

Tab 3	SB 512 by Burgess; (Identical to H 00325) Vacation Rentals					
Tab 4	SB 994 by Diaz (CO-INTRODUCERS) Powell, Jones; (Similar to H 00849) Pet Protection					
732580	A	S	RCS	RI, Diaz	Delete L.361 - 375:	01/12 11:19 AM
Tab 5	SB 996 by Diaz; (Compare to H 00849) Fees/Pet Store License					
660938	A	S	RCS	RI, Diaz	Delete L.17 - 18:	01/12 11:22 AM
Tab 6	SB 1024 by Bradley; (Identical to H 00741) Net Metering					
611262	A	S	RCS	RI, Hutson	Before L.18:	01/12 11:22 AM
Tab 7	SB 352 by Hooper; (Similar to H 00263) Construction Liens					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, January 11, 2022

TIME: 4:00—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Hutson, Chair; Senator Book, Vice Chair; Senators Albritton, Gruters, Hooper, Passidomo, Rodrigues, Rouson, and Stewart

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.

Florida Public Service Commission

1	Fay, Andrew (Tallahassee)	01/01/2026	Recommend Confirm Yeas 8 Nays 0
2	Graham, Art (Tallahassee)	01/01/2026	Recommend Confirm Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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3	SB 512 Burgess (Identical H 325, Compare S 286)	Vacation Rentals; Requiring advertising platforms to collect and remit taxes for certain transactions; revising the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; expanding the authority of local laws, ordinances, or regulations to include requiring vacation rentals to register with local vacation rental registration programs; authorizing local governments to adopt vacation rental registration programs and impose fines for failure to register; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information, etc. RI 01/11/2022 Favorable CA RC	Favorable Yeas 8 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, January 11, 2022, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 994 Diaz (Similar H 849, Linked S 996)	Pet Protection; Creating the "Florida Pet Protection Act"; requiring the licensure of retail pet stores; limiting the sources from which retail pet stores may acquire household pets for specified purposes; requiring the Department of Business and Professional Regulation to conduct periodic inspections of retail pet stores and to audit sales records; requiring the department to deny a retail pet store license under certain circumstances; prohibiting county and municipal ordinances and regulations from prohibiting or regulating the breeding, purchase, or sale of certain working dogs, etc. RI 01/11/2022 Fav/CS CA AP	Fav/CS Yeas 5 Nays 2
5	SB 996 Diaz (Compare H 849, Linked S 994)	Fees/Pet Store License; Requiring an initial or renewal pet store license application to be accompanied by a specified nonrefundable license fee per licensed location, etc. RI 01/11/2022 Fav/CS CA AP	Fav/CS Yeas 6 Nays 1
6	SB 1024 Bradley (Identical H 741)	Net Metering; Revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time, etc. RI 01/11/2022 Fav/CS CA RC	Fav/CS Yeas 6 Nays 2
7	SB 352 Hooper (Similar H 263)	Construction Liens; Revising the threshold for determining whether certain direct contracts to repair or replace an existing heating or air-conditioning system are exempt from specified notice of commencement and applicability of lien requirements for authorities issuing building permits, etc. CA 11/03/2021 Favorable RI 01/11/2022 Favorable RC	Favorable Yeas 7 Nays 0

Other Related Meeting Documents

2020

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Andrew Fay

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the First day of January, A.D., 2022,
until the First day of January, A.D., 2026 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Eighth day of October, A.D., 2021.*

Laurel M. Lee

Secretary of State



RON DESANTIS
GOVERNOR

RECEIVED

2021 OCT -8 AM 10:30

DIVISION - ELECTIONS
TALLAHASSEE, FL

September 8, 2021

Secretary Laurel M. Lee
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 350.01, Florida Statutes:

Mr. Andrew Fay
1125 Waverly Road
Tallahassee, Florida 32312

as a member of the Florida Public Service Commission. This appointment is effective January 1, 2022, for a term ending January 1, 2026.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/kk

OATH OF OFFICE RECEIVED
(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of

LEON

2021 OCT 26 PM 2:34

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Public Service Commissioner

(Title of Office)

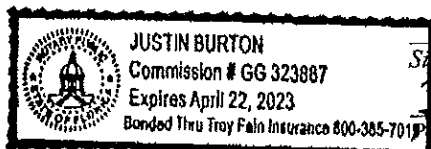
on which I am now about to enter, so help me God.

HAND DELIVERED

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me by means of ☒ physical presence or
online notarization, this 22 day of OCTOBER, 2021.



[Signature]
Signature of Officer Administering Oath or of Notary Public

JUSTIN BURTON

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

2540 Shumard Oaks

Street or Post Office Box

Tallahassee, FL, 32399

City, State, Zip Code

Andrew Fay

Print Name

[Signature]

Signature



Questionnaire for Senate Confirmation

126 900

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

10/20/2021

Date Completed

1. Name: Mr. Fay Andrew Giles
Mr./Mrs./Ms. Last First Middle/Maiden
2. Business Address: 2540 Shumard Oak Blvd. Tallahassee
Street Office # City
FL 32311 850 - 413 - 6046
Post Office Box State Zip Code Area Code/Phone Number
3. Residence Address: 1125 Waverly Rd. Tallahassee Leon
Street City County
Florida 32312
Post Office Box State Zip Code Area Code/Phone Number
- Specify the preferred mailing address: Business ☐ Residence ☒ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
1125 Waverly Road	Tallahassee, FL	September 2017 to Present	
312 East Georgia St.	Tallahassee, FL	October 2013 to September 2017	

- B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
N/A			

5. Date of Birth: _____ Place of Birth: Tampa
6. Social Security Number: _____
7. Driver License Number: _____ Issuing State: Florida
8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain
- _____
- _____
- _____
- _____

RECEIVED
DEPARTMENT OF STATE
2021 OCT 26 PM 2:59
DIVISION OF ELECTIONS

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1983

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Leon B. Current Party Affiliation: Republican

12. Education

A. High School: H.B. Plant High School 2415 S. Himes Ave. Tampa, FL 33629 Year Graduated: 2002
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Florida State University & Tallahassee, FL	July 2002 to May 2006	B.S.
Florida State University College of Law & Tallahassee, FL	August 2007 to May 2010	J.D.

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☒ No ☐ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
During 2000	Tampa, FL	Trespassing as a Minor	Diversionary Program

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Public Service Commission 2540 Shumard Oak Blvd. Tallahassee FL	Government	Commissioner	2018 - Present
Attorney General's Office & PL 01 The Capitol Tallahassee, FL	Government	Special Counsel	November 2014 - 2018
Pam Bondi for Attorney General & 2907 W. Bay to Bay Blvd. Tamp, FL	Campaign	Director of Policy and Statewide Operations	July 2014 to November 2014
Attorney General's Office & PL 01 The Capitol Tallahassee, FL	Government	Assistant Attorney General	Jan 2011 to June 2014

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Commissioner	Florida Public Service Commission	2018 - Present
Special Counsel	Attorney General's Office	November 2014 - 2018
Assistant Attorney General	Attorney General's Office	January 2011 to June 2014

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

See Attachment A

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Juris Doctorate Degree from Florida State University College of Law

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Florida Trend "Legal Elite Government and Non-Profit Attorneys" for 2016 & 2017

Florida Government Bar Association's "2016 Government Lawyer of the Year"

Named by Public Utilities Fortnightly as an "Under Forty Rising Star"

D. Identify all association memberships and association offices held by you that relate to this appointment:

Member of the National Association of State Energy Officials' Cybersecurity Advisory Team for State Solar

Member of the Defense Critical Electrical Infrastructure Advisory Council

Member of the Federal Telecommunication Relay Service Advisory Council

Member of the National Association of Regulatory Utility Commissioners(NARUC) Critical Infrastructure Committee

Member of the NARUC Education and Research Subcommittee

Member of the NARUC Regulatory and Industry Diversity Subcommittee

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

N/A

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
Public Service Commission Appointed in 2018		Four Year Term	State

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: At least once a month

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

I have never missed a scheduled Commission meeting

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date

Nature of Violation

Disposition

N/A

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐
If "Yes", list:

A. Title of Office: Public Service Commissioner

B. Term of Appointment: 4 Year Term

C. Confirmation results: Confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate

Original

Title & Number

Issue Date

Issuing Authority

Disciplinary Action/Date

85875

10/01/2010

The Florida Bar

None

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business

Your Relationship to Business

Business' Relationship to Agency

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☒ No ☐

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Florida Legislature	Attorney General's Office

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Carlos Muniz			
Kim Kirtley			
Nicholas Abrahams			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Leadership Florida	215 S. Monroe St.	Member	October 2014 to present
Epilepsy Florida	105 E Gregory St Suite C Pensacola FL	Member	August 2018 to Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General

PL-01, The Capitol

Tallahassee, Florida 32399

(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.
Please type or use blue ink.

1. Board of Interest: Public Service Commission
2. Current Employer and Occupation: Attorney General's Office
3. Are you applying for reappointment: Yes ☒ No ☒
4. *Do you have a disability? Yes ☐ No ☒ If "Yes", please describe your disability that would qualify you for this appointment, if applicable.
5. *Sex: Male ☒ Female ☐
6. *Race: White ☒ African-American ☐
Hispanic-American ☐ Asian/Pacific Islander ☐
Native-American/Alaskan Native ☐
7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor. *NO*
8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

Andrew Giles Fay

Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

Questionnaire for Senate Confirmation Attachment A

Public Affairs: Since being appointed as a Commissioner in 2018, I have regularly communicated with customers and various interested parties in a manner that is consistent with the limitations placed on ex parte communications set out by Section 250.041 of the Florida Statutes. One form of engagement that I have found particularly helpful is participating in customer service hearings. These hearings allow utility customers the opportunity to provide direct feedback to the Commission about the quality of service they are receiving. I have found this form of customer engagement to be very beneficial because it provides the Commission with firsthand experience of the challenges that customers may be facing. The more customer hearings I have participated in, the better I have gotten at identifying and comprehending how this feedback can be used in making our decisions.

In addition to customer engagement, I have also had the opportunity to present to various groups about the regulatory functions of the Commission and to opine on some of the more pressing issues that our state is facing. Those issues include the growth of electric vehicle charging infrastructure, threats of cybersecurity to the electric grid, and the need for a more diversified energy workforce. One of my greatest honors from my time on the Commission thus far has been representing Florida and other state utility commissioners annually as a faculty member of National Association of Regulatory Utility Commission's "Rate School" program. This program educates and trains Commissioners, Commission staff, and industry employees from all 50 states on how to better understand and apply the various concepts within the ratemaking process.

Law: Prior to my appointment to the Commission, I served the state as Special Counsel to the Attorney General, which provided me with the opportunity to work on a number of complex state and federal legal issues. That experience not only allowed me to learn how to correctly apply the law, but it also provided me with a thorough understanding of the legislative process. One highlight of my time there was serving as the lead author and advocate for Florida's Information Protection Act (FIPA), a law that protects consumers who have had their personal information compromised. My experience with FIPA, along with my other responsibilities within the Attorney General's Office sufficiently prepared me for the role of Commissioner.

Utility matters that come before the Commission are rarely simple. Some of these cases include hundreds, if not thousands, of pages of expert testimony and evidence. I have found that my training as an attorney allows me to better navigate the legal complexities that are involved in each of these dockets. I have also found in my time with the Commission that the procedural decisions we make can be just as important as the rulings on the merits of each case. Consistent execution of these procedural parameters is essential to ensuring that all of the parties in these cases are afforded the necessary due process under the law. Overall, I believe it is my legal experience and training as an attorney, more than any other skill, that best serves me in my role as a Public Service Commissioner.

Economics: Economic forecasts are used regularly in Commission determinations including Staff Assisted Rate Cases, Limited Rate Cases, and Full Utility Rate Cases. More specifically, they provide a basis for the rate setting calculations that are applied to the utilities. The forecasts give the Commission and the parties a clearer picture of the varying costs of service between customer classes, and allow for a greater consideration of the impacts to those customers. These economic forecasts are also used in determining the reasonableness of newer generation including renewable options.

I've learned that the economics of the rate setting process introduce specific challenges to serving customers in rural areas. When it comes to the distribution of essential services, more rural and isolated areas can be disproportionately impacted by a lack of resources. The reality is that some customers cost more to serve than others, and that is especially true in Florida's rural areas. It is through firsthand experience with this process that I am able to ensure the decisions I make uphold the principles of fairness and are consistent with the state energy compact to provide utility service to all of the customers in a specific territory.

Accounting and Finance: The application of accounting and finance principles is inherent in almost every Commission Ruling. Understanding the financial models and industry accounting methods that are used to depreciate and capitalize assets and projects is absolutely necessary to the financial soundness of the decisions made by the Commission. I have invested, and continue to invest, significant time and effort in better comprehending these utility related financial concepts in order to allocate additional focus to other technical and legal issues that arise in the dockets before us.

Natural Resource Conservation: The Commission's regulation over water, natural gas, and other natural resources is a significant role within our responsibilities as Commissioners. The Commission's authority to set rates for privately owned water utilities is one of the most important responsibilities that we have. These cases usually involve an evaluation of the quality and quantity of water that is being used by the average customer, and examine any efforts to incentivize conservation of those resources in our State. The Commission can also continue to establish rates that encourage re-use of treated wastewater to minimize the use of groundwater.

The Commission also evaluates the diversity of the fuel portfolio for our State's larger electric utilities. During my time at the Commission, our decisions have reflected a growing support towards more renewable energy in large part due to the concerns of the environmental impact and costs of the use of nonrenewable resources. These decisions include a declaratory statement exempting third party solar companies from Commission regulation, and approval of a docket that included the largest Community Solar project in the country. These decisions are designed to encourage the use of renewable resources, while ensuring costs are reasonable for customers.

Energy: During my three years serving as a Commissioner, I have been exposed to the full range of energy issues concerning generation, distribution, and transmission. I have had the

opportunity to hear and rule on cases relating to renewable generation, electric vehicles, community solar, consumer solar, grid resiliency, storm restoration, and energy efficiency. I believe that these decisions have been in the public interest and that they will have a meaningful impact on the long-term success of providing reliable service to customers.

To keep up with constant changes within the energy sector, I have stayed actively involved with energy policy on a national level. I have had the opportunity to serve in a number of leadership roles within the National Association of Regulated Utility Commissions (NARUC). These roles include service on NARUC's Critical Infrastructure Committee; NARUC's Subcommittee on Education and Research Subcommittee; NARUC's Select Committee on Regulatory and Industry Diversity; and NARUC's Telecommunications Committee. I have also recently been appointed to represent Florida as a member of the Federal Telecommunications Relay Services Advisory Council, an organization that helps to oversee the distribution of telecommunication resources to those with hearing or speech disabilities.

Another Field Substantially Related to the Duties and Functions of the Commission

Cybersecurity: The top priority of most State Utility Commissions around the country is the safety and reliability of the grid. Cyber-attacks on essential services, including utility services, have become more prevalent over the past year demonstrating potential vulnerabilities in the energy grid across the United States. As a member of the NARUC Critical Infrastructure Committee, I have participated in a "Black Sky" exercise, attended an onsite cybersecurity training known as "GridEx", met with various cybersecurity experts within the Federal Government, and reached out to over a dozen other state Commissions to learn how they are addressing cybersecurity issues in their States.

I have also recently been appointed to the Defense Critical Electrical Infrastructure Advisory Council. This Council is reviewing ways that States, the Federal Government, and other interested parties can improve the reliability of the energy that is provided to the military bases located throughout our Country. As one of only three Commissioners nationally serving on this Advisory Council, I hope to use the experience and knowledge that I acquired to help improve the reliability of service to military facilities located within Florida. Finally, through my service as a member of NARUC's Cybersecurity Advisory Team for State Solar, I am working on ways to better protect solar investments from cybersecurity threats. I believe that protecting Florida's energy grid from cybersecurity threats will continue to be a top priority for Florida and the United States, and I hope to have the opportunity to continue my work in this area.

CERTIFICATION

STATE OF FLORIDA

COUNTY OF

LEON

RECEIVED
DEPARTMENT OF STATE
2021 OCT 26 PM 3:00

DEPARTMENT OF STATE
DIVISION OF ELECTIONS

Before me, the undersigned Notary Public of Florida, personally appeared

Andrew Fay

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]

Signature of Applicant-Affiant

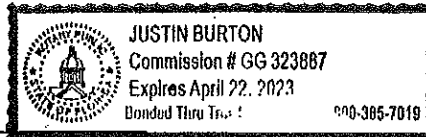
Sworn to and subscribed before me this 22 day of OCTOBER, 2021.

[Signature]

Signature of Notary Public-State of Florida

JUSTIN BURTON

(Print, Type, or Stamp Commissioned Name of Notary Public)



My commission expires: 4/22/2023

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

**The Florida Senate
Committee Notice Of Hearing**

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Andrew Fay

Florida Public Service Commission

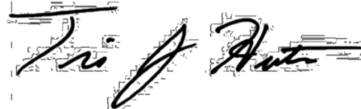
NOTICE OF HEARING

TO: Commissioner Andrew Fay

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, January 11, 2022, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 3rd day of January, 2022

Committee on Regulated Industries



Senator Travis Hutson
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Andrew Fay

ANSWER: yes

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Committee on Regulated Industries

DATE: January 11, 2022

2020

5

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Arthur L. Graham

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the First day of January, A.D., 2022,
until the First day of January, A.D., 2026 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Eighth day of October, A.D., 2021.*

Laurel M. Lee

Secretary of State



RON DESANTIS
GOVERNOR

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**DIVISION OF ELECTIONS
TALLAHASSEE, FL**

September 8, 2021

Secretary Laurel M. Lee
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 350.01, Florida Statutes:

Mr. Arthur Graham
1000 8th Street North
Jacksonville Beach, Florida 32250

as a member of the Florida Public Service Commission. This appointment is effective January 1, 2022, for a term ending January 1, 2026.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/kk

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

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STATE OF FLORIDA

County of Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

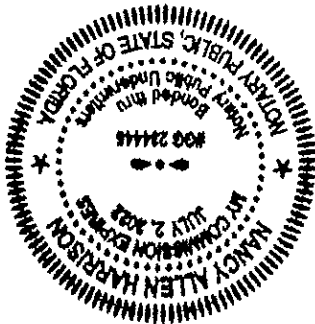
Florida Public Service Commissioner

(Title of Office)

HAND DELIVERED

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



[Signature]
Signature

Sworn to and subscribed before me by means of ☒ physical presence or
online notarization, this 26 day of October, 2021.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Nancy Allen Harrison
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced in person

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

1000 8th Street North

Street or Post Office Box

Jacksonville Beach, FL 32250

City, State, Zip Code

Arthur "Art" L. Graham

Print Name

[Signature]
Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

October 26, 2021

Date Completed

1. Name: Mr. Graham Arthur L.
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2540 Shumard Oak Boulevard Tallahassee
N/A FL 32399-0850 (850) 413-6040
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 1000 8th Street North Jacksonville Beach Duval
N/A FL 32250 (904) 318-0485
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
1000 8th Street N.	Jacksonville Beach, FL	2020	current
602 3rd Avenue North	Jacksonville Beach, FL	2016	2020

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
23680 Hillhurst Dr.	Laguna Niguel, CA 92677	1988	1991
703 Techwood Dr.	Atlanta, GA 30313	1982	1988

5. Date of Birth: _____ Place of Birth: Paris, France

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

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DIVISION OF ELECTIONS

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1991

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Duval

B. Current Party Affiliation: Republican

12. Education

A. High School: Redan High School; Stone Mountain, Georgia
(Name and Location)

Year Graduated: 1982

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
GA Tech; Atlanta, GA	9/1982 - 3/1988	Chemical Engineering

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☒ No ☐ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
37 years ago, as a 20 year old student,		I was charged with DUI for sitting in a parked vehicle with the motor running. I entered a plea of nolo contendere and was fined \$100.	

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
FL Public Service Commission 2540 Shumard Oak Blvd., Tallahassee, FL 32399	State Govt.	Commissioner	7/2010 - Current

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Commissioner	FL Public Service Commission	7/2010 - Current
City Councilman/County Commissioner	City of Jacksonville, FL	7/2003 - 6/2010
City Councilman	City of Jacksonville Beach, FL	1998 - 2002

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Serves as a Florida Public Service Commissioner, regulating rates and service quality in a quasi-judicial role, including reviewing briefs, hearing oral testimony, and applying state code to complex and highly technical information in the evidentiary record. Ten years as an environmental engineer in paper mills, optimizing water use and recovering material used to fuel electric generation. Eleven years city council experience exercising quasi-judicial responsibility and making public policy.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Bachelor of Chemical Engineering from Georgia Tech.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

National Association of Regulatory Utility Commissioners (NARUC)

NARUC Executive Committee

NARUC Board of Directors

Institute of Electrical and Electronics Engineers (IEEE), National Electrical Safety Code (NESC) Sub-Committee 5

Responsible for developing the NESC standards for power pole strength

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
PSC Commissioner	July 2010, plus reappointments	4 years	State
Jacksonville City Councilman	2003 - 2010	4 years	City/County
Jacksonville Beach City Council	1988 - 2002	4 years	City
Jacksonville Beach Community Redevelopment Agency	2016 - Present	4 years	City

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Twice a month, with frequent additional meetings.

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>99.9</u>	<u>One</u>	<u>Due to late developments,</u>
		<u>meeting was rescheduled</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐
If "Yes", list:

A. Title of Office: Commissioner, Florida Public Service Commission

B. Term of Appointment: July 2010 - January 2014, January 2014 - January 2018, January 2018 - January 2022

C. Confirmation results: Confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u> <u>Title & Number</u>	<u>Original</u> <u>Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Art Environmental Consulting - HMOC 08-00100094</u>	<u>December 2007</u>	<u>City of Jacksonville Beach</u>	<u>None</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☐

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
John Peyton			
John Thrasher			
John Rood		7	

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Rotary Club	PO Box 37028, Jacksonville, FL 32236		1998 - Current

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

CERTIFICATION

STATE OF FLORIDA
COUNTY OF

Leon

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DIVISION OF ELECTIONS

Before me, the undersigned Notary Public of Florida, personally appeared

Arthur Graham

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 26th day of October, 2021.

[Signature]

Signature of Notary Public-State of Florida

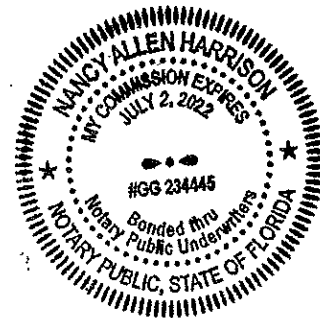
Nancy A. Harrison

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 7/2/2022

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced n/a



(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.

Please type or use blue ink.

1. Board of Interest: Florida Public Service Commission

2. Current Employer and Occupation: State of Florida, Public Service Commissioner

3. Are you applying for reappointment: Yes ☒ No ☐

4. *Do you have a disability? Yes ☐ No ☒ If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male ☒ Female ☐

6. *Race: White ☐ African-American ☒

Hispanic-American ☐ Asian/Pacific Islander ☐

Native-American/Alaskan Native ☐

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor.

NO

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

Arthur L. "Art" Graham
Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Art Graham
Florida Public Service Commission

NOTICE OF HEARING

TO: Commissioner Art Graham

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, January 11, 2022, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 3rd day of January, 2022

Committee on Regulated Industries

A handwritten signature in black ink, appearing to read "Travis Hutson", is written over a horizontal line.

Senator Travis Hutson
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Arthur L. Graham

ANSWER:

yes
Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Committee on Regulated Industries

DATE: January 11, 2022

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 512

INTRODUCER: Senator Burgess

SUBJECT: Vacation Rentals

DATE: January 10, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2. _____	_____	<u>CA</u>	_____
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 512 revises the regulation of vacation rentals. A vacation rental is a unit in a condominium or cooperative, or a single, two, three, or four family house that is rented to guests more than three times a year for periods of less than 30 days or one calendar month, whichever is shorter, or held out as regularly rented to guests. Vacation rentals are licensed by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR). Current law does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The bill permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements. The bill does not affect vacation rental ordinances in jurisdictions located in an area of critical state concern.

Under the bill, a local government may require vacation rentals to be registered. The registration fee may not exceed \$50. A local government may impose a fine for failure to register a vacation rental. The bill establishes limits for a local government registration program, including requiring a vacation rental owner to obtain any required tax registrations, pay all recorded municipal or county code liens, and designate a responsible person who is available 24/7 to respond to complaints. A local government may adopt parking and garbage requirements so long as those standards are not imposed solely on vacation rentals. Additionally, the bill requires local governments to accept or deny a registration application within 15 days of receipt of an application. The bill authorizes the division to issue temporary licenses to permit the operation of the vacation rental while the license application is pending.

The bill permits a local government to terminate a local registration for violations of local registration requirements. The bill also authorizes the division to revoke or suspend state

vacation rental licenses for violations of local registration requirements and violations of community association property restrictions.

The bill preempts the regulation of advertising platforms to the state. An advertising platform is a person who electronically advertises a vacation rental to rent for transient occupancy, maintains a marketplace, and a reservation or payment system.

The bill requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to include the property's vacation rental license number issued by the DBPR and the local registration number on the vacation rental's advertisement, and attest that, to the best of their knowledge, those numbers are current, valid, and accurate. The vacation rental property owner or operator must display this tax and licensure information inside the vacation rental property.

The bill requires an advertising platform to display the vacation rental license number and the local registration number of each property that advertises on its platform. The advertising platform must verify the validity of the vacation rental's license number before it publishes the advertisement and must perform ongoing checks every calendar quarter thereafter. To facilitate this verification, the division must maintain vacation rental license information in a readily accessible electronic format by July 1, 2023. The advertising platform must remove from public view any advertisement or listing that fails to display a valid vacation rental license number.

Advertising platforms are required by the bill to collect and remit any taxes imposed under chapters 125, 205, and 212, F.S., that result from payment for the rental of a vacation rental property on its platform. The bill allows platforms to exclude service fees from the taxable amount if the platforms do not own, operate, or manage the vacation rental. It allows the division to take enforcement action for noncompliance.

Additionally, the bill:

- Authorizes the division to fine an advertising an amount not to exceed \$1,000 for a violation of the provisions in the bill or rules of the division;
- Requires advertising platforms to adopt anti-discrimination policies and to inform users of the public lodging discrimination prohibition found in section 509.092, Florida Statutes;
- Provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms;
- Allows the Department of Revenue to adopt emergency rules for six months which may be renewed until permanent rules are adopted;
- Provides that its terms do not supersede any current or future declaration or covenant for condominium, cooperative, or homeowners' associations; and
- Requires a sexual offender or predator to register at the local sheriff's office no later than 5:00 p.m., 24 hours after establishing a temporary residence in a vacation rental.

The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.

The bill takes effect upon becoming a law. However, the provisions relating to the regulation of advertising platforms take effect January 1, 2023.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term “public lodging establishments” includes transient and nontransient public lodging establishments.¹ The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. (emphasis supplied)

A “nontransient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. (emphasis supplied)

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a

¹ Section 509.013(4)(a), F.S.

place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;

6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.²

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

The DBPR licenses vacation rentals as condominiums, dwellings, or timeshare projects.³ The division may issue a vacation rental license for "a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively."⁴ The division does not license or regulate the rental of individual rooms within a dwelling unit based on the roominghouse and boardinghouse exclusion from the definition of public lodging establishment in s. 509.013(4)(b)9., F.S.⁵

² Section 509.242(1), F.S.

³ Fla. Admin. Code R. 61C-1.002(4)(a)1.

⁴ The division further classifies a vacation rental license as a single, group, or collective license. *See* Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses or units per license.

⁵ *See* s. 509.242(1)(c), F.S., defining the term "vacation rental."

The 48,226 public lodging establishment licenses issued by the division are distributed as follows:⁶

- Hotels – 2,238 licenses;
- Motels – 2,446 licenses;
- Nontransient apartments – 18,117 licenses;
- Transient apartments – 873 licenses;
- Bed and Breakfast Inns – 259 licenses;
- Vacation rental condominiums – 10,224 licenses;
- Vacation rental dwellings – 19,306 licenses; and
- Vacation rental timeshare projects – 29 licenses.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but must inspect transient and nontransient apartments at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request to the division.⁷ The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2020-2021, the division received 306 consumer complaints regarding vacation rentals. In response to the complaints, the division's inspection confirmed a violation for 31 of the complaints.⁸

The division's inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other general safety and regulatory matters.⁹ The division must notify the local fire safety authority or the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,¹⁰ which relates to a public lodging establishment.¹¹

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways, from a person competent to conduct such inspections.¹²

⁶ Department of Business and Professional Regulation, Division of Hotels and Restaurants Annual Report for FY 2020-2021 at page 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2020_21.pdf (last visited Jan. 3, 2022). The total number of licenses for each classification include single licenses and group and collective licenses that cover multiple condominium units, dwellings, and timeshare projects.

⁷ Section 509.032(2)(a), F.S.

⁸ *Supra* at note 6.

⁹ See ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. See also Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-07062> (last visited Jan. 3, 2022).

¹⁰ Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

¹¹ Section 509.032(2)(d), F.S.

¹² See ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at

Preemption

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.”

Current law does not preempt the authority of a local government or a local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.¹³

Section 509.032(7)(b), F.S., does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.¹⁴

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.¹⁵

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁶

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹⁷ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use, or occupancy.”¹⁸

http://www.myfloridalicense.com/dbpr/hr/forms/documents/application_packet_for_vacation_rental_license.pdf (last visited Jan. 3, 2022).

¹³ Section 509.032(7)(a), F.S.

¹⁴ See s. 163.3164(43), F.S., which provides that the state land planning agency is the Department of Economic Opportunity.

¹⁵ Chapter 2011-119, Laws of Fla.

¹⁶ *Id.*

¹⁷ Chapter 2014-71, Laws of Fla. (codified in s. 509.032(7)(b), F.S.).

¹⁸ *Id.*

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.¹⁹ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, established in s. 509.032(7)(b), F.S. The Attorney General concluded that the county’s local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

The Attorney General also issued an opinion on November 13, 2014, to the City of Wilton Manors, concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.²⁰

In addition, the Attorney General issued an advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed zoning ordinance.²¹ The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.²²

The Attorney General also opined that amending an ordinance that was enacted prior to June 1, 2011 will not invalidate the grandfather protection for the parts of the ordinance that are reenacted.²³ The new provisions would be preempted by state law if they revise an ordinance in a manner that would regulate the duration or frequency of rental of vacation rentals, even when the new regulation would be considered “less restrictive” than the prior local law.

Public Lodging Non-Discrimination Law

Section 509.092, F.S., prohibits an operator of a public lodging establishment from denying service or offering lesser quality accommodations to a person based upon his or her race, creed, color, sex, pregnancy, physical disability, or national origin. An aggrieved person may file a

¹⁹ Florida Attorney General, *Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding Vacation Rental Operation-Local Ordinances*, Oct. 22, 2013, (on file with the Senate Committee on Regulated Industries).

²⁰ Op. Att’y Gen. Fla. 2014-09, *Vacation Rentals - Municipalities - Land Use* (November 13, 2014), available at <http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E> (last visited Jan. 3, 2022).

²¹ Op. Att’y Gen. Fla. 2016-12, *Municipalities - Vacation Rentals – Preemption* - <http://www.myfloridalegal.com/ago.nsf/Opinions/1F9A7D9219CF89A3852587AB006DDC58> (last visited Jan. 3, 2022).

²² *Id.*

²³ Op. Att’y Gen. Fla. 2019-07, *Vacation rentals, municipalities, grandfather provisions* (August 16, 2019) available at <http://www.myfloridalegal.com/ago.nsf/Opinions/933B3706FADB00CA85258458006F4CFA> (last visited Jan. 3, 2022).

complaint pursuant to s. 760.11, F.S., of the Florida Civil Rights Act. Such complaints are mediated, investigated, and determined by the Florida Commission on Human Relations.²⁴

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of one or more specified sex offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.²⁵ The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. Generally, the sexual predator or offender must register with the sheriff 48 hours after being released from prison or otherwise establishing residence in Florida. The laws span several different chapters and numerous statutes²⁶ and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Florida Department of Corrections (FDC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;²⁷
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.²⁸

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification requirements in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.²⁹

²⁴ See Florida Commission on Human Relations, *Public Accommodations*, <https://fchr.myflorida.com/public-accommodations> (last visited Jan 3, 2022).

²⁵ Sections 775.21 and 943.0435, F.S.

²⁶ Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

²⁷ Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

²⁸ Sections 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

²⁹ Sections 943.0435(1)(h), 985.4815(1)(h), 944.606(1)(f), and 944.607(1)(f), F.S., address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.³⁰ Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the FDC's control or custody, under the FDC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel.

A sexual predator or offender must register at the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence.³¹

The FDLE, through its agency website, provides a searchable database that includes some of this information.³² Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

Residence Definitions

Section 775.21, F.S., defines the terms "permanent residence," "temporary residence," and "transient residence" for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions.³³

"Permanent residence" means a place where the person abides, lodges, or resides for three or more consecutive days.³⁴

"Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of three or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.³⁵

³⁰ All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register under s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (in the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). *See* ss. 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (in the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

³¹ Sections 775.21(6)(e)1.a. and 943.0435(2)(a)1., F.S., providing registration requirements for sexual predators and offenders, respectively.

³² The FDLE is the central repository for registration information, and also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *See* <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on Jan. 3, 2022).

³³ Sections 775.21(2)(k), (n), and (o) and 943.0435(1)(f), F.S.

³⁴ Section 775.21(2)(k), F.S.

