SB 1154 by **Baxley**; (Similar to CS/CS/H 00623) Community Associations

632672	D	S	RCS	IT, Baxley	Delete everything after	01/28 07:11 AM

SB 1214 by **Baxley**; (Identical to H 01127) Engineers

939264	A	S	RCS	IT, Baxley	Delete L.47 - 382:	01/27 05:34 PM

SB 1256 by **Albritton**; (Identical to H 06055) Telegraph Companies

SB 890 by **Perry**; (Identical to H 01161) Local Licensing

SB 478 by **Perry**; (Identical to H 00377) Motor Vehicle Rentals

380208	D	S	RCS	IT, Perry	Delete everything after	01/28 09:44 AM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

INNOVATION, INDUSTRY AND TECHNOLOGY
Senator Simpson, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Monday, January 27, 2020
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Building

MEMBERS: Senator Simpson, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Brandes, Braynon, Farmer, Gibson, Hutson, and Passidomo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 1154** Baxley (Similar CS/CS/H 623, Compare CS/H 689, H 1257, S 912)	Community Associations; Exempting certain property association pools from Department of Health regulations; providing that certain provisions in governing documents are void and unenforceable; revising regulations for electric vehicle charging stations; revising provisions related to a quorum and voting rights for members remotely participating in meetings, etc. IT 01/27/2020 Fav/CS CA RC	Fav/CS Yeas 10 Nays 0
2	**SB 1214** Baxley (Identical H 1127)	Engineers; Prohibiting a person who is not licensed as an engineer from using a specified name or title; authorizing the Board of Professional Engineers to establish fees relating to structural engineering licensing; authorizing the board to refuse to certify an applicant for a structural engineering license for certain reasons; prohibiting certain persons from practicing structural engineering after a specified date, etc. IT 01/27/2020 Fav/CS CM RC	Fav/CS Yeas 9 Nays 1
3	**SB 1256** Albritton (Identical H 6055)	Telegraph Companies; Repealing provisions relating to the regulation of telegraph companies and telegrams, etc. IT 01/27/2020 Favorable JU RC	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 890** Perry (Identical H 1161)	Local Licensing; Providing that individuals who hold valid, active local licenses may work within the scope of such licenses in any local government jurisdiction without needing to meet certain additional licensing requirements; requiring licensees to provide consumers with certain information; providing that local governments have disciplinary jurisdiction over such licensees, etc. IT 01/27/2020 Favorable CA RC	Favorable Yeas 6 Nays 3
5	**SB 478** Perry (Identical H 377, Compare H 723)	Motor Vehicle Rentals; Requiring specified surcharges to be imposed upon the lease or rental of a certain motor vehicle if the lease or rental is facilitated by a car-sharing service, a motor vehicle rental company, or a peer-to-peer vehicle-sharing program under certain circumstances; providing financial responsibility requirements for peer-to-peer vehicle-sharing programs; authorizing a peer-to-peer vehicle-sharing program to own and maintain as the named insured policies of motor vehicle liability insurance which provide specified coverage, etc. IT 01/27/2020 Fav/CS BI AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL:	CS/SB 1154
INTRODUCER:	Innovation, Industry, and Technology Committee and Senator Baxley
SUBJECT:	Community Associations
DATE:	January 27, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	**Fav/CS**
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1154 revises the regulation and governance of condominium, cooperative, and homeowners' associations under chs. 718, 719, and 720, F.S., respectively.

The bill authorizes a parcel owner, including a parcel owner in a condominium, cooperative, or homeowners' association, to extinguish a discriminatory restriction in recorded title transaction.

For condominium associations, the bill:

- Prohibits a unit owner's insurance policy from including rights of subrogation against the association if the association's policy does not provide subrogation rights against the unit owner;
- Permits associations to make digital copies of specified documents available to members through an application that can be downloaded on a mobile device;
- Permits the association to charge a potential buyer or renter the actual costs associated with a background check or screening;
- Permits units owners to install charging station for an electric vehicle or a natural gas fuel vehicle on a parking area exclusively designated for use by the unit owner;
- Requires the unit owner to be responsible for the costs related to the installation, maintenance, and removal of the charging station for an electric vehicle or a natural gas fuel vehicle;
- Repeals the requirement that the condominium ombudsman must maintain his or her office in Leon County;

- Provides a process for the parties in a condominium dispute to initiate presuit mediation as an alternative to initiating nonbinding arbitration with the Division of Condominiums, Timeshares, and Mobile Homes (division); and
- Permits condominium election disputes to proceed directly to court instead of arbitration process an arbitration with the division.

For cooperative associations, the bill:
- Provides that an interest in a cooperative unit is an interest in real property; and
- Permits board or committee members to appear and vote by telephone, real time video conferencing, or similar real-time electronic or video communication.

For homeowners' associations, the bill:
- Exempts pools serving an association that has no more than 32 parcels from permitting and inspection requirements; and
- Requires sign-in sheets, voting proxies, ballots, and all other papers related to voting to be maintained as official records.

For condominium and homeowners' associations, the bill clarifies that payment of a fine is due five days after notice of the fine is provided to the unit owner, tenant, or invitee of the unit owner.

For condominium and cooperative associations, the bill prohibits associations from requiring an owner to demonstrate a purpose or state a reason in order to inspect official records.

The effective date of the bill is July 1, 2020.

II. Present Situation:

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., with respect to associations that are still under developer control.[1] The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.[2] After control of the condominium is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.[3] For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.[4]

[1] Sections 718.501(1) and 719.501(1), F.S.
[2] *Id.*
[3] Section 718.501(1), F.S.
[4] Section 719.501(1), F.S.

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers and associations.[5]

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. In addition, the division is authorized to petition a court to appoint a receiver or conservator to implement a court order, or to enforce of an injunction or temporary restraining order. The division may also impose civil penalties.[6]

Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

> The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, F.S., the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 F.S., are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

For homeowners' associations, the division's authority is limited to arbitration of recall election disputes.[7]

Condominium

A condominium is a "form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements."[8] A condominium is created

[5] Sections 718.501(1) and 719.501(1), F.S.
[6] *Id.*
[7] *See* s. 720.306(9)(c), F.S.
[8] Section 718.103(11), F.S.

by recording a declaration of condominium in the public records of the county where the condominium is located.[9] A declaration is similar to a constitution in that it:

> [S]trictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.[10]

A condominium is administered by a board of directors referred to as a "board of administration."[11]

Cooperative Associations

Section 719.103(12), F.S., defines a "cooperative" to mean:

> [T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative unit's occupants receive an exclusive right to occupy the unit. The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.[12]

Homeowners' Associations

Florida law provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.[13]

A "homeowners' association" is defined as a "Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel."[14] Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.[15]

---

[9] Section 718.104(2), F.S.
[10] *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).
[11] Section 718.103(4), F.S.
[12] *See* ss. 719.106(1)(g) and 719.107, F.S.
[13] *See* s. 720.302(1), F.S.
[14] Section 720.301(9), F.S.
[15] Section 720.302(5), F.S.

Homeowners' associations are administered by a board of directors whose members are elected.[16] The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.[17] The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.[18]

Chapters 718, 719, and 720, F.S.

Chapter 718, F.S., relating to condominiums, ch. 719, F.S., relating to cooperatives, and ch. 720, F.S., relating to homeowners' associations, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,[19] recordkeeping requirements, including which records are accessible to the members of the association,[20] and financial reporting.[21] Timeshare condominiums are generally governed by ch. 721, F.S., the "Florida Vacation Plan and Timesharing Act."

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

III. Effect of Proposed Changes:

The bill revises the regulation and governance of condominium, cooperative, and homeowners' associations under chs. 718, 719, and 720, F.S., respectively.

Swimming Pools Serving Community Associations

Present Situation

The Department of Health (DOH) is responsible for the oversight and regulation of water quality and safety of certain swimming pools in Florida under ch. 514, F.S. Inspections and permitting for swimming pools are conducted by the county health departments. In order to operate or continue to operate a public swimming pool, a valid operating permit from the DOH must be obtained. If the DOH determines that the public swimming pool is, or may reasonably be expected to be, operated in compliance with state laws and rules, the DOH will issue a permit. However, if it is determined that the pool is not in compliance with state laws and rules, the application for a permit will be denied.[22]

[16] *See* ss. 720.303 and 720.307, F.S.
[17] *See* ss. 720.301 and 720.303, F.S.
[18] Section 720.303(1), F.S.
[19] *See* ss. 718.112(2), 719.106(2)(c), and 720.303(2), F.S., for condominium, cooperative, and homeowners' associations, respectively.
[20] *See* ss. 718.111(12), 719.104(2), and 720.303(4), F.S., for condominium, cooperative, and homeowners' associations, respectively.
[21] *See* ss. 718.111(13), 719.104(4), and 720.303(7), F.S., for condominium, cooperative, and homeowners' associations, respectively.
[22] Section 514.031(1), F.S.

Pools serving condominiums or cooperatives with no more than 32 units and which are not operated as public lodging establishments are exempt from the DOH's requirements for public pools.[23] Pools serving homeowners' associations are not exempt from regulation by the DOH.

Effect of the Proposed Bill

The bill amends s. 514.0115(2)(a), F.S., to exempt pools serving homeowners' associations (and other property associations) that have no more than 32 parcels and are not being operated as public lodging establishments from permitting and inspection requirements.

Condominium Unit Insurance

Present Situation

A condominium association is required to use its best efforts to maintain insurance for the association, the association property, the common elements, and the condominium property.[24] Insurance coverage for the association must insure the condominium property as originally installed and all alterations or additions made to the condominium property.[25]

Condominium association insurance coverage does not include personal property within a unit or a unit's limited common elements, floor, wall, ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments. Such property and insurance is the responsibility of the unit owner.[26]

A condominium unit owner's insurance policy must conform to s. 627.714, F.S.,[27] which requires that an individual unit owner's residential property insurance policy must state that the coverage afforded by the policy is excess coverage over the amount recoverable under any policy covering the same property.[28]

An association is not obligated to pay for reconstruction or repairs to an improvement, benefiting a specific unit and installed by a unit owner which was not installed as part of the standard improvements by the developer on all units as part of the original construction.[29]

Section 718.111(11)(j)1., F.S., provides that the subrogation[30] rights of an insurer are not compromised if the unit owner is responsible for the costs of repair or replacement of any portion of the condominium property not paid by an association's insurance proceeds, if such damage is caused by intentional conduct, negligence, or failure to comply with the terms of the declaration

[23] Section 514.0115(2), F.S.
[24] Section 718.111(11), F.S.
[25] Section 718.111(11)(f), F.S.
[26] Section 718.111(11)(f)3., F.S.
[27] Section 718.111(11)g), F.S.
[28] Section 627.714(4), F.S.
[29] Section 718.111(11)(n), F.S.
[30] The term "subrogation" is describes a legal right held by insurance carriers to legally pursue a third party that caused an insurance loss to the insured. This is done in order to recover the amount of the claim paid by the insurance carrier to the insured for the loss. *See* Investopedia.com, *Subrogation*, at https://www.investopedia.com/terms/s/subrogation.asp (last visited Apr. 3, 2019).

or the rules of the association by a unit owner, the members of his or her family, unit occupants, tenants, guests, or invitees.

Section 718.111(11)(j)3., F.S., provides that an association may reimburse the unit owner without the waiver of any subrogation rights, if:

- The cost of repair or reconstruction is the unit owner's responsibility;
- The association has collected the cost of such repair or reconstruction from the unit owner; and
- The unit owner is reimbursed by the association from insurance proceeds.

In 2010, the Legislature repealed a prohibition against an insurance policy issued to an individual unit owner providing rights against the condominium association.[31]

Fannie Mae mortgage lending guidelines require that the insurance policy for a condominium project waive the right of subrogation against unit owners.[32]

Effect of Proposed Changes

The bill amends s. 627.714(4), F.S., to provide that a condominium unit owner's insurance policy may not provide subrogation rights against the association operating the condominium in which the property is located if the association's insurance policy does not provide a subrogation right against the unit owners.

Official Records – Condominium, Cooperative, and Homeowners' Associations

Present Situation

Florida law specifies the official records that condominium, cooperative, and homeowners' associations must maintain.[33] Generally, the official records must be maintained in Florida for at least seven years.[34] Certain of these records must be accessible to the members of an association.[35] Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.[36]

Condominium associations are required to post digital copies of specified documents on its website.[37]

---

[31] Ch. 2010-174, s. 9, Laws of Fla. (amending s. 718.111(1)(g), F.S.)
[32] Fannie Mae, Selling Guide, Fannie Mae Single Family, Special Requirements for Condo Projects, p. 903, Dec. 4, 2019, available at https://www.fanniemae.com/content/guide/sel120419.pdf (last visited Jan. 27, 2020).
[33] See ss. 718.111(12), 719.104(2), 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.
[34] See ss. 718.111(12)(b), 719.104(2)(b), and 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.
[35] *See* ss. 718.111(12)(a), 719.104(2)(a), and 720.303(5), F.S., , relating to condominium, cooperative, and homeowners' associations, respectively.
[36] *See* ss. 718.111(12)(c), 719.104(2)(c), and 720.303(5), F.S., , relating to condominium, cooperative, and homeowners' associations, respectively.
[37] Section 718.111(12)(g), F.S.

Effect of Proposed Changes

The bill amends ss. 718.111(12), 719.104(2)(c), and 720.303(5), F.S., to revise the official records requirements for condominiums, cooperatives, and homeowners' associations.

Regarding condominium associations, the bill requires bids for work performed, and bids for materials, equipment, or services to be maintained for one year as an official accounting record. Under current law, such records must be maintained for seven years.[38]

The bill permits condominium associations to make digital copies of specified documents available to members through an application that may be downloaded on a mobile device as an alternative to the requirement posting copies of the documents on a website.

Regarding the official records requirements for condominium and cooperative associations, the bill prohibits condominium and cooperative associations from requiring a unit owner to demonstrate a purpose or state a reason for the inspection.[39]

Regarding homeowners' associations, the bill designates as an official record all ballots, sign-in sheets, voting proxies, and all other papers relating to voting by owners in the association's official records.[40] Under the bill, these records must be maintained for one year after the date of the election, vote, or meeting to which the document relates.

Discriminatory Real Estate Restrictions

Present Situation

Federal and state law prohibit discrimination on the basis of race and several other characteristics in the sale, lease, or use of real property. The Fourteenth to the United States Constitution grants equal civil and legal rights, including due process and equal protections under the law, to all persons within its jurisdiction.

In Florida, the basic rights are provided in Article I of the Florida Constitution, including the right to due process.[41] Specifically, Article I, section 2, of the Florida Constitution, provides:

> Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

[38] Sections 719.104(2)(a)9.d. and 720.303(4)(i), F.S., provide an identical provision for cooperative and homeowners' associations, respectively.
[39] Section 720.303(5)(c), F.S., provides a comparable provision for homeowners' associations.
[40] Sections 718.111(12)(a)12. and 719.104(2)(a)10., F.S., provide an identical provision for condominium and cooperative associations, respectively.
[41] FLA. CONST. art. I, s. 9.

Nonetheless, discriminatory restrictive covenants and other instruments—relics of an era when real estate discrimination was legal—remain in the records of many, perhaps all, counties, and can still be found in a title search. Though these documents are not legally enforceable, their existence has troubled many people who have discovered that a property that they own or rent, or would like to own or rent, was once encumbered by a discriminatory restriction.[42] However, current law does not appear to provide a way to strike or otherwise disavow these provisions in the public records.

Fair Housing Act

This state's Fair Housing Act (act), which was closely modeled from the federal act,[43] broadly prohibits discrimination in the sale or rental of real property, including by way of racist restrictive covenants.

The act's main operative provisions relating to the sale, rental, and use of real estate are set forth in ss. 760.23(1) and (2), F.S.:

> (1) It is unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion.
>
> (2) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, handicap, familial status, or religion.

Moreover, s. 760.23(3), F.S., specifically prohibits discriminatory notices and statements:

> (3) It is unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, national origin, sex, handicap, familial status, or religion or an intention to make any such preference, limitation, or discrimination.

However, these provisions are subject to exceptions and exemptions, as set forth in s. 760.29, F.S. For instance, the prohibitions do not apply to the sale or rental of a single-family house by its owner, or to the rental of a small multi-unit building, such as a duplex, if the owner lives in one of the units. The act also does not apply to prevent a religious organization from restricting the occupancy, sale, or rental of its facilities to members of its religion. Moreover, the act's prohibitions on discrimination on the basis of familial status "do not apply with respect to housing for older persons."

---

[42] *See, e.g., Attorney wants outdated, racist covenant language in Betton Hills stripped*, TALLAHASSEE DEMOCRAT (July 1, 2019), https://www.tallahassee.com/story/news/money/2019/07/01/attorney-wants-outdated-racist-covenant-language-betton -hills-stripped-tallahassee/1546406001/ (last visited Jan. 14, 2020).
[43] *See* 42 U.S.C. §§ 3601-19.

As for enforcement, the act authorizes a person who alleges that he or she has been injured by a discriminatory housing provision to pursue administrative and civil remedies. However, the act does not mention any opportunity for a homeowner to obtain a written determination that a discriminatory restriction on his or her own property is extinguished by the act or any other law. Similarly, the act does not allow a condominium, cooperative, or homeowners' association to forego its normal procedures for removing these provisions from a document affecting a parcel within the association.

Other States and Unenforceable Discriminatory Provisions in Public Records

At least a few states—California, Washington, and Ohio—have enacted statutes to address discriminatory real estate restrictions that, though they have long been unenforceable, linger in the public records.

California's statutes address these discriminatory provisions in several ways. For instance, California requires a real estate agent, title insurance company, or country recorder, among others, to place a notice on each deed, declaration, or governing document provided to a person. The notice advises the recipient that any discriminatory provision in the document "violates state and federal housing laws and is void," and that the recipient may file a "modification document" with the "county recorder," along with a copy of the document containing the restriction, with the restriction stricken.[44] If the county counsel agrees that the stricken provision is illegal and void, the modification document must be filed in the county records, and must include a book and page reference to the original document.[45]

California also authorizes the expedited removal, by amendment, of any unlawful and void discriminatory provision from the governing documents of a condominium association or other "common interest development."[46] Under this statute, the association must remove the provision notwithstanding "any other provision of law or provision of the governing documents."[47]

Washington's statutes contain a similar procedure, but also give a property owner, as well as an occupant or tenant, the option to file a declaratory action to have the provision "stricken."[48] Additionally, Washington's statutes contain a provision declaring a long list of discriminatory real estate provisions to be "void."[49]

In Ohio, when a county recorder processes a transfer of "registered land," he or she is required to delete from the sectional indexes all references to any discriminatory restrictive covenant affecting the land.[50]

[44] CAL. GOV'T CODE § 12956.1.
[45] CAL. GOV'T CODE § 12956.2.
[46] CAL. CIVIL CODE § 6606.
[47] *Id*.
[48] WASH. REV. CODE § 49.60.227.
[49] WASH. REV. CODE § 49.60.224.
[50] OHIO REV. CODE § 317.20(E)(2).

Effect of Proposed Changes

The bill creates s. 712.065, F.S., to provide a process for the extinguishment of a discriminatory restriction in a recorded title transaction. The bill defines the term "discriminatory restriction" to mean:

> [A] provision in a title transaction recorded in this state which restricts the ownership, occupancy, or use of any real property in this state by any natural person on the basis of a characteristic that has been held, or is held after July 1, 2020, by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability.

The bill provides that discriminatory restrictions are unlawful, are unenforceable, and are null and void. Under the bill a discriminatory restriction in a previously recorded title transaction is extinguished and severed from the recorded title transaction. The remainder of the title transaction remains enforceable and effective. If any notice preserving or protecting interests or rights is recorded pursuant to s. 712.05, F.S., the Marketable Record Title Act,[51] the recording does not reimpose or preserve any discriminatory restriction.

If a discriminatory restriction affects a covenant or other restriction, the bill authorizes a parcel owner to request the removal of the discriminatory restriction by an amendment approved by a majority vote of the board of directors of the respective property owners' association or an owners' association in which all owners may voluntarily join. Parcel owners may approve such an amendment notwithstanding any other requirements for approval of an amendment of the covenant or restriction. If the amendment does not change other nondiscriminatory provisions of the covenant or restriction, the recording of an amendment removing a discriminatory restriction does not constitute a title transaction occurring after the root of title for purposes of s. 712.03(4), F.S.[52]

The bill also creates ss. 718.112(1)(c), 719.106(3), 720.3075(6), F.S., to authorize condominium, cooperative, and homeowners' associations, respectively, to extinguish a discriminatory restriction pursuant to s. 712.065, F.S.

Condominiums - Term Limits for Board Members

Present Situation

The terms of all condominium association board members expire at the annual meeting, unless:

[51] The Marketable Record Title Act in ch. 712, F.S., provides a process to extinguish most "rights" in real property that were not created in or after the "root of title." The root of title is essentially the most recent title transaction (such as a deed) that is more than 30 years old. (MRTA) Section 712.05, F.S., provides a process to preserve right or interests in land that would be extinguished under MRTA if not preserved.

[52] Section 712.03, F.S., provides exceptions to the applicability of MRTA, i.e., rights that are not extinguished by MRTA. Section 712.03(4), F.S., provides an exception to MRTA for estates, interests, claims, or charges arising out of a title transaction which has been recorded subsequent to the effective date of the root of title.

- It is a timeshare or nonresidential condominium;
- The staggered term of a board member does not expire until a later annual meeting; or
- All members' terms would otherwise expire but there are no candidates.[53]

Board members may serve terms longer than one year if permitted by the bylaws or articles of incorporation. A board member may not serve more than eight consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy.[54]

Section 718.112(2)(d)2., F.S., was amended by ch. 2018-96, s. 2, Laws of Fla., to allow board members to serve longer than 1 year if permitted by the bylaws or article of incorporation, but provided that the board members could not serve more than eight consecutive years. The effective date of the change was July 1, 2018. The division issued a declaratory statement on September 12, 2018 that:

> If at the time of the next scheduled election the current board member has served on the association board for eight consecutive years, the board member would be ineligible to serve unless there are fewer eligible candidates then vacant seats on the board or unless that candidate is approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election.[55]

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)2., F.S., to provide that only service on the board of a condominium association that occurs on or after July 1, 2018, may be used when calculating a board member's term limit.

