



2016
FLORIDA LEGISLATIVE
POST-SESSION
REPORT

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2016 Florida Legislative Post-Session Report

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How to Use This Report

This is a summary of significant legislation that passed during the 2016 Regular Session of the Florida Legislature.

Please note that this report does not summarize every piece of legislation enacted, nor is it meant to be an exhaustive section-by-section analysis of those bills included. (Also note that, in some instances, multiple bills containing the same language passed and the bill summaries reflect that fact.) The goal of this report is to provide a general overview of legislative actions that are likely to be of interest to our clients, attorneys, and consultants.

This report comes with an index by bill number at the end and by general category listed in the Table of Contents. It is also searchable by selecting Ctrl F, then your word or phrase for searching. If you have questions or need the actual bill or applicable staff report, contact Nancy Linnan (nlinnan@carltonfields.com) or Shelly Cartwright (scartwright@carltonfields.com).

This report was compiled in substantial part using public records data from the Florida Senate and the Florida House of Representatives. We have added Chapter Laws and effective dates for each bill that is now law.

You may see the same or similar concepts in summaries of different bills. It is not unusual in Florida. In order to increase the chance of a particular issue passing, the sponsor often puts it on an amendment to as many bills that are germane to the issue as possible. In other words, it is done intentionally. The last bill which passes will control if there is a difference in language. Along the same lines, it is not safe to simply look at a general category of bills and think that those are all the bills that passed related to that area. It may be that language related to Education was on a bill that wasn't going anywhere, so the sponsor of the Education bill amended some or all of the language onto another bill that is chiefly related to Growth Management. If you only look in the Education category, you will miss the Education provisions tucked into this other bill filed under Growth Management. Please use the search function and don't rely on using the general headings to limit your search.

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Government Law and Consulting Practice Group

Every individual or business entity is touched by, regulated, or otherwise shaped to some degree by government. The right to petition government and participate in the process of law-making is as old and vital to democracy as is the U.S. Bill of Rights that guarantees it.

The lawyers and government consultants of Carlton Fields' Government Law and Consulting Practice Group are highly experienced in dealing with all levels of state and local government on behalf of our clients. We have a thorough understanding of government's inner workings -- and an extensive network of personal and professional relationships within government -- to effectively address a wide variety of legislative, administrative, procedural, and political issues.

Individual group member practices are as diverse as the wide range of professions and industries collectively represented. Client services are effectively delivered by lawyers and government consultants operating within specialized subgroups to enable the quick composition of cross-disciplinary teams as are necessary to negotiate, litigate, lobby, and advocate in the areas of:

Administrative Litigation

We monitor agency activity and rulemaking and advocate challenges to existing and proposed rules, including agency statements that meet the definition of a rule but have not been formally adopted. Our experience in this area ranges across a wide array of subjects, including building code criteria, professional and business licensure, environmental permitting, state tax, and insurance. We also represent clients in administrative litigation proceedings involving challenges to licenses, development orders, permits, and comprehensive plan amendments, along with administrative bid protests and government agency divisions. We also provide advice on non-rule policy issues.

Affordable Housing

We are familiar with all of the state, local and federal housing agencies involved in provision or funding of affordable housing and we represent a variety of clients in the planning and

development of affordable housing projects throughout the state. We prepare, review and advocate applications for funding before the Florida Housing Finance Corporation, including Low Income Housing Tax Credit Applications and State Apartment Incentive Loan Applications. Lawyers and government consultants within the firm's Real Estate Development, Land Use, Planning, and Environmental Regulation areas give depth to our work in affordable housing.

Education

We have experience in all aspects of education law. We have represented numerous school districts across the state, charter schools, and private entities doing business before local school districts and at the state level. We practice before the State Board of Education and have significant experience assisting clients with matters at the Florida Department of Education. We are experienced in school construction and choice, litigation (including appellate), personnel matters, lobbying, contractual issues, procurement, environmental issues including mold remediation, asbestos abatement, permitting issues, and funding.

Energy & Environmental Law

We provide a wide range of services to businesses and energy-related companies, both public and private, including oil exploration, electric and natural gas entities. We counsel and advocate positions before state and federal agencies, state and federal courts and arbitration panels. Our services involve:

- Utility regulatory proceedings and strategy
- Litigation, arbitration, and alternative dispute resolution
- Legislative and executive branch lobbying and government relations
- Local government strategy, lobbying, proceedings and litigation
- Siting, permitting and obtaining state leases for linear facilities contract negotiations
- Tax, corporate, and securities
- Real estate, land use, and environmental issues such as wetlands, listed species, contamination, coastal construction, water law and mining

- Renewables and alternative energy sources
- Eminent domain

We are experienced in the area of environmental law and advocate on behalf of clients in a diverse range of industries. We regularly represent clients before the state's regulatory agencies on issues relating to liability, litigation, permits, clean air and water compliance, groundwater, waste disposal, Brownfield sites, Superfund sites, wetlands, listed species and water rights and supply. We also represent clients before the Governor and Cabinet in uplands and submerged land lease and regulations.

Ethics and Elections

We guide clients and candidates through the requirements necessary to qualify to run for public office and the campaign finance reporting requirements and advise on political giving. We are well-versed in the state's constitutional amendment petition process, third-party voter registration procedures, and redistricting. We also represent clients before the Florida Ethics Commission, Elections Commission and counsel companies and individuals on this.

Government Contracts

We have extensive experience advising and representing client vendors and contractors who seek to do business with governments at state and local levels. We protect the client's legal interests in contract negotiations to include the mitigation of exposure under public records laws and trade secrets. We guide clients through all phases of the public procurement process, from providing information to government entities during the development of procurement solicitation documents, assisting public contractor clients in the preparation of their responses to competitive procurements, defending and challenging awards through both administrative and judicial proceedings, participating in the negotiation of contract terms, and providing advice and representation of clients in matters regarding contract compliance. We also represent certain public entities in defending award decisions and provide legal advice regarding the implementation of procurement policies and procedures designed to minimize the likelihood of future procurement litigation.

Land Use & Economic Development

We have years of on-the-ground experience in comprehensive plans and plan amendments that include preparation and processing, and litigation of compliance and consistency challenges and have taken a leadership role in the Legislature in this policy area. In combination with our certified in-house planning staff, we have very deep capabilities in preparing and handling rezoning applications, site plan review, variances, special use permits, impact fees, transportation planning and concurrency, financing, expert witness testimony, due diligence research for real estate transactions, comprehensive planning and dealing with DRIs, FQDs and sector plan modifications, enforcement and rescissions.

We prepare impact analyses for any type of development, having coordinated and/or assisted clients in preparing and presenting – and now rescinding - over 220 DRIs, FQDs, and working with four sector plan applications in all areas of Florida. We are successful in supervising and shepherding comprehensive plan amendments that support development through the local and state approval process. We also deal extensively with aggregation issues and binding and clearance letters as well as other issues related to vesting of development rights through development agreements.

Our lawyers and government consultants are experienced in establishing Community Development Districts (CDD) and in representing CDDs or other special districts in all phases of their activities.

Licensing & Compliance

We routinely guide clients through the often complex requirements necessary to obtain professional or business licensure in Florida. These include construction, medical and health care professionals and facilities, engineering, architecture, real estate, condominium, finance and insurance, and the alcoholic beverage industry. We often resolve issues by working at the highest levels within the state agencies regulating these professions and businesses. We are also experienced at representing clientele in the defense of government-initiated disciplinary actions based on alleged regulatory violations.

Lobbying

We use a comprehensive approach to lobbying that includes advocacy efforts to help pass or defeat legislative and policy proposals consistent with client positions. We work closely with clients to identify, track, analyze, and summarize legislative proposals and political and policy considerations, assessing their impact on client operations. We draft legislation and amendments to legislation, and use our extensive political relationships to advocate client positions before local governments, executive agencies, the Legislature and the Florida Cabinet. We are fully engaged in local and statewide elections and regularly counsel clients about political contributions to candidates. In addition to Florida, we now can cover a number of agency and legislative matters in California.

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**2016
Florida Legislative
Post-Session Report**

Corporate, Business & Professional Regulation

Corporate

SB 80

Family Trust Companies

The bill amends the Florida Family Trust Company Act (act), which was created in 2014 and took effect October 1, 2015, to allow families to form and operate family trust companies (FTC). The bill:

- Clarifies legislative findings;
- Provides designated relatives for licensed FTC may not have a common ancestor within three generations (instead of within five generations);
- Requires the initial licensure investigation by Office of Financial Regulation (OFR) to review the management structure of the FTC;
- Clarifies several provisions of the act, including when the financial institutions codes apply to FTCs, registration requirements for unlicensed and foreign licensed FTCs, and use of the term “affiliate”;
- Increases the time for FTCs to renew licenses or registrations from within 30 days to 45 days of the end of the year;
- Creates a mechanism for the automatic reinstatement of lapsed licenses or registrations;
- Repeals the requirement for submission of proposed amendments to bylaws or articles of organization of an unlicensed or licensed FTC to the OFR and instead requires submission of amendments to a certificate of formation or a certificate of organization;
- Requires examinations of licensed FTCs to occur every 36 months instead of every 18 months and no longer allows an audit to substitute for an examination;
- Clarifies that a licensed FTC is entitled to an administrative hearing pursuant to ch.

120, F.S., to contest a license revocation; and

- Requires a court to determine a breach of fiduciary duty or trust before the issuance of a cease and desist order or order of suspension or revocation of a license.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-35, Laws of Florida and the provisions took effect on that date.

Business and Professional Regulation

CS/CS/HB 231

Motor Vehicle Manufacturer Licenses

The bill provides additional grounds to deny, suspend, or revoke a license held by a motor vehicle manufacturer, factory branch, distributor, or importer (“manufacturer”).

The bill prohibits manufacturers from taking certain actions against motor vehicle dealers and requires certain procedures be followed by the manufacturer when dealing with motor vehicle dealers. Specifically, the manufacturer:

- Is limited to a 12-month period following the date a claim was paid to perform audits of warranty, maintenance, service-related and incentive payments and can only deny such a claim if the manufacturer proves that the claim is false or fraudulent;
- May not take adverse action against a motor vehicle dealer due to a delivered motor vehicle being resold or exported by the customer unless the manufacturer

provides written notification to the dealer within 12 months;

- Must pay a dealer for temporary replacement vehicles provided to customers during service or repair provided the dealer complies with the manufacturer's written vehicle eligibility requirements relating to loaner vehicles; and
- May not require or coerce a dealer to purchase goods or services from a vendor selected by the manufacturer without first making available to the dealer the option to obtain the goods or services from a vendor chosen by the dealer.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-77, Laws of Florida and the provisions took effect on that date.

HB 303 **Unlicensed Activity Fees**

The Department of Business and Professional Regulation (Department) is required to investigate persons practicing a profession without being licensed to do so. The costs of investigation of unlicensed activity are covered with an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal. The funds are collected by the Department and placed in a fund for each specified profession.

The bill prohibits the Department from requiring the unlicensed activity fee for a license renewal for a particular profession if that profession's unlicensed activity account balance is more than twice the cost of unlicensed activity enforcement for that profession for the preceding two fiscal years combined.

All of that profession's licensees are exempt from paying the unlicensed activity fee for

that renewal period. A profession that has a deficit in its operating account or is projected to have such a deficit within the next five years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-79, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 535 **Building Codes**

The bill makes the following changes to existing law:

- Adjusts the training and experience required to take the building code inspector, plans examiner, and building code administrator certification examinations;
- Exempts employees of apartment communities with 100 or more units from contractor licensing requirements in specific circumstances;
- Allows specified liquefied petroleum gas (propane) dealers and installers to disconnect and reconnect water lines when servicing or replacing existing propane water heaters;
- Allows a homeowner to make a claim and receive restitution from the Florida Homeowners' Construction Recovery Fund based on work performed by a Division II contractor;
- Clarifies that certain swimming pools used for specific purposes are not subject to regulation;
- Requires the Building Code to require two fire service access elevators for buildings over 120 feet from street level;
- Requires a 1-hour fire-rated service elevator lobby with direct access to the elevator where a transient residential

occupancy occurs over 420 feet above the level of fire service access;

- Provides that the location of standpipes in high-rise buildings are subject only to the requirements of the Florida Fire Prevention Code and NFPA 14, Standard for the Installation of Standpipes and Hose Systems, adopted by the State Fire Marshal;
- Requires two fire service elevators for buildings in certain circumstances and provides that the location of standpipes in high-rise buildings are subject only to specified requirements;
- Requires a dining facility to have sprinklers only if it has a fire area occupancy load of 200 patrons or more;
- Adds provisions to the Code regarding fire separation distance and roof overhang projections;
- Authorizes local building officials to issue phased construction permits; prohibits local governments from requiring the payment of any additional fees associated with providing certain documents; and requires local jurisdictions to allow building permit applications to be submitted electronically;
- Exempts Wi-Fi smoke alarms and those that contain multiple sensors, such as those combined with carbon monoxide alarms, from the 10-year, nonremovable, nonreplaceable battery provision and provides requirements regarding alarm monitoring system registration;
- Authorizes mandatory blower door/air infiltration testing; provides air change and infiltration rates; directs local enforcement agencies to accept test results from specified licensed individuals;
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force and the

Construction Industry Workforce Task Force; and

- Allows a specific energy rating index as an option for compliance with the energy conservation code and directs the Florida Building Commission to conduct a study regarding this index.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-129, Laws of Florida and the provisions take effect July 1, 2016.

HB 633

Public Food Service Establishments

The bill amends the definition of “public food service establishment,” to exclude certain eating places at temporary events. An eating place that is excluded from the definition of public food service establishment is not subject to regulatory oversight, and therefore, not required to comply with state health and safety standards or be inspected by the Division of Hotels and Restaurants (Division) within the Department of Business and Professional Regulation.

It provides that an eating place at a temporary “food contest” or “cook-off” that lasts three days or less is excluded from the definition of public food service establishment, when the eating place is maintained and operated by a public or private school, college, university, or a church or a religious, nonprofit fraternal or nonprofit civic organization.

Finally, it provides that the Division may request documentation from individuals claiming to be excluded from the definition of public food service establishment.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-86, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 698

Alcoholic Beverages and Tobacco

The bill amends the laws related to alcoholic beverages and tobacco. It:

- Provides a three year statute of limitations where the Division of Alcoholic Beverages and Tobacco (Division) may review and assess taxes on a person required to pay taxes on tobacco products;
- Permits persons required to remit tax on tobacco products to correct a return;
- Permits the Division to provide alcoholic beverage vendor licenses to railroad transit stations, with limitations;
- Clarifies licensure requirements for food service establishments selling alcoholic beverages pursuant to an alcoholic beverage license;
- Requires a deposit for alcoholic beverages sold in kegs, and an inventory and reconciliation process as an accounting alternative for specified vendors;
- Permits vendors to transport alcoholic beverages through another premises owned or operated in whole or in part by the same vendor;
- Provides taxation provisions for passenger vessels that sell alcoholic beverages and tobacco products; and
- Permits the Division to issue a temporary permit authorizing a municipality, county, or charity to sell alcoholic beverages for consumption on the premises of an event only, for a period not to exceed three days, subject to specific requirements.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-190, Laws of Florida and the provisions take effect July 1, 2016.

HB 739

Secondhand Dealers

Sections 538.03-538.17, F.S., regulate specific secondhand dealers and their business practices. Secondhand dealers must comply with recording and reporting requirements for secondhand dealer transactions. Also, secondhand dealers must keep secondhand goods for at least 15 days before they can be modified, transferred, disposed of, or used in any way.

The bill amends the secondhand dealers transaction form requirements to include digital photos of the relevant goods and permit International Mobile Station Equipment Identity (IMEI), the mobile equipment identifier (MEID), and other unique identifying numbers to be recorded as serial numbers. The bill also expands the holding period for the following secondhand goods from 15 to 30 days: a gemstone, an item of jewelry, an antique furnishing, fixture, or decorative object, an item of art, or goods purchased through an automated kiosk.

Section 538.08, F.S., authorizes a civil action of replevin when a person contests the identification or ownership of property in a secondhand dealer's possession. The bill expands the action to allow lienors alleging a right of possession to bring suit and entitles any plaintiff to use a summary procedure process.

The bill creates a noncriminal violation punishable pursuant to s. 775.083, F.S., by a fine of up to \$2,500, which is committed by a secondhand dealer if:

- An owner or a lienor makes a written demand for return of the property and provides proof of ownership or proof of the right of possession to the secondhand dealer at least five calendar days before filing a replevin action;
- The secondhand dealer knows or should have known based on the proof that the property belongs to the owner or lienor; The secondhand dealer fails to return the property and does not file an action for interpleader to determine conflicting claims to the property; and
- The owner or lienor prevails in the replevin action against the secondhand dealer.

The bill also authorizes storage at a secondhand dealer registered location outside the appropriate law enforcement official's jurisdiction when the law enforcement official agrees and the secondhand dealer provides proof that he or she is able to and agrees to deliver the stored secondhand goods to the appropriate law enforcement official within 2 business days upon request and amends and creates definitions of key terms.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-59, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 772

Regulated Service Providers

The bill modifies provisions in several areas regulated by the Department of Agriculture and Consumer Services (DACS), including:

- Provides for the waiver of certain license and registration fees for veterans and their spouses;
- Reduces the fee for a concealed weapons license by \$10 for both new licenses and renewals;
- Removes the requirement that one of the board members of the Board of Surveying and Mapping be specialized in photogrammetry;
- Clarifies that telemarketers only have to disclose actual physical locations of operations;
- Exempts certain water-related amusement rides from inspection at facilities not open to the general public, if:
 - The ride is an incidental amenity operated by a licensed lodging or food service establishment;
 - The ride is an incidental amenity at a private, membership-only facility; or
 - The ride is located at a permanent facility for a nonprofit, charitable organization.
- Clarifies several fees and standards related to weights and measures in chs. 527 & 531, F.S.;
- Removes “personal trainers,” “tour guides,” and “tour guide services” from regulation;
- Requires the Department to participate in FDLE’s Applicant Fingerprint Retention and Notification Program and requires licensees to submit fingerprints and pay retention fees;
- Amends concealed weapons licensing law provisions, including clarifying the crimes used for disqualification and requiring a live fire demonstration by trainees in the physical presence of the trainer;
- Provides that lienholders may post a bond to secure the release of a motor vehicle, which is currently being held by

a motor vehicle repair shop with a possessory lien;

- Requires the Department to maintain a “student tour operators” list;
- Provides that the Department may provide notice of a suspension or revocation of a concealed weapons license via first-class mail or e-mail, in certain circumstances; and
- Allows tax collectors to print and renew concealed weapons licenses on site.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-166, Laws of Florida and the provisions take effect July 1, 2016.

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Education & Workforce Development

Education

CS/HB 189

Teacher Certification

The bill allows an individual to earn a professional educator certificate for grades 6 through 12 in a STEM subject without having to complete additional coursework if the individual:

- Meets the general certification requirements;
- Holds a master's or higher degree in the area of science, technology, engineering, or mathematics;
- Passes the subject area examination for the correlating certificate;
- Passes the professional education competency examination required by state board rule;
- Teaches a high school course in the subject of the advanced degree; and
- Is rated highly effective under the school district's performance evaluation system, based in part on student performance as measured by a statewide standardized assessment or an Advanced Placement, Advanced International Certificate of Education, or International Baccalaureate examination.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-117 Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 229

Bullying and Harassment Policies in Schools

The bill revises current law by requiring each district school board to review its anti-bullying and harassment policy every three years. The policy review must involve students, parents, teachers, administrators

and other community stakeholders. Each district school board must also authorize a list of prevention programs that provide instruction to community stakeholders on how to identify and respond to bullying or harassment. The bill also clarifies that there must be a procedure for receiving reports of alleged acts of bullying and harassment.

It makes each school principal responsible for implementing the district school board's bullying and harassment policy, prevention programs, and reporting procedures.

It also specifies that Chapter 2010-217, L.O.F., may be cited as "Taylor's Law for Teen Dating Violence Awareness and Prevention," after Taylor Mack, who survived horrific injuries stemming from an attack by her boyfriend in 2009.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-119, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 287

Principal Autonomy Pilot Program Initiative

The bill establishes the Principal Autonomy Pilot Program Initiative (PAPPI) within the Department of Education to provide the principals of participating schools in participating school districts with increased autonomy and authority regarding allocation of resources and staffing. Participation is voluntary, but limited to the school districts of Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas and Seminole Counties. School boards selected for participation in PAPPI are exempt from the K-20 Education Code and State Board of Education rules, with exceptions. Among other exemptions, the class size compliance calculation for

participating schools is the school-level average, rather than the individual classroom level.

School districts seeking to participate in PAPPI must submit a principal autonomy proposal to the State Board of Education for approval. Among other things, the proposal must identify three schools that received at least two school grades of “D” or “F” during the previous three school years, describe the areas in which increased autonomy will be granted, and state measurable goals regarding student achievement and operational efficiency. The state board may select up to seven school districts for participation in PAPPI. The initial term of the program is three years.

The bill grants the principals of participating schools greater authority regarding staffing decisions, allocation of financial resources, and budgeting. Among other things, the principal of a participating school is granted greater authority to hire qualified instructional personnel or refuse placement or transfer of such personnel. Before participation in the program may begin, such principals must complete professional development designed to enable them to implement increased autonomy. Participating school districts must guarantee participating schools at least 90 percent of the funds generated in the Florida Education Finance Program (FEFP) by that school. The current minimum guarantee is 80 percent of such funds.

Participating school districts must annually report measures taken to implement the program and results achieved to the state board. The state board may revoke a district school board’s authorization to participate if the school board fails to meet program

requirements. The Commissioner of Education must submit a full evaluation of the program’s effectiveness to the President of the Senate and the Speaker of the House of Representatives upon expiration of the initial three year term.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-223, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 350
Procurement Procedures for Educational Institutions

Chapter 287, F.S., regulates state agency procurement of personal property and services. The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.

The bill:

- Authorizes district school boards, Florida College System institutions, and universities to make purchases through an online procurement system, an electronic auction service, or other efficient procurement tool;
- Requires each district school board and Florida College System institution board of trustees to review purchasing agreements established and state term contracts procured by DMS before purchasing nonacademic commodities and services to determine whether such agreements and contracts would be more economically beneficial;
- Requires each bid specification for nonacademic commodities or services to include a statement indicating that the

available agreements and contracts have been reviewed; and

- Authorizes each district school board to use the cooperative state purchasing programs managed through the regional consortium service organizations.

This bill was signed into law on March 9, 2016 as Chapter No. 2016-31, Laws of Florida and the provisions take effect July 1, 2016.

SB 576
Public Educational Facilities

A Florida College System (FCS) institution has limited authority to plan and construct facilities and acquire additional property. In 2008, the Legislature authorized the Florida Keys Community College to construct dormitories for up to 100 beds for FCS institution students. The bill increases the number of authorized beds to 300.

Florida Keys College Campus Foundation, Inc., a direct-support organization (DSO), currently operates the campus' 100-bed dormitory. The bill specifies that state funds and tuition fees and revenues may not be used for construction, debt service, maintenance, or operation of the dormitories. Additionally, dormitory beds constructed after July 1, 2016 may not be financed through the issuance of a bond.

This bill was signed into law on March 9, 2016 as Chapter No. 2016-32, Laws of Florida and the provisions take effect July 1, 2016.

HB 585
Instruction for Homebound and Hospitalized Students

Current law does not provide minimum requirements for initiating instructional services for homebound or hospitalized

students who are determined to be eligible under State Board of Education rule.

The bill provides the state board express rulemaking authority regarding instruction for homebound and hospitalized students and clarifies that districts must provide instruction to eligible students in accordance with state board rules. The rules must establish, at minimum:

- Criteria for eligibility of K-12 homebound or hospitalized students for specially designed instruction;
- Procedures for determining student eligibility;
- A list of appropriate methods for providing instruction to homebound or hospitalized students; and
- Requirements for initiating instructional services for a homebound or hospitalized student once the student is determined to be eligible.

The bill requires the school district in which a children's specialty hospital is located to provide educational instruction to an eligible student until it enters into an agreement with the student's school district of residence.

It also requires the Department of Education to develop a standard agreement for use by school districts to provide seamless educational instruction to students who transition between school districts while receiving treatment in the children's specialty hospital.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-227, Laws of Florida and the provisions take effect July 1, 2016.

SB 672

Educational Options/Students with Unique Abilities

The bill creates the Gardiner Scholarship. It modifies educational choice program provisions affected by the 2015-2016 General Appropriations Act and Implementing Bill in four policy areas.

The bill establishes mechanisms for the approval of unique postsecondary education programs tailored to the needs of students with intellectual disabilities and the statewide coordination of information about programs for students with disabilities. Specifically, the bill includes two key components:

- A process through which postsecondary institutions in Florida can voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- A Florida Center for Students with Unique Abilities (statewide coordinating center) for statewide coordination of information regarding programs and services for students with disabilities and their parents.

The bill awards incentive payments to school districts and charter schools that implement standard student attire policies applicable to students in kindergarten through grade 8 on a districtwide or schoolwide basis. Each school district or charter school qualifies for a minimum award of \$10 per student if it implements a policy that:

- Prohibits certain types or styles of clothing, while requiring solid-colored clothing and fabrics and short- or long-sleeved shirts with collars; and

- Allows reasonable accommodations based on a student's religion, disability, or medical condition.

The bill amends a number of provisions of the Florida Personal Learning Scholarship Account (PLSA) program. The provisions increase student access, tighten accountability, and streamline administration.

This bill was signed into law on January 21, 2016 as Chapter No. 2016-2, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 719

Education Personnel

The bill revises several provisions related to education personnel. With respect to educator discipline, the bill:

- Revises the membership of the Education Practices Commission to include membership opportunities for school administrators employed by virtual schools; former charter school governing board members; and former district school superintendents, assistant superintendents, or deputy superintendents;
- Requires all commission members to be Florida residents and authorizes the appointment of emeritus members;
- Authorizes the Commissioner of Education to issue a letter of guidance to a certified educator upon finding that probable cause to prosecute a complaint does not exist; and
- Authorizes the Department of Children and Families to disclose child abandonment, abuse, or neglect records to Department of Education (DOE) employees who investigate or prosecute misconduct by certified educators.

In addition, the bill eliminates the July 1, 2016, expiration date for the educator liability insurance program, which provides liability coverage for all full-time public school instructional personnel. The bill also prohibits postsecondary educational institutions and school districts from requiring a student participating in a clinical field experience to purchase liability insurance as a condition of participation.

With respect to teacher recruitment, the bill authorizes, rather than requires, DOE to sponsor a centrally located job fair to help match educators with teaching opportunities in the state. The bill requires DOE to coordinate a best practice community to help school districts recruit and perform other human resources functions with up-to-date knowledge. The bill also deletes obsolete State Board of Education rulemaking authority regarding certain teacher assignment requirements.

Finally, the bill provides standards for approval of school leader preparation programs.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-58, Laws of Florida and the provisions take effect July 1, 2016.

HB 793
Florida Bright Futures Scholarship Program

The bill creates the Florida Gold Seal CAPE Scholars award as an alternative to the current Florida Gold Seal Vocational Scholars award. A student may qualify for the Florida Gold Seal CAPE Scholars award if he or she meets the general eligibility requirements for the Florida Bright Futures Scholarship program and earns a minimum of five postsecondary credits through CAPE

industry certifications which articulate for college credit. The new scholarship allows for additional credit hours upon completion of a technical degree program as defined in s. 1004.02(13), F.S., for:

- A bachelor of science degree program for which there is a statewide associate in science degree program to bachelor of science degree program articulation agreement, with a maximum of 60 credit hours; or
- A bachelor of applied science degree program at a Florida College System institution.

The bill modifies the initial eligibility period for the Florida Bright Futures Scholarship Program for students who are unable to accept an award due to full-time religious or service obligations lasting at least 18 months. Eligible students can defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation. The organization sponsoring the full-time religious or service obligation must be a federal government service organization or satisfy the Internal Revenue Code's requirements for nonprofit status.

The bill modifies student community service work requirements for the Florida Bright Futures Scholarship Program awards, including Florida Academic Scholars (FAS), Florida Medallion Scholars (FMS), Florida Gold Seal Vocational Scholars (FGSVS) awards, and adding the requirement for the newly created Florida Gold Seal CAPE Scholars award.

The bill modifies the requirements by:

- Clarifying that community service work must be volunteer work and prohibits any student from receiving

remuneration or academic credit for such work;

- Expanding volunteer service work areas to include a civic issue or a professional area of interest;
- Providing that volunteer work may include, but not be limited to, a business or government internship, employment with a nonprofit community service organization, or activity on behalf of a candidate for public office; and
- Establishing accountability requirements for student volunteer work that includes documentation in writing by the student, the student's parent, and a representative of the organization for which the student worked.

The number of community service hours required for each Bright Futures award remains unchanged.

The bill eliminates references to outdated eligibility requirements for the FAS and FMS awards, and removes the higher test score requirement for home education students whose parents cannot document a college-preparatory curriculum. Specifically, the bill provides that test score requirements are the same for students enrolled in home education programs as they are for all other high school students qualifying for the FMS award.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-91, Laws of Florida and the provisions took effect on that date.

HB 799 Out-Of-State Fee Waivers for Active Duty Service Members

Florida law provides for several tuition and fee waivers for veterans residing in the state while enrolled in a state university, Florida

College System institution, career center, or charter technical career center.

The bill creates an out-of-state fee waiver for an active duty member of the United States Armed Forces residing or stationed outside of the state at the time of enrollment at a state university, Florida College System institution, career center, or charter technical career center.

The bill requires the Board of Governors or State Board of Education to report the number and value of all fee waivers granted and authorizes the Board of Governors and State Board of Education to adopt regulations and rules to administer this fee waiver.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-136, Laws of Florida and the provisions take effect on July 1, 2016.

CS/HB 837 Education Programs for Individuals with Disabilities

The bill revises the John M. McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program) by:

- Authorizing a private school to establish a transition-to-work program for students participating in the McKay Scholarship Program which will allow students to earn credits while working off-site;
- Exempting foster children from the prior school year attendance requirement for determining eligibility; and
- Clarifying that McKay Scholarship payments are not subject to the 1.0 FTE cap so that scholarship payments are not reduced when McKay recipients take virtual courses.

The bill revises provisions related to the dual enrollment program by:

- Establishing parameters for dual enrollment agreements between postsecondary institutions and private schools;
- Requiring articulation agreements for private school students and home education students be submitted to the Department of Education (DOE) by August 1 of each year; and
- Requiring postsecondary institutions to include specific information regarding students with disabilities in the articulation agreement and provide the information to the Florida Center for Students with Unique Abilities.

The bill allows districts to provide exceptional student education-related services to eligible home education students with a disability and makes permanent the Adults with Disabilities Workforce Education Program previously created in ch. 2012-134, Laws of Florida for students in Hardee, DeSoto, Manatee and Sarasota Counties.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-137, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1147

Character-Development Instruction

The bill requires character-development programs in high schools to include instruction on:

- Developing leadership skills, interpersonal skills, organization skills, and research skills;
- Creating a resume;
- Developing and practicing the skills necessary for employment interviews;

- Managing stress and expectations; and
- Developing skills that enable students to become more resilient and self-motivated.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-141, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1157

Postsecondary Education for Veterans

The bill expands opportunities for eligible members of the United States Armed Forces to earn college credit at public postsecondary institutions for college-level training and education acquired in the military by including honorably discharged veterans.

The bill requires the Department of Education to include the Excelsior College subject examination, Defense Activity for Non-Traditional Education Support (DANTES) subject standardized test, and Defense Language Proficiency Test (DLPT) on the list of acceleration mechanisms for which credit may be awarded.

The bill modifies an existing tuition waiver qualification requirement for eligible recipients of a Purple Heart, or superior combat decoration. The bill expands the tuition waiver to include any eligible recipient of a Purple Heart, or superior combat decoration, enrolled in an eligible postsecondary institution who currently is a Florida resident, or was a Florida resident at the time of the military action that resulted in the awarding of the Purple Heart or other superior combat decoration.

The bill also requires the Department of Education to include successful completion

of a United States Defense Language Institute Foreign Language Center program or passing score on the Defense Language Proficiency Test (DLPT) to the documentation an individual may provide to demonstrate mastery of subject area knowledge for purposes of meeting teacher certification requirements.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-142, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 1365
Competency-Based Education Pilot Program

The bill creates the Competency-Based Education Pilot Program within the Department of Education (DOE) to provide an educational environment that allows students to progress based upon the mastery of concepts and skills. The bill authorizes the Commissioner of Education to waive State Board of Education rules relating to pupil progression and the awarding of credit. Applications to participate are limited to the P.K. Yonge Developmental Research School and the Lake, Palm Beach, Pinellas and Seminole County school districts.

The bill:

- Requires the DOE to develop an application; compile specific information related to student and staff schedules; provide participating schools with access to statewide standardized assessments; and provide an annual report to the Legislature;
- Specifies reporting requirements for purposes of the Florida Education Finance Program; and
- Outlines minimum provisions that must be included in the application.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-149, Laws of Florida and the provisions take effect July 1, 2016.

SB 7016
Interstate Compact on Educational Opportunity for Military Children

The bill reenacts provisions of law establishing and implementing the Interstate Compact on Educational Opportunity for Military Children and adds a new automatic repeal provision effective three years after the bill becomes law. The bill also specifies that compact dues are to be paid from existing resources within the Department of Education.

This bill was signed into law on March 9, 2016 as Chapter No. 2016-34, Laws of Florida and the provisions took effect on that date.

CS/HB 7019
Postsecondary Access and Affordability

The bill promotes college affordability by:

- Requiring public postsecondary institutions to publicly notice any proposal to increase tuition or fees at least 28 days prior to consideration by the board of trustees;
- Removing the authority for the Board of Governors (BOG) to delegate the establishment of tuition for graduate and professional programs and out-of-state fees to the university boards of trustees;
- Requiring the State Board of Education (SBE) and the BOG to annually identify strategies and initiatives to promote college affordability (including the impact of tuition and fees, financial aid policies, and textbook costs) and submit an annual report to the Governor,

President of the Senate, and Speaker of the House of Representatives; and

- Enhancing the current textbook affordability law to provide students with sufficient time and information to seek out the lowest available prices by:
 - Authorizing state university and Florida College System institution boards of trustees to adopt policies that allow innovative pricing techniques and payment options for textbooks and instructional materials. The bill requires an opt-in provision for students and stipulates that policies may be adopted only if there is documented evidence of cost savings;
 - Requiring public postsecondary institutions to conduct cost benefit analyses and report annually to chancellors on implementation of textbook affordability policies;
 - Requiring chancellors to summarize institutional reports and submit a summary to the SBE and BOG respectively; and
 - Requiring public postsecondary institution boards of trustees to report, by semester, the cost variance among sections and the length of time textbooks and other materials are in use for all general education courses. This provision expires July 1, 2018.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-236, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 7029

School Choice/Charter Schools

The bill expands education choice by:

- Revising controlled open enrollment which will allow students to apply and

transfer to public schools on a statewide basis beginning in 2017-2018;

- Revising eligibility criteria for extracurricular activities;
- Allowing parents to request a teacher transfer under certain circumstances; and
- Allowing a 5-year-old to participate in Voluntary Prekindergarten if he or she did not participate as a 4-year-old.

The bill strengthens charter school accountability by:

- Clarifying funding processes and defining “financial stability” for purposes of charter school capital outlay;
- Requiring additional charter school financial information in the application; and
- Implementing automatic termination of low performing charter schools.

The bill additionally revises provisions related to:

- Pre-K-12 education including the Credit Acceleration Program, school board responsibilities, and rehiring of retired personnel;
- Flexibility and accountability in public school construction;
- Performance-based funding for the State University System and Florida College System; and
- The Preeminent State Research Universities Program.

Additionally, the bill establishes the Florida Seal of Biliteracy Program, the Distinguished Florida College System Program, and codifies the Federally Connected Student Supplement.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-237, Laws of Florida and the provisions take effect on July 1, 2016.

CS/HB 7053

Child Care and Development Block Grant Program

Florida's Office of Early Learning (OEL) administers the Child Care and Development Fund (CCDF) and provides state-level administration for the school readiness program. In 2014, the Child Care and Development Block Grant (CCDBG) Act was signed into law reauthorizing the CCDF. The new law requires that parents and the public have better information about available child care choices and establishes health and safety requirements for school readiness program providers.

The bill implements the requirements of the CCDBG by increasing public information on, and background screening of, child care providers, aligning eligibility requirements with the grant, and requiring pre-service and in-service training for personnel of School Readiness program providers.

In 1975, the Individuals with Disabilities Education Act (IDEA) was enacted to ensure that children with disabilities receive appropriate public education. In 2011, the U.S. Department of Education (U.S. DOE) released its final implementing regulations for Part C of the IDEA, which were adopted to help improve outcomes for infants with disabilities. Part C of the IDEA (the Early Steps Program) provides services to families and children from birth to age three who are at risk of having developmental delays. The federal government created grants to assist states in providing early intervention programs under Part C of the IDEA.

Florida's Early Steps Program, is administered by the Department of Health (DOH). The DOH contracts with hospitals and non-profit organizations across the state to screen children for eligibility and to deliver services.

The bill repeals outdated sections of statute, includes other revisions and updates to conform to the U.S. DOE's implementing regulations, provides program goals, defines terms, provides eligibility requirements, assigns duties to DOH, and provides procedures for the successful transition of children from the Early Steps Program to the local school district.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-238, Laws of Florida and the provisions take effect July 1, 2016.

Workforce Development

CS/SB 7040

Workforce Development

The bill modifies Florida's workforce development system to begin the process of the state's implementation of the federal Workforce Innovation and Opportunity Act (WIOA). Specifically, the bill:

- Replaces the name of the previous federal law, the Workforce Investment Act of 1998 (WIA), with that of the current law, WIOA, and amends other references and nomenclature throughout the Florida statutes to reflect the terminology and workforce assistance structure contemplated by WIOA;
- Specifies that the Incumbent Worker Training Program administration should comply with WIOA;

- Changes the state five year plan requirement required under WIA to a new four year state plan (to implement WIOA) and amends the process for creating and amending the plan;
- Requires a memorandum of understanding (MOU) between CareerSource Florida, Inc. (CareerSource), and the Department of Education (DOE) to ensure requirements of WIOA are met in compliance with the state plan;
- Requires local workforce development boards to enter into an MOU with each mandatory or optional partner that participates in the one-stop delivery system, which details the partner's required contribution to infrastructure costs as required in WIOA;
- Requires the Department of Economic Opportunity to consult with DOE on the preparation of the "economic security report of employment and earning outcomes" for degrees or certificates earned at public postsecondary educational institutions;
- Expands the CareerSource Board to include representation from Enterprise Florida, Inc., the Division of Career and Adult Education of DOE, and other entities as determined to be necessary;
- Uses "performance accountability measures" established by contract between CareerSource and core program partners to assess performance of the state's workforce system strategy;
- Aligns the requirements of local workforce development board membership and structure to the requirements of WIOA and provides that CareerSource may waive certain local workforce board membership requirements under certain circumstances; and
- Provides that certain employment protections currently available to members of the Florida National Guard are to also apply to members of the National Guard of any state.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-216, Laws of Florida and the provisions take effect on July 1, 2016.

