

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1065 Substance Abuse Treatment

SPONSOR(S): Children, Families & Seniors Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Children, Families & Seniors Subcommittee		Curry	Brazzell

SUMMARY ANALYSIS

DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. DCF provides treatment for substance abuse through a community-based provider system that offers detoxification, treatment and recovery support for adolescents and adults affected by substance misuse, abuse or dependence.

A recovery residences is residential dwelling unit, or other form of group housing, that provides a peer-supported, alcohol-free, and drug-free living environment. Florida has a process for a recovery residence meeting certain quality standards and other requirements to be certified, which allows the residence to receive referrals. PCS for HB 1065 amends the definition of certified recovery residence to include standards regarding the level of care provided at those residences. The bill requires four levels of care that distinguish the residences based on their provided care. The levels of care include:

- Level I: House individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. These homes are run by the members who reside in them.
- Level II: These homes provide oversight from a house manager (typically a senior resident). Residents are expected to follow rules outlined in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: These homes offer 24-hour supervision by formally trained staff and peer-support services for residents.
- Level IV: These homes are dwelling offered, referred to, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

The bill also prohibits recovery residences from paying transient rental taxes.

PCS for HB 1065 expands the Statewide Council on Opioid Abatement. To ensure the settlement proceeds related to the opioid epidemic are used to fund opioid and substance abuse education, treatment, prevention, and other related programs and services, the Office of the Attorney General coordinated with certain local governments in the state to enter into the Florida Opioid Allocation and Statewide Response Agreement. The agreement required the state to establish an opioid abatement task force or council to advise on and monitor the spending of settlement funds. The bill changes the membership determined by this agreement by adding nine additional members beyond the existing membership balanced between state and local representatives.

The bill has no fiscal impact on state government and has an indeterminate, negative fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ Substance use disorders is the recurrent use of alcohol and/or drugs leading to clinically significant impairment, including health problems, disability, and failure fulfill responsibilities.² Substance use disorders can happen with both legal substances such as alcohol, nicotine or prescription drugs and illicit or illegal drugs.³ In the United States, the most common substance use disorders are from alcohol, opioid, stimulants, hallucinogens, cannabis, and tobacco.⁴

Substance Abuse Treatment in Florida

DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. DCF provides treatment for substance abuse through a community-based provider system that offers detoxification, treatment and recovery support for adolescents and adults affected by substance misuse, abuse or dependence:⁵

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.⁶
- **Treatment Services:** Treatment services⁷ include a wide array of assessment, counseling, case management, and support services that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support. Some of these services may also be offered to the family members of the individual in treatment.⁸
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.⁹

Licensure of Substance Abuse Service Providers

DCF regulates substance abuse treatment, establishing licensure requirements and licensing service providers and individual service components under ch. 397, F.S., and rule 65D-30, F.A.C. Licensed

¹ World Health Organization, *Substance Abuse*, <https://www.afro.who.int/health-topics/substance-abuse> (last visited January 25, 2024).

² The Rural Health Information Hub, *Defining Substance Abuse and Substance Abuse Use Disorders*, <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited January 25, 2024).

³ *Id.*

⁴ *Id.*

⁵ Department of Children and Families, *Treatment for Substance Abuse* <https://www.myflfamilies.com/services/samh/treatment>, (last visited January 25, 2024).

⁶ *Id.*

⁷ *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child protective system, employment, increased earnings, and better health.

⁸ *Supra*, note 5.

⁹ *Id.*

service components include a continuum of substance abuse prevention,¹⁰ intervention,¹¹ and clinical treatment services.¹² DCF uses a tier-based system of classifying violations and may issue administrative fines of up to \$500 for violations committed by a licensee.¹³

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.¹⁴ “Clinical treatment services” include, but are not limited to, the following licensable service components:¹⁵

- Addictions receiving facility;
- Day or night treatment;
- Day or night treatment with community housing;
- Detoxification;
- Intensive inpatient treatment;
- Intensive outpatient treatment;
- Medication-assisted treatment for opiate addiction;
- Outpatient treatment; and
- Residential treatment.

Recovery Residences

Recovery residences (also known as “sober homes” or “sober living homes”) are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives. Most recovery residences require or encourage attendance in a 12-step mutual-help organizations and are self-funded through resident fees.¹⁶

In Florida, a recovery residence is a residential dwelling unit, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. In 2019 the definition was amended to also include as a recovery residence a community housing component of a licensed day or night treatment facility with community housing.¹⁷

Recovery residences can be located in single-family and two-family homes, duplexes, and apartment complexes. Most recovery residences are located in single-family homes, zoned in residential neighborhoods.¹⁸ To live at a recovery residence, occupants may be required to pay a monthly fee or rent, which supports the cost of maintaining the home. Generally, recovery residences provide short-term residency, typically a minimum of at least 90 days. However, the length of time a person stays at a

¹⁰ S. 397.311(26)(c), F.S. Prevention is a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles. See also, Department of Children and Families, *Substance Abuse: Prevention* <https://www.myflfamilies.com/services/samh/substance-abuse-prevention>, (last visited January 26, 2024). Substance abuse prevention is best accomplished through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.