Condominium Meeting Notices

Present Situation

A condominium association must provide written notice for the annual meeting of the unit owners. The notice must include an agenda. Current law does not specify whether the requirement to include an agenda applies to all meetings of unit owners, including the annual meeting. The notice must be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting. The notice must also be posted in a conspicuous place on the condominium property for at least 14 continuous days before the annual meeting. In lieu of posting the notice in a conspicuous place, a condominium may repeatedly broadcast the notice and agenda on a closed-circuit cable television system serving the association.[56]

---

[53] Section 718.112(2)(d), F.S. The term of a board member does not expire at the annual board meeting if the association is for a timeshare or nonresidential condominium, the staggered term of a board member does not expire until a later annual meeting, or all members' terms would otherwise expire but there are no candidates.
[54] *Id.*
[55] *In re: Petition for Declaratory Statement, Apollo Condominium Association, Inc.*, DS 2018-035, Division of Florida Condominiums, Timeshares, and Mobile Homes, September 12, 2018.
[56] Section 718.112(d), F.S.

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)3., F.S., to extend the notice requirements to all meetings of the unit owners.

Voting Process – Condominiums

Present Situation

At least 60 days before a scheduled election, a condominium association must mail, deliver, or electronically transmit to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda for the unit owner meeting, the association must shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates.[57]

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)4., F.S., to require the second notice of the election to be sent to all unit owners entitled to vote not less than 14 days, or more than 34 days, before the date of the election.

Condominium Transfer Fees

Present Situation

A condominium association may charge a potential buyer or renter costs or fees in connection with the sale, lease, or sublease, or other transfer of a unit, if:

- The fee is limited to $100 or less;
- The fee is authorized in the association's governing documents; and
- The association is required to approve the transfer.[58]

A condominium association may require a potential renter to provide the association a security deposit equivalent to one month of rent. The association must place the security deposit in an escrow account maintained by the association.[59]

Effect of Proposed Changes

The bill amends s. 718.112(2)(i), F.S., to permit a condominium association to charge an applicant for transfer of a unit a fee for the actual costs of any background check or screening performed by the association. The association does not have to be authorized under its declaration, articles, or bylaws to charge a fee for the background check or screening. The fee for the background check or screening may exceed $100 per applicant. A husband and wife, or parent and dependent child, are considered one applicant.

[57] Section 718.112(2)(d)4., F.S.
[58] Section 718.112(2)(i), F.S.
[59] *Id.*

Conflicts of Interest – Condominium and Homeowners' Associations

Present Situation

Sections 718.3027 and 720.3033, F.S., require an officer or director of a condominium association (that is not a timeshare condominium association) and a homeowners' association, respectively, to disclose any financial interest of the officer or director (or such person's relative) in a contract for goods or services, if such activity may reasonably be construed by the board to be a conflict of interest. Section 718.3027(2), F.S., requires the board of a condominium association to approve a contract for services or other transaction by an affirmative vote of two-thirds of all other directors present.

Section 720.3033(1), F.S., also requires the approval of the contract or other transaction by a two-thirds vote of a homeowners' association board, but does not require that such transaction be approved by a two-thirds vote of the members present who do not have a financial interest in the contract.

Section 718.112(2)(p), F.S., also prohibits an association (that is not a timeshare condominium association) from employing or contracting with any service provider that is owned or operated by a board member or with any person who has a financial relationship with a board member or officer, or a relative within the third degree of consanguinity[60] by blood or marriage of a board member or officer. This prohibition does not apply to a service provider in which a board member or officer, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer, owns less than 1 percent of the equity shares.

Section 718.112(2)(p), F.S., appears to conflict with ss. 718.3027 and 720.3033, F.S., because those sections permit financial relationships which may create a conflict of interest when the financial interests are disclosed and the contract or transaction is approved by the board or the members, as appropriate. However, s. 718.112(2)(p), F.S., expressly prohibits such potential conflicts of interest whether the financial interest is disclosed or approved by the board or the members.

Effect of Proposed Changes

The bill repeals s. 718.112(2)(p), F.S., relating to conflicts of interests between officers or directors of a condominium association and service providers.

Alternative Fuel Charging Station – Condominium Associations

Present Situation

A condominium association may not prohibit a unit owner from installing an electric vehicle charging station within the boundaries of the unit owner's limited common element parking area.

[60] Relatives of the third degree of consanguinity include great grandparent, aunt/uncle, niece/nephew, and great grandchild. *See*: https://www.uab.edu/humanresources/home/images/M_images/Relations/PDFS/FAMILY%20MEMBER%20CHART.pdf (last visited Jan. 17, 2020).

The electricity charges for the station must be separately metered and payable by the unit owner.[61] Current law does not expressly permit a unit owner to install a natural gas fuel station.

Natural gas fuel is any liquefied petroleum gas product, compressed natural gas product, or a combination of these products used in a motor vehicle.[62] The term includes all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas.[63] However, the term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electricity generation.[64]

Effect of Proposed Changes

The bill amends s. 718.113(8), F.S., to include an exclusively designated parking area as a location where the association may not prohibit a unit owner from installing an electric vehicle charging station.

The bill also amends s. 718.113(8), F.S., to permit a unit owner to install a natural gas fuel station. A unit owner installing a natural gas fuel station is subject to the same requirements as an owner installing an electric vehicle charging station. The unit owner is responsible for complying with all federal, state, or local laws or regulations applicable to the installation, maintenance, or removal of an electric vehicle charging or natural gas charging station. The unit owner, or his or her successor, who installs a natural has fuel station is responsible for the cost for supply and storage of the natural gas fuel station.

The bill also allows a unit owner to use an embedded meter to separately meter the fuel used on an electric vehicle or natural gas fuel vehicle charging station.

Fines – Condominium and Homeowners' Associations

Present Situation

Condominium and homeowners' associations may levy fines against an owner, occupant, or a guest of an owner for failing to comply with any provision in the association's declaration, bylaws, or rules. A fine imposed by a condominium association may not exceed $100 per violation, and the total amount of a fine may not exceed $1,000.[65] However, a fine imposed by a homeowners' association may exceed $1,000 in the aggregate if the association's governing documents authorize the fine.[66] A fine imposed by a condominium may not become a lien

[61] Section 718.113(8), F.S.
[62] Section 206.9951(2), F.S.
[63] *Id.*
[64] *Id.*
[65] Sections 718.303(3), F.S. An identical provision in s. 719.303(3), F.S., applies to fines in cooperative associations.
[66] Section 720.305(2), F.S.

against the unit.[67] A fine by a homeowners' association of less than $1000 may not become a lien against the parcel.[68]

An association's board may not impose a fine or suspension unless it gives at least 14 days written notice of the fine or suspension, and an opportunity for a hearing. The hearing must be held before a committee of unit owners who are not board members or residing in a board member's household. The role of the committee is to determine whether to confirm or reject the fine or suspension.[69]

A fine approved by the committee is due five days after the date of the committee meeting. The condominium or cooperative must provide written notice of any fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or guest of the unit owner.[70]

Effect of Proposed Changes

The bill amends ss. 718.303(3) and 720.305(2), F.S., to provide that a fine imposed by a condominium or homeowners' associations, respectively, is due five days after notice of an approved fine is sent to the unit or parcel owner and if applicable, to any tenant, licensee, or invitee of the owner. Current law provides that payment of the fine is due five days after the committee meeting at which the fine is approved.

The bill also changes the term "occupant" to "tenant."

Condominium Ombudsman

Present Situation

The office of the ombudsman within the division is an attorney appointed by the Governor to be a neutral resource for unit owners and condominium associations. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the division, and the Legislature on any matter or subject within the jurisdiction of the division. In addition, the ombudsman may make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints.[71]

The ombudsman also acts as a liaison among the division, unit owners, and condominium associations and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities.[72]

The ombudsman is required to maintain his or her principal office in Leon County.[73]

---

[67] Section 718.303(3), F.S. An identical provision in s. 719.303(3), F.S., applies to fines imposed by cooperative associations.
[68] Section 720.305(2), F.S.
[69] Section 718.303(3)(b)and (c), F.S., and s. 720.305(2)(b) and (c) , F.S. An identical provision in ss. 719.303(3)(b) and (c), F.S., applies to fines and suspensions imposed by cooperative associations.
[70] *Id.*
[71] Sections 718.5011 and 718.5012, F.S.
[72] *Id.*
[73] Section 718.5014, F.S.

Effect of Proposed Changes

The bill amends s. 718.5014, F.S., to delete the requirement that the condominium ombudsman maintain his or her principal office in Leon County.

Cooperative Property

Present Situation

The building and land comprising a cooperative are owned by a corporation. A person who buys into a cooperative does not receive title to a unit or any portion of the cooperative's building or land. Instead, the purchaser receives shares of the cooperative association and leases a unit from the association.

An ownership interest in a corporation or cooperative is an interest in personal property, not real property.[74] Generally, personal property is any object or right that is not real property, such as automobiles, clothing, or stocks.[75] Real property is anything that is permanent, fixed, and immovable, such as land or a building. At common law, a 99-year leasehold was not considered an interest in real property. However, a long-term leasehold interest is taxed in the same manner as a fee interest, so case law commonly declares long-term leaseholds to be an interest in real property for taxation purposes.[76]

In Florida, a cooperative is treated as real property for some homestead purposes. Although the general definition of homestead, including for taxation purposes, follows the common-law rule that requires an interest in real property, the Florida Constitution specifically extends the exemption to a cooperative unit.[77] Florida's homestead laws apply to a cooperative the exemption from forced sale by creditors[78] and the exemption from ad valorem taxation. However, a cooperative is not subject to Florida's homestead protections on devise and descent.[79]

The Condominium Act in ch. 718, F.S., specifically provides that "[a] condominium parcel created by the declaration is a separate parcel of real property, even though the condominium is created on a leasehold." Thus, an ownership interest in a condominium is expressly converted by statute into an interest in real property, but there is no corresponding provision in the Cooperative Act.[80] The Third District Court of Appeal has recognized a need for clarification of this type of ownership interest.[81]

---

[74] *Downey v. Surf Club Apartments, Inc.*, 667 So.2d 414 (Fla. 1st DCA 1996)
[75] Am. Jur. 2d Property § 18.
[76] *Williams v. Jones*, 326 So.2d 425, 433 (Fla. 1975); *See* generally, The Florida Bar, *Practice Under Florida Probate Code Chapter 19* (9th ed. 2017).
[77] FLA. CONST. art. VII, s. 6(a) provides: "The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years."
[78] Sections 222.01, and 222.05, F.S.
[79] *Southern Walls, Inc. v. Stilwell Corp.*, 810 So. 2d 566, 572 (Fla. 2nd DCA 2002); *Phillips v. Hirshon*, 958 So. 2d 425, 430 (Fla. 3rd DCA 2007); In re *Estate of Wartels*, 357 So.2d 708 (Fla. 1978).
[80] Section 718.106(1), F.S.
[81] *Phillips*, 958 So.2d 425; *Levine v. Hirshon*, 980 So.2d 1053 (Fla. 2008)

Effect of the Proposed Changes

The bill amends the definition of "unit" in s. 719.103(25), F.S., to provide that an interest in a cooperative unit is an interest in real property.

Cooperative Association Meetings

Present Situation

When a board or committee member of a cooperative association participates in a meeting by telephone conference, that board or committee member's participation by telephone conference may be counted toward obtaining a quorum and may vote by telephone. A telephone speaker must be used so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person, as well as by unit owners present at a meeting.[82]

Effect of Proposed Changes

The bill amends s. 719.106(1)(b)5., F.S., to provide that a cooperative association board member or committee member who attends a meeting by telephone, real time video conferencing, or similar real-time electronic or video communication counts toward a quorum and may vote as if physically present.[83]

Homeowners' Associations – Electronic Meeting Notices

Present Situation

A homeowners' association is required to notice all board meetings at least 48 hours before the meeting by posting a meeting notice in a conspicuous place on the association's property. Alternatively, the notice may be mailed, hand delivered, or electronically transmitted at least seven days before the meeting.[84]

Meeting notices must be posted 14 days before any meeting where a nonemergency special assessment or an amendment to the rules regarding unit use is to be considered.[85]

Instead of posting or mailing notices, a homeowners' association with more than 100 members may broadcast notices on a closed-circuit cable television system for at least four times every broadcast hour of each day that a posted notice is otherwise required.[86]

Effect of Proposed Changes

The bill amends s. 720.303(2), F.S., to provide an additional method for homeowners' associations to provide meeting notices by authorizing the board to adopt, by rule, a procedure

[82] Section 719.106(1)(b)5., F.S.
[83] Section 718.112(2)(b)5., F.S., provides a comparable provision for condominium associations.
[84] Section 720.303(2)(c), F.S. Sections 718.112(2) and 719.106(1), F.S., provide comparable notice requirements for condominium and cooperative associations.
[85] *Id.*
[86] *Id.*

for conspicuously posting a meeting notice and agenda on a website serving the association. The rule must:

- Require the association to send an electronic notice to members with a hypertext link to the website where the notice is posted; and
- Require the notice on the association's website to be posted for at least as long as the physical posting of a meeting notice is required.[87]

Homeowners' Associations – Amendments

Present Situation

Section 720.306(1)(b), F.S., requires that, unless otherwise provided in the governing documents or required by law, the governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association. The association is required to provide copies of the amendment to the members within 30 days after recording an amendment to the governing documents. If a copy of the proposed amendment is provided to the members before they vote on the amendment and the proposed amendment is not changed before the vote, the association, in lieu of providing a copy of the amendment, may provide notice to the members that the amendment was adopted.[88]

A written notice must also be sent to certain mortgage holders or assignees for the purpose of obtaining consent or joinder for the proposed amendment.[89]

Notices related to amendments to the governing documents must be mailed or delivered to the address identified as the parcel owner's mailing address on the property appraiser's website for the county in which the parcel is located.[90]

Effect of Proposed Changes

The bill amends s. 720.306(1)(g), F.S., to require that notices related to amendments to the governing documents must be mailed or delivered to the address identified as the parcel owner's mailing address in the official records of the association. The bill removes the requirement that the address on the property appraiser's website for the county in which the parcel is located is to be used for notices.

Alternative Dispute Resolution

Present Situation

Condominium Associations

Section 718.1255, F.S., provides an alternative dispute resolution process for certain disputes between unit owners and condominium associations. The division employs full time arbitrators

[87] Sections 718.112(2)(c) and 719.106(1)(c), F.S., provide comparable notice requirements for meetings in condominium and cooperative associations, respectively.
[88] *See* s. 720.306(1)(b), F.S. The consent of mortgage holder and assignees is required for any mortgage recorded before July 1, 2013.
[89] *See* s. 720.306(1)(d), F.S.
[90] Section 720.306(1)(g), F.S.

and may certify private attorneys to conduct mandatory nonbinding arbitration. The purpose of mandatory nonbinding arbitration is to provide efficient, equitable, and inexpensive decisions when disputes arise between owners and associations. An arbitrator's final order is not binding unless the parties agree to be bound or the parties fail to file a petition for a trial de novo in the circuit court within 30 days after the mailing of the arbitrator's final order. A petition for arbitration tolls any applicable statute of limitations for the dispute, and, if there is a trial de novo, an arbitrator's decision is admissible as evidence.[91]

A petition for mandatory nonbinding arbitration must be filed with the division before a party may file a complaint in circuit court for specified disputes involving an association and a unit owner, including disputes in which a board has allegedly failed to:

- Properly conduct elections;
- Provide adequate notice for meetings or other actions;
- Properly conduct meetings; or
- Allow inspection of the association's books and records.

The division does not have jurisdiction to arbitrate the following disputes between a unit owner and an association that involve: [92]

- Title to any unit or common element;
- The interpretation or enforcement of any warranty;
- The levy of a fee or assessment, or the collection of an assessment levied against a party;
- The eviction or other removal of a tenant from a unit;
- Alleged breaches of fiduciary duty by one or more directors; or
- Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

The filing fee for an arbitration petition is $50.[93]

As an alternative to binding arbitration, any party may petition the arbitrator to refer the case to mediation.[94] The purpose of mediation is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.[95] The dispute remains in arbitration, but the parties are able to select a mediator from a list of paid and volunteer mediators provided by the arbitrator.[96] The parties must share equally in the cost of the mediation.[97] If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates unless all parties agree in writing to continuing the arbitration proceedings, in which case the arbitrator's decision will be binding or nonbinding as the parties have agreed.[98]

[91] Section 718.1225(4), F.S.
[92] *Id.*
[93] Section 718.1255(4)(a), F.S.
[94] Section 718.1255(4)(e), F.S.
[95] Section 718.1255(4)(g), F.S.
[96] Section 718.1255(4)(e), F.S.
[97] Section 718.1255(4)(h), F.S.
[98] *Id.*

Current law also encourages parties to a condominium dispute to participate in voluntary mediation through a Citizen Dispute Settlement Center as provided in s. 44.201, F.S.

Homeowners' Associations

Section 720.311, F.S., provides an alternative dispute resolution program for certain disputes between parcel owners and homeowners' associations. Association election disputes and disputes involving the recall of association board members must go through mandatory binding arbitration with the division. However, the following disputes between parcel owners and homeowners' associations must proceed to presuit mediation before a party may file suit in civil court:

- Disputes involving the use of or changes to an owner's parcel or the common areas;
- Covenant enforcement disputes;
- Disputes regarding meetings of the board or committees of the board;
- Disputes involving the meeting of owners that do not involve elections;
- Access to the official records disputes; and
- Disputes regarding amendments to the governing documents.[99]

An aggrieved party initiates the mediation proceedings by serving a written petition for mediation to the opposing party. The petition must be in the format provided in s. 718.311, F.S., and must identify the specific nature of the dispute and the basis for the alleged violations. The written offer must include five certified mediators that the aggrieved party believes to be neutral. The serving of the petition tolls the statute of limitations for the dispute. If emergency relief is required, a temporary injunction may be sought in court prior to the mediation.[100]

The opposing party has 20 days to respond to the petition. If the opposing party fails to respond or refuses to mediate, the aggrieved party may proceed to civil court. If the parties agree to mediation, the mediator must hold the mediation within 90 days after the petition is sent to the opposing parties. The parties share the costs of mediation except for the cost of attorney's fees. Mediation is confidential and persons who are not parties to the dispute (other than attorneys or a designated representative for the association) may not attend the mediation conference.[101]

If mediation is not successful in resolving all the disputed issues between the parties, the parties may proceed to civil court or may elect to enter into binding or non-binding arbitration.[102]

An election dispute in a homeowners' association must go through binding arbitration with the division.[103] The petitioner must remit a filing fee of at least $200 to the division. At the conclusion of the proceeding, the division must charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. The fees paid to the division are a recoverable cost in the arbitration proceeding, and the prevailing party

[99] Section 720.311(2)(a), F.S.
[100] *Id.*
[101] Section 720.311(2)(b), F.S.
[102] Section 720.311(2)(c), F.S.
[103] Section 720.311(1), F.S.

in an arbitration proceeding must recover its reasonable costs and attorney's fees in an amount found reasonable by the arbitrator.[104]

Effect of Proposed Changes

The bill creates s. 718.1255(5), F.S., to authorize a party to a condominium dispute to initiate presuit mediation in accordance with the procedure for the mediation of homeowners' association disputes in s. 720.311, F.S. Under the bill, parties in a condominium dispute may use the mediation process to resolve a dispute without first initiating the arbitration process.

Under the bill, election and recall disputes are not eligible for mediation in lieu of arbitration, and must be arbitrated by the division or filed directly with a court of competent jurisdiction. The bill permits condominium election disputes to proceed directly to court instead of the arbitration process with a division arbitrator.

The bill amends s. 718.1255(4)(a), F.S., to permit the parties to agree that the arbitration is binding if all parties to the dispute agree in writing to be bound by the arbitration decision.

The bill amends s. 718.112(2)(k), F.S., to require that a condominium association's bylaws provide for mandatory dispute resolution. It deletes the requirement that an association's bylaws must provide for mandatory nonbinding arbitration.

Effective Date

The effective date of the bill is July 1, 2020.

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.

[104] *Id.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 514.0115, 627.714, 718.111, 718.112, 718.113, 718.1255, 718.303, 718.5014, 719.103, 719.104, 719.106, 720.303, 720.305, 720.306, and 720.3075.

This bill creates section 712.065 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 Innovation, Industry, and Technology on January 27, 2020:
The committee substitute:

- Creates s. 712.065, F.S., to provide a process for the extinguishment of a discriminatory restriction in a recorded title transaction.
- Revises the provisions in ss. 718.112(1)(c), 719.106(3), 720.3075(6), F.S., to authorize condominium, cooperative, and homeowners' associations, respectively, to extinguish a discriminatory restriction pursuant to s. 712.065, F.S.
- Revises s. 718.111(12)(a)17., F.S., which requires a condominium association to keep all records not specifically listed in paragraph (a), to specify that the records required to be kept are written records.
- Amends s. 718.112(8), F.S., to permit a condominium unit owner to install a natural gas fuel station within the boundaries of the owner's limited common element or exclusive parking area and provides conditions for the installation, maintenance, and removal of the natural gas fuel charging station.

- Amends s. 718.112(2)(k), F.S., to require that a condominium association's bylaws provide for mandatory dispute resolution rather than mandatory nonbinding arbitration.
- Amends s. 718.1255, F.S., to provide a process to allow the parties in a condominium dispute to initiate presuit mediation as an alternative to initiating nonbinding arbitration with the Division of Condominiums, Timeshares, and Mobile Homes.
- Amends s. 718.1255(4)(a), F.S., to permit the parties to agree that the arbitration is binding if all parties to the dispute agree in writing to be bound by the arbitration decision.

B. Amendments:

None.

THE FLORIDA SENATE

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY
12th District

January 6, 2020

The Honorable Chairman Wilton Simpson
420 Senate Office Building
Tallahassee, Florida 32399

Dear Chairman Simpson,

I would like to request that SB 1154 Community Associations be heard in the next Innovation, Industry and Technology Committee meeting.

This bill will move Florida's community associations into the 21st century by streamlining community documents, increasing transparency, and reducing costs on Florida homeowners.

