2017 FLORIDA LEGISLATIVE POST-SESSION REPORT

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2017
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 2017 Regular and Special Sessions 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 because those staff reports on the final bills passed often serve as Legislative history. 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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Table of Contents

How to Use This Report....................... 2

Government Law & Consulting Practice Group.................. 11

Corporate, Business & Professional Regulation............. 15

Corporate..16

CS/CS/HB 169
Fictitious Name Registration 16

Business & Professional Regulation 17

CS/HB 141
Craft Distilleries 17

CS/HB 211
Cosmetic Product Registration............................18

CS/CS/HB 615
Exceptions to Professional Regulation 18

CS/CS/CS/HB 689
Division of Alcoholic Beverages & Tobacco.........19

CS/CS/CS/HB 727
Accessibility of Places of Public Accommodation 20

HB 741
DBPR Regulation Fees 20

CS/CS/HB 927
Real Estate Appraisers/Licensing 21

CS/HB 987
Public Accounting...22

Education 23

HB 3A
Florida Education Finance Program 24

CS/CS/CS/HB 15
Education Options 24

CS/CS/HB 293
Middle Grades.. 25

HB 371
Assistive Technology Devices 25

CS/SB 396
Student Loan Debt 26

SB 436
Religious Expression in Public Schools............... 26

CS/HB 493
Enhanced Safety for School Crossings 27

HB 781
Designation of School Grades 27

CS/CS/HB 859
Postsecondary Distance Education 28

CS/CS/SB 890
Florida Endowment for Vocational Rehabilitation 28

CS/CS/SB 896
Florida Prepaid College Board............................ 29

CS/HB 899
Comprehensive Transitional Education Programs 29

CS/CS/HB 989
Instructional Materials 30

HB 1109
Private School Student Participation In Extracurricular Activities 31

CS/HB 7069
Education 31

General Government...................34

CS/SB 60
Children Obtaining Driver Licenses 35

CS/CS/HB 101
Nonviable Birth Records 35

CS/HB 105
Vote By Mail Ballots 35

CS/SB 164
Certificates of Title for Motor Vehicles 36

CS/HB 181
Natural Hazards 36

CS/CS/CS/HB 185
State Park Fees 37

HB 207
Agency Inspectors General 38

CS/HB 221
Transportation Network Companies 38

CS/HB 327
Household Movers 44

CS/CS/HB 357
Self-Service Storage Facilities 45

CS/CS/SB 370
Florida Wind of the Civil Air Patrol 45

CS/CS/HB 465
Firefighter Emeritus 47

CS/HB 467
Department of Agriculture & Consumer Services 48

HB 671
Reemployment Assistance Fraud 49

CS/HB 711
Vessel Registration 49

CS/HB 749
Adoption Benefits 50

CS/CS/HB 775
Motor Vehicle Warranty Repairs and Recall Repairs 50

CS/CS/CS/HB 865
Department of Transportation 52

SB 1020
Collective Bargaining Impasses 53

CS/HB 1027
Unmanned Aircraft 54

CS/HB 1049
Expressway Authorities 55

CS/CS/HB 1175
Motor Vehicle Manufacturers and Dealers 56

CS/CS/HB 1201
Department of Corrections 56

HB 1233
Cottage Food Operations 57

CS/HB 1379
Department of Legal Affairs 58

CS/CS/SB 1672
Tampa Bay Area Regional Transit Authority 58

CS/SB 1694
Support for Parental Victims of Child Domestic Violence 60

CS/CS/SB 1726
Industrial Hemp Pilot Projects 61

SB 2504
Collective Bargaining 61

HB 5401
Pesticide Registration 62

HB 6037
Blind Services Direct-Support Organization 62

HB 7073
Ratification of Rules of the Department of Elder Affairs 63

Public Records and Public Meetings 64

SB 6A
Public Records/Medical Marijuana Use Registry/Physician Certification for Marijuana and Dispensing/Department of Health 65

CS/CS/SB 80
Public Records 65

CS/HB 103
Public Records/Nonviable Birth Records 66

HB 111
Public Records/Identity of Witness to a Murder...66

CS/HB 239
Public Records/Protective Injunction Petitions.....66

HB 243
Public Records/Non-Sworn Investigative Personnel of OFR's Bureau of Financial Investigations 67

CS/CS/HB 397
Public Records/Victim of Alleged Sexual Harassment/Identifying Information 68

CS/CS/HB 437
Public Records/International Financial Institutions 68

CS/CS/HB 501
Public Records and Meetings/Information Technology/Postsecondary Education....69

CS/CS/SB 886
Public Records/Substance Abuse Impaired Persons 69

CS/CS/HB 981
Public Records/Department of Elderly Affairs......70

CS/HB 1009
Public Records/DFS/Insurance Fraud Information 71

CS/HB 1079
Public Records and Meetings/Campus Emergency Response for Public Postsecondary Education Institutions....71

CS/CS/HB 1107
Public Records/Workers' Compensation 72

CS/SB 1108
Public Records/Firefighters and their Spouses and Children....72

HB 1203
Public Records/DOC/Health Information. 73

SB 2510
Public Records/Dependent Eligibility Verification Services....73

SB 7004
OGSR/Peer Review Panels/Department Of Health 74

HB 7035
OGSR/Nonpublished Reports and Data/ Department of Citrus.... 74

HB 7045
OGSR/Reports of Unclaimed Property.... 75

HB 7067
Review under the Open Government Sunset Review Act.... 75

HB 7087
OGSR/Professional Injunctions for Certain Types of Violence 76

HB 7093
OGSR/Agency Personnel Information.... 76

HB 7113
OGSR/Donor or Prospective Donor/ Publicly Owned Performing Arts Center 77

Construction, Environmental & Land Use, Growth Management, Real Property & Special Districts....78

Construction....79

CS/CS/HB 241
Low-Voltage Electric Fences 79

HB 379
Underground Facilities.... 79

CS/CS/HB 1021
Construction.... 80

CS/SB 1634
Residential Elevators 81

Environment & Land Use....81

CS/SB 10
Water Resources/Reservoir Project 81

CS/HB 335
Resource Recovery and Management.... 83

CS/CS/HB 573
Water Protection and Sustainability.... 84

CS/CS/SB 1018
Contaminated Site Cleanup/Pollution Notification....85

HB 1031
Marine Turtle Protection....86

Growth Management....86

CS/CS/HB 687
Utilities....86

CS/CS/HB 7043
Anchoring and Moving of Vessels....93

Real Property....96

CS/CS/CS/SB 398
Estoppel Certificates....96

CS/SB 818
Timeshares....99

CS/CS/HB 1237
Condominiums....102

CS/SB 1520
Termination of a Condominium Association....103

HB 6027
Financial Reporting/Condominiums and Cooperatives....103

Special Districts....104

HB 299
Central Florida Expressway Authority....104

CS/CS/HB 599
Public Works Projects....104

Health Care and Health Insurance.... 106

SB 8A
Medical Use of Marijuana....107

CS/CS/HB 209
Medical Faculty and Medical Assistant Certification....108

CS/CS/HB 229
Health Care Practitioner Licensure....109

CS/CS/HB 249
Drug Overdoses....110

CS/HB 307
Florida Life and Health Insurance Guaranty Association....111

CS/CS/SB 474
Hospice Care....112

CS/CS/HB 543
Regulation of Nursing....113

CS/CS/HB 557
Controlled Substance Prescribing....114

CS/HB 577
Discount Plan Organizations....114

HB 589
Prescription Drug Price Transparency....116

CS/CS/CS/HB 785
Stroke Centers....116

CS/CS/SB 800
Medication Synchronization....117

CS/CS/HB 807
Marketing Practices for Substance Abuse Services....118

CS/HB 863
Hospice Services....119

HB 883
Memory Disorder Clinics....119

CS/HB 1041
Laboratory Screening....120

HB 1051
Forensic Hospital Diversion Pilot Program....120

CS/CS/SB 1124
Newborn Screenings....121

CS/HB 1253
Rights and Responsibilities of Patients....122

CS/HB 1269
Child Protection 122

CS/CS/HB 1307
Physician Assistants 123

SB 2514
Health Care 123

HB 5203
Prescription Drug Monitoring Program 128

HB 6021
Home Health Agency Licensure 128

HB 7097
Direct Support Organization of the Prescription Drug Monitoring Program 129

Insurance & Financial Services 130

Insurance 131

CS/HB 339
Motor Vehicle Service Agreement Companies 131

CS/HB 359
Insurance 131

CS/CS/HB 421
Public Housing Authority Insurance 132

CS/CS/CS/HB 695
South Florida Regional Transportation Authority/Insurance Liability 133

CS/CS/HB 805
Insurance Policy Transfers 133

CS/CS/HB 813
Flood Insurance 134

CS/CS/HB 837
Insurer Insolvency 135

CS/CS/HB 911
Insurance Adjusters 136

CS/CS/CS/HB 1007
Insurer Anti-Fraud Efforts 136

SB 2508
Division of State Group Insurance 137

Financial Services 137

CS/CS/HB 435
International Financial Institutions 137

CS/CS/HB 925
Department of Financial Services 138

HB 1347
Application of Florida Deceptive and Unfair Trade Practices Act to Credit Unions 139

SB 7022
State-Administered Retirement Systems 140

Legal 141

Courts 142

HB 65
Civil Remedies for Terrorism 142

CS/CS/HB 151
Proceedings Involving Minors or Certain Other Persons 142

CS/HB 305
Law Enforcement Body Cameras 143

CS/HB 329
Child Protection 143

CS/CS/HB 377
Limitations on Actions other than for the Recovery of Real Property 144

CS/HB 399
Guardianship 144

CS/HB 401
Notaries Public 145

CS/HB 441
Court Records/Immunity 146

CS/SB 494
Compensation of Victims of Wrongful Incarceration 146

CS/CS/SB 590
Child Support and Parenting Time Plans 147

CS/CS/SB 724
Estates 149

CS/CS/HB 1121
Child Welfare 151

HB 1239
School Bus Safety 152

SB 2506
Clerks of the Court 152

Criminal Justice 155

CS/CS/HB 39
Autism Awareness Training for Law Enforcement Officers 155

CS/CS/CS/HB 107
Criminal Offenses Involving Tombs And Memorials 155

CS/CS/CS/SB 118
Criminal History Records 156

CS/SB 128
Self-Defense Immunity/Stand Your Ground 157

SB 280
Sentencing for Capital Felonies 157

CS/SB 312
Eyewitness Identification 158

CS/CS/HB 343
Payment Card Offenses 159

CS/CS/HB 361
Bail Bonds 160

CS/HB 457
Terrorism and Terrorist Activities 160

CS/HB 477
Controlled Substances 161

CS/HB 505
Florida Comprehensive Drug Abuse Prevention and Control Act 162

CS/CS/HB 699
Internet Identifiers 162

CS/SB 852
Human Trafficking 163

CS/HB 879
Unlawful Acquisition of Utility Services 164

CS/CS/SB 884
Shark Fins 165

CS/CS/SB 1052
Justifiable Use of Force/Stand Your Ground 166

HB 1385
Domestic Violence 167

CS/CS/HB 7059
Juvenile Justice 168

HB 7091
Probation and Community Control 169

Taxation & Economic Development 170

HB 1A
Economic Programs 171

CS/SB 90
Renewable Energy Source Devices 171

CS/CS/HB 455
Tax Exemptions for First Responders and Surviving Spouses 172

HB 7077
Gulf Coast Economic Corridor 173

HB 7079
Triumph Gulf Coast Trust Fund 174

HB 7099
Corporate Income Tax 174

HJR 7105
Increased Homestead Property Tax Exemption 174

HB 7107
Homestead Exemption Implementation 175

HB 7109
Taxation 175

Vetoed Bills 177

CS/CS/SB 106
Vendors Licensed Under the Beverage Law 178

CS/CS/HB 277
Electronic Wills 179

CS/CS/SB 374
Postsecondary Education 179

CS/CS/CS/HB 653
Community Associations 180

CS/CS/HB 747
Mortgage Brokering 181

CS/CS/HB 937
Warnings for Lottery Games 182

SB 2512
Capitol Complex Advisory Council 182

HB 5301
Information Technology Reorganization 183

HB 5501
Economic Programs 184

Index 185

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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Corporate, Business & Professional Regulation

Corporate

CS/CS/HB 169
Fictitious Name Registration

The 'Fictitious Name Act,' s. 865.09, F.S., requires anyone doing business in Florida under a name other than the person's legal name to register the alternate name, or 'fictitious name,' with the Division of Corporations (Division) of the Department of State (Department).

The bill:

- Adds a definition for 'registrant,' which means a person who registers a fictitious name with the Division. Throughout the bill, this term generally replaces 'applicant,' 'owner,' and 'person' to provide consistency in terminology and clarify that information needed relates to a registrant of a fictitious name.
- Replaces 'sworn statement' with 'registration,' negating the need for a notarized document for registration and provides that any additional registration information required by the Division must be reasonable.
- Clarifies what is needed of a business entity to apply for a fictitious name. If the entity was required to file incorporation or similar documents upon organization, the entity must be registered with the Division, have an active status with the Division, and provide its FEIN, if applicable.
- Clarifies the identity of the registrant if the registrant is a general partnership. When a general partnership which is not registered with the Division registers a fictitious name, its partners are the registrants, and not the partnership entity. When a general partnership that is registered with the Division registers a fictitious name, the partnership is the registrant. A registered general partnership must be in active status with the Division at the time the name is registered
- Clarifies the time periods for which fictitious name registrations are valid. Instead of stating a blanket 5 year term of validation for all registrations, the amendment bifurcates the terms for initial registration and renewal of registration. An initial registration will be valid from the date of registration to December 31 on the 5th calendar year. A renewal of registration will be valid for a period of 5 years, beginning January 1 of the year following the prior registration expiration date to December 31 of the 5th calendar year. The bill requires the Division to notify a registrant of an upcoming fictitious name expiration by September 1 of that year. The Division must only notify one of the partners of a general partnership where the partners are the registrants of the fictitious name.
- Adds an exemption for active status limited liability companies. Like corporations, limited liability companies will not be required to register with the Division if they conduct business in the name that is licensed or registered. In addition, the bill prohibits certain words, abbreviations, or designations related to limited partnerships, limited liability limited partnerships, limited liability partnerships, limited liability companies, professional associations, and professional limited liability companies unless the person or business for which the name is registered is actually that particular type of entity. The bill also requires the Division to bar the renewal of a registered fictitious name if the name contains the same words, abbreviations, or designations relating to the same types of business

entities unless the registrant is the particular entity at the time of renewal.

- Clarifies what documentation a registrant who ceases to engage in business under the registered fictitious name must file with the Division and that a cancelation must be filed within 30 days of cessation of use. If the cessation is in connection with a transfer of the fictitious name, the transferee may reregister the name at the same time the cancelation is filed. The bill clarifies that cancellation is a separate fee from cancelation paired with reregistration of the fictitious name. Both options are the same fee amount.
- Clarifies who is subject to any penalties for failing to comply with this section. It specifies that unless this section is complied with, neither the business nor the person(s) engaging in the business may maintain any action, suit, or proceeding in any court of this state with respect to or on behalf of such business.
- Removes language that deems a violation of this section to be a misdemeanor of the second degree. Instead, failure to comply with this section will be a noncriminal violation as defined by s. 775.08, F.S.

This bill was signed into law June 2, 2017 as Chapter No. 2017-47, Laws of Florida and the provisions take effect July 1, 2017.

Business & Professional Regulation

CS/HB 141
Craft Distilleries

A "craft distillery" is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per year. Section 565.03, F.S., authorizes a craft distillery to sell branded product directly to consumers from its souvenir gift shop, subject to certain conditions and restrictions. "Branded product" means any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.

Currently, sales by craft distilleries to the public must be made in face-to-face transactions for the consumer's personal use. A craft distillery may not allow a consumer to purchase, directly from the distillery, more than the following per calendar year:

- Two individual containers of each branded product;
- Three individual containers of a single branded product and up to one individual container of a second branded product; or
- Four individual containers of a single branded product.

The bill allows craft distilleries to sell up to six individual containers of each branded product to a consumer in a calendar year directly to a customer from their souvenir gift shop. The bill does not change any other condition or requirement in current law relating to the direct sale of individual containers to consumers by craft distilleries.

This bill was signed into law June 2, 2017 as Chapter No. 2017-46, Laws of Florida and the provisions took effect on that date.

CS/HB 211
Cosmetic Product Registration

The Florida Department of Business and Professional Regulation's (DBPR) Division of Drugs, Devices, and Cosmetics (Division) regulates cosmetics that are manufactured and repackaged in Florida. Cosmetic manufacturers physically located in Florida must hold an active cosmetic manufacturer permit issued by the Division. In addition, each product produced or repackaged by such manufacturers must be registered with the Division. Florida is one of only three states that require cosmetic product registration.

The Division also provides certificates of free sale for cosmetic manufacturers to provide foreign customers regarding exported products. A certificate of free sale verifies that products being exported are freely marketed without restriction and are approved for sale in the United States and Florida.

CS/HB 211 amends ch. 499, F.S., to remove the requirement that Florida cosmetic manufacturers register cosmetic products with the Division. The bill also eliminates the fee to register cosmetics. The bill makes conforming changes by removing registration and renewal requirements for cosmetic products, including the requirements to submit registration applications, product labels, and registration and renewal fees. This allows cosmetic manufacturers in Florida to sell cosmetics without registering such products.

The bill removes the fee cap for cosmetic manufacturer permits and authorizes the Division to assess a fee sufficient to cover the costs of administering the cosmetic manufacturer program.

It removes the Division's authority to issue certificates of free sale for registered cosmetic products in s. 499.003(6), F.S. Throughout the bill the term "Federal Drug Administration" is revised to correctly reference the federal Food and Drug Administration.

This bill was signed into law June 2, 2017 as Chapter No. 2017-51, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 615
Exceptions to Professional Regulation Licensing & Fees

The Department of Business and Professional Regulation Licensing (DBPR) regulates and licenses businesses and professionals in Florida. Certain active duty members and honorably discharged veterans of the Armed Forces and certain spouses are granted exceptions to licensing application fees and requirements in ch. 455, F.S. The bill expands the applicability of these exceptions. Specifically, the bill:

- Creates an initial licensing fee waiver for:
  - members of the Armed Forces who served on active duty,
  - spouses of members of the Armed Forces,
  - surviving spouses of members of the Armed Forces, and
  - low-income individuals whose income is below 130 percent of the poverty level.
- Requires DBPR to issue a professional license to an applicant without an initial licensing fee, and without meeting other statutory requirements and qualifications, if the applicant provides the following:

- Proof the applicant is or was an active duty member, or is married to an active duty member, or was married to an active duty member at the time of the member's death;
    - Proof the applicant holds a valid license for the profession issued by any other jurisdiction;
    - Proof of bonding or insurance, if applicable; and
    - A set of fingerprints to be used for a statewide criminal history background check.
- Permits the renewal of such licenses, provided the standard conditions of renewal under the applicable practice act are completed.
- Clarifies that Armed Forces exemptions apply to licenses issued under boards and programs specifically listed in s. 20.165, F.S.
- Extends the period of time that active duty members remain in good standing after discharge from active duty from 6 months to 2 years.
- Allows spouses and surviving spouses of active duty members to remain in good standing when they are absent from the state due to their spouse's Armed Forces duties.

This bill was signed into law June 23, 2017 as Chapter No. 2017-135, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/CS/HB 689
Division of Alcoholic Beverages and Tobacco

Alcoholic beverage license applications for consumption on the premises must be accompanied by a certificate stating that the business meets all of the sanitary requirements of the state. Currently, the certificate may be issued by the Division of Hotels and Restaurants of DBPR, the Department of Agriculture and Consumer Services, the Department of Health, or the county health department where the place of business is located. The bill adds the Agency for Health Care Administration (AHCA) to this list.

Current law requires that a caterer licensed to sell beer, wine, and distilled spirits must derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. The bill provides that the percentage is based on a caterer's "gross food and nonalcoholic beverage revenue" instead of "gross revenue." A caterer must comply with the 51 percent requirement for each catered event. The bill also expands the types of records that caterers must maintain.

Currently, a $100 fee for a temporary alcoholic beverage license is issued for the transfer of a license to the purchaser of a licensed business, or a change in the type or series of a license. The bill eliminates the fees associated with the issuance of a temporary license or for an increase in the type of a license.

A "craft distillery" is defined as a licensed distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises. All distilleries pay a license fee of $4,000 under current law. The bill reduces the annual license fee for a craft distillery from $4,000 to $1,000.

The bill amends s. 562.13, F.S., to allow the employment of persons under the age of 18 in a retail drug store, grocery store, department store, florist shop, specialty gift shop, or automobile service station to sell beer, wine and liquor. However, supervision of the minor is required for the sale of liquor by a minor.

The bill amends s. 564.01, F.S., revising the definition of "wine" to include "sake".

This bill was signed into law June 23, 2017 as Chapter No. 2017-137, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/CS/HB 727
Accessibility of Places of Public Accommodation

The United States Congress enacted the Americans with Disabilities Act (ADA) in 1990 prohibiting discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. One of the goals of the ADA is to guarantee that individuals with disabilities are offered full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered by a place of public accommodation. Individuals with disabilities may sue places of public accommodation including private businesses for alleged violations of the ADA. If a plaintiff prevails in a Title III ADA claim, the plaintiff is entitled to injunctive relief, but is not entitled to damages for past discriminations. However, the ADA grants courts discretion to award attorney's fees to the prevailing party.

The bill:

- Allows businesses that hire certain ADA experts to file remediation plans or certificates of conformity with the Department of Business and Professional Regulation (DBPR).
- Requires DBPR to establish a public website with a registry of remediation plans and certificates of conformity.
- Puts the public on notice that any business that filed a remediation plan or certificate of conformity with DBPR is in compliance with the ADA or is making reasonable efforts to come into compliance.
- Requires courts to consider ADA expert reports to determine if a plaintiff filed a claim in good faith and whether the plaintiff is entitled to attorney's fees in lawsuits involving alleged violations of the ADA.

This bill was signed into law June 23, 2017 as Chapter No. 2017-139, Laws of Florida and the provisions take effect July 1, 2017.

HB 741
Reduction of Department of Business and Professional Regulation Fees

The Department of Business and Professional Regulation (DBPR) regulates and licenses businesses and professionals in Florida through the establishment of professional boards and programs. As part of this regulatory system, DBPR and its boards impose licensing and renewal fees for such licenses.

DBPR imposes an additional fee on licensees that have fallen into delinquent status. This additional delinquency fee is established in rule by each board, and may be for an amount up to the price of the renewal fee charged to active, non-delinquent licensees. The bill reduces the additional delinquency fee to a flat rate of $25.00.

DBPR also houses the Florida Building Commission, which enforces the Florida Building Code. All local building departments assess and collect a 1.5% surcharge on any building permit issued by their agency for the purpose of enforcing the Florida Building Code. The bill reduces the surcharge assessed on Florida building permits issued to 1.0%.

HB 741 sets a flat fee of $25 for all additional delinquency fees imposed on a delinquent status licensee when the licensee applies for active or inactive status.

The bill reduces the surcharge assessed on Florida building permits issued from 1.5% to 1.0%.

It amends s. 455.271, F.S., revising the delinquency fee that a professional board or the department imposes on a delinquent status licensee and s. 553.721, F.S.; revising the surcharge that the department assesses on building permits.

This bill was signed into law May 23, 2017 as Chapter No. 2017-029, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 927
Real Estate Appraisers/Licensing

The Florida Real Estate Appraisal Board (FREAB) regulates real estate appraisal and administers and enforces Florida's real estate appraiser licensing laws and national uniform standards of professional appraisal practice. The state also licenses and regulates Appraisal Management Companies (AMC).

In order to meet state requirements established by the federal government in the Dodd-Frank Act, the bill adopts provisions set out by recently adopted federal rules relating to state regulation of AMCs.

The bill:

- Defines the following terms to mirror federal definitions: "appraisal panel", "covered transaction", "secondary mortgage market participant", and "federally regulated appraisal management company."
- Defines the term "order file," which is used but not currently defined in Florida Statutes.
- Defines the term 'evaluation," which is used by federal agencies.
- Requires FREAB to annually report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council a roster listing individuals or companies that hold a valid state registration as an AMC.
- Requires FREAB to collect an annual fee, established by the FREAB, from AMCs that perform or seek to perform appraisal management services in covered transactions in the state, and from federally regulated AMCs, and transmit the annual fee to the ASC.
- Eliminates a current exemption that allowed an unqualified person deemed by the FREAB not to endanger the public to be qualified to manage an AMC.
- Registration requirements for AMCs do not apply to federally regulated AMCs.
- Provides that appraisers may perform evaluations for federally regulated real estate transactions.
- Provides that FREAB may adopt additional standards of practice.
- Requires appraisers to follow the Appraisal Foundation's ethics rules for non-federal appraisals.
- Provides that appraisal assignments that use standards of practice that are not adopted by FREAB do not count towards the experience requirement for licensure.
- Repeals certain post-licensure educational requirements for a registered trainee appraiser.
- Repeals the option for real estate schools to teach initial licensure courses by video-tape.
- Provides that AMCs may not require or attempt to require clients to sign indemnification agreements requiring the client to hold an AMC harmless for the services provided by an appraiser.

This bill was signed into law May 23, 2017 as Chapter No. 2017-030, Laws of Florida and the provisions take effect October 1, 2017.

CS/HB 987
Public Accountancy

The Board of Accountancy (Board) within the Department of Business and Professional Regulation (DBPR) regulates the practice of public accountancy in the state. In order to practice public accountancy in Florida, individuals and firms must be licensed. An individual licensee is called a certified public accountant, or "CPA." Currently, there is an exemption to licensure available to certain out-of-state CPAs.

