

Florida Department of Commerce's 2023-2024 Annual Regulatory Plan

Pursuant to section 120.74, Florida Statutes (F.S.), the Florida Department of Commerce ("FloridaCommerce") has prepared the following Annual Regulatory Plan.

Section 120.74(1)(a), F.S.

The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. The following Laws of Florida and Florida Statutes were enacted or amended during the previous 12 months which create or modify the duties or authority of FloridaCommerce:

A) Chapter 2023-173, Brownfield Redevelopment Bonus Refunds

The law amends section 288.107(5), F.S., to add subsection (c), which provides that FloridaCommerce may adopt rules, including an application form, to administer brownfield redevelopment bonus refunds.

FloridaCommerce may adopt rules necessary to administer this section.

B) Chapter 2023-173, Economic Development Trust Fund

The law amends section 288.095, F.S., to require FloridaCommerce to issue quarterly reports relating to the status of certain payments and escrow activity to specified entities. The law also requires FloridaCommerce to create a separate account for specified transferred funds and transfer payments to the General Revenue Fund.

FloridaCommerce may adopt rules necessary to carry out the provisions section 288.095(3), F.S., including rules providing for the use of moneys in the Economic Development Incentives Account and for the administration of the Economic Development Incentives Account.

C) Chapter 2023-173, Department of Commerce

This law amends section 20.60, F.S., by renaming the Department of Economic Opportunity to the Department of Commerce and renames the Division of Strategic Business Development to the Division of Economic Development. This law also requires FloridaCommerce to contract with: the Florida Sports Foundation; the direct-support organization created in section 288.012, F.S.; and the Florida Tourism Industry Marketing Corporation.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

D) Chapter 2023-173

This law transfers by a type two transfer, as defined in section 20.06, F.S., all duties, functions, records, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other public funds relating to Enterprise Florida, Inc., to FloridaCommerce. This law also repeals the following statutes:

1. Section 288.1045, F.S., Qualified Defense Contractor and Space Flight Business Tax Refund Program
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
2. Section 288.106, F.S., Tax Refund Program for Qualified Target Industry Businesses
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
3. Section 288.1081, F.S., Economic Gardening Business Loan Pilot Program
 - a. FloridaCommerce was required to adopt rules to administer section 288.1081, F.S. Rules 73C-2.001 – 73C-2.003, Florida Administrative Code (“F.A.C.”), which implement section 288.1081, F.S., were repealed in 2016.
4. Section 288.1082, F.S., Economic Gardening Technical Assistance Pilot Program
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
5. Section 288.1088, F.S., Quick Action Closing Fund
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
6. Section 288.1089, F.S., Innovation Incentive Program
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
7. Section 288.1168, F.S., Professional Golf Hall of Fame Facility
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
8. Section 288.1169, F.S., International Game Fish Association World Center Facility
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
9. Section 288.1171, F.S., Motorsports Entertainment Complex
 - a. FloridaCommerce was required to adopt rules for the receipt and processing of applications for funding under section 218.64(3), F.S. FloridaCommerce will repeal rule 73A-2.006, F.A.C., which implements and was authorized by the repealed statute.
10. Section 288.1251, Promotion and Development of Entertainment industry; Office of Film and Entertainment
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
11. Section 288.1252, F.S., Florida Film and Entertainment Advisory Council
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
12. Section 288.1253, F.S., Travel and Entertainment Expenses
 - a. FloridaCommerce was required to adopt rules to administer section 288.1253, F.S. FloridaCommerce will repeal rules 73A-1.001 and 73A-1.013, F.A.C., which implement and were authorized by the repealed statute.
13. Section 288.1254, F.S., Entertainment Industry Financial Incentive Program
 - a. FloridaCommerce may adopt rules to administer section 288.1254, F.S. FloridaCommerce will repeal rules 73A-3.001 - 73A-3.009, F.A.C., which implement and were authorized by the repealed statute.
14. Section 288.9934, F.S., Microfinance Loan Program
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.

15. Section 288.9936, F.S., Annual Report of the Microfinance Loan Program
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
16. Section 288.9937, F.S., Evaluation of Programs
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
17. Section 288.955, F.S., Scripps Florida Funding Corporation
 - a. FloridaCommerce was not required to adopt rules related to this law as the law does not impart rulemaking authority.
18. Section 288.9914, F.S., Certification of Qualified Investments
 - a. FloridaCommerce may adopt rules to administer this section.
19. Section 288.9916, F.S., New Markets Tax Credit
 - a. FloridaCommerce may adopt rules to administer this section.
20. Section 288.9917, F.S., Community Development Entity Reporting after a Credit Allowance Date
 - a. FloridaCommerce may adopt rules to administer this section.
21. Section 288.9918, F.S., Annual Reporting by a Community Development Entity
 - a. FloridaCommerce may adopt rules to administer this section.
22. Section 288.9919, F.S., Audits and Examinations
 - a. FloridaCommerce may adopt rules to administer this section.
23. Section 288.9920, F.S., Recapture and Penalties
 - a. FloridaCommerce may adopt rules to administer this section.
24. Section 288.9921, F.S., Rulemaking
 - a. FloridaCommerce and the Department of Revenue may adopt rules pursuant to sections 120.536(1) and 120.54, F.S., to administer sections 288.991-288.9920, F.S.

E) Chapter 2023-173, Definitions

This law amends section 159.803, F.S., which requires FloridaCommerce to develop measurement protocols and performance measures to determine what competitive value a project by a target industry business will bring to the state pursuant to sections 20.60(5)(a)3. and 288.061(2), F.S.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

F) Chapter 2023-173, Rural Job Tax Credit Program

This law amends section 212.098, F.S., by removing a targeted industry eligible for the qualified target industry business tax refund under section 288.106, F.S., from the definition of eligible business.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

G) Chapter 2023-173, State of Florida International Office; Direct-Support Organization

This law amends section 288.012, F.S., by requiring FloridaCommerce to establish and contract with a direct-support organization organized as a nonprofit under chapter 617 and recognized under section 501(c)(3) of the Internal Revenue Code, to carry out the provisions of section 288.012, F.S., assist with the

coordination of international trade development efforts, and assist in development and planning related to foreign investment, international partnerships, and other international business and trade development. The law requires FloridaCommerce's Secretary, or his or her designee, to serve as the ex officio, nonvoting executive director of the board. FloridaCommerce's Secretary, or his or her designee, shall also appoint seven board members, including a chair of the board. This law also provides that FloridaCommerce must approve the articles of incorporation and bylaws of the direct-support organization and must determine and annually certify that the direct-support organization is complying with the terms of the contract and is doing so consistent with the goals and purposes of the organization and in the best interests of the state.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

H) Chapter 2023-173, Promotion and Development of Sports-Related Industries and Amateur Athletics; Direct-Support Organization Established; Powers and Duties

This law amends section 288.1229, F.S., by requiring FloridaCommerce to establish a direct-support organization known as the Florida Sports Foundation.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

I) Chapter 2023-173, Florida Defense Support Task Force

This law amends section 288.987, F.S., by requiring FloridaCommerce to support the Florida Defense Support Task Force.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

J) Chapter 2023-001, Local Government Emergency Bridge Loan Program

The law enacts section 288.066, F.S., which creates within FloridaCommerce the Local Government Emergency Bridge Loan Program. This bill was signed into law on February 15, 2023. The law provides that FloridaCommerce may adopt rules to administer the Local Government Emergency Bridge Loan Program. Section 2 provides, in pertinent part, "The Department of Economic Opportunity may, and all conditions are deemed to be met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer s. 288.066, Florida Statutes, as created by this act."

FloridaCommerce may adopt rules to administer the Local Government Emergency Bridge Loan Program. FloridaCommerce adopted emergency rule number 73AER23-1 on February 28, 2023.

K) Chapter 2023-304, Local Government Emergency Revolving Bridge Loan Program

The law amends section 288.066, F.S., and renames the Local Government Emergency Bridge Loan Program to the Local Government Emergency Revolving Bridge Loan Program.

FloridaCommerce may adopt rules to administer the Local Government Emergency Revolving Bridge Loan Program. FloridaCommerce adopted emergency rule number 73AER23-2 on August 25, 2023. FloridaCommerce anticipates starting the formal rulemaking process in October 2023.

L) Chapter 2023-017, Sales, Rental, Use, Consumption, Distribution, and Storage Tax; Specified Exemptions

The law amends section 212.08, F.S., by revising the total amount of community contribution tax credits which may be granted for certain projects.

FloridaCommerce may adopt rules to administer the approvals and disapprovals of proposals submitted for community contribution tax credits.

M) Chapter 2023-017, State Housing Authority

The law amends section 420.0003, F.S., by revising the legislative intent for and the policies of the state housing authority and revises the requirements for the implementation of the state housing strategy.

FloridaCommerce should conform the administrative rules for each housing program to the policies stated in section 420.0003, F.S., provided that such changes in the rules are consistent with the statutory intent or requirements for the program.

N) Chapter 2023-031, Evaluation and Appraisal of Comprehensive Plan

The law amends section 163.3191, F.S., by requiring local governments to determine if plan amendments are necessary to reflect a minimum planning period of at least 10 years and requires the local government to submit an affidavit to the state land planning agency attesting that all elements of its comprehensive plan comply with section 163.3191(1), F.S.,

FloridaCommerce may only adopt procedural rules or a schedule indicating when local governments must comply with the requirements of this section.

O) Chapter 2023-033, Economic Incentives to Foreign Countries of Concern Prohibited

The law enacts section 288.0071, F.S., which requires, prior to receiving an economic incentive, recipients and applicants must submit an affidavit to a governmental entity that is signed under penalty of perjury attesting that the recipient or applicant is not a foreign entity.

FloridaCommerce shall adopt rules to administer this section, including rules establishing the form for the affidavit. A notice of rule development has not been published.

P) Chapter 2023-033, Purchase of Real Property on or Around Military Installations or Critical Infrastructure Facilities by Foreign Principals Prohibited

The law enacts section 692.203, F.S., which prohibits foreign principals from purchasing real property on or within 10 miles of a military installation or critical infrastructure facility within the State. The law also requires foreign principals to register their real property that is on or within 5 or 10 miles of a military installation or critical infrastructure with FloridaCommerce.

FloridaCommerce shall adopt rules to implement section 692.203, F.S. A notice of rule development was published in the Florida Administrative Register on August 1, 2023, in Volume 49/148.

Q) Chapter 2023-033, Purchase or Acquisition of Real Property by the People's Republic of China Prohibited.

The law enacts section 692.204, F.S., which prohibits the People's Republic of China, the Chinese Communist Party, any other political party or member of a political party in the People's Republic of China, and certain persons and entities from purchasing or acquiring real property in this state or having more than a de minimus indirect interest in such real property. The law also requires the above listed persons or entities to register their real property with FloridaCommerce.

FloridaCommerce shall adopt rules to implement section 692.203, F.S. A notice of rule development has not been published.

R) Chapter 2023-081, Implementation of the federal Workforce Innovation and Opportunity Act

This law amends section 445.003, F.S., by revising the requirements for training providers to be included on a state or local eligible training provider list and removes requirements and eligibility criteria for the FloridaCommerce and the Department of Education regarding the establishment of minimum criteria for an eligible training provider list.

FloridaCommerce shall adopt rules to administer Chapter 445, F.S. A notice of rule development has not been published.

S) Chapter 2023-040, Unauthorized Aliens, Employment Prohibited

This law amends section 448.09, F.S., to require FloridaCommerce to enter an order pursuant to Chapter 120, F.S., when it has been determined that an employer has knowingly employed an unauthorized alien without verifying the employment eligibility of such person.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

T) Chapter 2023-040, Employment Eligibility

This law amends section 448.095, F.S., by providing FloridaCommerce with compliance authority over employers who are required to use the E-Verify system in accordance with section 448.095, F.S.

FloridaCommerce is not required to adopt rules related to this law as the law does not impart rulemaking authority.

Section 120.74(1)(b), F.S.

This section requires that the plan include a listing of each law not otherwise listed pursuant to subsection (a) which the agency expects to implement by rulemaking before the following July 1, except emergency rulemaking. FloridaCommerce expects to implement the following laws by rulemaking:

A) FloridaCommerce intends to engage in rulemaking to revise and/or amend rules in Chapter 73C-23, F.A.C., which implements the Florida Small Cities Community Development Block Grant Program provided for in sections 290.0401-290.048, F.S. The purpose of these rule revisions/amendments will be to improve and clarify existing rules.

B) FloridaCommerce intends to engage in rulemaking to revise and/or amend rules in Chapter 73C-49, F.A.C., which implements section 163.3191, F.S. The purpose of these rule revisions/amendments will be to improve and clarify existing rules.

C) FloridaCommerce intends to engage in rulemaking to revise and/or amend rules in Chapter 73B-6, F.A.C., which implements section 446.71, F.S., the Everglades Restoration Agricultural Community Employment Training Program. The purpose of these rule revisions/amendments is to clarify the application process.

D) In 2023, the Legislature amended section 445.003, F.S., which requires FloridaCommerce to adopt rules to implement the initial and subsequent eligibility criteria for the Workforce Innovation and Opportunity Act eligible training provider list in accordance with section 445.003(7)(b), F.S. FloridaCommerce is developing the rules to implement section 445.003(7)(b), F.S.

E) In 2023, the Legislature amended section 448.095, F.S., to provide that employers with 25 or more employees must use the E-Verify system and are required to certify on its first tax return each calendar year to the tax service provider (the Department of Revenue) that it is in compliance with section 448.095, F.S. The reemployment tax forms that employers submit are incorporated by reference into rule 73B-10.037, F.A.C. To increase efficiency, the forms incorporated by reference in rule 73B-10.037, F.A.C., will be amended to add the certification required by section 448.095, F.S.

F) In 2021, the Legislature created section 443.1118, F.S., which allows for employer-assisted claims in the event of mass separations and sets forth the procedures for initiating and submitting, notice requirements, effective date, and claimant filing requirements. FloridaCommerce is required to adopt rules establishing additional procedures for filing an employer-assisted claim.

G) FloridaCommerce will be creating rules necessary to notice applicants for community contribution tax credits awarded under section 212.08, F.S. FloridaCommerce may make rules to implement this section but currently has none. These rules are intended to clarify and improve efficiency in the award of tax credits.

Section 120.74(1)(c), F.S.

This section requires that the plan include any desired update to the prior year's regulatory plan or supplement published which was published pursuant to section 120.74(7). FloridaCommerce does not have any updates to its 2022-2023 Annual Regulatory Plan.

Section 120.74(1)(d), F.S.

The agency head and the person acting as the principal legal advisor to the agency head certify the following:

1. The agency head and the principal legal advisor to the agency head have each reviewed this plan.

2. The agency regularly reviews all of its rules to determine if the rules remain consistent with the agency's rulemaking authority and laws implemented. This was most recently done in September 2023.



J. Alex Kelly, Secretary
Department of Commerce
Date: September 28, 2023



Karen Gates, General Counsel
Department of Commerce
Date: September 28, 2023