Thank you for your favorable consideration.

Onward & Upward,

Senator Dennis K. Baxley
Senate District 12

DKB/dd

cc: Booter Imhoff, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 ● (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/27/20
Meeting Date

1154
Bill Number (if applicable)

Topic SB 1154

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe St
Street

Phone 813-205-0658

Tallahassee FL 32301
City *State* *Zip*

Email Mark@Consultanderson.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Cheif Executive Officers of Management Companies

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)

1/27/20
Meeting Date

SB1154
Bill Number (if applicable)

Topic COMMUNITY ASSOCIATIONS

Amendment Barcode (if applicable)

Name LOUIS BIRON

Job Title INSURANCE AGENT

Address 1021 DOUGLAS AVE
Street

ALTAMONTE SPRINGS FL 32714
City *State* *Zip*

Phone 4072520239 cell

Email LBIRON@SIHLE.COM

Speaking: ☑ For ☐ Against ☐ Information

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

Representing COMMUNITY ASSOCIATIONS 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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/27/20
Meeting Date

SB 1154
Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Travis Moore

Job Title

Address P.O. Box 2020
Street

St. Petersburg FL 33731
City *State* *Zip*

Phone 727.421.6902

Email travis@moore-relations.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Community Associations Institute & First Service Residential

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)

1-27-2020
Meeting Date

1154
Bill Number (if applicable)

#632672
Amendment Barcode (if applicable)

Topic _____

Name Pete Dunbar

Job Title _____

Address 215 S. Monroe
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 999-4100

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Real Property, Probate & Trust Law Section

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

COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 1154
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 27, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE			1/27/2020 1 Amendment 632672 Baxley					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
VA		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Innovation, Industry, and Technology; and Senator Baxley

580-02624-20 20201154c1

A bill to be entitled

An act relating to community associations; amending s. 514.0115, F.S.; exempting certain property association pools from Department of Health regulations; amending s. 627.714, F.S.; prohibiting subrogation rights against a condominium association under certain circumstances; creating s. 712.065, F.S.; defining the term "discriminatory restriction"; providing that discriminatory restrictions are unlawful, unenforceable, and declared null and void; providing that certain discriminatory restrictions are extinguished and severed from recorded title transactions; specifying that the recording of certain notices does not reimpose or preserve a discriminatory restriction; providing requirements for a parcel owner to remove a discriminatory restriction from a covenant or restriction; amending s. 718.111, F.S.; requiring that certain records be maintained for a specified time; prohibiting an association from requiring certain actions relating to the inspection of records; revising requirements relating to the posting of digital copies of certain documents by certain condominium associations; amending s. 718.112, F.S.; authorizing condominium associations to extinguish discriminatory restrictions; specifying that only board service that occurs on or after a specified date may be used for calculating a board member's term limit; providing requirements for certain notices; prohibiting an association from charging certain fees;

providing an exception; conforming provisions to changes made by the act; deleting a prohibition against employing or contracting with certain service providers; amending s. 718.113, F.S.; defining the terms "natural gas fuel" and "natural gas fuel vehicle"; revising legislative findings; revising requirements for electric vehicle charging stations; providing requirements for the installation of natural gas fuel stations on property governed by condominium associations; amending s. 718.1255, F.S.; authorizing parties to initiate presuit mediation under certain circumstances; specifying when arbitration is binding on the parties; providing requirements for presuit mediation; amending s. 718.303, F.S.; revising requirements for certain actions for failure to comply with specified provisions; revising requirements for certain fines; amending s. 718.5014, F.S.; revising where the principal office of the Office of the Condominium Ombudsman must be maintained; amending s. 719.103, F.S.; revising the definition of the term "unit" to specify that an interest in a cooperative unit is an interest in real property; amending s. 719.104, F.S.; prohibiting an association from requiring certain actions relating to the inspection of records; making technical changes; amending s. 719.106, F.S.; revising provisions relating to a quorum and voting rights for members remotely participating in meetings; authorizing cooperative associations to extinguish discriminatory

restrictions; amending s. 720.303, F.S.; authorizing an association to adopt procedures for electronic meeting notices; revising the documents that constitute the official records of an association; amending s. 720.305, F.S.; providing requirements for certain fines; amending s. 720.306, F.S.; revising requirements for providing certain notices; amending s. 720.3075, F.S.; authorizing homeowners' associations to extinguish discriminatory restrictions; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 514.0115, Florida Statutes, is amended to read:

514.0115 Exemptions from supervision or regulation; variances.—

(2)(a) Pools serving condominium, cooperative, and homeowners' associations, as well as other property associations, which have no more than 32 ~~condominium or cooperative~~ units or parcels and which are not operated as ~~a~~ public lodging establishments are ~~establishment shall be~~ exempt from supervision under this chapter, except for water quality.

Section 2. Subsection (4) of section 627.714, Florida Statutes, is amended to read:

627.714 Residential condominium unit owner coverage; loss assessment coverage required.—

(4) Every individual unit owner's residential property policy must contain a provision stating that the coverage

afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property. If a condominium association's insurance policy does not provide rights for subrogation against the unit owners in the association, an insurance policy issued to an individual unit owner located in the association may not provide rights of subrogation against the condominium association.

Section 3. Section 712.065, Florida Statutes, is created to read:

712.065 Extinguishment of discriminatory restrictions.—

(1) As used in this section, the term "discriminatory restriction" means a provision in a title transaction recorded in this state which restricts the ownership, occupancy, or use of any real property in this state by any natural person on the basis of a characteristic that has been held, or is held after July 1, 2020, by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability.

(2) A discriminatory restriction is not enforceable in this state, and all discriminatory restrictions contained in any title transaction recorded in this state are unlawful, are unenforceable, and are declared null and void. Any discriminatory restriction contained in a previously recorded title transaction is extinguished and severed from the recorded title transaction and the remainder of the title transaction remains enforceable and effective. The recording of any notice preserving or protecting interests or rights pursuant to s.

712.05 does not reimpose or preserve any discriminatory restriction that is extinguished under this section.

(3) Upon request of a parcel owner, a discriminatory restriction appearing in a covenant or restriction affecting the parcel may be removed from the covenant or restriction by an amendment approved by a majority vote of the board of directors of the respective property owners' association or an owners' association in which all owners may voluntarily join, notwithstanding any other requirements for approval of an amendment of the covenant or restriction. Unless the amendment also changes other provisions of the covenant or restriction, the recording of an amendment removing a discriminatory restriction does not constitute a title transaction occurring after the root of title for purposes of s. 712.03(4).

Section 4. Paragraphs (a), (b), (c), and (g) of subsection (12) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the

association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails

to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. ~~All other written records of the association not specifically included in the foregoing which are related to the operation of the association.~~

~~16.~~ A copy of the inspection report as described in s. 718.301(4)(p).

16.~~17.~~ Bids for materials, equipment, or services.

17. All other written records of the association not specifically included in subparagraphs 1.-16. which are related to the operation of the association.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in ~~pursuant to the~~ compliance with ~~requirements of~~ this chapter unless the

association has an affirmative duty not to disclose such information under ~~pursuant to~~ this chapter.

(c)1. The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A renter of a unit has a right to inspect and copy the association's bylaws and rules. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying, but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

2. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally

fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty under ~~pursuant to~~ s. 718.501(1)(d).

3. The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for

adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this sub-subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit ~~parcel~~ owners a directory containing the name, unit ~~parcel~~ address, and all telephone numbers of each unit ~~parcel~~ owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the

disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

(g)1. By January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, ~~or~~ collection of subpages or web portals, or application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be

accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application that contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents ~~thereto~~. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or

services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

1. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under ~~pursuant to~~ s. 718.112(2)(c).

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents ~~online~~. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under ~~pursuant to~~ this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 5. Paragraphs (d), (i), (k), and (p) of subsection (2) of section 718.112, Florida Statutes, are amended, and paragraph (c) is added to subsection (1) of that section, to read:

718.112 Bylaws.—

(1) GENERALLY.—

(c) The association may extinguish a discriminatory restriction, as defined in s. 712.065(1), pursuant to s.

712.065.

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners must be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all

votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member's term limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any monetary obligation due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. A person who has

been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; ~~, must~~ be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; ~~,~~ and ~~must~~ be posted in a conspicuous place on the condominium property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property in accordance with the minimum period of time for posting a notice as set forth in the bylaws, or if the bylaws do not provide such notice requirements, at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property where all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices.

In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes

must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to

the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates, not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the

annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption. A director of an association of a residential condominium who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification or educational certificate for inspection by the members for 5 years after a director's

election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any board action.

c. Any challenge to the election process must be commenced within 60 days after the election results are announced.

5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed meeting of unit owners and is subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law. Notice of meetings of the board of administration, unit owner meetings, except unit owner meetings called to recall board members under paragraph (j), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass e-mails ~~emails~~ sent to members on behalf of the association in the course of giving electronic notices.

7. Unit owners have the right to participate in meetings of unit owners with reference to all designated agenda items.

However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

8. A unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association or nonresidential condominium association.

Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different

voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(i) *Transfer fees.*—An association may not ~~no~~ charge an applicant any fees, except the actual costs of any background check or screening performed ~~shall be made~~ by the association, ~~or any body thereof~~ in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Except for the actual costs of any background check or screening performed by the association, any such fee may be preset, but may not ~~in no event may such fee~~ exceed $100 per applicant other than spouses or parent and dependent child, who ~~husband/wife or parent/dependent child, which~~ are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, a charge may not ~~no charge shall~~ be made. The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration, articles, or bylaws, require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of 1 month’s rent, into an escrow account maintained by the association. The security deposit shall protect against damages to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of chapter 83.

(k) *Alternative Dispute Resolution* ~~*Arbitration.*~~— There must ~~shall~~ be a provision for mandatory alternative dispute resolution ~~nonbinding arbitration~~ as provided for in s. 718.1255 for any residential condominium.

~~(p) *Service providers; conflicts of interest.*—An association, which is not a timeshare condominium association, may not employ or contract with any service provider that is owned or operated by a board member or with any person who has a financial relationship with a board member or officer, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer. This paragraph does not apply to a service provider in which a board member or officer, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer, owns less than 1 percent of the equity shares.~~

Section 6. Subsection (8) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters and protection; display of religious decorations.—

(8) The Legislature finds that the use of electric and natural gas fuel vehicles conserves and protects the state's environmental resources, provides significant economic savings to drivers, and serves an important public interest. The participation of condominium associations is essential to the state's efforts to conserve and protect the state's environmental resources and provide economic savings to drivers. For purposes of this subsection, the term "natural gas fuel" has the same meaning as in s. 206.9951, and the term "natural gas

fuel vehicle" means any motor vehicle, as defined in s. 320.01(1), powered by natural gas fuel. Therefore, the installation of an electric vehicle charging or natural gas fuel station shall be governed as follows:

(a) A declaration of condominium or restrictive covenant may not prohibit or be enforced so as to prohibit any unit owner from installing an electric vehicle charging or natural gas fuel station within the boundaries of the unit owner's limited common element or exclusively designated parking area. The board of administration of a condominium association may not prohibit a unit owner from installing an electric vehicle charging station for an electric vehicle, as defined in s. 320.01, or a natural gas fuel station for a natural gas fuel vehicle within the boundaries of his or her limited common element or exclusively designated parking area. The installation of such charging or fuel stations are subject to the provisions of this subsection.

(b) The installation may not cause irreparable damage to the condominium property.

(c) The electricity for the electric vehicle charging or natural gas fuel station must be separately metered or metered by an embedded meter and payable by the unit owner installing such charging or fuel station or by his or her successor.

(d) The cost for supply and storage of the natural gas fuel must be paid by the unit owner installing the natural gas fuel station or by his or her successor.

(e) ~~(d)~~ The unit owner who is installing an electric vehicle charging or natural gas fuel station is responsible for the costs of installation, operation, maintenance, and repair, including, but not limited to, hazard and liability insurance.

The association may enforce payment of such costs under ~~pursuant to~~ s. 718.116.

(f)~~(e)~~ If the unit owner or his or her successor decides there is no longer a need for the electronic vehicle charging or natural gas fuel station, such person is responsible for the cost of removal of such ~~the electronic vehicle~~ charging or fuel station. The association may enforce payment of such costs under ~~pursuant to~~ s. 718.116.

(g) The unit owner installing, maintaining, or removing the electric vehicle charging or natural gas fuel station is responsible for complying with all federal, state, or local laws and regulations applicable to such installation, maintenance, or removal.

(h)~~(f)~~ The association may require the unit owner to:

1. Comply with bona fide safety requirements, consistent with applicable building codes or recognized safety standards, for the protection of persons and property.

2. Comply with reasonable architectural standards adopted by the association that govern the dimensions, placement, or external appearance of the electric vehicle charging or natural gas fuel station, provided that such standards may not prohibit the installation of such charging or fuel station or substantially increase the cost thereof.

3. Engage the services of a licensed and registered firm ~~electrical contractor or engineer~~ familiar with the installation or removal and core requirements of an electric vehicle charging or natural gas fuel station.

4. Provide a certificate of insurance naming the association as an additional insured on the owner’s insurance

policy for any claim related to the installation, maintenance, or use of the electric vehicle charging or natural gas fuel station within 14 days after receiving the association's approval to install such charging or fuel station or notice to provide such a certificate.

5. Reimburse the association for the actual cost of any increased insurance premium amount attributable to the electric vehicle charging or natural gas fuel station within 14 days after receiving the association's insurance premium invoice.

(i) ~~(g)~~ The association provides an implied easement across the common elements of the condominium property to the unit owner for purposes of ~~the installation of the~~ electric vehicle charging or natural gas fuel station installation, and the furnishing of electrical power or natural gas fuel supply, including any necessary equipment, to such charging or fuel station, subject to the requirements of this subsection.

Section 7. Section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; ~~voluntary~~ mediation; ~~mandatory~~ nonbinding arbitration; legislative findings.—

(1) DEFINITIONS.—As used in this section, the term "dispute" means any disagreement between two or more parties that involves:

(a) The authority of the board of directors, under this chapter or association document to:

1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.

2. Alter or add to a common area or element.

(b) The failure of a governing body, when required by this chapter or an association document, to:

1. Properly conduct elections.

2. Give adequate notice of meetings or other actions.

3. Properly conduct meetings.

4. Allow inspection of books and records.

(c) A plan of termination pursuant to s. 718.117.

"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.

(3) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation may employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. The division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this chapter. No person may be employed by the department as a full-time arbitrator unless he or she is a member in good standing of The Florida Bar. A person may only be certified by the division to act as an arbitrator if he or she has been a member in good standing of The Florida Bar for at least 5 years and has mediated or arbitrated at least 10

disputes involving condominiums in this state during the 3 years immediately preceding the date of application, mediated or arbitrated at least 30 disputes in any subject area in this state during the 3 years immediately preceding the date of application, or attained board certification in real estate law or condominium and planned development law from The Florida Bar. Arbitrator certification is valid for 1 year. An arbitrator who does not maintain the minimum qualifications for initial certification may not have his or her certification renewed. The department may not enter into a legal services contract for an arbitration hearing under this chapter with an attorney who is not a certified arbitrator unless a certified arbitrator is not available within 50 miles of the dispute. The department shall adopt rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(a) Prior to the institution of court litigation, a party to a dispute shall either petition the division for nonbinding arbitration or initiate presuit mediation as provided in subsection (5). Arbitration shall be binding on the parties if all parties in arbitration agree to be bound in a writing filed in arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section

must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, the division shall assign or enter into a contract with

an arbitrator and serve a copy of the petition upon all respondents. The arbitrator shall conduct a hearing within 30 days after being assigned or entering into a contract unless the petition is withdrawn or a continuance is granted for good cause shown.

(e) Before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(f) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorney fees

incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless they agree otherwise.

(g) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator’s decision shall be binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a

proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorney fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(i) Arbitration shall be conducted according to rules adopted by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(j) At the request of any party to the arbitration, the arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(k) The arbitration decision shall be rendered within 30 days after the hearing and presented to the parties in writing. An arbitration decision is final in those disputes in which the

parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An arbitrator's failure to render a written decision within 30 days after the hearing may result in the cancellation of his or her arbitration certification.

(l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a

trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(5) PRESUIT MEDIATION.—In lieu of the initiation of mandatory nonbinding arbitration set forth in subsections (1)-(4), a party may submit a dispute to presuit mediation in accordance with s. 720.311. Election and recall disputes are not eligible for mediation; such disputes must be arbitrated by the division or filed with a court of competent jurisdiction.

(6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every arbitration petition received by the division and required to be filed under this section challenging the legality of the election of any director of the board of administration must be handled on an expedited basis in the manner provided by the division's rules for recall arbitration disputes.

(7)~~(6)~~ APPLICABILITY.—This section does not apply to a nonresidential condominium unless otherwise specifically provided for in the declaration of the nonresidential condominium.

Section 8. Subsection (1) and paragraph (b) of subsection (3) of section 718.303, Florida Statutes, are amended to read:

718.303 Obligations of owners and occupants; remedies.—

(1) Each unit owner, ~~each~~ tenant and other invitee, and

~~each~~ association is governed by, and must comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws which are ~~shall be deemed~~ expressly incorporated into any lease of a unit. Actions at law or in equity ~~for damages or for injunctive relief~~, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them before control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

(e) Any tenant leasing a unit, and any other invitee occupying a unit.

The prevailing party in any such action or in any action in which the purchaser claims a right of voidability based upon contractual provisions as required in s. 718.503(1)(a) is entitled to recover reasonable attorney ~~attorney's~~ fees. A unit owner prevailing in an action between the association and the unit owner under this subsection ~~section~~, in addition to recovering his or her reasonable attorney ~~attorney's~~ fees, may recover additional amounts as determined by the court to be necessary to reimburse the unit owner for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. Actions arising under this subsection are not

considered ~~may not be deemed to be~~ actions for specific performance.

(3) The association may levy reasonable fines for the failure of the owner of the unit or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A fine may not become a lien against a unit. A fine may be levied by the board on the basis of each day of a continuing violation, with a single notice and opportunity for hearing before a committee as provided in paragraph (b). However, the fine may not exceed $100 per violation, or $1,000 in the aggregate.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' written notice to the unit owner and, if applicable, any tenant ~~occupant~~, licensee, or invitee of the unit owner sought to be fined or suspended, and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the committee does not approve the proposed fine or suspension by majority vote, the fine or suspension may not be imposed. If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after notice of the approved fine is provided to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner ~~the date of the committee meeting at which the fine is approved~~. The association must

provide written notice of such fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner.

Section 9. Section 718.5014, Florida Statutes, is amended to read:

718.5014 Ombudsman location.—The ombudsman shall maintain his or her principal office in a ~~Leon County on the premises of the division or, if suitable space cannot be provided there, at another~~ place convenient to the offices of the division which will enable the ombudsman to expeditiously carry out the duties and functions of his or her office. The ombudsman may establish branch offices elsewhere in the state upon the concurrence of the Governor.

Section 10. Subsection (25) of section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(25) "Unit" means a part of the cooperative property which is subject to exclusive use and possession. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents. An interest in a unit is an interest in real property.

Section 11. Paragraph (c) of subsection (2) of section 719.104, Florida Statutes, is amended to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(2) OFFICIAL RECORDS.—

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right

to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying, but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A member ~~unit owner~~ who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question

and answer sheet as described in s. 719.504 and year-end financial information required by the department, on the cooperative property to ensure their availability to members ~~unit owners~~ and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records shall not be accessible to members ~~unit owners~~:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including any record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a

unit.

3. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of unit owners.

5. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to unit ~~parcel~~ owners a directory containing the name, unit ~~parcel~~ address, and all telephone numbers of each unit ~~parcel~~ owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an

owner and not requested by the association.

6. Electronic security measures that are used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

Section 12. Paragraph (b) of subsection (1) of section 719.106, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(b) *Quorum; voting requirements; proxies.*—

1. Unless otherwise provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of voting interests, and decisions shall be made by owners of a majority of the voting interests. Unless otherwise provided in this chapter, or in the articles of incorporation, bylaws, or other cooperative documents, and except as provided in subparagraph (d)1., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited

proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (j)2., for votes taken to waive the financial reporting requirements of s. 719.104(4)(b), for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this section, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare cooperative.

3. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it.

4. A member of the board of administration or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

5. A board or committee member participating in a meeting via telephone, real-time video conferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present ~~When some or all of the board or committee members meet by telephone conference, those board or committee members attending by telephone conference may be counted toward obtaining a quorum and may vote by telephone~~. A ~~telephone~~ speaker must ~~shall~~ be used ~~utilized~~ so that the conversation of such ~~those board or committee~~ members ~~attending by telephone~~ may be heard by the board or committee members attending in person, as well as by any unit owners present at a meeting.

(3) GENERALLY.—The association may extinguish a discriminatory restriction, as defined in s. 712.065(1), pursuant to s. 712.065.

Section 13. Paragraph (l) of subsection (4) of section 720.303, Florida Statutes, is redesignated as paragraph (m), a new paragraph (l) is added to that subsection, and paragraph (c) of subsection (2) and present paragraph (l) of subsection (4) of that section are amended, to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—

(2) BOARD MEETINGS.—

(c) The bylaws shall provide the following for giving notice to parcel owners and members of all board meetings and, if they do not do so, shall be deemed to include the following:

1. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance

of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the association bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may adopt, by rule, a procedure for conspicuously posting the meeting notice and the agenda on the association's website for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the association property. Any such rule must require the association to send to members whose e-mail addresses are included in the association's official records an electronic notice in the same manner as is required for a notice of a meeting of the members. Such notice must

include a hyperlink to the website where the notice is posted. The association may provide notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members to any member who has provided a facsimile number or e-mail address to the association to be used for such purposes; however, a member must consent in writing to receiving notice by electronic transmission.

2. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered must be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting.

3. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

(4) OFFICIAL RECORDS.—The association shall maintain each

of the following items, when applicable, which constitute the official records of the association:

(l) Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least 1 year after the date of the election, vote, or meeting.

(m) ~~(l)~~ All other ~~written~~ records of the association not specifically included in this subsection ~~the foregoing~~ which are related to the operation of the association.