The bill will allow out-of-state CPA firms that do not have a Florida license to practice public accounting in Florida without a license if the firm:

- Complies with the requirements for business entities practicing public accounting,
- Is enrolled in a peer review program,
- Performs services through an individual with practice privileges under an exception to Florida licensing requirements, and
- Lawfully performs services in a state where the Board has determined that the licensing standards of that state are substantially equivalent to the requirements of the Uniform Accountancy Act (UAA).

It will allow the Board to discipline CPAs or firms if their right to practice public accounting has been suspended or revoked by the Public Company Accounting Oversight Board, a nonprofit corporation established by the United States Congress to oversee the audits of public companies.

The bill updates the statutory reference to the UAA to the most current edition and clarifies the definition of "client" to align with the definition in the UAA.

This bill was signed into law June 23, 2017 as Chapter No. 2017-148, Laws of Florida and the provisions take effect July 1, 2017.

Education

Education

HB 3A
Florida Education Finance Program
The state's Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of K-12 public education. The FEFP funding calculations include the FEFP as defined in s. 1011.62, Florida Statutes, the Class Size Reduction Allocation and the District Lottery/School Recognition Funds.

The conference report for SB 2500 which passed during the 2017 legislative session appropriates a total of $11.5 billion in state funds and sets the required local effort (RLE) at $7.6 billion for a total FEFP of $20.4 billion for Fiscal Year 2017-2018. On June 2, 2017, the Governor vetoed the appropriations for the FEFP which also included the appropriations for the Class Size Reduction Allocation and the District Lottery/School Recognition Funds provided for in the conference report for SB 2500.

HB 3A provides appropriations and specifies the uses of the funds for the FEFP, the Class Size Reduction Allocation and the District Lottery/School Recognition Funds for Fiscal Year 2017-2018. The bill appropriates $11.7 billion in total state funds of which $154.0 million is nonrecurring.

The bill sets the RLE at $7.6 billion which is the same as the RLE for Fiscal Year 2016-2017; this will result in approximately a $521 million tax avoidance to Florida property owners.

The bill provides $7,296.23 in total funds per student which is a $100 increase over total funds per student provided in Fiscal Year 2016-2017. The bill also establishes a base student allocation (BSA) of $4,203.95 in the FEFP for Fiscal Year 2017-2018 which is a $43.24 increase over the BSA for Fiscal Year 2016-2017.

The bill also funds in the FEFP the portion of the rate increase for the Florida Retirement System attributable to school districts in the amount of $54 million.

This bill was signed into law June 26, 2017 as Chapter No. 2017-234, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/CS/HB 15
Educational Options
The bill expands access to the Gardiner Scholarship Program (GSP) and strengthens accountability by:

- Expanding student eligibility;
- Expanding the authorized uses of scholarship funds;
- Revising the eligibility requirements of private schools participating in the GSP; and
- Clarifying a student's eligibility to receive scholarship payments.

The bill revises the Florida Tax Credit (FTC) Scholarship Program by:

- Increasing the base annual scholarship amount, differentiated by grade level, for students enrolled in eligible private schools;
- Increasing the amount of a transportation scholarship for a student who chooses a public school outside their district from $500 to $750;
- Allowing a dependent child of a parent who is a member of the U.S. Armed Forces to apply for a scholarship at any time;
- Authorizing a Scholarship Funding Organization (SFO) to make scholarship payments on behalf of a parent only if the SFO receives prior approval from the parent each time;

- Providing that a private school that has consecutive years of material exceptions listed in their annual financial reports may be ineligible to participate in the FTC;
- Requiring the Department of Revenue (DOR) to provide a copy of a denial letter to the SFO specified by the taxpayer seeking the tax credit;
- Revising the date that a private school's agreed upon procedures report from a CPA is due to the SFO from September 15, to August 15, of each year; and
- Removing obsolete language regarding student eligibility and funding.

This bill was signed into law June 26, 2017 as Chapter No. 2017-166, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 293
Middle Grades

The bill directs the Florida Department of Education to issue a competitive solicitation for a contract to conduct a comprehensive study of states with high-performing students in grades 6 through 8 in reading and mathematics, based on the states' performance on the National Assessment of Educational Progress. The findings of the study and the recommendations to improve middle school study performance must be reported to the Governor, the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives by December 2017. The study must include a review of the following general topics:

- Academic expectations and instructional strategies.
- Attendance policies and student mobility issues.
- Teacher quality.
- Middle school administrator leadership and performance.
- Parental and community involvement.

Public school students in grades 6, 7, or 8 must complete a career and education planning course as part of the requirements for middle grade promotion to high school. The bill deletes the requirement for middle grade students to complete the career and education planning course.

This bill was signed into law June 2, 2017 as Chapter No. 2017-55, Laws of Florida and the provisions take effect July 1, 2017.

HB 371
Assistive Technology Devices

Federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability and requires the school to meet a student's individual education plan (IEP) requirements regarding assistive technology. If the student moves from one school to another within the district, the assistive technology device must be provided at the new school. Whether or not a student may take his or her assistive technology device home is determined on an individual basis and should be specified in the IEP.

Certain agencies are required by law to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan or IEP.

The bill revises provisions related to the use of an assistive technology device by students with disabilities by:

- clarifying that access to and use of the assistive technology device is essential for a student moving from school to home and community;

- specifying an individual work plan as one of the plans that may serve as the basis for issuing an assistive technology device to a student; and
- requiring the Office of Independent Education and Parental Choice, within the Florida Department of Education, to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

This bill was signed into law June 14, 2017 as Chapter No. 2017-100, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 396
Student Loan Debt

CS/SB 396 requires certain postsecondary education institutions to provide information regarding student loans annually to students. Specifically, the bill:

- Defines "student loans" to mean federal loans disbursed to a student to pay for education-related expenses.
- Establishes the requirement that a postsecondary education institution that disburses state financial aid provide the following up-to-date information annually to each student receiving student loans:
  - An estimate of the student's total amount of borrowed student loans.
  - An estimate of the student's total potential loan repayment amount associated with the total amount of student loans borrowed by the student.
  - An estimate of the student's monthly loan repayment amount for the student's total amount of borrowed student loans.
  - The percentage of the borrowing limit that the student has reached at the time the information is provided.
- Provides that an institution does not incur liability for providing the specified information.

This bill was signed into law June 14, 2017 as Chapter No. 2017-092, Laws of Florida and the provisions take effect July 1, 2017.

SB 436
Religious Expression in Public Schools

SB 436 creates the "Florida Student and School Personnel Religious Liberties Act," protecting K-12 public school students, their parents, and school personnel from discrimination based on their religious belief and expression.

The bill protects students from discrimination based on their religion in several ways. Regarding coursework, the bill requires that students' work be graded according to the expected academic standards, without regard for any religious content. Also, if students in a given school setting are permitted to wear clothing, jewelry, or accessories that display a secular message or symbol, then students may also wear items displaying religious messages or symbols. Moreover, the bill authorizes students to express themselves in a religious manner, and to engage in and organize religious activities to the same extent as secular expressions and activities are permitted.

It protects school personnel from discrimination in several ways. First, school districts may not discriminate against their employees on religious grounds. Also, school personnel may not be barred from joining in certain types of student-initiated religious activities. This protection includes several caveats, including that the activity must be on school grounds, occur at reasonable times before or after school, be voluntary, and not conflict with the duties of

the employee joining the student-initiated activity.

The bill protects religious groups from discrimination by requiring school districts to permit these groups access to the same facilities for assembly that it permits such access to secular groups.

It requires school districts to adopt a policy establishing a “limited public forum” for student speakers at certain school events. This policy must include certain elements set forth in the bill. Also, the policy must include or be comprised entirely of the model limited public forum policy that the bill requires the Florida Department of Education to develop and publish.

This bill was signed into law June 9, 2017 as Chapter No. 2017-074, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 493
Enhanced Safety for School Crossings

Current law requires the Department of Transportation (DOT) to adopt a uniform system of traffic control devices and pedestrian control devices for use on the streets and highways surrounding all public and private schools. A school zone located on a state-maintained primary or secondary road is maintained by DOT. Counties are responsible for maintaining school zones located outside of any municipality and on a county road. Municipalities are responsible for maintaining school zones located in a municipality. A school zone maintained by a county or municipality is periodically inspected to determine whether or not the school zone is being properly maintained.

The bill requires DOT to evaluate the viability and cost of establishing a uniform system for the designation of safe school crossing locations on arterial or collector roads within a one-mile radius of all schools and requires DOT to report its findings to the Governor and Legislature before January 1, 2018.

This bill was signed into law June 14, 2017 as Chapter No. 2017-108, Laws of Florida and the provisions take effect July 1, 2017.

HB 781
Designation of School Grades

School grades are used to explain a school’s performance in a familiar, easy-to-understand manner for parents and the public. School grades are also used to determine whether a school must select or implement a turnaround option or whether a school is eligible for school recognition funds as appropriated by the Legislature. School grades identify schools as having an A through F grade and are determined annually. Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the grading model.

A school that serves any combination of K-3 students, that does not receive a school grade as a result of its students not being tested and included in the school grading system, receives the school grade of a K-3 feeder pattern school determined by the Department of Education and verified by the district. A school feeder pattern exists if at least 60 percent of the students are assigned to the graded school.

The bill revises the number of students required to establish a school feeder pattern from 60 percent to a majority.

This bill was signed into law June 26, 2017 as Chapter No. 2017-171, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 859
Postsecondary Distance Education
The bill establishes the Postsecondary Reciprocal Distance Education Coordinating Council within the Florida Department of Education (DOE), consisting of members of Florida's postsecondary education system, which will:

- Administer the State Authorization Reciprocity Agreements (SARA) with other states to authorize institutions to offer postsecondary distance education in such states.
- Review and approve applications from institutions in Florida to participate in the SARA.
- Establish an appeals process for institutions that are denied participation in the SARA.
- Ensure Florida SARA institutions comply with the terms and provisions of the SARA.
- Comply with the terms and provisions of the SARA relating to any state, territory or district approved to participate in the SARA.
- Comply with the reporting requirements in the SARA.
- Develop and administer a complaint resolution process for complaints related to the SARA.
- Delegate any responsibilities to the Commission for Independent Education (CIE) necessary for Florida's participation in the SARA.
- Recommend rules necessary to administer the SARA to the Florida State Board of Education (SBE);
- collect fees from each Florida SARA institution.
- Have the authority to revoke a Florida SARA institution's participation in the SARA if the institution is not in compliance with the terms of the SARA.

The bill provides that the decisions of the council are not subject to the administrative hearing procedures of chapter 120, F.S.

SARA states are required to have one portal entity for all of the participating institutions. The Postsecondary Reciprocal Distance Education Coordinating Council the bill creates will act as the portal entity for the state. This is not a requirement of the current Southern Regional Educational Board's Electronic Regional Reciprocity Agreement. The bill provides a fee schedule and collect fees from each Florida SARA institution. The fees are voluntary and will only be assessed if an institution wishes to be a SARA institution. The fees will fund the administrative cost of the council the bill creates.

This bill was signed into law June 9, 2017 as Chapter No. 2017-087, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 890
Florida Endowment for Vocational Rehabilitation
CS/CS/SB 890 extends the repeal date for the Florida Endowment Foundation for Vocational Rehabilitation (Foundation), which serves as the direct-support organization of the Division of Vocational Rehabilitation within the Florida Department of Education from October 1, 2017 to October 1, 2022.

The bill increases transparency and oversight of the DSO by requiring the DSO to:

- Account for state and private funds separately.
- Use private funds for administrative expenses, which are limited to fifteen percent of the estimated expenditures.
- Publish additional information on its website.

- Hold a competitive solicitation process for any allocation of funds for research, advertising or consulting.

This bill was signed into law June 9, 2017 as Chapter No. 2017-075, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 896
Florida Prepaid College Board
CS/CS/SB 896 modifies the financial interest disclosure requirement to specify that certain members of the Florida Prepaid College Board (e.g., Chancellor of the State University System and Chancellor of the Florida College System or an individual appointed by the Governor who is not a constitutional officer) must file the Statement of Financial Interest (Form 1) rather than the currently required Full and Public Disclosure of Financial Interests (Form 6). This is consistent with the requirement for members of other similar boards.

The bill extends the repeal date of the DSO to October 1, 2022. This extension allows for the continuation of the Florida Prepaid Tuition Scholarship Program (Scholarship Tuition for At-Risk Students, or STARS Program) and other scholarship programs for Florida students, which include, but are not limited to, the Black History Month Scholarship, Hispanic Heritage Month Scholarship, and National Mortgage Settlement Dormitory Project Scholarship.

This bill was signed into law June 9, 2017 as Chapter No. 2017-076, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 899 Comprehensive Transitional Education Programs
The Agency for Persons with Disabilities (APD) provides services to persons with developmental disabilities through a Medicaid Home and Community-Based Services (HCBS) waiver. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

A Comprehensive Transitional Education Program (CTEP) is a group of jointly operating centers or units that provide a sequential series of educational care, training, treatment, habilitation, and rehabilitation services to persons who have developmental disabilities and who have severe or moderate maladaptive behaviors. Carlton Palms Educational Center (Carlton Palms), located in Mt. Dora, is the state's only CTEP. Carlton Palms provides 24-hour care for children and adults with intellectual and developmental disabilities, many of whom are dually diagnosed with mental and/or emotional disorders.

Under recently-issued federal Medicaid waiver guidelines, effective March 2019, the HCBS waiver funding will no longer be available for services provided at Carlton Palms. Additionally, there has been a shift for states to provide care to persons with developmental disabilities in home and community-based settings and move away from settings with institutional characteristics such as Carlton Palms.

As a result of state and federal reforms, as well as in response to incidents of verified abuse and neglect at Carlton Palms over the last several years, APD and Carlton Palms entered into a settlement agreement in 2016 agreeing that APD will not approve any new admissions of APD clients to Carlton Palms and that Carlton Palms will not accept any new residents. Furthermore, Carlton Palms

will work with families, guardians, and other states or countries to transition its residents safely back to their places of origin or other agreed-upon locations for further services.

A receiver is a disinterested person appointed by a court, or by a corporation or other person, for the protection or collection of property that is the subject of diverse claims. Currently, APD may petition a court for the appointment of a receiver for a residential habilitation center or a group home facility owned and operated by a corporation or partnership when certain conditions exist.

HB 899 authorizes APD to initiate receivership proceedings for CTEPs.

This bill was signed into law June 26, 2017 as Chapter No. 2017-174, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 989
Instructional Materials

To be included in Florida's state-adopted instructional materials list, an instructional material must, among other things, be aligned to the Next Generation Sunshine State Standards, accurate, objective, balanced, non-inflammatory, current, and suited to student needs and their ability to comprehend the material presented. However, state funds allocated for the purchase of instructional materials may be used to purchase materials that are not included on the state-adopted list or are not otherwise reviewed for appropriate content and alignment to the standards.

The bill provides for greater transparency in the district-level adoption process and more opportunities to review and challenge materials made available to students by:

- Allowing parents and residents of the county to provide the district school board evidence that an instructional material for adoption by the district does not meet the state criteria, contains prohibited content, or is otherwise inappropriate or unsuitable;
- defining the terms "resident" and "purchase;"
- allowing county residents to contest the adoption of an instructional material and object to the use of a material made available to students;
- requiring the process for contesting the adoption of an instructional material to provide for an impartial hearing officer and to provide certain procedural protections;
- requiring school districts to discontinue use of a material found to be inappropriate or unsuitable;
- requiring school districts to provide access to library materials upon written request;
- requiring school districts to maintain a current list of purchased instructional materials on their websites;
- requiring that instructional materials purchased using the instructional materials allocation be on the state-adopted list unless purchased through a district instructional materials program;
- requiring that instructional materials purchased through a district instructional materials program meet the criteria for inclusion in the state-adopted list, be aligned to the state academic standards, and be consistent with course expectations and course descriptions;
- eliminating the requirement that 50 percent of the instructional materials allocation be used to purchase electronic or digital materials; and
- clarifying that a school district is responsible for the content of all

- materials made available to students, including those that may not meet the statutory definition of an instructional material.

The bill also specifies that an instructional material must be free of content that is pornographic or harmful to minors in order to be recommended for inclusion in the state-adopted list and that any material used in a classroom must also be free of such content.

This bill was signed into law June 26, 2017 as Chapter No. 2017-177, Laws of Florida and the provisions take effect July 1, 2017.

HB 1109
Private School Student Participation in Extracurricular Activities

Each district school board, charter school and private school must establish in its code of student conduct eligibility standards and student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities.

Home education students, charter school students, full-time Florida Virtual School students and private school students who participate in extracurricular activities for a public school are subject to the school district's code of student conduct for purposes of eligibility.

While district school boards have the authority and responsibility for student eligibility, the Florida High School Athletics Association (FHSAA) retains jurisdiction over, among other things, membership in the FHSAA and school eligibility. The FHSAA bylaws require member schools to comply with all FHSAA bylaws and administrative policies and procedures.

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA and has an enrollment of less than 125 students.

The bill revises private school student eligibility by allowing a student in a non-FHSAA member private school to participate in interscholastic or intrascholastic activities at the school where the student could choose to attend pursuant to controlled open enrollment provided the public school has not reached capacity as determined by the school board, in addition to the student's zoned school which is currently permitted by law.

This bill was signed into law June 26, 2017 as Chapter No. 2017-186, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 7069
Education Provisions

The bill:

- Extends the Best and Brightest Teacher Scholarship Program through the 2019-2020 school year, revises scholarship award amounts, revises eligibility criteria beginning with the 2020-2021 school year, and provides additional bonus awards for teachers rated highly effective and effective through the 2019-2020 school year;
- establishes the Best and Brightest Principal Scholarship Program to award qualifying principals a scholarship amount and provide certain administrative flexibilities;
- establishes the Schools of Hope program to encourage traditional public schools within the state and charter operators throughout the country with a proven track record of student success in low-income areas to replicate their model and serve students from persistently low-performing schools;

- creates the Schools of Excellence program to provide administrative flexibilities to certain schools;
- expedites school improvement by requiring school districts to provide principals with greater autonomy, enter into a memorandum of understanding with the teacher's union regarding the recruitment and retention of teachers at "D" or "F" schools, and select and implement a turnaround plan once a school earns two consecutive school grades of "D" or a grade of "F;" eliminating the hybrid turnaround option; including a district-operated charter school as a turnaround option; and requiring the Commissioner of Education to assign a community assessment team the first time a school earns a grade of "D" or "F";
- fosters the development of civic literacy throughout the K-20 education system by authorizing the Governor to designate the month of September as American Founder's Month; establishing civic literacy as a priority of the K-20 education system; requiring the Just Read, Florida! Office to develop curricular programming to help build student background knowledge and literacy skills; and requiring public postsecondary students to demonstrate civic literacy;
- streamlines the temporary certificate application process;
- establishes a mentorship-based certification pathway;
- revises provisions related to charter schools and expands eligibility for virtual education options;
- reduces state testing, pushes back testing dates, and provides for paper-based tests in certain grades;
- requires state testing results to be timely provided to teachers and parents in an easy-to-read format;
- requires district-required testing results to be provided to teachers within 1 week;
- expands eligibility for the Gardiner Scholarship Program and authorizes additional expenditures;
- expressly authorizes students to possess and use sunscreen on campus without a prescription;
- provides for permitted absences for treatment of autism spectrum disorder;
- requires school districts to provide instruction to students in residential health care facilities;
- revises the way funds are provided to school districts, including by:
  - requiring school districts to share discretionary millage revenue with charter schools;
  - establishing a Safe Schools funding allocation;
  - modifying eligibility criteria and funding methodology for the high-growth district program; and
  - modifying the sparsity supplement and certain funding allocations;
- redefines "eligible student" for purposes of the College-preparatory Boarding Academy Pilot Program;
- requires certain students who transfer to a private school to count towards a school's graduation rate;
- includes concordant scores in calculating an alternative school's school improvement rating;
- exempts students who meet certain requirements from the personal fitness exam;
- allows a blended learning course to satisfy the online course required for high school graduation;

- provides for third party analysis and reporting of student learning growth data;
- makes use of the student learning growth formula in an educator's performance evaluation optional;
- revises provisions for identifying and supporting students with a substantial reading deficiency;
- deletes the requirement that the instructional materials allocation be used to purchase digital materials;
- extends early warning system coverage to include students in kindergarten through grade 8;
- requires 20 minutes of consecutive free-play recess per day for K through 5 students;
- establishes provisions related to shared use agreements for public school playground facilities;
- makes the middle grades career and education planning course optional;
- revises eligibility criteria for participation in the minority teacher education scholars program;
- creates the Committee on Early Childhood Development to develop a proposal on certain milestones;
- establishes the Early Childhood Music Education Incentive Pilot Program; and
- allows designees of certain superintendents to participate on a children's services board.

This bill was signed into law June 15, 2017 as Chapter No. 2017-116, Laws of Florida and the provisions take effect July 1, 2017.

General Government

General Government

CS/SB 60
Driver Licenses for Foster Children
CS/SB 60 expands the program that provides motor vehicle insurance and driver licenses to children in out-of-home care who are in relative and non-relative placements. It also provides assistance to children who have reached permanency or turned 18 under certain circumstances. The program is authorized to pay for a child in out-of-home care to complete a driver education program and obtain a driver license or the related costs of licensure under certain circumstances. The bill continues the program beyond the 3-year pilot period.

It requires the child's transition plan and the court to address the issue of a child in care being able to obtain a driver license.

The bill also provides that a guardian ad litem authorized by a minor's caregiver may sign for the minor's learner's driver license and not assume any obligation or liability for damages caused by the minor.

This bill was signed into law May 1, 2017 as Chapter No. 2017-008, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 101
Nonviable Birth Records
The bill creates the "Grieving Families Act" which allows the parents of a pregnancy that results in a fetal demise to request and be issued a "certificate of nonviable birth." The bill defines "nonviable birth" as an unintentional, spontaneous fetal demise occurring after the 9th week of gestation but before the completion of the 20th week of gestation of a pregnancy that has been verified by health care practitioner.
The bill requires certain health care practitioners who attend or diagnose a nonviable birth, or the health care facility at which it occurs, to advise the parent:

- That the parent may request the preparation of a certificate of nonviable birth;
- That the parent may obtain a certificate of nonviable birth by contacting the Office of Vital Statistics;
- How the parent may contact the Office of Vital Statistics to request the certificate of nonviable birth; and
- That the certificate of nonviable birth is available as a public record.

Upon the request of a parent, certain health care practitioners and health care facilities that attend or diagnose a nonviable birth must register the nonviable birth with the Bureau of Vital Statistics, electronically or on a form prescribed by the Department of Health within 30 days of receipt of such request. The bill prohibits the Bureau of Vital Statistics from including the certificate of nonviable birth in its calculations of live birth statistics.

The bill prohibits the use of a certificate of nonviable birth to establish or maintain a civil cause of action for bodily injury, civil injury, or wrongful death against any person or any entity.

This bill was signed into law May 31, 2017 as Chapter No. 2017- 38, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 105
Vote-By-Mail Ballots
Florida law allows an elector to cast a ballot by mail, called a vote-by-mail ballot. Once the elector has completed his or her ballot, the elector must sign a voter's certificate on the back of the return envelope. The voter's certificate requires the elector to affirm that the elector is a qualified, registered voter of the county and that the elector has not and

will not vote more than one ballot in the election. The supervisor of elections (supervisor) and the county canvassing board use this signature to confirm that the person voting is the same elector in the registration records. If the elector omits his or her signature from the voter's certificate or the signature is determined to not match the registration records, the ballot is deemed illegal and will not be counted. However, if an elector omits his or her signature, he or she may, until 5 p.m. the day before the election, submit an affidavit to remedy the defective ballot and have it counted. There is no analogous process to cure a ballot when the signature does not match the signature on the registration records.

The bill requires the supervisor to notify each elector whose vote-by-mail ballot has been rejected of the existence of the process to cure the rejected ballot. It requires the supervisor to make a good faith effort to notify the elector before 5 p.m. the day before an election. The bill provides a cure for an elector who submits a vote-by-mail ballot that is rejected because of a difference between the signature on the voter's certificate or ballot affidavit and the registration books or precinct register. The cure provision allows an elector to cure the defect by submitting an affidavit in the same way as is currently allowed for unsigned vote-by-mail ballots. As such, the bill provides the elector may, until 5:00 p.m. on the day before the election, complete an affidavit to cure the vote-by-mail ballot. The bill also clarifies that when an elector's signature on a vote-by-mail ballot affidavit does not match the elector's signature in the registration books, the elector's identity can be confirmed with a copy of a current and valid photo identification. In addition, the bill expands the list of acceptable forms of identification for purposes of curing a vote-by-mail ballot to include a Florida driver license and a Florida identification card issued by the Department of Highway Safety and Motor Vehicles.

This bill was signed into law June 2, 2017 as Chapter No. 2017-45, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 164
Certificates of Title for Motor Vehicles

The bill prohibits the Division of Highway Safety and Motor Vehicles (DHSMV) and tax collectors from charging a surviving spouse any fee or service charge (excluding an expedited title fee, if applicable) for issuance of a motor vehicle certificate of title when the title is being issued solely to remove the deceased spouse as a co-owner. The fee waiver is only applicable if the vehicle is co-owned by the surviving and deceased spouse with both names on the certificate of title.

This bill was signed into law June 14, 2017 as Chapter No. 2017-089, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 181
Statewide Emergency Management Program

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor and is responsible for carrying out the State's Emergency Management Act, which includes maintaining a comprehensive statewide emergency management program. DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies.