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Elections

Elections

SB 112

Absentee Voting

The bill changes the term “absentee” and “absentee ballot” to “vote-by-mail” and “vote-by-mail ballot,” respectively, where those terms appear in the Florida Statutes.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-37, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 195

Special Election

The bill provides for a special election on August 30, 2016, to be held concurrently with other statewide elections held on that date, if any. At that election, an amendment to the Florida Constitution proposed in CS/HJR 193 will be submitted to the electors for approval or rejection. The amendment authorizes the Legislature, by general law, to exempt from ad valorem taxation the assessed value of solar devices or renewable energy source devices that are subject to tangible personal property tax and to prohibit the consideration of the installation of such devices in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-118, Laws of Florida and the provisions take effect January 1, 2017.

HB 417

Article V Convention for Congressional Term Limits

The memorial constitutes the state’s application to Congress for an Article V

convention for the sole purpose of proposing an amendment to the U.S. Constitution to establish term limits for members of the U.S. Senate and U.S. House of Representatives. Currently, there is not a limit on the number of terms a member of Congress may serve. The memorial does not specify the number of terms that members should be allowed to serve.

In the early 1990s, 23 states, including Florida, approved state constitutional amendments or passed laws imposing congressional term limits. However, in 1995, the U.S. Supreme Court ruled that congressional term limits may only be imposed by amending the U.S. Constitution.

There are two methods to amend the U.S. Constitution. The first method calls for each house of Congress to approve a proposal for an amendment by a two-thirds majority. Alternatively, two-thirds of the states (34 states) may submit applications to Congress for an Article V convention. An Article V convention has never been called. In either case, proposed amendments must be ratified by three-fourths of the states (38 states) in order to become part of the U.S. Constitution.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

This bill was signed by Officers and filed with the Secretary of State on March 9, 2016.

HB 541

Addresses of Legal Residence

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application. The application must be designed to elicit certain information from an applicant. A voter registration application must contain a person's legal residence in order to be considered complete; however, the term legal residence is not defined within the Florida Election Code.

Supervisors of elections (supervisors) act as the receiver and custodian of voter registrations within their county.

Supervisors must maintain a list of valid residential street addresses for the purpose of verifying the legal addresses of voters residing within their county.

The bill defines the term "address of legal residence" to mean the legal residential address of an elector and includes all information necessary to distinguish one residence from another, including, but not limited to, apartment, suite, lot, room, or dormitory room numbers.

The bill requires the voter registration application to include the applicant's address of legal residence in order to be considered complete. However, failure to include a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier on a voter registration application does not impact a voter's eligibility to register to vote or cast a ballot. Furthermore, the omission of such an identifier may not be a basis to challenge a voter's eligibility or serve as a reason to not count a ballot.

The bill also requires supervisors to include within their list of valid residential street addresses all information necessary to

differentiate one residence from another and to make all reasonable efforts to obtain such information if it is not included in a voter registration application.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-23, Laws of Florida and the provisions take effect July 1, 2016.

SB 666

Voter Identification

The bill expands the list of valid forms of identification required for voter registration and identification at the polls to include a veteran health identification card issued by the United States Department of Veterans Affairs, a Florida license to carry a concealed weapon or firearm, and a government-issued employee identification card.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-167, Laws of Florida and the provisions took effect on that date.

**2016
Florida Legislative
Post-Session Report**

General Government and Public Meetings

General Government

HB 43

Churches or Religious Organizations

The bill creates conscience protections for clergy, churches, and religious organizations and their employees who object to solemnizing any marriage or providing services, facilities, or goods related to a marriage if doing so violates the organization or individual's sincerely held religious beliefs.

The bill also protects the state tax exempt status, and the right to apply for grants, contracts, and participation in government programs, of covered organizations that refuse to solemnize a marriage or provide services, facilities, or goods related to a marriage.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-50, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 86

Scrutinized Companies

The bill requires the State Board of Administration (SBA) to identify and assemble a list of companies that boycott Israel. The bill requires the SBA to update and make publicly available on a quarterly basis a Scrutinized Companies that Boycott Israel List (List). The List must be distributed to the trustees of the SBA, the President of the Florida Senate, and the Speaker of the Florida House of Representatives.

The SBA must provide written notice to the companies that may be placed on the List and give those companies an opportunity to respond prior to the company becoming

subject to investment prohibition and placement on the List.

In terms of its investment responsibilities relating to the Florida Retirement System (FRS) pension plan, the SBA is not permitted to acquire securities, as direct holdings, of companies that appear on the List. The bill provides an exception for securities that are not subject to this prohibition. The bill requires the investment policy statement for the FRS pension plan to be updated to include the limitations set forth in this bill.

The bill limits governmental entities from contracting with scrutinized companies on the List or companies engaged in a boycott of Israel. Specifically, the bill prohibits a state agency or local governmental entity from contracting for goods and services of \$1 million or more with a company that has been placed on the List, or engaged in a boycott of Israel. In addition, the bill requires certain governmental contracts to contain provisions allowing the awarding body to terminate the contract if a company is placed on the List, or engaged in a boycott of Israel. Additionally, the bill requires certification by a company that the company is not participating in a boycott of Israel upon submission of bid or renewal of existing contract. A case-by-case exception is provided to state agencies and local governmental entities for contracting with companies on the List under specified circumstances.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-36, Laws of Florida and the provisions took effect on that date.

CS/CS/CS/HB 91
Severe Injuries Caused by Dogs

State laws governing the classification, control, and destruction of “dangerous dogs” are enforced by local animal control authorities. The overall purpose of such laws is to protect public safety by classifying certain dogs as “dangerous” and requiring their owners to follow specific safety restrictions.

Under current law, dogs which cause severe injury to human beings may either be classified as a dangerous dog subject to safety restrictions or immediately confiscated and destroyed. If an animal control authority proceeds under the classification provisions, the owner of the dog may raise certain affirmative defenses for the dog’s bad acts. Affirmative defenses may not be raised in a destruction proceeding. This inconsistency has led three different Florida courts to declare the current law unconstitutional. The bill:

- Eliminates the mandatory quarantine, confiscation, and destruction of a previously unclassified dog which has caused severe injury to a human;
- Provides that if a dog is classified as “dangerous” as a result of causing severe injury to a human, the animal control authority may destroy the dog only after considering the nature of the injury and future likelihood of harm by the dog;
- Revises the notice of hearing and appeal rights to dog owners;
- Transfers jurisdiction over appeals of animal control determinations from county court to circuit court;
- Authorizes local governments to adopt ordinances which further regulate dogs that have bitten or attacked humans or domestic animals; and

- Expressly exempts law enforcement dogs from provisions of law governing “dangerous dogs.”

This bill was signed into law on March 8, 2016 as Chapter No. 2016-16, Laws of Florida and the provisions took effect on that date.

HB 93
Law Enforcement Officer
Body Cameras

A body camera is a portable electronic device, typically worn on the outside of a vest or a portion of clothing, which records audio and video data. Approximately one-third of local police departments throughout the nation have opted to use body cameras. Preliminary studies on the effects of using body cameras on law enforcement officers indicated a reduction of citizen complaints against officers who wore the cameras while on duty.

Similar to the national trend, only a small number of Florida law enforcement agencies have elected to use body cameras. Currently, Florida law does not require such agencies to have policies in place that govern the use of such technology.

The bill requires law enforcement agencies that permit law enforcement officers to wear body cameras to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;

- Any limitations on law-enforcement-related encounters in which law enforcement officers are permitted to wear body cameras; and
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

The bill requires law enforcement agencies to provide policies and procedures training to all personnel who use, maintain, store, or release body camera recording data, and to retain body camera recording data in compliance with s. 119.021, F.S. Agencies must perform periodic reviews of agency practices to ensure compliance with agency policies and procedures. The bill also exempts body camera recordings from the requirements of ch. 934, F.S. This allows law enforcement officers to wear body cameras during their patrol duties without having to inform each individual they make contact with that they are being recorded.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-76, Laws of Florida and the provisions took effect on that date.

HB 103 Transactions in Fresh Produce Markets

The Supplemental Nutrition Assistance Program (SNAP) is a federal program that offers nutrition assistance to low-income individuals and families. Individuals and families who meet eligibility standards receive an Electronic Benefits Transfer (EBT) card. Money is deposited on the EBT card for families and individuals to purchase certain types of food each month. To accept SNAP benefits from an EBT card, businesses selling food must have an EBT system and be licensed by the United States

Department of Agriculture (USDA). The USDA licenses farmers' markets and allows farmers' markets to operate EBT systems, but not all farmers' markets accept SNAP benefits.

The bill allows the owner or operator of a market selling fresh produce, such as a farmer's market, that does not have an Electronic Benefits Transfer (EBT) system to allow certain specified groups to implement and operate an EBT system in the market on behalf of the sellers. The bill does not require farmers' markets to operate or maintain an EBT system, nor does it apply to markets that already accept SNAP benefits through an EBT system.

The bill requires use of SNAP benefits on a dollar-for-dollar basis for produce and other fresh food and prohibits trading benefits for non-produce items.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-51, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 124 Public-Private Partnerships

The bill implements many of the recommendations of the statutorily created Partnership for Public Facilities and Infrastructure Act Guidelines Task Force to create a uniform process for public entities to engage in public-private partnerships (P3s). The bill:

- Clarifies that the P3 process must be construed as cumulative and supplemental, or alternative, to any other authority or power vested in the governing body of a county, municipality, special district, or municipal hospital or health care system;

- Revises the list of entities authorized to conduct P3s to include special districts and school districts (rather than school boards);
- Provides increased flexibility to the responsible public entity by permitting a responsible public entity to deviate from the provided procurement timeframes if approved by majority vote of the entity's governing body;
- Requires that an unsolicited proposal be submitted concurrently with an initial application fee established by the responsible public entity.
- The bill authorizes a responsible public entity to request additional funds if the initial fee does not cover the costs to evaluate the unsolicited proposal. It also requires the responsible public entity to return the initial application fee if the responsible public entity does not review the unsolicited proposal;
- Provides that if an unsolicited proposal involves architecture, engineering, or landscape engineering, the professional hired to evaluate or create the design criteria packaged must be retained until the entire project is completed; and
- Authorizes the Department of Management Services to accept and maintain copies of comprehensive agreements received from responsible public entities.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-153, Laws of Florida and the provisions take effect July 1, 2016.

HB 131
Unattended Persons and Animals
in Motor Vehicles

Since 2010, 16 children and 17 senior citizens have died from vehicular heatstroke

in Florida after being left unattended in a motor vehicle. Nationally, Florida ranks second only behind Texas for the number of child vehicular stroke fatalities in the United States.

A “good samaritan” that enters a motor vehicle in such emergency situations for the purpose of removing a vulnerable person or domestic animal is immune from civil liability for damages arising out of any care or treatment rendered. However, under current law, the good samaritan may be civilly liable for entering or damaging the motor vehicle.

The bill creates s. 768.139, F.S., to provide civil immunity for motor vehicle damage to a person who forcibly enters a motor vehicle for the purpose of removing a vulnerable person or domestic animal if the person:

- Determines that the vehicle is locked or there is no other reasonable method for the person or animal to exit the vehicle;
- Has a good faith and reasonable belief that forcible entry is necessary because the person or animal is in imminent danger of suffering harm;
- Ensures that law enforcement or 911 is notified prior to entering the motor vehicle or immediately thereafter.
- Uses no more force than necessary to enter the vehicle and remove the person or animal; and
- Remains with the person or animal in a safe location, in reasonable proximity to the motor vehicle, until law enforcement or other first responder arrives.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-18, Laws of Florida and the provisions took effect on that date.

CS/CS/CS/HB 153

Health Food Financing Initiative Pilot Program

The bill directs the Department of Agriculture and Consumer Services (DACS) to create a Healthy Food Financing Initiative (program) to coordinate the use of financial assistance from any source to increase access to fresh produce and other nutritious food in underserved communities. The bill:

- Authorizes DACS to contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program and creates eligibility criteria for such organizations;
- Requires DACS or a third-party administrator to establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, disburse grants and loans, and monitor compliance and impact;
- Requires projects under the program to be located in underserved communities; primarily serve low income families; and provide for the renovation or expansion of independent grocery stores or supermarkets and community facilities;
- Requires DACS to submit a report annually to the Legislature on the projects funded, geographic distribution of projects, program costs, and program outcomes;
- Requires the Office of Program Policy Analysis and Government Accountability to review the program after 7 years. If the report determines the program to be unsuccessful after 7 years, DACS must create guidelines to return unused funds to the initial investor;

- Enumerates program application requirements and permissible uses of program financing;
- Directs DACS or the third-party administrator to give preference to local, Florida-based grocers and business owners; consider the level of need in the area served; consider the project's positive economic impact when determining which projects to finance; and the location of the proposed project;
- Restricts DACS to distributing no more than \$500,000 among no more than three recipients; and
- Provides a nonrecurring appropriation of \$500,000 from the General Revenue Fund.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-221, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 158

Identification Cards and Driver Licenses

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to notate on an applicant's identification card or driver license the applicant's status as a lifetime freshwater fishing, saltwater fishing, hunting, or sportsman licensee, or the applicant's status as a lifetime boater safety identification card holder. These changes will apply upon implementation of new designs for the identification card and driver license by DHSMV.

The DHSMV is authorized to collect an additional \$1 fee to add the lifetime licensee or cardholder status when issuing an original identification card or driver license. An individual who surrenders and replaces

his or her identification card or driver license before its expiration date with the sole purpose of including the individual's status as a lifetime licensee or card holder is required to pay a \$2 fee for the card or license and the \$25 replacement fee will be waived. The bill also provides that the state-issued identification card or driver license displaying the lifetime designation is valid proof of the indicated lifetime card or recreational license.

This bill was signed into law on February 24, 2016 as Chapter No. 2016-4, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 180 **Trade Secrets**

The bill expands the definition of the term "trade secret," as provided in s. 812.081, F.S., to expressly include financial information.

An individual who steals, copies without authorization, or misappropriates financial information which meets the criteria as a trade secret is guilty of a third degree felony under s. 812.081, F.S.

The bill:

- Adds financial information to protected information classified as a trade secret in s. 812.081, F.S., in the penal code. The bill:
- Makes theft of trade secret financial information a third degree felony;
- Reenacts s. 581.199, F.S., which makes it unlawful for any authorized representative of the Department of Agriculture and Consumer Services, Division of Plant Industry, to use a trade secret, as defined by s. 812.081, F.S., obtained under the provisions of ch. 581, F.S., for personal gain. This reenactment incorporates the expansion of the

definition of trade secret made in section 1;

- Reenacts s. 721.071(1), F.S., which provides methods for developers to establish that materials filed with the Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, are trade secrets, as defined by s. 812.081, F.S. This reenactment incorporates the expansion of the definition of trade secret made in section 1;
- Reenacts s. 812.035(1), (2), (5), (7), (8), (10), and (11), F.S., which relate to civil and criminal remedies available for violations of s. 812.081, F.S. This reenactment incorporates the expansion of the definition of trade secret made in section 1; and
- Reenacts s. 815.04, F.S., which establishes a criminal offense for the willful disclosure of a trade secret, as defined by s. 812.081, F.S., which are located on a computer system or electronic devise. This reenactment incorporates the expansion of the definition of trade secret made in section 1.

This bill was signed into law on February 24, 2016 as Chapter No. 2016-5, Laws of Florida and the provisions take effect October 1, 2016.

CS/SB 184 **Military and Veterans Affairs**

The bill addresses various issues related to the state's military servicemembers and veteran community. The bill:

- Creates the Military and Overseas Voting Assistance Task Force within the Department of State (DOS) to study issues involving the development and implementation of an online voting system that allows absent uniformed services voters who are overseas to electronically submit voted ballots;

- Requires the application form for an original, renewal, or replacement driver license or identification card to include a voluntary check-off to allow a veteran to request written or electronic information on federal, state, and local benefits and services;
- Requires a residential rental application to be processed within seven days for a servicemember by a landlord, condominium association, cooperative association, or a homeowner association;
- Requires the Department of Business and Professional Regulation and the Department of Agriculture and Consumer Services to extend credit for relevant military service across a broad range of professions and occupational fields;
- Requires the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs to provide Commercial Driver License testing opportunities to Florida National Guard members at certain military facilities in Florida.

This bill was signed into law on April 15, 2016 as Chapter No. 2016-242, Laws of Florida and the provisions take effect on July 1, 2016.

SB 222

Parking for Disabled Veterans

The bill removes provisions allowing an airport that owns, operates, or leases parking facilities, or any other parking facilities that are used for the purposes of air travel, from charging parking fees to a vehicle displaying:

- A disabled veteran license plate;

- A disabled veteran license plate stamped with the international accessibility symbol; or
- A Paralyzed Veterans of America license plate.

The bill prohibits the governing body of each publicly owned or operated airport from charging parking fees to a vehicle displaying:

- A disabled veteran license plate;
- A disabled veteran license plate stamped with the international accessibility symbol; or
- A Paralyzed Veterans of America license plate.

The bill adds, in addition to vehicles displaying the disabled veteran license plate, vehicles displaying the disabled veteran plate stamped with the international accessibility symbol and the Paralyzed Veterans of America license plate to the list of vehicles that may not be charged by a local government for parking in a facility or lot that provides timed parking spaces.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-39, Laws of Florida and the provisions take effect on July 1, 2016.

CS/HB 347

Utility Projects

The bill establishes a new financing mechanism – “Utility Cost Containment Bonds” – available to an intergovernmental authority to finance or refinance, on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity (including the authority itself), projects related to water or wastewater service. The creation of this financing mechanism, referred to as

securitization, is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible utility projects for these entities.

In summary, the financing mechanism created by the bill operates as follows:

- A “local agency” applies to the intergovernmental utility authority to finance the costs of an eligible project using “utility cost containment bonds.”
- The intergovernmental utility authority adopts a “financing resolution” setting forth certain requirements for issuance of the bonds. (To finance the project, the intergovernmental utility authority may form a single-purpose limited liability company or, together with two or more of its members or other public agencies, may create a new single-purpose entity to perform the duties and responsibilities of the authority under the bill.)
- The bonds are secured by the revenues from a separate “utility project charge” stated on the bill of each present and future customer of the services specified in the financing resolution.
- This charge is imposed by the intergovernmental utility authority on behalf of the local government receiving financing for an eligible project.
- The intergovernmental utility authority and the local government enter into a servicing agreement under which the local government collects the charge.
- The moneys from the charge are transferred to the intergovernmental utility authority and used to secure bonds issued for the benefit of the local government.

- The moneys collected from the charge are held in trust for the benefit of the bondholders. These moneys are not considered revenues of the local government but are treated as revenues of the intergovernmental utility authority.
- The intergovernmental utility authority may not file bankruptcy while any of the bonds are outstanding.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-124, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 427

Recreational Vessel Registration

The bill reduces state vessel registration fees for recreational vessels equipped with an Emergency Position-Indicating Radio Beacon, or for recreational vessels where the owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. A person who owns a personal locator beacon and more than one recreational vessel qualifies to pay the reduced fee for only one of their vessels. The reduced registration certificate fees provided in the bill apply to applicable vessels registered in Fiscal Year 2016-2017, between July 1, 2016, and June 30, 2017 only.

As provided in the bill, an Emergency Position-Indicating Radio Beacon means a device installed on the vessel being registered that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the

International Cospas-Sarsat Programme; and

- Is registered with the United States National Oceanic and Atmospheric Administration.

A Personal Locator Beacon means a device designed to be carried by an individual that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-126, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 431 Fire Safety

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal, and requires the State Fire Marshal to adopt the Florida Fire Prevention Code (FFPC) by rule every three years. The FFPC sets forth firesafety standards (including certain national codes) for property and is enforced by local fire officials within each county, municipality, and special fire districts in the state.

Exemptions from the FFPC: Currently, a structure located on agricultural property is exempt from the FFPC if the occupancy is limited to 35 persons and is not used by the public for direct sales or as an educational outreach facility. Tents up to 30 feet by 30 feet are also exempt. Nonresidential farm buildings are currently exempt from the

Florida Building Code and county and municipal codes, but not from the FFPC.

The bill creates a new exemption from the FFPC and national codes for agricultural pole barns, which are nonresidential farm buildings in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress. In addition, the bill revises the two existing exemptions from the FFPC and national codes by restating the current exemption for tents to be up to 900 square feet, and revising the current exemption for structures located on agricultural property and limited to a maximum occupancy for 35 persons to exempt a "nonresidential farm building" with a maximum occupancy of 35 persons and removes the exclusion on use by the public for direct sales or as an educational outreach facility.

Farm Structures Used for Agritourism

Activity: The bill provides that a structure on a farm (other than agricultural pole barns) which its owner uses for agritourism activity and for which the owner receives consideration must be classified into one of three classes, and requires the State Fire Marshal to adopt rules to implement these classifications, including alternative lifesafety and fire prevention standards for Class 1 and Class 2 structures. Additionally, the bill permits local fire officials to consider certain alternative national life safety approaches as a low-cost, reasonable alternative to minimum firesafety standards, with regard to existing buildings.

- **Class 1:** A nonresidential farm building used by the owner 12 times per year or fewer for agritourism activity with a maximum occupancy of 100 persons. These structures are subject to local inspection and State Fire Marshal rules, but are not subject to the FFPC.

- Class 2: A nonresidential farm building used by the owner for agritourism activity with a maximum occupancy of 300 persons. These structures are subject to local inspection and State Fire Marshal rules, but are not subject to the FFPC.
- Class 3: A structure used for the primary use of housing, sheltering, or accommodating the general public. Class 3 structures are subject to local inspection and the FFPC.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-83, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 491
Investor-Owned Water and Wastewater

Chapter 2012-187, Laws of Florida, created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee) to “identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers” and to research possible solutions. Consistent with the law, the Study Committee submitted a report containing its recommendations to the Speaker of the House, the President of the Senate, and the Governor, on February 15, 2013. This bill adopts several of the Study Committee’s recommendations for legislative action. In particular, the bill:

- Directs the Division of Bond Finance to review the allocation of private activity bonds in Florida with respect to water and wastewater projects;
- Creates an exemption from PSC regulation for persons who resell water service to individually-metered residents at a price that does not exceed the

purchase price of water plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of service;

- Requires the PSC, upon the request of an investor-owned water or wastewater utility (IOU) in a rate case, to create a reserve fund for the IOU to be used for certain infrastructure repair and replacement projects, with disbursement subject to PSC approval;
- Identifies specific types of expenses eligible for “pass-through” treatment in IOU rates and authorizes the PSC, by rule, to identify additional types of expenses eligible for such treatment, provided the expenses are beyond the utility’s control;
- Prohibits the recovery of an IOU’s rate case expense where the rate case expense is incurred to prepare or file a staff-assisted rate case in which no party intervenes;
- Authorizes the PSC, on its own motion or based on customer complaints, to review water quality issues involving secondary drinking water standards (e.g., standards related to odor, taste, and corrosiveness) and wastewater service issues involving odor, noise, aerosol drift, or lighting;
- Expands the availability of low-interest loans through the State Revolving Fund to all for-profit water utilities; and
- Clarifies that each county that has opted to regulate water and wastewater services must comply with the requirements in current law concerning abandoned IOUs.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-226, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 514

Supervisor of Elections Salaries

The bill addresses the base salaries and group rates used to calculate the salary of Florida's supervisors of elections. A supervisor's salary is determined by the size of the population served. This bill makes the base salaries and group rates used to calculate a supervisor's salary the same as the current base salaries and group rates used to calculate the salaries of the clerks of circuit court, property appraisers, and tax collectors.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-157, Laws of Florida and the provisions take effect October 1, 2016.

CS/HB 613

Workers' Compensation System Administration

The workers' compensation law requires an employer to obtain coverage for their "employees" that provides for lost income and all medically necessary remedial treatment, attendance, and care resulting from work related injuries and occupational diseases. The Division of Workers' Compensation (Division) within the Department of Financial Services (DFS) provides regulatory oversight of the system. The DFS' responsibilities include enforcing employer compliance with coverage requirements, administration of the workers' compensation health care delivery system, collecting system data, and assisting injured workers regarding their benefits and rights.

The bill contains a variety of changes to the workers' compensation law. The changes include:

- Providing a 25 percent penalty credit for non-compliant employers that have

never received a stop-work order or an order of penalty assessment and who properly maintain their business records and timely respond to business record requests from the Division;

- Establishing a deadline for employers to file certain documentation to receive a penalty reduction;
- Reducing the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage;
- Requiring employers to simply notify their insurers of their employee's coverage exemption, rather than requiring that a copy of the exemption be provided;
- Eliminating a 3-day response requirement applicable to employer held exemption information;
- Removing the requirement that construction employers maintain written exemption acknowledgements;
- Deleting a requirement that exemption revocations be filed by mail only;
- Removing unnecessary information from the exemption application;
- Relieving employers of the obligation to notify the DFS by telephone or telegraph within 24 hours of any work related death and relying instead on other existing reporting requirements;
- Removing insurers and employers from the medical reimbursement dispute provision since they meet their adjustment, disallowance and provider violation reporting duties through other provisions of law;
- Eliminating fees collected by the DFS related to new insurer registrations and Special Disability Trust Fund notices of claim and proofs of claim;
- Revising the method for selecting an expert medical examiner; and

- Eliminating the Preferred Worker Program, which has not been used in over ten years.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-56, Laws of Florida and the provisions take effect October 1, 2016.

CS/CS/CS/HB 651

Department of Financial Services

The bill creates and amends duties and responsibilities of the Department of Financial Services (DFS), including:

- Authorizing the DFS to create an Internet-based system for the electronic transmission of service of process documents served on the Chief Financial Officer (CFO) and revising the requirements for service of process on insurers;
- Clarifying the eligibility requirements for participation in the State’s deferred compensation plan;
- Revising requirements for the approval of certain surety bonds;
- Extending the exemption of medical malpractice insurance premiums from Florida Hurricane Catastrophe Fund emergency assessments from May 31, 2016, to May 31, 2019;
- Amending the Florida Single Audit Act to conform to new federal standards, defining the term “higher education entity,” and adding specific provisions applicable to higher education entities;
- Authorizing the DFS to access the digital photographs of driver licenses from the Department of Highway Safety and Motor Vehicles to investigate alleged violations of the insurance code by licensees and unlicensed persons;
- Revising safety regulations for carbon monoxide detectors in public lodging establishments;
- Exempting licensed health insurance agents from licensure as a public adjuster for specified activities;
- Amending the appointment procedures for the Florida Surplus Lines Service Office board of governors;
- Exempting surplus lines agents from the quarterly reporting requirement to the Florida Surplus Lines Service Office when business has not been transacted in that quarter;
- Revising the criteria for the Anti-Fraud Reward Program;
- Providing additional grounds for the disqualification of a neutral evaluator in sinkhole insurance claims disputes;
- Creating procedures to grant exemptions to persons disqualified from licensure or certification by the Division of State Fire Marshal (DSFM);
- Creating the Firefighter Assistance Grant Program to provide financial assistance in the form of training and equipment for volunteer and combination fire departments;
- Amending the requirements for obtaining a firefighter certificate of compliance;
- Providing for the expiration of firefighter and volunteer firefighter certificates of compliance and completion four years after the date of issuance unless renewed, and amending the requirements to renew firefighter certifications;
- Repealing the statute requiring the DSFM to suspend or revoke a firefighter’s certification under certain conditions;
- Providing the DFS with rulemaking authority relating to all unclaimed

property reported and remitted to the CFO; and

- Exempting certain travel insurance products with premiums less than \$30 for each covered trip from the Office of Insurance Regulation's rate filing requirements.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-132, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 703

Operation of Vessels

It is unlawful to operate a vessel in a careless manner. A person operating a vessel upon the waters of this state must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in this manner constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person in violation commits a noncriminal violation.

The bill revises the offense of careless operation of a vessel to pertain to operating a vessel so as not to endanger the life, limb, or property of another person outside the vessel or endanger the life, limb, or property of another person due to vessel overloading or excessive speed. A person in violation commits a noncriminal violation.

The bill also provides that the operator of a vessel, upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection

initiated by a law enforcement officer, shall be issued a safety inspection decal signifying such compliance. The safety inspection decal, if displayed, must be located within 6 inches of the inspected vessel's properly displayed vessel registration decal and shall signify that the vessel has met the safety equipment carriage and use requirements at the time and location of the inspection. For non-motorized vessels which are not required to be registered, the safety inspection decal, if displayed, must be located on the forward half of the port side of the vessel above the waterline.

The bill further provides that law enforcement officers may not stop a vessel solely to inspect safety equipment carriage requirements when the vessel properly displays a valid safety inspection decal, created or approved by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, except when there is reasonable suspicion that a violation of a safety equipment carriage or use requirements has occurred or is occurring. Nothing in this bill is intended to restrict vessel stops for any other lawful purpose.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-134, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 749

Agriculture

Agricultural Lands Classification

Florida's "greenbelt law" allows properties classified as bona fide agricultural operations to be taxed according to the "use" value of the agricultural operation, rather than the development value. The bill amends the greenbelt law to identify the Citrus Health Response Program as a state or federal eradication or quarantine

program, allow land to retain its agricultural classification for 5 years after execution of a compliance agreement for an eradication program, and require property tax collectors to assess the lands at a de minimis value during the 5-year term of the agreement.

Farm Vehicle Registration

The bill allows certain farm vehicles to travel on the roads for up to three days without registration, paying license taxes, or license plates, when moving from an auction site or other place of purchase to the purchaser's property.

Commercial Feed and Feedstuff Preemption

The bill preempts to the Department of Agriculture and Consumer Services (DACS) all authority in this state to regulate, inspect, sample, and analyze any commercial feed or feedstuff, including assessment of penalties for violating this section.

Penalties for Introduction of Plant Pests

The bill adds additional penalties for individuals who knowingly acquire, import, possess, sell or offer to sell, trade or offer to trade, barter or offer to barter, move or cause to be moved, introduce, or release a plant pest without a special permit from DACS. Specifically, the bill provides that violators are liable for all reasonable costs and expenses incurred by DACS in a plant pest control or eradication program, and subject to increased administrative and criminal penalties.

Conservation Easements

The bill specifies that an allowable surface use of land subject to a conservation easement may include agricultural activities, including, but not limited to, silviculture, forest management, and livestock grazing, if such activities are a

current or historic use of the land placed under the easement and the activities are conducted in accordance with the applicable best management practices adopted by DACS.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-88, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 846

Divers-Down Warning Devices

The bill amends s. 327.331, F.S., to define the term “divers-down warning device” to include divers-down flags, buoys, or other similar warning devices. This new term will provide divers with additional choices for signaling to boaters that there are divers in the water while remaining compliant with Florida law. The bill replaces the term “flag or buoy” with “warning device”. A “divers-down warning device” must:

- Contain a divers-down symbol that is at least 12 inches by 12 inches in dimension when displayed from the water or is at least 20 by 24 inches when displayed from a vessel;
- Be designed for, and used by, divers and dive vessels as a means to notify nearby boaters of the presence of a diver in the waters of the immediate area; and
- Be prominently visible when in use.

Additionally, the bill revises the specification requirements for “divers-down flags”. The bill clarifies that the “divers-down symbol” may be displayed on each face of the flag, rather than on each side. The bill authorizes “divers-down flags” to have more than one white diagonal stripe. However, if there are multiple stripes, the bill requires that all stripes be oriented in the same direction. Instead of requiring the flag to have a wire or other stiffener, the bill

authorizes the flag to be otherwise constructed to ensure that the flag remains fully unfurled and extended in absence of a wind or breeze.

While the bill retains the size requirements for divers-down symbols that are displayed on the water (12 inches by 12 inches), the bill removes the requirement that buoys or floats used to display a divers-down flag be towed by the diver.

The bill requires a divers-down warning device that is displayed from a vessel to be displayed from the highest point of the vessel or another location that ensures that the visibility of the divers-down warning device is not obstructed from any direction.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-171, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 854 Funeral, Cemetery, and Consumer Services

The bill amends ch. 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act (act), and the licensure requirements related to funerals and cemeteries regulated by the Department of Financial Services (department) and the Board of Funeral, Cemetery, and Consumer Services (board).

The bill:

- Creates definitions;
- Requires an applicant for embalmer apprentice to be of good character;
- Requires an e-mail address for licensure and allows the department to use email as a means of notification;

- Requires the department adopt rules regarding discipline for miscellaneous financial errors;
- Specifies that disputes regarding the division of cremated remains must be resolved by the courts;
- Specifies cremated remains are not property and not subject to partition by a court unless a legally authorized person consents;
- Provides a consistent deposit requirement for graves, mausoleums, and columbaria;
- Specifies that care and maintenance (C&M) trusts must be maintained by a cemetery company so that the grounds, structures, and improvements of a cemetery are maintained;
- Requires withdrawals from C&M trusts to cemetery companies must be done through one of two specified methods; Requires the board and department to adopt rules concerning C&M trusts;
- Clarifies that the C&M trust annual report must include the fair market value of the trust;
- Prohibits a trustee from investing in or counting as assets life insurance policies or annuity contracts and allows the trustee to allocate and divide capital gains and losses;
- Grants the board rulemaking authority to classify items sold in preneed contracts as services, cash advances, or merchandise;
- Requires a preneed licensee to deposit all preneed contract funds into a trust upon electing inactive status;
- Clarifies when a preneed contract may be made irrevocable, for purposes of a person qualifying for assistance programs such as Medicaid and Supplemental Security Income;

- Requires preneed licensees to provide an annual report to the department on trust accounts;
- Repeals the servicing agent exemption from preneed licensure;
- Repeals s. 497.461, F.S., which allows the use of surety bonding in lieu of the requirement for a preneed licensee to establish a trust for the deposit of funds; those licensees that have bonds in place prior to July 1, 2016 may continue to use them; and
- Requires cemetery companies to remit unexpended monies paid on irrevocable preneed contracts to the Agency Health Care Administration for deposit into the Medical Care Trust Fund after the beneficiary's final disposition.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-172, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 965

Firesafety

The bill amends laws relating to the uniform firesafety standards for assisted living facilities (ALFs).

Current law requires ALFs to comply with the National Fire Protection Association (NFPA) 1994 edition of the Life Safety Code. The NFPA Life Safety Code is updated every three years. The 2015 edition of the NFPA Life Safety Code is the current edition.

The bill updates the firesafety requirements for ALFs that are more than 20 years old. Specifically, the bill requires the current edition of the NFPA Life Safety Code to be used in determining the uniform firesafety code adopted by the State Fire Marshal for ALFs instead of the 1994 edition.

The bill also prohibits a utility from charging above the actual expense incurred by the utility for installation and maintenance of automatic fire sprinkler systems at an ALF. Current law prohibits a local government from charging above the actual expense incurred for the same installation.

The bill provides an exemption from the new firesafety code requirements adopted by the State Fire Marshal for an ALF licensed prior to July 1, 2016. However, an ALF that undergoes building rehabilitation, as described by the uniform firesafety code established by the State Fire Marshal, must be in compliance with the new uniform firesafety code.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-92, Laws of Florida and the provisions take effect on July 1, 2016.

HB 981

Administrative Procedures/SERC

A Statement of Estimated Regulatory Costs (SERC) must be prepared during promulgation of agency rules that are expected to affect small businesses or have a significant economic impact. The bill revises the requirements for preparing a SERC to clarify the time frame for which costs must be evaluated so that decision makers and affected constituencies may understand the economic and policy impacts of proposed rules. The bill specifies that the five-year window for estimation of adverse impacts and regulatory costs begins to run at the effective date of the rule. The bill also specifies that if any provision of a rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with that provision must be

measured from the date that provision is implemented.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-232, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 1033

Information Technology Security

The Agency for State Technology (AST) is administratively housed within the Department of Management Services (DMS). The executive director of the AST, who serves as the state's chief information officer, is appointed by the Governor and confirmed by the Senate. Current law establishes positions within the AST and establishes the agency's duties and responsibilities.

The bill requires cybersecurity to be addressed in the standards and processes for information technology (IT) security established by the AST and provides that the AST is responsible for adopting rules that mitigate risks. Additionally, it requires the AST to develop and publish guidelines and processes for an IT security framework that includes establishing agency computer security incident response teams and establishing an IT security incident reporting process for notifying the AST and the Department of Law Enforcement (FDLE) of IT security incidents.

The bill requires the AST, in collaboration with the Cybercrime Office of FDLE, to provide training annually for state agency information security managers and computer security incident response team members. It also requires each state agency head to establish an agency computer security incident response team to respond to an IT security incident and to conduct IT

security and cybersecurity awareness training for new employees within their first 30 days of employment.

The bill requires one of the Governor's appointments to the Technology Advisory Council established within the AST to be a cybersecurity expert.

The bill authorizes the AST, in collaboration with DMS, to:

- Establish an IT policy for all IT-related state contracts;
- Evaluate vendor responses for state term contract solicitations and invitations to negotiate;
- Answer vendor questions on state term contract solicitations; and
- Ensure that the established IT policy is included in all solicitations and contracts that are administratively executed by DMS.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-138, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1046

Farm Vehicles

The bill defines "covered farm vehicles" (CFV) and exempts them from federal regulations relating to controlled substances and alcohol use and testing; commercial driver licenses; physical qualifications and examinations; hours of service of drivers; and vehicle inspection, repair, and maintenance. These exemptions were authorized under federal law in June 2012, and finalized under federal rule in March 2013.

The bill defines “covered farm vehicle” as a straight truck, or an articulated vehicle, which is:

- Registered in a state with a license plate, or any other designation which allows law enforcement officers to identify it as a farm vehicle;
- Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch;
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
- Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle by a tenant pursuant to a crop-share farm lease agreement to transport the landlord’s portion of the crops under that agreement.

It exempts the driver of a CFV and a CFV from the following federal motor carrier safety regulations:

- Part 382, Controlled Substance and Alcohol Use and Testing.
- Part 383, Commercial Driver’s License Standards.
- Part 391, subpart E, Physical Qualifications and Examinations.
- Part 395, Hours of Service of Drivers.
- Part 396, Inspection, Repair, and Maintenance.

The CFV must be registered with a license plate or other designation issued by the state of registration when operating:

- Anywhere in this state if the CFV has a gross vehicle weight or gross vehicle weight rating, whichever is greater, of 26,001 pounds or less; or

- Anywhere in the state of registration, or across state lines within 150 air miles of the farm or ranch with respect to which the vehicle is being operated, if the CFV has a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than 26,001 pounds.

