

<b>Tab 1</b>	<b>CS/CS/SB 88</b> by <b>ATD, TR, Wright</b> ; Similar to H 00221 Utility Terrain Vehicles						
685694	A	S	LRCS	RC, Wright	Delete L.68 - 69:	03/19 12:43 PM	
<b>Tab 2</b>	<b>SB 106</b> by <b>Martin</b> ; Similar to CS/H 00097 Exploitation of Vulnerable Adults						
756632	A	S	LRCS	RC, Martin	Delete L.76 - 87:	03/19 12:46 PM	
<b>Tab 3</b>	<b>CS/CS/SB 262</b> by <b>CA, JU, Berman</b> ; Similar to CS/H 00385 Trusts						
<b>Tab 4</b>	<b>CS/SB 280</b> by <b>EE, Arrington (CO-INTRODUCERS) Collins, Hooper, Davis</b> ; Similar to H 00201 Candidate Qualification						
<b>Tab 5</b>	<b>CS/SB 282</b> by <b>BI, Truenow</b> ; Similar to CS/CS/H 00367 Warranty Associations						
103856	A	S	RCS	RC, Truenow	Delete L.51 - 102:	03/19 12:56 PM	
<b>Tab 6</b>	<b>SB 402</b> by <b>Wright</b> ; Unlawful Use of Uniforms, Medals, or Insignia						
<b>Tab 7</b>	<b>SB 7000</b> by <b>EN</b> ; Identical to H 07001 OGSR/Site-specific Location Information for Endangered and Threatened Species						
<b>Tab 8</b>	<b>SB 7004</b> by <b>CA</b> ; Identical to H 07005 OGSR/Applicants or Participants in Certain Federal, State, or Local Housing Assistance Programs						
<b>Tab 9</b>	<b>SB 7006</b> by <b>RI</b> ; Compare to H 07009 Public Records and Meetings/NG911 Systems						

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

**RULES**

**Senator Passidomo, Chair**  
**Senator Jones, Vice Chair**

**MEETING DATE:** Wednesday, March 19, 2025

**TIME:** 11:30 a.m.—1:30 p.m.

**PLACE:** *Pat Thomas Committee Room, 412 Knott Building*

**MEMBERS:** Senator Passidomo, Chair; Senator Jones, Vice Chair; Senators Avila, Berman, Boyd, Bradley, Brodeur, Burgess, Burton, Davis, DiCeglie, Gaetz, Garcia, Gruters, Harrell, Hooper, Ingoglia, Martin, Osgood, Pizzo, Rodriguez, Rouson, Simon, Trumbull, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/CS/SB 88</b> Appropriations Committee on Transportation, Tourism, and Economic Development / Transportation / Wright (Similar H 221)	Utility Terrain Vehicles; Authorizing a utility terrain vehicle (UTV) to be operated during all hours; authorizing the operation of UTVs on certain parts of the State Highway System; authorizing the Department of Transportation to prohibit the use of UTVs under certain circumstances; requiring the Department of Highway Safety and Motor Vehicles to issue a license plate to the owner or lessee of a vehicle registered as a UTV upon payment of certain taxes and fees, etc.  TR 02/18/2025 Fav/CS ATD 03/05/2025 Fav/CS RC 03/19/2025 Fav/CS	Fav/CS Yeas 22 Nays 3
2	<b>SB 106</b> Martin (Similar CS/H 97)	Exploitation of Vulnerable Adults; Authorizing the use of substitute service on unascertainable respondents; requiring the court to enter an order providing for specified service when a petitioner files the sworn affidavit; requiring that any proposed transfer of funds or property in dispute be held for a specified time period, etc.  CF 03/04/2025 Favorable JU 03/12/2025 Favorable RC 03/19/2025 Fav/CS	Fav/CS Yeas 25 Nays 0
3	<b>CS/CS/SB 262</b> Community Affairs / Judiciary / Berman (Similar CS/H 385)	Trusts; Revising how an authorized trustee may exercise the power to invade principal as an authorized trustee administering a trust; providing that property devised to or from a revocable trust which is devised, given, or distributed to a donee by a settlor during the settlor's lifetime is treated as a satisfaction of devise to that donee if certain criteria are met; providing that homestead property transferred by one or both settlor spouses to a community property trust will not be treated as a change of ownership for the purposes of reassessing the property, etc.  JU 02/18/2025 Fav/CS CA 03/11/2025 Fav/CS RC 03/19/2025 Favorable	Favorable Yeas 25 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Rules

Wednesday, March 19, 2025, 11:30 a.m.—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 280</b> Ethics and Elections / Arrington (Similar H 201, Compare H 1381, S 1414)	Candidate Qualification; Providing eligibility requirements for persons seeking to qualify for nomination as candidates of a political party or as candidates with no party affiliation; providing that certain entities may bring an action for declaratory and injunctive relief based on a certain claim; prohibiting a person from qualifying as a candidate for election and prohibiting his or her name from appearing on the ballot under certain circumstances, etc.  EE 03/03/2025 Fav/CS JU 03/12/2025 Favorable RC 03/19/2025 Favorable	Favorable Yeas 25 Nays 0
5	<b>CS/SB 282</b> Banking and Insurance / Truenow (Similar CS/CS/H 367)	Warranty Associations; Revising the circumstances under which certain service warranty associations are not required to establish unearned premium reserves or to maintain contractual liability insurance and are authorized to allow their premiums to exceed specified ratios; requiring that contracts that include coverage for accidental damage from handling be covered by a specified policy, etc.  BI 03/03/2025 Fav/CS CM 03/10/2025 Favorable RC 03/19/2025 Fav/CS	Fav/CS Yeas 25 Nays 0
6	<b>SB 402</b> Wright	Unlawful Use of Uniforms, Medals, or Insignia; Prohibiting persons from wearing the uniform of or any medal or insignia authorized for use by members or veterans of the Space Force, etc.  CJ 03/04/2025 Favorable MS 03/11/2025 Favorable RC 03/19/2025 Favorable	Favorable Yeas 25 Nays 0
7	<b>SB 7000</b> Environment and Natural Resources (Identical H 7001)	OGSR/Site-specific Location Information for Endangered and Threatened Species; Amending a provision which provides an exemption from public records requirements for site-specific location information for endangered and threatened species; removing the scheduled repeal of the exemption, etc.  GO 03/11/2025 Favorable RC 03/19/2025 Favorable	Favorable Yeas 25 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Rules

Wednesday, March 19, 2025, 11:30 a.m.—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 7004</b> Community Affairs (Identical H 7005)	OGSR/Applicants or Participants in Certain Federal, State, or Local Housing Assistance Programs; Amending a provision which provides an exemption from public records requirements for property photographs and personal identifying information of applicants for or participants in certain federal, state, or local housing assistance programs; deleting the scheduled repeal of the exemption, etc.  GO 03/11/2025 Favorable RC 03/19/2025 Favorable	Favorable Yeas 25 Nays 0
9	<b>SB 7006</b> Regulated Industries	Public Records and Meetings/NG911 Systems; Expanding an exemption from public records requirements for certain components of 911, E911, and public safety radio communication systems to include NG911 systems; extending the date for future legislative review and repeal of the exemption; expanding an exemption from public meetings requirements for certain portions of meetings that would reveal certain components of 911, E911, and public safety radio communication systems to include NG911 systems; extending the date for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  GO 03/11/2025 Favorable RC 03/19/2025 Favorable	Favorable Yeas 25 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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/CS/SB 88

INTRODUCER: Rules Committee; Appropriations Committee on Transportation, Tourism and Economic Development; Transportation Committee and Senator Wright

SUBJECT: Utility Terrain Vehicles

DATE: March 20, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	<b>Fav/CS</b>
2.	Wells	Nortelus	ATD	<b>Fav/CS</b>
3.	Shutes	Yeatman	RC	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 88 creates a definition for “utility terrain vehicle” (UTV) and authorizes the operation of such vehicles on certain roadways. Specifically, the bill defines a UTV as a vehicle less than 70 inches in width which has at least two seats allowing passengers to sit in a side-by-side manner, is operated by foot controls and a steering wheel, and is equipped with headlamps, stop lamps, turn signals, tail lamps, rearview mirrors, a windshield, seat belts, and a horn. A UTV must comply with specified insurance and registration requirements.

The bill authorizes a UTV to legally operate on two-lane county roads and two-lane municipal streets in which the posted speed limit is less than 55 miles per hour. A UTV may only be operated on a part of the State Highway System necessary to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing can be made. The bill allows the operator to drive the UTV during all hours, however, a UTV may only be operated by a licensed driver or a person possessing a learner’s driver license who is under the direct supervision of a licensed driver.

The bill provides that a county or municipality may enact an ordinance regulating UTV operation and equipment that is more restrictive than statutory requirements. A county or municipality is authorized to prohibit the operation of a UTV on any road under its jurisdiction if the governing body determines that such prohibition is necessary in the interest of safety.

The bill establishes penalties associated with the operation of a UTV. A violation of such is a noncriminal traffic infraction, punishable as a nonmoving violation, as provided in ch. 318, F.S.

The bill will likely have both positive and negative fiscal impacts on private and governmental sectors. *See* Section V., Fiscal Impact Statement.

The bill takes effect January 1, 2026.

## **II. Present Situation:**

Florida law establishes various regulations governing golf carts, all terrain vehicles and low speed vehicles, among others. These regulations generally address applicable traffic laws, equipment, registration, titling, and insurance. Currently, Florida law does not define a utility terrain vehicle or authorize their operation on public roads.

### **Operation of Golf Carts**

A golf cart is defined as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.<sup>1</sup> Section 316.212, F.S, provides for the operation of golf carts on certain roadways. Except as provided in statute, the operation of a golf cart upon public roads or streets is prohibited.

A golf cart may be operated upon a county road designated by the county, a municipal street designated by the municipality, or a two-lane county road located within the jurisdiction of a municipality designated by that municipality, for use by golf carts. Prior to making a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity must post appropriate signs to indicate that such operation is allowed.<sup>2</sup>

A golf cart may be operated on a part of the State Highway System<sup>3</sup> under the following conditions:<sup>4</sup>

- To cross a portion of the State Highway System which intersects a county road or municipal street that has been designated for use by golf carts if the Florida Department of Transportation (FDOT) has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

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<sup>1</sup> Section 320.01(22), F.S.

<sup>2</sup> Section 316.212(1), F.S.

<sup>3</sup> Section 334.03(24), F.S., defines the term “State Highway System” to mean the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated.

<sup>4</sup> Section 316.212(2), F.S.

- To cross, at midblock, a part of the State Highway System where a golf course is constructed on both sides of the highway if the FDOT has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

Upon its determination that golf carts may be operated on a given road, the FDOT must post appropriate signs on the road to indicate that such operation is allowed.<sup>5</sup>

A golf cart may only be operated during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.<sup>6</sup>

A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.<sup>7</sup>

A golf cart may not be operated on public roads or streets by a person:

- Who is under 18 unless that person has a valid learner's driver license or driver license.
- Who is 18 or older unless that person possesses a valid government-issued photographic identification.<sup>8</sup>

A local governmental entity may enact an ordinance relating to golf cart operation and equipment that is more restrictive than those enumerated in s. 316.212, F.S. However, such an ordinance must apply only to an unlicensed driver. Upon enactment of such ordinance, the local governmental entity must post appropriate signs or otherwise inform the residents that such an ordinance exists and that it will be enforced within the local government's jurisdictional territory.<sup>9</sup>

A violation of age or equipment requirements regarding the use of a golf cart is a noncriminal traffic infraction punishable as a nonmoving violation.<sup>10</sup> A violation of the permissible operation of a golf cart on public roads or a violation of the hours of permissible operation of a golf cart is a noncriminal traffic infraction punishable as a moving violation.<sup>11</sup>

### **All Terrain Vehicles (ATVs)**

Section 316.2123, F.S., provides for the operation of an ATV on certain roadways. An ATV is defined as any motorized off-highway or all-terrain vehicle 55 inches or less in width which has

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<sup>5</sup> *Id.*

<sup>6</sup> Section 316.212(5), F.S.

<sup>7</sup> Section 316.212(6), F.S.

<sup>8</sup> Section 316.212(7), F.S.

<sup>9</sup> Section 316.212(8)(a), F.S.

<sup>10</sup> Section 316.212(9), F.S. Section 318.18, F.S., provides the statutory base fine for a nonmoving violation is \$30 plus court costs and fees, which can increase the total penalty up to \$108.

<sup>11</sup> Section 316.212(9), F.S. Section 318.18, F.S., provides the statutory base fine for a moving violation is \$60 plus court costs and fees, which can increase the total penalty up to \$158.

a dry weight of 1,500 pounds or less, is designed to travel on three or more nonhighway tires, and is manufactured for recreational use by one or more persons.<sup>12</sup>

An ATV is prohibited upon public roads or streets of Florida, except that an ATV may be operated during the daytime on an unpaved roadway where a posted speed limit is less than 35 miles per hour.<sup>13</sup>

A county is exempt from s. 316.2123, F.S., (specifically, the authorization for ATV operation on specified roadways) if the governing body of the county, by a majority vote, following a noticed public hearing, votes to exempt the county from this provision. Alternatively, a county may, by majority vote after such hearing, designate certain unpaved roadways where an ATV may be operated during the daytime as long as each such designated roadway has a posted speed limit of 35 miles per hour or less, and appropriately marked to indicate permissible ATV use.<sup>14</sup>

Any ATV operation that is permitted under s. 316.2123, F.S., may be undertaken only by a licensed driver or a minor, who may be unlicensed, who is under the direct supervision of licensed driver. The operator must provide proof of ownership under ch. 317, F.S., upon the request of a law enforcement officer.<sup>15</sup>

ATVs are titled pursuant to ch. 317, F.S.,<sup>16</sup> but not registered nor provided with a license plate. The manufacturing, distribution, and sale of ATVs is not regulated under ch. 320, F.S., as a motor vehicle and therefore are not required to meet Florida's motor vehicle franchise laws.

### **Low-speed Vehicles and Mini Trucks**

A low-speed vehicle is defined as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122, F.S.<sup>17</sup> A mini-truck is defined as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122, F.S.<sup>18</sup>

A low-speed vehicle or mini truck may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle or mini truck from

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<sup>12</sup> Section 317.0003(1), F.S.

<sup>13</sup> Section 316.2123(1), F.S.

<sup>14</sup> Section 316.2123(2), F.S.

<sup>15</sup> Section 316.2123(3), F.S.

<sup>16</sup> Chapter 317, F.S., provides that the administration of off-highway vehicle titling laws is under the DHSMV, which shall provide for the issuing, handling, and recording of all off-highway vehicle titling applications and certificates, including the receipt and accounting of off-highway vehicle titling fees. Section 317.0002, F.S., states that it is the intent of the Legislature that all off-highway vehicles operated on public lands be titled and issued a certificate of title to allow for easy determination of ownership.

<sup>17</sup> Section 320.01(41), F.S. 49 CFR Part 571 is a set of Federal Motor Vehicle Safety Standards that establish minimum performance requirements for motor vehicles and motor vehicle equipment in the United States. This standard specifies requirements for low-speed vehicles.

<sup>18</sup> Section 320.01(41), F.S.

crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour. A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.<sup>19</sup>

A low-speed vehicle or mini truck must be registered and insured in accordance with s. 320.02, F.S., and titled pursuant to ch. 319, F.S. Any person operating a low-speed vehicle or mini truck must have in his or her possession a valid driver license.<sup>20</sup>

Low-speed vehicles and mini trucks are regulated under ch. 320, F.S., and fall under the manufacturing, distribution, and sales requirements, which are included in Florida's motor vehicle franchise dealer laws.

### **Utility Terrain Vehicles (UTVs)**

As previously noted, current Florida law does not define a UTV (sometimes referred to as Recreational Off-Highway Vehicles (ROVs)<sup>21</sup> or "side-by-sides"), nor does it allow for UTVs to be operated on public roads or streets. Section 317.0003(6), F.S., defines "OHM" or "Off-highway vehicles" to mean any ATV, two-rider ATV, ROV, or OHM that is used off the roads or highways of this state and that is not registered and licensed for highway use pursuant to ch. 320, F.S.

While there are various definitions used in connection with UTVs, the Recreational Off-Highway Vehicle Association<sup>22</sup> provides the following definition:

- Designed to travel on four or more non-highway tires;
- Intended by the manufacturer for use by one or more persons and having the following characteristics:
  - A steering wheel for steering control;
  - Non-straddle seating;
  - Seatbelts;
  - An occupant protective structure;
  - Engine displacement of up to 1,000 cc;
  - Maximum speed capability greater than 30 miles per hour; and
  - Less than 80 inches in overall width, exclusive of accessories.<sup>23</sup>

Currently, 21 states allow for UTVs (variously defined) to be operated on public roadways, but regulations vary widely from state to state in terms of the requirements for making a UTV street-

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<sup>19</sup> Section 316.2122(1), F.S.

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

<sup>21</sup> Section 317.0003, F.S., provides the following definition for the term "ROV": any motorized recreational off-highway vehicle 80 inches or less in width which has a dry weight of 3,500 pounds or less, is designed to travel on four or more nonhighway tires, and is manufactured for recreational use by one or more persons. The term does not include a golf cart as defined in ss. 316.003 and 320.01, F.S., or a low-speed vehicle as defined in s. 320.01, F.S.

<sup>22</sup> The Recreational Off-Highway Vehicle Association is a national, not-for-profit trade association formed to promote the safe and responsible use of recreational off-highway vehicles manufactured or distributed in the United States. Recreational Off-Highway Vehicle Association, <https://rohva.org/about-us/> (last visited February 24, 2025).

<sup>23</sup> The Recreational Off-Highway Vehicle Association, *What is an ROV?*, <https://rohva.org/what-is-an-rov/> (last visited February 24, 2025)

legal.<sup>24</sup> “Street-legal UTVs are universally required to have brake lights, turn signals, headlights, and hazard lights. Some states require additional equipment before they deem a UTV to be street-legal. Just as each state has different regulations for the equipment that street-legal UTVs must have, each state also has varying regulations for how these vehicles can be operated on public roads. Most states only allow UTVs to be operated on county roads. UTVs are not allowed on interstate highways.”<sup>25</sup>

### III. Effect of Proposed Changes:

The bill creates s. 316.21275, F.S., to define the term “utility terrain vehicle” or “UTV” to mean a vehicle less than 70 inches in width which has at least two seats allowing passengers to sit in a side-by-side manner, operated by foot controls and a steering wheel and which is equipped with headlamps, stop lamps, turn signals, tail lamps, rearview mirrors, a windshield, seat belts, and a horn. The bill defines the term “direct supervision” to mean a person who is in the adjacent front passenger seat of the UTV being operated.

A UTV may only be operated on designated two-lane county roads or two-lane municipal streets in which the posted speed limit is less than 55 miles per hour. Before making such designation, the responsible county or municipality must first determine that a UTV may safely travel on or cross the public road or street, considering factors including speed, volume, and character of motor vehicle traffic using the road or street.

A UTV may be operated only on a part of the State Highway System necessary to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing can be made. The Department of Transportation may prohibit the operation of UTVs on any road in its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

The bill allows the operator to drive the UTV during all hours. A UTV may only be operated by a licensed driver pursuant to s. 322.18, F.S., or a person possessing a learner’s driver license pursuant to s. 322.1615, F.S., who is under the direct supervision of a licensed driver.

The owner or operator of a UTV must comply with all of the following requirements and regulations:

- Obey traffic regulations enumerated in ch. 316, F.S., and operate his or her UTV with due care.
- Provide proof of ownership under ch. 317, F.S., upon the request of a law enforcement officer.
- Fulfill all insurance requirements pursuant to ss. 324.022 and 627.736, F.S.
- Ensure that the UTV has the proper license plate pursuant to s. 320.0847, F.S.
- Maintain registration certificate or copy thereof in the UTV pursuant to s. 320.0605, F.S.

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<sup>24</sup> World Population Review, *UTV Street Legal States 2024*, [UTV Street Legal States 2024 \(worldpopulationreview.com\)](https://worldpopulationreview.com/utv-street-legal-states-2024), (last visited February 24, 2025).

<sup>25</sup> *Id.*

The bill allows a county or municipality to enact an ordinance regarding UTV operation and equipment which is more restrictive than those requirements enumerated in statute. A county or municipality may also prohibit the use of UTVs on any road under its jurisdiction if the governing body of such county or municipality determines that such prohibition is necessary in the interest of safety.

The bill authorizes penalties associated with operating a UTV. A violation of such is a noncriminal traffic infraction, punishable as a nonmoving violation, as provided in ch. 318, F.S.

In order to implement the bill, the DHSMV would issue a title to the UTV owner and the operator of a UTV would be required to provide proof of ownership under ch. 317, F.S., upon the request of a law enforcement officer. As a result, UTVs would be titled as an Off-Highway Vehicle, but unlike ATVs that are not registered, UTVs would be registered as an on-highway vehicle (like low-speed vehicles and mini-trucks).<sup>26</sup>

The bill takes effect January 1, 2026.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The reclassification of UTVs will subject owners of such vehicles to existing motor vehicle registration fees.

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<sup>26</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2025 Senate Bill 88, p. 3, January 28, 2025. (On file with the Senate Committee on Transportation)

The DHSMV may charge the following registration fees:

- Advanced Replacement Fee - \$2.80
- Original License Plate - \$28.00
- Reflectorizing - \$.50
- Air Pollution - \$.10
- Decal on Demand - \$1.00
- Service Fee - \$2.50
- Base Tax – Undetermined
- Emergency Medical Services - \$.10
- Juvenile Justice - \$1.00
- Law Enforcement Radio Trust Fund - \$1.00
- Surcharge State Transportation - \$1.20
- FRVIS - \$.50
- State Transportation Fund – if over 10,000 lbs. gross vehicle weight
- Transfer Fee - \$4.50
- Delinquent Fee – based on license tax charged from, s. 320.08, F.S.<sup>27</sup>

**B. Private Sector Impact:**

Manufacturers and dealers of UTVs may be subject to regulation under the state’s motor vehicle manufacturer and franchise dealer laws (ss. 320.60-320.70, F.S.).

**C. Government Sector Impact:**

The DHSMV estimates that the bill will have an indeterminate positive fiscal impact on state government revenue associated with the resulting increase in motor vehicle titling and registration fees.<sup>28</sup>

The DHSMV anticipates the bill will have an indeterminate negative fiscal impact associated with additional expenditures on title stock, registration stock, license plates, and decal inventory.<sup>29</sup>

The DHSMV estimates a negative fiscal impact of \$59,310 associated with new programming and implementation of the bill.<sup>30</sup> These costs can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 6.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 5.

**VIII. Statutes Affected:**

This bill creates section 316.21275 of the Florida Statutes.

This bill substantially amends section 320.0847 of the Florida Statutes.

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

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

**CS/CS/CS by Rules on March 19, 2025:**

- The committee substitute clarifies that UTV's are subject to the minimum motor vehicle insurance requirements, including personal injury protection.

**CS/CS by Appropriations Committee on Transportation, Tourism, and Economic Development on March 5, 2025:**

- The committee substitute corrects a cross-reference for insurance requirements related to UTV's.

**CS by Transportation on February 18, 2025:**

- Clarifies that UTVs are subject to motor vehicle insurance requirements.
- Requires that a person must maintain the registration certificate or a copy of the registration in the UTV.
- Changes the effective date from July 1, 2025 to January 1, 2026.

**B. Amendments:**

None.



685694

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2025	.	
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The Committee on Rules (Wright) recommended the following:

**Senate Amendment**

Delete lines 68 - 69  
and insert:  
(c) Fulfill all insurance requirements pursuant to ss.  
324.022 and 627.736.