Each executive agency, each water management district (WMD), the Public

Service Commission (PSC), the Fish and Wildlife Conservation Commission, and the Department of Military Affairs must designate a person within its agency as the emergency coordination officer (ECO). DEM's Bureau of Mitigation, ECOs, and representatives from private and public agencies with resources or expertise relevant to mitigation make up the State Hazard Mitigation Plan Advisory Team and are responsible for the progression and implementation of the state hazard mitigation plan (SHMP). SHMP addresses the following natural hazards: inland and coastal floods; tropical cyclones, hurricanes and tropical storms; severe storms and tornadoes; wildfires; droughts; extreme heat; winter storms and freezes; erosion; sinkholes, earthquakes, and landslides; tsunamis and rogue waves; and solar storms.

The bill creates a natural hazards interagency workgroup for the purpose of sharing information on current and potential impacts of natural hazards throughout the state; coordinating ongoing efforts of state agencies in addressing impacts of natural hazards; and collaborating on statewide initiatives to address natural hazards. It defines "natural hazards" to include extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The bill requires the director of DEM or designee to serve as the liaison to and coordinator of the workgroup. Each executive agency, each WMD, and the PSC must designate an agency liaison to the workgroup to provide information from the respective agency on the current and potential impacts of natural hazards to the agency, available agency resources to mitigate against natural hazards, and agency efforts to address the impacts of natural hazards. It also requires the workgroup to meet in person or by teleconference quarterly to share this information, leverage agency resources, coordinate ongoing efforts, and provide information for the annual progress report.

The bill requires DEM, on behalf of the workgroup, to prepare and submit an annual progress report to the Governor and Legislature beginning January 1, 2019, and requires the agency liaisons to ensure the report is posted on their respective agency websites.

This bill was signed into law June 2, 2017 as Chapter No. 2017-48, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/CS/HB 185
State Park Fees

The bill provides families operating a licensed family foster home free family annual passes to Florida State Parks and a 50 percent discount on base campsite fees at Florida State Parks. The bill also provides families who adopt a special needs child a one-time family annual entrance pass to Florida State Parks at no charge.

Further, the bill requires the Division of Recreation and Parks (DRP) in consultation with the Department of Children and Families, to identify the types of written documentation sufficient to establish eligibility for the discounts. Lastly, the bill requires DRP to continue to partner with DCF to promote fostering and adoption of special needs children with events held each year during National Foster Care Month and National Adoption Month.

This bill was signed into law May 23, 2017 as Chapter No. 2017-027, Laws of Florida and the provisions take effect July 1, 2017.

HB 207
Agency Inspectors General

Current law establishes an Office of Inspector General in each state agency to provide a central point for the coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the inspector general is appointed by the agency head. For state agencies under the jurisdiction of the Governor, the inspector general is appointed by the Chief Inspector General (CIG). The agency head or CIG is authorized to set the salary of the inspector general.

The Florida Housing Finance Corporation (corporation) is the state's affordable housing finance agency. The corporation is authorized to employ an inspector general, who is appointed by the corporation's executive director, with the advice and consent of the corporation's nine-member board of directors.

Effective July 1, 2017, the bill prohibits a state agency that enters into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an inspector general or deputy inspector general, from offering a bonus on work performance in the contract or agreement. The awarding of such a bonus is also prohibited.

The bill also specifically applies these prohibitions to the corporation.

This bill was signed into law June 2, 2017 as Chapter No. 2017-49, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 221
Transportation Network Companies

Preemption and State Regulation

CS/HB 221 creates s. 627.748, F.S., establishing a regulatory framework for Transportation Network Companies (TNCs) in the state. It also preempts to the state the regulation of TNCs. Specifically, a county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may not:

- Impose a tax on or require a license for a TNC, TNC driver, or TNC vehicle if such tax or license relates to providing prearranged rides;
- Subject a TNC, TNC driver, or TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or
- Require a TNC or TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.

The bill does not prohibit an airport or seaport from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport or seaport for their use of the airport's or seaport's facilities or prohibit the airport or seaport from designating locations for staging, pickup, and other similar operations at the airport or seaport.

General Provisions

The bill defines the term "TNC" as an entity operating in this state using a digital network to connect a rider to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers

that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner. The term does not include entities arranging nonemergency medical transportation for individuals who qualify for Medicaid or Medicare pursuant to a contract with the state or a managed care organization, but does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare if it meets the requirements of s. 627.748, F.S.

It defines a "TNC driver" as an individual who receives connections to potential riders and related services from a TNC and, in return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to a rider upon connection through a digital network. The bill specifies that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service.

The bill defines a "TNC vehicle" as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and that is owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. The bill specifies that a taxicab, jitney, limousine, or for-hire vehicle is not a TNC vehicle.

The bill also defines the term "prearranged ride" as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider exits from and is no longer occupying the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail service and does not include ridesharing, carpool, or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.

The bill provides that a TNC driver is not required to register a TNC vehicle as a commercial motor vehicle or a for-hire vehicle. It requires the TNC's digital network to display the TNC driver's photograph and the TNC vehicle's license plate number before the rider enters the TNC vehicle.

If a fare is collected from a rider, the bill requires the TNC to disclose the fare or fare calculation method on its website or within the online-enabled technology application service before beginning the prearranged ride. If the fare is not disclosed, the rider must have the option to receive an estimated fare before beginning the prearranged ride. In addition, the bill requires a TNC to transmit to the rider an electronic receipt within a reasonable period of time after the completion of a ride. The receipt must list the origin and destination of the ride, total time and distance of the ride, and total fare paid.

The bill requires a TNC to designate and maintain an agent for service of process in this state.

Insurance Requirements

Beginning July 1, 2017, a TNC driver, or a TNC on behalf of the TNC driver, must maintain primary automobile insurance that:

- Recognizes that the TNC driver is a TNC driver or otherwise uses a vehicle to transport riders for compensation; and
- Covers the TNC driver while the TNC driver is logged on to the TNC's digital network or while the TNC driver is engaged in a prearranged ride.

While a TNC driver is logged on to the digital network but is not engaged in a prearranged ride, the TNC or TNC driver must have automobile insurance that provides:

- Primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage.
- Personal injury protection benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law. The amount of insurance required is $10,000 for emergency medical disability, $2,500 non-emergency medical, and $5,000 for death. It is notable that no-fault coverage is for the named insured (TNC driver), relatives residing in the same household, persons operating the insured motor vehicle, riders in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle.
- Uninsured and underinsured vehicle coverage.
- When a TNC driver is engaged in a prearranged ride, the automobile insurance must provide:
- Primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage.
- Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under the Florida Motor Vehicle No-Fault Law. Pursuant to s. 627.733(1)(a), F.S., limousines are exempt from the Florida Motor Vehicle No-Fault Law. However, if the Legislature removes this exemption or makes certain parts of the Florida Motor Vehicle No-Fault Law applicable to limousines, the changes in that law would also apply to TNCs and their drivers.
- Uninsured and underinsured vehicle coverage.

The coverage requirements may be satisfied by automobile insurance maintained by the TNC driver, an automobile insurance policy maintained by the TNC, or a combination of automobile insurance policies maintained by the TNC driver and the TNC.

For purposes of comparison, s. 324.032, F.S., requires for-hire passenger transportation vehicles to carry limits of $125,000/$250,000 for bodily injury and $50,000 for property damage. The bill requires less coverage than required for for-hire passenger transportation vehicles when a driver is logged onto the TNCs digital network, but is not engaged in TNC service. However, the bill requires more coverage than required for for-hire passenger transportation vehicles when a driver is engaged in providing TNC service.

The bill provides that if the TNC driver's insurance policy has lapsed or does not provide the required coverage, the insurance maintained by the TNC must provide the required coverage, beginning with the first dollar of a claim, and have the duty to defend such claim. Coverage under an automobile insurance policy maintained by the TNC must not be dependent on a personal automobile insurer first denying a claim, and a personal automobile insurance policy is not required to first deny a claim. The required insurance must be provided by an insurer authorized to do business in this state which is a member of the Florida Insurance Guaranty Association or an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a

rating agency acceptable to the Office of Insurance Regulation.

Insurance satisfying the above requirements is deemed to satisfy the financial responsibility requirement for a motor vehicle under the Financial Responsibility Law of 195521 and the security required under s. 627.733, F.S., for any period when the TNC driver is logged onto the digital network or engaged in a prearranged ride.

A TNC driver is required to carry proof of insurance coverage with him or her at all times while using a TNC vehicle in connection with a digital network. In the event of an accident, a TNC driver must provide this insurance coverage information to any party directly involved in the accident or the party's designated representative, automobile insurers, and investigating police officers. Proof of financial responsibility may be presented through an electronic device, such as a digital phone application. Upon request, a TNC driver must also disclose to any party directly involved in the accident or the party's designated representative, automobile insurers, and investigating police officers whether the driver was logged on to a digital network or was engaged in a prearranged ride at the time of the accident.

If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC must cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

Before a TNC driver can accept a request for a prearranged ride on the digital network, the bill requires the TNC to disclose in writing to the TNC driver:

- The insurance coverage, including the types of coverage and the limits for each coverage, which the TNC provides while the TNC driver uses a TNC vehicle in connection with the TNC's digital network;
- That the TNC driver's own automobile insurance policy might not provide any coverage while the TNC driver is logged on to the digital network or is engaged in a prearranged ride depending on the terms of the TNC driver's own automobile insurance policy; and
- That the provision of rides for compensation that are not prearranged rides subjects the TNC driver to the coverage requirements imposed under s. 324.032(1), F.S., and that failure to meet such coverage requirements subjects the TNC driver to penalties provided in s. 324.221, F.S., up to and including a misdemeanor of the second degree.

An insurer that provides an automobile liability insurance policy under part XI of Ch. 627, F.S., may exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle while driving that vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Uninsured and underinsured motorist coverage;
- Medical payments coverage;
- Comprehensive physical damage coverage;
- Collision physical damage coverage; and
- Personal injury protection.

The exclusions apply notwithstanding any requirement under the Financial Responsibility Law of 1955.28

The bill does not require a personal automobile insurance policy to provide coverage while the TNC driver is logged on to a digital network, while the TNC driver is engaged in a prearranged ride, or while the TNC driver otherwise uses a vehicle to transport riders for compensation.

The bill's insurance provisions must not be construed to require an insurer to use any particular policy language or reference the above statutes in order to exclude any and all coverage for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. The bill does not preclude an insurer from providing primary or excess coverage for the TNC driver's vehicle by contract or endorsement.

An automobile insurer that excludes the coverage described above does not have a duty to defend or indemnify any claim expressly excluded thereunder. The bill does not invalidate or limit an exclusion contained in a policy for vehicles used to carry persons or property for a charge or available for hire by the public, including a policy in use or approved for use in this state before July 1, 2017. An automobile insurer that defends or indemnifies a claim against a TNC driver, which is excluded under the terms of the policy, has a right of contribution against other insurers that provide automobile insurance to the same TNC driver in satisfaction of the coverage requirements of s. 316.68(7), F.S., at the time of loss.

In a claims coverage investigation and upon request by a directly involved party or any insurer of the TNC driver, a TNC must immediately provide the precise times that the TNC driver logged on and off the digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Upon request by any other insurer involved in the particular claim, an insurer providing coverage pursuant to s. 316.68, F.S., must disclose, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the bill's insurance requirements.

TNC Drivers

The bill provides that a TNC driver is an independent contractor and not an employee of the TNC if all of the following conditions are met:

- The TNC does not unilaterally prescribe specific hours during which the TNC driver must be logged on to the TNC's digital network;
- The TNC does not prohibit the TNC driver from using digital networks from other TNCs;
- The TNC does not restrict the TNC driver from engaging in any other occupation or business; and
- The TNC and TNC driver agree in writing that the TNC driver is an independent contractor with respect to the TNC.

Before an individual is authorized to accept a ride request through a digital network, the bill requires the:

- Individual to submit an application to the TNC that includes information regarding his or her address, age, driver license, motor vehicle registration, and other information required by the TNC;
- TNC to conduct, or have a third party conduct, a local and national criminal background check that includes a search of the Multi-State/Multi-Jurisdiction Criminal Records Locator or other

similar commercial nationwide database with validation of any records through a primary source search and NSOPW; and
- TNC to obtain and review, or have a third party obtain and review, a driving history research report for the applicant.

The TNC must conduct the required background check for a TNC driver every three years.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the driving history research report reveals that the individual has had more than three moving violations in the prior three-year period. The TNC may not authorize an individual to act as a TNC driver on its digital network if the initial background check or any subsequent background check reveals that the individual:

- Has been convicted within the past five years of a felony; misdemeanor for driving under the influence of drugs or alcohol, reckless driving, hit and run, or fleeing or attempting to elude a law enforcement officer; or misdemeanor for a violent offense, sexual battery, or crime of lewdness or indecent exposure;
- Has been convicted within the past three years of driving with a suspended or revoked license;
- Is a match in the NSOPW;
- Does not possess a valid driver license; or
- Does not possess proof of registration for the motor vehicle used to provide prearranged rides.

The bill provides that no later than January 1 of every other year beginning in 2019, a TNC must submit to the Department of Financial Services (DFS) an examination report prepared by an independent certified public accountant for the sole purpose of verifying that the TNC is in compliance with the insurance and driver requirements. The report must expressly indicate whether the TNC was compliant or noncompliant with the statutory requirements relating to insurance and driver requirements, and must be prepared in accordance with applicable attestation standards established by the American Institute of Certified Public Accountants. The TNC bears all costs associated with preparing and submitting the report.

Within 30 days after receipt of the report, DFS must impose a fine of $10,000 if the report includes a finding that the TNC has been noncompliant with the insurance and driver requirements. A TNC that has been found noncompliant is required to submit another examination report no later than January 1 of the following year. This subsequent report must evaluate the records of the TNC for the timeframe since the previous examination report to determine whether the TNC has been compliant with the insurance and driver requirements. If the subsequent report includes a finding that the TNC has been noncompliant with the insurance and driver requirements, DFS must impose a fine of $20,000 on the TNC. A TNC that fails to timely submit any required report is subject to an additional fine of $10,000 for noncompliance. Fine revenues may be used by DFS to defray expenses associated with the administration of its regulatory duties.

Any fine imposed by DFS must be payable within 21 days after receipt of notice from the department. Payment of the fine is stayed by the filing of a petition for an administrative proceeding with the agency clerk for DFS. Failure to timely petition waives any rights to an administrative hearing.

The bill also authorizes DFS to seek injunctive relief against a TNC that fails to submit the required examination reports.

Prohibited Conduct

The bill prohibits a TNC driver from accepting a ride for compensation other than by a rider arranged through a digital network. TNC drivers are prohibited from soliciting or accepting street hails.

A TNC may not alter the presentation of information on its digital network to an enforcement official for the purpose of thwarting or interfering with enforcement or oversight of the TNC.

Zero-tolerance Policy

The bill requires TNCs to implement a zero-tolerance policy regarding the activities of its drivers while accessing the digital network. The zero-tolerance policy must address the use of drugs or alcohol while a TNC driver is providing a prearranged ride or is logged on to the digital network. The TNC must provide notice of the policy on its website, as well as procedures to report a complaint about a TNC driver a rider reasonably suspects was under the influence of drugs or alcohol during the course of the ride.

Upon receiving a rider's complaint alleging a violation of the zero-tolerance policy, the TNC must suspend a TNC driver's ability to accept ride requests through the TNC's digital network as soon as possible and conduct an investigation into the reported incident. The TNC driver's suspension must last the duration of the investigation.

Nondiscrimination and Accessibility

The bill requires a TNC to adopt a policy of nondiscrimination with respect to riders and potential riders and is required to notify TNC drivers of its nondiscrimination policy. The TNC driver must comply with the TNC's nondiscrimination policy and all applicable laws regarding nondiscrimination against riders and potential riders and relating to accommodation of service animals. A TNC may not impose additional charges for providing services to a person who has a physical disability because of the person's disability.

The bill requires a TNC that contracts with a governmental entity to provide paratransit services to comply with all applicable state and federal laws related to individuals with disabilities.

The bill requires a TNC to reevaluate any decision to remove a TNC driver's authorization to access its digital network due to a low qualify rating by riders if the TNC driver alleges that the low quality rating was because of a characteristic identified in the TNC's nondiscrimination policy and there is a plausible basis for the allegation.

Records

The bill requires a TNC to maintain individual ride records for at least one year after the date on which each ride is provided, and individual records of TNC drivers for at least one year after the date on which the TNC driver's relationship with the TNC ends.

This bill was signed into law May 9, 2017 as Chapter No. 2017-012, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 327
Household Movers

In order for an intrastate mover to operate in Florida, the mover must register with the Department of Agriculture and Consumer Services (DACS) and comply with the provisions of chapter 507, F.S.

The bill provides that a mover commits a violation of Florida law by knowingly refusing or failing to disclose in writing to a

customer before a household move that the mover or an employee of a mover who has access to the customer's dwelling or property has been convicted of certain sexual offenses.

Upon a finding by DACS that a mover has knowingly refused or failed to disclose such criminal history, DACS must impose a minimum $10,000 administrative fine. If DACS instead chooses to pursue a civil remedy, it must seek a minimum $10,000 civil penalty.

The bill directs DACS to deny or refuse to renew a registration if the mover has not satisfied a civil penalty or administrative fine related to this violation.

This bill was signed into law on June 9, 2017 as Chapter No. 2017-079, Laws of Florida and the provisions take effect on October 1, 2017.

CS/CS/HB 357
Self-Service Storage Facilities

The Self-storage Facility Act (the Act) governs the relationship between the owner of a self-service storage facility and a tenant with whom the owner has entered into an agreement. The owner has a statutory lien upon all personal property located at the self-service storage facility for failure to pay rent. A self-service storage facility owner may sell such personal property in a tenant's storage unit if the tenant fails to pay rent. The facility owner is required to give notice to the tenant of the intent to sell the property before the sale.

The bill provides that a lien sale may be conducted on a public website that typically conducts personal property auctions, and that the facility owner does not have to be licensed as an auctioneer to post property on such a website.

The bill limits the value of property contained in a storage unit if the value was limited by the rental agreement.

The bill provides that, when a lien is claimed on property that is a motor vehicle or watercraft and charges are 60 days or more past due, a facility owner may sell the motor vehicle or watercraft pursuant to the Act or have the motor vehicle or watercraft towed. If towing is elected, the facility owner is no longer liable for the property after the wrecker takes possession. The wrecker operator that takes possession of a motor vehicle or watercraft must comply with notification and sale requirements in current law regarding towing from private property.

The bill allows a storage facility to charge a reasonable late fee for the nonpayment of rent, and for any expenses incurred as a result of rent collection or lien enforcement. The late fee and conditions must be stated in the rental agreement, and the bill provides that a reasonable late fee is the greater of $20 or 20 percent of the monthly rent.

This bill was signed into law June 9, 2017 as Chapter No. 2017-082, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 370
Florida Wing of the Civil Air Patrol

This bill amends s. 252.55, F.S., to provide employment protections for employees engaged in a mission or training with the Florida Wing of the Civil Air Patrol.

<u>Definitions</u>

The bill defines the following terms:

- "Benefits" means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance, and pensions, regardless of whether such

benefits are provided by a policy or practice of the employer.
- "Civil Air Patrol leave" means leave requested by an employee who is a Civil Air Patrol member for the purpose of participating in a Civil Air Patrol training or mission.
- "Civil Air Patrol member" means a senior member of the Florida Wing of the Civil Air Patrol.
- "Employee" means any person who may be permitted, required, or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment and who has been employed by the same employer for at least 90 days immediately preceding the commencement of Civil Air Patrol leave. The term does include an independent contractor.
- "Employer" means a private or public employer, or an employing or appointing authority of this state, its counties, school districts, municipalities, political subdivisions, career centers, Florida College System institutions, or state universities.

Employment Rights and Limitations

The bill requires an employer with 15 or more employees to provide up to 15 days of unpaid CAP leave annually to an employee who is also a CAP member, subject to certain conditions.

An employer may not require a CAP member returning to employment following CAP leave to use vacation, annual, compensatory, or similar leave. However, such employee is authorized, upon his or her request, to apply any vacation, annual, compensatory or similar leave accrued prior to the commencement of his or her CAP leave towards such leave.

Reemployment Rights and Limitations

The bill prohibits an employer from discharging, reprimanding, or otherwise penalizing a CAP member due to his or her CAP leave. Furthermore, the member may not be discharged from such employment for a period of one year after the date of his or her return to work, except for cause.

An employer is not required to allow a CAP member to return to work upon the completion of CAP leave if the employer can prove that:

- The employer's circumstances have changed as to make employment impossible or unreasonable;
- Employment would impose an undue hardship on the employer;
- The employment from which the CAP member leaves is for a brief, nonrecurring period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period; or
- The employer had legally sufficient cause to terminate the CAP member at the time he or she left to perform a CAP mission or participate in training.

A CAP member is required to notify their employer of his or her intent to return to work upon the completion of CAP leave. When the CAP member returns to work, he or she is entitled to the following:

- The seniority that the member had at his or her place of employment on the date his or her CAP leave began and any other rights and benefits that inure to the member as a result of such seniority; and
- Any additional seniority that the member would have attained at his or her place of employment if he or she had remained continuously employed and

any other rights and benefits that inure to the member as a result of such seniority.

Procedures for Assistance, Enforcement, and Investigation

If the Wing Commander of the Florida Wing of the Civil Air Patrol certifies there is probable cause to believe an employer has violated this section, the member may bring civil action. A civil action against the employer may occur in a court in the county where the employer resides or has his or her principal place of business or in the county where the alleged violation occurred. Upon adverse adjudication, the defendant is liable for actual damages or $500, whichever is greater. The prevailing party is entitled to recover reasonable attorney fees and court costs.
The certification of probable cause may not be issued until the Wing Commander, or his or her designee, has completed an investigation. All employers and other personnel involved with the subject of such an investigation must cooperate with the wing commander in the investigation.

This bill was signed into law June 9, 2017 as Chapter No. 2017-073, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 465
Firefighter Emeritus

The bill creates a Lifetime Firefighter designation for firefighters to be administered by the Division of State Fire Marshal (division). A firefighter or volunteer firefighter may apply for the designation if he or she:

- Has at least 20 years of service;
- Has been employed with a fire service provider and is in good standing with his or her most recent fire service provider;
- Has no conviction or other disqualifying event under s. 633.412(2), F.S.;
- Complies with the fingerprint requirements under s. 633.412(3), F.S.;
- Is recorded on a fire service provider roster in the division's online electronic database or was previously certified as a firefighter or volunteer firefighter in this state.

A firefighter is authorized to have his or her FCOC or a Volunteer Firefighter Certificate of Completion placed into the Lifetime Firefighter designation by applying to the division at the time required to renew the certificate. Application must be made on a form prescribed by the division.

An individual who holds the Lifetime Firefighter designation is not authorized to engage in firefighting activities unless he or she holds a current and valid FCOC or Special Certificate of Compliance issued by the division.

After the division approves a currently employed firefighter's Lifetime Firefighter designation, the division will issue the designation in its online electronic database upon the end of each four-year period.

If a firefighter applies to renew his or her current FCOC or a Volunteer Firefighter Certificate of Completion within the first four years after the date of approval of the Lifetime Firefighter designation, then he or she must successfully complete the Minimum Standards Course examination for a firefighter or the requisite course examinations for a volunteer firefighter, and meet all requirements in s. 633.412, F.S..

If a firefighter's FCOC or Volunteer Firefighter Certificate of Completion has expired upon the Lifetime Firefighter designation and he or she wishes to perform firefighter services, then the firefighter must

successfully complete the Minimum Standards Course examination for a firefighter, or the requisite course examinations for a volunteer firefighter, and meet all requirements in s. 633.412, F.S.

The bill requires the Lifetime Firefighter designation to be revoked if the person is convicted of a misdemeanor relating to perjury or false statement, convicted of a felony or a crime punishable by one year of imprisonment or more under the laws of the United States or any other country, or dishonorably discharged from any of the United States Armed Forces. It authorizes the division to investigate and take action as necessary to enforce this requirement.

Lastly, the bill authorizes the division to adopt rules pursuant to its authority in s. 633.104(1), F.S., to administer the provisions of the bill.

This bill was signed into law June 14, 2017 as Chapter No. 2017-106, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 467
Department of Agriculture & Consumer Services

The bill contains modifications to several agricultural, consumer service, and licensing activities under the jurisdiction of the Florida Department of Agriculture and Consumer Services (DACS).The bill in part:

- Allows agriculture education and promotion facility applications to be submitted electronically;
- Removes an outdated rulemaking reference adopting the federal Worker Protection Standard;
- Revises provisions related to cattle marks and brands;
- Applies marketing order certification filing requirements to the Division of Fruit and Vegetables;
- Authorizes DACS to enforce the Florida Building Code on all Florida Forest Service facilities;
- Clarifies that the sale of aquaculture products is allowed by aquaculture producers and dealers;
- Exempts dealers in agricultural products who pay by credit card from certain regulations;
- Removes the five-year expiration period for the Do Not Call list;
- Strengthens household moving insurance requirements;
- Exempts certain contracted persons from surveying and mapping regulations;
- Deletes an obsolete provision related to photogrammetrists;
- Removes metal impression seals as the exclusive seal used by registered surveyors or mappers;
- Revises requirements of surveyors and mappers when submitting elevation certificates;
- Exempts certain office gyms from state regulation;
- Excludes taximeters and digital networks from weights and measures requirements;
- Aligns the concealed weapon and firearm mental health restoration requirements;
- Reduces the initial and renewal license fees for concealed weapons permits;
- Allows a manager of a private investigative agency to manage multiple locations;
- Exempts certain partners and corporate officers from fingerprint retention requirements;
- Revises certification document requirements for Class “K” licenses;

- Authorizes Department access to Department of Law Enforcement mental competency data;
- Requires a licensee to notify their employer if arrested, and provides grounds for disciplinary action;
- Revises notification requirements of private investigative, security, and recovery agencies;
- Requires Class "G" licensees to successfully complete firearm training;
- Allows for the temporary suspension of certain licensees arrested or formally charged with certain crimes; and
- Revises private investigator and security officer training requirements.