The bill, consistent with the Federal Motor Carrier Safety Administration’s final rule on the matter, does not allow the federal exemptions if the vehicle is transporting hazardous materials in amounts that require placarding. This section of the bill also corrects a cross-reference necessitated by the changes in the bill.

The bill amends s. 322.53(2), F.S., to exempt the driver of a CFV from the requirement to hold a valid CDL, if the CFV is operated in accordance with the s. 316.302(3), F.S., as discussed in Section 2 above.

Finally, it amends ss. 316.3025(3)(e) and 316.3026(1), F.S., respectively, to correct cross-references necessitated by the changes in the bill.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-115, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 1083

Agency for Persons with Disabilities

Individuals with specified developmental disabilities meeting Medicaid eligibility requirements may receive services in the community through the state’s Medicaid Home and Community-Based Services (HCBS) waiver (known as iBudget Florida). They may also live and receive services in an institutional setting known as an

Intermediate Care Facility for the Developmentally Disabled (ICF/DD).

The bill adds Down Syndrome to the definition of “developmental disability” in ch. 393, F.S.; individuals with this diagnosis are already eligible for the waiver and may also qualify due to intellectual disability.

It amends s. 393.065(5), F.S., to make permanent the Fiscal Year (FY) 2015-16 implementing bill’s temporary changes to waiver waiting list prioritization and enrollment provisions. The bill places individuals needing both waiver and extended foster care child welfare services in the second of seven prioritized categories, and allows enrollment without waiting for individuals previously on another state’s HCBS waiver whose parent or guardian is an active-duty military servicemember transferred into the state. The bill revises other waiver prioritization and enrollment provisions.

The bill allows funding increases for waiver enrollees with significant needs for transportation to waiver-funded adult day training or employment services who lack other reasonable transportation options. The bill requires contracted waiver services providers to use any Agency for Persons with Disabilities (APD) data management systems to document service provision to APD clients and to have required hardware and software for doing so; they must also comply with APD requirements for provider staff training and professional development. ICF/DD’s must also cooperate with agency staff conducting utilization reviews.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-140, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 1125 Eligibility for Employment as Child Care Personnel

The federal government works with states to support low-income working families by providing access to child care through the federal Child Care and Development Block Grant (CCDBG). Florida uses CCDBG funds for its school readiness program. The school readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities. Families use these subsidies to purchase child care services from school readiness providers (who in many cases are child care facilities regulated by the Department of Children and Families’ Child Care program).

On November 19, 2014, Congress reauthorized the CCDBG program and provided specified provisions to increase health and safety requirements for providers receiving CCDBG funding. The state must implement these requirements to continue receiving CCDBG funding. However, some child care personnel are employed by child care facilities that do not receive CCDBG funding; these facilities and their employees are not subject to the new federal regulations.

Ch. 402, F.S., governs child care, including the requirement for level 2 background screening for child care personnel. Section 435.07, F.S., allows the Secretary of the Department of Children and Families (DCF) to exempt child care personnel applicants who do not pass a background screening from disqualification for employment under certain conditions. If DCF grants exemption, individuals with convictions for

crimes such as murder and arson may work as child care personnel.

The bill amends s. 435.07, F.S, to make the new CCDBG background screening requirements apply to all child care personnel regardless of whether their employer child care provider receives federal CCDBG funding. The bill prohibits DCF from granting exemptions for employment as child care personnel to persons who have been:

- Registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) and are subject to the registration requirements under the Adam Walsh Child Protection and Safety Act; or
- Arrested for and are awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for certain state felonies and misdemeanors enumerated in the bill that are aligned with the crimes listed in the federal requirements.

Individuals who currently have exemptions allowing employment are now prohibited from such employment, and must be rescreened by August 1, 2016. The bill also provides that it supersedes the language of CS/HB 7053, which also passed this session.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-98, Laws of Florida and the provisions take effect July 1, 2016.

SB 1202
Discounts on Public Park Entrance Fees and Transportation Fares

The bill creates ss. 125.029 and 166.0447, F.S., to require counties and municipalities

to provide a partial or a full discount on park entrance fees to the following persons:

- A current member of the U.S. Armed Forces, their reserve components, or the National Guard;
- An honorably discharged veteran of the U.S. Armed Forces, their reserve components, or the National Guard;
- An honorably discharged veteran of the U.S. Armed Forces, their reserve components, or the National Guard who has a service-connected disability as determined by the U.S. Department of Veterans Affairs;
- A surviving spouse and parents of a deceased member of the U.S. Armed Forces, their reserve components, or the National Guard who died in the line of duty under combat-related conditions; and
- A surviving spouse and parents of a law enforcement officer, firefighter, emergency medical technician, or paramedic who died in the line of duty.

The bill defines the term “park entrance fee” to mean a fee charged to access lands managed by a county or municipal park or recreation department. The term does not include expanded amenity fees for amenities such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

The bill also creates s. 163.58, F.S., to require a regional transportation authority to provide disabled veterans with a partial or a full discount on fares when using a fixed-route transportation system operated by the authority. A county, municipality, or regional transportation authority must provide the discount upon a satisfactory

showing to the entity of information evidencing eligibility.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-196, Laws of Florida and the provisions take effect July 1, 2016.

HB 1205 Fumigation

Individuals who perform fumigation must be licensed by the Department of Agriculture and Consumer Services (DACS) and follow the safety procedures set forth in rule. In addition, each brand of pesticide that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state must be registered with DACS.

The bill revises DACS' authority to adopt rules relating to safety procedures for fumigation, including:

- Requiring fumigators to notify DACS, rather than notify a DACS inspector, of the location where a fumigation will be performed at least 24 hours before the fumigation;
- Allowing DACS to specify when a fumigator may notify DACS less than 24 hours before performing fumigation, rather than only allowing such notice during an authentic and verifiable emergency; and
- Allowing DACS to require safety procedures for the clearance of residential structures before reoccupation after fumigation.

Further, the bill authorizes DACS to establish conditions on fumigant registration, including requiring registrants to:

- Train distributors and end users in safety measures, proper use, safe storage, and the management of fumigant materials;
- Obtain continuing education program approval for stewardship training programs;
- Conduct quality assurance reviews;
- Report to DACS probation and stop-sale notifications issued to end users; and
- Assist DACS upon its request with the removal of fumigant containers from distributors and end users for compliance with permanent or extended stop-sale notices.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-143, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1219 Veterans' Employment

Current law requires the state and its political subdivisions to grant a preference in hiring to all veterans; Guard members; U.S. Reserve Forces; and Gold Star Mothers, Fathers, and legal guardians, and authorizes private sector employers to establish a veterans' preference process for honorably discharged veterans and certain spouses.

The bill revises the section of Florida law governing veterans' preferences by:

- Requiring each state agency, and allowing each political subdivision of the state, to develop and implement a written veterans' recruitment plan;
- Requiring each veterans' recruitment plan to establish and meet annual goals for ensuring the full use of veterans in the agency's or subdivision's workforce;
- Requiring the Department of Management Services (DMS) to collect

statistical data for each state agency on the number of persons who claim veterans' preference, the number of persons who were hired through veterans' preference, and the number of persons who were hired as a result of the veterans' recruitment plan; and

- Requiring DMS to annually update the statistical data on its website and include the statistics in its annual workforce report.

The bill requires each veterans' recruitment plan to apply to the same veterans and veterans' family members that are included in the Florida law governing veterans preference in appointment and retention.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-102, Laws of Florida and the provisions take effect October 1, 2016.

CS/SB 1288

Emergency Management

The bill provides clarification to the process utilized by The Division of Emergency Management (DEM), to effectively mobilize resources and conduct activities to guide and support emergency management efforts. The bill:

- Defines the term "activate" as "the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from a potential or actual state of emergency or disaster declared pursuant to this chapter and the state comprehensive emergency management plan which specifies levels of activation;"
- Directs DEM to establish a statewide system to facilitate the transportation and distribution of essentials throughout the state during times of emergency. The term "essentials" means

any goods that are consumed or used as a direct result of an emergency or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being;

- Requires DEM to develop a system to certify persons, both before and after a declaration of emergency, who transport or distribute essentials in commerce. DEM may certify only a person who routinely transports or distributes essentials;
- Directs DEM to create an easily recognizable indicium of certification to assist local officials' efforts in determining who has access to an area. Each certification may last no longer than one year, but may be renewed so long as criteria for certification continue to be met; and
- States that law enforcement officers are not prohibited from specifying the permissible route of ingress or egress of certified individuals.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-198, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 1411

Termination of Pregnancies

Abortion clinics are regulated by the Agency for Health Care Administration (AHCA) under ch. 390, F.S. The bill amends the regulatory requirements for abortion clinics. It establishes the manner for disposal of fetal remains and clarifies the penalty for failing to do so. It requires all abortion clinics to comply with the reporting requirements for the United States Standard Report of Induced Termination of Pregnancy adopted by the Centers for Disease Control and Prevention.

It removes an existing license fee cap and requires AHCA to establish fees which may not be more than the costs incurred to license and regulate abortion clinics. The bill:

- Requires all physicians who perform abortions in a clinic prior to the third trimester to have admitting privileges with a hospital within a reasonable proximity of the clinic unless the clinic has a written transfer agreement with a hospital within a reasonable proximity to the clinic which includes the transfer of the patient's medical records held by both the clinic and the treating physician. The bill also defines “gestation” and the trimesters of pregnancy, which are not currently defined in the licensure act;
- Requires AHCA to perform annual licensure inspections of all abortion clinics, including a review of at least 50 percent of the patient records generated since the last inspection and requires AHCA to submit an annual report to the Legislature which summarizes all regulatory actions it has taken against abortion clinics during the prior year;
- Prohibits selling, purchasing, donating or transferring fetal remains obtained through an abortion, as well as advertising or offering to do any of the preceding acts;
- Prohibits public funding for an organization that owns, operates, or is affiliated with a licensed abortion clinic, and provides exemptions to this prohibition; and
- Requires abortion referral or counseling agencies to register with AHCA, and requires AHCA to include actions against referral agencies in its annual regulatory action report.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-150, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1534

Housing Assistance

The bill makes numerous changes to laws related to housing assistance, including housing for individuals and families who are homeless. The bill:

- Amends the State Apartment Incentive Loan (SAIL) Program to:
 - Change how funds are made available to better reflect projected needs and demand for affordable housing for the specified tenant groups and counties based on population; and
 - Require rent controls on rental units financed through the SAIL program based on applicable income limitations established by the Florida Housing Finance Corporation (FHFC).
- Amends provisions relating to the State Office on Homelessness (office) and the Challenge Grant Program that provides grants to lead agencies of homeless assistance continuums of care, to:
 - Require that expenditures of leveraged funds or resources are permitted only for eligible activities committed on one project which have not been used as leverage or match for another project;
 - Remove the requirement that award levels for Challenge Grants be based upon the total population within the continuum of care catchment area and now reflect the differing degrees of homelessness in the catchment planning areas;
 - Require that Challenge Grant funds distributed to the lead agencies be based on overall performance and achievement of specified objectives, including the number of persons or households that are no longer homeless, the rate of recidivism to

- homelessness, and the number of persons who obtain gainful employment; and
 - Clarify that the office may distribute appropriated funds to the 28 local homeless assistance continuums of care designated by the Department of Children and Families.
- Expresses legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of support provided in the permanent supportive housing model and requires Rapid ReHousing to be added to the components of a continuum of care plan.
- Amends the State Housing Initiatives Partnership (SHIP) Programs to:
 - Provide exceptions to the restriction on counties and eligible municipalities related to expenditures of SHIP Program distributions for ongoing rent subsidies;
 - Provide that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing;
 - Clarify monitoring requirements when SHIP program funds are used for rental housing developments;
 - Revise the composition of local Affordable Housing Advisory Committees;
 - Extend the time period for the FHFC to review local housing assistance plans from 30 to 45 days;
 - Require local governments to use a minimum of 20 percent of SHIP program distributions to serve persons with special needs, with first priority given to serving persons with developmental disabilities; and
- Authorize local governments to create regional partnerships and pool appropriated funds to address homeless housing needs identified in local housing assistance plans.
- Authorizes the FHFC to:
 - Forgive indebtedness for SAIL loans for small properties serving homeless persons in certain underserved counties or rural areas and make loans exceeding 25 percent of the cost for those projects; and
 - Ban developers for misrepresentations or fraud related to a program application from participating in FHFC's programs for any appropriate time period, including a permanent ban, rather than only up to two years.
- Requires the FHFC to reserve a minimum of five percent of the annual appropriation from the State Housing Trust Fund for housing projects designed and constructed to serve persons with a disabling condition, with first priority given to projects serving persons with a developmental disability.
- Expresses legislative intent to encourage the state entity that administers funds from the National Housing Trust Fund to propose an allocation plan that includes strategies to reduce homelessness and the risk of homelessness in Florida.
- Makes several changes to laws relating to housing authorities, which include:
 - Prohibiting housing authorities, regardless of when they were created, from applying to the federal government to acquire through the exercise of the power of eminent domain any projects, units, or

- vouchers of another established housing authority;
- Exempting housing authorities from the provisions of s. 215.425, F.S., which addresses extra compensation, bonuses and severance pay; and
- Removing the requirement that housing authorities must submit a copy of the biennial financial reports submitted to the federal government to the governing body and the Auditor General.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-210, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/SB 1602

Elevators

The bill requires that elevators installed in a private residence provide a distance between the hoistway face of the hoistway doors and the hoistway edge of the landing sill that may not exceed 3/4 inch for swinging doors and 2 1/4 inches for sliding doors.

It also requires that horizontal sliding car doors and folding car doors be designed and installed to withstand a force of 75 pounds without permanent deformation or displacing the door from its guides or track. According to an elevator inspector, this provision relates to the rigidity of the elevator doors. Rigidity standards may prevent a child from warping the door in order to fit in the space provided.

It provides standards for different types of elevator car and hoistway doors, including manual and power-operated horizontal sliding doors, folding doors, and swinging doors. Generally, the gap between the

hoistway doors and the car doors or gate cannot exceed 4 inches.

It also requires that all elevators in a private residence be equipped with a device that stops the downward motion of the elevator car within 2 inches of the platform if the elevator is interrupted anywhere on its underside during downward motion. The force required to operate the device must not exceed 15 pounds. If the device is activated, the elevator could only resume its descent after the elevator has been manually reset.

The bill applies to all new elevators installed in a private residence and requires the Florida Building Commission to adopt the clearance and safety device requirements for elevators in private residences into the Florida Building Code by October 1, 2016.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-211, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 7003

Individuals with Disabilities/ Economic Independence

The bill addresses the employment and economic independence of individuals with disabilities. Specifically, the bill:

- Modifies the definition of “developmental disability” to include Down syndrome;
- Modifies the state’s equal employment policy to provide enhanced executive agency employment opportunities for individuals who have a disability;
- Creates the Employment First Act, which requires certain state agencies and organizations to develop an interagency cooperative agreement to ensure a long-term commitment to

- improving employment outcomes for individuals who have a disability;
- Creates the Financial Literacy Program for Individuals with Developmental Disabilities (Literacy Program) to promote economic independence and successful employment of individuals with developmental disabilities by providing information and outreach to individuals and employers; and
- Creates the Florida Unique Abilities Partner Program (Partner Program) to recognize business entities that demonstrate commitment, through employment or support, to the independence of individuals who have a disability.

This bill was signed into law on January 21, 2016 as Chapter No. 2016-3, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 7007

Department of Agriculture and Consumer Services

The bill addresses a number of issues relating to the powers and duties of the Department of Agriculture and Consumer Services (DACS). The bill:

- Designates tupelo honey as the official Florida state honey;
- Deletes a pest control operator certificate issuance fee and application late charge;
- Adds dietary supplements to the list of possibly adulterated foods;
- Adds allergen information labeling requirements to the list of possibly misbranded foods;
- Preempts to DACS the regulation of the use or sale of polystyrene products by entities regulated by the Florida Food Safety Act;

- Authorizes DACS to sponsor “events” (not just breakfasts, luncheons, or dinners) to promote agriculture and agricultural business products;
- Authorizes DACS to use money deposited in the Pest Control Trust Fund to carry out any of the powers of the Division of Agricultural Environmental Services;
- Removes the requirement that DACS notify a property owner that a plant infested or infected with plant pests or noxious weeds has been found on their property if the plant is infested with pests or noxious weeds that are determined to be widely established in Florida;
- Modifies the reporting period for fertilizer tonnage sales from monthly to quarterly and changing the reporting requirement from 30 days following the reporting period to 15 days.
- Preempts to DACS the regulatory authority for commercial feed and feedstuff;
- Changes the powers and duties of the Soil and Water Conservation Districts to reflect current practices;
- Eliminates Watershed Improvement Districts;
- Authorizes DACS to implement the Farmer’s Market Nutrition Program for Supplemental Nutrition Program for Women, Children and Infants; and
- Eliminates the requirement that each grain dealer report monthly to DACS the value of grain it received from producers for which the producers have not received payment.

This bill was signed into law on March 16, 2016 as Chapter No. 2016-61, Laws of Florida and the provisions take effect July 1, 2016.

SB 7012

Death Benefits Under the Florida Retirement System

The bill primarily makes two changes to the Florida Retirement System (FRS). First, the bill increases the monthly survivor benefits available to the spouses and children of FRS pension plan members in the Special Risk Class when killed in the line of duty from 50 percent of the member's monthly salary at the time of death to 100 percent of the member's monthly salary at the time of death. These new benefits are funded through additional employer-paid contributions relating to the FRS pension plan.

Second, the bill permits the surviving spouse or children of an investment plan member in the Special Risk Class when killed in the line of duty to opt into the FRS investment plan survivor benefits program in lieu of receiving normal retirement benefits under the FRS investment plan. By participating in the survivor benefits program, the surviving spouse and children are eligible to receive annuitized benefits much like the survivor benefits (described above) afforded to Special Risk Class members of the FRS pension plan. The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund.

The new survivor benefits established by this bill are available to members in the Special Risk Class killed in the line of duty on or after July 1, 2013.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-213, Laws of Florida and the provisions take effect July 1, 2016.

HB 7025

At-Risk Vessels

Under current law, the Fish and Wildlife Conservation Commission (FWCC) does not have the authority to require vessel owners to maintain their vessels or otherwise regulate the condition of vessels that occupy the waters of the state, unless the vessel is a hazard to navigation, discharges contaminants, is derelict (wrecked, junked, or substantially dismantled), or is in violation of other vessel safety laws. Additionally, a vessel owner has no duty to maintain their vessel, and can allow a vessel occupying waters of the state to deteriorate until it reaches a derelict condition. Once a vessel is deemed derelict FWCC can remove or relocate the vessel, but it can become much more difficult and expensive once a vessel has deteriorated to the point that it meets the definition of a derelict vessel.

The bill provides the following regulations for vessels that are at risk of becoming derelict on the waters of this state:

- Prohibits a vessel that is at risk of becoming derelict to anchor on, moor on, or occupy the waters of this state;
- Authorizes an officer of the FWCC or law enforcement agency to determine that a vessel is at risk of becoming a derelict vessel if any of the following conditions exist:
 - The vessel is taking on or has taken on water without an effective means to dewater;
 - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
 - The vessel has broken loose or is in danger of breaking loose from its anchor; or

- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- Provides that a person who anchors or moors a vessel that is at risk of becoming derelict on the waters of this state or allows such a vessel to occupy the waters of this state commits a noncriminal infraction in which civil penalties may be assessed;
- Provides that a civil penalty for a violation of a vessel that is at risk of becoming derelict is in addition to other penalties provided by law;
- Provides that the bill would not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs;
- Provides that a uniform boating citation may be mailed to the registered owner of an unattended vessel that is at risk of becoming derelict, which is anchored, aground, or moored on the waters of this state; and
- Provides the following civil penalties for a violation of vessel laws relating to a vessel that is at risk of becoming derelict on waters of this state:
 - For a first offense, \$50;
 - For a second offense occurring 30 days or more after a first offense, \$100; and
 - For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-108, Laws of Florida and the provisions take effect July 1, 2016.

HB 7027

Department of Transportation

This is a comprehensive bill relating to the Department of Transportation (DOT). The bill:

- Reallocates \$10 million within the Work Program to the Florida Seaport and Economic Development (FSTED) Program, which increases the program's annual funding minimum from \$15 to \$25 million;
- Authorizes DOT to designate certain locations and routes as ports of entry, and limits the penalty that may be assessed for specified operators which obtain temporary permits at a port of entry;
- Authorizes the DOT to assume specified environmental review responsibilities under the National Environmental Policy Act (NEPA) with respect to highway projects;
- Directs the DOT to consult with the Division of Bond Finance in connection with a public-private partnership proposal to finance a transportation facility project and authorizes the Division of Bond Finance to make an independent recommendation on the project to the governor;
- Authorizes DOT to establish a Business Development Program that would assist small businesses and increase competition in the procurement of highway project contractors;
- Removes the Beeline-East Expressway and the Navarre Bridge from the list of facilities whose toll revenues may be used to secure bonds;
- Creates the DOT Financing Corporation which is authorized to issue debt payable from and secured by the contractual commitments of DOT. The proceeds of the debt will be provided to

the DOT to finance transportation projects. The DOT is currently prohibited from issuing debt to finance projects;

- Increases the length of time that a toll account must remain dormant before it is presumed unclaimed property; and
- Requires DOT Work Program amendments that add a new project or project phase with a cost of \$3 million or more to be approved by the Legislative Budget Commission.

This bill was signed into law on April 4, 2016 as Chapter No. 2016-181, Laws of Florida and the provisions take effect July 1, 2016.

SB 7028 State Board of Administration

The State Board of Administration (SBA) has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan and FRS Investment Plan, which represents approximately \$153.8 billion, or 87.1 percent, of the \$176.5 billion in assets managed by the SBA.

The Protecting Florida's Investment Act (PFIA) requires the SBA to identify and divest from assets in foreign companies doing business in Iran and Sudan. The PFIA requires the SBA to assemble and publish a list of "Scrutinized Companies" that have prohibited business operations in Sudan and Iran. Once placed on the list, the SBA and its investment managers are prohibited from acquiring those companies' securities and are required to divest those securities if the companies on the list do not cease the prohibited activities or take certain compensating actions involving petroleum or energy, oil or mineral extraction, power production, or military support activities.

The PFIA specifies that the SBA may no longer scrutinize companies with certain business operations in Iran, may no longer assemble the list of Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and must cease engagement, investment prohibitions, and divestment with respect to those companies upon the occurrence of certain actions by Congress or the President.

The bill clarifies the SBA's duties relating to the divestment of certain investments in scrutinized companies. It requires the SBA to monitor events that may trigger expiration of the statutory provisions relating to divestment of scrutinized companies doing business in Iran and report on the status of such events at each quarterly meeting of its trustees. The bill also repeals a provision requiring the SBA to cease scrutinizing and divesting of companies with certain business operations in Iran upon the occurrence of Congress or the President affirmatively and unambiguously declaring, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that such mandatory divestment interferes with the conduct of United States foreign policy. The bill encourages the SBA to take actions in support of the MacBride Principles, which are specific objectives for United States companies operating in Northern Ireland to follow in order to provide fair employment opportunities to individuals from underrepresented religious groups in the workforce.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-215, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 7061
Transportation

This is a comprehensive bill related to transportation. The bill:

- Creates the Florida Seaport Security Advisory Committee to advise, report and make recommendations on matters related to maritime security in Florida;
- Establishes the Seaport Security Grant Program, subject to legislative appropriation, to assist in the implementation of security plans and measures at Florida’s deepwater ports;
- Separates the definition of “autonomous technology” from “autonomous vehicle” and defines the term “driver-assistive truck platooning technology;”
- Defines “commercial megacycle” and authorizes local governments to issue permits for the operation of commercial megacycles, including the sale of beer and wine;
- Provides certain specifications for deceleration lighting systems equipped on buses;
- Exempts vehicles operating in autonomous mode or with driver-assistive truck platooning technology from a prohibition against television-type receiving equipment being visible from the driver’s seat;
- Provides that motor vehicles being relocated within a port facility via designated port district roads are exempt from motor vehicle registration requirements;
- Creates the Florida Aviation Transportation and Economic Development Program to finance airport transportation and facilities projects, and provides for a minimum of \$15 million from the State Transportation Trust Fund to fund the program each year;
- Creates the Florida Aviation Transportation and Economic Development Council to review projects and allocate funds in a manner consistent with the DOT tentative work program;
- Allows municipalities to lease certain airport-related real estate for up to 50 years;
- Updates and revises Chapter 333, F.S., governing land use and airspace management at or around airports by enacting substantially the same language enacted in SB 1508. It appears that the Legislature intended to enact the same language in both bills but never reconciled them so that the language was identical. CS/CS/HB 7061 was signed subsequently to SB 1508 so the provisions of CS/CS/HB 7061 should control. Refer to the summary of SB 1508 for a detailed breakdown of the provisions updating the airport zoning laws;
- Revises the surety bond requirements imposed on certain non-profit entities for specified contracts with the Department of Transportation;
- Transfers ownership of the Pinellas Bayway System from DOT to the Florida Turnpike Enterprise in order to expedite bridge replacement, and removes references to obsolete authorizations for certain toll facilities;
- Increases the maximum population for counties eligible for the Small County Outreach Program from 150,000 to 170,000;
- Provides that natural gas fueling facilities are eligible for State Infrastructure Bank loans;
- Repeals an obsolete provision relating to statewide transportation corridors;

- Authorizes DOT to contractually assume certain liability and indemnification obligations for private rail operators in certain situations;
- Revises the membership and structure of the Tampa Bay Area Regional Transportation Authority;
- Provides the Tampa Hillsborough Expressway Authority with additional authority to undertake capital projects that do not pledge the full faith and credit of the state;
- Provides that certain members of the Central Florida Expressway Authority's (CFX) board must be elected officials from their respective counties;
- Provides an expiration date for the terms of CFX board members appointed by the Governor;
- Removes the requirement for the CFX board to elect one of its members as secretary;
- Increases criminal penalties from a first degree misdemeanor to a third degree felony where an offender trespasses on operational areas of an airport with the intent to take certain actions;
- Requires DOT to study driver-assistive truck platooning and authorizes a pilot program to test the operation and use of driver-assistive truck platooning technologies, with certain requirements;
- Requires the Office of Economic and Demographic Research to evaluate and determine the economic benefits of DOT's Work Program; and
- Revises a number of statutory cross-references, conforming to revisions made to s. 316.003, F.S.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-239, Laws of Florida and the provisions take effect July 1, 2016.

SB 7076

Legislature

The bill requires the Legislature to convene in Regular Session on January 9, 2018.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-218, Laws of Florida and the provisions took effect on that date.

Public Records & Public Meetings

CS/SB 126

Public Records and Public Meetings/Public-Private Partnerships

The bill amends s. 287.05712(15), F.S., and transfers and renumbers it as s.

255.065(15), F.S., to create an exemption from the public record and public meeting requirements for unsolicited proposals for P3 projects for public facilities and infrastructure. The bill:

- Provides unsolicited proposals held by a responsible public entity are exempt until the responsible public entity provides notice of its intended decision. If the responsible public entity rejects all proposals of a competitive solicitation and provides notice to seek additional proposals, then the unsolicited proposal remains exempt until the responsible public entity provides notice of an intended decision concerning the reissued competitive solicitation or withdraws the reissued competitive solicitation for the project. An unsolicited proposal is not exempt for more than 90 days after the responsible public entity initially rejects all proposals received for the project in the unsolicited proposal. If the responsible public entity does not issue a

competitive solicitation, the unsolicited proposal is not exempt for more than 180 days after it is received by the responsible public entity; and

- Creates a public meeting exemption for any portion of a meeting during which the exempt unsolicited proposal is discussed. A recording must be made of the closed portion of the meeting and no portion of the exempt meeting may be held off record. The recording and any records generated during the closed meeting are exempt from public record requirements until the underlying public record exemption expires. The bill does not require a public entity to provide notice to the public that such a meeting will take place.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-154, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 182
**Public Records and Meetings/
Trade Secrets**

The bill reenacts several public records exemptions of trade secret information to conform to the definition of trade secret proposed in CS/SB 180, which expressly includes financial information in the definition of “trade secret” in s. 812.081, F.S. This exemption protects financial information deemed to be a trade secret from public disclosure. The bill:

- Reenacts various statutory provisions that make trade secrets exempt or confidential and exempt to conform to the expanded definition of trade secret in CS/SB 180 which adds “financial information” to the current definition. By adding “financial information” to the definition of trade secrets, all the public records exemptions which cite to s.

812.081, F.S., are also affected. Some trade secret exemptions were enacted before the Florida Constitution was amended in 1992. The constitutional amendment made the records of all three branches of state government public record but still preserved any public records exemption which existed before the constitutional amendment was enacted. This bill amends the older statutes to make them exempt from the public records requirements of the Florida Constitution;

- Expands the public meetings exemption for Space Florida, if those meetings include discussions about trade secrets, because the definition of trade secret is expanded to include financial information; and
- Subjects most public records and meetings exemptions which relate to trade secrets defined in s. 812.081, F.S., to review and repeal on October 2, 2021, unless the Legislature continues the exemptions, pursuant to the OGSR Act.

This bill was signed into law on February 24, 2016 as Chapter No. 2016-6, Laws of Florida and the provisions take effect October 1, 2016.

CS/CS/SB 196
**Public Records/State-Funded
Infrastructure Bank**

The bill creates a new exemption from the public records inspection and access requirements of Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., for financial information held by the Florida Department of Transportation (FDOT). Specifically, the bill exempts the financial information of a private entity submitted to FDOT as part of the application process for a loan or credit enhancement from the State-funded Infrastructure Bank (SIB). The

exemption does not apply to records of a private applicant in default of a SIB loan.

The bill creates subsection (10) of s. 339.55, F.S., to make financial information submitted to the FDOT SIB as part of the application process for loans or credit enhancements exempt from public inspection and disclosure. The term “financial information” means any:

- Business plan;
- Pro forma statement;
- Account balance;
- Operating income or revenue;
- Asset value; or
- Debt.

This exemption would only apply to private entities and the exemption ceases if the private entity goes into default.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-38, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 273
Public Records/Contracts for Services

This bill requires a public agency contract for services with a contractor to include a statement in large, boldface font informing the contractor of the contact information of the public agency’s custodian of public records (records custodian) and instructing the contractor to contact the records custodian concerning any questions the contractor may have regarding the contractor’s duties to provide public records relating to the contract.

The bill repeals the requirement that each contract for services require the contractor to transfer its public records to the public agency upon termination of the contract.

Instead, the contract must address whether the contractor will retain the public records or transfer the public records to the public agency upon completion of the contract.

The bill requires a request for public records relating to a contract for services to be made directly to the contracting public agency. If the public agency determines that it does not possess the records, it must immediately notify the contractor and the contractor must provide the records or allow access to the records within a reasonable time. A contractor who fails to provide the records to the public agency within a reasonable time may be subject to certain penalties.

The bill provides that if a civil action is filed to compel production of public records, the court must assess and award against the contractor the reasonable costs of enforcement, including attorney fees, if the court determines that a contractor unlawfully refused to comply with the public records request within a reasonable time, and the plaintiff provided written notice of the public records request to the public agency and the contractor. The notice must be sent at least 8 business days before the plaintiff files the civil action. The bill specifies that a contractor who complies with the public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-20, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 293
Public Records/Juvenile Criminal History Records

Section 985.04(1), F.S., specifies that all records obtained under ch. 985, F.S., as a result of a juvenile being involved in the juvenile justice system, are confidential. However, s. 985.04(2), F.S., creates exceptions if the juvenile is:

- Taken into custody for a violation of law which, if committed by an adult, would be a felony;
- Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors; or
- Transferred to the adult system.

Section 943.053, F.S., allows a juvenile's criminal history information to be disseminated in the same manner as that of an adult.

A recent ruling by Florida's First District Court of Appeal highlighted the inconsistency that exists between s. 985.04(1), F.S., (making most juvenile records confidential) and s. 943.053, F.S. (allowing a juvenile's record to be disseminated in the same manner as that of an adult). The bill addresses these inconsistencies by:

- Making the records of juveniles who have been found to have committed three or more misdemeanors confidential and exempt (currently they are not);
- Ensuring that the list of juvenile records that are not confidential and exempt under s. 985.04(2), F.S., is identical to the list of juvenile records deemed not to be confidential and exempt under s. 943.053, F.S.;

- Requiring the Florida Department of Law Enforcement (FDLE) to release juvenile criminal history records in a manner that takes into account the records' confidential and exempt status; and
- Specifying how FDLE must release juvenile criminal history records.

The bill provides that a public records custodian may choose not to electronically publish on the custodian's website the arrest or booking photographs of above-mentioned juveniles' records which are not confidential and exempt. This provision does not restrict public access to records as provided by s. 119.07, F.S.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-78, Laws of Florida and the provisions took effect on that date.

CS/HB 381
Public Records/FL State Boxing Commission

The bill amends a public records exemption under s. 548.062, F.S., related to promoters of pugilistic exhibitions, including boxing, kickboxing, and mixed martial arts. The current exemption provides that all proprietary confidential business information required to be filed with the Florida State Boxing Commission (Commission) after a match or obtained during an audit of the promoter's books and records pursuant to s. 548.06, F.S., is confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a) of the Florida Constitution.

Specifically, the bill expands the exemption to cover all proprietary confidential business information provided by a promoter to the Commission or obtained

during an audit of the promoter's books and records pursuant to s. 548.06, F.S. The definition of "proprietary confidential business information" is not amended or expanded, nor does it modify the language providing that the proprietary confidential business information may be disclosed to another governmental entity in the performance of its duties and responsibilities.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-21, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 592
Public Records/Department of Financial Services/Emergency Medical Technicians or Paramedics

Current law provides public records exemptions for personal identification and location information of certain current or former agency personnel and other public employees; and their spouses and children.

The bill expands the current public records exemptions to include current and former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations and for current or former emergency medical technicians or paramedics.

The exemption covers the home addresses, telephone numbers, dates of birth, and photographs of the personnel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and

the names and locations of schools and day care facilities attended by their children.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-159, Laws of Florida and the provisions took effect on that date.

CS/SB 624
Public Records/State Agency Information Technology Security Programs

This bill makes confidential and exempt those records held by a state agency related to the detection, investigation or response to a security incident. Currently, agency heads are required to perform certain IT-related duties under s. 282.318(4), F.S. In particular, agency heads are required to develop and implement IT security protocols consistent with AST guidelines. If there is a security breach, an agency head must notify AST and the individual whose information was compromised.

The bill creates a new public records exemption for information that an agency generates while carrying out its duties. Records relating to an agency's detection, investigation or response to suspected or confirmed security incidents or breaches will be confidential and exempt if the records would facilitate the unauthorized access, modification, disclosure or destruction of:

- Physical or virtual data or information; or
- IT resources, including protocols for protecting those resources as well as any existing or proposed IT security methods.

The bill also creates a new public records exemption applicable to information held by all agencies, independent of any duties

imposed on an agency head by s. 282.318(4), F.S. The exemption will protect portions of risk assessments, evaluations, external audits and other reports of a state agency's IT security program. External audits are defined as any audit conducted by an entity other than the state agency subject to the audit. This will make an audit performed by a private company or another agency, such as AST, confidential and exempt.

Portions of such documents will be confidential and exempt from public disclosure only if the disclosure of such information could facilitate unauthorized access, modification, disclosure or destruction of:

- Physical or virtual data or information; or
- IT resources, including protocols for protecting those resources as well as any existing or proposed IT security methods.

Both exemptions provide that a state agency must to share confidential and exempt information with the Auditor General, AST and the Cybercrimes Office of the FDLE. State agencies under the Governor's jurisdiction are required to release the confidential and exempt information to the Chief Inspector General. The bill permits agencies to share confidential and exempt information with local governments, other state agencies, and federal agencies for IT purposes or in furtherance of the agency's official duties. The bill permits a state agency to have some flexibility in sharing confidential and exempt information with other governmental entities without the requiring an agency to get a court order to do so. For example, AST has some local government clients and may need to share IT security information with them. In

addition, AST may need to share IT security information with federal agencies that fund state-administered programs.

The bill provides for retroactive application for both public records exemptions; thus information held by a state agency before these exemptions becomes law will become confidential and exempt. These exemptions will be subject to review and repeal on October 2, 2021, pursuant to the OGSR.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-114, Laws of Florida and the provisions took effect on that date.

CS/CS/SB 752

Public Records/Office of Inspector General Personnel

The bill exempts from public inspection and disclosure the home address, telephone numbers, dates of birth, and photographs of any current or former employee of an agency's office of inspector general or internal audit department whose duties include auditing or investigation the following:

- Waste;
- Fraud;
- Abuse;
- Theft;
- Exploitation; or
- Other activities that could lead to criminal prosecution or administrative discipline.

The bill also exempts from public inspection and disclosure the spouse's and children's name, home address, telephone numbers, dates of birth, and place of employment. The names and locations of the school or daycare of an employee's children are also exempt.

The bill requires that the employee must have made a reasonable effort to protect such information from being accessible through other public means for such information to qualify for the exemption.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-164, Laws of Florida and the provisions took effect on that date.

CS/SB 754
Public Records/Department of Agriculture and Consumer Services Criminal or Civil Intelligence or Investigative Information

The bill makes confidential and exempt from the public records law criminal or civil intelligence or investigative information provided to the Department of Agriculture and Consumer Services (DACS) by another state or federal agency as part of a joint or multiagency examination or investigation if the information is confidential or exempt under the regulations or laws of the state or federal agency that provides the information. The DACS will be able to obtain, use, and release the information that is confidential or exempt under the laws or regulations of the state or federal source in accordance with conditions imposed by agreements the DACS enters into with the other state or governmental entity.

The bill further provides that the DACS may release confidential and exempt information in furtherance of its official duties and may release the information to another governmental agency in furtherance of that agency's official duties.

With this public records exemption DACS will be able to receive intelligence information that is confidential or exempt under a state or federal agency's laws or

regulations and maintain it as such in the DACS investigative file. This will allow the DACS to receive and hold data that would otherwise be withheld by state or federal agencies with less open public records laws.

This change is intended to strengthen relations between the DACS and other state and federal agencies that will be able to share confidential investigatory information with the DACS.

Currently, most investigative information held by the DACS is a public record, open to inspection and copying. This exemption will continue to maintain information that is obtained or developed by the DACS as part of an independent examination or investigation as a public record.

Additionally, information given to the DACS by another federal or state agency that is not confidential or exempt under the source government's laws will be considered a public record.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-161, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1004
Public Records/Security System Plans

The bill expands the circumstances under which an agency may disclose confidential and exempt information regarding security system plans.

