



Judiciary Committee

**Wednesday, April 8, 2015
9:00 AM – 12:00 PM
Sumner Hall (404 HOB)**

ACTION PACKET

**Steve Crisafulli
Speaker**

**Charles McBurney
Chair**

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

Summary:

Judiciary Committee

Wednesday April 08, 2015 09:00 am

CS/CS/HB 87	Favorable With Committee Substitute	Yeas: 18	Nays: 0
Amendment 701895	Adopted Without Objection		
Am 1			
CS/HB 91	Favorable With Committee Substitute	Yeas: 16	Nays: 0
Amendment 419543	Adopted Without Objection		
Am 1			
CS/HB 93	Favorable With Committee Substitute	Yeas: 16	Nays: 0
Amendment 970187	Adopted Without Objection		
Am 1			
HB 115	Favorable	Yeas: 17	Nays: 0
CS/HB 151	Favorable	Yeas: 17	Nays: 0
CS/CS/HB 343	Favorable With Committee Substitute	Yeas: 16	Nays: 0
Amendment 408971	Adopted Without Objection		
Am 1			
CS/CS/HB 383	Favorable With Committee Substitute	Yeas: 17	Nays: 1
Amendment 217225	Adopted Without Objection		
Am 1			
CS/HB 443	Favorable	Yeas: 17	Nays: 0
CS/CS/HB 643	Favorable With Committee Substitute	Yeas: 17	Nays: 0
Amendment 869367	Adopted Without Objection		
Am 1			
HB 755	Favorable	Yeas: 18	Nays: 0
Amendment 009849	Withdrawn		
Am 1			
CS/CS/HB 775	Favorable With Committee Substitute	Yeas: 18	Nays: 0
Amendment 153899	Adopted Without Objection		
Am 1			
CS/HB 779	Favorable With Committee Substitute	Yeas: 18	Nays: 0

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

Summary: (continued)

Judiciary Committee

Wednesday April 08, 2015 09:00 am

Amendment 698129 Adopted Without Objection
Am 1

Amendment 861237 Withdrawn
Am 2

CS/HB 787 Favorable Yeas: 17 Nays: 0

CS/CS/HB 889 Favorable With Committee Substitute Yeas: 18 Nays: 0

Amendment 681871 Adopted Without Objection
Am 1

CS/HB 921 Favorable With Committee Substitute Yeas: 18 Nays: 0

Amendment 808021 Adopted Without Objection
Am 1

CS/HB 967 Favorable Yeas: 16 Nays: 0

CS/HB 1037 Favorable Yeas: 18 Nays: 0

CS/HB 1041 Favorable Yeas: 17 Nays: 0

CS/HB 1103 Favorable With Committee Substitute Yeas: 18 Nays: 0

Amendment 683741 Adopted Without Objection
Am 1

CS/HB 4023 Favorable Yeas: 17 Nays: 0

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Charles McBurney (Chair)	X		
Colleen Burton	X		
Dwight Dudley	X		
Katie Edwards	X		
Jay Fant	X		
Julio Gonzalez	X		
Gayle Harrell	X		
Matt Hudson	X		
Dave Kerner	X		
Larry Metz	X		
Jared Moskowitz	X		
Kathleen Passidomo	X		
Scott Plakon	X		
Michelle Rehwinkel Vasilinda	X		
José Rodríguez	X		
Charlie Stone	X		
Carlos Trujillo	X		
John Wood	X		
Totals:	18	0	0

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 87 : Construction Defect Claims

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/CS/HB 87 Amendments

Amendment 701895

Adopted Without Objection

Appearances:

CS/CS/HB 87

Husband, Warren (Lobbyist) - Waive In Support
Florida Associated General Contractors Council
PO Box 10909
Tallahassee FL 32302
Phone: (850)205-9000

CS/CS/HB 87

Payton, Rusty (Lobbyist) - Waive In Support
Florida Home Builders
CEO
2600 Centennial Place
Tallahassee Florida 32308
Phone: 850-567-1073

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 87 : Construction Defect Claims (continued)

Appearances: (continued)

CS/CS/HB 87

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)	
ADOPTED AS AMENDED	_____	(Y/N)	
ADOPTED W/O OBJECTION	<u>✓</u>	(Y/N)	4/8/15
FAILED TO ADOPT	_____	(Y/N)	
WITHDRAWN	_____	(Y/N)	
OTHER			

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Passidomo offered the following:

Amendment (with title amendment)

Remove lines 46-141 and insert:

Section 3. Subsections (1), (4), (13), and (15) of section 558.004, Florida Statutes, are amended to read:

558.004 Notice and opportunity to repair.—

(1) (a) In actions brought alleging a construction defect, the claimant shall, at least 60 days before filing any action, or at least 120 days before filing an action involving an association representing more than 20 parcels, serve written notice of claim on the contractor, subcontractor, supplier, or design professional, as applicable, which notice shall refer to this chapter. If the construction defect claim arises from work performed under a contract, the written notice of claim must be served on the person with whom the claimant contracted.



Amendment No. 1

18 (b) The notice of claim must describe ~~the claim~~ in
19 reasonable detail ~~sufficient to determine the general~~ nature of
20 each alleged construction defect and, if known, a description of
21 the damage or loss resulting from the defect, if known. Based
22 upon at least a visual inspection by the claimant or its agents,
23 the notice of claim must identify the location of each alleged
24 construction defect sufficiently to enable the responding
25 parties to locate the alleged defect without undue burden. The
26 claimant has no obligation to perform destructive or other
27 testing for purposes of this notice.

28 (c) The claimant shall endeavor to serve the notice of
29 claim within 15 days after discovery of an alleged defect, but
30 the failure to serve notice of claim within 15 days does not bar
31 the filing of an action, subject to s. 558.003. This subsection
32 does not preclude a claimant from filing an action sooner than
33 60 days, or 120 days as applicable, after service of written
34 notice as expressly provided in subsection (6), subsection (7),
35 or subsection (8).

36 (4) Within 15 days after service of a copy of the notice
37 of claim pursuant to subsection (3), or within 30 days after
38 service of the copy of the notice of claim involving an
39 association representing more than 20 parcels, the contractor,
40 subcontractor, supplier, or design professional must serve a
41 written response to the person who served a copy of the notice
42 of claim. The written response must ~~shall~~ include a report, if
43 any, of the scope of any inspection of the property and, the



Amendment No. 1

44 findings and results of the inspection.7 The written response
45 must include one or more of the offers or statements specified
46 in paragraphs (5)(a)-(e), as chosen by the responding
47 contractor, subcontractor, supplier, or design professional,
48 with all of the information required for that offer or statement
49 ~~a statement of whether the contractor, subcontractor, supplier,~~
50 ~~or design professional is willing to make repairs to the~~
51 ~~property or whether such claim is disputed, a description of any~~
52 ~~repairs they are willing to make to remedy the alleged~~
53 ~~construction defect, and a timetable for the completion of such~~
54 ~~repairs. This response may also be served on the initial~~
55 ~~claimant by the contractor.~~

56 (13) This section does not relieve the person who is
57 served a notice of claim under subsection (1) from complying
58 with all contractual provisions of any liability insurance
59 policy as a condition precedent to coverage for any claim under
60 this section. However, notwithstanding the foregoing or any
61 contractual provision, the providing of a copy of such notice to
62 the person's insurer, if applicable, shall not constitute a
63 claim for insurance purposes unless the terms of the policy
64 specify otherwise. Nothing in this section shall be construed
65 to impair technical notice provisions or requirements of the
66 liability policy or alter, amend, or change existing Florida law
67 relating to rights between insureds and insurers except as
68 otherwise specifically provided herein.



Amendment No. 1

69 (15) Upon request, the claimant and any person served with
70 notice pursuant to subsection (1) shall exchange, within 30 days
71 after service of a written request, which request must cite this
72 subsection and include an offer to pay the reasonable costs of
73 reproduction, any design plans, specifications, and as-built
74 plans; ~~any documents detailing the design drawings or~~
75 ~~specifications;~~ photographs and videos of the alleged
76 construction defect identified in the notice of claim; and
77 expert reports that describe any defect upon which the claim is
78 made; ~~subcontracts; and purchase orders for the work that is~~
79 ~~claimed defective or any part of such materials;~~ and maintenance
80 records and other documents related to the discovery,
81 investigation, causation, and extent of the alleged defect
82 identified in the notice of claim and any resulting damages. A
83 party may assert any claim of privilege recognized under the
84 laws of this state with respect to any of the disclosure
85 obligations specified in this chapter. In the event of
86 subsequent litigation, any party who failed to provide the
87 requested materials shall be subject to such sanctions as the
88 court may impose for a discovery violation. Expert reports
89 exchanged between the parties may not be used in any subsequent
90 litigation for any purpose, unless the expert, or a person
91 affiliated with the expert, testifies as a witness or the report
92 is used or relied upon by an expert who testifies on behalf of
93 the party for whom the report was prepared.



Amendment No. 1

95
96
97
98

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

Remove lines 10-11 and insert:
amending ss.718.203 and

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 91 : Trade Secrets

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo			X		
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 16		Total Nays: 0			

CS/HB 91 Amendments

Amendment 419543

Adopted Without Objection

Appearances:

CS/HB 91

Henderson, Cynthia (Lobbyist) - Waive In Support

LGBS

108 E Jefferson St

Tallahassee FL 32301

Phone: 850-559-0855

CS/HB 91

Burnette, Kelly - Waive In Support

Limburger Goggan Blair & Sampson, LLP

8130 Baymeadows Circle W, #203

Jacksonville FL 32256

Phone: 904-448-2800

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)	
ADOPTED AS AMENDED	—	(Y/N)	
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)	4/8/15
FAILED TO ADOPT	—	(Y/N)	
WITHDRAWN	—	(Y/N)	
OTHER	—		

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Pilon offered the following:

3
 4 **Amendment**
 5 Remove lines 30-31 and insert:
 6 scientific, technical, or commercial information, including
 7 financial information, and includes~~including~~ any design,
 8 process, procedure, list of suppliers,

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 93 : Pub. Rec./Trade Secrets

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo			X		
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 16		Total Nays: 0			

CS/HB 93 Amendments

Amendment 970187

Adopted Without Objection

Appearances:

CS/HB 93

Henderson, Cynthia (Lobbyist) - Waive In Support

LGBS

108 E Jefferson St

Tallahassee FL 32301

Phone: 850-559-0855

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>✓</u>	(Y/N) 4/8/16
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Pilon offered the following:

Amendment (with title amendment)

Remove lines 36-562 and insert:

Section 1. Paragraph (f) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(f) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software that is sensitive are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive does ~~shall~~ not prohibit an agency head from sharing or



Amendment No. 1

18 exchanging such software with another public agency. This
19 paragraph is subject to the Open Government Sunset Review Act in
20 accordance with s. 119.15 and shall stand repealed on October 2,
21 2020, unless reviewed and saved from repeal through reenactment
22 by the Legislature.

23 Section 2. Paragraph (d) of subsection (9) of section
24 125.0104, Florida Statutes, is amended to read:

25 125.0104 Tourist development tax; procedure for levying;
26 authorized uses; referendum; enforcement.—

27 (9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any
28 other powers and duties provided for agencies created for the
29 purpose of tourism promotion by a county levying the tourist
30 development tax, such agencies are authorized and empowered to:

31 (d) Undertake marketing research and advertising research
32 studies and provide reservations services and convention and
33 meetings booking services consistent with the authorized uses of
34 revenue as set forth in subsection (5).

35 1. Information given to a county tourism promotion agency
36 which, if released, would reveal the identity of persons or
37 entities who provide data or other information as a response to
38 a sales promotion effort, an advertisement, or a research
39 project or whose names, addresses, meeting or convention plan
40 information or accommodations or other visitation needs become
41 booking or reservation list data, is exempt from s. 119.07(1)
42 and from s. 24(a), Art. I of the State Constitution.



Amendment No. 1

43 2. The following information, when held by a county
44 tourism promotion agency, is exempt from s. 119.07(1) and ~~from~~
45 s. 24(a), Art. I of the State Constitution:

46 a. ~~A trade secret, as defined in s. 812.081.~~

47 ~~b.~~ Booking business records, as defined in s. 255.047.

48 ~~b.e.~~ Trade secrets and commercial or financial information
49 gathered from a person and privileged or confidential, as
50 defined and interpreted under 5 U.S.C. s. 552(b)(4), or any
51 amendments thereto.

52 3. A trade secret, as defined in s. 812.081, held by a
53 county tourism agency is exempt from s. 119.07(1) and s. 24(a),
54 Art. I of the State Constitution. This subparagraph is subject
55 to the Open Government Sunset Review Act in accordance with s.
56 119.15 and shall stand repealed on October 2, 2020, unless
57 reviewed and saved from repeal through reenactment by the
58 Legislature.

59 Section 3. Subsection (8) of section 288.1226, Florida
60 Statutes, is amended to read:

61 288.1226 Florida Tourism Industry Marketing Corporation;
62 use of property; board of directors; duties; audit.—

63 (8) PUBLIC RECORDS EXEMPTION.—The identity of any person
64 who responds to a marketing project or advertising research
65 project conducted by the corporation in the performance of its
66 duties on behalf of Enterprise Florida, Inc., or trade secrets
67 as defined by s. 812.081 obtained pursuant to such activities,
68 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State



Amendment No. 1

69 Constitution. This subsection is subject to the Open Government
70 Sunset Review Act in accordance with s. 119.15 and shall stand
71 repealed on October 2, 2020, unless reviewed and saved from
72 repeal through reenactment by the Legislature.

73 Section 4. Section 331.326, Florida Statutes, is amended
74 to read:

75 331.326 Information relating to trade secrets
76 confidential.—The records of Space Florida regarding matters
77 encompassed by this act are public records subject to ~~the~~
78 ~~provisions of~~ chapter 119. Any information held by Space Florida
79 which is a trade secret, as defined in s. 812.081, including
80 trade secrets of Space Florida, any spaceport user, or the space
81 industry business, is confidential and exempt from ~~the~~
82 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution and may not be disclosed. If Space Florida
84 determines that any information requested by the public will
85 reveal a trade secret, it shall, in writing, inform the person
86 making the request of that determination. The determination is a
87 final order as defined in s. 120.52. Any meeting or portion of a
88 meeting of Space Florida's board is exempt from ~~the provisions~~
89 ~~of~~ s. 286.011 and s. 24(b), Art. I of the State Constitution
90 when the board is discussing trade secrets. Any public record
91 generated during the closed portions of the meetings, such as
92 minutes, tape recordings, and notes, is confidential and exempt
93 from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the
94 State Constitution. This section is subject to the Open



Amendment No. 1

95 Government Sunset Review Act in accordance with s. 119.15 and
96 shall stand repealed on October 2, 2020, unless reviewed and
97 saved from repeal through reenactment by the Legislature.

98 Section 5. Subsection (2) of section 365.174, Florida
99 Statutes, is amended to read:

100 365.174 Proprietary confidential business information.—

101 (2) (a) All proprietary confidential business information
102 submitted by a provider to the Department of Revenue, as an
103 agent of the board, is confidential and exempt from s. 119.07(1)
104 and s. 24(a), Art. I of the State Constitution.

105 (b) The Department of Revenue may provide information
106 relative to s. 365.172(9) to the Secretary of Management
107 Services, or his or her authorized agent, or to the E911 Board
108 established in s. 365.172(5) for use in the conduct of the
109 official business of the Department of Management Services or
110 the E911 Board.

111 (c) This subsection is subject to the Open Government
112 Sunset Review Act in accordance with s. 119.15 and shall stand
113 repealed on October 2, 2020~~2019~~, unless reviewed and saved from
114 repeal through reenactment by the Legislature.

115 Section 6. Section 381.83, Florida Statutes, is amended to
116 read:

117 381.83 Trade secrets; confidentiality.—

118 (1) Records, reports, or information obtained from any
119 person under this chapter, unless otherwise provided by law,
120 shall be available to the public, except upon a showing



Amendment No. 1

121 satisfactory to the department by the person from whom the
122 records, reports, or information is obtained that such records,
123 reports, or information, or a particular part thereof, contains
124 trade secrets as defined in s. 812.081(1)(e). Such trade secrets
125 ~~are shall be~~ confidential and ~~are~~ exempt from the provisions of
126 s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The
127 person submitting such trade secret information to the
128 department must request that it be kept confidential and must
129 inform the department of the basis for the claim of trade
130 secret. The department shall, subject to notice and opportunity
131 for hearing, determine whether the information, or portions
132 thereof, claimed to be a trade secret is or is not a trade
133 secret. Such trade secrets may be disclosed, however, to
134 authorized representatives of the department or, pursuant to
135 request, to other governmental entities in order for them to
136 properly perform their duties, or when relevant in any
137 proceeding under this chapter. Authorized representatives and
138 other governmental entities receiving such trade secret
139 information shall retain its confidentiality. Those involved in
140 any proceeding under this chapter, including a hearing officer
141 or judge or justice, shall retain the confidentiality of any
142 trade secret information revealed at such proceeding.

143 (2) This section is subject to the Open Government Sunset
144 Review Act in accordance with s. 119.15 and shall stand repealed
145 on October 2, 2020, unless reviewed and saved from repeal by
146 reenactment by the Legislature.



Amendment No. 1

147 Section 7. Subsection (2) and paragraph (b) of subsection
148 (3) of section 403.7046, Florida Statutes, are amended to read:

149 403.7046 Regulation of recovered materials.—

150 (2) Information reported pursuant to the requirements of
151 this section or any rule adopted pursuant to this section which,
152 if disclosed, would reveal a trade secret, as defined in s.
153 812.081(1)(e), is confidential and exempt from ~~the provisions of~~
154 s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For
155 reporting or information purposes, however, the department may
156 provide this information in such form that the names of the
157 persons reporting such information and the specific information
158 reported are not revealed. This subsection is subject to the
159 Open Government Sunset Review Act in accordance with s. 119.15
160 and shall stand repealed on October 2, 2020, unless reviewed and
161 saved from repeal through reenactment by the Legislature.

162 (3) Except as otherwise provided in this section or
163 pursuant to a special act in effect on or before January 1,
164 1993, a local government may not require a commercial
165 establishment that generates source-separated recovered
166 materials to sell or otherwise convey its recovered materials to
167 the local government or to a facility designated by the local
168 government, nor may the local government restrict such a
169 generator's right to sell or otherwise convey such recovered
170 materials to any properly certified recovered materials dealer
171 who has satisfied the requirements of this section. A local
172 government may not enact any ordinance that prevents such a



Amendment No. 1

173 dealer from entering into a contract with a commercial
174 establishment to purchase, collect, transport, process, or
175 receive source-separated recovered materials.

176 (b)1. Before engaging in business within the jurisdiction
177 of the local government, a recovered materials dealer must
178 provide the local government with a copy of the certification
179 provided for in this section. In addition, the local government
180 may establish a registration process whereby a recovered
181 materials dealer must register with the local government before
182 engaging in business within the jurisdiction of the local
183 government. Such registration process is limited to requiring
184 the dealer to register its name, including the owner or operator
185 of the dealer, and, if the dealer is a business entity, its
186 general or limited partners, its corporate officers and
187 directors, its permanent place of business, evidence of its
188 certification under this section, and a certification that the
189 recovered materials will be processed at a recovered materials
190 processing facility satisfying the requirements of this section.
191 The local government may not use the information provided in the
192 registration application to compete unfairly with the recovered
193 materials dealer until 90 days after receipt of the application.
194 All counties, and municipalities whose population exceeds 35,000
195 according to the population estimates determined pursuant to s.
196 186.901, may establish a reporting process that~~which~~ shall be
197 limited to the regulations, reporting format, and reporting
198 frequency established by the department pursuant to this

970187 - h0093-line 36.docx

Published On: 4/7/2015 7:05:14 PM



Amendment No. 1

199 section, which shall, at a minimum, include requiring the dealer
200 to identify the types and approximate amount of recovered
201 materials collected, recycled, or reused during the reporting
202 period; the approximate percentage of recovered materials
203 reused, stored, or delivered to a recovered materials processing
204 facility or disposed of in a solid waste disposal facility; and
205 the locations where any recovered materials were disposed of as
206 solid waste. ~~Information reported under this subsection which,
207 if disclosed, would reveal a trade secret, as defined in s.
208 812.081(1)(c), is confidential and exempt from the provisions of
209 s. 24(a), Art. I of the State Constitution and s. 119.07(1). The
210 local government may charge the dealer a registration fee
211 commensurate with and no greater than the cost incurred by the
212 local government in operating its registration program.
213 Registration program costs are limited to those costs associated
214 with the activities described in this paragraph. Any reporting
215 or registration process established by a local government with
216 regard to recovered materials shall be governed by ~~the
217 provisions of this section and department rules adopted pursuant
218 thereto.~~~~

219 2. Information reported under this subsection which, if
220 disclosed, would reveal a trade secret, as defined in s.
221 812.081, is confidential and exempt from s. 119.07(1) and s.
222 24(a), Art. I of the State Constitution. This subparagraph is
223 subject to the Open Government Sunset Review Act in accordance
224 with s. 119.15 and shall stand repealed on October 2, 2020,



Amendment No. 1

225 | unless reviewed and saved from repeal through reenactment by the
226 | Legislature.

227 | Section 8. Section 403.73, Florida Statutes, is amended to
228 | read:

229 | 403.73 Trade secrets; confidentiality.—

230 | (1) Records, reports, or information obtained from any
231 | person under this part, unless otherwise provided by law, shall
232 | be available to the public, except upon a showing satisfactory
233 | to the department by the person from whom the records, reports,
234 | or information is obtained that such records, reports, or
235 | information, or a particular part thereof, contains trade
236 | secrets as defined in s. 812.081(1)(e). Such trade secrets are
237 | ~~shall be~~ confidential and are exempt from ~~the provisions of~~ s.
238 | 119.07(1) and s. 24(a), Art. I of the State Constitution. The
239 | person submitting such trade secret information to the
240 | department must request that it be kept confidential and must
241 | inform the department of the basis for the claim of trade
242 | secret. The department shall, subject to notice and opportunity
243 | for hearing, determine whether the information, or portions
244 | thereof, claimed to be a trade secret is or is not a trade
245 | secret. Such trade secrets may be disclosed, however, to
246 | authorized representatives of the department or, pursuant to
247 | request, to other governmental entities in order for them to
248 | properly perform their duties, or when relevant in any
249 | proceeding under this part. Authorized representatives and other
250 | governmental entities receiving such trade secret information



Amendment No. 1

251 shall retain its confidentiality. Those involved in any
252 proceeding under this part, including an administrative law
253 judge, a hearing officer, or a judge or justice, shall retain
254 the confidentiality of any trade secret information revealed at
255 such proceeding.

256 (2) This section is subject to the Open Government Sunset
257 Review Act in accordance with s. 119.15 and shall stand repealed
258 on October 2, 2020, unless reviewed and saved from repeal
259 through reenactment by the Legislature.

260 Section 9. Paragraphs (g) and (m) of subsection (8) of
261 section 499.012, Florida Statutes, are amended to read:

262 499.012 Permit application requirements.—

263 (8) An application for a permit or to renew a permit for a
264 prescription drug wholesale distributor or an out-of-state
265 prescription drug wholesale distributor submitted to the
266 department must include:

267 (g)1. For an application for a new permit, the estimated
268 annual dollar volume of prescription drug sales of the
269 applicant, the estimated annual percentage of the applicant's
270 total company sales that are prescription drugs, the applicant's
271 estimated annual total dollar volume of purchases of
272 prescription drugs, and the applicant's estimated annual total
273 dollar volume of prescription drug purchases directly from
274 manufacturers.

275 2. For an application to renew a permit, the total dollar
276 volume of prescription drug sales in the previous year, the



Amendment No. 1

277 total dollar volume of prescription drug sales made in the
278 previous 6 months, the percentage of total company sales that
279 were prescription drugs in the previous year, the total dollar
280 volume of purchases of prescription drugs in the previous year,
281 and the total dollar volume of prescription drug purchases
282 directly from manufacturers in the previous year.

283 3. Such portions of the information required pursuant to
284 this paragraph which are a trade secret, as defined in s.
285 812.081, shall be maintained by the department as trade secret
286 information is required to be maintained under s. 499.051. This
287 subparagraph is subject to the Open Government Sunset Review Act
288 in accordance with s. 119.15 and shall stand repealed on October
289 2, 2020, unless reviewed and saved from repeal through
290 reenactment by the Legislature.

291 (m) For an applicant that is a secondary wholesale
292 distributor, each of the following:

293 1. A personal background information statement containing
294 the background information and fingerprints required pursuant to
295 subsection (9) for each person named in the applicant's response
296 to paragraphs (k) and (l) and for each affiliated party of the
297 applicant.

298 2. If any of the five largest shareholders of the
299 corporation seeking the permit is a corporation, the name,
300 address, and title of each corporate officer and director of
301 each such corporation; the name and address of such corporation;
302 the name of such corporation's resident agent, such



Amendment No. 1

303 corporation's resident agent's address, and such corporation's
304 state of its incorporation; and the name and address of each
305 shareholder of such corporation that owns 5 percent or more of
306 the stock of such corporation.

307 3.a. The name and address of all financial institutions in
308 which the applicant has an account which is used to pay for the
309 operation of the establishment or to pay for drugs purchased for
310 the establishment, together with the names of all persons that
311 are authorized signatories on such accounts.

312 b. The portions of the information required pursuant to
313 this subparagraph which are a trade secret, as defined in s.
314 812.081, shall be maintained by the department as trade secret
315 information is required to be maintained under s. 499.051. This
316 sub-subparagraph is subject to the Open Government Sunset Review
317 Act in accordance with s. 119.15 and shall stand repealed on
318 October 2, 2020, unless reviewed and saved from repeal through
319 reenactment by the Legislature.

320 4. The sources of all funds and the amounts of such funds
321 used to purchase or finance purchases of prescription drugs or
322 to finance the premises on which the establishment is to be
323 located.

324 5. If any of the funds identified in subparagraph 4. were
325 borrowed, copies of all promissory notes or loans used to obtain
326 such funds.

327 Section 10. Subsection (7) of section 499.0121, Florida
328 Statutes, is amended to read:



Amendment No. 1

329 499.0121 Storage and handling of prescription drugs;
330 recordkeeping.—The department shall adopt rules to implement
331 this section as necessary to protect the public health, safety,
332 and welfare. Such rules shall include, but not be limited to,
333 requirements for the storage and handling of prescription drugs
334 and for the establishment and maintenance of prescription drug
335 distribution records.

336 (7) PRESCRIPTION DRUG PURCHASE LIST.—

337 (a) Each wholesale distributor, except for a manufacturer,
338 shall annually provide the department with a written list of all
339 wholesale distributors and manufacturers from whom the wholesale
340 distributor purchases prescription drugs. A wholesale
341 distributor, except a manufacturer, shall notify the department
342 not later than 10 days after any change to either list.

343 (b) Such portions of the information required pursuant to
344 this subsection which are a trade secret, as defined in s.
345 812.081, shall be maintained by the department as trade secret
346 information is required to be maintained under s. 499.051. This
347 paragraph is subject to the Open Government Sunset Review Act in
348 accordance with s. 119.15 and shall stand repealed on October 2,
349 2020, unless reviewed and saved from repeal through reenactment
350 by the Legislature.

351 Section 11. Subsection (7) of section 499.051, Florida
352 Statutes, is amended to read:

353 499.051 Inspections and investigations.—



Amendment No. 1

354 (7)(a) The complaint and all information obtained pursuant
355 to the investigation by the department are confidential and
356 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
357 Constitution until the investigation and the enforcement action
358 are completed.

359 (b) Information that constitutes a ~~However,~~ trade secret,
360 as defined in s. 812.081, ~~information~~ contained in the complaint
361 and all information obtained by the department pursuant to the
362 investigation therein as defined by s. 812.081(1)(e) shall
363 remain confidential and exempt from the provisions of s.
364 119.07(1) and s. 24(a), Art. I of the State Constitution, as
365 long as the information is retained by the department. This
366 paragraph is subject to the Open Government Sunset Review Act in
367 accordance with s. 119.15 and shall stand repealed on October 2,
368 2020, unless reviewed and saved from repeal through reenactment
369 by the Legislature.

370 (c) This subsection does not prohibit the department from
371 using such information for regulatory or enforcement proceedings
372 under this chapter or from providing such information to any law
373 enforcement agency or any other regulatory agency. However, the
374 receiving agency shall keep such records confidential and exempt
375 as provided in this subsection. In addition, this subsection is
376 not intended to prevent compliance with ~~the provisions of s.~~
377 499.01212, and the pedigree papers required in that section are
378 shall not be deemed a trade secret.



Amendment No. 1

379 Section 12. Section 499.931, Florida Statutes, is amended
380 to read:

381 499.931 Trade secret information.—Information required to
382 be submitted under this part which is a trade secret as defined
383 in s. 812.081(1)(c) and designated as a trade secret by an
384 applicant or permitholder must be maintained as required under
385 s. 499.051. This section is subject to the Open Government
386 Sunset Review Act in accordance with s. 119.15 and shall stand
387 repealed on October 2, 2020, unless reviewed and saved from
388 repeal through reenactment by the Legislature.

389 Section 13. Section 502.222, Florida Statutes, is amended
390 to read:

391 502.222 Information relating to trade secrets
392 confidential.—The records of the department regarding matters
393 encompassed by this chapter are public records, subject to the
394 ~~provisions of~~ chapter 119, except that any information that
395 ~~which~~ would reveal a trade secret, as defined in s. 812.081, of
396 a dairy industry business is confidential and exempt from ~~the~~
397 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
398 Constitution. If the department determines that any information
399 requested by the public will reveal a trade secret, it shall, in
400 writing, inform the person making the request of that
401 determination. The determination is a final order as defined in
402 s. 120.52. This section is subject to the Open Government Sunset
403 Review Act in accordance with s. 119.15 and shall stand repealed



Amendment No. 1

404 on October 2, 2020, unless reviewed and saved from repeal
405 through reenactment by the Legislature.

406 Section 14. Subsection (3) of section 570.48, Florida
407 Statutes, is amended to read:

408 570.48 Division of Fruit and Vegetables; powers and
409 duties; records.—The duties of the Division of Fruit and
410 Vegetables include, but are not limited to:

411 (3) Maintaining the records of the division. The records
412 of the division are public records; however, trade secrets as
413 defined in s. 812.081 are confidential and exempt from ~~the~~
414 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
415 Constitution. This subsection is subject to the Open Government
416 Sunset Review Act in accordance with s. 119.15 and shall stand
417 repealed on October 2, 2020, unless reviewed and saved from
418 repeal through reenactment by the Legislature. This section may
419 ~~shall~~ not be construed to prohibit:

420 (a) A disclosure necessary to enforcement procedures.

421 (b) The department from releasing information to other
422 governmental agencies. Other governmental agencies that receive
423 confidential information from the department under this
424 subsection shall maintain the confidentiality of that
425 information.

426 (c) The department or other agencies from compiling and
427 publishing appropriate data regarding procedures, yield,
428 recovery, quality, and related matters, provided such released



Amendment No. 1

429 data do not reveal by whom the activity to which the data relate
430 was conducted.

431 Section 15. Subsection (2) of section 573.123, Florida
432 Statutes, is amended to read:

433 573.123 Maintenance and production of records.—

434 (2) Information that, if disclosed, would reveal a trade
435 secret, as defined in s. 812.081, of any person subject to a
436 marketing order is confidential and exempt from ~~the provisions~~
437 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
438 and may~~shall~~ not be disclosed except to an attorney who
439 provides legal advice to the division about enforcing a market
440 order or by court order. A person who receives confidential
441 information under this subsection shall maintain the
442 confidentiality of that information. This subsection is subject
443 to the Open Government Sunset Review Act in accordance with s.
444 119.15 and shall stand repealed on October 2, 2020, unless
445 reviewed and saved from repeal through reenactment by the
446 Legislature.

447 Section 16. Subsection (8) of section 601.10, Florida
448 Statutes, is amended to read:

449 601.10 Powers of the Department of Citrus.—The department
450 shall have and shall exercise such general and specific powers
451 as are delegated to it by this chapter and other statutes of the
452 state, which powers shall include, but are not limited to, the
453 following:



Amendment No. 1

454 (8) (a) To prepare and disseminate information of
455 importance to citrus growers, handlers, shippers, processors,
456 and industry-related and interested persons and organizations
457 relating to department activities and the production, handling,
458 shipping, processing, and marketing of citrus fruit and
459 processed citrus products. ~~Any information that constitutes a~~
460 ~~trade secret as defined in s. 812.081(1)(c) is confidential and~~
461 ~~exempt from s. 119.07(1) and shall not be disclosed.~~ For
462 referendum and other notice and informational purposes, the
463 department may prepare and maintain, from the best available
464 sources, a citrus grower mailing list. Such list shall be a
465 public record available as other public records, but is not ~~it~~
466 ~~shall not be~~ subject to the purging provisions of s. 283.55.

467 (b) Any information provided to the department which
468 constitutes a trade secret, as defined in s. 812.081, is
469 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
470 of the State Constitution. This paragraph is subject to the Open
471 Government Sunset Review Act in accordance with s. 119.15 and
472 shall stand repealed on October 2, 2020, unless reviewed and
473 saved from repeal through reenactment by the Legislature.

474 (c) ~~(b)~~ Any nonpublished reports or data related to studies
475 or research conducted, caused to be conducted, or funded by the
476 department under s. 601.13 is confidential and exempt from s.
477 119.07(1) and s. 24(a), Art. I of the State Constitution. This
478 paragraph is subject to the Open Government Sunset Review Act in
479 accordance with s. 119.15 and shall stand repealed on October 2,



Amendment No. 1

480 2017, unless reviewed and saved from repeal through reenactment
481 by the Legislature.

482 Section 17. Paragraph (d) of subsection (7) of section
483 601.15, Florida Statutes, is amended to read:

484 601.15 Advertising campaign; methods of conducting;
485 assessments; emergency reserve fund; citrus research.-

486 (7) All assessments levied and collected under this
487 chapter shall be paid into the State Treasury on or before the
488 15th day of each month. Such moneys shall be accounted for in a
489 special fund to be designated as the Florida Citrus Advertising
490 Trust Fund, and all moneys in such fund are appropriated to the
491 department for the following purposes:

492 (d)1. The pro rata portion of moneys allocated to each
493 type of citrus product in noncommodity programs shall be used by
494 the department to encourage substantial increases in the
495 effectiveness, frequency, and volume of noncommodity
496 advertising, merchandising, publicity, and sales promotion of
497 such citrus products through rebates and incentive payments to
498 handlers and trade customers for these activities. The
499 department shall adopt rules providing for the use of such
500 moneys. The rules shall establish alternate incentive programs,
501 including at least one incentive program for product sold under
502 advertised brands, one incentive program for product sold under
503 private label brands, and one incentive program for product sold
504 in bulk. For each incentive program, the rules shall establish
505 eligibility and performance requirements and shall provide



Amendment No. 1

506 appropriate limitations on amounts payable to a handler or trade
507 customer for a particular season. Such limitations may relate to
508 the amount of citrus assessments levied and collected on the
509 citrus product handled by such handler or trade customer during
510 a 12-month representative period.

511 2. The department may require from participants in
512 noncommodity advertising and promotional programs commercial
513 information necessary to determine eligibility for and
514 performance in such programs. Any information ~~so~~ required which
515 ~~that~~ constitutes a "trade secret," as defined in s. 812.081, is
516 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
517 of the State Constitution. This subparagraph is subject to the
518 Open Government Sunset Review Act in accordance with s. 119.15
519 and shall stand repealed on October 2, 2020, unless reviewed and
520 saved from repeal through reenactment by the Legislature.

521 Section 18. Paragraph (c) of subsection (8) of section
522 601.152, Florida Statutes, is amended to read:

523 601.152 Special marketing orders.—

524 (8)

525 (c)1. Every handler shall, at such times as the department
526 may require, file with the department a return, not under oath,
527 on forms to be prescribed and furnished by the department,
528 certified as true and correct, stating the quantity of the type,
529 variety, and form of citrus fruit or citrus product specified in
530 the marketing order first handled in the primary channels of
531 trade in the state by such handler during the period of time



Amendment No. 1

532 specified in the marketing order. Such returns shall contain any
533 further information deemed by the department to be reasonably
534 necessary to properly administer or enforce this section or any
535 marketing order implemented under this section.

536 2. Information that, if disclosed, would reveal a trade
537 secret, as defined in s. 812.081, of any person subject to a
538 marketing order is confidential and exempt from s. 119.07(1) and
539 s. 24(a), Art. I of the State Constitution. This subparagraph is
540 subject to the Open Government Sunset Review Act in accordance
541 with s. 119.15 and shall stand repealed on October 2, 2020,
542 unless reviewed and saved from repeal through reenactment by the
543 Legislature.

544 Section 19. Section 601.76, Florida Statutes, is amended
545 to read:

546 601.76 Manufacturer to furnish formula and other
547 information.—Any formula required to be filed with the
548 Department of Agriculture shall be deemed a trade secret as
549 defined in s. 812.081, is confidential and exempt from s.
550 119.07(1) and s. 24(a), Art. I of the State Constitution, and
551 shall ~~only~~ be divulged only to the Department of Agriculture or
552 to its duly authorized representatives or upon court order
553 ~~orders of a court of competent jurisdiction~~ when necessary in
554 the enforcement of this law. A person who receives such a
555 formula from the Department of Agriculture under this section
556 shall maintain the confidentiality of the formula. This section
557 is subject to the Open Government Sunset Review Act in



Amendment No. 1

558 accordance with s. 119.15 and shall stand repealed on October 2,
559 2020, unless reviewed and saved from repeal through reenactment
560 by the Legislature.

561 Section 20. Subsections (3), (4), and (6) of section
562 815.04, Florida Statutes, are amended to read:

563 815.04 Offenses against intellectual property; public
564 records exemption.—

565 (3) Data, programs, or supporting documentation that is a
566 trade secret as defined in s. 812.081, that is held by an agency
567 as defined in chapter 119, and that resides or exists internal
568 or external to a computer, computer system, computer network, or
569 electronic device is confidential and exempt from ~~the provisions~~
570 ~~of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

571 (4) A person who willfully, knowingly, and without
572 authorization discloses or takes data, programs, or supporting
573 documentation that is a trade secret as defined in s. 812.081 or
574 is confidential as provided by law residing or existing internal
575 or external to a computer, computer system, computer network, or
576 electronic device commits an offense against intellectual
577 property.

578 (6) Subsections (3) and (4) are subject to the Open
579 Government Sunset Review Act in accordance with s. 119.15, and
580 shall stand repealed on October 2, 2020~~2019~~, unless reviewed
581 and saved from repeal through reenactment by the Legislature.

582 Section 21. The Legislature finds that it is a public
583 necessity that financial information comprising a trade secret



Amendment No. 1

584 as defined in s. 812.081, Florida Statutes, be made exempt or
585 confidential and exempt from s. 119.07(1), Florida Statutes, and
586 s. 24(a), Article I of the State Constitution. The Legislature
587 also finds that it is a public necessity that any portion of a
588 meeting in which a trade secret, as defined in s. 812.081,
589 Florida Statutes, is discussed be made exempt from s. 286.011,
590 Florida Statutes, and s. 24(b), Article I of the State
591 Constitution. The Legislature recognizes that in many instances,
592 businesses are required to provide financial information for
593 regulatory or other purposes to public entities and that
594 disclosure of such information to competitors of those
595 businesses would be detrimental to the businesses. The
596 Legislature's intent is to protect trade secret information of a
597 confidential nature that includes, but is not limited to, a
598 formula, a pattern, a device, a combination of devices, or a
599 compilation of information used to protect or further a business
600 advantage over those who do not know or use the information, the
601 disclosure of which would injure the affected business in the
602 marketplace. Therefore, the Legislature finds that the need to
603 protect trade secret financial information is sufficiently
604 compelling to override this state's public policy of open
605 government and that the protection of such information cannot be
606 accomplished without these exemptions.

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



Amendment No. 1

610 Remove lines 2-29 and insert:
611 An act relating to public records and meetings; amending ss.
612 119.071(1)(f), 125.0104(9)(d), 288.1226(8), 331.326, 365.174(2),
613 381.83, 403.7046(2) and (3)(b), 403.73, 499.012(8)(g) and (m),
614 499.0121(7), 499.051(7), 499.931, 502.222, 570.48(3),
615 573.123(2), 601.10(8), 601.15(7)(d), 601.152(8)(c), 601.76, and
616 815.04(3), (4), and (6), F.S.; expanding public record
617 exemptions for certain data processing software obtained by an
618 agency, certain information held by a county tourism promotion
619 agency, information related to trade secrets held by the Florida
620 Tourism Industry Marketing Corporation, information related to
621 trade secrets held by Space Florida, proprietary confidential
622 business information submitted to the Department of Revenue,
623 trade secret information held by the Department of Health, trade
624 secret information reported or submitted to the Department of
625 Environmental Protection, trade secret information contained in
626 a complaint and any investigatory documents held by the
627 Department of Business and Professional Regulation, trade secret
628 information of a dairy industry business held by the Department
629 of Agriculture and Consumer Services, trade secret information
630 held by the Division of Fruits and Vegetables of the Department
631 of Agriculture and Consumer Services, trade secret information
632 of a person subject to a marketing order held by the Department
633 of Agriculture and Consumer Services, trade secret information
634 provided to the Department of Citrus, trade secret information
635 of noncommodity advertising and promotional program participants

970187 - h0093-line 36.docx

Published On: 4/7/2015 7:05:14 PM



Amendment No. 1

636 held by the Department of Citrus, trade secret information
637 contained in a citrus handler's return filed with the Department
638 of Citrus, a manufacturer's formula filed with the Department of
639 Agriculture and Consumer Services, and specified data, programs,
640 or supporting documentation held by an agency, respectively, to
641 incorporate changes made to the definition of the term "trade
642 secret" in s. 812.081, F.S., by CS/HB 91; expanding a public
643 meeting exemption for any meeting or portion of a meeting of
644 Space Florida's board at which trade secrets are discussed to
645 incorporate changes made to the definition of the term "trade
646 secret" in s. 812.081, F.S., by CS/HB 91; adding cross-
647 references; providing for future

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

HB 115 : Sentencing

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Appearances:

HB 115

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 151 : Sexual Cyberharassment

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Appearances:

CS/HB 151

Sawicki, Justin - Waive In Support
FSA & Volusia County Sheriff's Office
Sgt
PO Box 569
Deland FL 32720
Phone: 386-736-5961

CS/HB 151

Clermont, Lawrence - Waive In Support
Florida PTA
2841 Englewood Drive
Largo Florida
Phone: 727-458-5336

CS/HB 151

Laffey, Taylor - Waive In Support
Phone: 352-327-1298

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 151 : Sexual Cyberharassment (continued)

Appearances: (continued)

CS/HB 151

Hellstrom, Carly - Proponent

677 W St

Tallahassee Florida 32304

Phone: 352-871-2160

CS/HB 151

Eunice, Sammie - Waive In Support

Phone: 352-316-2051

CS/HB 151

Leonhardt, Fred (Lobbyist) - Waive In Support

Christian Prison Ministries

301 E Pine St Ste 1400

Orlando FL 32804

Phone: (407)451-4100

CS/HB 151

Sexton, Samantha (Lobbyist) - Waive In Support

Pace Center for Girls

Associate Director

One West Adams St., #301

Jacksonville FL 32202

Phone: 904-383-9403

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 343 : Estates

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
	Total Yeas: 16	Total Nays: 0			

CS/CS/HB 343 Amendments

Amendment 408971

Adopted Without Objection

Appearances:

CS/CS/HB 343

Edenfield, Martha (Lobbyist) - Waive In Support
Real Property, PRobate & Trust Law Action of the Fl Bar
215 South Monroe St #815
Tallahassee FL 32301
Phone: 850-999-4100

CS/CS/HB 343

Pitts, Brian - Information Only
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N) 4/8/15
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Moraitis offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Section 733.106, Florida Statutes, is amended
7 to read:

8 733.106 Costs and attorney ~~attorney's~~ fees.—

9 (1) In all probate proceedings, costs may be awarded as in
10 chancery actions.

11 (2) A person nominated as personal representative, or any
 12 proponent of a will if the person so nominated does not act
 13 within a reasonable time, if in good faith justified in offering
 14 the will in due form for probate, shall receive costs and
 15 attorney ~~attorney's~~ fees from the estate even though probate is
 16 denied or revoked.



Amendment No. 1

17 (3) Any attorney who has rendered services to an estate
18 may be awarded reasonable compensation from the estate.

19 (4) If ~~When~~ costs and attorney ~~attorney's~~ fees are to be
20 paid from the estate under this section, s. 733.6171(4), s.
21 736.1005, or s. 736.1006, the court, in its discretion, may
22 direct from what part of the estate they shall be paid.

23 (a) If the court directs an assessment against a person's
24 part of the estate and such part is insufficient to fully pay
25 the assessment, the court may direct payment from the person's
26 part of a trust, if any, if a pourover will is involved and the
27 matter is interrelated with the trust.

28 (b) All or any part of the costs and attorney fees to be
29 paid from the estate may be assessed against one or more
30 persons' part of the estate in such proportions as the court
31 finds to be just and proper.

32 (c) In the exercise of its discretion, the court may
33 consider the following factors:

34 1. The relative impact of an assessment on the estimated
35 value of each person's part of the estate.

36 2. The amount of costs and attorney fees to be assessed
37 against a person's part of the estate.

38 3. The extent to which a person whose part of the estate
39 is to be assessed, individually or through counsel, actively
40 participated in the proceeding.

41 4. The potential benefit or detriment to a person's part
42 of the estate expected from the outcome of the proceeding.

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

43 5. The relative strength or weakness of the merits of the
44 claims, defenses, or objections, if any, asserted by a person
45 whose part of the estate is to be assessed.

46 6. Whether a person whose part of the estate is to be
47 assessed was a prevailing party with respect to one or more
48 claims, defenses, or objections.

49 7. Whether a person whose part of the estate is to be
50 assessed unjustly caused an increase in the amount of costs and
51 attorney fees incurred by the personal representative or another
52 interested person in connection with the proceeding.

53 8. Any other relevant fact, circumstance, or equity.

54 (d) The court may assess a person's part of the estate
55 without finding that the person engaged in bad faith,
56 wrongdoing, or frivolousness.

57 Section 2. Paragraph (c) of subsection (2) and subsection
58 (3) of section 733.212, Florida Statutes, are amended to read:

59 733.212 Notice of administration; filing of objections.—

60 (2) The notice shall state:

61 (c) That any interested person on whom a copy of the
62 notice of administration is served must file on or before the
63 date that is 3 months after the date of service of a copy of the
64 notice of administration on that person any objection that
65 challenges the validity of the will, ~~the qualifications of the~~
66 ~~personal representative,~~ the venue, or the jurisdiction of the
67 court. The 3-month time period may only be extended for estoppel
68 based upon a misstatement by the personal representative



Amendment No. 1

69 regarding the time period within which an objection must be
70 filed. The time period may not be extended for any other reason,
71 including affirmative representation, failure to disclose
72 information, or misconduct by the personal representative or any
73 other person. Unless sooner barred by subsection (3), all
74 objections to the validity of a will, venue, or the jurisdiction
75 of the court must be filed no later than the earlier of the
76 entry of an order of final discharge of the personal
77 representative or 1 year after service of the notice of
78 administration.

79 (3) Any interested person on whom a copy of the notice of
80 administration is served must object to the validity of the
81 will, ~~the qualifications of the personal representative,~~ the
82 venue, or the jurisdiction of the court by filing a petition or
83 other pleading requesting relief in accordance with the Florida
84 Probate Rules on or before the date that is 3 months after the
85 date of service of a copy of the notice of administration on the
86 objecting person, or those objections are forever barred. The 3-
87 month time period may only be extended for estoppel based upon a
88 misstatement by the personal representative regarding the time
89 period within which an objection must be filed. The time period
90 may not be extended for any other reason, including affirmative
91 representation, failure to disclose information, or misconduct
92 by the personal representative or any other person. Unless
93 sooner barred by this subsection, all objections to the validity
94 of a will, venue, or the jurisdiction of the court must be filed

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

95 no later than the earlier of the entry of an order of final
96 discharge of the personal representative or 1 year after service
97 of the notice of administration.

98 Section 3. Section 733.2123, Florida Statutes, is amended
99 to read:

100 733.2123 Adjudication before issuance of letters.—A
101 petitioner may serve formal notice of the petition for
102 administration on interested persons. A person who is served
103 with such notice before the issuance of letters or who has
104 waived notice may not challenge the validity of the will,
105 testacy of the decedent, ~~qualifications of the personal~~
106 ~~representative~~, venue, or jurisdiction of the court, except in
107 the proceedings before issuance of letters.

108 Section 4. Section 733.3101, Florida Statutes, is amended
109 to read:

110 733.3101 Personal representative not qualified.—

111 (1) A personal representative shall resign immediately if
112 the personal representative knows that he or she was not
113 qualified to act at the time of appointment.

114 (2) Any time a personal representative, who was qualified
115 to act at the time of appointment, knows ~~or should have known~~
116 that he or she would not be qualified for appointment if
117 application for appointment were then made, the personal
118 representative shall promptly file and serve a notice setting
119 forth the reasons. The notice shall state that any interested
120 person may petition to remove the personal representative. An



Amendment No. 1

121 interested person on whom a copy of the notice is served may
122 file a petition requesting the personal representative's removal
123 within 30 days after the date on which such notice is served.

124 (3) A personal representative who fails to comply with
125 this section shall be personally liable for costs, including
126 attorney ~~attorney's~~ fees, incurred in any removal proceeding, if
127 the personal representative is removed. This liability extends
128 to a personal representative who does not know, but should have
129 known, of the facts that would have required him or her to
130 resign under subsection (1) or to file and serve notice under
131 subsection (2). This liability shall be cumulative to any other
132 provided by law.

133 (4) As used in this section, the term "qualified" means
134 that the personal representative is qualified under ss. 733.302
135 -733.305.

136 Section 5. Section 733.504, Florida Statutes, is amended
137 to read:

138 733.504 Removal of personal representative; causes for
139 removal.-

140 (1) A personal representative shall be removed and the
141 letters revoked if he or she was not qualified to act at the
142 time of appointment.