This bill was signed into law June 9, 2017 as Chapter No. 2017-085, Laws of Florida and the provisions take effect July 1, 2017.

HB 671
Reemployment Assistance Fraud

Florida's unemployment insurance program was created by the Legislature in 1937, and rebranded as the "reemployment assistance" program in 2012. The Florida Department of Economic Opportunity (DEO) is responsible for administering Florida's reemployment assistance laws. The Department of Highway Safety and Motor Vehicles (DHSMV) holds motor vehicle records containing personal information about drivers and motor vehicle owners, including identification cards. A driver license issued by DHSMV must contain a color photograph and signature of the licensee. DHSMV must maintain a record of the digital image and signature of the licensee. Reproductions from the file are exempt from public disclosure and may only be issued for specified purposes. Current law allows DHSMV to release the images and signatures to certain governmental entities; however, DEO is not listed as an entity that may receive the information. The bill permits DHSMV to provide the image file and signature of licensees to DEO pursuant to an interagency agreement to facilitate the validation of reemployment assistance claims and the identification of fraudulent or false claims for benefits.

This bill was signed into law May 9, 2017 as Chapter No. 2017-018, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 711
Vessel Registration

This bill arose from the deaths of two teenagers who went out on a boat without a locator beacon and were lost in a storm.

It amends s. 328.72, F.S., reducing the vessel registration fees for recreational vessels equipped with locator beacons or the vessel owner owns a personal locator beacon. The discounts range between 25 and 46 percent, depending on the size of the vessel.

The fees are reduced to the following:

Class A-1:	$ 2.95
Class A-2:	$ 11.00
Class 1:	$ 20.40
Class 2:	$ 57.50
Class 3:	$ 94.94
Class 4:	$113.50
Class 5:	$141.15

The bill removes the provision making the fee reduction only applicable for vessels registered between July 1, 2016, and June 30, 2017, and removes the scheduled repeal of the vessel registration discounts for vessels equipped with locator beacons on July 1, 2017.

This bill was signed into law May 23, 2017 as Chapter No. 2017-028, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 749
Adoption Benefits

In Florida, the Department of Children and Families (DCF) provides child welfare services. Statute requires child welfare services, including adoption services, to be delivered through community-based care lead agencies contracted by DCF.

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunified with their parents. In 2015, the Legislature reestablished an adoption benefit program within DCF for state employees who adopt children from the foster care system. Qualifying adoptive employees receive a one-time benefit of $10,000 for the adoption of a child with special needs and $5,000 for the adoption of a child who does not have such needs.

A "qualifying adoptive employee" includes those individuals who are regular (not temporary) employees, either full- or part-time, of a state agency, which is defined to include:

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions;
- A state university or Florida College system institution as defined in s. 1000.21, F.S.;
- A school district unit as defined in s. 1000.30, F.S.;
- A water management district as defined in 373.019, F.S.; and
- The Florida School for the Deaf and Blind (limited to instructional personnel as defined in 1012.01, F.S.).

In order for an adoptive parent to qualify for the adoption benefit program for state employees, the adoptive parent must meet the requirements set out in statute at the time the adoption takes place.

The bill amends the definition of "qualifying adoptive employee" in s. 409.1664, F.S., to include employees of charter schools granted charter status pursuant to s. 1002.33, F.S., and the Florida Virtual School (FLVS), established under s. 1002.37, F.S. This allows these employees to qualify to receive the incentive monetary benefit for adopting a child from the child welfare system, provided funds are available and other requirements of rule and law are met. The bill makes other technical changes to incorporate the broadened eligibility.

Additionally, the bill creates a clause to ensure that charter or FLVS employees who were employees of a charter school/FLVS on or after July 1, 2015, and adopted a child from DCF during that time may still apply for the monetary benefit.

This bill was signed into law June 23, 2017 as Chapter No. 2017-140, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 775
Motor Vehicle Warranty Repairs and Recall Repairs

Current law regulates the contractual relationship between motor vehicle manufacturers and motor vehicle dealers and provides for the licensing of manufacturers, factory branches, distributors, or importers. Moreover, remedies are available for dealers where a manufacturer or other licensed entity violates current law regulating these contractual relationships.

The bill amends s. 320.64, F.S., to prohibit a manufacturer, notwithstanding the terms of any franchise agreement, and except as

authorized by law upon detection of fraudulent payments, from denying a dealer's claim, reducing the dealer's compensation, or processing a chargeback to a dealer for performing covered warranty or recall repairs on a used motor vehicle due to:

- Discovery of the need for such repairs by the dealer during the course of a separate repair requested by the consumer.
- Notification by the dealer to the consumer of the need for such repairs after issuance of an outstanding recall for a safety-related defect.

The bill creates s. 320.6407, F.S., relating to recall notices under franchise agreements. The bill requires that a manufacturer, which has a franchise agreement with a motor vehicle dealer, compensate the dealer for a used vehicle that:

- Is of the same make and model manufactured, imported, or distributed by the manufacturer;
- Is subject to a recall notice, including a recall notice issued before July 1, 2017;
- Is held in the dealer's inventory at the time the recall notice was issued, or taken into the dealer's inventory after the recall notice due to a retail consumer trade-in or a lease return to the dealer inventory in accordance with an applicable lease contract;
- Cannot be repaired due to unavailability of a remedy for the vehicle within 30 days after issuance of the recall notice; and
- For which the manufacturer has not issued a written statement to the dealer indicating the vehicle may be sold or delivered to a retail customer before completion of the recall repair. The purpose of such written statement is to provide notice to the motor vehicle dealer that the vehicle may be sold or delivered based solely on the specific recall notice and may not address a vehicle condition not covered by the recall notice and is not intended to address any other aspect of the vehicle unrelated to the recall notice.

The bill requires such compensation be paid within 30 days of the dealer's application and to be the greater of:

- Payment of at least 1.5 percent of the motor vehicle value (as determined by the average Black Book value for that vehicle's model year and condition) for each month or portion of a month that the dealer does not receive a remedy for the vehicle, calculated from the 31st day after the recall was issued, the 31st day after the vehicle was acquired by the dealer, or July 1, 2017, whichever is latest; or
- Payment under a national program applicable to motor vehicle dealers holding a franchise agreement with the manufacturer for the dealer's costs associated with holding the used vehicle.

The bill exempts motorcycle manufacturers, distributors, and importers from the provisions of s. 320.6407, F.S.

It reenacts s. 320.6992, F.S., providing that amendments made to the act shall apply to all presently existing or future systems of distribution of motor vehicles in Florida, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution.

This bill was signed into law June 23, 2017 as Chapter No. 2017-141, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/CS/HB 865
Smart City Challenge Grant

The United States Department of Transportation (USDOT) launched a Smart City Challenge in December 2015. The challenge asked mid-sized cities "to develop ideas for an integrated, first-of-its-kind smart transportation system that would use data, applications, and technology to help people and goods move more quickly, cheaply, and efficiently." USDOT committed up to $40 million to one winning city. The USDOT received 78 applications from cities across the United States, including the following cities in Florida: Jacksonville, Miami, Orlando, St. Petersburg, Tallahassee, and Tampa.

Columbus, Ohio won the challenge by proposing "a comprehensive, integrated plan addressing challenges in residential, commercial, freight, and downtown districts using a number of new technologies, including connected infrastructure, an integrated data platform, autonomous vehicles, and more." USDOT then worked with seven finalists to further develop the ideas proposed by the cities and, in October 2016, announced an additional $65 million in grants to support advanced technology transportation projects.

The bill requires DOT, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to develop, subject to appropriations, the Florida Smart City Challenge Grant program and establish grant award requirements for municipalities or regions for the purpose of receiving grant awards. Grant applications must demonstrate and document the adoption of emerging technologies and their impact on transportation systems and must address at least the following focus areas: autonomous vehicles, connected vehicles, sensor-based infrastructure, collecting and using data, electric vehicles, including charging stations, and developing strategic models and partnerships.

Miscellaneous FDOT Additions

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

- Creates the Florida Smart City Challenge Grant Program.
- Increases the allowable weight of natural gas-fueled vehicles on the Interstate Highway System. The actual gross vehicle weight for vehicles fueled by natural gas may not exceed 82,000 pounds, excluding the weight allowed for idle-reduction technology. This additional weight is not allowed for vehicles such as dump trucks, garbage trucks, concrete mixing trucks, and trucks constructed for a special type of work or use.
- Authorizes DOT to request permission from the Federal Highway Administration to conduct bridge inspections at risk-based intervals.
- Increases the maximum dollar threshold for rapid response contracts issued by DOT.
- Updates provisions regarding the use of the right-of-way by utilities. The bill amends s. 337.401(1)(a), F.S., removing the reference to "telephone" and changing it to "voice" and including data, and wireless facilities in the definition of "utility" as it applies to the use of the right-of-way.
- Makes the validation of turnpike revenue bonds optional instead of mandatory.
- Authorizes DOT to study the financial feasibility of acquiring the Garcon Point Bridge as a turnpike project, subject to legislative approval, and provides for repeal of the Santa Rosa Bay Bridge

Authority contingent upon DOT taking over the Garcon Point Bridge.

- It amends s. 339.135(7)(e), F.S., exempting work program amendments related to emergency repairs that exceed $3 million from the LBC review and approval requirements in s. 339.135(7)(h), F.S.
- Repeals the Highway Beautification Council, but retains the highway beautification grants program within DOT.
- Prohibits the South Florida Regional Transportation Authority (SFRTA) from entering into, extending, or renewing any contract or other agreement funded with DOT-provided funds without DOT's prior review and written approval of the proposed expenditures.
  - Creates s. 343.54(4), F.S., prohibiting SFRTA from entering into a contract or other agreement, or renewing or extending any existing contract or other agreement, which may be funded in whole or in part with DOT provided funds without DOT's prior review and written approval of SFRTA's proposed expenditures.
  - The bill amends s. 343.58(4)(c)1., F.S., specifying that funds provided to SFRTA by DOT constitute state financial assistance for the purpose of carrying out certain state projects. DOT must provide the funds in accordance with the terms of a written agreement to be entered into between the authority and DOT, which will allow DOT to review, approve, and audit SFRTA's expenditure of the funds. The agreement must include such other provisions required by applicable law. DOT is specifically authorized to agree to advance SFRTA one-fourth of the total funding provided in s. 343.58(4), F.S., for a state fiscal year at the beginning of each state fiscal year, with monthly payments over the fiscal year on a reimbursement basis and a reconciliation of the advance against remaining invoices in the last quarter of the fiscal year. Requires DOT to submit a report regarding DOT district boundaries and headquarters, along with the expenses associated with creating an additional DOT district headquartered in Fort Myers.
- Authorizes the Secretary of DOT to enroll the state in any federal pilot program or project for the collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, autonomous vehicle technology or capacity challenges.

This bill was signed into law May 31, 2017 as Chapter No. 2017-42, Laws of Florida and the provisions take effect July 1, 2017.

SB 1020
Collective Bargaining Impasses

SB 1020 changes the timeline for portions of the Legislature's process to resolve impasses in collective bargaining negotiations between public employees and the state. It requires the parties at impasse to notify the presiding officers of the legislature of all unresolved issues by the first day of the regular session rather than five days after an impasse is declared.

The bill also changes the date by which a committee of the legislature must meet to conduct a public hearing and take testimony regarding the issues at impasse from no later than ten days prior to the start of the

Regular Session to no later than the 14th day of the Regular Session.

This bill was signed into law May 23, 2017 as Chapter No. 2017-026, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1027
Unmanned Aircraft/State Regulation of Drones

The bill creates the Unmanned Aircraft Systems Act vesting in the state the authority to regulate the ownership or operation of unmanned aircraft systems, otherwise known as drones.

Definitions

The bill defines "critical infrastructure facility" as any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that indicate that entry is forbidden and that are posted on the property in a manner reasonably likely to come to the attention of intruders:

- An electrical power generation or transmission facility, substation, switching station, or control center;
- A chemical or rubber manufacturing or storage facility;
- A mining facility;
- A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline; A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more;
- Any portion of an aboveground oil or gas pipeline; or
- A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

The bill provides that "drone" has the same meaning as in s. 934.50(2), F.S., and defines the term "unmanned aircraft system" to mean a drone and associated elements, including communication links and the components used to control the drone which are required for the pilot in command to operate the drone safely and efficiently.

Regulation

The bill provides that the authority to regulate the ownership or operation of unmanned aircraft systems is vested in the state.

Except as otherwise expressly provided, a political subdivision may not enact or enforce an ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace; altitude; flight paths; equipment or technology requirements; purpose of operations; and pilot, operator, or observer qualifications, training, and certification. The bill does not limit local government authority to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of unmanned aircraft systems if such ordinances are not specifically related to the use of an unmanned aircraft system for those illegal acts.

The bill requires a person seeking to restrict or limit the operation of unmanned aircraft in close proximity to infrastructure or facilities the person owns or operates to apply to the FAA for such designation pursuant to section 2209 of the FAA Extension, Safety, and Security Act of 2016.

Protection of Critical Infrastructure Facilities

The bill creates s. 330.41(4), F.S., providing that a person may not knowingly or willfully:

- Operate a drone over a critical infrastructure facility;
- Allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

A person who violates the above provisions commits a misdemeanor of the second degree, punishable by up to 60 days imprisonment or a fine of up to $500.[19] A person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable by up to one year imprisonment or a fine of up to $1,000.

Section 330.41(4), F.S., does not apply to actions described above that are committed by:

- A federal, state, or other governmental entity or a person under contract with or otherwise acting under the direction of such entity.
- A law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of such law enforcement agency.
- An owner, operator, or occupant of the critical infrastructure facility or a person who has prior written consent of such owner, operator, or occupant.
- The prohibition on the operation of a drown over critical infrastructure facilities does not apply to a drone operating in transit for commercial purposes in compliance with FAA regulations, authorization, or exception.

Section 330.41(4), F.S., sunsets 60 days after the date that a process created pursuant to Section 2209 of the FAA Extension, Safety, and Security Act of 2016 becomes effective.

The bill provides that s. 330.41, F.S., must be construed in accordance with the standards imposed by federal statutes, regulations, and FAA guidance on unmanned aircraft systems.

Prohibited Possession or Operation of Unmanned Aircraft

The bill creates s. 330.411, F.S., prohibiting a person from possessing or operating an unmanned aircraft or unmanned aircraft system with an attached weapon, firearm, explosive, destructive device, or ammunition.

Search and Seizure Using a Drone

The bill creates s. 934.50(4)(g), F.S., providing an additional exception regarding the prohibition against using drones for surveillance. The bill allows a communications services provider or its contractor to use drones for routing, siting, installing, maintaining, or inspecting facilities used to provide communications services.

This bill was signed into law June 23, 2017 as Chapter No. 2017-150, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1049
Expressway Authorities

The Florida Expressway Authority Act (Act), codified in part I of Ch. 348, F.S., authorizes any county or two or more contiguous counties within a single Department of Transportation (DOT) district to form an expressway authority. Miami-Dade County Expressway Authority (MDX) is the only expressway authority created under this Act.

The bill creates the "Toll Reform Act." The bill provides that MDX, subject to any contractual requirements contained in documents securing indebtedness, may not increase its tolls unless justified by an independent traffic and revenue study. The bill stipulates that MDX may only increase tolls to the extent necessary to adjust for inflation and approve toll increases by a two-thirds vote of the board. The bill prohibits MDX from using more than 10 percent of its toll revenues for administrative expenses. Additionally, on transportation facilities constructed after July 1, 2017, there must be a distance of at least five miles between main through-lane tolling points.

The bill also requires MDX to provide to each person who pays a toll on an MDX transportation facility using SunPass a rebate of 3 percent of such toll.

The bill requires MDX to place certain documents on its website, including board and committee meeting agendas and minutes, budgets, contracts, and bond covenants.

The bill limits MDX's ability to increase tolls, therefore, decreasing its ability to raise revenues. MDX may also incur some expenses associated with traffic and revenue studies and placing certain documents on its website. The fiscal impact of the bill is indeterminate.

This bill was signed into law June 26, 2017 as Chapter No. 2017-182, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 1175
Motor Vehicle Manufacturers and Dealers

Existing law requires the licensing of motor vehicle manufacturers, and regulates numerous aspects of the contracts between manufacturers and motor vehicle dealers.

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 bill prohibits a manufacturer from:

- Refusing to pay a dealer who participated in a bonus program related to facility improvements or signs "any increase in benefits" between the program that the dealer participated in and a new program offered within 10 years that the dealer does not participate in; and
- Implementing performance-measuring criteria that may have a material or adverse effect on a dealer, that are unfair, unreasonable, arbitrary, or inequitable, or do not include all relevant criteria, data, and facts;

The bill reenacts a number of statutes for the purpose of incorporating the changes made by the bill to s. 320.64, F.S.

This bill was signed into law June 26, 2017 as Chapter No. 2017-187, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 1201
Department of Corrections

The bill amends statutes relating to the operation of the state prison system, including:

<u>Confidential Information</u>

Florida law is more restrictive than federal law regarding the disclosure of a patient's protected health information (PHI). The bill amends s. 943.04, F.S., to authorize the Florida Department of Law Enforcement

(FDLE) to receive PHI, medical records, or mental health records of an inmate from FDC upon written demand when FDLE is conducting an investigation or assisting FDC in the investigation of an injury to or death of an inmate in the custody or control of FDC.

Criminal Procedure and Corrections
Section 944.151, F.S., currently provides that the Secretary of FDC is required to appoint a security review committee, composed of specified individuals, to conduct announced and unannounced inspections of existing buildings and facilities, as well as security audits. The bill amends the statute so that it removes the requirement that the committee be composed of specified individuals and instead permits the FDC Secretary to designate appropriate department staff. The bill clarifies the responsibilities and duties of the committee and the requirements for audits and inspections.

Commitment Documents
Under current Florida law, the documentation required for FDC to accept a prison is provided in paper form. The bill allows such documentation to be provided electronically.
Educational Gain-Time: The bill authorizes inmates sentenced on or after October 1, 1995 to receive an award of 60 days of gain-time for completing a high school diploma or vocational certificate.

Transportation by Private Transport Company
Current law requires a Florida Department of Corrections contract for private prisoner transport to require company employees to meet the minimum standards for a correctional or law enforcement officer. The bill amends the statute to model federal law, which specifies other training requirements.

Contracted Drug Testing
The bill includes employees at community correctional centers among the list of designated individuals that can perform urine drug testing if certified by FDC.

Youthful Offenders
The bill amends s. 958.11, F.S., to make the statute comport with the Prison Rape Elimination Act.

This bill was signed into law May 23, 2017 as Chapter No. 2017-031, Laws of Florida and the provisions take effect July 1, 2017.

HB 1233
Cottage Food Operations
Cottage foods are those food products which are sold by people who produce foods at their own residence and that have been determined by the Florida Department of Agriculture and Consumer Services (DACS) to be “non-potentially hazardous.” Examples of permissible cottage foods are breads, honey, cakes, and popcorn. Food products containing meats and fresh fruits and vegetables or those that require temperature control are generally prohibited cottage foods.

A cottage food operation may sell cottage foods without conforming to state food and building permitting requirements if the annual gross sales of such products do not exceed $15,000. Certain operating standards must also be followed, including not selling or accepting payment for cottage foods over the internet.

The bill increases the maximum annual gross sales limit of cottage foods from $15,000 to $50,000.

The bill allows cottage food operations to sell, offer to sell, and accept payment for cottage foods over the internet, as long as the cottage foods are delivered in person

directly to the consumer or to a specific event venue.

This bill was signed into law May 23, 2017 as Chapter No. 2017-032, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1379
Department of Legal Affairs

The bill amends current law with respect to the duties and responsibilities of the Attorney General and the Department of Legal Affairs. The bill:

- Gives the Statewide Council on Human Trafficking the authority to apply for and accept funds, grants, gifts, and services from the state, the federal government, and other sources to defray the cost of the council's annual statewide policy summit;
- Provides that the Attorney General may request the assignment of one or more Florida Highway Patrol officers to the Office of the Attorney General for security services;
- Amends dates to bring Florida's Deceptive and Unfair Trade Practices Act current with applicable federal law and rules;
- Provides a definition of "virtual currency" and amends the term "monetary instruments" to include "virtual currency" in the Florida Money Laundering Act;
- Amends the Florida Trust Code related to charitable trusts to allow the Attorney General to take over for the 20 state attorneys in matters involving oversight of charitable trusts, to require delivery of notice, and to give legal standing to the Attorney General under circumstances where a trustee of a charitable trust seeks to modify the status of the trust or its beneficiaries; and
- Provide compensation awards to surviving family members of an emergency responder who, as a result of a crime, is killed answering a call for service in the line of duty.

Surviving family members of an emergency responder who dies in the line of duty while answering a call for service may be entitled to claims under the Crimes Compensation Act.

This bill was signed into law June 23, 2017 as Chapter No. 2017-155, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 1672
Tampa Bay Area Regional Transit Authority

CS/CS/SB 1672 amends s. 339.175(6)(i), F.S., to substitute the term "transit" for "transportation authority" in the Transit Authority MPO Chairs Coordinating Committee within the Transit Authority.

The bill amends s. 343.90, F.S., to revise the short title from the "Tampa Bay Area Regional Transportation Authority Act" to the "Tampa Bay Area Regional Transit Authority Act".

It amends s. 343.91, F.S., redefining the term "authority" to mean the Transit Authority, covering Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties and any other contiguous county that is party to an agreement of participation. This revision eliminates express identification of Citrus and Sarasota Counties from the authority's revised coverage area. However, Sarasota County is contiguous to Manatee County, and Citrus County is contiguous to Hernando County.

It also amends s. 343.92, F.S., to:

- Rename the Transportation Authority as the Transit Authority;

- Reduce the number of voting members from 15 to 13, appointed no later than 45 days after the creation of the authority, and revises the membership as follows:
  - Each of the county commissions of Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties appoint one county commissioner to serve 2-year terms, with not more than 3 consecutive terms. If a commissioner leaves elected office, the vacancy must be filled within 90 days. This change removes Citrus and Sarasota counties' representation on the Authority.
  - The mayor of the largest municipality within PSTA's service area and the mayor within HART's service area will serve for as long as they hold office.
  - PSTA and HART (or their successor agencies) each appoint from the membership of their respective governing bodies one member to serve a 2-year term with no more than 3
  - consecutive terms. If a member no longer meets criteria for appointment, a vacancy exists and must be filled within 90 days.
  - o The Governor appoints four members from the regional business community, each of whom must reside in one of the counties governed by the authority and may not be an elected official. Of the initially appointed members, one serves a 1-year term, two serve a 2-year term, and one serves a term as the initial chair. Thereafter, these members serve a 2-year term with not more than 3 consecutive terms. A vacancy during a term must be filled within 90 days in the same manner as the original appointment for the remainder of the unexpired term.

The Governor is required to appoint one of his appointees as the initial chair immediately upon their appointment. The initial chair serves a minimum of 2 years. At the end of the initial chair's term, the board elects a chair from among its members.

Seven, rather than eight, members constitute a quorum, and the vote of seven members is required by any action taken by the authority.

Beginning July 1, 2017, the authority's governing board must evaluate (and submit evaluation recommendations before the beginning of the January 2018 Regular Session for) the abolishment, continuance, modification, or establishment of the following:

- Planning committee;
- Policy committee;
- Finance committee;
- Citizens advisory committee;
- Transit Authority MPO Chairs Coordinating Committee; and
- Transit management committee.

The bill amends s. 343.922, F.S., revising the purposes, powers, and duties of the Transit Authority to include:

- Planning, implementing, and operating mobility improvements and expansions of multimodal transportation options for passengers and freight throughout Hillsborough, Manatee, Pasco, and Pinellas Counties.
- Producing a regional transit development plan (rather than a regional transportation plan), integrating the transit development plans of participant counties, to include a prioritization of regionally significant transit projects and facilities. The bill

directs the authority to provide to the Senate President and House Speaker on or before the beginning of the January 2018 Regular Session a plan to produce the regional transit development plan. The development plan must adhere to guidance and regulations set forth by the FDOT or any successor agency, including without limitation:
    - Public involvement;
    - Collection and analysis of socioeconomic data;
    - Performance evaluation of existing services;
    - Service design and ridership forecasting; and
    - Financial planning.
- Serving, with the consent of the Governor or his or her designee, as the recipient of federal funds supporting an intercountry project or a regionally significant transit project that exists in a single county within the designated region.

An action by the Transit Authority regarding the funding of commuter rail, heavy rail transit, or light rail transit, as defined in s. 343.91, F.S., or any combination of such rail transits, requires approval by a majority vote of each MPO serving the county or counties where the rail transit investment will be made, and the approval of the Legislature by an act of general law.

The Transit Authority may not engage in any advocacy regarding a referendum, ordinance, legislation, or proposal under consideration by any governmental entity or the Legislature which seeks to approve the funding of commuter rail, heavy rail transit, or light rail transit, as defined in s. 343.91, F.S., or any combination thereof.

The Transit Authority must conduct a feasibility study through an independent third party, for any project of commuter rail, heavy rail transit, or light rail transit, as defined in s. 343.91, F.S., or any combination thereof, before proceeding with the development of the project and before any related contract is issued. The feasibility study shall be submitted, upon completion, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the board of county commissioners of Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties.

This bill was signed into law June 14, 2017 as Chapter No. 2017-098, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 1694
Support for Parental Victims of Child Domestic Violence

CS/SB 1694 requires the Department of Juvenile Justice (DJJ), in collaboration with organizations that provide expertise, training, and advocacy in the areas of family and domestic violence, to develop and maintain updated information and materials detailing the resources and services available to:

- Parents and legal custodians who are victims of domestic violence committed by children or fear that they will become victims; and
- Children who have committed acts of domestic violence or who demonstrate behaviors that may escalate into domestic violence.