³⁵ Section 775.21(2)(n), F.S.

“Transient residence” means a county where a person lives, remains, or is located for a period of three or more days in the aggregate during a calendar year and which is not the person’s permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.³⁶

III. Effect of Proposed Changes:

Preemptions

The bill amends s. 509.032(7), F.S., to preempt the regulation of advertising platforms to the state. The bill also amends s. 509.032(7), F.S., to preempt the licensing of vacation rentals to the state.

The bill permits any “grandfathered” local law, ordinance, or regulation adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements.

Definition of “Advertising Platform”

The bill creates s. 509.013(17), F.S., to define the term “advertising platform.” Under the bill, an advertising platform:

- Provides an online application, software, website, or system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

Local Registration of Vacation Rentals

Under the bill, a local government may require vacation rentals to be registered. The registration fee may not exceed \$50. A local government may impose a fine for failure to register a vacation rental.

The bill establishes limits for a local government registration program. A local registration program may only require an owner or operator of a vacation rental to:

- Register no more than once per year; however, a new owner may be required to submit a new application for registration;
- Submit identifying information;
- Obtain any required tax registrations,
- Obtain a vacation rental license from the division within 60 days of after local registration;

³⁶ Section 775.21(2)(o), F.S.

- Obtain all required tax registrations, receipts, or certificate issued by the Department of Revenue, a county, or a municipal government;
- Update required information on a continuing bases to be current;
- Comply with parking standards and solid waste handling and containment requirements so long as such standards are not imposed solely on vacation rentals;
- Designate a responsible person who is available at all times to respond to complaints by telephone; and
- Pay all recorded municipal or county code liens.

Additionally, the bill requires local governments to accept or deny a registration application within 15 days of receipt of an application. The vacation rental owner or operator may agree to an extension of this time period.

If a local government denies an application, the notice of denial may be sent by United States mail or electronically. The notice must state with particularity the factual reasons for the denial and the applicable portions of an ordinance, rule, statute, or other legal authority for the denial. A local government cannot deny a registration application if the applicant cure the identified deficiency.

Upon the acceptance of a registration application, the local government must assign a unique registration number to the vacation rental or other indicia of registration and provide such registration number or other indicia of registration to the owner or operator of the vacation rental in writing or electronically.

The bill authorizes a local government to terminate a registration or to refuse to renew a registration when:

- The operation of the subject premises violates a local law, ordinance, or regulation;
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

Additionally, a local government may withdraw its acceptance of a registration on the basis of an unsatisfied recorded municipal or county code lien.

Regulation of Vacation Rentals by the Division

The bill amends s. 509.241(2), relating to the license application process for vacation rentals, to require application for a vacation rental license to include the local registration number, if applicable. Additionally, the bill authorizes the division to issue temporary licenses to permit the operation of the vacation rental while the license application is pending.

The bill also amends s. 509.241(3), F.S., to require the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number and local registration number, if applicable.

The bill amends s. 509.261, F.S., to authorize the division to revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

- The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chs. 718, 719, or 720, F.S.,³⁷
- The owner or operator fails to provide proof of registration, if required by local law, ordinance, or regulation;
- The registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5;
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

Under the bill, the division may suspend for a period of not more than 30 days a vacation rental license when the owner or operator has been cited for two or more code violations related to the vacation during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding.

Requirements for Advertising Platforms

Effective January 1, 2023, the bill creates s. 509.243, F.S., to provide requirements, including tax collection and remittance requirements for an advertising platform.

Advertising and Reporting Requirements

Under the bill, an advertising platform must:

- Require that a person who places an advertisement for the rental of a vacation rental to:
 - Include the vacation rental license number and the local registration number, if applicable; and
 - Attest to the best of their knowledge that the license number and the local registration number, if applicable, for the vacation rental property are current, valid, and accurately stated in the advertisement.
- Effective July 1, 2023, display the vacation rental license number in all advertisements after it has first verified the vacation rental property's license number with the DBPR, and then re-verify the license number on a quarterly basis.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

By July 1, 2023, the division must maintain vacation rental license information in a readily accessible electronic format sufficient to facilitate prompt compliance.

The bill provides processes for the division to issue a cease and desist order for any person who violates ch. 509, F.S. The bill authorizes the division to seek an injunction or a writ of mandamus

³⁷ Chapters 718, 719, or 720, F.S., relate to the regulation and governance of condominium, cooperative, and homeowners' associations, respectively.

to enforce a cease and desist order. If the Department of Business and Professional Regulation (DBPR) is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.

The bill authorizes the division to fine an advertising platform an amount not to exceed \$1,000 for a violation of the provisions in the bill or rules of the division.

The bill provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms.

Tax Collection and Reporting Requirements

The bill creates s. 509.243(4), F.S., to require advertising platforms to collect and remit taxes due under ss. 125.0104,³⁸ 125.0108,³⁹ 205.044,⁴⁰ 212.03,⁴¹ 212.0305,⁴² and 212.055, F.S.,⁴³ resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

The bill also amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:

- Provide that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
- Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
- Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.

The bill also amends s. 509.013, F.S., to define the term “merchant business taxes” as the tax imposed under s. 205.044, F.S. The bill includes the merchant business tax numbers as one of the tax account number vacation rental owners or operators must include in their advertisement on an advertising platform and as one of the taxes advertising platforms must collect and remit.

The bill authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This emergency rulemaking authority expires on January 1, 2023.

Sexual Predators and Offenders Registration

The bill amends s. 775.21, F.S., to redefine the term “temporary residence” in the context of sexual predator or offender registration requirements, to mean lodging in a vacation rental for 24 hours or more. Under current law, a sexual offender or predator must register at the local

³⁸ Section 125.0104, F.S., relates to the local option tourist development tax.

³⁹ Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.

⁴⁰ Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.

⁴¹ Section 212.03, F.S., relates to the transient rentals tax.

⁴² Section 212.0305, F.S., relates to convention development taxes.

⁴³ Section 212.055, F.S., relates to discretionary sales taxes.

sheriff's office no later than 5:00 p.m., 48 hours after establishing a temporary residence in a vacation rental.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium, cooperative documents, or declaration of covenants or declaration for a homeowners' association.

Effective Date

The bill takes effect upon becoming a law. However, the provisions of s. 509.243, F.S., relating to advertising platforms, take effect January 1, 2023.

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:

Article VII, Section 19 of the Florida Constitution requires a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."

Article VII, Section 19 of the Florida Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

The bill does not impose or authorize a state tax or fee. The bill provides that a local government may not require a registration fee of more than \$50. Under the bill, a local government is not required to charge a registration fee.

E. Other Constitutional Issues:

None.

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

The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.⁴⁴

B. Private Sector Impact:

Indeterminate. Vacation rental owners may incur local registration costs of up to \$50 if the local government in which the vacation rental is located adopts an ordinance, law, or regulation consistent with the provisions of this bill.

C. Government Sector Impact:

The DBPR estimates a cost of \$497,671 (\$435,974 recurring) to the Hotel and Restaurant Trust Fund and a need of six full-time positions (FTEs).⁴⁵

According to the Florida Department of Law Enforcement (FDLE), amending the definition of “temporary residence” to include a vacation rental where a person lodges for 24 hours or more will lead to a “substantial increase” in the number of sexual predators and offenders required to complete a registration.⁴⁶ The increase of registrations could potentially impact the workload associated with the Florida Sexual Offender and Predator Registry and require programmatic changes to FDLE’s technology systems. The FDLE anticipates the need for four additional FTEs and additional costs related to updating to the programing for the registry for a total cost of \$693,730 and \$319,750 recurring to implement provisions of the bill.⁴⁷

Local governments may see an increase in revenue from the local registration fee of up to \$50.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 775.21, F.S., to require a sexual offender or predator to register at the local sheriff’s office no later than 5:00 p.m., 24 hours after establishing a temporary residence in a vacation rental. Under current law, a sexual offender or predator must register at the local

⁴⁴ Revenue Impact Results, Revenue Estimating Conference, November 5, 2021.

⁴⁵ Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 512*, at 6 (Oct. 15, 2021) (on file with the Senate Committee on Regulated Industries).

⁴⁶ Florida Department of Law Enforcement, *2022 Agency Legislative Bill Analysis for SB 512*, at 3 (Nov. 15, 2021) (on file with the Senate Committee on Regulated Industries).

⁴⁷ *Id.*

sheriff's office no later than 5:00 p.m., 48 hours after establishing a temporary residence in a vacation rental.

The FDLE has expressed “significant concerns”⁴⁸ with this provision in the bill. The FDLE notes that sexual offender and predator registration is a civil and regulatory process, not punishment. Its purpose is to protect the public by providing information and serving as an investigative tool for law enforcement. If the impact on sexual predator and offender registration is viewed as punishment or intended to prevent or limit the ability of sexual offenders and predators to travel freely within the state, the FDLE advises that these concerns may lead to significant litigation, in an area of law that has been closely examined and vetted through the courts and upheld as constitutional. Such litigation may jeopardize constitutionality, and therefore the viability, of Florida sexual offender and predator registration laws.⁴⁹

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 159.27, 212.03, 212.08, 316.1955, 404.056, 477.0135, 509.013, 509.032, 509.241, 509.261, 509.221, 553.5041, 559.955, 705.17, 705.185, 717.1355, 775.21, and 877.24.

This bill creates section 509.243 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

⁴⁸ *Id.* at 5.

⁴⁹ *Id.*

By Senator Burgess

20-00473A-22

2022512__

1 A bill to be entitled
 2 An act relating to vacation rentals; amending s.
 3 212.03, F.S.; requiring advertising platforms to
 4 collect and remit taxes for certain transactions;
 5 reordering and amending s. 509.013, F.S.; defining the
 6 term "advertising platform"; amending s. 509.032,
 7 F.S.; conforming a cross-reference; revising the
 8 regulated activities of public lodging establishments
 9 and public food service establishments preempted to
 10 the state to include licensing; revising an exemption
 11 to the prohibition against certain local regulation of
 12 vacation rentals; expanding the authority of local
 13 laws, ordinances, or regulations to include requiring
 14 vacation rentals to register with local vacation
 15 rental registration programs; authorizing local
 16 governments to adopt vacation rental registration
 17 programs and impose fines for failure to register;
 18 authorizing local governments to charge fees for
 19 processing registration applications; specifying
 20 requirements, procedures, and limitations for local
 21 vacation rental registration programs; authorizing
 22 local governments to terminate or refuse to issue or
 23 renew vacation rental registrations under certain
 24 circumstances; preempting the regulation of
 25 advertising platforms to the state; amending s.
 26 509.241, F.S.; requiring applications for vacation
 27 rental licenses to include certain information;
 28 authorizing the Division of Hotels and Restaurants of
 29 the Department of Business and Professional Regulation

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

20-00473A-22

2022512__

30 to issue temporary licenses upon receipt of vacation
 31 rental license applications; providing for expiration
 32 of temporary vacation rental licenses; requiring
 33 licenses issued by the division to be displayed
 34 conspicuously to the public inside the licensed
 35 establishment; requiring the owner or operator of
 36 certain vacation rentals to also display its vacation
 37 rental license number and applicable local
 38 registration number; creating s. 509.243, F.S.;
 39 requiring advertising platforms to require that
 40 persons placing advertisements for vacation rentals
 41 include certain information in the advertisements and
 42 attest to certain information; requiring advertising
 43 platforms to display and check such information;
 44 requiring the division to maintain certain information
 45 in a readily accessible electronic format by a certain
 46 date; requiring advertising platforms to remove an
 47 advertisement or listing under certain conditions and
 48 within a specified timeframe; requiring advertising
 49 platforms to collect and remit taxes for certain
 50 transactions; authorizing the division to issue and
 51 deliver a notice to cease and desist for certain
 52 violations; providing that such notice does not
 53 constitute agency action for which certain hearings
 54 may be sought; authorizing the division to file
 55 certain proceedings; authorizing the division to seek
 56 certain remedies for the purpose of enforcing a cease
 57 and desist notice; authorizing the division to collect
 58 attorney fees and costs under certain circumstances;

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authorizing the division to impose a fine on advertising platforms for certain violations; requiring the division to issue written warnings or notices before commencing certain legal proceedings; requiring advertising platforms to adopt an antidiscrimination policy and to inform their users of the policy's provisions; providing construction; amending s. 509.261, F.S.; authorizing the division to revoke, refuse to issue or renew, or suspend vacation rental licenses under certain circumstances; amending s. 775.21, F.S.; revising the definition of the term "temporary residence"; amending ss. 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.221, 553.5041, 559.955, 705.17, 705.185, 717.1355, and 877.24, F.S.; conforming cross-references to changes made by the act; providing applicability; authorizing the Department of Revenue to adopt emergency rules; providing requirements and an expiration for the emergency rules; providing for the expiration of such rulemaking authority; providing effective dates.

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

Section 1. Effective January 1, 2023, subsection (2) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(2)(a) The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the lessor

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or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person, as defined in this chapter, who receives said rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(b) If a guest uses a payment system on or through an advertising platform, as defined in s. 509.013, to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit taxes as provided in this paragraph.

1. An advertising platform, as defined in s. 509.013, which owns, operates, or manages a vacation rental or which is related within the meaning of ss. 267(b), 707(b), or 1504 of the Internal Revenue Code of 1986 to a person who owns, operates, or manages the vacation rental shall collect and remit all taxes due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental.

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117 2. An advertising platform to which subparagraph 1. does
 118 not apply shall collect and remit all taxes due from the owner,
 119 operator, or manager under this section and ss. 125.0104,
 120 125.0108, 205.044, 212.0305, and 212.055 which are related to
 121 the rental. Of the total amount paid by the lessee or rentee,
 122 the amount retained by the advertising platform for reservation
 123 or payment service is not taxable under this section or ss.
 124 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

126 In order to facilitate the remittance of such taxes, the
 127 department and counties that have elected to self-administer the
 128 taxes imposed under chapter 125 must allow advertising platforms
 129 to register, collect, and remit such taxes.

130 Section 2. Section 509.013, Florida Statutes, is reordered
 131 and amended to read:

132 509.013 Definitions.—As used in this chapter, the term:

133 (1) "Advertising platform" means a person as defined in s.
 134 1.01 who:

135 (a) Provides an online application, software, a website, or
 136 a system through which a vacation rental located in this state
 137 is advertised or held out to the public as available to rent for
 138 transient occupancy;

139 (b) Provides or maintains a marketplace for the renting of
 140 a vacation rental for transient occupancy; and

141 (c) Provides a reservation or payment system that
 142 facilitates a transaction for the renting of a vacation rental
 143 for transient occupancy and for which the person collects or
 144 receives, directly or indirectly, a fee in connection with the
 145 reservation or payment service provided for the rental

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146 transaction.

147 (3)(1) "Division" means the Division of Hotels and
 148 Restaurants of the Department of Business and Professional
 149 Regulation.

150 (8)(2) "Operator" means the owner, licensee, proprietor,
 151 lessee, manager, assistant manager, or appointed agent of a
 152 public lodging establishment or public food service
 153 establishment.

154 (4)(3) "Guest" means any patron, customer, tenant, lodger,
 155 boarder, or occupant of a public lodging establishment or public
 156 food service establishment.

157 (10)(a)(4)(a) "Public lodging establishment" includes a
 158 transient public lodging establishment as defined in
 159 subparagraph 1. and a nontransient public lodging establishment
 160 as defined in subparagraph 2.

161 1. "Transient public lodging establishment" means any unit,
 162 group of units, dwelling, building, or group of buildings within
 163 a single complex of buildings which is rented to guests more
 164 than three times in a calendar year for periods of less than 30
 165 days or 1 calendar month, whichever is less, or which is
 166 advertised or held out to the public as a place regularly rented
 167 to guests.

168 2. "Nontransient public lodging establishment" means any
 169 unit, group of units, dwelling, building, or group of buildings
 170 within a single complex of buildings which is rented to guests
 171 for periods of at least 30 days or 1 calendar month, whichever
 172 is less, or which is advertised or held out to the public as a
 173 place regularly rented to guests for periods of at least 30 days
 174 or 1 calendar month.

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License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are excluded from the definitions in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.

2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072.

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.

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6. Any establishment inspected by the Department of Health and regulated by chapter 513.

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

(9) (a) (5) (a) "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared ~~before~~ prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(b) The following are excluded from the definition in

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paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization. Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or watercraft that ~~which~~ is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care

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Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(2) ~~(6)~~ "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(11) ~~(7)~~ "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

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291 (12)~~(48)~~ "Temporary food service event" means any event of
 292 30 days or less in duration where food is prepared, served, or
 293 sold to the general public.

294 (13)~~(49)~~ "Theme park or entertainment complex" means a
 295 complex comprised of at least 25 contiguous acres owned and
 296 controlled by the same business entity and which contains
 297 permanent exhibitions and a variety of recreational activities
 298 and has a minimum of 1 million visitors annually.

299 (14)~~(10)~~ "Third-party provider" means, for purposes of s.
 300 509.049, any provider of an approved food safety training
 301 program that provides training or such a training program to a
 302 public food service establishment that is not under common
 303 ownership or control with the provider.

304 (16)~~(11)~~ "Transient establishment" means any public lodging
 305 establishment that is rented or leased to guests by an operator
 306 whose intention is that such guests' occupancy will be
 307 temporary.

308 (17)~~(12)~~ "Transient occupancy" means occupancy when it is
 309 the intention of the parties that the occupancy will be
 310 temporary. There is a rebuttable presumption that, when the
 311 dwelling unit occupied is not the sole residence of the guest,
 312 the occupancy is transient.

313 (15)~~(13)~~ "Transient" means a guest in transient occupancy.

314 (6)~~(14)~~ "Nontransient establishment" means any public
 315 lodging establishment that is rented or leased to guests by an
 316 operator whose intention is that the dwelling unit occupied will
 317 be the sole residence of the guest.

318 (7)~~(15)~~ "Nontransient occupancy" means occupancy when it is
 319 the intention of the parties that the occupancy will not be

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320 temporary. There is a rebuttable presumption that, when the
 321 dwelling unit occupied is the sole residence of the guest, the
 322 occupancy is nontransient.

323 (5)~~(16)~~ "Nontransient" means a guest in nontransient
 324 occupancy.

325 Section 3. Paragraph (c) of subsection (3) and paragraphs
 326 (a) and (b) of subsection (7) of section 509.032, Florida
 327 Statutes, are amended, and paragraph (d) is added to subsection
 328 (7) of that section, to read:

329 509.032 Duties.—

330 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE
 331 EVENTS.—The division shall:

332 (c) Administer a public notification process for temporary
 333 food service events and distribute educational materials that
 334 address safe food storage, preparation, and service procedures.

335 1. Sponsors of temporary food service events shall notify
 336 the division not less than 3 days before the scheduled event of
 337 the type of food service proposed, the time and location of the
 338 event, a complete list of food service vendors participating in
 339 the event, the number of individual food service facilities each
 340 vendor will operate at the event, and the identification number
 341 of each food service vendor's current license as a public food
 342 service establishment or temporary food service event licensee.
 343 Notification may be completed orally, by telephone, in person,
 344 or in writing. A public food service establishment or food
 345 service vendor may not use this notification process to
 346 circumvent the license requirements of this chapter.

347 2. The division shall keep a record of all notifications
 348 received for proposed temporary food service events and shall

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provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013 ~~s. 509.013(5)(b)~~, a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, licensing, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

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(b)1. A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including when such law, ordinance, or regulation is amended to be less restrictive or to comply with the local registration requirements provided in this paragraph. Notwithstanding paragraph (a), a local law, ordinance, or regulation may require the registration of vacation rentals with a local vacation rental registration program. Local governments may adopt a vacation rental registration program pursuant to subparagraph 3. and impose a fine for failure to register under the vacation rental registration program.

2. Local governments may charge a fee of no more than \$50 for processing a registration application. A local law, ordinance, or regulation may not require renewal of a registration more than once per year. However, if there is a change of ownership, the new owner may be required to submit a new application for registration.

3. As a condition of registration, the local law, ordinance, or regulation may only require the owner or operator of a vacation rental to:

a. Submit identifying information about the owner or the owner's agents and the subject vacation rental property.

b. Obtain a license as a transient public lodging establishment issued by the division within 60 days after local registration.

c. Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a

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407 municipal government.

408 d. Update required information on a continuing basis to
 409 ensure it is current.

410 e. Comply with parking standards and solid waste handling
 411 and containment requirements, so long as such standards and
 412 requirements are not imposed solely on vacation rentals.

413 f. Designate and maintain at all times a responsible party
 414 who is capable of responding to complaints and other immediate
 415 problems related to the vacation rental, including being
 416 available by telephone at a listed phone number.

417 g. Pay in full all recorded municipal or county code liens
 418 against the subject property. The local government may withdraw
 419 its acceptance of a registration on the basis of an unsatisfied
 420 recorded municipal or county code lien.

421 4.a. Within 15 business days after receiving an application
 422 for registration of a vacation rental, the local government must
 423 review the application for completeness and accept the
 424 registration of the vacation rental or issue a written notice
 425 specifying with particularity any areas that are deficient.

426 b. The vacation rental owner or operator and the local
 427 government may agree to a reasonable request to extend the
 428 timeframes provided in this subparagraph, particularly in the
 429 event of a force majeure or other extraordinary circumstance.

430 c. When a local government denies an application for
 431 registration of a vacation rental, the local government must
 432 give written notice to the applicant. Such notice may be
 433 provided by United States mail or electronically. The written
 434 notice must specify with particularity the factual reasons for
 435 the denial and include a citation to the applicable portions of

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436 an ordinance, a rule, a statute, or other legal authority for
 437 the denial of the registration. A local government may not deny
 438 any applicant from reapplying if the applicant cures the
 439 identified deficiencies.

440 d. If the local government fails to accept or deny the
 441 registration within the timeframes provided in this
 442 subparagraph, the application is deemed accepted.

443 e. Upon an accepted registration of a vacation rental, a
 444 local government shall assign a unique registration number to
 445 the vacation rental or other indicia of registration and provide
 446 the registration number or other indicia of registration to the
 447 owner or operator of the vacation rental in writing or
 448 electronically.

449 5. The local government may terminate or refuse to issue or
 450 renew a vacation rental registration when:

451 a. The operation of the subject premises violates a
 452 registration requirement authorized pursuant to this paragraph
 453 or a local law, ordinance, or regulation that does not apply
 454 solely to vacation rentals; or

455 b. The premises and its owner are the subject of a final
 456 order or judgment lawfully directing the termination of the
 457 premises' use as a vacation rental.

458 (d) The regulation of advertising platforms is preempted to
 459 the state as provided in this chapter.

460 Section 4. Effective January 1, 2023, subsections (2) and
 461 (3) of section 509.241, Florida Statutes, are amended to read:

462 509.241 Licenses required; exceptions.—

463 (2) APPLICATION FOR LICENSE.—Each person who plans to open
 464 a public lodging establishment or a public food service

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establishment shall apply for and receive a license from the division ~~before~~ prior to the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license. All applications for a vacation rental license must, if applicable, include the local registration number or other proof of registration required by local law, ordinance, or regulation. Upon receiving an application for a vacation rental license, the division may grant a temporary license that authorizes the vacation rental to begin operation while the application is pending and to post the information required under s. 509.243(1)(c). The temporary license automatically expires upon final agency action regarding the license application.

(3) DISPLAY OF LICENSE.—Any license issued by the division must ~~shall~~ be conspicuously displayed to the public inside ~~in~~ the office or lobby of the licensed establishment. Public food service establishments that ~~which~~ offer catering services must ~~shall~~ display their license number on all advertising for catering services. The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number and, if applicable, the local registration number.

Section 5. Effective January 1, 2023, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1)(a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

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1. Include in the advertisement the vacation rental license number and, if applicable, the local registration number; and

2. Attest to the best of the person's knowledge that the license number for the vacation rental property and the local registration are current, valid, and accurately stated in the advertisement.

(b) An advertising platform must display the vacation rental license number and, if applicable, the local registration number. Effective July 1, 2023, the advertising platform must check that the vacation rental license number provided by the owner or operator appears as current in the information posted by the division pursuant to paragraph (c) and applies to the subject vacation rental before publishing the advertisement on its platform and again at the end of each calendar quarter that the advertisement remains on its platform.

(c) By July 1, 2023, the division shall maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform for transient rental of a vacation rental.

(2) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

(3) If a guest uses a payment system on or through an

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advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(4) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(5) The division may fine an advertising platform an amount not to exceed \$1,000 per offense for violations of this section or of the rules of the division. For the purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which an advertising platform is operated in violation of this section or rules of the division. The division shall issue a written warning or notice and provide the advertising platform 15 days to cure a violation before commencing any legal proceeding under subsection (4).

(6) Advertising platforms shall adopt an antidiscrimination

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policy to help prevent discrimination among their users and shall inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092.

(7) Advertising platforms that comply with the requirements of this section are deemed to be in compliance with the requirements of this chapter. This section does not create and is not intended to create a private cause of action against advertising platforms. An advertising platform may not be held liable for any action it takes voluntarily in good faith in relation to its users to comply with this chapter or the advertising platform's terms of service.

Section 6. Subsections (10) and (11) are added to section 509.261, Florida Statutes, to read:

509.261 Revocation or suspension of licenses; fines; procedure.—

(10) The division may revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

(a) The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chapter 718, chapter 719, or chapter 720, as determined by a final order of a court of competent jurisdiction or a written decision by an arbitrator authorized to arbitrate a dispute relating to the subject property and a lease or property restriction;

(b) The owner or operator fails to provide proof of registration, if required by local law, ordinance, or

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regulation;

(c) The registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5.; or

(d) The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

(11) The division may suspend, for a period of not more than 30 days, a vacation rental license when the owner or operator has been cited for two or more code violations related to the vacation rental during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding under this subsection.

Section 7. Paragraph (n) of subsection (2) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

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

(n) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. The term also includes a vacation rental, as defined in s. 509.242(1)(c), where a person lodges for 24 hours or more.

Section 8. Subsection (12) of section 159.27, Florida Statutes, is amended to read:

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159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(12) "Public lodging or restaurant facility" means property used for any public lodging establishment as defined in s. 509.242 or public food service establishment as defined in s. 509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or necessary to, another facility qualifying under this part.

Section 9. Paragraph (jj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this

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subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(jj) *Complimentary meals.*—Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013 ~~s. 509.013(4)(a)~~ which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

Section 10. Paragraph (b) of subsection (4) of section 316.1955, Florida Statutes, is amended to read:

316.1955 Enforcement of parking requirements for persons who have disabilities.—

(4)

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme

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

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park is open to the public for that day.

Section 11. Subsection (5) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and projects; certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules.—

(5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification shall be provided on at least one document, form, or application executed at the time of, or before ~~prior to~~, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification must ~~shall~~ contain the following language:

“RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.”

The requirements of this subsection do not apply to any residential transient occupancy, as described in s. 509.013 ~~s. 509.013(12)~~, provided that such occupancy is 45 days or less in duration.

Section 12. Subsection (6) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

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

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697 (6) A license is not required of any individual providing
 698 makeup or special effects services in a theme park or
 699 entertainment complex to an actor, stunt person, musician,
 700 extra, or other talent, or providing makeup or special effects
 701 services to the general public. The term "theme park or
 702 entertainment complex" has the same meaning as in s. 509.013 ~~s.-~~
 703 ~~509.013(9)~~.

704 Section 13. Paragraph (b) of subsection (2) of section
 705 509.221, Florida Statutes, is amended to read:
 706 509.221 Sanitary regulations.—
 707 (2)
 708 (b) Within a theme park or entertainment complex as defined
 709 in s. 509.013 ~~s.-509.013(9)~~, the bathrooms are not required to
 710 be in the same building as the public food service
 711 establishment, so long as they are reasonably accessible.

712 Section 14. Paragraph (b) of subsection (5) of section
 713 553.5041, Florida Statutes, is amended to read:
 714 553.5041 Parking spaces for persons who have disabilities.—
 715 (5) Accessible perpendicular and diagonal accessible
 716 parking spaces and loading zones must be designed and located to
 717 conform to ss. 502 and 503 of the standards.

718 (b) If there are multiple entrances or multiple retail
 719 stores, the parking spaces must be dispersed to provide parking
 720 at the nearest accessible entrance. If a theme park or an
 721 entertainment complex as defined in s. 509.013 ~~s.-509.013(9)~~
 722 provides parking in several lots or areas from which access to
 723 the theme park or entertainment complex is provided, a single
 724 lot or area may be designated for parking by persons who have
 725 disabilities, if the lot or area is located on the shortest

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726 accessible route to an accessible entrance to the theme park or
 727 entertainment complex or to transportation to such an accessible
 728 entrance.

729 Section 15. Paragraph (b) of subsection (5) of section
 730 559.955, Florida Statutes, is amended to read:
 731 559.955 Home-based businesses; local government
 732 restrictions.—

733 (5) The application of this section does not supersede:
 734 (b) Local laws, ordinances, or regulations related to
 735 transient public lodging establishments, as defined in s.
 736 509.013 ~~s.-509.013(4)(a)1-~~, that are not otherwise preempted
 737 under chapter 509.

738 Section 16. Subsection (2) of section 705.17, Florida
 739 Statutes, is amended to read:
 740 705.17 Exceptions.—

741 (2) Sections 705.1015-705.106 do not apply to any personal
 742 property lost or abandoned on premises located within a theme
 743 park or entertainment complex, as defined in s. 509.013 ~~s.-~~
 744 ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or
 745 on the premises of a public food service establishment or a
 746 public lodging establishment licensed under part I of chapter
 747 509, if the owner or operator of such premises elects to comply
 748 with s. 705.185.

749 Section 17. Section 705.185, Florida Statutes, is amended
 750 to read:
 751 705.185 Disposal of personal property lost or abandoned on
 752 the premises of certain facilities.—When any lost or abandoned
 753 personal property is found on premises located within a theme
 754 park or entertainment complex, as defined in s. 509.013 ~~s.-~~

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509.013(9), or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with this section, any lost or abandoned property must be delivered to such owner or operator, who must take charge of the property and make a record of the date such property was found. If the property is not claimed by its owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises may not sell and must dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or other disposal as the charitable institution deems appropriate. The rightful owner of the property may reclaim the property from the owner or operator of the premises at any time before the disposal or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the premises. A charitable institution that accepts an electronic device, as defined in s. 815.03(9), access to which is not secured by a password or other personal identification technology, shall make a reasonable effort to delete all personal data from the electronic device before its sale or disposal.

Section 18. Section 717.1355, Florida Statutes, is amended to read:

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme

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park or entertainment complex as defined in s. 509.013 ~~s.~~ 509.013(9), or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

Section 19. Subsection (8) of section 877.24, Florida Statutes, is amended to read:

877.24 Nonapplication of s. 877.22.—Section 877.22 does not apply to a minor who is:

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013 ~~s.~~ 509.013(9).

Section 20. The application of this act does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes, cooperative document adopted pursuant to chapter 719, Florida Statutes, or declaration or declaration of covenant adopted pursuant to chapter 720, Florida Statutes.

Section 21. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing s. 212.03, Florida Statutes, including establishing procedures to facilitate the remittance of taxes.

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

(3) This section expires January 1, 2025.

Section 22. Except as otherwise expressly provided in this

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813 act, this act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 15, 2021

I respectfully request that **Senate Bill #512**, relating to Vacation Rentals , be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", with a long horizontal flourish extending to the right.

Senator Danny Burgess
Florida Senate, District 20



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 512</u>
BILL TITLE:	<u>Vacation Rentals</u>
BILL SPONSOR:	<u>Sen. Burgess</u>
EFFECTIVE DATE:	<u>Click or tap here to enter text.</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Community Affairs
3) Rules
4) <u>Click or tap here to enter text.</u>
5) <u>Click or tap here to enter text.</u>

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	SB 286 (compare)
SPONSOR:	Sen. Garcia

PREVIOUS LEGISLATION

BILL NUMBER:	<u>Click or tap here to enter text.</u>
SPONSOR:	<u>Click or tap here to enter text.</u>
YEAR:	<u>Click or tap here to enter text.</u>
LAST ACTION:	<u>Click or tap here to enter text.</u>

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	<u>Click or tap here to enter text.</u>

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 15, 2021
LEAD AGENCY ANALYST:	Michelle Keith, Division of Hotels & Restaurants
ADDITIONAL ANALYST(S):	Marc Drexler, Office of the General Counsel, Division of Hotels and Restaurants Tracy Dixon, Service Operations Robin Jordan, Technology Jake Whealdon, Acting OGC Rules

LEGAL ANALYST:	Ross Marshman, OGC
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill defines the term “advertising platform” and creates s. 509.243, F.S. The bill preempts the regulation of advertising platforms and the licensing of public lodging and public food service establishments to the State, mandates advertising platforms to require certain information be included in vacation rental advertisements, requires each advertising platform to verify the validity of certain posted information, requires advertising platforms to remove listings not displaying the valid vacation rental license number, requires the operator of a vacation rental display the division license and local registration number at the rental property and authorizes the division to issue temporary licenses with a specified expiration date upon receipt of a vacation rental license application. The bill expands local authority by revising an exemption to certain prohibitions of local vacation rental regulations, allowing local governments to adopt vacation rental registration programs. The bill provides specific requirements, procedures and limitations on the local registration program, authorizes local governments to impose fines for non-registration, to charge registration processing fees, and allows local governments to terminate or deny the issuance or renewal of vacation rental registrations under certain circumstances. The bill requires the division to maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance by advertising platforms or person placing advertisements with certain requirements by July 1, 2023. The bill requires the advertising platform to collect and remit all taxes imposed under chs. 212 and 125, F.S., to the Department of Revenue, grants rule authority to the Department of Revenue to implement the act, and requires the Department of Revenue and counties that have elected to self-administer tourist development taxes to allow advertising platforms to register, collect, and remit those taxes. The bill requires advertising platforms to adopt an anti-discrimination policy for refusal of accommodations pursuant to s. 509.092, F.S., allows the division to issue cease and desist notices, authorizes the division to file certain proceedings, to impose fines on advertising platforms for specific violations, requires the division to issue written warnings or notices before beginning certain legal proceedings and authorizes the division to revoke, suspend or refuse to issue or renew vacation rental licenses under certain circumstances.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Transient public lodging establishments are defined in s. 509.013, F.S., as units or dwellings that are rented to guests more than 3 times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which are advertised or held out to the public as a place regularly rented to guests. The division only licenses and regulates the rental of the entire unit or dwelling. The rental of individual rooms within a condominium unit or house is excluded from licensure and regulation under the rooming-house/boardhouse exclusion.