¹¹ S. 397.311(26)(b), F.S. Intervention is structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.

¹² S. 397.311(26), F.S.

¹³ S. 397.415, F.S.

¹⁴ S. 397.311(25)(a), F.S.

¹⁵ *Id.*

¹⁶ Douglas L. Polcin, Ed.D., MFT, and Diane Henderson, B.A., *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses*, 40(2) *J Psychoactive Drugs* 153–159 (June 2008).

¹⁷ Chapter 2019-159, Laws of Fla.

¹⁸ Hearing before the Subcommittee on the Constitution and Civil Justice of the Committee on the Judiciary, House of Representatives, One Hundred Fifteenth Congress, Sept. 28, 2018, <https://www.govinfo.gov/content/pkg/CHRG-115hhrg33123/html/CHRG-115hhrg33123.htm>. See also The National Council for Behavioral Health, *Building Recovery: State Policy Guide for Supporting Recovery Housing* (2017), https://www.thenationalcouncil.org/wp-content/uploads/2018/05/18_Recovery-Housing-Toolkit_5.3.2018.pdf?daf=375ateTbd56 (last visited January 26, 2024).

recovery residence varies based on the individuals' treatment needs.¹⁹ Because recovery residences essentially provide short-term rental or leasing of living quarters, recovery residences may be classified as a transient rental accommodation and subject taxation of rental fees.

Day or Night Treatment: Community Housing Component

Community housing is a type of group home that provides supportive housing for individuals who are undergoing treatment for substance abuse.

Day or night treatment is one of the licensable service components of clinical treatment services. This service is provided in a nonresidential environment with a structured schedule of treatment and rehabilitative services.²⁰ Some day or night treatment programs have a community housing component, which is a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services at a day or night treatment facility for a minimum of 5 hours a day for a minimum of 25 hours per week.²¹

Prior to 2019, the community housing component of a licensed day or night treatment program was not included in the definition of "recovery residence". In 2019, after the Legislature amended the definition of "recovery residence" to include the community housing component, DCF addressed the statutory change to the definition of "recovery residence" in a memo. The department stated that as a result of the change in definition, providers licensed for day or night treatment with community housing must be certified as a recovery residence in order to accept or receive patient referrals from licensed treatment providers or existing recovery residences.²² The memo did not specifically address whether the community housing component requires certification if the only individuals residing there were clients of the licensed day or night treatment program.

Voluntary Certification of Recovery Residences

A certified recovery residence is a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.²³ Florida has a voluntary certification program for recovery residences and recovery residence administrators, implemented by private credentialing entities.²⁴ Under the voluntary certification program, two DCF-approved credentialing entities administer certification programs and issue certificates: the Florida Association of Recovery Residences (FARR) certifies the recovery residences and the Florida Certification Board (FCB) certifies recovery residence administrators.²⁵

As the credentialing entity for recovery residences in Florida, FARR is statutorily authorized to administer certification, recertification, and disciplinary processes as well as monitor and inspect recovery residences to ensure compliance with certification requirements. FARR is also authorized to deny, revoke, or suspend a certification, or otherwise impose sanctions, if recovery residences are not in compliance or fail to remedy any deficiencies identified. However, any decision that results in an adverse determination is reviewable by the Department.²⁶

In order to become certified, a recovery residence must submit the following documents with an application fee to the credentialing entity:²⁷

¹⁹ American Addiction Center, *Length of Stay at a Sober Living Home*, (October 2022), available at <https://americanaddictioncenters.org/sober-living/length-of-stay>, (last visited January 25, 2024).

²⁰ S. 397.311(26)(a)2., F.S.

²¹ S. 397.311(26)(a)3., F.S.

²² DCF Memo to the Substance Abuse Prevention, Intervention, and Treatment Providers, dated July 1, 2019 (on file with the House Children, Families, & Seniors Subcommittee).

²³ Ss. 397.487–397.4872, F.S.

²⁴ *Id.*

²⁵ The DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences> (last visited January 25, 2024).

²⁶ S. 397.487, F.S.