The bill specifies that the materials and services must include, but are not limited to:

- The services available under ch. 984, F.S.;
- Domestic violence services available under ch. 39, F.S.; and

- Juvenile justice services available under ch. 985, F.S., including prevention, diversion, detention, and alternative placements.

The materials must also describe how to access the resources and services throughout the state.

The DJJ must post information and materials on the DJJ website and make the materials available for distribution to the public by providing it to:

- Certified domestic violence centers;
- Other organizations serving victims of domestic violence;
- The clerks of courts;
- Law enforcement agencies; and
- Other appropriate organizations.

The bill requires the issues involved in child-to-parent domestic violence cases be included in the domestic violence portion of an officer's basic skills course for his or her initial certification.

This bill was signed into law June 16, 2017 as Chapter No. 2017-123, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 1726
Industrial Hemp Pilot Projects

The bill provides the Department of Agriculture and Consumer Services with authorization and oversight of the development of industrial hemp pilot projects at the University of Florida (UF) and the Florida Agricultural and Mechanical University (FAMU). UF and FAMU may develop pilot projects to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector of Florida. The bill also requires:

- Authorization from a university's board of trustees before the university may implement a pilot project;
- Pilot projects to comply with rules adopted by the Department of Agriculture and Consumer Services (department);
- Universities to establish guidelines for the approval, oversight, and enforcement of pilot project rules; and
- A report to be submitted to the Governor and the Legislature within 2 years after the pilot project's creation.

This bill was signed into law June 16, 2017 as Chapter No. 2017-124, Laws of Florida and the provisions took effect on that date.

SB 2504
Collective Bargaining

Chapter 447, F.S., specifies the process for collective bargaining for public employees. The bargaining agent and the negotiator for the state must bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the employees within the bargaining unit. Upon the issuance of the Governor's Budget Recommendations, any articles that have not been agreed to are declared at impasse. It is the Legislature's responsibility to resolve all of the issues at impasse between the parties in the General Appropriations Act or substantive legislation. Ultimately, the decisions made by the Legislature, as well as those agreed to by the parties, are reduced to writing, signed by the chief executive officer of the state and the bargaining agent for the union, and are submitted to members of the bargaining unit for ratification. If the agreement is not ratified by all parties, the actions taken by the Legislature shall take effect for the remainder of the first fiscal year subject to negotiations.

The bill directs the resolution of collective bargaining issues at impasse not relating to salary and benefit issues for the 2017-2018 fiscal year regarding state employees. Salary and benefit issues are typically resolved by the spending decisions included in the Fiscal Year 2017-2018 General Appropriations Act (GAA) or conforming legislation.

Generally, most issues are resolved by the state and unions and do not require legislative action (approximately 325 agreed to articles.) For the Fiscal Year 2017-2018, there were 37 articles remaining at impasse, 22 were economic in nature and were resolved in the GAA or conforming legislation. The remaining 15 articles were resolved in this bill by maintaining the status quo language under the current contract.

This bill was signed into law June 16, 2017 as Chapter No. 2017-125, Laws of Florida and the provisions take effect July 1, 2017.

HB 5401
Pesticide Registration

Generally, each brand of pesticide distributed, sold, or offered for sale within the state must be registered with the Department of Agriculture and Consumer Services (DACS) biennially and is subject to a registration fee. In 2009, the Legislature created a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit to defray the expense of the Chemical Residue Laboratory. DACS uses the supplemental fee to support the Chemical Residue Laboratory, which performs chemical analyses of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit.

This bill was signed into law June 23, 2017 as Chapter No. 2017-158, Laws of Florida and the provisions take effect July 1, 2017.

HB 6037
Blind Services Direct-Support Organization

This bill eliminates the repeal of the direct-support organization for the Division of Blind Services (Blind Services DSO). The Blind Services DSO is a not-for-profit corporation created by the Florida Legislature in 2004. Its purpose is to raise funds to support services provided to Floridians who are blind. The Blind Services DSO receives 20% of the funds raised through the sale of motorcycle license plates.

DSOs are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO is prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support. In 2014, the Legislature passed a bill that required review of all DSOs.

The statutory authority for the Blind Services DSO is scheduled for repeal on October 1, 2017. By eliminating the repeal, the bill enables the Blind Services DSO to remain in existence, thereby allowing it to continue providing assistance and services to blind and visually impaired Floridians.

This bill was signed into law June 23, 2017 as Chapter No. 2017-162, Laws of Florida and the provisions take effect July 1, 2017.

HB 7073
Ratification of Rules of the Department of Elder Affairs

Section 120.541, F.S., requires state agencies to prepare a statement of estimated regulatory costs (SERC), for new rules under certain circumstances. Section 120.54, F.S., requires legislative ratification of a rule with an adverse economic impact exceeding $1 million over the first five years before it may go into effect.

Chapter 2016-40, Laws of Florida expanded oversight of professional guardians, including monitoring and discipline. To implement this new law, the Department of Elder Affairs (DOEA) adopted Rule 58M-2.009, F.A.C., establishing standards of practice for professional guardians. The DOEA SERC for the rule estimated costs exceeding the statutory threshold. This cost will be borne by wards to pay for the additional work guardians must do to meet requirements regarding fee approval and recordkeeping. The bill ratifies Rule 58M-2.009, F.A.C., so that it may go into effect.

Rule 64B8-9.009, F.A.C., establishes the standard of care for various levels of office surgeries. In 2016, the Board of Medicine adopted an amendment to this rule to require physician offices in which Level I office surgery procedures are performed to maintain the availability of two drugs, Flumazenil and Naloxone, when performing such procedures. The SERC for the rule amendment estimated costs exceeding this threshold. This cost will be borne by the individual physician offices that performs Level I surgeries. The bill ratifies Rule 64B8-9.009, F.A.C., so that it may go into effect.

The scope of the bill is limited to fulfilling this rulemaking requirement, and the bill does not adopt the substance of the rules into statute.

This bill was signed into law June 23, 2017 as Chapter No. 2017-165, Laws of Florida and the provisions took effect on that date.

Public Records & Public Meetings

Public Records & Public Meetings

SB 6A
Public Records/Medical Marijuana Use Registry/Physician Certification for Marijuana and Dispensing/Department of Health

SB 6A expands the public records exemption for the medical marijuana use registry (registry), formerly the compassionate use registry, to conform its provisions to changes being made to section 381.986, Florida Statutes, regarding the medical use of marijuana by SB 8-A. The bill also protects certain personal identifying information that is held by the Department of Health (DOH) outside of the registry.

Specifically, the bill makes a qualifying patient's and a caregiver's personal identifying information and all personal identifying information pertaining to the physician certification for marijuana held by the department confidential and exempt from public records laws; restricts access to a patient's diagnosis when a law enforcement agency or medical marijuana treatment center accesses the registry to verify a qualifying patient's or caregiver's authorization under s. 381.986, F.S., to use or possess marijuana; and expands access to this confidential information to:

- Practitioners licensed to prescribe prescription drugs for purposes of patient care;
- Department employees for approval of exceptions to marijuana daily dosage limits; and
- The Coalition for Medical Marijuana Research and Education established in s. 1004.4351, F.S.

The bill also extends the open government sunset review date to October 2, 2022, includes the constitutionally required public necessity statement, and makes other conforming changes to provisions amended by SB 8-A.

This bill was signed into law June 23, 2017 as Chapter No. 2017-231, Laws of Florida and the provisions took effect on that date.

CS/CS/SB 80
Public Records – Attorneys' Fees

CS/CS/SB 80 requires a court to award attorney fees and enforcement costs in actions to enforce public records laws if the court determines that:

- The agency unlawfully refused a person access to a public record; and
- The plaintiff provided written notice of the public records request to the agency custodian of public records at least 5 business days before filing a civil action.

However, if the court determines that a plaintiff made the request for an improper purpose, the court must award reasonable costs and attorney fees against the plaintiff. An improper purpose is one in which a person requests records mainly to harass the agency, cause a violation of the public records law, or for frivolous purpose.

The 5-day notice period excludes holidays and weekends. Advance written notice is not required if the agency does not prominently post contact information for the custodian of public records in the agency's primary administrative building in which public records are kept and on the agency's website, if the agency has a website.

The bill also specifies monetary damages are not available in an action to enforce the public records laws.

The bill takes effect upon becoming a law, and applies prospectively to public records requests made on or after its effective date.

This bill was signed into law May 23, *2017 as Chapter No. 2017-021, Laws of Florida and the provisions took effect on that date.*

CS/HB 103
Public Records/Nonviable Birth Records

CS/CS/HB 101 authorizes the Department of Health (DOH) to issue a certificate of nonviable birth upon the request of an authorized parent. A nonviable birth is a pregnancy that unintentionally and spontaneously results in a fetal demise before a gestation period of 20 completed weeks, more commonly known as a miscarriage.

CS/HB 103, which is linked with CS/CS/HB 101, creates a public record exemption for certain information that may be collected when issuing a certificate of nonviable birth. Specifically, the bill provides that the cause of death, parentage, marital status, and medical information included in nonviable birth records are confidential and exempt from public disclosure. The bill authorizes the release of a certified copy of the nonviable birth certificate that includes the confidential and exempt information to the fetus' parent, certain governmental agencies for official purposes, and upon the order of a court.

This bill was signed into law May 31, 2017 as Chapter No. 2017-39, Laws of Florida and the provisions take effect July 1, 2017.

HB 111
Public Records/Identity of Witness to a Murder

Current law provides public record exemptions for information identifying certain parties involved in the investigation of a crime. Such parties include confidential informants or confidential sources, a victim of a child abuse offense, a victim of a human trafficking offense who is less than 18 years of age, and a victim of a sexual offense.

The bill creates a public record exemption for criminal intelligence or criminal investigative information that reveals the personal identifying information of a witness to a murder. The information is confidential and exempt for two years after the date on which the murder is observed by the witness. The bill authorizes a criminal justice agency to disclose the confidential and exempt information:

- In the furtherance of its official duties and responsibilities.
- To assist in locating or identifying the witness if the agency believes the witness to be missing or endangered.
- To another governmental agency for use in the performance of its official duties and responsibilities.
- To the parties in a pending criminal prosecution as required by law.

The bill repeals the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

The bill also provides that the public record exemption continues to apply to personal identifying information of a witness to a murder when it is disclosed in discovery to a person who is arrested or when it is made part of a court file.

This bill was signed into law May 9, 2017 as Chapter No. 2017-011, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 239
Public Records/Protective Injunction Petitions

An individual who believes that he or she is the victim of domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking may petition the court for an injunction for protection if certain requirements are met.

The bill creates s. 119.0714(1)(k), F.S., to provide that a petition, and the contents of the petition, for an injunction against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking that is dismissed without a hearing, is dismissed at an ex parte hearing due to failure to state a claim or a lack of jurisdiction, or is dismissed for any reason having to do with the sufficiency of the petition itself without an injunction being issued after July 1, 2017, is exempt from s. 119.07(1), F.S., and art. I, s. 24(a) of the Florida Constitution.

As to petitions dismissed prior to July 1, 2017, the bill exempts from public record the petition upon request by the respondent. The request must be in the form of a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk may not charge a fee for removal.

The bill provides a public necessity statement as required by the Florida Constitution, specifying that it is a public necessity to protect certain dismissed injunctions, and the contents of such injunctions, because the existence of such a petition and of the unverified allegations contained in such a petition could be defamatory to an individual, cause unwarranted damage to the reputation of such individual, and that correction of the public record by the removal of such a petition is the sole means of protecting the reputation of an individual named in such a petition.

This bill was signed into law May 9, 2017 as Chapter No. 2017-014, Laws of Florida and the provisions take effect July 1, 2017.

HB 243
Public Records/Non-sworn Investigative Personnel of OFR's Bureau of Financial Investigations

The Bureau of Financial Investigations (bureau) within the Office of Financial Regulation is authorized to conduct investigations within or outside the state as it deems necessary to aid in the enforcement of laws related to the regulation of Florida's financial services industry. The bureau maintains investigators throughout the state and participates in joint investigations with local, state, and federal law enforcement agencies.

The bill creates a public record exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative employees of the bureau whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory violations. The bill also exempts from public record requirements the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such employees. In addition, the names and locations of schools and day care facilities attended by the children of such employees are exempt.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

This bill was signed into law June 2, 2017 as Chapter No. 2017-53, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 397
Public Records/Victim of Alleged Sexual Harassment/Identifying Information

Current law provides public record exemptions for various types of information related to agency investigations. Information that is exempt or confidential and exempt from public record requirements includes information related to complaints of discrimination, information related to complaints of misconduct, and information revealing the identity of a victim of certain crimes.

The bill amends s. 119.071, F.S., to provide that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt from public record requirements. The bill specifies that such information may be disclosed to another governmental entity in the furtherance of its official duties and responsibilities.

It provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

This bill was signed into law June 14, 2017 as Chapter No. 2017-103, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 437
Public Records/International Financial Institutions

The Office of Financial Regulation (OFR) regulates “financial institutions”, the definition of which is expanded in companion bill CS/CS/HB 435 to include two new entities called an “international trust entity” and a “qualified limited service affiliate.”

The bill creates public record exemptions related to each of those new entities in order to make the following information confidential and exempt from public disclosure:

- Any personal identifying information of the customers or prospective customers of an affiliated international trust entity which appears in the books and records of an international trust company representative office or a qualified limited service affiliate or which appears in records relating to reports of examinations, operations, or condition of an international trust company representative office or a qualified limited service affiliate, including working papers.
- Any portion of a list of names of the shareholders or members of an affiliated international trust entity or a qualified limited service affiliate.
- Information received by the OFR from a person from another state or country or the Federal Government which is otherwise confidential or exempt pursuant to the laws of that state or country or pursuant to federal law.

The bill provides for the release of such confidential and exempt information to specified entities. It also provides that a person who willfully discloses information made confidential and exempt by this act commits a felony of the third degree.

The bill also substantially amends the applicable public record exemptions in s. 655.057, F.S., by specifying that the exemptions are not only confidential and exempt from s. 119.071(1), F.S., but also from article I, section 24(a) of the Florida Constitution.

The bill provides for repeal of the newly created and expanded exemptions on

October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides public necessity statements as required by the Florida Constitution.

This bill was signed into law June 9, 2017 as Chapter No. 2017-084, Laws of Florida and will become effective January 1, 2018.

CS/CS/HB 501
Public Records and Meetings/Information Technology/Postsecondary Education

Records and meetings held by state universities and Florida College System institutions regarding information security incidents, such as investigations into security breaches, security technologies, processes and practices as well as security risk assessments are subject to Florida open record laws. Public disclosure of this information may present a significant security risk because such information could reveal weaknesses within the State University System and Florida College System computer networks, raising the potential for exploitation.

The bill provides that the following records held by a state university or Florida College System institution are confidential and exempt from public record requirements:

- Records that identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure of such records would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data or information or information technology resources; and
- Those portions of risk assessments, evaluations, audits, and other reports of the university's or institution's information technology security program for its data, information, and information technology resources, if the disclosure of such records would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data or information or information technology resources.

The bill exempts from public meeting requirements those portions of a meeting that would reveal data or information that is made confidential and exempt by this bill. The meeting must be recorded and transcribed, but the recording and transcript of such a meeting must remain confidential and exempt from public disclosure. The bill provides that such confidential and exempt information must be provided to specified entities.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill was signed into law June 14, 2017 as Chapter No. 2017-109, Laws of Florida and the provisions took effect on that date.

CS/CS/SB 886
Public Records/Substance Abuse Impaired Persons

CS/CS/SB 886 creates a new exemption from the public records inspection and access requirement of Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., for petitions for involuntary assessment and stabilization of a substance abuse impaired person filed pursuant to s. 397.6815, F.S. The bill provides for a retroactive application of the public records exemption.

Specifically, this bill:

- Creates s. 397.6760, F.S., to provide that all petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of Section 397, F.S., are confidential and exempt from s. 119.071(1), F.S., and s. 24(a), Art. I of the State Constitution. The pleadings and other documents may be disclosed by the clerk of court, upon request, to certain persons or agencies, such as the petitioner, the respondent and their legal representatives, as well as the Department of Corrections. The bill provides that records made confidential and exempt from public disclosure can be submitted by the clerk of the court to the Florida Department of Law Enforcement as required by s. 790.065, F.S.32; and
- Provides a statement of public necessary as required by the State Constitution. The public necessity statement provides that making petitions and court records filed under the Marchman Act confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution protects a person's personal health information and sensitive personal information which, if released, could cause unwarranted damage to the person's reputation. Additionally, the knowledge that such information could be disclosed could have a chilling effect on the willingness of individuals to seek treatment.

This bill was signed into law May 23, 2017 as Chapter No. 2017-025, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 981
Public Records/Department of Elderly Affairs

The Office of Public and Professional Guardians must review and, if legally sufficient, investigate, any complaint that a professional guardian has violated the standards of practice established by the office. From March 10, 2016 to March 9, 2017, the Office of Public and Professional Guardians received 125 complaints about public and professional guardians.

The bill makes confidential and exempt from Florida's public record laws the personal identifying information of a person filing a formal administrative complaint, the personal identifying information of a ward, all personal health and financial records of a ward, and all photographs and video recordings, when such records or information is held by the Department of Elderly Affairs (Department) in connection with a complaint filed under part II of chapter 744, F.S. The bill provides that the Department may provide the protected records to any law enforcement agency, any other regulatory agency in the performance of its official duties and responsibilities, or the clerk of the circuit court when reviewing an initial or annual guardianship report. The exemption is retroactive and applies to all documents received by the Department in connection with a complaint before, on, or after July 1, 2017.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

This bill was signed into law June 26, 2017 as Chapter No. 2017-176, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1009
Public Records/DFS/Insurance Fraud Information

The bill creates a public record exemption that makes the following information, when submitted to the Division of Forensic Services (DIFS) within the Department of Financial Services, exempt from s. 119.07(1), F.S., and s. 24(a), Art I of the Florida Constitution:

- The description of an insurer's anti-fraud education and training;
- The description of an insurer's anti-fraud investigative unit;
- An insurer's rationale for the level of staffing and resources for the anti-fraud investigative unit;
- The number of claims referred to the anti-fraud investigative unit;
- The number of other insurance fraud matters referred to the anti-fraud investigative unit that were not claim related;
- The number of claims accepted or investigated by the anti-fraud investigative unit;
- The number of other insurance fraud matters investigated or accepted by the anti-fraud investigative unit that were not claim related; and
- The estimated dollar amount or range of damages on cases referred to the DIFS or other agencies.

The exemption applies to records held before, on, or after the effective date of the exemption.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

This bill was signed into law June 26, 2017 as Chapter No. 2017-179, Laws of Florida and the provisions take effect September 1, 2017.

CS/HB 1079
Public Records and Meetings/Campus Emergency Response for Public Postsecondary Education Institutions

The bill creates an exemption from public record and public meeting requirements for information associated with a campus emergency response of a public postsecondary educational institution. "Campus emergency response" is defined as a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency.

The bill provides that any portion of a campus emergency response held by a public postsecondary educational institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management is exempt from public record requirements. This exemption applies to plans held by a custodial agency before, on, or after the effective date of the bill.

The bill also provides that the portion of a public meeting which would reveal information related to a campus emergency response is exempt from public meeting requirements.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

This bill was signed into law June 26, 2017 as Chapter No. 2017-184, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 1107
Public Records/Workers' Compensation

The Department of Financial Services (department), the Agency for Health Care Administration (AHCA), and the Division of Administrative Hearing (DOAH) are charged by the workers' compensation law with the administration and oversight of workers' compensation insurers and health care providers. Each of these entities receives records concerning injured or deceased workers.

The bill provides that personal identifying information of an injured or deceased worker filed with the department, AHCA, and DOAH is confidential and exempt from the requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The bill allows the disclosure of this information in the following circumstances:

- To an injured employee or the surviving spouse or dependents of a deceased employee;
- In an aggregate reporting format, subject to content and time limitations;
- To participants in workers' compensation claims litigation at DOAH;
- Pursuant to a court order or subpoena;
- To an anti-fraud unit of an insurer; or
- To other agencies in the furtherance of such agency's official duties and responsibilities who must maintain the confidentiality of the information.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

This bill was signed into law June 26, 2017 as Chapter No. 2017-185, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 1108
Public Records/Firefighters and their Spouses and Children

CS/SB 1108 expands to former firefighters the existing public records exemption in s. 119.071(4)(d)2.b., F.S., for personal identifying information of firefighters, their spouses, and children. The bill makes the following information about current and former firefighters exempt from public disclosure: home addresses, telephone numbers, dates of birth, and photographs. It also makes exempt from public disclosure requirements the following information about current or former firefighters' spouses and their children: names, home addresses, telephone numbers, photographs, dates of birth, and places of employment. Finally, the bill exempts the names and locations of schools and day care facilities attended by the children of firefighters.

The bill also makes the records exempt from the public records requirements of the State Constitution. This would require that the Legislature and the Judiciary to keep the records exempt from public disclosure.

The public records exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The exemption will stand repealed on October 2, 2022, unless the Legislature reviews and saves it from repeal through reenactment.

It contains legislative findings that the expansion of the public records exemption is a public necessity. The findings note that personal identifying information of other types of former first responders, such as law enforcement, are currently exempt from public disclosure. The bill also states firefighters often respond to emergency

situations such as domestic violence and homicide, and the release of their personal identifying and location information may place former firefighters and their families in danger of physical or emotional harm by hostile individuals.

The public necessity statement provides that the names of spouses and children should be exempt because people may seek revenge against firefighters by targeting their spouses or children.

It also provides that it is necessary to at a reference to s. 24(a) Art. I of the Florida Constitution to ensure that a firefighter's records are exempt in all three branches of government.

This bill was signed into law June 14, 2017 as Chapter No. 2017-096, Laws of Florida and the provisions take effect October 1, 2017.

HB 1203
Public Records/Department of Corrections (DOC)/Health Information

Federal law provides a right to privacy for health and medical records under the Health Insurance Portability and Accountability Act ("HIPAA"). The HIPPA Privacy Rule sets national standards for the use and disclosure of individuals' health information, called protected health information ("PHI"), by covered entities. Although an individual's health and medical records are generally private under HIPPA, there are exceptions which allow disclosure for purposes of promoting health and safety, protecting law enforcement, and assisting in criminal and other types of investigations. The HIPPA Privacy Rule establishes a baseline or floor of privacy protections for PHI, not a ceiling. Where state laws are more protective of privacy than HIPPA, the state requirements will remain in effect.

The bill, which is linked to the passage of CS/HB 1201, expands the types of inmate health information held by DOC, which are confidential and exempt from disclosure. It also expands the entities to which the DOC may disclose such information. Under the bill, state attorneys, law enforcement agencies, the Executive Office of the Governor, the Correctional Medical Authority, the Division of Risk Management of the Department of Financial Services, the Department of Legal Affairs, the Department of Children and Families, and other entities may receive such confidential and exempt information if specified requirements are met. The bill provides for disclosure of a deceased inmate's PHI and other health records under specified circumstances.

The bill takes effect on the same date that HB 1201 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law. HB 1201 takes effect on July 1, 2017.

The bill provides for repeal of the public records exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

This bill was signed into law June 14, 2017 as Chapter No. 2017-114, Laws of Florida and the provisions take effect July 1, 2017.

SB 2510
Public Records/Dependent Eligibility Verification Services

The bill makes confidential and exempt from public inspection and copying most documents submitted to the Department of Management Services (DMS) or its third party provider contracted to provide dependent eligibility verification services. If documents collected by the DMS for another purpose are not exempt in that

situation, those same documents submitted for dependent eligibility verification purposes will not be exempt from public inspection and copying.

This bill was signed into law June 16, 2017 as Chapter No. 2017-128, Laws of Florida and the provisions take effect July 1, 2017.

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions. The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; unless reenacted by the Legislature and saved from repeal. The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary. An exemption serves an identifiable purpose if it meets one of the following purposes and the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt; or
- It protects trade or business secrets.

In addition, the OGSR also requires specified questions to be considered during the review process. In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, an exemption is expanded, then a public necessity statement and a two-thirds vote for passage is required. If the exemption is reenacted or narrowed without substantive changes, then a public necessity statement and a two-thirds vote for passage is not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.

SB 7004
OGSR/Peer Review Panels/Department of Health

The public records exemptions apply to biomedical research grant applications provided to the peer review panel and any records generated by the peer review panel in reviewing the grant applications, except final recommendations. These records are confidential and exempt from s. 119.071(1), F.S., and Article I, section 24(a) of the Florida Constitution.

The public meeting exemptions apply to portions of peer review panel meetings when grant applications are discussed and make them exempt from s. 286.011, F.S., and Article I, section 24(b) of the Florida Constitution.

This bill was signed into law May 1, 2017 as Chapter No. 2017-009, Laws of Florida and the provisions take effect October 1, 2017.

HB 7035
OGSR/Nonpublished Reports and Data/Dept. of Citrus

Current law provides a public record exemption for social security numbers and

property identifiers contained in reports of unclaimed property held by the Department of Financial Services.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law.

The Department of Citrus prepares and disseminates important information to citrus growers, handlers, shippers, processors, and industry-related and interested persons and organizations relating to department activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products. The Department of Citrus also conducts or causes studies to be conducted concerning citrus fruit, citrus fruit juices, and the products and byproducts of the fruit.

Current law provides that any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus are confidential and exempt from public record requirements.

This bill was signed into law June 2, 2017 as Chapter No. 2017-62, Laws of Florida and the provisions take effect October 1, 2017.