Section 14. Subsections (1) and (2) of section 720.305, Florida Statutes, are amended to read:

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.—

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter and~~,~~ the governing documents of the community~~, and the rules of the association~~. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

(a) The association;

(b) A member;

(c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and

(d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney fees and costs. A member prevailing

in an action between the association and the member under this section, in addition to recovering his or her reasonable attorney fees, may recover additional amounts as determined by the court to be necessary to reimburse the member for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. This section does not deprive any person of any other available right or remedy.

(2) An ~~The~~ association may levy reasonable fines. A fine may not exceed $100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed $1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than $1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

(a) An association may suspend, for a reasonable period of time, the right of a member, or a member's tenant, guest, or invitee, to use common areas and facilities for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. This paragraph does not apply to that portion of common areas used to provide

access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' notice to the parcel owner and, if applicable, any occupant, licensee, or invitee of the parcel owner, sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the proposed fine or suspension levied by the board is approved by the committee, the fine payment is due 5 days after notice of the approved fine is provided to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner ~~the date of the committee meeting at which the fine is approved~~. The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any occupant ~~tenant~~, licensee, or invitee of the parcel owner.

Section 15. Paragraph (g) of subsection (1) of section 720.306, Florida Statutes, is amended to read:

720.306 Meetings of members; voting and election

procedures; amendments.—

(1) QUORUM; AMENDMENTS.—

(g) A notice required under this section must be mailed or delivered to the address identified as the parcel owner's mailing address in the official records of the association as required under s. 720.303(4) ~~on the property appraiser's website for the county in which the parcel is located~~, or electronically transmitted in a manner authorized by the association if the parcel owner has consented, in writing, to receive notice by electronic transmission.

Section 16. Subsection (6) is added to section 720.3075, Florida Statutes, to read:

720.3075 Prohibited clauses in association documents.—

(6) The association may extinguish a discriminatory restriction, as defined in s. 712.065(1), pursuant to s. 712.065.

Section 17. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL:	CS/SB 1214
INTRODUCER:	Senator Baxley
SUBJECT:	Engineers
DATE:	January 27, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	IT	**Fav/CS**
2.			CM	
3.			RC	

I. Summary:

CS/SB 1214 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of structural engineering, which includes the structural analysis and design of components for threshold buildings (those higher than 50 feet/three stories, or with an occupancy of greater than 500 persons) as well as the practice of engineering under current law.

The bill prohibits, effective March 1, 2022, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

Under the bill, the following titles may not be used by persons who are not licensed, or exempt from licensing, under current law relating to engineering: licensed professional engineer, licensed structural engineer, professional structural engineer, or registered professional engineer.

The bill authorizes the board to certify persons as qualified to practice structural engineering if they are licensed or qualify for licensure as an engineer, have at least four years of active structural engineering experience under the supervision of a licensed engineer, have passed certain professional examinations, and meet other administrative requirements. The bill also requires the board to certify qualified foreign or out-of-state applicants for licensure by endorsement in certain circumstances.

See Section V, Fiscal Impact Statement.

The bill provides an effective date of July 1, 2020.

II. Present Situation:

Florida Board of Professional Engineers

The practice of engineering is regulated by the board. Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a nonprofit corporation, to provide such services.[1] The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers.[2]

Section 471.008, F.S., authorizes the board to adopt rules to implement the provisions of ch. 471, F.S., and for ch. 455, F.S., which provides the general licensing procedures for professional licensing by the DBPR and its professional licensing boards. The board has adopted responsibility rules for the profession of engineering addressing a variety of issues, including the design of structures and fire protection systems.[3]

There were 65,196 licensed professional engineers in Fiscal Year 2018-2019.[4] The FEMC processed 195 complaints regarding engineering practice during that period. Only 140 complaints were found to be legally sufficient to proceed, and the FEMC filed 30 administrative complaints in cases where probable cause was found relating to a violation of the practice act.[5]

Professional Engineer License Qualifications and Exemptions

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have graduated from:

- An approved engineering curriculum of four years or more in a board-approved school, college, or university; or
- An approved engineering technology curriculum of four years or more in a board-approved school, college, or university.[6]

---

[1] *See* s. 471.038, F.S., the Florida Engineers Management Corporation Act, for the duties and authority of the FEMC.
[2] *See* the Annual Report of the FEMC for FY 2018-2019 at https://fbpe.org/wp-content/uploads/2019/09/2018-19-FEMC-Annual-Report.pdf (last visited Jan. 19, 2020), and the contract between DBPR and FEMC for the period between July 1, 2017 and June 30, 2021 at https://fbpe.org/wp-content/uploads/2018/07/FEMC-DBPR-Contract-2017.pdf (last visited Jan. 19, 2020).
[3] The responsibility rules are in Fla. Admin. Code Chapters 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2020).
[4] There were 597 inactive professional engineering licenses in that fiscal year. *See Annual Report, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, Fiscal Year 2018-2019*, at p. 19, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf (last visited Jan. 19, 2020).
[5] *See* the Annual Report of the FEMC for FY 2018-2019 at https://fbpe.org/wp-content/uploads/2019/09/2018-19-FEMC-Annual-Report.pdf, at pp. 4-5 (last visited Jan. 19, 2020), which indicates the FEMC also filed 92 Final Orders with DBPR; entered into 12 negotiations and tried three administrative hearings; dismissed 16 cases after re-consideration; issued eight reprimands, six suspensions, four probations, four project reviews, and one license restriction; and imposed $57,528.60 in administrative costs and $47,000.00 in fines. The board also issued 82 final orders against licensees.
[6] Section 471.013(1), F.S.

Under s. 471.013(2), F.S., the board must certify for licensure any applicant who has submitted proof of being at least 18 years old and has the required engineering experience. For graduates of an approved engineering science curriculum, the applicant must have a record of at least four years of active engineering experience sufficient to indicate competence to be in responsible charge of engineering. Graduates of an approved engineering technology curriculum must have a record of at least six years of such qualified experience.[7]

Section 471.003(2), F.S., identifies those persons who are exempted from the licensing requirements of ch. 471, F.S.

Fees

Section 471.011, F.S., authorizes the board by rule to establish fees to be paid for applications, examination, reexamination, licensing, renewal, reactivation, inactive status applications, and recordmaking and recordkeeping. It also provides that qualification of a business organization must not require payment of a fee.

Special Inspectors of Threshold Buildings

Section 471.015(7), F.S., authorizes the board to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings. A "threshold building" is "any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons."[8]

The board is also authorized to establish minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector. Current law does not authorize the board to establish minimum training or education requirements for maintaining a certification or qualification as a special inspector.

The agency charged with enforcing the building code (enforcing agency)[9] must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.[10]

Use of Engineer Seals

Section 471.025(1), F.S., authorizes the board to prescribe, by rule, one or more forms of seal to be used by licensed engineers. Each licensee must obtain at least one seal. All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and filed for public record and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

[7] *See* ss. 471.015(2)(a)1. and 2., F.S.
[8] *See* s. 553.71(12), F.S.
[9] *See* s. 553.71(5), F.S., defining the term "local enforcement agency."
[10] Section 553.79(5)(a), F.S.

A licensee may not affix or permit to be affixed his or her seal, name, or digital signature to any plan, specification, drawing, final bid document, or other document that depicts work which he or she is not licensed to perform or which is beyond his or her profession or specialty.[11]

A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer, and assumes full professional and legal responsibility by signing and affixing his or her seal t the assumed documents.[12]

Use of Descriptive Titles

Section 471.031, F.S., sets forth the permissible and prohibited titles for persons licensed under ch. 471, F.S., and for persons who are otherwise exempted from such licensure. With certain exceptions for persons exempted from licensure, the use of the name "professional engineer" or any other title, designation, abbreviation, or indication that a person holds an active license as an engineer when the person is not licensed under ch. 489, F.S., is prohibited, along with use of the following titles:

- Agricultural engineer;
- Air-conditioning engineer;
- Architectural engineer;
- Building engineer;
- Chemical engineer;
- Civil engineer;
- Control systems engineer;
- Electrical engineer;
- Environmental engineer;
- Fire protection engineer;
- Industrial engineer;
- Manufacturing engineer;
- Mechanical engineer;
- Metallurgical engineer;
- Mining engineer;
- Minerals engineer;
- Marine engineer;
- Nuclear engineer;
- Petroleum engineer;
- Plumbing engineer;
- Structural engineer;
- Transportation engineer;
- Software engineer;
- Computer hardware engineer; and
- Systems engineer.

[11] Section 471.025(3), F.S.

[12] Section 471.025(4), F.S. The original engineer is released from any professional responsibility or civil liability for work that is assumed.

Imposition of Discipline by the Board

The acts that constitute grounds for the imposition of discipline by the board are set forth in s. 471.033, F.S. Such discipline includes denial of an application for licensure, suspension or revocation of a license, imposition of fines, reprimands, probation, or restitution, and restriction of the authorized scope of practice of a licensee.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 471.003, F.S., to prohibit, effective March 1, 2022, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

The bill prohibits the use the name or title of "licensed engineer," "licensed professional engineer," "licensed structural engineer," "professional structural engineer," or "registered structural engineer" or any other title that indicates an unlicensed person is a licensed professional structural engineer in this state. The bill amends s. 471.003(2), F.S., to clarify that certain persons are not required to be licensed as a licensed professional structural engineer, and this exemption includes contractors performing work designed by a professional structural engineer.

Section 2 of the bill amends s. 471.005, F.S., to define the term "licensed professional structural engineer" to mean a person who is licensed to engage in the practice of professional structural engineering in Florida under ch. 471, F.S.

The bill defines the term "professional structural engineering" to mean a service or creative work that includes the structural analysis and design of structural components or systems for threshold buildings.[13] The term includes engineering[14] that requires significant structural engineering education, training, experience, and examination, as determined by the board.

Section 471.005(7), F.S., defines the term "engineering" to include:

> the term "professional engineering" and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures,

[13] Section 553.71(12), F.S., provides a "threshold building" is "any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons."
[14] *See* s. 471.005(7), F.S., for the definition of engineering.

> buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter.

The bill allows a retired professional structural engineer to be granted use of the title "professional engineer, retired" or "professional structural engineer, retired" by the board, if the retiree has:

- Been licensed as a professional engineer by the board;
- Relinquished or not renewed a license; and
- Applied to and been approved by the board to use such title.

Section 3 of the bill amends s. 471.011, F.S., relating to fees for license applications, temporary licenses, license renewals, inactive licenses, examinations, and records, to provide that such fees are also applicable to the regulation of structural engineering.

Section 4 of the bill amends s. 471.013(2)(a), F.S., relating to licensure, to include a reference to licensed professional structural engineers.

Section 5 of the bill amends s. 471.015, F.S., to authorize the board to certify persons as qualified to practice professional structural engineering if they are licensed or qualify for licensure as an engineer, have at least four years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements.

Under the bill, an applicant for licensure as a professional structural engineer must:

- Be licensed as an engineer, or qualify for licensure, under ch. 471, F.S.;
- Submit an application in the format prescribed by the board;
- Pay a fee established by the board;
- Provide satisfactory evidence of good moral character, as defined by the board.
- Provide a record of four years of active professional structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer; and
- Have successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

Before March 1, 2022, a qualified applicant, in lieu of satisfying the experience and examination requirements set forth above, may instead:

- Submit a signed affidavit in the format prescribed by the board that the applicant is currently a licensed engineer in Florida and has been engaged in the practice of professional structural engineering with a record of at least four years of active professional structural engineering design experience;
- Possess a current professional engineering license and file the necessary documentation as required by the board, or possess a current threshold inspector license; and
- Agree to meet with the board or its representative at the board's request, for the purpose of evaluating the applicant's qualifications for licensure as a professional structural engineer.

An applicant qualified for licensure as an engineer may simultaneously apply for licensure as a professional structural engineer, if all the above requirements and all education, examination, experience, and good moral character requirements set forth in s. 471.013, F.S., are met.

The bill sets forth the requirements for board certification of an applicant as qualified for licensure as a professional structural engineer by endorsement:

- An applicant who holds a license to practice either engineering or professional structural engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in Florida at the time the license was issued; or
- An applicant who holds a valid license to practice structural engineering issued by another state or territory of the United States and who has successfully passed one of the following 16-hour examination combinations:
    - The 8-hour National Council of Examiners for Engineering and Surveying[15] Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination.
    - The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour National Council of Examiners for Engineering and Surveying Civil: Structural examination or the 8-hour National Council of Examiners for Engineering and Surveying Architectural Engineering examination.
    - The 16-hour Western States Structural Engineering examination.
    - The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination, and either the 8-hour California Structural Engineering Seismic III examination, or the 8-hour Washington Structural Engineering III examination.

Section 6 of the bill amends s. 471.019, F.S., relating to reinstatement of void licenses, to include a reference to licensed professional structural engineers.

[15] The National Council of Examiners for Engineering and Surveying (NCEES) is a nonprofit organization dedicated to advancing professional licensure for engineers and surveyors. In the United States, engineers and surveyors are licensed at the state and territory level. NCEES was created in 1920 and provides services for licensure and facilitation of mobility among licensing jurisdictions, including the development and scoring of examinations for licensure. *See* https://ncees.org/about/ (last visited Jan. 19, 2020).

Section 7 of the bill amends s. 471.025(2), F.S., regarding the use of seals on documents, to include a reference to the use of seals when a professional structural engineer's license is revoked or suspended.

Section 8 of the bill amends s. 471.031, F.S., to provide that beginning March 1, 2022, no person may practice professional structural engineering unless the person is licensed as a professional structural engineer or exempt from licensure under ch. 471, F.S. The bill also provides that the following titles may not be used by persons who are not licensed, or otherwise exempt from licensing, under ch. 471, F.S., relating to engineering: licensed engineer, licensed professional engineer, licensed structural engineer, professional structural engineer, registered structural engineer, or structural engineer.

Section 9 of the bill amends s. 471.0033, F.S., related to disciplinary proceedings to revise the acts that constitute grounds for discipline, to include acts related to the practice of professional structural engineering.

Section 10 of the bill amends s. 471.037(1), F.S., related to the construction of provisions in ch. 471, F.S., to provide that local building codes, zoning laws or ordinances may be more restrictive concerning the services of licensed professional structural engineers.

Section 11 of the bill amends s. 471.0385, F.S., related to certain authorizations granted to the Governor. The bill grants authority to the Governor to reestablish positions, budget authority, and salary rate necessary to carry out the DBPR's responsibilities relating to "professional structural engineers," in the event the Florida Engineers Management Corporation Act[16] is held to be unconstitutional or to violate state or federal antitrust laws.

Section 12 of the bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[16] *See* s. 471.038, F.S.

D. State Tax or Fee Increases:

The bill amends s. 471.011, F.S., relating to fees for license applications, temporary licenses, license renewals, inactive licenses, examinations, and records, to provide that such fees are also applicable to the regulation of structural engineering.
To the extent the bill imposes fees on licensure of structural engineers while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under Article VII, Section 19 of the Florida Constitution. Under that section, a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."[17]

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Beginning March 1, 2022, persons who are licensed engineers in Florida and those who perform work that comes within the definition in the bill for "professional structural engineering" will be required to obtain additional licensing to perform such work.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for professional structural engineers may result in a fiscal impact to the DBPR or the Florida Engineers Management Corporation (FEMC). To date, no analysis by the DBPR or the FEMC of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[17] FLA. CONST. art. VII, s. 19(d)(1).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.003, 471.005, 471.011, 471.013, 471.015, 471.019, 471.025, 471.031, 471.033, 471.037, and 471.0385.

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.

THE FLORIDA SENATE

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY
12th District

January 6, 2020

The Honorable Chairman Wilton Simpson
420 Senate Office Building
Tallahassee, Florida 32399

Dear Chairman Simpson,

I would like to request that SB 1214 Engineers be heard in the next Innovation, Industry and Technology Committee meeting.

This bill protects the public by requiring Florida structural engineers to demonstrate their design capability. It also establishes criterion for the qualifications of professional structural engineers (2020). And will require structural engineers who design threshold buildings to pass the National Council of Examiners for engineers and surveyors exam.

Thank you for your favorable consideration.

Onward & Upward,

Senator Dennis K. Baxley
Senate District 12

DKB/dd

cc: Booter Imhoff, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 ● (850) 487-5012
Email: baxley.dennis@flsenate.gov

THE FLORIDA SENATE

APPEARANCE RECORD

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

1.27.20
Meeting Date

1214
Bill Number (if applicable)

Topic ENGINEER

Amendment Barcode (if applicable)

Name CHRIS CHILDERS

Job Title SENIOR STRUCTURAL ENGINEER

Address 227 N BRONOUGH ST., SUITE 7300 Phone 850.222.4454
Street

TALLAHASSEE FL 32301 Email C-CHILDERS@CANENGINEERS.COM
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA STRUCTURAL ENGINEERS 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)

1.27.20
Meeting Date

1214
Bill Number (if applicable)

Topic ENGINEERS

Amendment Barcode (if applicable)

Name THOMAS (TOM) GROGAN

Job Title RETIRED (FORMER CHIEF STRUCTURAL ENGINEER - HASKELL)

Address 1598 COUNTRY WALK DR.
Street

Phone 904.635.2699

FLEMING ISLAND, FL 32003
City *State* *Zip*

Email TOMGROGANSE@GMAIL.COM

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

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

Representing FLORIDA STRUCTURAL ENGINEERS ASSOCIATION

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.

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

January 27, 2020
Meeting Date

1214
Bill Number (if applicable)

Topic Engineers

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title CEO

Address 2215 Thomasville Road
Street

Phone 850-510-9922

Tallahassee FL 32308
City *State* *Zip*

Email Barney@BarneyBishop.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Structural Engineers 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)

1/27/20
Meeting Date

1214
Bill Number (if applicable)

Topic Structural Engineer

Amendment Barcode (if applicable)

Name Jeff Kottkamp

Job Title

Address

Street

Phone

Tallahassee FL

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Structural Engineers Assoc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 1214
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 27, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE			1/27/2020 1 Amendment 939264 Baxley					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bracy						
	X	Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
VA		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
9	1	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Innovation, Industry, and Technology; and Senator Baxley

580-02625-20 20201214c1

A bill to be entitled

An act relating to engineers; amending s. 471.003, F.S.; prohibiting a person who is not licensed as an engineer from using a specified name or title; prohibiting a person who is not a licensed professional structural engineer from using specified names and titles or practicing professional structural engineering, after a specified date; exempting certain persons from licensing requirements; amending s. 471.005, F.S.; defining terms; revising definitions; amending s. 471.011, F.S.; authorizing the Board of Professional Engineers to establish fees relating to professional structural engineering licensing; amending s. 471.013, F.S.; authorizing the board to refuse to certify an applicant for a professional structural engineering license for certain reasons; amending s. 471.015, F.S.; providing licensure and application requirements for a professional structural engineer license; exempting certain applicants who apply for licensure before a specified date from passage of a certain national examination, under certain conditions; requiring the board to certify certain applicants for licensure by endorsement; amending ss. 471.019 and 471.025, F.S.; conforming provisions to changes made by the act; amending s. 471.031, F.S.; prohibiting certain persons from practicing professional structural engineering after a specified date; prohibiting specified persons from using specified names and titles; amending s. 471.033,

F.S.; providing acts that constitute grounds for disciplinary action, including civil penalties, against a professional structural engineer; amending ss. 471.037 and 471.0385, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 471.003, Florida Statutes, are amended to read:

471.003 Qualifications for practice; exemptions.—

(1)(a) No person other than a duly licensed engineer shall practice engineering or use the name or title of "licensed engineer," "professional engineer," or "registered engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer in this state.

(b) Effective March 1, 2022, no person other than a duly licensed professional structural engineer shall engage in the practice of professional structural engineering or use the name or title of "licensed structural engineer," "professional structural engineer," or "registered structural engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as a professional structural engineer in this state.

(2) The following persons are not required to be licensed under the provisions of this chapter as a licensed engineer or a licensed professional structural engineer:

(a) Any person practicing engineering for the improvement of, or otherwise affecting, property legally owned by her or him, unless such practice involves a public utility or the public health, safety, or welfare or the safety or health of employees. This paragraph shall not be construed as authorizing the practice of engineering through an agent or employee who is not duly licensed under the provisions of this chapter.

(b)1. A person acting as a public officer employed by any state, county, municipal, or other governmental unit of this state when working on any project the total estimated cost of which is $10,000 or less.

2. Persons who are employees of any state, county, municipal, or other governmental unit of this state and who are the subordinates of a person in responsible charge licensed under this chapter, to the extent that the supervision meets standards adopted by rule of the board.

(c) Regular full-time employees of a corporation not engaged in the practice of engineering as such, whose practice of engineering for such corporation is limited to the design or fabrication of manufactured products and servicing of such products.

(d) Regular full-time employees of a public utility or other entity subject to regulation by the Florida Public Service Commission, Federal Energy Regulatory Commission, or Federal Communications Commission.

(e) Employees of a firm, corporation, or partnership who are the subordinates of a person in responsible charge, licensed under this chapter.

(f) Any person as contractor in the execution of work

designed by a professional engineer or a professional structural engineer or in the supervision of the construction of work as a foreman or superintendent.

(g) A licensed surveyor and mapper who takes, or contracts for, professional engineering services incidental to her or his practice of surveying and mapping and who delegates such engineering services to a licensed professional engineer qualified within her or his firm or contracts for such professional engineering services to be performed by others who are licensed professional engineers under the provisions of this chapter.

(h) Any electrical, plumbing, air-conditioning, or mechanical contractor whose practice includes the design and fabrication of electrical, plumbing, air-conditioning, or mechanical systems, respectively, which she or he installs by virtue of a license issued under chapter 489, under former part I of chapter 553, Florida Statutes 2001, or under any special act or ordinance when working on any construction project which:

1. Requires an electrical or plumbing or air-conditioning and refrigeration system with a value of $125,000 or less; and

2.a. Requires an aggregate service capacity of 600 amperes (240 volts) or less on a residential electrical system or 800 amperes (240 volts) or less on a commercial or industrial electrical system;

b. Requires a plumbing system with fewer than 250 fixture units; or

c. Requires a heating, ventilation, and air-conditioning system not to exceed a 15-ton-per-system capacity, or if the project is designed to accommodate 100 or fewer persons.

