economic Development Program.<sup>28</sup> This program was designed to provide loans to farmers who have experienced crop losses due to natural disasters or socio-economic events or conditions. The loans may be used to:

- Restore or replace essential physical property, such as animals, fences, equipment, structural production facilities or orchard trees;
- Pay all or part of production costs associated with the disaster year; or
- Pay essential family living expenses; and
- Restructure farm debts.<sup>29</sup>

Funds may be issued as direct loans or as loan guarantees for up 90 percent of the total loan, in amounts not less than \$30,000 or more than \$300,000. Applicants must provide at least ten percent equity.<sup>30</sup>

The crops eligible for the emergency loan program include:

- Crops grown for human consumption;
- Crops planted and grown for livestock consumption, including, but not limited to, grain, seed, and forage crops;
- Crops grown for fiber, except for trees; and
- Specialty crops, such as seafood and aquaculture, including, but not limited to, the products of shellfish cultivation and harvesting, ornamental fish farming, and commercial fishing; floricultural or ornamental nursery crops; Christmas trees; turf for sod; industrial crops; and seed crops used to produce eligible crops.

### **Florida Standards Assessment and Accountability Requirements**

#### **Florida Standards Assessment (FSA)**

Florida's K-12 assessment system measures students' achievement of Florida's education standards, which were developed and implemented to ensure that all students graduate from high school ready for success. The FSA supports instruction and student learning, and test results help Florida's educational leadership and stakeholders determine whether the goals of the education system are being met.<sup>31</sup> The FSA in English Language Arts, Mathematics, and end-of-course subjects (Algebra 1 and Geometry) serve Florida students by measuring education gains and progress, and also provides input into the Florida School Public Accountability Reports (SPAR).

#### **Florida School Public Accountability Reports**

The Every Student Succeeds Act (ESSA)<sup>32</sup> was signed into law in December 2015, amending the Elementary and Secondary Education Act of 1965 and replacing No Child Left Behind

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<sup>28</sup> Chapter 2000-308, Laws of Fla.

<sup>29</sup> Section 570.82(1)(a), F.S.

<sup>30</sup> Section 570.82(1)(c), F.S.

<sup>31</sup> Florida Department of Education Florida Standards Assessments, *Welcome to the FSA Portal*, <https://fsassessments.org/> (last visited April 5, 2019).

<sup>32</sup> Every Student Succeeds Act of 2015, Pub. L. No. 114-95 § 114 Stat. 1177 (2015-2016).

provisions. States were required to submit a state plan describing their approach to ESSA compliance. The DOE held a first round of public input in the summer of 2016 through an online survey, and outreach continued throughout the school year to educator associations and stakeholder groups. A superintendents' workgroup was convened to provide input on major decision points, and a draft of the state plan was posted for public comment June 30-July 31, 2017. Florida's ESSA State Plan<sup>33</sup> was submitted to the Governor for review, as required by the ESSA, and Florida received approval from the U.S. Department of Education on September 26, 2018.<sup>34</sup>

The ESSA, Assessments under Title I, Part A & Title I, Part B:

- Advances equity by upholding critical protections for America's disadvantaged and high-need students;
- Requires that all students in America be taught to high academic standards that will prepare them to succeed in college and careers;
- Ensures that vital information is provided to educators, families, students, and communities through annual statewide assessments that measure students' progress toward those high standards;
- Helps to support and grow local innovations—including evidence-based and place-based interventions developed by local leaders and educators—consistent with our Investing in Innovation and Promise Neighborhoods;
- Sustains and expands historic investments in increasing access to high-quality preschool; and
- Maintains an expectation that there will be accountability and action to effect positive change in our lowest-performing schools, where groups of students are not making progress, and where graduation rates are low over extended periods of time.<sup>35</sup>

Florida's SPARs are generated to comply with federal legislation that requires annual report cards on the educational progress of schools, school districts, and the state. The SPAR contains several types of data (indicators) designed to inform parents and the general public about the progress of Florida's public schools. The report meets public reporting requirements and provides certain additional information of interest on the status of Florida's schools.<sup>36</sup>

School grades<sup>37</sup> provide an easily understandable metric to measure the performance of a school. Parents and the general public can use the school grade and its associated components to understand how well each school is serving its students. The school grading system focuses the school grading formula on student success measures:

- Achievement;
- Learning gains;
- Graduation;

<sup>33</sup> Florida's Approved ESSA State Plan is available at <http://www.fldoe.org/core/fileparse.php/14196/urlt/FL-ESSA-StatePlan.pdf> (last visited April 5, 2019).

<sup>34</sup> Florida Department of Education, *Every Student Succeeds Act (ESSA)*, <http://www.fldoe.org/academics/essa.stml> (last visited April 5, 2019).

<sup>35</sup> U.S. Department of Education, *Every Student Succeeds Act (ESSA)*, <https://www.ed.gov/essa?src=rn> (last visited April 5, 2019).

<sup>36</sup> Florida Department of Education, *School Public Accountability Reports*, <http://doeweb-prd.doe.state.fl.us/eds/nclb spar/index.cfm> (last visited April 5, 2019).

<sup>37</sup> The 2017-2018 School Grades are established in Rule 6A-1.09981, Florida Administrative Code and s. 1008.34, F.S.

- Acceleration success; and
- Maintaining a focus on students who need the most support.

### III. Effect of Proposed Changes:

#### **Hurricane Michael Recovery Task Force**

The bill creates the Hurricane Michael Recovery Task Force as an adjunct to the DEM, to make recommendations to the Legislature regarding additional assistance needed in the response to, the recovery from, and the mitigation of the effects of Hurricane Michael in the areas designated in the federal disaster declaration DR-4399.<sup>38</sup> The task force must review the local, state, and federal activities conducted and the resources provided in such areas, the effectiveness of such efforts, and any additional assistance necessary.

The task force must consist of the following five members:

- One member representing the business community, who shall serve as chair, appointed by the Governor;
- One member representing agricultural interests, appointed by the Commissioner of the Department of Agriculture and Consumer Services;
- One member representing the fishing industry, appointed by the Fish and Wildlife Conservation Commission;
- One member representing emergency response, appointed by the executive director of the DEM; and
- One member representing housing interests, appointed by the executive director of the DEO.

Members will serve at the pleasure of their appointing official and any vacancy must be filled in the same manner as the original appointment. A member of the Legislature or a registered lobbyist may not be appointed to the task force and members will serve without compensation, but are entitled to reimbursement of travel and per diem expenses pursuant to s. 112.061, F.S., in the performance of their duties and responsibilities.

The task force will report its findings and make specific recommendations for further response, recovery, and mitigation to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2019.

The task force is dissolved not later than March 10, 2020.

#### **Hurricane Michael After Action Report**

The bill directs the DEM to examine the latest available Statewide Emergency Shelter Plan prepared pursuant to ss. 252.385 and 1013.372, F.S., to determine, based on the number of people who evacuated during Hurricane Michael, whether there is sufficient capacity of general population hurricane evacuation shelter space and of special needs hurricane evacuation shelter space in the applicable regional planning council regions.

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<sup>38</sup> Designated Counties: Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Taylor, Wakulla, and Washington.

The report must include basic information for each shelter activated during Hurricane Michael, including:

- Shelter type (general population, special needs, or pet friendly);
- Name;
- Address; and
- Maximum occupant capacity.

Additionally, the report must provide functional data for each shelter, including:

- Number of persons served at each shelter throughout the event;
- Timeline for opening and closing each shelter; and
- Whether each shelter had sufficient:
  - Staff;
  - Security;
  - Transportation;
  - Equipment;
  - Lavatories;
  - Sanitation;
  - Feeding capabilities;
  - Capacity; and
  - Standby or emergency power.

The report also must identify any unmet needs at each shelter and must indicate whether each shelter met or exceeded the American Red Cross Standards for Hurricane Evacuation Shelter Selection (ARC 4496),<sup>39</sup> which address risks associated with:

- Surge inundation;
- Rainfall flooding;
- High winds; and
- Hazardous materials.

The report must also identify any shelter not activated for Hurricane Michael and the basis for the determination not to activate it, such as the inability of the shelter to withstand a certain level of hurricane impact.

The report must be completed and presented to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2019.

The bill also appropriates nonrecurring funds in the sum of \$85,000 from the General Revenue Fund for the 2019-2020 fiscal year to the DEM to prepare an after-action report on the shelter operations that took place during Hurricane Michael.

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<sup>39</sup> Available at the Florida Division of Emergency Management website at <https://portal.floridadisaster.org/shelters/External/Current/2018%20SRR/Appendices/Appendix%20C.pdf> (last visited April 5, 2019).

### **Program to Retrofit/Repair Hurricane Evacuation Shelters**

The bill directs the DEO to include a program to retrofit or to repair hurricane evacuation shelters in any action plan submitted to the federal HUD for use of the funds made available under CDBG-DR Grant Number B-18-DP-12-0002 (the DR Grant) for the 2017 Hurricane Irma event, provided that federal guidance for use of the funds allows such a program. DR Grant funds generally address long-term recovery and restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas.<sup>40</sup>

The programs and use of funds made available under the DR Grant for Hurricane Irma are outlined in the federally approved State of Florida Action Plan for Disaster Recovery<sup>41</sup> (the plan). As outlined in the plan, the largest portion of unmet need resulting from Hurricane Irma is related to housing, particularly repair to single family homes. However, the DEO may submit an amendment to the plan for review by HUD.

### **Emergency Operations Centers Facilities Study**

The bill appropriates nonrecurring funds in the sum of \$200,000 from the General Revenue Fund for the 2019-2020 fiscal year to the DEM to competitively procure a consultant to conduct a study of facilities used as emergency operations centers.

At a minimum, the study must assess the availability, capacity, communications capabilities, hurricane rating, and other safety conditions of such centers. The study must also assess the need for a new emergency operations center to serve one or more counties in a given region or for upgrades to existing centers.

The study must make recommendations as to how the state may best address communities' needs for emergency operations centers, or access to such centers, and necessary changes to existing centers to ensure the best possible emergency response in a region. The study may take into account the geographic locations of emergency operations centers and may recommend joint agreements for use of such centers for emergency response.

A report of the findings of the study must be completed by December 15, 2019, and presented to the President of the Senate, the Speaker of the House of Representatives, and the Governor.

### **Hurricane Housing Recovery Program**

The bill creates s, 420.57, F.S., the Hurricane Housing Recovery Program, to provide funds to local governments for their affordable housing recovery efforts, similar to the State Housing Initiatives Partnership Program as set forth in ss. 420.907-420.9079, F.S. The FHFC will

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<sup>40</sup> The "Most Impacted and Distressed" areas as identified by HUD for the 2017 Hurricane Irma event are Brevard, Broward, Collier, Dade, Duval, Lee, Miami-Dade, Monroe, Orange, Polk and Volusia counties and four separate zip codes outside of these areas (32136 in Flagler county, 32091 and 32068 in Bradford and Clay counties and 34266 in DeSoto county). State of Florida Action Plan for Disaster Recovery at 15, available at <http://www.floridajobs.org/docs/default-source/2015-community-development/community-revitalization/dr/stateofflactionplanfordr.pdf?sfvrsn=2> (last visited April 6, 2019).

<sup>41</sup> State of Florida Action Plan for Disaster Recovery is available at <http://www.floridajobs.org/docs/default-source/2015-community-development/community-revitalization/dr/stateofflactionplanfordr.pdf?sfvrsn=2> (last visited April 6, 2019).

administer the program, which is subject to appropriation of funds. Notwithstanding ss. 420.9072 and 420.9073, F.S., the FHFC will allocate resources to local governments according to a need-based formula that reflects housing damage estimates and population effects resulting from hurricanes.

An eligible local government must submit a strategy outlining proposed recovery actions, household income levels, and the number of residential units to be served and an associated funding request. Program funds must be used to serve households with incomes of up to 120 percent of area median income, except that at least 30 percent of program funds must be reserved for households with incomes of up to 50 percent of area median income and an additional 30 percent of program funds must be reserved for households with incomes of up to 80 percent of area median income. Program funds must be used for each of the following purposes:

- At least sixty-five percent must be used for homeownership.
- Up to fifteen percent may be used for administrative expenses to ensure the expeditious use of funds.
- Up to one-quarter of one percent may be used by the FHFC for compliance monitoring.

Each participating local government shall submit to the FHFC an annual report on its use of funds from the Hurricane Housing Recovery Program. The FHFC will compile the reports and submit them to the President of the Senate and the Speaker of the House of Representatives.

Subject to the appropriation of funds by the Legislature for that purpose, the Rental Recovery Loan Program is created to provide funds to build additional rental housing due to impacts to the affordable housing stock and changes to the population resulting from hurricanes. The FHFC will administer the program. The program is intended to allow the state to leverage additional federal rental financing similar to the State Apartment Incentive Loan Program as described in s. 420.5087, F.S.

Each participating local government shall submit to the FHFC an annual report on its use of funds from the Rental Recovery Loan Program. The FHFC will compile the reports and submit them to the President of the Senate and the Speaker of the House of Representatives.

The FHFC may adopt rules to administer these programs.

### **Program to Repair, Renovate, or Replace Single-Family Housing**

The bill directs the DEO to include a program to repair, renovate, or replace single-family housing in any action plan submitted to the federal HUD for use of grant funds appropriated in response to Hurricane Michael, provided that federal guidance for the use of the funds allows such a program.

### **Florida Building Code**

The bill directs the Florida Building Commission, in consultation with the Building Officials Association of Florida, the Florida Home Builders Association, and other stakeholders, to review the effects of Hurricane Michael and make recommendations to strengthen and enhance the design, construction, and life safety provisions of the Florida Building Code, especially as they

are applied in the Florida Panhandle. Recommendations must address at least all of the following:

- The revision of design wind speed maps of the Panhandle, including county-specific design wind speed maps for each building risk category;
- The effects of flood hazard designations and the flood loads and the related effects of flood depth, of velocity, of scour/erosion, and of wave/debris;
- Storm-induced damage to power-generating stations and other public utility facilities; and
- Service disruption and building envelope breach potential for critical facilities, such as hospitals.

The Florida Building Commission must submit a final report including its recommendations to the President of the Senate and the Speaker of the House of Representatives no later than September 1, 2019.

### **Public Facilities Hurricane Restoration Cash Flow Loan Program**

The bill establishes for the 2019-2020 fiscal year a Public Facilities Hurricane Restoration Cash Flow Loan Program. Counties, municipalities, and district school boards that need assistance with cash flow in order to make timely payments to contractors and suppliers in restoring their county, municipal, or educational facilities damaged by a named hurricane or tropical storm during the 2018 hurricane season may apply to the DEO for a cash flow loan.

The amount of the loan may not exceed the amount the county, municipality, or district school board needs to meet timely payments to contractors and suppliers for the restoration of damaged facilities. To be eligible for a cash flow loan, a county, municipality, or district school board must meet all of the following requirements:

- Have one or more county, municipal, or educational facilities damaged or destroyed by a named hurricane or tropical storm during the 2018 hurricane season;
- Have an agreement to pay contractors or suppliers for the restoration of the damaged facilities, but have insufficient cash flow to make timely payments;
- Agree to repay, from funds received from insurance claims, Federal Emergency Management Agency payments, or other fund sources, the full amount of the funds received from the cash flow loan program; and
- Agree that if repayment is not made in a timely manner, the DEO must withhold future distribution of public capital outlay funds, or other fixed capital outlay funds, until repayment is received by the DEO.

The DEO must provide information and instructions for applying for a cash flow loan and administer the loans in accordance with this act. The DEO must distribute loan funds based on the county or municipal governing body's or district superintendent's certification of the amount needed for payments that are due within the following 30 days. All funds repaid shall be deposited unallocated into the Budget Stabilization Fund within 30 days after receipt by the DEO.

The DEM will notify the DEO when payments from the Federal Emergency Management Agency for a named hurricane or tropical storm during the 2018 hurricane season have been

distributed to a county, municipality, or district school board that has received a public facilities hurricane restoration cash flow loan.

The bill appropriates nonrecurring funds in the sum of \$300 million from the Budget Stabilization Fund for the 2019-2020 fiscal year to the DEO for the sole purpose of funding the Public Facilities Hurricane Restoration Cash Flow Loan Program for eligible counties, municipalities, and district school boards in accordance with this act.

### **Agricultural Loan Program**

The bill amends s. 570.82, F.S., to expand the use of the Agricultural Loan Program to include trees as a crop grown for fiber, and allows for individuals affected by Hurricane Michael in 2018 to apply for a loan. Loan applications must be submitted by December 1, 2019.

The bill appropriates \$15 million in nonrecurring funds from the General Revenue Fund for the Agricultural Loan Program.

### **Education Assessment and Accountability Requirements**

This section of the bill applies only to school districts in Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty, Gadsden, Franklin, Wakulla, Leon, and Taylor counties.

The bill waives the statewide, standardized assessment requirements for a standard high school diploma for grade 12 high school students in their senior year during the 2018-2019 school year for school districts.

The bill requires that any grade 12 high school student who is in his or her senior year during the 2018-2019 school year and who has met the 18 or 24 credit and 2.0 GPA requirements as provided in s. 1003.4282, F.S., must be granted a standard high school diploma by his or her respective school.

The bill waives the statewide, standardized assessment for grade three promotion for the 2018-2019 school year. The promotion of grade three students must be based on the preponderance of the evidence through measures determined by each school district.

The bill requires that school grades, as established in s. 1008.34, F.S., for the 2018-2019 school year must be calculated and released for informational purposes only. School districts will be held harmless from any liability for the release of grades for informational purposes only. School grades for the 2018-2019 school year must be based on student enrollment for Surveys Two and Three match files.

The bill contains language outlining Legislative findings, "The Legislature finds that, because of the catastrophic nature of Hurricane Michael, families in school districts under this section are displaced, and the loss of housing has drastically changed the mobility of students. The Legislature also finds that, until students' housing arrangements stabilize, no method exists to capture an accurate assessment of a school's performance in the school districts. Further, the



Legislature finds that the enrollment of students for the survey request files will be a small representation of school district performance and not a true measurement of performance.”

The bill directs the DOE, upon the effective date of this act, to suspend the administration of its duties and obligations to enforce public school improvements under s. 1008.33(3), F.S., for the remainder of the 2018-2019 school year and for the 2019-2020 school year for school districts in Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty, Gadsden, Franklin, Wakulla, Leon, and Taylor counties.

The provisions of the bill take effect upon becoming law.

#### **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:

Individuals in need of housing assistance in areas impacted by hurricanes may benefit from the creation of the Hurricane Housing Recovery Program and the Rental Recovery Loan Program.