HB 7045
OGSR/Reports of Unclaimed Property

Unclaimed property consists of any funds or other property, tangible or intangible, which has remained unclaimed by the owner for more than five years after the property becomes payable or distributable. Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners. Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with the Department of Financial Services by May 1 for all property valued at $50 or more and presumed unclaimed for the preceding calendar year.

The report must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law.

This bill was signed into law May 23, 2017 as Chapter No. 2017-033, Laws of Florida and the provisions take effect October 1, 2017.

HB 7067
Review Under the Open Government Sunset Review Act

Title insurers and title insurance agencies are required to submit to the Office of Insurance Regulation (OIR), by May 31 of each year, data identified by OIR as necessary to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry. Current law provides that proprietary business information provided to OIR by a title insurance agency or insurer is confidential and exempt from public record requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information. However, information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed.

This bill was signed into law May 23, 2017 as Chapter No. 2017-034, Laws of Florida and the provisions take effect October 1, 2017.

HB 7087
OGSR/Protective Injunctions for Certain Types of Violence

In 2011, the Legislature required the Florida Association of Court Clerks and Comptrollers, subject to available funding, to develop an automated process by which a petitioner may request notification that a respondent has been served with a protective injunction against domestic violence, repeat violence, dating violence, or sexual violence. Such notification must be made within 12 hours after the sheriff or other law enforcement officer serves the protective injunction.

Current law provides that specified personal identifying and location information held by the clerk and law enforcement agencies in conjunction with the automated process by which a petitioner may request notification of service of the injunction for protection against domestic violence, repeat violence, sexual violence, or dating violence is confidential and exempt from public record requirements. The clerk of court is required to apprise a petitioner of his or her right to request in writing that such information be made exempt from public record requirements. The exemption provides that such information is exempt for five years after receipt of the written request. The automated process itself has not been created yet; it is estimated to be completed in summer 2017.

This bill was signed into law June 2, 2017 as Chapter No. 2017-65, Laws of Florida and the provisions take effect October 1, 2017.

HB 7093
OGSR/Agency Personnel Information

Current law provides public record exemptions for certain identification and location information of specified agency personnel as well as certain information relating to the spouses and children of such personnel. The exemptions for these specified agency employees, as well as exemptions pertaining to the family of those employees, are set to repeal on October 2, 2017, unless the Legislature reenacts the exemptions. The categories of agency personnel with specified exemptions are:

- Law enforcement;
- Department of Children and Families personnel with certain duties;
- Department of Health personnel with certain duties;
- Department of Revenue and local government personnel who collect revenue or child support;
- Department of Financial Services personnel with certain duties;
- Firefighters;
- Justices and judges;
- State attorneys and statewide prosecutors and their assistants;
- Magistrates, administrative law judges, judges of compensation claims, child support hearing officers;
- Human resources, labor relations personnel;
- Code enforcement personnel;
- Guardian ad Litem Program personnel;
- Department of Juvenile Justice personnel;
- Public defenders, criminal conflict and civil regional counsel and their assistants;
- Department of Business and Professional Regulation investigators; and
- County Tax Collectors.

The bill reenacts the public record exemptions for agency personnel and their families. The bill also expands certain public record exemptions for agency personnel and

their families in an effort to provide uniformity.

This bill was signed into law June 2, 2017 as Chapter No. 2017-66, Laws of Florida and the provisions take effect October 1, 2017.

HB 7113
OGSR/Donor or Prospective Donor/Publicly Owned Performing Arts Center

Florida has many performing arts centers in every region of the state. The term "publicly owned performing arts center" is defined as a facility consisting of at least 200 seats, owned and operated by a county, municipality, or special district, which is used and occupied to promote development of any or all of the performing, visual, or fine arts and to encourage and cultivate public and professional knowledge and appreciation of the arts.

Current law provides that any information that would identify the name, address, or telephone number of a donor or prospective donor to a publicly owned performing arts center who desires to remain anonymous is confidential and exempt from public record requirements.

This bill was signed into law June 2, 2017 as Chapter No. 2017-68, Laws of Florida and the provisions take effect October 1, 2017.

Construction, Environment & Land Use, Growth Management, Real Property & Special Districts

Construction

CS/CS/HB 241
Low-voltage Electric Fences

The Florida Building Code, ch. 553, Part IV, F.S., is intended to create a single source of uniform standards for all aspects of construction statewide. Included in the Building Code is a uniform system for the installation permitting of low-voltage alarm systems (a device used to signal or detect a burglary, fire, robbery, or medical emergency).

The bill expands current law regarding the streamlined installation permitting of low-voltage alarm systems to include low-voltage electric fences. Specifically, the bill:

- Defines "low-voltage electric fence" as an alarm system, as defined in s. 489.505, F.S., that consists of a fence structure and an energizer powered by a commercial storage battery not exceeding 12 volts which produces an electric charge upon contact with the fence structure;
- Adds "new or existing low-voltage electric fence" to the types of projects that constitute a low-voltage alarm system project; and
- Adds "closed-circuit television systems," "access controls," and "battery recharging devices" to the types of ancillary components or equipment attached to a low-voltage alarm system.

The bill requires a low-voltage electric fence to meet all of the following requirements to be permitted as a low-voltage alarm system project, and prohibits any further permitting for the low-voltage alarm system project other than as provided in s. 553.793, F.S.:

- Must not produce an electric charge that exceeds specified international energizer characteristics;
- Must be completely enclosed by a nonelectric fence or wall;
- May be up to 2 feet higher than the perimeter nonelectric fence or wall;
- Must be identified using warning signs attached to the fence at intervals of not more than 60 feet;
- May not be installed in an area zoned exclusively for single-family or multi-family residential use; and
- May not be used to enclose portions of the property used for residential purposes.

This bill was signed into law June 2, 2107 as Chapter No. 2017-52, Laws of Florida and the provisions take effect July 1, 2017.

HB 379
Underground Facilities

Chapter 556, F.S., is the "Underground Facility Damage Prevention and Safety Act" (Act). Its stated purpose is to identify and locate underground facilities prior to an excavation or demolition to prevent injury to persons or property or interruption of services resulting from damage to those facilities. To accomplish this, the Act creates a not-for-profit corporation, Sunshine State One-Call of Florida, Inc. (One-Call), to administer a free-access notification system.

This bill amends the "Underground Facility Damage Prevention and Safety Act" by:

- Requiring the One-Call board of directors, in its annual progress report on the participation by municipalities and counties in the one-call notification system, to include (1) a summary of the damage reporting data received by the

system for the preceding year and (2) any analysis of the data by the board;

- Requiring an excavator that causes the contact with or damage to any pipe or other underground facility to immediately report the contact or damage by calling 911 if any natural and other gas or hazardous liquid regulated by the Pipeline and Hazardous Materials Safety Administration has escaped;
- Requiring member operators, after being notified by an excavator that causes damage to a pipe, cable, or protective covering, to file a report with the One-Call system on an annual basis, with a deadline of March 31 each year for all reports from the prior calendar year, or more frequently at the option and sole discretion of the member operator; requiring such reports to include, if known, the cause, nature, and location of the damage; and
- Providing that if a citation is issued by a state law enforcement officer, 80 percent of the civil penalty collected by the clerk of the court will be distributed to the government entity whose employee issued the citation.

This bill was signed into law June 14, 2017 as Chapter No. 2017-102, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 1021
Florida Building Code - Construction

The bill:

- Revises the process by which the Florida Building Code (Code) is updated by requiring the Florida Building Commission (FBC) to review and determine which parts of the international and national codes to adopt instead of automatically adopting the international and national codes; requiring the FBC to adopt any provision necessary to maintain eligibility for federal funding from national programs and agencies; providing that certain amendments to the Code are not rendered void when the Code is updated; and requiring the FBC to adopt the Code by a two-thirds vote.
- Provides that professional engineers may certify solar energy systems.
- Prohibits a political subdivision from adopting or enforcing ordinances or building permit requirements that conflict with corporate trademarks, logos, color patterns or branding of business activities related to the sale of liquid fuels or other franchises.
- Prohibits special or independent districts from requiring payment of additional fees, charges, or expenses, related to providing proof of licensure and insurance coverage.
- Prohibits local jurisdictions from requiring homeowners to pay for painting permits, separate water connections for fire sprinkler systems, and larger water meters.
- Requires local jurisdictions to calculate their cost savings when owners or contractors hire private providers for inspection services in lieu of local building inspectors and to reduce the fees accordingly.
- Includes municipal gas utilities in the exemption from construction contracting licensure requirements for public utilities.
- Allows certified electrical and alarm system contractors to act as a prime contractor provided the majority of the work is within the scope of the contractor's license.
- Allows a person to take the plans examiner or inspector exam after completing a four year internship.

- Revises definitions to authorize local governments and state agencies to contract with certain persons to perform building inspections or supervise building code activities.
- Allows building officials to provide building official services in jurisdictions with a population of 50,000 or less under interagency agreements, and allows building officials to act as private providers.
- Adopts certain recommendations made by the Construction Industry Workforce Taskforce (CIWT).

This bill was signed into law June 23, 2017 as Chapter No. 2017-149, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 1634
Residential Elevators
CS/SB 1634 requires the elevator controller to monitor the closed and locked contacts of the hoistway door locking device, whether electrical or mechanical, during normal operation.

If the closed and locked contacts of the landing locks are open while the car is not in the unlocking zone for the hoistway door locking device, the elevator controller must interrupt power to the motor and brake. Additionally, the elevator controller must not allow the elevator car to restart until the owner or owner's agent, with a master elevator key, has checked for obstructions above and below the elevator car, returned the hoistway door locking device contacts to the normal operating position, and manually reset the elevator controller with the master elevator key. Furthermore, a visual indicator must be visible at all landings until the hoistway door locking device has been returned to the normal operating position and the elevator controller has been manually reset.

This requirement replaces the existing requirement that the underside of an elevator car be equipped with a device that, if the elevator car is obstructed anywhere on its underside in its downward travel, stops the elevator car's downward motion within 2 inches.

The bill requires the Florida Building Commission to adopt, by October 1, 2017, a provision authorizing the permanent installation of a non-removable, hoistway door space guard to comply with section R321.4.1(c)2-5 of the 5th edition (2014) of the Florida Building Code (Residential). The provision must require the hoistway door space guard to withstand a force of 75 pounds applied horizontally using a 4 inch-diameter sphere at any location within the folds on the car door without permanent deformation. The Florida Building Commission must also adopt s. 399.031, F.S., relating to clearance requirements between elevator doors for elevators inside a private residence, into the Florida Building Code.

This bill was signed into law June 14, 2017 as Chapter No. 2017-097, Laws of Florida and the provisions take effect July 1, 2017.

Environment & Land Use

CS/SB 10
Water Resources/Reservoir Project
The bill:

- Establishes options for providing additional water storage south of Lake Okeechobee, including the:
  - Everglades Agricultural Area (EAA) reservoir project with the goal of providing a minimum of 240,000 acre-feet of water storage; and

- C-51 reservoir project with the goal of providing approximately 60,000 acre-feet of water storage.
- Authorizes the Board of Trustees of the Internal Improvement Trust Fund (TIITF) and the South Florida Water Management District (SFWMD) to negotiate the amendment or termination of leases on lands within the EAA for exchange or use for the EAA reservoir project.
- Requires lease agreements relating to land in the EAA leased to the Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE Enterprises) for an agricultural work program to be terminated in accordance with the lease terms.
- Requires the SFWMD, upon the effective date of the act, to identify the lessees of the approximately 3,200 acres of land owned by the state or the district west of the A-2 parcel and east of the Miami Canal and the private property owners of the approximately 500 acres of land surrounded by such lands;
- Requires the SFWMD, by July 31, 2017, to contact the lessors and landowners of such lands to express the SFWMD's interest in acquiring the land through the purchase or exchange of lands or by the amendment or termination of lease agreements.
- Requires the SFWMD to jointly develop a post-authorization change report with the United States Army Corps of Engineers (USACE) for the Central Everglades Planning Project (CEPP) to revise the project component located on the A-2 parcel for implementation of the EAA reservoir project.
- Requires that if, for any reason, the post-authorization change report does not receive Congressional approval by October 1, 2018, unless the district has been granted an extension by the Legislature, the SFWMD begin the planning study for the EAA reservoir project by October 31, 2018, and proceed with the A-2 parcel project component of CEPP in accordance with the project implementation report.
- Requires the SFWMD to give preference to the hiring of former agricultural workers primarily employed during 36 of the past 60 months in the EAA, consistent with their qualifications and abilities, for the construction and operation of the EAA reservoir project.
- Establishes the Everglades Restoration Agricultural Community Employment Training Program within the Department of Economic Opportunity to provide grants for employment programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural employment, and to provide other training, educational, and information services necessary to stimulate the creation of jobs in the areas of agricultural unemployment. The program is required to include opportunities to obtain the qualifications and skills necessary for jobs related to federal and state restoration projects, the Airglades Airport in Hendry County, or an inland port in Palm Beach County.
- Establishes a revolving loan fund to provide funding assistance to local governments and water supply entities for the development and construction of water storage facilities.
- Revises the uses of the Water Protection and Sustainability Program Trust Fund

to include the water storage facility revolving loan program.
- Prohibits, beginning July 1, 2017, the use of inmates for correctional work programs in the agricultural industry in the EAA or in any area experiencing high unemployment rates in the agricultural sector.
- Beginning in Fiscal Year 2018-2019, appropriates the sum of $100 million from the Land Acquisition Trust Fund (LATF) to the Everglades Trust Fund for the purpose of implementing the water storage reservoir projects, with the remainder of such funds in any fiscal year to be made available for Everglades projects.

This bill was signed into law May 9, 2017 as Chapter No. 2017-010, Laws of Florida and the provisions took effect on that date.

CS/HB 335
Resource Recovery and Management

Gasification is a manufacturing process that converts material containing carbon—such as coal, petroleum coke, biomass, or waste—into synthesis gas (syngas) by creating a chemical reaction with the material at high temperatures, without combustion, with a controlled amount of oxygen and/or steam. Gasification may be used to produce electricity, chemicals, fuels, fertilizers, plastics, and other products.

Pyrolysis is the heating of a material, such as plastics, at high temperatures in the absence of oxygen. Sometimes this process includes the introduction of pressure or water. Without oxygen, the material does not combust, but rather the chemical compounds that make up the material thermally decompose into gases and oil. Pyrolysis oil may be used directly as fuel or further refined into diesel or jet fuel.

Due to the increased demand for fuels and limited space in solid waste facilities, solid waste managers have increased efforts to employ gasification and pyrolysis on municipal solid waste (MSW) to decrease the amount of area needed for disposal in solid waste facilities and create fuels.

The Department of Environmental Protection (DEP) implements and enforces the state's solid waste management program. DEP may adopt rules to implement and enforce the state's solid waste management program, which includes a waste tire management program; administration of solid waste grant programs; and the classification, construction, operation, maintenance, and closure of solid waste management facilities.

Current law exempts certain wastes and activities from solid waste regulations. This includes recovered materials and recovered materials processing facilities that meet certain criteria. Further, DEP does not require solid waste combustors to obtain a solid waste permit if the facility operates under a currently valid permit for a stationary source of air pollution, open burning, or electrical power plant and transmission line siting.

The bill expands the exemption from solid waste regulations to facilities that convert recovered materials by gasification, pyrolysis, or other thermal conversion process. The bill also defines terms used in the exemption and makes conforming changes to other statutes.

This bill was signed into law June 26, 2017 as Chapter No. 2017-167, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 573
Water Protection and Sustainability

The bill creates the "Heartland Headwaters Protection and Sustainability Act." The bill creates section 373.462, F.S., detailing the following legislative findings and intent:

- Recognizing, in 1979, portions of Lake and Polk counties were designated as the Green Swamp Area of Critical State Concern in acknowledgment of its regional and statewide importance in maintaining the quality and quantity of Florida's water supply and water resources for the public and the environment.
- Recognizing the Green Swamp, which encompasses approximately 560,000 acres, is located in a regionally significant high recharge area of the Floridan Aquifer system, and helps protect coastal communities from saltwater intrusion.
- Finding that the Green Swamp or Polk County make up the headwaters or portions thereof of six major river systems in the state, which are the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers. In addition, due to the area's unique topography and geology which receives no other water inputs other than rainfall, the area is essential in maintaining the potentiometric head of the Floridian Aquifer system that directly influences the aquifer's productivity for water supply.
- Finding that the Green Swamp and the surrounding areas are economically, environmentally, and socially defined by some of the most important and vulnerable water resources in the state.
- Recognizing that the Central Florida Water Initiative (CFWI) Guiding Document dated January 30, 2015, and the Southern Water Use Caution Area (SWUCA) Recovery Strategy dated March 2006 recognized that the surface water and groundwater resources in the heartland counties of Hardee, Highlands, and Polk are integral to the health, public safety, and economic future of those regions.
- Declaring that there is an important state interest in partnering with regional water supply authorities (RWSAs) and local governments to protect the water resources of the headwaters of the Alafia, Hillsborough,
- Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers and the surrounding areas. Further declaring that funding consideration is given to regional collaborative solutions to manage the water resources of the state.

The bill also creates section 373.463, F.S., to require a heartland headwaters annual report. The cooperative, in coordination with all of its member county and municipal governments, must prepare the comprehensive annual report for water resource projects identified for state funding consideration within its members' jurisdictions. The report must include, at a minimum, a list of projects identified by the cooperative for state funding consideration for drinking water supply, wastewater, stormwater and flood control, environmental restoration, and conservation, and allow a project to be listed in more than one category; a priority ranking for each listed project that will be ready to proceed in the upcoming fiscal year within each category; the estimated cost and completion date of each project; and the source and amount of financial assistance to be provided by the cooperative, the member county or municipal governments, or other entity for each project. The bill requires the

cooperative to coordinate with the appropriate water management district (WMD) to ensure that the report is included in the consolidated WMD annual report.

This bill was signed into law June 14, 2017 as Chapter No. 2017-111, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 1018
Contaminated Site Cleanup/Pollution Notification

CS/CS/SB 1018 creates the Public Notice of Pollution Act. The bill defines a reportable pollution release as a release to the air, land, or water that is discovered by the owner or operator of an installation, is not authorized by law, and is:

- Reportable to the State Watch Office;
- Reportable to the Department of Environmental Protection (DEP) or a contracted county pursuant to rules governing storage tank systems;
- Reportable to the DEP pursuant to rules governing underground injection control systems;
- A hazardous substance; or
- An extremely hazardous substance.

The owner or operator of any installation where a reportable pollution release occurs must provide a notice of the release to the DEP. The notice must be submitted to the DEP within 24 hours after discovery of the reportable pollution release and must contain detailed information described in the bill about the installation, the substance, and the circumstances surrounding the release. The bill also requires additional notice to the DEP if a release migrates outside the property boundaries of the installation.

The bill requires the DEP to publish each notice to the Internet within 24 hours after the DEP receives it. The DEP must also create a system for electronic mailing that allows interested parties to subscribe to and receive direct announcements of notices received by the DEP. The DEP must establish an email address and an online form so that installation owners and operators are able to submit a notice of a reportable pollution release electronically.

The bill provides that submitting a notice of a reportable pollution release does not constitute an admission of liability or harm. Finally, the bill provides for $10,000 per day in civil penalties for violations of these notice requirements and authorizes the DEP to adopt rules to administer these provisions.

The bill provides for the advancement ahead of priority ranking for the rehabilitation of individual petroleum contaminated sites proposed for redevelopment; the elimination of the 25 percent cost-share requirement for the advanced cleanup of such sites; a $5 million increase in the annual funding available to DEP for petroleum rehabilitation advance cleanup work; advanced site assessments for certain sites contaminated with drycleaning solvents; and a $5 million increase in the amount of annual voluntary cleanup tax credit funding DEP is authorized to allocate.

The bill increases expenditures from the Inland Protection Trust Fund by $5 million annually. The bill will reduce revenues deposited into the General Revenue Fund by $5 million annually based on a higher volume of tax credits. The DEP will incur minimal costs as a result of the newly established reporting requirements and initiation of the rule making process for pollution events.

This bill was signed into law June 14, 2017 as Chapter No. 2017-095, Laws of Florida and the provisions take effect July 1, 2017.

HB 1031
Marine Turtle Protection
Five species of marine turtles (sea turtles) spend a portion of their lives in Florida's waters and nest on Florida's beaches. The federal government lists these turtles as endangered or threatened and these species receive special protections under the federal Endangered Species Act (ESA) and Florida's Martine Turtle Protection Act (MTPA). Except as authorized under the ESA or under the MTPA, a person, firm, or corporation may not knowingly possess, take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any sea turtle species or hatchling, or parts thereof, or the eggs or nest of any sea turtles.

Prior to 2016, the MTPA did not specify that possession of a sea turtle, or parts thereof, was a violation. At least one court case found a defendant "not guilty" because "possession" of sea turtles was not specifically listed in law. In 2016, HB 7013 (ch. 2016-107, L.O.F.) provided that possession of a sea turtle, hatchling, or parts thereof without authorization from the Fish and Wildlife Conservation Commission under the MTPA or from the federal government under the ESA is a third degree felony. This change created a new subparagraph 6. to s. 379.2431(1)(d), F.S. The former subparagraph 6., which makes solicitation or conspiracy to commit a violation of the MTPA a third degree felony, became subparagraph 7.

The 2016 legislation, however, did not correct the reference to former subparagraph 6. on the Offense Severity Ranking Chart (OSRC) in the Criminal Punishment Code. Currently, the OSRC lists solicitation or conspiracy to commit a violation of the MTPA with the old subparagraph 6. cross-reference. Further, the new provision providing that possession of a sea turtle, or parts thereof, is not listed on the OSRC. Thus under current law, judges must treat sentencing for the possession of a sea turtle, or parts thereof, as a level one violation under s. 921.0023(1), F.S., which ranks all felonies not listed for purposes of sentencing.

The bill amends the OSRC to correct the numbering for the solicitation or conspiracy to commit a violation of the MTPA. Further, the bill adds possession of a sea turtle species or hatchling, or parts thereof, or the nest of any sea turtle species as a level three violation on the OSRC. This change is consistent with the offense severity ranking for taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing sea turtles, sea turtle eggs, or sea turtle nests in violation of the MTPA and soliciting to commit or conspiring to commit a violation of the MTPA.

This bill was signed into law June 26, 2017 as Chapter No. 2017-180, Laws of Florida and the provisions take effect July 1, 2017.

Growth Management

CS/CS/HB 687
5G Wireless Infrastructure Act
The bill creates the Advanced Wireless Infrastructure Deployment Act, which establishes a process by which wireless providers may place certain "small wireless facilities" on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way that are under the jurisdiction and control of an "authority" (i.e., a county or municipality). The bill provides that an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way, except as specified in

the bill. The bill caps the rate for collocation on an authority utility pole at $150 annually.

The bill establishes a process by which wireless providers – including persons who provide wireless services and persons who build or install wireless communication transmission equipment, facilities, and support structures – may place certain wireless facilities on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way that are under the jurisdiction and control of a county or municipality (an "authority"). The bill excludes DOT and rights-of-way under its jurisdiction and control.

Under the bill, a utility pole includes any pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function, but does not include any horizontal support structures to which signal lights or other traffic control devices are attached or any pole or similar structure 15 feet in height or less. The bill excludes utility poles that are:

- Owned by a municipal electric utility or used to support electric distribution facilities owned or operated by a municipality;
- Located in the right-of-way within a retirement community that is deed-restricted as housing for older persons as defined in s. 760.29(4)(b), F.S., has more than 5,000 residents, and has underground utilities for electric transmission or distribution; or
- Located in the right-of-way within a municipality that is located on a coastal barrier island as defined in s. 161.053(b)(3), F.S., has a land area of less than five square miles, has less than 10,000 residents, and, prior to July 1, 2017, has received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

The bill provides that an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way, except as specified in the bill. Small wireless facilities are defined in the bill as wireless facilities that meet the following size limitations:

- Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, if the antenna has exposed elements, the antenna and all of its exposed elements would fit within an enclosure of the same volume.

Other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume.

Certain associated ancillary equipment is not included in the calculation of these equipment volume limitations. Such equipment includes electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs to connect power and other services.

A small wireless facility is defined by the bill as a "micro wireless facility" if its dimensions are not larger than 24 inches in length, 15 inches in width, and 12 inches in height, with an exterior antenna, if any, no longer than 11 inches. The bill provides that the installation, placement, maintenance, or replacement of such facilities by a provider that is authorized to occupy the rights-of-way and that remits communications

service taxes under ch. 202, F.S., is not subject to approval or fees imposed by an authority. The bill also exempts routine maintenance and the replacement of existing wireless facilities with wireless facilities that are substantially similar or the same size or smaller. Notwithstanding these exemptions, the bill authorizes an authority to require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane. The bill provides that an authority may require a registration process and permit fees for collocation of small wireless facilities in accordance with s. 337.401(3), F.S. The bill provides specific terms and conditions under which the authority must process and issue permits.

Authority Review Process

The bill requires an authority to approve or deny an application for a permit to collocate small wireless facilities within 60 days of receipt of the application and to inform the applicant of the outcome through electronic mail. If the application is not processed within that time, the application is deemed approved. The applicant and the authority may mutually agree to extend this review period, unless the authority initiates a 30-day negotiation period (described in greater detail below) to request an alternative location for the proposed collocation. If the review period is extended by mutual agreement, the authority must grant or deny the application at the end of the extended period.

Within 14 days of receipt of an application, an authority must determine and notify the applicant by electronic mail as to whether the application is complete. If it determines that the application is not complete, the authority must specifically identify any missing information. An application is deemed complete if the authority fails to notify the applicant within 14 days.