By the Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senator Wright

606-02139-25

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A bill to be entitled

An act relating to utility terrain vehicles; creating s. 316.21275, F.S.; defining terms; authorizing a utility terrain vehicle (UTV) to be operated during all hours; authorizing the operation of UTVs on certain roadways; authorizing the operation of UTVs on certain parts of the State Highway System; authorizing the Department of Transportation to prohibit the use of UTVs under certain circumstances; authorizing persons possessing certain licenses to operate a UTV; requiring owners or operators of a UTV to comply with certain requirements and regulations; authorizing a county or municipality to restrict the operation of UTVs under certain circumstances; providing civil penalties; amending s. 320.0847, F.S.; requiring the Department of Highway Safety and Motor Vehicles to issue a license plate to the owner or lessee of a vehicle registered as a UTV upon payment of certain taxes and fees; requiring that license plates for UTVs comply with specified provisions; providing an effective date.

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

Section 1. Section 316.21275, Florida Statutes, is created to read:

316.21275 Operation of a UTV on certain roadways.-

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

(a) "Direct supervision" means a person is in the adjacent

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front passenger seat of the UTV being operated.

(b) "Utility terrain vehicle" or "UTV" means a vehicle less than 70 inches in width which has at least two seats allowing passengers to sit in a side-by-side manner, is operated by foot controls and a steering wheel, and is equipped with headlamps, stop lamps, turn signals, tail lamps, rearview mirrors, a windshield, seat belts, and a horn.

(2) A UTV may be operated during all hours.

(3) A UTV may be operated only upon:

(a) A two-lane county road with a posted speed limit of less than 55 miles per hour which has been designated for UTV use by a county; or

(b) A two-lane municipal street with a posted speed limit of less than 55 miles per hour which has been designated for UTV use by a municipality.

Before making such designation, the responsible county or municipality must first determine that a UTV may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street.

(4) A person may operate a UTV on the State Highway System only when necessary to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing can be made. The Department of Transportation may prohibit the operation of UTVs on any road in its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

(5) A person may operate a UTV only if he or she possesses

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59 a driver license pursuant to s. 322.18, or the person possesses  
 60 a learner's driver license pursuant to s. 322.1615 and is under  
 61 the direct supervision of a licensed driver.

62 (6) The owner or operator of a UTV must comply with all of  
 63 the following requirements and regulations:

64 (a) Obey traffic regulations enumerated in this chapter and  
 65 operate his or her UTV with due care.

66 (b) Provide proof of ownership under chapter 317 upon  
 67 request of a law enforcement officer.

68 (c) Fulfill all insurance requirements pursuant to s.  
 69 324.022.

70 (d) Ensure that the UTV has the proper license plate  
 71 pursuant to s. 320.0847.

72 (e) Maintain the registration certificate or a copy thereof  
 73 in the UTV pursuant to s. 320.0605.

74 (7) A county or municipality may enact an ordinance  
 75 regarding UTV operation and equipment which is more restrictive  
 76 than those requirements enumerated in this section.

77 (8) A county or municipality may prohibit the operation of  
 78 a UTV on any road or street under its jurisdiction if the  
 79 governing body of such county or municipality determines that  
 80 such prohibition is necessary in the interest of safety.

81 (9) A violation of this section is a noncriminal traffic  
 82 infraction, punishable as a nonmoving violation, as provided in  
 83 chapter 318.

84 Section 2. Section 320.0847, Florida Statutes, is amended  
 85 to read:

86 320.0847 Mini truck, utility terrain vehicle, and low-speed  
 87 vehicle license plates.—

606-02139-25

202588c2

88 (1) The department shall issue a license plate to the owner  
 89 or lessee of any vehicle registered as a low-speed vehicle as  
 90 defined in s. 320.01, ~~or~~ a mini truck as defined in s. 320.01,  
 91 or a utility terrain vehicle as defined in s. 316.21275 upon  
 92 payment of the appropriate license taxes and fees prescribed in  
 93 s. 320.08.

94 (2) The license plate for a low-speed vehicle, ~~or~~ mini  
 95 truck, or utility terrain vehicle must ~~shall~~ comply with ~~the~~  
 96 ~~provisions of~~ s. 320.06.

97 Section 3. This act shall take effect January 1, 2026.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kathleen Passidomo, Chair  
Committee on Rules

**Subject:** Committee Agenda Request

**Date:** March 5, 2025

---

I respectfully request that **Senate Bill 88**, relating to Utility Terrain Vehicles, be placed on the:

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

Thank you for your consideration.

A handwritten signature in black ink that reads "Tom A. Wright". The signature is written in a cursive style with a large, sweeping "T" and "W".

---

Senator Tom A. Wright  
Florida Senate, District 8

3/19/2025

Meeting Date

Rules

Committee

Name Matt Dunagan

Address 2617 Mahan Drive

Street

Tallahassee

City

FL

State

32312

Zip

The Florida Senate

## APPEARANCE RECORD

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

88

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-877-2165

Email mdunagan@flsheriffs.org

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

### PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Florida Sheriffs Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

UTV SR 88

Bill Number or Topic

3/19/25

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name

Ben F. Johnson - Sheriff Retired Phone 386-527-0901

Address

2791 Grand Ave.

Email

benfj1957@gmail.com

Street

DeLand

City

FL

State

32720

Zip

Speaking:



For



Against



Information

**OR**

Waive Speaking:



In Support



Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



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

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

3-19-2025

Meeting Date

Rules

Committee

UTV SR 88

Bill Number or Topic

Amendment Barcode (if applicable)

Name Bruce H Rae

Phone 386-804-9281

Address 2155 Christine Place

Email BRae70@BellSouth.net

Street

Boland FL 32720

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

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

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

S-001 (08/10/2021)

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 106

INTRODUCER: Rules Committee and Senator Martin

SUBJECT: Exploitation of Vulnerable Adults

DATE: March 19, 2025

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Tuszynski	Tuszynski	CF	<b>Favorable</b>
2. Davis	Cibula	JU	<b>Favorable</b>
3. Tuszynski	Yeatman	RC	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 106 creates a simplified process to obtain an injunction to protect a vulnerable adult from exploitation. The process may be used to stop a proposed or initiated transfer of funds or property from a vulnerable adult to an unascertainable person.

Under this process, a petitioner must file a detailed affidavit with a court which, most notably, shows:

- Why the petitioner believes the respondent is an unascertainable respondent and how he or she and the vulnerable adult have been in contact;
- All identifying information that the petitioner or vulnerable adult knows about the unascertainable respondent;
- The facts that lead the petitioner to believe that a proposed or initiated transfer of funds or property from a vulnerable adult to the unascertainable person is in response to a fraudulent request; and
- A petitioner's attempts to identify the unascertainable respondent.

Once the court issues the injunction, it is effective when the petitioner files proof with the court of having attempted to serve it on the unascertainable person using the same means of communication that the unascertainable person used to communicate with the vulnerable adult. These means of communication might include the use of social media or email messages.

The injunction suspends for 30 days the proposed or initiated transfer of funds or property from the vulnerable adult to the unascertainable person. When the period expires, the funds or property will be distributed in accordance with a written court order.

The bill becomes effective July 1, 2025.

## II. Present Situation:

### Trends Regarding Elder Exploitation

“The National Council on Aging estimates that 1 in 10 Americans over the age of 60 have experienced elder abuse,” which can include financial exploitation.<sup>1</sup> According to the most recent report by the Federal Bureau of Investigation (FBI), “[i]n 2023, total losses reported . . . by those over the age of 60 topped \$3.4 billion, an almost 11% increase in reported losses from 2022. There was also a 14% increase in complaints . . . by elderly victims. However, these numbers do not fully capture the frauds and scams targeting this vulnerable cross-section of our population, as only about half of the more than 880,000 complaints received by IC3 in 2023 included age data.”<sup>2</sup> Average loss per victim was \$33,915, an 11% increase from 2022.<sup>3</sup>

According to the FBI’s report, Florida ranked second in the nation in the number of fraud victims older than age 60 (8,138) with losses from that fraud reported to be \$293,817,911.<sup>4</sup>

The elderly are particularly vulnerable to financial exploitation. The problem of elder financial exploitation is likely to get worse because of “three interrelated sets of factors,” which are “health-related effects of aging; financial and retirement trends; and demographic trends.”<sup>5</sup>

“Cognitive decline is a key factor . . . , even without the presence of disease,” and “[p]hysical decline and dependency are also risk factors for elder financial exploitation.” “[T]he wealth of older generations” also “makes them targets for financial exploitation.”<sup>6</sup> “Paradoxically, though, the elderly poor are at even greater risk of financial exploitation.”<sup>7</sup>

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<sup>1</sup> *Elder Justice*, National Association of Attorneys General, available at <https://www.naag.org/issues/elder-justice/> (last visited on March 11, 2025). See *Get the Facts on Elder Abuse* (July 8, 2024), available at <https://www.ncoa.org/article/get-the-facts-on-elder-abuse> (last visited on March 11, 2025).

<sup>2</sup> *2023 Elder Fraud Report*, Federal Bureau of Investigation, at p. 3, available at [https://www.ic3.gov/annualreport/reports/2023\\_ic3elderfraudreport.pdf](https://www.ic3.gov/annualreport/reports/2023_ic3elderfraudreport.pdf) (last visited on March 11, 2025). This report is further referenced as “2023 Elder Fraud Report.”

<sup>3</sup> *2023 Elder Fraud Report*, *supra* note 2, at p. 5.

<sup>4</sup> *2023 Elder Fraud Report*, *supra* note 2, at pp. 11 and 12. The FBI states: “This information is based on the total number of complaints from each state, American Territory, and the District of Columbia when the complainant provided state information.”

<sup>5</sup> Deane, Stephen. *Elder Financial Exploitation* (white paper) (June 2018), at p. i, U.S. Securities and Exchange Commission (SEC), Office of the Investor Advocate, available at <https://www.sec.gov/files/elder-financial-exploitation.pdf> (last visited on 2/25/25). Views expressed in the white paper are those of the author and do not necessarily reflect the views of the SEC. This white paper is further referenced as “Elder Financial Exploitation.”

<sup>6</sup> *Elder Financial Exploitation*, *supra* note 5. According to the American Bankers Association, “people over 50 years old control over 70 percent of the nation’s wealth.” *Protect the Elderly from Financial Exploitation*, American Bankers Association, available at <https://www.aba.com/advocacy/community-programs/consumer-resources/protect-your-money/elderly-financial-abuse> (last visited on March 11, 2025).

<sup>7</sup> *Elder Financial Exploitation*, *supra* note 5.

“Financial and pension trends further compound the problem.” “The shift from defined benefit to defined contribution plans has placed responsibility onto the elderly themselves to manage their retirement savings—ironically, just at a time in their lives when their ability to do so may become impaired.”<sup>8</sup> Finally, “dramatic increases in the elderly population threaten . . . to spur parallel growth in elderly financial exploitation.”<sup>9</sup>

According to the U.S. Census Bureau, persons over 65 years of age represent approximately 21 percent of Florida’s population (or approximately 5 million Floridians).<sup>10</sup> Nationally, in 2022, there were 57.8 million people aged 65 and older (up from 43.1 million in 2012). This population is projected to reach 78.3 million by 2040 and 88.8 million by 2060.<sup>11</sup>

## **Florida Laws Relating to Elder Exploitation**

### ***Exploitation of an Elderly Person or Disabled Adult under s. 825.103, F.S.***

Section 825.103, F.S., punishes exploitation of an elderly person or disabled adult.

For purposes of ch. 825, F.S., an “elderly person” is a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.<sup>12</sup>

For purposes of ch. 825, F.S., a “disabled adult” is a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.<sup>13</sup>

Under s. 825.103, F.S., exploitation of an elderly person or disabled adult includes:

- Knowingly obtaining or using, or endeavoring to obtain or use, an elderly person’s or disabled adult’s funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who:
  - Stands in a position of trust and confidence with the elderly person or disabled adult; or
  - Has a business relationship with the elderly person or disabled adult.
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person’s or disabled adult’s funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or

<sup>8</sup> *Id.*

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

<sup>10</sup> *QuickFacts Florida*, U.S. Census Bureau, available at <https://www.census.gov/quickfacts/fact/table/FL/PST045222#PST045222> (last visited on March 11, 2025).

<sup>11</sup> *2023 Profile of Older Americans*, May 2024, p. 5, U.S. Department of Health and Human Services, Administration for Community Living, available at [https://acl.gov/sites/default/files/Profile%20of%20OA/ACL\\_ProfileOlderAmericans2023\\_508.pdf](https://acl.gov/sites/default/files/Profile%20of%20OA/ACL_ProfileOlderAmericans2023_508.pdf) (last visited on 3/1/25).

<sup>12</sup> Section 825.101(4), F.S.

<sup>13</sup> Section 825.101(3), F.S.

disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent.

- Misappropriating, misusing, or transferring without authorization money belonging to an elderly person or disabled adult from an account in which the elderly person or disabled adult placed the funds, owned the funds, and was the sole contributor or payee of the funds before the misappropriation, misuse, or unauthorized transfer.
- Knowingly obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or a disabled adult's funds, assets, property, or estate through intentional modification, alteration, or fraudulent creation of a plan of distribution or disbursement expressed in a will, trust agreement, or other testamentary devise of the elderly person or disabled adult without:
  - A court order, from a court having jurisdiction over the elderly person or disabled adult, which authorizes the modification or alteration;
  - A written instrument executed by the elderly person or disabled adult, sworn to and witnessed by two persons who would be competent as witnesses to a will, which authorizes the modification or alteration; or
  - Action of an agent under a valid power of attorney executed by the elderly person or disabled adult which authorizes the modification or alteration.<sup>14</sup>

Punishment for exploitation of a vulnerable adult is based on the value of the funds, assets, or property involved:

- Level 8<sup>15</sup> first degree felony<sup>16</sup> (value is \$50,000 or more);
- Level 7 second degree felony<sup>17</sup> (value is 10,000 or more, but less than \$50,000); and
- Level 6 third degree felony<sup>18</sup> (value is less than \$10,000).<sup>19</sup>

### ***Injunction for Protection Against Exploitation of a Vulnerable Adult***

Section 825.1035, F.S., creates a cause of action for an injunction for protection against exploitation<sup>20</sup> of a vulnerable adult.<sup>21</sup> This injunction may be sought by a vulnerable adult in

<sup>14</sup> See s. 825.103(1), F.S.

<sup>15</sup> The Criminal Punishment Code (Code) (ss. 921.002-921.0027, F.S.) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Section 921.0022(2), F.S. Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Section 921.0024, F.S. Sentence points escalate as the severity level escalates. These points are relevant to determining whether the offender scores a prison sentence as the minimum sentence, and if so scored, the length of that sentence. The offense severity ranking is either assigned by specifically ranking the offense in the Code offense severity level ranking chart (s. 921.0022(3), F.S.) or ranking the offense by "default" based on its felony degree (s. 921.0023, F.S.).

<sup>16</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

<sup>17</sup> A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

<sup>18</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

<sup>19</sup> Sections 825.103(3)(a)-(c) and 921.0022(3)(f)-(h), F.S. Chapter 825, F.S., is not intended to impose criminal liability on a person who makes a good faith effort to assist an elderly person or disabled adult in the management of the funds, assets, or property of the elderly person or disabled adult, which effort fails through no fault of the person. Section 825.105, F.S.

<sup>20</sup> Exploitation means exploitation of an elderly person or disabled adult under s. 825.103(1), F.S. Section 825.101(6), F.S.

<sup>21</sup> "Vulnerable Adult" is defined in s. 415.102(28), F.S., to mean a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

imminent danger of being exploited; the guardian of a vulnerable adult in imminent danger of being exploited; a person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian; an agent under a valid durable power of attorney with the authority specifically granted in the power of attorney; or a person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.<sup>22</sup>

### **Legal Standard for a Protective Injunction**

The procedures for the issuance of a protective injunction issued under ss. 741.30, 784.046, 784.0485 and s. 825.1035, F.S., are similar. As to domestic violence, a person who is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence has standing to file a sworn petition for an injunction.<sup>23</sup> Based on this initial petition, a court may issue a *temporary* injunction ex-parte.<sup>24</sup> During an ex-parte proceeding, a court is generally not required to review a response from the accused and may base a temporary injunction on hearsay evidence.<sup>25</sup> Additional evidence may be considered, however, if an accused appears at the ex-parte proceeding or has received reasonable notice of the hearing.<sup>26</sup> This ex-parte proceeding is often necessary because “the existence of a true emergency . . . may sometimes require immediate action that will not permit the movant to verify each allegation made.”<sup>27</sup>

Parties to an injunction are entitled to a full hearing. A temporary injunction is effective for a maximum of 15 days.<sup>28</sup> A full hearing is required prior to the expiration of the temporary injunction. At the full hearing, the accused must have a reasonable opportunity to prove or disprove the allegations made in the complaint and is entitled to introduce evidence and cross-examine witnesses.<sup>29</sup> Based upon the full hearing, a court “must consider the current allegations, the parties’ behavior within the relationship, and the history of the relationship as a whole” to determine if a permanent injunction is warranted based on the petitioner’s belief that he or she is in imminent danger of becoming a victim of domestic violence.<sup>30</sup>

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<sup>22</sup> Section 825.1035(2), F.S.

<sup>23</sup> Section 741.30(1)(a), F.S.

<sup>24</sup> Section 741.30(5)(c), F.S.

<sup>25</sup> *Parrish v. Price*, 71 So. 3d 132, 134 (Fla. 2d DCA 2011) (holding that a temporary injunction may be based solely on the petition filed, even if it is almost entirely based on hearsay statements); Additionally, when a “parent files a sworn petition and has reasonable cause to believe the minor child is a victim of sexual violence by a nonparent, the sworn petition is *a presumptively sufficient* basis for an injunction.” (emphasis added) *Berthiaume v. B.S. ex rel. A.K.*, 85 So. 3d 1117, 1119 (Fla. 1st DCA 2012).

<sup>26</sup> Section 741.30(5)(b), F.S.

<sup>27</sup> *Smith v. Crider*, 932 So. 2d 393, 399 n. 4 (Fla. 2d DCA 2006).

<sup>28</sup> A court may, however, grant a continuance for good cause as requested by either party. The temporary injunction may be extended to include the continuance. Section 741.30(5)(c), F.S.

<sup>29</sup> *Furry v. Rickles*, 68 So. 3d 389, 390 (Fla. 1st DCA 2011) (citing *Ohrn v. Wright*, 963 So. 2d 298 (Fla. 5th DCA 2007)).

<sup>30</sup> *Giallanza v. Giallanza*, 787 So.2d 162, 164 (Fla. 2d DCA 2001) (citing *Gustafson v. Mauck*, 743 So. 2d 614, 616 (Fla. 1st DCA 1999)).

### ***Enforcement of a Protective Injunction***

Just as filing and issuance of protective injunctions are similar, so is enforcement. A person who willfully violates an injunction for protection commits a misdemeanor of the first degree.<sup>31</sup> A third offense related to the same protected person is a third degree felony.<sup>32</sup> Similarly, a warrantless arrest can be made for violation of an injunction if a law enforcement officer has probable cause to believe that the person has violated an injunction.<sup>33</sup> The general rule requiring a law enforcement officer to witness the offense before making a misdemeanor arrest does not apply to arrests for violation of an injunction.

### **Service of Process**

A fundamental concept of due process is that a person must be given fair notice of the initiation of an action against them. Delivery of that notice is referred to as “service of process.” Adequate service of process is also required to summon a witness for testimony or for production of evidence. Modern concepts of due process required for adequate service of process recognize that there are numerous means by which a person or entity may be fairly apprised of a lawsuit or a requirement to produce evidence.

The traditional and best form of service of process is by personal delivery to that individual, but that is not always possible. Individuals may be difficult to find, whether intentionally or not. Individuals may be incompetent, whether medically or by being too young to enter into contracts or make major decisions. A large body of law has been devoted to the allowable methods for service of process.<sup>34</sup>

### ***Service of Process Generally***

Generally, service of process is made by:

- Delivering a copy of the process to the person to be served; or
- By leaving the process at his or her usual place of abode<sup>35</sup> with any person residing there who is 15 years of age or older and informing the person of the contents of the process.<sup>36</sup>

Additional requirements exist for service on minors,<sup>37</sup> incompetent persons,<sup>38</sup> and state prisoners,<sup>39</sup> and may exist for service of other specified persons and entities located within the state.<sup>40</sup>

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<sup>31</sup> Section 741.31(4)(a), F.S. (domestic violence); s. 784.047(1), F.S. (repeat violence, sexual violence, or dating violence); and s. 825.1036(4)(a), F.S. (exploitation of vulnerable adult).

<sup>32</sup> Sections 741.31(4)(c), 784.047(2), and 825.1036(4)(b), F.S.

<sup>33</sup> Section 901.15(6)-(7), F.S.

<sup>34</sup> See generally ch. 48, F.S.

<sup>35</sup> “Usual place of abode” means the place where the party actually lives at the time of service of process. *Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001).

<sup>36</sup> Section 48.031(1)(a), F.S.

<sup>37</sup> Section 48.041, F.S.

<sup>38</sup> Section 48.042, F.S.

<sup>39</sup> Section 48.051, F.S.

<sup>40</sup> Chapter 48, F.S.

### *Substituted Service*

Substituted service<sup>41</sup> can replace personal service in situations where personal service is not required by law. For example, substituted service may be made on the spouse of a person to be served at any place in the county if:

- The cause of action is not an adversarial proceeding<sup>42</sup> between the spouses;
- The spouse of the person to be served requests such service; and
- The spouses reside together in the same dwelling within the county where the service occurs.<sup>43</sup>

Substituted service may also be done on a person by leaving a copy of the process with a person in charge of a private mailbox, virtual office,<sup>44</sup> or an executive office or mini suite<sup>45</sup> if:

- These are the only discoverable addresses for the person to be served; and
- The process server determines that the person to be served maintains a mailbox, a virtual office, or an executive office or mini suite at that location.<sup>46</sup>

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

**Section 1** of the bill amends s. 825.1035, F.S., to create a process for substituted service on an unascertainable respondent when a petitioner is seeking an injunction for protection against exploitation of a vulnerable adult.

The bill defines “unascertainable respondent” as a person whose identity cannot be ascertained or whose identity is unknown, and who has communicated with the vulnerable adult through any means that make tracing the person’s identity impractical.

The bill details a process to effectuate substitute service:

- The petitioner must file a sworn affidavit with the court based on the petitioner’s information and belief that includes:
  - The facts leading the petitioner to believe the respondent is unascertainable;
  - Information detailing how the petitioner and unascertainable respondent have been in contact;
  - All identifying information of the unascertainable respondent known to the petitioner, to include pseudonyms, tax identification numbers, e-mail addresses, telephone numbers, software application programs used, usernames and handles, or other similar information;
  - The facts leading the petitioner to believe that a proposed or initiated transfer of funds or property of the vulnerable adult is a response to a fraudulent request by the unascertainable respondent; and

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<sup>41</sup> Substituted service is service of process upon a party in any manner authorized by statute or rule other than personal service, such as service by mail. BLACK’S LAW DICTIONARY (12th ed. 2024).

<sup>42</sup> An adversarial proceeding involves opposing parties. Examples include divorce and a civil lawsuit

<sup>43</sup> Section 48.031(2)(a), F.S.

<sup>44</sup> “Virtual office” means an office that provides communications services, such as telephone service, and address services without providing dedicated office space, where all communications route through a common receptionist. s. 48.031(6)(b), F.S.