Recommendations made by the Florida Building Commission in their final report may impact the future cost of construction and construction materials for the private sector.

Those impacted by Hurricane Michael in 2018 who have crops of trees grown for fiber may benefit from the expansion of the Agricultural Loan Program.

**C. Government Sector Impact:**

The bill appropriates the following for the 2019-2020 fiscal year:

- \$85,000 in nonrecurring funds from the General Revenue Fund is appropriated to the DEM to prepare an after-action report on the shelter operations that took place during Hurricane Michael;
- \$200,000 in nonrecurring funds from the General Revenue Fund is appropriated to the DEM to competitively procure a consultant to conduct a study of facilities used as emergency operations centers; and
- \$300 million in nonrecurring funds in the Budget Stabilization Fund is appropriated to the DEO for the sole purpose of funding the Public Facilities Hurricane Restoration Cash Flow Loan Program.

The establishment of the Public Facilities Hurricane Restoration Cash Flow Loan Program may have a positive impact to counties, municipalities, and district school boards that need assistance with cash flow in order to make timely payments to contractors and suppliers in restoring their county, municipal, or educational facilities damaged by a named hurricane or tropical storm during the 2018 hurricane season. However, if an entity is unable to repay funds in a timely manner, the DEO is directed to withhold future distributions of public capital outlay funds, or other fixed capital outlay funds, until repayment is received by the DEO. This has the potential to possibly negatively impact participants in the program.

Recommendations made by the Florida Building Commission in their final report may impact the future cost of construction and construction materials for public sector construction projects.

The bill also appropriates \$15 million in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services for the purpose of funding the Agricultural Loan Program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Allowing third graders and seniors in high school to advance or graduate without meeting assessment requirements in areas impacted by Hurricane Michael will have an unknown impact on Florida's Approved 2018 ESSA State Plan.

**VIII. Statutes Affected:**

This bill substantially amends sections 570.82 and 1008.33 of the Florida Statutes.  
This bill creates section 420.57 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.

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By Senator Montford

3-01082B-19

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1 A bill to be entitled  
 2 An act relating to emergency mitigation and response;  
 3 creating the Hurricane Michael Recovery Task Force  
 4 adjunct to the Division of Emergency Management of the  
 5 Executive Office of the Governor to make  
 6 recommendations to the Legislature regarding  
 7 additional assistance needed in the response to,  
 8 recovery from, and mitigation of the effects of  
 9 Hurricane Michael in certain areas; requiring the task  
 10 force to review the effectiveness of local, state, and  
 11 federal activities in those areas, as well as the  
 12 availability of resources and any additional  
 13 assistance needed; providing for the membership of the  
 14 task force; providing requirements for and  
 15 restrictions on membership; providing for certain  
 16 reimbursement; requiring the task force to report its  
 17 findings and to make specified recommendations to the  
 18 Legislature and the Governor by a specified date;  
 19 providing for dissolution of the task force by a  
 20 specified date; providing an appropriation to the  
 21 Division of Emergency Management from the General  
 22 Revenue Fund to prepare an after-action report on the  
 23 shelter operations that took place during Hurricane  
 24 Michael, subject to certain requirements; requiring  
 25 that the report be submitted to the Legislature and  
 26 the Governor by a specified date; requiring that the  
 27 Department of Economic Opportunity include a program  
 28 to retrofit or to repair hurricane evacuation shelters  
 29 in certain action plans under certain circumstances;

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

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30 providing an appropriation to the division to  
 31 competitively procure a consultant to conduct a study  
 32 of facilities used as emergency operations centers;  
 33 providing requirements for the study; authorizing the  
 34 study to take into account the locations of emergency  
 35 operations centers and to recommend certain joint  
 36 agreements for the use of such centers; requiring that  
 37 a report on the study be submitted to the Legislature  
 38 and the Governor by a specified date; creating s.  
 39 420.57, F.S.; subject to the appropriation of funds,  
 40 creating the Hurricane Housing Recovery Program to  
 41 provide funds to local governments for certain  
 42 affordable housing recovery efforts; requiring that  
 43 the Florida Housing Finance Corporation administer the  
 44 program and allocate resources to local governments  
 45 that meet certain criteria; specifying requirements  
 46 for receiving and using funds; requiring participating  
 47 local governments to submit a certain annual report to  
 48 the corporation; requiring the corporation to compile  
 49 the reports and submit them to the Legislature;  
 50 subject to the appropriation of funds, creating the  
 51 Rental Recovery Loan Program to provide funds to build  
 52 additional rental housing due to specified impacts;  
 53 requiring the corporation to administer the program;  
 54 providing intent for the program; requiring  
 55 participating local governments to submit a certain  
 56 annual report to the corporation; requiring the  
 57 corporation to compile the reports and submit them to  
 58 the Legislature; authorizing the corporation to adopt

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

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59 rules; requiring that the Department of Economic  
 60 Opportunity include a program to repair, renovate, or  
 61 replace single-family housing in certain action plans  
 62 submitted to a specified federal agency, under certain  
 63 circumstances; requiring that the Florida Building  
 64 Commission, in consultation with specified  
 65 stakeholders and other entities, review the effects of  
 66 Hurricane Michael and make recommendations to  
 67 strengthen and enhance the design, construction, and  
 68 lifesafety provisions of the Florida Building Code;  
 69 providing requirements for such recommendations;  
 70 requiring the commission to submit a certain report to  
 71 the Legislature by a specified date; providing for  
 72 future repeal of certain provisions; creating the  
 73 Public Facilities Hurricane Restoration Cash Flow Loan  
 74 Program for the purpose of assisting counties,  
 75 municipalities, and district school boards in making  
 76 timely payments in restoring certain facilities;  
 77 providing eligibility requirements for receiving a  
 78 cash flow loan; requiring that the Department of  
 79 Economic Opportunity administer the loan program and  
 80 distribute loan funds; requiring that the Division of  
 81 Emergency Management notify the Department of Economic  
 82 Opportunity when certain federal payments have been  
 83 distributed; providing an appropriation to the  
 84 Department of Economic Opportunity from the Budget  
 85 Stabilization Fund for a certain purpose; amending s.  
 86 570.82, F.S.; providing that trees grown for fiber are  
 87 an eligible crop for loans under the Agricultural

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

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88 Economic Development Program; requiring that  
 89 applicants applying for a loan related to the effects  
 90 of Hurricane Michael submit an application to the  
 91 Department of Agriculture and Consumer Services by a  
 92 specified date; providing an appropriation to the  
 93 Department of Agriculture and Consumer Services from  
 94 the General Revenue Fund for a certain purpose;  
 95 providing applicability; requiring that certain  
 96 assessment requirements for specified students be  
 97 waived; requiring specified schools to grant standard  
 98 high school diplomas to students who meet certain  
 99 requirements; requiring that certain assessment  
 100 requirements for a specified school year be waived;  
 101 providing that the promotion of grade 3 students be  
 102 based on measures determined by specified school  
 103 districts; requiring that school grades for a  
 104 specified school year be calculated and released for  
 105 certain purposes; providing that specified school  
 106 districts be held harmless from certain liability;  
 107 providing requirements for the measurement of school  
 108 grades for a specified school year; providing  
 109 legislative findings; amending s. 1008.33, F.S.;  
 110 effective on a specified date, requiring the  
 111 Department of Education to suspend its duties and  
 112 obligations under a specified provision for certain  
 113 school years for specified school districts; providing  
 114 a directive to the Division of Law Revision; providing  
 115 an effective date.  
 116

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

118  
 119 Section 1. The Hurricane Michael Recovery Task Force, a  
 120 task force as defined in s. 20.03, Florida Statutes, is  
 121 established adjunct to the Division of Emergency Management to  
 122 make recommendations to the Legislature regarding additional  
 123 assistance needed in the response to, the recovery from, and the  
 124 mitigation of the effects of Hurricane Michael in the areas  
 125 designated in the federal disaster declaration DR-4399. The task  
 126 force shall review the local, state, and federal activities  
 127 conducted and the resources provided in such areas, the  
 128 effectiveness of such efforts, and any additional assistance  
 129 necessary.

130 (1) The task force must consist of the following five  
 131 members:

132 (a) One member representing the business community, who  
 133 shall serve as chair, appointed by the Governor.

134 (b) One member representing agricultural interests,  
 135 appointed by the Commissioner of the Department of Agriculture  
 136 and Consumer Services.

137 (c) One member representing the fishing industry, appointed  
 138 by the Fish and Wildlife Conservation Commission.

139 (d) One member representing emergency response, appointed  
 140 by the executive director of the Division of Emergency  
 141 Management.

142 (e) One member representing housing interests, appointed by  
 143 the executive director of the Department of Economic  
 144 Opportunity.

145 (2) Members shall serve at the pleasure of their appointing

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146 official. Any vacancy must be filled in the same manner as the  
 147 original appointment. A member of the Legislature or a  
 148 registered lobbyist may not be appointed to the task force.  
 149 Members shall serve without compensation, but are entitled to  
 150 reimbursement of travel and per diem expenses pursuant to  
 151 section 112.061, Florida Statutes, in the performance of their  
 152 duties and responsibilities under this section.

153 (3) The task force shall report its findings and make  
 154 specific recommendations for further response, recovery, and  
 155 mitigation to the President of the Senate, the Speaker of the  
 156 House of Representatives, and the Governor by December 15, 2019.  
 157 The task force is dissolved not later than March 10, 2020.

158 Section 2. For the 2019-2020 fiscal year, the sum of  
 159 \$85,000 in nonrecurring funds from the General Revenue Fund is  
 160 appropriated to the Division of Emergency Management to prepare  
 161 an after-action report on the shelter operations that took place  
 162 during Hurricane Michael. The division shall examine the latest  
 163 available Statewide Emergency Shelter Plan prepared pursuant to  
 164 ss. 252.385 and 1013.372, Florida Statutes, to determine, based  
 165 on the number of people who evacuated during Hurricane Michael,  
 166 whether there is sufficient capacity of general population  
 167 hurricane evacuation shelter space and of special needs  
 168 hurricane evacuation shelter space in the applicable regional  
 169 planning council regions. The report must include basic  
 170 information for each shelter activated during Hurricane Michael,  
 171 including the shelter type (general population, special needs,  
 172 or pet friendly), name, address, and maximum occupant capacity.  
 173 Additionally, the report must provide functional data for each  
 174 shelter, including the number of persons served at each shelter

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 175 throughout the event, the timeline for opening and closing each  
 176 shelter, and whether each shelter had sufficient staff,  
 177 security, transportation, equipment, lavatories, sanitation,  
 178 feeding capabilities, capacity, and standby or emergency power.  
 179 The report also must identify any unmet needs at each shelter  
 180 and must indicate whether each shelter met or exceeded the  
 181 American Red Cross Standards for Hurricane Evacuation Shelter  
 182 Selection (ARC 4496). Finally, the report must identify any  
 183 shelter not activated for Hurricane Michael and the basis for  
 184 the determination not to activate it, such as the inability of  
 185 the shelter to withstand a certain level hurricane impact. The  
 186 report must be completed and presented to the President of the  
 187 Senate, the Speaker of the House of Representatives, and the  
 188 Governor by December 15, 2019.

189 Section 3. The Department of Economic Opportunity shall  
 190 include a program to retrofit or to repair hurricane evacuation  
 191 shelters in any action plan submitted to the federal Department  
 192 of Housing and Urban Development for use of the funds made  
 193 available under Grant Number B-18-DP-12-0002, provided that  
 194 federal guidance for use of the funds allows such a program.

195 Section 4. For the 2019-2020 fiscal year, the sum of  
 196 \$200,000 in nonrecurring funds from the General Revenue Fund is  
 197 appropriated to the Division of Emergency Management to  
 198 competitively procure a consultant to conduct a study of  
 199 facilities used as emergency operations centers. At a minimum,  
 200 the study must assess the availability, capacity, communications  
 201 capabilities, hurricane rating, and other safety conditions of  
 202 such centers. The study must also assess the need for a new  
 203 emergency operations center to serve one or more counties in a

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 204 given region or for upgrades to existing centers. The study must  
 205 make recommendations as to how the state may best address  
 206 communities' needs for emergency operations centers, or access  
 207 to such centers, and necessary changes to existing centers to  
 208 ensure the best possible emergency response in a region. The  
 209 study may take into account the geographic locations of  
 210 emergency operations centers and may recommend joint agreements  
 211 for use of such centers for emergency response. A report of the  
 212 findings of the study must be completed by December 15, 2019,  
 213 and presented to the President of the Senate, the Speaker of the  
 214 House of Representatives, and the Governor.

215 Section 5. Section 420.57, Florida Statutes, is created to  
 216 read:

217 420.57 Hurricane recovery programs.—  
 218 (1)(a) Subject to the appropriation of funds for that  
 219 purpose by the Legislature, the Hurricane Housing Recovery  
 220 Program is created to provide funds to local governments for  
 221 their affordable housing recovery efforts, similar to the State  
 222 Housing Initiatives Partnership Program as set forth in ss.  
 223 420.907-420.9079. The Florida Housing Finance Corporation shall  
 224 administer the program. Notwithstanding ss. 420.9072 and  
 225 420.9073, the Florida Housing Finance Corporation shall allocate  
 226 resources to local governments according to a need-based formula  
 227 that reflects housing damage estimates and population effects  
 228 resulting from hurricanes. An eligible local government must  
 229 submit a strategy outlining proposed recovery actions, household  
 230 income levels, and the number of residential units to be served  
 231 and an associated funding request. Program funds must be used to  
 232 serve households with incomes of up to 120 percent of area

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233 median income, except that at least 30 percent of program funds  
 234 must be reserved for households with incomes of up to 50 percent  
 235 of area median income and an additional 30 percent of program  
 236 funds must be reserved for households with incomes of up to 80  
 237 percent of area median income. Program funds must be used as  
 238 specified for each of the following purposes:

239 1. At least 65 percent must be used for homeownership.  
 240 2. Up to 15 percent may be used for administrative expenses  
 241 to ensure the expeditious use of funds.

242 3. Up to one-quarter of 1 percent may be used by the  
 243 Florida Housing Finance Corporation for compliance monitoring.

244 (b) Each participating local government shall submit to the  
 245 Florida Housing Finance Corporation an annual report on its use  
 246 of funds from the Hurricane Housing Recovery Program. The  
 247 corporation shall compile the reports and submit them to the  
 248 President of the Senate and the Speaker of the House of  
 249 Representatives.

250 (2) (a) Subject to the appropriation of funds by the  
 251 Legislature for that purpose, the Rental Recovery Loan Program  
 252 is created to provide funds to build additional rental housing  
 253 due to impacts to the affordable housing stock and changes to  
 254 the population resulting from hurricanes. The Florida Housing  
 255 Finance Corporation shall administer the program. The program is  
 256 intended to allow the state to leverage additional federal  
 257 rental financing similar to the State Apartment Incentive Loan  
 258 Program as described in s. 420.5087.

259 (b) Each participating local government shall submit to the  
 260 Florida Housing Finance Corporation an annual report on its use  
 261 of funds from the Rental Recovery Loan Program. The corporation

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262 shall compile the reports and submit them to the President of  
 263 the Senate and the Speaker of the House of Representatives.

264 (3) The Florida Housing Finance Corporation may adopt rules  
 265 to administer this section.

266 Section 6. The Department of Economic Opportunity shall  
 267 include a program to repair, renovate, or replace single-family  
 268 housing in any action plan submitted to the federal Department  
 269 of Housing and Urban Development for use of the grant funds  
 270 appropriated in response to Hurricane Michael, provided that  
 271 federal guidance for the use of the funds allows such a program.

272 Section 7. (1) The Florida Building Commission shall, in  
 273 consultation with the Building Officials Association of Florida,  
 274 the Florida Home Builders Association, and other stakeholders,  
 275 review the effects of Hurricane Michael and make recommendations  
 276 to strengthen and enhance the design, construction, and  
 277 lifesafety provisions of the Florida Building Code, especially  
 278 as they are applied in the Florida Panhandle. Recommendations  
 279 must address at least all of the following:

280 (a) The revision of design wind speed maps of the  
 281 Panhandle, including county-specific design wind speed maps for  
 282 each building risk category.

283 (b) The effects of flood hazard designations and the flood  
 284 loads and the related effects of flood depth, of velocity, of  
 285 scour/erosion, and of wave/debris.

286 (c) Storm-induced damage to power-generating stations and  
 287 other public utility facilities.

288 (d) Service disruption and building envelope breach  
 289 potential for critical facilities, such as hospitals.

290 (2) The commission shall submit a final report including



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291 its recommendations to the President of the Senate and the  
 292 Speaker of the House of Representatives no later than September  
 293 1, 2019.

294 (3) This section expires December 31, 2019.

295 Section 8. (1) There is established for the 2019-2020  
 296 fiscal year a Public Facilities Hurricane Restoration Cash Flow  
 297 Loan Program. Counties, municipalities, and district school  
 298 boards that need assistance with cash flow in order to make  
 299 timely payments to contractors and suppliers in restoring their  
 300 county, municipal, or educational facilities damaged by a named  
 301 hurricane or tropical storm during the 2018 hurricane season may  
 302 apply to the Department of Economic Opportunity for a cash flow  
 303 loan. The amount of the loan may not exceed the amount the  
 304 county, municipality, or district school board needs to meet  
 305 timely payments to contractors and suppliers for the restoration  
 306 of damaged facilities. To be eligible for a cash flow loan, a  
 307 county, municipality, or district school board must meet all of  
 308 the following requirements:

309 (a) Have one or more county, municipal, or educational  
 310 facilities damaged or destroyed by a named hurricane or tropical  
 311 storm during the 2018 hurricane season.

312 (b) Have an agreement to pay contractors or suppliers for  
 313 the restoration of the damaged facilities, but have insufficient  
 314 cash flow to make timely payments.

315 (c) Agree to repay, from funds received from insurance  
 316 claims, Federal Emergency Management Agency payments, or other  
 317 fund sources, the full amount of the funds received from the  
 318 cash flow loan program.

319 (d) Agree that if repayment is not made in a timely manner,

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320 the Department of Economic Opportunity must withhold future  
 321 distribution of public capital outlay funds, or other fixed  
 322 capital outlay funds, until repayment is received by the  
 323 department.

324 (2) The Department of Economic Opportunity shall provide  
 325 information and instructions for applying for a cash flow loan  
 326 and administer the loans in accordance with this act. The  
 327 department shall distribute loan funds based on the county or  
 328 municipal governing body's or district superintendent's  
 329 certification of the amount needed for payments that are due  
 330 within the following 30 days. All funds repaid shall be  
 331 deposited unallocated into the Budget Stabilization Fund within  
 332 30 days after receipt by the department.