²⁷ *Id.*

- A policy and procedures manual containing:
 - Job descriptions for all staff positions;
 - Drug-testing procedures and requirements;
 - A prohibition on the premises against alcohol, illegal drugs, and the use of prescription medications by an individual other than for whom the medication is prescribed;
 - Policies to support a resident’s recovery efforts; and
 - A good neighbor policy to address neighborhood concerns and complaints.;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.

There are currently 675 certified recovery residences in Florida.²⁸ DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.²⁹

National Alliance for Recovery Residences

The National Alliance for Recovery Residences (NARR) was established to develop and promote best practices in the operation of recovery residences.³⁰ The organization works with federal government agencies, national addiction and recovery organizations, state-level recovery housing organizations, and with state addiction services agencies to improve the effectiveness and accessibility of recovery housing.

In 2011, NARR established the national standard for all recovery residences. This standard defines the spectrum of recovery oriented housing and services and distinguishes four different types, which are known as “levels” or “levels of support.” The standard was developed through a strength-based and collaborative approach that solicited input from all major regional and national recovery housing organizations.³¹ NARR’s levels of support are included in the Substance Abuse and Mental Health Services Administration’s Best Practices for Recovery Housing.³²

NARR Recovery Residence Levels of Support

A recovery residence is a broad term that describes safe and sober living environments that promote recovery from substance use disorders. These residences may also be referred to as halfway houses, three-quarter houses, transitional living facilities, or sober living homes. Since this is a broad term, to help categorize recovery residences into more specific groups, NARR distinguishes these residences based on their levels of care. There are four levels of care for recovery residences; peer-run, monitored, supervised, and service provider.

Level I – Peer-Run

²⁸ DCF, 2023 *Agency Bill Analysis SB 1180*, on file with House Children, Families, and Seniors Subcommittee.

²⁹ S. 397.4872, F.S.

³⁰ NARR, *About Us*, available at <https://narronline.org/about-us/>, (last visited January 26, 2024).

³¹ NARR, *Standards and Certification Program*, available at <https://narronline.org/affiliate-services/standards-and-certification-program/>, (last visited January 26, 2024).

³² Substance Abuse and Mental Health Services Administration, *Best Practices for Recovery Housing*, available <https://store.samhsa.gov/sites/default/files/pep23-10-00-002.pdf>, (last visited January 26, 2024).

A Peer-Run recovery residence is a home operated by the residents themselves. In this type of residence, there is no external management or oversight from outside sources such as an administrative director. The administration of these facilities is done democratically by the residents. Services may include house meetings for accountability, drug screenings, and self-help meetings. These residences are generally set up in single-family residences like a house.³³

Level II -Monitored

A monitored recovery residence has an external management structure, usually in the form of an administrative director. The director oversees operations, provides guidance and support, and ensures that all tenants are following rules. These facilities, provide a structured environment with documented rules, policies and procedures. These residences are typically managed by a house manager or senior resident and may offer peer-run groups, house meetings, drug screenings, and involvement in self-help treatment. These facilities are primarily single-family residences, but they may also be apartments or other dwelling types.³⁴

Level III – Supervised

Supervised recovery residences have more intense levels of oversight than monitored residences and typically have an on-site staff member who provides 24/7 support to residents. The staff at a Level III residence includes a facility manager and certified staff or case managers. Staff members may also provide counseling services or facilitate group activities. Residents at Level III houses are expected to adhere to a strict set of rules and guidelines while living in this type of residence. Level III residences have an organizational hierarchy with administrative oversight for service providers, and documented policies and procedures. This type of residence emphasizes life skill development. In these residences, services may be utilized in the outside community while service hours may be provided in-house. The type of dwelling for Level III residences varies and may include all types of residential settings.³⁵

Level IV – Service Provider

Service provider recovery residences are typically operated by organizations or corporations. These residences offer a wide range of services and activities for residents. Staff levels in Level IV residences are higher than staff levels for Levels I-III residences, and the environments are more structured and institutionalized. These residences have an overseen organizational hierarchy. Level IV recovery residence employ credentialed staff and have both clinical and administrative supervision for residents. These residences also provide clinical services and programming in-house and may offer residents life skill development. While Level IV residences may have a more institutionalized environment, all types of residence may be included as a client moves through the care continuum of a treatment center.³⁶

NARR Recovery Residence Levels of Support³⁷


³³ Isaiah House, *NARR Levels of Care for Addiction Recovery Residences*, (December 2022), available at <https://isaiah-house.org/narr-levels-of-care-for-addiction-recovery-residences/>, (last visited January 26, 2024).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ NARR, *Recovery Residence Levels of Support*, available at https://narronline.org/wp-content/uploads/2016/12/NARR_levels_summary.pdf, (last visited January 26, 2024).