Information related to security system plans may now be disclosed:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;

- To another local, state, or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

The bill expands the circumstances under which information relating to the security systems for any property owned by or leased to the state or any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), F.S., may be disclosed. Such information may be disclosed:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-178, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 1025

Public Records/Utility Security Information

This bill creates a public record exemption for the following information held by a local government utility:

- Information related to the security of the utility's technology, processes, and practices designed to protect the utility’s networks, computers, programs, and data from attack, damage, or unauthorized access that, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources; and

- Information related to the security of the utility’s existing or proposed information technology systems or industrial control technology systems that, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

For purposes of the Public Records Act, the bill defines the term “utility” to mean a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-95, Laws of Florida and the provisions took effect on that date.

HB 1063

Public Records and Meetings/Nurse Licensure Compact

The bill authorizes Florida to become a party state to the Nurse Licensure Compact (NLC or compact), which is a multistate compact that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. The NLC requires states to submit nurse licensure and regulation records, including any actions taken against the ability to practice, to a coordinated licensure information system. The NLC also requires a commission to be formed to oversee the implementation and administration of the compact and the coordinated licensure information system.

The bill, which is linked to passage of HB 1061 (see under Health Care), creates public record and public meeting exemptions for

certain records and meetings relating to the NLC.

The bill makes personal identifying information of nurses obtained pursuant to the compact and held by the Department of Health or Board of Nursing confidential and exempt from public record requirements, unless the laws of the state that originally reported the information authorizes its disclosure.

The bill also creates a public meeting exemption for commission meetings, at which any of the following is discussed:

- Noncompliance of a party state with its obligations under the NLC;
- Employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Trade secrets or commercial or financial information that is privileged or confidential;
- Information of a personal nature which the commission determines would constitute a clearly unwarranted invasion of personal privacy if disclosed to the public;
- Active investigatory records compiled for law enforcement purposes;
- Information related to reports prepared by or on behalf of the commission for the purpose of investigation of compliance with the NLC;

- Information made confidential or exempt pursuant to federal law or the laws of any party state; and
- Information made exempt pursuant to the rules or bylaws of the commission, which would protect the public's interest, the privacy of individuals, and proprietary information.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-97, Laws of Florida and the provisions take effect on December 31, 2018, or upon enactment of the revised NLC into law by 26 other states, whichever occurs first.

CS/CS/SB 1416
Public Records/Own-Risk and Solvency Assessment/Corporate Governance Annual Disclosure

The bill creates a public records exemption to incorporate the confidentiality provisions for the Office of Insurance Regulation (OIR) to meet the National Association of Insurance Commissioners' (NAIC) accreditation standards relating to two model acts. The NAIC has adopted two new insurance model acts that provide state insurance regulators new solvency regulatory tools – the Own Risk and Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure. Effective January 1, 2018, ORSA is a NAIC accreditation standard. Both model acts require that states must keep these documents confidential. The related bill, SB 1422 (see Insurance and Financial Services Section), implements the requirements of the model acts in the Insurance Code.

Generally, the ORSA requires certain insurers to conduct an ORSA and submit an ORSA summary report to the OIR. The Corporate Governance Annual Disclosure Model Act and corresponding Corporate

Governance Annual Disclosure Model Regulations, require insurers to disclose their corporate governance structure, procedures, and practices to the OIR on an annual basis.

The bill provides that, except for information obtained by the OIR which would otherwise be available for public inspection, the following information held by the OIR is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

- An ORSA summary report, a substantially similar ORSA report, and supporting documents submitted pursuant to s. 628.8015, F.S.; and
- A corporate governance annual disclosure and supporting documents submitted pursuant to s. 628.8015, F.S.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-205, Laws of Florida and the provisions take effect October 1, 2016.

***SB 7002
OGSR/Audit Report and Certain
Records/Local Government***

The bill eliminates the scheduled repeal of the current public records exemption for workpapers related to local government audits by an internal auditor and investigations by an inspector general. As a result, the covered records will remain confidential and exempt from disclosure until the audit or investigation is complete or no longer active.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-47, Laws of Florida and the provisions take effect on October 1, 2016.

***SB 7020
OGSR/Florida Health Choices
Program/ Florida Health Choices,
Inc.***

The bill eliminates the scheduled repeal of the current public records exemptions for the Florida Health Choices Program. As a result, the following information continues to be confidential and exempt from disclosure:

- Personal, identifying information of an enrollee or participant who has applied for or participates in the Florida Health Choices Program;
- Client and customer lists of a buyer's representative held by the Florida Health Choices Corporation (corporation); and
- Proprietary confidential business information of a vendor held by the corporation.

The bill also continues the retroactive application of the exemption to protect information held by the corporation prior to initial enactment of the exemption.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-75, Laws of Florida and the provisions take effect October 1, 2016.

***SB 7022
OGSR/Depictions or Recordings of
the Killing of a Law Enforcement
Officer***

Current law provides a public record exemption for photographs and video and audio recordings held by an agency that depict or record the killing of a person. These photographs and video and audio recordings are confidential and exempt from public record requirements, except that the exemption permits a surviving spouse to view, listen to, and copy these

records. If there is no surviving spouse, the deceased's surviving parents may access the records, and if there are no surviving parents, an adult child of the deceased may access the records. Access to the confidential and exempt records is also permitted for a local governmental entity or a state or federal agency in furtherance of its official duties and to others who obtain a court order granting access.

The bill reenacts the public record exemption, which will repeal on October 2, 2016, if this bill does not become law. However, the bill narrows the exemption so that it only applies to those photographs and recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties.

The bill does not specify that records made before the narrowing of the public record exemption must be made public. Therefore, such records must remain confidential and exempt.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-214, Laws of Florida and the provisions take effect October 1, 2016.

CS/SB 7024
OGSR/Information Held by the Florida Center for Brain Tumor Research

The bill eliminates the scheduled repeal of the current public records exemption for personal identifying information held by the Florida Center for Brain Tumor Research. As a result, this information continues to be confidential and exempt from public disclosure.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-48, Laws of Florida and the provisions take effect July 1, 2016.

SB 7030
OGSR/Competitive Solicitation or Negotiation

The bill continues the public records and public meetings exemptions for competitive solicitations used by governmental entities by removing the October 2, 2016, repeal date in each law.

Currently, section 119.071(1)(b), F.S., provides that sealed responses to a competitive solicitation are exempt from public inspection until an intended agency decision is noticed or 30 days after the responses are unsealed. Sealed responses to a competitive solicitation may be exempt under certain circumstances if a competitive solicitation is withdrawn and reissued; however, such records remain exempt for no longer than 12 months after the governmental entity rejected the responses to the initial competitive solicitation.

Currently, a governmental entity's negotiation team's strategy meetings and its team meetings with vendors may be closed to the public, pursuant to section 286.0113(2), F.S. Transcripts of these meetings and any records presented during such meetings are exempt from public inspection. All meeting records become public when the governmental entity notices its intended decision or 30 days after the governmental entity unseals the vendors' responses. If a competitive solicitation is withdrawn and reissued, the meeting records remain exempt under certain circumstances; however, the exemption expires 12 months after the governmental

entity rejects the vendors' responses to the initial competitive solicitation.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-49, Laws of Florida and the provisions take effect October 1, 2016.

HB 7033
OGSR/Emergency Notification Information

Current law provides a public record exemption for any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency, including the person's name, address, telephone number, e-mail address, or other electronic communication address.

The bill reenacts the public record exemption, which will repeal on October 2, 2016. Additionally, the bill removes superfluous language.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-27, Laws of Florida and the provisions take effect October 1, 2016.

HB 7035
OGSR/Office of Financial Regulation

The bill reenacts the following public records exemption and removes the sunset date.

The Office of Financial Regulation (office) has regulatory oversight of banks, credit unions, trust companies, securities brokers, investment advisers, mortgage loan originators, money services businesses, retail installment sellers, consumer finance companies, debt collectors, and other financial service providers. The office has licensing authority and the authority to conduct examinations and investigations.

Other states and federal agencies also have regulatory oversight of many of these entities. In addition, many of the regulated entities operate in multiple states, making interstate cooperation essential to achieving comprehensive, efficient, and effective regulatory oversight.

Current law provides a public record exemption for the following information held by the office before, on, or after July 1, 2011:

- Information received from another state or federal regulatory, administrative, or 79+criminal justice agency that is otherwise confidential or exempt pursuant to the laws of that state or pursuant to federal law; or
- Information that is received or developed by the office as part of a joint or multiagency examination or investigation with another state or federal regulatory, administrative, or criminal justice agency.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-28, Laws of Florida and the provisions take effect on October 1, 2016.

SB 7048
OGSR/Client Records and Donor Information Collected by Regional Autism Centers

The bill continues the public records exemption for Florida's seven regional autism centers by removing the October 2, 2016 repeal date. The exemption provides that all records relating to a client of an autism center and the client's family are confidential and exempt from public record requirements. The exemption also provides that the personal identifying information of donors or prospective donors who wish to be anonymous is confidential and exempt.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-217, Laws of Florida and the provisions take effect on October 1, 2016.

**2016
Florida Legislative
Post-Session Report**

Growth Management, Energy, Environment, Real Property & Special Districts

Energy

CS/SB 90

Natural Gas Rebate Program

The bill amends s. 377.810, F.S., to authorize the Department of Agriculture and Consumer Services (DACS) to receive additional applications between June 1 and June 30 from applicants that have reached the program maximum of \$250,000 of rebates per fiscal year. DACS is authorized to expend funds remaining available on June 1 of each year to award additional or new rebates, with preference given to governmental applicants. Any such remaining funds may be expended for commercial applicant rebates. Applicants are eligible to receive rebates on a first come, first-served basis, until all funds for the fiscal year are expended. The maximum additional amount an applicant after June 1 of each year may receive is \$25,000 per vehicle, up to a total of \$250,000.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-183, Laws of Florida and the provisions take effect July 1, 2016.

Environment

CS/SB 100

Pollution Discharge Removal and Prevention

The bill amends the criteria for determining when a contaminated site has been cleaned up for the Global Risk Based Corrective Action and brownfield program. The bill:

- Adds a definition of “background concentration” to include concentrations of contaminants that are naturally occurring or the result of anthropogenic (human) impacts unrelated to the

discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation;

- Requires DEP rules to include protocols for long-term natural attenuation for site rehabilitation;
- Requires DEP to consider the interactive effects of contaminants, including additives, synergistic, and antagonistic effects when determining what constitutes a rehabilitation program task;
- Creates an exception when applying state water quality standards if the responsible party demonstrates that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria;
- Allows the use of risk assessment modeling and probabilistic risk assessment to create site-specific alternative cleanup target levels (CTLs); and
- Allows the use of alternative CTLs without institutional controls if certain conditions exist.

The bill also makes several changes to various state-assisted petroleum cleanup programs. The bill:

- Changes the eligibility criteria of the Abandoned Tank Restoration Program (ATRP) and the Petroleum Cleanup Participation Program to allow more contaminated sites to receive state funding assistance. Specifically, the bill:
 - Reopens the ATRP by deleting the prior application date, June 30, 1996, which had limited participation in the program;
 - Removes the prohibition on sites eligible for rehabilitation under s. 376.305(6)(b), F.S., from participating in the ATRP . This change would allow Early

- Provides that a site is not eligible for ATRP if it is eligible for cleanup under the Petroleum Cleanup Participation Program, provided under s. 376.3071(13), F.S., based on the discharge reports received by DEP before January 1, 1995, or a written report of contamination submitted to DEP on or before December 31, 1998; and
- Allows sites where the owner had knowledge of a polluting condition prior to acquisition of the property to participate in ATRP by repealing s. 376.305(6)(d)4., F.S. The bill also removes the reference to a defense from liability under s. 376.308(1)(c), F.S., that site owners who acquired title to property after July 1, 1992, demonstrate that they undertook all appropriate inquiry into the previous ownership and use of the property when seeking inclusion in the program.
- Directs the Department of Environmental Protection (DEP) to make efficiency and productivity a priority in the administration of the petroleum restoration program and encourages DEP to contract for private services;
- Increases the funding available to Low-Score Site Initiative (LSSI) sites and expands the activities eligible for funding under LSSI;
- Reduces the minimum number of sites that a facility owner or operator may bundle in order to be eligible for performance-based contracts from 20

sites to 5 sites under the Advanced Cleanup Program;

- Authorizes DEP to contract for \$25 million in each fiscal year of advanced cleanup work, rather than \$15 million; and
- Provides that a property owner that enters into a voluntary cost-share agreement with other property owners to bundle sites for advanced cleanup is not subject to agency term contractor assignment.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-184, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 447

Local Government Environmental Financing in Areas of Critical State Concern

The bill revises various policies relating to local government environmental financing, including, but not limited to:

- Requiring the Department of Environmental Protection (DEP) to annually consider the recommendations of the Department of Economic Opportunity (DEO) relating to land purchases within an area of critical state concern (ACSC) or lands outside of an ACSC that directly impact an ACSC, which may include lands to preserve and protect water supply, and make recommendations to the Board of Trustees of the Internal Improvement Trust Fund (Board) on the purchase of fee or lesser interest in certain lands;
- Allowing local governments and special districts within an ACSC to make recommendations to the Board for additional land purchases that were not included in DEO's recommendations;

- Authorizing a land authority to acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an ACSC, and to contribute funds to the DEP for the purchase of lands. The acquisition or contribution must not be used to improve public transportation facilities or increase road capacity to reduce hurricane evacuation clearance times;
- Modifying legislative intent provisions to specify that the Legislature intends to protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities;
- Providing additional principles for guiding development within the Florida Keys ACSC;
- Expanding the purposes for which the local government infrastructure surtax can be used to include acquiring any interest in land to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an ACSC;
- Expanding the uses for Everglades restoration bonds to include implementation of the City of Key West ACSC and projects that protect, restore or enhance nearshore water quality and fisheries, and protect water resources available to the Florida Keys;
- Providing a procedure to dispose of certain lands purchased with Everglades restoration bond proceeds;
- Providing a 10-year distribution of at least \$5 million through the Florida Forever Act for land acquisition within the Florida Keys ACSC; and
- Providing an appropriation of \$5 million in nonrecurring funds from General Revenue for certain projects within the Florida Keys ACSC and the City of Key West ACSC or for land acquisition within the Florida Keys ACSC.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-225, Laws of Florida and the provisions take effect July 1, 2016.

**HB 525
Small Community Sewer
Construction Assistance**

The Small Community Sewer Construction Assistance Act (Act) assists financially disadvantaged small communities with their needs for adequate sewer facilities. Currently, the Act defines the term “financially disadvantaged small community” as a municipality that has a population of 10,000 or less, according to the latest decennial census, and a per capita annual income less than the state per capita annual income, as determined by the United States Department of Commerce. The bill:

- Expands the definition of the term “financially disadvantaged small community” to include a county or special district that falls under the same population and per capita annual income parameters as currently required under the Act.;
- Provides that a special district may only be eligible under the Act if its public purpose includes water and sewer services, utility systems and services, or wastewater systems and services; and

- Expands eligibility to include certain counties and special districts that will be eligible to receive funds under the Act.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-55, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 552

Environmental Resources / Florida Springs & Aquifer Protection Act

The bill revises a number of policies related to water and environmental resources. It creates the Florida Springs and Aquifer Protection Act to provide for the protection and restoration of Outstanding Florida Springs (OFSs). Specifically, the bill:

- Codifies the Central Florida Water Initiative (CFWI) and ensures that the appropriate governmental entities continue to develop and implement uniform water supply planning, consumptive use permitting, and resource protection programs for the Central Florida Water Initiative;
- Updates and restructures the Northern Everglades and Estuaries Protection Program (NEEPP) to reflect and build upon the Department of Environmental Protection's (DEP) completion of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary, and the Department of Agriculture and Consumer Services' (DACS) implementation of best management practices (BMPs);
- Modifies water supply and resource planning and processes to make them more stringent;
- Requires the Office of Economic and Demographic Research to conduct an annual assessment of water resources and conservation lands;

- Requires the DEP to publish an online, publicly accessible database of conservation lands on which public access is compatible with conservation and recreation purposes;
- Requires the DEP to conduct a feasibility study for creating and maintaining a web-based, interactive map of the state's waterbodies as well as regulatory information about each waterbody;
- Creates a pilot program for alternative water supply in restricted allocation areas and a pilot program for innovative nutrient and sediment reduction and conservation;
- Requires the DEP or water management district (WMD) to adopt or modify recovery or prevention strategies concurrent with adoption of a minimum flow and level (MFL);
- Requires a Regional Water Supply Plan to be amended to include any water supply development projects and water resource development projects identified in a recovery or prevention strategy;
- Requires a WMD to notify DEP when an application for a consumptive use permit is denied based on the impact that the use will have on an adopted MFL;
- Requires WMDs to consider the identification of preferred water supply sources for water users for which access to or development of new water supplies is not technically or financially feasible; and
- Revises provisions related to consumptive use permits (CUPs), including:
 - Requires monitoring of wells with a diameter of 8 inches or greater and is authorized to

- withdraw 100,000 gallons per day or more to be monitored by the permit holder and reported to the WMD at least annually;
- Prohibits modification of a CUP allocation during the permit term if documented conservation measures result in decreased water use, and requires WMDs to adopt rules providing water conservation incentives which may include permit extensions;
 - Prohibits reduction in agricultural irrigation CUPs during the term of the CUP if actual water use is less than permitted use due to weather, crop disease, nursery stock availability, market conditions, or changes in crop type; and
 - Requires that if two or more competing CUP applications qualify equally, and are not renewal applications, then the WMD or DEP must give preference to the use where the source is nearest to the area of use or application

This bill was signed into law on January 21, 2016 as Chapter No. 2016-1, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 589

Environmental Control

The bill makes the following changes to chs. 373 and 403, F.S., regarding environmental control:

- Revises the licensure requirements for water well contractors;
- Provides that when the beneficial use of a constructed clay settling area (CSA) of a phosphate mine is extended, the rate of reclamation requirements and the

financial responsibility requirements apply to the CSA when the beneficial use of the CSA is complete;

- Allows the use of land set-asides and land use modifications not otherwise required by state law or permit, including constructed wetlands or other water quality improvement projects, that reduce nutrient loads into nutrient impaired surface waters to generate water quality credits for trading;
- Provides that the limitation on the granting of a variance does not prohibit the issuance of moderating provisions or requirements under state law, subject to any necessary approval by the Environmental Protection Agency;
- Expands the use of funds in the solid waste landfill closure account, removes the repeal date for the account, and allows the use of the Solid Waste Management Trust Fund to pay or reimburse additional expenses needed for performing or completing approved facility closure or long-term care under certain circumstances; and
- Requires a Florida registered professional to certify that a stormwater management system will meet additional requirements for a general permit, and requires the certification be submitted to the Department of Environmental Protection or a water management district before, rather than after, construction of the stormwater management system begins.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-130, Laws of Florida and the provisions took effect on that date.

CS/SB 922**Solid Waste Management**

The bill:

- Establishes a waste tire abatement program and provides for funding of the program;
- Deletes the waste tire grant program and authorizes the small county consolidated grant program to provide grants for waste tire abatement;
- Amends the eligibility for the solid waste management grant program to include small counties with populations fewer than 110,000;
- Rephrases provisions related to the solid waste landfill closure account and allows a permittee to provide proof of financial assurance for closure through an alternative form of financial assurance mechanism established pursuant to s. 403.7125, F.S.;
- Provides authority to the Department of Environmental Protection (DEP) to use funds from the Solid Waste Management Trust Fund to pay for or reimburse additional expenses needed for performing or completing the facility closure or long-term care when the amount available under an insurance policy or other financial assurance mechanism is not sufficient;
- Expands the authority of the DEP to provide funding for the closure and long-term care of solid waste management facilities;
- Expands the types of financial assurances permittees may provide for closure and long-term care of solid waste management facilities; and
- Authorizes funds to be used for closure and long-term care of waste management facilities that are not required to have an operating permit.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-174, Laws of Florida. The provisions deleting the waste tire program and amending the population thresholds for participation in the solid waste management program became effective upon becoming law. All other provisions of this act shall take effect July 1, 2016.

HB 989**Implementation of Water and Land Conservation Constitutional Amendment**

In 2014, the voters of the state of Florida approved an amendment to the Florida Constitution to create Article X, Section 28, which requires that 33 percent of documentary stamp taxes collected be deposited into the Land Acquisition Trust Fund (LATF) and prohibits funds from the LATF from being used for a purpose not specified in the constitution. In 2015, chapter 2015-229, Laws of Florida, became law and amended the relevant statutes to comply with this constitutional requirement. The bill amended section 375.041, F.S., related to the Land Acquisition Trust Fund to require that funds be used for certain debt service obligations and to require that \$32 million be distributed to the South Florida Water Management District for the Long-Term Plan. The section further provides that any remaining moneys in the Land Acquisition Trust Fund that are not distributed as provided above may be appropriated from time to time for the purposes set forth in s. 28, Art. X of the State Constitution.

The bill amends s. 375.041, F.S. to provide for the distribution of funds deposited into the Land Acquisition Trust Fund. Of the funds remaining after the payment of certain debt service obligations, the

Legislature will be required to appropriate, at a minimum, the lesser of 25 percent or \$200 million for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), including the Central Everglades Planning Project subject to congressional authorization, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program.

The bill requires that from these funds \$32 million be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District (SFWMD) for the Long-Term Plan. After deducting the \$32 million, from the funds remaining, a minimum of the lesser of 76.5 percent or \$100 million will be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering and construction of the CERP.

The bill requires the Department of Environmental Protection (DEP) and the SFWMD to give preference to projects that reduce harmful discharges from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

The Fiscal Year 2016-2017 General Appropriations Act provides \$32 million for the Long Term Plan, \$100 million for the CERP, \$70.1 million for northern Everglades and estuaries protection, \$50 million for springs restoration, protection and management, and \$5.1 million for Lake Apopka restoration.

This bill was signed into law on April 7, 2016 as Chapter No. 2016-201, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 1051

Anchoring Limitation Areas

The bill creates s. 327.4108, F.S., providing for anchoring limitation areas over sovereignty submerged lands which are owned by the state. The bill designates the following densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic as anchoring limitation areas:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami-Dade County; and
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - o Rivo Alto Island and Di Lido Island;
 - o San Marino Island and San Marco Island; and
 - o San Marco Island and Biscayne Island.

The bill prohibits a person from anchoring a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise in an anchoring limitation area.

The bill provides enforcement procedures and exceptions to the prohibition on anchoring for cases of mechanical failure, extreme weather and special events (such as fireworks shows). The bill also provides for the issuance of a uniform boating citation with tiered penalties and authorizes the removal and impoundment of a vessel for violating the prohibition on anchoring in anchoring limitation areas in certain circumstances.

The bill provides that s. 327.4108, F.S., expires upon the Legislature's adoption of the Fish and Wildlife Conservation

Commission's recommendations from the pilot program for the regulation of mooring vessels outside of public mooring fields pursuant to s. 327.4105, F.S.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-96, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 1075

Acquisition and Surplusing of State Lands

The bill addresses a number of issues relating to acquiring, managing, and disposing of state lands, including:

- Combining the acquisition procedures for all state lands into one section of law;
- Requiring conservation lands to be managed for conservation, recreation, or both, consistent with any existing land management plan, rather than for the purpose for which they were acquired;
- Requiring the Department of Environmental Protection (DEP) to submit conservation lands that are not meeting their short-term goals to the Acquisition and Restoration Council (ARC) to consider management and disposition options;
- Combining the disposition procedures for all state lands into one section of law;
- Directing land managers, as part of their every 10-year management plan update, to identify any conservation lands that could be disposed of in fee simple or with the state retaining a permanent conservation easement;
- Removing priority consideration given to local governments when surplusing lands;
- Providing an exchange process that allows a person who owns land contiguous to Board of Trustees-titled

land to request an exchange of all or a portion of the state-owned land, with the state retaining a permanent conservation easement, for a permanent conservation easement over all or a portion of the contiguous privately owned land;

- Authorizing minimal secondary non-water dependent uses that are related to a water-dependent use over sovereign submerged lands;
- Requiring ARC to give priority to proposed Florida Forever projects that can be acquired in less than fee simple and projects that contribute to improving springs or groundwater;
- Requiring the DEP to add federally owned conservation lands and state and federally owned conservation easements to the FL-SOLARIS state lands data base by July 1, 2018;
- Requiring each county and city to submit to DEP, by July 1, 2018, a list of all conservation lands owned by the local government and lands on which the local government holds a permanent conservation easement. Financially disadvantaged small communities have until July 1, 2019, to submit the same information;
- Directing the DEP to complete a study by January 1, 2018, regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory; and
- Requiring the Department of Agriculture and Consumer Services to follow certain acquisition procedures when acquiring conservation easements through the Rural and Family Lands Program.

The bill also streamlines the surplus procedures for Water Management District

lands and authorizes the Florida Fish and Wildlife Conservation Commission to adopt by rule protection zones that restrict the speed and operation of vessels to protect and prevent harm to springs.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-233, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1176

Dredge and Fill Activities

Under Section 10 of the Rivers and Harbors Act of 1899, the United States Army Corps of Engineers (Corps) has regulatory jurisdiction over all obstructions or alterations of any navigable water of the U.S., the construction of any structures in or over any navigable water of the U.S., and any work affecting the course, location, condition, or capacity of navigable waters of the U.S. Under Section 404 of the Clean Water Act, the Corps has regulatory jurisdiction over the discharge of dredge or fill material into waters of the U.S. Under these authorizations, the Corps has authority to issue general permits on a statewide, regional, or nationwide basis for specific categories of work. However, a state may seek to administer a general permit for categories of work by applying to the Corps. If approved, the Corps will suspend its issuance of permits and the administration and enforcement of activities with respect to the activities authorized under the general permit to the state. A state may also seek assumption of the Clean Water Act to regulate the discharge of dredge or fill material into certain waters.

The Legislature has specified that it is the policy of the state to provide efficient government services by consolidating, to the maximum extent practicable, federal and

state permitting regarding wetlands and navigable waters within the state. The Legislature has authorized the Department of Environmental Protection (DEP) and water management districts (WMDs) to implement a voluntary state programmatic general permit (SPGP) for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the Corps. The Legislature has also authorized DEP to pursue assumption of federal permitting programs regulating the discharge of dredge or fill material under the Clean Water Act.

The bill increases the acreage of wetland or other surface water impacts (including navigable waters) the DEP or WMDs are authorized (but not mandated) to implement through a SPGP, subject to agreement with the Corps, from 3 acres or less to 10 acres or less. The bill provides that by seeking to use a SPGP, an applicant consents to applicable federal wetland jurisdiction criteria and for the limited purpose of implementing the SPGP.

In addition, the bill allows DEP to seek delegation of, in addition to assumption of, federal permitting programs regulating the discharge of dredge or fill material pursuant to the Clean Water Act and the Rivers and Harbors Act.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-195, Laws of Florida and the provisions took effect upon becoming law.

CS/CS/SB 1318

Shellfish Harvesting

The bill:

- Authorizes the harvesting of shellfish from a sovereign submerged land lease;
- Authorizes individuals to use one dredge or mechanical harvesting device per lease at any one time;
- Defines the terms “shellfish” and “dredge or mechanical harvesting device”;
- Authorizes the Board of Trustees of the Internal Improvement Trust Fund to permit the harvest of shellfish using a dredge or mechanical harvesting device in a submerged lands lease under certain conditions;
- Prohibits the use of dredge or mechanical harvesting devices on public shellfish beds;
- Provides that violations of shellfish harvesting statutes, rules, or lease conditions will result in revocation of the violator’s lease and denial of any future application to use sovereign submerged lands;
- Shifts the responsibility for setting the amount of oysters, clams, and mussels to be obtained for relaying or transplanting from the Department of Agriculture and Consumer Services (DACS) to the Fish and Wildlife Conservation Commission (FWC); and
- Repeals duplicative provisions that are contained in s. 379.2525, F.S., and the requirement for the FWC to set the noncultured shellfish harvesting seasons in Apalachicola Bay by rule and the related reporting requirements.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-200, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1470

Crustaceans

The bill clarifies that the administrative penalties that the Florida Fish and Wildlife Conservation Commission (FWC) must assess for commercial harvesters are in addition to the criminal penalties related to stone crab trap certificates and trap tags.

It also:

- Amends s. 379.3671, F.S., to revise the administrative penalties for subsequent violations that the FWC must assess for commercial harvesters related to spiny lobster traps;
- Amends s. 379.407, F.S., to provide that it is a major violation for a recreational or commercial harvester to possess an undersized spiny lobster, unless authorized to do so by a FWC rule. The bill also provides for violations involving fewer than 100 undersized spiny lobsters, each undersized spiny lobster may be charged as a separate misdemeanor offense. However, the total misdemeanor penalties for any one scheme or course of conduct may not exceed 4 years imprisonment and a civil fine of \$4,000. The bill provides penalties for such a violation; and
- Amends s. 921.0022, F.S., to make the changes to Level 5 of the Offense Severity Ranking Chart relating to stone crabs and spiny lobsters.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-208, Laws of Florida and the provisions take effect October 1, 2016.

HB 7013
Fish and Wildlife Conservation
Commission

The bill:

- Increases the fine for illegally taking game while trespassing from \$250 to \$500 per violation and adds all fish and wildlife to the list of species covered by the fine;
- Offers violators of recreational fishing and hunting licensing the new option of purchasing the respective license rather than paying the cost of the license in addition to the penalty, but not receiving the license;
- Increases the fine for repeat offenders for any noncriminal infraction within 3 years from \$100 to \$250;
- Reduces the penalty from a second degree misdemeanor to a noncriminal infraction for violations of rules or orders of the Florida Fish and Wildlife Conservation Commission (FWC) requiring reporting by people who hold alligator hunting licenses or requiring the return of unused CITES tags issued under the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program;
- Decreases the penalty for failure to file required alligator hunting reports from a second degree misdemeanor offense to a noncriminal infraction;
- Makes penalties for wildlife management areas on U.S. forests consistent with those of all other wildlife management areas;
- Increases the penalty for the sale, barter, or trade of tarpon from a second degree misdemeanor to a first degree misdemeanor to make it consistent with the penalty for rules that prohibit the sale of saltwater species;

- Deletes language prohibiting the altering or changing of a license or permit from the statutory section that prohibits the transfer of a license or permit or possession of a transferred license or permit. Instead, such actions will be treated as forging or counterfeiting a license or permit, punishable as a third degree felony; and
- Specifies that knowing possession of any marine turtle species, hatchling, or any parts of the species without authorization from FWC or from the federal government under the Endangered Species Act is a third degree felony.

It also authorizes, rather than requires, FWC to retain an administrative fee when collecting donations for Southeastern Guide Dogs, Inc.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-107, Laws of Florida and the provisions take effect July 1, 2016.

Growth Management

CS/CS/HB 59
Agritourism

An “agritourism activity” is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions. Agritourism is one of the many methods farmers use to diversify and increase their income.

In 2013, the Florida Legislature passed SB 1106, which prohibited local governments

from adopting any ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida's greenbelt law. However, some local governments continue to enforce such ordinances, etc., that were adopted prior to the passage of SB 1106.

The bill:

- Prohibits local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida's greenbelt law;
- Provides that local governments may exercise their powers and duties to address substantial off-site impacts of agritourism activities;
- Adds "civic," "ceremonial," and "training and exhibition" activities to the definition of "agritourism activity" and provides that agritourism activities may be consistent with livestock operations; and
- Clarifies that using agricultural land for agritourism does not limit the land's greenbelt status as long as the land remains used primarily for bona fide agricultural purposes.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-14, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1174

Residential Facilities

The bill requires a radius of 1,200 feet between a community residential home licensed for 7 to 14 residents and a home licensed for 6 or fewer residents which otherwise meets the definition of community residential home. The bill does not impact community residential homes

already licensed and in operation prior to July 1, 2016.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-74, Laws of Florida and takes effect July 1, 2016.

CS/CS/HB 1361

Growth Management

The bill alters various provisions within the state's growth management laws as described below.

Administrative Challenges to Comprehensive Plan Amendments

- The bill provides that a recommended order to the Department of Economic Opportunity (DEO) by an administrative law judge that a challenged comprehensive plan amendment be found in compliance with law becomes a final order within 90 days after issuance unless:
 - DEO finds the plan amendment to be in compliance and issues its final order first;
 - DEO finds the plan amendment not in compliance and it refers the recommended order to the Administration Commission for final action; or
 - all parties consent in writing to an extension of the 90 day period.
- The bill also specifies that a recommended order issued under an expedited proceeding that recommends a plan amendment to be in compliance, becomes a final order 45 days after issuance unless all parties agree in writing to extend the 45 day period.

Developments of Regional Impact

- The bill clarifies that a person does not lose his or her right to proceed with a development authorized as a

development of regional impact (DRI) if a change is made to the development originally approved that has the effect of reducing the height, density, or intensity of the development.

- The bill specifies that a proposed DRI-sized project or an amendment to an existing DRI is only required to undergo review pursuant to the state coordinated review process if the development or amendment requires an amendment to the comprehensive plan.
- The bill allows a developer, DEO, and local government, to amend their agreement that a development is essentially built-out without the submission, review, or approval of a notification of proposed change. The bill provides that unbuilt land uses specified in an agreement establishing that a development is essentially built out, may be developed in a manner by which one approved land use is substituted for another approved land use at a ratio that ensures there will be no increase in impacts on public facilities and will meet all applicable requirements of the comprehensive plan and land development code. Further, at the time of building permit issuance, the developer must demonstrate to the local government that the exchange ratio will not result in an increase in net impact on public facilities and will meet all applicable requirements of the comprehensive plan and land development code. The local government is required to consult with the Department of Transportation on any development previously determined to impact strategic intermodal facilities.
- Provides that a substantial deviation to a previously approved DRI or development order condition is subject

to further review through the notice of proposed change process.

- The bill provides that a phase date extension is not a substantial deviation and pay proceed under the (e)2. process if DEO, in consultation with the appropriate regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.
- The bill provides that newly acquired lands intended for development in coordination with an existing DRI are not subject to aggregation if the newly acquired lands comprise an area equal to or less than 10 percent of the total acreage of the existing DRI.
- The bill authorizes all DRIs to seek to rescind their DRI development order. Such rescission would be subject to local government oversight as to what form of substituted entitlement replaces the DRI development order if the developer wants to preserve unbuilt entitlements.

Sector Plans

- The bill decreases the minimum required acreage of sector plans from 15,000 acres to 5,000 acres.

Annexation of Enclaves

- The bill increases the maximum size of enclaves which can be annexed by a municipality on an expedited basis from 10 acres to 110 acres.

Apalachicola Bay Area of Critical State Concern

- The bill revises the method by which the City of Apalachicola, an area of critical state concern, amends its comprehensive plan and adopts land

development regulations by providing that such amendments and regulations must only be approved by the state land planning agency (DEO), not the Administration Commission.

Local Government Meetings

- The bill authorizes county boards of commissioners to hold joint meetings with the governing body or bodies of adjacent counties or municipalities to discuss matters regarding land development, economic development or any other matters of mutual interest so long as the meeting is held within the jurisdiction of a participating county or municipality and due public notice is provided.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-148, Laws of Florida and takes effect July 1, 2016.

CS/SB 1508 **Airport Zoning**

This bill updates and revises ch. 333, F.S., the “Airport Zoning Law of 1945”, which governs land use and airspace management at or around airports. Originally enacted in 1945, it contains many outdated provisions and internal inconsistencies, as well as provisions that are inconsistent with current federal regulations. Likewise, stakeholders found that the local government airport protection zoning process as it currently exists is often cumbersome and confusing.

The bill implements the recommendations of a stakeholder working group, in effect modernizing the regulation of airspace and land use for affected areas and transitioning from an antiquated variance process to a more streamlined permitting process for certain structures.

Specifically, the bill:

- Updates statutory definitions and terms in accordance with federal regulations;
- Streamlines the current local airport protection zoning process to a simpler permitting model;
- Provides local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repeals duplicative requirements for obtaining a variance;
- Provides that proposed facilities at public-use airports contained in an airport master plan, on an airport layout plan, or in comparable military documents will be protected from airport hazards. The bill also removes the provision that certain planned or proposed public-use airports are also protected;
- Provides that a DOT permit is not required for a structure in a political subdivision that has adequate airport protection zoning regulations on file with DOT, and the political subdivision has established a permitting process;
- Creates a 15-day period, concurrent with the permitting process, for DOT to evaluate the permit for technical consistency. Cranes, construction equipment, and other temporary structures, in use or in place for a period not exceeding 18 consecutive months are exempt from DOT review, unless review is requested by DOT. The bill provides that DOT has 30 days after receiving an application to issue or deny a permit for the construction or alteration of an obstruction. The bill requires DOT to review permit applications in conformity with s. 120.60, F.S. The bill provides that when issuing a permit, DOT must require the owner of the obstruction to install, operate, and maintain, at his or

- her own expense, marking and lighting in conformance with FAA standards;
- Requires political subdivisions having an airport within their territorial limits to adopt, administer, and enforce airport land use compatibility zoning regulations by July 1, 2017;
- Prohibits any new and restricts any existing landfills in airport land use compatibility zones;
- Allows for alternative noise studies approved by the FAA in lieu of a noise study provided for in 14 C.F.R. Part 150;
- Creates s. 333.09(2), F.S., to require any political subdivision to adopt a process for issuing permits for airspace obstructions;
- Removes provisions for the issuance and review of variances in light of the new requirements that local governments issue permits;
- Creates s. 333.07(2) to provide considerations in determining whether to issue an airspace obstruction permit, including:
 - The safety of persons on the ground and in the air;
 - The safe and efficient use of navigable airspace;
 - The nature of the terrain and height of existing structures;
 - The effect of the construction or alteration on the state licensing standards for a public-use airport contained in Ch. 330, F.S., and rules adopted thereunder;
 - The character of existing and planned flight operations and developments at public-use airports;
 - Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA;
- Effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport;
- The cumulative effect on navigable airspace of all existing structures, and all other known proposed structures in the area; and
- Additional requirements adopted by the political subdivision pertinent to evaluation and protection of airspace and airport operations.
- Provides that a judicial appeal may not be permitted to any courts until an appellant has exhausted all administrative remedies; and
- Implements numerous changes to definitions related to airport zoning to reflect improved consistency with federal regulations and guidance.

It appears that the Legislature intended to enact the same language regarding airport zoning regulations in CS/CS/HB 7061 as it enacted in SB 1508 but failed to make the language identical. CS/CS/HB 7061 was signed subsequently to SB 1508 so the provisions of CS/CS/HB 7061 should control.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-209, Laws of Florida and takes effect July 1, 2016.