A vacation rental is defined in s. 509.242, F.S., as any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four family, house or dwelling unit that is also a transient lodging establishment but that is not a timeshare project. Public lodging establishments classified as vacation rentals are not issued temporary operating licenses upon receipt of an application and are not subject to statutorily required division inspections but they may be inspected by request or upon receipt of a consumer complaint. Local agencies may also inspect establishments for compliance with the Florida Building Code and Florida Fire Prevention Code.

The division currently posts electronic records in .csv format on the DBPR website. Current fiscal year extracts are provided and updated weekly with summary data for inspections, licenses, new establishments and owner changes of both public lodging and public food service establishments. The public lodging license extract provides the operator and business name, the license code and classification type, the mailing and location addresses, associated telephone numbers, the division license number, application approval date, license expiration date and number of units under the license.

Individual properties covered under single, group or collective vacation rental licenses are not currently available or readily accessible on demand in the division’s public license data extracts. To view and verify individual properties covered under a single, group or collective vacation rental license requires individual file research. The primary name, DBA name or license number must be provided and the list, if available, can be furnished by public records request.

Under ch. 61C-1.002(4)(a)2., F.A.C., vacation rental license holders are responsible for reporting to the division any and all houses or units to be included under a license, and must notify the division at least 60 days prior to the expiration of the license anytime a change in the units occurs. License holders may provide lists and report changes using the division's "Notification of Change for Vacation Rental Form" (DBPR HR-7010), or may notify the division by email or letter.

Licenses issued by the division should be conspicuously displayed in the office or lobby of the establishment and caterers should include their division issued license number on all advertisements.

The division does not currently define, monitor or regulate advertising platforms.

2. EFFECT OF THE BILL:

Section 1 creates subparagraph (b) under s. 212.03, F.S. stating that if a guest uses a payment service on or through a statutorily defined advertising platform to pay for the rental of a vacation rental in Florida, the advertising platform must collect and remit all applicable taxes as set forth in this section. It also states that in order to facilitate this process, the jurisdictions requiring the taxes must allow advertising platforms to register, collect and remit the taxes. Section 1 would take effect January 1, 2023.

Section 2 of the bill re-numbers the existing definitions at s. 509.013, F.S. and adds a definition for "advertising platform." To be considered an advertising platform, the platform must meet all three stated criteria: provides an online application/software/website/system, provides or maintains a marketplace for vacation rentals, and provides a reservation or payment system for the renting of vacation rentals for which a fee is collected or received based on the transaction. The definition only applies to the advertisement of vacation rentals.

Section 3 updates the reference to s. 509.013 in s. 509.032(3)(c)3.a. to reflect the numbering changes made in section 2 of the bill. Section 3 also adds the licensing of public lodging establishments and public food service establishments to the list of items preempted to the state. The bill allows local regulations to be amended to be less restrictive or to comply with local registration requirements and still maintain a grandfathered status. The bill allows local governments to charge a registration fee of \$50 or less and for the registration to be renewed annually unless a change of ownership occurs. The bill limits local registration requirements to an owner or operator submitting identifying information about the owner or the owner's agents and the subject vacation rental property; obtaining a license as a transient public lodging establishment issued by the division within 60 days after local registration; obtaining all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government; updating required information on a continuing basis to be current; complying with parking standards and solid waste handling and containment requirements so long as such standards are not imposed solely on vacation rentals; designating and maintaining at all times a responsible party who is capable of responding to complaints and other immediate problems related to the vacation rental, including being available by telephone at a listed phone number; and paying in full all recorded municipal or county code liens against the subject property. The bill allows a local government to withdraw registration acceptance if there is an unsatisfied recorded municipal or county code lien. The bill sets standards for local governments to review, process, accept, and deny registration applications. The bill requires local governments to issue a unique registration number or other indication of registration upon acceptance of the registration and to provide it to the owner or operator by written or electronic means. The bill sets forth standards for local governments to renew and terminate accepted applications. The bill preempts the regulation of advertising platforms to the state.

Section 4 of the bill would take effect January 1, 2023 and mandates that licenses must be displayed to the public inside a division licensed establishment instead of in the office or lobby. Section 4 also requires that vacation rental owners or operators must display the rental's division license number and local registration number if offered through an advertising platform. This bill also requires division vacation rental applications to include the local registration number, if applicable. The bill also allows the division to issue temporary licenses allowing a vacation rental to operate while an application is pending and to post the information required by section 5 of the bill in its database. The bill also states that temporary licenses automatically expire upon final agency action on the license application.

Section 5 of the bill creates s. 509.243, F.S., and would take effect January 1, 2023. The section states that an advertising platform must require a person placing a vacation rental advertisement include the division license number and local registration number if applicable. An advertising platform must also require a person placing a vacation rental advertisement to attest to the validity of the aforementioned information. The advertising platform must display both the division license number and the local registration number. Beginning July 1, 2023, the advertising platform must verify the validity of the vacation rental license number before the advertisement is posted to the platform and again at the end of each calendar year quarter the advertisement remains on the platform. By July 1, 2023, the bill requires the division to maintain information on vacation rental licenses in an easily accessible electronic format to facilitate compliance by advertising platforms or person placing an advertisement. The bill requires the advertising

platform to remove a Florida vacation rental advertisement or listing from public view within 15 business days if notified in writing by the division that the vacation rental advertisement or listing has failed to display a valid division license number. Section 3 reinforces that an advertising platform shall collect and remit all applicable taxes if a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental. The section grants the division the right to issue notices to cease and desist if it has probable cause to believe a person not licensed under ch. 509, F.S., has violated the chapter or rules adopted pursuant thereto, allows the division to file for injunctive or mandamus relief to enforce a notice to cease and desist, and entitles the department to collect any attorney fees and costs, together with cost of collection if the department is required to enforce a notice of penalty pursuant to s. 120.69, F.S. Section 5 permits the division to fine an advertising platform up to \$1,000 per violation of this section or division rule and to regard as a separate offense each day or portion of a day that the advertising platform is in violation. The bill requires advertising platforms to adopt anti-discrimination plans and inform its users that it is illegal to refuse accommodations based on any of items listed in s. 509.092, F.S. The bill specifies that this section does not create a private cause of action against advertising platforms and may not be held liable for any voluntary action taken in good faith in relation to its users to comply with chapter 509 or the advertising platform's terms of service.

Section 6 of the bill adds subsections (10) and (11) to 509.261, F.S. to include procedures for the division to revoke, refuse to issue or renew, or suspend up to 30 days a vacation rental license in four circumstances: (1) a court or arbitrator determines the operation of the subject premises violates the terms of an applicable lease or property restriction, including any condominium, cooperative or homeowners' association property restrictions; (2) the owner or operator fails to provide proof of required local registration; (3) the registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5.; or (4) the premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental. Additionally, it allows the division to suspend up to 30 days a vacation rental license when the owner or operator has been cited for two or more code violations related to the vacation rental within 90 days. It also requires the division to issue a written warning and provide an opportunity to cure violations before disciplining the license.

Section 7 of the bill amends the definition of "temporary residence" in paragraph (n) of subsection (2) of s. 775.21, F.S., to include a place where a person lodges in a vacation rental for 24 hours or more.

Section 8 updates the citation of s. 509.013, F.S., in subsection (12) of s. 159.27, F.S., to reflect the changes made in Section 2 of the bill.

Section 9 updates the citation of s. 509.013 in paragraph (jj) of subsection (7) of s. 212.08, F.S., to reflect the changes made in Section 2 of the bill.

Section 10 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (4) of s. 316.1955, F.S., to reflect the changes made in Section 2 of the bill.

Section 11 updates the citation of s. 509.013, F.S., in subsection (5) of s. 404.056, F.S., to reflect the changes made in Section 2 of the bill.

Section 12 updates the citation of s. 509.013, F.S., in subsection (6) of s. 477.0135, F.S., to reflect the changes made in Section 2 of the bill.

Section 13 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (2) of s. 509.221, F.S., to reflect the changes made in Section 2 of the bill.

Section 14 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (5) of s. 553.5041, F.S., to reflect the changes made in Section 2 of the bill.

Section 15 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (5) of s. 559.955, F.S., to reflect the changes made in Section 2 of the bill.

Section 16 updates the citation of s. 509.013, F.S., in subsection (2) of s. 705.17, F.S., to reflect the changes made in Section 2 of the bill.

Section 17 updates the citation of s. 509.013, F.S., in s. 705.185, F.S., to reflect the changes made in Section 2 of the bill.

Section 18 updates the citation of s. 509.013, F.S., in s. 717.1355, F.S., to reflect the changes made in Section 2 of the bill.

Section 19 updates the citation of s. 509.013, F.S., in subsection (8) of s. 877.24, F.S., to reflect the changes made in Section 2 of the bill.

Section 20 states the act does not supersede any current or future declaration of condominium, any cooperative documents, or any homeowners' association covenants or declarations.

Section 21 authorizes the Department of Revenue to adopt emergency rules to implement the tax provisions. The section states the emergency rules will be effective for 6 months after adoption but can be renewed, and that the section expires January 1, 2025.

Section 22 states that with the exception of sections 1, 4, and 5, the act would take effect upon becoming a law.

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

If yes, explain:	The division will need to update its rules based on Section 5 allowing the division to fine an advertising platform for violations of the section or violation of rules of the division.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	61C-1.005, FAC

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

Proponents and summary of position:	To date, the division has not been contacted by proponents or opponents of the legislation with any stated positions.
Opponents and summary of position:	To date, the division has not been contacted by proponents or opponents of the legislation with any stated positions.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

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

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

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
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FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

Revenues:	Yes, potential increase in tourism taxes and revenue if local registration fees required.
Expenditures:	Unknown.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Y ☒ N ☐

Revenues:	Yes, indeterminate increase in licensing revenue, but it is unknown how many rental advertisements which are currently exempt from licensing would then require licensure. The bill may also result in an indeterminate increase in fines due to noncompliance
Expenditures:	<p>Increase in staff and costs needed to implement the bill.</p> <p>The division estimates an additional 4 FTE will be required to implement the provisions of the bill. See Additional Comments.</p> <p>The Division of Service Operations will require 1 FTE to implement the provisions of the bill. See Additional Comments.</p> <p>The Office of the General Counsel estimates that it will initially require a minimum of 1 FTE to implement the provisions of the bill. See Legal comments.</p> <p>Additional costs are anticipated to be \$497,671 (\$435,974 recurring). See Additional Comments.</p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☒ N ☐

Revenues:	Unknown.
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Expenditures:	Vacation rentals previously operating without a division public lodging license would now require proof of licensure to post an ad on an advertising platform.
Other:	N/A

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

If yes, explain impact.	The bill does not directly increase or decrease taxes or fees. However, there may be an indeterminate increase in the amount of taxes and fees collected due to increased compliance with the law and there may be an indeterminate increase in fines imposed due to noncompliance.
Bill Section Number:	Sections 3, 4 and 5.

TECHNOLOGY IMPACT

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

Y ☒ N ☐

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>This bill will require modification to the department's licensing and document management system to support the issuing of temporary licenses for vacation rentals applications. It will also require modifications to online services and the inspection app.</p> <ul style="list-style-type: none"> • Versa: Regulation - 40 hours • Versa Online - 24 hours • Inspection app – 24 hours • OnBase – 24 hours <p>Total 112 hours can be accomplished with existing resources.</p> <p><u>Infrastructure and Licensing Costs</u></p> <p>Additional staffing required to implement the provisions of this bill (see comments below) would result in technology infrastructure and licensing costs. Assuming employees are located in office space outside of existing offices, additional undetermined infrastructure costs will be incurred based on number, location and suitability.</p> <ul style="list-style-type: none"> • For four (4) additional administrative and support staff in DHR: <ul style="list-style-type: none"> ○ Non-recurring costs for network drop - \$600.00 ○ Non-recurring costs for software licenses – \$5,809.40 ○ Recurring software license maintenance – \$1,021.26 • For one (1) additional staff in the Office of the General Counsel to address workload and case increases (1 attorney): <ul style="list-style-type: none"> ○ Non-recurring cost for 1 laptop - \$1,100.00 ○ Non-recurring cost for network drops - \$150.00 ○ Non-recurring costs for software licenses - \$1,694.15 ○ Recurring costs for software maintenance - \$301.26 • For one (1) additional Customer Contact Center agent <ul style="list-style-type: none"> ○ Non-recurring cost for network drops - \$150.00 ○ Non-recurring costs for software licenses - \$3,711.14 ○ Recurring costs for software maintenance - \$701.26
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FEDERAL IMPACT

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

Y ☐ N ☒

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	<p>N/A</p>
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ADDITIONAL COMMENTS

Hotels and Restaurants License Processing, Complaints and Investigations:

If passed, the division would be able to notify advertising platforms in writing of a vacation rental advertisement that did not display a valid license number. The division's total number of vacation rental complaints received has increased more than 12% since FY 2018-19 and hit a record high of 1,391 in FY 2019-2020, so anticipating an increase based on the bill as written is difficult to determine. The division anticipates a large but indeterminate influx of complaints from local jurisdictions, tax collectors, vacation rental guests, license holders and concerned homeowners. The division received a total of 2,895 lodging complaints for Fiscal Year 2020-21, with one Operations Review Specialist assigned to complaint

intake and processing. Based on this assumption, one new Operations Review Specialist FTE is required to process new complaints and to provide written removal notices to advertising platforms regarding valid license numbers. One additional Operations Review Specialist will be needed for every additional 5,000 complaints received.

The division also anticipates a large increase in lodging compliance activity based on the requirements of the bill. The division issued a total of 6,062 compliance cases in FY 2020-21 with three Operations Review Specialist FTEs assigned to the compliance processing team. Based on this assumption, one new Operations Review Specialist FTE is required to process cease and desist notices to unlicensed operators and to issue fines to advertising platforms per offense per day or partial day if found in violation of the section or division rule. One additional Operations Review Specialist FTE will be needed for every 2,000 additional compliance cases

One new Sanitation and Safety Specialist FTE is required based on the increase of incoming complaints and compliance cases. The proposed language requiring a vacation rental operator to display the rental's license in all rental units, and license number in all advertisements may result in an indeterminate number of violations and may require additional field staff resources to implement. For every 785 actionable complaints, the Division of Hotels and Restaurants will require one Sanitation and Safety Specialist FTE to inspect.

To process the licensing of previously unlicensed entities, the Division of Hotels and Restaurants will require one Regulatory Specialist II FTE. One additional Regulatory Specialist II FTE will be required for every 15,000 licenses processed.

The division is not requesting any FTEs for auditing rental advertisement content. The bill does not require the division to check the validity of information in a vacation rental advertisement. In its current state, the bill requires the license holder to attest to the validity of information on the rental advertisement and requires the advertising platform to verify the validity of the license number on the advertisement. Should the proposal language change, the division will require additional staff to audit and verify vacation rental listings.

The division will require rental advertisement data from advertising platforms to ensure compliance with this section. The division will need to adopt rules outlining the data required to be submitted by advertising platforms such as property addresses which are not provided on most vacation rental advertisements. The division will require assistance from Technology to implement an electronic data submission system and database to collect and organize property data received from advertising platforms.

Hotels and Restaurants General Comments:

As of October 2021, there are 30,967 vacation rental public lodging licenses issued by the division, with a total of 164,411 units.

The division has found that listings per advertising platform vary from as many as 391,798 to as little as 4. Vacation rental owners may list their properties on multiple advertising platforms which causes overlapping and duplication in total advertisement numbers. There are some platforms which are subgroups of larger platforms, in addition to platforms that are compilations of advertisements found on other vacation rental websites. There are also some online platforms which create mirror ads on their connected family platforms. As defined in the bill, the subgroups, mirror, and compilation sites are all deemed advertising platforms. This presents complications in determining the total number of vacation rentals and anticipated division work load.

The bill preempts the regulation of advertising platforms to the division, but does not provide instructions on how advertising platforms should be regulated. The bill is unclear if the division would need to create a new license classification or online registration for advertising platforms to allow regulation and enforcement and does not grant the division with rulemaking authority. The bill does not provide terms for how often valid license compliance notices should be provided to advertising platforms by the division and it does not set terms for how long the records should be maintained by the advertising platforms.

The temporary license provision reinforces the interpretation that the local registration information must only be provided to the division at the time of initial application. There would be no requirement to provide this information for units already licensed or units added to an existing license.

If the legislative intent is to make the single, group and collective unit listing disclosure part of the division's readily accessible public information, statutory authority to require online submission of unit lists for vacation rental licenses should be considered. Units lists submitted in an electronic format will integrate easier with DBPR's existing technology systems and will help facilitate compliance with the law.

It is unclear if the bill's requirements will apply to existing vacation rental licenses at time of renewal or only to initial applications. If the bill language applies only to initial vacation rental applications, then units on existing licenses and units added to existing licenses would not be subject to local registration and verification. If the bill language does apply to existing licenses at the time of renewal, it is unclear whether local registration will apply retroactively to all units or only to newly added units since the previous renewal.

There may be concerns regarding the effect of the language on single, group, and collective licenses containing multiple units. Single licenses may contain multiple units, while group and collective licenses always do. For example, suspending a group license containing 2,000 units based on one unit being out of compliance would punish the other 1,999 units that are in compliance. Additionally, collective licenses can span multiple municipalities and counties. Using a similar example, suspending a collective license containing 75 units based on one unit being out of compliance would also punish the other 74 units that are in compliance. Additionally, if that one unit was located in a different local government, it would also affect 74 units not located under that same local government. These scenarios could result in a significant shift away from licenses containing multiple units towards single unit licenses, which would impact the vacation rental management industry.

Navigating differing local requirements for different rental units may be difficult for both applicants and the division. Applicants would have to know the requirements for each and every local government where a unit is located. This may have the most noticeable impact on collective licenses, where a license may contain rental units that are located in many different municipalities, provided the units are located in the same division district as required. Division districts are divided geographic regions containing between 2 -18 counties each and include all of the municipalities located within those counties. It would also be difficult for the division to know the specific requirements enacted by each local government, including when local registration information is required as part of an application. Based on this, the division would need to consider restricting the geographic scope of collective licenses.

DSO: The impact to the division is indeterminate at this time. Based on the analysis, the Call Center will see an increase in the number of calls regarding advertising platforms, general inquiries on compliance with new requirements for vacation rentals, and complaints from the public. The Call Center is requesting an additional Regulatory Specialist III position. BCIL will have an increase in the amount of applications and citations which would impact the Intake Services unit.

OGC Rules: No additional comments.

Fiscal Impact:

Total anticipated Division of Hotels and Restaurants staff needed: 4 FTE

2 Operations Review Specialist FTE
1 Regulatory Specialist II FTE
1 Sanitation and Safety Specialist FTE

Total Division of Service Operations staff needed: 1 FTE

1 Regulatory Specialist III FTE

Total Office of General Counsel staff needed: 1 FTE

1 Senior Attorney FTE

Total Anticipated Costs: \$497,671 (\$435,974 recurring).

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>The bill language contains several new requirements that could lead to a large increase in workload. Additional workload includes: final agency action for applications due to new license requirements (lines 471-479 and 569-586), administrative actions resulting from new license display requirements (lines 485-488), enforcing notices to cease and desist (lines 534-538), administrative actions against advertising platforms (lines 542-544), revoking or suspending vacation rental licenses for violating new provisions of law (lines 569-586), and suspending vacation rental licenses for local code violations (lines 587-590). This additional workload does not include tasks that the division may be able to handle without the Office of the General Counsel such as issuing notices to cease and desist (lines 528-532), issuing 15 day written warnings to advertising platforms (lines 548-550), and issuing written warnings to cure local code violations (lines 590-593). If the Office of the General Counsel is involved in these tasks, there would be a further increase in workload.</p> <p>While the amount of the workload increase cannot be projected at this time, the Office of the General Counsel estimates a minimum of 1 FTE senior attorney will initially be needed to support increased legal responsibilities, caseload, and litigation demands for up to 200 new cases. Computer/workstation equipment would also be needed for the new position. An additional FTE senior attorney position would be needed for every 200 cases or portion thereof beyond the initial 200. An FTE AAI position would be needed for every 1-3 senior attorney positions added beyond the initial one.</p> <p>Lines 548-550 differs from similar language found in an amendment to CS/CS SB 522 (2021). The former language required the division to issue a written warning to an advertising platform providing 15 days to cure a violation before commencing any legal proceeding under this subsection (subsection 5). The new language requires the division to issue a written warning to an advertising platform providing 15 days to cure a violation before commencing any legal proceeding under subsection (4). It is unclear if this was intentional or a mistake. Subsection (4) refers to notices to cease and desist against persons not licensed by the division, whereas subsection (5) refers to the division imposing a fine against an advertising platform.</p> <p>A more efficient way to implement the suspension processes in section 6 could be to add language similar to that contained in section 559.79(3), Florida Statutes. The language in that section allows the department to suspend or deny a license of any licensee found not to be in compliance with child support obligations when directed by the Department of Revenue or a court and to reinstate the license without additional charge upon direction of the Department of Revenue or a court. The language also states that the department is not liable for any license suspension or denial resulting from the discharge of its duties under this section. Absent such language, each revocation or suspension would need to run its course through the normal Chapter 120, F.S., process with division needing to prove the underlying reason for the revocation or suspension. This would result in increased costs to the division, increased costs to local governments, a process that takes many months versus days, and a vastly reduced ability for the division to handle a large volume.</p>
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2022 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	SB 512
BILL TITLE:	Vacation Rentals
BILL SPONSOR:	Senator Burgess
EFFECTIVE DATE:	Effective Upon Becoming Law

COMMITTEES OF REFERENCE
1) Regulated Industries
2) Community Affairs
3) Rules
4)
5)

PREVIOUS LEGISLATION	
BILL NUMBER:	SB 522
SPONSOR:	Senator Diaz
YEAR:	2021
LAST ACTION:	Died in Rules

CURRENT COMMITTEE
Regulated Industries

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB 325
SPONSOR:	Representative Fischer

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	November 15, 2021
LEAD AGENCY ANALYST:	Lori Mizell
ADDITIONAL ANALYST(S):	Chad Brown, Peter Warren, Heather Faulkner, Vicki Ward, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Elisabeth Yerkes
FISCAL ANALYST:	Cynthia Barr

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Requires advertising platforms to collect and remit taxes for certain transactions; revises the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; expands the authority of local laws, ordinances, or regulations to include requiring vacation rentals to register with local vacation rental registration programs; authorizes local governments to adopt vacation rental registration programs and impose fines for failure to register; requires advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information, etc; amends the definition of “temporary residence” in the Florida Sexual Predators Act to include a vacation rental, as defined in s. 509.242(1)(c), where a person lodges for 24 hours or more. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Section 775.21, FS, the Florida Sexual Predator Act, defines a “permanent residence” as a place where the person abides, lodges or resides for three or more consecutive days and “temporary residence” as a place where the person abides, lodges or resides, including, but not limited to, vacation, business or personal travel destinations in or out of this state, for a period of three or more days in the aggregate during any calendar year and which is not the person’s permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. “Transient residence” means a county where a person lives, remains or is located for a period of three or more days in the aggregate during a calendar year and which is not the person’s permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

Florida’s registration laws currently require sexual offenders and sexual predators to register in person with the sheriff’s office within 48 hours of establishing a residence as defined in section s. 775.21, FS. Permanent, temporary and transient residencies are defined as three or more days. There is no provision in current Florida sexual offender/predator registration laws that require registration after a sexual offender or sexual predator has been in a vacation rental for 24 hours.

2. **EFFECT OF THE BILL:** Adds language to s. 775.21, FS, defining “temporary residence” to include “...a vacation rental, as defined in s. 509.242(1)(c), where a person lodges for 24 hours or more.” This change will require both sexual predators required to register pursuant to s. 775.21, F.S., and sexual offenders required to register pursuant to s. 943.0435, FS, to register such vacation rentals in person with the sheriff’s office within 48 hours of establishing a residence in such vacation rental. Section 509.242, FS, defines a “vacation rental” as “any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project,” and s. 509.013, FS, defines a “transient public lodging establishment” as “any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.”
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency’s core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

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

List any known proponents and opponents:	
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Provide a summary of the proponents' and opponents' positions:	
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number:	

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

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

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

Revenues:	<ul style="list-style-type: none"> Requires sexual predators and offenders to register in person at the sheriff's office in the county of the vacation rental if they are lodging in the vacation rental for 24 hours or more. This will lead to a substantial increase in the number of sexual predators and offenders required to complete a registration in person at sheriffs' offices throughout the state, potentially requiring an increase in registration staff to accommodate the growth in registrants who must appear in person to register. It may also require increased hours of availability for the sheriffs' offices to allow for the substantially decreased time to establish a residency in a vacation rental. For example, at least 14 sheriffs' offices have three or more consecutive days where registration is unavailable. Eight registration offices require appointments to register, and only 4 are open for registration 24 hours a day. As written, the bill offers no monetary provisions for sheriffs' offices and may require that sheriffs' offices seek additional funds from their own local government to expand registration hours and hire additional registration staff.
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum	

or local governing body public vote prior to implementation of the tax or fee increase?	
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2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐

Revenues:	
Expenditures:	<ul style="list-style-type: none"> Currently, there are more than 78,600 sexual predators and offenders on the Florida registry. Based on travel statistics and the percentage of the population required to register, it is anticipated the increase in Florida's registered population will be substantial. This generates a workload that involves research required for new registrants coming into Florida and establishing a residency within 24 hours and a significant increase in temporary address changes for existing registrants. The workload associated with researching out-of-state offenders and predators, which could represent a substantial portion of those registering vacation rentals, will be significant. FDLE is requesting four FTE positions (three Government Operations Consultant IIIs and one Senior Management Analyst Supervisor) to accommodate the increased workload and associated additional research and legal reviews totaling \$337,930 (\$319,750 recurring). The department will also need to update Registration Guidelines and Field Guides totaling \$47,000, provide updated training for local law enforcement agencies totaling \$4,800 and mail (certified) registrants notice of responsibilities totaling \$174,000. In addition, this will require updated programming for the registry totaling \$130,000 (see Technology Impact). <p>Total FDLE Fiscal: \$693,730 (\$319,750 recurring)</p> <ul style="list-style-type: none"> This will also significantly impact the Florida Department of Highway Safety and Motor Vehicles (DHSMV), as those individuals who complete an initial registration in Florida are required to report in person to the DHSMV within 48 hours of the registration. This may require staffing to accommodate the large increase in number of registrants reporting to DHSMV and the short timeframe in which they are required to report.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

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

Revenues:	
Expenditures:	
Other:	

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

Does the bill increase taxes, fees or fines?	
--	--

Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	This will require changes to an existing system. Estimated IT work (analysis, design, programming and testing) will take 11 months to complete and total approximately \$130,000. Due to the time estimated to complete changes, FDLE is recommending that the effective date be amended to June 1, 2023.
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FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	
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LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	<ul style="list-style-type: none"> Changing the definition of "temporary residence" for sexual predators s.775.21(2)(n), FS, will impact sexual offenders under s. 943.0435, FS, as s. 943.0435, FS references s. 775.21, FS, to define temporary residence. The definition of "temporary residence" already includes locations that would include vacation residences. The statute requires registration within 48 hours of establishing a "temporary residence" where a sexual predator or sexual offender abides, lodges, or resides for vacation, business, or personal travel for a period of 3 or more days in the aggregate. The amended definition reduces the length of time from three days to 24 hours to establish residency, but only if the sexual offender or sexual predator resides in a "vacation rental" as defined in s. 509.242. The amended definition creates different time tables for registration based solely on the type of lodging in which an individual stays. The registry is a vital public safety and investigative tool. Amending the definition of "temporary residence" is a departure from the previously vetted language. When making any changes to registration requirements or criteria, it is essential to understand sexual offender and predator registration is civil and regulatory. Legal challenges filed a result of changes to registration requirements risk the viability of the registry as whole, putting our law enforcement officers and citizens at risk of losing access to the critical information the registry provides. Therefore, any changes must be carefully considered.
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ADDITIONAL COMMENTS

- The department has significant concerns with the amended language of "temporary residence" in s. 775.21(2)(n), FS, as it will have a significant impact on the Florida Sexual Offender and Predator Registry and will certainly lead to litigation challenging the statutes (and registry). The department recommends removing the language amending the definition of "temporary residence."

- The proposed language significantly expands both the affected population and the requirements of registration laws in Florida. Such an expansion beyond current registration laws in Florida, which have been closely examined and vetted through the courts and upheld as constitutional, could seriously impact Florida's sexual offender/predator registration laws.
- Both ss. 775.21 and 943.0435, FS, require in person registration upon establishing a residence in Florida. Such a report must occur during the hours in which the county sheriff's office accepts sexual offender registration and transient check-in information and updates. These hours vary from county to county and may not include every day of the week, hour of the day or the same hours on each day available for such reporting. Therefore, the requirement to register in person within 24 hours of establishing a residency in a vacation rental could create a substantial burden on Florida sheriffs' offices, and in counties that do not change their available reporting hours, registrants may not be able to register lodging in a vacation rental prior to vacating it.
- Affords no direction, responsibilities, mechanisms or timelines regarding the distribution of such "Vacation Rental registration information." If the intent is to provide updated information on sexual offenders and predators in vacation rentals immediately upon registration, this is not attainable for persons coming into Florida that have not previously registered in the state (which is expected to be a large proportion of registrations received under this bill). Registrants coming to Florida from other states require research and information from out-of-state criminal justice partners prior to their information being disseminated to the public. Those partners, such as other state registries and clerks of court, are generally open on regular weekday business hours and therefore may not provide the information required for the department to notify the public that a registrant is in a vacation rental until they have already vacated it.
- Takes effect upon becoming law, which allows no time for any of the requisite technological updates, notice and training to law enforcement partners or notice to offenders and predators regarding the change to registration requirement. Such a circumstance will place registrants at risk of a second or third-degree felony arrest for failure to register.

**State of Florida
Office of the Attorney General
Informal Legal Opinion**

Number: INFORMAL
Date: October 22, 2013
Subject: Vacation Rental Operations -- Local Ordinances

Mr. Albert J. Hadeed
Flagler County Attorney
1769 East Moody Boulevard, Building 2
Bunnell, Florida 32110

Dear Mr. Hadeed:

Thank you for contacting this office for assistance in determining whether Flagler County may intercede and stop vacation rental operations, as defined in Chapter 509, Florida Statutes, in private homes that were zoned, prior to June 1, 2011, for single-family residential use. Due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood. You state that Flagler County has no regulations governing vacation rentals which predate the 2011 legislation.

In sum, absent the existence of a local ordinance on or before June 1, 2011, regulating the rental of vacation homes in Flagler County, section 509.032(7), Florida Statutes, preempts local regulation of lodging establishments and public food establishments to the state and precludes a local ordinance or regulation enacted after June 1, 2011, restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

A number of county residents have argued that transient vacation rentals are a commercial activity which is a non-conforming use of a house constructed under a permit for a single-family residence and located in an area zoned for single-family residences. The county has considered this argument and concluded that a residential zoning category, in and of itself, is not sufficient to serve as a pre-existing prohibition of vacation rentals in private homes.

Section 509.032(7)(a), Florida Statutes, preempts the regulation of lodging establishments and public food establishments to the state. Subsection (b) of the statute states:

"A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011." [1] (e.s.)

A "vacation rental" is defined as "any unit or group of units in a condominium, cooperative, or time-share plan or any individual or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment." [2] (e.s.) Thus, the plain language of the statute recognizes that a single-family house or dwelling may be a "vacation rental" which is used as a transient public lodging establishment subject to regulation by the state. As this office has previously recognized, with the enactment of section 509.032(7)(b), Florida Statutes, the ability of a local government to regulate vacation rentals by enactment of an ordinance after June 1, 2011, has been preempted to the state. [3] While you have premised your question on the existence of a single-family zoning regulation in existence prior to June 1, 2011, you have also indicated that no county regulations of vacation rentals existed on that date.

This office agrees with the county's conclusion that a local zoning ordinance for single-family homes existing on or before June 1, 2011, that did not restrict the rental of such property as a vacation rental, cannot now be interpreted to do so. The clear language in section 509.032(7), Florida Statutes, prohibits any local regulation on or after June 1, 2011, based upon the use of a residence as a vacation rental.

Sincerely,

Lagran Saunders
Attorney General

ALS/tsrh

[1] Section 509.032(7)(c), Fla. Stat., provides:

"Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation."

[2] Section 509.242(1)(c), Fla. Stat. See s. 509.013(4), Fla. Stat., defining "[p]ublic lodging establishment" for purposes of Ch. 509, Fla. Stat.:

"(4)(a) 'Public lodging establishment' includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. 'Transient public lodging establishment' means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests."