		RECOVERY RESIDENCE LEVELS OF SUPPORT			
		LEVEL I Peer-Run	LEVEL II Monitored	LEVEL III Supervised	LEVEL IV Service Provider
STANDARDS CRITERIA	ADMINISTRATION	<ul style="list-style-type: none"> • Democratically run • Manual or P&P 	<ul style="list-style-type: none"> • House manager or senior resident • Policy and Procedures 	<ul style="list-style-type: none"> • Organizational hierarchy • Administrative oversight for service providers • Policy and Procedures • Licensing varies from state to state 	<ul style="list-style-type: none"> • Overseen organizational hierarchy • Clinical and administrative supervision • Policy and Procedures • Licensing varies from state to state
	SERVICES	<ul style="list-style-type: none"> • Drug Screening • House meetings • Self help meetings encouraged 	<ul style="list-style-type: none"> • House rules provide structure • Peer run groups • Drug Screening • House meetings • Involvement in self help and/or treatment services 	<ul style="list-style-type: none"> • Life skill development emphasis • Clinical services utilized in outside community • Service hours provided in house 	<ul style="list-style-type: none"> • Clinical services and programming are provided in house • Life skill development
	RESIDENCE	<ul style="list-style-type: none"> • Generally single family residences 	<ul style="list-style-type: none"> • Primarily single family residences • Possibly apartments or other dwelling types 	<ul style="list-style-type: none"> • Varies – all types of residential settings 	<ul style="list-style-type: none"> • All types – often a step down phase within care continuum of a treatment center • May be a more institutional in environment
	STAFF	<ul style="list-style-type: none"> • No paid positions within the residence • Perhaps an overseeing officer 	<ul style="list-style-type: none"> • At least 1 compensated position 	<ul style="list-style-type: none"> • Facility manager • Certified staff or case managers 	<ul style="list-style-type: none"> • Credentialed staff

FARR Recovery Residence Levels of Support

FARR recognizes four distinct support levels for recovery residences which were developed based on the NARR standards.³⁸ The levels are not a rating scale regarding the efficacy of valuation of any individual certified recovery residence, but instead offer a unique service structure most appropriate for a particular resident.³⁹ FARR recovery residence levels of support include:⁴⁰

Level I

Level I residences are structured after the Oxford House model.⁴¹ Individuals who enter FARR Level I homes have a high recovery capital with a minimum of 9 months of sobriety and the length of stay is determined by the resident. Level I homes are democratically run by the members who reside in the home through a guided policy and procedure manual or charter.

Level II

Level II residences encompass the traditional perspective of sober living homes. Oversight is provided from a house manager with lived experience, typically a senior resident. Residents are expected to

³⁸ FARR, *Levels of Support*, available at <https://www.farronline.org/levels-of-support-1>, (last visited January 27, 2024).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Oxford House Model is a concept and a system of operation in recovery from drug and alcohol addiction. The concept is that recovering individuals can live together and democratically run an alcohol and drug-free living environment which supports the recovery of every resident. Oxford Houses are the one of the largest self-help residential programs in the US. See Oxford House, *The Purpose and Structure of Oxford House*, available at https://oxfordhouse.org/purpose_and_structure, and the National Library of Medicine, Oxford House Recovery Homes: Characteristics and Effectiveness, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2888149/>, (last visited January 27, 2024).

follow the rules outlined in the resident handbook, pay dues, and work on achieving milestones within a chosen recovery path. This level of support is a resident-driven length of stay, while providers may suggest a minimum commitment length.

Level III

Level III residences offer higher supervision by staff with formal training to ensure resident accountability. Level III homes offer peer-support services and are staffed 24 hours a day. No clinical services are performed at the residence. The services offered usually include life skills, mentoring, recovery planning, and meal preparation. This support structure is most appropriate for residents who require a more structured environment during early recovery from addiction. Length of stay is determined by the resident; however, providers may ask for a minimum commitment length of stay to fully complete programming.

Level IV

A Level IV residence is any recovery residence offered or provided by a licensed service provider that provides housing to patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care at facilities that are operated by the same licensed service provider or a recovery residence used as the housing component of a day or night treatment with community housing, license issued pursuant to Rule 65D-30.0081, Florida. Administrative Code.

Opioids

Opioids are a class of medications derived from the opium poppy plant or mimic its naturally occurring substances.⁴² Opioids function by binding to specific receptors in the brain that are associated with pain sensation, resulting in pain relief.⁴³ The opioid family includes several drugs, such as oxycodone, fentanyl, morphine, codeine, and heroin.⁴⁴ These drugs are effective at reducing pain; however, they can be highly addictive even when prescribed by a doctor. Overtime, individuals who use opioids can develop a tolerance to the drug, a physical dependence on it, and ultimately, succumb to an opioid use disorder. This condition can have grave consequences, including a heightened risk of overdose and even death.