Real Property

CS/SB 416

Location of Utilities

The bill requires a state or local government to bear the responsibility for the cost of relocating utility facilities in a public easement, absent an agreement to the contrary. Currently, both statute and

common law require a utility to pay for the cost of relocating its facilities within a public easement, absent an agreement to the contrary.

The bill also reduces a county's authority to grant licenses for lines to only locations under, on, over, across, or within the right-of-way limits of a county highway or public road, but not "along" a county highway or public road. The bill also limits the authority of DOT and local governmental entities to prescribe and enforce reasonable rules and regulations relating to the placement or maintenance of utility facilities to the same areas.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-44, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 826 Mobile Homes

The bill requires the Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) within the Department of Business and Professional Regulation (DBPR) to notify the complainant of the status of the investigation within 30 days of receiving the complaint and again within 90 days. The Division must also notify the complainant and the party complained against of the results of the investigation and disposition of the complaint.

The bill permits mobile home park owners to pass on to the tenant, at any time during the term of the rental agreement, non-ad valorem assessments or increases of non-ad valorem assessments, if the passing on of this charge was disclosed prior to the tenancy. The bill requires the park owner to give the tenant notice of a rent increase 90 days before the renewal date of the rental

agreement. If the 90-day notice is not provided the rental amount will remain with the same terms until a 90-day notice of increase in lot rental amount is given.

The purchaser of a mobile home is permitted to cancel or rescind a contract if the tenancy has not been approved by the park owner 5 days before the closing of the purchase.

The bill clarifies that in order to exercise the rights of a homeowners' association provided under ch. 723, F.S., mobile home owners must form an association. Additionally, upon incorporation of an association, all consenting mobile home owners in the park may become members or shareholders, and are bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association. However, the successors of the consenting homeowner are not bound to the articles of incorporation, the bylaws, and restrictions of the homeowners' association.

The bill provides that the joint owner of a mobile home or subdivision lot must be counted as one when determining the number of votes required for a majority and that only one vote may be counted per mobile home or subdivision lot. It permits association members to vote by secret ballot, including an absentee ballot.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-169, Laws of Florida and takes effect July 1, 2016.

Special Districts

CS/HB 479

Special Districts

The bill makes a number of changes to enhance the transparency of special districts. Specifically, the bill:

- Requires special districts to make their budgets and subsequent amendments available on their website for:
 - Tentative budgets - 45 days after the meeting at which the budget was proposed;
 - Final budgets – 2 years after the meeting at which the budget was adopted; and
 - Amendments – 2 years after the meeting at which the amendment was adopted.
- Requires all special districts to include their status as either dependent or independent in their charter;
- Requires the Special District Accountability Program to publish noncompliance status reports from the Department of Management Services ;
- Requires the Department of Economic Opportunity (DEO) to maintain a separate list of inactive special districts until the districts are either merged, dissolved or regain active status;
- Clarifies that the Legislature may repeal, by general law, the special act creating or amending the charters of inactive special districts;
- Requires each dependent special district to either be prominently displayed on the webpage of the general purpose government on which it is dependent or maintain a separate website;
- Requires the website of all special districts to provide a list of its regularly scheduled public meetings, its public

facilities report, a link to the Department of Financial Services website, and the agenda of each meeting or workshop along with any meeting materials, excluding confidential and exempt information, at least seven days before the event. The information is required to remain on the website for at least one year after the event;

- Clarifies the power of the Legislature to create dependent special districts at the request or with the consent of the local government upon which the district will be dependent; and
- Limits the general oversight power of local general purpose governments to only dependent special districts not created by special act of the Legislature.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-22, Laws of Florida and the provisions take effect October 1, 2016.

CS/HB 971

Community Development Districts

The bill modifies the establishment of community development districts (CDDs) in several ways. The bill:

- Increases the size of CDDs that can be created by county or municipal ordinance from less than 1,000 acres to less than 2,500 acres. The bill also makes the corresponding changes to the threshold required for needing FLWAC approval for creation of a CDD;
- Requires any CDD in the territorial jurisdiction of two or more counties to be established by FLWAC rule, mirroring the requirement for FLWAC approval of any CDD in two or more municipalities in current law. clarifies that the prohibition on a CDD exercising police power does not prevent a district from contracting with a towing operator

to remove a vehicle or vessel from facilities or property owned by the district. The district may only exercise its power to tow if the district follows the statutory authorization, notice, and procedural requirements for an owner or lessee of private property. The district is not required to solicit bids when selecting a towing operator if the operator is included in an approved list of operators maintained by the local government that has jurisdiction over the district's facilities or property;

- Raises the maximum threshold by which a district can expand. The cumulative additions to the district may not be greater than the lesser of fifty percent of the land area of the district or 1,000 acres; and
- Contains a streamlined merger procedure for CDDs created by the same county or municipality. Up to five districts, created by the same local general-purpose government and whose boards are composed entirely of qualified electors, may merge into one district by adoption of an ordinance by the local general-purpose government that created them. CDDs would be able to utilize this provision even if the merged district would have been required to have been created by the FLWAC if it were a new district. The filing of a petition approved by the board of each CDD applying constitutes consent of the landowners within each district.

The CDDs planning to merge must meet the requirements of s. 190.046(3), F.S., and must enter into a merger agreement specifying that:

- The merged district's board will consist of five members;

- Each at-large member of the merged district's board represents the entire district;
- Each former district is entitled to elect at least one board member from its former boundary; and
- The membership of the merged district's interim board will consist of:
 - If two CDDs merge, two members from each district and one at-large member;
 - If three CDDs merge, one member from each district and two at-large members;
 - If four CDDs merge, one member from each district and one at-large member; and
 - If five CDDs merge, one member from each district.
- All pre-existing board members terms will end at the next general election and a new board representing the entire district will be elected.

Before filing the merger petition, each district must hold a public hearing to take comment on the proposed merger, the merger agreement, and the assignment of board seats. The hearing must be noticed at least 14 days beforehand. If any district withdraws after the public hearing, the remaining districts considering merger must hold a public hearing on a revised merger agreement between the remaining parties. The petition may not be filed for at least 30 days after the last public hearing.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-94, Laws of Florida and the provisions take effect July 1, 2016.

***HB 1039
Babcock Ranch Community
Independent Special District,
Charlotte and Lee Counties***

The Babcock Ranch Community Special District (District) is an independent special district created in 2007 and located in Charlotte County. The boundaries of the district currently encompass approximately 13,630 acres in Charlotte County. The purpose of the District is to plan, construct, maintain, operate, finance, and improve the provision of systems, facilities, and services necessary to meet the infrastructure needs of the Babcock Ranch Community – a sustainable, compact, mixed-use community.

The bill will expand the borders of the District to include seven parcels in Lee County, increasing the overall size of the district from approximately 13,630 acres to approximately 17,787 acres total.

This bill was signed into law on March 25, 2016 and the provisions providing for an election by the owners of land within the district took effect upon becoming law. All remaining provisions will take effect upon approval by a majority vote of the owners of land within the district, including land in Charlotte and Lee Counties.

**2016
Florida Legislative
Post-Session Report**

Health Care & Health Insurance

Health Care & Health Insurance

CS/HB 173

Medical Faculty Certification

A medical faculty certificate allows medical school faculty physicians to practice medicine in Florida without sitting for and successfully passing a licensure examination. A physician who receives a medical faculty certificate has all rights and responsibilities as other licensed physicians, except the certificate-holder may only practice in conjunction with a full-time faculty position at an accredited medical school and its affiliated clinical facilities or teaching hospitals. Currently, medical faculty certificates are authorized for physicians teaching in one of seven Florida medical schools; Florida Atlantic University is not included in that list.

The bill expands the current medical faculty certificate eligibility criteria by allowing a medical faculty certificate to be issued to an individual who has been offered and has accepted a full-time faculty appointment to teach in a program of medicine at Florida Atlantic University. The bill also limits the number of extended medical faculty certificate-holders allowed at Florida Atlantic University to 30 persons, which is consistent with limitations for all but one of the other institutions eligible for such certificates.

The bill also changes the name of the Mayo Medical School at the Mayo Clinic in Jacksonville, Florida, in s. 458.3145, F.S., to the Mayo Clinic College of Medicine in Jacksonville, Florida, to expand the eligibility of physicians who teach at the college to receive medical faculty certificates.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-54, Laws of Florida and the provisions take effect July 1, 2016.

PCS/CS/SB 202

FL Association of Centers for Independent Living

The bill expands the use of the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program to include services to disabled adults to assist them in securing and maintaining employment. The bill also increases the amount available to each state attorney that participates in the tax collection enforcement diversion program.

This bill was signed into law on March 9, 2016 as Chapter No. 2016-30, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 221

Out-of-Network Health Insurance Coverage

A Preferred Provider Organization (PPO) contracts with a network of health providers who participate for an alternative or reduced rate of payment. Generally, the member is responsible only for required cost-sharing if covered services are obtained from contracted (participating, preferred, or network) providers. If a member chooses to obtain services from an out-of-network provider, the member can be billed for the difference between the provider's charges and the PPO's reimbursement. In an Exclusive Provider Organization (EPO) arrangement, an insurance company contracts with providers and insured members must use the participating providers to receive covered benefits, subject to limited exceptions. A Health Maintenance Organization (HMO) provides

health care services pursuant to contractual arrangements with preferred providers who have agreed to supply services to members at pre-negotiated rates. Traditionally, an HMO member must use the HMO's network of health care providers in order for the HMO to make payment of benefits.

Current law requires an HMO to provide coverage for emergency services and care without prior authorization and without regard for whether the provider has a contract with the HMO. The HMO must reimburse a nonparticipating provider the lesser of the provider's charges; the usual and customary rate for provider charges in the community; or the rate agreed to between the provider and the HMO. The nonparticipating provider may not collect additional reimbursement from the subscriber. In other words, the provider cannot balance bill the patient. The law does not currently prohibit providers who are not part of a preferred or exclusive provider network from balance billing patients for emergency or nonemergency services.

The bill prohibits out-of-network providers from balance billing members of a PPO or EPO for emergency services or for nonemergency services when the nonemergency services are provided in a network hospital and the patient had no ability and opportunity to choose a network provider. Hospitals, ambulatory surgical centers, and urgent care centers are also prohibited from balance billing. The bill establishes standards for determining reimbursement to the providers and authorizes providers and insurers to settle disputed claims under the statewide provider and health plan claim dispute resolution program.

Finally, the bill requires all PPOs to publish a list of their network providers on their websites, and to update the list monthly; requires all PPOs to give subscribers notice regarding the potential for balance billing when using out-of-network providers; subjects certain facilities and licensed health care practitioners to disciplinary action for violations of the prohibition on balance billing; and requires hospitals to publish information on their websites regarding their contracts with plans and providers of hospital-based services.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-222, Laws of Florida and the provisions take effect July 1, 2016.

SB 238

Medical Assistant Certification

Currently in Florida, a medical assistant (MA) is not required to be certified. However, s. 458.3485, F.S., specifies that MAs may voluntarily be certified by two certifying entities: the American Association of Medical Assistants (AAMA) or as a Registered Medical Assistant (RMA) by the American Medical Technologists (AMT). Both of these organizations are not-for-profit.

At least two other organizations certify MAs, the National Healthcareer Association and the National Center for Competency Testing. The National Healthcareer Association allows individuals who have completed a training program for a MA, or have relevant work experience, and have graduated high school to qualify to take the certification examination for a Clinical Medical Assistant.

The National Center for Competency Testing (NCCT) is also accredited by the

NCCA and to be eligible for the exam, applicants must meet one of the following criteria:

- Current or graduated student in a MA program from an NCCT-authorized school within the past five years;
- Two years of verifiable full-time experience as a MA practitioner within the past five years; or
- Completion of MA training or its equivalent during U.S. military service within the past five years.

The bill removes the voluntary certification provision so that there will no longer be any prescription related to certification, whether voluntary or required, of MAs in the statute.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-67, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 242

Infectious Disease Elimination Pilot Program

The bill creates the Miami-Dade Infectious Disease Elimination Act (IDEA). The IDEA authorizes the University of Miami and its affiliates to establish a needle and syringe exchange pilot program (pilot program) in Miami-Dade County. The pilot program is to offer free, clean, and unused needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, and other bloodborne diseases among intravenous drug users, their sexual partners, and offspring.

The University of Miami may operate the pilot program at a fixed location or through a mobile health unit. The pilot program must:

- Provide maximum security of the exchange site and equipment;
- Account for the number, disposal, and storage of needles and syringes;
- Adopt any measure to control the use and dispersal of sterile needles and syringes;
- Operate based on a one sterile-needle-and-syringe unit to one used unit exchange ratio;
- Make available educational materials and referrals to education regarding the transmission of HIV, AIDS, viral hepatitis, and other blood-borne diseases;
- Provide HIV and viral hepatitis testing; and
- Provide or refer for drug abuse prevention and treatment.

The bill provides that the possession, distribution, or exchange of needles or syringes as part of the pilot program does not violate the Florida Comprehensive Drug Abuse Prevention and Control Act under ch. 893, F.S., or any other law. However, pilot program staff and participants are not immune from prosecution for the possession or redistribution of needles or syringes in any form if acting outside of the pilot program.

The bill requires the University of Miami to collect data for quarterly, annual, and final reporting purposes, but prohibits the collection of any personal identifying information from a participant. The bill requires the pilot program to issue quarterly reports to the Department of Health (Department) in Miami-Dade County, annual reports to the Department, and a final report on the performance and outcomes of the pilot program to the

Department by August 1, 2021. The pilot program expires on July 1, 2021.

The bill prohibits the use of state, county, or municipal funds to operate the pilot program and requires the use of grants and donations from private sources to fund the program. The bill includes a severability clause.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-68, Laws of Florida and the provisions take effect July 1, 2016.

HB 307

Medical Use of Cannabis

Under the Florida Comprehensive Drug Abuse Prevention and Control Act, cannabis is a Schedule I controlled substance and, as such, a range of criminal penalties apply to the unlawful possession, use, sale, purchase, manufacture, delivery, transport, or trafficking of cannabis. Prior to passage of the bill the only statutorily-allowed use of cannabis in this state was set forth in the Compassionate Medical Cannabis Act of 2014 (CMCA), which authorized dispensing organizations approved by the Department of Health (DOH) to manufacture, possess, sell, and dispense low-THC cannabis for medical use by patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms.

In 2015, the Legislature adopted the Right to Try Act (RTTA). The RTTA authorizes an eligible patient with a “terminal condition,” meaning that the patient will die within one year if the condition runs its normal course, to receive an “investigational drug, biological product, or device,” meaning a drug, product, or device that has successfully completed phase 1 of a clinical

trial, but that has not been approved for general use by the United States Food and Drug Administration.

The bill authorizes dispensing organizations to cultivate, process, transport, and dispense medical cannabis, which is defined to include the whole cannabis plant and does not require a certain composition of cannabinoids. However, the bill allows dispensing organizations to dispense, and physicians to order, medical cannabis only for qualified patients who have been diagnosed with a terminal condition under the RTTA and the bill limits the amount of medical cannabis that may be dispensed to a 45-day supply.

The bill also prohibits the use or administration of low-THC cannabis and medical cannabis:

- On public transportation;
- In a public place;
- At places of work where the employer has restricted the use of cannabis;
- In prison;
- On the grounds of a school; or
- On a school bus, vehicle, aircraft or motorboat.

The bill creates criminal penalties for using medical cannabis in violation of such prohibitions.

The bill requires a physician to meet certain criteria before ordering low-THC cannabis and medical cannabis, including establishing a patient relationship for a certain length of time, meeting certain education requirements, and obtaining written informed consent from the patient or the patient’s legal representative. The bill prohibits an ordering physician from being a medical director employed by a dispensing

organization and subjects a medical director to disciplinary action if the medical director receives compensation from a dispensing organization related to the ordering of low-THC cannabis or medical cannabis.

The bill allows the DOH to approve three additional dispensing organizations if a certain number of qualified patients have been registered in the compassionate use registry.

The bill creates new regulatory standards for dispensing organizations, including standards for maintaining DOH approval and for the growing, processing, testing, packaging, labeling, dispensing, distribution, and transportation of low-THC cannabis and medical cannabis. The bill also provides the DOH with greater regulatory oversight by authorizing the DOH to perform inspections, create a registration card system for patients and their legal representatives, assess fees, and take disciplinary action. The bill authorizes independent testing laboratories to possess, test, transport, and lawfully dispose of low-THC cannabis and medical cannabis.

The bill provides circumstances under which an approved dispensing organization is presumed to be registered with the DOH and under which the approval of a dispensing organization is not impaired.

The bill provides that dispensing organizations that meet certain criteria are to be granted cultivation authorization and are to be permitted to operate for the full term of their original approval and all subsequent renewals. The bill authorizes the DOH to enforce the inspection requirements on these approved dispensing organizations.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-123, Laws of Florida and the provisions took effect on that date.

SB 340 Vision Care Plans

The bill prohibits an insurer, prepaid limited health service organization (PLHSO), or a health maintenance organization (HMO) from requiring a licensed ophthalmologist or optometrist to join a network solely for the purpose of credentialing the licensee for another insurer's, PLHSO's, or HMO's network, respectively. The bill would not prevent an insurer, PLHSO, or HMO from entering into a contract with another insurer's, PLHSO's, or HMO's vision care plan to use the vision network.

The bill prohibits these plans from restricting a licensed ophthalmologist, optometrist, or optician to specific suppliers of material or optical laboratories. This provision does not restrict an insurer, PLHSO, or HMO in determining specific amounts of coverage or reimbursement for the use of network or out-of-network suppliers or laboratories.

Additionally, the bill provides that a knowing violation of either of the provisions described above constitutes an unfair insurance trade practice under s. 626.9541(1)(d), F.S., which relates to any act of boycott, coercion, or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

Insurers, PLHSOs, or HMOs are also required to update their online vision care network directories monthly to reflect

currently participating providers in their respective networks.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-69, Laws of Florida and the provisions take effect July 1, 2016.

HB 373

Mental Health Counseling Interns

The bill revises the requirements for registration as an intern in the fields of clinical social work, marriage and family therapy, and mental health counseling. It limits the length of time an intern may practice in one of these fields without obtaining full licensure.

It provides that an individual who is registered to practice as an intern must remain under supervision for clinical hours to count toward full licensure. When a registered intern is providing services in a private practice setting, the bill requires a licensed mental health professional to be on the premises. The bill provides that a registration issued on or before April 1, 2017, may not be renewed or reissued and expires March 31, 2022. Any registration issued after April 1, 2017, is valid for 5 years. The bill allows a subsequent intern registration only if the candidate passes a theory and practice examination.

The bill prohibits an individual who has held a provisional license to practice as a clinical social worker, marriage and family therapist, or mental health counselor from applying for intern registration in the same profession.

Finally, it deletes obsolete language and makes technical changes to the structure of existing law to clarify language.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-80, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 375

Physician Assistants

The bill expressly authorizes a physician assistant (PA) to perform any duties or services he or she has been delegated by a supervising physician unless such duties or services are expressly prohibited by a statute or rule.

The bill amends chapters 458 and 459, F.S., to streamline the requirements for PA licensure by allowing the applicant to submit an acknowledgement of prior felony convictions and disciplinary action taken against a license from another state, rather than submitting a sworn statement attesting to such information. The bill also repeals a requirement that a PA licensure applicant submit two letters of recommendation. The bill also allows PAs to submit an acknowledgement of no felony convictions in the previous 2 years at the time of licensure renewal, rather than submitting a sworn statement.

Currently, all PA licensure applicants must successfully pass an examination offered by the National Commission on Certification of Physician Assistants prior to being licensed. The bill deletes obsolete provisions relating to a licensure examination administered by the DOH for certain foreign-trained PA licensure applicants. The bill also repeals a provision that allows the DOH to issue temporary licenses to PA licensure applicants awaiting the results of the DOH-administered examination.

The bill allows a PA with prescribing authority to acknowledge completion of

certain required continuing medical education hours, rather than submitting a signed affidavit attesting to the completion of the requirement at the time of license renewal. The bill allows a PA's prescriptions to be in written or electronic form, as long as they comply with prescription labeling information requirements.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-125, Laws of Florida and the provisions take effect July 1, 2016.

SB 422
Health Insurance Coverage for Opioids

Deaths from drug overdose have steadily increased over the past few decades and are the leading cause of accidental deaths in the United States. Every day in the United States, 120 people die as a result of drug overdose, and another 6,748 are treated in emergency departments for the misuse or abuse of drugs. The vast majority of these deaths and emergency department visits involve an overdose related to opioid analgesic drug products (opioids), which are narcotic pain relievers derived from the opium poppy or its synthetic analogues.

Opioids can be abused in numerous ways, such as by swallowing, snorting, smoking, or injecting. These delivery methods create a more rapid onset of the effects of the opioid than intended by the manufacturer and a greater euphoria. Abuse-deterrent opioids are formulated to deter abuse by making product alteration more difficult (crush resistant) or by making the altered product less attractive or rewarding (crushing renders the drug essentially ineffective).

The bill allows a health insurance policy that provides coverage for abuse-deterrent opioids to impose a prior authorization requirement for an abuse-deterrent opioid only if the policy requires prior authorization for opioids without an abuse-deterrence labeling claim. The bill also prohibits a policy from requiring the use of an opioid without an abuse-deterrent labeling claim before authorizing the use of an abuse-deterrent opioid.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-112, Laws of Florida and the provisions take effect January 1, 2017.

HB 423
Drug Prescription by Advanced Registered Nurse Practitioners & Physician

Effective January 1, 2017, the bill authorizes advance registered nurse practitioners (ARNPs) to prescribe, dispense, order, and administer controlled substances, but only to the extent authorized under a supervising physician's protocol. The bill establishes a committee to recommend a formulary of controlled substances that an ARNP may not prescribe or may only prescribe for a specific use or in limited quantities. The Board of Nursing must adopt the recommended formulary by rule by October 1, 2016, along with any revisions recommended by the Board of Medicine, Board of Osteopathic Medicine, or Board of Dentistry. The bill designates s. 464.012, F.S., as the "Barbara Lumpkin Prescribing Act."

The bill also authorizes PAs to prescribe controlled substances but limits the prescribing of Schedule II controlled substances to a 7-day supply and restricts prescribing psychiatric mental health

controlled substances for children under the age of 18.

It subjects ARNPs and PAs to administrative disciplinary actions, such as fines or license suspensions, for violating standards of practice in law relating to prescribing and dispensing controlled substances. The bill adds specific prohibited acts related to the prescribing of controlled substances, which constitute grounds for denial of license or disciplinary action, into the Nurse Practice Act. The bill requires ARNPs and prescribing PAs to complete three hours of continuing education on the safe and effective prescribing of controlled medications each biennial licensure renewal.

It also expands the health care practitioners who are exempt from the registration requirements for prescribing controlled substances to treat nonmalignant chronic pain to certain board eligible or board certified physicians. Additionally, the bill provides that only a physician may dispense medication or prescribe controlled substances on the premises of a registered pain-management clinic.

The bill requires, on or after January 1, 2017, health insurers or pharmacy benefits managers to use a standardized prior authorization form adopted in rule by the Financial Services Commission, if an electronic prior authorization form is not used. An electronic prior authorization approval does not preclude an insurer from performing a benefit verification or medical review.

The bill permits a free clinic to receive an appropriation or grant from a governmental entity or nonprofit corporation to support the delivery of contracted services by

uncompensated, volunteer health care providers without jeopardizing its sovereign immunity under the Access to Health Care Act.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-224, Laws of Florida and the provisions took effect on that date.

CS/CS/CS/HB 439 Mental Health Services in the Criminal Justice System

To address mental health issues in the criminal justice system, Florida has multiple programs, some of which operate on a statewide basis, e.g., state-administered forensic and civil mental health programs, and others which are only available in certain counties or circuits, e.g., mental health courts and veterans' courts. This bill amends statutes governing these programs by:

- Creating the Forensic Hospital Diversion Pilot Program which is to be modeled after the Miami-Dade Forensic Alternative Center and authorizing the Department of Children and Families to implement the pilot program in Duval, Broward, and Miami-Dade Counties, if existing recurring resources are available;
- Authorizing county court judges to order misdemeanants to involuntary outpatient placement if the misdemeanant meets specified criteria;
- Creating statutory authority for each county to establish a mental health court program that provides pretrial intervention and post-adjudicatory programs and authorizing courts to order adult and juvenile offenders who have mental illnesses to participate in such programs;

- Expanding the definition of “veteran,” for the purpose of eligibility for veterans’ court, to include veterans who were discharged or released under a general discharge; and
- Expanding the statutory authorization for certain offenders to transfer to a “problem-solving court” in another county to also include transfer to delinquency pretrial intervention programs.

The bill also makes conforming changes to child welfare statutes to incorporate references to mental health treatment and mental health courts.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-127, Laws of Florida and the provisions take effect July 1, 2016.

SB 450
Physical Therapy

The bill amends the definition of the “practice of physical therapy,” under s. 486.021, F.S. Currently, a physical therapist is required to have a practitioner of record review and sign a patient’s treatment plan if physical therapy treatment is required beyond 21 days. The bill expands the timeframe to 30 days.

The bill also specifies that the requirement for a physical therapist to have a practitioner of record review and sign a plan of treatment does not apply when a patient has been physically examined by physician licensed in another state, the patient has been diagnosed as having a condition for which physical therapy is required, and the physical therapist is treating the specific condition.

The bill authorizes a licensed physical therapist who holds a doctoral degree in physical therapy to use the letters “D.P.T.” and “P.T.” in connection with her or his name or place of business. Physical therapists may not use the title “doctor” unless he or she holds a degree of Doctor of Physical Therapy and the public is clearly informed of his or her profession as a physical therapist.

The bill revises terms prohibited from use by a person who is not licensed as a PT or a PTA. The bill removes the prohibitions on unlicensed individuals to use the letters “Ph.T.,” “R.P.T.,” and “L.P.T.” to indicate that he or she is a physical therapist or to use the letters “L.P.T.A.,” “R.P.T.A.,” or “P.T.T.” to indicate that he or she is a physical therapist assistant. The bill also provides that use of the letters “D.P.T.” in connection with a name or business is unlawful for any person who is not licensed as a PT under ch. 486, F.S., and holds a doctoral degree in physical therapy.

The bill also creates a penalty for any unlawful act under s. 486.135, F.S. (false representation of licensure or willful misrepresentation or false representation to obtain a PT license). Under the bill, an unlawful act is considered a prohibited act under s. 496.151, F.S., and is a first degree misdemeanor.

The bill makes the use of the letters “D.P.T.” a prohibited act, subject to a first degree misdemeanor, unless the person holds a valid license under ch. 486, F.S., and has a doctoral degree in physical therapy.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-70, Laws of Florida and the provisions took effect on that date.

CS/SB 580
Reimbursement to Health Access
Settings for Dental Hygiene Services
for Children

The bill amends s. 409.906(6), F.S., to expressly authorize reimbursement to the health access setting (such as county health department or Head Start program) by Medicaid for the remediable tasks that a licensed dental hygienist is authorized to perform under s. 466.024(2), F.S., without supervision by a licensed dentist, when the services are provided to children under the age of 21 in the Medicaid program. This allows the Medicaid program and Medicaid recipients to benefit from the dental hygienist scope of practice expansion in s. 466.024(2), F.S.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-158, Laws of Florida and the provisions take effect July 1, 2016.

SB 586
Responsibilities of Health Care
Providers/Obstetricians

The bill requires a hospital to notify each obstetrical physician with privileges at the hospital at least 120 days before closing the obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which requires the state Surgeon General to establish practice parameters for a physician performing cesarean section procedures at a provider hospital, defined as a hospital where at least 30 cesarean section procedures are performed and paid for, at least in part, by state funds or federal funds distributed by the state. The statute also requires each provider hospital to establish a peer review board to examine cesarean section procedures. These provisions are no

longer implemented by the Department of Health.

This bill was signed into law on March 25 2016 as Chapter No. 2016-113, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 769
Mental Health Treatment

The bill addresses issues related to administration of psychotropic medications, competency evaluations and transportation to competency and commitment hearings for forensic clients.

The bill requires an admitting physician in a state forensic or civil facility to continue the administration of psychotropic medication previously prescribed in jail when a forensic client lacks the capacity to make an informed decision and, in the physician's opinion, the abrupt cessation of medication could risk the health and safety of the client. This authority is limited to the time period required to obtain a court order for the medication.

It requires that a court hold a hearing within 30 days after receiving notification from a treatment facility that a defendant who was previously adjudicated incompetent or was previously adjudicated not guilty by reason of insanity is now competent to proceed or no longer meets criteria for continued commitment. The bill also requires the defendant to be transported to the committing court's jurisdiction for the hearing.

The bill permits a court to dismiss charges for specified nonviolent offenses for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 3 years after the

original determination. The bill also changes the timeframe for mandatory dismissal of all charges for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 5 continuous, uninterrupted years since the court's original determination of incompetency.

This bill was signed into law on March 25 2016 as Chapter No. 2016-135, Laws of Florida and the provisions take effect July 1, 2016.

HB 819 Sunset Review of Medicaid Dental Services

A Medicaid prepaid dental health plan (PDHP) is a risk-bearing entity paid a prospective per-member, per-month payment by AHCA to provide dental services. Prior to implementing the MMA program, Florida used PDHPs to deliver dental services to children enrolled in Medicaid.

The bill removes dental services from the list of minimum benefits that MMA plans must provide, effective March 1, 2019. Instead, effective July 1, 2017, AHCA must implement a statewide PDHP program for children and adults and begin enrollment by March 1, 2019. AHCA must contract with at least two licensed dental managed care providers through a competitive procurement process to provide dental benefits. AHCA is authorized to seek any necessary state plan amendment or federal waivers to implement the statewide PDHP program.

The bill creates s. 409.973(5), F.S., which requires AHCA to prepare a comprehensive report on dental services provided under the SMMC program. The report must examine

the effectiveness of the managed care plans in providing dental care, improving access to dental care and dental health, and achieving satisfactory outcomes for recipients and providers. The report must also track the historical trends of rate payments to providers and plan subcontractors, provider participation in dental networks, and provider willingness to treat recipients. Finally, the report must compare Florida's experience in providing dental services to Medicaid recipients with the experiences of other states in delivering the same services, increasing access to care, and overall dental health. AHCA may contract with an independent third party, if necessary, to assist in the preparation of the report.

The bill authorizes the Legislature to use the findings of the report to establish the scope of minimum benefits under the MMA program for future procurements of eligible plans; specifically, the Legislature may use the findings of the report to determine whether dental benefits should be benefits under the MMA program or be provided separately. If the Legislature determines dental services should be provided by the MMA plans, it must repeal the changes made in this bill before July 1, 2017.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-109, Laws of Florida and the provisions take effect on July 1, 2016.

CS/CS/SB 938 Retail Sale of Dextromethorphan

The bill regulates dextromethorphan (DXM), a synthetically produced product that is the most commonly used cough suppressant in the United States. The bill prohibits any manufacturer, distributor, or retailer, and their employees and

representatives, from knowingly or willfully selling a finished drug product that contains DXM to an individual under the age of 18 without a valid prescription. The bill requires individuals presumed to be less than 25 years of age to provide proof of age prior to purchasing a finished drug product that contains any quantity of DXM.

The bill also sets forth procedures for local law enforcement officers to enforce the law. An individual who possesses or receives a finished product containing any quantity of DXM in violation of the bill with the intent to distribute is subject to a civil citation of up to \$100 for each violation. An employee or representative who sells a finished drug product containing DXM in violation of the act is subject to a written warning. A manufacturer, distributor, or retailer found to be in violation of the act may be subject to a civil citation of up to \$100 per violation. However, a citation issued to a manufacturer, distributor, or retailer may be avoided upon the showing of a “good faith effort” to comply with the bill’s requirements.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-176, Laws of Florida and the provisions take effect on January 1, 2017.

CS/CS/HB 941

Department of Health

The bill renames the Office of Minority Health as the Office of Minority Health and Health Equity, to be headed by the Senior Health Equity Officer (officer). The bill also:

- Requires the officer to administer the Closing the Gap Grant Program and changes program eligibility criteria;
- Provides alternative eligibility criteria for military members and their spouses seeking licensure as a health care

practitioner, except as a dentist, in Florida. The bill allows military health care practitioners, practicing under a military platform (a training agreement with a nonmilitary provider), to be issued a temporary certificate to practice in this state;

- Deletes a pre-licensure course requirement on HIV/AIDS and medical errors for certain health care practitioners. The bill conforms laws to DOH use of an electronic continuing education (CE) tracking system and eliminates obsolete methods of proving compliance with CE requirements;
- Exempts chiropractors licensed in other states that perform procedures or demonstrate equipment as a part of an approved CE program from licensure requirements, and exempts certain manufacturers of home renal dialysis products and equipment from pharmacy permit requirements;
- Allows certificates for emergency medical technicians (EMTs) and paramedics to remain in an inactive status for up to two renewal periods rather than expiring after 180 days, and exempts certain EMTs or paramedics from a certification examination requirement if the EMT or paramedic is nationally certified or registered;
- Removes a provision that allows individuals who have committed certain felonies or certain acts to obtain a health care practitioner license in Florida;
- Eliminates the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists, the DOH’s annual inspections of dispensing practitioners’ facilities, and a provision that allowed physical therapist assistant programs to be regionally accredited;

- Authorizes a one-time emergency refill of up to one vial of insulin to treat diabetes mellitus when a pharmacist is unable to readily obtain a refill authorization;
- Revises reporting requirements for certain biomedical research programs and authorizes appropriated funds that have been committed by but not yet disbursed by the Ed and Ethel Moore Alzheimer’s Disease Research Program to be carried forward for up to 5 years; and
- Permits the DOH to contract with a third party to secure patient records abandoned by practitioners.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-230, Laws of Florida and the provisions take effect on July 1, 2016.

**CS/CS/SB 964
Prescription Drug Monitoring Program**

The bill exempts a rehabilitative hospital, assisted living facility, or nursing home that dispenses a dosage of a controlled substance to a patient from reporting that act of dispensing to the prescription drug monitoring program (PDMP).

Section 893.055, F.S., is amended to allow the designee of a pharmacy, prescriber, or dispenser to have access to information in the PDMP database that relates to a patient of the pharmacy, prescriber, or dispenser. The bill also allows a designee of a prescriber or dispenser to have access to information that relates to a patient of the prescriber or dispenser for the purpose of reviewing a patient’s controlled drug prescription history.

The bill amends s. 893.0551, F.S., to require the DOH to disclose confidential and exempt information in the PDMP to the designee of a health care practitioner, pharmacist, pharmacy, prescriber, or dispenser, upon receiving the request and verifying the legitimacy of the request.

The bill also authorizes impaired practitioner consultants to request access to the PDMP information relating to impaired practitioner program participants, or a person who is referred to the program, agreed to be evaluated or monitored through the program, and has separately agreed in writing to the consultant access to the information.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-177, Laws of Florida and the provisions take effect on July 1, 2016.

**CS/HB 977
Behavioral Health Workforce**

Current law requires a recommendation for an involuntary inpatient placement in a treatment facility to be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have examined the patient within the preceding 72 hours. However, in counties with a population of less than 50,000, a physician who has certain training and experience or a psychiatric nurse may provide the second opinion if no psychiatrist or clinical psychologist is available. The bill removes the population criterion to allow a qualified physician or psychiatric nurse to provide the second opinion in any county.

The bill also allows first opinions, instead of just second opinions to be based on electronic patient examinations.

It exempts persons employed with the Department of Corrections in an inmate substance abuse program from background check requirements, unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled. Current law erroneously states the inverse.

The bill allows persons, who have had a disqualifying offense that occurred 5 or more years ago, who have applied for an exemption from the disqualification, and who work under the supervision of a qualified professional, to work with adults with substance use disorders.

The bill exempts health care practitioners from the registration requirements for prescribing controlled substances to treat nonmalignant chronic pain if they are board eligible or board certified in pain medicine by specified entities. Additionally, the bill provides that only a physician may dispense or prescribe a controlled substance in a registered pain-management clinic.

It requires a psychiatric nurse to hold a specialty certification for initial state certification and any recertification as an advanced registered nurse practitioner, unless the Board of Nursing allows by rule a provisional state certification. The bill authorizes a psychiatric nurse to prescribe psychotropic controlled substances within an established protocol with a psychiatrist. The bill also subjects psychiatric nurses to additional disciplinary actions related to prescribing psychotropic controlled substances.

The bill provides legislative findings regarding the need for additional psychiatrists and the use of telemedicine to improve patient care and reduce

transportation costs. The bill also recommends that a state medical school without a psychiatry program establish such a program and seek to integrate primary care and psychiatry.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-231, Laws of Florida and the provisions took effect on that date.

HB 1061 Nurse Licensure Compact

The Nurse Licensure Compact (NLC or compact) is a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. In 2015, the National Council of State Boards of Nursing adopted revised model legislation for the NLC and required any state entering the NLC to adopt the revised model legislation. The bill enacts the revised NLC and authorizes Florida to enter into the compact.

Under the NLC, a nurse who is issued a multistate license from a party state is permitted to practice in any other party state. However, the nurse must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A nurse who applies for or renews a multistate license in Florida must meet the minimum requirements of the NLC, Florida's licensure laws, as well as any other requirements set by the Florida Board of Nursing (board) within the Department of Health (DOH). A party state may continue to issue a single-state license, authorizing practice only in that state.

Under the NLC, a state may take adverse action against the multistate licensure privilege of any nurse practicing in that

state. The home state has the exclusive authority to take adverse action against the home state license, including revocation and suspension. The NLC requires all states to report to a coordinated licensure information system (CLIS), all adverse actions taken against a nurse's license or multistate licensure practice privilege. All party states may access the CLIS to see licensure and disciplinary information for all nurses licensed in the party states. A state may designate the information it contributes to the CLIS as confidential, prohibiting disclosure to nonparty states.

The Interstate Commission of Nurse Licensure Compact Administrators (commission), made up of each party state's executive director of the state licensing board, is established by the NLC. The commission is responsible for administering the NLC.

The bill also requires the DOH to conspicuously designate each nurse license as a multistate or a single-state license. The bill requires the Florida Center for Nursing to analyze the impact of the state's participation in the NLC.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-139, Laws of Florida and will become effective on December 31, 2018 or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first.

CS/CS/HB 1175

Transparency in Health Care

The bill ensures greater consumer access to health care price and quality information by requiring certain health care providers, insurers and health maintenance organizations (HMOs) to give that information to patients. The bill requires

the Agency for Health Care Administration (AHCA) to contract with a vendor for an all-payer claims database (APCD), which provides an online, searchable method for consumers to compare provider price and quality, and a Florida-specific data set for price and quality research purposes. The bill requires insurers and HMOs to submit data to the APCD, under certain conditions.