333 (3) The Division of Emergency Management shall notify the  
 334 Department of Economic Opportunity when payments from the  
 335 Federal Emergency Management Agency for a named hurricane or  
 336 tropical storm during the 2018 hurricane season have been  
 337 distributed to a county, municipality, or district school board  
 338 that has received a public facilities hurricane restoration cash  
 339 flow loan.

340 Section 9. The sum of \$300 million is appropriated from  
 341 nonrecurring revenues in the Budget Stabilization Fund to the  
 342 Department of Economic Opportunity for the 2019-2020 fiscal year  
 343 for the sole purpose of funding the Public Facilities Hurricane  
 344 Restoration Cash Flow Loan Program for eligible counties,  
 345 municipalities, and district school boards in accordance with  
 346 this act.

347 Section 10. Paragraph (c) of subsection (2) and subsection  
 348 (4) of section 570.82, Florida Statutes, are amended to read:

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349 570.82 Agricultural Economic Development Program disaster  
 350 loans and grants and aid.-

351 (2) ELIGIBLE CROPS.-Crops eligible for the emergency loan  
 352 program include:

353 (c) Crops grown for fiber, ~~except for trees.~~

354 (4) LOAN APPLICATION.-In order to qualify for a loan under  
 355 this section, an applicant must submit an application to the  
 356 department within 90 days after the date the natural disaster or  
 357 socioeconomic condition or event occurs or the crop damage  
 358 becomes apparent. However, for applicants applying for a loan  
 359 under this section related to the effects of Hurricane Michael  
 360 that occurred in 2018, an applicant must submit an application  
 361 to the department by December 1, 2019. An applicant must be a  
 362 citizen of the United States and a bona fide resident of the  
 363 state and must also demonstrate the need for economic assistance  
 364 and demonstrate that he or she has the ability to repay the  
 365 loan.

366 Section 11. The sum of \$15 million in nonrecurring funds  
 367 from the General Revenue Fund is appropriated to the Department  
 368 of Agriculture and Consumer Services for the purpose of funding  
 369 the loan program under section 570.82, Florida Statutes.

370 Section 12. (1) This section applies only to school  
 371 districts in Holmes, Washington, Bay, Jackson, Calhoun, Gulf,  
 372 Liberty, Gadsden, Franklin, Wakulla, Leon, and Taylor Counties.

373 (2) For the school districts specified within this section,  
 374 the statewide, standardized assessment requirements for a  
 375 standard high school diploma for grade 12 high school students  
 376 in their senior year during the 2018-2019 school year are  
 377 waived. Any grade 12 high school student who is in his or her

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378 senior year during the 2018-2019 school year and who has met the  
 379 18 or 24 credit and 2.0 GPA requirements as provided in s.  
 380 1003.4282, Florida Statutes, must be granted a standard high  
 381 school diploma by his or her respective school.

382 (3) For the school districts specified within this section,  
 383 the statewide, standardized assessment for grade 3 promotion for  
 384 the 2018-2019 school year is waived. The promotion of grade 3  
 385 students must be based on the preponderance of the evidence  
 386 through measures determined by each school district.

387 (4) For the school districts specified within this section,  
 388 school grades, as established in s. 1008.34, Florida Statutes,  
 389 for the 2018-2019 school year must be calculated and released  
 390 for informational purposes only. School districts shall be held  
 391 harmless from any liability for the release of grades for  
 392 informational purposes only. School grades for the 2018-2019  
 393 school year must be based on student enrollment for Surveys 2  
 394 and 3 match files.

395 (5) The Legislature finds that, because of the catastrophic  
 396 nature of Hurricane Michael, families in school districts under  
 397 this section are displaced, and the loss of housing has  
 398 drastically changed the mobility of students. The Legislature  
 399 also finds that, until students' housing arrangements stabilize,  
 400 no method exists to capture an accurate assessment of a school's  
 401 performance in the school districts. Further, the Legislature  
 402 finds that the enrollment of students for the survey request  
 403 files will be a small representation of school district  
 404 performance and not a true measurement of performance.

405 Section 13. Subsection (6) is added to section 1008.33,  
 406 Florida Statutes, to read:

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407 1008.33 Authority to enforce public school improvement.-

408 (6) Upon the effective date of this act, the department  
409 shall suspend the administration of its duties and obligations  
410 under subsection (3) for the remainder of the 2018-2019 school  
411 year and for the 2019-2020 school year for school districts in  
412 Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty,  
413 Gadsden, Franklin, Wakulla, Leon, and Taylor Counties. This  
414 subsection expires on July 1, 2020.

415 Section 14. The Division of Law Revision is directed to  
416 replace the phrase "the effective date of this act" wherever it  
417 occurs in this act with the date this act becomes a law.

418 Section 15. This act shall take effect upon becoming a law.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/19  
Meeting Date

1610  
Bill Number (if applicable)

Topic Emergency Mitigation & Response

Amendment Barcode (if applicable)

Name Jim Spatt

Job Title \_\_\_\_\_

Address 310 W College Ave

Phone 850 228 1296

TALCAHASSEE FL 32301  
City State Zip

Email Jim@ms.militaryanalystsllc.com

Speaking:  For  Against  Information

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

Representing Florida Forestry Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19

Meeting Date

SB 1610

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Ralph Yoder

Job Title Superintendent of Schools - Calhoun Co

Address 20759 Central Ave E

Phone 850-674-5927

Street

Blountstown

FL

32424

City

State

Zip

Email

Speaking:  For  Against  Information

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

Representing Calhoun County School District

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19

Meeting Date

SB 1610

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Traci Hall

Job Title City Manager Blountstown

Address 20591 Central Ave West

Phone 850-674-5488

Street

Blountstown FL 32424

City

State

Zip

Email

Speaking: [X] For [ ] Against [ ] Information

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

Representing City of Blountstown

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

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

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4.9.19

1610

*Meeting Date*

*Bill Number (if applicable)*

Topic Emergency Mitigation and Response

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/9/2019

Meeting Date

1610

Bill Number (if applicable)

Topic Emergency Mitigation & Response

Amendment Barcode (if applicable)

Name ~~Jeff Branch~~ Jeff Branch

Job Title \_\_\_\_\_

Address Talk n'osses FL  
Street

Phone 701-2701

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

4/19/19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) Meeting Date 1610 Bill Number (if applicable)

Topic Emergency Mitigation & Response Amendment Barcode (if applicable)

Name Adam Basford

Job Title Legislative Affairs Director

Address 310 W College Tallahassee FL 32301

Phone

Email adam.basford@fla.gov

Speaking: [X] For [ ] Against [ ] Information

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

Representing FL Farm Bureau

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4 1 9 / 2019

Meeting Date

Topic \_\_\_\_\_

Bill Number 1610  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG      FLORIDA      33705  
*City*                                      *State*                                      *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/CS/SB 1730

INTRODUCER: Infrastructure and Security Committee, Community Affairs Committee, and Senator Lee

SUBJECT: Community Development and Housing

DATE: April 10, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	<b>Fav/CS</b>
2.	Price	Miller	IS	<b>Fav/CS</b>
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1730 amends various statutes relating to community development and housing. The bill authorizes local inclusionary housing ordinances that require developers to make affordable housing contributions, but a county or municipality must provide incentives to fully offset all costs to developers for their affordable housing contributions.

After receiving an application for approval of a development permit or order, the bill requires a county and municipality to review the application for completeness and issue a response to an applicant within a specified period of time. The bill applies certain provisions of current law applicable to development permits to development orders.

The bill requires a local government to credit certain contributions, constructions, expansions, or payments toward any other impact fee or exaction imposed by local ordinance for public educational facilities, based on the total impact fee assessed and not on the fee for any particular type of school.

The bill also requires the collection of an impact fee to occur no earlier than the issuance of the building permit for the property that is subject to the fee. The bill also codifies the 'dual rational nexus test' for impact fees as articulated in case law.

Other requirements of the bill include:

- Earmarking impact fees for capital facilities that benefit new users.
- Prohibiting the use of impact fee revenues to pay existing debt unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new construction, residential or nonresidential.
- Requiring a local government to credit against an impact fee any contributions related to public educational facilities.
- Providing that if a local government increases its impact fee rates, the holder of any impact fee credits which were in existence prior to the increase is entitled to a proportionate increase in the credit balance.
- Placing the burden of proof on the government in an action challenging the government's failure to provide dollar-for-dollar credits for payment of impact fees association with public education facilities.
- Applying certain provisions governing impact fees to mobility fees.
- Authorizing a county, municipality, or special district to provide an exception or waiver for the impact fee for the development or construction of affordable housing and providing that such local governments or special districts are not required to use any revenue to offset the impact.

Lastly, the bill revises the definition of the term “mortgage loan, which allows residential loans made for a business purpose to be subject to regulation by the Office of Financial Regulation.

The fiscal impact of the bill is indeterminate. See the Fiscal Impact Statement heading for further details.

The bill takes effect upon becoming law.

## II. Present Situation:

### Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>1</sup> Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.<sup>2</sup> Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.<sup>3</sup>

Unlike counties or municipalities, independent special districts do not possess home rule power. Therefore, the powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or by general law.<sup>4</sup>

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<sup>1</sup> FLA. CONST. art. VIII, s. 1(f).

<sup>2</sup> FLA. CONST. art. VIII, s. 1(g).

<sup>3</sup> FLA. CONST. art. VIII, s. 2(b). See also s. 166.021(1), F.S.

<sup>4</sup> Section 189.031, F.S. See also *State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist.*, 408 So. 2d 1067 (Fla. 1st DCA 1982).

### ***Local Government Revenue Sources Based on Home Rule Authority***<sup>5</sup>

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,<sup>6</sup> regulatory fees, and special assessments<sup>7</sup> to pay the cost of providing a facility or service or regulating an activity. “Each fee imposed under a local government’s home rule powers should be analyzed in the context of requirements established in Florida case law that are applicable to its validity.”<sup>8</sup>

Regulatory fees are home rule revenue sources that may be imposed pursuant to a local government’s police powers in the exercise of a sovereign function. Examples of regulatory fees include building permit fees, impact fees, inspection fees, and storm water fees.<sup>9</sup> “Two principles guide the application and use of regulatory fees. The fee should not exceed the regulated activity’s cost and is generally required to be applied solely to the regulated activity’s cost for which the fee is imposed.”<sup>10</sup>

### **Impact Fees**

Impact fees, one type of regulatory fee, are “charges imposed by local governments against new development to provide for capital facilities’ costs made necessary by such growth.”<sup>11</sup> Examples of such capital facilities include the provision of additional water and sewer systems, schools,<sup>12</sup> libraries, parks and recreational facilities. Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government’s determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee. In 2017, the most recent year for which the Office of Economic and Demographic Research (EDR) has impact fee data, 35 counties reported impact fee revenues totaling \$629.1 million, 194 cities reported impact fee revenues of \$279.7 million, and 28 school districts reported impact fee revenues of 329.7 million.<sup>13</sup>

### ***Florida Impact Fee Act***

In response to local governments’ reliance on impact fees and the growth of impact fee collections, the Legislature adopted the Florida Impact Fee Act in 2006, which requires local governing authorities to satisfy certain requirements when imposing impact fees.<sup>14</sup> In 2009, the Act was amended to impose new restrictions on impact fees by requiring local governments to

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<sup>5</sup> Office of Economic and Demographic Research, The Florida Legislature, *2018 Local Government Financial Handbook*, 9-13, available at <http://edr.state.fl.us/Content/local-government/reports/lghf18.pdf> (last visited March 18, 2019).

<sup>6</sup> Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees. *Id.* at p. 9.

<sup>7</sup> Special assessments are typically used to construct and maintain capital facilities or to fund certain services. *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Supra* note 5 at p. 13.

<sup>12</sup> With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board. The fee amount is usually determined after a study of the actual impact/costs of new residential construction on the school district has been made. *Id.*

<sup>13</sup> Office of Economic and Demographic Research, The Florida Legislature, *Impact Fees*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited March 18, 2019).

<sup>14</sup> Chapter 2009-49, L.O.F. and s. 163.31801, F.S.

bear the burden of proof when an impact fee is challenged in court and prohibiting the judiciary from giving deference to local government impact fee determinations.<sup>15</sup>

Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures. If a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.<sup>16</sup>

### ***Dual Rational Nexus Test***

While s. 163.31801, F.S., outlines the characteristics and limitations of impact fees, case law serves an integral role in the impact fee process in Florida. As developed under case law, an impact fee imposed by a local government should meet the ‘dual rational nexus test’ in order to withstand legal challenge.<sup>17</sup> A number of court decisions have addressed the dual rational nexus test and challenges to the legality of impact fees.<sup>18</sup>

In *Hollywood, Inc. v. Broward County*,<sup>19</sup> the Fourth District Court of Appeal addressed the validity of a county ordinance that required a developer, as a condition of plat approval, to dedicate land or pay a fee for the expansion of the county level park system to accommodate the new residents of the proposed development. The court found that a reasonable dedication or impact fee requirement is permissible if (1) it offsets reasonable needs that are sufficiently attributable to the new development and (2) the fees collected are adequately earmarked for the acquisition of capital assets that will benefit the residents of the new development.<sup>20</sup> In order to show the impact fee meets those requirements, the local government must demonstrate a rational relationship between the need for additional capital facilities and the proposed development. In addition, the local government must show the funds are earmarked for the provision of public facilities to benefit the new residents.<sup>21</sup>

In *Volusia County v. Aberdeen at Ormond Beach*, the Florida Supreme Court ruled that when a residential development has no potential to increase school enrollment, public school impact fees

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<sup>15</sup> Chapter 2009-49, L.O.F., creates a “preponderance of the evidence” standard of review placing the burden of proof on the local government to show that the imposition or amount of an impact fee meets the requirement of case law and s. 163.31801, F.S.

<sup>16</sup> A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee. Section 163.31801(3)(d), F.S.

<sup>17</sup> *Supra* note 4.

<sup>18</sup> See, e.g., *Contractors & Builders Ass’n v. City of Dunedin*, 329 So.2d 314 (Fla. 1976); *Home Builders and Contractors’ Association v. Board of County Commissioners of Palm Beach County*, 446 So.2d 140 (Fla. 4th DCA 1983).

<sup>19</sup> *Hollywood, Inc. v. Broward County*, 431 So.2d 606 (Fla. 4th DCA 1983).

<sup>20</sup> *Id.* at 611.

<sup>21</sup> *Id.* at 611-12.

may not be imposed.<sup>22</sup> The county in that case had imposed a school impact fee on a deed-restricted community for adults 55 years old and older. In *City of Zephyrhills v. Wood*, the Second District Court of Appeal upheld an impact fee on a recently purchased and renovated building, finding that structural changes had corresponding impacts on the city's water and sewer system.<sup>23</sup>

As developed under case law, an impact fee must have the following characteristics to be legal:

- The fee is levied on new development, the expansion of existing development, or a change in land use that requires additional capacity for public facilities;
- The fee represents a proportionate share of the cost of public facilities needed to serve new development;
- The fee is earmarked and expended for the benefit of those in the new development who have paid the fee;
- The fee is a one-time charge, although collection may be spread over a period of time;
- The fee is earmarked for capital outlay only and is not expended for operating costs; and
- The fee-payers receive credit for the contributions toward the cost of the increased capacity for public facilities.<sup>24</sup>

### ***Timing of Collection for Impact Fees***

Florida Statutes do not specify when a local government must collect impact fees. As a result, the applicable local government makes this decision, and the time of collection varies.<sup>25</sup> For example, in Orange County, residential impact fees are due when the building permit is issued, although the county allows the fees to be deferred in certain circumstances.<sup>26</sup> In contrast, in Volusia County, impact fees are due before the issuance of a certificate of occupancy or business tax receipt.<sup>27</sup>

### **Concurrency and Proportionate Share**

Concurrency requires public facilities and services to be available concurrent with the impacts of new development. Concurrency was formerly required for transportation, schools, and parks and recreation, but in 2011, the Legislature made concurrency for these facilities optional with the

<sup>22</sup> *Volusia County v. Aberdeen at Ormond Beach*, 760 So.2d 126, 134 (Fla. 2000).

<sup>23</sup> *City of Zephyrhills v. Wood*, 831 So.2d 223, 225 (Fla. 2d DCA 2002).

<sup>24</sup> Committee on Community Affairs, The Florida Senate, *Impact Fees*, 4 (Issue Brief 2010-310) (Sept. 2009), available at [http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim\\_reports/pdf/2010-310ca.pdf](http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-310ca.pdf) (last visited March 18, 2019).

<sup>25</sup> Common benchmark development actions include plat approval, building permitting, and certificate of occupancy. A 2015 national impact fee study by Duncan Associates entitled *State Impact Fee Enabling Acts* identified 29 states with impact fee enabling acts. The study found that “about one-third of enabling acts allow impact fees to be collected at any time during the development process. Most of the others provide that impact fees cannot be collected prior to the building permit or certificate of occupancy.” See [http://impactfees.com/publications%20pdf/state\\_enabling\\_acts.pdf](http://impactfees.com/publications%20pdf/state_enabling_acts.pdf) (last visited March 18, 2019).

<sup>26</sup> Orange County Government, Florida, *Residential Impact Fees*, available at <http://www.orangecountyfl.net/PermitsLicenses/Permits/ResidentialImpactFees.aspx#.WgnLs0kUmUl>. (last visited March 18, 2019).

<sup>27</sup> Volusia County, Florida, *Frequently Asked Questions on Impact Fees*, available at <https://www.volusia.org/services/growth-and-resource-management/impact-fees/faqs-impact-fees.stml> (last visited March 18, 2019).

passage of the Community Planning Act (CPA).<sup>28</sup> Concurrency on a statewide basis is required only for sanitary sewer, solid waste, drainage, and potable water. However, any local government is authorized to extend the concurrency requirement to additional public facilities within its jurisdiction.<sup>29</sup>

Many local governments continue to exercise the option to impose concurrency on transportation and school facilities. If a local government elects to apply concurrency to either transportation or school facilities, or both, its comprehensive plan must provide principles, guidelines, standards, and strategies, including adopted levels of service,<sup>30</sup> to guide its application of concurrency requirements.<sup>31</sup> Concurrency is tied to provisions requiring local governments to adopt level-of-service (LOS) standards, address existing deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan.<sup>32</sup> Local governments are charged with setting LOS standards within their jurisdictions. The local comprehensive plan must demonstrate, for required or optional concurrency requirements, that the adopted LOS standards can be reasonably met, and infrastructure needed to ensure that the LOS standards are achieved and maintained for a five-year period must be identified.<sup>33</sup> Generally, if the LOS standards are not met, development permits may not be issued without an applicable exception.