[3] Informal Op. to Marino, dated August 3, 2012. Cf. City of Venice v. Gwynn, 76 So. 3d 401 (Fla. 2d DCA 2011), in which a city's code prohibited owners of single-family dwellings in residential neighborhoods from renting their property for short periods of times; the court affirmed the city's

administrative determination that owner's non-conforming use of property as a vacation rental violated city's ordinance regarding short-term rentals.

The Florida Senate

January 11, 2022

APPEARANCE RECORD

512

Meeting Date

Bill Number or Topic

Regulated Industries

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

Committee

Amendment Barcode (if applicable)

Name **Samantha Padgett**

Phone **850-224-2250**

Address **230 South Adams Street**
Street

Email **spadgett@frla.org**

Tallahassee
City

FL
State

32301
Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

**Florida Restaurant and Lodging
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)

1/11/2022
Meeting Date

REGULATED INDUSTRIES
Committee

The Florida Senate
APPEARANCE RECORD

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

SB 512
Bill Number or Topic

Name JENNIFER BUREN

Amendment Barcode (if applicable)
Phone 850-526-8809

Address 113 E. COLLEGE AVE.
Street

Email JENNIFER@LIBERTYFAIRINGERS.COM

TLH FL 32302
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.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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11 Jan 22
Meeting Date

Regulated Industries
Committee

512

Bill Number or Topic

Name

Cynthia Henderson

Phone

850/559-0855

Amendment Barcode (if applicable)

Address

108 E. Jefferson St
Street

Email

cyhenderson@me.com

Tall.
City

FL
State

32301
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Prof. Vacation Rental
Assoc

☐ 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.

The Florida Senate
APPEARANCE RECORD

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1/11/2022
Meeting Date
S-Py 7-1
Committee

512
Bill Number or Topic

Name JACK CORI Phone 850-566-9173
Address 730 East 1st Ave Email JACK CORI C PACE
Street
City Tallah State FL Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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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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1/11/22
Meeting Date

The Florida Senate
APPEARANCE RECORD

530512
Bill Number or Topic

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

Committee

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
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(travel, meals, lodging, etc.),
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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 994

INTRODUCER: Regulated Industries Committee and Senator Diaz and others

SUBJECT: Pet Protection

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 994 creates the “Florida Pet Protection Act”) (act) to require the licensing of retail pet stores in Florida that display, sell, offer to sell, deliver, auction, broker, give away, or transfer certain household pets (i.e., domestic dogs or domestic cats). Under the bill, a valid retail pet store license issued by the Department of Business and Professional Regulation (DBPR) is required to operate a retail pet store that sells certain household pets (retail pet store). A retail pet store must be annually inspected by the DBPR.

The bill requires that, as to certain household pets, a retail pet store must:

- Acquire the pets only from certain sources, as defined in the bill; and
- Not sell a pet:
 - Younger than eight weeks old;
 - Without an identification microchip;
 - Without a valid veterinary certification as specified in the bill;
 - To a person younger than 18 years old;
 - That is acquired from a qualified breeder or pet broker, unless the retail pet store provides to the buyer of the pet, before completing the transaction, a written certification of information specified in the bill, including identifying information for the pet and the breeder who bred the pet.

The bill requires a retail pet store to provide all of the following for household pets at the store:

- Specified flooring in animal enclosures;
- Daily cleaning of animal enclosures, as necessary to prevent bodily waste accumulation;
- An isolation enclosure for animals under veterinarian-directed isolation;
- Climate control to maintain enclosure temperatures between 67 and 78 degrees at all times;
- Veterinary visits to the pet store at least twice weekly;
- A daily enrichment program for puppies of exercise and socialization; and
- A photograph or digital image and video footage depicting each breeding facility from which the pet store acquires household pets.

Administrative, civil, and criminal penalties are set forth in the bill. If a person is convicted of engaging in unlawful practices in the sale of household pets or the operation of a retail pet store, the person may be punished by up to 60 days in jail or a fine up to \$500.

The bill provides that the act preempts county and municipal ordinances and regulations that prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

Under the bill, a county or municipality may adopt an ordinance or a regulation on or after July 1, 2022, which regulates, but does not prohibit, the operation of retail pet stores or the breeding, purchase, or sale of household pets, provided the ordinances or regulations are consistent and not in conflict with the requirements imposed by the act.

The following are not expressly preempted under the bill:

- Any county or municipal ordinance or regulation in effect on or before June 1, 2021, which prohibits the operation of retail pet stores within its jurisdiction.
- Any county or municipal ordinance or regulation adopted before July 1, 2022, which imposes a moratorium on the establishment of new retail pet stores, or that otherwise regulates such stores within its jurisdiction.
- The authority of a local government to levy a local business tax.

The bill requires certain public data about animals in shelters or in the possession of other entities currently required to be reported to the Department of Agriculture and Consumer Services (DACS) to be made available by DACS on a monthly basis, in a searchable format, on its website.

The bill is estimated to have an impact on state government. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

The regulation in Florida law of retail pet stores and the sale of dogs and cats is limited, and no state license is required under current law to engage in such activities.

Section s. 823.15, F.S., provides requirements for the handling of dogs and cats taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision (shelter). A shelter must maintain certain records about the animals it takes in and make the records available for public inspection and dissemination.¹

All dogs and cats sold or released for adoption from a shelter must be sterilized, by either:

- Providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or
- Entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.²

As to pet shops, current state law mandates the procedure for the euthanasia of warm-blooded animals, except those held as food for another animal, offered for sale, or obtained for sale by a pet shop.³

Local Ordinance Regulation

The regulation in Florida law of retail pet stores and the sale of dogs and cats is limited, and no state licensing is required under current law to engage in such activities.

A number of local governments in Florida have adopted ordinances to regulate the operations of pet stores in their jurisdictions. The Hillsborough County Commission (commission) addressed perceived abuses at pet stores in that jurisdiction by enacting retail sale regulations for pet shops,⁴ including requiring an adoption-based business model for the operation of new pet shops,⁵ and adopted Ordinance 20-4 at its regular meeting on March 4, 2020.⁶ The commission's staff notes the following circumstances occurring in that county:⁷

On May 26, 2017, the Board of County Commissioners (BOCC) enacted the Pet Retail Sales Ordinance. Hillsborough County is one of over 200

¹ See s. 823.15(2)(a), F.S.; data for species other than domestic cats and domestic dogs is to be separately recorded.

² See s. 828.15(3), F.S.; the shelter must require a sufficient deposit from the adopter or purchaser, refundable upon presentation to the shelter of written evidence of sterilization by the veterinarian performing procedure.

³ Section 828.065, F.S.

⁴ See the Hillsborough County Code of Ordinances, Part A, Ch. 6, Art. II, s. 6-20, for the definition of pet shop, detailing the requirements for an "existing" pet shop entitled to grandfather privileges, at [ARTICLE II. - ANIMAL CONTROL | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#), and s. 6-61, for the elimination of such grandfather privilege in certain circumstances, at [Sec. 6-61. - Elimination of grandfather privilege for existing pet shops and providing for certain regulations. | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#) (last visited Jan. 7, 2022).

⁵ *Id.*, see the Hillsborough County Code of Ordinances, Part A, s. 6-63, Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops, at [Sec. 6-63. - Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops. | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#) (last visited Jan. 7, 2022).

⁶ See Anastasia Dawson, *Commissioners look to snuff out animal breeders, sales within Hillsborough County*, at <https://www.tampabay.com/news/hillsborough/2020/01/23/commissioners-look-to-snuff-out-animal-breeders-sales-within-hillsborough-county/> (last visited Jan. 7, 2022).

⁷ A copy of Ordinance 20-4 is on file with the Senate Committee on Regulated Industries. See also the county's Agenda Item Cover Sheet and Staff Report Outlining Recommendations, at <https://eagenda.hillsboroughcounty.org/portal/PTL29560/search?D=01/23/2020&T=Regular%20BOCC%20Meeting&Y=Ba>

jurisdictions that have enacted similar ordinances in the U.S. and Canada, with nearly 70 ordinances existing in Florida. The Ordinance regulates the sale of dogs and cats by pet retail businesses that existed in Hillsborough County at the time the Ordinance became effective. The Ordinance also requires new pet retail businesses to sell only dogs or cats obtained from an animal shelter or rescue organization and prohibits retail sale of these animals in public places, like flea markets, and yard sales.

On September 23, 2019, Hillsborough County Pet Resources was awarded custody of more than 300 dogs living in deplorable conditions at an animal breeding and retail business in Tampa. In view of this event, on October 2, 2019, the BOCC directed the County Attorney's Office, with the assistance of County Administration, to bring back recommendations to strengthen the Pet Retail Sales Ordinance, including addressing commercial dog breeding facilities at the November 6, 2019 BOCC meeting. After meeting with individual Commissioners, Pet Resources, County Administration, and other interested persons, including Pet Retail business owners and representatives from various breeding associations, the matter was postponed to December 4, 2019 to further explore new ideas that developed.

Staff's recommendations include addressing pet retail sales and proposed breeder regulations separately; eliminating grandfather privilege for existing pet retail shops in the County within an approximate two year period; including additional interim restrictions and penalties for existing pet shops; redefining the term breeder and defining the term hobby breeder; banning all unregulated breeding activities; establishing permitting/licensing and zoning requirements for hobby breeders and eliminating the County's current permitting process; and setting forth breeder care/treatment regulations, enforcement, and penalties.

According to the Humane Society of the United States, in 2021 there were a total of 83 municipalities and counties in Florida with ordinances banning the retail sales of dogs and cats,⁸ and 409 such ordinances nationwide.⁹

Action by Office of the Florida Attorney General

Florida Attorney General Ashley Moody filed a complaint for restitution, civil penalties and other relief under the Florida Deceptive and Unfair Trade Practices Act, ch. 501, part II, F.S.,

[ckup&o=B-4.pdf](#) (last visited Jan. 7, 2022). See also Anastasia Dawson, *Commissioners look to snuff out animal breeders, sales within Hillsborough County*, at <https://www.tampabay.com/news/hillsborough/2020/01/23/commissioners-look-to-snuff-out-animal-breeders-sales-within-hillsborough-county/> (last visited Jan. 7, 2022).

⁸ *FL Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States, at https://docs.google.com/spreadsheets/d/1ST_hm2bc5_CRCcOgNxjHuPs7dHoBRbPBliSfc3y4pw/edit#gid=1855228915 (last visited Jan. 7, 2022).

⁹ *[US] Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States, at https://docs.google.com/spreadsheets/d/1ST_hm2bc5_CRCcOgNxjHuPs7dHoBRbPBliSfc3y4pw/edit#gid=0 (last visited Jan. 7, 2022).

against a retail pet store and its owners in Orlando.¹⁰ The complaint alleges that the store and its owners misrepresented information on the store website and used in-store sales people to represent that the puppies the store sold were high quality, healthy, bred by licensed breeders, registered with the American Kennel Club, and warranted against illness, health disorders, and death after purchase. Instead of bringing healthy puppies home, the customers of the store discovered that the puppies were seriously ill, had health disorders, and some died within a year of purchase. The Attorney General requested the court to rescind the contracts, refund purchase payments and assess civil penalties in the amount of \$10,000 and up to \$15,000 per transaction. Discovery in the case is ongoing.¹¹

United States Department of Agriculture Breeder Inspections

The Animal Care program under the Animal and Plant Health Inspection Service within the United States Department of Agriculture (USDA) licenses breeders under the federal Animal Welfare Act.¹² Licensed USDA facilities are subject to precensure and other inspections undertaken pursuant to the USDA's Animal Welfare Inspection Guide.¹³

III. Effect of Proposed Changes:

Statutory Framework and Definitions

Section 1 of the bill provides direction to the Division of Law Revision to create part XVII of ch. 468, F.S., consisting of ss. 468.901 through 468.9921, F.S., with the title "Retail Pet Stores."

Section 2 of the bill creates s. 468.901, F.S., which provides part VII of ch. 468, F.S., may be cited as the "Florida Pet Protection Act" (act). Under the bill, the term "household pet" means a domestic dog or a domestic cat (regardless of age, thus puppies and kittens are deemed household pets also). See **Section 3** for other definitions applicable to the act.

Section 3 of the bill creates s. 468.903, F.S., to define the following terms used in the act.

- "Animal rescue" means:
 - A nonprofit organization exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code which:
 - 1. Keeps, houses, and maintains household pets (defined as domestic dogs or domestic cats); and
 - 2. Is dedicated to the welfare, health, safety, and protection of such pets; or
 - An organization that offers for adoption spayed or neutered household pets in exchange for payment of reasonable adoption fees to cover the organization's costs, including, but not limited to, costs related to spaying or neutering.
- "Animal shelter" means a public facility, or a private facility operated by a nonprofit organization that is exempt from federal income taxation under s. 501(c)(3) of the Internal

¹⁰ *Office of the Attorney General, State of Florida, Dep't of Legal Affairs v. Hoof's Pets, Inc. et al.* Case No. 2020-CA-005262-0, Filing No. 107627968 (Fla. 9th Cir. Ct. May 18, 2020).

¹¹ See the court docket for the case at <https://myeclerk.myorangeclerk.com/Cases/search> (last visited Jan. 7, 2022).

¹² See 7 U.S.C. ss. 2131 *et seq.*

¹³ See the latest Guide revised November 2021, at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf (last visited Jan. 7, 2022).

Revenue Code, which keeps, houses, and maintains household pets, such as a county or municipal animal control agency or pound, humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such pets.

- “Department” means the Department of Business and Professional Regulation (DBPR).
- “Household pet” means a domestic dog or a domestic cat.
- “Pet broker” means a person who buys, sells, or offers for sale household pets for resale to other persons, or who sells or gives one or more such pets to a retail pet store, and who holds a valid Class B animal dealer license issued by the USDA.¹⁴
- “Professional breeder” means a person required to be licensed as a Class A animal dealer by the USDA.¹⁵
- “Retail pet store” means a retail store that sells or offers for sale household pets to the public. The term does not include an animal rescue, an animal shelter, or a breeder who sells or transfers to the public household pets bred and raised on the breeder’s premises.
- “Veterinarian” means a health care practitioner licensed to engage in the practice of veterinary medicine under ch. 474, F.S., or licensed in another state by the applicable entity to engage in the practice of veterinary medicine in that state.

Licensure of Retail Pet Stores; Prohibitions

Section 4 of the bill creates s. 468.905, F.S., to prohibit a person who does not have a valid retail pet store license issued by the DBPR in accordance with the act, from operating a retail pet store in Florida that displays, offers for sale, delivers, barter, auctions, brokers, gives away, transfers, or sells any household pet from the store.

The bill requires the DBPR to adopt standards and procedures consistent with the act for the licensure of retail pet stores, and an applicant for a retail pet store license must apply to the DBPR in the form required by the DBPR. Under the bill, the DBPR must assign each licensee a unique license number for each licensed location.

The bill authorizes the DBPR to establish annual licenses. Under the bill, an application for license renewal must be submitted to the DBPR in a form required by the DBPR.

Requirements for Retail Pet Stores; Unlawful Practices

Section 5 of the bill creates s. 468.907, F.S., to set forth the requirements for sales of household pets by retail pet stores, and for operations, procedures, features, and services of such retail pet stores.

¹⁴ A Class B license is issued to dealers (other than Class A dealers described *infra* at n. 13) whose business includes the purchase and/or resale of warm-blooded animals, such as commercial dog-breeding facilities, animal brokers, and operators of auction sales. See https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_Regulated_Businesses (last visited Jan. 7, 2021). Licensing of dealers and exhibitors is addressed in 7 U.S.C. s. 2133.

¹⁵ A Class A license is issued by the USDA to dealers who sell animals that are bred and raised at the dealer’s facility in a closed or stable colony. See https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_Regulated_Businesses (last visited Jan. 7, 2021).

Sales and Transfers of Household Pets by Retail Pet Stores

The bill prohibits displaying, offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling any household pet from a retail pet store, unless such pet is acquired from one of the following sources:

- A qualified breeder (qualification requirements are set forth below);
- Certain persons exempted from licensure by the United States Department of Agriculture (USDA);¹⁶
- An animal rescue;
- An animal shelter; or
- A pet broker, and if the pet broker acquires a pet from a professional breeder, that breeder must be a qualified breeder.

Under the bill, for the purposes of sale or transfer of household pets by retail pet stores, the term “qualified breeder” means a professional breeder located within or outside Florida who meets all of the following requirements:

- Holds a valid Class A animal license issued by the USDA,¹⁷ and, if required by the state in which the breeder is located, by a state agency.
- Has not been issued a report of a finally adjudicated direct¹⁸ noncompliance violation by the USDA under the federal Animal Welfare Act, in the two years immediately before offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a household pet. However, a professional breeder is not considered a qualified breeder until any pending report of a noncompliance violation is finally adjudicated.
- Has not had three or more finally adjudicated noncompliance violations documented in any report issued by the USDA under the federal Animal Welfare Act for the year immediately before the offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling of a household pet. However, a professional breeder is not considered a qualified breeder until any pending report of a noncompliance violation is finally adjudicated.

The bill provides that a retail pet store may not sell, deliver, barter, auction, broker, give away, or transfer (sell) a household pet that:

- Is younger than eight weeks old;
- Is not implanted with an International Organization for Standardization (ISO) identification microchip;¹⁹

¹⁶ See 9 C.F.R. s. 2.1(a)(3)(ii)-(vii), for the various classes of persons exempted from federal licensing requirements, from whom a Florida retail pet store may acquire household pets as provided in the bill, at [9 CFR § 2.1 - Requirements and application. | CFR | US Law | LII / Legal Information Institute \(cornell.edu\)](#) (last visited Jan. 7, 2021).

¹⁷ See *infra* n. 13.

¹⁸ According to the USDA Animal and Plant Health Inspection Service (APHIS), a “direct” noncompliance is a critical noncompliance that is currently (at the time of the inspection) having a serious or severe adverse effect on the health and well-being of the animal. See the APHIS Animal Care Inspection Guide (Revised November 2021) Appendix C for examples that include heavy tick/flea infestation and embedded overgrown toenails causing gait problems, at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf (last visited Jan. 7, 2021).

¹⁹ ISO is an independent, non-governmental international organization with a membership of 165 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges. Because 'International Organization for Standardization' would have different acronyms in different languages (IOS in English, OIN in French for

- Does not have a valid veterinary certification, including the United States Interstate and International Certificate of Health Examination for Small Animals prescribed by the USDA or the official certificate of veterinary inspection prescribed by the Florida Department of Agriculture and Consumer Services pursuant to s. 828.29, F.S., relating to health requirements for dogs and cats transported or offered for sale;
- Is to be sold to a person younger than 18 years old (verified by a valid driver license, state identification card, or other government-issued identification card with the person's photograph); or
- Is acquired from a qualified breeder or pet broker, unless the retail pet store provides to the buyer of the pet, before completing the transaction, a written certification of the following (pre-sale certification documents):
 - The name, address, and if applicable, the USDA license number, of the breeder who bred the pet;
 - An electronic or paper copy of the breeder's most recent USDA inspection report, if applicable;
 - The pet's date of birth, if known;
 - The date the retail pet store took possession of the pet;
 - The breed, gender, color, and any identifying marks of the pet;
 - A signed statement by the retail pet store's Florida-license veterinarian, in a format prescribed by the department, which describes any known disease, illness, or congenital or hereditary condition that adversely affects the health of the pet at the time of examination; and
 - A document signed by the owner or a manager or an employee of the retail pet store certifying that all information required to be provided to the person acquiring the household pet is accurate.

A retail pet store must keep an electronic or paper copy of the certification for at least three years after the date of the buyer acquiring the pet, and the owner or a manager or employee of a retail pet store may not fraudulently alter or provide false information on a certification,

The bill requires a licensed retail pet store to provide to the buyer of a household pet the following information (identity and history data):

- The pet's microchip identification number;
- The complete name, address, and telephone number of all professional breeders, pet brokers, or other persons who kept, housed, or maintained the pet before the retail pet store took possession of the animal, or proof that the pet was acquired through an animal rescue or animal shelter; and
- A photograph or digital image and the name and registration number of both of the pet's parents (sire and dam).

A retail pet store must keep a copy of the pre-sale certification documents and the required identity and history data for at least three years after the date it acquired the household pet.

Organisation internationale de normalisation), the founders decided to use ISO, which is derived from the Greek 'isos', meaning equal. See <https://www.iso.org/about-us.html> (last visited Jan. 7, 2021).

Required Retail Pet Store Features and Services

The bill requires a retail pet store to provide all of the following for household pets at the store:

- Flooring in the primary housing enclosures constructed of a solid surface; if grid-style or wire flooring is used, the surface must be covered with a rubberized or coated material that prevents an animal's toe or foot from passing through or being caught in the flooring;
- Cleaning of all primary enclosures daily, or as often as necessary to prevent bodily waste accumulation, and maintenance of a daily sanitation log;
- An isolation enclosure with separate ventilation which allows an animal to be kept separately from others while under veterinarian-directed isolation;
- Climate control that ensures that the ambient air temperature of the retail pet store's premises is kept between 67 degrees and 78 degrees at all times;
- Maintenance of daily logs of the temperature, and if the temperature falls outside the required range for any reason, maintenance of a corrective action record detailing the steps taken to adjust the temperature;
- Visits by a veterinarian licensed in Florida at least twice weekly to observe the condition of the pets' health and overall well-being;
- An enrichment program for puppies which consists of exercise and socialization for at least two 30-minute periods each day;
- Maintenance of a log for each puppy of the daily activities that the puppy participates in as part of an enrichment program; and
- A photograph or digital image and video footage depicting each breeding facility from which the retail pet store acquires household pets.

Inspections of Pet Stores

Section 6 of the bill creates s. 468.909, F.S., to require the DBPR to annually inspect each retail pet store subject to licensure to ensure compliance with the act and any administrative rules adopted pursuant to the act. The inspection must include, but is not limited to, an audit of the pre-sale certification documents and required identity and history data that the licensee must maintain as required in s. 468.907, F.S., as discussed above.

The bill authorizes, but does not require, the DBPR to conduct an inspection upon receipt of a complaint or other information alleging a violation of the act or administrative rules adopted pursuant to the act. In addition, the bill requires the DBPR to establish procedures for conducting inspections and for creating inspection records. Under the bill, inspections must be conducted during regular business hours in accordance with the DBPR's procedures, may be conducted without prior notice, and a record of each inspection must be maintained by the DBPR in accordance with its procedures. The bill authorizes the DBPR to enter into a contract or agreement with one or more veterinarians to conduct pet store inspections, but such veterinarians must be independent and not affiliated with a retail pet store or an animal rights advocacy organization.

Administrative, Civil, and Criminal Penalties and Remedies; Rulemaking

Section 7 of the bill creates s. 468.911, F.S., to set forth administrative requirements, remedies and penalties for violations, and authorizes the DBPR to adopt rules to administer the act.

Under the bill, the DBPR must deny an application for issuance or renewal of a retail pet store license if:

- The licensee or applicant violates the act or any rule or order issued under the act, if the violation materially threatens the health or welfare of a household pet; or
- The licensee or applicant, in the past 20 years, has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, a misdemeanor or felony under ch. 828, F.S., [Animals: Cruelty, Sales; Animal Enterprise Protection],²⁰ or a misdemeanor or felony under ch. 741, F.S., involving an act of domestic violence.

The bill provides, if the DBPR finds that a retail pet store, or a person employed or contracted by a retail pet store about whom the owner knows or reasonably should have known, has violated or is operating in violation of the act or any rule or order issued under the act, the DBPR may, by administrative order:

- Issue a notice of noncompliance under s. 120.695, F.S.;²¹
- Impose an administrative fine for each act or omission (with each day a violation continues constituting a separation violation), not to exceed the following amounts:
 - 1. For a first violation, \$250;
 - 2. For a second violation, \$500;
 - 3. For a third or subsequent violation, \$1,000;
- Direct that the person cease and desist from specified activities;
- Refuse to issue or renew a license or revoking or suspending a license; or
- Place the licensee on probation, subject to conditions specified by the DBPR.

Under the bill, the administrative proceedings that could result in the entry of an order imposing any of the above penalties are governed by ch. 120, F.S., the Florida Administrative Procedure Act, which provides uniform procedures for the exercise of specified authority. The DBPR is authorized to adopt rules to administer part XVII of ch. 468, F.S., created in the bill.

Section 8 of the bill creates s. 468.913, F.S., to authorize legal action to recover civil penalties and for injunctive relief. Under the bill, the DBPR may bring a civil action in a court of competent jurisdiction to recover any penalties or damages authorized by the act and for injunctive relief to enforce compliance with the act.

Section 9 of the bill creates s. 468.915, F.S., to set forth criminal penalties for violations of certain requirements in the act. A person commits a misdemeanor of the second degree, punishable by a term of imprisonment not to exceed 60 days or a fine not to exceed \$500,²² if he or she violates either of the following:

²⁰ Sections 828.40 to 828.43, F.S., constitute the Florida Animal Enterprise Protection Act.” An “animal enterprise” is defined in s. 828.41(1), F.S., as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences.

²¹ Section 120.695(2), F.S., provides each state agency must issue a notice of noncompliance as a first response to a minor violation of an administrative rule. Section 120.695(1), F.S., sets forth the state’s policy that the purpose of regulation is to protect the public through compliance with policies established by the Legislature; while fines and other penalties may be imposed in order to assure compliance, they are secondary to the primary goal of attaining compliance with agency rules.

²² See ss. 775.082 and 775.083, F.S.

- Section 468.905(1) or (4), F.S., created in the bill, relating to operation of a retail pet store without a license.
- Section 468.907(2) or (3), F.S., created in the bill, relating to unlawful practices in the sale of household pets by a retail pet store.

Section 10 of the bill creates s. 468.917, F.S., to require all civil penalties collected by the DBPR under the act be deposited into the Professional Regulation Trust Fund for the DBPR's use in administering the act.

Construction; Preemption of Local Government Regulation of Retail Pet Stores

Section 11 of the bill creates s. 468.919, F.S. to prohibit the construction of the act to prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

Section 12 of the bill creates s. 468.921, F.S., to provide that counties and municipalities may not prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act. Under the bill, a county or municipality may adopt an ordinance or a regulation on or after July 1, 2022, which regulates, but does not prohibit, the operation of retail pet stores or the breeding, purchase, or sale of household pets, provided the ordinances or regulations are consistent and not in conflict with the requirements imposed under s. 468.907, F.S., created in the bill.

The following are not preempted under the bill:

- Any county or municipal ordinance or regulation in effect on or before June 1, 2021, which prohibits the operation of retail pet stores within its jurisdiction.²³
- Any county or municipal ordinance or regulation adopted before July 1, 2022, which imposes a moratorium on the establishment of new retail pet stores, or that otherwise regulates such stores within its jurisdiction.
- The authority of a local government to levy a local business tax pursuant to ch. 205, F.S., for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction.²⁴

Public and Private Animal Agencies; Reporting and Other Requirements; Exemption

Section 13 of the bill amends s. 823.15, F.S., relating to public or private animal agencies and sterilization requirements, to add animal rescue organizations as regulated entities that must report certain information to the Florida Department of Agriculture and Consumer Services (DACS). The bill specifies that certificates of veterinary inspections for all dogs and cats

²³ According to data compiled by the Humane Society of the United States (HSUS), at least three counties and three cities adopted ordinances in 2021 banning retail pet store puppy sales, so this provision may affect those locales. *See* the link to the HSUS data *supra* at n. 9.

²⁴ *See* s. 205.022(5), F.S., for the definition of "local business tax." The term does not mean fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection, which, unless otherwise provided by law, are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed under the provisions of [ch. 205, F.S.].

imported into Florida must be reported, and the required data received by DACS must be made available to the public on a monthly basis and in a searchable format on DACS's website.

Under the bill, any public or private animal shelter, animal rescue, humane organization, or animal control agency operated by a humane society or any county, municipality, or other incorporated political subdivision (animal agencies) must disclose any bite history that exists for a dog before releasing the animal for adoption. Further such animal agencies may not intentionally breed dogs or cats for sale to the public or, in exchange for payment or any other compensation, obtain a dog or cat from a person who breeds dogs or cats, resells dogs or cats from a breeder, or sells dogs or cats at auction.

The bill does not apply to or affect the ability of a person who offers for sale, directly to the public, dogs or cats that the person has bred or trained on his or her own property.

The bill also removes obsolete provisions and includes technical and other revisions to conform to bill drafting requirements.

Exemption from Veterinary Medical Practice

Section 14 of the bill amends s. 474.203, F.S., related to persons and entities exempt from the requirements of Florida's veterinary medical practice law (ch. 474, F.S.), to also exempt animal rescue organizations, as defined in s. 468.903, F.S., created in the bill.

Effective Date

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill requires retail pet stores in Florida to be licensed, if the stores sell or offer to sell certain domestic dogs or domestic cats, and to have the features, offer the services, perform the activities, and maintain the records required under the bill. The cost of meeting these requirements will be borne by the affected retail pet stores.

C. Government Sector Impact:

The creation of a licensing, inspection, and regulatory structure for retail pet stores will result in a fiscal impact to the state.

The Department of Business and Professional Regulation (DBPR) notes:

Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the bill. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses.²⁵

The DBPR further states that s. 455.219, F.S., provides that it is the intent of the legislature that no regulated profession²⁶ operate with a negative cash balance, and based upon its anticipated expenditures to implement the bill, there will be insufficient revenues to cover the expenditures for the additional licensing, inspection, and regulatory structure for retail pet stores created in the bill²⁷. The DBPR estimates, based on 500 projected licensees, the new program will generate \$12,500 each fiscal year over the next three years.²⁸ The DBPR notes some revenue will also be generated from administrative fines and civil penalties imposed for violations, but the amount is indeterminate.²⁹

The DBPR estimates one environmental health specialist position is necessary to accomplish the inspections of retail pet stores required by the bill, with an associated FTE expense of \$86,721 (\$59,862 recurring) and nonrecurring costs for technology hardware

²⁵ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 994* at 7 (Nov. 18, 2021) (on file with the Senate Committee on Regulated Industries).

²⁶ Under s. 455.01(6), F.S., the term “profession” means “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”

²⁷ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 994* at 8 (Nov. 18, 2021) (on file with the Senate Committee on Regulated Industries).

²⁸ *Id.* at p. 6.

²⁹ *Id.* at p. 6.

and software licenses and service of approximately \$2,900.³⁰ If there is not adequate office space in existing DBPR offices, the DBPR indicates there will additional undetermined infrastructure costs incurred based on the number, location and suitability of adequate space to support the full workforce.³¹

The DBPR's Division of Professions and Office of General Counsel further address their concerns about the terms used in the bill and the basis for agency decisions and rules.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 823.15 and 474.203.

This bill creates the following sections of the Florida Statutes: 468.901, 468.903, 468.905, 468.907, 468.909, 468.911, 468.913, 468.915, 468.917, 468.919, and 468.921.

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 Regulated Industries Committee on January 11 2022:

The CS provides that a person may not be prohibited or regulated under the bill or under local regulation from offering certain dogs for sale to the public that the person has bred or trained. The categories of dogs now include (in addition to hunting dogs, field trial dogs, sporting dogs, and cattle dogs in the bill as filed):

- Conformation (show) dogs;
- Police dogs; or
- Service dogs as defined under the Americans with Disabilities Act.

The CS also includes a technical revision to require that local regulations be consistent with all the requirements imposed under s. 468.907, F.S., created by the bill for the sale or transfer of household pets by retail pet stores (rather than consistency with the “rules” imposed by that section.

B. Amendments:

None.

³⁰ *Id.* at pp. 7-9.

³¹ *Id.* at p. 7.

³² *Id.* at pp. 7-9.

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



732580

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Diaz) recommended the following:

Senate Amendment

Delete lines 361 - 375
and insert:
prohibit or regulate a person who offers for sale, directly to the public, only dogs that the person has bred or has trained to be hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

Section 12. Section 468.921, Florida Statutes, is created



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to read:

468.921 Local regulation; grandfathering of existing local regulations.—

(1) A county or municipality may not prohibit or regulate a person who offers for sale, directly to the public, only dogs that the person has bred or has trained to be hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

(2)(a) A county or municipality may adopt an ordinance or a regulation on or after July 1, 2022, which regulates, but does not prohibit, the operation of retail pet stores or the breeding, purchase, or sale of household pets, provided the ordinances or regulations are consistent and not in conflict with the requirements of s. 468.907.