Opioid Overdose

Opioid overdoses result from an overabundance of opioid in the body which leads to suppression of the respiratory system. Opioids account for two thirds of all deaths relating to drug use, most of which are the result of overdoses.⁴⁵ More than 106,000 Americans died from drug-involved overdose in 2021, including illicit drugs and prescription opioids.⁴⁶ Opioid-involved overdose deaths increased from 21,088 in 2010 to 47,600 in 2017; the rate of such deaths remained relatively consistent for the next two years with 49,860 opioid-involved overdose deaths in 2019.⁴⁷ This was followed by a sharp increase in opioid-involved overdose deaths associated with the COVID-19 pandemic beginning in 2020.⁴⁸ Nationally, there were 63,630 reported opioid-involved overdose deaths in 2020 and 80,411 in 2021.⁴⁹

Multistate Opioid Lawsuit and Settlement

⁴² John Hopkins Medicine, *Opioids*, <https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/opioids> (last visited January 25, 2024).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ United Nations Office on Drugs and Crime, *World Drug Report 2022, Global Overview: Drug Demand and Drug Supply* (Jun. 2022), https://www.unodc.org/res/wdr2022/MS/WDR22_Booklet_1.pdf (last visited January 25, 2024).

⁴⁶ National Institute on Drug Abuse, *Overdose Death Rates*, <https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates> (last visited January 25, 2024).

⁴⁷ *Id.*

⁴⁸ Ghose, R., Forati, A.M. & Mantsch, J.R. *Impact of the COVID-19 Pandemic on Opioid Overdose Deaths: A Spatiotemporal Analysis*. *J Urban Health* 99, 316–327 (2022), <https://doi.org/10.1007/s11524-022-00610-0> (last visited January 25, 2024).

⁴⁹ *Supra*, note 46.

In 2018, the Florida Attorney General filed a lawsuit against multiple opioid manufacturers and distributors. The lawsuit was later expanded to include the pharmacies CVS and Walgreens.⁵⁰ The complaint alleged that the defendants caused the opioid crisis by, among other things:⁵¹

- Engaging in a campaign of misrepresentations and omissions about opioid use designed to increase opioid prescriptions and opioid use, despite the risks.
- Funding ostensibly neutral and independent “front” organizations to publish information touting the benefits of opioids for chronic pain while omitting the information about the risks of opioid treatment.
- Paying ostensibly neutral medical experts called “key opinion leaders” who were really manufacturer “mouthpieces” to publish articles promoting the use of opioids to treat pain while omitting information regarding the risks.

In 2021, McKesson, Cardinal Health, and AmerisourceBergen, the nation’s three largest pharmaceutical distributors, as well as manufacturer Janssen Pharmaceuticals, Inc., agreed to a national settlement in which the distributors agreed to pay \$21 billion over 18 years and Janssen agreed to pay \$5 billion over nine years.⁵² Of the \$26 billion available, approximately \$22.7 billion was earmarked for use by states that participated in the lawsuit, including Florida.⁵³

Florida additionally negotiated individual settlements with multiple other companies including:⁵⁴

- \$65 million settlement with Endo Health Solutions;
- \$440 million settlement with CVS Pharmacy, Inc.;
- \$177,114,999 settlement with Teva Pharmaceuticals Industries, Ltd.;
- \$122 million settlement with Allergan Finance, LLC.;
- \$620 million settlement with Walgreens Boots Alliance, Inc. and Walgreens Co.; and
- \$215 million settlement with Walmart.

Additionally, Teva Pharmaceuticals has agreed to provide the state with a supply of Naloxone Hydrochloride, an opioid antagonist,⁵⁵ valued at \$84 million.⁵⁶

These settlements will pay out over a period of time ranging from 10 to 18 years. In general, the monies from the settlements must be used for opioid abatement, including prevention efforts, treatment, and recovery services, and to pay litigation fees and costs incurred by the state, cities, and counties.⁵⁷

Florida Opioid Allocation and Statewide Response Agreement

To ensure the settlement proceeds are used to fund opioid and substance abuse education, treatment, prevention, and other related programs and services, the Office of the Attorney General coordinated with certain local governments in the state to enter into the Florida Opioid Allocation and Statewide

⁵⁰ Sullivan, E., NPR, *Florida Sues Walgreens, CVS for Alleged Role in Opioid Crisis*, (Nov. 2018), available at <https://www.npr.org/2018/11/19/669146432/florida-sues-walgreens-cvs-for-alleged-role-in-opioid-crisis> (last visited January 27, 2024).