Proportionate share is a tool local governments may use to require developers to help mitigate the impacts of their development notwithstanding a failure to achieve and maintain the adopted LOS standards.<sup>34</sup> Proportionate share generally requires developers to contribute to costs, or build facilities, necessary to offset a new development's impacts.<sup>35</sup> Local governments may require proportionate share contributions from developers for both transportation and school impacts.<sup>36</sup>

With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.<sup>37</sup>

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<sup>28</sup> Chapter 2011-139, s. 15, Laws of Fla.

<sup>29</sup> Section 163.3180(1), F.S.

<sup>30</sup> "Level of service" is defined in s. 163.3164(28), F.S., to mean "an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility."

<sup>31</sup> See ss. 163.3180(5) and (6), F.S., with respect to concurrency applied to transportation facilities and to public education facilities, respectively.

<sup>32</sup> Section 163.3180, F.S.

<sup>33</sup> Section 163.3180(1)(b), F.S.

<sup>34</sup> Florida Department of Community Affairs (now Department of Economic Opportunity), *Transportation Concurrency: Best Practices Guide*, pg. 64 (2007), retrieved from [http://www.cutr.usf.edu/pdf/DCA\\_TCBP%20Guide.pdf](http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf) (last visited March 18, 2019).

<sup>35</sup> *Id.*

<sup>36</sup> Sections 163.3180(5) and 163.3180(6), F.S.

<sup>37</sup> Section 163.3180(6)(h)2.b., F.S.



## **Affordable Housing**

Affordable housing is generally defined in relation to the annual area median income of the household living in the housing adjusted for family size. Section 420.9071(2), F.S., within the State Housing Initiatives Partnership (SHIP)<sup>38</sup> Program defines “affordable” to mean that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for:

- Very-low-income households, i.e., total annual gross household income does not exceed 50 percent of the median annual income for the area;<sup>39</sup>
- Low-income households, i.e., total annual gross household income does not exceed 80 percent of the median annual income for the area;<sup>40</sup>
- Moderate-income households, i.e., total annual gross household income does not exceed 120 percent of the median annual income for the area.<sup>41</sup>

With respect to rental units, a household’s annual income at initial occupancy may not exceed the three threshold percentages above. While occupying the unit, the household’s annual income may increase to an amount not to exceed 140 percent.<sup>42</sup>

The Florida Housing Finance Corporation administers the SHIP Program that provides funds to all 67 counties and Florida’s larger cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans<sup>43</sup> and the State Apartment Incentive Loan (SAIL) Program that provides low-interest loans on a competitive basis to affordable housing developers each year.

## **Inclusionary Housing**

In 2001, the Legislature created ss. 125.01055<sup>44</sup> and 166.04151, F.S.,<sup>45</sup> respectively authorizing a county or municipality, notwithstanding any other provision of law, a to “adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.”

“Inclusionary housing ordinances (sometimes called inclusionary zoning ordinances) are land use regulations that require affordable housing units to be provided in conjunction with the development of market rate units. The intent of these ordinances is to increase the production of

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<sup>38</sup> See ss. 420.907-420.9089, F.S. Administered by Florida Housing Finance Corporation, the SHIP Program provides funds to all 67 counties and Florida’s larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans.

<sup>39</sup> Section 420.9071(28), F.S.

<sup>40</sup> Section 420.9071(19), F.S.

<sup>41</sup> Section 420.9071(20), F.S.

<sup>42</sup> See ss. 420.9071(19), (20), and (28), F.S.

<sup>43</sup> See ss. 420.907-420.9089, F.S.

<sup>44</sup> Ch. 2001-252, s. 16, Laws of Fla.

<sup>45</sup> Ch. 2001-252, s. 15, Laws of Fla.

affordable housing in general and to increase the production in specific geographic areas that might otherwise not include affordable housing.”<sup>46</sup>

Elements of an inclusionary zoning ordinance typically include a minimum project size, a percentage set aside, density bonus, and costs offsets.<sup>47</sup> The threshold size must be large enough to contribute to the financial feasibility of the required affordable units. The share of affordable units varies, and requirements for developers to set aside ten to 25 percent of their new housing developments as affordable are most common. A density bonus allows a developer to construct a certain number of additional market rate units beyond what is normally allowed under the current zoning ordinance, in exchange for providing a specified number of affordable units. To enable the construction of affordable housing, developers may be given waivers from certain development standards and receive waivers for fees, such as demolition, water and sewer charge, and utility connection fees. Developers may be eligible for reduced parking requirements and other benefits, such as expedited permitting.<sup>48</sup>

### **Development Permit Process**

A development permit is defined to mean any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.<sup>49</sup> When local governments are reviewing applications for such permits, current law specifically excludes building permits from this definition.<sup>50</sup> A “development order” is “any order granting, denying, or granting with conditions an application for a development permit.”<sup>51</sup>

Sections 125.022(1) and 163.033(1), F.S., provide that when reviewing an application for a development permit, counties and municipalities cannot request additional information from an applicant more than three times, unless the applicant waives the limitation in writing. Prior to the third request for information, the county or the municipality is directed to offer a meeting to try to resolve outstanding issues. With one exception discussed below, if the applicant believes the request for additional information is not authorized by ordinance, rule, statute or other legal authority, the county or municipality, at the applicant’s request, must proceed with processing the application.

When a county or municipality denies an application for a development permit, the county or municipality must give written notice to the applicant. The notice must include a citation to the applicable portions of ordinance, rule, statute or other legal authority for the denial of the permit.<sup>52</sup>

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<sup>46</sup> Ross, J. and Outka, U., The Florida Housing Coalition, *Inclusionary Housing: A Challenge Worth Taking*, available at <https://www.flhousing.org/wp-content/uploads/2012/05/Inclusionary-Housing-A-Challenge-Worth-Taking.pdf> (last visited March 18, 2019).

<sup>47</sup> See Florida Housing Coalition, *Affordable Housing Incentive Strategies: A Guidebook for Affordable Housing Advisory Committee Members and Local Government Staff*, at p. 36, available at <http://www.flhousing.org/wp-content/uploads/2012/03/AHAC-Guidebook-2017.pdf> (last viewed April 4, 2019).

<sup>48</sup> *Id.*

<sup>49</sup> Section 163.3164(16), F.S.

<sup>50</sup> Sections 125.022(3) and 166.033(3), F.S.

<sup>51</sup> Section 163.3164(15), F.S.

<sup>52</sup> Sections 125.022(2) and 166.033(2), F.S.

For any development permit application filed with a county or municipality after July 1, 2012, that county or municipality is prohibited from requiring, as a condition of processing or issuing a development permit, that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county or municipality action on the local development permit.<sup>53</sup> The issuance of a development permit by a county or municipality does not create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the local government for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.<sup>54</sup> A county or municipality must attach such a disclaimer to the issuance of a development permit and must include a permit condition that all other applicable state or federal permits be obtained prior to commencement of the development.<sup>55</sup>

### **Federal Oversight of Mortgage Brokerage Industry**

#### ***Secure and Fair Enforcement for Mortgage Licensing Act of 2008***

On July 30, 2008, the federal Housing and Economic Recovery Act of 2008 was enacted.<sup>56</sup> Title V of this act is titled the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or the “S.A.F.E. Mortgage Licensing Act of 2008” (SAFE Act). The SAFE Act establishes minimum standards for state licensure of residential mortgage loan originators in order to increase uniformity, improve accountability of loan originators, combat fraud, and enhance consumer protections. The act required all states to adopt a system of licensure meeting minimum standards for mortgage loan originators by August 1, 2009, or be subject to federal regulation. The act establishes regulatory requirements for individuals, rather than businesses, licensed or registered as mortgage brokers and lenders, collectively known as loan originators.

Pursuant to the SAFE Act, states are required to participate in a national licensing registry, the Nationwide Mortgage Licensing System and Registry (registry), which contains employment history as well as disciplinary and enforcement actions against loan originators. Applicants are subject to licensure by the state regulator.<sup>57</sup>

#### ***Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010***

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the Consumer Financial Protection Bureau (CFPB) and provided sweeping changes to the regulation of financial services, including changes to federal mortgage loan origination and lending laws.<sup>58</sup> The Dodd-Frank Act authorizes the CFPB to have rulemaking, enforcement, and supervisory powers over many consumer financial products and

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<sup>53</sup> See ss. 125.022(4) and 166.033(4), F.S.

<sup>54</sup> See ss. 125.022(5) and 166.033(5), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Pub. L. No. 110-289.

<sup>57</sup> NLMS Resource Center, available at <http://mortgage.nationwidelicencingsystem.org/about/Pages/default.aspx> (last visited March 20, 2019).

<sup>58</sup> Pub. L. No. 111-203.

services, as well as the entities that sell them. Some of the consumer laws under the CFPB include the Truth in Lending Act (TILA)<sup>59</sup> and the Real Estate Settlement Procedures Act (RESPA).<sup>60</sup> The TILA is intended to ensure that credit terms are disclosed in a meaningful way so consumers can compare credit terms, and is implemented by Regulation Z. The RESPA requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process, and is implemented by Regulation X.

Both TILA and RESPA exempt from their regulations a mortgage loan made “primarily for a business, commercial or agricultural purpose.”<sup>61</sup> Therefore, TILA and RESPA do not cover “business purpose” mortgage loans but rather only “consumer purpose” mortgage loans. When determining whether credit is for a consumer purpose, the creditor must evaluate all of the following factors:

- Any statement obtained from the consumer describing the purpose of the proceeds;
- The primary occupation of the consumer and how it relates to the use of the proceeds;
- Personal management of the assets purchased from proceeds;
- The size of the transaction; and
- The amount of income derived from the property acquired by the loan proceeds relative to the borrower’s total income.

The Dodd-Frank Act mandated that the CFPB adopt an integrated disclosure form for use by lenders and creditors to comply with the disclosure requirements of RESPA and TILA,<sup>62</sup> and the CFPB issued final rules in 2015.<sup>63</sup> The integrated rule applies to most closed-end consumer mortgages secured by real property. It does not apply to home equity lines of credit (HELOCs), reverse mortgages, or mortgages secured by a mobile home or by a dwelling that is not attached to real property (i.e., land). *The Small Entity Guide* published by the CFPB does not specify whether loans for business purposes or for investment properties are exempt from the rule. However, the guide does provide that creditors are not prohibited from using the integrated disclosure forms on loans that are not covered by the rule.<sup>64</sup>

### **State Regulation of Mortgage Loans**

The Office of Financial Regulation (OFR) regulates a wide range of financial activities, such as state-chartered banks, credit unions, and non-depository loan originators, mortgage brokers and mortgage lenders. In 2009, the Florida Legislature implemented the minimum standards of the SAFE Act, which increased licensure requirements and required licensure through the registry.<sup>65</sup>

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<sup>59</sup> 15 U.S.C. 1601, *et. seq.*

<sup>60</sup> 12 U.S.C. 2601, *et. seq.*

<sup>61</sup> Consumer Financial Protection Bureau, *2013 Integrated Mortgage Disclosure Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)*, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/2013-integrated-mortgage-disclosure-rule-under-real-estate-settlement-procedures-act-regulation-x-and-truth-lending-act-regulation-z/> (last visited March 20, 2019).

<sup>62</sup> 12 U.S.C. ss. 5532(f) and 2603; 15 U.S.C. s. 1604(b).

<sup>63</sup> 78 Fed Reg 79730.

<sup>64</sup> See CFPB, *TILA-RESPA Integrated Disclosure Rule: Small Entity Compliance Guide*, available at [http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/kbyo\\_smallentitycomplianceguide\\_v4\\_10072016.pdf](http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/kbyo_smallentitycomplianceguide_v4_10072016.pdf) (last visited March 20, 2019).

<sup>65</sup> Chapter 2009-241, Laws of Fla.

Section 494.001(24), F.S., defines the term “mortgage loan” to mean a:

- Residential loan primarily for personal, family, or household use which is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in s. 103(v) of the federal TILA,<sup>66</sup> or for the purchase of residential real estate upon which a dwelling is to be constructed;
- Loan on commercial real property if the borrower is an individual or the lender is a noninstitutional investor; or
- Loan on improved real property consisting of five or more dwelling units if the borrower is an individual or the lender is a noninstitutional investor.

***Licensure of Loan Originators, Mortgage Brokers, and Mortgage Lenders***

An individual who acts as a loan originator must obtain a loan originator license.<sup>67</sup> A “loan originator” means an individual who, directly or indirectly:

- Solicits or offers to solicit a mortgage loan;
- Accepts or offers to accept an application for a mortgage loan;
- Negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender; or
- Negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.<sup>68</sup>

The term “loan originator” includes an individual who is required to be licensed as a loan originator under the SAFE Act. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.<sup>69</sup>

A “mortgage broker” means a person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as an independent contractor to the mortgage broker<sup>70</sup> and such persons are required to be licensed as mortgage brokers.<sup>71</sup>

A “mortgage lender” means any person making a mortgage loan or servicing a mortgage loan for others, or, for compensation or gain, directly or indirectly, selling or offering to sell a mortgage loan to a noninstitutional investor,<sup>72</sup> and such persons are required to be licensed as mortgage lenders.<sup>73</sup> “Making a mortgage loan” means closing a mortgage loan in a person's name, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan.<sup>74</sup>

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<sup>66</sup> The term “dwelling” means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives. Current law inadvertently references the definition of “material disclosure” under s. 103(v), rather than the term “dwelling,” which is defined under s. 103(w). *See* 15 U.S.C. 1602.

<sup>67</sup> Section 494.00312, F.S.

<sup>68</sup> Section 494.001(17), F.S.

<sup>69</sup> *Id.*

<sup>70</sup> Section 494.001(22), F.S.

<sup>71</sup> Section 494.00321, F.S.

<sup>72</sup> Section 494.001(23), F.S.

<sup>73</sup> Section 494.00611, F.S.

<sup>74</sup> Section 494.001(20), F.S.

Section 494.00015, F.S., provides several exemptions from regulation under the general provisions of part I of ch. 494, F.S., as well as under parts II and III, relating to mortgage brokers and mortgage lenders, respectively. The party claiming the benefit of an exemption has the burden of establishing a right to that exemption.

***Examination Authority, Administrative Penalties and Fines***

The OFR may conduct investigations, examinations, and investigate complaints.<sup>75</sup> The OFR may take disciplinary action against a person licensed or subject to licensure under parts II or III of ch. 494, F.S., for a variety of acts, including but not limited to violation of any provision of RESPA, TILA, or any regulations adopted under such acts, during the course of any mortgage transaction.<sup>76</sup>

**III. Effect of Proposed Changes:**

**Sections 1 and 6** respectively amend ss. 125.01055 and 166.04151, F.S., regarding affordable housing, to authorize an inclusionary housing ordinance that requires a developer to provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units. In exchange, however, a county or municipality must provide incentives to fully offset all costs to the developer of its affordable housing contribution. Such incentives may include, but are not limited to:

- Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning,
- Reducing or waiving fees, such as impact fees or water and sewer charges, or
- Granting other incentives.

The current authorization of a county or municipality to adopt inclusionary housing ordinances for the purpose of increasing the supply of affordable housing is restricted by the requirement that local government incentives fully offset all costs to the developer of its affordable housing contribution by way of the authorized incentives.

**Sections 2 and 5** respectively amend s. 125.022 and 166.033, F.S., to require a county or municipality to review an application for a development permit or development order for completeness and issue a letter indicating that all required information is submitted or specifying with particularity any areas that are deficient within 30 days after receiving such application.

If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. Within 120 days after the county or municipality has deemed the application complete, the county or municipality must approve, approve with conditions, or deny the application for a development permit or development order. These time periods may be waived in writing by the applicant. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision.

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<sup>75</sup> Section 494.0012, F.S.

<sup>76</sup> See s. 494.00255, F.S.

The bill inserts “development order” throughout both sections of law currently relating to development permits, thereby applying all of the provisions of each section to such orders as they relate to respective county and municipal action on such orders.

**Section 3** amends s. 163.3180, F.S., with respect to school concurrency and proportionate share mitigation, to require a local government to credit certain contributions, constructions, expansions, or payments toward any other impact fee or exaction imposed by local ordinance for public educational facilities on a dollar-for-dollar basis at fair market value. The credit must be based on the total impact fee assessed and not upon the impact fee for any particular type of school.

**Section 4** amends s. 163.31801, F.S., to prohibit any local government from collecting an impact fee any time prior to the date of issuance of the building permit for the property that is subject to the fee.

The bill codifies the requirement for impact fees to be proportional and reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.

The bill also requires the impact fee to be proportional and reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

The local government must specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users.

Revenues generated by the impact fee may not be used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.

The local government must credit against the collection of the impact fee any contributions related to public educational facilities, including, but not limited to, land dedication, site planning and design, and construction, whether provided in a proportionate share agreement or any other form of exaction. Any such contributions must be applied to reduce impact fees on a dollar-for-dollar basis at fair market value.

If a local government increases its impact fee rates, the holder of any impact fee credits granted by a local government, whether granted under this section, s. 380.06, F.S.(developments of regional impact), or otherwise, is entitled to a proportionate increase in the credit balance.

In any action challenging the government’s failure to provided required dollar-for-dollar credits for the payment of impact fees as provided in s. 163.3180(6)(h)2.b, F.S., (school concurrency), the government has the burden of proving by a preponderance of the evidence that the amount of the credit meets the requirements of state legal precedent and the provisions of this section of law. The bill prohibits the court from using a deferential standard for the benefit of the government.

The bill specifies that all provisions governing impact fees in s. 163.31801, F.S., also apply to mobility fees.

A county, municipality, or special district may provide an exception or waiver for the impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071, F.S. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

**Section 7** amends the definition of the term, “mortgage loan” in s. 494.001(24), F.S., by removing the requirement that residential loans be used primarily for personal, family, or household purposes. As a result, the bill allows residential loans made for a business purpose, for dwellings or for real estate used to construct a dwelling, to fall under the definition of a “mortgage loan” and therefore be subject to regulation by the OFR. The bill may require persons originating, brokering, or lending such loans to obtain licensure under ch. 494, F.S., unless they fall within an exemption under s. 494.00115, F.S. The bill also corrects the federal law reference to the term “dwelling,” which is defined under s. 103(w) of the TILA.

**Section 8** provides the bill takes effect upon becoming a law.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Article VII, Section 18(b) of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the *authority* that counties or municipalities have to raise revenues in the aggregate. However, the mandate requirements do not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.<sup>77,78,79</sup>

In 1991, Senate President Margolis and House Speaker Wetherell created a memo to guide the House and Senate in the review of local government mandates.<sup>80</sup> In the memo, the guidelines define the term “authority” to mean the power to levy a tax; the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one; the tax rate which can be levied; and the base against which the tax is levied, e.g., a bill providing a

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<sup>77</sup> FLA. CONST. art. VII, s. 18(d).