(i) Any general contractor, certified or registered pursuant to the provisions of chapter 489, when negotiating or performing services under a design-build contract as long as the engineering services offered or rendered in connection with the contract are offered and rendered by an engineer or professional structural engineer licensed in accordance with this chapter.

(j) Any defense, space, or aerospace company, whether a sole proprietorship, firm, limited liability company, partnership, joint venture, joint stock association, corporation, or other business entity, subsidiary, or affiliate, or any employee, contract worker, subcontractor, or independent contractor of the defense, space, or aerospace company who provides engineering for aircraft, space launch vehicles, launch services, satellites, satellite services, or other defense, space, or aerospace-related product or services, or components thereof.

Section 2. Present subsections (9) through (12) of section 471.005, Florida Statutes, are redesignated as subsections (11) through (14), respectively, new subsections (9) and (10) are added to that section, and present subsection (10) of that section is amended, to read:

471.005 Definitions.—As used in this chapter, the term:

(9) "Professional structural engineer" means a person who is licensed to engage in the practice of professional structural engineering under this chapter.

(10) "Professional structural engineering" means a service or creative work that includes the structural analysis and design of structural components or systems for threshold buildings as defined in s. 553.71. The term includes

engineering, as defined in subsection (7), which requires significant structural engineering education, training, experience, and examination, as determined by the board.

(12)~~(10)~~ "Retired professional engineer," ~~or~~ "professional engineer, retired," "retired professional structural engineer," or "professional structural engineer, retired" means a person who has been duly licensed as a professional engineer by the board and who chooses to relinquish or not to renew his or her license and applies to and is approved by the board to be granted the title "Professional Engineer, Retired" or "Professional Structural Engineer, Retired."

Section 3. Subsections (1) and (6) of section 471.011, Florida Statutes, are amended to read:

471.011 Fees.—

(1) The board by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and recordmaking and recordkeeping. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this chapter and the provisions of law with respect to the regulation of engineers and professional structural engineers.

(6) The fee for a temporary registration or certificate to practice engineering or professional structural engineering shall not exceed $25 for an individual or $50 for a business firm.

Section 4. Paragraph (a) of subsection (2) of section

471.013, Florida Statutes, is amended to read:

471.013 Examinations; prerequisites.—

(2)(a) The board may refuse to certify an applicant for failure to satisfy the requirement of good moral character only if:

1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensed engineer or licensed professional structural engineer; and

2. The finding by the board of lack of good moral character is supported by clear and convincing evidence.

Section 5. Present subsections (3) through (7) of section 471.015, Florida Statutes, are redesignated as subsections (4) through (8), respectively, a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:

471.015 Licensure.—

(3)(a) The management corporation shall issue a professional structural engineer license to any applicant who the board certifies as qualified to practice professional structural engineering and who meets all of the following requirements:

1. Is licensed under this chapter as an engineer or is qualified for licensure as an engineer.

2. Submits an application in the format prescribed by the board.

3. Pays a fee established by the board under s. 471.011.

4. Provides satisfactory evidence of good moral character, as defined by the board.

5. Provides a record of 4 years of active professional structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer.

6. Has successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

(b) Before March 1, 2022, an applicant who satisfies the requirements of subparagraphs (a)1.-4. may satisfy subparagraphs (a)5. and 6. by:

1. Submitting a signed affidavit in the format prescribed by the board which states that the applicant is currently a licensed engineer in this state and has been engaged in the practice of professional structural engineering with a record of at least 4 years of active professional structural engineering design experience;

2. Possessing a current professional engineering license and filing the necessary documentation as required by the board, or possessing a current threshold inspector license; and

3. Agreeing to meet with the board or a representative of the board, upon the board's request, for the purpose of evaluating the applicant's qualifications for licensure.

(c) An applicant who is qualified for licensure as an engineer under s. 471.013 may simultaneously apply for licensure as a professional structural engineer if all requirements of s. 471.013 and this subsection are met.

(4) ~~(3)~~ The board shall certify as qualified for a license ~~by endorsement an applicant who~~:

(a) In engineering, by endorsement, an applicant who qualifies to take the fundamentals examination and the

principles and practice examination as set forth in s. 471.013, has passed a United States national, regional, state, or territorial licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination required by s. 471.013, and has satisfied the experience requirements set forth in paragraph (2)(a) and s. 471.013; ~~or~~

(b) In engineering or professional structural engineering, by endorsement, an applicant who holds a valid license to practice engineering, or, for professional structural engineering, an applicant who holds a valid license to practice professional structural engineering, issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued; or

(c) In professional structural engineering, by endorsement, an applicant who holds a valid license to practice professional structural engineering issued by another state or territory of the United States and who has successfully passed one of the following 16-hour examination combinations:

1. The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination.

2. The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour National Council of Examiners for Engineering and Surveying Civil: Structural examination or the 8-hour National

Council of Examiners for Engineering and Surveying Architectural Engineering examination.

3. The 16-hour Western States Structural Engineering examination.

4. The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour California Structural Engineering Seismic III examination or the 8-hour Washington Structural Engineering III examination.

Section 6. Section 471.019, Florida Statutes, is amended to read:

471.019 Reactivation.—The board shall establish by rule a reinstatement process for void licenses. The rule shall prescribe appropriate continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license for a licensed engineer or a licensed professional structural engineer may not exceed the continuing education requirements prescribed pursuant to s. 471.017 for each year the license was inactive.

Section 7. Subsection (2) of section 471.025, Florida Statutes, is amended to read:

471.025 Seals.—

(2) It is unlawful for any person to seal or digitally sign any document with a seal or digital signature after his or her license has expired or been revoked or suspended, unless such license is ~~has been~~ reinstated or reissued. When an engineer's or professional structural engineer's license is ~~has been~~ revoked or suspended by the board, the licensee shall, within a period of 30 days after the revocation or suspension has become

effective, surrender his or her seal to the executive director of the board and confirm to the executive director the cancellation of the licensee's digital signature in accordance with ss. 668.001-668.006. In the event the engineer's license has been suspended for a period of time, his or her seal shall be returned to him or her upon expiration of the suspension period.

Section 8. Present paragraphs (b) through (g) of subsection (1) of section 471.031, Florida Statutes, are redesignated as paragraphs (c) through (h), respectively, a new paragraph (b) is added to that subsection, and present paragraph (b) of that subsection is amended, to read:

471.031 Prohibitions; penalties.—

(1) A person may not:

(b) Beginning March 1, 2022, practice professional structural engineering unless the person is licensed as a professional structural engineer or exempt from licensure under this chapter.

(c) ~~(b)~~ 1. Except as provided in subparagraph 2. or subparagraph 3., use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed under this chapter, including, but not limited to, the following titles: "agricultural engineer," "air-conditioning engineer," "architectural engineer," "building engineer," "chemical engineer," "civil engineer," "control systems engineer," "electrical engineer," "environmental engineer," "fire protection engineer," "industrial engineer," "manufacturing

engineer," "mechanical engineer," "metallurgical engineer," "mining engineer," "minerals engineer," "marine engineer," "nuclear engineer," "petroleum engineer," "plumbing engineer," "structural engineer," "transportation engineer," "software engineer," "computer hardware engineer," or "systems engineer."

2. Any person who is exempt from licensure under s. 471.003(2)(j) may use the title or personnel classification of "engineer" in the scope of his or her work under that exemption if the title does not include or connote the term "licensed engineer," "professional engineer," "registered engineer," "licensed professional engineer," ~~"licensed engineer,"~~ "registered professional engineer," "licensed structural engineer," "professional structural engineer," or "registered structural engineer" ~~or "licensed professional engineer~~."

3. Any person who is exempt from licensure under s. 471.003(2)(c) or (e) may use the title or personnel classification of "engineer" in the scope of his or her work under that exemption if the title does not include or connote the term "licensed engineer," "professional engineer," "registered engineer," "licensed professional engineer," ~~"licensed engineer,"~~ "registered professional engineer," "licensed structural engineer," "professional structural engineer," "registered structural engineer," or "structural engineer," ~~or "licensed professional engineer"~~ and if that person is a graduate from an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board.

Section 9. Paragraphs (b) through (e) and (g) of subsection (1) and subsection (4) of section 471.033, Florida Statutes, are

amended to read:

471.033 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(b) Attempting to procure a license to practice engineering or professional structural engineering by bribery or fraudulent misrepresentations.

(c) Having a license to practice engineering or professional structural engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country~~,~~ for any act that would constitute a violation of this chapter or chapter 455.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering, professional structural engineering, or the ability to practice engineering or professional structural engineering.

(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those which ~~that~~ are signed in the capacity of a licensed engineer or licensed professional structural engineer.

(g) Engaging in fraud or deceit, negligence, incompetence, or misconduct~~,~~ in the practice of engineering or professional structural engineering.

(4) The management corporation shall reissue the license of

a disciplined engineer, professional structural engineer, or business upon certification by the board that the disciplined person has complied with all of the terms and conditions set forth in the final order.

Section 10. Subsection (1) of section 471.037, Florida Statutes, is amended to read:

471.037 Effect of chapter locally.—

(1) Nothing contained in this chapter shall be construed to repeal, amend, limit, or otherwise affect any local building code or zoning law or ordinance, now or hereafter enacted, which is more restrictive with respect to the services of licensed engineers or licensed professional structural engineers than the provisions of this chapter.

Section 11. Subsection (3) of section 471.0385, Florida Statutes, is amended to read:

471.0385 Court action; effect.—If any provision of s. 471.038 is held to be unconstitutional or is held to violate the state or federal antitrust laws, the following shall occur:

(3) The Executive Office of the Governor, notwithstanding chapter 216, is authorized to reestablish positions, budget authority, and salary rate necessary to carry out the department’s responsibilities related to the regulation of professional engineers and professional structural engineers.

Section 12. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL:	SB 1256
INTRODUCER:	Senator Albritton
SUBJECT:	Telegraph Companies
DATE:	January 24, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	**Favorable**
2.			JU	
3.			RC	

I. Summary:

SB 1256 repeals chapter 363, F.S., which provides for the liability of telegraph or telegram companies for specified negligent acts, penalties, damages, and attorney fees, and legal procedures.

The bill takes effect July 1, 2020.

II. Present Situation:

Chapter 363, F.S., contains the Florida statutes on telegraph and telegram companies. The first four sections (ss. 363.02, 363.03, 363.04, and 363.05, F.S.) were enacted in 1907; the remaining five sections (ss. 363.06, 363.07, 363.08, 363.09, and 363.10, F.S.) were enacted in 1913; and none of the sections were significantly amended after enactment.

Enacted in 1907, and codified in ss. 362.02-363.05, F.S., the statutes provide for liability, penalties, and damages for failure of a telegraph company to meet statutory operational requirement. Any telegraph company engaged in the business of transmitting messages over a telegraph line in this state that negligently fails to promptly deliver a received message to the addressee is liable to the sender for a $50 penalty and liable to both the sender and addressee for all resulting damages. These penalties apply only to deliveries in incorporated cities and towns. A failure to timely deliver a message is presumed to be negligent. Additionally, any telegraph company that refuses to accept any tendered, legible message for transmission, together with the required fee, is liable to the sender and addressee for a penalty of $50 plus all resulting damages, unless the company shows that the line or lines over which such message should be transmitted were damaged preventing transmission. Any person recovering any of the above penalties or damages is entitled to also recover 10 percent of the amount recovered as attorney's fees.[1]

[1] Ch. 5628, ss. 1-3 and ch. 5629, ss. 1 and 2, Laws of Fla. (1907).

Enacted in 1913, and codified in ss. 363.06-363.10, F.S., the statutes make a telegram company liable to the sender and addressee of any telegram received for transmission and delivery for mental anguish, distress or feeling, physical and mental pains and suffering resulting from the negligent failure to promptly transmit or promptly deliver such telegram, or because of the negligent failure to correctly transmit and deliver such telegram, with the company having the burden of proof to show, by a preponderance of the evidence, that it was free from fault. Additionally, a telegram company that receives a message in cipher is liable for damages resulting from the negligent failure to promptly transmit and deliver the telegram in cipher.[2] The receipt by any person engaged in the telegram business of a message for transmission constitutes notice to that person that the telegram is important, requiring prompt and correct transmission and delivery. Finally, all contractual provisions attempting to relieve or exempt a telegram company from liabilities imposed by law or to limit the time in which suits may be brought for negligent failure to perform any duty imposed by law are declared to be against the public policy of this state and to be illegal and void, and no court in this state is to give effect to any such provisions.[3]

It appears that telegraph offices and telegrams have largely, if not completely, been replaced by messaging methods such as emails, instant messaging, texts, and tweets. In 2017, the Federal Communications Commission updated its rules to remove regulations outmoded by technological advances and market forces. Among the deletions were a number of references to telegraph services as the commission was "not aware of any interstate telegraph service providers today"; as "[t]elegraph service is obsolete"; and as the commission found "that no purpose is served by requiring any remaining (or future) providers of telegraph service" to comply with the rules under review, "[n]or is the public interest served by maintaining outdated and unnecessary requirements in our rules."[4]

III. Effect of Proposed Changes:

The bill repeals chapter 363, F.S., which provides for the liability of telegraph or telegram companies for specified negligent acts, penalties, damages, and attorney fees, and legal procedures.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[2] The term "cipher" is not defined but appears to mean code.
[3] Ch. 6522, ss. 1-5, Laws of Fla (1913).
[4] 32 FCC Rcd 7132 (8) (2017).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following sections of the Florida Statutes: 363.02, 363.03, 363.04, 363.05, 363.06, 363.07, 363.08, 363.09, and 363.10.

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.

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: January 15, 2020

I respectfully request that **Senate Bill #1256**, relating to Telegraph Companies, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ben Albritton
Florida Senate, District 26

File signed original with committee office

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 1256
FINAL ACTION: Favorable
MEETING DATE: Monday, January 27, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
VA		Gibson						
		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
9	0	**TOTALS**						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By Senator Albritton

26-01721-20 20201256__

A bill to be entitled

An act relating to telegraph companies; repealing chapter 363, F.S., relating to the regulation of telegraph companies and telegrams; providing an effective date.

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

Section 1. Chapter 363, Florida Statutes, consisting of sections 363.02, 363.03, 363.04, 363.05, 363.06, 363.07, 363.08, 363.09, and 363.10, is repealed.

Section 2. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL:	SB 890
INTRODUCER:	Senator Perry
SUBJECT:	Local Licensing
DATE:	January 27, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	IT	**Favorable**
2.			CA	
3.			RC	

I. Summary:

SB 890 allows an individual with a valid local license required by a municipality or county (local government) in Florida to work within the scope of a noncontractor local license throughout the state with no geographic limitation, and without obtaining an additional local license, taking an examination, or paying additional fees. Under the bill, local governments have disciplinary authority over licensees who are licensed by another local government.

The expanded authorization for local licensees to work anywhere in Florida does not include performance of construction contracting work in regulated trade categories, such as roofing or plumbing. The type of work authorized in the bill for local licensees working outside their original license area includes, in part, the performance or installation of cabinetry, drywall, fencing and decks, rain gutters, interior remodeling, masonry, painting, paving, stuccoing, vinyl siding, and decorative tile and granite.

The bill requires the Department of Business and Professional Regulation (DBPR) to maintain a local licensing website to allow the public to review the licensing status of local licensees. The bill also requires a local government to transmit specified local licensing information to the DBPR or to maintain its own website that the DBPR may link to.

Local licensees working outside the jurisdiction in which they were issued a local license must provide consumers seeking services from the licensee sufficient information to allow consumers to access local licensing information and to verify the licensee's status in the licensee's original licensing jurisdiction.

See Section V, Fiscal Impact Statement.

The bill provides an effective date of October 1, 2020.

II. Present Situation:

Construction Contracting Professionals

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.[1] The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.[2]

A specialty contractor's scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tubs, and decorative or interactive water displays.[3] Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.[4]

The Electrical Contractors' Licensing Board (ECLB) within the DBPR is responsible for licensing and regulating electrical and alarm system contractors in Florida under part II of ch. 489, F.S.[5] Master septic tank contractors and septic tank contractors are regulated by the Department of Health under part III of ch. 489, F.S.[6]

Construction contractors regulated under part I of ch. 489, F.S., and electrical and alarm contractors regulated under part II of ch. 489, F.S., must satisfactorily complete a licensure examination before being licensed.[7] The CILB and ECLB may deny a license application for any person who it finds guilty of any of the grounds for discipline set forth in s. 455.227(1), F.S., or set forth in the profession's practice act.[8]

---

[1] *See* s. 489.107, F.S.
[2] Section 489.105(3), F.S.
[3] *See* Fla. Admin. Code R. 61G4-15.032 and 61G4-15.040 (2020) available at https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G4-15 (last visited Jan. 14, 2020).
[4] *See* Fla. Admin. Code R. 61G4-15.032 (2020).
[5] Section 489.507, F.S.
[6] *See* ss. 489.551-489.558, F.S.
[7] *See* ss. 489.113 and 489.516, F.S., respectively.
[8] Section 455.227(2), F.S.

Certification and Registration of Contractors

Under current law, a "certified contractor" has met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR which allows the contractor to contract in any jurisdiction in the state without being required to fulfill the competency requirements of other jurisdictions.[9]

The term "registered contractor" means a contractor who has registered with the DBPR as part of meeting competency requirements for a trade category in a particular jurisdiction, which limits the contractor to contracting only in the jurisdiction for which the registration is issued.[10]

Fee for Certification and Registration

As provided in s. 489.109, F.S., an applicant for certification as a contractor is required to pay an initial application fee not to exceed $150, and, if an examination cost is included in the application fee, the combined amount may not exceed $350. For an applicant for registration as a contractor, the initial application fee may not exceed $100, and the initial registration fee and the renewal fee may not exceed $200. [11] The initial application fee and the renewal fee is $50 for an application to certify or register a business.[12]

Fees must be adequate to ensure the continued operation of the CILB, and must be based on estimates of the DBPR of the revenue required to implement part I of ch. 489, F.S., and statutory provisions regulating the construction industry.[13]

All certificate holders and registrants must pay a fee of $4 to the DBPR at the time of application or renewal, to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida, to be selected by the Florida Building Commission.[14]

Local Regulation of Construction Trades

According to the DBPR:[15]

> Other than the [Division I and Division II] state-certified or state-registered professions, other professional trades of construction are not subject to regulation at the state level. However, under local government authority, counties and municipalities have created additional local categories for regulation within the construction industry (i.e., painting, flooring, cabinetry, masonry, plastering, and other construction-related

[9] Sections 489.105(8) and 489.113(1), F.S.
[10] Sections 489.105(10) and 489.117(1)(b), F.S.
[11] Section 489.109, F.S. Any applicant who seeks certification as a contractor under part I of ch. 489, F.S., by taking a practical examination must pay as an examination fee the actual cost incurred by the DBPR in developing, preparing, administering, scoring, score reporting, and evaluating the examination, if the examination is conducted by the DBPR.
[12] *Id*.
[13] *Id*.
[14] Section 489.109(3), F.S.
[15] *See 2020 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 890*, Nov. 25, 2019 at page 3 (on file with Senate Committee on Innovation, Industries, and Technology).

trades). Under this local regulation patchwork, varying regulations and fees often create burdens and limitations on a professional's ability to operate freely and competitively between jurisdictions.

III. Effect of Proposed Changes:

SB 890 creates s. 489.1175, F.S., to allow an individual with a valid local license required by a local government in Florida for a noncontractor job to work in its jurisdiction, to work within the scope of that local license throughout the state with no geographic limitation, and without obtaining an additional local license, taking an examination, or paying additional fees.

The expanded authorization for local licensees to work in any jurisdiction in the state does not include performance of construction contracting work in regulated trade categories, such as roofing or plumbing.[16] The bill creates the term "noncontractor job scope" to describe the authorized types of work done to real property that local licensees working outside their original license area may perform. Authorized work for local licensees includes, but is not limited to, the performance or installation of:

- Awnings;
- Cabinetry;
- Carpentry;
- Caulking;
- Debris removal;
- Driveways;
- Drywall;
- Fence and decks;
- Flooring;
- Garage doors;
- Glass and glazing;
- Gunite;
- Gutters and downspouts;
- Hurricane shutters;
- Insulation;
- Interior remodeling;
- Irrigation;
- Landscaping;
- Lightning protection systems;
- Masonry;
- Nonelectrical signs;
- Painting;
- Paving;

[16] Contractor categories are described ss. 489.105(3)(a) through (o), F.S. The specified scopes of work that are not within the "noncontractor job scope" defined in the bill are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, commercial pool/spa contractor, residential pool/spa contractor, swimming pool servicing contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor.

- Plastering;
- Stuccoing;
- Tennis courts;
- Vinyl siding; and
- Ornamental or decorative iron, stone, tile, marble, granite, or terrazzo.

Under the bill, local governments have disciplinary authority over licensees who are licensed by another local government. The bill provides that such disciplinary authority includes, but is not limited to, suspension and revocation of a licensee's ability to operate within the local government's jurisdiction.

Disciplinary orders must be forwarded by local governments to a licensee's original licensing jurisdiction for further action as appropriate. Further, the original licensing jurisdiction may take action against a licensee for being disciplined by another local licensing jurisdiction or for acting in a manner that violates the noncontractor job scope for which the license was issued in the original jurisdiction.

SB 890 requires the DBPR to create and maintain an online local licensing information system (website) to allow the public to review the licensing status of local licensees. The bill further requires a local government that issues local licenses to transmit specified local licensing information to the DBPR. The information must be transmitted by a local government at least monthly and include, at a minimum, the name, business name, address, license number, and licensing status of the local licensee. Alternatively, a local government may maintain a website that allows the DBPR to link to it.

Local licensees working outside the jurisdiction in which they are are licensed must provide consumers seeking services from the licensee sufficient information to allow consumers to access local licensing information and to verify the licensee's status in the licensee's original licensing jurisdiction.

The bill provides an effective date of October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires a local government that issues local licenses to transmit specified local licensing information to the DBPR or instead maintain a website that allows the DBPR to link to it. These requirements appear to have an insignificant fiscal impact on local government, and the mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

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:

Under the bill, local licensees operating in jurisdictions other than the jurisdiction in which the license was originally issued will no longer have to obtain additional local licenses, take examinations, or pay additional license fees.