⁵¹ Florida Attorney General, *Florida’s Opioid Lawsuit*, available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNED/\\$file/Complaint+summary.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNED/$file/Complaint+summary.pdf) (last visited January 27, 2024).

⁵² National Opioid Settlement, *Executive Summary of National Opioid Settlements*, (Feb. 2023), available at <https://nationalopioidsettlement.com/executive-summary/#:-:text=In%20all%2C%20the%20Distributors%20will,additional%20manufacturers%E2%80%94Allergan%20and%20Teva>, (last visited January 27, 2024).

⁵³ Office of the Attorney General, Attorney General Moody Secures Relief for Opioid Crisis, available at <https://myfloridalegal.com/opioidsettlement>, (last visited January 27, 2024).

⁵⁴ *Id.*

⁵⁵ An opioid antagonist, such as Narcan or Naloxone Hydrochloride, is a drug that blocks the effects of exogenously administered opioids. They are used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, allowing an overdose victim to breathe normally. See Harm Reduction Coalition, *Understanding Naloxone*, (Sept. 8, 2020), available at <http://harmreduction.org/issues/overdose-prevention/overview/overdose-basics/understanding-naloxone/> (last visited January 27, 2024).

⁵⁶ *Id.*

⁵⁷ *Id.*

Response Agreement.⁵⁸ The agreement requires the state to establish an opioid abatement task force or council to advise the Governor, the Legislature, DCF, and local governments on the priorities that should be addressed by the expenditure of settlement funds, as well as review the spending of such funds and the results achieved.

The Council's membership, administration, and duties are outlined in the agreement.⁵⁹ Per the agreement, the Council's membership must consist of ten members equally balanced between state and local government representatives.

Appointments from the local governments must include:

- Two municipality representatives appointed by or through the Florida League of Cities.
- Two county representatives, one appointed from a qualified county and one appointed from a county within the state that is not a qualified county.
- One representative appointment that will alternate every two years between being a county representative appointed by or through the Florida Association of Counties or a municipality representative appointed by or through the Florida League of Cities.

Further, the agreement requires that one municipality representative must be from a city of less than 50,000 people and that one county representative must be from a county of less than 200,000 people and the other county representative must be from a county with a population greater than 200,000 people.

Appointments from the state must include:

- Two members appointed by the Governor.
- One member appointed by the Speaker of the House.
- One member appointed by the President of the Senate.
- The Attorney General or a designee.

Statewide Council on Opioid Abatement

In 2023, the Florida Legislature established the Statewide Council on Opioid Abatement (council). The council is tasked with enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims and families of the crisis.⁶⁰ The council is composed of the following 10 members:⁶¹

- The Attorney General, or a designee, who serves as a chair.
- The Secretary of DCF, or a designee, who services as vice-chair.
- A member appointed by the Governor.
- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House.
- Two members appointed by the Florida League of Cities who are commissioners or mayors of municipalities. At least one of such members must be from a municipality with a population of less than 50,000.

⁵⁸ *Florida Opioid Allocation and Statewide Response Agreement Between State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida* (Nov. 2021), available at <https://nationalopioidsettlement.com/wp-content/uploads/2021/11/FL-Opioid-AllocSW-Resp-Agreement.pdf> (last visited January 27, 2024).

⁵⁹ *Florida Opioid Allocation and Statewide Response Agreement Between State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida* (Nov. 2021), available at <https://nationalopioidsettlement.com/wp-content/uploads/2021/11/FL-Opioid-AllocSW-Resp-Agreement.pdf> (last visited January 27, 2024).

⁶⁰ S. 397.335, F.S.

⁶¹ *Id.*

- Two members appointed by, or though, the Florida Association of Counties who are county commissioners or mayors. One of such members must represent a county with a population of more than 200,000; the other must represent a county with a population of fewer than 200,000.
- One member who is appointed on a rotational basis by either the Florida Association of Counties or the Florida League of Cities.

The council has a series of duties associated with the monitoring of the abatement of the opioid epidemic in Florida and review of settlement fund expenditures associated with opioid litigation.⁶²

Transient Rental Accommodations

Under current law, rental charges or room rates paid for the right to use or occupy living quarters or sleeping or housekeeping accommodations for a rental period of six months or less are subject taxation.⁶³ Such rentals are often referred to as “transient rental accommodations” or “transient rentals.”⁶⁴ Examples of transient rentals include hotel and motel rooms, condominium units, timeshare resort units, single-family homes, apartments or units in multiple unit structures, mobile homes, beach or vacation houses, campground sites, and trailer or RV parks.⁶⁵

In Florida, a 6 percent state sales tax, plus any applicable discretionary sales surtax, is assessed on the total rental charges or room rates for transient rental accommodations, unless a statutory exemption applies.⁶⁶ Counties may also impose a local option tax on transient rental accommodations, such as the tourist development tax,⁶⁷ convention development tax,⁶⁸ tourist impact tax,⁶⁹ or a municipal resort tax.⁷⁰ These taxes are often called local option transient rental taxes and are in addition to the state sales tax.