143 (2) A personal representative may be removed and the
144 letters revoked for any of the following causes, ~~and the removal~~
145 ~~shall be in addition to any penalties prescribed by law:~~



Amendment No. 1

146 ~~(a)(1)~~ Adjudication that the personal representative is
147 incapacitated.

148 ~~(b)(2)~~ Physical or mental incapacity rendering the
149 personal representative incapable of the discharge of his or her
150 duties.

151 ~~(c)(3)~~ Failure to comply with any order of the court,
152 unless the order has been superseded on appeal.

153 ~~(d)(4)~~ Failure to account for the sale of property or to
154 produce and exhibit the assets of the estate when so required.

155 ~~(e)(5)~~ Wasting or maladministration of the estate.

156 ~~(f)(6)~~ Failure to give bond or security for any purpose.

157 ~~(g)(7)~~ Conviction of a felony.

158 ~~(h)(8)~~ Insolvency of, or the appointment of a receiver or
159 liquidator for, any corporate personal representative.

160 ~~(i)(9)~~ Holding or acquiring conflicting or adverse
161 interests against the estate that will or may interfere with the
162 administration of the estate as a whole. This cause of removal
163 shall not apply to the surviving spouse because of the exercise
164 of the right to the elective share, family allowance, or
165 exemptions, as provided elsewhere in this code.

166 ~~(j)(10)~~ Revocation of the probate of the decedent's will
167 that authorized or designated the appointment of the personal
168 representative.

169 ~~(k)(11)~~ Removal of domicile from Florida, if domicile was
170 a requirement of initial appointment.



Amendment No. 1

171 (1)-(12) The personal representative was qualified to act
172 at the time of appointment, but is ~~would~~ not now be entitled to
173 appointment.

174 (3) Removal under this section is in addition to any
175 penalties prescribed by law.

176 Section 6. Section 733.817, Florida Statutes, is amended
177 to read:

178 (Substantial rewording of section. See
179 s. 733.817, F.S., for present text.)

180 733.817 Apportionment of estate taxes.-

181 (1) DEFINITIONS.-As used in this section, the term:

182 (a) "Fiduciary" means a person, other than the personal
183 representative in possession of property included in the measure
184 of the tax, who is liable to the applicable taxing authority for
185 payment of the entire tax to the extent of the value of the
186 property in possession.

187 (b) "Generation-skipping transfer tax" means the
188 generation-skipping transfer tax imposed by chapter 13 of the
189 Internal Revenue Code on direct skips of interests includible in
190 the federal gross estate or a corresponding tax imposed by any
191 state or country or political subdivision of the foregoing. The
192 term does not include the generation-skipping transfer tax on
193 taxable distributions, taxable terminations, or any other
194 generation-skipping transfer. The terms "direct skip," "taxable
195 distribution," and "taxable termination" have the same meanings
196 as provided in s. 2612 of the Internal Revenue Code.

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

197 (c) "Governing instrument" means a will, trust instrument,
198 or any other document that controls the transfer of property on
199 the occurrence of the event with respect to which the tax is
200 being levied.

201 (d) "Gross estate" means the gross estate, as determined
202 by the Internal Revenue Code with respect to the federal estate
203 tax and the Florida estate tax, and as that concept is otherwise
204 determined by the estate, inheritance, or death tax laws of the
205 particular state, country, or political subdivision whose tax is
206 being apportioned.

207 (e) "Included in the measure of the tax" means for each
208 separate tax that an interest may incur, only interests included
209 in the measure of that particular tax are considered. As used in
210 this section, the term does not include:

211 1. Any interest, whether passing under the will or not, to
212 the extent the interest is initially deductible from the gross
213 estate, without regard to any subsequent reduction of the
214 deduction by reason of the charge of any part of the applicable
215 tax to the interest. If an election is required for
216 deductibility, an interest is not initially deductible unless
217 the election for deductibility is allowed.

218 2. Interests or amounts that are not included in the gross
219 estate but are included in the amount upon which the applicable
220 tax is computed, such as adjusted taxable gifts pursuant to s.
221 2001 of the Internal Revenue Code.



Amendment No. 1

222 3. Gift taxes included in the gross estate pursuant to s.
223 2035 of the Internal Revenue Code and the portion of any inter
224 vivos transfer included in the gross estate pursuant to s. 529
225 of the Internal Revenue Code, notwithstanding inclusion in the
226 gross estate.

227 (f) "Internal Revenue Code" means the Internal Revenue
228 Code of 1986, as amended.

229 (g) "Net tax" means the net tax payable to the particular
230 state, country, or political subdivision whose tax is being
231 apportioned, after taking into account all credits against the
232 applicable tax except as provided in this section. With respect
233 to the federal estate tax, net tax is determined after taking
234 into account all credits against the tax except for the credit
235 for foreign death taxes and except for the credit or deduction
236 for state taxes imposed by states other than this state.

237 (h) "Nonresiduary devise" means any devise that is not a
238 residuary devise.

239 (i) "Nonresiduary interest," in connection with a trust,
240 means any interest in a trust which is not a residuary interest.

241 (j) "Recipient" means, with respect to property or an
242 interest in property included in the gross estate, an heir at
243 law in an intestate estate, devisee in a testate estate,
244 beneficiary of a trust, beneficiary of a life insurance policy,
245 annuity, or other contractual right, surviving tenant, taker as
246 a result of the exercise or in default of the exercise of a
247 general power of appointment, person who receives or is to

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

248 receive the property or an interest in the property, or person
249 in possession of the property, other than a creditor.

250 (k) "Residuary devise" has the meaning in s. 731.201.

251 (l) "Residuary interest," in connection with a trust,
252 means an interest in the assets of a trust which remain after
253 provision for any distribution that is to be satisfied by
254 reference to a specific property or type of property, fund, sum,
255 or statutory amount.

256 (m) "Revocable trust" means a trust as described in s.
257 733.707(3).

258 (n) "Section 2044 interest" means an interest included in
259 the measure of the tax by reason of s. 2044 of the Internal
260 Revenue Code.

261 (o) "State" means any state, territory, or possession of
262 the United States, the District of Columbia, or the Commonwealth
263 of Puerto Rico.

264 (p) "Tax" means any estate tax, inheritance tax,
265 generation-skipping transfer tax, or other tax levied or
266 assessed under the laws of this or any other state, the United
267 States, any other country, or any political subdivision of the
268 foregoing, as finally determined, which is imposed as a result
269 of the death of the decedent. The term also includes any
270 interest or penalties imposed in addition to the tax. Unless the
271 context indicates otherwise, the term means each separate tax.
272 The term does not include any additional estate tax imposed by
273 s. 2032A(c) or s. 2057(f) of the Internal Revenue Code or a

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

274 corresponding tax imposed by any state or country or political
275 subdivision of the foregoing. The additional estate tax imposed
276 shall be apportioned as provided in s. 2032A or s. 2057 of the
277 Internal Revenue Code.

278 (q) "Temporary interest" means an interest in income or an
279 estate for a specific period of time, for life, or for some
280 other period controlled by reference to extrinsic events,
281 whether or not in trust.

282 (r) "Tentative Florida tax" with respect to any property
283 means the net Florida estate tax that would have been
284 attributable to that property if no tax were payable to any
285 other state in respect of that property.

286 (s) "Value" means the pecuniary worth of the interest
287 involved as finally determined for purposes of the applicable
288 tax after deducting any debt, expense, or other deduction
289 chargeable to it for which a deduction was allowed in
290 determining the amount of the applicable tax. A lien or other
291 encumbrance is not regarded as chargeable to a particular
292 interest to the extent that it will be paid from other
293 interests. The value of an interest is not reduced by reason of
294 the charge against it of any part of the tax, except as provided
295 in paragraph (3)(a).

296 (2) ALLOCATION OF TAX.—Except as effectively directed in
297 the governing instrument pursuant to subsection (4), the net tax
298 attributable to the interests included in the measure of each
299 tax shall be determined by the proportion that the value of each

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

300 interest included in the measure of the tax bears to the total
301 value of all interests included in the measure of the tax.

302 Notwithstanding the foregoing provision of this subsection and
303 except as effectively directed in the governing instrument:

304 (a) The net tax attributable to section 2044 interests
305 shall be determined in the manner provided for the federal
306 estate tax in s. 2207A of the Internal Revenue Code, and the
307 amount so determined shall be deducted from the tax to determine
308 the net tax attributable to all other interests included in the
309 measure of the tax.

310 (b) The foreign tax credit allowed with respect to the
311 federal estate tax shall be allocated among the recipients of
312 interests finally charged with the payment of the foreign tax in
313 reduction of any federal estate tax chargeable to the recipients
314 of the foreign interests, whether or not any federal estate tax
315 is attributable to the foreign interests. Any excess of the
316 foreign tax credit shall be applied to reduce proportionately
317 the net amount of federal estate tax chargeable to the remaining
318 recipients of the interests included in the measure of the
319 federal estate tax.

320 (c) The reduction in the net tax attributable to the
321 deduction for state death taxes allowed by s. 2058 of the
322 Internal Revenue Code shall be allocated to the recipients of
323 the interests that produced the deduction. For this purpose, the
324 reduction in the net tax shall be calculated in the manner

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

325 provided for interests other than those described in paragraph
326 (a).

327 (d) The reduction in the Florida tax, if one is imposed,
328 on the estate of a Florida resident for tax paid to another
329 state shall be allocated as follows:

330 1. If the net tax paid to another state is greater than or
331 equal to the tentative Florida tax attributable to the property
332 subject to tax in the other state, none of the Florida tax shall
333 be attributable to that property.

334 2. If the net tax paid to another state is less than the
335 tentative Florida tax attributable to the property subject to
336 tax in the other state, the net Florida tax attributable to the
337 property subject to tax in the other state shall be the excess
338 of the amount of the tentative Florida tax attributable to the
339 property over the net tax payable to the other state with
340 respect to the property.

341 3. Any remaining net Florida tax shall be attributable to
342 property included in the measure of the Florida tax exclusive of
343 the property subject to tax in another state.

344 4. The net federal tax attributable to the property
345 subject to tax in the other state shall be determined as if the
346 property were located in that state.

347 (e) The net tax attributable to a temporary interest, if
348 any, is regarded as attributable to the principal that supports
349 the temporary interest.

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

350 (3) APPORTIONMENT OF TAX.—Except as otherwise effectively
351 directed in the governing instrument pursuant to subsection (4),
352 the net tax attributable to each interest shall be apportioned
353 as follows:

354 (a) Generation-skipping transfer tax.—Any federal or state
355 generation-skipping transfer tax shall be apportioned as
356 provided in s. 2603 of the Internal Revenue Code after the
357 application of the remaining provisions of this subsection to
358 taxes other than the generation-skipping transfer tax.

359 (b) Section 2044 interests.—The net tax attributable to
360 section 2044 interests shall be apportioned among the recipients
361 of the section 2044 interests in the proportion that the value
362 of each section 2044 interest bears to the total of all section
363 2044 interests. The net tax apportioned by this paragraph to
364 section 2044 interests that pass in the manner described in
365 paragraph (c) or paragraph (d) shall be apportioned to the
366 section 2044 interests in the manner described in those
367 paragraphs before the apportionment of the net tax attributable
368 to the other interests passing as provided in those paragraphs.
369 The net tax attributable to the interests other than the section
370 2044 interests which pass in the manner described in paragraph
371 (c) or paragraph (d) shall be apportioned only to such other
372 interests pursuant to those paragraphs.

373 (c) Wills.—The net tax attributable to property passing
374 under the decedent's will shall be apportioned in the following
375 order of priority:

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

376 1. The net tax attributable to nonresiduary devises shall
377 be charged to and paid from the residuary estate, whether or not
378 all interests in the residuary estate are included in the
379 measure of the tax. If the residuary estate is insufficient to
380 pay the net tax attributable to all nonresiduary devises, the
381 balance of the net tax attributable to nonresiduary devises
382 shall be apportioned among the recipients of the nonresiduary
383 devises in the proportion that the value of each nonresiduary
384 devise included in the measure of the tax bears to the total of
385 all nonresiduary devises included in the measure of the tax.

386 2. The net tax attributable to residuary devises shall be
387 apportioned among the recipients of the residuary devises
388 included in the measure of the tax in the proportion that the
389 value of each residuary devise included in the measure of the
390 tax bears to the total of all residuary devises included in the
391 measure of the tax. If the residuary estate is insufficient to
392 pay the net tax attributable to all residuary devises, the
393 balance of the net tax attributable to residuary devises shall
394 be apportioned among the recipients of the nonresiduary devises
395 in the proportion that the value of each nonresiduary devise
396 included in the measure of the tax bears to the total of all
397 nonresiduary devises included in the measure of the tax.

398 (d) Trusts.—The net tax attributable to property passing
399 under the terms of any trust other than a trust created in the
400 decedent's will shall be apportioned in the following order of
401 priority:



Amendment No. 1

402 1. The net tax attributable to nonresiduary interests of
403 the trust shall be charged to and paid from the residuary
404 portion of the trust, whether or not all interests in the
405 residuary portion are included in the measure of the tax. If the
406 residuary portion is insufficient to pay the net tax
407 attributable to all nonresiduary interests, the balance of the
408 net tax attributable to nonresiduary interests shall be
409 apportioned among the recipients of the nonresiduary interests
410 in the proportion that the value of each nonresiduary interest
411 included in the measure of the tax bears to the total of all
412 nonresiduary interests included in the measure of the tax.

413 2. The net tax attributable to residuary interests of the
414 trust shall be apportioned among the recipients of the residuary
415 interests of the trust included in the measure of the tax in the
416 proportion that the value of each residuary interest included in
417 the measure of the tax bears to the total of all residuary
418 interests of the trust included in the measure of the tax. If
419 the residuary portion is insufficient to pay the net tax
420 attributable to all residuary interests, the balance of the net
421 tax attributable to residuary interests shall be apportioned
422 among the recipients of the nonresiduary interests in the
423 proportion that the value of each nonresiduary interest included
424 in the measure of the tax bears to the total of all nonresiduary
425 interests included in the measure of the tax.

426

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

427 Except as provided in paragraph (g), this paragraph applies
428 separately for each trust.

429 (e) Protected homestead, exempt property, and family
430 allowance.—

431 1. The net tax attributable to an interest in protected
432 homestead, exempt property, and the family allowance determined
433 under s. 732.403 shall be apportioned against the recipients of
434 other interests in the estate or passing under any revocable
435 trust in the following order of priority:

436 a. Class I.—Recipients of interests passing by intestacy
437 that are included in the measure of the federal estate tax.

438 b. Class II.—Recipients of residuary devises, residuary
439 interests, and pretermitted shares under ss. 732.301 and 732.302
440 that are included in the measure of the federal estate tax.

441 c. Class III.—Recipients of nonresiduary devises and
442 nonresiduary interests that are included in the measure of the
443 federal estate tax.

444 2. Any net tax apportioned to a class pursuant to this
445 paragraph shall be apportioned among each recipient in the class
446 in the proportion that the value of the interest of each bears
447 to the total value of all interests included in that class. A
448 tax may not be apportioned under this paragraph to the portion
449 of any interest applied in satisfaction of the elective share
450 whether or not included in the measure of the tax. For purposes
451 of this paragraph, if the value of the interests described in s.
452 732.2075(1) exceeds the amount of the elective share, the

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

453 elective share shall be treated as satisfied first from
454 interests other than those described in classes I, II, and III,
455 and to the extent that those interests are insufficient to
456 satisfy the elective share, from the interests passing to or for
457 the benefit of the surviving spouse described in classes I, II,
458 and III, beginning with those described in class I, until the
459 elective share is satisfied. This paragraph has priority over
460 paragraphs (a) and (h).

461 3. The balance of the net tax attributable to any interest
462 in protected homestead, exempt property, and the family
463 allowance determined under s. 732.403 which is not apportioned
464 under the preceding provisions of this paragraph shall be
465 apportioned to the recipients of those interests included in the
466 measure of the tax in the proportion that the value of each
467 bears to the total value of those interests included in the
468 measure of the tax.

469 (f) Construction.—For purposes of this subsection:

470 1. If the decedent's estate is the beneficiary of a life
471 insurance policy, annuity, or contractual right included in the
472 decedent's gross estate, or is the taker as a result of the
473 exercise or default in exercise of a general power of
474 appointment held by the decedent, that interest shall be
475 regarded as passing under the terms of the decedent's will for
476 the purposes of paragraph (c) or by intestacy if not disposed of
477 by will. Additionally, any interest included in the measure of
478 the tax by reason of s. 2041 of the Internal Revenue Code

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

479 passing to the decedent's creditors or the creditors of the
480 decedent's estate shall be regarded as passing to the decedent's
481 estate for the purpose of this subparagraph.

482 2. If a trust is the beneficiary of a life insurance
483 policy, annuity, or contractual right included in the decedent's
484 gross estate, or is the taker as a result of the exercise or
485 default in exercise of a general power of appointment held by
486 the decedent, that interest shall be regarded as passing under
487 the trust for purposes of paragraph (d).

488 (g) Common instrument construction.—In the application of
489 this subsection, paragraphs (b)-(f) shall be applied to
490 apportion the net tax to the recipients under certain governing
491 instruments as if all recipients under those instruments, other
492 than the estate or revocable trust itself, were taking under a
493 common instrument. This construction applies to the following:

494 1. The decedent's will and revocable trust if the estate
495 is a beneficiary of the revocable trust or if the revocable
496 trust is a beneficiary of the estate.

497 2. A revocable trust of the decedent and another revocable
498 trust of the decedent if either trust is the beneficiary of the
499 other trust.

500 (h) Other interests.—The net tax that is not apportioned
501 to interests under paragraphs (b)-(g), including, but not
502 limited to, the net tax attributable to interests passing by
503 intestacy, interests applied in satisfaction of the elective
504 share pursuant to s. 732.2075(2), interests passing by reason of

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

505 the exercise or nonexercise of a general power of appointment,
506 jointly held interests passing by survivorship, life insurance,
507 properties in which the decedent held a reversionary or
508 revocable interest, annuities, and contractual rights, shall be
509 apportioned among the recipients of the remaining interests
510 included in the measure of the tax in the proportion that the
511 value of each such interest bears to the total value of all
512 remaining interests included in the measure of the tax.

513 (i) Assessment of liability by court.—If the court finds
514 that:

515 1. It is inequitable to apportion interest or penalties,
516 or both, in the manner provided in paragraphs (a)-(h), the court
517 may assess liability for the payment thereof in the manner that
518 the court finds equitable.

519 2. The payment of any tax was not effectively directed in
520 the governing instrument pursuant to subsection (4) and that
521 such tax is not apportioned by this subsection, the court may
522 assess liability for the payment of such tax in the manner that
523 the court finds equitable.

524 (4) DIRECTION AGAINST APPORTIONMENT.—

525 (a) Except as provided in this subsection, a governing
526 instrument may not direct that taxes be paid from property other
527 than that passing under the governing instrument.

528 (b) For a direction in a governing instrument to be
529 effective to direct payment of taxes attributable to property
530 passing under the governing instrument in a manner different

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

531 from that provided in this section, the direction must be
532 express.

533 (c) For a direction in a governing instrument to be
534 effective to direct payment of taxes attributable to property
535 not passing under the governing instrument from property passing
536 under the governing instrument, the governing instrument must
537 expressly direct that the property passing under the governing
538 instrument bear the burden of taxation for property not passing
539 under the governing instrument. Except as provided in paragraph
540 (d), a direction in the governing instrument to the effect that
541 all taxes are to be paid from property passing under the
542 governing instrument whether attributable to property passing
543 under the governing instrument or otherwise shall be effective
544 to direct payment from property passing under the governing
545 instrument of taxes attributable to property not passing under
546 the governing instrument.

547 (d) In addition to satisfying the other provisions of this
548 subsection:

549 1.a. For a direction in the decedent's will or revocable
550 trust to be effective in waiving the right of recovery provided
551 in s. 2207A of the Internal Revenue Code for the tax
552 attributable to section 2044 interests, and for any tax imposed
553 by Florida based upon such section 2044 interests, the direction
554 must expressly waive that right of recovery. An express
555 direction that property passing under the will or revocable
556 trust bear the tax imposed by s. 2044 of the Internal Revenue

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

557 Code is deemed an express waiver of the right of recovery
558 provided in s. 2207A of the Internal Revenue Code. A reference
559 to "qualified terminable interest property," "QTIP," or property
560 in which the decedent had a "qualifying income interest for
561 life" is deemed to be a reference to property upon which tax is
562 imposed by s. 2044 of the Internal Revenue Code which is subject
563 to the right of recovery provided in s. 2207A of the Internal
564 Revenue Code.

565 b. If property is included in the gross estate pursuant to
566 ss. 2041 and 2044 of the Internal Revenue Code, the property is
567 deemed included under s. 2044, and not s. 2041, for purposes of
568 allocation and apportionment of the tax.

569 2. For a direction in the decedent's will or revocable
570 trust to be effective in waiving the right of recovery provided
571 in s. 2207B of the Internal Revenue Code for tax imposed by
572 reason of s. 2036 of the Internal Revenue Code, and any tax
573 imposed by Florida based upon s. 2036 of the Internal Revenue
574 Code, the direction must expressly waive that right of recovery.
575 An express direction that property passing under the will or
576 revocable trust bear the tax imposed by s. 2036 of the Internal
577 Revenue Code is deemed an express waiver of the right of
578 recovery provided in s. 2207B of the Internal Revenue Code. If
579 property is included in the gross estate pursuant to ss. 2036
580 and 2038 of the Internal Revenue Code, the property is deemed
581 included under s. 2038, not s. 2036, for purposes of allocation

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

582 and apportionment of the tax, and there is no right of recovery
583 under s. 2207B of the Internal Revenue Code.

584 3. A general statement in the decedent's will or revocable
585 trust waiving all rights of reimbursement or recovery under the
586 Internal Revenue Code is not an express waiver of the rights of
587 recovery provided in s. 2207A or s. 2207B of the Internal
588 Revenue Code.

589 4. For a direction in a governing instrument to be
590 effective to direct payment of generation-skipping transfer tax
591 in a manner other than as provided in s. 2603 of the Internal
592 Revenue Code, and any tax imposed by Florida based on s. 2601 of
593 the Internal Revenue Code, the direction must specifically
594 reference the tax imposed by s. 2601 of the Internal Revenue
595 Code. A reference to the generation-skipping transfer tax or s.
596 2603 of the Internal Revenue Code is deemed to be a reference to
597 property upon which tax is imposed by reason of s. 2601 of the
598 Internal Revenue Code.

599 (e) If the decedent expressly directs by will, the net tax
600 attributable to property over which the decedent held a general
601 power of appointment may be determined in a manner other than as
602 provided in subsection (2) if the net tax attributable to that
603 property does not exceed the difference between the total net
604 tax determined pursuant to subsection (2), determined without
605 regard to this paragraph, and the total net tax that would have
606 been payable if the value of the property subject to such power
607 of appointment had not been included in the decedent's gross

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

608 estate. If tax is attributable to one or more section 2044
609 interests pursuant to subsection (2), the net tax attributable
610 to the section 2044 interests shall be calculated before the
611 application of this paragraph unless the decedent expressly
612 directs otherwise by will.

613 (f) If the decedent's will expressly provides that the tax
614 is to be apportioned as provided in the decedent's revocable
615 trust by specific reference to the revocable trust, an express
616 direction in the revocable trust is deemed to be a direction
617 contained in the will as well as the revocable trust.

618 (g) An express direction in the decedent's will to pay tax
619 from the decedent's revocable trust by specific reference to the
620 revocable trust is effective unless a contrary express direction
621 is contained in the revocable trust.

622 (h) If governing instruments contain effective directions
623 that conflict as to payment of taxes, the most recently executed
624 tax apportionment provision controls to the extent of the
625 conflict. For the purpose of this subsection, if a will or other
626 governing instrument is amended, the date of the codicil to the
627 will or amendment to the governing instrument is regarded as the
628 date of the will or other governing instrument only if the
629 codicil or amendment contains an express tax apportionment
630 provision or an express modification of the tax apportionment
631 provision. A general statement ratifying or republishing all
632 provisions not otherwise amended does not meet this condition.
633 If the decedent's will and another governing instrument were



Amendment No. 1

634 executed on the same date, the will is deemed executed after the
635 other governing instrument. The earlier conflicting governing
636 instrument controls as to any tax remaining unpaid after the
637 application of the later conflicting governing instrument.

638 (i) A grant of permission or authority in a governing
639 instrument to request payment of tax from property passing under
640 another governing instrument is not a direction apportioning the
641 tax to the property passing under the other governing
642 instrument. A grant of permission or authority in a governing
643 instrument to pay tax attributable to property not passing under
644 the governing instrument is not a direction apportioning the tax
645 to property passing under the governing instrument.

646 (j) This section applies to any tax remaining to be paid
647 after the application of any effective express directions. An
648 effective express direction for payment of tax on specific
649 property or a type of property in a manner different from that
650 provided in this section is not effective as an express
651 direction for payment of tax on other property or other types of
652 property included in the measure of the tax.

653 (5) TRANSFER OF PROPERTY.—A personal representative or
654 fiduciary shall not be required to transfer to a recipient any
655 property reasonably anticipated to be necessary for the payment
656 of taxes. Further, the personal representative or fiduciary is
657 not required to transfer any property to the recipient until the
658 amount of the tax due from the recipient is paid by the
659 recipient. If property is transferred before final apportionment

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

660 of the tax, the recipient shall provide a bond or other security
661 for his or her apportioned liability in the amount and form
662 prescribed by the personal representative or fiduciary.

663 (6) ORDER OF APPORTIONMENT.—

664 (a) The personal representative may petition at any time
665 for an order of apportionment. If administration of the
666 decedent's estate has not commenced at any time after 90 days
667 from the decedent's death, any fiduciary may petition for an
668 order of apportionment in the court in which venue would be
669 proper for administration of the decedent's estate. Notice of
670 the petition for order of apportionment must be served on all
671 interested persons in the manner provided for service of formal
672 notice. At any time after 6 months from the decedent's death,
673 any recipient may petition the court for an order of
674 apportionment.

675 (b) The court shall determine all issues concerning
676 apportionment. If the tax to be apportioned has not been finally
677 determined, the court shall determine the probable tax due or to
678 become due from all interested persons, apportion the probable
679 tax, and retain jurisdiction over the parties and issues to
680 modify the order of apportionment as appropriate until after the
681 tax is finally determined.

682 (7) DEFICIENCY.—

683 (a) If the personal representative or fiduciary does not
684 have possession of sufficient property otherwise distributable
685 to the recipient to pay the tax apportioned to the recipient,

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

686 whether under this section, the Internal Revenue Code, or the
687 governing instrument, if applicable, the personal representative
688 or fiduciary shall recover the deficiency in tax so apportioned
689 to the recipient:

690 1. From the fiduciary in possession of the property to
691 which the tax is apportioned, if any; and

692 2. To the extent of any deficiency in collection from the
693 fiduciary, or to the extent collection from the fiduciary is
694 excused pursuant to subsection (8) and in all other cases, from
695 the recipient of the property to which the tax is apportioned,
696 unless relieved of this duty as provided in subsection (8).

697 (b) In any action to recover the tax apportioned, the
698 order of apportionment is prima facie correct.

699 (c) In any action for the enforcement of an order of
700 apportionment, the court shall award taxable costs as in
701 chancery actions, including reasonable attorney fees, and may
702 award penalties and interest on the unpaid tax in accordance
703 with equitable principles.

704 (d) This subsection does not authorize the recovery of any
705 tax from a company issuing life insurance included in the gross
706 estate, or from a bank, trust company, savings and loan
707 association, or similar institution with respect to any account
708 in the name of the decedent and any other person which passed by
709 operation of law at the decedent's death.

710 (8) RELIEF FROM DUTY.—



Amendment No. 1

711 (a) A personal representative or fiduciary who has the
712 duty under this section of collecting the apportioned tax from
713 recipients may be relieved of the duty to collect the tax by an
714 order of the court finding that:

715 1. The estimated court costs and attorney fees in
716 collecting the apportioned tax from a person against whom the
717 tax has been apportioned will approximate or exceed the amount
718 of the recovery;

719 2. The person against whom the tax has been apportioned is
720 a resident of a foreign country other than Canada and refuses to
721 pay the apportioned tax on demand; or

722 3. It is impracticable to enforce contribution of the
723 apportioned tax against a person against whom the tax has been
724 apportioned in view of the improbability of obtaining a judgment
725 or the improbability of collection under any judgment that might
726 be obtained, or otherwise.

727 (b) A personal representative or fiduciary is not liable
728 for failure to attempt to enforce collection if the personal
729 representative or fiduciary reasonably believes that collection
730 would have been economically impracticable.

731 (9) UNCOLLECTED TAX.—Any apportioned tax that is not
732 collected shall be reapportioned in accordance with this section
733 as if the portion of the property to which the uncollected tax
734 had been apportioned had been exempt.

735 (10) CONTRIBUTION.—This section does not limit the right
736 of any person who has paid more than the amount of the tax



Amendment No. 1

737 apportionable to that person, calculated as if all apportioned
738 amounts would be collected, to obtain contribution from those
739 who have not paid the full amount of the tax apportionable to
740 them, calculated as if all apportioned amounts would be
741 collected, and that right is hereby conferred. In any action to
742 enforce contribution, the court shall award taxable costs as in
743 chancery actions, including reasonable attorney fees.

744 (11) FOREIGN TAX.—This section does not require the
745 personal representative or fiduciary to pay any tax levied or
746 assessed by a foreign country unless specific directions to that
747 effect are contained in the will or other instrument under which
748 the personal representative or fiduciary is acting.

749 Section 7. Section 736.1005, Florida Statutes, is amended
750 to read:

751 736.1005 Attorney ~~attorney's~~ fees for services to the
752 trust.—

753 (1) Any attorney who has rendered services to a trust may
754 be awarded reasonable compensation from the trust. The attorney
755 may apply to the court for an order awarding attorney ~~attorney's~~
756 fees and, after notice and service on the trustee and all
757 beneficiaries entitled to an accounting under s. 736.0813, the
758 court shall enter an order on the fee application.

759 (2) If attorney ~~Whenever attorney's~~ fees are to be paid
760 from out of ~~of~~ the trust under subsection (1), s. 736.1007(5)(a),
761 or s. 733.106(4)(a), the court, in its discretion, may direct
762 from what part of the trust the fees shall be paid.



Amendment No. 1

763 (a) All or any part of the attorney fees to be paid from
764 the trust may be assessed against one or more persons' part of
765 the trust in such proportions as the court finds to be just and
766 proper.

767 (b) In the exercise of its discretion, the court may
768 consider the following factors:

769 1. The relative impact of an assessment on the estimated
770 value of each person's part of the trust.

771 2. The amount of attorney fees to be assessed against a
772 person's part of the trust.

773 3. The extent to which a person whose part of the trust is
774 to be assessed, individually or through counsel, actively
775 participated in the proceeding.

776 4. The potential benefit or detriment to a person's part
777 of the trust expected from the outcome of the proceeding.

778 5. The relative strength or weakness of the merits of the
779 claims, defenses, or objections, if any, asserted by a person
780 whose part of the trust is to be assessed.

781 6. Whether a person whose part of the trust is to be
782 assessed was a prevailing party with respect to one or more
783 claims, defenses, or objections.

784 7. Whether a person whose part of the trust is to be
785 assessed unjustly caused an increase in the amount of attorney
786 fees incurred by the trustee or another person in connection
787 with the proceeding.

788 8. Any other relevant fact, circumstance, or equity.

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

789 (c) The court may assess a person's part of the trust
790 without finding that the person engaged in bad faith,
791 wrongdoing, or frivolousness.

792 (3) Except when a trustee's interest may be adverse in a
793 particular matter, the attorney shall give reasonable notice in
794 writing to the trustee of the attorney's retention by an
795 interested person and the attorney's entitlement to fees
796 pursuant to this section. A court may reduce any fee award for
797 services rendered by the attorney prior to the date of actual
798 notice to the trustee, if the actual notice date is later than a
799 date of reasonable notice. In exercising this discretion, the
800 court may exclude compensation for services rendered after the
801 reasonable notice date but before ~~prior to~~ the date of actual
802 notice.

803 Section 8. Section 736.1006, Florida Statutes, is amended
804 to read:

805 736.1006 Costs in trust proceedings.—

806 (1) In all trust proceedings, costs may be awarded as in
807 chancery actions.

808 (2) If ~~Whenever~~ costs are to be paid from ~~out of~~ the trust
809 under subsection (1) or s. 733.106(4)(a), the court, in its
810 discretion, may direct from what part of the trust the costs
811 shall be paid. All or any part of the costs to be paid from the
812 trust may be assessed against one or more persons' part of the
813 trust in such proportions as the court finds to be just and



Amendment No. 1

814 proper. In the exercise of its discretion, the court may
815 consider the factors set forth in s. 736.1005(2).

816 Section 9. The amendments made by this act to ss. 733.212,
817 733.2123, 733.3101, and 733.504, Florida Statutes, apply to
818 proceedings commenced on or after July 1, 2015. The law in
819 effect before July 1, 2015, applies to proceedings commenced
820 before that date.

821 Section 10. (1) The amendment made by this act to s.
822 733.817(1)(g) and (2)(c), Florida Statutes, is remedial in
823 nature, is intended to clarify existing law, and applies
824 retroactively to all proceedings pending or commenced on or
825 after July 1, 2015, in which the apportionment of taxes has not
826 been finally determined or agreed for the estates of decedents
827 who die after December 31, 2004.

828 (2) The amendment made by this act to s. 733.817(1)(e)3.,
829 (3)(e), (3)(g), (4)(b), (4)(c), (4)(d)1.b., (4)(e), (4)(h), and
830 (6), Florida Statutes, applies to the estates of decedents who
831 die on or after July 1, 2015.

832 (3) Except as provided in subsections (1) and (2), the
833 amendment made by this act to s. 733.817, Florida Statutes, is
834 remedial in nature, is intended to clarify existing law, and
835 applies retroactively to all proceedings pending or commenced on
836 or after July 1, 2015, in which the apportionment of taxes has
837 not been finally determined or agreed and without regard to the
838 date of the decedent's death.



Amendment No. 1

839 Section 11. The amendments made by this act to ss.
840 733.106, 736.1005, and 736.1006, Florida Statutes, apply to
841 proceedings commenced on or after July 1, 2015. The law in
842 effect before July 1, 2015, applies to proceedings commenced
843 before that date.

844 Section 12. This act shall take effect July 1, 2015.
845

846 -----

847 **T I T L E A M E N D M E N T**

848 Remove everything before the enacting clause and insert:
849 An act relating to estates; amending s. 733.106, F.S.;
850 authorizing the court, if costs and attorney fees are to be paid
851 from the estate under specified sections of law, to direct
852 payment from a certain part of the estate or, under specified
853 circumstances, to direct payment from a trust; authorizing costs
854 and fees to be assessed against one or more persons' part of the
855 trust in such proportions as the court finds just and proper;
856 specifying factors that the court may consider in directing the
857 assessment of such costs and fees; authorizing a court to assess
858 costs and fees without finding that the person engaged in
859 specified wrongful acts; amending s. 733.212, F.S.; revising the
860 required content for a notice of administration; revising
861 provisions that require an interested person, who has been
862 served a notice of administration, to file specified objections
863 in an estate matter within 3 months after service of such
864 notice; providing that the 3-month period may only be extended



Amendment No. 1

865 for certain estoppel; providing that objections that are not
866 barred by the 3-month period must be filed no later than a
867 specified date; deleting references to objections based upon the
868 qualifications of a personal representative; amending s.
869 733.2123, F.S.; conforming provisions to changes made by the
870 act; amending s. 733.3101, F.S.; requiring a personal
871 representative to resign immediately if he or she knows that he
872 or she was not qualified to act at the time of appointment;
873 requiring a personal representative who was qualified to act at
874 such appointment to file a notice if no longer qualified;
875 authorizing an interested person within a specified period to
876 request the removal of a personal representative who files such
877 notice; providing that a personal representative is liable for
878 costs and attorney fees incurred in a removal proceeding if he
879 or she is removed and should have known of the facts supporting
880 the removal; defining the term "qualified"; amending s. 733.504,
881 F.S.; requiring a personal representative to be removed and the
882 letters of administration revoked if he or she was not qualified
883 to act at the time of appointment; amending s. 733.817, F.S.;
884 defining and redefining terms; deleting a provision that exempts
885 an interest in protected homestead from the apportionment of
886 taxes; providing for the payment of taxes on protected homestead
887 family allowance and exempt property by certain other property
888 to the extent such other property is sufficient; revising the
889 allocation of taxes; revising the apportionment of the net tax
890 attributable to specified interests; authorizing a court to

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

891 assess liability in an equitable manner under certain
892 circumstances; providing that a governing instrument may not
893 direct that taxes be paid from property other than property
894 passing under the governing instrument, except under specified
895 conditions; requiring that direction in a governing instrument
896 be express to apportion taxes under certain circumstances;
897 requiring that the right of recovery provided in the Internal
898 Revenue Code for certain taxes be expressly waived in the
899 decedent's will or revocable trust with certain specificity;
900 specifying the property upon which certain tax is imposed for
901 allocation and apportionment of certain tax; providing that a
902 general statement in the decedent's will or revocable trust
903 waiving all rights of reimbursement or recovery under the
904 Internal Revenue Code is not an express waiver of certain rights
905 of recovery; requiring direction to specifically reference the
906 generation-skipping transfer tax imposed by the Internal Revenue
907 Code to direct its apportionment; authorizing, under certain
908 circumstances, the decedent to direct by will the amount of net
909 tax attributable to property over which the decedent held a
910 general power of appointment under certain circumstances;
911 providing that an express direction in a revocable trust is
912 deemed to be a direction contained in the decedent's will as
913 well as the revocable trust under certain circumstances;
914 providing that an express direction in the decedent's will to
915 pay tax from the decedent's revocable trust by specific
916 reference to the revocable trust is effective unless a contrary

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM

Page 36 of 38



Amendment No. 1

917 | express direction is contained in the revocable trust; revising
918 | the resolution of conflicting directions in governing
919 | instruments with regard to payment of taxes; providing that the
920 | later express direction in the will or other governing
921 | instrument controls; providing that the date of an amendment to
922 | a will or other governing instrument is the date of the will or
923 | trust for conflict resolution only if the codicil or amendment
924 | contains an express tax apportionment provision or an express
925 | modification of the tax apportionment provision; providing that
926 | a will is deemed executed after another governing instrument if
927 | the decedent's will and another governing instrument were
928 | executed on the same date; providing that an earlier conflicting
929 | governing instrument controls as to any tax remaining unpaid
930 | after the application of the later conflicting governing
931 | instrument; providing that a grant of permission or authority in
932 | a governing instrument to request payment of tax from property
933 | passing under another governing instrument is not a direction
934 | apportioning the tax to the property passing under the other
935 | governing instrument; providing a grant of permission or
936 | authority in a governing instrument to pay tax attributable to
937 | property not passing under the governing instrument is not a
938 | direction apportioning the tax to property passing under the
939 | governing instrument; providing application; prohibiting the
940 | requiring of a personal representative or fiduciary to transfer
941 | to a recipient property that may be used for payment of taxes;
942 | amending s. 736.1005, F.S.; authorizing the court, if attorney

408971 - h0343-strike.docx

Published On: 4/7/2015 7:08:57 PM



Amendment No. 1

943 fees are to be paid from the trust under specified sections of
944 law, to direct payment from a certain part of the trust;
945 providing that fees may be assessed against one or more persons'
946 part of the trust in such proportions as the court finds just
947 and proper; specifying factors that the court may consider in
948 directing the assessment of such fees; providing that a court
949 may assess fees without finding that a person engaged specified
950 wrongful acts; amending s. 736.1006, F.S.; authorizing the
951 court, if costs are to be paid from the trust under specified
952 sections of law, to direct payment from a certain part of the
953 trust; providing that costs may be assessed against one or more
954 persons' part of the trust in such proportions as the court
955 finds just and proper; specifying factors that the court may
956 consider in directing the assessment of such costs; providing
957 that specified provisions of the act are remedial and intended
958 to clarify existing law; providing for retroactive and
959 prospective application of specified portions of the act;
960 providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 383 : Private Property Rights

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda		X			
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
	Total Yeas: 17	Total Nays: 1			

CS/CS/HB 383 Amendments

Amendment 217225

Adopted Without Objection

Appearances:

CS/CS/HB 383

Payton, Rusty (Lobbyist) - Waive In Support

FI Home Builders Association

CEO

2600 Centennial Place

Tallahassee Florida 32317

Phone: 850-567-1073

CS/CS/HB 383

Peterson, Dan - Waive In Support

James Madison Institute

Director, Center for Property Rights

2878 S. Osceola Ave.

Orlando FL 32806

Phone: (407)758-2491

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 383 : Private Property Rights (continued)

Appearances: (continued)

CS/CS/HB 383

Pierce, Lance (Lobbyist) - Waive In Support
Florida Farm Bureau
Assistant Director of State Legislative Affairs
315 S Calhoun St
Tallahassee FL 32301
Phone: 850-222-2517

CS/CS/HB 383

Hunter, Gary (Lobbyist) - Proponent
The Property Rights Coalition
Attorney
119 S Monroe Street, Ste 300
Tallahassee FL 32312
Phone: (850)222-7500

CS/CS/HB 383

Hunter, Bill (Lobbyist) - Waive In Support
Association of Florida Community Developers, Inc
307 W Park Ave, Ste 214
Tallahassee FL 32301
Phone: (850)681-2176

CS/CS/HB 383

Busk, Sarah (Lobbyist) - Waive In Support
Associated Industries of Florida
215 South Monroe, #602
Tallahassee FL 32301
Phone: 850-222-8900

CS/CS/HB 383

Cruz, David (Lobbyist) - Opponent
Florida League of Cities
Asst General Counsel
PO Box 1757
Tallahassee FL 32302
Phone: 850-701-3676

CS/CS/HB 383 (Bill/Am)

James, Stephen (Lobbyist) - Proponent
Florida Association of Counties
100 S Monroe Street
Tallahassee FL 32301
Phone: 850-922-4300

CS/CS/HB 383

Iarossi, Nick (Lobbyist) - Information Only
City of Venice
101 E. College Ave., Suite 502
Tallahassee FL 32301
Phone: 954-648-9977

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 383 : Private Property Rights (continued)

Appearances: (continued)

CS/CS/HB 383

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER _____

4/8/15

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Wood offered the following:

Amendment (with title amendment)

Remove lines 138-193 and insert:

6 (a) "Damages" means, in addition to the right to
 7 injunctive relief, the reduction in fair market value of the
 8 real property or the amount of the fee or infrastructure cost
 9 that is in excess of what would be permitted in accordance with
 10 this section.

11 (b) "Governmental entity" has the same meaning as provided
 12 in s. 70.001(3)(c).

13 (c) "Prohibited exaction" means any condition imposed by a
 14 governmental entity on a property owner's proposed use of real
 15 property that lacks an essential nexus to a legitimate public
 16 purpose and is not roughly proportionate to the impacts of the
 17 proposed use that the governmental entity seeks to avoid,



Amendment No. 1

18 minimize, or mitigate.

19 (d) "Property owner" has the same meaning as provided in
20 s. 70.001(3)(f).

21 (e) "Real property" has the same meaning as provided in s.
22 70.001(3)(g).

23 (2) In addition to other remedies available in law or
24 equity, a property owner may bring an action in a court of
25 competent jurisdiction under this section to recover damages
26 caused by a prohibited exaction. Such action may not be brought
27 until a prohibited exaction is actually imposed or required in
28 writing as a final condition of approval for the requested use
29 of real property. The right to bring an action under this
30 section may not be waived. This section does not apply to impact
31 fees adopted in accordance with s. 163.31801, F.S., nor does it
32 apply to non-ad valorem assessments as defined in s. 197.3632.

33 (3) At least 90 days before filing an action under this
34 section, but no later than 180 days after imposition of the
35 prohibited exaction, the property owner shall provide to the
36 relevant governmental entity written notice of the action. This
37 written notice shall identify the exaction that the property
38 owner believes to be prohibited, include a brief explanation of
39 why the property owner believes the exaction to be prohibited
40 and provide an estimate of the damages. Upon receipt of the
41 property owner's written notice, the governmental entity may
42 treat the claim as pending litigation for purposes of s.
43 286.011(8), F.S. Upon receipt of the written notice:



Amendment No. 1

44 (a) The governmental entity shall review the notice of
45 claim and respond in writing to the property owner by
46 identifying the basis for the exaction and why the governmental
47 entity maintains that the exaction is proportionate to the harm
48 created by the proposed use of real property, or by proposing to
49 remove all or a portion of the exaction.

50 (b) This written response may not be used against the
51 governmental entity in subsequent litigation other than for
52 purposes of assessing attorney's fees and costs under subsection
53 (5).

54 (4) For each claim filed under this section, the
55 governmental entity has the burden of proving that the exaction
56 at issue has an essential nexus to a legitimate public purpose
57 and is roughly proportionate to the impacts of the proposed use
58 that the governmental entity is seeking to avoid, minimize, or
59 mitigate. The property owner has the burden of proving damages
60 that result from a prohibited exaction.

61 (5) The court may award attorney's fees and costs to the
62 prevailing party; however, if the court determines that the
63 complained of exaction lacks an essential nexus, then the court
64 shall award attorney's fees and costs to the property owner.

65 (6) To ensure that courts may assess damages for claims
66 filed under this section in accordance with s. 13, Art. X of the
67 State Constitution, the state, for itself and its agencies or
68 political subdivisions, waives sovereign immunity for causes of



Amendment No. 1

69 action based upon the application of this section. Such waiver
70 is limited only to actions brought under this section.

71 (7) This section applies to any prohibited exaction
72 imposed or required in writing as a final condition of approval
73 for the requested use of real property on or after October 1,
74 2015.

75 -----
76
T I T L E A M E N D M E N T

77
78 Remove lines 13-25 and insert:

79 property owner to bring an action for the recovery of damages
80 caused by a prohibited exaction; requiring a property owner to
81 provide written notice of such action to the relevant
82 governmental entity; authorizing the governmental entity to
83 treat such claim as pending litigation for purposes of holding
84 certain meetings privately; specifying the burdens of proof
85 imposed on the governmental entity and the property owner in
86 such action; authorizing the award of reasonable attorney fees
87 and costs under specifiedEnter Amending Text Here

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 443 : Violation of Injunction for Protection

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo			X		
John Wood	X				
Charles McBurney (Chair)	X				
	Total Yeas: 17	Total Nays: 0			

Appearances:

CS/HB 443

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 643 : Termination of a Condominium Association

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon				X	
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 17		Total Nays: 0			

CS/CS/HB 643 Amendments

Amendment 869367

Adopted Without Objection

Appearances:

CS/CS/HB 643

Delegal, Mark (Lobbyist) - Opponent

ESG Kullen

Retained Counsel

315 S Calhoun St, #600

Tallahassee FL 32301

Phone: 850-224-7000

CS/CS/HB 643

Cunningham, Linda - Proponent

3961 Hastings Court

Palm Harbor Florida 34685

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N) 4/8/15
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Sprowls offered the following:

Amendment

5 Remove lines 29-187 and insert:
 6 interests of the condominium. If ~~no more than~~ 10 percent or more
 7 of the total voting interests of the condominium have rejected
 8 the plan of termination by negative vote or by providing written
 9 objections, the plan of termination may not proceed.

10 (a) The termination of the condominium form of ownership
 11 is subject to the following conditions:

12 1. The total voting interests of the condominium must
 13 include all voting interests for the purpose of considering a
 14 plan of termination. A voting interest of the condominium may
 15 not be suspended for any reason when voting on termination
 16 pursuant to this subsection.

17 2. If 10 percent or more of the total voting interests of



Amendment No. 1

18 the condominium reject a plan of termination, a subsequent plan
19 of termination pursuant to this subsection may not be considered
20 for 18 months after the date of the rejection.

21 (b) This subsection also does not apply to any condominium
22 created pursuant to part VI of this chapter until 5 years after
23 the recording of the declaration of condominium unless there are
24 no objections to the plan of termination. ~~This subsection does~~
25 ~~not apply to condominiums in which 75 percent or more of the~~
26 ~~units are timeshare units.~~

27 (c) For purposes of this subsection, the term "bulk owner"
28 means the single holder of such voting interests or an owner
29 together with a related entity or entities that would be
30 considered an insider, as defined in s. 726.102, holding such
31 voting interests. If the condominium association is a
32 residential association proposed for termination pursuant to
33 this section and, at the time of recording the plan of
34 termination, at least 80 percent of the total voting interests
35 are owned by a bulk owner, the plan of termination is subject to
36 the following conditions and limitations:

37 1. If the former condominium units are offered for lease
38 to the public after the termination, each unit owner in
39 occupancy immediately before the date of recording of the plan
40 of termination may lease his or her former unit and remain in
41 possession of the unit for 12 months after the effective date of
42 the termination on the same terms as similar unit types within
43 the property are being offered to the public. In order to obtain



Amendment No. 1

44 a lease and exercise the right to retain exclusive possession of
45 the unit owner's former unit, the unit owner must make a written
46 request to the termination trustee to rent the former unit
47 within 90 days after the date the plan of termination is
48 recorded. Any unit owner who fails to timely make such written
49 request and sign a lease within 15 days after being presented
50 with a lease is deemed to have waived his or her right to retain
51 possession of his or her former unit and shall be required to
52 vacate the former unit upon the effective date of the
53 termination, unless otherwise provided in the plan of
54 termination.

55 2. Any former unit owner whose unit was granted homestead
56 exemption status by the applicable county property appraiser as
57 of the date of the recording of the plan of termination shall be
58 paid a relocation payment in an amount equal to 1 percent of the
59 termination proceeds allocated to the owner's former unit. Any
60 relocation payment payable under this subparagraph shall be paid
61 by the single entity or related entities owning at least 80
62 percent of the total voting interests. Such relocation payment
63 shall be in addition to the termination proceeds for such
64 owner's former unit and shall be paid no later than 10 days
65 after the former unit owner vacates his or her former unit.

66 3. For their respective units, all unit owners other than
67 the bulk owner must be compensated at least 100 percent of the
68 fair market value of their units. The fair market value shall be
69 determined as of a date that is no earlier than 90 days before



Amendment No. 1

70 the date that the plan of termination is recorded and shall be
71 determined by an independent appraiser selected by the
72 termination trustee. For original purchasers from the developer
73 who dissent or object to the plan of termination, the "fair
74 market value" for the unit owner dissenting or objecting may be
75 no less than the original purchase price paid for the unit. For
76 purposes of this subparagraph, the term "fair market value"
77 means the price of a unit that a seller is willing to accept and
78 a buyer is willing to pay on the open market in an arms-length
79 transaction based on similar units sold in other condominiums,
80 including units sold in bulk purchases but excluding units sold
81 at wholesale or distressed prices. The purchase price of units
82 acquired in bulk following a bankruptcy or foreclosure shall not
83 be considered for purposes of determining fair market value.

84 4. The plan of termination must provide the manner by
85 which each first mortgage on a unit will be satisfied so that
86 each unit owner's obligation under a first mortgage is satisfied
87 in full at the time the plan of termination is implemented.

88 5. Before a plan of termination is presented to the unit
89 owners for consideration pursuant to this paragraph, the plan
90 must include the following written disclosures in a sworn
91 statement:

92 a. The identity of any person or entity that owns or
93 controls 50 percent or more of the units in the condominium and,
94 if the units are owned by an artificial entity or entities, a
95 disclosure of the natural person or persons who, directly or



Amendment No. 1

96 indirectly, manage or control the entity or entities and the
97 natural person or persons who, directly or indirectly, own or
98 control 20 percent or more of the artificial entity or entities
99 that constitute the bulk owner.

100 b. The units acquired by any bulk owner, the date each
101 unit was acquired, and the total amount of compensation paid to
102 each prior unit owner by the bulk owner, regardless of whether
103 attributed to the purchase price of the unit.

104 c. The relationship of any board member to the bulk owner
105 or any person or entity affiliated with the bulk owner subject
106 to disclosure pursuant to this subparagraph.

107 (d) If the members of the board of administration are
108 elected by the bulk owner, unit owners other than the bulk owner
109 may elect at least one-third of the members of the board of
110 administration before the approval of any plan of termination.

111 (4) EXEMPTION.—A plan of termination is not an amendment
112 subject to s. 718.110(4). In a partial termination, a plan of
113 termination is not an amendment subject to s. 718.110(4) if the
114 ownership share of the common elements of a surviving unit in
115 the condominium remains in the same proportion to the surviving
116 units as it was before the partial termination. An amendment to
117 a declaration to conform the declaration to this section is not
118 an amendment subject to s. 718.110(4) and may be approved by the
119 lesser of 80 percent of the voting interests or the percentage
120 of the voting interests required to amend the declaration.

121 (9) PLAN OF TERMINATION.—The plan of termination must be a



Amendment No. 1

122 written document executed in the same manner as a deed by unit
123 owners having the requisite percentage of voting interests to
124 approve the plan and by the termination trustee. A copy of the
125 proposed plan of termination shall be given to all unit owners,
126 in the same manner as for notice of an annual meeting, at least
127 14 days prior to the meeting at which the plan of termination is
128 to be voted upon or prior to or simultaneously with the
129 distribution of the solicitation seeking execution of the plan
130 of termination or written consent to or joinder in the plan. A
131 unit owner may document assent to the plan by executing the plan
132 or by consent to or joinder in the plan in the manner of a deed.
133 A plan of termination and the consents or joinders of unit
134 owners and, if required, consents or joinders of mortgagees must
135 be recorded in the public records of each county in which any
136 portion of the condominium is located. The plan is effective
137 only upon recordation or at a later date specified in the plan.
138 If the plan of termination fails to receive the required
139 approval, the plan shall not be recorded and a new attempt to
140 terminate the condominium may not be proposed at a meeting or by
141 solicitation for joinder and consent for 180 days after the date
142 that such failed plan of termination was first given to all unit
143 owners in the manner as provided in this subsection.

144 (a) If the plan of termination is voted on at a meeting of
145 the unit owners called in accordance with this subsection, any
146 unit owner desiring to reject the plan must do so by either
147 voting to reject the plan in person or by proxy, or by



Amendment No. 1

148 delivering a written rejection to the association before or at
149 the meeting.

150 (b) If the plan of termination is approved by written
151 consent or joinder without a meeting of the unit owners, any
152 unit owner desiring to object to the plan must deliver a written
153 objection to the association within 20 days after the date that
154 the association notifies the nonconsenting owners, in the manner
155 provided in paragraph (15)(a), that the plan of termination has
156 been approved by written action in lieu of a unit owner meeting.

157 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
158 TERMINATION; WITHDRAWAL; ERRORS.-

159 (a) Unless the plan of termination expressly authorizes a
160 may provide that each unit owner or other person to retain
161 retains the exclusive right to possess that of possession to the
162 portion of the real estate which formerly constituted the unit
163 after termination or to use the common elements of the
164 condominium after termination, all such rights in the unit and

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

HB 755 : Convenience Business Security

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

HB 755 Amendments

Amendment 009849

Withdrawn

Appearances:

HB 755

Miller, Randy (Lobbyist) - Waive In Support
Florida Retail Federation/Florida Petroleum
Ex Vice President
227 S Adams St
Tallahassee FL 32301
Phone: 8502224082

HB 755

Pound, Greg - Information Only
9166 Sunrise Dr
Largo FL 33773

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED — (Y/N)
 ADOPTED AS AMENDED — (Y/N)
 ADOPTED W/O OBJECTION — (Y/N)
 FAILED TO ADOPT — (Y/N)
 WITHDRAWN — (Y/N)
 OTHER

AMENDMENT W/DRAWN
on 4/8/15 - JDC

4/2/15

BILL WAS TEMPORARILY POSTPONED DURING CONSIDERATION OF THIS AMENDMENT

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Trujillo offered the following:

Amendment (with title amendment)

Between lines 93 and 94, insert:

Section 4. Subsection (10) of section 526.303, Florida Statutes, is amended to read:

526.303 Definitions.—As used in this act:

(10) "Refiner" means any person ~~who stores or exchanges motor fuel at a terminal facility in this state and who sells or transfers motor fuel through the loading rack at such terminal facility, and includes an affiliate of such refiner with respect to such affiliate's sale of motor fuel~~ engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.



Amendment No. 1

17 Section 5. Subsection (4) is added to section 526.304,
18 Florida Statutes, to read:

19 526.304 Predatory practices unlawful; exceptions.—

20 (4) A wholesaler or dealer may terminate, without cause
21 and upon 30 days written notice, a franchise relationship with a
22 refiner who, including through an affiliate or agent, engages in
23 the sale of motor fuel at any retail outlet in the same county
24 in which the wholesaler or dealer resells. Termination of the
25 franchise relationship shall also result in, without limitation,
26 termination of any restrictions on the wholesaler or dealer's
27 motor fuel sales arising from the franchise relationship.

28
29 -----

30 **T I T L E A M E N D M E N T**

31 Remove line 16 and insert:
32 curriculum; amending s. 526.303, F.S.; changing a definition;
33 amending s. 526.304, F.S.; providing for termination of certain
34 motor fuel agreements; providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 775 : Appointment of an Ad Litem

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/CS/HB 775 Amendments

Amendment 153899

Adopted Without Objection

Appearances:

CS/CS/HB 775

Dunbar, Pete (Lobbyist) - Waive In Support
Real Property Section of the Florida Bar
215 S Monroe Street, Suite 815
Tallahassee FL 32301
Phone: 850-999-4100

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N) 4/8/15
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Powell offered the following:

Amendment (with title amendment)

Remove line 64 and insert:

6 to pay fees for services rendered by the ad litem unless state
 7 funds would have been expended for such services in the same
 8 circumstance before July 1, 2015.

10 -----
 11 **T I T L E A M E N D M E N T**

Remove line 19 and insert:

12 assessment; prohibiting the use of state funds except in certain
 13 circumstances;
 14

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 779 : Rental Agreements

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodriguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 779 Amendments

Amendment 698129

Adopted Without Objection

Amendment 861237

Withdrawn

Appearances:

CS/HB 779

Rosenberg, Arthur (Lobbyist) - Waive In Support
Florida Legal Services
Attorney
3000 Biscayne Blvd, #102
Miami Floria 33137
Phone: 850-509-2085

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 779 : Rental Agreements (continued)

Appearances: (continued)

CS/HB 779

Vickers, Alice (Lobbyist) - Waive In Support

Florida Alliance for Consumer Protection

623 Beard St

Tallahassee FL 32303

Phone: 850-556-3121

CS/HB 779

Pratt, Kenneth (Lobbyist) - Waive In Support

Florida Bankers Association

Sr. Vice President of Governmental Affairs,

1001 Thomasville Rd, Ste 201

Tallahassee FL 32303

Phone: 850-224-2265

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)	
ADOPTED AS AMENDED	—	(Y/N)	
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)	4/8/15
FAILED TO ADOPT	—	(Y/N)	
WITHDRAWN	—	(Y/N)	
OTHER	_____		

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Jones, M. offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 83.561, Florida Statutes, is created to read:

83.561 Termination of rental agreement upon foreclosure.-

(1) If a tenant is occupying residential premises that are the subject of a foreclosure sale, upon issuance of a certificate of title following the sale, the purchaser named in the certificate of title takes title to the residential premises subject to the rights of the tenant under this section.

(a) The tenant may remain in possession of the premises for 30 days following the date of the purchaser's delivery of a written 30-day notice of termination.

(b) The tenant is entitled to the protections of s. 83.67.



Amendment No. 1

18 (c) The 30-day notice of termination must be in
19 substantially the following form:

20

21 NOTICE TO TENANT OF TERMINATION

22

23 You are hereby notified that your rental agreement is
24 terminated on the date of delivery of this notice and your
25 occupancy is terminated 30 days following the date of the
26 delivery of this notice and that I demand possession of the
27 premises on that ...(date).... If you do not vacate the premises
28 by this date, I will ask the court for an order allowing me to
29 remove you and your belongings from the premises. You are
30 obligated to pay rent during the 30-day period for any amount
31 that might accrue during that period. Your rent must be
32 delivered to ...(landlord's name and address)....

33

34 (d) The 30-day notice of termination shall be delivered in
35 the same manner as provided in s. 83.56(4).

36 (2) The purchaser at the foreclosure sale may apply to the
37 court for a writ of possession based upon a sworn affidavit that
38 the 30-day notice of termination was delivered to the tenant and
39 the tenant has failed to vacate the premises at the conclusion
40 of the 30-day period. If the court awards the writ of
41 possession, the writ must be served on the tenant. The writ of
42 possession shall be governed by s. 83.62.

43 (3) This section does not apply if:



Amendment No. 1

44 (a) The tenant is the mortgagor in the subject foreclosure
45 or is the child, spouse, or parent of the mortgagor in the
46 subject foreclosure.

47 (b) The tenant's rental agreement is not the result of an
48 arm's length transaction.

49 (c) The tenant's rental agreement allows the tenant to pay
50 rent that is substantially less than the fair market rent for
51 the premises, unless the rent is reduced or subsidized due to a
52 federal, state, or local subsidy.

53 (4) This section does not preclude the purchaser from
54 assuming the prior rental agreement of the tenant; in which
55 case, the purchaser becomes the landlord and is governed by this
56 part.

57 Section 2. This act shall take effect upon becoming a law.

58

59

60

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

61

Remove everything before the enacting clause and insert:

62

An act relating to rental agreements; creating s.

63

83.561, F.S.; providing that a purchaser taking title

64

to a tenant-occupied residential property following a

65

foreclosure sale takes title to the property subject

66

to the rights of the tenant; specifying the rights of

67

the tenant; authorizing a tenant to remain in

68

possession of the property for 30 days following

69

receipt of a written notice; prescribing the form for



Amendment No. 1

70 a 30-day notice of termination; establishing
71 requirements for delivery of the notice; authorizing a
72 purchaser to apply for a writ of possession if the
73 tenant refuses to vacate the property; providing
74 exceptions; providing for construction; providing an
75 effective date.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)	
ADOPTED AS AMENDED	—	(Y/N)	
ADOPTED W/O OBJECTION	—	(Y/N)	
FAILED TO ADOPT	—	(Y/N)	
WITHDRAWN	<u>✓</u>	(Y/N)	9/8/15
OTHER	—		

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Wood offered the following:

3
 4 **Substitute Amendment for Amendment (698129) by**
 5 **Representative Jones, M. (with title amendment)**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 83.561, Florida Statutes, is created to
 8 read:

9 83.561 Protecting tenants at foreclosure.—

10 (1) In the case of any foreclosure on any dwelling or
 11 residential real property, any immediate successor in interest
 12 in such property pursuant to the foreclosure shall assume such
 13 interest subject to:

14 (a) The provision by such successor in interest of a
 15 notice to vacate to any bona fide tenant at least 90 days before
 16 the effective date of such notice; and

17 (b) The rights of any bona fide tenant, as of the date of



Amendment No. 2

18 such notice of foreclosure:

19 1. Under any bona fide lease entered into before the
20 notice of foreclosure to occupy the premises until the end of
21 the remaining term of the lease, except that a successor in
22 interest may terminate a lease effective on the date of sale of
23 the unit to a purchaser who will occupy the unit as a primary
24 residence, subject to the receipt by the tenant of the 90 day
25 notice under paragraph (a); or

26 2. Without a lease or with a lease terminable at will
27 under State law, subject to the receipt by the tenant of the 90
28 day notice under subsection (a), except that nothing under this
29 section shall affect the requirements for termination of any
30 Federal- or State-subsidized tenancy or of any State or local
31 law that provides longer time periods or other additional
32 protections for tenants.

33 (2) For purposes of this section, a lease or tenancy shall
34 be considered bona fide only if:

35 (a) The mortgagor or the child, spouse, or parent of the
36 mortgagor under the contract is not the tenant;

37 (b) The lease or tenancy was the result of an arms-length
38 transaction; and

39 (c) The lease or tenancy requires the receipt of rent that
40 is not substantially less than fair market rent for the property
41 or the unit's rent is reduced or subsidized due to a Federal,
42 State, or local subsidy.

43 (3) It is the intent of the Legislature that this section



Amendment No. 2

44 | be interpreted in conformity with decisions interpreting the
45 | Protecting Tenants at Foreclosure Act of 2009, s. 701 of P.L.
46 | 111-22.

47 | Section 2. This act shall take effect upon becoming a law.

48 |

49 | -----

50 |

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

51 |

Remove everything before the enacting clause and insert:

52 |

An act relating to rental agreements; creating s. 83.561, F.S.;

53 |

providing that a purchaser taking title to a tenant-occupied

54 |

residential property following a foreclosure sale takes title to

55 |

the property as a landlord; specifying conditions under which

56 |

the tenant may remain in possession of the premises; providing

57 |

exceptions; providing a definition; providing for

58 |

interpretation; providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 787 : Recycled and Recovered Materials

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kemer	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Appearances:

CS/HB 787

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

CS/HB 787

Magell, Jim (Lobbyist) - Waive In Support

Florida Recyclers Association

101 N Monroe Street

Tallahassee Florida 32301

Phone: 545-8911

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/CS/HB 889 : Health Care Representatives

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/CS/HB 889 Amendments

Amendment 681871

Adopted Without Objection

Appearances:

CS/CS/HB 889

Dunbar, Pete (Lobbyist) - Waive In Support

Real Property Section of the Florida Bar

215 S Monroe Street

Tallahassee FL 32301

Phone: 850-999-4100

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N) 4/8/15
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Gonzalez offered the following:

Amendment (with title amendment)

Remove line 470 and insert:

6 IMMEDIATELY. PURSUANT TO SECTION 765.204(3), ANY INSTRUCTIONS OR
 7 HEALTH CARE DECISIONS I MAKE, EITHER VERBALLY OR IN WRITING,
 8 WHILE I POSSESS CAPACITY SHALL SUPERCEDE ANY INSTRUCTIONS OR
 9 HEALTH CARE DECISIONS MADE BY MY SURROGATE THAT ARE IN MATERIAL
 10 CONFLICT WITH THOSE MADE BY ME.

Remove lines 669-680 and insert:

12 (3) The surrogate's authority shall commence either upon a
 13 determination under subsection (2) that the principal lacks
 14 capacity, or upon a stipulation of such authority pursuant to s.
 15 765.101(21). ~~and~~ Such authority shall remain in effect until a
 16 determination that the principal has regained such capacity when
 17 the authority commenced as a result of incapacity, or until its



Amendment No. 1

18 revocation in such cases where the authority commenced
19 immediately pursuant to 765.101(21). Upon commencement of the
20 surrogate's authority, a surrogate who is not the principal's
21 spouse shall notify the principal's spouse or adult children of
22 the principal's designation of the surrogate. Except where the
23 principal provided immediately exercisable authority to the
24 surrogate pursuant to s. 765.101(21), in the event the primary
25 or attending physician determines that the principal has
26 regained capacity, the authority of the surrogate shall cease,
27 but shall recommence if the principal subsequently loses
28 capacity as determined pursuant to this section. A health care
29 provider will not be liable for relying upon health care
30 decisions made by a surrogate while a principal lacks capacity.
31 At any time when a principal lacks capacity, a health care
32 decision made on a principal's behalf by a surrogate shall be
33 effective to the same extent as a decision made by the
34 principal. When a principal possesses capacity, health care
35 decisions of the principal will take precedence over decisions
36 made by the surrogate that present a material conflict.

37
38
39 -----
40 **T I T L E A M E N D M E N T**

41 Remove line 44 and insert:

42 notification of incapacity of a principal; providing that a
43 health care provider may justifiably rely on decisions made by a



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 889 (2015)

Amendment No. 1

44 surrogate; providing for when there are conflicting decisions
45 between surrogate and patient; amending s.

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 921 : Motor Vehicle Manufacturers, Factory Branches, Distributors, Importers, & Dealers

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodriguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 921 Amendments

Amendment 808021

Adopted Without Objection

Appearances:

CS/HB 921 (Bill/Am)

Carr, Diane (Lobbyist) - Proponent
Alliance of Automobile Manufacturers
Attorney
119 S Monroe
Tallahassee Florida 32303
Phone: 850-222-7500

CS/HB 921

Leibowitz, David - Waive In Support
Braman Automotive Group
Asst Secretary, Braman Management Assn
2060 Biscayne Blvd., 2nd Floor
Miami Florida 33137

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

**CS/HB 921 : Motor Vehicle Manufacturers, Factory Branches, Distributors, Importers, & Dealers
(continued)**

Appearances: (continued)

CS/HB 921

Book, Ron (Lobbyist) - Waive In Support

AutoNation

104 W. Jefferson

Tallahassee FL 32301

Phone: 850-224-3427

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

4/8/15

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Trujillo offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsections (25) and (26) of section 320.64,
 7 Florida Statutes, are amended, and subsections (39) and (41) are
 8 added to that section, to read:

9 320.64 Denial, suspension, or revocation of license;
 10 grounds.—A license of a licensee under s. 320.61 may be denied,
 11 suspended, or revoked within the entire state or at any specific
 12 location or locations within the state at which the applicant or
 13 licensee engages or proposes to engage in business, upon proof
 14 that the section was violated with sufficient frequency to
 15 establish a pattern of wrongdoing, and a licensee or applicant
 16 shall be liable for claims and remedies provided in ss. 320.695
 17 and 320.697 for any violation of any of the following



Amendment No. 1

18 provisions. A licensee is prohibited from committing the
19 following acts:

20 (25) The applicant or licensee has undertaken or engaged
21 in an audit of warranty, maintenance, and other service-related
22 payments or incentive payments, including payments to a motor
23 vehicle dealer under any licensee-issued program, policy, or
24 other benefit, which previously have been paid to a motor
25 vehicle dealer in violation of this section or has failed to
26 comply with any of its obligations under s. 320.696. An
27 applicant or licensee may reasonably and periodically audit a
28 motor vehicle dealer to determine the validity of paid claims as
29 provided in s. 320.696. Audits of warranty, maintenance, and
30 other service-related payments shall be performed by an
31 applicant or licensee only during the 12-month ~~1-year~~ period
32 immediately following the date the claim was paid. Audits ~~Audit~~
33 of incentive payments shall ~~only~~ be performed only during the
34 12-month ~~for an 18-month~~ period immediately following the date
35 the incentive was paid. However, such limitations shall not be
36 effective if an applicant or licensee has reason to believe that
37 a claim submitted by a dealer is intentionally false or
38 fraudulent. As used in this section, the term "incentive"
39 includes any bonus, incentive, or other monetary or nonmonetary
40 thing of value. After such time periods have elapsed, all
41 warranty, maintenance, and other service-related payments and
42 incentive payments shall be deemed final and incontrovertible
43 for any reason notwithstanding any otherwise applicable law, and

808021 - h0921-strike.docx

Published On: 4/7/2015 7:19:53 PM



Amendment No. 1

44 the motor vehicle dealer shall not be subject to any charge-back
45 or repayment. An applicant or licensee may deny a claim or, as a
46 result of a timely conducted audit, impose a charge-back against
47 a motor vehicle dealer for warranty, maintenance, or other
48 service-related payments or incentive payments only if the
49 applicant or licensee can show that the warranty, maintenance,
50 or other service-related claim or incentive claim was false or
51 fraudulent or that the motor vehicle dealer failed to
52 substantially comply with the reasonable written and uniformly
53 applied procedures of the applicant or licensee for such repairs
54 or incentives, but only for that portion of the claim so shown.
55 Notwithstanding the terms of any franchise agreement, guideline,
56 program, policy, or procedure, an applicant or licensee may only
57 deny or charge back that portion of a warranty, maintenance, or
58 other service-related claim or incentive claim which the
59 applicant or licensee has proven to be false or fraudulent or
60 for which the dealer failed to substantially comply with the
61 reasonable, written, and uniformly applied procedures of the
62 applicant or licensee for such repairs or incentives, as set
63 forth in this subsection. An applicant or licensee may not
64 charge back a motor vehicle dealer ~~back~~ subsequent to the
65 payment of a warranty, maintenance, or service-related claim or
66 incentive claim unless, within 30 days after a timely conducted
67 audit, a representative of the applicant or licensee first meets
68 in person, by telephone, or by video teleconference with an
69 officer or employee of the dealer designated by the motor

808021 - h0921-strike.docx

Published On: 4/7/2015 7:19:53 PM



Amendment No. 1

70 | vehicle dealer. At such meeting the applicant or licensee must
71 | provide a detailed explanation, with supporting documentation,
72 | as to the basis for each of the claims for which the applicant
73 | or licensee proposed a charge-back to the dealer and a written
74 | statement containing the basis upon which the motor vehicle
75 | dealer was selected for audit or review. Thereafter, the
76 | applicant or licensee must provide the motor vehicle dealer's
77 | representative a reasonable period after the meeting within
78 | which to respond to the proposed charge-backs, with such period
79 | to be commensurate with the volume of claims under
80 | consideration, but in no case less than 45 days after the
81 | meeting. The applicant or licensee is prohibited from changing
82 | or altering the basis for each of the proposed charge-backs as
83 | presented to the motor vehicle dealer's representative following
84 | the conclusion of the audit unless the applicant or licensee
85 | receives new information affecting the basis for one or more
86 | charge-backs and that new information is received within 30 days
87 | after the conclusion of the timely conducted audit. If the
88 | applicant or licensee claims the existence of new information,
89 | the dealer must be given the same right to a meeting and right
90 | to respond as when the charge-back was originally presented.
91 | After all internal dispute resolution processes provided through
92 | the applicant or licensee have been completed, the applicant or
93 | licensee shall give written notice to the motor vehicle dealer
94 | of the final amount of its proposed charge-back. If the dealer
95 | disputes that amount, the dealer may file a protest with the

808021 - h0921-strike.docx

Published On: 4/7/2015 7:19:53 PM



Amendment No. 1

96 department within 30 days after receipt of the notice. If a
97 protest is timely filed, the department shall notify the
98 applicant or licensee of the filing of the protest, and the
99 applicant or licensee may not take any action to recover the
100 amount of the proposed charge-back until the department renders
101 a final determination, which is not subject to further appeal,
102 that the charge-back is in compliance with the provisions of
103 this section. In any hearing pursuant to this subsection, the
104 applicant or licensee has the burden of proof that its audit and
105 resulting charge-back are in compliance with this subsection.

106 (26) Notwithstanding the terms of any franchise agreement,
107 including any licensee's program, policy, or procedure, the
108 applicant or licensee has refused to allocate, sell, or deliver
109 motor vehicles; charged back or withheld payments or other
110 things of value for which the dealer is otherwise eligible under
111 a sales promotion, program, or contest; prevented a motor
112 vehicle dealer from participating in any promotion, program, or
113 contest; or has taken or threatened to take any adverse action
114 against a dealer, including charge-backs, reducing vehicle
115 allocations, or terminating or threatening to terminate a
116 franchise because the dealer sold or leased a motor vehicle to a
117 customer who exported the vehicle to a foreign country or who
118 resold the vehicle, unless the licensee proves that the dealer
119 knew or reasonably should have known that the customer intended
120 to export or resell the motor vehicle. There is a rebuttable
121 presumption that the dealer neither knew nor reasonably should



Amendment No. 1

122 have known of its customer's intent to export or resell the
123 vehicle if the vehicle is titled or registered in any state in
124 this country. A licensee may not take any action against a motor
125 vehicle dealer, including reducing its allocations or supply of
126 motor vehicles to the dealer, or charging back a dealer for an
127 incentive payment previously paid, unless the licensee first
128 meets in person, by telephone, or video conference with an
129 officer or other designated employee of the dealer. At such
130 meeting, the licensee must provide a detailed explanation, with
131 supporting documentation, as to the basis for its claim that the
132 dealer knew or reasonably should have known of the customer's
133 intent to export or resell the motor vehicle. Thereafter, the
134 motor vehicle dealer shall have a reasonable period,
135 commensurate with the number of motor vehicles at issue, but not
136 less than 15 days, to respond to the licensee's claims. If,
137 following the dealer's response and completion of all internal
138 dispute resolution processes provided through the applicant or
139 licensee, the dispute remains unresolved, the dealer may file a
140 protest with the department within 30 days after receipt of a
141 written notice from the licensee that it still intends to take
142 adverse action against the dealer with respect to the motor
143 vehicles still at issue. If a protest is timely filed, the
144 department shall notify the applicant or licensee of the filing
145 of the protest, and the applicant or licensee may not take any
146 action adverse to the dealer until the department renders a
147 final determination, which is not subject to further appeal,



Amendment No. 1

148 that the licensee's proposed action is in compliance with the
149 provisions of this subsection. In any hearing pursuant to this
150 subsection, the applicant or licensee has the burden of proof on
151 all issues raised by this subsection. An applicant or licensee
152 may not take any adverse action against a motor vehicle dealer
153 because the dealer sold or leased a motor vehicle to a customer
154 who exported the vehicle to a foreign country or who resold the
155 vehicle unless the applicant or licensee provides written
156 notification to the motor vehicle dealer of such resale or
157 export within 12 months after the date the dealer sold or leased
158 the vehicle to the customer.

159 (39) Notwithstanding the terms of any agreement, program,
160 incentive, bonus, policy, or rule, an applicant or licensee
161 fails to make any payment pursuant to any of the foregoing for
162 any temporary replacement motor vehicle loaned, rented, or
163 provided by a motor vehicle dealer to or for its service or
164 repair customers, even if the temporary replacement motor
165 vehicle has been leased, rented, titled or registered to the
166 motor vehicle dealer's rental or leasing division or an entity
167 that is owned or controlled by the motor vehicle dealer,
168 provided that the motor vehicle dealer or its rental or leasing
169 division or entity, complies with the written and uniformly
170 enforced vehicle eligibility, use, and reporting requirements
171 specified by the applicant or licensee in its agreement,
172 program, policy, bonus, incentive or rule relating to loaner
173 vehicles.

808021 - h0921-strike.docx

Published On: 4/7/2015 7:19:53 PM



Amendment No. 1

174 (41) (a) An applicant or licensee may not, by policy,
175 program, or standard, require a motor vehicle dealer, directly
176 or indirectly, to advance or pay for, or to reimburse the
177 applicant or licensee for, any costs related to the creation,
178 development, showing, or publication in any media of any
179 advertisement for a motor vehicle, or require a motor vehicle
180 dealer to participate in, contribute to, affiliate with, or join
181 a dealer advertising or marketing group, fund, pool,
182 association, or other entity.

183 (b) An applicant or licensee may not require a dealer to
184 participate in, and may not preclude only a portion of its motor
185 vehicle dealers in a designated market area from establishing, a
186 voluntary motor vehicle dealer advertising or marketing group,
187 fund, pool, association, or other entity. Except as provided in
188 an agreement, when motor vehicle dealers choose to form an
189 independent advertising or marketing group, an applicant or
190 licensee is not required to fund such group. Provided however,
191 nothing in this subsection prevents an applicant or a licensee
192 from requiring that a dealer or a dealer advertising or
193 marketing group execute a licensing agreement for the use of the
194 applicant or licensee's protected marks or brand images in any
195 media or advertisement.

196 (c) This subsection does not prohibit an applicant or
197 licensee from offering advertising or promotional materials to a
198 motor vehicle dealer for a fee or charge if the use of such
199 advertising or promotional materials is voluntary for the motor



Amendment No. 1

200 vehicle dealer.

201
202 A motor vehicle dealer who can demonstrate that a violation of,
203 or failure to comply with, any of the preceding provisions by an
204 applicant or licensee will or can adversely and pecuniarily
205 affect the complaining dealer, shall be entitled to pursue all
206 of the remedies, procedures, and rights of recovery available
207 under ss. 320.695 and 320.697.

208 Section 2. If any provision of this act or its application
209 to any person or circumstances is held invalid, the invalidity
210 does not affect other provisions or applications of this act
211 which can be given effect without the invalid provision or
212 application, and to this end the provisions of this act are
213 severable.

214 Section 3. This act shall take effect upon becoming a law.

215
216 -----

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

218 Remove everything before the enacting clause and insert:
219 An act relating to motor vehicle manufacturers, factory
220 branches, distributors, importers, and dealers; amending s.
221 320.64, F.S.; revising provisions that prohibit and limit audits
222 of certain payments and denial or reduction of such payments;
223 revising provisions that restrict adverse action against a
224 dealer when a vehicle that was delivered to a customer is resold
225 or exported out of state; prohibiting failing to make payment



Amendment No. 1

226 | for a replacement vehicle provided by a dealer to a customer;
227 | prohibiting requiring a dealer to make certain payments for
228 | advertising; providing severability; providing an effective
229 | date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 967 : Trespass on Airport Property

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo			X		
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Appearances:

CS/HB 967

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 1037 : Electronic Monitoring Devices

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

Appearances:

CS/HB 1037

Eagan, Erik - Waive In Support
 Florida Sheriff's Assoc/Volusia County SO
 Captain
 PO Box 569
 DeLand Florida 32721
 Phone: 386-547-5260

CS/HB 1037

Leonhardt, Fred (Lobbyist) - Waive In Support
 Christian Prison Ministries
 301 E Pine St Ste 1400
 Orlando FL 32804
 Phone: (407)451-4100

CS/HB 1037

Pitts, Brian - Information Only
 Justice-2-Jesus
 1119 Newton Ave. S.
 St. Petersburg FL 33705
 Phone: 727-897-9291

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 1041 : Strategic Lawsuits Against Public Participation

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo			X		
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Appearances:

HB 1041

Pitts, Brian - Waive In Support
Justice-2-Jesus
Trustee
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

HB 1041

Pound, Greg - Information Only
9166 Sunrise Dr
Largo FL 33773

HB 1041

Sheffner, Ben - Proponent
Motion Picture Association of America
VP, Legal Affairs
15301 Ventura Blvd., Blds. E
Sherman Oaks CA 91403
Phone: 818-935-5784

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 1041 : Strategic Lawsuits Against Public Participation (continued)

Appearances: (continued)

HB 1041

Morley, Sam (Lobbyist) - Waive In Support

Florida Press Association

General Counsel

College Ave.

Tallahassee FL

Phone: 850-212-4395

HB 1041

LoCicero, Carol - Waive In Support

601 S. Boulevard

Tampa FL 33606

Phone: 813-984-3060

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 1103 : Patent Infringement

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant	X				
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 1103 Amendments

Amendment 683741

Adopted Without Objection

Appearances:

CS/HB 1103

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

CS/HB 1103

Siomkos, Kimberly (Lobbyist) - Waive In Support

Florida Bankers Association

VP of Government Affairs

1001 Thomasville Rd Ste 201

Tallahassee FL 32303

Phone: 561-317-4704

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 1103 : Patent Infringement (continued)

Appearances: (continued)

CS/HB 1103

Martin, Jennifer (Lobbyist) - Waive In Support

Florida Credit Union Association

Director of Governmental Affairs

3692 Coolidge Ct

Tallahassee FL 32311

Phone: 850-558-1150

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)	
ADOPTED AS AMENDED	_____	(Y/N)	
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)	4/8/15
FAILED TO ADOPT	_____	(Y/N)	
WITHDRAWN	_____	(Y/N)	
OTHER			

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Stone offered the following:

Amendment (with title amendment)

Remove lines 178-184



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

10 Remove lines 18-20 and insert:
 11 creating s.

COMMITTEE MEETING REPORT

Judiciary Committee

4/8/2015 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 4023 : Slungshot

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Colleen Burton	X				
Dwight Dudley	X				
Katie Edwards	X				
Jay Fant			X		
Julio Gonzalez	X				
Gayle Harrell	X				
Matt Hudson	X				
Dave Kerner	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Scott Plakon	X				
Michelle Rehwinkel Vasilinda	X				
José Rodríguez	X				
Charlie Stone	X				
Carlos Trujillo	X				
John Wood	X				
Charles McBurney (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Committee meeting was reported out: Wednesday, April 08, 2015 4:14:10PM