According to the DBPR, the fiscal impact to the private sector is indeterminate.[17]

C. Government Sector Impact:

The bill requires the DBPR to create and maintain an online local licensing information system (website) so that the public may review the licensing status of local licensees with links to local jurisdictions that maintain their own websites with such information. The DBPR estimates 500 hours of work will be required to develop the website, to be accomplished using existing resources, and hosted through a secure cloud-based internet provider in keeping with state-wide objectives, at an annual estimated cost of $25,000 to $50,000.[18]

According to the DBPR, the fiscal impact to local and state government is indeterminate.[19] Local governments would lose the revenue received from these licensing fees.

VI. Technical Deficiencies:

None.

[17] *See 2020 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 890*, Nov. 25, 2019 at page 5 (on file with Senate Committee on Innovation, Industries, and Technology).
[18] *Id*. at page 6.
[19] *Id*. at pages 5-6.

VII. Related Issues:

The bill provides that the term "noncontractor job scope" does not include the contractor categories defined in s. 489.105(3)(a)-(o), F.S., regulated in part I of ch. 489, F.S., relating to construction contracting. There are two additional contractor categories in part I that are not addressed in the bill. Section 489.105(3)(p) and (q), F.S., relate to pollutant storage systems contractors and specialty contractors, respectively.

Similarly, parts II and III of ch. 489, F.S., regulate additional contractor trade categories that are not addressed in the bill and are not excluded from the term "noncontractor job scope." The excluded trade categories are electrical contractors, alarm system contractors, and septic tank contractors. [20] See ss. 489.505(12), 489.404(2) and (4), and 489.551(4), F.S., respectively.

If excluding the above contractor categories was unintentional, consideration of an amendment may be appropriate to revise the term "noncontractor job scope."

VIII. Statutes Affected:

This bill creates section 489.1175 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.

[20] Electrical and alarm system contractors are regulated by the DBPR and the Electrical Contractors' Licensing Board, and septic tank contractors are regulated by the Department of Health. *See* parts II and III of ch. 489, F.S.

2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION	
BILL NUMBER:	SB 890
BILL TITLE:	Local Licensing
BILL SPONSOR:	Sen. Perry
EFFECTIVE DATE:	10/01/2020

COMMITTEES OF REFERENCE
1) Innovation, Industry, and Technology
2) Community Affairs
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
N/A

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	November 25th, 2019
LEAD AGENCY ANALYST:	Jeff Kelly, Deputy Director; Division of Professions
ADDITIONAL ANALYST(S):	Thomas Izzo, OGC Rules Tracy Dixon, Service Operations Tom Coker, Technology Megan Kachur, OGC AB&T
LEGAL ANALYST:	Tom Thomas, OGC

FISCAL ANALYST:	Raleigh Close, Planning and Budget

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates a new s. 489.1175, F.S., in part 1 of ch. 489, F.S., to provide that a person holding a valid, active local license may work within the job scope of that local license in any local government jurisdiction of this state without having to obtain an additional local license, take an additional examination, or pay an additional license fee. The bill requires the Department of Business and Professional Regulation to create and maintain a local licensing information system available through the internet whereby the public may review the licensing status of individuals holding a local license.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Part I and part II of ch. 489, F.S., provide, respectively, the Construction Industry Licensing Board (CILB) and the Electrical Contractor Licensing Board (ECLB) within the Department of Business and Professional Regulation's (department) jurisdiction to license many construction professions at the state level (i.e., contractors, plumbers, roofers, electricians, air conditioning contractors, and related professions outlined in s. 489.105(3), F.S., set forth below). By definition in s. 489.105(8), F.S., a "certified contractor" means any contractor who possesses a certificate of competency issued by the department and who shall be allowed to contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.

Paragraphs (a) – (o) of s. 489.105(3), F.S., provide for the state regulation of the following construction professions:

(a) "General contractor"

(b) "Building contractor"

(c) "Residential contractor"

(d) "Sheet metal contractor"

(e) "Roofing contractor"

(f) "Class A air-conditioning contractor"

(g) "Class B air-conditioning contractor"

(h) "Class C air-conditioning contractor"

(i) "Mechanical contractor"

(j) "Commercial pool/spa contractor"

(k) "Residential pool/spa contractor"

(l) "Swimming pool/spa servicing contractor"

(m) "Plumbing contractor"

(n) "Underground utility and excavation contractor"

(o) "Solar contractor"

Counties and municipalities also may regulate these same construction professions, provided individuals regulated by a county or municipality also register with the department. By definition in s. 489.105(10), F.S., a "registered contractor" means any contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Pursuant to s. 489.117, F.S., registration allows the

registrant to engage in contracting only in the counties, municipalities, or development districts where he or she has complied with all local licensing requirements and only for the type of work covered by the registration.

Other than these state-certified or state-registered professions, other professional trades of construction are not subject to regulation at the state level. However, under local government authority, counties and municipalities have created additional local categories for regulation within the construction industry (i.e., painting, flooring, cabinetry, masonry, plastering, and other construction-related trades). Under this local regulation patchwork, varying regulations and fees often create burdens and limitations on a professional's ability to operate freely and competitively between jurisdictions. Counties and municipalities also have the ability to discipline these locally regulated license holders.

Section 1(a) of Article XIII of the Florida Constitution provides for the establishment by law of political subdivisions to be called counties. Section 2(a) of Article XIII of the Florida Constitution provides for the establishment by law of municipalities.

2. EFFECT OF THE BILL:

Section 1

The bill creates a new s. 489.1175, F.S., in part 1 of ch. 489, F.S., to provide that a person holding a valid, active local license may work within the job scope of that local license in any county or municipality of this state without having to obtain an additional local license, take an additional examination, or pay an additional license fee. However, this bill does not affect the ability of any local government to collect business taxes, subject to s. 205.065, F.S.

The bill defines "non-contractor job scope" as any work done on real property that does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), F.S. It includes, but is not limited to, performance or installation of awnings, cabinetry, carpentry, caulking, debris removal, driveways, drywall, fence and decks, flooring, garage doors, glass and glazing, gunite, gutters and downspouts, hurricane shutters, insulation, interior remodeling, irrigation, landscaping, lightning protection systems, masonry, non-electrical signs, painting, paving, plastering, stuccoing, tennis courts, vinyl siding and ornamental or decorative iron, stone, tile, marble, granite, or terrazzo.

The bill defines "local government" to include Florida counties and municipalities.

The bill defines "local license" to include any license, registration, or similar permit issued by and required by a local government for a non-contractor job scope.

The bill provides that a local government may discipline someone operating under the portability protections of the bill within their jurisdiction if that person does something that would subject their own license to discipline. The original licensing jurisdiction is authorized to take additional discipline based upon the other local government's discipline.

The bill requires the Department of Business and Professional Regulation to create and maintain a local licensing information system available through the internet whereby the public may review the licensing status of individuals holding a local license. Local governments that issue local licenses will be required to provide the department information necessary to maintain the local license information system. This information includes at least the name, business name, address, license number and licensing status of the local licensee. The local government may provide the required information by establishing a link to their own locally-maintained database or by providing at least monthly the information to the department to be placed in the state-maintained system.

The bill requires a licensee who works in the jurisdiction of a local government under the portability provisions of this section to provide consumers with information that is sufficient for the consumer to access the department's local licensing information system to verify the licensee's license status in the relevant licensing jurisdiction.

Section 2

The bill provides for an effective date of October 1, 2020.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☐ N☒

If yes, explain:	N/A
Is the change consistent	

with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☐ N☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

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

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☒ N☐

Revenues:	Indeterminate
Expenditures:	Indeterminate
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation	N/A

provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☒ N☐

Revenues:	N/A
Expenditures:	The bill requires the Department of Business and Professional Regulation to create and maintain a local licensing information system available through the internet whereby the public may review the licensing status of individuals holding a local license. Recurring cost of hosting the portal in a cloud-based internet environment is estimated at $25,000-$50,000 annually.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y☒ N☐

Revenues:	Indeterminate
Expenditures:	Indeterminate
Other:	The bill provides that a person holding a valid, active local license may work within the job scope of that local license in any county or municipality of this state without having to obtain an additional local license, take an additional examination, or pay an additional license fee. Professionals operating under this expanded scope of authority may realize fee savings associated with not needing to obtain and pay for multiple licenses across multiple jurisdictions.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☒ N☐

If yes, explain impact.	The bill provides that a person holding a valid, active local license may work within the job scope of that local license in any county or municipality of this state without having to obtain an additional local license, take an additional examination, or pay an additional license fee.
Bill Section Number:	Section 1

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y☒ N☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	This bill will require the Division of Technology to create a searchable website portal for local governments to report their licensees as required monthly. The portal will also need to provide links to jurisdictions that have their own searchable database of licensees. Work effort to develop the portal is estimated at 500 hours, which can be accomplished using existing resources. In keeping with statewide objectives, the website will be hosted in an environment set up through a secure cloud-based internet provider. The recurring cost of hosting the portal in a cloud-based internet environment is estimated at $25,000-$50,000 annually.

FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y☐ N☒

If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

Division of Professions: The Division of Professions will coordinate outreach to the local governments, including linkage information from the Division of Technology, provide FAQs to the Customer Contact Center, and resolve escalations regarding global licensing. These responsibilities can be accomplished with existing resources.

OGC Rules: No additional comments.

Division of Service Operations: The impact to the Customer Contact Center is indeterminate because the Call Center may receive calls in reference to this issue.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	**OGC:** No additional comments.

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: November 26, 2019

I respectfully request that **Senate Bill #890**, relating to Local Licensing , be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/27/20
Meeting Date

890
Bill Number (if applicable)

Topic Local Licenses

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 701-3676

Email DCruz@flcities.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/27/2020 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 890

Meeting Date *Bill Number (if applicable)*

Topic SB 890 *Amendment Barcode (if applicable)*

Name Colton Madill

Job Title Deputy Legislative Affairs Director - DBPR

Address 2601 Blair Stone Road Phone 850 487 4827

Street

Tallahassee FL 32399 Email Colton.madill@myfloridacfo.com

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing DBPR

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)

1/27/20
Meeting Date

890
Bill Number (if applicable)

Topic Local Licensing

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address PO Box 10888 / 200 E College St
Street

Tallahassee
City *State* *Zip*

Phone 850-228-8940

Email fbt.tking@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Building & Construction Trades

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)

1-27-20
Meeting Date

890
Bill Number (if applicable)

Topic Local Licensing

Amendment Barcode (if applicable)

Name Laura Youmans

Job Title Legislative Counsel

Address 100 S. Monroe St
Street

Phone 291-1938

Tal 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 Association of Counties

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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)

1/27/2020
Meeting Date

SB 890
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Local Licensing

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address 200 West College Ave
Street

TLH FL
City *State* *Zip*

Phone 954-614-3363

Email decheverri@afphq.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans For Prosperity

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)

11/27/2020
Meeting Date

890
Bill Number (if applicable)

Topic Local Licensing

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Chief Lobbyist

Address 3330 Coconut Creek Parkway, Ste 200 Phone (954)465-1484
Street

Coconut Creek FL 33066 Email cbowen@associatedbuilders.org
City *State* *Zip*

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.

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

S-001 (10/14/14)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 890
FINAL ACTION: Favorable
MEETING DATE: Monday, January 27, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bracy						
X		Bradley						
X		Brandes						
	X	Braynon						
	X	Farmer						
	X	Gibson						
		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
6	3	**TOTALS**						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By Senator Perry

8-01115-20 2020890__

A bill to be entitled

An act relating to local licensing; creating s. 489.1175, F.S.; defining terms; providing that individuals who hold valid, active local licenses may work within the scope of such licenses in any local government jurisdiction without needing to meet certain additional licensing requirements; requiring licensees to provide consumers with certain information; providing that local governments have disciplinary jurisdiction over such licensees; requiring local governments to forward any disciplinary orders to a licensee's original licensing jurisdiction for further action; requiring the Department of Business and Professional Regulation to create and maintain a local licensing information system; requiring local governments to provide the department with specified information; providing an effective date.

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

Section 1. Section 489.1175, Florida Statutes, is created to read:

489.1175 Local licensing; portability.—

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

(a) "Noncontractor job scope" means any category of work that is done to real property and that does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o). The term includes, but is not

limited to, the performance or installation of awnings, cabinetry, carpentry, caulking, debris removal, driveways, drywall, fence and decks, flooring, garage doors, glass and glazing, gunite, gutters and downspouts, hurricane shutters, insulation, interior remodeling, irrigation, landscaping, lightning protection systems, masonry, nonelectrical signs, painting, paving, plastering, stuccoing, tennis courts, vinyl siding and ornamental or decorative iron, stone, tile, marble, granite, or terrazzo.

(b) "Local government" means a county or municipality within this state.

(c) "Local license" means a license, registration, or similar permit issued and required by a local government for a noncontractor job scope.

(2)(a) An individual who holds a valid, active local license may work within the scope of such license in any local government jurisdiction in addition to the original licensing jurisdiction without having to obtain an additional local license, take an additional local license examination, or pay an additional local license fee. This section does not affect the ability of any local government to collect business taxes, subject to s. 205.065.

(b) A licensee who works in the jurisdiction of a local government under the portability protections of this section shall provide a consumer who seeks his or her services information sufficient for the consumer to access the department's local licensing information under subsection (4), so that the consumer may verify his or her license status in the relevant licensing jurisdiction.

(3) A local government has the same disciplinary jurisdiction over an individual operating outside his or her original licensing jurisdiction pursuant to this section as it has over its own local licensees, including, but not limited to, the authority to suspend or revoke an individual licensee's ability to operate within its jurisdiction. A local government shall forward any disciplinary orders to an individual's original licensing jurisdiction for further action, as appropriate. The original licensing jurisdiction may take action against a licensee for being disciplined by another local licensing jurisdiction or for violating the original licensing jurisdiction's noncontractor job scope in another jurisdiction.

(4)(a) The department shall create and maintain an online local licensing information system whereby the public may review the licensing status of individuals holding a local license.

(b) A local government that issues a local license must provide information to the department which is necessary to maintain the local licensing information system with respect to the jurisdiction of such local government. Information provided must include at least the name, business name, address, license number, and licensing status of the local licensee. A local government may fulfill this obligation by maintaining its own website that the department may link to, or by providing the information at least monthly to the department.

Section 2. This act shall take effect October 1, 2020.

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 Innovation, Industry, and Technology

BILL:	CS/SB 478
INTRODUCER:	Innovation, Industry, and Technology Committee and Senator Perry
SUBJECT:	Motor Vehicle Rentals
DATE:	January 28, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	**Fav/CS**
2.			BI	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 478 amends s. 212.0606, F.S., to extend the current surcharge on the lease or rental of a motor vehicle to peer-to-peer vehicle sharing programs.

The bill creates s. 627.7483, F.S., to establish insurance and operational requirements for peer-to-peer car-sharing programs. This includes establishing definitions and requirements for: insurance coverage requirements, insurable interest, liability, exclusions from liability, contribution against indemnification, construction, notification of implications of a lien, recordkeeping, and consumer protections including disclosures, driver license verification and retention, responsibility for equipment, and automobile safety recalls.

II. Present Situation:

Section 322.38, F.S., provides driver license-related requirements for renting a motor vehicle to another person. A person may not rent a motor vehicle to any other person unless the other person is duly licensed in Florida or, if a nonresident, is licensed under the laws of the state or country of his or her residence, except a nonresident whose home state or country does not require that an operator be licensed. Prior to the rental, the rentee must inspect the driver license of the person to whom the vehicle is to be rented and verify that the driver license is unexpired.

Every person renting a motor vehicle to another is required to keep a record of the registration number of the motor vehicle, the name and address of the person to whom the vehicle is rented,

the number of the license of the renter, and the place where the license was issued. The record must be open to inspection by any police officer, or officer or employee of the department.

If a rental car company rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the motor vehicle without direct contact with an agent or employee of the rental car company, or if the renter does not execute a rental contract at the time he or she takes possession of the vehicle, the rental car company is deemed to have met the above obligations when the rental car company, at the time the renter enrolls in a membership program, master agreement, or other means of establishing use of the rental car company's services, or any time thereafter, requires the renter to verify that he or she is duly licensed and that the license is unexpired.

Section 324.021, F.S., provides minimum insurance requirements, including requirements applicable to rental vehicles. The lessor under an agreement to rent or lease a motor vehicle for a period of less than 1 year is deemed to be the owner for the purpose of determining liability for the operation of the vehicle or the acts of the operator only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the lessee or the operator of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the lessor is liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages is to be reduced by amounts actually recovered from the lessee, from the operator, and from any insurance or self-insurance covering the lessee or operator.

III. Effect of Proposed Changes:

The bill amends s. 212.0606, F.S., which establishes a surcharge on the lease or rental of a motor vehicle. It defines the terms "car-sharing service," ""motor vehicle rental company," and peer-to-peer car-sharing program," and provides for application of the surcharge to all three types of arrangements.

The bill creates s. 627.7483, F.S., to establish insurance and operational requirements for peer-to-peer car sharing programs.

Definitions

The bill provides the following definitions:

- "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car-sharing program. The term does not include ridesharing as defined in s. 341.031(9), F.S., a carpool as defined in s. 450.28(3), F.S., or the use of a motor vehicle under an agreement for a car-sharing service as defined in s. 212.0606(1), F.S.
- "Peer-to-peer car-sharing delivery period" means the period during which a shared vehicle is delivered to the location of the peer-to-peer car-sharing start time, if applicable, as documented by the governing peer-to-peer car sharing program agreement.

- "Peer-to-peer car-sharing period" means the period beginning either at the peer-to-peer car-sharing delivery period, or, if there is no peer-to-peer car-sharing delivery period, at the peer-to-peer car-sharing start time, and ending at the peer-to-peer car-sharing termination time.
- "Peer-to-peer car-sharing program" means a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. The term does not include a taxicab association or a transportation network company as defined in s. 627.748(1), F.S.
- "Peer-to-peer car-sharing program agreement" means the terms and conditions established by the peer-to-peer car-sharing program which are applicable to a shared vehicle owner and a shared vehicle driver and which govern the use of a shared vehicle through a peer-to-peer car-sharing program.
- "Peer-to-peer car-sharing start time" means the time when the shared vehicle is under the control of the shared vehicle driver, which occurs at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the peer-to-peer car-sharing program agreement.
- "Peer-to-peer car-sharing termination time" means the earliest of the following:
  - The expiration of the agreed-upon period established for the use of a shared vehicle according to the terms of the peer to-peer car-sharing program agreement, if the shared vehicle is delivered to the location agreed upon in the peer-to-peer car sharing program agreement;
  - The time the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver, as communicated through a peer-to-peer car sharing program; or
  - The time the shared vehicle owner takes possession and control of the shared vehicle.
- "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program. The term does not include a motor vehicle used for ridesharing as defined in s. 341.031(9), F.S., or a motor vehicle used for a carpool as defined in s. 450.28(3), F.S.
- "Shared vehicle driver" means an individual who is authorized by the shared vehicle owner to drive the shared vehicle under the peer-to-peer car-sharing program agreement.
- "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car-sharing program.

Insurance Requirements, Liability

Insurance Coverage Requirements, Insurable Interest,

A peer-to-peer car-sharing program must have a motor vehicle insurance policy that provides the shared vehicle owner and the shared vehicle driver during each peer-to-peer car-sharing period all of the following:

- Property damage liability coverage that meets the minimum coverage amounts required under s. 324.022, F.S.;
- Bodily injury liability coverage limits as specified in s. 324.021(7)(a) and (b), F.S.;
- Personal injury protection benefits that meet the minimum coverage amounts required under s. 627.736, F.S.; and
- Uninsured and underinsured vehicle coverage as required under s. 627.727, F.S.

The peer-to-peer car-sharing program must also ensure that the motor vehicle insurance policy:
- Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; and
- Does not exclude the use of a shared vehicle by a shared vehicle driver.

These insurance requirements may be satisfied by a motor vehicle insurance policy maintained by:
- A shared vehicle owner;
- A shared vehicle driver;
- A peer-to-peer car-sharing program; or
- A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car-sharing program.

This insurance policy is primary during each peer-to-peer car-sharing period.

If insurance maintained by a shared vehicle owner or shared vehicle driver lapses or does not provide the required coverage, the insurance maintained by the peer-to-peer car-sharing program must provide the required coverage beginning with the first dollar of a claim and must defend such claim, with the exceptions discussed below. Coverage under a motor vehicle insurance policy maintained by the peer-to-peer car-sharing program may not be dependent on another motor vehicle insurer first denying a claim, and another motor vehicle insurance policy is not required to first deny a claim.

Notwithstanding any other law to the contrary, a peer-to-peer car-sharing program has an insurable interest in a shared vehicle during the peer-to-peer car-sharing period. This interest does not create liability for a network for maintaining the required coverage.

A peer-to-peer car-sharing program may own and maintain as the named insured one or more policies of motor vehicle insurance which provide coverage for:
- Liabilities assumed by the peer-to-peer car-sharing program under a peer–to–peer car-sharing program agreement;
- Liability of the shared vehicle owner;
- Liability of the shared vehicle driver;
- Damage or loss to the shared motor vehicle; or
- Damage, loss, or injury to persons or property to satisfy the personal injury protection and uninsured and underinsured motorist coverage requirements of this section.

When the required insurance is maintained by a peer-to-peer car-sharing program, the insurance may be provided by an insurer authorized to do business in this state which is a member of the Florida Insurance Guaranty Association or by an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation of the Financial Services Commission. A peer-to-peer car-sharing program is not transacting in insurance when it maintains this insurance.

Liability

A peer-to-peer car-sharing program assumes liability, with stated exclusions, of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the peer-to-peer car-sharing period in amounts stated in the peer-to-peer car-sharing program agreement. Such amounts may not be less than those set forth in ss. 324.021(7)(a) and (b), 324.022, 627.727, and 627.736, F.S., respectively.

This assumption of liability does not apply if a shared vehicle owner:

- Makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car-sharing program before the peer-to-peer car-sharing period in which the loss occurs; or
- Acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the peer to-peer car-sharing program agreement.

A peer-to-peer car-sharing program assumes primary liability for a claim when it is providing, in whole or in part, the minimal insurance discussed above and:

- A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and
- The peer-to-peer car-sharing program does not have available, did not retain, or fails to provide the required rental information.

The shared vehicle owner's insurer must indemnify the peer-to-peer car-sharing program to the extent of the insurer's obligation, if any, under the applicable insurance policy, if it is determined that the shared vehicle owner was in control of the shared motor vehicle at the time of the loss.

Exclusions

An authorized insurer that writes motor vehicle liability insurance in this state may exclude any coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Personal injury protection coverage;
- Uninsured and underinsured motorist coverage;
- Medical payments coverage;
- Comprehensive physical damage coverage; and
- Collision physical damage coverage.

This provision does not invalidate or limit any exclusion contained in a motor vehicle insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles made available for rent, sharing, hire, or for any business use.

Contribution against indemnification

A shared vehicle owner's motor vehicle insurer that defends or indemnifies a claim against a shared vehicle which is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car-sharing program, if the claim is made

against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the peer to-peer car-sharing period.

Construction

The bill does not limit:

- The liability of a peer-to-peer car-sharing program for any act or omission of the peer-to-peer car-sharing program which results in bodily injury to a person as a result of the use of a shared vehicle through peer-to-peer car sharing; or
- The ability of a peer-to-peer car-sharing program to seek, by contract, indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement.

Operational Requirements

Notification of Implications of a Lien

At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for peer-to-peer car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car-sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

Recordkeeping

A peer-to-peer car-sharing program must:

- Collect and verify records pertaining to the use of a shared vehicle, including, but not limited to, the times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner.
- Retain these records for a period of not less than the applicable personal injury statute of limitations.
- Provide the information contained in the records upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation.

Consumer Protections

Disclosures

Each peer-to-peer car-sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

- Any right of the peer-to-peer car-sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement;
- That a motor vehicle insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car-sharing program;

- That the peer-to-peer car-sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each peer-to-peer car-sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the peer-to-peer car-sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;
- The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;
- That the shared vehicle owner's motor vehicle liability insurance may exclude coverage for a shared vehicle;
- An emergency telephone number of the personnel capable of fielding calls for roadside assistance and other customer service inquiries; and
- Any conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.

Driver License Verification and Retention

A peer-to-peer car-sharing program may not enter into a peer-to-peer car-sharing program agreement with a driver unless the driver:

- Holds a driver license issued under ch. 322, F.S., which authorizes the driver to drive vehicles of the class of the shared vehicle;
- Is a nonresident who:
  - Holds a driver license issued by the state or country of the driver's residence which authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and
  - Is at least the same age as that required of a resident to drive; or
- Is otherwise specifically authorized by the Department of Highway Safety and Motor Vehicles to drive vehicles of the class of the shared vehicle.

A peer-to-peer car-sharing program must keep a record of:

- The name and address of the shared vehicle driver;
- The driver license number of the shared vehicle driver and of any other person who will operate the shared vehicle; and
- The place of issuance of the driver license.

Responsibility for Equipment

A peer-to-peer car sharing program has sole responsibility for any equipment that is put in or on the shared vehicle to monitor or facilitate the peer-to-peer car-sharing transaction, including a GPS system. The peer-to-peer car-sharing program must indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the peer-to-peer car-sharing period which is not caused by the shared vehicle owner. The peer-to-peer car-sharing program may seek indemnity from the shared vehicle driver for any damage to or loss of such equipment which occurs outside of the peer-to-peer car-sharing period.

Automobile Safety Recalls

At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for peer-to-peer car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must:

- Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and
- Notify the shared vehicle owner that if the shared vehicle owner:
- Has received an actual notice of a safety recall on the vehicle, he or she may not make a vehicle available as a shared vehicle on the peer-to-peer car-sharing program until the safety recall repair has been made;
- Receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car-sharing program, he or she must remove the shared vehicle's availability on the peer-to-peer car-sharing program as soon as practicable after receiving the notice of the safety recall and until the safety recall repair has been made; or
- Receives an actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, he or she must notify the peer-to-peer car-sharing program about the safety recall as soon as practicably possible after receiving the notice of the safety recall so that he or she may address the safety recall repair.

The bill takes effect July 1, 2020.

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:

Section 19, Art. VII of the State Constitution limits the authority of the legislature to enact legislation that imposes or raises a state tax or fee by requiring such legislation to be approved by a 2/3 vote of each chamber of the legislature. Such state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject.

For purposes of this limitation, the term "raise" is defined to mean:

- To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

- To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- To decrease or eliminate a state tax or fee exemption or credit.

Section 212.0606, F.S., currently requires payment of a rental car surcharge as provided. Under subsection (1), except as provided for a car-sharing service, a surcharge of $2 per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry fewer than nine passengers regardless of whether the motor vehicle is licensed in this state.

Under subsection (2), a surcharge of $1 per usage is imposed on a member of a car-sharing service who uses a motor vehicle as described in subsection (1) for less than 24 hours pursuant to an agreement with the car-sharing service. A surcharge of $2 per day or any part of a day is imposed on a member of a car-sharing service who uses the same motor vehicle for 24 hours or more. For purposes of subsection (2), the term "car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, 7 days per week;
- Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;
- On an hourly basis or for a shorter increment of time;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car-sharing service or its affiliates.

Section 212.02, F.S., provides definitions, including, in pertinent part:

- "Lease," "let," or "rental" means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property (s. 212.02(10)(g), F.S.); and
- "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including motor vehicles (s. 212.02(19), F.S.).

The bill amends section 212.02, F.S., by creating definitions for "motor vehicle rental company" and "peer-to-peer car-sharing program" and imposing the current surcharge of $2 per day or any part of a day upon the lease or rental of a motor vehicle by either entity. The bill retains the current surcharge provisions for a car-sharing service.

There are two possible interpretations of the effect of these provisions, and two possible applications of the constitutional limitation. The bill could be interpreted as applying an existing surcharge on all car rentals to a new type of method of or process for renting a car, with no raise in a tax or fee and the constitutional limitation arguably inapplicable. Alternatively, the bill could be interpreted as applying a surcharge to an industry not

currently subject to the surcharge, and not currently paying the surcharge, with the constitutional limitation arguably applicable.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Office of Insurance Regulation noted some issues regarding some of the insurance provisions in the bill. The office stated:

> It is unclear from the language of Section 2 of the bill which party's insurance policy would have primary responsibility in an accident, in what amounts, and during which phases of the program. This should be clarified in order to avoid unnecessary litigation between the peer-to-peer vehicle driver, owner, and program and to ensure that appropriate coverage is available for injured Floridians. It may be desirable to consider a structure similar to that provided in s. 627.748, which governs insurance requirements for transportation network companies, such as Uber.
>
> This bill is attempting to allow exclusions of coverage in all coverage parts for the peer-to-peer vehicle owner. These exclusions would be acceptable if some other party had responsibility for the excluded coverage, i.e., if the language of the bill clearly required that the program provide this coverage instead. However, it is not clear whether this requirement is imposed by the bill's language as it is currently written.
>
> If no other party is required to have the coverage excluded from the peer-to-peer vehicle owner's policy, other issues will arise as follows: The bill allows for the exclusion of bodily injury liability and physical damage liability coverage from the vehicle owner's policy. These coverages represent the minimum financial responsibility requirement that an individual must demonstrate for protection of other drivers in order to register a

vehicle in Florida. Allowing these coverages to be excluded from the owner's policy without providing for the coverage from some other party's policy (e.g., the program's policy) represents a significant shift from the public policy decision that all vehicles must be accountable for the minimums required by the Florida Financial Responsibility Law in the event of an accident, thereby greatly increasing the number of accidents in which the at-fault driver is effectively uninsured. In addition, allowing the exclusion of uninsured motorist coverage from the owner's policy without providing for this coverage from some other party means the owner may no longer have uninsured motorist coverage—the only coverage available in an accident with an uninsured motorist—for any physical damage to the vehicle or for any bodily injuries caused by the uninsured motorist. The same would be true for the other excluded coverage parts: the owner would no longer have coverage for the excluded coverage parts and the bill is not clear as to whether any other party is required to provide that excluded coverage. Under the current version of the bill, these would be the results even when the vehicle is not being used as a peer-to-peer vehicle (because the current language allows for the exclusions without specifying that the exclusions only apply when the vehicle is being used as a peer-to-peer vehicle).[1]

VIII. Statutes Affected:

This bill substantially amends section 212.0606 of the Florida Statutes.

This bill creates section 627.7483 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 Innovation, Industry, and Technology on January 27, 2020:
The committee substitute:

- Revises the provisions relating to the car rental surcharge;
- Provides that the car-sharing service shall collect the surcharge; and
- Revises and deletes several definitions including revising the definition of peer-to-peer car sharing program.

The committee substitute also revises the insurance coverage requirements. As filed, the bill required the program to insure third parties, vehicle owners, and drivers in the minimum amounts in s. 324.021(7), F.S., which are: in the amount of $10,000 because of bodily injury to, or death of, one person in one crash; in the amount of $20,000 because of bodily injury to, or death of, two or more persons in one crash; and in the amount of $10,000 because of injury to, or destruction of, property of others in any one crash. The committee substitute replaces these requirements with:

- Property damage liability coverage in the minimum coverage amounts in s. 324.022, F.S., which are:
  - At least $10,000 in one accident; or
  - At least $30,000 for combined property and bodily injury liability for one crash;

[1] *2020 Agency Legislative Bill Analysis for SB 478*, Office of Insurance Regulation, November 1, 2019 at page 5.

- Bodily injury liability coverage limits under s. 324.021(7)(a) and (b). F.S., which are:
  - In the amount of $10,000 for bodily injury to, or death of, one person in any one crash; and
  - In the amount of $20,000 for bodily injury to, or death of, two or more persons in any one crash;
- Personal injury protection benefits that meet the minimum coverage amounts required under s. 627.736, F.S., which are a limit of $10,000 in medical and disability benefits and $5,000 in death benefits resulting from bodily injury, sickness, disease, or death; and
- Uninsured and underinsured vehicle coverage under s. 627.727, F.S., which is not less than the limits of bodily injury liability insurance purchased by the named insured, or such lower limit complying with the rating plan of the company as may be selected by the named insured.

B. Amendments:

None.

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: November 7, 2019

I respectfully request that **Senate Bill #478**, relating to Motor Vehicle Rentals, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

File signed original with committee office

S-020 (03/2004)

Request to Speak last on Amendment

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/27/20
Meeting Date

478
Bill Number (if applicable)

DE 380208
Amendment Barcode (if applicable)

Topic Motor Vehicle Rentals

Name George Feijoo ("Fay-Jew")

Job Title Consultant - Floridian Partners

Address 108 S. Monroe St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 305 720 7079

Email gfeijoo@flapartners.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Avail Car Sharing Service

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)

11/27/20
Meeting Date

478
Bill Number (if applicable)

380208
Amendment Barcode (if applicable)

Topic Peer To Peer

Name Bill Cotterall

Job Title

Address 218 S monroe ST
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.

S-001 (10/14/14)

Last speaker

THE FLORIDA SENATE

APPEARANCE RECORD

1/27/2025
Meeting Date

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

478
Bill Number (if applicable)

Topic SOP the

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title

Address 101 E College Avenue
Street
Tall FL 32301
City *State* *Zip*

Phone

Email dughi1@gtlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Enterprise Holdings

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)

1-27-20
Meeting Date

478
Bill Number (if applicable)

Topic MOTOR VEHICLE RENTALS

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title LEGISLATIVE COUNSEL

Address 100 S. MONROE
Street

Phone 294-1838

TAL 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 ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/29/2020 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 478

Meeting Date *Bill Number (if applicable)*

Topic Motor Vehicle Rentals *Amendment Barcode (if applicable)*

Name CARL SZABO

Job Title Vice President

Address 1401 K St NW Suite 502 Phone 202-420-7485

Street

Washington DC 20005 Email CSzabo@netchoice.org

City *State* *Zip*

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

(The Chair will read this information into the record.)

Representing NetChoice

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)

1-27-20
Meeting Date

478
Bill Number (if applicable)

Topic Peer to Peer Rentals

Amendment Barcode (if applicable)

Name FRED DICKINSON

Job Title Poole McKinley

Address 106 E College Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-681-1990

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Hertz

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)

1/27/20
Meeting Date

478
Bill Number (if applicable)

Topic Motor Vehicle Rentals

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N Adams
Street

Phone 222-7173

TLH FL 32301
City *State* *Zip*

Email bbevis@arc

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/27/2020
Meeting Date

478
Bill Number (if applicable)

Topic RENTAL CARS

Amendment Barcode (if applicable)

Name DAVID E. RAMBA

Job Title

Address 120 S. MONROE ST.
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850.443.4444

Email david@rambalaw.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA AUTOMOBILE DEALERS 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)

2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Office of Insurance Regulation

BILL INFORMATION	
BILL NUMBER:	SB 478
BILL TITLE:	Motor Vehicle Rentals
BILL SPONSOR:	Perry
EFFECTIVE DATE:	7/1/2020

COMMITTEES OF REFE
1) Innovation, Industry, and Technolo
2) Banking and Insurance
3) Appropriations
4)
5)

CURRENT COMMITTEE
Innovation, Industry, and Technology

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLA	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	HB 377
SPONSOR:	Latvala

Is this bill part of an agency package?
No.

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	November 1, 2019
LEAD AGENCY ANALYST:	Sheryl Parker
ADDITIONAL ANALYST(S):	Michelle Brewer, Sandra Starnes, Susanne Murphy
LEGAL ANALYST:	Sarah Berner, Tyler Parks
FISCAL ANALYST:	Richard Fox

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill requires specified surcharges to be imposed upon the lease or rental of a certain motor vehicle if the lease or rental is facilitated by a car-sharing service, a motor vehicle rental company, or a peer-to-peer vehicle-sharing program under certain circumstances; provides financial responsibility requirements for peer-to-peer vehicle-sharing programs; authorizes a peer-to-peer vehicle-sharing program to own and maintain as the named insured policies of motor vehicle liability insurance which provide specified coverage, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

2. EFFECT OF THE BILL:

This bill amends Section 212.0606, Florida Statutes, regarding rental car surcharges. The section is reformatted and "Dealer", "Motor vehicle rental company", and "Peer-to-pear vehicle-sharing program" are defined or added as defined in s. 627.747.

This bill creates s. 627.747, F.S., relating to a peer-to-peer vehicle-sharing program. This section:

- Adds the following definitions:
  - (1)(a) "Peer-to-peer vehicle" or "vehicle"
  - (1)(b) "Peer-to-peer vehicle delivery period" or "delivery period" ○ (1)(c) "Peer-to-peer vehicle driver" or "driver" ○ (1)(d) "Peer-to-peer vehicle owner" or "owner" ○ (1)(e) "Peer-to-peer vehicle sharing" or "sharing"
  - (1)(f) "Peer-to-peer vehicle-sharing agreement" or "agreement" ○ (1)(g) "Peer-to-peer vehicle-sharing period" or "sharing period" ○ (1)(h) "Peer-to-peer vehicle-sharing program" or "program" ○ (1)(i) "Peer-to-peer vehicle-sharing start time" or "start time"
  - (1)(j) "Peer-to-peer vehicle-sharing termination time" or "termination time"
- Defines "Peer-to-peer vehicle-sharing program" or "program" to mean "a business platform that connects peer-to-peer vehicle owners with peer-to-peer vehicle drivers to enable the sharing of peer-to-peer vehicles for financial consideration."
- (2) Adds a financial responsibility requirement where the peer-to-peer vehicle-sharing program assumes the liability of a peer-to-peer vehicle owner, except under certain circumstances, for bodily injury (BI) or property damage (PD) to third parties or uninsured and underinsured motorist (UM) or personal injury protection (PIP) losses during the vehicle-sharing period.
  - (2)(e) The insurance requirement may be satisfied by policy maintained by a peer-to-peer vehicle owner, a peer-to-peer vehicle driver, and/or a peer-to-peer vehicle-sharing program.
  - (2)(j) The coverage cannot be dependent upon another policy denying a claim.

- (5) Requires the peer-to-peer vehicle-sharing program to collect, verify, and retain records for at least 3 years and provide them upon request.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☐ N☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y☐ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☐ N☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

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

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☐ N☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☐ N☒

Revenues:	
Expenditures:	No fiscal impact to OIR
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y☐ N☒

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☐ N☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y☐ N☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y☐ N☒

If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

Lines 94-99 add a definition for "dealer." This could potentially include more people than originally considered by use of the non-defined term.

Lines 100-01 tie the newly added peer-to-peer vehicle-sharing language to a definition provided in a new statute.

Line 104 removes the requirement a vehicle be licensed for hire to fall under this statute.

Lines 107-11 tie the surcharge required by this statute to vehicles leased through a car-sharing service, peer-to-peer service, or rental company, and take away the broader "licensed for hire" tie.

Line 191 starts a section introducing a statute specific to peer-to-peer vehicle-sharing regulations. The definition makes it clear this is for a vehicle used nonexclusively for this purpose, eliminating any vehicle that may solely be used for peer-topeer vehicle sharing.

Lines 198-203 define the delivery period, which is of some concern as this could be during a time when the peer-to-peer vehicle owner (i.e., the insured) is still in control of the vehicle. The Office has typically requested an exception to exclusions for when a vehicle is being operated by the named insured or family member. Later, in lines 231-36, the start time is clarified as when the driver renting the vehicle is in control, or once the start time in the contract has been reached. There could be some ambiguity between these two sections.

Lines 302-07 mention that a peer-to-peer vehicle owner would be liable to reimburse the vehicle-sharing program in the event of a claim when the owner was in charge of the vehicle; this could include an accident occurring during the delivery period, which could be ambiguous. If the intent is to include the delivery period in the agreement, the owner should not be held liable if the accident occurs during that time, if that timeframe is used as a means at which to start the exclusion of coverage from a private passenger auto policy.

Lines 383-96 grant the peer-to-peer program an insurable interest in the peer-to-peer vehicle, which could cause issues.

Lines 439-65 discuss vehicle recalls and how the use of the peer-to-peer vehicle should be handled if a recall is identified. It is unclear what the repercussions are if the company fails to notify the insured.

It is unclear from the language of Section 2 of the bill which party's insurance policy would have primary responsibility in an accident, in what amounts, and during which phases of the program. This should be clarified in order to avoid unnecessary litigation between the peer-to-peer vehicle driver, owner, and program and to ensure that appropriate coverage is available for injured Floridians. It may be desirable to consider a structure similar to that provided in s. 627.748, which governs insurance requirements for transportation network companies, such as Uber.

As with Section 627.748, F.S., this bill in lines 347-53 is attempting to allow exclusions of coverage in all coverage parts for the peer-to-peer vehicle owner. These exclusions would be acceptable if some other party had responsibility for the excluded coverage, i.e., if the language of the bill clearly required that the program provide this coverage instead. However, it is not clear whether this requirement is imposed by the bill's language as it is currently written.

If no other party is required to have the coverage excluded from the peer-to-peer vehicle owner's policy, other issues will arise as follows: The bill allows for the exclusion of bodily injury liability and physical damage liability coverage from the vehicle owner's policy. These coverages represent the minimum financial responsibility requirement that an individual must demonstrate for protection of other drivers in order to register a vehicle in Florida. Allowing these coverages to be excluded from the owner's policy without providing for the coverage from some other party's policy (e.g., the program's policy) represents a significant shift from the public policy decision that all vehicles must be accountable for the minimums required by the Florida Financial Responsibility Law in the event of an accident, thereby greatly increasing the number of accidents in which the at-fault driver is effectively uninsured. In addition, allowing the exclusion of uninsured motorist coverage from the owner's policy without providing for this coverage from some other party means the owner may no longer have uninsured motorist coverage—the only coverage available in an accident with an uninsured motorist—for any physical damage to the vehicle or for any bodily injuries caused by the uninsured motorist. The same would be true for the other excluded coverage parts: the owner would no longer have coverage for the excluded coverage parts and the bill is not clear as to whether any other party is required to provide that excluded coverage. Under the current version of the bill, these would be the results even when the vehicle is not being used as a peer-to-peer vehicle (because the current language allows for the exclusions without specifying that the exclusions only apply when the vehicle is being used as a peer-to-peer vehicle).

It is likely this bill would create substantial form filings, as companies would want to expand current exclusionary language, or adopt new language or policy types based on the new statute.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 478
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 27, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE			1/27/2020 1 Amendment 380208 Perry					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Bracy						
X		Bradley						
		Brandes						
X		Braynon						
X		Farmer						
X		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
9	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Innovation, Industry, and Technology; and Senator Perry

580-02633-20 2020478c1

A bill to be entitled

An act relating to motor vehicle rentals; amending s. 212.0606, F.S.; defining the terms "motor vehicle rental company" and "peer-to-peer car-sharing program"; revising the applicability of the rental car surcharge; imposing the surcharge on certain motor vehicle leases or rentals by a peer-to-peer car-sharing program; specifying who must collect the surcharge; making technical changes; creating s. 627.7483, F.S.; defining terms; specifying motor vehicle insurance requirements for shared vehicles on a peer-to-peer car-sharing program; providing construction relating to such insurance; requiring a peer-to-peer car-sharing program to assume specified liability of a shared vehicle owner; providing exceptions; requiring a shared vehicle owner's insurer to indemnify the peer-to-peer car-sharing program under certain circumstances; authorizing a shared vehicle owner's motor vehicle insurer to exclude certain coverages and the duty to defend or indemnify certain claims; authorizing such insurer to seek contribution against the peer-to-peer car-sharing program's insurer under certain circumstances; requiring a peer-to-peer car-sharing program to notify the shared vehicle owner of certain lien information; specifying recordkeeping and record disclosure requirements for peer-to-peer car-sharing programs; specifying disclosure requirements for peer-to-peer car-sharing program agreements; specifying shared

vehicle driver license requirements; specifying liability for damage to certain equipment in or on a shared vehicle; specifying requirements for peer-to-peer car-sharing programs relating to safety recalls on shared vehicles; providing construction; providing an effective date.

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

Section 1. Section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

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

(a) "Car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application fee or a membership fee and provides member access to motor vehicles:

1. Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;

2. Twenty-four hours per day, 7 days per week;

3. Only through automated means, including, but not limited to, a smartphone application or an electronic membership card;

4. On an hourly basis or for a shorter increment of time;

5. Without a separate fee for refueling the motor vehicle;

6. Without a separate fee for minimum financial responsibility liability insurance; and

7. Owned or controlled by the car-sharing service or its affiliates.

(b) "Motor vehicle rental company" means an entity that is in the business of providing motor vehicles to the public under a rental agreement for financial consideration.

(c) "Peer-to-peer car-sharing program" has the same meaning as in s. 627.7483(1).

(2) Except as provided in subsection (3) ~~(2)~~, a surcharge of $2 per day or any part of a day is imposed upon the lease or rental by a motor vehicle rental company or a peer-to-peer car-sharing program of a motor vehicle that is licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state, for financial consideration without transfer of the title of the motor vehicle. The surcharge is imposed regardless of whether the lease or rental occurs in person or through digital means. The surcharge applies to only the first 30 days of the term of a lease or rental and must be collected by the motor vehicle rental company or the peer-to-peer car-sharing program. The surcharge is subject to all applicable taxes imposed by this chapter.

(3)~~(2)~~ A member of a car-sharing service who uses a motor vehicle as described in subsection (2) ~~(1)~~ for less than 24 hours pursuant to an agreement with the car-sharing service shall pay a surcharge of $1 per usage. A member of a car-sharing service who uses the same motor vehicle for 24 hours or more shall pay a surcharge of $2 per day or any part of a day as provided in subsection (2) ~~(1)~~. The car-sharing service shall collect the surcharge ~~For purposes of this subsection, the term "car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an~~

~~application or membership fee and provides member access to motor vehicles:~~

~~(a) Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;~~

~~(b) Twenty-four hours per day, 7 days per week;~~

~~(c) Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;~~

~~(d) On an hourly basis or for a shorter increment of time;~~

~~(e) Without a separate fee for refueling the motor vehicle;~~

~~(f) Without a separate fee for minimum financial responsibility liability insurance; and~~

~~(g) Owned or controlled by the car-sharing service or its affiliates~~. The surcharge imposed under this subsection does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or airport authority.

(4) ~~(3)~~ (a) Notwithstanding s. 212.20, and less the costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. For the purposes of this subsection, the term "proceeds of this surcharge" ~~of the surcharge~~ means all funds collected and received by the department under this section, including interest and penalties on delinquent surcharges. The department

shall provide the Department of Transportation rental car surcharge revenue information for the previous state fiscal year by September 1 of each year.

(b) Notwithstanding any other ~~provision of~~ law, the proceeds deposited in the State Transportation Trust Fund shall be allocated on an annual basis in the Department of Transportation's work program to each department district, except the Turnpike District. The amount allocated to each district shall be based on the amount of proceeds attributed to the counties within each respective district.

(5)(a) ~~(4)~~ Except as provided in this section, the department shall administer, collect, and enforce the surcharge as provided in this chapter.

(b) ~~(a)~~ The department shall require a dealer ~~dealers~~ to report surcharge collections according to the county to which the surcharge was attributed. For purposes of this section, the surcharge shall be attributed to the county where the rental agreement was entered into.

(c) ~~(b)~~ A dealer ~~Dealers~~ who collects ~~collect~~ the rental car surcharge shall report to the department all surcharge revenues attributed to the county where the rental agreement was entered into on a timely filed return for each required reporting period. The provisions of this chapter which apply to interest and penalties on delinquent taxes apply to the surcharge. The surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 does not apply to any amount collected under this section.

(6) ~~(5)~~ The surcharge imposed by this section does not apply

to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 2. Section 627.7483, Florida Statutes, is created to read:

627.7483 Peer-to-peer car sharing.—

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

(a) "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car-sharing program. The term does not include ridesharing as defined in s. 341.031(9), a carpool as defined in s. 450.28(3), or the use of a motor vehicle under an agreement for a car-sharing service as defined in s. 212.0606(1).

(b) "Peer-to-peer car-sharing delivery period" means the period during which a shared vehicle is delivered to the location of the peer-to-peer car-sharing start time, if applicable, as documented by the governing peer-to-peer car-sharing program agreement.

(c) "Peer-to-peer car-sharing period" means the period beginning either at the peer-to-peer car-sharing delivery period, or, if there is no peer-to-peer car-sharing delivery period, at the peer-to-peer car-sharing start time, and ending at the peer-to-peer car-sharing termination time.

(d) "Peer-to-peer car-sharing program" means a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. The term does not include a taxicab association or a transportation network company as defined in s. 627.748(1).

(e) "Peer-to-peer car-sharing program agreement" means the terms and conditions established by the peer-to-peer car-sharing program which are applicable to a shared vehicle owner and a shared vehicle driver and which govern the use of a shared vehicle through a peer-to-peer car-sharing program.

(f) "Peer-to-peer car-sharing start time" means the time when the shared vehicle is under the control of the shared vehicle driver, which occurs at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the peer-to-peer car-sharing program agreement.

(g) "Peer-to-peer car-sharing termination time" means the earliest of the following:

1. The expiration of the agreed-upon period established for the use of a shared vehicle according to the terms of the peer-to-peer car-sharing program agreement, if the shared vehicle is delivered to the location agreed upon in the peer-to-peer car-sharing program agreement;

2. The time the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver, as communicated through a peer-to-peer car-sharing program; or

3. The time the shared vehicle owner takes possession and control of the shared vehicle.

(h) "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program. The term does not include a motor vehicle used for ridesharing as defined in s. 341.031(9) or a motor vehicle used for a carpool as defined in s. 450.28(3).

(i) "Shared vehicle driver" means an individual who is

authorized by the shared vehicle owner to drive the shared vehicle under the peer-to-peer car-sharing program agreement.

(j) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car-sharing program.

(2) INSURANCE COVERAGE REQUIREMENTS.—

(a)1. A peer-to-peer car-sharing program shall ensure during each peer-to-peer car-sharing period that the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle insurance policy that provides all of the following:

a. Property damage liability coverage that meets the minimum coverage amounts required under s. 324.022.

b. Bodily injury liability coverage limits as specified in s. 324.021(7)(a) and (b).

c. Personal injury protection benefits that meet the minimum coverage amounts required under s. 627.736.

d. Uninsured and underinsured vehicle coverage as required under s. 627.727.

2. The peer-to-peer car-sharing program shall also ensure that the motor vehicle insurance policy under subparagraph 1.:

a. Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car-sharing program; and

b. Does not exclude the use of a shared vehicle by a shared vehicle driver.

(b)1. The insurance requirements under paragraph (a) may be satisfied by a motor vehicle insurance policy maintained by:

a. A shared vehicle owner;

b. A shared vehicle driver;

c. A peer-to-peer car-sharing program; or

d. A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car-sharing program.

2. The insurance policy maintained in subparagraph 1. which satisfies the insurance requirements under paragraph (a) is primary during each peer-to-peer car-sharing period.

3.a. If the insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subparagraph 1. lapses or does not provide the coverage required under paragraph (a), the insurance maintained by the peer-to-peer car-sharing program must provide the coverage required under paragraph (a) beginning with the first dollar of a claim and must defend such claim, except under circumstances as set forth in subparagraph (3)(a)2.

b. Coverage under a motor vehicle insurance policy maintained by the peer-to-peer car-sharing program may not be dependent on another motor vehicle insurer first denying a claim, and another motor vehicle insurance policy is not required to first deny a claim.

c. Notwithstanding any other law to the contrary, a peer-to-peer car-sharing program has an insurable interest in a shared vehicle during the peer-to-peer car-sharing period. This sub-subparagraph does not create liability for a network for maintaining the coverage required under paragraph (a) and under this paragraph, if applicable.

d. A peer-to-peer car-sharing program may own and maintain as the named insured one or more policies of motor vehicle

insurance which provide coverage for:

(I) Liabilities assumed by the peer-to-peer car-sharing program under a peer-to-peer car-sharing program agreement;

(II) Liability of the shared vehicle owner;

(III) Liability of the shared vehicle driver;

(IV) Damage or loss to the shared motor vehicle; or

(V) Damage, loss, or injury to persons or property to satisfy the personal injury protection and uninsured and underinsured motorist coverage requirements of this section.

e. Insurance required under paragraph (a), when maintained by a peer-to-peer car-sharing program, may be provided by an insurer authorized to do business in this state which is a member of the Florida Insurance Guaranty Association or by an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the office. A peer-to-peer car-sharing program is not transacting in insurance when it maintains the insurance required under this section.

(3) LIABILITIES AND INSURANCE EXCLUSIONS.—

(a) *Liability.*—

1. A peer-to-peer car-sharing program shall assume liability, except as provided in subparagraph 2., of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the peer-to-peer car-sharing period in amounts stated in the peer-to-peer car-sharing program agreement. Such amounts may not be less than those set forth in ss. 324.021(7)(a) and (b), 324.022, 627.727, and 627.736, respectively.

2. The assumption of liability under subparagraph 1. does not apply if a shared vehicle owner:

a. Makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car-sharing program before the peer-to-peer car-sharing period in which the loss occurs; or

b. Acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the peer-to-peer car-sharing program agreement.

3. A peer-to-peer car-sharing program shall assume primary liability for a claim when it is providing, in whole or in part, the insurance required under paragraph (2)(a) and:

a. A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

b. The peer-to-peer car-sharing program does not have available, did not retain, or fails to provide the information required under subsection (5).

The shared vehicle owner's insurer shall indemnify the peer-to-peer car-sharing program to the extent of the insurer's obligation, if any, under the applicable insurance policy if it is determined that the shared vehicle owner was in control of the shared motor vehicle at the time of the loss.

(b) *Exclusions in motor vehicle insurance policies.*—An authorized insurer that writes motor vehicle liability insurance in this state may exclude any coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle insurance policy, including, but not limited to:

1. Liability coverage for bodily injury and property

damage;

2. Personal injury protection coverage;

3. Uninsured and underinsured motorist coverage;

4. Medical payments coverage;

5. Comprehensive physical damage coverage; and

6. Collision physical damage coverage.

This paragraph does not invalidate or limit any exclusion contained in a motor vehicle insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(c) *Contribution against indemnification.*—A shared vehicle owner's motor vehicle insurer that defends or indemnifies a claim against a shared vehicle which is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car-sharing program if the claim is made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the peer-to-peer car-sharing period.

(4) NOTIFICATION OF IMPLICATIONS OF LIEN.—At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for peer-to-peer car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car-sharing program, including the use without physical damage coverage, may violate

the terms of the contract with the lienholder.

(5) RECORDKEEPING.—A peer-to-peer car-sharing program shall:

(a) Collect and verify records pertaining to the use of a shared vehicle, including, but not limited to, the times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner.

(b) Retain the records in paragraph (a) for a period of not less than the applicable personal injury statute of limitations.

(c) Provide the information contained in the records under paragraph (a) upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation.

(6) CONSUMER PROTECTIONS.—

(a) *Disclosures.*—Each peer-to-peer car-sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

1. Any right of the peer-to-peer car-sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement.

2. That a motor vehicle insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car-sharing program.

3. That the peer-to-peer car-sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each peer-to-peer car-sharing

period and that, for any use of the shared vehicle by the shared vehicle driver after the peer-to-peer car-sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage.

4. The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver.

5. That the shared vehicle owner's motor vehicle liability insurance may exclude coverage for a shared vehicle.

6. An emergency telephone number of the personnel capable of fielding calls for roadside assistance and other customer service inquiries.

7. Any conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.

(b) *Driver license verification and data retention.*—

1. A peer-to-peer car-sharing program may not enter into a peer-to-peer car-sharing program agreement with a driver unless the driver:

a. Holds a driver license issued under chapter 322 which authorizes the driver to drive vehicles of the class of the shared vehicle;

b. Is a nonresident who:

(I) Holds a driver license issued by the state or country of the driver's residence which authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(II) Is at least the same age as that required of a

resident to drive; or

c. Is otherwise specifically authorized by the Department of Highway Safety and Motor Vehicles to drive vehicles of the class of the shared vehicle.

2. A peer-to-peer car-sharing program shall keep a record of:

a. The name and address of the shared vehicle driver;

b. The driver license number of the shared vehicle driver and of any other person who will operate the shared vehicle; and

c. The place of issuance of the driver license.

(c) *Responsibility for equipment.*—A peer-to-peer car-sharing program has sole responsibility for any equipment that is put in or on the shared vehicle to monitor or facilitate the peer-to-peer car-sharing transaction, including a GPS system. The peer-to-peer car-sharing program shall indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the peer-to-peer car-sharing period which is not caused by the shared vehicle owner. The peer-to-peer car-sharing program may seek indemnity from the shared vehicle driver for any damage to or loss of such equipment which occurs outside of the peer-to-peer car-sharing period.

(d) *Motor vehicle safety recalls.*—At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for peer-to-peer car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must:

1. Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made;

and

2. Notify the shared vehicle owner that if the shared vehicle owner:

a. Has received an actual notice of a safety recall on the vehicle, he or she may not make a vehicle available as a shared vehicle on the peer-to-peer car-sharing program until the safety recall repair has been made.

b. Receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car-sharing program, he or she must remove the shared vehicle's availability on the peer-to-peer car-sharing program as soon as practicable after receiving the notice of the safety recall and until the safety recall repair has been made.

c. Receives an actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, he or she must notify the peer-to-peer car-sharing program about the safety recall as soon as practicably possible after receiving the notice of the safety recall so that he or she may address the safety recall repair.

(7) CONSTRUCTION.—This section does not limit:

(a) The liability of a peer-to-peer car-sharing program for any act or omission of the peer-to-peer car-sharing program which results in the bodily injury to a person as a result of the use of a shared vehicle through peer-to-peer car sharing; or

(b) The ability of a peer-to-peer car-sharing program to seek by contract indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement.

Section 3. This act shall take effect October 1, 2020.

CourtSmart Tag Report

Room: EL 110 **Case No.:** **Type:**
Caption: Senate Committee on Innovation, Industry and Technology **Judge:**

Started: **1/27/2020 1:35:18 PM**
Ends: **1/27/2020 3:14:21 PM** **Length: 01:39:04**

1:35:16 PM Meeting called to order by Chair Simpson
1:35:18 PM Roll call by AA Lynn Koon
1:35:26 PM Quorum present
1:36:06 PM Pledge of Allegiance
1:36:10 PM Comments from Chair Simpson
1:36:24 PM Introduction of Tab 1 by Chair Simpson
1:36:56 PM Explanation of SB 1154, Community Associations by Senator Baxley
1:37:11 PM Introduction of Amendment Barcode No. 632672 by Chair Simpson
1:37:26 PM Explanation of Amendment by Senator Baxley
1:38:15 PM Question from Senator Benacquisto
1:38:21 PM Response from Senator Baxley
1:38:58 PM Question from Senator Passidomo
1:39:03 PM Response from Senator Baxley
1:40:18 PM Question from Senator Brandes
1:40:22 PM Response from Senator Baxley
1:41:48 PM Pete Dunbar, Real Property, Probate & Trust Law Section waives in support
1:42:04 PM Closure waived
1:42:07 PM Amendment adopted
1:42:20 PM Travis Moore, Community Associations Institute & First Service Residential waives in support
1:42:33 PM Speaker Louis Biron, Insurance Agent, Community Associations Institute in support
1:44:37 PM Question from Senator Brandes
1:44:43 PM Response from Mr. Biron
1:45:49 PM Mark Anderson, Chief Executive Officers of Management Companies waives in support
1:46:11 PM Question from Senator Bradley
1:46:27 PM Response from Chair Simpson
1:47:02 PM Response from Senator Baxley
1:47:37 PM Response from Mr. Moore
1:48:22 PM Question from Senator Benacquisto
1:48:33 PM Response from Mr. Moore
1:49:25 PM Follow-up question from Senator Benacquisto
1:49:34 PM Response from Mr. Moore
1:50:05 PM Question from Senator Brandes
1:50:09 PM Response from Mr. Biron
1:50:56 PM Response from Senator Brandes
1:51:24 PM Senator Passidomo in debate
1:52:30 PM Senator Bradley in debate
1:53:35 PM Senator Baxley in closure
1:53:41 PM Roll call by AA
1:54:21 PM CS/SB 1154 reported favorably
1:54:40 PM Introduction of Tab 2 by Chair Simpson
1:54:48 PM Explanation of SB 1214, Engineers by Senator Baxley

1:56:12 PM Introduction of Amendment Barcode No. 939264 by Chair Simpson
1:56:24 PM Explanation of Amendment by Senator Baxley
1:56:45 PM Closure waived
1:56:48 PM Amendment adopted
1:57:02 PM Jeff Kottkamp, Florida Structural Engineers Association waives in support
1:57:14 PM Barney Bishop, CEO, Florida Structural Engineers Association waives in support
1:57:28 PM Speaker Thomas Grogan, Florida Structural Engineers Association in support
1:58:00 PM Chris Childres, Florida Structural Engineers Association waives in support
1:58:18 PM Closure waived
1:58:20 PM Roll call by AA
1:58:25 PM CS/SB 1214 reported favorably
1:58:42 PM Introduction of Tab 3 by Chair Simpson
1:59:01 PM Explanation of SB 1256, Telegraph Companies by Senator Albritton
1:59:47 PM Question from Chair Simpson
2:00:05 PM Question from Senator Benacquisto
2:00:12 PM Response from Senator Albritton
2:00:21 PM Question from Senator Farmer
2:00:28 PM Response from Senator Albritton
2:00:59 PM Closure waived
2:01:01 PM Roll call by AA
2:01:06 PM SB 1256 reported favorably
2:01:28 PM Introduction of Tab 4 by Chair Simpson
2:01:36 PM Explanation of SB 890, Local Licensing by Senator Perry
2:02:11 PM Question from Senator Benacquisto
2:02:19 PM Response from Senator Perry
2:03:03 PM Follow-up question from Senator Benacquisto
2:03:14 PM Response from Senator Perry
2:04:00 PM Follow-up question from Senator Benacquisto
2:04:12 PM Response from Senator Perry
2:04:20 PM Question from Senator Bradley
2:04:29 PM Response from Senator Perry
2:06:16 PM Follow-up question from Senator Bradley
2:06:27 PM Response from Senator Perry
2:07:29 PM Additional question from Senator Bradley
2:07:35 PM Response from Senator Perry
2:09:47 PM Question from Senator Brandes
2:09:52 PM Response from Senator Perry
2:10:37 PM Carol Bowen, Associated Builders and Contractors waives in support
2:10:53 PM Diego Echeverri, Americans for Prosperity waives in support
2:11:00 PM Speaker Laura Youmans, Florida Association of Counties
2:14:29 PM Question from Senator Gibson
2:14:36 PM Response from Ms. Youmans
2:15:48 PM Question from Senator Brandes
2:15:54 PM Response from Ms. Youmans
2:17:17 PM Follow-up question from Senator Brandes
2:17:25 PM Response from Ms. Youmans
2:18:30 PM Question from Senator Gibson
2:18:35 PM Response from Ms. Youmans
2:19:07 PM Follow-up question from Senator Gibson
2:19:15 PM Response from Ms. Youmans
2:20:30 PM Speaker Theresa King, President, Florida Building & Construction Trades for information

2:22:35 PM Colton Madill, DBPR waives in support
2:22:43 PM David Cruz, Florida League of Cities waives in opposition
2:22:53 PM Senator Passidomo in debate
2:25:09 PM Senator Brandes in debate
2:27:31 PM Senator Gibson in debate
2:29:17 PM Senator Bradley in debate
2:30:55 PM Senator Farmer in debate
2:31:58 PM Senator Perry in closure
2:34:48 PM Roll call by AA
2:34:59 PM SB 890 reported favorably
2:35:20 PM Introduction of Tab 5 by Chair Simpson
2:35:31 PM Introduction of Amendment Barcode No. 380208 by Chair Simpson
2:35:53 PM Explanation of Amendment by Senator Perry
2:36:26 PM Question from Senator Braynon
2:36:32 PM Response from Senator Perry
2:37:07 PM Follow-up question from Senator Braynon
2:37:17 PM Response from Senator Perry
2:37:47 PM Speaker Bill Cotterall, Florida Justice Association for information
2:39:42 PM Speaker George Feijoo, Consultant, Avail Car Sharing Service in support
2:44:01 PM Question from Senator Bradley
2:44:06 PM Response from Mr. Feijoo
2:44:38 PM Question from Senator Passidomo
2:44:45 PM Response from Mr. Feijoo
2:46:48 PM Question from Senator Benacquisto
2:46:54 PM Response from Mr. Feijoo
2:48:42 PM Follow-up question from Senator Benacquisto
2:48:52 PM Response from Mr. Feijoo
2:50:03 PM Additional question from Senator Benacquisto
2:50:12 PM Response from Mr. Feijoo
2:51:09 PM Question from Senator Braynon
2:51:17 PM Response from Mr. Feijoo
2:52:39 PM Follow-up question from Senator Braynon
2:52:46 PM Response from Mr. Feijoo
2:54:52 PM Closure waived
2:54:59 PM Amendment adopted
2:55:09 PM Question from Senator Gibson
2:55:48 PM Response from Senator Perry
2:56:32 PM Follow-up question from Senator Gibson
2:56:39 PM Response from Senator Perry
2:57:32 PM Additional question from Senator Gibson
2:57:43 PM Response from Senator Perry
2:59:32 PM David Ramba, Florida Automobile Dealers Association waives in support
2:59:40 PM Brewster Bevis, Associated Industries of Florida waives in support
2:59:46 PM Fred Dickinson, Hertz waives in support
2:59:50 PM Speaker Carl Szabo, Vice President, Net Choice in opposition
3:03:52 PM Laura Youmans, Florida Association of Counties waives in support
3:04:02 PM Speaker Leslie Dughi, Enterprise Holdings in support
3:09:15 PM Question from Senator Bradley
3:09:22 PM Response from Ms. Dughi
3:10:27 PM Senator Braynon in debate
3:11:54 PM Senator Perry in closure
3:12:13 PM Roll call by AA

3:13:13 PM CS/SB 478 reported favorably
3:13:38 PM Senator Gibson would like to be shown in the affirmative on CS/SB 1154, CS/SB 1214, SB 1256
3:13:52 PM Senator Benacquisto moves to adjourn, meeting adjourned