Currently, transient rentals are potentially subject to the following taxes:

1. Local Option Tourist Development Taxes: Current law authorizes five separate tourist development taxes on transient rental transactions. Section 125.0104(3)(a), F.S., provides that the local option tourist development tax is levied on the “total consideration charged for such lease or rental.”
 - a. The tourist development tax may be levied at the rate of 1 or 2 percent.⁷¹ Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.⁷²
 - b. An additional tourist development tax of 1 percent may be levied.⁷³ Currently 56 counties levy this tax; only 59 counties are currently eligible to levy this tax.⁷⁴
 - c. A professional sports franchise facility tax may be levied up to an additional 1 percent on transient rental transactions.⁷⁵ Currently 46 counties levy this additional tax; all 67 counties are eligible to levy this tax.⁷⁶

⁶² *Id.*

⁶³ S. 212.03, F.S.

⁶⁴ Department of Revenue, *Sales and Use Tax on Rental of Living or Sleeping Accommodations*, available at https://floridarevenue.com/Forms_library/current/qt800034.pdf, (last visited January 25, 2024).

⁶⁵ S. 212.03, F.S.

⁶⁶ Rental charges or room rates paid by a person with a written lease longer than six months, a full-time student enrolled in postsecondary institution offering housing, and military personnel on active duty and present in the community under official orders are exempt. S. 212.03(4) and (7), F.S.

⁶⁷ S. 125.0104, F.S.

⁶⁸ S. 212.0305, F.S.

⁶⁹ S. 125.0101, F.S.

⁷⁰ Certain municipalities may impose a municipal resort tax as authorized under chapter 67-930, Laws of Florida. Currently, there are only three municipalities in Miami-Dade County are eligible to impose the tax.

⁷¹ S. 125.0104(3)(c), F.S.

⁷² Florida Tax Handbook (2023), available on the Office of Economic and Demographic Research website at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited January 25, 2024).

⁷³ S. 125.0104(3)(d), F.S.

⁷⁴ *Supra*, note 72.

⁷⁵ Section 125.0104(3)(l), F.S.

⁷⁶ *Supra*, note 72.

- d. A high tourism impact county may levy an additional 1 percent on transient rental transactions.⁷⁷ Currently 10 counties levy this tax; only 14 are eligible to levy.⁷⁸
 - e. An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.⁷⁹ Out of 65 eligible counties, 36 levy this tax.⁸⁰
2. Local Option Tourist Impact Tax: The local option tourist impact tax under s. 125.0108, F.S., is levied at the rate of 1 percent of the total consideration charged. Only Monroe County is eligible and does levy this tax in areas designated as areas of critical state concern because they created a land authority pursuant to s. 380.0663(1), F.S.
 3. Local Convention Development Tax: The convention development tax under s. 212.0305, F.S., is imposed on the total consideration charged for the transient rental. Each county operating under a home rule charter, as defined in s. 125.011(1), F.S., may levy the tax at 3 percent (Miami-Dade County); each county operating under a consolidated government may levy the tax at 2 percent (Duval County); and each county chartered under Article VIII of the State Constitution that had a tourist advertising district on January 1, 1984, may levy the tax at up to 3 percent (Volusia County).⁸¹ No county authorized to levy this tax can levy more than 2 percent of the tourist development tax, excluding the professional sports franchise facility tax.⁸²
 4. Municipal Resort Tax: Certain municipalities may levy the municipal resort tax at a rate of up to 4 percent on transient rental transactions.⁸³ The tourist development tax may not be levied in any municipality imposing the municipal resort tax. The tax is collected by the municipality. Currently only three municipalities in Miami-Dade County are eligible to impose the tax.
 5. State Sales Tax: The state sales tax on transient rentals under s. 212.03, F.S., is levied in the amount of 6 percent of the “total rental charged” for the living quarters or sleeping or housekeeping accommodations in, from, or part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp.
 6. Local Option Discretionary Sales Surtax: Counties have been granted limited authority to levy a discretionary sales surtaxes for specific purposes on transactions subject to state sales tax.⁸⁴ Rates range from 0.5% to 1.5%, and are levied by 66 of the 67 counties.⁸⁵ Approved purposes include:
 - a. Operating a transportation system in a charter county;⁸⁶
 - b. Financing local government infrastructure projects;⁸⁷
 - c. Providing additional revenue for specified small counties;⁸⁸
 - d. Providing medical care for indigent persons;⁸⁹
 - e. Funding trauma centers;⁹⁰
 - f. Operating, maintaining, and administering a county public general hospital;⁹¹
 - g. Constructing and renovating schools;⁹²

⁷⁷ Section 125.0104(3)(m), F.S.