It creates pre-treatment transparency obligations for hospitals, ambulatory surgery centers, health care practitioners providing non-emergency services in these facilities, and insurers and HMOs. Facilities must post online the average payments and payment ranges received for bundles of health care services defined by AHCA. This information must be searchable by consumers. Facilities must provide, within 7 days of a request, a written, good faith, personalized estimate of charges, including facility fees, using either bundles of health care services defined by AHCA or patient-specific information. Failure to provide the estimate results in a daily licensure fine of \$1,000, up to \$10,000. Facilities must inform patients of health care practitioners providing their nonemergency care in hospitals and these practitioners must provide the same type of estimate, subject to a daily fine of \$500, up to \$5,000. Facilities and facility practitioners must publish information on their financial assistance policies and procedures. Insurers and HMOs must create online methods for patients to estimate their out-of-pocket costs, both using the service bundles established by AHCA and based on patient-specific estimates using the personalized estimate the patient obtains from facilities and practitioners. In addition, diagnostic-imaging centers owned by a hospital but located off of the premises must publish and post charges for services pursuant to s.

395.107, F.S., which currently requires urgent care centers to do the same.

Post-treatment, facilities must provide an itemized bill within 7 days of discharge or request, whichever is later, meeting certain requirements for comprehension by a layperson, and identifying any providers who may bill separately for the care received in the facility.

Finally, the bill makes several changes to the Florida Center for Health Information and Policy Analysis, which is the health care data collection unit of AHCA. The bill changes the Center's name, and streamlines the Center's functions by eliminating obsolete language, redundant duties, and unnecessary functions.

The bill provides an appropriation for AHCA of \$952,919 in recurring funds and \$3,100,000 in nonrecurring funds from the Health Care Trust Fund and one full-time equivalent position with associated salary rate to implement the provisions of the bill.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-234, Laws of Florida and the provisions take effect July 1, 2016.

HB 1241

Ordering of Medication

Florida law authorizes a supervising physician to delegate to a physician assistant (PA) the authority to order medicinal drugs for the physician's patient who is in a hospital, ambulatory surgical center, or mobile surgical facility. However, there is no authority under Florida law for a physician to delegate equivalent authority to an advanced registered nurse practitioner (ARNP).

The bill expressly authorizes an ARNP to order any medication for administration to a patient in a hospital, ambulatory surgical center, mobile surgical center, or nursing home, within the framework of an established protocol. The bill expands the current ability of a physician to delegate authority to a PA to order medicinal drugs, to allow a PA to order medicinal drugs for a patient in a nursing home.

It amends the Florida Comprehensive Drug Abuse Prevention and Control Act to reflect these changes in the practice acts.

Currently, a physician may prescribe and dispense, and a pharmacist may dispense, an emergency opioid antagonist to patients and caregivers to store, possess, and administer to a person believed in good faith to be experiencing an opioid overdose. The bill authorizes a pharmacist to dispense an emergency opioid antagonist pursuant to a non-patient-specific standing order for an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-145, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1245

Medicaid Provider Overpayments

Federal law requires each state to detect and investigate Medicaid fraud and abuse. This includes overpayments to Medicaid providers and fraudulent billing practices by home health agencies.

In the Florida Medicaid program, the state has one year from the date that the Agency for Health Care Administration (AHCA) or

federal Centers for Medicare & Medicaid Services (CMS) discover an overpayment to a Medicaid provider to recover or seek to recover the overpayment. After the one-year period, Florida must refund the federal share of the overpayment, regardless of whether AHCA has actually recovered the overpayment to the Medicaid provider. Federal law provides an exemption from repayment if the Medicaid provider has gone out of business. To qualify for this exemption, AHCA must certify that a Medicaid provider is out of business and that any overpayment cannot be collected. AHCA does not currently have statutory authority to make this certification and, as a result, Florida repays the federal share of overpayments to out-of-business Medicaid providers. The annual repayment amount has ranged from \$1.5 million to \$7.3 million.

The bill authorizes AHCA to certify that a Medicaid provider is out of business and that any overpayments made to the provider cannot be collected. Such certification exempts Florida from mandatory repayment of the federal share of any Medicaid overpayments to the provider.

Section 409.9132, F.S., requires AHCA to telephonically verify the use and delivery of home health services in pilot project counties through the use of voice biometrics. The bill deletes the telephone only requirement and authorizes AHCA to verify use and delivery of home health services using any technology that is effective for identifying delivery of services and deterring fraudulent or abusive billing.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-103, Laws of Florida and the provisions take effect on July 1, 2016.

CS/HB 1305 Emergency Allergy Treatment in Schools

In 2012, the Legislature authorized pharmacists to administer epinephrine using an epinephrine auto-injector (EAI) in the event of an allergic reaction from a vaccine.

In 2013, public and private schools were authorized to purchase and store EAIs on campus. A school that stores EAIs must adopt a physician's protocol for administering the device. The law provides that except for willful and wanton conduct, trained school employees and the physicians who develop the school's protocol on administering the EAIs are protected from liability that may result from administering EAIs.

In 2014, the Legislature amended the law governing insect sting emergency treatment by creating new and expanding existing provisions in s. 381.88, F.S., related to emergency allergy treatment. The law also created s. 381.885, F.S. Together, these laws are referred to as the "Emergency Allergy Treatment Act."

Section 381.88(2)(b), F.S. defines "authorized entity" as an entity or organization at or in connection with which allergens capable of causing a severe allergic reaction may be present. The term includes, but is not limited to, restaurants, recreation camps, youth sports leagues, theme parks and resorts, and sports arenas. The term also includes a school for the purposes of the educational training programs for recognizing the symptoms of a severe allergic reaction and administering an EAI.

The bill includes private schools in the definition of authorized entities for the

purpose of acquiring a supply of and administering EAIs. The law also applies the civil liability immunity protections in the Good Samaritan Act to private schools.

The bill authorizes public and private schools to enter into arrangements with wholesale distributors or manufacturers to acquire EAIs at fair-market, free or reduced prices for use when a student has an anaphylactic reaction.

Finally, it removes the requirement that schools maintain EAIs in a locked location. However, the bill requires that EAIs must be maintained in a secure location.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-235, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1335 Long-Term Care Managed Care Prioritization

In 2011, the Legislature created the Statewide Medicaid Managed Care (SMMC) Program as an integrated managed care program for all covered services, including long-term care services. The SMMC Program consists of two programs: the Managed Medical Assistance (MMA) Program and the Long-Term Care Managed Care (LTC) Program. The MMA Program covers primary and acute medical assistance and related services to Medicaid recipients.

The LTC Program provides services to Medicaid recipients in nursing facilities and in community settings, including an individual's home, an assisted living facility, or an adult family care home. To be eligible for the LTC Program, an individual must be:

- Age 65 or older and eligible for Medicaid, or age 18 or older and eligible

for Medicaid by reason of a disability; and

- Determined to require nursing home care, or be at imminent risk of requiring nursing home care.

When an individual, or the individual's representative, expresses an interest in receiving LTC services, the Department of Elder Affairs (DOEA) screens and scores the individual based on his or her frailty and need for services. The individual is then placed on the waitlist for services. When funding is available, individuals are released from the waitlist based on their priority scores. The individual must be determined to be medically eligible for services by DOEA, and financially eligible for Medicaid by the Department of Children and Families (DCF), before they are approved to be enrolled in the LTC Program.

The process for prioritizing individuals to be placed on the waitlist, placing them on the waitlist, and releasing them from the waitlist for enrollment in the LTC Program is not currently addressed in statute or administrative rule.

The bill establishes in statute the process DOEA uses to prioritize individuals for enrollment in the LTC Program. The bill authorizes DOEA and the Agency for Health Care Administration to adopt rules to implement the process. The bill requires DOEA to adopt, by rule, a screening tool that is used to generate a priority score, using frailty-based screening, and make the methodology used to calculate an individual's priority score available on its website. The bill requires DOEA to rescreen individuals on the waitlist annually and provides for a rescreening due to a significant change in the individual's condition. The bill establishes specific

criteria for DOEA to terminate an individual from the waitlist. The bill exempts the following persons from the screening and waitlist process:

- Individuals age 18, 19, or 20, who have a chronic debilitating disease or conditions of one or more physiological or organ systems which make them dependent on 24-hour medical supervision;
- Individuals referred by Adult Protective Services, within DCF, as high risk and placed in an assisted living facility, which is temporarily funded by DCF; and
- Nursing facility residents requesting transition into the community who have resided in a skilled nursing facility licensed in Florida for at least 60 consecutive days.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-147, Laws of Florida and the provisions take effect July 1, 2016.

HB 5101 Medicaid

The bill conforms statutes to the funding decisions related to the Medicaid Program included in the General Appropriations Act (GAA) for Fiscal Year 2016-2017. The bill:

- Clarifies payment rates for emergency services provided to an enrollee of a Medicaid managed care plan by a provider, not under contract with the managed care plan. Also, clarifies payment rates for non-contracted emergency services to Florida Healthy Kids enrollees served by an HMO;
- Amends the definition of “rural hospital” to include a sole community hospital with up to 175 beds;

- Removes the five-year waiting period for lawfully residing children to give them access to health care coverage under Medicaid or the Children’s Health Insurance Program (CHIP);
- Authorizes AHCA to reimburse private and charter schools for providing Medicaid school-based services;
- Adds psychiatry as a primary care specialty and enables federally qualified health centers to receive residency slot funding through the Statewide Medicaid Residency Program (SMRP);
- Clarifies the term “essential provider” and deletes provision to require managed care plans to pay hospitals the rate AHCA would have paid on the first day of the contract; and
- Creates or expands the Program for the All-inclusive Care for the Elderly (PACE) offerings, in Escambia, Clay, Duval, St. Johns, Baker, Nassau, Lake, Hillsborough Pinellas and Miami-Dade counties.

This bill was signed into law on March 17, 2016 as Chapter No. 2016-65, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 1604 Drugs, Devices and Cosmetics

The U.S. Food and Drug Administration (FDA) regulates the manufacture of prescription drugs. Generally, state boards of pharmacy continue to have the primary responsibility for oversight and regulation of pharmacies; however, the FDA regulates, and in some cases preempts state action, through the federal Food, Drug, and Cosmetic Act and the Drug Quality and Security Act (DQSA). The DQSA creates a national uniform standard and an electronic system for the tracing of drugs at the

package level, preempting pedigree laws that previously existed in Florida and 28 other states.

Part I of ch. 499, F.S., requires the Department of Business and Professional Regulation (DBPR) to regulate drugs, devices, and cosmetics. The bill amends ch. 499, F.S., to conform it to the DQSA. The bill revises the definition section of ch. 499, F.S., to incorporate definitions of terms from the DQSA and delete terms made obsolete by the DQSA. It also deletes federally preempted portions of the chapter.

The bill lessens the initial application and renewal application requirements for wholesale distributor permits by reducing the length of the application, staggering renewal permit dates, and establishing a late fee for permit renewals. With respect to cosmetic product registration and cosmetic manufacturer permits, the bill aligns the expiration dates of the registration of products with that of the manufacturer's permit.

The bill establishes the following new permits:

- The nonresident prescription drug repackager permit for entities that repackaging prescription drugs outside Florida and distribute those prescription drugs in Florida. The nonresident prescription drug repackager must comply with manufacturing requirements to be permitted, comply with all state and federal good manufacturing practices, and be registered with the federal government;
- The virtual prescription drug manufacturer permit and the virtual nonresident prescription drug manufacturing permit for entities that manufacture prescription drugs but do

not actually make or take physical possession of the prescription drugs. Because these manufacturers neither make nor take possession of prescription drugs, the DBPR is authorized to adopt rules exempting the nonresident virtual manufacturers from certain establishment, security and storage requirements.

Additionally, the bill revises bond requirements for wholesale distributors. The bill requires certain recordkeeping requirements for active pharmaceutical ingredients. It also requires DBPR to adopt rules for the labeling of certain repackaged and distributed prescriptions drugs. The bill increases the number of unit doses, from 5,000 to 7,500 unit doses, of a controlled substance that may be ordered during a one-month period before triggering an assessment by the wholesaler as to whether the ordered amount of that controlled substance is reasonable.

The bill also creates the Victoria Siegel Controlled Substance Safety Education and Awareness Act, which requires the Department of Health (DOH) to develop a written pamphlet containing educational information about controlled substances and requires the Surgeon General to make the pamphlet publicly available on DOH's website. It also requires DOH to encourage health care providers to disseminate and display information about controlled substance safety, including DOH's pamphlet.

Finally, the bill authorizes an academic medical research institution affiliated with a licensed children's specialty hospital that contracts with DOH to conduct research on cannabidiol and low-THC cannabis.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-212, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 7087

Telehealth

The bill requires the Agency for Health Care Administration (AHCA), with assistance from the Department of Health (DOH) and the Office of Insurance Regulation (OIR), to survey health care practitioners, facilities and insurers on telehealth utilization and coverage. AHCA must submit a report on the survey findings to the Governor, Senate President and Speaker of the House of Representatives by December 31, 2016. The bill also creates a 15-member Telehealth Advisory Council, and requires it to submit a report with recommendations based on the survey findings to the Governor, Senate President and Speaker of the House of Representatives by October 31, 2017. The section of law requiring these reports expires June 30, 2018.

The bill excludes from the definition of discount medical plan under s. 636.202, F.S., medical services provided through a telecommunications medium that are not provided at a discount to a plan member. This ensures that such medical services are not regulated as a discount medical plan.

The bill reenacts s. 409.975(6), F.S., notwithstanding changes to that subsection in HB 5101, to preserve the minimum Medicaid managed care hospital payment rates in current law.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-240, Laws of Florida and the provisions take effect on July 1, 2016.

Insurance & Financial Services

Insurance & Financial Services

CS/HB 127

Continuing Care Facilities

The Gold Seal Program (Program) is an award program administered by the Agency for Health Care Administration (AHCA) and the Governor's Panel on Excellence in Long-Term Care, for nursing homes that demonstrate excellence in long-term care over a sustained period of time. Recipients of the Gold Seal Award (Award) may use the designation in their advertising and marketing. Of the 684 currently licensed nursing homes in Florida, 32 nursing homes hold the award.

Among other requirements, a nursing home must provide evidence of financial soundness and stability during the 30 months preceding the application by submitting certain financial documentation.

A nursing home that is part of the same corporate entity as a continuing care facility licensed under Chapter 651, F.S., can meet the financial soundness and stability requirement if:

- The facility meets the minimum liquid reserve requirements in s. 651.035, F.S.; and
- The facility is accredited by an organization recognized under statute and OIR rule, as long as the accreditation is not provisional.

The bill provides two additional options for a nursing home to satisfy the financial soundness and stability requirement of the Program. First, the bill permits a nursing home which is part of an unaccredited continuing care facility to demonstrate that the facility, in its entirety, meets AHCA financial standards as proof of financial

soundness and stability for purposes of qualifying for the Program. Second, the bill allows a nursing home that is part of a corporate entity that operates nursing homes, assisted living facilities, or independent living facilities to satisfy the financial soundness and stability requirement by submitting a consolidated corporate financial statement to AHCA and demonstrating that the corporate entity, in its entirety, meets the financial standards established by AHCA.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-17, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 145

Financial Transactions

Credit Card Surcharge Fees for Private Schools:

Currently, s. 501.0117, F.S., prohibits sellers and lessors in sales or lease transactions from imposing a surcharge on a consumer for paying for goods or services with a credit card instead of cash, check, or similar means. Certain higher education institutions are exempt from this prohibition, and permitted to charge convenience fees for tuition, fees, or other student account charges that a student or family pays with a credit card, so long as the convenience fee does not exceed the total cost charged by the credit card company to the institution. The bill amends s. 501.0117, F.S., to similarly exempt private schools from the credit card surcharge prohibition.

Referral Fees Paid by Consumer Finance Lenders:

The Florida Consumer Finance Act (ch. 516, F.S.), enforced by the Office of Financial Regulation (OFR), sets forth maximum interest rates (starting at 18 percent per

annum) for loans of money, credit, goods, or a provision of a line of credit up to \$25,000. In addition, ch. 516, F.S., authorizes the OFR to take administrative action for certain prohibited practices, including paying money or anything else of value, either directly or indirectly, to any person as compensation, inducement, or reward for referring a loan applicant to a licensed consumer finance lender. The bill amends s. 516.07, F.S., to permit a licensed consumer finance lender to pay a referral fee to such third parties, only if such amount is not charged directly or indirectly to the borrower.

Transfers of Funds:

Funds transfers are generally large, rapid money transfers between commercial entities and may involve numerous intermediate entities. The rights and obligations of these commercial parties involved in a funds transfer are primarily governed by ch. 670, F.S. (the Act), which codifies the Uniform Commercial Code Article 4A. On the other hand, the federal Electronic Funds Transfer Act (EFTA) governs electronic funds transfers, which are initiated through certain electronic means, such as direct deposits and telephone transfers, for the purpose of having a financial institution debit or credit a consumer's account. The primary purpose of the EFTA is to provide individual consumer rights. Both the Act and the EFTA may apply to a transfer, depending on how the transaction is structured.

In 2013, the EFTA was amended to add consumer protections for transfers of funds (known as remittance transfers) sent from U.S. consumers to recipients (individuals or businesses) in other countries. As a result, there is uncertainty as to the current Act's

applicability to certain types of remittance transfers.

The bill amends s. 670.108, F.S., to clarify that the Act applies to funds transfers that are remittance transfers under the EFTA, unless the remittance transfer is also an electronic funds transfer under the EFTA. The bill also provides that the federal EFTA will preempt the Act in the event any inconsistency exists between the Act and the EFTA regarding a funds transfer.

Cancellation of Mortgages:

Currently, once a borrower fully repays his or her mortgage securing property in Florida, s. 701.03, F.S., requires the lender to cancel the mortgage within 60 days of payment, regardless whether the mortgage is closed-end or open-end. The bill amends s. 701.03, F.S., to require a lender to cancel a mortgage within 45 days of satisfaction. In the case of an open-end mortgage, the bill requires a lender to cancel the mortgage within 45 days of satisfaction and receipt of the borrower's written notice of intent to close the mortgage. The bill does not apply to future or existing open-end mortgages unless otherwise stated in the loan agreement.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-53, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 286

Mergers and Acquisitions Brokers

The bill provides that the offer or sale of securities solely in connection with the transfer of ownership of an eligible privately held company through a mergers and acquisitions (M&A) broker is an exempt transaction under ch. 517, F.S., if certain conditions are met. However, these exempt transactions are subject to the prohibited

practices and remedies under ss. 517.301, 517.311, and 517.312, F.S. The bill also exempts the M&A broker from registration with the OFR as a dealer if certain conditions are met.

The bill provides that a “broker” has the same meaning as “dealer” as defined in s. 517.021(6), F.S. A “dealer” is defined to include:

- Any person, other than an associated person registered under this ch. 517, F.S., who engages, either for all or part of her or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person; or
- Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.

An “eligible privately held company” is a company that meets the following requirements:

- The company does not have any class of securities which is registered or required to be registered with the SEC or the OFR, or for which the company files, or is required to file, summary and periodic information, documents, and reports with the SEC; and
- In the fiscal year immediately preceding the fiscal year during which the M&A broker begins to provide services for the securities transaction, the company, in accordance with its historical financial accounting records, has earnings before interest, taxes, depreciation, and amortization of less than \$25 million or

has gross revenues of less than \$250 million.

The bill requires that prior to the completion of the securities transaction, the M&A broker must receive written assurances from the control person with the largest percentage of ownership for both the buyer and seller that after the transaction is completed, any person who acquires securities or assets of the eligible privately held company will be a control person of the eligible privately held company or will be a control person for the business conducted with the assets of the eligible privately held company.

Any person that is offered securities in exchange for securities or assets of the eligible privately held company will receive financial statements of the issuer of the securities offered in the exchange prior to becoming legally bound to complete the transaction.

An M&A broker is exempt from registration unless the M&A broker:

- Directly or indirectly, in connection with the transfer of ownership of eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties of the transaction;
- Engages on behalf of an issuer in a public offering of any class of securities which is registered, or which is required to be registered, with the SEC or the OFR;
- Engages on behalf of an issuer in a public offering of securities for which the issuer files or is required to file, periodic information, documents, and reports with the SEC;

- Engages on behalf of any party in a transaction involving a public shell company;
- Is subject to a suspension or revocation of registration under 15 U.S.C. s. 78o(b)(4);
- Is subject to a disqualification under 15 U.S.C. s. 78c(a)(39);
- Is subject to a disqualification under 15 U.S.C. s. 230.506(d); or
- Is subject to a final order described under 15 U.S.C. s. 78o(b)(4)(H).

This bill was signed into law on March 25, 2016 as Chapter No. 2016-111, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/HB 413
Title Insurance

Purchasers of real property and lenders utilize title insurance to protect their interests against claims by others to be the rightful owner of the property. Most lenders require title insurance when they underwrite loans for real property. Title insurance provides a duty to defend against adverse claims on the subject property's title, and also promises to indemnify the policyholder for damage to the lender's security interest created by a cloud on title, unmarketable title, or adverse title that was not discovered by the insurer.

Title insurers are regulated by the Office of Insurance Regulation (OIR). Among other things, Florida law provides that a title insurer cannot assume a risk that exceeds one half of its surplus. However, the title insurer may underwrite a risk that exceeds this limit if it simultaneously reinsures the excess amount. They must do this using one or more approved title insurers. There are 42 jurisdictions that have higher or no

limits (21 states) related to a single title insurance risk.

Insurers purchase insurance of their own, which is known as reinsurance. Through reinsurance a reinsurer assumes a certain amount of the risk underwritten by the primary insurer in exchange for a share of the premium of the underlying policy. This spreads risks across the industry and provides the primary insurer with access to additional capital. The reinsurance market is global; however, in regard to title insurance, reinsurance may only be purchased from other title insurers in the state.

The bill increases the limit that a single title insurer can assume, whether as a primary risk or as assumed reinsurance or coinsurance, from one half of the dollar value of its surplus to the full amount of its surplus. It also allows the title insurer to purchase reinsurance for any amounts underwritten in excess of their statutory risk limitation from any eligible reinsurer. This expands the number of insurers that may provide title insurance reinsurance from only Florida's title insurers to the many reinsurers participating in the Florida market.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-82, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 626
Consumer Credit

The bill authorizes the Office of Financial Regulation (OFR) to enforce the provisions of the federal Military Lending Act (MLA) for state financial institutions, deferred presentment providers (payday lenders), consumer finance lenders, title loan lenders.

The MLA provides greater consumer protections for service members and their dependents in connection with a broad range of consumer credit transactions, including consumer finance loans, payday loans, title loans, overdraft lines of credit, small dollar loans, and credit card accounts. It:

- Authorizes the OFR to deny an application for a consumer finance license or take disciplinary action against a consumer finance lender for violating any provision of the MLA or the federal regulations implementing the MLA in connection with a consumer finance loan made under ch. 516, F.S. (amending s. 516.07, F.S.). For example, ch. 516, F.S., prescribes the calculation of the APR or interest cap pursuant to Regulation Z. The rate cap for loans made to the service members and their dependents is capped at 36 percent MAPR. The MAPR is calculated pursuant to the MLA, which requires the inclusion of additional fees and insurance products that are not included under Regulation Z;
- Provides that a violation of any provision of the MLA or the federal regulations implementing the MLA in connection with a title loan made under ch. 537, F.S., is a prohibited act. This authorizes the OFR to take disciplinary action against a title loan lender or any agent or employee of a title loan lender (amending s. 537.013, F.S.);
- Authorizes the OFR to take disciplinary action against a money services business, authorized vendor, or affiliated party that violates any provision of the MLA or the federal regulations implementing the MLA in connection with a deferred presentment transaction (payday loan) conducted

under part IV of ch. 560, F.S. (amending s. 560.114, F.S.);

- Authorizes the OFR to conduct an investigation to determine whether a financial institution, a subsidiary, a service corporation, an affiliate, or other person is engaging in or has engaged in conduct that is a violation of any provision of the MLA or the federal regulations implementing the MLA (amending s. 655.035, F.S.). If the OFR has reason to believe that a person has violated any such provision or regulation, the OFR may initiate a proceeding against such person in accordance with s. 655.033 (cease and desist orders), s. 655.034 (injunctive relief), s. 655.037 (removal of a financial institution affiliated party), or s. 655.041 (administrative fines and enforcement), F.S., of the Financial Institution Codes; and
- Provides that the bill applies to a consumer credit transaction or account for consumer credit established on or after October 3, 2016. The bill does not apply to a credit card account exempted under 32 C.F.R. s. 232.13(c) until the exemption expires. The MLA implementing regulations under 32 C.F.R. part 232 became effective October 1, 2015; however, compliance is only required for consumer credit transactions began or established on or after October 3, 2016. A limited exemption is provided for credit card accounts that delays compliance until October 3, 2017, which may be extended by the DoD until October 3, 2018.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-160, Laws of Florida and the provisions take effect October 3, 2016.

CS/CS/HB 659

Automobile Insurance

Private passenger motor vehicle insurance (automobile insurance) is written to individuals, and family members in the same household, for coverage of automobiles that are not used for commercial purposes. The bill makes the following changes regarding automobile insurance:

- Motor vehicle insurance rating – The bill allows single zip code rating territories if they are actuarially sound and the rate is not excessive, inadequate or unfairly discriminatory.
- The Florida Automobile Joint Underwriting Association (Auto JUA) – The bill authorizes the Auto JUA to cancel policies within the first 60 days for non-payment and prohibits insureds from cancelling coverage in the first 90 days, except in certain circumstances.
- Return of unearned premium – The bill allows the policyholder to apply the unearned premium to any other policies issued by the insurer or the insurer’s group.
- Prepayment of premium – The bill creates an exception to the requirement for insurers to collect two months of premium prior to issuing a private passenger motor vehicle policy or binder for Personal Injury Protection (PIP) and property damage liability coverage.
- Methods of payment – The bill adds payments by a “draft” to the list of acceptable payment methods for motor vehicle insurance contracts.
- Insufficient funds fee – The bill authorizes motor vehicle insurers to charge \$15, pursuant to policy terms, if an electronic premium payment fails due to insufficient funds (this is in

addition to any fees charged by their financial provider).

- Preinsurance Inspection Data Report – The bill requires the Department of Financial Services to report preinsurance inspection data, including certain specified data elements, to the Governor and the presiding officers of the Legislature by December 1, 2016.
- Medical diagnosis coding manuals – The bill replaces the International Classification of Diseases, 9th Revision, for coding of PIP medical services with the International Classification of Diseases, 10th Revision.
- PIP Eligible Health Care Clinics – The bill allows medical clinics that are managed by a licensed health care practitioner (who has certain specified responsibilities) and owned, directly or indirectly, by a publicly traded corporation that has \$250 million or more in total annual sales of health care services to receive reimbursement from insurers for PIP medical services without having to be separately licensed under the Health Care Clinic Act.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-133, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 695

Title Insurance

Purchasers of real property and lenders utilize title insurance to protect their interests against claims by others to be the rightful owner of the property. Most lenders require title insurance when they underwrite loans for real property. Title insurance provides a duty to defend against adverse claims on the subject property’s title, and also promises to indemnify the policyholder for damage to the lender’s

security interest created by a cloud on title, unmarketable title, or adverse title that was not discovered by the insurer.

Title insurers are regulated by the Office of Insurance Regulation (OIR) and are subject to the Insurance Code. Among other things, Florida law sets a statutory unearned premium reserve for title insurers to guaranty the interests of policyholders in case of insurer insolvency. The reserve is based on the amount of surplus held by the insurer. Title insurers with surplus under \$50 million must put \$0.30 for every \$1,000 of risk they retain into reserve. Those with \$50 million or more in surplus must put 6.5 percent of premium into reserve. Both must supplement their reserve with any additional amount deemed necessary by a qualified actuary. It is notable that the two calculations are based on different factors, the first on retained risk and the second on premiums written. For smaller transactions, there is little difference in the amounts that must be reserved. However, on larger value transactions, there can be significantly lower reserve requirements applicable to the title insurers with \$50 million or more in surplus. These larger surplus insurers also benefit from a reserve retention schedule that releases the reserve earlier than for the smaller surplus insurers.

Florida insurers are permitted to arrange themselves into insurance holding companies, also known as insurance holding company systems. An insurance holding company system consists of two or more affiliated entities, at least one of which is an insurer.

There are multiple private organizations that engage in the evaluation and rating of insurance companies for the purposes of

identifying the financial strength of insurers. These financial strength ratings allow potential investors to make informed decisions regarding possible investment in the rated insurer. The various rating companies use similar terminology, but each has a proprietary method to establish their rating results.

The bill allows a title insurer that is a member of an insurance holding company system that has \$1 billion or more in surplus to set its guaranty fund reserve in the same manner as a title insurer that on its own has \$50 million or more in surplus. However, this exception will only be available if the insurance holding company system has a financial strength rating of “superior,” “excellent,” “exceptional,” or an equivalent financial strength rating by a rating agency acceptable to the OIR. This allows a smaller title insurer with access to capital from its holding company to set the reserve in the same way as a larger title insurer. This sets lower guaranty fund reserve amounts on higher value policies and allows the reserve to be released earlier. Also, the bill requires title insurers that move their domicile to Florida to reset the guaranty fund reserve that they bring into Florida to the amount that would have been required if the reserve was always held in Florida, rather than maintaining and releasing the newly domesticated reserve pursuant to the law of their former state.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-57, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/HB 783

Unclaimed Property

Unclaimed property consists of any funds or other property, including insurance proceeds, that remains unclaimed by the owner for a certain period of time. Current law requires holders of unclaimed property to exercise due diligence to locate owners and pay them the funds. If the owner cannot be located, the holder must report and remit the unclaimed property to the Department of Financial Services, Bureau of Unclaimed Property (DFS). The bill makes the following changes:

- Revises certain definitions and adds one for the term “United States”;
- Allows certain tax exempt water cooperatives to retain unclaimed patronage refunds;
- Increases the maximum value defining claims related to small estates from \$5,000 to \$10,000;
- Requires the filing of certain court documents, in certain circumstances;
- Authorizes the DFS to estimate property value if the holder fails to produce sufficient records to do so;
- Requires a specified disclosure to be executed separately from, rather than as part of, representation agreements;
- Eliminates an exception that removes a fee cap and disclosure requirement, in the case of a claim made under a power of attorney, or the \$1,000 discount limit (but not the disclosure requirement) in the case of a claim for a property right obtained under a purchase agreement;
- Deletes authority to remove certain language otherwise required in grants of limited power of attorney and purchase agreements;
- Voids certain authorizations or agreements and limits fees thereunder to the default maximum fee, if they do

not meet certain documentary and filing requirements;

- Increases the number of days allowed for a purchaser to pay a property right seller from 10 days to 30 days; requires the filing of proof of completed payment; and, voids the claim, if the required proof is not filed with the DFS;
- Repeals the 45 day waiting period for claims made under a power of attorney or purchase agreement and preserves certain statements of legislative intent; and
- Removes the authorization for registrants to receive social security numbers.

Current law requires candidates for public office to dispose of the funds in their campaign account within 90 days of the end of their candidacy. They are allowed to deposit refund checks to be disposed of consistent with law. However, the law does not specify how to dispose of funds that come in by other means after the disposition of the account. The bill requires that unclaimed campaign account property be reported to the Chief Financial Officer (CFO) and deposited into the State School Fund.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-90, Laws of Florida and the provisions take effect July 1, 2016.

SB 812

Reciprocal Insurers

The bill amends s. 629.271, F.S., to create an alternative process for a domestic reciprocal insurer to distribute to policyholders unassigned funds such as unused premiums, savings, and credits. The process created by the bill differs from current law primarily by not requiring the reciprocal

insurer to create subscriber accounts to make distributions to policyholders. Only domestic reciprocal insurers may use the distribution process created by the bill.

The new policyholder distribution process created by the bill instead creates limits on the total amount of distributions if subscriber accounts are not used and also subjects such distributions to the Office of Insurance Regulation for approval. The distribution may not exceed 50 percent of the insurer's net income from the previous calendar year and may be up to 10 percent of the insurer's surplus. As under current law for distributions using subscriber accounts, distributions using this method may not unfairly discriminate between classes of risks, policies, or subscribers, but may vary as to classes of subscribers based upon the experience of such subscriber classes.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-168, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 828

Insurance Guaranty Association Assessments

The bill substantially revises the assessment process of the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) by:

- Increasing the assessment cap for self-insurance funds from 1.5 to 2 percent of net direct written premiums in Florida for workers' compensation insurance, which is consistent with the cap for insurers;
- Revising the assessment recoupment method from recouping the assessment as part of the premium in a rate filing to adding a policy surcharge that is collected by the insurer. The surcharge

will not be subject to the insurance premium tax;

- Authorizing two assessment options for the FWCIGA: an immediate single assessment payment by insurers with recoupment through policy surcharges, and an installment payment, which requires insurers to collect and remit policy surcharges quarterly to the FWCIGA;
- Revising the insurer's premium subject to an assessment from being based on the prior year's net direct written premium to the net direct written premium of the calendar year of the assessment; and
- Transferring order authority for assessments and other FWCIGA reporting related to insurer financial condition from the Department of Financial Services to the Office of Insurance Regulation.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-170, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 875

Motor Vehicle Service Agreement Companies

Motor vehicle service agreement companies are a type of warranty association and are governed by the provisions in Part I, Chapter 634, Florida Statutes. Motor vehicle service agreements generally provide vehicle owners with protection when the manufacturer's warranty expires. While a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). The OIR's regulatory authority of warranty associations includes licensure,

investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR is not required to approve forms or rates for warranties.

Under current law, motor vehicle service agreements indemnify the agreement holder against loss caused by failure of any mechanical or other component part, or any mechanical or other component part of the motor vehicle that does not function as it was originally intended. The term “motor vehicle service agreement” also includes any contract that provides: for coverage which is issued in conjunction with an additive product applied to the motor vehicle that is the subject of such agreement; for payment of vehicle protection expenses (such as meeting applicable deductibles and providing for temporary replacement vehicle rental expenses); and for paintless dent-removal services.

As defined in statute, “additive product” means any fuel supplement, oil supplement, or any other supplement product added to a motor vehicle for the purpose of increasing or enhancing the performance or improving the longevity of such motor vehicle. The bill modifies this definition to indicate the term does not include a product applied to the exterior or interior surface of a motor vehicle to protect the appearance of the motor vehicle. The bill also deletes the definition of “paintless dent-removal” but still allows the process to be considered part of a motor vehicle service agreement.

The bill also changes and expands coverage provided in a motor vehicle service agreement to include:

- Repair or replacement of tires or wheels on a motor vehicle damaged as a result of encountering a road hazard (and defines the term);

- Removal of dents, dings, or creases on a motor vehicle that may be repaired using the process of paintless dent removal without affecting the existing paint finish and without using replacement body panels, or sanding, bonding, or painting; and
- Replacement of a motor vehicle key or key fob if the key or key fob is inoperable, lost, or stolen.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-60, Laws of Florida and the provisions take effect July 1, 2016.

SB 908 **Organization of the Department of Financial Services**

The bill reorganizes the Department of Financial Services (DFS) as follows:

- Removes the Divisions of Legal Services and Information Systems from statute;
- Renames the Division of Insurance Fraud as the Division of Investigative and Forensic Services (DIFS);
- Relocates the Office of Fiscal Integrity and shifts its powers, duties and functions to the DIFS;
- Creates the Bureau of Fire and Arson Investigations and Bureau of Forensic Services in the DIFS and amends various statutes related to the Division of State Fire Marshal (DSFM) to authorize the DFS to move duties and functions related to the new bureaus from the DSFM to the DIFS;
- Changes an appointee to the Joint Task Force on State Agency Law Enforcement Communications from one representing the DSFM to one representing the DIFS and shifts the appointing authority from the State Fire Marshal to the Chief Financial Officer (CFO);

- Changes the Bureau of Unclaimed Property to the Division of Unclaimed Property (retaining all of its current powers, duties and functions); and
- Revises requirements relating to the service of legal process on authorized and unauthorized insurers.

The establishment of the DIFS effectively consolidates all of the law enforcement and related support units in the DFS into a single division. There are no powers, duties or functions that are created or deleted by the bill; rather, they are either reallocated to a successor unit or reassigned to the DFS, CFO, or State Fire Marshal, generally.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-165, Laws of Florida and the provisions take effect July 1, 2016.

HB 931
Operations of Citizens Property Insurance Corporation

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.

By law, Citizens is required to adopt programs to reduce the number of insured properties and to decrease its financial exposure. The depopulation program, as it is known, encourages insurance companies licensed in Florida to assume policies currently covered by Citizens, thus reducing Citizens' policy count and exposure.

The bill changes the current depopulation procedures by requiring that take-out offers be communicated by Citizens and not the

take-out company. Notice of a take-out offer must include standardized information that compares the coverage and estimated premium of each take-out offer to the coverage and premium provided by Citizens and must advise policyholders that they may accept or reject any offer. The reforms must be in place by January 1, 2017.

Current law allows Citizens to share confidential underwriting and claims files with an insurer that is contemplating underwriting a risk insured by the corporation, provided the insurer executes a notarized agreement to retain their confidentiality. The corporation may also make specified information from the underwriting and claims files available to general lines insurance agents. The law requires the agent to keep the information confidential.

The bill expands the list of who may receive information from the confidential underwriting and claims files to include an entity that has obtained a permit to become an authorized insurer, a reinsurer, a licensed reinsurance broker, a licensed rating organization, or a modeling company. The information may be used by these entities only for the purpose of developing a take-out plan or rating plan or analyzing risks for underwriting in the private insurance market. In addition, the bill expressly prohibits an insurance agent from using the data to solicit policyholders.

Citizens operates under the direction of a nine-member Board of Governors (board). By law, board members with the required insurance expertise can maintain employment in the private sector in jobs involving business with Citizens without violating the conflict of interest statute because the board member is required by

law to have insurance expertise in order to sit on the board. There is also a consumer representative on the board who is appointed by the Governor. The bill provides the consumer representative on the Citizens' board with the same exemption from the conflict of interest statute as is provided in current law to the board members with insurance expertise.

In addition, the bill requires an insurance agent to have at least one appointment with an insurer in order to retain eligibility to write insurance with Citizens, and allows Citizens to use the public hurricane loss projection model results in combination with the results of private models to calculate windstorm rates.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-229, Laws of Florida and the provisions take effect July 1, 2016.

SB 966 ***Unclaimed Property***

Unclaimed property consists of any funds or other property, including insurance proceeds, that has remained unclaimed by the owner for a certain period of time. The Florida Disposition of Unclaimed Property Act ("the Act") requires holders of unclaimed property to exercise due diligence to locate missing owners and pay them the funds. If the owner cannot be located, the holder must report and remit the unclaimed property to the Department of Financial Services (DFS) Bureau of Unclaimed Property.