By Senator Diaz

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1 A bill to be entitled
 2 An act relating to pet protection; providing a
 3 directive to the Division of Law Revision; creating s.
 4 468.901, F.S.; providing a short title; creating s.
 5 468.903, F.S.; defining terms; creating s. 468.905,
 6 F.S.; requiring the licensure of retail pet stores;
 7 requiring the Department of Business and Professional
 8 Regulation to adopt standards and procedures for such
 9 licensure; prohibiting unlicensed retail pet stores
 10 from taking certain actions regarding certain
 11 household pets; creating s. 468.907, F.S.; defining
 12 the term "qualified breeder"; limiting the sources
 13 from which retail pet stores may acquire household
 14 pets for specified purposes; prohibiting certain
 15 household pets from being used by retail pet stores
 16 for specified purposes; requiring certain
 17 documentation of the sources from which retail pet
 18 stores acquire household pets for sale; providing
 19 requirements for the living conditions for household
 20 pets at retail pet stores; providing retail pet store
 21 veterinarian, exercise, and socialization
 22 requirements; creating s. 468.909, F.S.; requiring the
 23 department to conduct periodic inspections of retail
 24 pet stores and to audit sales records; requiring the
 25 department to establish procedures for the inspections
 26 and records of the inspections; authorizing contracts
 27 with certain veterinarians to conduct inspections;
 28 creating s. 468.911, F.S.; requiring the department to
 29 deny a retail pet store license under certain

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30 circumstances; authorizing disciplinary action under
 31 certain circumstances; specifying administrative
 32 procedures; providing civil penalties; authorizing the
 33 department to adopt rules; creating s. 468.913, F.S.;
 34 authorizing civil actions for purposes of enforcement;
 35 creating s. 468.915, F.S.; providing criminal
 36 penalties for specified violations; creating s.
 37 468.917, F.S.; requiring certain moneys to be
 38 deposited into the department's Professional
 39 Regulation Trust Fund; creating s. 468.919, F.S.;
 40 providing construction; creating s. 468.921, F.S.;
 41 prohibiting county and municipal ordinances and
 42 regulations from prohibiting or regulating the
 43 breeding, purchase, or sale of certain working dogs;
 44 providing applicability with regard to new and
 45 existing county and municipal ordinances and
 46 regulations; amending s. 823.15, F.S.; requiring
 47 certain public or private animal agencies to report on
 48 a monthly basis certain animal records to the
 49 Department of Agriculture and Consumer Services;
 50 requiring public animal rescues to make records
 51 available to the public; requiring the department to
 52 make the data reported by the agencies available on
 53 its website in a specified manner; requiring public
 54 and private animal rescues and humane organizations to
 55 provide for the sterilization of adopted dogs and cats
 56 according to certain requirements; authorizing public
 57 or private animal rescues to implant dogs and cats
 58 with radio frequency identification microchips and to

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contact the owners of such devices to verify pet ownership; requiring certain public or private animal agencies to disclose a dog's bite history before adoption; prohibiting certain public or private animal agencies from intentionally breeding dogs or cats for sale to the public and from exchanging payment or compensation to obtain dogs or cats from certain persons; providing applicability; amending s. 474.203, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. The Division of Law Revision is directed to create part XVII of chapter 468, Florida Statutes, consisting of ss. 468.901-468.921, Florida Statutes, to be entitled "Retail Pet Stores."

Section 2. Section 468.901, Florida Statutes, is created to read:

468.901 Short title.—This part may be cited as the "Florida Pet Protection Act."

Section 3. Section 468.903, Florida Statutes, is created to read:

468.903 Definitions.—As used in this part, the term:

(1) "Animal rescue" means a nonprofit organization exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code which keeps, houses, and maintains household pets and which is dedicated to the welfare, health, safety, and protection of such pets. The term includes an organization that

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offers spayed or neutered household pets for adoption and charges only reasonable adoption fees to cover the organization's costs, including, but not limited to, costs related to spaying or neutering the pets.

(2) "Animal shelter" means a public facility, or a private facility operated by a nonprofit organization exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code, which keeps, houses, and maintains household pets, such as a county or municipal animal control agency or pound, a humane society, an animal welfare society, a society for the prevention of cruelty to animals, or another nonprofit organization devoted to the welfare, protection, and humane treatment of household pets.

(3) "Department" means the Department of Business and Professional Regulation.

(4) "Household pet" means a domestic dog or a domestic cat.

(5) "Pet broker" means a person who buys, sells, or offers for sale household pets for resale to other persons, or who sells or gives one or more pets to a retail pet store, and who holds a valid Class B animal dealer license issued by the United States Department of Agriculture.

(6) "Professional breeder" means a person required to be licensed as a Class A animal dealer by the United States Department of Agriculture.

(7) "Retail pet store" means a retail store that sells or offers for sale household pets to the public. The term does not include an animal rescue; an animal shelter; or a breeder who sells or transfers, directly to the public, household pets bred and raised on the breeder's premises.

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(8) "Veterinarian" means a health care practitioner licensed under chapter 474, or licensed in another state by the applicable entity in that state, to engage in the practice of veterinary medicine.

Section 4. Section 468.905, Florida Statutes, is created to read:

468.905 Licensure of retail pet stores.-

(1) A person may not operate a retail pet store in this state without having a valid retail pet store license issued by the department in accordance with this section.

(2) The department shall adopt standards and procedures for the licensure of retail pet stores consistent with this act. An applicant for a retail pet store license must apply to the department on a form prescribed by the department for each premises. Upon licensure, the department shall assign a unique license number for each licensed premises.

(3) The department may establish annual licenses that are valid for 1 year and that may be renewed. An application for renewal of a license must be submitted to the department in a format prescribed by the department.

(4) A retail pet store that does not have a valid license may not display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell any household pet from the store.

Section 5. Section 468.907, Florida Statutes, is created to read:

468.907 Sale or transfer of household pets by retail pet stores.-

(1) As used in this section, the term "qualified breeder"

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means a professional breeder located within or outside this state who meets all of the following requirements:

(a) Holds a valid Class A animal license issued by the United States Department of Agriculture and, if required by the state in which he or she is located, is licensed by a state agency.

(b) Has not been issued a report of a finally adjudicated direct noncompliance violation by the United States Department of Agriculture under the federal Animal Welfare Act, 7 U.S.C. ss. 2131 et seq., in the 2 years immediately before offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a household pet. However, a professional breeder is not considered a qualified breeder until any pending report of a direct noncompliance violation is finally adjudicated.

(c) Has not had three or more finally adjudicated noncompliance violations documented in any report issued by the United States Department of Agriculture under the federal Animal Welfare Act, 7 U.S.C. ss. 2131 et seq., for the year immediately before offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a household pet. However, a professional breeder is not considered a qualified breeder until any pending report of a noncompliance violation is finally adjudicated.

(2) A retail pet store may not display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell any household pet from the store unless such pet was acquired from one of the following sources:

(a) A qualified breeder.

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175 (b) A person who, pursuant to 9 C.F.R. s. 2.1(a)(3)(ii)-
 176 (vii), is exempt from licensure by the United States Department
 177 of Agriculture.
 178 (c) An animal rescue.
 179 (d) An animal shelter.
 180 (e) A pet broker; however, if the pet broker acquires the
 181 pet from a professional breeder, the breeder must be a qualified
 182 breeder.
 183 (3) A retail pet store may not sell, deliver, barter,
 184 auction, broker, give away, or transfer any household pet:
 185 (a) Younger than 8 weeks of age.
 186 (b) That has not been implanted with an International
 187 Organization for Standardization (ISO) identification microchip.
 188 (c) That does not have a valid veterinary certification,
 189 including the United States Interstate and International
 190 Certificate of Health Examination for Small Animals prescribed
 191 by the United States Department of Agriculture or the official
 192 certificate of veterinary inspection prescribed by the
 193 Department of Agriculture and Consumer Services pursuant to s.
 194 828.29.
 195 (d) To a person younger than 18 years of age, as verified
 196 by a valid driver license, state identification card, or other
 197 government-issued identification card bearing a photograph of
 198 the cardholder.
 199 (e) Acquired from a qualified breeder or pet broker, unless
 200 the retail pet store provides to the buyer acquiring the pet,
 201 before completing the transaction, a written certification that
 202 includes the following:
 203 1. The name, address, and, if applicable, United States

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204 Department of Agriculture license number of the breeder who bred
 205 the household pet.
 206 2. An electronic or paper copy of the breeder's most recent
 207 United States Department of Agriculture inspection report, if
 208 applicable.
 209 3. The household pet's date of birth, if known.
 210 4. The date the retail pet store took possession of the
 211 household pet.
 212 5. The breed, gender, color, and any identifying marks of
 213 the household pet.
 214 6. A signed statement by the retail pet store's Florida-
 215 licensed veterinarian, in a format prescribed by the department,
 216 which describes any known disease, illness, or congenital or
 217 hereditary condition that adversely affects the health of the
 218 household pet at the time of examination.
 219 7. A document signed by the owner or a manager or an
 220 employee of the retail pet store certifying that all information
 221 required to be provided to the person acquiring the household
 222 pet under this paragraph is accurate.
 223
 224 A retail pet store shall keep an electronic or paper copy of the
 225 certification for at least 3 years after the date the buyer
 226 acquires the household pet. The owner or a manager or an
 227 employee of a retail pet store may not fraudulently alter or
 228 provide false information on a certification provided in
 229 accordance with this paragraph.
 230 (4) A licensed retail pet store shall provide the buyer of
 231 a household pet with all of the following information:
 232 (a) The pet's microchip identification number.

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(b) The complete name, address, and telephone number of all professional breeders, pet brokers, or other persons who kept, housed, or maintained the pet before the retail pet store took possession of the animal or proof that the pet was acquired through an animal rescue or animal shelter.

(c) A photograph or digital image and the name and registration number of both of the pet's parents, sire and dam.

A retail pet store shall keep a copy of the documentation required under this subsection for at least 3 years after the date it acquired the household pet.

(5) A retail pet store shall provide for all of the following:

(a) Flooring in the primary enclosures that house household pets which is constructed of a solid surface or, if grid-style or wire flooring is used, the surface of which is covered with a rubberized or coated material that prevents a pet's toe or foot from passing through or being caught in the flooring. A retail pet store shall clean all primary enclosures daily, or as often as necessary to prevent accumulation of bodily waste, and keep a daily sanitation log.

(b) An isolation enclosure with separate ventilation which allows a household pet to be kept separately from other pets while under veterinarian-directed isolation.

(c) Climate control that ensures that the ambient air temperature of the retail pet store's premises is kept between 67 and 78 degrees at all times. Retail pet stores shall keep daily logs of the temperature. If, for any reason, the temperature falls outside the required range, a corrective

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action record detailing steps taken to adjust the temperature must be kept.

(d) A Florida-licensed veterinarian who visits the retail pet store at least twice each week to observe the condition of the pets' health and overall well-being.

(e) An enrichment program for puppies which consists of exercise and socialization for at least two 30-minute periods each day. A retail pet store must keep a log for each puppy of the daily activities that the puppy participates in as part of the program.

(f) A photograph or digital image and video footage depicting each breeding facility from which the retail pet store acquires household pets.

Section 6. Section 468.909, Florida Statutes, is created to read:

468.909 Inspections.—

(1) (a) At least annually, the department shall inspect each retail pet store that is subject to licensure to ensure compliance with this part and with rules adopted under this part. The inspection must include, but need not be limited to, an audit of the records that the licensee maintains pursuant to s. 468.907(3)(e) and (4).

(b) The department also may conduct an inspection upon receipt of a complaint or other information alleging a violation of this part or rules adopted under this part.

(2) The department shall establish procedures for conducting inspections and making records of inspections. Inspections must be conducted during regular business hours in accordance with the department's procedures and may be conducted

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without prior notice. The department shall maintain a record of each inspection in accordance with such procedures.

(3) The department may enter into a contract or an agreement with one or more veterinarians to conduct inspections under this section. Such veterinarians must be independent and may not be affiliated with a retail pet store or an animal rights advocacy organization.

Section 7. Section 468.911, Florida Statutes, is created to read:

468.911 Administrative remedies; penalties.—

(1) The department must deny an application for issuance or renewal of a retail pet store license if either of the following applies:

(a) The licensee or applicant violates this part or any rule or order issued under this part, if the violation materially threatens the health or welfare of a household pet.

(b) The licensee or applicant, in the past 20 years, has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, a misdemeanor or felony under chapter 828 or a misdemeanor or felony under chapter 741 involving an act of domestic violence.

(2) The department may enter an order for one or more of the following if the department finds that an owner of a retail pet store, or a person employed or contracted by a retail pet store about whom the owner knows or reasonably should have known, has violated or is operating in violation of this part or any rule or order issued pursuant to this part:

(a) Issuing a notice of noncompliance under s. 120.695.

(b) Imposing an administrative fine for each act or

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omission, not to exceed the following amounts:

1. For a first violation, \$250.

2. For a second violation, \$500.

3. For a third or subsequent violation, \$1,000.

Each day that a violation continues constitutes a separate violation.

(c) Directing that the person cease and desist specified activities.

(d) Refusing to issue or renew a license or revoking or suspending a license.

(e) Placing the licensee on probation, subject to conditions specified by the department.

(3) The administrative proceedings that could result in the entry of an order imposing any of the penalties specified in subsection (1) or subsection (2) are governed by chapter 120.

(4) The department may adopt rules to administer this part.

Section 8. Section 468.913, Florida Statutes, is created to read:

468.913 Civil penalties; remedies.—The department may bring a civil action in a court of competent jurisdiction to recover any penalties or damages authorized by this part and for injunctive relief to enforce compliance with this part.

Section 9. Section 468.915, Florida Statutes, is created to read:

468.915 Criminal penalties.—A person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if he or she violates either of the following:

(1) Section 468.905(1) or (4), relating to operation of a

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retail pet store without a license.

(2) Section 468.907(2) or (3), relating to unlawful practices in the sale of household pets by a retail pet store.

Section 10. Section 468.917, Florida Statutes, is created to read:

468.917 Deposit of funds.—All moneys collected by the department under this part from civil penalties must be deposited into the department's Professional Regulation Trust Fund for use by the department for administration of this part.

Section 11. Section 468.919, Florida Statutes, is created to read:

468.919 Construction.—This part may not be construed to prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, or cattle dogs.

Section 12. Section 468.921, Florida Statutes, is created to read:

468.921 Local regulation; grandfathering of existing local regulations.—

(1) A county or municipality may not prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, or cattle dogs.

(2) (a) A county or municipality may adopt an ordinance or a regulation on or after July 1, 2022, which regulates, but does not prohibit, the operation of retail pet stores or the breeding, purchase, or sale of household pets, provided the ordinances or regulations are consistent and not in conflict with the rules imposed under s. 468.907.

(b) This subsection does not affect any of the following:

1. Any county or municipal ordinance or regulation in

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effect on or before June 1, 2021, which prohibits the operation of retail pet stores within its jurisdiction.

2. Any county or municipal ordinance or regulation adopted before July 1, 2022, which imposes a moratorium on the establishment of new retail pet stores, or that otherwise regulates such stores within its jurisdiction.

(c) This subsection does not affect a local government's authority to levy a local business tax pursuant to chapter 205.

Section 13. Section 823.15, Florida Statutes, is amended to read:

823.15 Public or private animal agencies; sterilization, ~~required for dogs and cats released,~~ recordkeeping, and disclosure requirements; microchipping.—

(1) The Legislature finds ~~has determined~~ that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, this state pose risks to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in this state. Importation of dogs and cats from outside the United States could result in the transmission of diseases that have been eradicated in the United States to dogs and cats, other animals, and humans living in this state. Uncontrolled breeding results in the birth of many more puppies and kittens than are needed to provide pet animals to new owners or to replace pet animals that have died or become lost. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that

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every feasible means be used to reduce the incidence of birth of unneeded and unwanted puppies and kittens. Determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to this effort.

(2) (a) Each public or private animal shelter, animal rescue, humane organization, or animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision, shall prepare and maintain the ~~following~~ records required by this paragraph and make them available for public inspection and dissemination for the 3 preceding years. The following data ~~must will~~ be available and reported to the Department of Agriculture and Consumer Services on a monthly basis ~~commencing July 31, 2013~~:

1. The total number of dogs and cats taken in by the animal shelter, animal rescue, humane organization, or animal control agency, divided into species, in the following categories:

- a. Surrendered by owner;
 - b. Stray;
 - c. Impounded;
 - d. Confiscated;
 - e. Transferred from within this state ~~Florida~~;
 - f. Transferred into or imported from out of this ~~the~~ state;
- and
- g. Born in shelter.

Species other than domestic cats and domestic dogs should be recorded as "other."

2. The disposition of all animals taken in by a public or

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private animal shelter, animal rescue, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision, divided into species. These data must include dispositions by:

- a. Adoption;
- b. Reclamation by owner;
- c. Death in kennel;
- d. Euthanasia at the owner's request;
- e. Transfer to another public or private animal shelter, animal rescue, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision;
- f. Euthanasia;
- g. Released in field/Trapped, Neutered, Released (TNR);
- h. Lost in care/missing animals or records; and
- i. Ending inventory/shelter count at end of the last day of the month.

3. A public or private animal shelter, animal rescue, humane organization, or animal control agency operated by a humane society, or by a county, municipality, or other incorporated political subdivision, which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

4. Certificates of veterinary inspections for all dogs and cats imported into this state.

(b) Records of a public animal shelter, animal rescue,

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

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465 humane organization, or animal control agency operated by a
 466 humane society must be made available to the public pursuant to
 467 ~~provisions in~~ chapter 119.

468 (c) The Department of Agriculture and Consumer Services
 469 shall make the data it receives pursuant to this subsection
 470 available to the public on a monthly basis and in a searchable
 471 format on its website.

472 (3) In furtherance of this policy, provision shall be made
 473 for the sterilization of all dogs and cats ~~sold or~~ released for
 474 adoption from any public or private animal shelter, animal
 475 rescue, humane organization, or animal control agency operated
 476 by a humane society or by a county, municipality ~~city~~, or other
 477 incorporated political subdivision, by either:

478 (a) Providing sterilization by a licensed veterinarian
 479 before relinquishing custody of the animal; or

480 (b) Entering into a written agreement with the adopter or
 481 purchaser guaranteeing that sterilization will be performed
 482 within 30 days or before ~~prior to~~ sexual maturity. The shelter
 483 or animal control agency shall require a sufficient deposit from
 484 the adopter or purchaser, which deposit shall be refundable upon
 485 presentation to the shelter or animal control agency of written
 486 evidence by the veterinarian performing the sterilization that
 487 the animal has been sterilized. ~~The deposit or donation may be~~
 488 ~~based upon recommended guidelines established by the Florida~~
 489 ~~Federation of Humane Societies.~~ Failure by either party to
 490 comply with ~~the provisions of~~ this paragraph constitutes ~~shall~~
 491 ~~be~~ a noncriminal violation as defined in s. 775.08(3),
 492 punishable by a fine, forfeiture, or other civil penalty, and,
 493 in addition thereto, the deposit or donation shall be forfeited

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494 to the shelter or animal control agency. Any legal fees or court
 495 costs used for the enforcement of this paragraph are the
 496 responsibility of the adopter. Upon the request of a licensed
 497 veterinarian, and for a valid reason, the shelter or animal
 498 control agency shall extend the time limit within which the
 499 animal must be sterilized.

500 (4) All costs of sterilization pursuant to this section
 501 shall be paid by the prospective adopter unless otherwise
 502 provided for by ordinance of the local governing body, with
 503 respect to animal control agencies or shelters operated or
 504 subsidized by a unit of local government, or provided for by the
 505 humane society governing body, with respect to an animal control
 506 agency or shelter operated solely by the humane society and not
 507 subsidized by public funds.

508 (5) Employees, agents, or contractors of a public or
 509 private animal shelter, animal rescue, ~~a~~ humane organization, or
 510 ~~an~~ animal control agency operated by a humane organization or by
 511 a county, municipality, or other incorporated political
 512 subdivision may implant dogs and cats with radio frequency
 513 identification microchips as part of their work with such public
 514 or private animal shelter, animal rescue, humane organization,
 515 or animal control agency.

516 (6) Notwithstanding s. 474.2165, employees, agents, or
 517 contractors of a public or private animal shelter, animal
 518 rescue, ~~a~~ humane organization, or ~~an~~ animal control agency
 519 operated by a humane organization or by a county, municipality,
 520 or other incorporated political subdivision may contact the
 521 owner of record listed on a radio frequency identification
 522 microchip to verify pet ownership.

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523 (7) Any public or private animal shelter, animal rescue,
 524 humane organization, or animal control agency operated by a
 525 humane society or any county, municipality, or other
 526 incorporated political subdivision shall disclose any bite
 527 history that exists for a dog before releasing the animal for
 528 adoption.

529 (8) A public or private animal shelter, animal rescue,
 530 humane organization, or animal control agency operated by a
 531 humane society or any county, municipality, or other
 532 incorporated political subdivision may not intentionally breed
 533 dogs or cats for sale to the public or, in exchange for payment
 534 or any other compensation, obtain a dog or cat from a person who
 535 breeds dogs or cats, resells dogs or cats from a breeder, or
 536 sells dogs or cats at auction. This subsection does not apply to
 537 or affect the ability of a person who offers for sale, directly
 538 to the public, dogs or cats that the person has bred or trained
 539 on his or her own property.

540 Section 14. Subsection (9) of section 474.203, Florida
 541 Statutes, is amended to read:

542 474.203 Exemptions.—This chapter does not apply to:

543 (9) An employee, an agent, or a contractor of a public or
 544 private animal shelter, animal rescue, humane organization, or
 545 animal control agency operated by a humane organization or by a
 546 county, a municipality, or another incorporated political
 547 subdivision whose work is confined solely to the implantation of
 548 a radio frequency identification device microchip for dogs and
 549 cats in accordance with s. 823.15.

550

551 For the purposes of chapters 465 and 893, persons exempt

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552 pursuant to subsection (1), subsection (2), or subsection (4)
 553 are deemed to be duly licensed practitioners authorized by the
 554 laws of this state to prescribe drugs or medicinal supplies.

555 Section 15. This act shall take effect July 1, 2022.

ORDINANCE

20-4

ORDINANCE NO. 20-4

AN ORDINANCE AMENDING HILLSBOROUGH COUNTY CODE OF LAWS AND ORDINANCES, PART A, CHAPTER 6, ARTICLE II, SECTIONS 6-20 and 6-61-6-65 (HILLSBOROUGH COUNTY ORDINANCE NO. 17-12), AS PERTAINING TO PET RETAIL SALES; PROVIDING FOR DEFINITION REVISIONS; PROVIDING FOR ELIMINATION OF THE GRANDFATHER PRIVILEGE FOR EXISTING PET SHOPS; PROVIDING FOR A TIME FRAME FOR ELIMINATION; PROVIDING FOR RESTRICTIONS AND PENALTIES FOR VIOLATIONS OF THE ORDINANCE BY EXISTING PET SHOPS PENDING TERMINATION OF THE GRANDFATHER PRIVILEGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR APPLICABILITY; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THIS 4th DAY OF March, 2020, AS FOLLOWS:

1. Section 6-20 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby amended to read as follows:

Adoption-Based Business Model shall mean a business model whereby all dogs and cats offered for Retail Sale at a Pet Shop shall only be sourced from stray and unwanted pets that have been taken in by an Animal Shelter or a Rescue Organization established in accordance with Section 501(c)(3) of the United States Internal Revenue Code to rehome stray and other unwanted pets, or some other sourcing model, as approved by the Department, that does not include commercially bred intact animals to be resold to the public, whether purchased directly from a commercial breeder or from some other intermediary such as a broker or wholesaler.

Animal Services shall mean a direct service provided to a dog and/or cat, including, but not limited to, grooming, bathing, and/or boarding; except if provided by a licensed veterinarian facility.

Animal Shelter shall mean the local animal control authority, public animal shelter, or private animal shelter maintained by or under contract with the county or municipality, devoted to the rescue, care, and adoption of stray, abandoned, or unwanted animals; or any brick and mortar animal shelter whose primary mission is to find permanent homes or rescues for sterilized, unwanted, and homeless pets.

Breeder shall mean any person who intentionally seeks to have animals reproduce for sale or other commercial purpose, and/or to selectively mate animals with

desirable genetic traits, and/or to maintain or enhance the traits in future generations.

Department shall mean the County's Pet Resources Department, or some other designated County Department.

Person shall mean any natural person, society, firm, corporation, partnership, association, or other legal entity or business unit and every officer, agent, or employee thereof.

Pet Shop shall mean any retail establishment, open to the public, that sells or transfers, or offers for sale or transfer, dogs and/or cats, regardless of the age of the dog or cat or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment. An Animal Shelter or Rescue Organization shall not be considered a Pet Shop under this Ordinance. An "existing" Pet Shop is one that has been determined by the Department: 1) to be legally operating on or before the effective date of this Ordinance; 2) found to not have received, after the effective date of the Ordinance or at any time while the existing Pet Shop is enjoying the grandfather privilege and any and all rights appurtenant thereto, any final determination or adjudication of one or more violations of any federal or state administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other state agency with jurisdiction, resulting in one or more final determination or adjudication of violation, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere (including Pet Shops that are transferred, assigned and/or sold by the original existing Pet Shop owner after the effective date); and 3) therefore, entitled to the grandfather privileges outlined herein. A "new" Pet Shop is one that has been opened after the effective date of this Ordinance, the opening of which, in no way, is associated with the sale, transfer or assignment by an owner of an existing Pet Shop, and is subject to the Adoption-Based Business Model, as defined, and all other requirements prescribed herein.

The grandfather privilege for existing Pet Shops shall end in accordance with the terms herein and all existing Pet Shops shall be required to transition to the "Adoption Based Model", as defined, in order to continue operating as a Pet Shop in the County.

Rescue Organization shall mean a duly incorporated non-profit organization that has tax exempt status in accordance with Section 501(c)(3) of the United States Internal Revenue Code, founded or chartered with the primary mission being the welfare, care, and adoption/placement of stray, abandoned, or surrendered animals, and which does not breed dogs or cats or obtain these animals for any form of payment or compensation from any source other than an Animal Shelter. Such organizations make pets available on a cost-recovery basis and/or foster animals or enlist others to foster animals.

Retail Sale shall mean to sell (whether or not exchange of consideration for the animal, and/or animal services, takes place at the same time and/or location), offer for sale, auction, barter, display for sale, adopt, rehome, exchange (for compensation or otherwise), give away, trade, transfer, deliver, lease, rent, include as part of a package deal, advertise to do any of the aforementioned, or otherwise dispose of dogs and/or cats to a person/s in a Pet Shop or in association with a Pet Shop.

2. Section 6-61 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby amended to read as follows:

Elimination of Grandfather Privilege for Existing Pet Shops and providing for Certain Regulations.

- A. All lawfully operating Pet Shops in existence, on or before the effective date of this Ordinance, and found to not have received, after the effective date of the Ordinance or at any time while the existing Pet Shop is enjoying the grandfather privilege and any and all rights appurtenant thereto, any final determination or adjudication of one or more violations of any federal or state administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other state agency with jurisdiction, resulting in one or more final determination or adjudication of violation, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere, shall be permitted to continue the Retail Sale of dogs and/or cats in Hillsborough County in accordance with their respective business models, provided, however, each existing Pet Shop is at all times in full compliance with any and all existing and future Retail Sale regulations adopted by the County for existing Pet Shops and provided they are in compliance with the applicable provisions of this Ordinance and the additional restrictions set forth below:

- (1) An owner of an existing Pet Shop shall be permitted to transfer, assign, sell, or relocate their existing Pet Shop. The transferee, assignee, or new owner must comply with any and all existing and future Retail Sale regulations adopted by the County for existing Pet Shops, the applicable provisions of this Ordinance, and any additional restrictions set forth herein.
- (2) An owner of an existing Pet Shop shall not be permitted to open any additional Pet Stores as of the date the Ordinance was adopted (the date the Board of County Commissioners voted and approved the passage of the Ordinance). Any Pet Shop opened as of the adoption date of this Ordinance shall be considered a new Pet Shop and said owner shall be obligated to fully comply with the Adoption-Based Business Model for the Retail Sale of dogs and/or cats and all other

requirements prescribed for all new Pet Shops in the County.

- (3) An existing Pet Shop owner that allows any of their federal, state, and/or local occupational business license/s, or other requirement/s related to the operation of their business, to lapse, making them legally ineligible to operate their business, or voluntarily abandons their respective Retail Sale business model, for a period of more than ninety (90) days, shall lose their grandfather privilege of reopening and operating in its usual manner and shall be obligated to fully comply with the Adoption-Based Business Model for the Retail Sale of dogs and/or cats in the County and all other requirements pertaining thereto.
- (4) Pet shops in existence, on or before the effective date of this Ordinance, and found to have received, after the effective date of the Ordinance or at any time while the existing Pet Shop is enjoying the grandfather privilege and any and all rights appurtenant thereto, any final determination or adjudication of one or more violations of any federal or state administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other state agency with jurisdiction, resulting in one or more final determination or adjudication of violation, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere, shall lose their grandfather privilege and not be permitted to continue the Retail Sale of dogs and/or cats in the County in accordance with their respective business models. Such Pet Shops shall be considered a "new Pet Shop" and shall be obligated to fully comply with the Adoption – Based Business Model for the Retail Sale of dogs and/or cats and all other requirements pertaining thereto.

The grandfather privilege for existing Pet Shops shall end in accordance with the terms herein and all existing Pet Shops shall be required to transition to the "Adoption Based Model", as defined, in order to continue operating as a Pet Shop in the County.

- B. All owners of existing Pet Shops (including any and all transferees, assignees, or new owners), shall be obligated to annually register their business/es by submitting the following information, which may be subject to independent audit, to the Department by the first of February each year:
 - (1) Business Name; and
 - (2) Business Mailing Address/physical location; and

- (3) Business Owner's Name and Mailing Address; and
 - (4) Federal Tax ID #, if applicable; and
 - (5) USDA License number, if applicable; and
 - (6) Certain supporting business documentation, including:
 - a. Proof of its business operations through any federal, state, or local business/occupational licenses, tax receipts, or other documentation readily authenticated as true and correct documents; and
 - b. Proof of its Retail Sales business and location through franchise agreements, leases, or other documentation readily authenticated as true and correct documents; and
 - c. Any other such documentation related to the acquisition, care, and sale of the animals that may be found necessary by the Department in any internal policies and procedures promulgated for the implementation of this Ordinance.
- C. All owners of existing Pet Shops (those in existence on or before the effective date of this Ordinance) shall be required to initially register for the grandfather privilege, by complying with the registration requirements set forth above, within ninety (90) days of the effective date of this Ordinance. Pet Shops that are transferred, sold, or assigned by an existing Pet Shop owner, after the effective date of this Ordinance, shall be required to register, by complying with the registration requirements set forth above, within ninety (90) days of the transfer, sell, or assignment.
- D. All lawfully operating Pet Shops in existence on or before May 17, 2017, the effective date of the original Ordinance, and the owners which registered for and were approved to receive the grandfather privilege, as described above, shall:
- (1) Lose their grandfather privilege one year from the date this Amendment was adopted (the date the Board of County Commissioners voted and approved the passage of the Amendment);
 - (2) Transition to the "Adoption Based Model", as defined, in order for the existing Pet Shop to continue operating as a Pet Shop in the County;
 - (3) Discontinue purchasing dogs and/or cats from commercial breeders, wholesalers, or distributors for resale to the public, thirty (30) days prior to the grandfather privilege termination. Existing Pet Shops shall be subject to inspection by the Department to determine

compliance.

3. Section 6-62 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby amended to read as follows:

Additional Retail Sale Regulations for Existing Pet Shops.

All owners of existing Pet Shops, including any and all transferees, assignees, or new owners, shall be obligated to comply with the following additional Retail Sale regulations pending the termination date of the grandfather privilege:

A. Sourcing Transparency:

All existing Pet Shop owners shall have the following information, pertaining to any remaining unsold dogs and/or cats, readily available for all potential purchasers, the Department, and the state:

- (1) The name of the United States Department of Agriculture (USDA) breeding facility where the dog and/or cat was bred; and
- (2) The license number of the USDA breeding facility; and
- (3) The city and state of the dog's and/or cat's breeding origin;
- (4) Specific contact information for the breeder of the dog and/or cat may be provided at the discretion of the Pet Shop to its potential purchasers, however, this information is required to be provided to the Department in accordance with the record keeping standards outlined in Section E. below;
- (5) A sign, in poster format, shall be placed in the existing Pet Shop, in clear view, stating that the information required above is available for review by all potential purchasers, the Department, and the state upon request;
- (6) A certificate from a local humane society entity [i.e. American Society for the Prevention of Cruelty to Animals, (ASPCA)] as to the breeding source conditions for all remaining unsold dogs and/or cats purchased from a commercial breeder, wholesaler, or distributor to be resold to the public;
- (7) Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

B. Buying Standards:

- (1) All existing Pet Shop owners shall only purchase dogs and/or cats that are intended to be sold to potential purchasers from breeders:
 - a. Approved and licensed by the USDA; and
 - b. That have not received any direct violations from the USDA in the past two (2) years; and
 - c. That have not received more than four (4) indirect violations from the USDA in the past two (2) years; and
 - d. That have not received any state law violations, such as those set forth in Section 828.29, Florida Statutes, pertaining to vaccinations and veterinarian inspection certificates, in the past two (2) years.
- (2) All existing Pet Shop owners shall have readily available for all potential purchasers, the Department, and the state and shall maintain for six (6) months following termination of the grandfather privilege, USDA inspection reports in their entirety for the breeders of all dogs and/or cats being offered for Retail Sale in the existing Pet Shops. For breeders that have been in business between one (1) year and two (2) years, the USDA pre-licensing inspection, the first USDA post-licensing inspection, and a statement that no other inspections have been completed shall suffice.
- (3) A sign, in poster format, shall be placed in the existing Pet Shop, in clear view, stating that this information is available for review by all potential purchasers, the Department, and the state upon request. In addition, this information shall be posted and maintained on each animal's cage, kennel, or enclosure, within clear view and in a reasonable proximity thereof.
- (4) Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

C. Microchip Requirement:

Except for the dogs and/or cats that are already microchipped at the time they are received by the existing Pet Shop, all dogs and/or cats offered for Retail Sale in an existing Pet Shop must be implanted with a permanent electronic animal Radio Frequency Identification Device (RFID-microchipped) by a licensed veterinarian facility. All dogs and/or cats offered for Retail Sale by the existing Pet Shop must have the microchip registered to the existing Pet Shop as the primary owner within five (5) business days of the receipt of the dog and/or cat by the existing Pet Shop.

D. Record Keeping:

- (1) The following records must be maintained by owners of existing Pet Shops:
 - a. Health certificate from a Florida licensed veterinarian; and
 - b. Microchip information; and
 - c. Sourcing/Purchase information.
- (2) The above records for all dogs and/or cats that are present in the existing Pet Shop shall be maintained, in hard copy, for immediate inspection by potential purchasers and/or the Department.
- (3) The above records for all dogs and/or cats sold by the existing Pet Shop and, therefore, no longer present in the existing Pet Shop, must be kept in either electronic or hard copy form for six (6) months following termination of the grandfather privilege and be available for inspection within three (3) days of the Department's request.
- (4) Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

E. Adoption Promotion:

- (1) Owners of existing Pet Shops shall be required to place, on a sign that is in poster format and in clear view, and in a readable disclaimer on their Pet Shop website and any and all of their marketing materials, a message promoting adoption from Animal Shelters and Rescue Organizations as another option to acquire a dog and/or cat, information about their adoption programs and their contact information, including website addresses to view the dogs and/or cats available for adoption.
- (2) Owners of existing Pet Shops shall require potential purchasers, at the time of their transactions, to sign an affidavit attesting that they were informed about the adoption options, had the opportunity to read the poster, website, or marketing information with the adoption options and other information included, and reviewed the USDA breeder reports, records and other breeder contact and background information required to be maintained by the existing Pet Shops.
 - a. The signed affidavits for dogs and/or cats sold in a given business day and, therefore, no longer present in the existing Pet Shop, shall be maintained in hard copy for immediate inspection by the Department.

- b. All other signed affidavits for dogs and/or cats sold by the Pet Shop must be kept in either electronic or hard copy form for three (3) years and available for inspection within three (3) days of the Department's request.
- c. Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

F. Inspections:

- (1) The Department shall conduct, at a minimum, two (2) inspections of the existing Pet Shops.
- (2) Owners of existing Pet Shops, or designated representatives, shall be required to personally inspect the USDA breeding facilities from which they receive their dogs and/or cats.

4. Section 6-63 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby added to read as follows:

Adoption-Based Business Model for Retail Sale of Dogs and Cats and Other Requirements for New Pet Shops.

- A. No new Pet Shop shall offer for Retail Sale dogs or cats in Hillsborough County, unless that dog or cat was obtained from:
 - (1) An Animal Shelter;
 - (2) A Rescue Organization;
 - (3) Some other sourcing model, as approved by the Department, which does not include commercially bred intact animals to be resold to the public, whether purchased directly from a commercial breeder or from some other intermediary such as a broker or wholesaler.
- B. All dogs and/or cats offered for Retail Sale in Hillsborough County, by a new Pet Shop, an Animal Shelter, Rescue Organization, or some other approved sourcing model, shall be required to be implanted with a permanent electronic animal Radio Frequency Identification Device (RFID-microchipped), registered to the legal owner of the animal.
- C. The following record keeping and disclosure requirements shall apply to all new Pet Shops:
 - (1) New Pet Shops shall post and maintain on each animal's cage, kennel, or enclosure, within clear view and in a reasonable proximity thereof, a label stating the name and address, including city and

state, of the Animal Shelter or Rescue Organization from which the new Pet Shop acquired the animal or that owns the animal kept in the cage, kennel, or enclosure.

- (2) New Pet Shops shall maintain records, stating the name and address of the Animal Shelter or Rescue Organization that each dog or cat was obtained from, for three (3) years following the date of acquisition or in accordance with the required retention time set forth by business standards and practices governing the particular commercial establishment record, whichever is greater, and, annually submit a copy of the record for the previous year to the County's animal control officers or any other County officials charged with enforcing the provisions of this Section, by February 1st of each year.
- (3) Any such records shall be made available, immediately upon request, to the County's animal control officers, any other County officials charged with enforcing the provisions of this Section, and/or law enforcement.
- (4) Falsification of records by new Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

5. Section 6-64 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby added to read as follows:

Prohibition on Retail Sale in Public Places.

- A. There shall be no Retail Sale of dogs or cats on any public thoroughfare, public common areas, or other places of public accommodations, flea markets, festivities, yard sales, medians, parks, recreation areas, outdoor markets, parking lots, or other similar activities, regardless of whether such access is authorized by the owner.
- B. This section shall not apply to the following:
 - (1) The Retail Sale of dogs and/or cats by an Animal Shelter, Rescue Organization, or some other approved sourcing model;
 - (2) The Retail Sale of dogs and/or cats as part of a state or county fair exhibition, 4-H program, or similar exhibition or education program.

6. Section 6-65 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby added to read as follows:

Penalties.

- A. It shall be a violation of this Ordinance to fail to comply with any of the

requirements or restrictions contained herein, which, for existing Pet Shops operating under the grandfather privilege, can result in the loss of said privilege and any and all rights appurtenant thereto.

- B. Consistent with Florida Law, any violation of this Ordinance is a civil infraction punishable by a maximum civil penalty not to exceed \$500.00 and the amount of any penalties shall be established by BOCC Resolution.
- C. Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this Ordinance, including, but not limited to, pursuit of injunctive and/or declaratory relief and/or injunction, or other equitable relief in a court of competent jurisdiction, or initiating an action to recover any and all damages that may result from a violation of, or refusal to comply with, any part of this Ordinance.
- D. Each day of a continuing violation shall constitute a separate and distinct violation. A separate and distinct offense occurs per animal.
- E. Pending termination of the grandfather privilege, existing Pet Shops shall be subject to the following if they are found to have sold dogs and/or cats acquired from commercial breeders, wholesalers, or distributors with USDA or State law violations, such as those set forth in Section 828.29, Florida Statutes, pertaining to vaccinations and veterinarian inspection certificates:
 - (1) For the first violation, a written warning notice shall be issued by the Department; and
 - (2) A second violation shall result in the immediate loss of the grandfather privilege, requiring the existing Pet Shop to transition to the Adoption-Based Model, as defined, in order for the existing Pet Shop to continue operating as a Pet Shop in the County, within thirty (30) calendar days or sooner, to be determined by the Department if less than thirty (30) calendar days remain before termination of the grandfather privilege; and
 - a. All dogs and/or cats in inventory at the time of violation must be sterilized within ten (10) calendar days. In the event there are less than ten (10) calendar days remaining prior to the termination of the grandfather privilege, the Department shall determine the deadline for sterilization and copies of sterilization records are to be submitted to the Department upon request; and
 - b. All dogs and/or cats in inventory at the time of violation must be sold within fifteen (15) calendar days. In the event there are less

than fifteen (15) calendar days remaining prior to the termination of the grandfather privilege, the Department shall determine the deadline for sale and copies of receipts and other relevant documentation are to be submitted to the Department upon request; and

- c. Existing Pet Shops shall provide the Department, upon request, copies of all invoices of dogs and/or cats purchased from commercial breeders, wholesalers, or distributors prior to the violation, and shall be prohibited from any further purchasing of dogs and/or cats from commercial breeders, wholesalers, or distributors, as of the date of the violation that resulted in immediate loss of the grandfather privilege.

7. Severability.

If any clause, sentence, paragraph, subdivision or other part of this Ordinance or applications shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Ordinance which shall remain in full force and effect except as limited by such order or judgment.

8. Inclusion in the Code of Laws and Ordinances.

The provision of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established. The recitations contained in the "WHEREAS" clauses are incorporated herein by reference, but are not required to be reproduced and included in the Code.

9. Applicability.

All provisions of this Ordinance shall be applicable throughout the incorporated and unincorporated areas of the Hillsborough County where there is no existing conflict of law, municipal Ordinances concerning this matter, or unless any municipality determines to opt-out of this Ordinance's provisions.

10. Filing of Ordinance.

In accordance with the provisions of Section 125.66, Florida Statutes, governing Ordinances, a certified copy of this Ordinance shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners.

11. Effective Date.

This Ordinance shall take effect upon filing with the Department of State.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, **PAT FRANK**, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of the Ordinance adopted by the Board at its regular meeting of March 4, 2020, by a vote of 6 voting yes and 0 voting no, the same appears in record in Minute Book 526 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 6th day of March, 2020.

PAT FRANK
CLERK OF THE CIRCUIT COURT

BY: Sharon Sweet Grant
Deputy Clerk

Approved by County Attorney
As to Form and Legal Sufficiency:

BY: [Signature]
Sr. Assistant County Attorney





FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

March 6, 2020

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, Florida 33601

Attention: Sharon Sweet

Dear Mrs. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 20-4, which was filed in this office on March 6, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



SENATOR MANNY DIAZ, JR.
36th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

December 14, 2021

Honorable Senator Travis Hutson
Chair
Committee on Regulated Industries

Honorable Chair Hutson,

I respectfully request Senate Bill Number 994 Pet Protection be placed on the next committee agenda.

This bill aims to create the "Florida Pet Protection Act"; requiring the licensure of retail pet stores; limiting the sources from which retail pet stores may acquire household pets for specified purposes; requiring the Department of Business and Professional Regulation to conduct periodic inspections of retail pet stores and to audit sales records; requiring the department to deny a retail pet store license under certain circumstances; prohibiting county and municipal ordinances and regulations from prohibiting or regulating the breeding, purchase, or sale of certain working dogs, etc.

Sincerely appreciate your support,

A handwritten signature in blue ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant
Hunter Clary, Legislative Assistant

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

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2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 994</u>
BILL TITLE:	<u>Pet Protection</u>
BILL SPONSOR:	<u>Sen. Diaz</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Community Affairs
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	HB 849
SPONSOR:	Rep. Fernandez-Barquin

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	November 18, 2021
LEAD AGENCY ANALYST:	Jeffrey Kelly, Director, Division of Professions
ADDITIONAL ANALYST(S):	Tracy Dixon, Service Operations Robin Jordan, Technology Jerry Wilson, Regulation Darrell Garvey, OGC Rules

LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates licensing and inspection requirements under the Department of Business and Professional Regulation (department) for retail pet stores that sell household pets (dogs and cats).

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Section 828.29, F.S., establishes health requirements and documentation guidelines for dogs and cats offered for sale in the State of Florida. This section states that all dogs and cats offered for sale and their related health certificates are subject to inspection by the Florida Department of Agriculture and Consumer Services. These certificates are signed by Florida-licensed veterinarians for animals originating in the state, and such licensees can be disciplined under current statutory authority provided in ch. 474, F.S., for doing so improperly. Additionally, s. 828.29(5), F.S., establishes guidelines for consumers who purchase animals found to be unfit to retain, return or exchange the animal and receive reimbursement for related veterinary costs. There are no current state license requirements for retail pet stores.

2. **EFFECT OF THE BILL:**

Sections 1 - 2

The bill creates Part XVII under ch. 468, F.S., titled "Retail Pet Stores", and s. 468.901, which titles Part XVII the "Florida Pet Protection Act."

Section 3

The bill creates s. 468.903, F.S., to provide definition of certain terms, including "retail pet store" which is defined as a retail store that sells or offers for sale household pets to the public. The term does not include an animal rescue; an animal shelter; or a breeder who sells or transfers, directly to the public, household pets bred and raised on the breeder's premises. The bill defines the term "household pets" to mean a domestic dog or domestic cat (s. 468.903 (4), F.S.).

Section 4

The bill creates s. 468.905, F.S., which establishes licensure requirements for retail pet stores and requires the department to adopt standards and procedures for such licensure, including a prescribed application form. The bill also provides that the department may establish annual license periods that are valid for one year and that may be renewed.

The bill prohibits a person from operating a retail pet store without a license, and further specifies that a retail pet store may not display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell, any household pet from the store without a valid license from the department.

Section 5

The bill creates s. 468.907, F.S., to define "qualified breeder", and specifies that retail pet stores may not display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell any household pet from the store unless such pet was acquired by certain sources, including qualified breeders, animal rescues, animal shelters, pet brokers, or persons who, pursuant to 9 C.F.R. s. 2.1(a)(3)(ii)-(vii), are exempt from licensure by the United States Department of Agriculture.

The bill further prohibits retail pet stores from selling, delivering, bartering, auctioning, brokering, giving away, or transferring household pets that are younger than 8 weeks of age, have not been implanted with International

Organization for Standardization (ISO) identification microchips, and that do not have valid veterinary certification. Additionally, such household pets may not be sold to persons younger than 18 years of age,

The bill further provides that if the retail pet store acquired a household pet from a qualified breeder or pet broker, the retail pet store must provide certain information to buyers of the household pets, and keep copies of such documentation for at least three years after the date the buyer acquires the household pet. Such information includes:

- certain information about the breeder;
- copy of breeder's most recent U.S. Department of Agriculture inspection report (if applicable)
- household pet's date of birth, if known;
- date the retail pet store took possession of the pet;
- a document signed by a Florida-licensed veterinarian, in a format prescribed by the department, describing known diseases, illnesses, etc., of the household pet at the time of examination.
- Document signed by the owner or manager or employee of the retail pet store certifying that all information required to be provided to the buyer is accurate

The bill further requires retail pet stores to provide buyers of household pets with the following information, and keep copies of such documentation for at least three years after the date the buyer acquires the household pet:

- Pet's microchip identification number
- Name, address, and telephone number of all breeders, brokers, or other person who kept, housed, or maintained the pet, or proof that the pet was acquired from an animal rescue or animal shelter
- Photograph or digital image, name, and registration number of both of the pet's parents, sire and dam.

The bill requires that retail pet stores:

- Comply with flooring and cleaning requirements specified in the bill
- Provide isolated enclosures with separate ventilation which allows household pets to be kept separately while under veterinarian-directed isolation
- Provide climate control to maintain a certain range of temperature, keep daily logs of the temperature, and a corrective action record detailing steps taken to adjust the temperature.
- Hire a Florida-licensed veterinarian to visit the retail pet store twice a week to observe the condition of the pet's health and overall well-being.
- Maintain an enrichment program for puppies consisting of exercise and socialization for at least two 30-minute periods, and keep a log of each puppy's daily activities.
- Maintain a photograph/digital image and video footage of each breeding facility from which the retail pet store obtains household pets.

Section 6

The bill creates s. 468.909, F.S., to require the department to inspect, at least annually, each retail pet store subject to licensure, and audit the records that the licensee maintains. Additionally, the department must conduct an inspection up receipt of a complaint or other information alleging a violation. The department must establish procedures for conducting inspections and making records of inspections. Further, the department must maintain a record of each inspection in accordance with such procedures. The bill permits the department to enter into a contract or agreement with one or more veterinarians to conduct inspections.

Section 7

The bill creates s. 468.911(1), F.S., which provides that the department must deny an application for issuance or renewal of a retail pet store license, if the licensee or applicant materially threatens the health or welfare of a household pet, or the licensee or applicant has been convicted of or pled nolo contendere to certain misdemeanors or felonies in the past 20 years.

The bill does not provide the department authority to issue citations for violations found during inspections as the department is authorized by ch. 455, F.S. to issue for professions regulated by the department. Citation authority is an efficient regulatory tool used by the department and would be useful in the regulation of retail pet stores.

The bill provides that the department may enter an order, which may consist of administrative fines, if the department finds that a pet store, or a person employed or contracted by a pet store is in violation of this part.

Sections 8-10

The bill creates s. 468.913, F.S., to provide that the department may bring a civil action in a court of competent jurisdiction to recover any penalties or damages.

The bill creates s. 468.915, F.S., to specify certain violations of this part as second-degree misdemeanors, punishable as provided in ss. 775.082 or s. 775.083, F.S.

The bill creates s. 468.917, F.S., to provide that all moneys collected by the department under this part from civil penalties must be deposited into the department's Professional Regulation Trust Fund for use by the department for administration of this part.

Section 11

The bill creates s. 468.919, F.S., to specify that this part does not prohibit the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, or cattle dogs.

Section 12

The bill creates s. 468.921, F.S., to allow regulation of retail pet stores by a county or municipality provided the regulation is consistent, and not in conflict with, rules imposed under section 468.907, F.S.

Section 13

The bill amends s. 823.15, F.S., to include animal rescue, require certain public or private animal agencies to report certain animal records to the Department of Agriculture and Consumer Services ("Agriculture") on a monthly basis, and require Agriculture to make the data reported by animal agencies available on its website in a specified manner.

Section 14

The bill amends s. 474.203, F.S., to include animal rescue organizations as entities who are exempt from the licensure requirements of Chapter 474 provided that the work of their employees, agents, or contractors is confined to implantation of radio frequency identification device microchips for dogs and cats in accordance with s. 823.15, F.S.

Section 15

The bill has an effective date of July 1, 2022.

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

If yes, explain:	<p>The bill creates s. 468.911(4), F.S., which states the department may adopt rules to administer this part related to administrative action and penalties.</p> <p>The bill also creates s. 468.905(2), F.S., which requires the department to prescribe a form for application, and adopt standards and procedures for the licensure of retail pet stores consistent with this part.</p> <p>The bill creates s. 468.909(2), F.S., which directs the Department to establish procedures for conducting inspections.</p>
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

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

Proponents and summary of position:	Unknown
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Opponents and summary of position:	Unknown
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

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

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

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

FISCAL ANALYSIS

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

Revenues:	Indeterminate
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Revenues:	<u>Professions</u> Although SB 994 does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part, SB 996 does amend the proposed s. 468.905, F.S., to provide that an initial or renewal application for a retail pet store license must be accompanied by a
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	<p>nonrefundable license fee not to exceed \$25.00 per licensed location. Based upon a projected licensee base of 500, the program will generate \$12,500 per fiscal year over the next three fiscal years (see Additional Comments).</p> <p>Some revenue will also be generated from administrative fines and civil penalties imposed for violations of the bill. The amount of this revenue is indeterminate.</p>
Expenditures:	Based upon a projected licensee base of 500 the program will increase expenditures by approximately \$86,721 (\$59,862 recurring).
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	None
Expenditures:	Indeterminate costs associated with compliance.
Other:	N/A

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

If yes, explain impact.	<p>This bill creates s. 468.911, F.S., which establishes administrative fines for violations of the provisions of ch. 468 Part XVII, F.S.</p> <p>Although SB 994 does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part, SB 996 does amend the proposed s. 468.905, F.S., to provide that an initial or renewal application for a retail pet store license must be accompanied by a nonrefundable license fee not to exceed \$25.00 per licensed location.</p>
Bill Section Number:	<p>Section 7 of SB 994</p> <p>Section 1 of SB 996</p>

TECHNOLOGY IMPACT

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

Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>This bill will require modifications to Versa: Regulation, Versa: Online, OnBase document management system, and the Interactive Voice Response (IVR) system to add a new license category and transactions for licensure of pet stores. It will also require modification to the iPad inspection application.</p> <p>Changes to Versa: Regulation – 44 hours Changes to Versa: Online – 40 hours Changes to OnBase – 29 hours Changes to iPad – 40 hours Changes to IVR – 4 hours These modifications can be made with existing resources.</p> <p><u>Infrastructure and Licensing Costs</u></p> <p>Additional staffing required to implement the provisions of this bill (see Additional Comments below) would result in technology infrastructure and licensing costs. Assuming there is not adequate office space in existing DBPR offices, additional undetermined infrastructure costs will be incurred based on the number, location and suitability of adequate space to support the full workforce.</p> <p>For 1 Environmental Health Specialist position:</p> <ul style="list-style-type: none"> • Non-recurring cost of iPad - \$900.00 • Non-recurring costs for software licenses – \$1,212.40 • Recurring software license maintenance and data service - \$789.26
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FEDERAL IMPACT

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

Y ☐ N ☒

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

Professions:

Although this bill does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part, SB 996 does amend the proposed s. 468.905, F.S., to provide that an initial or renewal application for a retail pet store license must be accompanied by a nonrefundable license fee not to exceed \$25.00 per licensed location.

Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the bill. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses.

The bill does not clarify that a retail pet store does not include household pets bred and raised on the breeder's premises when the breeder's premises are a retail pet store, if that is the intent of the bill.

The bill does not address corporate ownership of retail pet stores with regard to s. 468.911(1)(b), F.S., for the purpose of determining how the provision prohibiting licensure of applicants with certain criminal history would be applied to a corporate entity.

The bill does not define hunting dogs, field trial dogs, sporting dogs, or cattle dogs. Additionally the bill does not address what occurs when a retail pet store is selling, delivering, bartering, auctioning, brokering, giving away, or transferring household pets (dogs) that the retail pet store asserts are hunting dogs, field trial dogs, sporting dogs, or cattle dogs and therefore the retail pet store is not subject to regulation by this bill. The undefined terms may create confusion and inconsistent application of the law in counties and municipalities as well. (s. 468.919, F.S.)

The bill requires including in certain records the "household pet's date of birth, if known" but prohibits the retail pet store from selling, delivering, bartering, auctioning, brokering, giving away, or transferring household pets that are younger than 8 weeks of age thus creating a potential conflict in requirements or an excuse for failing to comply with statutory requirements.

The bill allows the owner, manager or an employee of the retail pet store to certify information required by the bill is accurate and the bill provides that the owner, manager and employees of the retail pet store may not fraudulently alter or provide false information on a certification provided in accordance with the bill. The bill does not provide requirements for or criteria for the owner, manager or employee.

The bill requires ambient air temperature of the retail pet store's premises be between 67 and 78 degrees at all times but does not specify Fahrenheit or Celsius.

The bill requires a Florida-licensed veterinarian who "visits" the retail pet store at least twice each week observe the conditions of the pets' health and overall well-being. The term "inspect" maybe more appropriate than the term "visits" the retail pet store.

The bill does not consistently use the terms professional breeder, breeder and qualifier breeder and does not define all the terms. In Section 5, the terms are used inconsistently. A retail pet store may not sell, deliver, barter, auction, broker, give away, or transfer any household pet ...acquired from a qualified breeder unless...but on line 234, the retail pet store must provide the complete name, address, and telephone number of all professional breeders, pet brokers, or other person.....

Section 455.219, F.S. provides that it is the intent of the legislature that no regulated profession operates with a negative cash balance. Based on the anticipated expenditures to implement the bill, there are not sufficient revenues to cover the expenditures of the regulated profession.

The bill provides an effective date of July 1, 2022: however implementing the legislation by this date may not allow sufficient time for notification to affected parties of the regulation; technology development and rulemaking that would include holding workshops to obtain stakeholders input.

Regulation:

This bill will cause each licensed pet store to be inspected at least once a year to ensure compliance with this part and any rules adopted to regulate pet stores. An inspection will also be conducted when a complaint about the establishments is filed. The Division of Regulation currently conducts inspections of Cosmetology, Barber and Veterinary establishments and in Fiscal Year 2018-19; the division conducted 25,097 inspections of these establishments with 16 FTE Inspectors (Environmental Health Specialists). The Division has been able to conduct all of the statutorily mandated inspections each year, but they are

generally not completed until the end of the fiscal year. Therefore, the division requests 1 Inspector (Environmental Health Specialist) to conduct the additional 500 pet store inspections.

DSO: There will be a minimal impact to the division which can be accommodated with existing resources.

OGC Rules: The bill does not establish any criteria or standards for agency decisions. The bill defines the term “qualified breeder” under s. 468.907(1), F.S.; however, it is unclear how agency determination is to be made in terms of being in compliance to the specified requirements set forth therein, including the manner or method of providing notice to the department of any “noncompliance violations by U.S. Department of Agriculture.” Furthermore, it is unclear what constitutes “adversely affects the health of the household pet” as provided in lines 217-218, and the bill does not provide any established criteria or standards for an agency decision. Moreover, the bill does not provide any guidance in lines 236-237 on what constitutes sufficient “proof” to demonstrate compliance. Lastly, it is unclear from the language provided in lines 305-306 what is considered a “violation [that] materially threatens the health or welfare of a household pet” or provide any criteria or standards on what constitutes “materially threatening the health or welfare of a household pet.” Throughout the bill the phrase “rules adopted under this part” is used, implying that rules will be adopted, but with the exception of Section 468.911(4), this bill grants no rulemaking authority.

Fiscal Comment: One Environmental Health Specialist FTE will be necessary for inspections. The cost for this FTE is anticipated to be \$86,721 (\$59,862 recurring).

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:	<p>OGC: The bill creates a brand new regulatory program within the department. With an estimated license population of 500 businesses, the department will incur associated costs to implement this program. The bill requires each business to be inspected at least one time each year. These inspections may lead to legal cases and enforcement. There will also be more calls to the call center, more applications to process, etc. It appears \$25 per licensee SB 996 is inadequate to cover the costs associated with the new workload.</p> <p>Programs within the department must fund themselves through adequate associated license fees – other programs may not be asked to offset the costs of another programs. It appears the license fees set for this new program may lead to the program running a recurring annual deficit.</p>
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APPEARANCE RECORD

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

01/11/2022

Meeting Date

Regulated Industries

Committee

SB 994

Bill Number or Topic

Amendment 732580

Amendment Barcode (if applicable)

Name **Diana Ferguson**

Phone **850-681-6788**

Address **119 S Monroe Street Suite 202**

Email **DFerguson@rutledge-ecenia.com**

Street

Tallahassee

Florida

32301

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Animal Control 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)

1/11/2022

Meeting Date
Regulated Industries

Committee

Name **Diana Ferguson**

Address **119 S Monroe Street Suite 202**

Street

Tallahassee

City

Florida

State

32301

Zip

The Florida Senate
APPEARANCE RECORD

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SB 994

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-681-6788**

Email **DFerguson@rutledge-ecenia.com**

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☒

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representing:

Florida Animal Control Association

☐

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/11/22

Meeting Date

Reg Industries

Committee

994

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Travis Moore

Phone

727.421.6902

Address

P.O. Box 2020

Email

travis@moore-relations.com

Street

St. Petersburg, FL 33731

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:

Animal Legal Defense Fund

☐

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)

The Florida Senate

APPEARANCE RECORD

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1/11/22

Meeting Date

SB 994

Bill Number or Topic

Regulatory Industries

Committee

Amendment Barcode (if applicable)

Name Kate Macfall

Phone 850 508-1001

Address 1206 Walter Dr.

Street

Email kmacfall@humane.org

Tallahassee

City

FL

State

32312

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:

Humane Society of the United States

☐

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

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

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S-001 (08/10/2021)

1/11/2022

Meeting Date

Regulated Industries

Committee

Name Lorena Holley

Address 227 S. Adams Street

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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994 Pet Protection

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850.222.4082

Email lorena@frf.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 Retail Federation



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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

Phone

Address

Street

Email

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:

Free Florida

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

January 11, 2022

Meeting Date

994

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name Mark Jeffries

Phone 407-836-5909

Address 201 S. Rosalind Ave
Street

Email mark.jeffries@ocfl.net

Orlando
City

FL
State

32801
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:

Orange County Government

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

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

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S-001 (08/10/2021)

1/11/22

Meeting Date

The Florida Senate

APPEARANCE RECORD

SB 994

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

JEFF SCALA

Phone

(727) 637-4081

Address

100 S Monroe Street

Email

jscala@fl-counties.com

Street

Tallahassee

FL

32302

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:

Florida Association of Counties

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)

The Florida Senate

APPEARANCE RECORD

994

1/11/2022

Meeting Date

Deliver both copies of this form to
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Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name

Jorge Chamizo

Phone

(850) 681-0024

Address

108 South Monroe Street

Email

jorge@flapartners.com

Street

Tallahassee, FL 32301

City

State

Zip

Speaking:

☒

For

☐

Against

☒

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Petland, Inc.

☐

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)

The Florida Senate

APPEARANCE RECORD

994

Bill Number or Topic

Jul 22

Meeting Date

Deliver both copies of this form to
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Regulated industries

Committee

Amendment Barcode (if applicable)

Name Lindsay Cross

Phone 727-642-1563

Address 1700 N. Monroe #11-286

Email lindsay@fcvoters.org

Street

Tally FL 32303

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Florida conservation voters

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

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

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S-001 (08/10/2021)

1/11/22

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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994

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Adam Basford**

Phone **850-224-7173**

Address **516 N Adams**

Email **abasford@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ 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

SB 994

1/11/22

Meeting Date

Bill Number or Topic

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

Regulated Industries
Committee

Amendment Barcode (if applicable)

Name Manny Reyes

Phone 305-282-9199

Address 118 N. Monroe St #321
Street

Email Manny@PereiraReyes.com

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:

ASPCA

☐ 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
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 996

INTRODUCER: Regulated Industries Committee and Senator Diaz

SUBJECT: Fees/Pet Store License

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 996 requires an initial or renewal application to the Department of Business and Professional Regulation (DBPR) for a retail pet store license to be accompanied by a nonrefundable license fee not to exceed \$25 per licensed location. The bill is linked to CS/SB 994, Pet Protection, by Senators Diaz and Powell, which is separately analyzed, and regulates:

- Retail pet stores that offer or sell domestic dogs or cats (pets) to the public; and
- Animal rescue organizations and animal shelters.

See Section V, Fiscal Impact Statement.

The bill is linked to CS/SB 994 creating part XVII of ch. 468, F.S., relating to Retail Pet Stores, which may be cited as the “Florida Pet Protection Act” (act). The act regulates retail pet stores that sell or offer to sell domestic dogs or cats (pets) to the public, and animal rescue organizations and animal shelters.

The bill is effective on the same date that CS/SB 994 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

The regulation in Florida law of retail pet stores and the sale of dogs and cats is limited, and no state licensing is required under current law to engage in such activities.

A number of local governments in Florida have adopted ordinances to regulate the operations of pet stores in their jurisdictions. The Hillsborough County Commission (commission) addressed perceived abuses at pet stores in that jurisdiction by enacting retail sale regulations for pet shops,¹ including requiring an adoption-based business model for the operation of new pet shops.²

III. Effect of Proposed Changes:

This bill is linked to CS/SB 994, Pet Protection, by Senators Diaz and Powell, which is separately analyzed, and regulates:

- Retail pet stores that offer or sell domestic dogs or cats (pets) to the public; and
- Animal rescue organizations and animal shelters.

This bill amends new subsection (5) of s. 468.905, F.S., created in CS/SB 994, to require an initial or renewal application to the DBPR for a retail pet store license for a pet store regulated under CS/SB 994 to be accompanied by a nonrefundable license fee not to exceed \$25 for each licensed location.

CS/SB 996 is effective on the same date that CS/SB 994 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ See the Hillsborough County Code of Ordinances, Part A, Ch. 6, Art. II, s. 6-20, for the definition of pet shop, detailing the requirements for an “existing” pet shop entitled to grandfather privileges, at [ARTICLE II. - ANIMAL CONTROL | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#), and s. 6-61, for the elimination of such grandfather privilege in certain circumstances, at [Sec. 6-61. - Elimination of grandfather privilege for existing pet shops and providing for certain regulations. | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#) (last visited Jan. 3, 2022).

² *Id.*, see the Hillsborough County Code of Ordinances, Part A, s. 6-63, Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops, at [Sec. 6-63. - Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops. | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#).

D. State Tax or Fee Increases:

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

For purposes of this limitation the term “fee” is defined, in pertinent part, to mean any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

This bill requires an initial or renewal application for a retail pet store license for a retail pet store regulated under CS/SB 994 to be accompanied by a nonrefundable license fee not to exceed \$25 for each licensed location. The term “retail pet store” does not include animal rescue organizations, animal shelters, or breeders selling to the public household pets bred on the breeder’s premises.

Because the DBPR does not have authority to impose such licensing fees under current law, the provisions of Section 19, Art. VII of the State Constitution appear to apply, requiring this legislation to be approved by a 2/3 vote of each house of the legislature.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Under the bill, each licensed location of a retail pet store subject to the regulations set forth in the bill must pay a nonrefundable initial or renewal application fee. Such fees may not exceed \$25 per licensed location.

C. Government Sector Impact:

According to the DBPR, the license fees may not be adequate to cover the cost of the retail pet store licensing program. The DBPR notes:

Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the linked bill [SB 994]. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing

program to extrapolate projected expenses. Revenue would be 500 times \$25 or \$12,500. The department in the linked bill [SB 994] is required to inspect the pet stores and one Environmental Health Specialist FTE will be necessary for inspections. The cost for this FTE is anticipated to be \$86,721 (\$59,862 recurring).³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 468.905 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Regulated Industries on January 11, 2022:

The CS provides that pet store license fees be deposited into the Department of Business Regulation's Professional Regulation Trust Fund, and inserts the bill number for the linked bill, CS/SB 994, Pet Protection, into the bill.

B. Amendments:

None.

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

³ See 2022 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 996, Dec. 15, 2021 (on file with Senate Committee on Regulated Industries) at page 5.



660938

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Diaz) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 17 - 18

and insert:

Section 2. Section 468.917, Florida Statutes, as created by SB 994, 2022 Regular Session, is amended to read:

468.917 Deposit of funds.—All moneys collected by the department under this part from licensure fees or civil penalties must be deposited into the department's Professional Regulation Trust Fund for use by the department for



660938

administration of this part.