⁷⁸ Supra, note 72.

⁷⁹ Section 125.0104(3)(n), F.S.

⁸⁰ Supra, note 72.

⁸¹ Id.

⁸² Section 125.0104(3)(b), (3)(l)4., and (3)(n)2., F.S.

⁸³ Chapter 67-930, L.O.F., amended by chs. 82-142, 83-363, 93-286, and 94-344, L.O.F.

⁸⁴ Ss. 212.054, 212.055, F.S.

⁸⁵ Discretionary Sales Surtax Information for Calendar Year 2024, Form DR-15DSS, available at https://floridarevenue.com/Forms_library/current/dr15dss.pdf (last visited January 25, 2024).

⁸⁶ S. 212.055(1), F.S.

⁸⁷ S. 212.055(2), F.S.

⁸⁸ S. 212.055(3), F.S. Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.

⁸⁹ S. 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents).

⁹⁰ S. 212.055(4)(b), F.S.

⁹¹ S. 212.055(5), F.S.

⁹² S. 212.055(6), F.S.

- h. Providing emergency fire rescue services and facilities; and⁹³
- i. Funding pension liability shortfalls.⁹⁴

Certain rentals or leases are exempt from the taxes; these include rentals to active-duty military personnel, full-time students, bona fide written leases for continuous residence longer than 6 months, and accommodations in migrant labor camps.⁹⁵

Effect of the Bill

Certified Recovery Residence

PCS for HB 1065 amends the definition of certified recovery residence to include standards regarding the levels of care offered within those residences. This amendment will help to better align recovery residences in Florida with industry best practices. The levels of care are as follows:

- Level I: these homes house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. These homes are run by the members who reside in them.
- Level II: in these homes, there is oversight from a house manager (typically a senior resident). Residents are expected to follow rules outlines in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: these homes offer 24-hour supervision by staff with formal training with peer-support services
- Level IV: these homes are offered, referred to, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

PCS for HB 1065 defines “community housing” to mean a certified recovery residence, offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. The bill also requires a certified recovery residence used by a licensed service provider that meets the definition of community housing to be classified as a Level IV level of support.

Statewide Council on Opioid Abatement

PCS for HB 1065 expands the Statewide Council on Opioid Abatement by adding more members, increasing its membership from 10 to 19. The additional members include:

- Two members appointed by or through the State Surgeon General. One of such members must be from the department with experience coordinating state and local efforts to abate the opioid epidemic; the other must be a licensed physician board certified in both addiction medicine and psychiatry.
- One member appointed by the Florida Association of Recovery Residences.
- One member appointed by the Florida Association of EMS Medical Directors.
- One member appointed by the Florida Society of Addiction Medicine who is a medical doctor board certified in addiction medicine.
- One member appointed by the Florida Behavioral Health Association.
- One member appointed by Floridians for Recovery.
- One member appointed by the Florida Certification Board.
- One member appointed by the Florida Association of Managing Entities.

⁹³ S. 212.055(8), F.S.

⁹⁴ S. 212.055(9), F.S.

⁹⁵ S. 212.03(7), F.S. See also ss. 125.0104(3)(a), 125.0108(1)(b), 212.0305(3)(a), F.S.

This will add additional members to represent the providers and clinicians providing behavioral health services, but will expand membership beyond those named in the agreement between the Attorney General and local governments, which included only state and local government representatives.

Transient Rental Accommodations

PCS for HB 1065 specifies that recovery residences that rent properties are not subject to any taxes that are imposed on transient accommodations, including transient rental taxes, convention development taxes, tourist development tax, and tourist impact tax. This may reduce their operating costs.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 212.02, F.S., relating definitions.
- Section 2:** Amends s. 397.311, F.S., relating to definitions.
- Section 3:** Amends s. 397.355, F.S., relating to Statewide Council on Opioid Abatement.
- Section 4:** Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative fiscal impact on some local governments who will no longer be able to levy local option transient rental taxes on recovery residences. The impact is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive fiscal impact on recovery residences which will no longer be required to pay transient rental taxes. The elimination of the taxes may reduce operational costs for recovery residences. The tax elimination and reduction of costs may also incentivize recovery residences that are not certified to become certified to benefit from the tax elimination.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the county/municipality's ability to levy local option transient rental taxes on recovery residences; however, an exemption may apply if the fiscal impact is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority to implement the bill. However, the department has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES