

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

IN RE: PARTIAL & LIMITED WAIVER FOR
QUALIFIED VENDORS OF ALCOHOLIC BEVERAGES:
LICENSED PREMISES DESTROYED,
LEE COUNTY, FLORIDA;
MADE NECESSARY BY HURRICANE IAN

EMERGENCY ORDER 2023-04

WHEREAS, on September 28, 2022, Hurricane Ian made landfall on Florida's western Gulf Coast as a major hurricane and caused significant damage across the State;

WHEREAS, Hurricane Ian and the damage it caused poses a significant threat to the entire State of Florida and, as such, requires timely precautions to protect the State's communities, critical infrastructure, and general welfare;

WHEREAS, the Governor, in recognition of and in response to this emergency, issued Executive Order 22-218 on September 23, 2022, as amended by Executive Order 22-219 on September 24, 2022, renewed by Executive Order 22-268 on November 21, 2022, subsequently extended by Executive Order 23-21 on January 19, 2023, by Executive Order 23-60 on March 17, 2023, and currently renewed by Executive Order 23-104 on May 15, 2023, pursuant to the authority vested in him by Article IV, Section 1(a) of the Florida Constitution, the Emergency Management Act, as amended, and all other applicable laws;

WHEREAS, pursuant to Section 4.B. of Executive Order 22-218, as amended by Executive Order 2022-219, and renewed by Executive Orders 22-268, 23-21, 23-60 and 23-104, each state agency may suspend the provisions of any regulatory statute proscribing the procedures for conduct of state business or the orders or rules of that agency, if strict compliance with the

provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with this emergency;

WHEREAS, strict compliance with section 561.01(11), Florida Statutes, as it relates to current Division of Alcoholic Beverage and Tobacco (DABT) licensees within Lee County with renewable, temporary 180-day zoning approvals, would require 180-day reapplications at DABT for temporary expansions of licensed premises with recurring fee payments, would unnecessarily burden and negatively impact these licensees in their business recoveries from severe, storm-related hardships,

NOW, THEREFORE, I, MELANIE S. GRIFFIN, Secretary of Florida’s Department of Business and Professional Regulation (“Department”), pursuant to the authority granted to me by Executive Order 22-218, as amended by Executive Order 22-219, and subsequently extended by Executive Order 22-268, Executive Order 23-21, Executive Order 23-60, and by Executive Order 23-104 find that timely execution of the mitigation, response, and recovery aspects of the State’s emergency management plan, as it relates to Hurricane Ian, is negatively impacted by the application of certain regulatory statutes related to the Department. Therefore, I order:

I. Partial Waiver of section 561.01(11); Waiver of Fees Rule 61A-5.0017

The provision of section 561.01(11), Florida Statutes, defining “Licensed premises” as a “building” is partially suspended as applied solely to Qualified Vendors of alcoholic beverages licensed by the Division of Alcoholic Beverages and Tobacco (“Division”), who have been approved by the Division for a temporary extension of their existing licensed premises allowing for the sale of alcoholic beverages from “structures capable of being moved.” For purposes of this Emergency Order, “structures capable of being moved” shall include food trucks.

Qualified Vendors shall apply for a temporary extension of their existing licensed premises using ABT Form 6029 incorporated by reference within Rule 61A-5.0017, *Florida Administrative Code*. Requisite application fees of \$100 mandated by Rule 61A-5.0017, are temporarily waived for Qualified Vendors.

II. Qualified Vendors –Lee County, Florida and Licensed Premises Destroyed

Only Qualified Vendors who meet the following qualification shall be eligible to apply for a temporary extension of their existing licensed premises:

- i. shall have been licensed by the Division, on or before September 28, 2022, as an alcoholic beverages vendor, pursuant to sections 563.02, 564.02, or 565.02(1)(b)-(f), Florida Statutes;
- ii. shall, as of September 28, 2022, had their licensed premises located within Lee County, Florida; and
- iii. must have had their licensed premises destroyed as a result of Hurricane Ian.

III. Terms & Conditions of Approval – Off Premises Storage; Local Zoning Approval

Applications for temporary extension of licensed premises:

- i. shall adequately describe the “structure capable of being moved” within ABT Form 6029 in compliance with section 562.06, Florida Statutes;
- ii. shall be accompanied by an Off-Premises Storage Permit where the alcoholic beverages shall be stored when the temporary licensed premises are not operating, as obtained using ABT Form 6017 incorporated by reference within Rule 61A-4.020, *Florida Administrative Code*; and
- iii. shall be subject to attestation by the Qualified Vendor that no alcoholic beverages shall be stored on the licensed premises when the premises are not operating.

Nothing in this Emergency Order shall abrogate the duties and obligations of a licensee to their local zoning authorities.

The effective date of this Emergency Order shall correspond with the effective date of Executive Order 2022-218, as amended by Executive Order 2022-219, and subsequently extended

by Executive Order 22-268, Executive Order 23-21, Executive Order 23-60, and Executive Order 23-104, and shall expire on July 14, 2023, unless extended by subsequent order.

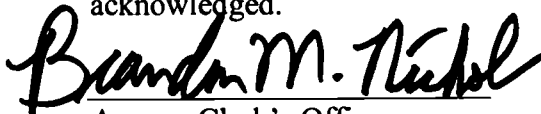
Executed this 26 day of May 2023, in Tallahassee, Leon County, Florida.

FLORIDA DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION



Melanie S. Griffin, Secretary
2601 Blair Stone Road
Tallahassee, Florida 32399

Filed on this date, with
the designated Agency Clerk,
Receipt of which is hereby
acknowledged.



Agency Clerk's Office

Date: 5-26-2023