Section 3. This act shall take effect on the same date that
SB 994 or similar legislation takes effect, if such legislation

==== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 11

and insert:

Florida Statutes, as created by SB 994, 2022 Regular Session, to

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

And the title is amended as follows:

Between lines 5 and 6

insert:

amending s. 468.917, F.S.; requiring the moneys
collected from such license fees to be deposited into
the Department of Business and Professional
Regulation's Professional Regulation Trust Fund;

By Senator Diaz

36-01006-22

2022996__

1 A bill to be entitled
2 An act relating to fees; amending s. 468.905, F.S.;
3 requiring an initial or renewal pet store license
4 application to be accompanied by a specified
5 nonrefundable license fee per licensed location;
6 providing a contingent effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (5) is added to section 468.905,
11 Florida Statutes, as created by SB ___, 2022 Regular Session, to
12 read:
13 468.905 Licensure of retail pet stores.-
14 (5) An initial or renewal application for a retail pet
15 store license must be accompanied by a nonrefundable license fee
16 not to exceed \$25 per licensed location.
17 Section 2. This act shall take effect on the same date that
18 SB ___ or similar legislation takes effect, if such legislation
19 is adopted in the same legislative session or an extension
20 thereof and becomes a law.



SENATOR MANNY DIAZ, JR.
36th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

December 14, 2021

Honorable Senator Travis Hutson
Chair
Committee on Regulated Industries

Honorable Chair Hutson,

I respectfully request Senate Bill Number 996 Fees/Pet Store License be placed on the next committee agenda.

This bill aims to require an initial or renewal pet store license application to be accompanied by a specified nonrefundable license fee per licensed location, etc.

Sincerely appreciate your support,

A handwritten signature in blue ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant
Hunter Clary, Legislative Assistant

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

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Page 2



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 996</u>
BILL TITLE:	<u>Fees/Pet Store License</u>
BILL SPONSOR:	<u>Sen. Diaz</u>
EFFECTIVE DATE:	<u>On the same date that SB 994 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Community Affairs
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	SB 994 (linked), HB 849 (compare)
SPONSOR:	Sen. Diaz, Rep. Fernandez-Barquin

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	December 15, 2021
LEAD AGENCY ANALYST:	Renee Alsobrook, Deputy Director, Division of Professions
ADDITIONAL ANALYST(S):	Darrell Garvey, OGC Rules Tracy Dixon, Service Operations Robin Jordan, Technology

LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill provides for a nonrefundable \$25 license fees for the initial or renewal pet store license.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently there is no license for pet stores and no license or renewal license fee.

2. EFFECT OF THE BILL:

Section 1

The bill will create a nonrefundable initial fee or renewal licensee fee for a pet store license if legislation creates the pet store license.

Section 2

The bill takes effect on the same date that legislation creating the pet store license becomes law.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

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

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

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

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Click or tap here to enter text.
--------	----------------------------------

Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

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

Y ☒ N ☐

Revenues:	The bill provides for a \$25 license fee for pet store initial and renewal license.
Expenditures:	The department will have expenditures processing applications for pet store licenses.
Does the legislation contain a State Government appropriation?	There is no appropriation in the bill.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Pet stores will have to pay \$25 for an initial pet store license and \$25 for the renewal of the pet store license.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☒ N ☐

If yes, explain impact.	The bill requires a \$25 license fee for initial or renewal pet store license.
Bill Section Number:	Section 1

TECHNOLOGY IMPACT

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

Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>Versa and Onbase will have to be updated for the new license type and payment.</p> <p>** Division of Technology Comments**</p> <p>Modification will be required to Versa: Regulation, Versa: Online, OnBase document management system, and the Interactive Voice Response (IVR) system to add a new license category and transactions for licensure of pet stores. It will also require modification to the iPad inspection application and an Environmental Health Specialist FTE which is discussed in the analysis of linked bill SB 994.</p>
--	---

FEDERAL IMPACT

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

Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

ADDITIONAL COMMENTS

The fee as set forth in the bill may not be adequate to cover the cost of the pet store licensing program. Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the linked bill. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses. Revenue would be 500 times \$25 or \$12,500. The department in the linked bill is required to inspect the pet stores and one Environmental Health Specialist FTE will be necessary for inspections. The cost for this FTE is anticipated to be \$86,721 (\$59,862 recurring).

Rulemaking authority for the fee would be required as the linked bill provides for rulemaking for "standards and procedures for the licensure of retail pet stores consistent with this act but not a fee. An applicant for a retail pet store license must apply to the department on a form prescribed by the department for each premises." SB 994, Section 4

OGC Rules: No Additional Comments.

DSO: There will be a minimal impact to the division which can be accommodated with existing resources.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
---------------------------	----------------------------------

The Florida Senate

APPEARANCE RECORD

996

1/11/22

Meeting Date

Regulated Industries

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Adam Basford**

Phone **850-224-7173**

Address **516 N Adams**

Email **abasford@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ 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.

5-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 1024

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Renewable Energy Generation

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon _____	Imhof _____	RI _____	Fav/CS _____
2.	_____	_____	CA _____	_____
3.	_____	_____	RC _____	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1024 amends s. 163.04, F.S., relating to energy devices based on renewable resources, to allow governing entities with a deed restriction, covenant, declaration, or similar binding agreement affecting the alteration of residential dwellings or condominiums to prohibit the installation of solar collectors in locations outside of specifically designated parameters.

The bill also amends s. 366.91, F.S., relating to renewable energy, requiring the Public Service Commission (PSC) to revise its rules on net metering of customer renewable generation.

Under the bill, the PSC must propose a revised net metering rule by January 1, 2023, meeting the following criteria:

- Rate structures and billing must ensure that customers owning or leasing renewable generation systems pay the full cost of electric service and are not subsidized by the general body of ratepayers;
- All energy delivered by the public utility must be purchased at the applicable retail rate;
- All energy delivered by a customer generation system to the public utility must be credited to the customer at the public utility's full avoided cost; and
- Net metering billing may include fixed charges, base facilities charges, electric grid access fees, or monthly minimum bills, to ensure that the public utility recovers the fixed costs of serving those customers and that the general body of ratepayers does not subsidize customer renewable generation systems.

The bill allows customers who own or lease renewable generation systems before January 1, 2023, to continue under the existing net metering rate design and rates for ten years. This provision also applies to customers who purchase or lease real property with renewable generation systems installed for all or part of the ten-year period.

Under the bill, the PSC must require a public utility requesting a change in base rates to report the net metering impact on the public utility's revenue and cost of service.

The bill is effective July 1, 2022.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.¹ The role of the PSC is to ensure that Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, reasonable, and reliable manner.² In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: (1) Rate or economic regulation; (2) Market competition oversight; and/or (3) Monitoring of safety, reliability, and service issues.³

Public Utilities

A public utility includes any person or legal entity supplying electricity or gas, including natural, manufactured, or similar gaseous substance, to or for the public within the state.⁴ The term does not include municipal electric utilities and rural electric cooperatives.⁵ Therefore, the PSC does not regulate the rates of publicly owned municipal or cooperative electric utilities.⁶

There are five investor-owned electric utility companies (IOU) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), Gulf Power Company (Gulf), and Florida Public Utilities Corporation.⁷ IOU rates and revenues are regulated by the PSC.⁸ These utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.⁹

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. To fulfill that obligation, public utilities monitor customer usage patterns in order to plan for future

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *The PSC's Role*, <http://www.psc.state.fl.us> (last visited Jan. 9, 2022).

³ *Id.*

⁴ Section 366.02(1), F.S.

⁵ *Id.*

⁶ See PSC, *Florida PSC 2020 Annual Report*, p. 13, available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Annualreports/2020.pdf> (last visited Jan. 9, 2022).

⁷ *Id.* FPL acquired Gulf in 2019 and merged as of January 3, 2022.

⁸ Florida Department of Agriculture and Consumer Services, *Electric Utilities*, <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities> (last visited Jan. 10, 2022).

⁹ PSC, *2020 Annual Report*, *supra* at n. 6, p. 6.

energy needs. Utilities use billing data to predict and make investments in their infrastructure.¹⁰ Section 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.¹¹

Renewable Energy

Section 377.803, F.S., defines “renewable energy” to mean “electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, as defined in s. 366.91, F.S., solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power.”

Section 366.91, F.S.,¹² requires utilities whose annual sales are greater than 2,000 gigawatt hours, to continuously offer a purchase contract to renewable energy producers, containing payment provisions for energy and capacity,¹³ based on the utility’s full avoided costs,¹⁴ for a minimum of ten years.¹⁵

Public Utility Regulatory Policies Act (PURPA)

In 1978, the federal government enacted the Public Utility Regulatory Policies Act (PURPA),¹⁶ which required promotion of energy efficiency and use of renewables. The act required utilities to purchase power from “qualifying facilities,”¹⁷ which fall into two categories: qualifying small power production facilities and qualifying cogeneration facilities.¹⁸ The PURPA directed the Federal Energy Regulatory Commission to implement the provisions, which in turn, directed the states to implement the provisions. In response, the Florida Legislature created s. 366.051, F.S.,¹⁹ directing the utilities to purchase power from the cogenerators or small power producers.

Full Avoided Costs

A utility’s full avoided cost is the incremental costs of electric energy or capacity, which, but for the purchase from cogenerators or small power producers, the utility would have to generate itself or purchase from another source.²⁰ Traditionally, the PSC has approved electric utilities power purchase contracts that include provisions for payment, capacity, and energy based upon either the utility’s cost to construct and operate its next planned generating unit or the cost of

¹⁰ PSC, *Bill Analysis for SB 1024* (Dec. 20, 2021) p. 2 (on file with the Senate Committee on Regulated Industries).

¹¹ *Id.*

¹² Originally enacted by Chapter 2005-259, s. 1, Laws of Fla.

¹³ Capacity is the maximum electric output, in megawatts, that an electricity generator can produce under ideal conditions. See U.S. Energy Information Administration, *What is the difference between electricity generation capacity and electricity generation?* <https://www.eia.gov/tools/faqs/faq.php?id=101&t=3> (last visited Jan. 9, 2022).

¹⁴ See “Full avoided Costs,” on p. 3.

¹⁵ Section 366.91, F.S.

¹⁶ 16 U.S.C. s. 2601 et seq.

¹⁷ Federal Energy Regulatory Commission, *PURPA Qualifying Facilities*, <https://www.ferc.gov/qf> (last visited Jan. 9, 2022).

¹⁸ *Id.*

¹⁹ Chapter 89-292, s. 4, Laws of Fla.

²⁰ Section 366.051, F.S.

purchasing capacity and energy from generating units owned by other utilities in the interchange market.²¹

The utility's full avoided costs and the utility's as-available tariff rate are not the same. Full avoided costs can include capacity and energy avoided costs, while the as-available rate only includes avoided energy costs, which is largely fuel.²²

Customer-Owned Renewable Energy Generation Systems

Customer-owned renewable energy generation systems, primarily solar systems in Florida,²³ allow customers to generate their own electricity.²⁴ It is defined as an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy.²⁵

Interconnection²⁶ with the electric grid allows customers to reliably power their homes even when the sun is not shining.²⁷ When a customer-owned system generates more electricity than needed, the electricity flows onto the electric grid for distribution to another customer and the generating customer receives a credit toward future usage from the utility.²⁸ Utilities are federally required to purchase excess power from small renewable energy generators.²⁹

Utility customers primarily benefit from interconnected renewable generation systems through personal use and reducing the amount of electricity they purchase from the utility.³⁰ In turn, this effectively lowers the demand for electricity that the utility must meet for these customers.³¹

Net Metering

Net metering is a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.³² Under net metering, customers are credited for excess energy produced which flows back to the grid. A

²¹ Florida Public Service Commission, *States' Electric Restructuring Activities Update: Wholesale Sales* <http://www.psc.state.fl.us/Publications/ElectricRestructuringDetails#4> (last visited Jan. 9, 2022).

²² PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.

²³ PSC, *Interconnection and Net Metering of Customer-Owned Renewable Generation 2020*, available at <http://www.floridapsc.com/Files/PDF/Utilities/Electricgas/CustomerRenewable/2020/2020%20Net%20Metering%20Summary%20Spreadsheet/2020%20Net%20Metering%20Report.pdf#search=Interconnection%20and%20Net%20Metering%20of%20Customer-Owned%20Renewable%20Generation> (last visited Jan. 9, 2022).

²⁴ U.S. Department of Energy, *Grid-Connected Renewable Energy Systems*, <https://www.energy.gov/energysaver/grid-connected-renewable-energy-systems> (last visited Jan. 9, 2022).

²⁵ Section 366.91, F.S.

²⁶ "Interconnection is defined as the technical procedures and legal requirements surrounding energy customers' ability to connect their small-scale renewable energy projects to the electricity grid. U.S. Department of Energy, *Renewable Energy: Distributed Generation Policies and Programs*, <https://www.energy.gov/eere/slsc/renewable-energy-distributed-generation-policies-and-programs> (last visited Jan. 9, 2022).

²⁷ USDE, *Grid-Connected Renewable Energy Systems*, *supra* at n. 24.

²⁸ *Id.*

²⁹ *Id.*

³⁰ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 1.

³¹ *Id.*

³² Section 366.91, F.S.

meter is used to record both electricity drawn from the grid and excess electricity that flows to the grid from the customer-owned system.³³

Florida's net metering rule was established in 2008 requiring IOUs to offer a standardized interconnection agreement for expedited interconnection and net metering of customer-owned renewable generation up to two megawatts.³⁴ The rule's purpose is to:

Promote the development of small customer-owned renewable generation, particularly solar and wind energy systems; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on fossil fuels for the production of electricity; minimize the volatility of fuel costs; encourage investment in the state; improve environmental conditions; and, at the same time, minimize costs of power supply to investor-owned utilities and their customers.³⁵

Under the rule, customers are categorized into tiers, with varying requirements, based on system capacity:³⁶

- Tier 1 Systems, have a capacity of 10 kilowatts or less; there is no application fee, no interconnection study requirement, no insurance requirement, and no manual disconnect switch requirement.
- Tier 2 Systems, have a capacity greater than 10 kilowatts and less than 100 kilowatts; there is an application fee if approved by the PSC, no interconnection study requirement, a \$1 million insurance requirement, and a manual disconnect switch requirement.
- Tier 3 Systems, are greater than 100 kilowatts and less than 2 megawatts; there is an application fee if approved by the PSC, an interconnection study may be required, a \$2 million insurance requirement, and a manual disconnect switch requirement.

All electric utilities, as defined in s. 366.02(2), F.S., must annually report the total:

- Number of customer-owned renewable generation interconnections;
- Kilowatt capacity of the interconnections;
- Kilowatt hours received by interconnected customers from the utility;
- Kilowatt hours received by the utility from the interconnected customers;
- Energy payments made to interconnected customers energy generation delivered to the utility for the previous calendar year; and
- Energy payments made since the implementation of the net metering rule.³⁷

In 2008, there were 577 customer-owned renewable generation interconnections.³⁸ As of December 31, 2020, Florida electric utilities reported a total of 90,552 interconnections, of which 90,518 were solar; and 71,567 interconnections were for IOU customers, of which 71,541 were solar.³⁹ Less than one percent of Florida's electric customers have installed renewable generation

³³ USDE, *Grid-Connected Renewable Energy Systems*, *supra* at n. 24.

³⁴ Fla. Admin. Code R. 25-6.065(3).

³⁵ Fla. Admin. Code R. 25-6.065(1).

³⁶ Fla. Admin. Code R. 25-6.065(4).

³⁷ Fla. Admin. Code R. 25-6.065(10).

³⁸ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.

³⁹ PSC, 2020 *Interconnection and Net Metering Report*, *supra* at n. 23.

equipment as of the 2020 Report.⁴⁰ In comparison, there were 10,504,960 electric utility customers in Florida, as of January 1, 2021.⁴¹

Net Metering Billing

When net metering customers generate excess energy that is delivered to the IOU's grid, they receive an excess energy credit toward their energy consumption for the next month's billing cycle.⁴² The value of the excess energy is equivalent to the utility's retail rate that includes the cost of generation, transmission, distribution, fuel, operating and maintenance expenses and other costs⁴³. Excess energy credits may be carried over to credit energy usage in subsequent months, but not for more than twelve months.⁴⁴ At the end of each calendar year, the IOU pays the customer for any unused excess energy credits at an average annual rate based on the "IOU's as-available energy tariff."⁴⁵ "The utility's full avoided costs and the utility's as-available tariff rate are not the same. "Full avoided costs" can include capacity and energy avoided costs, while the "as-available rate" only includes avoided energy costs, which is largely fuel."⁴⁶

Net metering customers still receive a monthly bill, regardless of their energy usage from the grid.⁴⁷ Net metering customers must pay any applicable customer charge and the applicable demand charge.⁴⁸ This may include a fixed monthly customer charge, a base facility charge, volumetric rates for cents per kilowatt hour based on the customer's energy consumption, or demand rates based upon the maximum kilowatt demand in a monthly billing cycle.⁴⁹

PSC Workshop on Net Metering

On September 17, 2020, the PSC held an informational workshop on customer-owned renewable generation, for the purpose of evaluating the effect of the current net metering policy. The

⁴⁰ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 3.

⁴¹ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 3 citing PSC, *Review of 2021 Ten-year Site Plans of Florida's Electric Utilities*, p.13, available at <http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2021/Review.pdf> (last visited Jan. 9, 2022).

⁴² Fla. Admin. Code R. 25-6.065(8)(e).

⁴³ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.

⁴⁴ Fla. Admin. Code R. 25-6.065(8)(f).

⁴⁵ *Id.* According to the PSC, as-available energy is purchased by the utility at a rate, in cents per kilowatt-hour, not to exceed the utility's avoided energy cost.

⁴⁶ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.

⁴⁷ Fla. Admin. Code R. 25-6.065(8)(h).

⁴⁸ *Id.*

⁴⁹ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 2.

workshop included presentations by PSC staff,⁵⁰ Vote Solar,⁵¹ Southern Alliance for Clean Energy,⁵² Florida Solar Energy Industries Association,⁵³ and Florida Sunrun.⁵⁴

Net Metering Customer Demographics

The following demographic information has been identified by FPL and Gulf,⁵⁵ respectively, among their net metered customers:

- Average Age: 54 years and 47 years.
- Percentage of Homeowners: 96% and 80%.
- Average Length of time in their Residence: 12 years and 9 years.
- Household Income greater than \$50,000: 67% and 59%.
- Household Income greater than \$100,000: 34% and 22%.⁵⁶

Cross-Subsidization

Concerns of cross-subsidization of net metered customers by non-net metered customers have been raised before the PSC.⁵⁷ Questions relate to the components of the utility's cost of service that are offset by energy generated by net metered customers.⁵⁸ These questions are partly based on net metered customers purchasing less energy from the grid,⁵⁹ because a utility is statutorily entitled to recoup its "honestly and prudently invested costs of providing electric service to its customers," regardless of customer use patterns.⁶⁰

There is disagreement among stakeholders as to the question of cross-subsidization and how to quantify it. Notably, the Solar Energy Industries Association states that "[s]ome level of cross-subsidization is inherent in all rate designs, particularly for large diverse classes of ratepayers an independent finding of a material cost shift should be required before regulators authorize substantial changes to rates or rate design."⁶¹

⁵⁰ Matthew A. Vogel, PSC Office of Industry Development and Market Analysis, *Staff Presentation Workshop on Customer-owned Renewable Generation* (September 17, 2020) available at <http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/PSC.pdf> (last visited Jan. 9, 2022).

⁵¹ Vote Solar, *The State of Rooftop Solar in Florida* (September 2020) available at <http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/VoteSolar.pdf> (last visited Jan. 9, 2022).

⁵² Bryan Jacob, *Southern Alliance for Clean Energy Comments on Net Metering* (September 17, 2020) available at <http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/SACE.pdf> (last visited Jan. 9, 2022).

⁵³ Justin Hoysradt, Florida Solar Energy Industries Association, *Net-Metering Powers Job Growth*, available at <http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/FSEIA.pdf> (last visited Jan. 9, 2022).

⁵⁴ Florida Sunrun, *NEM is working for the Sunshine State* (September 2020) available at <http://www.psc.state.fl.us/Files/PDF/Utilities/RenewableGenerationWorkshop/FloridaSunrun.pdf> (last visited Jan. 9, 2022).

⁵⁵ Now merged.

⁵⁶ FPL, *FPL and Gulf Post-Workshop Comments*, p. 6, available at <https://www.floridapsc.com/Files/PDF/Utilities/RenewableGenerationWorkshop/FPLGulfPostWorkshop.pdf> (last visited Jan. 9, 2022).

⁵⁷ PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 4.

⁵⁸ *Id.* "For example, questions have been raised as to whether the excess energy offsets the utility's cost of power plants, given that power plants must be available to meet a renewable energy customer's electric needs when their systems are not operating or when their demand exceeds the capability of their renewable energy system." *Id.*

⁵⁹ *Id.*

⁶⁰ Section 366.06, F.S.; PSC, *SB 1024 Analysis*, *supra* at n. 10, p. 4.

⁶¹ See Solar Energy Industries Association, *Principles for the Evolution of Net Energy Metering and Rate Design*, available at <https://www.seia.org/initiatives/principles-evolution-net-energy-metering-and-rate-design> (last visited Jan. 9, 2022).

According to Vote Solar, Florida's current level of solar adoption results in a negligible impact on customer rates.⁶² Projections for cross subsidization among the general body of ratepayers for four of Florida's IOUs result in estimates of a cumulative cross-subsidy of over \$700 million by 2025.⁶³

Energy Devices Based on Renewable Resources

Current law expressly prohibits ordinances by governing bodies which prohibit the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.⁶⁴ Deed restrictions, covenants, declarations, or similar binding agreements may not prohibit such devices from being installed on buildings erected on the lots or parcels covered by binding agreements.⁶⁵ However, governing entities may determine the specific location of solar collectors installed on roofs, within an orientation to the south or within 45° east or west of due south, so long as it does not impair the devices effective operation.⁶⁶ These provisions are intended to encourage the development and use of renewable resources and prevent the adoption of measures that ultimately drive up the costs of owning and operating commercial or residential property.⁶⁷

III. Effect of Proposed Changes:

Section 1 amends s. 163.04, F.S., relating to energy devices based on renewable resources, to allow governing entities with a deed restriction, covenant, declaration, or similar binding agreement affecting the alteration of residential dwellings or within the boundaries of a condominium unit to prohibit the installation of solar collectors in locations outside of specifically designated parameters.

Section 2 amends the legislative findings, under s. 366.91, F.S., relating to renewable energy, to state that:

- The continued development of renewable energy resources in a fair and equitable manner to all public utility customers is in the public interest.
- A net metering rule redesign is supported by the development and maturity of the industry, the decline in solar panel costs, and increased customer-owned/leased renewable generation.
- Customer owned/leased renewable generation is not available to public utility customers lacking financial resources or otherwise residing in multitenant buildings.
- The industry's growth has resulted in increased cross-subsidization of electric service costs onto the general body of ratepayers.
- The redesigned net metering rate structures must ensure that customers who own or lease renewable generation pay the full cost service.

The bill requires the PSC to propose a revised net metering rule by January 1, 2023. The revised rule must meet the following criteria:

⁶² See *Vote Solar Post Workshop Comment*.

⁶³ *FPL and Gulf Post-Workshop Comments*, *supra* at n. 50, p. 7.

⁶⁴ Section 163.04(1), F.S.

⁶⁵ Section 163.04 (2), F.S.

⁶⁶ *Id.*

⁶⁷ Section 163.04(4), F.S.

- Rate structures and billing must ensure that customers owning or leasing renewable generation pay the full cost of electric service and are not subsidized by the general body of ratepayers.
- Ensure that all energy delivered by the public utility is purchased at the applicable retail rate.
- Ensure that all energy delivered by customer generation to the public utility is credited to the customer at the public utility's full avoided cost.
- Net metering may include fixed charges, base facilities charges, electric grid access fees, or monthly minimum bills, to ensure that the public utility recovers the fixed costs of serving those customers and that the general body of ratepayers does not subsidize customer renewable generation.

The bill allows customers who own or lease renewable generation before January 1, 2023, to continue under the existing net metering rate design and rates for ten years from that date. This provision also applies to customers who purchase or lease real property with renewable generation systems installed for all or part of the ten-year period.

Under the bill, the PSC must require a public utility requesting a change in base rates under s. 366.06, F.S., to report the net metering impact on the public utility's revenue and cost of service.

Section 3 provides that the bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

There may be an indeterminate impact on the solar installation and manufacturing industry if fewer customers purchase rooftop solar as a result of the redesigned net metering rate structure.⁶⁸

Decreasing the credit amount from the retail rate to the full avoided cost may impact a customer's decision to install a renewable generation system.⁶⁹ The average full life of renewable energy generating equipment is approximately 20 years.⁷⁰ Customers who have already installed systems under the current net metering rule may find that they will have a lower return on their investment than initially predicted.⁷¹

Decreasing the credit amount from retail to the full avoided cost may have a positive impact on the IOUs, where projections of the cumulative cross-subsidy to be absorbed by non-net metered customers of FPL, Gulf, TECO, and Duke for 2020 through 2025 total \$719 million.⁷²

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 366.91 and 163.04 of the Florida Statutes.

⁶⁸ PSC, *SB 1024 Analysis*, *supra* at n. 10 p. 5.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *FPL and Gulf Post-Workshop Comments*, *supra* at n. 50, p. 7.

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 Regulated Industries Committee on January 11, 2022:

The committee substitute amends s. 163.04(3), F.S. to allow governing entities with a deed restriction, covenant, declaration, or similar binding agreement affecting the alteration of residential dwellings or within the boundaries of a condominium unit to prohibit the installation of solar collectors in locations outside of the parameters specified in s. 163.04(2)(a), F.S.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment (with title amendment)

Before line 18
insert:

Section 1. Subsection (2) of section 163.04, Florida
Statutes, is amended to read:

163.04 Energy devices based on renewable resources.—
(2) A deed restriction, covenant, declaration, or similar
binding agreement may not prohibit or have the effect of
prohibiting solar collectors, clotheslines, or other energy



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devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement. A property owner may not be denied permission to install solar collectors or other energy devices by any entity granted the power or right in any deed restriction, covenant, declaration, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings and within the boundaries of a condominium unit. Such entity may:

(a) Determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45 degrees ~~45°~~ east or west of due south if such determination does not impair the effective operation of the solar collectors; and

(b) Prohibit the installation of solar collectors in locations beyond the parameters specified in paragraph (a).

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to renewable energy generation;
amending s. 163.04, F.S.; authorizing certain entities
to prohibit the installation of solar collectors under
certain circumstances; amending s. 366.91,

By Senator Bradley

5-00845-22

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A bill to be entitled

An act relating to net metering; amending s. 366.91, F.S.; revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time; providing applicability; requiring certain public utilities to provide a specified report to the commission; providing an effective date.

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

Section 1. Present subsections (6) through (9) of section 366.91, Florida Statutes, are redesignated as subsections (7) through (10), respectively, a new subsection (6) is added to that section, and subsection (1) and present subsection (7) of that section are amended, to read:

366.91 Renewable energy.—

(1) The Legislature finds that:

(a) It is in the public interest to continue promote the development of renewable energy resources in this state in a manner that is fair and equitable to all public utility customers. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on

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natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. The development and maturation of the solar energy industry, the substantial decline in the cost of solar panels, and the increase in customer-owned and -leased renewable generation support the redesign of net metering by the commission.

(b) Customer-owned and -leased renewable generation are not available to many public utility customers who lack the financial resources to purchase or lease rooftop solar panels or who reside in multitenant buildings. The substantial growth of customer-owned and -leased renewable generation has resulted in increased cross-subsidization of the full cost of electric service onto the public utility's general body of ratepayers. Therefore, the redesigned net metering rate structures required in paragraph (6) (a) must ensure that public utility customers who own or lease renewable generation pay the full cost of electric service and are not cross-subsidized by the public utility's general body of ratepayers.

(6) (a) On or before January 1, 2023, the commission shall propose a revised net metering rule that complies with the following criteria:

1. The net metering rate structures and billing must ensure that public utility customers owning or leasing renewable generation pay the full cost of electric service and are not subsidized by the public utility's general body of ratepayers.

2. The net metering must ensure that all energy delivered by the public utility is purchased at the public utility's

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applicable retail rate and that all energy delivered by the customer-owned or -leased renewable generation to the public utility is credited to the customer at the public utility's full avoided costs.

3. The net metering may include fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills, to help ensure that the public utility recovers the fixed costs of serving customers who engage in net metering and that the general body of public utility ratepayers does not subsidize customer-owned or -leased renewable generation.

(b) Any public utility customer who owns or leases renewable generation that is in service before January 1, 2023, pursuant to a standard interconnection agreement offered by a public utility, shall be granted 10 years to continue to use the net metering rate design and rates that applied before the revised net metering rule was adopted under paragraph (a). This paragraph applies to customers who purchase or lease real property upon which customer-owned or -leased renewable generation is installed for all or part of that 10-year period.

(c) The commission shall require a public utility requesting a change in base rates under s. 366.06 to report to the commission the impact of net metering on the public utility's revenues and cost of service.

~~(8)(7)~~ Under the provisions of subsections (5) and ~~(7)~~ ~~(6)~~, when a utility purchases power generated from biogas produced by the anaerobic digestion of agricultural waste, including food waste or other agricultural byproducts, net metering shall be available at a single metering point or as a part of conjunctive billing of multiple points for a customer at a single location,

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20221024

so long as the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers, as determined by the commission for public utilities, or as determined by the governing authority of the municipal electric utility or rural electric cooperative that serves at retail.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY

5th District

COMMITTEES:

Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:

Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:

Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

December 14, 2021

Senator Travis Hutson, Chairman
Senate Committee on Regulated Industries
416 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Hutson:

I respectfully request that Senate Bill 1024 be placed on the committee's agenda at your earliest convenience. This bill relates to net metering.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley". The signature is written in a cursive, flowing style.

Jennifer Bradley

cc: Booster Imhof, Staff Director
Susan Datres, Administrative Assistant

REPLY TO:

- ☐ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

Date: December 20, 2021

Agency Affected: Public Service Commission
Program Manager: Kaley Slattery
Agency Contact: Kaley Slattery
Respondent: Katherine Pennington

Telephone: (850) 413-6524
Telephone: (850) 413-6125
Telephone: (850) 413-6125
Telephone: (850) 413-6596

RE: SB 1024 / HB 741

I. SUMMARY:

SB 1024/HB 741 amends Section 366.91, Florida Statutes (F.S.), requiring the Public Service Commission (Commission) to propose revisions to its rules on net metering of customer-owned renewable generation. Those customers who own or lease renewable generation that is in service prior to January 1, 2023, may continue to use the current net metering rate design for ten years. The Commission shall require a public utility requesting a change in base rates to report the impact of net metering on their revenues and cost of service. The bill takes effect July 1, 2022.

II. PRESENT SITUATION:

A utility customer primarily benefits from a renewable generation system, such as rooftop solar, by using the energy generated by the system for their own purposes and reducing electricity purchases from the utility. A renewable generation system is comparable to an energy conservation measure the customer may install such as a more energy efficient heating and air conditioning system, refrigeration, water heating or lighting equipment that may reduce a customer's energy purchases from the utility.

Any excess energy the renewable system produces, but is not consumed at the customers premises, flows to the utility's system. Net metering refers to the billing function of crediting the customer for the excess energy. The Commission's rules on the net metering credit have changed over time.

In 2002, the Commission promulgated Rule 25-6.065, Florida Administrative Code (F.A.C) (Small PV Rule), for the purposes of standardizing and expediting the interconnection of small solar photovoltaic (PV) systems of 10 kilowatts (kW) or less for customers of investor-owned electric utilities (IOUs). The net metering credit was dependent upon the installation of an additional meter by the utility capable of measuring any excess energy produced by a PV system. If an additional meter was installed by the utility, then the value of such excess energy was based on the utility's avoided cost of generating electricity, primarily fuel, and variable operating and maintenance expense. If the utility did not install an additional meter, then any excess energy would reverse the direction of the meter and offset electricity purchased from the utility. Thus, the customer's utility bill would be for less kilowatt-hours of electricity. The value of the excess energy under this provision was equivalent to the utility's retail rate that includes the cost of generation, transmission, distribution, fuel, operating and maintenance expenses, and other costs.

In its 2005 session, the Florida Legislature enacted Section 366.91, F.S., requiring utilities to offer contracts for the purchase of renewable energy. Section 366.91(1), F.S., states:

The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Additionally, Section 366.92, F.S., was created in 2006 to establish renewable energy policy for Florida. Section 366.92(1), F.S., states:

It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.

In 2008, the Legislature created Section 366.91(5) and (6), F.S., requiring all electric utilities to develop standardized interconnection agreements and a net metering program for customer-owned renewable generation systems. Section 366.91, F.S., defines "net metering" as a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.

In 2008, the Commission amended Rule 25-6.065, F.A.C., to expand applicability of the rule to all renewable energy types up to 2 megawatts (MW) in capacity. The Rule establishes a net metering billing mechanism that allows customers to offset their usage through the self-generation of energy, with any excess energy delivered to the utility being applied as a kilowatt-hour (kWh) credit to the customer's monthly energy usage. Thus, the customer's utility bill would be for less kilowatt-hours of electricity. The value of the excess energy under this provision is equivalent to the utility's retail rate that includes the cost of generation, transmission, distribution, fuel, operating and maintenance expenses and other costs. At the end of the calendar year, the IOU pays for any remaining unused excess energy credits at a rate based on the utility's avoided cost of generating electricity, primarily fuel, and variable operating and maintenance expense.

The Rule also requires IOUs to charge customers with renewable generation the applicable rates and charges for the electricity provided by the utility. The customer's applicable rates and charges are dependent upon the rate class under which the customer takes electric service. Rates and charges can include a fixed monthly customer charge or base facility charge, volumetric rates (cents/kWh) based upon consumption, or demand rates (\$/kilowatt) based upon the maximum electric demand in a monthly billing cycle.