<sup>45</sup> “Executive office or mini suite” means an office that provides communications services without providing dedicated office space, and where all communications are routed through a common receptionist. s. 48.031(6)(b), F.S.

<sup>46</sup> Section 48.031(6)(a), F.S.

- A description of the petitioner's attempts to identify the unascertainable respondent, to include using the same method of communication that the unascertainable respondent used to communicate with the vulnerable adult.
- Upon filing of the affidavit, the court must order the substitute service through the same means of communication that the unascertainable respondent used to communicate with the vulnerable adult within two business days after the court issues the temporary injunction order or sets a final hearing.
- After substitute service is made, the petitioner must file proof with the court, including, but not limited to, a sworn affidavit with screen shots, that the petitioner has attempted to serve the unascertainable respondent. The bill deems this court filing as the substitute service on the unascertainable respondent.

The bill requires that after substituted service is made, any proposed transfer of funds or property in dispute be held for 30 days before those funds or property may be distributed. This 30 day period begins upon the issuance of the final order of injunction.

Finally, the bill requires that the substitute service language be construed for the benefit and protection of a vulnerable adult.

**Section 2** of the bill provides an effective date of July 1, 2025.

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

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18 of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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

None.

##### **E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

The bill may preserve the assets of vulnerable individuals from scammers, but involve compliance costs by financial institutions holding funds subject to the injunctions described by the bill.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 825.1035 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 Rules on March 19, 2025:**

Requires the court order requiring substituted service be entered within 2 business days after the date the court issues the temporary injunction order or sets a final hearing and also provides that the 30-day hold on funds or property begins on the date of the issuance of the final order of injunction.

**B. Amendments:**

None.



756632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2025	.	
	.	
	.	
	.	

---

The Committee on Rules (Martin) recommended the following:

**Senate Amendment**

Delete lines 76 - 87

and insert:

order or sets a final hearing.

(d) The petitioner must file with the court proof,  
including, but not limited to, a sworn affidavit with  
screenshots, that the petitioner has attempted to serve the  
unascertainable respondent in accordance with paragraph (c).  
This constitutes substitute service on the unascertainable  
respondent.



756632

12       (e) In accordance with a written final order of injunction,  
13 if using substitute service in accordance with this subsection,  
14 a proposed transfer of funds or property in dispute must be held  
15 for 30 days, beginning on the date of the issuance of the final  
16 order of injunction, before such funds or property may be  
17 distributed for the benefit of the vulnerable adult.

By Senator Martin

33-00201-25

2025106\_\_

A bill to be entitled

An act relating to exploitation of vulnerable adults; amending s. 825.1035, F.S.; authorizing the use of substitute service on unascertainable respondents; defining the term "unascertainable respondent"; requiring a petitioner to file with the court a sworn affidavit to effectuate substitute service; providing requirements for the affidavit; requiring the court to enter an order providing for specified service when a petitioner files the sworn affidavit; requiring the petitioner to file with the court proof that the petitioner attempted to serve the unascertainable respondent; requiring that any proposed transfer of funds or property in dispute be held for a specified time period; providing construction; providing an effective date.

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

Section 1. Present subsections (8) through (14) of section 825.1035, Florida Statutes, are redesignated as subsections (9) through (15), respectively, a new subsection (8) is added to that section, and subsection (7) of that section is amended, to read:

825.1035 Injunction for protection against exploitation of a vulnerable adult.—

(7) NOTICE OF PETITION AND INJUNCTION.—

(a) Except as provided in subsection (8), the respondent ~~must shall~~ be personally served, pursuant to chapter 48, with a

Page 1 of 4

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

33-00201-25

2025106\_\_

copy of the petition, notice of hearing, and temporary injunction, if any, before the final hearing.

(b) If the petitioner is acting in a representative capacity, the vulnerable adult ~~must shall~~ also be served with a copy of the petition, notice of hearing, and temporary injunction, if any, before the final hearing.

(c) If any assets or lines of credit are ordered to be frozen, the depository or financial institution must be served as provided in s. 655.0201.

(8) SUBSTITUTE SERVICE ON UNASCERTAINABLE RESPONDENT.—

(a) In lieu of service pursuant to chapter 48 as required pursuant to subsection (7), substitute service in accordance with this subsection may be made on an unascertainable respondent. As used in this subsection, the term "unascertainable respondent" means a person whose identity cannot be ascertained or whose identity is unknown, and who has communicated with the vulnerable adult through any means that make tracing the person's identity impractical.

(b) To effectuate substitute service pursuant to this subsection, a petitioner must file with the court a sworn affidavit based on the petitioner's information and belief. The affidavit must include:

1. The facts leading the petitioner to believe that the respondent is an unascertainable respondent;

2. Information regarding how the unascertainable respondent and the vulnerable adult have been in contact;

3. All identifying information for the unascertainable respondent which is known to the petitioner or the vulnerable adult, including, but not limited to, pseudonyms, tax

Page 2 of 4

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

33-00201-25 2025106\_\_

59 identification numbers, e-mail addresses, telephone or cellular  
 60 numbers, software application programs used, social media  
 61 usernames and handles, or other similar information;

62 4. The facts leading the petitioner to believe that a  
 63 proposed or initiated transfer of funds or property by the  
 64 vulnerable adult is a response to a fraudulent request by the  
 65 unascertainable respondent; and

66 5. A description of the petitioner's attempts to identify  
 67 the unascertainable respondent, including, but not limited to,  
 68 using the same method of communication that the unascertainable  
 69 respondent used to communicate with the vulnerable adult.

70 (c) When a petitioner files the sworn affidavit required  
 71 under paragraph (b), the court must enter an order requiring the  
 72 petitioner to serve the unascertainable respondent, through the  
 73 same means of communication that the unascertainable respondent  
 74 used to communicate with the vulnerable adult, within 2 business  
 75 days after the date the court issues the temporary injunction  
 76 order.

77 (d) The petitioner must file with the court proof,  
 78 including, but not limited to, a sworn affidavit with  
 79 screenshots, that the petitioner has attempted to serve the  
 80 unascertainable respondent in accordance with paragraph (c).  
 81 This constitutes substitute service on the unascertainable  
 82 respondent.

83 (e) When substitute service is made upon an unascertainable  
 84 respondent in accordance with this subsection, any proposed  
 85 transfer of funds or property in dispute must be held for 30  
 86 days before such funds or property may be distributed in  
 87 accordance with a written court order.

33-00201-25 2025106\_\_

88 (f) This subsection shall be construed for the benefit and  
 89 protection of a vulnerable adult.

90 Section 2. This act shall take effect July 1, 2025.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Committee on Criminal and Civil  
Justice, *Vice Chair*  
Appropriations  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Rules  
Transportation

## SENATOR JONATHAN MARTIN

33rd District

March 13, 2025

### RE: SB 106: Exploitation of Vulnerable Adults

Dear Chair Passidomo,

Please allow this letter to serve as my respectful request to place SB 106, relating to the Exploitation of Vulnerable Adults on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin", with a stylized flourish at the end.

Jonathan Martin  
Senate District 33

#### REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 315 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

March 19, 2025

Meeting Date

Senate Rules

Committee

Name **Kandace Rudd**

Address **1632 Metropolitan Circle**

Street

**Tallahassee**

City

**FL**

State

**32308**

Zip

Phone **(850) 385-1246**

Email **kandace@mclawgroup.com**

The Florida Senate  
**APPEARANCE RECORD**

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

Senate Bill 106

Bill Number or Topic

Amendment Barcode (if applicable)

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

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

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S-001 (08/10/2021)

3/19/25 - 11:30 AM

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

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SB 106 - Exploitation

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **AARP - Karen Murillo**

Phone **850-567-0414**

Address **215 S. Monroe St., Ste. 603**

Email **kmurillo@aarp.org**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**AARP**

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

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

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
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3/19/25

Meeting Date

Rules

Committee

SB1000

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Rima Nathan - Elder Law Clinic

Phone

(386) 846-7772

Address

425 W. Jefferson St.

Email

rnathan@law.fsu.edu

Street

Tallahassee

City

FL

State

32304

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

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

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

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

S-001 (08/10/2021)

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 262

INTRODUCER: Community Affairs Committee; Judiciary Committee and Senator Berman

SUBJECT: Trusts

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Hackett</u>	<u>Fleming</u>	<u>CA</u>	<b>Fav/CS</b>
3.	<u>Davis</u>	<u>Yeatman</u>	<u>RC</u>	<b>Favorable</b>

---

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/CS/SB 262 amends the Florida Trust Code. The Code governs the creation of trusts and the authority and responsibilities of trustees to manage property held in trust for the benefit of others. The changes in the bill are intended to clarify existing law while also incorporating language from the Florida Probate Code to treat gifts of trust assets made during a settlor's lifetime in the same manner that gifts are treated when made from a decedent's assets before his or her death.

The bill clarifies existing law relating to trust decanting, which refers to pouring trust assets into a new trust. Trust decanting is often appropriate due to changes in circumstances, administrative ease, or changes in tax laws.

Under the trust decanting provisions of the bill, a trustee is expressly authorized to modify the terms of a first trust to create or fund a second trust as a means of making distributions to beneficiaries. Additionally, the bill expressly states that a trustee who is authorized to invade the principal of a trust to create or fund a second trust is not considered to be the settlor of the second trust. This change ensures that a trustee will not be disqualified from serving as a trustee of a second trust as the result of having created or funded the second trust from the assets of the first trust.

With regard to a former trustee's liability and successor trustees' responsibilities, the bill clarifies that a person in a fiduciary relationship to a beneficiary may not bring an action on behalf of a beneficiary if the beneficiary is barred from bringing the claim or action.

The bill adopts nearly identical provisions contained in the Florida Probate Code to clarify when an “ademption by satisfaction” occurs with assets from a trust. The phrase “ademption by satisfaction” as used in the Florida Probate Code refers to the cancellation of a gift or distribution of an asset because the asset has already been given to the intended recipient. Often, property is missing from a trust at the settlor’s death because the settlor gave the property to someone during the settlor’s lifetime or because the property was distributed to someone from a revocable trust during the settlor’s lifetime. Under the bill, these gifts from a trust will be considered satisfied or adeemed only if a written statement is made, either in the terms of the trust, in a contemporaneous statement that the gift is to be deducted from the devise, or when the recipient acknowledges in writing that the gift has been satisfied.

The definitions of “community property” and “community property trust” are amended by the bill to clarify that transferring homestead property into a community trust is not a change of ownership for the purpose of reassessing the value of homestead property. This clarification will prevent property appraisers from reassessing the value of a home which will likely result in higher property taxes.

The bill takes effect upon becoming a law.

## **II. Present Situation:**

### **Trusts**

#### ***Background***

In its most basic form, a trust is a legally binding relationship in which a person who owns property gives that property to a second person to hold and manage for the benefit of a third person. The settlor is the person who originally owned the property and creates the trust. The trustee is the person who holds legal title to the trust property and manages it with powers and responsibilities established in the terms of the trust. The beneficiary is the person for whom the property is held and who benefits from the trust.<sup>1</sup>

Trusts are generally used for estate and financial planning purposes. They allow people to avoid probate proceedings and reduce certain tax obligations while also protecting assets from creditors and abuse.<sup>2</sup> When a trust is established pursuant to the terms of someone’s will and takes effect upon his or her death, it is called a testamentary trust. In contrast, when a trust is created during someone’s life, it is called an inter vivos or living trust.<sup>3</sup>

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<sup>1</sup>Restatement (Third) of Trusts s. 3 (2003); BLACK’S LAW DICTIONARY (12th ed. 2024); 55A FLA. JUR 2D TRUSTS s. 114 *Trusts, Generally* (2024).

<sup>2</sup> Alan S. Gassman, Brock Exline, and Peter Farrell, *Designing Trust Systems for Florida Residents: Planning Strategies, Things You Should Know, and Traps for the Unwary*, Florida Bar Journal, vol. 97, No. 4, July/August 2023, <https://www.floridabar.org/the-florida-bar-journal/designing-trust-systems-for-florida-residents-planning-strategies-things-you-should-know-and-traps-for-the-unwary/>.

<sup>3</sup> BLACK’S LAW DICTIONARY (12th ed. 2024).

The Florida Trust Code is contained in chapter 736, F.S. It became effective in 2007 and applies to express trusts,<sup>4</sup> charitable or noncharitable trusts, and trusts created pursuant to a law, judgment, or decree that requires the trust to be administered in the manner of an express trust.<sup>5</sup>

### **A Trustee's Power to Invade the Principal in a Trust, Section 736.04117, F.S.**

#### ***Trust Decanting***

In the realm of trust law, “decanting” is a legal term which describes the act of a trustee pouring assets from one trust into another trust. This procedure is deemed to be a useful mechanism that provides a trustee with the opportunity to remedy problems that arise when administering a trust or address changes that occur with time. Decanting might be used to alter a trustee’s power, increase the protection of assets, correct a scrivener’s error, or revise distributions from the trust to encompass special needs provisions.<sup>6</sup> Decanting is also used to update the terms of a trust or adjust provisions to take advantage of changes in tax laws.

#### ***Definition of an Authorized Trustee - Section 736.04117(1)(b), F.S.***

An “authorized trustee” has the power to invade the principal of a trust for decanting purposes. An “authorized trustee” is defined in statute to be “a trustee, other than the settlor or a beneficiary, who has the power to invade the principal of a trust.”<sup>7</sup> Currently, if an authorized trustee executes a trust instrument that creates a second trust or appoints assets to the second trust, he or she might technically meet the elements of the definition of a “settlor” as defined in s. 736.0103(21), F.S. If the trustee is the settlor of the second trust, the trustee could be precluded from being an authorized trustee for the second trust.<sup>8</sup>

#### ***Distribution from a First Trust to a Second Trust or Supplemental Needs Trust - s. 736.04117(2)(a), (3), and 4(a), F.S.***

Three very similar provisions in s. 736.04117, F.S., address an authorized trustee’s authority to invade the principal of a first trust, either with or without absolute power to invade, and make distributions to a second trust or a supplemental needs trust.<sup>9</sup> However, none of the three statutes expressly states that the trustee has the authority to *modify* the first trust under the grant of discretion authorized in statute as a means of creating or funding a second trust. If a trustee is expressly granted the authority to structure the decanting as a *modification*, he or she can avoid

<sup>4</sup> An express trust is a trust created intentionally by a settlor, generally declared in writing, as distinguished from an implied or constructive trust that is “implied” by circumstances and often involves a court’s intervention to correct a wrong. BLACK’S LAW DICTIONARY (12th ed. 2024); Cornell Law School, Legal information Institute, [https://www.law.cornell.edu/wex/express\\_trust](https://www.law.cornell.edu/wex/express_trust).

<sup>5</sup> Sections 736.0101 and 736.0102, F.S.

<sup>6</sup> Amy J. Fanzlaw, *New Opportunities to Decant in Florida, Part I: Recent Changes to the Trust Decanting Statute*, Florida Bar Journal, Vol. 93, No. 5, September/October 2019, <https://www.floridabar.org/the-florida-bar-journal/new-opportunities-to-decant-in-florida-part-irecent-changes-to-the-trust-decanting-statute/>.

<sup>7</sup> Section 736.04117(1)(b), F.S. The decanting statute was added to the Florida Trust Code in 2007.

<sup>8</sup> Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper on the Revision to Subsections (1)(b), (2)(a), (3), (4)(a), (8)(d), (11) and (12) of 736.04117 of the Florida Statutes* (2024) (on file with the Senate Committee on Judiciary).

<sup>9</sup> A supplemental needs trust is defined in statute to mean “a trust that the authorized trustee believes would not be considered a resource for purposes of determining whether the beneficiary who has a disability is eligible for government benefits.” Section 736.04117(1)(j), F.S.

doing additional administrative tasks such as retitling the assets and obtaining a new EIN, or employer identification number, from the IRS.

***A Trustee's Requirement to Provide Written Notice Before Invading the Principal of a Trust – s. 736.04117(8)(d), F.S.***

Currently, an authorized trustee is required to provide written notice, known as a decanting notice, as to how he or she intends to exercise power to invade the principal of a trust. This notice must be provided to certain enumerated parties 60 days before the effective date of the exercise of that power. Some authorized trustees include on the notice a statement from a statutory form that actions for a breach of trust “may be subject to a 6-month statute of limitations from the receipt of the trust accounting or other written report.”<sup>10</sup> This statement can be confusing to both beneficiaries and trustees because the earliest date that the statute of limitations could begin to run is either when the actual decanting occurs, a time period that is no sooner than the earlier of 60 days after the delivery of the notice or when notice is waived. This confusion could be resolved if language is added to clarify that a notice of a proposed decanting is not a trust disclosure document.

**Protection of Successor Trustees – s. 736.08125, F.S.**

The Florida Trust Code provides that a successor trustee is not personally liable for the actions taken by a former trustee. Additionally, the successor trustee does not have a duty to initiate an action against any former trustee or file a claim against any former trustee’s estate under certain enumerated circumstances.<sup>11</sup> However, s. 736.08125(3), F.S., states that “Nothing in this section affects any liability of the prior trustee or the right of the successor trustee or any beneficiary to pursue an action or claim against the prior trustee.” Some practitioners suggest that the statute does not absolutely prohibit a successor trustee from bringing an action against a former trustee even when all of the beneficiaries are barred from bringing an action. This produces confusion for practitioners and can lead to conflicting applications of the statute. One group believes that a successor trustee is barred when the beneficiaries are barred. Another group interprets the statute to say that a successor trustee is permitted to bring a claim even if the beneficiaries are barred from that action.<sup>12</sup>

**Ademption by Satisfaction**

The word “adeem” is a verb that means to revoke, cancel, or withdraw an item.<sup>13</sup> In probate legal terms, “ademption by satisfaction” occurs when specific property granted under the terms of a will is no longer in the testator’s estate when he or she dies because the gift was satisfied during the testator’s life. An example would be that a decedent bequeathed her car to a particular beneficiary in her will. However, the decedent did not own a car when she died, therefore, the gift of the car would be “adeemed.” The result is that the beneficiary would not inherit the car.<sup>14</sup>

<sup>10</sup> Section 736.1008(4)(a) and (c), F.S.

<sup>11</sup> Section 736.08125(1)(a) – (e), F.S.

<sup>12</sup> Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper: Former Trustee Liability* (2024) (on file with the Senate Committee on Judiciary).

<sup>13</sup> “Adeem.” Merriam-Webster.com Legal Dictionary, Merriam-Webster, <https://www.merriam-webster.com/legal/adeem>.

<sup>14</sup> Law.Com, Services & Resources Legal Dictionary, <https://dictionary.law.com/Default.aspx?selected=2322>; Smith Gambrell Russell Newsletter, *To Adeem or Not to Adeem ... That Is the Question*, Issue 4/Spring 2012,

An “Ademption by Satisfaction” statute is contained in the Florida Probate Code<sup>15</sup> but there is no comparable statute in the Florida Trust Code. The provision in the Probate Code states that property given to someone in the testator’s lifetime is treated as a satisfaction of a devise<sup>16</sup> of the gift to that person, in whole or in part only if:

- The will provides for deduction of the lifetime gift,
- The testator declares in a contemporaneous writing that the gift is to be deducted from the devise or is in satisfaction of the devise, or
- The devisee, or recipient, acknowledges in writing that the gift is in satisfaction.

To summarize the intent of the statute, property that is given to someone during a testator’s life satisfies the intent of the will to make a devise *only if* the testator’s will provides for that or when the testator or recipient acknowledges it to be so in a written statement.

### **Community Property Trust Act – s. 736.1502, F.S.**

The Florida Community Property Trust Act was created in 2021 and is contained within Part XV of ch. 736.<sup>17</sup> The Act permits a married couple to form a joint trust that holds their assets which generally may be used for their benefit while both spouses are living. Perhaps the most important benefit is the savings of substantial income tax when the first spouse dies.<sup>18</sup> Although the state permits the formation of a community property trust, Florida is not a community property state. Florida is among the 41 states that follow the common law which holds that each spouse is recognized as an individual who has separate legal and property rights.<sup>19</sup>

#### ***Definition of “Community Property”***

The term “community property” is defined in s. 736.1502(1), F.S. to mean

[T]he property and the appreciation of and income from the property owned by a qualified trustee of a community property trust during the marriage of the settlor spouses. The property owned by a community property trust pursuant to this part and the appreciation of and income from such property *shall be deemed to be* community property for purposes of general law.

[https://www.sgrlaw.com/newsletter/newsletters/trusts\\_estates\\_trends/trustsnestatestrends\\_spring201/1834-2/#:~:text=Ademption%20is%20a%20legal%20term,adeemed%2C%20and%20the%20gift%20fails.](https://www.sgrlaw.com/newsletter/newsletters/trusts_estates_trends/trustsnestatestrends_spring201/1834-2/#:~:text=Ademption%20is%20a%20legal%20term,adeemed%2C%20and%20the%20gift%20fails.)

<sup>15</sup> The Florida Probate Code is contained in chapters 731-735, F.S.

Section 732.609, F.S. For purposes of part satisfaction, property given during the testator’s lifetime is valued at the time the devisee came into possession or enjoyment of the property or at the time of the death of the testator, whichever occurs first.

<sup>16</sup> “Devise” means the act of giving property by a will. (BLACK’S LAW DICTIONARY (12th ed. 2024)).

<sup>17</sup> Ch. 2021-183, ss. 29-40, Laws of Fla.

<sup>18</sup> Joseph M. Percopo, *Understanding the New Florida Community Property Trust, Part I*, The Florida Bar Journal, July/August 2022, <https://www.floridabar.org/the-florida-bar-journal/understanding-the-new-florida-community-property-trust-part-i/>; Joseph M. Percopo, *Understanding the New Florida Community Property Trust, Part II*, The Florida Bar Journal, September/October 2022, <https://www.floridabar.org/the-florida-bar-journal/understanding-the-new-florida-community-property-trust-part-ii/>.

<sup>19</sup> In a community property state, property that is acquired during the course of the marriage is owned equally by the spouses. If the couple divorces, the assets acquired during the marriage are divided equally between the spouses. According to the IRS, there are nine community property states in the country: Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington, and Wisconsin. IRS, Internal Revenue Manual, 25.18.1 *Basic Principles of Community Property Law*, (May 2023) [https://www.irs.gov/irm/part25/irm\\_25-018-001](https://www.irs.gov/irm/part25/irm_25-018-001).

The inclusion of the phrase “shall be deemed” has caused concern among some professionals as being inconsistent with other provisions in the Community Property Trust Act. In contrast, s. 736.1505(3), F.S., states that “All property owned by a community property trust is community property under the laws of the state during the marriage of the settlor spouses.”

### ***Definition of “Community Property Trust”***

“Community property trust” is defined as

[A]n express trust that complies with s. 736.1503 and is *created on or after* July 1, 2021.

The phrase “created on or after” July 1, 2021 has also caused concern among professionals who work in this area.<sup>20</sup> Some married couples have already established community property trusts or joint revocable trusts before July 1, 2021, in another state before moving to Florida and becoming residents. In order to qualify their trust as a community property trust in this state, the couples want to amend or restate the terms of their existing trust. By adding the language “amended, restated, or modified” the provision is clarified so that a couple who amends, restates, or modifies their existing trust, if it meets the additional statutory requirements, would meet the requirement of s. 736.1502(2), F.S., because the trust would be created on the date of the amendment, restatement, or modification even though the original community trust was created earlier.

### **Homestead Property – s. 736.151, F.S.**

Homestead property is protected under the State Constitution in three specific ways. The property is:

- Exempt from forced sale by creditors.<sup>21</sup>
- Given an exemption from property taxes.<sup>22</sup>
- Protected with certain restrictions should a homestead owner attempt to devise or alienate the property if the owner is survived by a spouse or minor child.<sup>23</sup>

The Florida Trust Code currently recognizes that homestead property placed in a community property trust retains its homestead nature and receives the appropriate exemptions. The statute also states that property acquired in the name of the trustee may initially qualify as the settlor spouses’ homestead if that property would qualify as the settlor spouses’ homestead if title was held outside of the trust in one or both of the spouses’ individual names.<sup>24</sup>

The concern has been raised that a county property appraiser might believe that transferring the homestead property into a community property trust is technically a change of ownership.<sup>25</sup> The

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<sup>20</sup> Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper on Minor Clarifications to the Florida Community Property Trust Act* (2024) (on file with the Senate Committee on Judiciary).

<sup>21</sup> FLA. CONST. art. X, s. 4(a).

<sup>22</sup> FLA. CONST. art. VII, s. 6.

<sup>23</sup> FLA. CONST. art. X, s. 4(c).

<sup>24</sup> Section 736.151(1), F.S.

<sup>25</sup> Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper on Minor Clarifications to the Florida Community Property Trust Act* (2024) (on file with the Senate Committee on Judiciary).

result is that the property appraiser would reassess the value of the property for property tax purposes and the homeowner would pay higher taxes.

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

#### **Section 1 – A Trustee’s Power to Invade the Principal in a Trust**

##### ***Authorized Trustee - s. 736.04117(1)(b), F.S.***

This section is revised to clarify that an “authorized trustee” will not be considered a settlor of a second trust even if he or she created the trust instrument that governs the second trust or made a distribution of assets from the first trust to the second trust. In order to determine the settlor’s intent for a second trust or a modification of the first trust, consideration may be given to the intent of a settlor of the first trust, the settlor of the second trust, and the authorized trustee.<sup>26</sup>

##### ***Distribution from a First Trust to a Second Trust or Supplemental Needs Trust - s.736.04117(2)(a), (3), and (4)(a), F.S.***

Each of these three provisions is amended with identical language to expressly permit the trustee to modify the terms of a first trust. This will permit the trustee to avoid certain administrative tasks such as retitling assets and obtaining a new EIN or employer identification number from the IRS.

##### ***Notice Provision – s. 736.04117(8)(d), F.S.***

The revisions to this paragraph clarify that an authorized trustee’s notice to invade the principal of the first trust *is not a trust disclosure document* and does not limit a beneficiary’s right to object to the trustee’s power to invade principal of the trust except as otherwise stated in the statutes. The revision also clarifies that a trust disclosure document pertaining to the distribution does not start a limitations period unless the trust disclosure document is provided after the effective date of the exercise of the trustee’s power to invade the principal.

##### ***Application – s. 736.04117(12), F.S.***

Newly created s. 736.04117(12), F.S., is added to the decanting provisions to state that the decanting statute applies to all trusts that are governed by Florida law or any trusts that have a principal place of administration within the state. This clarifies which state’s laws govern when a trust originated in another state but is now operational in this state.

#### **Section 2 – Protection of Successor Trustees – s. 736.08125(3), F.S. and Section 3 – Claims Against Former Trustees - s. 736.10085, F.S.**

The bill resolves the confusion surrounding a former trustee’s liability and when an action may be brought against him or her. This is accomplished by creating a new s. 736.10085, F.S., and cross-referencing it in the existing s. 736.08125(3), F.S., which defines the basis for a former trustee’s liability.

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<sup>26</sup> The language governing intent is drawn from the Uniform Law Commission’s *Uniform Trust Decanting Act*, Section 25 (2015).

If a beneficiary is barred from bringing certain claims or actions against a former trustee, a fiduciary acting on the beneficiary's behalf is also barred. Fiduciaries do not have an independent right to bring a claim or action against a former trustee if the beneficiary is barred from bringing the claim or action.

#### **Section 4 – Ademption by Satisfaction in a Revocable Trust – s. 736.10085, F.S.**

The bill creates an “ademption by satisfaction” provision in the Trust Code that is very similar to, and modeled after, the provision contained in the Probate Code. The newly created statute governs property that is devised to or from a revocable trust<sup>27</sup> that a settlor gave to someone during the settlor's lifetime or property that is distributed to someone from a revocable trust during the settlor's lifetime.

These gifts made during a settlor's lifetime are treated as a satisfaction of a devise to the person, in whole or in part, upon the settlor's death if any of these circumstances apply:

- The terms of the trust instrument provide for the deduction of the lifetime gift or distribution.
- The settlor or the trustee declares in a contemporaneous writing that the gift or distribution is to be deducted from the devise or is in satisfaction of the devise.
- The devisee acknowledges in writing that the gift or distribution is in satisfaction of the devise.

When a part satisfaction occurs, the property distributed or given during the settlor's lifetime is to be valued at the time the devisee came into possession or enjoyment of the property or at the time of the death of the settlor, whichever occurs first.

This new “Ademption by Satisfaction” statute applies to revocable trusts that become irrevocable on or after July 1, 2025.

#### **Section 5 – Community Property Trust Act – s. 736.1502, F.S.**

##### ***Definition of “Community Property”***

The term “community property” is amended in s. 736.1502(1), F.S., to delete the phrase “shall be deemed” to clarify that any asset that is held in a community property trust is community property.

##### ***Definition of “Community Property Trust”***

The definition of “community property trust” is amended and the phrase “amended, restated, or modified” is added.

By adding the language “amended, restated, or modified” the provision is clarified so that a couple who amends, restates, or modifies their existing trust, if it meets the additional statutory requirements, would meet the requirement of s. 736.1502(2), F.S., because the trust would be

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<sup>27</sup> A “revocable trust” means a trust that is revocable by the settlor without the consent of the trustee or a person holding an adverse interest. Section 736.0103(20), F.S.

*created* on the date of the amendment, restatement, or modification even though the original community trust was created earlier.

### **Section 6 – Homestead Property – s. 736.151(3), F.S.**

The addition of this new subsection to the homestead property statute clarifies that transferring homestead property into a community property trust is *not* a change of ownership for the purpose of reassessing the value of the homestead property. As such, the property appraiser may not reassess the value of the home. It should be treated as a qualified transfer between spouses, which is permitted in existing s. 193.155(3)(a)2., F.S.<sup>28</sup>

### **Section 7 – Retroactive Applicability of the Amendments**

The bill provides that amendments made to s. 736.04117, F.S., a trustee's power to invade the principal in a trust, s. 736.1502, F.S., the Community Property Trust Act, involving the definitions of community property and community property trust, as well as s. 736.151, F.S., the transfer of homestead property are remedial. The amendments apply to all trusts that are created before, on, or after the effective date of the bill.

These amendments are designed to be remedial in nature, not substantive changes to existing law, and will take effect when the bill becomes a law.

### **Section 8 – Effective Date**

The bill takes effect upon becoming law.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

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

None.

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<sup>28</sup> Section 193.155(3)(a)2., F.S. states that when a "Legal or equitable title is changed or transferred between husband and wife, including a change or transfer to a surviving spouse ..." it is not a change of ownership for purposes of homestead assessments.

**E. Other Constitutional Issues:**Retroactivity

Three provisions in this bill apply retroactively: s.736.04117, F.S., relating to a trustee's power to invade the principal in a trust, s. 736.1502(2), F.S., relating to community property trusts, and s. 736.151, F.S., relating to homestead property.

State statutes are presumed to apply prospectively and not retroactively. In essence, statutes generally apply to actions that occur on or after the effective date of an act, not before the legislation becomes effective. In general, laws that are remedial or procedural may be applied retroactively. However, substantive laws may not be applied retroactively even if the Legislature intends that they apply retroactively, if the "laws impair vested rights, create new obligations, or impose new penalties."<sup>29</sup> The changes to the Trust Code appear to be clarifying provisions and remedial in nature such that their retroactive application should not be unconstitutional.

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

None.

**B. Private Sector Impact:**

The provisions in the bill are designed to bring clarity to settlors, trustees, and beneficiaries. As such, this could result in a financial savings to those people because they will not have to pay fees for legal research to resolve ambiguous language that currently exists in the statutes.

**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: 736.04117, 736.08125, 736.1502, and 736.151.

This bill creates the following sections of the Florida Statutes: 736.10085, 736.1110.

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<sup>29</sup> *Patronis v. United Insurance Company of America*, 299 So 3d. 1152, 1156 (Fla. 1st DCA 2020) (quoting *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1995).

This bill creates one undesignated section of Florida Law.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Technical Changes:**

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

**CS/CS by Community Affairs on March 11, 2025:**

The committee substitute makes two clarifying one-word changes to the underlying bill.

- On line 58 of the bill, the word “or” is changed to the word “and” to be more inclusive and expansive. Therefore, when determining settlor intent, someone may consider the intent of a settlor of the first trust, a settlor of the second trust, *and* the authorized trustee.
- On line 140 of the bill, the word “such” is changed to the word “a” to eliminate confusion and clarify that the amended reference to a “trust disclosure document” applies to *any* trust disclosure document as defined in s. 736.1008(4)(c), F.S.

**CS by Judiciary on February 18, 2025:**

The committee substitute makes technical changes to the underlying bill by:

- Removing the retroactive application language of amendments made to s. 736.04117, F.S., and including that language in the retroactive application of other statutes in Section 7 and stating that the changes are remedial.
- Deleting as unnecessary Section 8, the directive to the Division of Law Revision to make technical changes to the bill to provide a chapter number and effective date.

**B. Amendments:**

None.

By the Committees on Community Affairs; and Judiciary; and  
Senator Berman

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1 A bill to be entitled  
2 An act relating to trusts; amending s. 736.04117,  
3 F.S.; revising the definition of the term "authorized  
4 trustee"; revising how an authorized trustee may  
5 exercise the power to invade principal as an  
6 authorized trustee administering a trust; providing  
7 that notice of such exercise by an authorized trustee  
8 is not a trust disclosure document; providing that a  
9 trust disclosure document may not commence a  
10 limitations period unless such trust disclosure  
11 document is provided after the effective date of the  
12 exercise of the power to invade principal by an  
13 authorized trustee; providing applicability; amending  
14 s. 736.08125, F.S.; providing an exception with regard  
15 to protection of successor trustees; creating s.  
16 736.10085, F.S.; barring certain actions initiated by  
17 specified parties against prior trustees; creating s.  
18 736.1110, F.S.; providing that property devised to or  
19 from a revocable trust which is devised, given, or  
20 distributed to a donee by a settlor during the  
21 settlor's lifetime is treated as a satisfaction of  
22 devise to that donee if certain criteria are met;  
23 providing that property distributed or given to a  
24 devisee during a settlor's lifetime is to be valued at  
25 the time the devisee came into possession or enjoyment  
26 of the property, or at the time of the death of the  
27 settlor, whichever occurs first; providing  
28 applicability; amending s. 736.1502, F.S.; revising  
29 the definitions of the terms "community property" and

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

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30 "community property trust"; amending s. 736.151, F.S.;  
31 providing that homestead property transferred by one  
32 or both settlor spouses to a community property trust  
33 will not be treated as a change of ownership for the  
34 purposes of reassessing the property; providing that  
35 such transfer qualifies as a change or transfer of  
36 legal or equitable title between spouses; providing  
37 construction and retroactive application; providing an  
38 effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Paragraph (b) of subsection (1), paragraph (a)  
43 of subsection (2), subsection (3), paragraph (a) of subsection  
44 (4), and paragraph (d) of subsection (8) of section 736.04117,  
45 Florida Statutes, are amended, and subsection (12) is added to  
46 that section, to read:

47 736.04117 Trustee's power to invade principal in trust.—

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

49 (b) "Authorized trustee" means a trustee, other than the settlor  
50 or a beneficiary, who has the power to invade the principal of a  
51 trust. For the purposes of this section, an authorized trustee  
52 will not be considered a settlor of a second trust, even if the  
53 authorized trustee created the trust instrument governing the  
54 second trust or made a distribution of assets from the first  
55 trust to the second trust. In determining settlor intent with  
56 respect to a second trust or a modification of the first trust,  
57 the intent of a settlor of the first trust, a settlor of the  
58 second trust, and the authorized trustee may be considered.

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

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(2) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN  
AUTHORIZED TRUSTEE HAS ABSOLUTE POWER TO INVADE.—

(a) Unless a trust instrument expressly provides otherwise, an authorized trustee who has absolute power under the terms of the trust to invade its principal, referred to in this section as the "first trust," to make current distributions to or for the benefit of one or more beneficiaries may instead exercise such power by modifying the terms of the first trust or by appointing all or part of the principal of the trust subject to such power in favor of a trustee of one or more other trusts, whether created under the same trust instrument as the first trust or a different trust instrument, including a trust instrument created for the purposes of exercising the power granted by this section, each referred to in this section as the "second trust," for the current benefit of one or more of such beneficiaries only if:

1. The beneficiaries of the second trust include only beneficiaries of the first trust; and

2. The second trust does not reduce any vested interest.

(3) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN  
AUTHORIZED TRUSTEE DOES NOT HAVE ABSOLUTE POWER TO INVADE.—

Unless the trust instrument expressly provides otherwise, an authorized trustee who has a power, other than an absolute power, under the terms of a first trust to invade principal to make current distributions to or for the benefit of one or more beneficiaries may instead exercise such power by modifying the terms of the first trust or by appointing all or part of the principal of the first trust subject to such power in favor of a trustee of one or more second trusts. If the authorized trustee

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exercises such power:

(a) The second trusts, in the aggregate, ~~must shall~~ grant each beneficiary of the first trust beneficial interests in the second trusts which are substantially similar to the beneficial interests of the beneficiary in the first trust.

(b) If the first trust grants a power of appointment to a beneficiary of the first trust, the second trust ~~must shall~~ grant such power of appointment in the second trust to such beneficiary, and the class of permissible appointees ~~must shall~~ be the same as in the first trust.

(c) If the first trust does not grant a power of appointment to a beneficiary of the first trust, the second trust may not grant a power of appointment in the second trust to such beneficiary.

(d) Notwithstanding paragraphs (a), (b), and (c), the term of the second trust may extend beyond the term of the first trust, and, for any period after the first trust would have otherwise terminated, in whole or in part, under the provisions of the first trust, the trust instrument of the second trust may, with respect to property subject to such extended term:

1. Include language providing the trustee with the absolute power to invade the principal of the second trust during such extended term; and

2. Create a power of appointment, if the power holder is a current beneficiary of the first trust, or expand the class of permissible appointees in favor of which a power of appointment may be exercised.

(4) DISTRIBUTION FROM FIRST TRUST TO SUPPLEMENTAL NEEDS  
TRUST.—

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117 (a) Notwithstanding subsections (2) and (3), unless the  
 118 trust instrument expressly provides otherwise, an authorized  
 119 trustee who has the power under the terms of a first trust to  
 120 invade the principal of the first trust to make current  
 121 distributions to or for the benefit of a beneficiary with a  
 122 disability may instead exercise such power by modifying the  
 123 terms of the first trust or by appointing all or part of the  
 124 principal of the first trust in favor of a trustee of a second  
 125 trust that is a supplemental needs trust if:

126 1. The supplemental needs trust benefits the beneficiary  
 127 with a disability;

128 2. The beneficiaries of the second trust include only  
 129 beneficiaries of the first trust; and

130 3. The authorized trustee determines that the exercise of  
 131 such power will further the purposes of the first trust.

132 (8) NOTICE.—

133 (d) The authorized trustee's notice under this subsection  
 134 is not a trust disclosure document as defined in s. 736.1008(4)  
 135 and does not limit the right of any beneficiary to object to the  
 136 exercise of the authorized trustee's power to invade principal  
 137 except as otherwise provided in other applicable provisions of  
 138 this code. With respect to the exercise of the authorized  
 139 trustee's power to invade principal, a trust disclosure document  
 140 will not commence a limitations period unless the trust  
 141 disclosure document is provided after the effective date of the  
 142 exercise of such power to invade principal by the authorized  
 143 trustee.

144 (12) APPLICATION.—This section applies to all trusts that  
 145 are governed by the laws of this state or that have a principal

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146 place of administration within this state.

147 Section 2. Subsection (3) of section 736.08125, Florida  
 148 Statutes, is amended to read:

149 736.08125 Protection of successor trustees.—

150 (3) Except as provided in s. 736.10085, nothing in this  
 151 section does not affect ~~affects~~ any liability of the prior  
 152 trustee or the right of the successor trustee or any beneficiary  
 153 to pursue an action or claim against the prior trustee.

154 Section 3. Section 736.10085, Florida Statutes, is created  
 155 to read:

156 736.10085 Claims against former trustees.—An action or  
 157 claim by a successor trustee or other person acting on behalf of  
 158 the trust against a prior trustee is barred to the same extent  
 159 that the action or claim would be barred if brought by the  
 160 beneficiary whose interests are represented by the successor  
 161 trustee or other person acting on behalf of the trust.

162 Section 4. Section 736.1110, Florida Statutes, is created  
 163 to read:

164 736.1110 Ademption by satisfaction.—

165 (1) Property devised to or from a revocable trust which a  
 166 settlor gave to a donee during the settlor's lifetime or which  
 167 is distributed from a revocable trust to a donee during the  
 168 settlor's lifetime is to be treated as a satisfaction of a  
 169 devise to that donee, in whole or in part, upon the settlor's  
 170 death, if any of the following circumstances applies:

171 (a) The trust instrument provides for the deduction of the  
 172 lifetime gift or distribution.

173 (b) The settlor or the trustee of the revocable trust  
 174 declares in a contemporaneous writing that the gift or

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distribution is to be deducted from the devise or is in satisfaction of the devise.

(c) The devisee acknowledges in writing that the gift or distribution is in satisfaction of the devise.

(2) For purposes of part satisfaction, property distributed or given during the settlor's lifetime is valued at the time the devisee came into possession or enjoyment of the property or at the time of the death of the settlor, whichever occurs first.

(3) This section applies to revocable trusts that become irrevocable on or after July 1, 2025.

Section 5. Subsections (1) and (2) of section 736.1502, Florida Statutes, are amended to read:

736.1502 Definitions.—Unless the context otherwise requires, as used in this part:

(1) "Community property" means the property and the appreciation of and income from the property owned by a qualified trustee of a community property trust during the marriage of the settlor spouses. The property owned by a community property trust pursuant to this part and the appreciation of and income from such property are ~~shall be deemed to be~~ community property for purposes of general law.

(2) "Community property trust" means an express trust that complies with s. 736.1503 and is created, amended, restated, or modified on or after July 1, 2021.

Section 6. Subsection (3) is added to section 736.151, Florida Statutes, to read:

736.151 Homestead property.—

(3) A transfer of homestead property by one or both of the settlor spouses to a community property trust will not be

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treated as a change of ownership for purposes of reassessing the property and instead qualifies as a change or transfer of legal or equitable title between spouses as described in s. 193.155(3)(a)2.

Section 7. The amendments made by this act to ss. 736.04117, 736.1502, and 736.151, Florida Statutes, are remedial and apply to trusts created before, on, or after the effective date of this act.

Section 8. This act shall take effect upon becoming a law.

The Florida Senate

# APPEARANCE RECORD

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

3/19/25

Meeting Date

SB 262

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Martha Edenfield

Phone 850-556-8611

Address 1700 N Monroe St Suite 11-174  
Street

Email martha@marthajedenfield.com

Tallahassee

City

FL

State

32303

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:  
The Real Property, Probate +  
Trust Law Section of the  
Florida Bar

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

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

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

S-001 (08/10/2021)

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 280

INTRODUCER: Ethics and Elections Committee; Senators Arrington and Collins

SUBJECT: Candidate Qualification

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	<b>Fav/CS</b>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
3.	<u>Biehl</u>	<u>Yeatman</u>	<u>RC</u>	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 280 creates a substantive requirement that:

- A person seeking to qualify for nomination as a candidate of a political party must have been a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.
- A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.

This substantive requirement is in addition to an existing requirement that a person seeking qualification as a candidate make such a sworn party affiliation statement in writing.

The bill also creates a private right of action by which a political party or other candidate for the office sought may bring an action for declaratory and injunctive relief based on a claim that a person seeking to qualify as a candidate did not comply with the party affiliation requirement. If a circuit court determines that the person did not comply, he or she is disqualified from placement on the ballot.

The bill takes effect July 1, 2025.

## II. Present Situation:

Each candidate for an elected office in Florida must take and subscribe to in writing an oath or affirmation.<sup>1</sup> Current law specifies oath formats for a candidate for federal office,<sup>2</sup> a candidate for a non-federal office other than a judicial office,<sup>3</sup> and a candidate for a state judicial office.<sup>4</sup> Generally, the oath or affirmation must, in substance:

- Provide the name of the office for which the candidate is running;
- Affirm that the candidate is a qualified elector of the county or court jurisdiction, as applicable;
- Affirm that the candidate is qualified under the State Constitution and laws of Florida to hold the office for which he or she is running;
- Affirm that the candidate has not qualified for any other public office in the state for which the term runs concurrently and that he or she has resigned from any office from which he or she is required to resign;<sup>5</sup> and
- Affirm that the candidate will support the constitutions of the United States and the State of Florida.<sup>6</sup>

In addition, any person seeking to qualify for nomination as a candidate of any political party must, at the time of subscribing to the oath or affirmation, also state in writing certain information about his or her party affiliation, specifically:

- The party of which the person is a member;
- That the person has been a registered member of the political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify; and
- That the person has paid the assessment levied against him or her, if any, as a candidate for said office by the executive committee of the party of which he or she is a member.<sup>7</sup>

Similarly, a person seeking to qualify for office as a candidate with *no* party affiliation must state in writing that he or she:

- Is registered without a party affiliation; and
- Has not been a registered member of any political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify.<sup>8</sup>

Although current law requires candidates to state this information, courts have found no mechanism by which the provision can be enforced if the person seeking to qualify did not

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<sup>1</sup> Sections 99.021(1)(a) and 105.031(4), F.S.

<sup>2</sup> Section 99.021(1)(a)2., F.S.

<sup>3</sup> Section 99.021(1)(a)1., F.S.

<sup>4</sup> Section 105.031(4)(b), F.S.

<sup>5</sup> Section 99.012(3)(a), F.S., states, “No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds.”

<sup>6</sup> Sections 99.021(1)(a)1. and 105.031(4), F.S.

<sup>7</sup> Section 99.021(1)(b), F.S.

<sup>8</sup> Section 99.021(c), F.S.

actually comply with the requirement.<sup>9</sup> Therefore, a person who complies with the facial requirement of the written statement cannot be disqualified from placement on the ballot, even if his or her statement is untrue.

### III. Effect of Proposed Changes:

The bill creates a substantive requirement that:

- A person seeking to qualify for nomination as a candidate of a political party must have been a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.
- A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.

The bill authorizes a political party or other candidate for the office sought to bring an action for declaratory and injunctive relief based on a claim that a person seeking to qualify for nomination as a candidate of such political party or as a candidate with no party affiliation did not comply with the requirement. An action for declaratory relief is an action in which a court pronounces the legal status or ownership of an item.<sup>10</sup> To obtain injunctive relief, someone must demonstrate that there is no adequate and complete remedy at law available and that an injury will be irreparable unless the relief sought is granted.<sup>11</sup>

The bill specifies that if a final judgment of a circuit court determines that a person did not comply with the requirement, the person may not be qualified as a candidate and his or her name may not appear on the ballot.

The bill makes a conforming change to the existing written statement requirement, which is contained in s. 99.021, F.S.

The bill takes effect July 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>9</sup> See *Torres v. Shaw*, 345 So.3d 970 (Fla. 1st DCA 2022), holding that voters and political party had no private right of action to challenge qualifications of a congressional candidate under the candidate oath requirement; and *Jones v. Schiller*, 345 So.3d 406 (Fla. 1st DCA 2020), holding that a candidate cannot challenge the veracity of the opposing candidate's sworn party affiliation statement.

<sup>10</sup> BLACK'S LAW DICTIONARY (12th ed. 2024).

<sup>11</sup> *Id.*

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 amends section 99.021, Florida Statutes.

This bill creates section 99.013, 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 Ethics and Elections on March 3, 2025:**

The committee substitute:

- Makes clear that the 365-day required period of party affiliation or no party affiliation is the 365 consecutive days immediately preceding the qualifying period.

- Makes a conforming change to the language to the written statement a candidate must make.
- Revises the entities who may bring a claim.

B. Amendments:

None.

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

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By the Committee on Ethics and Elections; and Senator Arrington

582-02088-25

2025280c1

A bill to be entitled

An act relating to candidate qualification; creating s. 99.013, F.S.; providing eligibility requirements for persons seeking to qualify for nomination as candidates of a political party or as candidates with no party affiliation; providing that certain entities may bring an action for declaratory and injunctive relief based on a certain claim; prohibiting a person from qualifying as a candidate for election and prohibiting his or her name from appearing on the ballot under certain circumstances; amending s. 99.021, F.S.; specifying that a person seeking to qualify for office as a candidate must be a registered member of a political party, or registered without any party affiliation, for 365 consecutive days preceding the beginning of qualifying for an election; providing an effective date.

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

Section 1. Section 99.013, Florida Statutes, is created to read:

99.013 Eligibility to qualify for nomination as a candidate of a political party or candidate with no party affiliation.-

(1)(a) A person seeking to qualify for nomination as a candidate of a political party must have been a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 consecutive days preceding the beginning of the qualifying period before the

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

582-02088-25

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general election for which the person seeks to qualify.

(b) A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 consecutive days preceding the beginning of the qualifying period before the general election for which the person seeks to qualify.

(2) A political party or other candidate for the office sought may bring an action for declaratory and injunctive relief based on a claim that a person seeking to qualify for nomination as a candidate of such political party or as a candidate with no party affiliation did not comply with this section.

(3) If a final judgment of a circuit court determines that a person did not comply with this section, the person may not be qualified as a candidate for election and his or her name may not appear on the ballot.

Section 2. Paragraphs (b) and (c) of subsection (1) of section 99.021, Florida Statutes, are amended to read:

99.021 Form of candidate oath.-

(1)

(b) In addition, any person seeking to qualify for nomination as a candidate of any political party shall, at the time of subscribing to the oath or affirmation, state in writing:

1. The party of which the person is a member.

2. That the person has been a registered member of the political party for which he or she is seeking nomination as a candidate for at least 365 consecutive days preceding ~~before~~ the beginning of qualifying ~~before~~ preceding the general election

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

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for which the person seeks to qualify.

3. That the person has paid the assessment levied against him or her, if any, as a candidate for said office by the executive committee of the party of which he or she is a member.

(c) In addition, any person seeking to qualify for office as a candidate with no party affiliation shall, at the time of subscribing to the oath or affirmation, state in writing that he or she is registered without any party affiliation and that he or she has not been a registered member of any political party for at least 365 consecutive days preceding ~~before~~ the beginning of qualifying ~~before~~ preceding the general election for which the person seeks to qualify.

Section 3. This act shall take effect July 1, 2025.



# Florida Senate

*Kristen Arrington*

Senator, District 25

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Appropriations  
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Tourism, and Economic  
Development

Environment and  
Natural Resources

Fiscal Policy

Governmental  
Oversight and  
Accountability

Transportation

March 13, 2025

The Honorable Kathleen Passidomo, Chair  
400 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear President Passidomo,

I am respectfully requesting that you place CS/SB 280, Rules Committee meeting at your earliest opportunity.

CS/SB 280 would establish clear and fair eligibility requirements for individuals seeking to qualify as candidates for election, whether as members of a political party or as candidates with no party affiliation. This bill ensures that only those who have demonstrated a committed and consistent affiliation with their chosen party or have been unaffiliated for a sufficient period are eligible to qualify for nomination.

By implementing a 365-day registration requirement, CS/SB 280 helps to safeguard the integrity of the election process, ensuring that candidates have a genuine and long-term connection to their political party or are truly independent. This legislation promotes transparency and fairness in the election process, giving voters confidence that candidates are committed to their values and principles.

CS/SB 280 provides a mechanism for political parties and other entities to seek legal recourse if a candidate is found to have violated these eligibility requirements, ensuring accountability and protecting the democratic process. By clarifying and enforcing these qualifications, CS/SB 280 works to maintain a level playing field for all candidates, contributing to a more robust and trustworthy electoral system.

If you have any questions, please do not hesitate to reach me at (407) 973-4070. Thank you for your consideration in placing CS/SB 280 on the next committee agenda.

Respectfully,

Senator Kristen Arrington

CC: The Honorable Shevrin Jones, Vice Chair  
Tom Yeatman, Staff Director

Email: [Arrington.Kristen@flsenate.gov](mailto:Arrington.Kristen@flsenate.gov)

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 282

INTRODUCER: Rules Committee; Banking and Insurance Committee and Senator Truenow

SUBJECT: Warranty Associations

DATE: March 19, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	<u>Johnson</u>	<u>Yeatman</u>	<u>RC</u>	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 282 revises the financial requirements of service warranty associations and home warranty associations, which are regulated by the Office of Insurance Regulation.

Current law allows a service warranty association licensed under Part III of ch. 634, F.S., but holding no other license under ch. 634, F.S., to forego securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the service warranty association, or its parent company, has a net worth of at least \$100 million and provides the Office of Insurance Regulation (OIR) specified audited financial statements *and* specified filings made with the Securities and Exchange Commission or other documents which must be filed with a recognized exchange. Under the bill, such a service warranty association may qualify for the exemption if it provides specified audited financial statements *or* provides specified filings made with the Securities and Exchange Commission or other documents which must be filed with a recognized exchange. The effect of this change is to allow a service warranty association that is not publicly traded to be eligible for the exemption because it can qualify by only providing audited financial statements.

The bill clarifies that a service warranty association selecting the \$100 million net worth option is not required to purchase contractual liability insurance coverage if the association includes “accidental damage from handling” coverage in its extended warranty contracts.

The bill provides that a contractual liability insurance policy must either pay 100 percent of claims as they are incurred or pay 100 percent of claims due in the event an association fails to pay claims when due. Further, the bill clarifies that a home warranty association or a service warranty association may use multiple contractual liability insurance policies issued from multiple insurers, rather than a single policy issued from a single insurer, to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

The bill takes effect July 1, 2025.

The bill has no fiscal impact on state or local governments.

## **II. Present Situation:**

### **Regulation of Warranty Associations**

The Office of Insurance Regulation (OIR)<sup>1</sup> is responsible for the regulation of all activities of insurers and other risk-bearing entities, including the regulation of warranty associations pursuant to ch. 634, F.S. The scope of the regulation under ch. 634, F.S.,<sup>2</sup> includes motor vehicle service agreement companies,<sup>3</sup> home warranty associations,<sup>4</sup> and service warranties.<sup>5</sup> Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Home warranty associations indemnify warranty holders against the cost of repairs or replacement of any structural component or appliance in a home. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

While a warranty is not considered a traditional insurance product, it is intended to protect purchasers from future risks and associated costs. The OIR's regulatory authority of warranty associations includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR does not approve rates for warranty association products.

### ***Home Warranty Associations***

A home warranty association is licensed by OIR to sell these warranties. For a home warranty association to be licensed, it must be a solvent corporation, provide evidence to OIR of competent and trustworthy management, and comply with the requirements of section 634.305, F.S. relating to required deposits or bonds.<sup>6</sup> A home warranty association must follow the financial requirements established in section 634.3077, F.S., which include:

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<sup>1</sup> OIR is an office under the Financial Services Commission (commission), which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. Section 20.121(3), F.S.

<sup>2</sup> The Department of Financial Services regulates sales representative pursuant to s. 634.402, F.S.

<sup>3</sup> Part I, ch. 634, F.S.

<sup>4</sup> Part II, ch. 634, F.S.

<sup>5</sup> Part III, ch. 634, F.S.

<sup>6</sup> Section 634.304, F.S.

- Maintaining a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received from all warranty contracts in force in Florida. Assets must be held in the form of cash or securities and in a separate account that can be audited.<sup>7</sup>
- Maintaining a minimum of net assets equal to one-sixth of the written premiums for any warranty in force. Net assets may be less than one-sixth of the premiums written, provided the association has net assets of not less than \$500,000 and maintains a funded, unearned premium reserve account with unencumbered assets of at least 40 percent of the gross written premiums from all warranty contracts in force in Florida. Assets must be held in the form of cash or securities and in a separate account that can be audited.<sup>8</sup>

A home warranty association is not required to set up an unearned premium reserve if it has purchased contractual liability insurance policy covering 100 percent of its claim exposure with specified policy provisions. A home warranty association cannot utilize both the unearned premium reserve and contractual liability policy coverage simultaneously.<sup>9</sup>

A home warranty association is not required to establish unearned premium reserves or maintain a contractual liability policy if the association or its parent corporation maintains at least \$100 million in net worth and provides proof to OIR in the form of either:<sup>10</sup>

- Audited financial statements of the association or consolidated audited financial statements of the parent corporation, if applicable, demonstrating such net worth, or
- Documents filed with the Securities and Exchange Commission or a recognized stock exchange.

If the net worth of the parent corporation is used to satisfy the net worth requirements of the warranty association, the parent corporation must guarantee all service warranty obligations of the association. The parent corporation must provide written notice to the OIR at least 90 days before the effective date of the cancellation, termination, or modification of the guarantees. Otherwise, such a change is not effective. Further, the home warranty association must demonstrate to OIR compliance with all applicable provisions of Part II of ch. 634, F.S., including whether the association will meet the financial requirements of s. 634.3077, F.S., by the purchase of contractual liability insurance, establishment of reserves or other methods allowed under this section. The home warranty association must maintain net assets of at least \$750,000.<sup>11</sup>

### ***Service Warranty Associations***

Generally, a service warranty association (association) must be licensed by OIR<sup>12</sup> and comply with certain financial requirements<sup>13</sup> and other provisions<sup>14</sup> to conduct warranty business in Florida. An association licensed under Part III, ch. 634, F.S., must maintain a funded, unearned

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<sup>7</sup> Section 634.3077(1), F.S.

<sup>8</sup> Section 634.3077(2), F.S.

<sup>9</sup> Section 634.3077(3), F.S.

<sup>10</sup> Section 634.3077(5), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 634.403, F.S.

<sup>13</sup> Section 634.406, F.S.

<sup>14</sup> Section 634.404, F.S.

premium reserve account, consisting of unencumbered assets equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force in Florida with exceptions.<sup>15</sup> Such reserve account must be a separate account, which can be audited, for contracts in force in Florida. An association using an unearned premium reserve must deposit with the Department of Financial Services a reserve deposit equal to 10 percent of the gross written premium received on all warranty contracts in force in Florida.<sup>16</sup>

Pursuant to s. 634.406(3), F.S., an association licensed under Part III, F.S., is not required to establish an unearned premium reserve if the association secures contractual liability insurance from an authorized insurer that demonstrates to OIR that it provides coverage for 100 percent of claim exposure is covered by such policy.

In addition, Florida law requires a service warranty association that holds a license under Part III of ch. 634, F.S., to maintain a writing ratio of gross written premiums to net assets of seven-to-one, meaning for every one dollar of net assets held by the association, the association can write seven dollars of premium.<sup>17</sup> A service warranty association can avoid this minimum writing ratio requirement by meeting the following criteria:

- Maintains net assets of at least \$750,000; and
- Secures a contractual liability insurance policy from an authorized insurer that reimburses the association for 100 percent of its claim liability. The insurer must maintain a minimum policyholder surplus of at least \$100 million and an “A” or higher credit rating.<sup>18</sup> As an alternative, a service warranty association can comply with s. 634.406(3), F.S., secure contractual liability insurance through an authorized insurer with an “A” or higher rating, and maintains policyholder surplus of at least \$200 million, and provides quarterly and annual reports to OIR documenting compliance with these provisions.<sup>19</sup>

An association that is licensed under Part III and does not hold a license under Parts I or II, of ch. 634, F.S., is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association, or its parent cooperation, has and maintains a minimum net worth of at least \$100 million and provides OIR with the following:<sup>20</sup>

- The annual audited financial statements of the association or the annual audited consolidated financial statements of the association’s parent corporation, if applicable, demonstrating compliance with the net worth requirements and provides the OIR with quarterly written certification regarding compliance with the net worth requirement; and

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<sup>15</sup> Section 634.406(1), F.S.

<sup>16</sup> Section 634.406(2), F.S.

<sup>17</sup> Section 634.406 (4) and (6), F.S.

<sup>18</sup> Section 634.406(6), F.S. The credit rating is provided by A.M. Best Company or another national rating service acceptable to OIR.

<sup>19</sup> *Id.*

<sup>20</sup> Section 634.406(7), F.S. If the net worth of a parent corporation is used to satisfy the net worth requirements of the association, additional requirements must be met, as provided in s. 634.406(7)(b), F.S.

- The association's or its parent corporation's Form 10K, Form 10-Q, or Form 20-F filings made with the Securities and Exchange Commission or such other documents that are required to be filed with the applicable stock exchange.<sup>21</sup>

If the net worth of a parent corporation is used to satisfy the net worth provisions described above, the following requirements must be met:<sup>22</sup>

- The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by OIR. No cancellation, termination, or modification of the guarantee is effective unless the parent corporation provides 90 days prior written notice to the OIR. Further, the association must demonstrate to OIR compliance with all applicable provisions of Part III, ch. 634, F.S., including whether the association will meet the financial requirements of s. 634.406, F.S., by the purchase of contractual liability insurance, establishment of reserves or other methods allowed under this section. If the parent corporation or association does not demonstrate compliance with all the applicable provisions of Part III, the association or parent corporation must cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.
- The association must maintain net assets of at least \$750,000.

### III. Effect of Proposed Changes:

**Sections 1** amends s. 634.3077, F.S., relating to home warranty associations, to clarify that a warranty association may secure contractual liability coverage through one or more policies from one or more insurers to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve. The section also provides that a contractual liability insurance policy must either pay 100 percent of claims as they are incurred or pay 100 percent of the claims due in the event an association fails to pay claims when due.

**Section 2** amends s. 634.406, F.S., relating to service warranty associations, to clarify that a home warranty association may secure contractual liability coverage through one or more policies from one or more insurers to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

The bill revises the financial requirements for an applicant or licensee. The bill exempts a service warranty association (association) licensed under Part III of ch. 634, F.S., and that holds no other license under ch. 634, F.S., from securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains, a minimum net worth of at least \$100 million and provides OIR with one of the following:

- Submits to the Office of Insurance Regulation (OIR) the association's annual audited financial statements or the parent corporation's annual consolidated audited financial statements, if applicable, demonstrating compliance with the net worth requirement. The

<sup>21</sup> These reporting requirements apply to public companies, which has public reporting obligations. Companies are subject to public reporting requirements if they sell securities in a public offering, allow their investor base to reach a certain size, which triggers public reporting obligations, or voluntarily register with the Securities and Exchange Commission. [Public Companies | Investor.gov](#) (last visited March 7, 2025).

<sup>22</sup> Section 634.406(7)(b), F.S.

association or the parent company must also submit a quarterly written certification of compliance with the net worth requirement; *or*

- Submits to OIR the association's or its parent corporation's Form 10K, Form 10-Q, or Form 20-F filings made with the Securities and Exchange Commission or such other documents that are required to be filed with the applicable stock exchange.

The section also provides that a contractual liability insurance policy must either pay 100 percent of the claims as they are incurred or pay 100 percent of claims due in the event an association fails to pay claims when due.

**Section 3** amends s. 634.414, F.S., relating to service warranty associations, to clarify that all contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy specified in s. 634.406(3), F.S., unless such coverage is issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7), F.S.

**Section 4** provides the bill takes effect July 1, 2025.

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

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill provides an option for a non-publicly traded service warranty association to forego securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the service warranty association, or its parent corporation, has a net worth of at least \$100 million and provides the Office of Insurance Regulation specified audited financial statements, and meets other requirements of s. 634.406(7), F.S.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Sections 1 and 2 of CS/SB 282 provide that a home warranty association or a service warranty association, respectively, may secure contractual liability coverage through an insurer or insurers for a policy or policies. Section 1.01(1), F.S., provides that the singular (e.g., policy or insurer) includes the plural (policies or insurers) and vice versa. To the extent that the OIR is interpreting current references to policy and insurer in the statutes to mean only a single policy, or a single insurer, presumably OIR has determined that context in which these terms are used does not allow for the application of the plural.

**VIII. Statutes Affected:**

This bill substantially amends sections 634.3077, 634.406, and 634.414 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/CS by Rules on March 19, 2025:**

The CS provides that a contractual liability insurance policy must either pay 100 percent of the claims as they are incurred or pay 100 percent of claims due in the event an association fails to pay claims when due.

**CS by Banking and Insurance on March 3, 2025:**

The CS:

- Clarifies that all service warranty contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy specified in s. 634.406(3), F.S., unless such coverage is issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7), F.S., because such service warranty association, or its parent corporation, has a net worth of at least \$100 million and meets other requirements.

- Revises the title of the bill to be entitled “An act relating to warranty associations.
- Provides technical changes.

B. Amendments:

None.

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

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103856

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2025	.	
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The Committee on Rules (Truenow) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 51 - 102  
and insert:

(e) The contractual liability insurance policy must either  
pay 100 percent of claims as they are incurred or pay 100  
percent of claims due in the event of the association's failure  
to pay claims when due.

Section 2. Subsections (3) and (4), paragraphs (b) and (c)  
of subsection (6), and paragraph (a) of subsection (7) of  
section 634.406, Florida Statutes, are amended to read:



103856

634.406 Financial requirements.—

(3) An association will not be required to establish an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such policy or policies. The contractual liability insurance must ~~shall~~ be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state. For the purposes of this subsection, the contractual liability policy or policies must ~~shall~~ contain the following provisions:

(a) In the event that the service warranty association does not fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer or insurers will pay losses and unearned premium refunds under such plans directly to the person making a claim under the contract.

(b) The insurer or insurers issuing the contractual liability policy or policies shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy or policies may not be canceled or not renewed by either the insurer or insurers or the association unless 60 days' written notice thereof has been given to the office by the insurer or insurers before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy or policies must ~~shall~~ insure all service warranty contracts which were issued while the policy or policies were ~~was~~ in effect



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regardless of whether ~~or not~~ the premium has been remitted to the insurer or insurers.

(e) In the event the issuer or issuers of the contractual liability policy or policies are ~~is~~ fulfilling the service warranty covered by policy or policies and in the event the service warranty holder cancels the service warranty, it is the responsibility of the contractual liability policy issuer or issuers to effectuate a full refund of unearned premium to the consumer. This refund is ~~shall be~~ subject to the cancellation fee provisions of s. 634.414. The salesperson or agent shall refund to the contractual liability policy issuer or issuers the unearned pro rata commission.

(f) An association may not use ~~utilize~~ both the unearned premium reserve and contractual liability insurance simultaneously. However, an association is ~~shall be~~ allowed to have contractual liability coverage on service warranties previously sold and sell new service warranties covered by the unearned premium reserve, and the converse of this is ~~shall~~ also ~~be~~ allowed. An association must be able to distinguish how each individual service warranty is covered.

(g) The contractual liability insurance policy must either pay 100 percent of claims as they are incurred or pay 100 percent of claims due in the event of the association's failure to pay claims when due.

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

And the title is amended as follows:

Delete lines 3 - 4  
and insert:



103856

70        634.3077, F.S.; revising the requirements of  
71        contractual liability policies; amending s. 634.406,  
72        F.S.; revising the requirements of contractual  
73        liability policies; revising the circumstances under  
74        which

By the Committee on Banking and Insurance; and Senator Truenow

597-02095-25

2025282c1

A bill to be entitled

An act relating to warranty associations; amending s. 634.3077, F.S.; making technical changes; amending s. 634.406, F.S.; revising the circumstances under which certain service warranty associations are not required to establish unearned premium reserves or to maintain contractual liability insurance and are authorized to allow their premiums to exceed specified ratios; amending s. 634.414, F.S.; requiring that contracts that include coverage for accidental damage from handling be covered by a specified policy; providing an exception; providing an effective date.

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

Section 1. Subsection (3) of section 634.3077, Florida Statutes, is amended to read:

634.3077 Financial requirements.—

(3) An association may not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance must ~~shall~~ be obtained from an insurer or insurers that hold a certificate of authority to do business within this ~~the~~ state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy or policies. For purposes of this subsection, the contractual liability policy or policies must ~~shall~~ contain the

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

597-02095-25

2025282c1

following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer or insurers will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer or insurers issuing the policy or policies shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy or policies may not be canceled or not renewed by the insurer or insurers or the association unless 60 days' written notice thereof has been given to the office by the insurer or insurers before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy or policies must ~~shall~~ insure all home warranty contracts that were issued while the policy or policies were ~~was~~ in effect regardless of whether ~~or not~~ the premium has been remitted to the insurer or insurers.

Section 2. Subsections (3) and (4), paragraphs (b) and (c) of subsection (6), and paragraph (a) of subsection (7) of section 634.406, Florida Statutes, are amended to read:

634.406 Financial requirements.—

(3) An association will not be required to establish an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by

Page 2 of 7

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

597-02095-25

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such policy or policies. The contractual liability insurance ~~must shall~~ be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state. For the purposes of this subsection, the contractual liability policy or policies must ~~shall~~ contain the following provisions:

(a) In the event that the service warranty association does not fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer or insurers will pay losses and unearned premium refunds under such plans directly to the person making a claim under the contract.

(b) The insurer or insurers issuing the contractual liability policy or policies shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy or policies may not be canceled or not renewed by either the insurer or insurers or the association unless 60 days' written notice thereof has been given to the office by the insurer or insurers before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy or policies ~~must shall~~ insure all service warranty contracts which were issued while the policy or policies were ~~was~~ in effect regardless of whether ~~or not~~ the premium has been remitted to the insurer or insurers.

(e) In the event the issuer or issuers of the contractual liability policy or policies ~~is~~ fulfilling the service warranty covered by policy or policies and in the event the

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service warranty holder cancels the service warranty, it is the responsibility of the contractual liability policy issuer or issuers to effectuate a full refund of unearned premium to the consumer. This refund ~~is shall be~~ subject to the cancellation fee provisions of s. 634.414. The salesperson or agent shall refund to the contractual liability policy issuer or issuers the unearned pro rata commission.

(f) An association may not use ~~utilize~~ both the unearned premium reserve and contractual liability insurance simultaneously. However, an association is ~~shall be~~ allowed to have contractual liability coverage on service warranties previously sold and sell new service warranties covered by the unearned premium reserve, and the converse of this is ~~shall~~ also ~~be~~ allowed. An association must be able to distinguish how each individual service warranty is covered.

(4) No warrantor may allow its gross written premiums in force to exceed a 7-to-1 ratio to net assets; however, a company may exceed this requirement if:

(a) The company:

1. ~~(a)~~ Holds licenses issued pursuant to the provisions of part I and this part; ~~and~~

2. ~~(b)~~ Maintains net assets of at least \$2.5 million; ~~and~~

3. ~~(c)~~ Uses ~~Utilizes~~ contractual liability insurance which reimburses the service warranty association for 100 percent of its paid claims; ~~and~~

(b) ~~(d)~~ The insurer or insurers issuing the contractual liability insurance policy or policies maintain ~~maintains~~ a policyholder surplus of at least \$100 million and are ~~is~~ rated "A" or higher by A.M. Best Company.

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(6) An association that holds a license under this part may allow its premiums for service warranties written under this part to exceed the ratio to net assets limitations of this section if the association meets all of the following:

(b) Uses a contractual liability insurance policy or policies approved by the office that:

1. Reimburse ~~Reimburses~~ the service warranty association for 100 percent of their ~~its~~ claims liability and are ~~is~~ issued by an insurer or insurers that maintain ~~maintains~~ a policyholder surplus of at least \$100 million; or

2. Comply ~~Complies~~ with subsection (3) and are ~~is~~ issued by an insurer or insurers that maintain ~~maintains~~ a policyholder surplus of at least \$200 million.

(c) The insurer or insurers issuing the contractual liability insurance policy or policies:

1. Are ~~Is~~ rated "A" or higher by A.M. Best Company or an equivalent rating by another national rating service acceptable to the office.

2. In conjunction with the warranty association's filing of the quarterly and annual reports, provide ~~provides~~, on a form prescribed by the commission, a statement certifying the gross written premiums in force reported by the warranty association and a statement that all of the warranty association's gross written premium in force is covered under the contractual liability policy or policies, regardless of whether it has been reported.

(7) An association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain

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contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the office with one of the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be \$100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the

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175 association to suspension or revocation of its license under  
176 this part.

177 Section 3. Subsection (5) is added to section 634.414,  
178 Florida Statutes, to read:

179 634.414 Forms; required provisions.—

180 (5) All contracts that include coverage for accidental  
181 damage from handling must be covered by the contractual  
182 liability policy specified in s. 634.406(3), unless such  
183 coverage is issued by an association not required to establish  
184 an unearned premium reserve or maintain contractual liability  
185 insurance under s. 634.406(7).

186 Section 4. This act shall take effect July 1, 2025.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Agriculture, *Chair*  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Fiscal Policy  
Military and Veterans Affairs, Space, and  
Domestic Security  
Transportation

### SENATOR KEITH TRUENOW

13th District

March 11, 2025

President Kathleen Passidomo  
400 Senate Office Building  
404 So Monroe Street  
Tallahassee, FL 32399

Dear President Passidomo,

I would like to request SB 282 Home and Service Warranty Association Financial Requirements be placed on your next available Rules Committee agenda.

This good bill clarifies that home warranty associations and service warranty associations may use multiple contractual liability insurance policies from multiple insurers, rather than a single policy from a single insurer, to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

I appreciate your favorable consideration.

Sincerely,

A handwritten signature in blue ink that reads "Keith Truenow".

Senator Keith Truenow  
Senate District 13

KT/dd

cc: Tom Yeatman, Staff Director  
Cynthia Futch, Administrative Assistant

#### REPLY TO:

- ☐ Lake County Agricultural Center, 1951 Woodlea Road, Tavares, Florida 32778 (352) 750-3133
- ☐ 16207 State Road 50, Suite 401, Clermont, Florida 34711
- ☐ 304 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

**APPEARANCE RECORD**

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

March 19 / 2025

Meeting Date

Rules

Committee

282

Bill Number or Topic

103856

Amendment Barcode (if applicable)

Name

Tim Meenan  
Former FSU Student Body President

Phone

(850) 284-9240

Address

Street

Email

Tm@meenanfor

City

State

Zip

Speaking:



For



Against



Information

**OR**

Waive Speaking:



In Support



Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



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

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

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

S-001 (08/10/2021)

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 402

INTRODUCER: Senator Wright

SUBJECT: Unlawful Use of Uniforms, Medals, or Insignia

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	<b>Favorable</b>
2.	Proctor	Proctor	MS	<b>Favorable</b>
3.	Wyant	Yeatman	RC	<b>Favorable</b>

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## I. Summary:

SB 402 amends s. 817.312 F.S., to replace a list of specified armed forces with *armed forces as defined in s. 250.01, F.S.* Current law provides it is a third degree felony for a person to misrepresent himself or herself as a member or veteran of such specified armed forces, or to wear the uniform or insignia of specified armed forces, under certain circumstances.

The bill ensures that the same branches of armed forces are listed in each provision of the statute. Under s. 250.01, F.S., “armed forces,” includes the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

The bill takes effect on October 1, 2025.

## II. Present Situation:

### Armed Forces

The Department of Defense is America’s largest government agency and is composed of 3.4 million service members and civilians. The department’s mission is to provide the armed forces needed to deter war and ensure our nation’s security.<sup>1</sup> Section 250.01, F.S., provides that “armed forces” means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.<sup>2</sup> The National Guard is defined separately as the Army National Guard and the Air National Guard, both of which specify that part of the National Guard of a state or territory of the United States, Puerto Rico, or the District of Columbia, active or inactive, which is:

- Trained, and has its officers appointed, under the United States Constitution;
- Organized, armed, and equipped wholly or partially at federal expense; and

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<sup>1</sup> U.S. Department of Defense, *About*, available at: <https://www.defense.gov/About/> (last visited March 3, 2025).

<sup>2</sup> Section 250.01(4), F.S.

- Federally recognized.<sup>3</sup>

The United States Space Force was established in 2019, creating the first new branch of the armed services since 1947. “The military and civilian guardians who work for the Space Force protect and defend American interests in space to ensure that our forces, our allies, and our people have the ability to harness space whenever and wherever they need it.”<sup>4</sup>

### ***Armed Forces Uniforms and Insignia***

A person commits a third degree felony<sup>5</sup> if, while in the process of soliciting for charitable donations or for the purpose of material gain, including but not limited to, obtaining employment or public office resulting in receiving compensation, such person misrepresents himself or herself as a member or veteran<sup>6</sup> of the:

- United States Air Force;
- United States Army;
- United States Coast Guard;
- United States Marine Corps;
- United States Navy;
- United States Space Force; or,
- National Guard.

Additionally, a person commits a third degree felony if, while in the process of soliciting for charitable donations or material gain, such person wears the uniform of, or any medal or insignia authorized for use by members or veterans<sup>7</sup> of the:

- United States Air Force;
- United States Army;
- United States Coast Guard;
- United States Marine Corps;
- United States Navy; or,
- The National Guard.

These crimes do not apply to persons in the theatrical profession while engaged in such profession.

In 2022, SB 438 amended the definition of “armed forces” in s. 250.01, F.S., to incorporate the newly established Space Force, and amended s. 817.312(1)(a)1., F.S., to prohibit a person from misrepresenting himself or herself as a member or veteran of the United States Space Force. However, that bill did not include Space force in s. 817.312(1)(a)2., F.S. Therefore, there is no prohibition for wearing the uniform of or any medal or insignia of the United States Space Force.

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<sup>3</sup> Sections 250.01(2)(b)-(d) and 250.01(6)(b)-(d), F.S.

<sup>4</sup> United States Space Force, *About Us*, available at <https://www.spaceforce.mil/About-Us/> (last visited March 3, 2025).

<sup>5</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Section 775.082 and 775.083, F.S.

<sup>6</sup> Section 817.312(1)(a)1., F.S.

<sup>7</sup> Section 817.312(1)(a)2., F.S.

### *Similar Provisions of Law*

Other provisions of Florida law and Federal law govern wearing a uniform or insignia of rank, some of which have been held unconstitutional by the courts.

In 2005, President George W. Bush signed into law the first Stolen Valor Act (the Act).<sup>8</sup> The law broadened provisions of federal law prohibiting the unauthorized wearing, manufacture, or sale of any military decorations and medals. Under the law, it was a federal misdemeanor to falsely represent oneself as having received any U.S. military decoration or medal. In 2012, the United States Supreme Court overturned the Act.

In *United States v. Alvarez*,<sup>9</sup> the Court ruled that the Act violated the First Amendment's guarantee to free speech and was therefore unconstitutional. In considering whether the conduct prohibited by the statute was protected free speech, the Court noted that "(t)he statute seeks to control and suppress all false statements on this one subject in almost limitless times and settings. And it does so entirely without regard to whether the lie was made for the purpose of material gain."<sup>10</sup>

Consequently, President Barack Obama signed into law the Stolen Valor Act of 2013.<sup>11</sup> The Act amended the federal criminal code to prohibit a person from claiming to have served in the military, from embellishing the rank attained, or from fraudulently claiming to have received a valor award with the intention of obtaining money, property, or other tangible benefit.

Similarly, s. 250.43, F.S., provides it is a first degree misdemeanor<sup>12</sup> for a person, other than persons entitled, to wear the uniform or insignia of rank worn by officers of the Florida National Guard. Additionally, every person other than an officer or enlisted person of a specified entity<sup>13</sup> who wears the uniform or any part of such uniform, or imitation thereof, of the United States Army, Navy, Marine Corps, Air Force, Space Force, National Guard, Naval Militia, or Marine Corps commits a first degree misdemeanor.

In *State v. Montas*,<sup>14</sup> the district court held that s. 250.43, F.S., was overbroad and a violation of due process because the statute has the potential to criminalize activities protected by the First Amendment. However, s. 817.312, F.S. addresses the intent element, by prohibiting the unlawful use of uniforms, medals, or insignia *while soliciting for charitable donations or for the purpose of material gain*.

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<sup>8</sup> GovTrack, Stolen Valor Act of 2005, Pub. L. No. 109-437, S. 1998, 109<sup>th</sup> Cong. (December 20, 2006), available at: <https://www.govtrack.us/congress/bills/109/s1998> (last visited March 3, 2025).

<sup>9</sup> *United States v. Alvarez*, 567, U.S. 709, 132 S. Ct. 2537, 183 L. Ed. 2d 574 (2012).

<sup>10</sup> *Id.* at 2547.

<sup>11</sup> 18 U.S.C. § 704. See GovTrack, Stolen Valor Act of 2013, Pub. L. No. 113-12, H.R. 258, 113<sup>th</sup> Cong. (June 3, 2013), available at: <https://www.govtrack.us/congress/bills/113/hr258> (last visited March 3, 2025).

<sup>12</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>13</sup> Section 250.43(2), F.S., Specified entities include Florida National Guard, naval militia, or marine corps of this state, any other state, Puerto Rico, or the District of Columbia, or of the United States Army, Navy, Marine Corps, Air Force, or Space Force.

<sup>14</sup> *State v. Montas*, 993 So. 2d 1127 (Fla. 5th DCA 2008).

### III. Effect of Proposed Changes:

The bill amends s. 817.312, F.S., which provides that it is a third degree felony for a person to misrepresent himself or herself as a member or veteran of specified armed forces, or to wear the uniform or insignia of specified armed forces, under certain circumstances.

Specifically, the bill amends s. 817.312(1)(a)1., F.S., to replace “United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, and United States Space Force” with “*armed forces as defined in s. 250.01.*”

Additionally, s. 817.312(1)(a)2., F.S., is amended to replace “United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy” with “*armed forces as defined in s. 250.01.*”

The bill ensures that the same branches of armed forces are listed in each provision of the statute. Under s. 250.01, F.S., “armed forces,” includes the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

The bill takes effect on October 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill relates to criminal laws prohibiting wearing specified uniforms or insignia, and criminal laws are exempt from the requirements of Article VII, Section 18 of the Florida Constitution, relating to unfunded mandates.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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

None.

#### E. Other Constitutional Issues:

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill may have an insignificant prison bed impact on the Department of Corrections by expanding the conduct prohibited as a third degree felony.

**VI. Technical Deficiencies:****VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 817.312 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Wright

8-00553-25

2025402\_\_

A bill to be entitled

An act relating to unlawful use of uniforms, medals, or insignia; amending s. 817.312, F.S.; prohibiting persons from wearing the uniform of or any medal or insignia authorized for use by members or veterans of the Space Force; making technical changes; providing criminal penalties; providing an effective date.

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

Section 1. Section 817.312, Florida Statutes, is amended to read:

817.312 Unlawful use of uniforms, medals, or insignia.—

(1) (a) A person may not:

1. Misrepresent himself or herself as a member or veteran of the armed forces as defined in s. 250.01 ~~United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force,~~ or the National Guard; or

2. Wear the uniform of or any medal or insignia authorized for use by members or veterans of the armed forces as defined in s. 250.01 ~~United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy,~~ or the National Guard which he or she is not authorized to wear,

while soliciting for charitable contributions or for the purpose of material gain, including, but not limited to, obtaining employment or public office resulting in receiving compensation.

Page 1 of 2

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8-00553-25

2025402\_\_

(b) This subsection does not prohibit persons in the theatrical profession from wearing such uniforms, medals, or insignia while actually engaged in such profession.

(2) A person who violates subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 2025.

Page 2 of 2

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

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 7000

INTRODUCER: Environment and Natural Resources Committee

SUBJECT: OGSR/Site-specific Location Information for Endangered and Threatened Species

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Carroll</u>	<u>Rogers</u>		<b>EN Submitted as Comm. Bill/Fav</b>
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Carroll</u>	<u>Yeatman</u>	<u>RC</u>	<b>Favorable</b>

---

## I. Summary:

SB 7000 saves from repeal the current public records exemption making site-specific location information on endangered and threatened species exempt from public inspection and copying requirements.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2025, unless reenacted by the Legislature. This bill saves the exemptions from repeal by deleting the scheduled repeal date, thereby maintaining the current exempt status of the information.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect October 1, 2025.

## II. Present Situation:

### Florida Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states that:

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

<sup>3</sup> Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>4</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.<sup>5</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

Only the Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>10</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>11</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>12</sup>

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<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>12</sup> FLA. CONST. art. I, s. 24(c)

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### **The Exemption**

The public records exemption retained by this bill exempts from public records disclosure requirements site-specific location information held by an agency concerning threatened or endangered species, as defined in the Florida Endangered and Threatened Species Act, or concerning threatened or endangered species listed by a federal agency.<sup>16</sup> The exemption does not apply to the site-specific location information of animals held in captivity.<sup>17</sup>

When the exemption became law in 2020, the Legislature found that the harm caused by the release of site-specific location information outweighed any public benefit from the disclosure of such information.<sup>18</sup> The Legislature found that the exemption was a public necessity because it would:

- Reduce the risk of exposure to wildlife poachers and threats to the integrity of the site due to increased traffic to the area;
- Protect private property owners from potential trespass and related liability issues when threatened or endangered species are found on their property; and
- Encourage private property owners and researchers to share information they might be hesitant to provide if such location information were made public.<sup>19</sup>

Unless it is reviewed by the Legislature and saved from repeal, the exemption will be repealed on October 2, 2025.<sup>20</sup>

### **Threatened and Endangered Species**

#### ***The Federal Endangered Species Act***

The Endangered Species Act of 1973 (the Act) protects and conserves imperiled species and their ecosystems.<sup>21</sup> The Act is administered by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The Act requires these agencies to designate certain species

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<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>16</sup> Section 379.1026, F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Chapter 2020-129, Laws of Fla.

<sup>19</sup> *Id.*

<sup>20</sup> Section 379.1026, F.S.

<sup>21</sup> U.S. Fish and Wildlife Service, *ESA Basics: 50 Years of Conserving Endangered Species* (Feb. 2023), 1, <https://www.fws.gov/sites/default/files/documents/endangered-species-act-basics-february-2023.pdf> (last visited Mar. 4, 2025).

as threatened or endangered.<sup>22</sup> It defines endangered species as “any species which is in danger of extinction throughout all or a significant portion of its range”<sup>23</sup> and it defines a threatened species as “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.”<sup>24</sup> The term species includes both plants and animals.<sup>25</sup>

In evaluating whether a species should be listed under the Act, the appropriate federal agency must consider factors like the present or threatened destruction, modification, or curtailment of its habitat or range; its overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence.<sup>26</sup>

If a fish or wildlife species native to Florida is federally listed as threatened or endangered, it will also be designated by the Florida Fish and Wildlife Conservation Commission (FWC) as a state threatened or endangered species.<sup>27</sup> If a species is federally delisted, FWC has the authority to maintain that species as a state-designated species<sup>28</sup> and it may also independently list species as state-designated threatened or endangered species.<sup>29</sup>

### ***Florida Endangered and Threatened Species Act***

The Florida Endangered and Threatened Species Act defines threatened species as “any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subject to increased stress as a result of further modification of its environment.”<sup>30</sup> It defines an endangered species as “any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; overutilization for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of regulatory mechanisms; or other natural or manmade factors affecting its continued existence.”<sup>31</sup>

The Florida Endangered and Threatened Species Act does not include plant species in its definitions of threatened and endangered species. State protections and listing authorizations for

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<sup>22</sup> 16 U.S.C. s. 1533; *see* U.S. Fish and Wildlife Service, *supra* note 21 at 1.

<sup>23</sup> 16 U.S.C. s. 1532(6). The definition excludes “a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this chapter would present an overwhelming and overriding risk to man.” *Id.*

<sup>24</sup> 16 U.S.C. s. 1532(20).

<sup>25</sup> 16 U.S.C. s. 1532(16). Species is defined to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.” *Id.*

<sup>26</sup> 16 U.S.C. s. 1533(a)(1). These determinations must be made only on the basis of the best scientific and commercial data available after a review of a species’ status and after considering any efforts being made by other governmental entities to protect it. 16 U.S.C. s. 1533(b)(1).

<sup>27</sup> Rule 68A-27.0012(1), F.A.C.; Florida Fish and Wildlife Conservation Commission, *Endangered and Threatened Species Management and Conservation Plan: Progress Report Fiscal Year 2022-2023* (Oct. 2023), 10, <https://myfwc.com/media/mv4ezszl/2022-23endangeredspeciesreport.pdf> (last visited Mar. 3, 2025); *see* U.S. Fish and Wildlife Service, *supra* note 21 at 2.

<sup>28</sup> Rule 68A-27.0012(1), F.A.C.

<sup>29</sup> Rule 68A-27.0012(2), F.A.C. The Florida Fish and Wildlife Conservation Commission (FWC) itself may initiate evaluation of a species for listing, or it may begin the process after receiving a species evaluation request. *Id.*

<sup>30</sup> Section 379.2291(3)(c), F.S.

<sup>31</sup> Section 379.2291(3)(b), F.S.

threatened and endangered plants are found in ch. 581, F.S., which is administered by the Florida Department of Agriculture and Consumer Services.<sup>32</sup> Because the public records exemption applies to threatened and endangered species listed under the Florida Endangered and Threatened Species Act and species listed by a federal agency as endangered or threatened, site-specific location information on *plant* species listed only by the state<sup>33</sup> are not exempt from public records requests.

### ***Site-Specific Location Information***

FWC's management of threatened and endangered species includes surveying and monitoring species, improving and restoring habitat, developing management plans, conservation planning, and raising awareness.<sup>34</sup> Surveying and monitoring are important tools that wildlife managers use to better understand how their management actions are affecting species. Knowing the effects of management actions on a species can help managers pinpoint the actions that have led to species stabilization and conservation.<sup>35</sup>

The importance of surveying and monitoring means that state fish and wildlife managers are constantly collecting data showing site-specific location information on threatened and endangered species.<sup>36</sup> For example, FWC biologists track Florida panthers with radio collars.<sup>37</sup> The locations of panthers collared with VHF transmitters are monitored two times per week by aircraft, while panthers fitted with GPS-transmitting radio collars can be constantly monitored.<sup>38</sup> FWC and the U.S. Fish and Wildlife Service also collect location data on panthers from multiple trail camera locations.<sup>39</sup>



A sedated Florida panther is fitted with a radio collar to allow researchers to track this individual's movements. *Photo courtesy of FWC.*

### **Open Government Sunset Review Act**

Section 119.15, F.S., the Open Government Sunset Review Act (OGSR), prescribes a legislative review process for newly created or substantially amended public records or open meetings

<sup>32</sup> Section 581.185, F.S.; *see* s. 581.011, F.S. (defining department as “the Department of Agriculture and Consumer Services of the state or its authorized representative”).

<sup>33</sup> For the list of plant species listed by the state, in addition to plant species listed by the federal government *see* Rule 5B-40.0055 F.A.C.

<sup>34</sup> *Endangered and Threatened Species Management and Conservation Plan: Progress Report Fiscal Year 2022-2023*, *supra* note 27 at 12.

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

<sup>36</sup> *See, e.g.,* FWC, *Endangered and Threatened Species Management and Conservation Plan: Progress Report Fiscal Year 2022-2023*, *supra* note 27 at 25-27.

<sup>37</sup> FWC, *Capturing Florida Panthers*, <https://myfwc.com/wildlifehabitats/wildlife/panther/capture/> (last visited Jan. 2025). The photo on this page of the analysis can be found at this site.

<sup>38</sup> *Endangered and Threatened Species Management and Conservation Plan: Progress Report Fiscal Year 2022-2023*, *supra* note 27 at 25.

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

exemptions.<sup>40</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>41</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>42</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>43</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>44</sup> or
- It protects trade or business secrets.<sup>45</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>46</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>47</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>48</sup>

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<sup>40</sup> Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

<sup>41</sup> Section 119.15(3), F.S.

<sup>42</sup> Section 119.15(6)(b), F.S.

<sup>43</sup> Section 119.15(6)(b)1., F.S.

<sup>44</sup> Section 119.15(6)(b)2., F.S.

<sup>45</sup> Section 119.15(6)(b)3., F.S.

<sup>46</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?  
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>47</sup> FLA. CONST. art. I, s. 24(c).

<sup>48</sup> Section 119.15(7), F.S.

## Open Government Sunset Review Findings and Recommendations

FWC recommends the preservation of the public records exemption for site-specific location information on threatened and endangered species. FWC supported the exemption when it was first codified in 2020, due to concerns that public availability of the information undermined FWC's conservation efforts and hurt public trust among collaborators and stakeholders.<sup>49</sup>

More specifically, FWC supported the exemption because the agency was concerned with protecting private property owners enrolled in its management plan from potential trespass and related liability issues when threatened or endangered species are found on their properties.<sup>50</sup> FWC was also concerned that allowing the public to easily access site-specific location information would have a chilling effect on its necessary collaboration with nongovernmental organizations, universities, other management agencies, and private consultants to help make management decisions for threatened and endangered species.<sup>51</sup> FWC also stated that the easy availability of site-specific location information jeopardized threatened and endangered species due to an increased risk of poaching or degradation of habitat from increased use of the site.<sup>52</sup>

FWC has received approximately 800 public records requests for site-specific location information on 12 threatened or endangered species or species groups since fiscal year 2021-2022.<sup>53</sup> There have been well over 100 requests each for manatees, gopher tortoises, Cape Sable seaside sparrows, and marine turtles and over 70 requests each for Florida pine snakes, alligator snapping turtles, and Florida panthers.<sup>54</sup>

Citing the same concerns it had in 2020, FWC supports the continuation of the public records exemption with the passage of this bill.

### III. Effect of Proposed Changes:

**Section 1** removes the scheduled repeal date of the public record exemption, thereby continuing the exempt status of site-specific location information held by an agency concerning an endangered species, a threatened species, or a species listed by a federal agency as endangered or threatened.

**Section 2** provides an effective date of October 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

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<sup>49</sup> FWC, *Agency Analysis of SB 812*, 2 (Dec. 2019), on file with the Senate Committee on Environment and Natural Resources.

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

<sup>51</sup> *Id.* at 2, 3.

<sup>52</sup> *Id.* at 3.

<sup>53</sup> Email from FWC (Jan. 1, 2025), on file with the Senate Committee on Environment and Natural Resources.

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

have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

**B. Public Records/Open Meetings Issues:**

**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. This bill does not create or expand an exemption, and thus, the bill does not require a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption, and thus, a statement of public necessity is not required.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

**C. Trust Funds Restrictions:**

None identified.

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

None identified.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None identified.

**B. Private Sector Impact:**

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

**VI. Technical Deficiencies:**

None identified.

**VII. Related Issues:**

None identified.

**VIII. Statutes Affected:**

This bill substantially amends section 379.1026 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Environment and Natural Resources

592-01941-25

20257000\_\_

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 379.1026, F.S., which provides an exemption from public records requirements for site-specific location information for endangered and threatened species; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 379.1026, Florida Statutes, is amended to read:

379.1026 Site-specific location information for endangered and threatened species; public records exemption.—The site-specific location information held by an agency as defined in s. 119.011 concerning an endangered species as defined in s. 379.2291(3)(b), a threatened species as defined in s. 379.2291(3)(c), or a species listed by a federal agency as endangered or threatened, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to the site-specific location information of animals held in captivity. ~~This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature.~~

Section 2. This act shall take effect October 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kathleen Passidomo, Chair  
Committee on Rules

**Subject:** Committee Agenda Request

**Date:** March 11, 2025

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I respectfully request that **SB 7000** relating to OGSR/Site-Specific Location Information for Endangered and Threatened Species be placed on the:

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

SB 7000 saves from repeal the current public records exemption making site-specific location information on endangered and threatened species exempt from public inspection and copying requirements.

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

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Senator Ana Maria Rodriguez  
Florida Senate, District 40

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 7004

INTRODUCER: Community Affairs Committee

SUBJECT: OGSR/Applicants or Participants in Certain Federal, State, or Local Housing Assistance Programs

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Hunter	Fleming		<b>CA Submitted as Comm. Bill/Fav</b>
1.	McVaney	McVaney	GO	<b>Favorable</b>
2.	Hunter	Yeatman	RC	<b>Favorable</b>

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**I. Summary:**

SB 7004 saves from repeal the current public records exemption, making property photographs and personal identifying information of applicants or participants in presidentially declared disaster-related federal, state, or local housing assistance programs confidential and exempt from public records inspection and copying requirements. The exemption covers records held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2025, unless reenacted by the Legislature. The bill saves the exemption from repeal by deleting the scheduled repeal date, thereby maintaining the confidential and exempt status of the information.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect October 1, 2025.

**II. Present Situation:**

**Florida Public Records Law**

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>4</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.<sup>5</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

Only the Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>10</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>11</sup>

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<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### **Department of Commerce**

The Department of Commerce (department) was created in 2011 by combining the Agency for Workforce Innovation, the Department of Community Affairs, and the Governor’s Office of Tourism, Trade, and Economic Development.<sup>16</sup> The purpose of the department is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement policies and strategies designed to promote economic opportunities for all Floridians.<sup>17</sup> Within the department, the Office of Long-Term Resiliency supports communities following disasters by addressing long-term recovery needs for housing, infrastructure, and economic development.<sup>18</sup> The department is also the state authority responsible for administering all United States Department of Housing and Urban Development (HUD) long-term disaster recovery funds awarded to the state.<sup>19</sup>

### **Florida Housing Finance Corporation**

The Florida Housing Finance Corporation Act provides that the Florida Housing Finance Corporation (FHFC) is created within the Department of Commerce and is a public corporation.<sup>20</sup> The FHFC is responsible for increasing the amount of affordable housing available to individuals and families by stimulating investment of private capital and encouraging public and private sector housing partnerships. To accomplish this, the FHFC uses federal and state resources to finance the development of safe, affordable homes and rental housing and to assist first-time homebuyers.<sup>21</sup>

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<sup>12</sup> FLA. CONST. art. I, s. 24(c)

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>16</sup> See ch. 2011-142, Laws of Fla.

<sup>17</sup> Section 20.60(4), F.S.

<sup>18</sup> Dep’t of Commerce, *Office of Long-Term Resiliency*, <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Mar. 4, 2025).

<sup>19</sup> *Id.*

<sup>20</sup> Section 420.504(1), F.S.

<sup>21</sup> See sections. 420.502 and 420.507, F.S.

## **Local Housing Finance Agencies**

Local Housing Finance Agencies (HFAs), also known as Local Housing Finance Authorities, are dependent<sup>22</sup> special districts of a local government. A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>23</sup> HFAs are set up to sell bonds to finance affordable apartments, provide loans with HFA funds for gap financing, sell bonds or administer other programs to provide low-rate mortgages, and provide down payment assistance to homebuyers.<sup>24</sup>

## **Disaster Recovery Housing Assistance Programs**

The Department, FHFC, counties, municipalities, and local housing finance agencies have various housing programs that are designed to assist those who have been impacted by a disaster. While counties and municipalities have broad discretion to allocate local funds and create programs that meet the disaster housing needs within their communities, the primary programs which allocate significant funds to the state and local governments for such purposes are described below.

Applicants seeking assistance from many of these programs are required to provide personal information and supporting documentation.<sup>25</sup> For example, damage assessment data collected during property inspections to determine remaining needed repairs may include the applicant’s name, address, telephone numbers, photo identification, and interior and exterior photographs of their residence.<sup>26</sup> Other commonly needed personal identifying information includes proof of home ownership, tax returns, and salary or wage statements. The Department must maintain all files containing such personally identifiable information, making them public records.<sup>27</sup>

## ***Community Development Block Grant - Disaster Recovery***

The primary program utilizing the public records exemption is the Community Development Block Grant - Disaster Recovery (CDBG-DR) Program administered in Florida by the Department. CDBG-DR is funded by the HUD and supports communities following disasters by addressing long-term recovery needs.<sup>28</sup> In response to a presidentially declared disaster, Congress may appropriate supplemental funding for the CDBG-DR Program as “grants to rebuild disaster impacted areas and provide crucial seed money to start the recovery process.”<sup>29</sup>

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<sup>22</sup> A special district is classified as “dependent” if the governing body of a single county or municipality: serves as governing body of the district; appoints the governing body of the district; may remove members of the district’s governing body at-will during their unexpired terms; or approves or can veto the budget of the district.

<sup>23</sup> See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

<sup>24</sup> Presentation to Senate Community Affairs Committee 12-1-2021 on file with Senate Community Affairs Committee.

<sup>25</sup> Sarasota County, *Housing Recovery Program*, available at <https://www.resilientsrq.net/housing-recovery> (last visited Feb. 16, 2025)

<sup>26</sup> Department of Commerce, *Eligibility Requirements*, available at <https://ian.rebuildflorida.gov/eligibility/> (last visited Feb. 14, 2025)

<sup>27</sup> *Id.*

<sup>28</sup> Dep’t of Commerce, *Office of Long-Term Resiliency*, <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Mar. 4, 2025).

<sup>29</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery Program*, [https://www.hud.gov/program\\_offices/comm\\_planning/cdbg-dr/](https://www.hud.gov/program_offices/comm_planning/cdbg-dr/) (last visited Mar. 4, 2025).

These flexible grants help cities, counties, and states recover from presidentially declared disasters, especially in low-income areas.<sup>30</sup>

CDBG-DR funds must be used for “...necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation....”<sup>31</sup> The funds are intended to address unmet needs that other resources—including Federal Emergency Management (FEMA) funds or homeowner’s insurance—aren’t likely to address.<sup>32</sup> CDBG-DR funds cannot duplicate funding available from federal, state, or local governments; private and non-profit organizations; insurance proceeds; or any other source of assistance.<sup>33</sup> The timeframe between the occurrence of a disaster and project implementation can be lengthy and vary widely.<sup>34</sup> While disasters may be quickly declared—often within 1 day—congressional appropriations may not happen until a year after the declaration date.<sup>35</sup> The process from HUD notice publication to action plan development and approval, and through first expenditure may take months, while execution of the activity and final completion may take years.<sup>36</sup> For example, Hurricane Michael struck on October 10, 2018, HUD published its notice about CDBG-DR funds in the Federal Register in January of 2020, and Florida received HUD’s approval of the State Action Plan in June of 2020.<sup>37</sup>

The Department has received more than \$4.3 billion since 2017 to administer CDBG-DR and Mitigation funds to communities impacted by tropical storms and hurricanes.<sup>38</sup>

### ***Rebuild Florida***

Rebuild Florida is a program within the Department that focuses on distributing CDBG-DR funding to long-term recovery efforts for homeowners, small businesses, and communities after all other assistance has been exhausted, including insurance and other forms of federal assistance.<sup>39</sup>

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<sup>30</sup> *Id.*

<sup>31</sup> U.S. Dep’t of Housing & Urban Development, *Community Development Block Grant Disaster Recovery: CDBG-DR Overview*, p. 18, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-Disaster-Recovery-Overview.pdf> (last visited Mar. 4, 2025).

<sup>32</sup> U.S. Dep’t of Housing & Urban Development, *Fact Sheet*, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-DR-Fact-Sheet.pdf> (last visited Feb. 16, 2025).

<sup>33</sup> *Id.*

<sup>34</sup> U.S. Department of Housing and Urban Development, *Housing Recovery and CDBG-DR at 10*, available at [https://www.huduser.gov/portal/sites/default/files/pdf/HousingRecovery\\_CDBG-DR.pdf](https://www.huduser.gov/portal/sites/default/files/pdf/HousingRecovery_CDBG-DR.pdf) (last visited Feb. 16, 2025).

<sup>35</sup> *Id.* at 11-12.

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

<sup>37</sup> Department of Commerce, *Hurricane Michael*, <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-michael> (last visited Feb. 16, 2025).

<sup>38</sup> Florida Commerce Office of Long-Term Resiliency, Dep’t of Commerce, *Presentation to Senate Community Affairs Committee*, February 4, 2025, p.4, [https://flsenate.gov/Committees/Show/CA/MeetingPacket/6282/10952\\_MeetingPacket\\_6282\\_2.pdf](https://flsenate.gov/Committees/Show/CA/MeetingPacket/6282/10952_MeetingPacket_6282_2.pdf) (last visited Mar. 4, 2025).

<sup>39</sup> Dep’t of Commerce, *Rebuild Florida Housing Repair and Replacement Program* (Sept. 10, 2018), <https://www.floridajobs.org/docs/default-source/communicationsfiles/rebuild-florida-document/housing-repair-faqs.pdf?sfvrsn=4> (last visited Mar. 4, 2025).

The Rebuild Florida Housing Repair and Replacement Program (HRRP) addresses remaining unmet housing recovery needs through the repair, rebuild or replacement of damaged homes.<sup>40</sup> CDBG-DR and Rebuild Florida also fund rebuild and repair programs through local governments, either directly from HUD<sup>41</sup> or through the department. The program offers reconstruction, manufactured housing unit replacement, or rehabilitation with a priority on the most vulnerable populations, including the elderly, those with disabilities, families with children under the age of 18, and families with low household incomes.<sup>42</sup> The HRRP program manages complete construction on behalf of eligible and awarded homeowners, but payments are not made to the property owner directly. Contractors are selected by the state as a subrecipient of the HUD funding, and homeowners do not directly select or contact the chosen builder.<sup>43</sup>

Applicants seeking assistance from the Department of Commerce's Rebuild Florida, CDBG-DR funded programs or local rebuild and repair programs, are required to provide personal information and supporting documentation. Applications may be received by the department or the local government.<sup>44</sup> For example, damage assessment data collected during property inspections to determine remaining needed repairs may include the applicant's name, address, telephone numbers, photo identification, and interior and exterior photographs of their residence.<sup>45</sup> Other commonly needed personal identifying information includes proof of home ownership, tax returns, and salary or wage statements. The department maintains all files containing such personally identifiable information in a secure manner.<sup>46</sup>

Rebuild Florida currently has open programs on their website for hurricanes Irma, Michael, and Hurricane Ian, and has forthcoming programs to support those affected by the 2023-2024 storms.<sup>47</sup>

### ***The State Housing Initiatives Partnership***

The State Housing Initiatives Partnership (SHIP) Program was created in 1992.<sup>48</sup> Currently, all 67 counties and 52 municipalities receive funding through the Community Development Block Grant program administered by the SHIP.<sup>49</sup> Many local government's SHIP programs offer recovery assistance to help those affected by disasters with temporary relocation, rental assistance, mortgage foreclosure prevention, security and utility deposit assistance, debris

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<sup>40</sup> Cf. Department of Commerce, *Recovery FAQ for Hurricane Ian*, available at <https://ian.rebuildflorida.gov/resources/frequently-asked-questions/> (last visited Feb. 14, 2025).

<sup>41</sup> HUD allocated \$201.5 million to Sarasota County through CDBG-DR, \$55 million of which was to provide decent, safe, and sanitary housing for residents affected by Hurricane Ian.

<sup>42</sup> *Id.*

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

<sup>44</sup> Sarasota County, *Housing Recovery Program*, available at <https://www.resilientsrq.net/housing-recovery> (last visited Feb. 16, 2025).

<sup>45</sup> Department of Commerce, *Eligibility Requirements*, available at <https://ian.rebuildflorida.gov/eligibility/> (last visited Feb. 14, 2025).

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

<sup>47</sup> *Id.*

<sup>48</sup> Chapter 92-317, Laws of Fla.

<sup>49</sup> Section 420.072(7), F.S.

removal and home repairs.<sup>50</sup> Examples include Leon County and Osceola County who have leveraged SHIP funds for these disaster recovery related activities.<sup>51</sup> Moreover, the Florida Housing Finance Corporation may hold up to \$5 million each fiscal year from the SHIP Program appropriation for recovery efforts for declared disasters.<sup>52</sup> These funds have been utilized for disaster recovery efforts that include response to hurricanes, tornadoes, flooding, and wildfires.

### **The Robert T. Stafford Disaster Relief Act and a Presidential Disaster Declaration**

Congress enacted the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”)<sup>53</sup> to provide an orderly and continuing means of assistance by the federal government to state and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from disasters.<sup>54</sup> Under the Stafford Act, governors request the President for a declaration of a major disaster or an emergency and funds become available if the President does so.<sup>55</sup> The President's declaration designates the areas that may receive federal assistance and what specific types of assistance that can be.

Between 2022 and 2024, the President declared disasters in Florida following hurricanes Milton, Helene, Idalia, Ian, and Nicole.<sup>56</sup>

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>57</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>58</sup> public records or open meetings exemptions, with specified exceptions.<sup>59</sup> The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>60</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>61</sup>

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<sup>50</sup> Florida Housing, *Disaster Relief Resources and Information*, available at

<https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program/disaster-relief> (last visited Feb. 16, 2025)

<sup>51</sup> Leon County, *TEAM Leon Individual Assistance Program*, <https://cms.leoncountyfl.gov/Government/Departments/Human-Services-Community-Partnerships/TEAM-Leon/TEAM-Leon-Individuals>, (last visited Mar. 4, 2025); Osceola County, *State Housing Initiatives Partnership (SHIP) Program*, <https://www.osceola.org/Services/Housing-Programs/SHIP> (last visited Mar. 4, 2025).

<sup>52</sup> Section 420.9073(5), F.S.

<sup>53</sup> 42 U.S.C. ss. 5121, *et seq.*

<sup>54</sup> 42 U.S.C. s. 5121(b).

<sup>55</sup> 42 U.S.C. ss. 5170 and 5191.

<sup>56</sup> Federal Emergency Management Agency, U.S. Dep’t of Homeland Security, *Disasters and Other Declarations*, <https://www.fema.gov/disaster/declarations>, (last visited Mar. 4, 2025)

<sup>57</sup> Section 119.15, F.S.

<sup>58</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>59</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>60</sup> Section 119.15(3), F.S.

<sup>61</sup> Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>62</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>63</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>64</sup>

The Act also requires specified questions to be considered during the review process.<sup>65</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.<sup>66</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>67</sup>

### ***Open Government Sunset Review Findings and Recommendations***

The Department recommends the preservation of the public records exemption for records relating to property photographs and personal identifying information of applicants or participants in disaster-related federal, state, or local housing assistance programs. The Department cites the necessity of the exemption, providing that the information obtained in administering these programs to disaster affected Floridians “could be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the vulnerability of a distressed homeowner or tenant following a disaster.”<sup>68</sup>

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<sup>62</sup> Section 119.15(6)(b)1., F.S.

<sup>63</sup> Section 119.15(6)(b)2., F.S.

<sup>64</sup> Section 119.15(6)(b)3., F.S.

<sup>65</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>66</sup> See generally s. 119.15, F.S.

<sup>67</sup> Section 119.15(7), F.S.

<sup>68</sup> Florida Commerce, *Agency Analysis of SB 966*, (Dec. 2019), on file with the Senate Committee on Community Affairs.

Additionally, the Senate Community Affairs Committee and House Local Administration, Federal Affairs & Special Districts Subcommittee surveyed local governments in regard to the exemption. Of the respondents who provided a recommendation, the overwhelming majority supported reenacting the public records exemption ‘as is.’<sup>69</sup> Only two local governments statewide recommended repealing the exemption, and those responses indicated non-use as a factor.<sup>70</sup>

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

**Section 1** amends s. 119.071(5)(f), F.S., to remove the scheduled repeal date of the public records exemption, thereby continuing the confidential and exempt status of the property photographs and personal identifying information of applicants or participants in disaster-related federal, state, or local housing assistance programs held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency.

**Section 2** provides an effective date of October 1, 2025.

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

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

#### **B. Public Records/Open Meetings Issues:**

##### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. This bill does not create or expand an exemption, and thus, the bill does not require a two-thirds vote to be enacted.

##### **Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption and thus, a statement of public necessity is not required.

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<sup>69</sup> Survey of local governments on file with the Senate Committee on Community Affairs.

<sup>70</sup> The municipalities of Shalimar and Longboat Key both indicated support for repealing the exemption.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

**C. Trust Funds Restrictions:**

None identified.

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

None identified.

**E. Other Constitutional Issues:**

None identified.

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

None identified.

**B. Private Sector Impact:**

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

**C. Government Sector Impact:**

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

**VI. Technical Deficiencies:**

None identified.

**VII. Related Issues:**

None identified.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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By the Committee on Community Affairs

578-01999-25

20257004\_\_

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for property photographs and personal identifying information of applicants for or participants in certain federal, state, or local housing assistance programs; deleting the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (f) of subsection (5) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(5) OTHER PERSONAL INFORMATION.—

(f)1. The following information held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Medical history records and information related to health or property insurance provided by an applicant for or a participant in a federal, state, or local housing assistance program.

b. Property photographs and personal identifying information of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of

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

578-01999-25

20257004\_\_

disaster recovery assistance for a presidentially declared disaster.

2. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs.

3. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

~~4. Sub-subparagraph 1.b. is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2025.

Page 2 of 2

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

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

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 7006

INTRODUCER: Regulated Industries Committee

SUBJECT: Public Records and Meetings/NG911 Systems

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Schrader	Imhof		<b>RI Submitted as Comm. Bill/Fav</b>
1.	McVaney	McVaney	GO	<b>Favorable</b>
2.	Schrader	Yeatman	RC	<b>Favorable</b>

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**I. Summary:**

SB 7006 saves from repeal the current public records exemptions for the following information:

- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennas, equipment, or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.<sup>1</sup>
- Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennas, equipment or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.

The bill also saves from repeal a public meeting exemption in s. 286.0113(4), F.S., for any portion of a meeting that would reveal the above information, as well as a public record exemption for any recordings or transcripts of the exempt meetings.

The bill also expands the public records exemption and public meeting exemption by adding information relating to Next Generation 911 (NG911) systems to the information protected from disclosure.

The exemptions are required to protect 911, E911, NG911, or public safety radio communication services to ensure the security of emergency communication infrastructure, structures, and

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<sup>1</sup> Section 119.011(2), F.S., defines an “agency,” under Florida’s public records law in ch. 119, F.S., to include “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

facilities. Any disruption to 911, E911, NG911, or public safety radio communication services during an active shooter or other terror event is very likely to result in greater loss of life and property damage. To function properly, towers and antennas supporting these systems need to be visible, increasing the security risk of such facilities. Because architectural and engineering plans reviewed and held by counties, municipalities, and other government agencies include information about towers, equipment, ancillary facilities, critical systems, and restricted areas, these plans could be used by criminals or terrorists to examine the physical plant for vulnerabilities. Information contained in these documents could aid in the planning and execution of criminal actions, including cybercrime, arson, and terrorism.

The Open Government Sunset Review Act requires the Legislature to review each public record and public meeting exemption 5 years after enactment. These exemptions are scheduled to repeal on October 2, 2025. The bill modifies the scheduled repeals and delays them to October 2, 2030.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

## **II. Present Situation:**

### **Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>2</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>3</sup>

Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions are often placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.<sup>6</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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<sup>2</sup> FLA. CONST. art. I, s. 24(a).

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

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>7</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>8</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>9</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>10</sup>

The Legislature may create an exemption to public records requirements by passing a general law by a two-thirds vote of each of the House and the Senate.<sup>11</sup> The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>12</sup> A statutory exemption, which does not meet these two criteria, may be unconstitutional and may not be judicially saved.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>14</sup> Records designated “confidential and exempt” may be released by the records custodian only under the circumstances defined by statutory exemptions. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

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<sup>7</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>8</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>9</sup> Section 119.07(1)(a), F.S.

<sup>10</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>11</sup> FLA. CONST. art. I, s. 24(c).

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

<sup>13</sup> *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>14</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

## Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.<sup>16</sup> Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.<sup>17</sup> This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.<sup>18</sup>

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”<sup>19</sup> or the “Sunshine Law,”<sup>20</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.<sup>21</sup> The board or commission must provide the public reasonable notice of such meetings.<sup>22</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.<sup>23</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>24</sup> Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.<sup>25</sup> A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.<sup>26</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>27</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>28</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>29</sup>

## Open Government Sunset Review Act

Section 119.15, F.S., the Open Government Sunset Review Act (OGSR), prescribes a legislative review process for newly created or substantially amended public records or open meetings

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<sup>16</sup> FLA. CONST., art. I, s. 24(b).

<sup>17</sup> *Id.*

<sup>18</sup> FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

<sup>19</sup> *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

<sup>20</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

<sup>21</sup> Section 286.011(1)-(2), F.S.

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

<sup>23</sup> Section 286.011(6), F.S.

<sup>24</sup> Section 286.011(2), F.S.

<sup>25</sup> Section 286.011(1), F.S.

<sup>26</sup> Section 286.011(3), F.S.

<sup>27</sup> FLA. CONST., art. I, s. 24(c).

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

<sup>29</sup> See *supra* note 13.

exemptions.<sup>30</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or a substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>31</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>32</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>33</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>34</sup> or
- It protects trade or business secrets.<sup>35</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>36</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption. If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>37</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>38</sup>

## Florida 911 System

Since 1973, the state of Florida, in conjunction with Florida's counties, has funded technological advancements in statewide emergency number systems (i.e., 911 systems) for emergency communications between citizens and visitors and emergency services. Basic 911 service was

<sup>30</sup> Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

<sup>31</sup> Section 119.15(3), F.S.

<sup>32</sup> Section 119.15(6)(b), F.S.

<sup>33</sup> Section 119.15(6)(b)1., F.S.

<sup>34</sup> Section 119.15(6)(b)2., F.S.

<sup>35</sup> Section 119.15(6)(b)3., F.S.

<sup>36</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?  
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>37</sup> FLA. CONST. art. I, s. 24(c).