In 2008-2009, Florida and a number of other state insurance regulators and unclaimed property administrators began investigating large life insurers for their claims settlement practices, and learned

that certain insurers selectively used the Social Security Administration's Death Master File (DMF) to verify the death of an insured or an annuitant, which enabled the insurer to stop making annuity payments, but were not using the same information to ascertain the death of a life insurance policyholder for making payment to a beneficiary or remittance of the proceeds to a state unclaimed property office.

From 2011 to the present, Florida entered into a number of regulatory settlement agreements (RSAs) with over 20 of the 40 largest life insurers, which generally require life insurers to attempt to connect beneficiaries with policy benefits, report and remit unclaimed property to states, and to compare all the insureds listed in their company records against the DMF.

The bill amends the Act to codify the RSAs to retroactively require life insurers, for all life policies, annuity contracts and retained asset accounts that were in-force on or after January 1, 1992, to conduct a match of all such policies against the DMF. The bill exempts the following insurers with respect to benefits payable under:

- Any annuity contract issued in connection with an employment-based plan subject to the Employee Retirement Income Security Act of 1974 (ERISA) or an annuity contract issued to fund an employment-based retirement plan, including any deferred compensation plans;
- A policy of credit life or accidental death insurance;
- A joint and survivor annuity contract, if an annuitant is still living;
- A policy issued to a group master policy for which the insurer does not perform "recordkeeping functions";

- The bill defines “recordkeeping” as those circumstances under which the insurer has agreed through a group policyholder to be responsible for obtaining, maintaining, and administering, in its own or its agents’ systems, information about each individual insured under a group insurance policy or a line of coverage, including specified minimum information; and
- Any policy of certificate of life insurance is assigned to a person licensed under s. 497.452, F.S., to fund a preneed funeral merchandise or service contract.

Within four months of the insurer gaining knowledge that an insured has died while covered, the insurer must take certain due diligence efforts to locate the beneficiary, unless the presumed death is rebutted by competent, substantial evidence. If the benefits are unclaimed for more than five years after the death of the insured, annuitant, or account holder, the insurer must report and remit the benefits to the DFS Bureau of Unclaimed Property, and such benefits remain claimable in perpetuity in accordance with the Act.

The bill requires insurers to conduct a similar match of all in-force policies and contracts on at least an annual basis for subsequent matches in accordance with specified methods. It prohibits insurers from charging fees associated with the due diligence process to recipients in the course of obtaining funds they are owed. The legislation clarifies that life insurance proceeds may become unclaimed property, even if the beneficiary of the policy has not yet filed a claim for the death benefits with the insurer and that the dormancy period for life insurance commences upon the date of death of the insured.

This bill was signed into law on April 12, 2016 as Chapter No. 2016-219, Laws of Florida and the provisions took effect on that date.

CS/SB 1106

International Trust Entities

The bill revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR). The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the off shore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017;
- Defines the term, “international trust entity,” to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised; and
- Provides the moratorium does not affect the OFR’s authority to enforce other

provisions of the Financial Institutions Codes.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-192, Laws of Florida and the provisions took effect on that date.

CS/CS/SB 1170
Health Plan Regulatory Administration

The bill revises provisions in the Insurance Code and other Florida Statutes that conflict with the federal Patient Protection and Affordable Care Act (PPACA) and provides other changes. The bill:

- Eliminates provisions relating to preexisting condition exclusions since the federal act requires guaranteed issue of coverage and prohibits preexisting condition exclusions;
- Removes the requirement that insurers provide an outline of coverage for individual or family accident and health insurance policies;
- Requires insurers to provide an outline of coverage for a policy offering excepted benefits;
- Eliminates provisions relating to medical loss ratios since the federal act prescribes such standards and requires rebates if certain conditions are met;
- Eliminates the requirement for insurers to issue certificates of creditable coverage; and
- Provides technical and conforming changes.

The bill also provides that a not-for-profit corporation whose membership consists entirely of local governmental units that are authorized to enter into risk management consortiums under s. 112.08, F.S., is exempt from licensure by the Office of Insurance

Regulation (OIR) as a third-party administrator for self-insurance.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-194, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1233
Federal Home Loan Banks

The Office of Financial Regulation (OFR) charters and regulates entities that engage in financial institution business in Florida, in accordance with the Florida Financial Institutions Codes (Codes). The OFR ensures Florida-chartered financial institutions' compliance with state and federal requirements for safety and soundness through regular examinations. These examinations measure the institutions' financial condition, and culminate in a highly confidential examination report, which in some instances, may result in a corrective or enforcement action.

Currently, the Codes generally provide that OFR records related to investigations and reports of examination, operations, or condition are confidential and exempt from public records disclosure, with certain exceptions. One such exception states that the OFR is not prevented or restricted from furnishing records or information to "any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions, including Federal Home Loan Banks." However, the current statute does not clearly require or mandate that the OFR provide these records or information to those agencies or to the Federal Home Loan Banks (FHLBs). Secondly, the FHLBs are actually not federal financial institution regulators, resulting in some uncertainty regarding the OFR's

ability to share confidential supervisory information with the FHLBs. While the OFR currently has information-sharing agreements with other federal financial institution regulators, it does not have any such agreements with the FHLBs.

Congress created the FHLB System as a government-sponsored enterprise to provide liquidity support to the housing finance market and to promote community investment at the local level. It is comprised of 11 district FHLBs, which are wholly owned by members (financial institutions who make long-term mortgage loans and meet certain requirements), under the supervision of the Federal Housing Finance Agency (FHFA). In order to be eligible for FHLB membership, federal law requires that the institution agree that state and federal examination reports be provided to the FHLBs in order to determine its financial condition.

Due to this FHLB eligibility requirement and the ambiguity in the Codes, the bill clarifies that the OFR is not prevented or restricted from providing otherwise confidential information to any state, federal, or foreign agency responsible for the regulation or supervision of financial institutions. Secondly, the bill authorizes the OFR to furnish information to the FHLBs regarding its member institutions, in accordance with an information-sharing agreement between the FHLBs and the OFR. The bill requires the FHLBs and the OFR to execute the agreement by August 1, 2016.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-144, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 1386 Insurance Agents

The bill increases the allowable amount of coverage for insurance policies related to funeral expenses to \$21,000, plus an annual increase based on the Consumer Price Index (CPI), beginning with the 2016 CPI. Licensed insurance agents are currently authorized to sell insurance policies for the coverage of funeral related expenses, as long as the policies do not exceed \$12,500, plus an annual percentage increase based on the CPI compiled by the United States Department of Labor for the year 2003.

The bill also allows health insurance agents to contract for service fees on individual health plans while rebating to the insured any commissions paid by an insurer to the agent.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-202, Laws of Florida and the provisions took effect on that date.

CS/CS/SB 1274 Limited Sinkhole Coverage Insurance

The bill creates a new type of sinkhole coverage. The bill:

- Permits an authorized insurer to issue a “limited sinkhole coverage insurance” policy providing personal lines residential coverage for the peril of sinkhole loss on any structure or the contents of personal property;
- Covers only losses from the perils of sinkhole loss as the term “sinkhole loss” is currently defined in law;
- Prohibits Citizens Property Insurance Corporation from issuing limited sinkhole coverage insurance;
- Does not require coverage of loss of personal property or contents. Coverage

may be limited to stabilization of the building and repair of the foundation. Coverage of land stabilization is not required;

- Allows policy limits, subject to a minimum limit, and deductibles as agreed by the insurer and insured;
- Requires the insured's signed acknowledgement of reading and understanding the policy limitations, including a notice, with prescribed text;
- Does not apply to commercial lines residential coverage, commercial lines nonresidential coverage, or excess coverage for the peril of sinkholes;
- Provides specific conditions on the payout of policy limits on claims where the cost of recommended repairs exceed the policy limits;
- Requires insurer payment of repairs to be issued jointly to the insured and repair contractor;
- Does not require form filing;
- Establishes surplus requirements; and
- Provides that these limited sinkhole coverage insurers will not be subject to file and use rate review by the Office of Insurance Regulation until October 1, 2019.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-197, Laws of Florida and the provisions take effect July 1, 2016.

SB 1402
Ratification of Department of
Financial Services Rules

The bill ratifies Rule 69L-7.020, F.A.C.

Florida's Workers' Compensation law requires that the provider reimbursement manuals setting the maximum

reimbursement rates for medical services be updated every 3 years.

The Florida Workers' Compensation Health Care Provider Reimbursement Manual (manual), 2015 Edition, sets out the policies, guidelines, codes, and maximum reimbursement allowances for services and supplies furnished by health care providers under the Workers' Compensation statutes. The manual provides the reimbursement policies and payment methodologies for pharmacists and medical suppliers pertaining to Workers' Compensation.

The current manual adopted by Rule 67-7.020, F.A.C., dates from 2008. The Legislature has not ratified any rules providing updates since 2008.

The Statement of Estimated Regulatory Costs shows Rule 69L-7.020, F.A.C., Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition, would have a specific, adverse economic effect, or would increase regulatory costs, exceeding \$1 million over the first 5 years the rule is in effect. Accordingly, the rule must be ratified by the Legislature before it may go into effect.

The rule was adopted on July 16, 2015, and submitted for ratification on November 3, 2015.

The bill authorizes the rule to go into effect. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-203, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 1422

Insurer Regulatory Reporting

The Office of Insurance Regulation (OIR) is responsible for solvency oversight over insurers and other risk-bearing entities, in order to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities. Additionally, the OIR is a member of the National Association of Insurance Commissioners (NAIC), an organization of state insurance regulators that establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight. As a member of the NAIC, the OIR is required to participate in the organization's accreditation program, which is a certification that legal, regulatory, and organizational oversight standards and practices are being fulfilled by a state insurance department.

The OIR has identified two NAIC model acts as critical solvency regulation tools - the Own Risk Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure (CGAD):

- ORSA requires insurers to analyze all reasonable foreseeable and relevant material risks potentially affecting their ability to meet policyholder obligations. This will provide the OIR with an effective early warning mechanism and provides a group-level perspective on risk and capital. Effective January 1, 2018, ORSA is an NAIC accreditation standard;
- CGAD will provide the OIR with a detailed narrative describing governance practices to promote market stability and to deter unethical behavior.

The bill creates s. 628.8015, F.S., to implement the ORSA and CGAD model acts, and:

- Provides that ORSA and CGAD filings and related documents are privileged and not subject to subpoena or discovery directly from the OIR, and are not admissible in evidence in any private civil action;
- Authorizes the OIR to retain third-party consultants to assist in its administration of the bill. The bill requires these third-party consultants and the NAIC to adhere to confidentiality and conflict of interest standards through a written agreement with the OIR, which includes an agreement not to store the information shared pursuant to the bill in a permanent database after the underlying analysis is completed, provide prompt notice to the OIR and to the insurer or insurance group regarding any subpoena or other request for the filings, and intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer;
- Authorizes the Financial Services Commission to adopt rules to implement the ORSA and CGAD requirements;
- Authorizes the OIR to impose sanctions, for failure to submit ORSA summary reports or CGADs; and
- Provides for the contingent repeal of these changes, if the linked public records bill is not reenacted.

The bill exempts an insurer from the ORSA requirement if:

- Its annual direct written and unaffiliated assumed premium is less than \$500 million (excluding premiums reinsured with the Federal Crop Insurance

Corporation and the National Flood Insurance Program); or

- It is a member of an insurance group with an annual direct written and unaffiliated assumed premium of \$1 billion or less (excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program).

The bill also sets forth reporting obligations, depending on the exempt status of the insurer and its insurance group.

Additionally, the OIR may still require an exempt insurer to maintain a risk management framework, conduct and file an ORSA summary report based on certain circumstances such as:

- An exempt insurer's risk-based capital that triggers a company action level event;
- An exempt insurer exhibits qualities of an insurer in hazardous financial condition; or
- It is in the best interest of the state.

In addition, the bill allows OIR to grant a waiver to an otherwise non-exempt insurer based on unique circumstances, and specifies criteria for the OIR to consider, including:

- The type and volume of business written;
- Ownership and organizational structure;
- Federal agency requests; and
- International supervisor requests.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-206, Laws of Florida and the provisions take effect October 1, 2016.

Legal

Courts & Criminal Justice

Courts

CS/CS/HB 75

Electronic Monitoring Devices

Electronic monitoring devices (EMDs) are used to keep track of the location of arrestees, criminal defendants, and offenders who have been placed on probation, community control, or conditional release (community supervision). A defendant who tampers with or circumvents an EMD that was ordered as a condition of pretrial release may be detained while awaiting trial for the duration of his or her criminal case.

Similarly, an offender who has been sentenced to use an EMD as a condition of community supervision can have his or her community supervision revoked for tampering or interfering with the EMD. Pursuant to s. 948.11(7), F.S., it is a third degree felony for a person to intentionally alter, tamper with, damage, or destroy any electronic monitoring equipment used pursuant to an order of the court or Commission on Offender Review, unless that person is the owner of the equipment or an agent of the owner, and is performing ordinary maintenance and repairs.

The bill repeals s. 948.11(7), F.S., and moves its provisions into newly-created s. 843.23, F.S. This section makes it a third degree felony for a person to intentionally and without authority, remove, destroy, alter, tamper with, damage, or circumvent the operation of specified EMDs, or to request, authorize, or solicit another person to do such acts.

The bill also amends s. 948.11(1), F.S., to clarify that the Department of Corrections (Department) may electronically monitor

offenders sentenced to community control only when the court has imposed electronic monitoring as a condition of community control.

The Criminal Justice Impact Conference met on October 28, 2015, and determined that this bill will have an insignificant prison bed impact on the Department (an increase of 10 or fewer beds).

This bill was signed into law on March 8, 2016 as Chapter No. 2016-15, Laws of Florida and the provisions take effect October 1, 2016.

HB 111

Jury Service

Clerks of the Court randomly select citizens to serve in a jury venire. Current law provides numerous grounds by which individuals called for jury duty can be exempt or excused from service.

This bill adds that individuals permanently incapable of caring for themselves can request a permanent exemption from jury duty by submitting a written statement from a doctor verifying the disability.

Currently, only individuals 70 years of age or older can request to be permanently excused. The request must be in writing. Individuals who are permanently excused can also request to be added back into the jury pool as long as they are otherwise qualified.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-52, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/SB 232

Guardianship

Currently, the Statewide Public Guardianship Office (SPGO) within the Department of Elder Affairs (DOEA) regulates public guardians through registration, case monitoring, and complaint investigation. While the SPGO oversees registration of professional guardians, it lacks authority for disciplinary action other than suspending or revoking the professional guardian's registration.

The bill:

- Reorganizes ch. 744, F.S., and expands the SPGO's duties regarding the oversight of professional guardians;
- Renames the SPGO as the Office of Public and Professional Guardians (OPPG). The new OPPG retains its current duties and becomes responsible for monitoring and disciplining professional guardians;
- Delineates the new duties and responsibilities of the executive director of the OPPG regarding professional guardian oversight; and
- Directs the OPPG to adopt rules to establish standards of practice for public and professional guardians, receive and investigate complaints, establish procedures for disciplinary oversight, conduct hearings, take administrative action pursuant to ch. 120, F.S., and specify penalties for violations.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-40, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 386

Expunction of Records of Minors

The bill amends s. 943.0515(1)(b), F.S., to require the Florida Department of Law

Enforcement (FDLE) to retain the criminal history record for only two years after they turn 19 (until age 21), instead of five years (until age 24), for minors who are not classified as serious or habitual juvenile offenders or who have not been committed to a juvenile correctional facility or juvenile prison. The criminal history record is then automatically expunged.

The bill eliminates the requirement that an application for prearrest or post-arrest diversion expunction must be submitted within 12 months after the minor completes the diversion program.

The bill also provides that a minor who is eligible for automatic expunction of criminal history records at age 21 may apply for an expunction any time after reaching 18 but before reaching 21. The only offenses eligible to be expunged are those that the minor committed before reaching the age of 18. In order to qualify for expunction prior to age 21, the minor must apply to the FDLE and meet certain criteria.

Section 790.23(2), F.S., provides an exception for a person who has been convicted of a felony and has had their civil rights and authority restored to possess firearms. There is not an exception for persons who have had their criminal records expunged pursuant to s. 943.0515, F.S.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-42, Laws of Florida and the provisions take effect July 1, 2016.

HB 387

Offenses Evidencing Prejudice

Currently, section 775.085, F.S., authorizes civil remedies and reclassifies the criminal penalty for any felony or misdemeanor

offense if the circumstances evidence prejudice based on race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, mental or physical disability, or the advanced age of the victim.

The bill removes prejudice based on mental or physical disability as a factor for reclassifying an offense under s. 775.085, F.S. The bill creates a new section of law, s. 775.0863, F.S., to establish a separate hate crime penalty statute specifically for crimes evidencing prejudice based on mental or physical disability. The new section's language is substantively identical to the language currently in s. 775.085, F.S, which authorizes civil remedies and reclassifies the penalty for any felony or misdemeanor offense if the circumstances evidence prejudice based on mental or physical disability. Offenses that fall under the statute are reclassified as follows:

- A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree;
- A misdemeanor of the first degree is reclassified to a felony of the third degree;
- A felony of the third degree is reclassified to a felony of the second degree;
- A felony of the second degree is reclassified to a felony of the first degree; and
- A felony of the first degree is reclassified to a life felony.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-81, Laws of Florida and the provisions take effect October 1, 2016.

SB 396 **Nonresident Plaintiffs in Civil Actions**

The bill repeals a requirement that a nonresident plaintiff in a civil action post a \$100 bond with the clerk of court as security for costs that may be adjudged against the plaintiff.

Nonresident plaintiffs will be treated the same as resident plaintiffs by not having to post a bond for costs. Nonresident plaintiffs will also not be subject to a motion to dismiss by the defendant for a failure to post a bond for costs.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-43, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 458 **Transfers of Structured Settlement Payment Rights**

The bill provides consumer protections regarding the transfer of a structured settlement agreement. A structured settlement agreement is an arrangement for the periodic payment of damages for personal injuries in connection with a personal injury claim or lawsuit. Payees under such arrangements sometimes wish to forgo future payments in favor of an immediate cash payout. Current law requires certain disclosures and court approval before a payee may transfer his or her rights under a structured settlement. The bill:

- Repeals the requirement to disclose the quotient;
- Requires the petition to the court for approval of the transfer to be filed in the county where the payee lives, or to the circuit where the underlying tort

occurred if the payee is not a state resident;

- Allows a court to reach the merits of a petition for approval of transfer notwithstanding a nonassignment clause;
- Requires the payee to attend the hearing;
- Declares that transfers pursuant to s. 626.99296, F.S., are not authorized if such transfer is in contravention of applicable law; and
- Requires the following information to be included in the petition for authority to transfer:
 - The payee's name, age, domicile, and ages of the payee's dependents;
 - A copy of the transfer agreement and disclosure statement;
 - The reasons why the payee seeks to transfer the right to future payment under the structured settlement; and
 - A summary statement of:
 - Completed financial transactions between the payee and the transferee (or related entities) during the past 4 years;
 - Denied transfers in the past 2 years;
 - All other transfers in the past 3 years; and
 - Proposed transfers.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-45, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 494 Digital Assets

The bill is a state adaptation of the Revised Uniform Fiduciary Access to Digital Assets Act. This version of the model act was approved by the Uniform Law Commission in July 2015. It addresses conflicting interests between fiduciaries, who are trying to access the digital assets of someone who has died or become incapacitated, and custodians, who possess the assets.

Digital assets are electronic records in which someone has a personal interest or right. They include electronic communications and records such as emails, text messages, online photographs, documents stored in the cloud, electronic bank statements, and other electronic communications or records.

The purpose of the bill is twofold. First, it provides fiduciaries the legal authority to manage digital assets and electronic communications in the same manner that they manage tangible assets and accounts. The bill specifies when a fiduciary may access the content of digital assets and electronic communications, and when only a catalog of the property is permitted to be accessed. Second, it provides custodians of digital assets and electronic communications the legal authority they need to interact with the fiduciaries of their users while honoring the user's privacy expectations for his or her personal communications. A custodian is granted immunity from liability for acts or omissions done in good faith compliance with the provisions of this bill.

The general goal of the bill is to give Internet users the ability to plan for the management and disposition of their digital assets if they should die or become unable to manage their assets. This is accomplished

by vesting fiduciaries with the authority to access, control, or copy digital assets and accounts.

This bill was signed into law on March 10, 2016 as Chapter No. 2016-46, Laws of Florida and the provisions takes effect July 1, 2016.

CS/CS/CS/SB 540

Estates

The bill revises provisions of the Florida Probate Code and the Florida Trust Code. The Florida Probate Code and the Florida Trust Code govern the disposition and management of estates during a person's lifetime or after their death. The bill:

- Codifies the common law situs rule which provides that the disposition of real property located in Florida is governed by Florida law regardless of any contrary directive in a will; and
- Provides, consistent with current practice, that the election by a surviving spouse of the right to receive an elective share of a decedent's estate establishes the minimum share of the estate that may be received by the surviving spouse.

The bill also provides additional guidance to lawyers and the courts regarding the circumstances under which a trustee may pay attorney fees and costs from trust assets in breach of trust proceedings. Specifically, the bill:

- Provides that the limitation on the general authority of a trustee to pay attorney fees and costs from trust assets applies only to the payment of attorney fees and costs incurred in connection with a claim or defense of breach of trust that is set forth in a filed pleading. The bill defines "pleading" as a pleading recognized by the Florida Rules of Civil Procedure;

- Requires that the notice of intent to pay attorney fees and costs also identify the judicial proceeding in which the claim or defense of breach of trust has been made;
- Authorizes a trustee to serve the notice of intent to pay attorney fees and costs in the manner provided for service of pleadings and other documents under the Florida Rules of Civil Procedure if the court has already acquired jurisdiction over the party in the proceeding. Additionally, the bill waives service of the notice of intent upon a qualified beneficiary whose identity or location is unknown to, and not reasonably ascertainable by, the trustee;
- Provides that if a trustee pays attorney fees and costs from trust assets prior to serving the notice of intent, any affected qualified beneficiary is entitled to an order compelling the return of the payment with interest at the statutory rate. The court must award attorney fees and costs in connection with a motion to compel under such circumstances;
- Identifies the categories of evidence through which a movant may show, or through which a trustee may rebut, that a reasonable basis exists to conclude there has been a breach of trust. Permissible evidence consists of affidavits, answers to interrogatories, admissions, depositions, and any evidence otherwise admissible under the Florida Evidence Code;
- Requires that payments made after service of the notice of intent be returned to the trust with interest at the statutory rate if ordered by the court; and
- Provides that if the claim or defense of breach of trust is withdrawn, dismissed, or resolved by the trial court without a

determination that the trustee committed a breach of trust, the trustee may pay attorney fees and costs from trust assets without court authorization or serving a notice of intent. Further, the attorney fees and costs that the trustee may pay under such circumstances include those payments that the trustee may have been previously compelled to return.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-189, Laws of Florida and the provisions takes effect July 1, 2016.

CS/CS/HB 545 **Human Trafficking**

The bill removes persons under the age of 18 from being prosecuted for prostitution. The bill makes correlating changes in ch. 39, F.S., relating to the definition of sexual abuse of a child, to reflect that sexually exploiting a child in prostitution should be viewed as human trafficking. This ensures that children involved in prostitution are viewed as victims, not culprits.

The bill also:

- Adds faith-based programs on the negative effects of prostitution and human trafficking to the educational programs that a person convicted of soliciting prostitution must attend if such programs exist in their respective judicial district;
- Increases the penalties for knowingly renting space to be used for prostitution;
- Reclassifies an offense of s. 96.07(2)(a), F.S., if the place, structure, building, or conveyance that is owned, established, maintained, or operated for prostitution is a massage establishment that is or should be licensed under s. 480.043, F.S., and adds such reclassified offense to the list of offenses that disqualify

applicants from a massage therapist or massage establishment license;

- Adds human trafficking as a qualifying felony for first degree murder in the commission of a felony;
- Clarifies the offense of branding a victim of human trafficking;
- Reclassifies an offense in s. 787.06, F.S., if the victim suffers great bodily harm, permanent disability, or permanent disfigurement; and
- Adds racketeering, s. 895.03, F.S., to the qualifying offenses for a sexual predator or sexual offender if a judge makes written findings that racketeering activity involved at least one sexual offense included in the definition of sexual predator or sexual offender.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-24, Laws of Florida and the provisions take effect October 1, 2016.

HB 549 **Offenses Concerning Racketeering and Illegal Debts**

The Florida RICO (Racketeer Influenced and Corrupt Organization) Act imposes criminal and civil liability on any person who engages in racketeering or the collection of unlawful debt to acquire real property or establish or operate any enterprise or be associated with such an enterprise. Any property that is used in the course of or derived from the illegal conduct is subject to forfeiture to the state. The bill makes a number of changes to the civil enforcement provisions of the RICO Act:

- If property subject to forfeiture is diminished in value, an investigative agency may pursue an action in circuit court to recover fair market value of the property;

- Investigative agencies may recover fair market value of any property that is diminished in value or made unavailable for forfeiture regardless of when the property is diminished in value or rendered unavailable for forfeiture;
- A court may order the forfeiture of any other property of the defendant up to the value of any property that is unavailable or is diminished in value;
- Civil penalties of up to \$100,000 for a natural person and up to \$1 million for any other person may be imposed for violations of the RICO Act;
- All investigatory subpoenas issued pursuant to the RICO Act are confidential for 120 days after the date of its issuance;
- Any party to a RICO Act civil action may petition the court for entry of a consent decree or for approval of a settlement agreement; and
- The court is required to order distribution of forfeiture proceeds to the victims of the racketeering activity.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-84, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/CS/SB 590

Adoption

The bill changes the standard in s. 63.082(6)(e), F.S., for determining whether the transfer of a child's placement is in the child's best interest. The bill requires the court to consider and weigh all relevant factors, including new factors regarding whether a petition for termination of parental rights has been filed pursuant to s. 39.806(1)(f), (g), or (h), F.S., the stability of the current placement, the child's wishes, and what is best for the child.

For situations where a child's placement is transferred through the intervention process, the bill permits the court to establish requirements for the transfer of custody over a reasonable period of time rather than ordering an immediate transfer.

The bill creates timelines for intervention and placement hearings under s. 63.082(6), F.S. The bill instructs the court to provide written notice to the child welfare-involved parent of the right to participate in a private adoption plan at several points during the dependency process. These include:

- The arraignment hearing held pursuant to s. 39.506, F.S.;
- In the order approving the case plan pursuant to s. 39.603, F.S.; and
- In the order that changes the permanency goal to adoption and termination of parental rights pursuant to s. 39.621, F.S.

The bill also changes the definitions of the following terms in s. 39.01, Fl.S.:

- "Abandon" or "abandonment" is redefined to state that a man's acknowledgment of paternity of a child does not limit the period considered in determining whether the child was abandoned; and
- "Parent" is redefined to conform to the definition of "abandon," specifying that the term does not include an alleged or prospective parent, unless the parental status is applied for the purpose of determining whether the child has been abandoned.

The new definitions allow DCF to provide evidence to the court of a prospective father's behavior and actions prior to his acknowledgement of paternity in hearings

considering whether the father abandoned his child.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-71, Laws of Florida and the provisions take effect July 1, 2016.

HB 967

Family Law / Collaborative Law

Collaborative law is a non-adversarial alternative dispute resolution concept that, similar to mediation, promotes problem-solving and solutions in lieu of litigation. The process employs collaborative attorneys, mental health professionals, and financial specialists to help adversarial parties reach a consensus on disputed issues. Collaborative law is entirely voluntary, and counsel retained for the purpose of collaborative law may only be used in the collaborative law process. Collaborative law requires extensive confidentiality and privileges to be created by statute, while courts must develop rules of practice and procedure.

The bill creates the Collaborative Law Process Act for use in dissolution of marriage and paternity actions. The bill provides the grounds for beginning, concluding, and terminating a collaborative law process and provides the necessary statutory privileges and confidentiality of communications required for the collaborative law process.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-93, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1042

Collection of Judgements Against Debtors

The bill revises chapter 56, F.S., titled Final Process, which regulates how a creditor may collect a judgment against a debtor. The chapter also includes a statute governing proceedings which provide a judgment creditor a mechanism to investigate and discover assets that a judgment debtor may have improperly concealed from third parties.

This bill amends chapter 56, F.S., by:

- Providing a new definitions section at the beginning of the chapter for uniform usage throughout the chapter;
- Moving the discovery provisions in current law into a single section and providing that the discovery provisions are in addition to the discovery provisions found in the rules of civil procedure;
- Establishing a procedure for bringing non-parties to the original action into proceedings supplementary by a notice to appear that describes the property at issue, notifies the third-party of the right to a jury trial, and requires the third-party to serve an answer within a time set by the court;
- Providing that a claim under the Uniform Fraudulent Transfer Act which is raised during proceedings supplementary must be initiated by a supplemental complaint and that those claims are governed by the Uniform Fraudulent Transfer Act and the rules of civil procedure; and
- Providing that a person who asserts a claim or defense in proceedings supplementary for the purpose of delay may be subject to penalties imposed by the court.

This bill was signed into law on March 9, 2016 as Chapter No. 2016-33, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 1044

Contraband Forfeiture

Sections 932.701-932.706, F.S., comprise the Florida Contraband Forfeiture Act (hereafter the “Act”), which provides for the seizure and civil forfeiture of property used in violation of the Act. The forfeiture procedure advances primarily by a two-step process: the seizure or other initial restraint on the property is applied; and the forfeiture itself occurs once it is determined in court that the property can be legally forfeited.

The bill provides that property seizure is unauthorized until the owner of the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article, or one of the following exceptions applies:

- The property owner cannot be identified after a diligent search or the person in possession of the property denies ownership and the owner cannot be identified by the seizing agency;
- The property owner is a fugitive from justice;
- The property owner is deceased;
- An individual who does not own the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article under s. 932.701, F.S., and the property owner had actual knowledge of the criminal activity;
- The property owner agrees to be a confidential informant as defined in s. 914.28. The seizing agency may not use the threat of property seizure or

forfeiture to coerce the owner of the property to enter into a confidential informant agreement. The seizing agency must return the property to the owner if criminal charges are not filed against the owner and the active criminal investigation ends or if the owner ceases being a confidential informant, unless the agency includes the final forfeiture of the property as a component of the confidential informant agreement; or

- The property is a monetary instrument.

The bill makes the following procedural changes:

- The seizing agency must petition a court of competent jurisdiction within 10 business days of the seizure for an order determining whether probable cause exist for the seizure;
- When an agency files a petition for forfeiture, the agency must pay a minimum \$1,000 filing fee and a \$1,500 bond to the clerk of court; and
- A forfeiture petition may only be granted upon proof beyond a reasonable doubt that the property was being used in violation of the Act.

Seizing agencies must perform annual seizure reviews, address deficiencies raised by a review, and create written policies promoting the release of property.

Law enforcement officer employment and compensation may not depend on seizure quotas. Specified law enforcement officers must receive training on seizure and forfeiture. The percentage of proceeds that must be donated by the seizing agency or used for specified causes is increased from 15 percent to 25 percent.

The bill requires every law enforcement agency to submit an annual report to the Department of Law Enforcement indicating whether the agency has seized or forfeited property under the Act. Any law enforcement agency that does not comply with the reporting requirements is subject to a civil fine of \$5,000.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-179, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 1104
Service of Process on Financial Institutions

The bill requires service on a financial institution must be made in accordance with s. 655.0201, F.S.

The bill amends s. 655.0201, F.S., to allow a financial institution to designate a place or registered agent within this state as its sole location for service of process. The place or agent must be open or available to receive service on regular business days from at least 9 a.m. to 5 p.m. The revisions to s. 655.0201, F.S., eliminate the potential for serving a financial institution through constructive notice by publication.

If the financial institution has no registered agent, or service cannot be made at the designated location, service may be made to any officer, director, or business agent of the financial institution at its principal place of business or at any other branch, office, or place of business in this state.

The bill allows the Office of Financial Regulation to serve process on a financial institution by serving any officer, director, or business agent at its principal place of business or any other branch, office, or

place of business in Florida. OFR can continue to serve process via certified mail.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-180, Laws of Florida and the provisions take effect January 1, 2017.

CS/HB 1149
Alternative Sanctioning

Any person who is found guilty by a jury or the court sitting without a jury, or who enters a plea of guilty or nolo contendere, may be placed on probation regardless of whether adjudication is withheld. Section 948.06, F.S., provides procedures regarding a violation of the terms and conditions imposed on a person who is on probation. Upon violation, the probationer is arrested and brought before the sentencing court. At the first hearing on the violation, the probationer is advised of the charge. If the probationer admits the charge, the court may immediately revoke, modify, or continue the probation or place the probationer into a community control program.

The bill creates an alternative sanctioning program (“program”) for technical violations of probation. The bill defines “technical violation” as any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense. The bill allows the chief judge of each judicial circuit, in consultation with the state attorney, public defender, and Department of Corrections, to establish a program and determine which technical violations will be eligible for alternative sanctions.

An eligible probationer who commits a technical violation may choose to participate in the program and admit to the

violation, comply with a probation officer's recommended sanctions, and waive his or her right to a hearing on the violation. A probation officer's recommended alternative sanction must be reviewed by the court, which may approve the sanction or remove the probationer from the program.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-100, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 1181
Bad Faith Assertions of Patent Infringement

In 2015, the Legislature enacted the "Patent Troll Prevention Act" (Act) to provide a private right of action for a person who has received a bad faith patent infringement claim. The bill amends the Act by revising when a party pursuing a private right of action under the bill may recover punitive damages, and by revising the criteria by which a demand letter is deemed to be a bad faith assertion of patent infringement in violation of the Act.

The bill also repeals the provision in the Act that authorizes a target of a bad faith assertion of patent infringement to seek a protective order or a court order requiring the plaintiff to post a bond.

The bill amends the Act to remove those portions of the Act that provide the factors that a court uses in determining whether an assertion of patent infringement violates the Act and replaces those portions with a description of attributes that qualify a demand letter as a bad faith assertion of patent infringement.

Pursuant to the bill, a demand letter constitutes a bad faith assertion of patent infringement if it includes a claim that the target, or a person affiliated with the target, has infringed a patent and that the target is legally liable for the infringement, and one or more of the following is met:

- The demand letter falsely asserts that the sender has filed a lawsuit in connection with the claim;
- The demand letter asserts a claim that is objectively baseless because:
 - The sender, or a person the sender represents, lacks the right to license or enforce the patent against the target;
 - The patent is unenforceable pursuant to a final judgment or an administrative order; or
 - The infringing activity alleged in the letter occurred after the expiration of the patent.
- The demand letter is likely to materially mislead a reasonable person because it does not contain sufficient information to inform the target of:
 - The identity of the person asserting the claim, including his or her name and address;
 - The patent alleged to have been infringed, including the patent number; and
 - At least one product, service, or technology of the target alleged to infringe the patent, or at least one activity of the end user which is alleged to infringe the patent.

The bill provides that a court may award punitive damages up to \$75,000 for a prevailing plaintiff in a private cause of action pursuant to the Act only if the court determines that the person making the bad faith asserting has repeatedly violated the Act. The bill also repeals the provision in the

Act that authorized a target of a bad faith assertion of patent infringement that violates the Act to seek a protective order or court order requiring the plaintiff to a post a bond.

The bill also provides that the Act may not be construed:

- To limit the rights and remedies available to the state or a person under any other law;
- To alter or restrict the Attorney General's authority under any other law regarding patent infringement claims; or,
- To prohibit a person who owns a patent from notifying other parties of his or her ownership, offering to sell or license the patent, notifying other parties of such parties' infringement of the patent, or seeking compensation for infringement of, or license to, the patent.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-101, Laws of Florida and the provisions took effect on that date.

CS/SB 1294

Victim and Witness Protection

Florida law currently has a number of statutes providing for the fair treatment of victims and witnesses. Sections 92.53, 92.54, and 92.55, F.S., authorize the court to provide special protections to a victim or witness who is less than 16 years of age or who has an intellectual disability or to a victim or witness of a sexual offense who is less than 16 years of age.

The bill broadens the application of ss. 92.53, 92.54, and 92.55, F.S., by increasing the age range for protected persons from victims or witnesses less than 16 years of age to victims or witnesses less than 18 years of

age. Additionally, the bill adds advocates appointed by the court under s. 914.17, F.S., to the list of persons authorized to make a motion for protection under s. 92.55, F.S.

The bill also expands the application of Florida's Rape Shield law to prosecutions under s. 787.06, F.S., relating to human trafficking, and under s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of children less than 16 years of age. The bill also amends s. 787.06, F.S., to prohibit defendants from using a victim's willingness, consent, or lack of chastity as a defense in a human trafficking prosecution when the victim is less than 18 years of age.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-199, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 1322

Juvenile Detention Costs

The bill creates s. 985.6865 F.S., establishing a new juvenile detention cost sharing methodology for use by the Department of Juvenile Justice (DJJ) and county governments. The bill provides for differentiated cost sharing for counties that voluntarily dismiss existing and future claims against the state and those which do not.

The bill creates s. 985.6865 F.S., which:

- Defines "total shared detention costs" as the amount of funds expended by the DJJ for the costs of detention care for the prior fiscal year, including the most recent certified forward amounts minus any funds expended on detention care for juveniles residing in fiscally constrained counties or out of state;

- Defines “fiscally constrained county” as a county in a rural area pursuant to s. 288.0656 F.S., or a county in which the value of a mill will raise no more than \$5 million in revenue;
- Defines “detention care” as secure detention and respite beds for juveniles charged with a domestic violence crime;
- Provides all non-fiscally constrained counties, which have filed a notice of voluntary dismissal of all actions against the state or any state agency and/or executed a release and waiver of any existing future claims and actions related to juvenile detention costs, to pay its annual percentage share of \$42.5 million in 12 equal payments on the first day of each month in FY 2016-17, and 50 percent of total shared detention costs in FY 2017-18 and thereafter; and
- Requires DJJ to calculate the annual percentage share of each county.

The bill amends s. 985.6015 F.S., and s. 985.688 F.S., removing the term “predisposition” when referring to juvenile detention costs.

The bill maintains the current cost sharing mechanism for counties that do not dismiss current and future claims against the state.

This bill was signed into law on March 29, 2016 as Chapter No. 2016-152, Laws of Florida and the provisions took effect on that date.

SB 1412

Orders of No Contact

The bill provides that courts are authorized, but not required, to issue an order of no contact to a person on pretrial release. The order of no contact must be provided in writing, specify the applicable prohibited

acts, and be delivered before the defendant is released from custody on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-204, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 1470

Service of Process

The bill authorizes additional methods of service of process if personal service of process cannot be effected.