Section 366.051, F.S., requires electric utilities to purchase all electricity offered for sale by cogenerators or small power producers at a rate equal to the purchasing utility's "full avoided costs." Full avoided costs are defined as the "incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source." The utility's full avoided costs and the utility's as-available tariff rate are not the same. Full avoided costs can include capacity and energy avoided costs, while the as-available rate only includes avoided energy costs, which is largely fuel.

Electric utilities are by statute obligated to provide adequate service to customers.¹ To fulfill that obligation, electric utilities plan for future customer energy needs by monitoring customers' changing energy usage patterns through billing data. To ensure reliable service, utilities make investments in electric infrastructure based upon forecasts of the future energy needs of customers. The Commission is required by law to allow a utility to recover the prudently incurred costs of investments in infrastructure and operating expenses used to provide electric service. These costs are recovered through rates established by the Commission. Utilities may seek to adjust rates through the Commission's rate setting processes to ensure utilities recover prudently incurred costs.

When the Commission adopted the net metering rule in 2008, there were 577 interconnections of customer-owned renewable generation. As of December 31, 2020, Florida electric utilities reported a total

¹ Section 366.041(2), Florida Statutes

of 90,552 interconnections of customer-owned systems. For comparison purposes, as of January 1, 2021, there were a total of 10,504,960 electric utility customers in Florida.² Less than one percent of Florida electric customers had installed renewable generation equipment as of year-end 2020.

III. EFFECT OF PROPOSED CHANGES:

SB 1024/HB 741 requires the Commission, on or before January 1, 2023, to propose a revised net metering rule that ensures that customers who own or lease renewable generation pay the full cost of electric service and are not subsidized by the general body of ratepayers.

The net metering rate design must be changed from the current kWh for kWh credit for excess energy delivered to the grid, to a credit based upon the public utility's (IOU's) full avoided costs. In addition, the new net metering rate design may include fixed charges, including base facility charges, electric grid access fees, or monthly minimum bills, to help ensure that the utility recovers the fixed costs of serving net metering customers from those customers. The current net metering rule requires any remaining kWh credits at the end of the year to be paid at the utility's as-available energy rate. However, since kWh credits will no longer roll-over into subsequent months under the new design, presumably the requirement to pay for accumulated credits at the end of the calendar year will be obsolete.

The bill states that customers who own or lease renewable generation in service before January 1, 2023, pursuant to a standard interconnection agreement offered by a public utility, shall be granted 10 years to continue to use the net metering rate design and rates that applied before these revisions to the net metering rule. Presumably any customers who enter into an interconnection agreement after January 1, 2023, would take service under the revised net metering rate design.

Lastly, SB 1024/HB 741 requires an IOU requesting a change in base rates under Section 366.06 F.S., to report to the Commission the impact of net metering on the utility's revenues and cost of service.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

(in this section please provide information concerning FTEs. How many positions, if any will be necessary to enact this bill. Also, what specific positions will be needed.)

The cost to the Commission for the rulemaking proceeding required by the bill could be absorbed with existing resources. The impact on other state agencies is not known at this time.

	(FY 19-20) Amount / FTE	(FY 20-21) Amount / FTE	(FY 21-22) Amount / FTE
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None known at this time.

² Review of 2021 Ten-year Site Plans of Florida's Electric Utilities, p.13

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

There may be impact on the solar installation industry if fewer customers purchase rooftop solar as a result of the redesigned net metering rate structure.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

None known at this time.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

None known at this time.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

Parties likely to participate in the rulemaking proceeding held by the Commission to implement the requirements of the bill include IOUs, solar energy, and environmental advocates.

D. Other:

VIII. COMMENTS:

The purpose of customer-owned or leased generation is to offset part or all of a customer's energy usage through self-generation, effectively lowering the demand for electricity that the utility must meet for these customers. As such, these systems serve as a conservation measure. Similar to energy efficiency programs, these systems may result in lower energy consumption from the utility. The questions regarding cross-subsidization that have been presented to the Commission are based in part upon customers with renewable generation purchasing less energy from the utility. There is a question whether a customer that decreases their energy usage, through whatever means, should be considered to be cross-subsidized by the general body of ratepayers. As stated earlier, the Commission must allow a utility to recover its prudently incurred cost of providing electric service regardless of the energy usage patterns of customers.

Questions have also been raised before the Commission as to whether the current net metering credit results in the general body of ratepayers subsidizing customers with renewable generation. There is debate on the components of the utility's cost of service that are offset by the excess energy. For example, questions have been raised as to whether the excess energy offsets the utility's cost of power plants, given that power plants must be available to meet a renewable energy customer's electric needs when their systems are not operating or when their demand exceeds the capability of their renewable energy system.

Most customers who install renewable generation equipment evaluate that investment based

upon the payback period resulting from lower utility bills. Decreasing the credit available for excess energy delivered to the grid may impact that calculation and make the investment in customer-owned generation less attractive, because a credit based upon full avoided cost could be substantially less than the retail rate. In addition, customers who have installed renewable generation taking into consideration the current net metering rate design over the full life of the equipment (approximately 20 years), may now find that their investment is not as cost-effective as they had planned.

Prepared by: Matthew A. Vogel, Jacob Imig

The Florida Senate

APPEARANCE RECORD

1-11-22

Meeting Date

1024

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Barbara DeVane

Phone

850-251-4280

Address

625 E. Brevard St

Email

barbadevane1@yahoo.com

Street

Tallahassee

City

State

FL 32308

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:

FL NOW

☐

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)

APPEARANCE RECORD

1024
Bill Number or Topic

1-11-22

Meeting Date

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Senate professional staff conducting the meetingRegulated Industries
Committee

Amendment Barcode (if applicable)

Name

Barbara Delane

Phone

850-251-4280

Address

425 E. Brevard St

Email

barbaderane1@
Yahoo.com

Street

Tallahassee FL 32308

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: FINOW☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:for FL Alliance
for Retired AmericansBut a volunteer legislative
director for FLARA - speaking against the bill!
No pay for this role.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 \(flsenate.gov\)](#)

APPEARANCE RECORD**SB1024**

Bill Number or Topic

1/11/22

Meeting Date

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Committee

Amendment Barcode (if applicable)

Name JOE MagroPhone 727-804-7290Address 40 Central Ct.Email jmagro@titansolar.com

Street

Tarpon Springs FL 34689

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☒I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

1/11/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

1024

Bill Number or Topic

Regulated Industries

Committee

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Amendment Barcode (if applicable)

Name **Scott Arnold** Phone **(850)439-0035**

Address **302 Town Street** Email **scott@compasssolar.com**
Street

Pensacola **FL** **32505**
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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S-001 (08/10/2021)

APPEARANCE RECORD

S.B. 1024

Bill Number or Topic

January 11, 2022

Meeting Date

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Richard Pinsky

Phone

850-425-1608

Address

201 East Park Ave.

Email

richard.pinsky@aherman.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Solar and Storage Association

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

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1/11/2022

Meeting Date

SB 1624

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Mayor Michael Udine

Phone 954-357-7575

Address 100 S. Andrews Ave.

Street

Email mudine@broward.org

Fort Lauderdale, FL 33301

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:

Broward County Board of County Commissioners

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

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S-001 (08/10/2021)

1/11/22

Meeting Date

Regulated Industries 412 KB

Committee

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **9830 ELM ST**

Street

OCEAN CITY

City

MD

State

21842

Zip

The Florida Senate
APPEARANCE RECORD

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1024

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:

Sierra Club Florida

☐

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

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S-001 (08/10/2021)

The Florida Senate

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1024
Bill Number or Topic

Amendment Barcode (if applicable)

1/11/2022
Meeting Date

Regulated Industries
Committee

Name

Jodi James

Phone

321 890 7302

Address

2613 Larry Ct
Street

Email

jamesflorida@gmail.com

City

Melbourne

State

FL

Zip

32935

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
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S-001 (08/10/2021)

January 11, 2022

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

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SB 1024

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Stephanie Provost - CMO Vision Solar**

Phone **917-843-3412**

Address **600 Fairway Drive, Unit 206**

Email **sprovost@visionsolar.com**

Street

Deerfield Beach

FL

33441

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
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S-001 (08/10/2021)

APPEARANCE RECORD

SB 1024

Meeting Date

Bill Number or Topic

1/11/22
Regulatory IndustriesDeliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

KEVIN DOYLE

Phone

904 806 1714

Address

76 S. WILSON ST #1702

Email

KDOYLE@CONSUMERENERGY

ALLIANCE
ORG.

Street

DAX

FL

32202

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

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S-001 (08/10/2021)

APPEARANCE RECORD

1024

1/11/2022

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name PETE WILKINGPhone 904 472-4806Address 10418 NEW BURLIN RD UNIT 223Email PETE@A1ASOLAR.COM

Street

JACKSONVILLE, FL

City

State

32226

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,
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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1024

Bill Number or Topic

Amendment Barcode (if applicable)

1/10/22

Meeting Date

Reg. Ind

Committee

Name

John Grant

Phone

813-987-9900

Address

10085 Orange Grove Dr.

Street

Tampa, FL

City

State

33618

Zip

Email

john.grant@johngrant.net

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)

APPEARANCE RECORD1/11/2022

Meeting Date

SB 1027

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Michael R. VergonaPhone 561-400-7707Address 990 S Rogers Cir, suite 4Email mike@urbansolar.com

Street

Boca Raton FL33487

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)

APPEARANCE RECORD

SB 1024

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Meeting Date

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Raul M. Vergara

Phone

786-457-5958

Address

8301 SW 184 Lane

Email

Raul@CbSolar.US

Street

Cutler Bay FL

33157

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☒I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

SB 1024
Net Metering
Bill Number or Topic

Meeting Date
Reg Ind
Committee

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

Amendment Barcode (if applicable)

Name Lisa Edgar Phone 850-322-6502

Address Email LisaEdgar1@gmail.com
Street

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Lisa Edgar

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)

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Jan 11 2022

Meeting Date

Regulated Industries

Committee

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Amendment Barcode (if applicable)

Name

William B Johnson

Phone

941 345 7652

Address

3455 W Forest Lake Drive

Email

Bill@Balliantharvest.com

Street

Sarasota

City

FL

State

34232

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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

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S-001 (08/10/2021)

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

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Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Jackson Oberlin

Phone 772-532-1371

Address 1605 Airport Drive

Email jacksonoberlin@gmail.com

Tallahassee FL 32304

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:

CLEO Institute

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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Deliver both copies of this form to
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SB 1024

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Regulated industries

Committee

Name

Cody Rogers

Phone

954-591-6437

Address

1163 Camellia Cir

Email

crogers@cleoinstitute.org

Street

Weston

State

FL

Zip

33326

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:

CLEO institute

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)

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1024

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Regulated Industries

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Adam Basford**

Phone **850-224-7173**

Address **516 N Adams**

Email **abasford@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ 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)

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APPEARANCE RECORD

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

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1024

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

850-321-9386

Address

579 E. Call St.

Email

fcfep@yahoo.com

Street

Tallahassee, FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Florida Center for Fiscal & Economic Policy

☐

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 \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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1024

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Susan Glickman

Phone

727-742-9003

Address

PO Box 310

Email

susan@floridaclinicians.org

Street

Indian Rocks Bch FL 33785

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Clinicians
for Climate Action

☐ 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)

The Florida Senate

APPEARANCE RECORD

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

11/11/22

Meeting Date

Regulated Industries

Committee

SB 1024

Bill Number or Topic

Amendment Barcode (if applicable)

Name Sterling Clifford

Phone 443-854-8800

Address
Street

Email Sterling.Clifford@dundra.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

January 11, 2022

APPEARANCE RECORD

SB 1024

Meeting Date

Bill Number or Topic

Regulated Industries

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

Committee

Amendment Barcode (if applicable)

Name **Josh Aubuchon**

Phone **850.583.2400**

Address **201 E. Park Avenue**
Street

Email **josh@dacfl.com**

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Chamber of Commerce

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

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

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The Florida Senate

APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Bradley Marshall Phone 850 681-0031

Address 300 S. Duval St. Unit 709 Email bmarshall@earthjustice.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

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

sponsored by:

~~Earthjustice~~ Earthjustice

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)

The Florida Senate
APPEARANCE RECORD

1024

Meeting Date

Reg. Industries

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Tyson Grinstead

Phone

1.836.213.3545

Address

1006 Cochetuk Rd

Email

tyson.grinstead@sunrun.com

Street

Columbia

State

SC

Zip

29209

City

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:

Sunrun



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

Sunrun

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)

The Florida Senate

APPEARANCE RECORD

1/11/22

Meeting Date

SB 1024

Bill Number or Topic

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

REGULATED INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name JOSH KEARNS Phone 724-272-4499Address 6201 N. FLORA VISTA AVE Email JosK@cedgreentechse.com
StreetTAMPA
CityFL
State33604
ZipSpeaking: ☐ 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)

The Florida Senate

APPEARANCE RECORD

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SB 1024

Bill Number or Topic

Amendment Barcode (if applicable)

January 11, 2022
Meeting Date
Regulated Industries
Committee

Name Katie Chiles Offenwaller Phone 706.224.8017

Address 838 Barton Woods Rd NE
Street
Atlanta GA 30307
City State Zip

Email Katie@votesolar.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:
Vote Solar

☐ 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)

The Florida Senate

APPEARANCE RECORD

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SB 1024

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

1/11/22
Regulated Industries

Committee

Name

Letitia Harmon

Phone

Address

1010 N Davis St.
Street

Email

Letitia@floridarising.org

City

Jacksonville FL

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:

Florida Rising

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)

The Florida Senate

APPEARANCE RECORD

SB1024

Bill Number or Topic

1/11/22

Meeting Date

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

REGULATED INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name JUSTIN VANDENBROECK Phone 954-658-4531

Address 3016 CHELSEA ST Email JUSTINV@FLASEIA.ORG
Street

ORLANDO FL 32803
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:

FLASEIA

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)

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APPEARANCE RECORD

SB 1024

01/11/2022

Meeting Date

Regulated Industries

Committee

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Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Tiffany Cohen**

Phone **561-694-4526**

Address **700 Universe Blvd.**

Email **tiffany.cohen@fpl.com**

Street

Juno Beach

FL

33408

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:

Florida Power & Light

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

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S-001 (08/10/2021)

1/11/2022

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

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

1024

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jonathan Webber**

Phone **954-593-4449**

Address **1700 N. Monroe St. #11-286**

Email **jwebber@fcvoters.org**

Street

Tallahassee

FL

32303

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Conservation Voters

☐

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)

January 11, 2022

Meeting Date

Regulated Industries

Committee

Name **Walter Liebrich**

Address **2912 Pound 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

SB 1024: Net Metering

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-521-0948**

Email **wliebrich@gmail.com**

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/11/22

Meeting Date

SB 1024

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Lonnie Draper

Phone 850-933-1821

Address 565 Frank Shaw Rd
Street

Email LDRAPE@AVOCAREhealth.com

Tallahassee
City

FL
State

32312
Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/11/12

Meeting Date

Regulated Industries

Committee

1024

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Kim Ross

Phone

950-888-2565

Address

603 N MLK Jr Blvd

Email

kim@rethinkenergyflorida.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

412 KB

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB1024

Bill Number or Topic

1/11/2022 Tuesday

Meeting Date

REG INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name TRISH NEELY

Phone 850 322 3317

Address 2024 SHANGRI LA LANE

Street

Email

TALLY FL 32303

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:

LEAGUE WOMEN VOTERS FLORIDA

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

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S-001 (08/10/2021)

1/11/2022

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1024

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Beth Alvi** Phone **850-999-1028**

Address **308 N. Monroe** Email **Beth.Alvi@Audubon.org**

Street

Tallahassee

City

FL

State

32301

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Audubon Florida

☐

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

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 352

INTRODUCER: Senator Hooper

SUBJECT: Construction Liens

DATE: January 10, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.	Kraemer	Imhof	RI	Favorable
3.			RC	

I. Summary:

SB 352 revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. Under the bill, such notices of commencement must be filed only when the direct contract for such work is more than \$15,000. The current exemption for such contracts is capped at \$7,500.

The bill has no fiscal impact on state government. See Section V.

SB 352 is effective July 1, 2022.

II. Present Situation:

Construction Lien Law

In a construction project, the owner of the property to be improved has an interest in ensuring that the contractor performs the work in the time and manner described in the construction contract. Contractors and subcontractors, sub-subcontractors, laborers, and materialmen have an interest in receiving payment for their work. Those individuals have a lien or prospective lien on the property improved, and are known as lienors. Mechanisms that address these interests of property owners and lienors are set forth in the Construction Lien Law, codified in part I of chapter 713, F.S.

While “construction lien” is not defined in the chapter, s. 713.015, F.S., provides that “any direct contract greater than \$2,500 between an owner and a contractor, related to improvements to real property consisting of single or multiple family dwellings up to and including four units,” must contain a notice that a claim of lien may be filed on their property if the owner fails to pay their contractor, or their contractor or subcontractor fails to pay other persons who work on the property or provide materials and services, even if the owner paid the contractor in full. The

mandatory provision further provides that if a lien is filed, the owner's property could be sold against their will to pay for labor, services, or materials that have been not been paid to a lienor.¹

These mechanisms to ensure payment are especially important when lienors not in privity² with the owner perform work on a construction project. A lienor not in privity with the owner has a contract with the contractor or a subcontractor, but no direct contractual relationship with the owner. As a result, a lienor's identity, work, and charges for services might be unknown to the owner or contractor unless the lienor complies with the notice requirements of the construction lien law.

When issuing a building permit for improvement to real property, an issuing authority (i.e., a local government) has certain notice requirements under ch. 713.135, F.S., for permits with a direct contract over \$2,500.

When any person applies for a building permit, the authority issuing the permit is required to:

- Print on the face of each permit card a statement that the owner's failure to record a notice of commencement may result in the owner paying twice for improvements to the property;³
- Provide the applicant and the owner of the real property with:
 - A printed statement that the person who has contracted for the improvement may be subject to attachment under the construction lien law;
 - A statement from the Department of Business and Professional Regulation providing a summary of the Construction Lien Law; and
 - An explanation of the owner's rights if a lienor fails to furnish the owner with a notice to owner;⁴
- Inform each applicant that they must promise in good faith that the statement will be delivered to the person whose property is subject to attachment.⁵

Notice of Commencement

A construction project generally begins with the posting of a "notice of commencement" on the job site and the recording of the notice in the county clerk's office.⁶ The recording of a notice of commencement is meant to give constructive notice to an owner of real property that claims of lien may be recorded against that property, and which liens may take priority, but does not constitute a lien, cloud, or encumbrance on real property.⁷

¹ Section 713.015, F.S., requires the notice to be printed in no less than 12-point, capitalized, boldfaced type on the front page of the contract.

² According to Black's Law Dictionary (10th ed., 2014), the term "privity" is used to indicate a "connection or relationship between two parties, each having a legally recognized interest in the same subject matter," for example a direct contract between the property owner and another person.

³ Section 713.135(1)(a), F.S.

⁴ Section 713.135(1)(b), F.S.

⁵ Section 713.135(1)(c), F.S.

⁶ Section 713.13(1)(a), F.S.

⁷ Section 713.13(3), F.S.

After a notice of commencement is posted and recorded, lienors must serve the property owner and the contractor with a notice to owner or notice to contractor.⁸ A notice to owner informs the owner of all potential lienors' identity and work performed.⁹ Serving these documents within the statutory timeframes is a prerequisite to enforcing a lien on the improved property.¹⁰ Upon receipt of a notice to owner, the owner becomes responsible for ensuring that the lienor is paid for its work even if the contractor is paid in full.

To protect against a lien by the lienor or having to pay twice for the same work, the notice to owner warns that to avoid a lien and paying twice, the owner must obtain a written release from the lienor every time they pay the contractor.¹¹

A notice of commencement must be recorded in the county clerk's office for any contract greater than \$2,500 before a contractor may begin an improvement to real property or recommence completion of any improvement after default or abandonment.¹² The notice must provide:

- A description of the real property;
- A general description of the improvement;
- Name and address of the owner, the owner's interest in the site of the improvement, and the name and address of the fee simple titleholder, if other than the owner;
- The name and address of the contractor;
- The name and address of the surety on the payment bond, if any, and the amount of the bond;
- The name and address of any person making a loan for the construction of the improvements; and
- The name and address of a designated person upon whom documents may be served if other than the owner.¹³

Liens of materialmen or laborers who are in privity with the owner and who comply with the provisions of ch. 713, F.S., attach and take priority at the time the notice of commencement is recorded.¹⁴

A notice of commencement is not required in direct contracts to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500.¹⁵ This exemption was enacted by the Legislature in 1999 at the amount of \$5,000¹⁶ and subsequently increased to its current amount of \$7,500 in 2006.¹⁷

⁸ Sections 713.06(2), and 713.23(1)(c), F.S. *See also* s. 255.05(2)(a)2., F.S., relating to liens on public property and publicly owned buildings.

⁹ Section 713.06(2)(c), F.S.

¹⁰ *Id.*

¹¹ Section 713.06(2)(c), F.S.

¹² Section 713.13(1)(a), F.S.

¹³ *Id.*

¹⁴ Section 713.07(2), F.S.

¹⁵ Section 713.135(1)(d), F.S.

¹⁶ Chapter 99-386, s. 5, L.O.F.

¹⁷ Chapter 2006-187, s. 2, L.O.F.

In the event a notice of commencement is not filed, a lien attaches and takes priority at the time the claim of lien is recorded.¹⁸ The owner of the improved property is responsible for discharging all liens filed upon the property as outlined in s. 713.21, F.S.

III. Effect of Proposed Changes:

The bill revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. Under the bill, such notices of commencement must be filed only when the direct contract for such work is more than \$15,000.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. Under the bill, such notices of commencement must be filed only when the direct contract for such work is more than \$15,000.

¹⁸ Section 713.07, F.S. *See* s. 713.08, F.S., relating to the recording of claims of lien.

C. **Government Sector Impact:**

The broader exemption for filing required notices of commencement for the repair or replacement of an existing heating or air-conditioning system may have a minimal impact on the revenues and workload of county clerks of court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 713.135 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 Hooper

16-00561-22

2022352__

1 A bill to be entitled
 2 An act relating to construction liens; amending s.
 3 713.135, F.S.; revising the threshold for determining
 4 whether certain direct contracts to repair or replace
 5 an existing heating or air-conditioning system are
 6 exempt from specified notice of commencement and
 7 applicability of lien requirements for authorities
 8 issuing building permits; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (d) of subsection (1) of section
 13 713.135, Florida Statutes, is amended to read:
 14 713.135 Notice of commencement and applicability of lien.—
 15 (1) When any person applies for a building permit, the
 16 authority issuing such permit shall:
 17 (d) Furnish to the applicant two or more copies of a form
 18 of notice of commencement conforming with s. 713.13. If the
 19 direct contract is greater than \$2,500, the applicant shall file
 20 with the issuing authority prior to the first inspection either
 21 a certified copy of the recorded notice of commencement or a
 22 notarized statement that the notice of commencement has been
 23 filed for recording, along with a copy thereof. In the absence
 24 of the filing of a certified copy of the recorded notice of
 25 commencement, the issuing authority or a private provider
 26 performing inspection services may not perform or approve
 27 subsequent inspections until the applicant files by mail,
 28 facsimile, hand delivery, or any other means such certified copy
 29 with the issuing authority. The certified copy of the notice of

Page 1 of 2

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

16-00561-22

2022352__

30 commencement must contain the name and address of the owner, the
 31 name and address of the contractor, and the location or address
 32 of the property being improved. The issuing authority shall
 33 verify that the name and address of the owner, the name of the
 34 contractor, and the location or address of the property being
 35 improved which is contained in the certified copy of the notice
 36 of commencement is consistent with the information in the
 37 building permit application. The issuing authority shall provide
 38 the recording information on the certified copy of the recorded
 39 notice of commencement to any person upon request. This
 40 subsection does not require the recording of a notice of
 41 commencement prior to the issuance of a building permit. If a
 42 local government requires a separate permit or inspection for
 43 installation of temporary electrical service or other temporary
 44 utility service, land clearing, or other preliminary site work,
 45 such permits may be issued and such inspections may be conducted
 46 without providing the issuing authority with a certified copy of
 47 a recorded notice of commencement or a notarized statement
 48 regarding a recorded notice of commencement. This subsection
 49 does not apply to a direct contract to repair or replace an
 50 existing heating or air-conditioning system in an amount less
 51 than \$15,000 ~~\$7,500~~.
 52 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 4, 2021

I respectfully request that **Senate Bill #352**, relating to Construction Liens, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

The Florida Senate

APPEARANCE RECORD

1/11/22
Meeting Date

Reg. Industries
Committee

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

352
Bill Number or Topic

Amendment Barcode (if applicable)

Name Edward Briggs Phone 850-933-5994

Address 235 W. Broward Blvd. Ste. 640 Email edward@eraconsultingllc.com
Street

Broward FL 33511
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:

Cotney Construction Law

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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11/11/2022

Meeting Date

352

Bill Number or Topic

Reg. Transmissions

Committee

Amendment Barcode (if applicable)

Name

Carol Bowen

Phone

(954) 465-684

Address

3730 Coconut Creek Pkwy

Email

cbowen@cheesthanded.com

Street

Coconut Creek FL

33004

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:

Associated Builders
and Contractors

☐

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

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S-001 (08/10/2021)

Datres, Susan

From: Liebert, Andrew
Sent: Tuesday, January 11, 2022 12:50 PM
To: Imhof, Booter
Cc: Datres, Susan
Subject: Absence

Booter,

Hope you are doing well. Unfortunately Sen Albritton needs to request an excused absence from today's meeting. Let me know if you need any more information from me.

Best regards,

Andrew Liebert

Legislative Aide to Senator Ben Albritton
Senate District 26
150 North Central Avenue
Bartow, Florida 33830
850-487-5026 – Office
239-595-5990 – Cell



Florida has a very broad public records law. As a result, any written communication created or received is subject to disclosure to the public and the media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

CourtSmart Tag Report

Room: KB 412 **Case No.:** -
Caption: Senate Regulated Industries Committee

Type:
Judge:

Started: 1/11/2022 4:00:53 PM
Ends: 1/11/2022 5:54:40 PM **Length:** 01:53:48

4:02:03 PM Opening Remarks
4:02:12 PM Senator Albritton is excused
4:02:42 PM Roll Call
4:02:51 PM Pledge of Allegiance.
4:03:02 PM Tab 1 - Confirmation of Commissioner Andrew Fay
4:03:15 PM Roll call
4:03:23 PM Confirmation recommended favorably
4:03:48 PM Tab 2 - Confirmation of Art Graham
4:05:30 PM Roll call
4:05:32 PM Confirmation recommended favorably
4:06:20 PM Chair Hutson
4:06:32 PM Tab 6 - SB 1024 by Senator Bradley
4:06:42 PM Amendment 611262 by Senator Hutson
4:07:38 PM Senator Passiomo to chair
4:07:46 PM Senator Hutson closes
4:07:51 PM Amendment adopted
4:08:01 PM On bill as amended
4:08:07 PM Question by Senator Gruters
4:08:21 PM Chair Hutson
4:08:23 PM Senator Bradley to answer
4:08:51 PM Senator Gruters to followup
4:08:58 PM Senator Bradley to answer
4:09:30 PM Chair Hutson
4:09:35 PM Senator Rouson with question
4:09:40 PM Senator Bradley to respond
4:10:46 PM Senator Rouson with question
4:10:47 PM Senawtor Bradley to respond
4:12:33 PM Senator Rouson
4:12:37 PM Senator Bradley with followup
4:13:05 PM Senator Rouson
4:13:22 PM Senator Bradley
4:13:29 PM Chair Hutson
4:13:31 PM Senator Hooper with comments
4:14:37 PM Chair Hutson
4:14:40 PM Barbara DeVane -waives against
4:14:46 PM Senator Hutson
4:16:13 PM Joe Magro
4:20:49 PM Senator Hutson with question
4:20:56 PM Joe Magro to answer
4:21:20 PM Chair Hutson
4:21:25 PM Joe Magro to answer
4:21:48 PM Chair Hutson

4:21:51 PM Joe Magro
4:22:48 PM Senator Gruters with question
4:22:56 PM Joe Magro to answer
4:23:04 PM Senator Gruters with question
4:23:12 PM Joe Magro
4:23:24 PM Chair Hutson
4:23:26 PM Scott Arnold, speaking against
4:25:49 PM Chair Hutson
4:25:54 PM Richard Pinsky, Florida Solar and Storage Association
4:29:31 PM Chair Hutson
4:29:33 PM Mayor Michael Udine, Broward County
4:30:40 PM Chair Hutson
4:30:46 PM David Cullen, Sierra Club of Florida
4:32:01 PM Chair Hutson
4:32:15 PM Jodi James
4:36:03 PM Chair Hutson
4:36:16 PM Stephanie Provost- CMO Vision Solar
4:40:09 PM Hutson with question
4:40:14 PM Provost to respond
4:41:47 PM Chair Hutson
4:43:04 PM Kevin Doyle, Consumer Energy Alliance
4:43:20 PM Chair Hutson with question
4:44:30 PM Pete Wilking, A1A Solar
4:46:29 PM Chair Hutson
4:47:23 PM Chair Hutson with question
4:47:30 PM Pete Wilking to answer
4:47:32 PM Chair Hutson
4:47:37 PM John Grant
4:50:24 PM Chair Hutson
4:50:46 PM Michael Vergona, Urban Solar
4:52:19 PM Chair Hutson
4:52:26 PM Raul M. Vergara
4:56:13 PM Chair Hutson
4:56:15 PM Lisa Edgar
5:00:39 PM Chair Hutson
5:00:44 PM William Johnson, Brilliant Harvest
5:05:52 PM Chair Hutson
5:06:51 PM Tyson Grinstead, Sunrun
5:09:19 PM Chair Hutson
5:09:32 PM Josh Kearns
5:11:05 PM Chair Hutson
5:11:10 PM Katie Chiles Ottenweller, Vote Solar
5:12:16 PM Chair Hutson
5:13:20 PM Letitia Harmon, Florida Rising
5:15:04 PM Chair Hutson
5:15:23 PM Justin Vandenbroeck
5:17:46 PM Chair Hutson
5:18:47 PM Tiffany Cohen
5:18:49 PM Chair Hutson
5:18:56 PM Jonathan Webber, Florida Conversation Voters
5:19:49 PM Chair Hutson
5:20:48 PM Walter Liebrich

5:21:33 PM Chair Hutson
5:22:15 PM Laurie Draper
5:24:03 PM Chair Hutson
5:24:04 PM Kim Ross
5:24:15 PM Chair Hutson
5:24:16 PM Trish Neely, League of Women Voters of Florida
5:24:45 PM Chair Hutson
5:25:39 PM Beth Alvi, Audubon Florida
5:27:02 PM Chair Hutson
5:27:05 PM Debate
5:27:11 PM Senator Rouson
5:28:47 PM Chair Hutson
5:29:52 PM Hooper in debate
5:31:36 PM Senator Bradley to close on bill
5:32:12 PM Chair Hutson
5:33:13 PM Roll Call
5:33:33 PM Bill report favorably
5:33:42 PM Tab 3 - SB 512 by Senator Burgess
5:34:57 PM Chair Hutson
5:35:02 PM Cory Nichols
5:35:09 PM Jack Cory
5:35:12 PM Cynthia Henderson
5:35:16 PM Jennifer Green
5:35:47 PM Samatha Padgett, Florida Restaurant and Lodging Association
5:37:19 PM Chair Hutson
5:38:20 PM Debate
5:38:22 PM Senator Burgess closes on the bill
5:38:30 PM Chair Hutson
5:38:38 PM Roll Call
5:38:51 PM Bill reported favorably
5:38:53 PM Chair Hutson
5:38:59 PM Tab 7 - SB 352 by Senator Hooper
5:39:30 PM Chair Hutson
5:39:33 PM Carol Bowen
5:39:40 PM Edward Briggs
5:39:47 PM Debate
5:39:51 PM Chair Hutson
5:39:53 PM Roll Call
5:40:04 PM Bill reported favorably
5:40:11 PM Tab 4 - SB 994 by Senator Diaz
5:40:36 PM Chair Hutson
5:41:38 PM Questions
5:42:45 PM Amendment 732580
5:43:24 PM Kate MacFall, Human Society of U.S.
5:44:46 PM Chair Hutson
5:44:51 PM Waiving against the bill: Lindsay Cross, Jorge Chamizo, Adam Basford, Manny Reyes, Jeff Scala, Jack Cory, Mark Jefferies, Adam Basford
5:44:53 PM Travis Moore, Animal Legal Defense Fund
5:47:47 PM Chair Hutson
5:47:54 PM Diana Ferguson, Florida Animal Control Association
5:50:38 PM Debate
5:51:25 PM Senator Book in debate

5:51:29 PM Chair Hutson
5:52:13 PM Senator Diaz closes on bill
5:52:16 PM Roll Call
5:52:37 PM Bill reported favorably
5:52:43 PM Tab 996 - Senator Diaz
5:52:58 PM Amendment 660938
5:53:15 PM Amendment adopted
5:53:19 PM back on bill as amended
5:53:24 PM Adam Basford, Associated Industries of Florida
5:53:29 PM Senator Diaz closes on bill
5:53:32 PM Roll Call
5:53:50 PM Bill reported favorably
5:53:51 PM Senator Rouson voting after on Tab 1 in the affirmative
5:53:58 PM Senator Book - voting after on Tab 1 in the affirmative
5:54:02 PM Chair Hutson closing remarks
5:54:10 PM Meeting Adjourned