<sup>38</sup> Section 119.15(7), F.S.

established statewide in 1997. In 2005, wireline enhanced 911 (E911) service was implemented in all of Florida's 67 counties to obtain a 911 caller's telephone number and address. In 2007, Florida's wireless 911 board transitioned to the E911 Board with the intent of implementing enhanced 911 services. Phase I of the enhanced services provided call back numbers and the location of cell sites utilized for making the call into 911; Phase II provided location information for the actual cellular caller. These enhancements were completed March 31, 2008.<sup>39</sup> Currently, Florida's counties are working on technical, funding, and deployment issues in an effort to provide statewide text-to-911 services. As of February 2025, 64 of Florida's 67 counties offer text-to-911 service.<sup>40</sup>

### **2023 Revisions to Florida's Emergency Communications Law**

In 2023, Florida passed SB 1418 which made several changes to Florida's Emergency Communications Law to reflect the transition from E911 to Next Generation 911 (NG911), and to revise legislative intent regarding such services and the composition, name, duties, and meeting frequency of the current E911 Board (renamed in the bill to be the Emergency Communications Board (EC Board)).<sup>41</sup> Under the bill, the EC Board was given the additional responsibility of advocating and developing policy recommendations to ensure interoperability and connectivity between public safety communication systems within the state. The EC Board was also authorized, under the bill, to establish a schedule for implementing NG911 systems, public safety radio communications systems, and other public safety communications improvements. The EC Board may prioritize disbursement of revenues pursuant to this schedule to implement 911 services in the most efficient and cost-effective manner.

The bill also revised the distribution of revenue collected from a monthly fee to fund 911 services assessed on voice communications services in the state, removed county exceptions to the state's uniform rate for this fee, and revised the expenditures that are eligible to be paid by revenue collected from this fee. The EC Board was directed to ensure that county recipients of funds only use such funds for the purposes for which they have been provided. If the EC Board determines such funds were not used for the purposes for which they were provided, the EC Board is authorized to secure county repayment of improperly used funds. Changes, modifications, or upgrades to the emergency communications systems or services must be made in cooperation with the head of each law enforcement agency served by the primary Public Safety Answering Point (PSAP) in each county.

The bill also required the Department of Management Services Division of Telecommunications to develop a plan by December 30, 2023, to upgrade 911 PSAPs within the state to allow the transfer of an emergency call from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system in the state by December 30, 2033.

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<sup>39</sup> Dep't of Management Services, *Florida 911*, [https://www.dms.myflorida.com/business\\_operations/telecommunications/public\\_safety\\_communications/florida\\_911](https://www.dms.myflorida.com/business_operations/telecommunications/public_safety_communications/florida_911) (last visited Mar. 4, 2025).

<sup>40</sup> Dep't of Management Services, *Florida Text-to-911 Status (by county)*, <https://www.arcgis.com/apps/dashboards/3a78afa830ca4b40bb8adb6ac0c45b25> (last visited Mar. 4, 2025).

<sup>41</sup> Chapter 2023-55, Laws of Fla.

## **Public Record and Public Meeting Exemptions Related to Security and Firesafety**

Current law provides public record and public meeting exemptions for certain information related to security systems. The law specifies the circumstances under which the information may be disclosed and to whom it may be disclosed.

### ***Security and Firesafety Plan***

Section 119.071(3)(a)1., F.S., defines a “security or firesafety plan” to include:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;
- Threat assessments conducted by any agency<sup>42</sup> or any private entity;
- Threat response plans;
- Emergency evacuation plans;
- Sheltering arrangements; and
- Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

A security or firesafety plan or any portion thereof that is held by an agency is confidential and exempt from public record requirements if the plan is for any property owned by or leased to the state, any of its political subdivisions, or any private entity or individual.<sup>43</sup> An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.<sup>44</sup>

Any portion of a meeting that would reveal a security or firesafety system plan or portion thereof is also exempt from public meetings requirements.<sup>45</sup>

### ***Building Plans, Blueprints, Schematic Drawings and Diagrams***

Section 119.071(3)(b)1., F.S., makes confidential and exempt from public record requirements building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.

This information may be disclosed:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;

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<sup>42</sup> *Supra* note 1.

<sup>43</sup> Section 119.071(3)(a)2., F.S.

<sup>44</sup> Section 119.071(3)(a)3., F.S.

<sup>45</sup> Section 286.0113(1), F.S.

- To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or
- Upon a showing of good cause before a court of competent jurisdiction.<sup>46</sup>

The entities or persons receiving such information must maintain the exempt status of the information.<sup>47</sup>

Section 119.071(3)(c)1., F.S., makes confidential and exempt from public record requirements building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development.<sup>48</sup> Section 119.071(3)(c)3., F.S., specifies that this exemption does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

### ***Information relating to the Nationwide Public Safety Broadband Network***

Section 119.071(3)(d), F.S., makes confidential and exempt from public records requirements information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency if the release would reveal:

- The design, development, construction, deployment, and operation of network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;
- The features, functions, and capabilities of network infrastructure and facilities;
- The features, functions, and capabilities of network services provided to first responders, as defined in s. 112.1815, F.S., and other network users;
- The design, features, functions, and capabilities of network devices provided to first responders and other network users; or
- Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

### **Specific Cybersecurity Public Record and Public Meeting Exemptions**

In 2022, the Legislature enacted s. 119.0725(3), F.S.,<sup>49</sup> to create a new public records exemption, applicable to all agencies, for certain information relating to cybersecurity. Specifically, the following information is made confidential and exempt from public inspection and copying requirements:

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<sup>46</sup> Section 119.071(3)(b)3., F.S.

<sup>47</sup> Section 119.071(3)(b)4., F.S.

<sup>48</sup> This paragraph provides definitions for “attractions and recreation facility,” “entertainment or resort complex,” “Industrial complex,” “retail and service development,” “office development,” “health care facility,” “hotel or motel development.” See s. 119.071(3)(c)5., F.S.

<sup>49</sup> Chapter 2022-221, Laws of Fla.

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of an agency.
- Information related to critical infrastructure.<sup>50</sup>
- Cybersecurity incident information contained in certain reports.
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:
  - Data or information, whether physical or virtual; or
  - Information technology resources, which include an agency's existing or proposed information technology systems.

Section 119.0725(3), F.S., also creates a public meeting exemption for any portion of a meeting that would reveal the information made confidential and exempt pursuant to s. 119.0725(2), F.S.; however, any portion of an exempt meeting must be recorded and transcribed. The recording and transcript are confidential and exempt from public record inspection and copying requirements.

The exemptions codified in s. 119.0725, F.S., stand repealed on October 2, 2027, unless reviewed and saved from repeal by reenactment by the legislature.

### **Public Record and Meeting Exemptions Specific to 911, E911, and Public Safety Radio Communications Systems**

In 2020, the Legislature created public record exemptions in s. 119.071(3)(e), F.S., for the following information:<sup>51</sup>

- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment, or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.
- Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment, or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.

Also, in 2020, the Legislature created a public meeting exemption in s. 286.0113(4), F.S.,<sup>52</sup> for any portion of a meeting that would reveal the above information, as well as a public record exemption for any recordings or transcripts of the exempt meetings.

<sup>50</sup> “Critical infrastructure” means existing and proposed information technology and operation technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety. *See* s. 119.0725(1)(b), F.S.

<sup>51</sup> Chapter 2020-13, Laws of Fla.

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

In expressing the need for the above public records and public meetings exemptions, the bill's public necessity statements cited to:

- The need to ensure the security of emergency communication infrastructure, structures, and facilities;
- 911, E911, and public safety radio communication facilities, including towers and antennae, being a vital link in the chain of survival;
- The need that such critical infrastructure be protected as any disruption during an active shooter or other terror event is very likely to result in greater loss of life and property damage;
- The need for towers and antennae to be visible, increasing the security risk of such facilities. Because architectural and engineering plans reviewed and held by counties, municipalities, and other government agencies include information about towers, equipment, ancillary facilities, critical systems, and restricted areas, these plans could be used by criminals or terrorists to examine the physical plant for vulnerabilities; and
- Information contained in these documents could aid in the planning of and execution of criminal actions, including cybercrime, arson, and terrorism.

The public record and public meeting exemptions stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act.

### **Open Government Sunset Review Findings and Recommendations**

Staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee<sup>53</sup> jointly developed a survey requesting that operators review and provide feedback on the public records exception in s. 119.071(3)(e), F.S., and the public meetings exception in s. 286.0113(4), F.S. These surveys were provided to the Florida's counties, law enforcement agencies, and 911 dispatchers.

Staff of the Senate Committee on Regulated Industries received a total of 54 responses to this survey. Of the 54 responses, 49 respondents provided feedback regarding the public records exemption in s. 119.071(3)(e), F.S., and 42 of those selected that the paragraph be reenacted "as is." Seven respondents suggested that the paragraph be reenacted with changes. Similarly, of the 46 respondents providing feedback regarding the public meetings exception in s. 286.0113(4), F.S., 41 responded that the subsection be reenacted "as is." Five respondents suggested that the paragraph be reenacted with changes.

The changes suggested by the respondents included adding NG911 revisions, data obtained from 911 calls and operations, software applications, and technological components of the public safety communications system to the exemption.

Respondents also noted some additional areas of potential overlap of protection with s. 119.071(3)(e), F.S., which include:

- The Federal Wireless Communications and Public Safety Act of 1999;
- Rules of the Public Safety and Homeland Security Bureau;

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<sup>53</sup> Renamed the Government Operations Subcommittee by House Rule 7.1(a)(8)a.

- The Federal Communications Commission’s rules on E911;
- Section 119.071(3)(a), F.S., which provides exemptions for security and firesafety system plans;
- Section 119.071(3)(b), F.S., which provides exemptions for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency;
- Section 119.071(2), F.S., which provides exemptions for agency investigations;
- Section 119.0725, F.S., which provides exemptions for specified cybersecurity risks;
- Section 365.171, F.S., which provides exemptions for records, recordings, or information obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency; and
- Article 1, section 16 (b)-(e) of the State Constitution (also known as Marsy’s Law).

However, the respondents appear to believe these compliment the exemptions under review, but do not replace the need for the exemption.

### III. Effect of Proposed Changes:

**Section 1** amends s. 119.071(3)(e), F.S., to expand the exemption from public records disclosure requirements to include information relating to Next Generation 911 (NG911) systems, and to delay the scheduled repeal date of the current public records exemptions for the following information:

- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment, or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.<sup>54</sup>
- Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment, or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.

The scheduled date of repeal of the exemption is delayed to October 2, 2030.

**Section 2** amends s. 286.0113(4), F.S., to revise the scheduled repeal of a public meeting exemption for any portion of a meeting that would reveal the above information, as well as a public records exemption for any recordings or transcripts of the exempt meetings. The scheduled date of repeal of the section is delayed to October 2, 2030.

The section also expands the exemption to include Next Generation 911 (NG911) systems.

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<sup>54</sup> *Supra* note 1.

**Section 3** provides a statement of public necessity as required by article I, section 24(c) of the State Constitution, stating that such protections are necessary to ensure the security of emergency communication infrastructure, structures, and facilities—this includes the NG911 system.

**Section 4** provides that the bill is effective upon becoming a law.

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

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

##### **B. Public Records/Open Meetings Issues:**

###### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does expand an exemption; thus, the bill does require a two-thirds vote to be enacted.

###### **Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill does expand an exemption; thus, a statement of public necessity is required.

###### **Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

##### **C. Trust Funds Restrictions:**

None identified.

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

None identified.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

**VI. Technical Deficiencies:**

None identified.

**VII. Related Issues:**

None identified.

**VIII. Statutes Affected:**

This bill substantially amends sections 119.071 and 286.0113 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Regulated Industries

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A bill to be entitled

An act relating to public records and meetings; amending s. 119.071, F.S.; expanding an exemption from public records requirements for certain components of 911, E911, and public safety radio communication systems to include NG911 systems; extending the date for future legislative review and repeal of the exemption; amending s. 286.0113, F.S.; expanding an exemption from public meetings requirements for certain portions of meetings that would reveal certain components of 911, E911, and public safety radio communication systems to include NG911 systems; extending the date for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY AND FIRESAFETY.—

(e)1.a. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, NG911, or public safety radio communication system infrastructure, including towers, antennas ~~antennae~~, equipment or facilities used to provide 911, E911, NG911, or public safety radio communication

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services, or other 911, E911, NG911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. Geographical maps indicating the actual or proposed locations of 911, E911, NG911, or public safety radio communication system infrastructure, including towers, antennas ~~antennae~~, equipment or facilities used to provide 911, E911, NG911, or public safety radio services, or other 911, E911, NG911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, NG911, or public safety radio communication system infrastructure or other 911, E911, NG911, or public safety radio communication structures or facilities owned and operated by an agency, and geographical maps indicating actual or proposed locations of 911, E911, NG911, or public safety radio communication system infrastructure or other 911, E911, NG911, or public safety radio communication structures or facilities owned and operated by an agency, before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed:

a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;

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b. To a licensed architect, engineer, or contractor who is performing work on or related to the 911, E911, NG911, or public safety radio communication system infrastructure, including towers, ~~antennas antennae~~, equipment or facilities used to provide 911, E911, NG911, or public safety radio communication services, or other 911, E911, NG911, or public safety radio communication structures or facilities owned and operated by an agency; or

c. Upon a showing of good cause before a court of competent jurisdiction.

4. The entities or persons receiving such information must maintain the exempt status of the information.

5. For purposes of this paragraph, the term "public safety radio" is defined as the means of communication between and among 911 public safety answering points, dispatchers, and first responder agencies using those portions of the radio frequency spectrum designated by the Federal Communications Commission under 47 C.F.R. part 90 for public safety purposes.

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2030 ~~2025~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (4) of section 286.0113, Florida Statutes, is amended to read:

286.0113 General exemptions from public meetings.—

(4)(a) Any portion of a meeting that would reveal building plans, blueprints, schematic drawings, or diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, NG911, or public safety radio

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communication system infrastructure, including towers, antennas antennae, equipment or facilities used to provide 911, E911, NG911, or public safety radio communication services, or other 911, E911, NG911, or public safety radio communication structures or facilities made exempt by s. 119.071(3)(e)1.a. is exempt from s. 286.011 and s. 24, Art. I of the State Constitution.

(b) Any portion of a meeting that would reveal geographical maps indicating the actual or proposed locations of 911, E911, NG911, or public safety radio communication system infrastructure, including towers, antennas antennae, equipment or facilities used to provide 911, E911, NG911, or public safety radio communication services, or other 911, E911, NG911, or public safety radio communication structures or facilities made exempt by s. 119.071(3)(e)1.b. is exempt from s. 286.011 and s. 24, Art. I of the State Constitution.

(c) No portion of an exempt meeting under paragraph (a) or paragraph (b) may be off the record. All exempt portions of such meeting shall be recorded and transcribed. Such recordings and transcripts are confidential and exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless a court of competent jurisdiction, after an in camera review, determines that the meeting was not restricted to the discussion of the information made exempt by s. 119.071(3)(e)1.a. or b. In the event of such a judicial determination, only that portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party.

(d) For purposes of this subsection, the term "public safety radio" is defined as the means of communication between

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and among 911 public safety answering points, dispatchers, and first responder agencies using those portions of the radio frequency spectrum designated by the Federal Communications Commission under 47 C.F.R. part 90 for public safety purposes.

(e) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, ~~2030~~ 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. The Legislature finds that it is a public necessity that building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, NG911, or public safety radio communication system infrastructure, including towers, antennas, equipment, or facilities used to provide 911, E911, NG911, or public safety radio communication services, and other 911, E911, NG911, or public safety radio communication structures or facilities owned and operated by an agency, and geographical maps indicating the actual or proposed locations of such communication system infrastructure, structures, or facilities be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution to ensure the security of emergency communication infrastructure, structures, and facilities. The Legislature finds that it is a public necessity that any portion of a meeting revealing such documents and maps held by an agency be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, received and held by counties,

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municipalities, and other governmental agencies which depict the structural elements of 911, E911, NG911, or public safety radio communication system infrastructure, structures, and facilities are currently subject to release as public records upon request. Similarly, geographical maps showing the present or proposed locations of such 911, E911, NG911, or public safety radio communication system infrastructure, structures, and facilities which are in the possession of counties, municipalities, and other governmental agencies are also subject to release as public records upon request. Counties, municipalities, and other governmental agencies may review the building plans or geographical maps to ensure compliance with land development regulations, building codes, agency rules, and standards to protect the public health and safety. These building plans include diagrams and schematic drawings of emergency communication systems, electrical systems, and other physical plant and security details which depict the structural elements of such emergency communications facilities and structures. Such 911, E911, NG911, and public safety radio communication facilities, including towers and antennas, are a vital link in the chain of survival. This critical infrastructure must be protected because any disruption during an active shooter or other terror event is very likely to result in greater loss of life and property damage. To function properly, towers and antennas need to be visible, increasing the security risk of such facilities. Because architectural and engineering plans reviewed and held by counties, municipalities, and other government agencies include information about towers, equipment, ancillary facilities, critical systems, and restricted areas,

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175 these plans could be used by criminals or terrorists to examine  
176 the physical plant for vulnerabilities. Information contained in  
177 these documents could aid in the planning of, training for, and  
178 execution of criminal actions, including cybercrime, arson, and  
179 terrorism. Consequently, the Legislature finds that it is a  
180 public necessity to exempt such information from public records  
181 and public meetings requirements to reduce exposure to security  
182 threats and to protect the public.

183       Section 4. This act shall take effect upon becoming a law.

The Florida Senate

**APPEARANCE RECORD**

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

3/19/25

Meeting Date

RULES

Committee

7006

Bill Number or Topic

Amendment Barcode (if applicable)

Name Kasey Denny

Phone (954) 495 6333

Address 301 N Olive Ave  
Street

Email kdenny@pbc.gov

West Palm Beach FL 33401  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Palm Beach County

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

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

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

S-001 (08/10/2021)

# CourtSmart Tag Report

**Room:** KB 412

**Caption:** Senate Rules Committee

**Case No.:** -

**Judge:**

**Type:**

**Started:** 3/19/2025 11:32:02 AM

**Ends:** 3/19/2025 12:08:26 PM

**Length:** 00:36:25

11:32:01 AM Chair Passidomo calls meeting to order  
11:32:06 AM Roll call  
11:32:24 AM Quorum announced  
11:32:52 AM Chair with opening comments  
11:33:17 AM Tab 5 CS/SB 282 Warranty Associations by Senator Truenow  
11:33:24 AM Senator Truenow explains the bill  
11:35:26 AM Amendment Barcode# 103856  
11:35:32 AM Senator Truenow  
11:35:56 AM Appearance Form  
11:35:57 AM Tim Meenan, Former Student Body President, waives  
11:36:14 AM Senator Truenow  
11:36:22 AM Amendment is adopted  
11:36:23 AM Back on the Bill  
11:36:39 AM Senator Truenow  
11:36:47 AM Roll call  
11:37:30 AM CS/CS/SB 282 is reported favorably  
11:37:38 AM Tab 4 CS/SB 280 Candidate Qualification by Senator Arrington  
11:37:47 AM Senator Arrington explains the bill  
11:39:15 AM Senator Hooper in debate  
11:39:55 AM Senator Arrington  
11:40:06 AM Roll call  
11:40:51 AM CS/SB 280 is reported favorably  
11:40:54 AM Tab 8 SB 7004 Applicants or Participants in Certain Federal, State, or Local Housing Assistance Programs by Community Affairs  
11:41:09 AM Senator McClain explains the bill  
11:41:49 AM Roll call  
11:42:28 AM SB 7004 is reported favorably  
11:42:34 AM Tab 1 CS/CS/SB 88 Utility Terrain Vehicles by Senator Wright  
11:42:45 AM Senator Wright explains the bill  
11:44:39 AM Late-Filed Amendment Barcode# 685694  
11:44:48 AM Without objection - introduced  
11:44:49 AM Senator Wright  
11:45:29 AM Amendment is adopted  
11:45:30 AM Back on the Bill  
11:45:32 AM Senator Gaetz in Questions  
11:46:16 AM Senator Wright  
11:46:38 AM Appearance Forms  
11:46:41 AM Matt Dunagan, Florida Sheriff's Association, waives  
11:46:52 AM Ben Johnson, Retired Sheriff, speaks  
11:48:53 AM Bruce H. Rae, waives  
11:49:02 AM Debate  
11:49:04 AM Senator Jones  
11:50:00 AM Senator Osgood  
11:50:56 AM Senator Garcia  
11:51:44 AM Senator Wright  
11:53:19 AM Roll call  
11:54:19 AM CS/CS/CS/SB 88 is reported favorably  
11:54:25 AM Tab 2 SB 106 Exploitation of Vulnerable Adults by Senator Martin  
11:54:30 AM Senator Martin explains the bill  
11:55:47 AM Late-Filed Amendment Barcode# 756632  
11:55:52 AM Without Objection introduced  
11:56:00 AM Senator Martin

**11:56:32 AM** Amendment is adopted  
**11:56:33 AM** Back on the Bill  
**11:56:39 AM** Appearance Forms  
**11:56:41 AM** Kandace Rudd, Elder Law Section-Florida Bar, waives  
**11:56:52 AM** Karen Murillo, AARP, waives  
**11:56:59 AM** Rima Nathan, FSU Claude Pepper Elder Law Clinic, waives  
**11:57:11 AM** Senator Martin  
**11:57:17 AM** Roll call  
**11:57:56 AM** CS/SB 106 is reported favorably  
**11:58:01 AM** Tab 3 CS/CS/SB 262 Trusts by Senator Berman  
**11:58:10 AM** Senator Berman explains the bill  
**11:59:12 AM** Appearance Form  
**12:00:15 PM** Martha Edenfield, The Real Property, Probate, Trust Law Section - Florida Bar, waives  
**12:00:27 PM** Senator Berman  
**12:00:29 PM** Roll call  
**12:01:07 PM** CS/CS/SB 262 is reported favorably  
**12:01:13 PM** Tab 6 SB 402 Unlawful Use of Uniforms, Medals, or Insignia by Senator Wright  
**12:01:23 PM** Senator Wright explains the bill  
**12:02:04 PM** Debate  
**12:02:06 PM** Senator Avila  
**12:02:46 PM** Senator Wright  
**12:03:17 PM** Roll call  
**12:03:53 PM** SB 402 is reported favorably  
**12:03:57 PM** Tab 7 SB 7000 Site-specific Location Information for Endangered and Threatened Species by Environment and Natural Resources  
**12:04:11 PM** Senator Rodriguez explains the bill  
**12:04:44 PM** Roll call  
**12:05:24 PM** SB 7000 is reported favorably  
**12:05:27 PM** Tab 9 SB 7006 Public Records and Meetings by Regulated Industries  
**12:05:40 PM** Senator Bradley explains the bill  
**12:06:19 PM** Appearance Forms  
**12:06:22 PM** Kasey Denny, Palm Beach County, waives  
**12:06:31 PM** Senator Bradley  
**12:06:33 PM** Roll call  
**12:07:12 PM** SB 7006 is reported favorably  
**12:07:14 PM** Chair comments  
**12:07:16 PM** Motions for votes after  
**12:07:19 PM** Senator Martin  
**12:07:33 PM** Senator Simon  
**12:07:43 PM** Senator Burgess  
**12:07:52 PM** Senator DiCeglie  
**12:07:58 PM** Senator Gruters  
**12:08:02 PM** Chair Passidomo  
**12:08:03 PM** Any objections  
**12:08:08 PM** Without objection, motions adopted  
**12:08:12 PM** Senator Boyd moves to adjourn  
**12:08:18 PM** Meeting adjourned