Under current law, a process server may personally serve process, such as a subpoena or summons, on a witness or opposing party in a lawsuit. In certain instances in which personal service of process is not possible, existing law authorizes substitute service of process, which is the service of the process on the intended recipient’s spouse or person in charge of the recipient’s business or private mailbox. If personal service or substitute service of process cannot be effected, existing law authorizes constructive service of process, which is usually accomplished by publishing a notice to the defendant in a newspaper.

The bill defines a “virtual office” as an office that provides communications services such as telephone or fax services, and address services without providing dedicated office space, provided that all communications are routed through a common receptionist. An executive office or mini suite is similar, except that it includes dedicated office space.

This bill allows a process server to effect substitute service of process on:

- A person in charge of an intended recipient's virtual office or executive office or mini suite; or
- A registered agent, officer, or director of a corporation, whose address or the principal place of business of the corporation is a virtual office, an executive office, or a mini suite.

Under the state's long-arm statute, the courts of this state do not have jurisdiction over a defendant who is engaged in isolated activity in the state. The statute further provides that the courts of this state lack jurisdiction to enforce penalties or fines imposed by a state agency from another state in which the defendant does not have a mandatory right of review of the agency order. In addition to prohibiting a court from enforcing only agency orders that impose a penalty or fine, this bill restricts the jurisdiction of courts to enforce any agency order.

This bill was signed into law on April 8, 2016 as Chapter No. 2016-207, Laws of Florida and the provisions take effect July 1, 2016.

Criminal Justice

CS/SB 12

Mental Health and Substance Abuse

The bill addresses the statewide system of safety-net prevention, treatment, and recovery services for substance abuse and mental health (SAMH) administered by the Department of Children and Families (DCF). The bill enhances DCF oversight of managing entities (ME), ME performance and ME accountability. The bill:

- Requires MEs to accredit their networks by 2019 and annually submit strategies for enhancing services and addressing priority needs, including specific recommendations for additional funding;
- Requires DCF to develop performance standards that measure improvement in a community's behavioral health and in specified individuals' functioning or progress toward recovery;
- Specifies members for the governing boards of MEs and requires managed behavioral health organizations serving as MEs to have advisory boards with that membership;
- Allows MEs flexibility in shaping their provider networks while requiring processes for publicizing opportunities to join and evaluating providers for participation; and
- Authorizes DCF to award system improvement grants to MEs if funded by the Legislature.

The bill requires counties and MEs to collaborate to create and implement designated receiving systems and transportation plans by July 1, 2017, to enhance the provision of acute behavioral health services to meet the needs of individuals with mental illness, substance abuse disorders, and co-occurring conditions.

The bill encourages MEs to create "no-wrong-door" access models for the new designated receiving systems and requires DCF to designate the receiving systems. The bill revises the Criminal Justice, Mental Health, and Substance Abuse Grant Program and expands the membership of the Statewide Grant Review Committee to

include more non-state representatives and renames it the Policy Committee.

The bill revises the Baker and Marchman Acts to align some provisions, make the procedures more accessible, and enhance reporting on admissions pursuant to these acts. The bill:

- Expands the types of professionals who can admit clients involuntarily;
- Allows county court judges to issue ex parte orders for involuntary examinations under the Baker Act;
- Requires DCF to develop and publish standard forms for Marchman Act pleadings and reporting;
- Requires DCF to create a statewide database for collecting utilization data for all Marchman Act initiated detoxification and addictions receiving facility services funded by DCF; and
- Allows the respondent, or an individual on his or her behalf, to privately pay for court-ordered involuntary treatment.

This bill was signed into law on April 15, 2016 as Chapter No. 2016-241, Laws of Florida and the provisions take effect July 1, 2016.

CS/CS/SB 130 Discharging a Firearm

The bill prohibits the recreational discharge of a firearm outdoors, including for target shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre. A violation of this law is a first degree misdemeanor punishable by up to a year in jail and a \$1,000 fine.

The bill provides exemptions for the lawful defense of life or property, the accidental discharge of a firearm, or the performance

of official duties that require the discharge of a firearm. Additionally, the penalties do not apply if, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property.

This bill was signed into law on February 24, 2016 as Chapter No. 2016-12, Laws of Florida and the provisions took effect on that date.

CS/SB 218 Offenses Involving Electronic Benefits Transfer Cards

Currently, s. 414.39(2), F.S., makes it a criminal offense for a person to knowingly use, transfer, acquire, traffic, alter, forge, or possess, in any manner not authorized by law, a food assistance identification card or an authorization, including an electronic authorization, for the expenditure of food assistance benefits. The subsection also specifies that it is a crime for a person to attempt to commit, or to aid or abet another person in the commission of, the aforementioned acts. Depending on the value of the public assistance wrongfully received, retained, misappropriated, sought, or used, these criminal offenses range from a first degree misdemeanor to a first degree felony.

Florida law does not currently describe acts that are included in the term “traffic” as used above. The bill provides that the following acts are included in the term “traffic”:

- Buying, selling, stealing, or otherwise effecting an exchange of certain food assistance benefits for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

- Exchanging firearms, ammunition, explosives, or controlled substances for food assistance benefits;
- Purchasing a product with food assistance benefits and subsequently intentionally reselling the product in exchange for cash or consideration other than eligible food; and
- Intentionally purchasing products originally purchased with food assistance benefits in exchange for cash or consideration other than eligible food.

Further, the bill makes it a first degree misdemeanor for an individual to possess two or more electronic benefits transfer cards for food assistance benefits which were issued to other persons and to sell or attempt to sell one or more of the cards. It also specifies that a second or subsequent violation constitutes a third degree felony. A person who commits this violation must be ordered by the court to serve at least 20 hours of community service, in addition to any other penalty. If determined to be feasible by the court, such community service must be performed with a nonprofit entity that provides the community with food services for the needy.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-185, Laws of Florida and the provisions take effect October 1, 2016.

CS/SB 228
Mandatory Minimum Sentences

The bill eliminates the minimum mandatory sentences for aggravated assault in the 10-20-Life statute by deleting aggravated assault from the list of crimes to which the law applies.

Under 10-20-Life, a person convicted of one of the specified crimes or the attempt to commit the crime must be sentenced to the following mandatory prison terms:

- Possession of a firearm – 10 years.
- Possession of a semi-automatic/machine gun – 15 years.
- Discharge of a firearm (any type) – 20 years.
- Discharge with great bodily injury or death – 25 years to life.

Under the bill, persons who are convicted of only an aggravated assault offense will no longer qualify for the 10-20-Life mandatory minimum sentences.

The bill also repeals subsection (6) from s. 775.087, F.S. This provision was added to the 10-20-Life statute in 2014, allowing the sentencing court to deviate from the minimum mandatory sentences for the offense of aggravated assault. Under the bill, a person convicted of only aggravated assault will no longer qualify for 10-20-Life sentencing, therefore the repealed language would be moot.

This bill was signed into law on February 24, 2016 as Chapter No. 2016-7, Laws of Florida and the provisions take effect July 1, 2016.

CS/SB 380
Violation of an Injunction for Protection

The bill amends ss. 741.31(4), 784.047, and 784.0487(4), F.S., to provide enhanced criminal penalties for a person who commits a third or subsequent violation of an injunction for protection or a foreign protection order against domestic violence, repeat violence, sexual violence, dating violence, stalking or cyberstalking.

Currently, a person who violates an injunction for protection or a foreign protection order commits a misdemeanor of the first degree. The bill increases the penalty to a third degree felony for a person who has two or more prior convictions for violating an injunction for protection or foreign protection order and commits a third or subsequent violation against the same victim. A third degree felony is punishable by probation or up to a maximum of five years in prison and up to a \$5,000 fine.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-187, Laws of Florida and the provisions take effect October 1, 2016.

CS/CS/SB 436
Crime of Making Threats of Terror or Violence

Florida law currently imposes criminal penalties for making specific types of threats, as well as false reports regarding explosives or other destructive devices. However, such a threat or report must fall into narrow categories to be criminal. There are a number of states throughout the nation that criminalize broad categories of serious threats of great bodily harm or death. Florida currently does not have such a prohibition in place.

The bill expands the current second degree felony offenses of making a false report about planting a bomb, explosive, or weapon of mass destruction under s. 790.163, F.S., and under s. 790.164, F.S., relating to property owned by the state or any political subdivision, to also make it a second degree felony to make a false report concerning the use of firearms in a violent manner against a person.

Additionally, the bill creates s. 836.12, F.S., to make it a first degree misdemeanor to threaten death or serious bodily harm against a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, an elected official, or a family member of such a person. A second or subsequent offense is a third degree felony.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-156, Laws of Florida and the provisions take effect October 1, 2016.

SB 498
Repeal of a Prohibition on Cohabitation

The bill repeals the crime of cohabitation, which makes it a second degree misdemeanor for a man and woman to lewdly and lasciviously associate and cohabit together without being married to each other.

This bill was signed into law on April 6, 2016 as Chapter No. 2016-188, Laws of Florida and the provisions took effect on that date.

CS/CS/SB 636
Evidence Collected in Sexual Offense Investigations

The bill creates section 943.326, Florida Statutes, which addresses the collection and processing of evidence in sexual offense investigations that may contain DNA evidence.

The bill requires that a sexual offense evidence kit collected in a sexual offense investigation be submitted to the statewide criminal analysis laboratory system for forensic testing within 30 days after the evidence is received by a law enforcement agency if a report of the sexual offense is made to the agency, or when the victim or

his or her representative requests that the evidence be tested.

Testing of the sexual offense evidence kit must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.

A collected sexual offense evidence kit must be retained in a secure, environmentally safe manner until the prosecuting agency approves the kit's destruction.

The victim, or his or her representative, shall be informed of the purpose of testing and of his or her right to demand testing. The victim shall be informed by either the medical provider conducting the physical forensic examination for purposes of evidence collection for a sexual offense evidence kit or, if no kit is collected, a law enforcement agency that collects other DNA evidence associated with the offense.

By January 1, 2017, the Florida Department of Law Enforcement (FDLE) and each lab within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, must adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence obtained in connection with an alleged sexual offense.

The guidelines and procedures must include:

- Standards for packaging evidence for submission to the laboratories for testing;
- What evidence must be submitted for testing, which would include a collected sexual offense evidence kit and possibly other evidence related to the crime scene;

- Timeframes for evidence submission including the 30 day deadline for collected sexual offense evidence kits as set forth in the bill;
- Timeframes for evidence analysis including the bill's requirement that testing of sexual offense evidence kits must be completed no later than 120 days after submission; and
- Timeframes for evidence comparison to DNA databases.

This bill was signed into law on March 23, 2016 as Chapter No. 2016-72, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 821

Reimbursement of Assessments

The Department of Veterans Affairs has a process for an individual to become an "accredited representative." These representatives assist a claimant (a veteran) in applying for veterans benefits or appealing a denial of such benefits. If successful, the department may withhold and pay to the accredited representative the representative's fee. The department assesses and deducts an administrative fee from the representative's fee equal to the lesser of 5% of the representation fee or \$100. The representative is prohibited from directly or indirectly charging the veteran for this administrative fee.

This bill provides that it is a second degree misdemeanor for any accredited representative to request, receive or obtain reimbursement of the administrative fee from the veteran.

This bill was signed into law on April 14, 2016 as Chapter No. 2016-228, Laws of Florida and the provisions take effect October 1, 2016.

CS/CS/CS/SB 912
Fraudulent Activities Associated with Payment Systems

The Department of Agriculture and Consumer Services (DACCS) is responsible for inspecting measuring devices, i.e., fuel pumps, which are used in this state to sell fuel at wholesale and retail. In executing this responsibility, DACCS also inspects the pumps for devices, commonly referred to as “skimmers,” which steal payment card information from customers paying for their gas at the pump. The bill:

- Requires owners and managers of retail fuel pumps in this state to affix or install one or more security measures on each fuel pump which restrict the unauthorized access of customer payment card information;
- Increases the penalty for the offense of unlawfully conveying and fraudulently obtaining fuel from an unranked third degree felony to a second degree felony ranked as a Level 5 offense on the Offense Severity Ranking Chart (OSRC);
- Makes the possession of, in addition to the trafficking of, counterfeit credit cards or related documents a prohibited offense; and
- Reduces the number of counterfeit credit cards or related documents required to constitute a trafficking or possession offense from 10 to five and creates a tiered penalty scheme that makes it:
 - A second degree felony, ranked at Level 5 on the OSRC, to unlawfully traffic or possess five to 14 counterfeit credit cards or related documents;
 - A second degree felony, ranked at Level 7 on the OSRC, to unlawfully traffic or possess 15 to 49

counterfeit credit cards or related documents; and

- A felony of the first degree ranked at Level 8 on the OSRC, to unlawfully traffic or possess 50 or more counterfeit credit cards or related documents.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-173, Laws of Florida and the provisions take effect October 1, 2016.

CS/CS/SB 936
Persons with Disabilities

The bill, cited as the “Wes Kleinert Fair Interview Act,” provides that a law enforcement officer, correctional officer or public safety officer must, upon the request of an individual with autism (or an autism spectrum disorder) or his or her parent or guardian, make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. The bill describes the qualifications the professional must have to serve in this capacity – experience in treating, teaching, or assisting clients diagnosed with autism or related disability or a certification in special education focused on autism.

The bill also provides that the expenses related to the professional must be borne by the requesting parent, guardian, or individual and that the failure to have a professional present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the law enforcement officer or agency.

The bill requires that law enforcement agencies develop appropriate policies to implement the bill's provisions and that officers be trained based on these policies.

Finally, the bill requires the Department of Highway Safety and Motor Vehicles to put a "D" on an individual's identification card upon payment of a \$1 fee and provision of satisfactory proof that the individual has been diagnosed with a developmental disability.

This bill was signed into law on April 1, 2016 as Chapter No. 2016-175, Laws of Florida. This act shall take effect July 1, 2016, except for the provisions related to identification cards, which shall take effect on October 1, 2016.

CS/HB 1333 **Sexual Offenders**

The bill amends a variety of statutes related to sexual predators and offenders to bring them further in line with the federal Adam Walsh Act.

Specifically, the bill removes language that currently prevents a parent or guardian convicted of specified offenses of kidnapping, false imprisonment, or luring or enticing a child against his or her minor child from being designated as a sexual predator or sexual offender. Under the bill, such a parent or guardian may be designated a sexual predator or offender if he or she commits one of the above-mentioned offenses and the offense had a sexual component.

The bill also:

- Amends various definitions and provides consistency among relevant statutes;

- Expands the types of information that can be registered or updated through FDLE's online system;
- Clarifies the appropriate entity to which a sexual predator or offender must report;
- Modifies reporting requirements for international travel;
- Requires offenders taking online courses to report such information and for institutions of higher education to be notified of such attendance;
- Clarifies obligations to obtain a driver license or identification card;
- Clarifies to which court an offender must petition for removal from registration requirements; and
- Clarifies that the "Romeo and Juliet" exception that allows removal from registration requirements applies only to consensual acts.

Additionally, the bill requires offenders designated as a sexual offender for convictions of lewd or lascivious battery upon an elderly person to report quarterly and for life and prohibit such offenders from being eligible for removal from registration requirements.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-104, Laws of Florida and the provisions take effect October 1, 2016.

CS/CS/HB 1347 **Illicit Drugs**

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation and dispensing of the substances listed therein.

The distinguishing factors between the different drug schedules are the “potential for abuse” of the substances listed therein and whether there is a currently accepted medical use for the substance.

The bill amends s. 893.03, F.S., to add 12 new substances and six general substance classes to the list of substances that are classified under Schedule I. The general classes are as follows:

- Synthetic Cannabinoids;
- Substituted Cathinones;
- Substituted Phenethylamines;
- N-benzyl Phenethylamines;
- Substituted Tryptamines; and
- Substituted Phencyclidines.

The bill makes technical corrections to the names of 113 substances, adds definitions, and makes conforming changes. The bill also revises various criminal penalties that apply to violations of ch. 893, F.S.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-105, Laws of Florida and the provisions take effect July 1, 2016.

HB 4009 **Slungshot**

Florida law defines a “slungshot” as a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon. The term is currently included in the definition of “concealed weapon.” As such, a person who is licensed to carry a concealed weapon may carry a slungshot in a concealed manner. A person may also openly carry a slungshot, even without a concealed carry license.

Two provisions in ch. 790, F.S., currently criminalize certain acts with respect to a slungshot:

- Section 790.09, F.S., makes it a second degree misdemeanor for a person to manufacture, cause to be manufactured, sell, or expose for sale a slungshot or metallic knuckles; and
- Section 790.18, F.S., makes it a second degree felony for a dealer in arms to sell or transfer a slungshot to a minor.

The bill amends s. 790.001, F.S., to remove “slungshot” from the definition of “concealed weapon.” As a result, a person will be able to carry a slungshot concealed without a permit. The bill also amends ss. 790.09 and 790.18, F.S., to remove references to “slungshot.” This will make it lawful for:

- A person to manufacture, cause to be manufactured, sell, or expose for sale a slungshot; and
- A dealer in arms to sell or transfer a slungshot to a minor.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-106, Laws of Florida and the provisions took effect on that date.

HB 7071 **Public Corruption**

Chapter 838, F.S., establishes a number of criminal offenses related to public officials or employees and the performance of their official duties, including bribery, unlawful compensation for official behavior, official misconduct, and bid tampering. In order to be convicted of an offense under ch. 838, F.S., one must act “corruptly” or “with corrupt intent,” which is defined as “acting knowingly and dishonestly for a wrongful purpose.”

The offenses defined in ch. 838, F.S., only apply to the following persons and those who solicit such persons:

- Any officer or employee of a state, county, municipal, or special district agency or entity;
- Any legislative or judicial officer or employee;
- Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
- A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

The bill expands the applicability of offenses in ch. 838, F.S., to officers and employees of a public entity created or authorized by law. Also, the bill makes public contractors eligible for prosecution of official misconduct. The bill defines public contractors as any person, or any officer or employee of a person, who has entered into a contract with a governmental entity. Additionally, the bill widens the scope of bid tampering to include public servants and public contractors who have contracted with a governmental entity to assist in a competitive procurement.

The bill also revises the level of intent for offenses under ch. 838, F.S., from “corruptly” or “with corrupt intent” to “knowingly and intentionally.”

This bill was signed into law on March 25, 2016 as Chapter No. 2016-151, Laws of

Florida and the provisions take effect October 1, 2016.

HB 7101

Sentencing for Capital Felonies

Under current law, when a defendant is convicted of a capital offense, a separate sentencing proceeding is conducted before the trial jury to determine whether the defendant should be sentenced to death or life imprisonment. After hearing the evidence, the jury renders an advisory sentence to the judge based on whether sufficient aggravating circumstances exist, whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances, and whether, based on these considerations, the defendant should be sentenced to life imprisonment or death. A simple majority vote of the jury is necessary to recommend the death penalty. Juries are not required to list on the verdict aggravating and mitigating circumstances that the jury finds persuasive or to disclose the number of jurors making these findings.

The judge may sentence a defendant as recommended by the jury or may override the jury’s recommendation. If the judge sentences a defendant to death, the judge must make written findings which indicate that there are sufficient aggravating circumstances and insufficient mitigating circumstances to outweigh the aggravating circumstances.

On January 12, 2016, the United States Supreme Court held Florida’s capital sentencing scheme unconstitutional. The Court ruled that, under the Sixth Amendment of the United States Constitution, a jury, not a judge, must find each fact necessary to impose a sentence of death as a jury’s “mere recommendation is not enough.”

The bill amends Florida's capital sentencing scheme to comply with the United States Supreme Court's ruling. Under the new sentencing scheme, the jury will continue to determine whether an aggravating factor exists, but will be required to make that determination unanimously. If the jury:

- Does not unanimously find at least one aggravating factor, the jury may only recommend a sentence of life imprisonment without the possibility of parole; or
- Unanimously finds one or more aggravating factors outweigh the mitigating circumstances, the jury may recommend a sentence of death or life imprisonment without the possibility of parole.

To recommend a sentence of death, a minimum of 10 jurors must concur in the recommendation. If fewer than 10 jurors concur, a sentence of life imprisonment without the possibility of parole will be the jury's recommendation to the court.

If the jury recommends life imprisonment without the possibility of parole, the judge must impose the recommended sentence. If the jury recommends a sentence of death, the judge may impose a sentence of death or a sentence of life imprisonment without the possibility of parole after considering each aggravating factor found by the jury and all mitigating circumstances. The judge may only consider an aggravating factor that was unanimously found by the jury.

Additionally, the bill requires prosecutors to provide notice to the defendant and to file notice with the court when the state is seeking the death penalty. This notice must contain a list of the aggravating factors that the state intends to prove.

This bill was signed into law on March 7, 2016 as Chapter No. 2016-13, Laws of Florida and the provisions took effect on that date.

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Taxation & Economic Development

Taxation & Economic Development

CS/SB 190

Tax Assessment of Conservation Easements

The bill provides that once an original application for an ad valorem tax exemption for property subject to a perpetual conservation easement has been granted, the property owner is not required to file a renewal application until the use of the property no longer complies with the restrictions and requirements of the conservation easement.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-110, Laws of Florida and the provisions take effect July 1, 2016.

CS/HJR 193

Renewable Energy Source Devices & Components/Exemption from Certain Taxation & Assessment

The Florida Constitution (Constitution) provides for local government ad valorem taxes on real property and tangible personal property, assessment of property for tax purposes, and exemptions to these taxes.

Article VII, section 4(i) of the Constitution provides that the legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage; and
- The installation of a renewable energy source device.

This joint resolution proposes two amendments to the Constitution. The first amendment exempts the assessed value of a renewable energy source device from ad valorem tax on tangible personal property.

The second amendment authorizes the Legislature to prohibit, by general law, a property appraiser from considering the installation of a renewable energy source device in the determination of assessed value of real property for the purpose of ad valorem taxation. This expands the current constitutional provision by including all real property, not just real property used for residential purposes. This provision is permissive and does not require the Legislature to enact legislation. Any change or improvement to real property for the purposes of resistance to wind damage remains limited to residential real property.

This bill was signed by Officers and filed with Secretary of State on March 11, 2016. The joint resolution provides a schedule of implementation. Under this schedule, the proposed amendments would take effect on January 1, 2017, and expire on December 31, 2036.

SB 194

Redevelopment Trust Fund

The bill exempts hospital districts from making annual appropriations to the redevelopment trust fund of a community redevelopment agency created on or after July 1, 2016.

The bill adds hospital districts to the list of taxing authorities exempt from contributing to the redevelopment trust fund, but only for CRAs created after July 1, 2016. Hospital districts in CRAs created before July 1, 2016, will continue to contribute to the redevelopment trust fund.

This bill was signed into law on March 30, 2016 as Chapter No. 2016-155, Laws of Florida and the provisions take effect July 1, 2016.

CS/HJR 275
Homestead Tax Exemption/Senior, Low-Income, Long-Term Residents
Article VII, section 6(d)(2) of the Florida Constitution provides that counties and municipalities, if authorized by general law, may grant an additional homestead exemption equal to the assessed value of property to any person who:

- Has the legal or equitable title to real estate with a just value less than \$250,000;
- Has maintained thereon the permanent residence of the owner for not less than 25 years;
- Has attained age 65; and
- Whose household income does not exceed \$20,000.

If the property's just value rises above \$250,000, the person no longer qualifies for the additional exemption. Rises in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The joint resolution proposes an amendment to the Florida Constitution to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

This bill was signed by Officers and filed with Secretary of State on March 11, 2016. The proposed constitutional amendment is effective January 1, 2017, if approved by the voters, and operates retroactively to

January 1, 2013, for any person who received the exemption prior to January 1, 2017.

CS/HB 277
County & Municipality Homestead Tax Exemption

The bill implements CS/HB 275, which proposes to amend article VII, section 6(d) of the Florida Constitution. This section authorizes legislation allowing county and municipal governments the option to create an additional homestead exemption on the assessed value of property with a just value under \$250,000 owned by certain low-income, long-time residents. Specifically, the joint resolution proposes to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

Currently, section 196.075, F.S., authorizes counties and municipalities to grant an additional homestead exemption equal to the assessed value of property to any person who:

- Has the legal or equitable title to real estate with a just value less than \$250,000;
- Has maintained thereon the permanent residence of the owner for not less than 25 years;
- Has attained age 65; and
- Whose household income does not exceed \$20,000.

If the property's just value rises above \$250,000, the person no longer qualifies for the additional exemption. Increases in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption if they are otherwise still qualified (the legislation operates retroactively). Finally, individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than \$250,000.

The bill was approved by the Governor on March 25, 2016, ch. 2016-121, Laws of Florida, and will become effective upon approval of CS/HJR 275 in the 2016 general election. Upon approval in the general election, the bill will take effect on January 1, 2017, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

CS/CS/HB 499

Ad Valorem Taxation

The bill amends various provisions of the Value Adjustment Board (VAB) process. Specifically, the bill:

- Requires VABs to submit the certified assessment roll to the property appraiser by June 1 following the year in which the assessments were made, or by December 1 under certain circumstances;
- Revises the requirements for representation of a petitioner before the VAB;

- Revises provisions related to the exchange of evidence prior to a VAB hearing;
- Repeals certain Rules adopted by the Department of Revenue which conflict with provisions of the bill;
- Expands opportunities for a taxpayer to appeal property tax determinations to the VAB;
- Provides for an opportunity to correct an erroneous or incomplete tangible personal property return;
- Provides property appraisers may waive penalties and interest if an assessment cap was improperly granted as a result of a clerical mistake or an omission by the property appraiser;
- Provides property owners 30 days to pay the taxes, interest, and penalties owed on an improperly granted assessment cap before a lien is filed on their property;
- Changes interest rates for disputed property taxes at the VAB from 12 percent per annum to the bank prime loan rate; also, provides for interest accrual for property owners that reach a settlement with the property appraiser prior to the VAB hearing;
- Restricts the ability of a petitioner or property appraiser to reschedule VAB hearings;
- Elaborates on what is required in the VAB's findings of fact; and
- Specifies that in the appointment/scheduling of special magistrates no consideration is to be given to assessment reductions recommended by any special magistrate.

The bill also permanently extends a process that allows school districts to collect certain unrealized school funds from the prior year, on an estimated basis, in the event the VAB

process is delayed in a given year and also provides certain counties an additional 10 days to adopt a non-ad valorem assessment roll under certain circumstances.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-128, Laws of Florida and the provisions take effect July 1, 2016.

CS/HB 627

Community Contribution Tax Credits

The Florida Legislature created the Community Contribution Tax Credit Program (CCTCP) to encourage private sector participation in community revitalization and housing projects. The CCTCP offers a corporate income tax credit, an insurance premium tax credit, or a refund against sales tax to businesses or persons (donor) that contribute to eligible projects undertaken by approved CCTCP sponsors. The credit or refund is calculated as 50 percent of the donor's annual contribution, but a donor may not receive more than \$200,000 in credits or refunds in any one year.

Eligible CCTCP sponsors under the program include a wide variety of community development organizations, housing organizations, and units of state and local government. An eligible project includes activity undertaken by an eligible sponsor that is designed to:

- Construct, improve or substantially rehabilitate housing that is affordable to low or very-low income households;
- Provide housing opportunities for persons with special needs;
- Provide commercial, industrial, or public resources and facilities; or

- Improve entrepreneurial and job-development opportunities for low-income persons.

Contributions to eligible sponsor projects may only be in cash or other liquid assets, real property, goods or inventory, or other physical resources as identified by the Department of Economic Opportunity.

The bill specifies that the donation of "real property" in the CCTCP includes the transfer of "100 percent ownership of a real property holding company." The bill defines "real property holding company" to mean a Florida entity, such as a Florida limited liability company, that must meet four requirements:

- Is wholly owned by the donor;
- Is the sole owner of the real property;
- Is a disregarded entity for federal income tax purposes; and
- At the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-131, Laws of Florida and the provisions take effect July 1, 2016.

HB 773

Special Assessment on Agricultural Lands

A special assessment is a compulsory assessment that confers a specific benefit upon the land burdened by the assessment and is reasonably apportioned among the properties that receive the special benefit. Special assessments are not taxes. Counties and municipalities utilize special assessments as a home rule revenue source

to fund certain services and to construct and maintain capital facilities.

Florida's "greenbelt law" allows properties classified as a bona fide agricultural operation to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments on lands used for other purposes.

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying a special assessment for the provision of fire protection on lands classified as agricultural under Florida's greenbelt law. However, the bill authorizes counties and municipalities to levy special assessments for fire protection services on lands classified as agricultural if the land contains a residential dwelling or nonresidential farm building, except an agricultural pole barn, provided the nonresidential farm building's value exceeds \$10,000. The special assessment for fire protection services must be based solely on the special benefit accruing to the portion of the property consisting of the residential dwelling and curtilage, and qualifying nonresidential farm buildings. The bill defines "agricultural pole barn" as a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-89, Laws of Florida and the provisions take effect November 1, 2017.

***CS/HJR 1009
Tax Exemption for Totally and
Permanently Disabled First
Responders***

The Florida Constitution provides for exemption from property taxes for some persons who are totally and permanently disabled, including certain military veterans, as well as widows and widowers, including the surviving spouse of certain military veterans and the surviving spouse of certain first responders.

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, as provided by general law, to grant a property tax exemption on homestead property to certain first responders. To qualify, the first responder must be totally and permanently disabled as a result of an injury or injuries sustained in the line of duty. The first responder's disability must be determined by the United States Social Security Administration, and causal connection between the disability and service in the line of duty must be determined as provided by general law. The term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

This bill was signed by Officers and filed with the Secretary of State on March 11, 2016. The proposed constitutional amendment takes effect January 1, 2017, if approved by the voters.

CS/CS/CS/HB 1133
Applicability of Revenue Law to
Out-Of-State Businesses During
Disaster-Response Periods

The bill provides that out-of-state businesses are not considered to have established a level of presence that would require a business to register, file, and remit state or local taxes or fees, or be subject to any registration, licensing, or filing requirements, when the out-of-state businesses are:

- Conducting operations within the state solely to perform disaster-related work or emergency-related work during a disaster-response period; or
- In the state pursuant to a mutual aid agreement.

The bill defines terms, and lists specific taxes for which these out-of-state businesses are not subject to registration, filing or remittance requirements:

- Reemployment assistance taxes;
- State or local professional or occupational licensing requirements or related fees;
- Local business taxes;
- Taxes on the operation of commercial motor vehicles;
- Corporate income tax; and
- Tangible personal property tax and use tax on equipment the out-of-state business brings into the state, uses for disaster-related or emergency-related work during the disaster-response period, and then removes.

The bill provides that an out-of-state business or out-of-state employee remaining in the state after the disaster-response period is not entitled to the privileges provided in this act and is subject to the state's normal standards for

establishing presence or residency or doing business in the state.

This bill was signed into law on March 24, 2016 as Chapter No. 2016-99, Laws of Florida and the provisions took effect on that date.

CS/HB 1297
Discretionary Sales Surtaxes
(Jacksonville)

The bill provides that a county, upon approval by a majority vote of the electors of the county, may levy a pension liability discretionary sales surtax, at a rate not to exceed 0.5 percent, to fund underfunded defined benefit retirement plans or systems. A county may not impose a Pension Liability Surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The surtax may be imposed only if:

- An employee who enters employment on or after a specified date is prohibited from enrolling in a defined benefit retirement plan or system that will receive surtax proceeds;
- The local government and the collective bargaining representative for the members of the underfunded defined benefit retirement plan or system or, if there is no representative, a majority of the members of the plan or system, mutually consent to requiring each member to make an employee retirement contribution of at least 10 percent of each member's salary for each pay period beginning with the first pay period after the plan or system is closed;
- The pension board of trustees for the underfunded defined benefit retirement plan or system, if such board exists, is prohibited from participating in the collective bargaining process and

engaging in the determination of pension benefits;

- The county currently levies a local government infrastructure surtax which is scheduled to terminate and is not subject to renewal; and
- The Pension Liability Surtax does not take effect until the local government infrastructure surtax is terminated.

The bill prohibits a county from levying a combined rate in excess of one percent for the Pension Liability Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax.

This bill was signed into law on March 25, 2016 as Chapter No. 2016-146, Laws of Florida and the provisions take effect July 1, 2016

HB 7023
Ad Valorem Tax Exemption for Deployed Servicemembers

Current law provides an additional ad valorem homestead tax exemption to military servicemembers deployed in the previous year outside of the United States in support of certain named military operations designated by the Legislature.

The exemption is equal to the taxable value of the qualifying servicemember's homestead on January 1 of the year in which the exemption is sought, multiplied by the portion of the prior calendar year during which the servicemember was on a qualifying deployment. By January 15 of each year, the Department of Military Affairs (DMA) must submit to the Legislature a report of the military operations eligible for the exemption.

The bill updates the designated operations for which deployed servicemembers may qualify based upon the 2015 DMA report. The bill removes Operation Iraqi Freedom from the statutory list, which ended on August 31, 2010, and adds 13 operations to the statutory list. The bill also clarifies that the exemption is available to servicemembers who were deployed in support of a subordinate operation to a main operation designated in the statutory list.

The bill allows the exemption for deployments in operations added by the bill beginning with deployments in calendar year 2014. The bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016. The bill also provides refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years.

This bill was signed into law on March 8, 2016 as Chapter No. 2016-26, Laws of Florida and the provisions took effect on that date.

HB 7099
Taxation

The bill provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration.

Sales Tax

The bill includes a permanent extension of the sales tax exemption for certain manufacturing machinery and equipment and expands the exemption to include machinery and equipment used for certain

agricultural postharvest activities and metals recycling. An exemption for sales of food and drink by military veterans service organizations to their members is created. The bill clarifies requirements for the current exemption on sales of aircraft that will be registered in a foreign jurisdiction. The bill phases out over three years the current per ton tax on asphalt used for government public works projects. The bill includes a three-day “back-to-school” holiday for clothing and footwear priced at \$60 or less, and school supplies priced at \$15 or less.

Property Tax

The bill clarifies that for a limited period, current local option economic development tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015. The bill also specifies that replacement equipment for a data center qualifies for the exemption and provides that the exemption shall remain in effect for 20 years for a data center (as opposed to 10 years for other facilities under current law).

Corporate Income Tax

To maintain the linkage between Florida’s corporate income tax code and that of the federal government, the bill updates references to the Internal Revenue Code as in effect on January 1, 2016, with some exceptions. Also, some filing dates are changed to conform with federal filing date changes.

Other Provisions

Further changes in the bill include: equalization of the tax rates on apple and pear cider; changes to allowable uses of tourist development taxes under specified circumstances; elimination of a current exemption from and a reduction of the

aviation fuel tax rate; clarification of administration of the tax on other tobacco products; and replacement of the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation.

This bill was signed into law on April 13, 2016 as Chapter No. 2016-220, Laws of Florida and the provisions take effect July 1, 2016

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Vetoed Bills

Vetoed Bills

CS/CS/HB 139

Dental Care

The bill requires the Department of Health (DOH) to develop and implement a dental care access account initiative (Initiative) to benefit dentists employed by a public health program or committed to opening a private practice capable of serving at least 1,200 patients in a dental health professional shortage area or medically underserved area.

It requires DOH to establish application procedures and selection criteria for the Initiative. An applicant may submit proof to DOH of having spent the capital to have made substantial progress in opening a dental practice to serve at least 1,200 patients. The bill limits the number of new dental care access accounts that may be established by DOH to no more than 10 per fiscal year. The bill authorizes DOH to further limit the number of applicants selected and give priority to dentists in areas with a higher need, as ranked by the Department of Economic Opportunity.

The bill states the funds needed to implement the Initiative are subject to a legislative appropriation. Each award may not be less than \$10,000 or exceed \$100,000. The bill authorizes local sources to contribute to a dental care access account, but no state award may exceed three times the amount contributed to an account in the same year from local sources. The bill specifies that a dentist's salary and employer expenditures from a public health program not funded by state dollars may constitute local matching funds.

The bill requires DOH to implement an electronic benefits transfer system enabling selected dentists to spend awarded funds on:

- Repayment of dental school student loans;
- Investment in property, facilities, or equipment required to establish and operate a dental office; and
- Transitional expenses associated with relocation or opening a dental practice.

It directs DOH to close an account no later than five years after the first deposit, or immediately if the dentist does not follow the requirements of, or no longer participates in, the Initiative and includes provisions for the return or reallocation of unspent funds. The bill requires DOH to create a process to verify whether funds withdrawn from an account have been used for authorized purposes.

Finally, the bill requires DOH to submit an annual report on the Initiative to the Governor and the Legislature.

***VETOED BY THE GOVERNOR
APRIL 14, 2016.***

CS/CS/SB 668

Family Law / Alimony

The bill makes a number of changes to family law.

With regard to alimony, the bill:

- Provides factors to assist a court in awarding temporary alimony during dissolution proceedings;
- Eliminates the current categorization of post-dissolution alimony awards as bridge-the-gap, rehabilitative, durational, or permanent and creates one form of post-dissolution alimony;

- Establishes a mathematical formula to determine a presumptive range for the amount and duration of post-dissolution alimony awards, effectively ending permanent alimony;
- Creates factors to determine a post-dissolution alimony award within the presumptive range;
- Authorizes a court to deviate from the presumptive range if:
 - The parties have been married for at least 20 years;
 - By mutual agreement one spouse refrained from economic, educational, or employment opportunities for the benefit of the home and family; and
 - The spouse seeking alimony faces reduced opportunities for career advancement even with additional education; or
 - The court, after considering the factors applicable to an award of alimony, makes specific written findings regarding the factors that make an award within the presumptive guidelines inappropriate or inequitable.
- Revises procedures to initiate payment of alimony awards through the clerk of court depository;
- Provides that certain changes in actual income and an obligor's retirement constitute a substantial change in circumstances for purposes of modifying or terminating an alimony award;
- Revises the criteria for supportive relationships which justify modifying or terminating an alimony award, including considering past relationships and repealing the cohabitation requirement;
- Creates a rebuttable presumption that modification or termination of an

alimony award is retroactive to the date of the petition for relief; and

- Prohibits a party who unreasonably pursues or defends an alimony modification action from recovering attorney fees and costs and requiring that such party pay the fees and costs of the prevailing party.

The bill is applicable to petitions for the determination or modification of alimony awards pending or brought on or after October 1, 2016, and petitions for time-sharing initially filed after October 1, 2016.

With regard to time-sharing orders related to minor children, the bill:

- Requires that a court start with the premise that a minor child spend approximately equal amounts of time with each parent when establishing a parenting plan and time-sharing schedule that is in the best interests of the child; and
- Requires courts to advance certain domestic relations actions on the court calendar upon motion.

***VETOED BY THE GOVERNOR
APRIL 15, 2016.***

**2016
Florida Legislative
Post-Session Report**

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