<sup>78</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 18, 2019).

<sup>79</sup> Based on the Florida Demographic Estimating Conference’s November 5, 2018 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 18, 2019).

<sup>80</sup> Memorandum to Members of The Florida House and The Florida Senate from Gwen Margolis, President of the Senate and T.K. Wetherell, Speaker of the House, *County and Municipal Mandates Analysis*, (March 7, 1991) (on file with the Senate Committee on Community Affairs).



sales tax exemption should be considered a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

While the bill does not restrict the amount counties and municipalities may charge for impact fees, it does restrict the time at which a county or municipality may collect such fees. An impact fee collected at the platting stage is theoretically worth more than an amount collected no earlier than the issuance of the building permit due to the time value of money.<sup>81</sup> It is unclear if this bill lessens the type of *authority* contemplated by President Margolis and Speaker Wetherell.

If the bill is determined to reduce the *authority* that counties and municipalities have to raise revenues in the aggregate and exceeds the threshold for insignificant fiscal impact, the bill may qualify as a mandate and require final passage by a two-thirds vote of the membership of each house of the Legislature.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet estimated the impact of CS/SB 1730.

**B. Private Sector Impact:**

Developers who provide the authorized affordable housing contributions pursuant to an inclusionary housing ordinance would have the costs of such contributions fully offset by the required incentives. Developers will receive dollar-for-dollar credit at fair market value relating to their expenditures for public education facilities, land dedication, site planning and design, and construction.

Implementation of the bill would allow borrowers obtaining residential mortgage for business purposes (not primarily for personal, family, or household use) greater consumer

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<sup>81</sup> Provided money can earn interest, any amount of money is worth more the sooner it is received.

protections provided under ch. 494, F.S., which requires compliance with RESPA and TILA. All residential mortgage loans for dwellings or for real estate used to construct a dwelling, regardless of the purpose, would be subject to the provisions of ch. 494, F.S.

Persons making residential mortgage loans for business purposes and who are not licensed would be required to obtain licensure under ch. 494, F.S., in order to continue such lending activity.

**C. Government Sector Impact:**

Counties, municipalities, and special districts will not be able to collect impact fees prior to the issuance of the building permit for a property. There may be a reduction in the amount of impact fees imposed as the bill requires local governments to provide credits to developers at a dollar-for-dollar fair market value regarding expenditures for public education facilities and associated costs. If a county or municipality adopts an inclusionary housing ordinance, it must fully offset a developer's costs for such contributions through the authorized incentives. If a county, municipality, or special district provides an affordable housing impact fee waiver, such county, municipality, or special district may need to find other revenue sources to replace any waived fees. The fiscal impact is indeterminate.

The OFR may need additional staff to perform licensing and regulatory functions for entities that make residential mortgage loans for business purposes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

A violation of RESPA, TILA, or any regulations adopted thereunder committed in any mortgage transaction, is a ground for disciplinary action under ch. 494, F.S. Both RESPA and TILA exclude business purpose loans from the scope of their regulation. Therefore, a person may be subject to licensure under ch. 494, F.S., but would not necessarily be required to provide the disclosures required under RESPA and TILA if the residential mortgage loan is made for business purposes.

**VIII. Statutes Affected:**

The bill substantially amends sections 125.01055, 125.022, 163.3180, 163.31801, 166.033, 166.04151, and 494.001 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Infrastructure and Security on April 9, 2019:**

The committee substitute:

- Authorizes counties and municipalities to adopt an inclusionary housing ordinance that requires developers to make affordable housing contributions, but requires the local government to provide incentives to fully offset all costs to the developer of its affordable housing contribution.
- Extends from 90 to 120 days after an application is deemed complete the time within which a county or municipality is required to act on an application for approval of a development permit or development order.
- Provides that if a local government increases its impact fee rates, the holder of any impact fee credits which were in existence prior to the increase is entitled to a proportionate increase in the credit balance.

**CS by Community Affairs on March 20, 2019:**

The committee substitute:

- Provides requirements for basis of impact fee credits;
- Removes provision that awards attorney fees and costs in action challenging local government failure to provide required credits for impact fees;
- Authorizes, instead of requiring, a local government to waive impact fees for development or construction of affordable housing; and
- Amends the definition of the term “mortgage loan” in s. 494.001(24), F.S.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2019	.	
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The Committee on Infrastructure and Security (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 125.01055, Florida Statutes, is amended to read:

125.01055 Affordable housing.—

(1) Notwithstanding any other provision of law, a county may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the



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11 supply of affordable housing using land use mechanisms such as  
12 inclusionary housing ordinances. An inclusionary housing  
13 ordinance may require a developer to provide a specified number  
14 or percentage of affordable housing units to be included in a  
15 development or allow a developer to contribute to a housing fund  
16 or other alternatives in lieu of building the affordable housing  
17 units. However, in exchange, a county must provide incentives to  
18 fully offset all costs to the developer of its affordable  
19 housing contribution. Such incentives may include, but are not  
20 limited to:

21 (a) Allowing the developer density or intensity bonus  
22 incentives or more floor space than allowed under the current or  
23 proposed future land use designation or zoning;

24 (b) Reducing or waiving fees, such as impact fees or water  
25 and sewer charges; or

26 (c) Granting other incentives.

27 Section 2. Section 125.022, Florida Statutes, is amended to  
28 read:

29 125.022 Development permits and orders.-

30 (1) Within 30 days after receiving an application for a  
31 development permit or development order, a county must review  
32 the application for completeness and issue a letter indicating  
33 that all required information is submitted or specifying with  
34 particularity any areas that are deficient. If deficient, the  
35 applicant has 30 days to address the deficiencies by submitting  
36 the required additional information. Within 120 days after the  
37 county has deemed the application complete the county shall  
38 approve, approve with conditions, or deny the application for a  
39 development permit or development order. The time periods



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40 contained in this section may be waived in writing by the  
41 applicant. An approval, approval with conditions, or denial of  
42 the application for a development permit or development order  
43 must include written findings supporting the county's decision.

44 (2)~~(1)~~ When reviewing an application for a development  
45 permit or development order that is certified by a professional  
46 listed in s. 403.0877, a county may not request additional  
47 information from the applicant more than three times, unless the  
48 applicant waives the limitation in writing. Before a third  
49 request for additional information, the applicant must be  
50 offered a meeting to attempt to resolve outstanding issues.  
51 Except as provided in subsection (5)~~(4)~~, if the applicant  
52 believes the request for additional information is not  
53 authorized by ordinance, rule, statute, or other legal  
54 authority, the county, at the applicant's request, shall proceed  
55 to process the application for approval or denial.

56 (3)~~(2)~~ When a county denies an application for a  
57 development permit or development order, the county shall give  
58 written notice to the applicant. The notice must include a  
59 citation to the applicable portions of an ordinance, rule,  
60 statute, or other legal authority for the denial of the permit  
61 or order.

62 (4)~~(3)~~ As used in this section, the terms ~~term~~ "development  
63 permit" and "development order" have ~~has~~ the same meaning as in  
64 s. 163.3164, but do ~~does~~ not include building permits.

65 (5)~~(4)~~ For any development permit application filed with  
66 the county after July 1, 2012, a county may not require as a  
67 condition of processing or issuing a development permit or  
68 development order that an applicant obtain a permit or approval



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69 from any state or federal agency unless the agency has issued a  
70 final agency action that denies the federal or state permit  
71 before the county action on the local development permit.

72 ~~(6)~~~~(5)~~ Issuance of a development permit or development  
73 order by a county does not in any way create any rights on the  
74 part of the applicant to obtain a permit from a state or federal  
75 agency and does not create any liability on the part of the  
76 county for issuance of the permit if the applicant fails to  
77 obtain requisite approvals or fulfill the obligations imposed by  
78 a state or federal agency or undertakes actions that result in a  
79 violation of state or federal law. A county shall attach such a  
80 disclaimer to the issuance of a development permit and shall  
81 include a permit condition that all other applicable state or  
82 federal permits be obtained before commencement of the  
83 development.

84 ~~(7)~~~~(6)~~ This section does not prohibit a county from  
85 providing information to an applicant regarding what other state  
86 or federal permits may apply.

87 Section 3. Paragraph (i) of subsection (5) and paragraph  
88 (h) of subsection (6) of section 163.3180, Florida Statutes, is  
89 amended to read:

90 163.3180 Concurrency.—

91 (5)

92 (i) If a local government elects to repeal transportation  
93 concurrency, it is encouraged to adopt an alternative mobility  
94 funding system that uses one or more of the tools and techniques  
95 identified in paragraph (f). Any alternative mobility funding  
96 system adopted may not be used to deny, time, or phase an  
97 application for site plan approval, plat approval, final



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98 subdivision approval, building permits, or the functional  
99 equivalent of such approvals provided that the developer agrees  
100 to pay for the development's identified transportation impacts  
101 via the funding mechanism implemented by the local government.  
102 The revenue from the funding mechanism used in the alternative  
103 system must be used to implement the needs of the local  
104 government's plan which serves as the basis for the fee imposed.  
105 A mobility fee-based funding system must comply with s.  
106 163.31801 governing ~~the dual rational nexus test applicable to~~  
107 impact fees. An alternative system that is not mobility fee-  
108 based shall not be applied in a manner that imposes upon new  
109 development any responsibility for funding an existing  
110 transportation deficiency as defined in paragraph (h).

111 (6)

112 (h)1. In order to limit the liability of local governments,  
113 a local government may allow a landowner to proceed with  
114 development of a specific parcel of land notwithstanding a  
115 failure of the development to satisfy school concurrency, if all  
116 the following factors are shown to exist:

117 a. The proposed development would be consistent with the  
118 future land use designation for the specific property and with  
119 pertinent portions of the adopted local plan, as determined by  
120 the local government.

121 b. The local government's capital improvements element and  
122 the school board's educational facilities plan provide for  
123 school facilities adequate to serve the proposed development,  
124 and the local government or school board has not implemented  
125 that element or the project includes a plan that demonstrates  
126 that the capital facilities needed as a result of the project





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127 can be reasonably provided.

128 c. The local government and school board have provided a  
129 means by which the landowner will be assessed a proportionate  
130 share of the cost of providing the school facilities necessary  
131 to serve the proposed development.

132 2. If a local government applies school concurrency, it may  
133 not deny an application for site plan, final subdivision  
134 approval, or the functional equivalent for a development or  
135 phase of a development authorizing residential development for  
136 failure to achieve and maintain the level-of-service standard  
137 for public school capacity in a local school concurrency  
138 management system where adequate school facilities will be in  
139 place or under actual construction within 3 years after the  
140 issuance of final subdivision or site plan approval, or the  
141 functional equivalent. School concurrency is satisfied if the  
142 developer executes a legally binding commitment to provide  
143 mitigation proportionate to the demand for public school  
144 facilities to be created by actual development of the property,  
145 including, but not limited to, the options described in sub-  
146 subparagraph a. Options for proportionate-share mitigation of  
147 impacts on public school facilities must be established in the  
148 comprehensive plan and the interlocal agreement pursuant to s.  
149 163.31777.

150 a. Appropriate mitigation options include the contribution  
151 of land; the construction, expansion, or payment for land  
152 acquisition or construction of a public school facility; the  
153 construction of a charter school that complies with the  
154 requirements of s. 1002.33(18); or the creation of mitigation  
155 banking based on the construction of a public school facility in



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156 exchange for the right to sell capacity credits. Such options  
157 must include execution by the applicant and the local government  
158 of a development agreement that constitutes a legally binding  
159 commitment to pay proportionate-share mitigation for the  
160 additional residential units approved by the local government in  
161 a development order and actually developed on the property,  
162 taking into account residential density allowed on the property  
163 prior to the plan amendment that increased the overall  
164 residential density. The district school board must be a party  
165 to such an agreement. As a condition of its entry into such a  
166 development agreement, the local government may require the  
167 landowner to agree to continuing renewal of the agreement upon  
168 its expiration.

169       b. If the interlocal agreement and the local government  
170 comprehensive plan authorize a contribution of land; the  
171 construction, expansion, or payment for land acquisition; the  
172 construction or expansion of a public school facility, or a  
173 portion thereof; or the construction of a charter school that  
174 complies with the requirements of s. 1002.33(18), as  
175 proportionate-share mitigation, the local government shall  
176 credit such a contribution, construction, expansion, or payment  
177 toward any other impact fee or exaction imposed by local  
178 ordinance for public educational facilities ~~the same need~~, on a  
179 dollar-for-dollar basis at fair market value. The credit must be  
180 based on the total impact fee assessed and not upon the impact  
181 fee for any particular type of school.

182       c. Any proportionate-share mitigation must be directed by  
183 the school board toward a school capacity improvement identified  
184 in the 5-year school board educational facilities plan that



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185 satisfies the demands created by the development in accordance  
186 with a binding developer's agreement.

187 3. This paragraph does not limit the authority of a local  
188 government to deny a development permit or its functional  
189 equivalent pursuant to its home rule regulatory powers, except  
190 as provided in this part.

191 Section 4. Section 163.31801, Florida Statutes, is amended  
192 to read:

193 163.31801 Impact fees; short title; intent; minimum  
194 requirements; audits; challenges ~~definitions; ordinances levying~~  
195 ~~impact fees.~~-

196 (1) This section may be cited as the "Florida Impact Fee  
197 Act."

198 (2) The Legislature finds that impact fees are an important  
199 source of revenue for a local government to use in funding the  
200 infrastructure necessitated by new growth. The Legislature  
201 further finds that impact fees are an outgrowth of the home rule  
202 power of a local government to provide certain services within  
203 its jurisdiction. Due to the growth of impact fee collections  
204 and local governments' reliance on impact fees, it is the intent  
205 of the Legislature to ensure that, when a county or municipality  
206 adopts an impact fee by ordinance or a special district adopts  
207 an impact fee by resolution, the governing authority complies  
208 with this section.

209 (3) At a minimum, an impact fee adopted by ordinance of a  
210 county or municipality or by resolution of a special district  
211 must satisfy all of the following conditions, ~~at minimum:~~

212 (a) ~~Require that~~ The calculation of the impact fee must be  
213 based on the most recent and localized data.



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214           (b) The local government must provide for accounting and  
215 reporting of impact fee collections and expenditures. If a local  
216 governmental entity imposes an impact fee to address its  
217 infrastructure needs, the entity must ~~shall~~ account for the  
218 revenues and expenditures of such impact fee in a separate  
219 accounting fund.

220           (c) ~~Limit~~ Administrative charges for the collection of  
221 impact fees must be limited to actual costs.

222           (d) The local government must provide ~~Require that~~ notice  
223 not be provided ~~no~~ less than 90 days before the effective date  
224 of an ordinance or resolution imposing a new or increased impact  
225 fee. A county or municipality is not required to wait 90 days to  
226 decrease, suspend, or eliminate an impact fee.

227           (e) Collection of the impact fee may not be required to  
228 occur earlier than the date of issuance of the building permit  
229 for the property that is subject to the fee.

230           (f) The impact fee must be proportional and reasonably  
231 connected to, or have a rational nexus with, the need for  
232 additional capital facilities and the increased impact generated  
233 by the new residential or commercial construction.

234           (g) The impact fee must be proportional and reasonably  
235 connected to, or have a rational nexus with, the expenditures of  
236 the funds collected and the benefits accruing to the new  
237 residential or nonresidential construction.

238           (h) The local government must specifically earmark funds  
239 collected under the impact fee for use in acquiring,  
240 constructing, or improving capital facilities to benefit new  
241 users.

242           (i) Revenues generated by the impact fee may not be used,



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243 in whole or in part, to pay existing debt or for previously  
244 approved projects unless the expenditure is reasonably connected  
245 to, or has a rational nexus with, the increased impact generated  
246 by the new residential or nonresidential construction.

247 (4) The local government must credit against the  
248 collection of the impact fee any contribution, whether  
249 identified in a proportionate share agreement or other form of  
250 exaction, related to public education facilities, including land  
251 dedication, site planning and design, or construction. Any  
252 contribution must be applied to reduce impact fees on a dollar-  
253 for-dollar basis at fair market value.

254 (5) If a local government increases its impact fee rates,  
255 then the holder of any impact fee credits, whether such credits  
256 are granted under s. 163.3180, s. 380.06, or otherwise, which  
257 were in existence prior to the increase, is entitled to a  
258 proportionate increase in the credit balance.

259 ~~(4)~~ Audits of financial statements of local governmental  
260 entities and district school boards which are performed by a  
261 certified public accountant pursuant to s. 218.39 and submitted  
262 to the Auditor General must include an affidavit signed by the  
263 chief financial officer of the local governmental entity or  
264 district school board stating that the local governmental entity  
265 or district school board has complied with this section.

266 ~~(7)~~~~(5)~~ In any action challenging an impact fee or the  
267 government's failure to provide required dollar-for-dollar  
268 credits for the payment of impact fees as provided in s.  
269 163.3180(6)(h)2.b, the government has the burden of proving by a  
270 preponderance of the evidence that the imposition or amount of  
271 the fee or credit meets the requirements of state legal



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272 precedent ~~or~~ and this section. The court may not use a  
273 deferential standard for the benefit of the government.

274 (8) A county, municipality, or special district may  
275 provide an exception or waiver for an impact fee for the  
276 development or construction of housing that is affordable, as  
277 defined in s. 420.9071. If a county, municipality, or special  
278 district provides such an exception or waiver, it is not  
279 required to use any revenues to offset the impact.

280 Section 5. Section 166.033, Florida Statutes, is amended to  
281 read:

282 166.033 Development permits and orders.-

283 (1) Within 30 days after receiving an application for  
284 approval of a development permit or development order, a  
285 municipality must review the application for completeness and  
286 issue a letter indicating that all required information is  
287 submitted or specifying with particularity any areas that are  
288 deficient. If deficient, the applicant has 30 days to address  
289 the deficiencies by submitting the required additional  
290 information. Within 120 days after the municipality has deemed  
291 the application complete the municipality must approve, approve  
292 with conditions, or deny the application for a development  
293 permit or development order. The time periods contained in this  
294 subsection may be waived in writing by the applicant. An  
295 approval, approval with conditions, or denial of the application  
296 for a development permit or development order must include  
297 written findings supporting the county's decision.

298 (2)~~(1)~~ When reviewing an application for a development  
299 permit or development order that is certified by a professional  
300 listed in s. 403.0877, a municipality may not request additional



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301 information from the applicant more than three times, unless the  
302 applicant waives the limitation in writing. Before a third  
303 request for additional information, the applicant must be  
304 offered a meeting to attempt to resolve outstanding issues.  
305 Except as provided in subsection (5)-(4), if the applicant  
306 believes the request for additional information is not  
307 authorized by ordinance, rule, statute, or other legal  
308 authority, the municipality, at the applicant's request, shall  
309 proceed to process the application for approval or denial.

310 (3)-(2) When a municipality denies an application for a  
311 development permit or development order, the municipality shall  
312 give written notice to the applicant. The notice must include a  
313 citation to the applicable portions of an ordinance, rule,  
314 statute, or other legal authority for the denial of the permit  
315 or order.

316 (4)-(3) As used in this section, the terms ~~term~~ "development  
317 permit" and "development order" have ~~has~~ the same meaning as in  
318 s. 163.3164, but do ~~does~~ not include building permits.

319 (5)-(4) For any development permit application filed with  
320 the municipality after July 1, 2012, a municipality may not  
321 require as a condition of processing or issuing a development  
322 permit or development order that an applicant obtain a permit or  
323 approval from any state or federal agency unless the agency has  
324 issued a final agency action that denies the federal or state  
325 permit before the municipal action on the local development  
326 permit.

327 (6)-(5) Issuance of a development permit or development  
328 order by a municipality does not ~~in any way~~ create any right on  
329 the part of an applicant to obtain a permit from a state or



611290

330 federal agency and does not create any liability on the part of  
331 the municipality for issuance of the permit if the applicant  
332 fails to obtain requisite approvals or fulfill the obligations  
333 imposed by a state or federal agency or undertakes actions that  
334 result in a violation of state or federal law. A municipality  
335 shall attach such a disclaimer to the issuance of development  
336 permits and shall include a permit condition that all other  
337 applicable state or federal permits be obtained before  
338 commencement of the development.

339 (7)~~(6)~~ This section does not prohibit a municipality from  
340 providing information to an applicant regarding what other state  
341 or federal permits may apply.

342 Section 6. Section 166.04151, Florida Statutes, is amended  
343 to read:

344 166.04151 Affordable housing.—

345 (1) Notwithstanding any other provision of law, a  
346 municipality may adopt and maintain in effect any law,  
347 ordinance, rule, or other measure that is adopted for the  
348 purpose of increasing the supply of affordable housing using  
349 land use mechanisms such as inclusionary housing ordinances. An  
350 inclusionary housing ordinance may require a developer to  
351 provide a specified number or percentage of affordable housing  
352 units to be included in a development or allow a developer to  
353 contribute to a housing fund or other alternatives in lieu of  
354 building the affordable housing units. However, in exchange, a  
355 municipality must provide incentives to fully offset all costs  
356 to the developer of its affordable housing contribution. Such  
357 incentives may include, but are not limited to:

358 (a) Allowing the developer density or intensity bonus





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359 incentives or more floor space than allowed under the current or  
360 proposed future land use designation or zoning;

361 (b) Reducing or waiving fees, such as impact fees or water  
362 and sewer charges; or

363 (c) Granting other incentives.

364 Section 7. Subsection (24) of section 494.001, Florida  
365 Statutes, is amended to read:

366 494.001 Definitions.—As used in this chapter, the term:

367 (24) "Mortgage loan" means any:

368 (a) Residential loan that ~~primarily for personal, family,~~  
369 ~~or household use which~~ is secured by a mortgage, deed of trust,  
370 or other equivalent consensual security interest on a dwelling,  
371 as defined in s. 103(w) ~~s. 103(v)~~ of the federal Truth in  
372 Lending Act, or for the purchase of residential real estate upon  
373 which a dwelling is to be constructed;

374 (b) Loan on commercial real property if the borrower is an  
375 individual or the lender is a noninstitutional investor; or

376 (c) Loan on improved real property consisting of five or  
377 more dwelling units if the borrower is an individual or the  
378 lender is a noninstitutional investor.

379 Section 8. This act shall take effect upon becoming law.  
380

381 ===== T I T L E A M E N D M E N T =====

382 And the title is amended as follows:

383 Delete everything before the enacting clause  
384 and insert:

385 A bill to be entitled

386 An act relating to community development and housing;  
387 amending s. 125.01055, F.S.; authorizing an



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388 inclusionary housing ordinance to require a developer  
389 to provide certain affordable housing units to be  
390 included in a development or allow a developer to  
391 contribute to a housing fund or other alternatives;  
392 requiring a county to provide certain incentives to  
393 fully offset all costs to the developer of its  
394 affordable housing contribution; amending s. 125.022,  
395 F.S.; requiring that a county review the application  
396 for completeness and issue a certain letter within a  
397 specified period after receiving an application for  
398 approval of a development permit or development order;  
399 providing procedures for addressing deficiencies in,  
400 and for approving or denying, the application;  
401 conforming provisions to changes made by the act;  
402 defining the term "development order"; amending s.  
403 163.3180, F.S.; requiring a local government to credit  
404 certain contributions, constructions, expansions, or  
405 payments toward any other impact fee or exaction  
406 imposed by local ordinance for public educational  
407 facilities; providing requirements for the basis of  
408 the credit; amending s. 163.31801, F.S.; adding  
409 minimum conditions that certain impact fees must  
410 satisfy; requiring that, under certain circumstances,  
411 a holder of certain impact fee or mobility fee credits  
412 receive the full value of the credits as of the date  
413 they were first established based on the impact fee or  
414 mobility fee rate that was in effect on such date;  
415 providing that the government, in certain actions, has  
416 the burden of proving by a preponderance of the



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417 evidence that the imposition or amount of impact fees  
418 or required dollar-for-dollar credits for the payment  
419 of impact fees meets certain requirements; prohibiting  
420 the court from using a deferential standard for the  
421 benefit of the government; providing applicability;  
422 authorizing a county, municipality, or special  
423 district to provide an exception or waiver for an  
424 impact fee for the development or construction of  
425 housing that is affordable; providing that if a  
426 county, municipality, or special district provides  
427 such an exception or waiver, it is not required to use  
428 any revenues to offset the impact; amending s.  
429 166.033, F.S.; requiring that a municipality review  
430 the application for completeness and issue a certain  
431 letter within a specified period after receiving an  
432 application for approval of a development permit or  
433 development order; providing procedures for addressing  
434 deficiencies in, and for approving or denying, the  
435 application; conforming provisions to changes made by  
436 the act; defining the term "development order";  
437 amending s. 166.04151, F.S.; authorizing an  
438 inclusionary housing ordinance to require a developer  
439 to provide certain affordable housing units to be  
440 included in a development or allow a developer to  
441 contribute to a housing fund or other alternatives;  
442 requiring a county to provide certain incentives to  
443 fully offset all costs to the developer of its  
444 affordable housing contribution; amending s. 494.001,  
445 F.S.; revising the definition of the term "mortgage



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446

loan"; providing an effective date.



327506

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2019	.	
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The Committee on Infrastructure and Security (Perry) recommended the following:

1           **Senate Amendment to Amendment (611290) (with title**  
2 **amendment)**

3  
4           Between lines 86 and 87  
5 insert:

6           Section 3. Subsection (3) of section 163.3167, Florida  
7 Statutes, is amended to read:

8           163.3167 Scope of act.—

9           (3) A municipality established after the effective date of  
10 this act shall, within 1 year after incorporation, establish a



327506

11 local planning agency, pursuant to s. 163.3174, and prepare and  
12 adopt a comprehensive plan of the type and in the manner set out  
13 in this act within 3 years after the date of such incorporation.  
14 A county comprehensive plan is shall be deemed controlling until  
15 the municipality adopts a comprehensive plan in accordance  
16 accord with this act. A comprehensive plan that is effective  
17 after January 1, 2019, pursuant to this part, and all land  
18 development regulations adopted to implement such a plan, must  
19 recognize a development order in existence as of the  
20 comprehensive plan's effective date; may not impair a party's  
21 ability to complete development in accordance with the  
22 development order; and, notwithstanding whether future  
23 amendments to the development order are sought, must vest the  
24 density and intensity approved by such a development order.

25 Section 4. Paragraph (i) is added to subsection (6) of  
26 section 163.3177, Florida Statutes, to read:

27 163.3177 Required and optional elements of comprehensive  
28 plan; studies and surveys.-

29 (6) In addition to the requirements of subsections (1)-(5),  
30 the comprehensive plan shall include the following elements:

31 (i) In accordance with the legislative intent expressed in  
32 ss. 163.3161(10) and 187.101(3) that governmental entities must  
33 respect judicially acknowledged and constitutionally protected  
34 private property rights, a property rights element to ensure  
35 that private property rights are considered in local  
36 decisionmaking.

37 1. A local government may adopt its own property rights  
38 element or use the following statement of rights:  
39



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40           The following rights shall be considered in local  
41 decisionmaking:

42           1. The right of a property owner to physically possess and  
43 control his or her interests in the property, including  
44 easements, leases, or mineral rights.

45           2. The right of the property owner to the quiet enjoyment  
46 of his or her property, to the exclusion of all others.

47           3. The right of a property owner to use, maintain, develop,  
48 or improve his or her property for personal use or the use of  
49 any other person, subject to state law and local ordinances.

50           4. The right of the property owner to privacy and to  
51 exclude others from the property to protect his or her  
52 possessions and property.

53           5. The right of a property owner to dispose of his or her  
54 property by sale or gift.

55  
56           2. Each local government must adopt a property rights  
57 element in its comprehensive plan by July 1, 2020. If a local  
58 government adopts its own property rights element, that element  
59 may not conflict with the statement of rights provided in  
60 subparagraph 1.

61           Section 5. Paragraph (j) is added to subsection (2) of  
62 section 163.3202, Florida Statutes, to read:

63           163.3202 Land development regulations.—

64           (2) Local land development regulations shall contain  
65 specific and detailed provisions necessary or desirable to  
66 implement the adopted comprehensive plan and shall at a minimum:

67           (j) Provide for existing development orders identified  
68 pursuant to s. 163.3167(3).



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

And the title is amended as follows:

Between lines 402 and 403

insert:

163.3167, F.S.; requiring certain comprehensive plans to recognize the terms of existing development orders; amending s. 163.3177, F.S.; requiring a local government's comprehensive plan to include a property rights element; providing a statement of rights that a local government may use; requiring each local government to adopt a property rights element by a specified date; providing that a local government's property rights element may not conflict with the statutorily provided statement of rights; amending s. 163.3202, F.S.; requiring local land development regulations to provide for certain existing development orders; amending s.





457232

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2019	.	
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The Committee on Infrastructure and Security (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 147 and 148

insert:

Section 3. Subsection (3) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. 163.3174, and prepare and



457232

11 adopt a comprehensive plan of the type and in the manner set out  
12 in this act within 3 years after the date of such incorporation.  
13 A county comprehensive plan ~~is shall be deemed~~ controlling until  
14 the municipality adopts a comprehensive plan in accordance  
15 ~~accord~~ with this act. A comprehensive plan that is effective  
16 after January 1, 2019, pursuant to this part, and all land  
17 development regulations adopted to implement such a plan, must  
18 recognize a development order in existence as of the  
19 comprehensive plan's effective date, may not impair a party's  
20 ability to complete development in accordance with the  
21 development order, and, notwithstanding whether future  
22 amendments to the development order are sought, must vest the  
23 density and intensity approved by such a development order.

24 Section 4. Paragraph (i) is added to subsection (6) of  
25 section 163.3177, Florida Statutes, to read:

26 163.3177 Required and optional elements of comprehensive  
27 plan; studies and surveys.-

28 (6) In addition to the requirements of subsections (1)-(5),  
29 the comprehensive plan shall include the following elements:

30 (i) In accordance with the legislative intent expressed in  
31 ss. 163.3161(10) and 187.101(3), that governmental entities must  
32 respect judicially acknowledged and constitutionally protected  
33 private property rights, a property rights element to ensure  
34 that private property rights are considered in local  
35 decisionmaking.

36 1. A local government may adopt its own property rights  
37 element or use the following statement of rights:

38  
39 The following rights shall be considered in local



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40 decisionmaking:

41 1. The right of a property owner to physically possess and  
42 control his or her interests in the property, including  
43 easements, leases, or mineral rights.

44 2. The right of the property owner to the quiet enjoyment  
45 of the property, to the exclusion of all others.

46 3. The right of a property owner to use, maintain, develop,  
47 and improve his or her property for personal use or the use of  
48 any other person, subject to state law and local ordinances.

49 4. The right of the property owner to privacy and to  
50 exclude others from the property to protect the owner's  
51 possessions and property.

52 5. The right of a property owner to dispose of his or her  
53 property through sale or gift.

54  
55 2. Each local government must adopt a property rights  
56 element in its comprehensive plan by July 1, 2020. If a local  
57 government adopts its own property rights element, such property  
58 rights element may not conflict with the statement of rights  
59 provided pursuant to subparagraph 1.

60 Section 5. Paragraph (j) is added to subsection (2) of  
61 section 163.3202, Florida Statutes, to read:

62 163.3202 Land development regulations.—

63 (2) Local land development regulations shall contain  
64 specific and detailed provisions necessary or desirable to  
65 implement the adopted comprehensive plan and shall at a minimum:

66 (j) Provide for existing development orders identified  
67 pursuant to s. 163.3167(3).

68



457232

69 ===== T I T L E A M E N D M E N T =====

70 And the title is amended as follows:

71       Between lines 14 and 15

72 insert:

73       163.3167, F.S.; requiring certain comprehensive plans  
74       to recognize the terms of existing development orders;  
75       amending s. 163.3177, F.S.; requiring a local  
76       government's comprehensive plan to include a property  
77       rights element; providing a statement of rights that a  
78       local government may use; requiring each local  
79       government to adopt a property rights element by a  
80       specified date; providing that a local government's  
81       property rights element may not conflict with the  
82       statutorily provided statement of rights; amending s.  
83       163.3202, F.S.; requiring local land development  
84       regulations to provide for certain existing  
85       development orders; amending s.

By the Committee on Community Affairs; and Senator Lee

578-03299-19

20191730c1

1 A bill to be entitled  
 2 An act relating to community development and housing;  
 3 amending s. 125.01055, F.S.; prohibiting a county from  
 4 adopting or imposing a requirement in any form  
 5 relating to affordable housing which has specified  
 6 effects; providing construction; amending s. 125.022,  
 7 F.S.; requiring that a county review the application  
 8 for completeness and issue a certain letter within a  
 9 specified period after receiving an application for  
 10 approval of a development permit or development order;  
 11 providing procedures for addressing deficiencies in,  
 12 and for approving or denying, the application;  
 13 conforming provisions to changes made by the act;  
 14 defining the term "development order"; amending s.  
 15 163.3180, F.S.; requiring a local government to credit  
 16 certain contributions, constructions, expansions, or  
 17 payments toward any other impact fee or exaction  
 18 imposed by local ordinance for public educational  
 19 facilities; providing requirements for the basis of  
 20 the credit; amending s. 163.31801, F.S.; adding  
 21 minimum conditions that certain impact fees must  
 22 satisfy; requiring that, under certain circumstances,  
 23 a holder of certain impact fee or mobility fee credits  
 24 receive the full value of the credits as of the date  
 25 they were first established based on the impact fee or  
 26 mobility fee rate that was in effect on such date;  
 27 providing that the government, in certain actions, has  
 28 the burden of proving by a preponderance of the  
 29 evidence that the imposition or amount of impact fees

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30 or required dollar-for-dollar credits for the payment  
 31 of impact fees meets certain requirements; prohibiting  
 32 the court from using a deferential standard for the  
 33 benefit of the government; providing applicability;  
 34 authorizing a county, municipality, or special  
 35 district to provide an exception or waiver for an  
 36 impact fee for the development or construction of  
 37 housing that is affordable; providing that if a  
 38 county, municipality, or special district provides  
 39 such an exception or waiver, it is not required to use  
 40 any revenues to offset the impact; amending s.  
 41 166.033, F.S.; requiring that a municipality review  
 42 the application for completeness and issue a certain  
 43 letter within a specified period after receiving an  
 44 application for approval of a development permit or  
 45 development order; providing procedures for addressing  
 46 deficiencies in, and for approving or denying, the  
 47 application; conforming provisions to changes made by  
 48 the act; defining the term "development order";  
 49 amending s. 166.04151, F.S.; prohibiting a  
 50 municipality from adopting or imposing a requirement  
 51 in any form relating to affordable housing which has  
 52 specified effects; providing construction; amending s.  
 53 494.001, F.S.; revising the definition of the term  
 54 "mortgage loan"; providing an effective date.

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

58 Section 1. Section 125.01055, Florida Statutes, is amended

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

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59 to read:

60 125.01055 Affordable housing.-

61 (1) Notwithstanding any other provision of law, a county  
 62 may adopt and maintain in effect any law, ordinance, rule, or  
 63 other measure that is adopted for the purpose of increasing the  
 64 supply of affordable housing using land use mechanisms such as  
 65 inclusionary housing ordinances. A county may not, however,  
 66 adopt or impose a requirement in any form, including, without  
 67 limitation, by way of a comprehensive plan amendment, ordinance,  
 68 or land development regulation or as a condition of a  
 69 development order or development permit, which has any of the  
 70 following effects:

71 (a) Mandating or establishing a maximum sales price or  
 72 lease rental for privately produced dwelling units.

73 (b) Requiring the allocation or designation, whether  
 74 directly or indirectly, of privately produced dwelling units for  
 75 sale or rental to any particular class or group of purchasers or  
 76 tenants.

77 (c) Requiring the provision of any onsite or offsite  
 78 workforce or affordable housing units or a contribution of land  
 79 or money for such housing, including, but not limited to, the  
 80 payment of any flat or percentage-based fee, whether calculated  
 81 on the basis of the number of approved dwelling units, the  
 82 amount of approved square footage, or otherwise.

83 (2) This section does not limit the authority of a county  
 84 to create or implement a voluntary density bonus program or any  
 85 other voluntary incentive-based program designed to increase the  
 86 supply of workforce or affordable housing units.

87 Section 2. Section 125.022, Florida Statutes, is amended to

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88 read:

89 125.022 Development permits and orders.-

90 (1) Within 30 days after receiving an application for a  
 91 development permit or development order, a county must review  
 92 the application for completeness and issue a letter indicating  
 93 that all required information is submitted or specifying with  
 94 particularity any areas that are deficient. If deficient, the  
 95 applicant has 30 days to address the deficiencies by submitting  
 96 the required additional information. Within 90 days after the  
 97 initial submission, if complete, or the supplemental submission,  
 98 whichever is later, the county shall approve, approve with  
 99 conditions, or deny the application for a development permit or  
 100 development order. The time periods contained in this section  
 101 may be waived in writing by the applicant. An approval, approval  
 102 with conditions, or denial of the application for a development  
 103 permit or development order must include written findings  
 104 supporting the county's decision.

105 (2)~~(4)~~ When reviewing an application for a development  
 106 permit or development order that is certified by a professional  
 107 listed in s. 403.0877, a county may not request additional  
 108 information from the applicant more than three times, unless the  
 109 applicant waives the limitation in writing. Before a third  
 110 request for additional information, the applicant must be  
 111 offered a meeting to attempt to resolve outstanding issues.  
 112 Except as provided in subsection ~~(5)~~~~(4)~~, if the applicant  
 113 believes the request for additional information is not  
 114 authorized by ordinance, rule, statute, or other legal  
 115 authority, the county, at the applicant's request, shall proceed  
 116 to process the application for approval or denial.

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117 (3)(2) When a county denies an application for a  
 118 development permit or development order, the county shall give  
 119 written notice to the applicant. The notice must include a  
 120 citation to the applicable portions of an ordinance, rule,  
 121 statute, or other legal authority for the denial of the permit  
 122 or order.

123 (4)(3) As used in this section, the terms term "development  
 124 permit" and "development order" have ~~has~~ the same meaning as in  
 125 s. 163.3164, but do ~~does~~ not include building permits.

126 (5)(4) For any development permit application filed with  
 127 the county after July 1, 2012, a county may not require as a  
 128 condition of processing or issuing a development permit or  
 129 development order that an applicant obtain a permit or approval  
 130 from any state or federal agency unless the agency has issued a  
 131 final agency action that denies the federal or state permit  
 132 before the county action on the local development permit.

133 (6)(5) Issuance of a development permit or development  
 134 order by a county does not in any way create any rights on the  
 135 part of the applicant to obtain a permit from a state or federal  
 136 agency and does not create any liability on the part of the  
 137 county for issuance of the permit if the applicant fails to  
 138 obtain requisite approvals or fulfill the obligations imposed by  
 139 a state or federal agency or undertakes actions that result in a  
 140 violation of state or federal law. A county shall attach such a  
 141 disclaimer to the issuance of a development permit and shall  
 142 include a permit condition that all other applicable state or  
 143 federal permits be obtained before commencement of the  
 144 development.

145 (7)(6) This section does not prohibit a county from

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146 providing information to an applicant regarding what other state  
 147 or federal permits may apply.

148 Section 3. Paragraph (h) of subsection (6) of section  
 149 163.3180, Florida Statutes, is amended to read:

150 163.3180 Concurrency.—

151 (6)

152 (h)1. In order to limit the liability of local governments,  
 153 a local government may allow a landowner to proceed with  
 154 development of a specific parcel of land notwithstanding a  
 155 failure of the development to satisfy school concurrency, if all  
 156 the following factors are shown to exist:

157 a. The proposed development would be consistent with the  
 158 future land use designation for the specific property and with  
 159 pertinent portions of the adopted local plan, as determined by  
 160 the local government.

161 b. The local government's capital improvements element and  
 162 the school board's educational facilities plan provide for  
 163 school facilities adequate to serve the proposed development,  
 164 and the local government or school board has not implemented  
 165 that element or the project includes a plan that demonstrates  
 166 that the capital facilities needed as a result of the project  
 167 can be reasonably provided.

168 c. The local government and school board have provided a  
 169 means by which the landowner will be assessed a proportionate  
 170 share of the cost of providing the school facilities necessary  
 171 to serve the proposed development.

172 2. If a local government applies school concurrency, it may  
 173 not deny an application for site plan, final subdivision  
 174 approval, or the functional equivalent for a development or

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175 phase of a development authorizing residential development for  
 176 failure to achieve and maintain the level-of-service standard  
 177 for public school capacity in a local school concurrency  
 178 management system where adequate school facilities will be in  
 179 place or under actual construction within 3 years after the  
 180 issuance of final subdivision or site plan approval, or the  
 181 functional equivalent. School concurrency is satisfied if the  
 182 developer executes a legally binding commitment to provide  
 183 mitigation proportionate to the demand for public school  
 184 facilities to be created by actual development of the property,  
 185 including, but not limited to, the options described in sub-  
 186 subparagraph a. Options for proportionate-share mitigation of  
 187 impacts on public school facilities must be established in the  
 188 comprehensive plan and the interlocal agreement pursuant to s.  
 189 163.31777.

190 a. Appropriate mitigation options include the contribution  
 191 of land; the construction, expansion, or payment for land  
 192 acquisition or construction of a public school facility; the  
 193 construction of a charter school that complies with the  
 194 requirements of s. 1002.33(18); or the creation of mitigation  
 195 banking based on the construction of a public school facility in  
 196 exchange for the right to sell capacity credits. Such options  
 197 must include execution by the applicant and the local government  
 198 of a development agreement that constitutes a legally binding  
 199 commitment to pay proportionate-share mitigation for the  
 200 additional residential units approved by the local government in  
 201 a development order and actually developed on the property,  
 202 taking into account residential density allowed on the property  
 203 prior to the plan amendment that increased the overall

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

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204 residential density. The district school board must be a party  
 205 to such an agreement. As a condition of its entry into such a  
 206 development agreement, the local government may require the  
 207 landowner to agree to continuing renewal of the agreement upon  
 208 its expiration.

209 b. If the interlocal agreement and the local government  
 210 comprehensive plan authorize a contribution of land; the  
 211 construction, expansion, or payment for land acquisition; the  
 212 construction or expansion of a public school facility, or a  
 213 portion thereof; or the construction of a charter school that  
 214 complies with the requirements of s. 1002.33(18), as  
 215 proportionate-share mitigation, the local government shall  
 216 credit such a contribution, construction, expansion, or payment  
 217 toward any other impact fee or exaction imposed by local  
 218 ordinance for public educational facilities ~~the same need~~, on a  
 219 dollar-for-dollar basis at fair market value. The credit must be  
 220 based on the total impact fee assessed and not upon the impact  
 221 fee for any particular type of school.

222 c. Any proportionate-share mitigation must be directed by  
 223 the school board toward a school capacity improvement identified  
 224 in the 5-year school board educational facilities plan that  
 225 satisfies the demands created by the development in accordance  
 226 with a binding developer's agreement.

227 3. This paragraph does not limit the authority of a local  
 228 government to deny a development permit or its functional  
 229 equivalent pursuant to its home rule regulatory powers, except  
 230 as provided in this part.

231 Section 4. Section 163.31801, Florida Statutes, is amended  
 232 to read:

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



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233 163.31801 Impact fees; short title; intent; minimum  
 234 requirements; audits; challenges definitions; ordinances levying  
 235 impact fees.

236 (1) This section may be cited as the "Florida Impact Fee  
 237 Act."

238 (2) The Legislature finds that impact fees are an important  
 239 source of revenue for a local government to use in funding the  
 240 infrastructure necessitated by new growth. The Legislature  
 241 further finds that impact fees are an outgrowth of the home rule  
 242 power of a local government to provide certain services within  
 243 its jurisdiction. Due to the growth of impact fee collections  
 244 and local governments' reliance on impact fees, it is the intent  
 245 of the Legislature to ensure that, when a county or municipality  
 246 adopts an impact fee by ordinance or a special district adopts  
 247 an impact fee by resolution, the governing authority complies  
 248 with this section.

249 (3) At a minimum, an impact fee adopted by ordinance of a  
 250 county or municipality or by resolution of a special district  
 251 must satisfy all of the following conditions, at minimum:

252 (a) ~~Require that~~ The calculation of the impact fee must be  
 253 based on the most recent and localized data.

254 (b) The local government must provide for accounting and  
 255 reporting of impact fee collections and expenditures. If a local  
 256 governmental entity imposes an impact fee to address its  
 257 infrastructure needs, the entity must shall account for the  
 258 revenues and expenditures of such impact fee in a separate  
 259 accounting fund.

260 (c) ~~Limit~~ Administrative charges for the collection of  
 261 impact fees must be limited to actual costs.

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262 (d) The local government must provide ~~Require that~~ notice  
 263 ~~not be provided~~ no less than 90 days before the effective date  
 264 of an ordinance or resolution imposing a new or increased impact  
 265 fee. A county or municipality is not required to wait 90 days to  
 266 decrease, suspend, or eliminate an impact fee.

267 (e) Collection of the impact fee may not be required to  
 268 occur earlier than the date of issuance of the building permit  
 269 for the property that is subject to the fee.

270 (f) The impact fee must be proportional and reasonably  
 271 connected to, or have a rational nexus with, the need for  
 272 additional capital facilities and the increased impact generated  
 273 by the new residential or commercial construction.

274 (g) The impact fee must be proportional and reasonably  
 275 connected to, or have a rational nexus with, the expenditures of  
 276 the funds collected and the benefits accruing to the new  
 277 residential or nonresidential construction.

278 (h) The local government must specifically earmark funds  
 279 collected under the impact fee for use in acquiring,  
 280 constructing, or improving capital facilities to benefit new  
 281 users.

282 (i) Revenues generated by the impact fee may not be used,  
 283 in whole or in part, to pay existing debt or for previously  
 284 approved projects unless the expenditure is reasonably connected  
 285 to, or has a rational nexus with, the increased impact generated  
 286 by the new residential or nonresidential construction.

287 (j) The local government must credit against the collection  
 288 of the impact fee any contributions related to public  
 289 educational facilities, including, but not limited to, land  
 290 dedication, site planning and design, and construction, whether

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291 provided in a proportionate share agreement or any other form of  
 292 exaction. Any such contributions must be applied to reduce  
 293 impact fees on a dollar-for-dollar basis at fair market value.

294 (4) If the holder of impact fee or mobility fee credits  
 295 granted by a local government, whether granted under this  
 296 section, s. 380.06, or otherwise, uses such credits in lieu of  
 297 the actual payment of an impact fee or mobility fee and the  
 298 impact fee or mobility fee is greater than the rate that was in  
 299 effect when such credits were first established, the holder of  
 300 those credits must, whenever they are utilized, receive the full  
 301 value of the credits as of the date on which they were first  
 302 established based on the impact fee or mobility fee rate that  
 303 was in effect on such date.

304 (5)(4) Audits of financial statements of local governmental  
 305 entities and district school boards which are performed by a  
 306 certified public accountant pursuant to s. 218.39 and submitted  
 307 to the Auditor General must include an affidavit signed by the  
 308 chief financial officer of the local governmental entity or  
 309 district school board stating that the local governmental entity  
 310 or district school board has complied with this section.

311 (6)(5) In any action challenging an impact fee or the  
 312 government's failure to provide required dollar-for-dollar  
 313 credits for the payment of impact fees as provided in s.  
 314 163.3180(6)(h)2.b, the government has the burden of proving by a  
 315 preponderance of the evidence that the imposition or amount of  
 316 the fee or credit meets the requirements of state legal  
 317 precedent ~~or~~ and this section. The court may not use a  
 318 deferential standard for the benefit of the government.

319 (7) This section applies to mobility fees adopted pursuant

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320 to s. 163.3180(5)(i).

321 (8) A county, municipality, or special district may provide  
 322 an exception or waiver for an impact fee for the development or  
 323 construction of housing that is affordable, as defined in s.  
 324 420.9071. If a county, municipality, or special district  
 325 provides such an exception or waiver, it is not required to use  
 326 any revenues to offset the impact.

327 Section 5. Section 166.033, Florida Statutes, is amended to  
 328 read:

329 166.033 Development permits and orders.-

330 (1) Within 30 days after receiving an application for  
 331 approval of a development permit or development order, a  
 332 municipality must review the application for completeness and  
 333 issue a letter indicating that all required information is  
 334 submitted or specifying with particularity any areas that are  
 335 deficient. If deficient, the applicant has 30 days to address  
 336 the deficiencies by submitting the required additional  
 337 information. Within 90 days of the initial submission, if  
 338 complete, or the supplemental submission, whichever is later,  
 339 the municipality must approve, approve with conditions, or deny  
 340 the application for a development permit or development order.  
 341 The time periods contained in this subsection may be waived in  
 342 writing by the applicant. An approval, approval with conditions,  
 343 or denial of the application for a development permit or  
 344 development order must include written findings supporting the  
 345 county's decision.

346 (2)(1) When reviewing an application for a development  
 347 permit or development order that is certified by a professional  
 348 listed in s. 403.0877, a municipality may not request additional

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349 information from the applicant more than three times, unless the  
 350 applicant waives the limitation in writing. Before a third  
 351 request for additional information, the applicant must be  
 352 offered a meeting to attempt to resolve outstanding issues.  
 353 Except as provided in subsection ~~(5)(4)~~, if the applicant  
 354 believes the request for additional information is not  
 355 authorized by ordinance, rule, statute, or other legal  
 356 authority, the municipality, at the applicant's request, shall  
 357 proceed to process the application for approval or denial.

358 ~~(3)(2)~~ When a municipality denies an application for a  
 359 development permit or development order, the municipality shall  
 360 give written notice to the applicant. The notice must include a  
 361 citation to the applicable portions of an ordinance, rule,  
 362 statute, or other legal authority for the denial of the permit  
 363 or order.

364 ~~(4)(3)~~ As used in this section, the terms term "development  
 365 permit" and "development order" have ~~has~~ the same meaning as in  
 366 s. 163.3164, but do ~~does~~ not include building permits.

367 ~~(5)(4)~~ For any development permit application filed with  
 368 the municipality after July 1, 2012, a municipality may not  
 369 require as a condition of processing or issuing a development  
 370 permit or development order that an applicant obtain a permit or  
 371 approval from any state or federal agency unless the agency has  
 372 issued a final agency action that denies the federal or state  
 373 permit before the municipal action on the local development  
 374 permit.

375 ~~(6)(5)~~ Issuance of a development permit or development  
 376 order by a municipality does not ~~in any way~~ create any right on  
 377 the part of an applicant to obtain a permit from a state or

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378 federal agency and does not create any liability on the part of  
 379 the municipality for issuance of the permit if the applicant  
 380 fails to obtain requisite approvals or fulfill the obligations  
 381 imposed by a state or federal agency or undertakes actions that  
 382 result in a violation of state or federal law. A municipality  
 383 shall attach such a disclaimer to the issuance of development  
 384 permits and shall include a permit condition that all other  
 385 applicable state or federal permits be obtained before  
 386 commencement of the development.

387 ~~(7)(6)~~ This section does not prohibit a municipality from  
 388 providing information to an applicant regarding what other state  
 389 or federal permits may apply.

390 Section 6. Section 166.04151, Florida Statutes, is amended  
 391 to read:

392 166.04151 Affordable housing.—

393 (1) Notwithstanding any other provision of law, a  
 394 municipality may adopt and maintain in effect any law,  
 395 ordinance, rule, or other measure that is adopted for the  
 396 purpose of increasing the supply of affordable housing using  
 397 land use mechanisms such as inclusionary housing ordinances. A  
 398 municipality may not, however, adopt or impose a requirement in  
 399 any form, including, without limitation, by way of a  
 400 comprehensive plan amendment, ordinance, or land development  
 401 regulation or as a condition of a development order or  
 402 development permit, which has any of the following effects:

403 (a) Mandating or establishing a maximum sales price or  
 404 lease rental for privately produced dwelling units.

405 (b) Requiring the allocation or designation, whether  
 406 directly or indirectly, of privately produced dwelling units for

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407 sale or rental to any particular class or group of purchasers or  
408 tenants.

409 (c) Requiring the provision of any on-site or off-site  
410 workforce or affordable housing units or a contribution of land  
411 or money for such housing, including, but not limited to, the  
412 payment of any flat or percentage-based fee whether calculated  
413 on the basis of the number of approved dwelling units, the  
414 amount of approved square footage, or otherwise.

415 (2) This section does not limit the authority of a  
416 municipality to create or implement a voluntary density bonus  
417 program or any other voluntary incentive-based program designed  
418 to increase the supply of workforce or affordable housing units.

419 Section 7. Subsection (24) of section 494.001, Florida  
420 Statutes, is amended to read:

421 494.001 Definitions.—As used in this chapter, the term:

422 (24) "Mortgage loan" means any:

423 (a) Residential loan that primarily for personal, family,  
424 or household use which is secured by a mortgage, deed of trust,  
425 or other equivalent consensual security interest on a dwelling,  
426 as defined in s. 103(w) ~~s. 103(v)~~ of the federal Truth in  
427 Lending Act, or for the purchase of residential real estate upon  
428 which a dwelling is to be constructed;

429 (b) Loan on commercial real property if the borrower is an  
430 individual or the lender is a noninstitutional investor; or

431 (c) Loan on improved real property consisting of five or  
432 more dwelling units if the borrower is an individual or the  
433 lender is a noninstitutional investor.

434 Section 8. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/15  
Meeting Date

1730  
Bill Number (if applicable)

327506 W/P  
Amendment Barcode (if applicable)

Topic Community Dev Housing

Name Eric Poole

Job Title Leg Rep

Address 100 Monroe  
Street

Phone 9224300

Tallahassee  
City State Zip

Email epoole@flsenate.gov

Speaking:  For  Against  Information

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

Amendment 327506

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 9 Meeting Date

1730

Bill Number (if applicable)

327 506

Amendment Barcode (if applicable)

Topic Comprehensive Planning

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St

Phone (352) 377-3141

Tallahassee, FL 32301

Email thawkins@1000.org

Speaking: [ ] For [X] Against [ ] Information

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

Representing 1000 Friends of Florida

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19 Meeting Date

1730 Bill Number (if applicable)

327506 Amendment Barcode (if applicable) w/o

Topic Community Development Amendment

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 704-3676

Street

Tallahassee FL 32302

City

State

Zip

Email DCRUZ@FLCITIES.COM

Speaking: [ ] For [X] Against [ ] Information

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

Representing Florida League of Cities

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 9  
Meeting Date

1730  
Bill Number (if applicable)  
611290  
Amendment Barcode (if applicable)

Topic Inclusionary Zoning

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St  
Street

Phone (352) 377-3141

Tallahassee, FL 32301  
City State Zip

Email thawkins@1000fof.org

Speaking:  For  Against  Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

4-9-18

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

SB

1730

Meeting Date

Bill Number (if applicable)

Topic Mortgage Lender ~~Rep~~ Licensing

Amendment Barcode (if applicable)

Name Nema Daghbandan

Job Title Attorney

Address 90 Discovery

Phone 949-379-2514

Street

Irvine

CA

State

92618

Zip

Email n.daghbandan@geracillo.com

Speaking:  For  Against  Information

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

Representing American Association of Private Lenders

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19

Meeting Date

1730

Bill Number (if applicable)

Topic Comm Dev. + Housing

Amendment Barcode (if applicable)

Name Robert Parker

Job Title Private Mortgage Lender

Address 3226 Ringwood Meadow

Phone 860-221-8376

Sarasota FL 34235

Email

Speaking: For [ ] Against [X] Information [ ]

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

If Section 7 is not removed

Representing

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

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

04/09/19  
Meeting Date

51730  
Bill Number (if applicable)

Topic COMMUNITY DEVELOPMENT HOUSING/MORTGAGE LOANS

Amendment Barcode (if applicable)

Name DON ALEXANDER

Job Title REAL ESTATE BROKER, REALTOR

Address 3252 HESTER DR  
Street

Phone (803) 645-5792

TALLAHASSEE, FL 32309  
City State Zip

Email Majorbid@yahoo.com

Speaking:  For  Against  Information  
LI

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

Representing TALLAHASSEE INVESTORS NETWORK (560) MEMBERS  
*IF SECTION 7 IS NOT REMOVED*

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/19/19 Meeting Date

1770 Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title Consultant

Address 235 W. Brandon Blvd. St. 640

Phone 850-933-5994

Brandon FL 33511

Email edward@isaconsultingllc.com

Speaking: For Against Information

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

Representing Highland Homes

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/2019

Meeting Date

1730

Bill Number (if applicable)

Topic Community ~~and~~ Development and Housing / Mortgage Loans

Amendment Barcode (if applicable)

Name D.W. Bunnell

Job Title Real Estate Investor

Address 2910 Kerry Forest Parkway, Bld. D-4, #127 Phone 850-296-2223

Street

Tallahassee FL 32309 Email DWBHEW@Gmail.com

City

State

Zip

Speaking: [ ] For [X] Against [ ] Information.

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

Representing IF Section 7 is not deleted.
Self

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

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

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

SB1730  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic SB 1730 - Mortgage Am.

Amendment Barcode (if applicable) \_\_\_\_\_

Name Bernie Navarro

Job Title \_\_\_\_\_

Address 7000 SW 97 Ave #201

Phone 305 445 5223

Street

Miami  
City

FL  
State

33173  
Zip

Email bnavarro@benworthcapitol.com

Speaking:  For  Against  Information

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

Representing Myself

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/9/17

Meeting Date

SB 1730

Bill Number (if applicable)

Topic Community Development & Housing / Mortgage Loans

Amendment Barcode (if applicable)

Name Alex Nuñez

Job Title Real Estate Investor

Address

Phone 850-766-0067

Street

Tallahassee

FL

32317

City

State

Zip

Email nunez.f.alex@gmail.com

Speaking: [ ] For [x] Against [ ] Information

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

Representing If section 7 is NOT removed.

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4-9-19

20 1930

Meeting Date

Bill Number (if applicable)

Topic Housing

Amendment Barcode (if applicable)

Name KARE HEBAVAK

Job Title

Address 113 EAST COLLEGE

Phone 514 5183

Street

City

State

Zip

TALLAHASSEE FL 32301

Email kare@w/smaget.com

Speaking:  For  Against  Information

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

Representing FLORIDA HOME BUILDERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/19

Meeting Date

1730

Bill Number (if applicable)

Topic Community development/mortgage loans

Amendment Barcode (if applicable)

Name Khaleel Thorbourne

Job Title Real Estate Clerk

Address 2198 Amelia Ln

Phone 321-652-5338

Street

Lallahassa

City

FL

State

32304

Zip

Email KThorbourne@gmail.com

Speaking:  For  Against  Information

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

Representing club section I was not removed

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/2019

Meeting Date

SB 1730

Bill Number (if applicable)

Topic Community Development

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Contract Lobbyist

Address 109 N Monroe

Phone 850-425-2224

Street

Tallahassee

FL

32301

City

State

Zip

Email gary.h.d@hgslaw.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Association of Florida Community Developers

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/9/2019

Meeting Date

SB 1730

Bill Number (if applicable)

Topic Community Development

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Contract lobbyist

Address 109 N Monroe

Phone 850-425-2224

Street

Tallahassee FL 32301

City

State

Zip

Email garyh@hgsllaw.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Florida Chamber of Commerce

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19

Meeting Date

51730

Bill Number (if applicable)

Topic Community Develop/Housing - mortgage loans

Amendment Barcode (if applicable)

Name CHARLES STRICKLAND

Job Title CEO - TALON RANGE, LLC

Address 20 Km Blvd

Phone 850-728-1535

Street

MIDDLETOWN

FL

32343

City

State

Zip

Email CHARLES C TALONTRAINING.COM

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [X] Against Sec. 7 (The Chair will read this information into the record.)

Representing TALON RANGE

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

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

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

04-09-19

Meeting Date

1730

Bill Number (if applicable)

Topic Community Dev & Housing

Amendment Barcode (if applicable)

Name Jon Henderson

Job Title Investor

Address 1807 Hill n Dale St South

Phone 850-443-6431

Street

Tallahassee

City

FL

State

32317

Zip

Email jon.henderson@comcast.net

Speaking:  For  Against  Information

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

Representing RP Section 7 is Not Removed

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19

Meeting Date

51730

Bill Number (if applicable)

Topic Community Development + housing / mortgage loans

Amendment Barcode (if applicable)

Name MARK DOBERT

Job Title Co-owner - Tallahassee Inv. Network

Address 2997 - Mize Ln

Phone 518-852-7908

Street

Tallahassee, FL 32303

Email pfengine6@yahoo.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Tallahassee Investors Network (560 members)

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

9 APRIL 19' Meeting Date

SB 1730 Bill Number (if applicable)

Topic COMMUNITY DEVELOPMENT & HOUSING

Amendment Barcode (if applicable)

Name EDWIN D EPPERSON III

Job Title PRESIDENT

Address 19046 BRUCE B. DOWNS #417 Street

Phone 813 906 2315

TAMPA FL 33647 City State Zip

Management Email verticalfundmgmt.com

Speaking: For [ ] Against [X] Information [ ]

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

Representing LD UNLESS SECTION 7 IS DROPPED

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19

Meeting Date

1730

Bill Number (if applicable)

Topic Community Development + Housing / Mortgage Loans

Amendment Barcode (if applicable)

Name David Harris

Job Title Real Estate investor

Address 5406 Redrick Crossin Dr

Phone 850 363 1950

Tallah City

FL State

32317 Zip

Email 2019 David.Harris@gmail.com

Speaking: [ ] For [x] Against [ ] Information

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

Representing Tallahassee Investor Network

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19 Meeting Date

1730 Bill Number (if applicable)

Topic Community Development + Housing / Mortgage Loans Amendment Barcode (if applicable)

Name Camille Mueller

Job Title Real Estate Investor

Address 1700 N Monroe St Ste 11-314 Tallahassee FL 32303

Phone 850-692-9449 Email camilledmoeller@gmail.com

Speaking: For Against Information

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

unless section 7 is removed.

Representing Self + Tallahassee Investors Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

April 9

Meeting Date

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

1730

Bill Number (if applicable)

Topic Inclusionary Zoning

Amendment Barcode (if applicable)

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St

Phone (352) 377-3141

Tallahassee, FL 32301

Email thawkins@1000fuf.org

Speaking:  For  Against  Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4-9-17

Meeting Date

SB 1730

Bill Number (if applicable)

Topic SB 1730 - Section 7 private investor lending

Amendment Barcode (if applicable)

Name Alan Newbauer

Job Title IT Manager

Address 6731 LAYTON CT

Phone 850-284-5079

Street TLH FL 32317

Email alan@wandainvestmentproperties.com

Speaking: For [ ] Against [x] Information [ ]

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

Representing Private Investor

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

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/9/2019

Meeting Date

1730

~~1730~~

Bill Number (if applicable)

Topic Community Development

Amendment Barcode (if applicable)

Name Jeff Branch

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 701-3701

Street

Tallahassee \_\_\_\_\_

City

FL

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/19/19  
Meeting Date

1730  
Bill Number (if applicable)

Topic Community Development

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 W Adams St

Phone \_\_\_\_\_

Street

TLT

FL

3230

Email bbevis@aia-

City

State

Zip

Speaking:  For  Against  Information

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

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Infrastructure and Security Committee

Judge:

Started: 4/9/2019 10:03:37 AM

Ends: 4/9/2019 1:02:45 PM Length: 02:59:09

10:03:35 AM Meeting called to order by Chair Lee  
10:03:39 AM Roll call by Administrative Assistant Marilyn Hudson  
10:03:52 AM Quorum present  
10:03:54 AM Comments from Chair Lee  
10:03:58 AM Introduction of Tab 1, CS/SB 78 by Chair Lee  
10:04:13 AM Explanation of CS/SB 78, Public Financing of Construction Projects by Senator Rodriguez  
10:04:38 AM Comments from Chair Lee  
10:05:27 AM Question from Chair Lee  
10:05:34 AM Response from Senator Rodriguez  
10:06:07 AM Carol Bowen, Associated Builders and Contractors waives in support  
10:06:20 AM Jess McCarty, Assistant County Attorney, Miami-Dade County waives in support  
10:06:29 AM Holly Parker Curry, Florida Regional Manager, waives in support  
10:06:40 AM Speaker Susan Glickman, Florida Director, Southern Alliance for Clean Energy in support  
10:08:30 AM Ida Eskamani, New Florida Majority waives in support  
10:08:41 AM Speaker Paul Owens, President, 1000 Friends of Florida  
10:10:45 AM David Cullen, Sierra Club waives in support  
10:10:55 AM Beth Alvi, Policy Director waives in support  
10:11:04 AM Speaker Brian Pitts, Justice-2-Jesus  
10:13:48 AM Jonathan Webber, Deputy Director, Florida Conservation Voters waives in support  
10:14:02 AM Closure by Senator Rodriguez  
10:14:15 AM Roll call by Administrative Assistant Marilyn Hudson  
10:15:08 AM CS/SB 78 reported favorably  
10:15:25 AM Introduction of Tab 7, SB 1610  
10:15:32 AM Explanation of SB 1610, Emergency Mitigation and Response by Senator Montford  
10:18:33 AM Comments from Chair Lee  
10:19:02 AM Jim Spratt, Florida Forestry Association waives in support  
10:19:11 AM Ralph Yoder, Superintendent of Schools, Calhoun County waives in support  
10:19:28 AM Traci Hall, City Manager, Blountstown, FL waives in support  
10:19:36 AM Barney Bishop III, President & CEO, Florida Smart Justice Alliance waives in support  
10:19:45 AM Jeff Branch, Florida League of Cities waives in support  
10:19:51 AM Adam Basford, Legislative Affairs Director, Florida Farm Bureau in support  
10:20:44 AM Speaker Brian Pitts, Justice-2-Jesus  
10:24:44 AM Senator Montford in closure  
10:24:51 AM Roll call by Administrative Assistant Marilyn Hudson  
10:25:44 AM SB 1610 reported favorably  
10:25:58 AM Introduction of Tab 2, SB 230 by Chair Lee  
10:26:14 AM Explanation of SB 230, Voter Registration Maintenance by Senator Gruters  
10:27:04 AM Question from Senator Taddeo  
10:27:14 AM Response from Senator Gruters  
10:27:35 AM Follow-up question from Senator Taddeo  
10:27:44 AM Response from Senator Gruters  
10:28:40 AM Additional question from Senator Taddeo  
10:28:49 AM Response from Senator Gruters  
10:29:05 AM Question from Senator Stewart  
10:29:15 AM Response from Senator Gruters  
10:29:49 AM Follow-up question from Senator Stewart  
10:30:00 AM Response from Senator Gruters  
10:30:10 AM Question from Senator Cruz  
10:30:25 AM Response from Senator Gruters  
10:30:53 AM Follow-up question from Senator Cruz  
10:31:01 AM Response from Senator Gruters  
10:31:38 AM Question from Senator Perry

10:31:47 AM Response from Senator Gruters  
10:31:53 AM Follow-up question from Senator Perry  
10:32:01 AM Response from Senator Gruters  
10:32:16 AM Kenneth Morrow, President, FLIMEN, Floridians for Immigration Enforcement waives in support  
10:32:26 AM Speaker Ida Eskemani, Public Policy, Florida Immigrant Coalition in opposition  
10:33:05 AM Question from Chair Lee  
10:33:58 AM Response from Ms. Eskemani  
10:34:19 AM Follow-up question from Chair Lee  
10:34:26 AM Response from Ms. Eskemani  
10:35:25 AM Comments from Chair Lee  
10:35:31 AM Response from Ms. Eskemani  
10:35:45 AM Additional question from Chair Lee  
10:35:50 AM Response from Ms. Eskemani  
10:36:28 AM Additional question from Chair Lee  
10:36:34 AM Response from Ms. Eskemani  
10:37:03 AM Speaker Brian Pitts, Justice-2-Jesus  
10:39:17 AM Senator Taddeo in debate  
10:40:31 AM Chair Lee in debate  
10:42:29 AM Closure by Senator Gruters  
10:42:40 AM Roll call by Administrative Assistant Marilyn Hudson  
10:43:07 AM SB 230 reported favorably  
10:43:24 AM Introduction of Tab 5, CS/SB 826  
10:43:40 AM Explanation of CS/SB 826, Towing-Storage Operator Liens by Senator Rouson  
10:44:34 AM Jose Diaz waives in support  
10:44:52 AM Closure waived  
10:44:55 AM Roll call by Administrative Assistant Marilyn Hudson  
10:45:05 AM CS/SB 826 reported favorably  
10:45:15 AM Introduction of Tab 3, CS/SB 328 by Chair Lee  
10:45:36 AM Introduction of Amendment Barcode No.754472  
10:45:50 AM Explanation of Amendment by Senator Brandes  
10:47:46 AM Speaker William Large, President, Florida Justice Reform Institute in opposition  
10:51:12 AM Question from Chair Lee  
10:51:17 AM Response from Mr. Large  
10:51:37 AM Follow-up question from Chair Lee  
10:51:42 AM Response from Mr. Large  
10:52:22 AM Speaker William Cotterell, Florida Justice Association in opposition  
10:56:37 AM Question from Chair Lee  
10:56:59 AM Response from Mr. Large  
10:58:00 AM Comments from Chair Lee  
10:58:34 AM Closure by Senator Brandes  
11:00:47 AM Amendment adopted  
11:00:59 AM William Large waives in opposition  
11:01:09 AM Barney Bishop, Florida Smart Justice Alliance waives in support  
11:01:23 AM Daphnee Sainvil, Broward County Board of County Commissioners waives in support  
11:01:32 AM Speaker Brian Pitts, Justice-2-Jesus  
11:04:54 AM Senator Stewart in debate  
11:06:02 AM Senator Lee is debate  
11:07:05 AM Senator Brandes in closure  
11:08:19 AM Roll call by Administrative Assistant Marilyn Hudson  
11:09:20 AM CS/CS/SB 328 reported favorably  
11:09:31 AM Introduction of Tab 6, SB 1494 by Chair Lee  
11:10:08 AM Explanation of SB 1494, Small-scale Comprehensive Plan Amendments by Senator Perry  
11:10:40 AM Speaker Brian Pitts, Justice-2-Jesus  
11:12:56 AM Closure waived  
11:13:04 AM Roll call by Administrative Assistant Marilyn Hudson  
11:13:15 AM SB 1494 reported favorably  
11:13:30 AM Introduction of Tab 8, CS.SB 1730, by Chair Lee  
11:13:35 AM Chair turned over to Senator Perry  
11:13:45 AM Explanation of CS/SB 1730, Community Development and Housing by Senator Lee  
11:14:04 AM Amendment Barcode Nos. 457232 and 327506 withdrawn  
11:14:18 AM Explanation of Late-filed Amendment Barcode No. 611290 by Senator Lee  
11:20:47 AM Question from Senator Bean

11:21:02 AM Response from Senator Lee  
11:23:20 AM Follow-up question from Senator Bean  
11:24:18 AM Speaker Thomas Hawkins, Policy & Planning Director, 1000 Friends of Florida  
11:25:29 AM Question from Chair Perry  
11:25:34 AM Response from Mr. Hawkins  
11:26:28 AM Debate by Senator Bean  
11:28:40 AM Senator Lee in Closure  
11:30:47 AM Amendment Barcode No. 611290 adopted  
11:34:10 AM Speaker Nema Gaghbandan, American Association of Private Lenders  
11:34:13 AM Speaker Robert Parker, Private Mortgage Lender in opposition  
11:37:17 AM Don Alexander, Tallahassee Investors Network waives in opposition  
11:37:27 AM Edward Briggs, Highland Homes in support  
11:37:34 AM D.W. Bunnell in opposition  
11:37:43 AM Speaker Bernie Navarro in support  
11:41:16 AM Speaker Alex Nunez in opposition  
11:42:20 AM Speaker Kari Hebriank, Florida Home Builders Association in support  
11:44:11 AM Khaleel Tharleauhne waives in opposition  
11:44:23 AM Gary Hunter, Association of Florida Community Developers waives in support  
11:44:37 AM Charles Strickland, Talen Range waives in opposition  
11:44:53 AM Jon Henderson waives in opposition  
11:45:00 AM Speaker Mark Dobert, Tallahassee Investors Network in opposition  
11:46:27 AM Speaker Edwin Epperson, President in opposition  
11:47:23 AM David Harris, Tallahassee Investors Network waives in opposition  
11:47:33 AM Speaker Camille Mueller, Tallahassee Investors Network in opposition  
11:48:38 AM Thomas Hawkins, 1000 Friends of Florida waives in opposition  
11:48:46 AM Time-certain recommended 11:58 by Senator Hutson  
11:49:01 AM Alan Newbauer waives in opposition  
11:49:02 AM Jeff Branch, Florida League of Cities waives in opposition  
11:49:09 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida in support  
11:49:35 AM Senator Bean in debate  
11:50:59 AM Senator Taddeo in debate  
11:52:08 AM Senator Cruz in debate  
11:52:50 AM Senator Stewart in debate  
11:53:33 AM Chair Perry in debate  
11:54:27 AM Closure by Senator Lee  
11:56:17 AM Roll call by Administrative Assistant Marilyn Hudson  
11:56:23 AM CS/CS/SB 1730 reported favorably  
11:56:37 AM Chair returned to Chair Lee  
11:56:44 AM Introduction of Tab 4, SB 622 by Chair Lee  
11:56:54 AM Explanation of SB 622; temporarily postponed per Senator Brandes  
11:57:18 AM Favorably 718 Senator Perry  
11:57:29 AM Comments from Chair Lee  
11:58:20 AM Senator Bean moves to adjourn  
11:58:30 AM Monitor has changed View