An applicant may, at its discretion, file a consolidated application and receive a single permit to collocate up to 30 small wireless facilities. If the application includes collocation of multiple small wireless facilities, the authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

The bill provides that an authority may deny an application if the proposed collocation:

- Materially interferes with the safe operation of traffic control equipment;
- Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes;
- Materially interferes with compliance with the Americans with Disabilities Act or similar law;
- Materially fails to comply with the 2010 edition of the DOT Utility Accommodation Manual; or
- Fails to comply with "applicable codes" as defined in the bill.

The bill defines "applicable codes" to include the following:

- Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons;
- Local codes or ordinances adopted to implement the provisions of the bill;
- Objective design standards adopted by ordinance that may require that a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may

require reasonable spacing requirements concerning the location of ground-mounted equipment; and
- Objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements, provided that the authority may waive such design standards upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense.

An authority may not apply any other local land development or zoning codes in its review. The bill provides that an application must be processed on a nondiscriminatory basis.

If an application is denied, the authority must specify in writing the basis for the denial, including specific code provisions, and must send this information by electronic mail to the applicant on the day the application is denied. The applicant may cure the noted deficiencies by resubmitting the application within 30 days after notice of denial. The authority must then approve or deny the revised application within 30 days or the application will be deemed approved. The authority's review of the revised application is limited to the deficiencies cited in the notice of denial.

Limitations on Permit Conditions

The bill establishes certain limitations on the power of an authority to impose conditions on a permit to collocate small wireless facilities in the public rights-of-way. A permit issued pursuant to an approved application is effective for one year unless extended by the authority.

The bill prohibits an authority from directly or indirectly requiring an applicant to perform services unrelated to the collocation. The bill identifies such prohibited services to include in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority. The bill also prohibits an authority from requiring an applicant to provide more information than is necessary to demonstrate compliance with applicable codes. Further, the bill prohibits an authority from requiring the placement of small wireless facilities on any specific pole or category of poles or requiring the placement of multiple antenna systems on a single pole.

The bill prohibits an authority from limiting the placement of small wireless facilities by minimum separation distance, but provides a process by which an authority, within 14 days from the filing date of a collocation application, may request that the proposed location of a small wireless facility be moved to another location in the right-or-way and placed upon an alternative authority utility pole or support structure or may place a new utility pole. Under this process, the authority and applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days from the date of the request. After the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority and the application is deemed granted for any such location and all other locations in the application. If no agreement is reached, the applicant must notify the authority and the authority must grant or deny the original application within 90 days from the date the application was filed.

The bill provides that an authority must limit the height of a small wireless facility to no more than 10 feet above the utility pole or structure upon which it is to be collocated. For a new utility pole, the height is limited to the tallest existing utility pole as of July 1, 2017, that is located in the same right-of-way as measured from "grade in place" within 500 feet of the proposed location. The authority may waive this limit. If there is no utility pole within 500 feet of the proposed location, the authority must limit the height of the new pole to 50 feet. Further, the bill provides that any structure permitted for collocation must comply with state airport zoning laws under ch. 333, F.S., and federal regulations related to airport airspace protections.

The bill provides that an authority may reserve space on its utility poles for future public safety uses, provided that such reservation does not preclude collocation of a small wireless facility. If replacement of the pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to the make-ready provisions of the bill (described in greater detail below) and the replaced pole must accommodate the future public safety use.

Further, the bill requires a wireless provider to comply with any nondiscriminatory undergrounding requirements of the authority which prohibit above-ground structures in the public right-of-way, unless waived by the authority.

The bill provides that collocation of a small wireless facility on an authority utility pole does not provide a basis for the imposition of an ad valorem tax on the authority utility pole.

For any application filed before an authority's implementing ordinances become effective, the authority may apply its current ordinances relating to placement of communications facilities in the right-of-way with regard to registration, permitting, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. However, permit application requirements or utility pole height limits that conflict with the provisions of this subsection must be waived by the authority.

Collocation on Utility Poles

Under the bill, the collocation of small wireless facilities on authority utility poles is subject to the following requirements:

- An authority may not enter into an exclusive agreement with any person for the right to attach equipment to authority utility poles.
- Rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.

The rate to collocate small wireless facilities on an authority utility pole may not exceed $150 annually per pole.

- An agreement between an authority and a wireless provider that is in effect on July 1, 2017, and that relates to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, will remain in effect, subject to applicable termination provisions.
- A wireless provider may accept the rates, fees, and terms established under the bill for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective.

- By the later of January 1, 2018, or 3 months after receiving its first request to collocate a small wireless facility on an authority utility pole, the person owning or controlling the authority utility pole must, by ordinance or otherwise, provide rates, fees, and terms that comply with the bill and that are nondiscriminatory and competitively neutral.

The bill establishes provisions related to "make-ready" work that may be required. "Make-ready" work generally refers to the modification of poles or lines or the installation of guys and anchors to accommodate additional facilities.

For an authority utility pole that supports aerial facilities used to provide communications or electric service, the bill requires that parties comply with the process for make-ready work under 47 U.S.C. §224 and the FCC's implementing regulations and provides that make-ready work must include pole replacement, if necessary.

For an authority utility pole that does not support aerial facilities used to provide communications or electric service, the bill requires the authority to provide a good faith estimate for any necessary make-ready work within 60 days after receipt of a complete application and requires that the make-ready work be completed within 60 days of the applicant's acceptance of the estimate. As an alternative, the bill provides that an authority may require the applicant to provide a make-ready estimate, at the applicant's expense, for the work necessary to support the small wireless facility, including pole replacement, and to perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. If the authority chooses this alternative, it may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. A replaced or altered utility pole remains the property of the authority.

The bill provides that the authority may not require more make-ready work than is necessary to meet the applicable codes specified in the bill or industry standards. Further, the bill provides that fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Though it is not clear, it appears that this provision of the bill intends to refer to noncompliance with the codes specified in the bill or industry standards. The bill also provides that fees for make-ready work may not exceed actual costs or the amount charged to other non-wireless communications services providers for similar work. The bill provides that fees for make-ready work may not include any consultant fees or expenses.

Applications to Place Utility Poles in the Public Rights-of-Way

The bill authorizes a wireless infrastructure provider to apply to an authority to place utility poles in the public rights-of-way to support the collocation of small wireless facilities. The application must include an attestation that small wireless facilities will be collocated on the utility pole or structure and small wireless facilities will be utilized by a wireless services provider to provide service within 9 months from the date the application is granted. The bill provides that the authority shall accept and process the application in accordance with the

application review timeframes specified in the bill for collocation applications and any applicable codes and other local codes, rules, or regulations governing the placement of utility poles in the public rights-of-way.

Exemptions from Bill Zoning

The bill specifies that it does not limit the authority of local governments to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s. 1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement these laws. The bill provides that an authority may enforce local codes, administrative rules, or regulations adopted by ordinance in effect on April 1, 2017 which are applicable to a historic area designated by the state or authority. The bill further provides that an authority may enforce pending local ordinances, administrative rules, or regulations applicable to a historic area designated by the state if the intent to adopt such changes had been publicly declared on or before April 1, 2017. The bill authorizes an authority to waive any such ordinances or related requirements.
Further the bill specifies that it does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on privately owned utility pole, a utility pole owned by a municipal electric utility or electric cooperative, privately owned wireless support structures, or other private property without consent of the property owner.

The bill also specifies that it does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on a utility pole, unless permitted by federal law, or erect a wireless support structure in the right-of-way within:

- A retirement community that is deed-restricted as housing for older persons as defined in s. 760.29(4)(b), F.S., has more than 5,000 residents, and has underground utilities for electric transmission or distribution; or
- A municipality that is located on a coastal barrier island as defined in s. 161.053(b)(3), F.S., has a land area of less than five square miles, has less than ten thousand residents, and, prior to the adoption of the bill, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

The bill further specifies that it does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on an authority utility pole or erect a wireless support structure in a location subject to covenants, conditions, and restrictions; articles of incorporation; and bylaws of a home owners association.

It provides that the approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to the bill is not to be construed to confer authorization for the provision of any voice, data, or video communications services nor for the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way. Further, the bill provides that it does not affect s. 337.401(6), F.S., relating to pass-through providers.

This bill was signed into law June 23, 2017 as Chapter No. 2017-136, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 7043
Anchoring and Moving of Vessels

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to explore policy options for regulating the anchoring and mooring of vessels outside the boundaries of public mooring fields (pilot program). With the exception of those participating in the pilot program, local governments are prohibited from regulating the anchoring or mooring of vessels, other than live-aboard vessels, outside the marked boundaries of mooring fields. FWC was required to submit a report of its findings and recommendations on the pilot program to the Legislature by January 1, 2017.

The bill amends s. 253.0347, F.S., to allow private residential multifamily docks that were grandfathered to use sovereignty submerged lands by January 1, 1998, as previously authorized under former rule 18-21.00405, F.A.C., to exceed the number of moored boats to the number of units within the private multifamily development as previously authorized under the rule.

It amends s. 327.02, F.S., revising the definition of "live-aboard vessel" to remove a vessel represented as a place of business or a professional or other commercial enterprise from the definition, to include within the definition a vessel used as a residence that does not have an effective means of propulsion for safe navigation, and to exempt a commercial fishing vessel from the definition. The bill defines a "barge" as a vessel that does not have living quarters, is not propelled by its own power, and is designed to be pushed or pulled by another vessel. The bill defines a "commercial fishing vessel" as a vessel primarily engaged in the taking or landing of saltwater fish or saltwater products or freshwater fish or freshwater products, or a vessel licensed pursuant to s. 379.361, F.S., from which commercial quantities of saltwater products are harvested, from within and without the waters of this state for sale to the consumer or to a retail or wholesale dealer. The bill defines a "commercial vessel" as a vessel used as a place of business or a professional or other commercial enterprise. The bill defines "effective means of propulsion for safe navigation" to mean a vessel, other than a barge, that is equipped with a functioning motor, controls, and steering system, or rigging and sails that are present and in good working order, and a functioning steering system.

The bill amends s. 327.391, F.S., regarding the regulation of airboats, to conform a cross-reference.

It amends s. 327.4107, F.S., regarding vessels at risk of becoming derelict on waters of the state, to include that a vessel is at risk of becoming derelict if the vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice, which may be provided by facsimile, electronic mail, or other electronic means, of such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair. The bill also provides that FWC may adopt rules to implement this provision.

It amends s. 327.4108, F.S., regarding the anchoring of vessels in anchoring limitation areas, to save the section from expiring upon the Legislature's adoption of recommendations from the pilot program.

The bill creates s. 327.4109, F.S., prohibiting anchoring or mooring in certain areas, providing exceptions, and penalties. The bill prohibits an owner or operator of a

vessel or floating structure from anchoring or mooring such that the nearest approach of the anchored vessel or floating structure is within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility, within 300 feet of a superyacht repair facility, defining a superyacht repair facility as a facility that services or repairs a yacht with a water line of 120 feet or more in length, or within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by FWC upon request by a local government within which the mooring field is located. The bill allows FWC to adopt rules to implement this local government request.

The bill provides exemptions from these anchoring or mooring prohibitions for a vessel that is owned or operated by a governmental entity, a construction or dredging vessel on an active job site, a commercial fishing vessel actively engaged in commercial fishing, or a vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.

It allows an owner or operator of a vessel to anchor or moor where prohibited in this section if the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard the vessel and allows the owner or operator of the vessel to anchor or moor for five business days or until the vessel is repaired, whichever occurs first. The bill also allows a vessel to anchor or moor where prohibited in this section if there is imminent or existing weather conditions in the vicinity of the vessel that pose an unreasonable risk of harm to the vessel or the persons onboard. The bill allows the owner or operator of the vessel to anchor or moor until weather conditions no longer pose such risk. The bill provides that during a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

The bill prohibits an owner or operator of a vessel or floating structure from anchoring or mooring within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.

It also prohibits an owner or operator of a vessel or floating structure to anchor, moor, tie, or otherwise affix or allow the vessel or floating structure to remain anchored, moored, tied or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. The bill exempts a private mooring owned by the owner of private submerged lands from these requirements.

It provides that a violation of these anchoring or mooring prohibitions is a noncriminal infraction.

The bill amends s. 327.44, F.S., to provide that a person may not moor, except in case of emergency, such that it unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel, or moor under bridges or in or adjacent to heavily traveled channels if it is unreasonable under the prevailing circumstances.

It amends s. 327.46, F.S., to allow the establishment of boating-restricted areas to protect seagrasses on privately owned submerged lands. The bill provides that owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(27), F.S., or an aquatic preserve established under ss. 258.39-

258.399, F.S., may request FWC to establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. The bill requires an owner making such request to demonstrate clear ownership of the submerged lands to FWC. The bill requires FWC to adopt rules establishing an application process and criteria for such boating-restricted areas and to establish each approved boating-restricted area by rule. The bill requires property owners to apply to FWC for a uniform waterway marker permit in accordance with ss. 327.40, F.S. and 327.41, F.S., for marking these boating-restricted zones, and to be responsible for marking the boating-restricted zone in accordance with the permit.

The bill provides that the term "seagrass" has the same meaning as in s. 253.04, F.S.

It amends s. 327.60, F.S., regarding local government regulations, to clarify that local governments may regulate the anchoring of live-aboard vessels and commercial vessels, except commercial fishing vessels. The bill allows a local government to enact and enforce regulations requiring owners or operators of vessels or floating structures subject to the marine sanitation requirements of s. 327.53, F.S., to provide proof of proper sewage disposal by means of an approved sewage pumpout service, approved sewage pumpout facility, or approved waste reception facility when anchored or moored for more than 10 consecutive days within the marked boundaries of a permitted mooring field under the jurisdiction of the local government, within no-discharge zones established for Destin Harbor, the City of Key West, and the Florida Keys National Marine Sanctuary, or within no discharge zones established pursuant to 40 C.F.R. s. 1700.10. The bill requires a local government adopting such ordinance to ensure that there are approved sewage pumpout services, approved sewage pumpout facilities, or approved waste reception facilities available within its jurisdiction, and for FWC to review and approve the ordinance if it is consistent with these requirements. The bill allows FWC to adopt rules to implement this ordinance process. The bill also provides that a local government may enact or enforce pumpout requirements for live-aboard vessels, floating structures, and commercial vessels, excluding commercial fishing vessels, within any areas of its jurisdiction.

The bill allows a local government to enact and enforce regulations for the local government law enforcement to remove a vessel that is affixed to a public dock that is abandoned or lost property pursuant to s. 705.103(1), F.S. Such regulations must require the local government law enforcement to post a written notice at least 24 hours before removing the vessel.

It amends s. 327.70, F.S., regarding enforcement, to provide that a violation of s. 327.4109, F.S., for anchoring or mooring where prohibited may be enforced by a uniform boating citation that is mailed to the registered owner of an unattended vessel or floating structure, or issued to the owner or operator of the vessel or floating structure.

The bill amends s. 327.73, F.S., revising the noncriminal infraction for operating with an expired registration as follows:

- For a first or subsequent offense of operating a vessel with an expired registration of six months or less, up to a maximum of $50.

- For a first offense of operating a vessel with an expired registration of more than six months, up to a maximum of $250.
- For a second or subsequent offense of operating a vessel with an expired registration of more than six months, up to a maximum of $500, and the violator must appear in county court.

Further, it creates the following noncriminal infractions for anchoring or mooring where prohibited:

- For a first offense, up to a maximum of $50.
- For a second offense, up to a maximum of $100.
- For a third or subsequent offense, up to a maximum of $250.

It amends s. 328.09, F.S., to prohibit the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict by a law enforcement officer under s. 823.11, F.S., to require a law enforcement officer to inform DHSMV in writing, including facsimile, electronic mail or by other electronic means, of the vessel's derelict status, and supply the vessel title number or vessel identification number, and to allow DHSMV to issue a certificate of title once a law enforcement officer has verified in writing, including facsimile, electronic mail or by other electronic means, that the vessel is no longer a derelict vessel.

The bill amends s. 328.70, F.S., providing that a commercial fishing vessel be classified and registered as a commercial vessel.

The bill amends s. 328.72, F.S., regarding an expired vessel registration, to provide that an owner or operator of a vessel with an expired registration of six months or less commits a noncriminal infraction, punishable as provided in s. 327.73(1)(g)1., F.S., and for an owner or operator of a vessel with an expired registration of more than six months commits a noncriminal infraction punishable as provided in s. 327.73(1)(g)2. and 3., F.S.

Lastly, it amends s. 705.103, F.S., regarding the procedure for abandoned or lost property, to exempt a law enforcement officer who has issued a citation for a violation of derelict vessel laws to the owner of the derelict vessel is not required to mail a copy of the notice by certified mail to the owner.

This bill was signed into law June 23, 2017 as Chapter No. 2017-163, Laws of Florida and the provisions take effect July 1, 2017.

Real Property

CS/CS/CS/SB 398
Estoppel Certificates
The bill amends ss. 718.116(8), 719.108(6), and 720.30851, F.S., to revise the requirements for estoppel certificates issued by condominium, cooperative, and homeowners' associations, respectively.

Delivery of Estoppel Certificates
The bill revises the period in which an association must respond to a request for an estoppel certificate from 15 days to 10 *business* days. An association is required to designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate.
The bill requires that an association deliver an estoppel certificate by hand, mail, or e-mail to the requestor on the date of issuance. A certificate that is hand delivered or sent by electronic means has a 30-day effective period, and a certificate sent by regular mail has a 35-day effective period.

Who May Complete the Estoppel Certificate

The bill permits the estoppel certificate to be completed by any board member, authorized agent, or authorized representative of the association, including any authorized agent, authorized representative, or employee of a management company authorized to complete the form on behalf of the board or association.

Required Form

The bill revises requirements for the issuance of an estoppel certificate to provide that an association must include all of the following information in substantially the following form in each certificate:

- Date of issuance;
- Name of the unit or parcel owner(s) reflected in the books and records of the association;
- Unit designation and address;
- Parking or garage space number, as reflected in the books and records of the association;
- Attorney's name and contact information if the account is delinquent and has been turned over to an attorney for collection but no fee may be charged for this information;
- Fee for the preparation and delivery of the estoppel certificate;
- Name of the requestor; and
- Assessment information and other information.

The bill requires that the "Assessment Information" provided by an association contains the following information in substantially the form provided in the bill:

- The amount of regular periodic assessment levied against the unit or parcel;
- The amount of regular periodic assessment paid to date;
- The date the next installment of the regular periodic assessment is due;
- An itemized list of all assessments, special assessments, and other moneys owed on the date the certificate is issued to the association by the unit or parcel owner; and
- An itemized list of any additional assessments, special assessments, and other moneys that are scheduled to become due during the effective period of the estoppel certificate.

It provides that the association must include the following additional information in the estoppel certificate:

- Provide the amount, if any, of a capital contribution fee, resale fee, transfer fee, or other fee due;
- State whether the association's records include any notice to the unit or parcel owner of violation of rule or regulation;
- Indicate whether the rules or regulations of the association require the approval of the board of directors of the association required for the transfer of the unit or parcel, and if applicable, whether the board approved the transfer;
- Indicate whether the rules or regulations of the association provide a right of first refusal in favor of the members or association, and if applicable, include the applicable rules or regulations;
- Provide a list of, and contact information for, all other associations of which the unit is a member;
- Provide contact information for all insurance maintained by the association; and
- Provide the signature of an officer or authorized agent of the association.

- Amending Estoppel Certificates
- The bill permits the association to amend an estoppel certificate within the applicable effective period if additional information or a mistake becomes known. An association may not charge a fee for an amended estoppel certificate. An amended estoppel certificate:
- Becomes effective on the date it is issued and delivered if a sale or refinancing of the unit or parcel has not been completed during the effective period;
- Must be delivered on the date of issuance; and
- Has a new applicable effective period of 30 or 35 days, depending on the method used to deliver the amended certificate, beginning on the date the amended
- estoppel certificate is issued.

Effect of Estoppel Certificates
The bill provides that an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person, and his or her successors and assigns, who in good faith relies upon the certificate.

Requests from Designees or Mortgagees
If an association receives a request for an estoppel certificate from a unit owner or the unit or parcel owner's designee, or a unit or parcel mortgagee or the unit or parcel mortgagee's designee and fails to deliver the estoppel certificate within 10 business days, it may not charge a fee for preparation and delivery of what estoppel certificate.

Summary Proceedings
The bill provides for the use of a summary proceeding pursuant to s. 51.011, F.S., to compel compliance with the estoppel certificate requirements for a cooperative association. This provision is identical to the existing provisions in ss. 718.116(8)(b) and 720.30851(2), F.S., for condominium and homeowners' associations, respectively.

Fees – Single Units or Parcels
The bill provides that an association may charge a reasonable fee for preparation and delivery of an estoppel certificate for a single unit or parcel. Current law does not authorize a delivery fee. The bill establishes a maximum fee of $250 for the preparation and delivery of an estoppel certificate, if there are no delinquent amounts owed to the association on the date the certificate is issued. The association may charge an additional $100 fee for an expedited estoppel certificate delivered within 3 business days after the request for issuance of an expedited estoppel certificate. The association may charge an additional maximum fee of $150, if there is a delinquent amount owed to the association.

Fees – Multiple Units or Parcels

The bill provides the maximum fees that an association may charge when it receives simultaneous requests for estoppel certificates for multiple units or parcels owned by the same person and there are no past due monetary obligations owed to the association. The association may deliver the statement of moneys due in one or more estoppel certificates. However, the association may not charge a total fee that exceeds:

- $750 for 25 or fewer units or parcels;
- $1,000 for 26 to 50 units or parcels;
- $1,500 for 51 to 100 units or parcels; or
- $2,500 for more than 100 units or parcels.

Right to Reimbursement
It provides that, a lender or purchaser who pays for the preparation of an estoppel certificate may not waive, by contract or agreement, the right to be reimbursed for

the cost of the certificate if the closing on the property does not occur. The party that prevails in an action to enforce a right of reimbursement shall be awarded damages, applicable attorney fees, and costs.

Inflation Adjustment

The bill requires that the maximum allowable fees for an estoppel certificate must be adjusted for inflation every five years an amount equal to the annual increases for that five-year period in the Consumer Price Index. The DBPR must periodically calculate the fees, rounded to the nearest dollar, and publish the amounts, as adjusted, on its website.

This bill was signed into law June 14, 2017 as Chapter No. 2017-093, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 818
Timeshares

This bill revises the term "interest holder" in s. 721.05, (21), F.S., to exclude certain persons that have interests in a multisite timeshare plan that has a component site that is also part of a single-site timeshare plan, condominium, or other property regime (component site property regime).

Those excluded as interest holders in a multisite timeshare plan with a component site property regime (the non-interest holders) are:

- A developer;
- An owner of the underlying fee or personal property;
- A mortgagee, judgment creditor, or other lienor; or
- Any other person having an interest in or lien or encumbrance against a timeshare interest in a single-site timeshare plan, or an interest in or lien or encumbrance against *a unit in a condominium or property regime, unless the timeshare interest or the unit is "specifically subject to, or otherwise dedicated to, the multisite timeshare plan."* (Emphasis added.)

The bill expresses legislative intent that the revision of the term "interest holder" is a clarification of existing law; those who are interest holders under current law are described nearly identically to those proposed to be classified as non-interest holders:

- A developer;
- An owner of the underlying fee or personal property;
- A mortgagee, judgment creditor, or other lienor; or
- Any other person having an interest in or lien or encumbrance against a timeshare interest in a single-site timeshare plan, or an interest in or lien or encumbrance against *the accommodations or facilities of the timeshare plan.* (Emphasis added.)

The revision to the term "interest holder" creates a distinction between persons based on the type of timeshare plan they have developed, owned, provided financing for, are owed monies by, or against which they have an interest, lien, or encumbrance. This distinction impacts voting and other rights related to timeshare plans.

The bill amends s. 721.08, F.S., concerning escrow accounts, non-disturbance instruments, alternate security arrangements, and transfer of legal title; the bill expresses legislative intent that the revision is a clarification of existing law.

For a component site property regime, certain documents that establish or govern a component site property regime are deemed not to be an encumbrance under chapter

721, F.S., the Florida Vacation Plan and Timesharing Act (act), including a:

- Timeshare instrument;
- Declaration of condominium; or
- Other instrument.

The bill provides that a document that establishes or governs a component site property regime, in addition to not being an encumbrance, does not create a requirement for a "non-disturbance and notice to creditors instrument" under s. 721.08, F.S. For each accommodation or facility of a multisite timeshare plan involving a component site property regime, a "subordination and notice to creditors instrument" is not required from the managing entity, owners' association, or any other person. Under current law, the developer of such accommodation or facility must provide the division evidence that each interest holder has executed and recorded a subordination and notice to creditors instrument in the public records where the accommodation or facility is located.

The bill amends s. 721.125, F.S., which currently relates to the extension and termination of timeshare plans, so that the section will deal only with the termination of timeshare plans. If the timeshare property is managed by an owners' association that is separate from any underlying condominium, cooperative, or homeowners' association, termination of a timeshare plan does not change the corporate status of the owners' association.

However, under the bill, the owners' association existence continues only for these limited purposes:

- Concluding its affairs;
- Prosecuting and defending actions by or against it;
- Collecting and discharging obligations;
- Disposing of and conveying its property;
- Collecting and dividing its assets; and
- Otherwise complying with s. 721.125(3), F.S.

After termination of a timeshare plan, the bill provides that the board of administration of the owners' association (board) serves as the termination trustee. In that fiduciary capacity, the board may bring a partition action on behalf of the tenants in common in each former timeshare property or may sell the former timeshare property in any manner and to any person approved by a majority of all the tenants in common. The termination trustee also has all other powers reasonably necessary to accomplish the partition or sale, including the power to maintain the property while the partition action or sale is pending, and must adopt reasonable procedures to implement the partition or sale and comply with these requirements.

The bill provides that all reasonable expenses incurred by the termination trustee relating to the performance of the trustee's duties, including reasonable fees of attorneys and other professionals, must be paid by the tenants in common, in proportion to their ownership interests. Many timeshare plans do not address the handling of costs of termination.

Additionally, the bill provides that termination of a timeshare plan in a timeshare condominium or timeshare cooperative, when the underlying condominium or cooperative is not simultaneously terminated, requires the designation of a voting representative for the unit, and the filing of a voting certificate with the underlying condominium or cooperative association. The designation is made by a majority of the tenants in common in each former timeshare unit who are present and voting in person or by proxy at a meeting of such tenants in common.

The meeting is conducted by the termination trustee or by the board of administration of the condominium or cooperative association if the association managed the former timeshare property. The voting representative may vote on all matters at meetings of the condominium or cooperative association, including termination of the condominium or cooperative.

It creates s. 721.1255, F.S., to separately address extensions of timeshare plans, and expresses legislative intent, including that:

- Most older timeshare properties in Florida are based on a condominium structure, and the termination dates set forth in the timeshare instruments for those properties are approaching.
- Many older timeshare properties located in Florida have been well-maintained, and continue to be financially supported, used, and enjoyed by their owners, exchangers, guests, renters, and others.
- To preserve the continued use, enjoyment, tax values, and overall viability of these timeshare properties, the public policy of Florida requires the creation of a statutory method to enable the owners of these timeshare properties to extend the terms of their timeshare plans, notwithstanding contrary provisions in their timeshare instruments which may create uncertainty for purchasers, prospective purchasers, and lenders, and which may discourage the ongoing maintenance, refurbishment, and improvement of these timeshare properties.

The bill revises the minimum required vote and the eligibility of voting interests required for an extension of a term of a timeshare plan. Unless the timeshare instrument specifically provides a lower percentage, the vote or written consent, or both, of at least 66 percent of all eligible voting interests present in person or by proxy at a duly called and constituted meeting of the owners' association is required. (Currently, the requirement under s. 721.125(1), F.S., is that 60 percent of all voting interests must authorize an extension of a timeshare plan, unless the timeshare instrument provides otherwise.) The bill provides that the meeting of the owners' association may be held "at any time." The bill provides that if the term of a timeshare plan is extended, all rights, privileges, duties, and obligations created under applicable law or the timeshare instrument continue in full force to the same extent as if the extended termination date of the timeshare plan were the original termination date of the timeshare plan.

It revises the quorum requirements for a vote to extend the term of a timeshare plan. Unless the timeshare instrument specifically provides for a lower quorum, the quorum for the owners' association meeting is 50 percent of all eligible voting interests in the timeshare plan. Under current law, unless the articles of incorporation, the bylaws, or the provisions of chapter 721, F.S. provide for a higher quorum requirement, the percentage of voting interests required to make decisions and to constitute a quorum for a members' meeting of a timeshare condominium or owners' association is 15 percent of the voting interests.

The bill provides that a proxy for a vote to extend a timeshare plan pursuant to this section may be valid for a period of up to 3 years and is revocable unless it states that it is irrevocable. The duration and revocability of proxies for voting on matters respecting timeshare plans are not addressed in current law.

It provides that the board of administration of the owners' association may determine that any person or entity holding a voting interest who is delinquent in the payment of more than 2 years of assessments is ineligible to vote on any extension of the timeshare plan unless the delinquency is paid in full before the vote.

The bill restricts the effectiveness of a proposed extension for a component site of a multisite timeshare plan located in Florida. If an extension vote or consent is proposed for such a component site, the extension is effective only if the extension is approved by the person authorized to make additions or substitutions of accommodations and facilities pursuant to the timeshare instrument.

The revised procedures for extension of timeshare plans apply to all timeshare properties in Florida. Under current law, unless the timeshare instrument provides otherwise, the provisions relating to extensions or terminations of timeshare plans apply only to a timeshare plan in existence for at least 25 years as of the effective date of the termination or extension vote or consent, or both, of 60 percent of all voting interests in the timeshare plan. The vote or written consent may extend or terminate the timeshare plan at any time.

This bill was signed into law May 23, 2017 as Chapter No. 2017-022, Laws of Florida and the provisions took effect at that time.

CS/CS/HB 1237
Condominiums

A condominium is a form of real property ownership comprised of units that are individually owned and have an undivided share of access to common areas and a corresponding duty to pay assessments to fund the maintenance and repair of the common areas. Condominium associations are regulated by the Department of Business and Professional Regulation (DBPR).

Significantly, the bill amends current law relating to condominiums to:

- Reference criminal offenses that may apply to condominium association officers, directors, and managers;
- Prohibit contracts between the association and any company related to an officer or director and requires disclosure of potential conflicts of interest;
- Prohibit condominium association officers, directors, managers, and agents from using a debit card of the association;
- Create limits on the purchase of condominium units being foreclosed due to an association lien;
- Require retention of bids for materials, equipment or services in an association's official records;
- Allow a tenant the right of inspection of an association's bylaws and rules;
- Require an association of 150 or more units to create a website for access to association records starting July 2018;
- Require an association to provide a copy of the most recent financial report upon written request from a unit owner and penalize an association that does not provide a financial report to an owner when requested by DBPR to do so;
- Create a term limit of 8 years applicable to board members who serve 2-year terms;
- Require a recalled board member to immediately abandon office, and to return association property and records within 10 full business days;

- Require DBPR to certify arbitrators and set time requirements on conducting a hearing and rendering a decision;
- Limit the suspension of a member's ability to vote in association elections;
- Authorize the Condominium Ombudsman to review secret ballots cast at an association vote when looking for misconduct; and
- Require an association to report to DBPR the names of all financial institutions with which the association maintains accounts, which list may be obtained by any association member upon written request.

This bill was signed into law June 26, 2017 as Chapter No. 2017-188, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 1520
Termination of a Condominium Association

CS/SB 1520 revises the requirements for the optional termination of a condominium. Most of the bill's changes pertain to the optional termination of a condominium in which a bulk owner owns at least 80 percent of the total voting interests. Regarding these terminations, the bill increases consumer protections by:

- Entitling all persons whose condominium unit is their homestead to be paid at least as much as they paid for their units;
- Increasing mandatory disclosure of the identities of significant stakeholders in a condominium before a termination plan may proceed; and
- Requiring approval of a termination plan by the Department of Business and Professional Regulation.

Regarding optional terminations in general, the bill requires 80 percent of a condominium's voting interests to vote for an optional termination, regardless of what a condominium's governing documents may provide. The bill also reduces from 10 percent to 5 percent the percentage of voting interests necessary to veto a termination plan. In relation to an optional termination of a condominium created by conversion (such as from an apartment complex), the bill prohibits termination until 10 years after conversion, which is 5 years more than current law requires.

Additionally, the bill expressly states that the amendments made by the bill to s. 718.117, F.S., are intended to clarify existing law, are remedial in nature, and are intended to address the rights and liabilities of the affected parties, and apply to all condominiums created under the Condominium Act.

This bill was signed into law June 16, 2017 as Chapter No. 2017-122, Laws of Florida and the provisions take effect July 1, 2017.

HB 6027
Financial Reporting/Condominiums and Cooperatives

Condominium associations (condominiums) and cooperative associations (cooperatives) are forms of real property ownership which are divided into units and governed internally by owners of the units. A homeowners' association (HOA) is a corporation responsible for the operation of a community or mobile home subdivision. Condominiums, cooperatives, and HOAs must complete an annual financial report in accordance with financial reporting requirements.

The bill amends current law relating to financial report requirements for condominiums, cooperatives, and homeowners' associations. Specifically, the bill:

- Removes the provisions permitting condominiums, cooperatives, and HOAs operating fewer than 50 units, regardless of their annual revenues, to prepare a report of cash receipts and expenditures in lieu of financial statements; and
- Removes the provisions prohibiting cooperatives and condominiums from waiving the financial reporting for more than three consecutive years.

This bill was signed into law June 23, 2017 as Chapter No. 2017-161, Laws of Florida and the provisions take effect July 1, 2017.

Special Districts

HB 299
Central Florida Expressway Authority

The Central Florida Expressway Authority (CFX) is a multi-county, special district that has the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the Central Florida Expressway System. The areas served by CFX include Lake, Orange, Osceola, and Seminole Counties.

CFX is governed by a nine member board. Five members of the authority constitute a quorum, and the vote of five members is required for any action taken by the authority.

The bill amends part III of Ch. 348, F.S., to incorporate Brevard County into CFX. It increases the number of members on CFX's board by one person to include a member appointed by the Brevard County Board of County Commissioners. The bill also allows the Governor to appoint a citizen member of CFX's board from Brevard County. The bill revises the quorum and vote requirements to conform to the increase in the number of board members. Additionally, the bill provides that the areas served by CFX include Brevard County.

This bill was signed into law June 2, 2017 as Chapter No. 2017-56, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 599
Competitive Bidding for Public Works Projects

Contracts for construction services that are projected to cost more than a specified threshold must be competitively awarded. Specifically, state contracts for construction projects that are projected to cost in excess of $200,000 must be competitively bid. Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must competitively bid the project if the estimated cost exceeds $300,000. The solicitation of competitive bids or proposals must be publicly advertised in the Florida Administrative Register.

The bill creates s. 255.0992, F.S., relating to public works projects. The bill defines the terms "political subdivision" and "public works project." It prohibits the state or a political subdivision, except when required by state or federal law, from requiring a contractor, subcontractor, or material supplier or carrier engaged in a public works project to:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;
- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.

In addition, the bill provides that the state or a political subdivision that contracts for a public works project may not prohibit a

contractor, subcontractor, or material supplier or carrier from submitting a bid on the project if such individual is otherwise qualified to do the work described. This provision does not apply to vendors that have been convicted of a public entity crime or have been found to have committed discrimination.

The bill's prohibitions apply only to public works projects of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation.

The bill does not apply to contracts executed by the Department of Transportation under ch. 337, F.S.

This bill was signed into law June 14, 2017 as Chapter No. 2017-113, Laws of Florida and the provisions take effect July 1, 2017.

Health Care & Health Insurance

Health Care & Health Insurance

SB 8A
Medical Use of Marijuana
SB 8-A implements the provisions of s. 29, Art. X, of the State Constitution. The bill:

- Exempts the sale of marijuana and marijuana delivery devices from sales tax.
- Establishes procedures for physicians to issue physician certifications to patients who have qualifying medical conditions.
- Establishes residency requirements for patients to be issued a Medical Marijuana Use Registry Identification Card (ID card).
- Establishes qualifications required to become a caregiver including requiring the Department of Health (DOH) to create a caregiver certification course that each caregiver must take.
- Limits the number of caregivers each patient may have and the number of patients each caregiver may assist.
- Changes the name of the Compassionate Use Registry to the Medical Marijuana Use Registry and requires the DOH to issue ID cards to patients and caregivers.
- Details requirements for MMTC applicants and standards that each MMTC must meet to maintain licensure.
- Grandfathers in existing dispensing organizations as MMTCs and requires the DOH to license 10 new MMTCs by October 3, 2017, and then four new MMTCs each time the registry increases by 100,000 registered patients.
- Limits the number of dispensing facilities each MMTC may operate to 25 statewide and per region based on the percentage of population in each region. The total number of dispensing facilities each MMTC may operate increases by five per 100,000 patients registered in the Medical Marijuana Use Registry. MMTCs may sell dispensing facility slots to each other. These caps expire on April 1, 2020.
- Requires laboratory testing of MMTC products and creates a certification program for medical marijuana testing laboratories.
- Preempts the regulation of cultivation and processing of marijuana to the state.
- Allows local governments to ban MMTC dispensing facilities. If a local government does not ban dispensing facilities it may not place any restrictions on the number of dispensing facilities allowed and may not adopt any regulations for dispensing facilities that are more restrictive than its ordinances regulating pharmacies.
- Requires the DOH and the Department of Highway Safety and Motor Vehicles (DHSMV) to establish educational campaigns related to the medical use of marijuana.
- Creates the Coalition for Medicinal Cannabis Research and Education (coalition) to conduct rigorous scientific research, provide education, disseminate research, and to guide policy development for the adoption of a statewide policy on ordering and dosing practices for the medicinal use of cannabis.
- Includes rulemaking and other provisions to aid the DOH in adopting rules and implementing the provisions of Amendment 2 within the time frame specified in the amendment.
- Includes appropriations for the state 2017-2018 fiscal year for the DOH, for

the education programs, and for the Coalition.

This bill was signed into law June 23, 2017 as Chapter No. 2017-232, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 209 Medical Faculty and Medical Assistant Certification

A medical faculty certificate allows medical school faculty physicians to practice medicine in Florida without 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 any one of Florida's eight Florida medical schools.

CS/CS/HB 209 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 the Johns Hopkins All Children's Hospital in St. Petersburg, Florida. The bill also limits the number of extended medical faculty certificate holders allowed at the Johns Hopkins All Children's Hospital in St. Petersburg, Florida, to 30 persons, which is consistent with limitations for all but one of the other institutions eligible for such certificates. The bill also corrects the name of the Mayo Clinic College of Medicine and Science in Jacksonville.

Currently, a dean of a medical school or a director of a teaching hospital may request that a physician be authorized to provide medical care or treatment for educational purposes for a single period of time, not to exceed 180 consecutive days. Such physician must register with the department and demonstrate financial responsibility. The bill authorizes the medical director of a specialty-licensed children's hospital licensed under ch. 395, F.S., that is affiliated with an accredited medical school and its affiliated clinics, to request temporary registration for a physician who is not licensed in Florida and authorization to provide medical care or treatment for educational purposes.

Currently, only visiting physicians invited by medical schools, or a teaching hospital or medical or surgical society in conjunction with a medical school, may be issued a 5-day temporary certificate to provide instruction in a medical or surgical training program or an educational symposium. The bill authorizes DOH to issue a 5-day temporary certificate for a visiting physician invited by a teaching hospital to provide instruction in an educational program or symposium. Such invitation does not have to be in conjunction with a medical school.

The bill also authorizes DOH to use a unique personal identification number for those individuals who apply for the temporary certificate and do not have social security numbers, such as foreign physicians.

The bill requires a medical assistant to obtain a certificate from a certification program accredited by the National Commission for Certifying Agencies to be credentialed as a certified medical assistant. Under the bill, such certification may be used to qualify for employment as a medical assistant at a multiphasic health testing center.

This bill was signed into law June 2, 2017 as-Chapter No. 2017-50, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 229
Health Care Practitioner Licensure

The impaired practitioner program was established within the Department of Health (DOH), by s. 456.076, F.S., to assist health care practitioners who are impaired as a result of the misuse or abuse of alcohol or drugs, or of a mental or physical condition, which could affect the ability to practice with skill and safety.

Currently, DOH must contract with at least one entity to serve as a consultant for the impaired practitioner program. The consultant receives referrals from DOH, regulatory boards or health care entities, as well as self-referrals. Upon receipt of a referral, the consultant coordinates an evaluation of the practitioner. After the evaluation, a treatment plan, if needed, is developed, and as the practitioner undergoes treatment, the consultant monitors the progress. The consultant advises the appropriate board, or DOH if there is no board, when a practitioner successfully completes treatment and is able to practice safely. However, if a practitioner fails to complete treatment, the consultant notifies the appropriate board or DOH to initiate disciplinary proceedings, as warranted. Consultants have sovereign immunity.

CS/CS/HB 229 authorizes, rather than requires, DOH to retain one or more consultants to operate its impaired practitioner program. Under the bill, the contract with the consultant must require the consultant to accept referrals of practitioners who have or are suspected of having an impairment; arrange the evaluation and treatment of such practitioners, and monitor their progress and status to determine if and when they are able to safely to return to practice. The bill prohibits the consultant from providing evaluation and treatment services. Under the bill, a practitioner found to have an impairment may be accepted into the impaired practitioner program, and must enter into a participant contract which defines the planned or recommended treatment.

The bill requires DOH or licensure boards, rather than probable cause panels, to oversee matters involving impaired practitioners. As with current law, if a participant fails or is terminated from the impaired practitioner program, a consultant must notify DOH for disciplinary proceedings. If the consultant concludes that a practitioner’s impairment constitutes an immediate, serious danger to public health, the consultant must notify DOH, rather than the Surgeon General.

It authorizes the consultant to release information to the participant, referral, or legal representative of the participant or referral. If the consultant discloses information to DOH, the participant, referral, or legal representative of the participant or referral may obtain a copy of the consultant’s file from either the consultant or DOH.

Current law requires licensees to report violations of the core licensure statute (ch. 456, F.S.) and individual practice acts. The bill allows licensees to report certain individuals having an impairment or suspected of having an impairment to the consultant, rather than DOH.

The bill retains the sovereign immunity for the consultant provided under current law, but deletes certain requirements that must

be met by the consultant to be eligible for sovereign immunity.

It repeals the authority of regulatory boards and DOH to adopt rules relating to the impaired practitioner program. Currently, the rules adopted under this section provide definitions of terms and designates the entities authorized as consultants.

The bill authorizes DOH to issue or renew licenses of individuals who were convicted of or entered a plea of guilty or nolo contendere to a disqualifying offense before July 1, 2009, when the licensure disqualification law was enacted. The bill authorizes DOH to issue or renew the license of an individual who is convicted of or enters a plea of guilty or nolo contendere to a disqualifying felony if the applicant successfully completes a pretrial diversion program and the plea has been withdrawn or the charges have been dismissed.

This bill was signed into law May 31, 2017 as Chapter No. 2017-41, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 249
Drug Overdoses

Currently, the Department of Health (DOH) maintains the Emergency Medical Services Tracking and Reporting System (EMSTARS) to collect data on prehospital emergency care from emergency medical services (EMS) providers. Participation in EMSTARS, and the transmission of electronic incident level data from EMS providers to DOH, is voluntary. EMSTARS data includes demographic elements for the provider agency, its personnel, and patients; incident and unit times; situation and scene information; patient care information including vital signs, injury assessment, trauma score, and intervention and procedural information; and outcome and disposition information. Additionally, EMSTARS may collect data elements for overdoses if EMS administers an opioid antagonist.

CS/CS/HB 249 creates s. 401.253, F.S., which allows EMTs and paramedics who provide basic and advanced live support services to report of controlled substances overdoses to DOH. If a report is made, it must contain the date and time of the overdose, the address of where the patient was picked up or where the overdose took place, whether an emergency opioid antagonist was administered, and whether the overdose was fatal or non-fatal. Additionally, a report must include the gender and approximate age of the patient and the suspected controlled substances involved only if permitted by the reporting mechanism. Reporters must make best efforts to make the report within 120 hours.

If a report is made, it must be filed with DOH using EMSTARS or other appropriate method. Within 120 hours of receiving the report, DOH must make it available to law enforcement, public health, fire rescue, and EMS agencies in each county. Additionally, DOH must make quarterly reports to the Council, the Department of Children and Families (DCF), and the Florida Fusion Center that summarize the data it receives, which may be used to maximize the utilization of funding programs for licensed basic and advanced life support service providers, and to disseminate available federal, state and, private funds for local substance abuse treatment services. It is unclear how the Council will use the data to maximize the use of funding, since it is merely advisory.

The bill makes a reporter exempt from civil or criminal liability for reporting, if the report is made in good faith. It also specifies that the failure to make a report is not

grounds for licensure discipline against a basic or advanced life support service.

This bill was signed into law June 2, 2107 as Chapter No. 2017-54, Laws of Florida and the provisions take effect October 1, 2017.

CS/HB 307
Florida Life and Health Insurance Guaranty Association

Florida operates five insurance guaranty funds and associations to ensure policyholders' paid insurance premiums are protected and outstanding claims are settled, up to limits provided by law, if their insurer is liquidated. Generally, a guaranty association is a not-for-profit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company. A guaranty association accomplishes its mission by assuming responsibility for settling claims and refunding unearned premiums to policyholders. Insurers are required by law to participate in guaranty associations as a condition of transacting business in Florida.

The bill makes changes to one of the five guaranty funds and associations – the Florida Life and Health Insurance Guaranty Association (FLAHIGA), which is the guaranty association for most health and life insurers.

The FLAHIGA was created in 1979 and is governed by a board of directors composed of nine insurance companies and is a nonprofit corporation. All insurance companies (with limited exceptions) licensed to write life and health insurance or annuities in Florida are required, as a condition of doing business in Florida, to be a member of the FLAHIGA.

Current law specifies life and health policies and annuity contracts from non-licensed insurers are not covered by the FLAHIGA. The maximum amount paid by the FLAHIGA for any one person is:

- Life Insurance Death Benefit: $300,000 per insured life.
- Life Insurance Cash Surrender: $100,000 per insured life.
- Health Insurance Claims: $300,000 per insured life.
- Annuity Cash Surrender: $250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: $300,000 per contract owner.

The FLAHIGA is authorized to levy two types of assessments to carry out its responsibilities. Class A assessments may be levied for the purpose of covering the FLAHIGA's general administrative costs. These assessments are capped at $250 per member per calendar year. Class B assessments are authorized to fund the FLAHIGA's duties related to a specific insolvency.

The bill expands the FLAHIGA's scope of coverage to include annuities that are part of an individual retirement account and individual retirement annuities; increases the maximum amount paid by the FLAHIGA for any one person for specified hospital and medical insurance from $300,000 to $500,000; and raises the cap on Class A assessments from $250 per member per year to $500 per member per year.

This bill was signed into law June 23, 2017 as Chapter No. 2017-131, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 474
Hospice Care
CS/CS/SB 474 amends s. 400.60501, F.S., to require the DOEA and the AHCA adopt outcome measures for quality and effectiveness of hospice care by December 31, 2019. The bill requires that the DOEA and the AHCA adopt national hospice outcome measures and survey data in 42 C.F.R. part 418 and develop a system for publicly reporting these measures identified as useful consumer information. The bill also eliminates a quality standard pertaining to reducing a patient's severe pain by the end of the fourth day after admission.

The bill creates s. 400.6096, F.S., to establish requirements for a hospice that chooses to assist with the disposal of prescribed controlled substances after the death of a patient in his or her home. The bill requires a hospice that assists in the disposal of prescribed controlled substances in a patient's home to establish clearly defined policies, procedures, and systems for acceptable disposal methods. Disposal procedures must be carried out in the home and hospice staff and volunteers are not permitted to remove controlled substances from the patient's home. The bill permits hospice physicians, nurses, and social workers to assist family members with the disposal of controlled substances in the patient's home after a patient's death pursuant to regulations in 21 C.F.R. s. 1317 (related to the disposal of controlled substances) and pursuant to the hospice's written policy, procedure, or system for disposal methods.

It amends s. 400.611, F.S., to expand the ways a person may be authorized to receive a hospice patient's record of care both before and after the patient's death. The bill:

- Increases the length of time a hospice must keep a patient's record from 5 to 6 years after termination of hospice services;
- Restricts a hospice from releasing a patient's interdisciplinary record of care unless the person requesting the record provides:
    - A patient authorization executed by the patient;
    - For incapacitated patients, a patient authorization executed before the patient's death by the patient's legal guardian, health care surrogate, health care proxy, or agent under power of attorney;
    - A court order appointing the person as the administrator, curator, executor, or personal representative of the patient's estate with authority to obtain the patient's medical records;
    - If a judicial appointment has not been made, a last will that is self-proved pursuant to s. 732.503, F.S., and designates the person to act as the patient's personal representative; or
    - o An order by a court of competent jurisdiction mandating the release of the records.

The bill defines the term "patient authorization" as an unrevoked written statement by the patient or an oral statement by the patient, or, in the case of incapacitated patients, the patient's legal guardian, health care surrogate, agent under power of attorney, or health care proxy that gives the patient's permission to release the record.

This bill was signed into law June 16, 2017 as Chapter No. 2017-119, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 543
Regulation of Nursing

CS/CS/HB 543 makes several changes to nursing education program regulation and many other programs within the Department of Health (DOH).

First, the bill makes changes to nursing education program regulation. The bill authorizes the Board of Nursing (BON) to grant a one-year extension to a nursing education program that is on probation for failure to meet the graduate passage rate, if the program shows progress. The BON retains authority to terminate a program after the two-year probation period. A program on probation must notify its students and applicants of that status and its implications in writing. The bill removes a requirement that a nursing student who does not take the licensure examination within six months of graduation successfully complete a licensure examination preparatory course. The bill prohibits a program that was terminated or closed from reapplying for approval for three years. It authorizes the BON to adopt rules related to nursing education programs, and to perform an on-site evaluation of a nursing education program applicant. Finally, it eliminates annual reports by the Office of Program Policy Analysis and Government Accountability on the status of nursing education programs, but requires the Florida Center for Nursing to issue the annual reports and include an assessment progress accreditation status for certain nursing programs

The bill makes various changes to many other programs at DOH. The bill:

- Authorizes DOH to request a date of birth on a licensure application and removes requirements for the size and forms of licenses
- Requires DOH to deny license renewal of an applicant who owes fines and costs imposed in a licensure disciplinary proceeding unless the applicant has received an extension of time to pay;
- Authorizes a regulatory board or DOH, if there is no board, to transfer funds from a profession's operating trust fund to cover a deficit related to prosecuting unlicensed activity and to waive licensure or renewal fees under certain circumstances;
- Authorizes DOH to administer the Conrad 30 Waiver program, which allows a limited number international physicians, employed by a facility in an underserved area, to waive certain federal requirements;
- Requires certain pain management clinics to register with DOH at no cost;
- Authorizes any entity approved by the BON to offer the required 3-hour continuing education class on the safe and efficient prescription of controlled substances;
- Requires an ARNP to maintain a copy of his or her protocol at the location the ARNP practices and if the ARNP works with multiple supervising physicians in a group practice, the ARNP has to enter into a protocol with at least one physician;
- Establishes standards for permitting and regulating in-state sterile compounding pharmacies and outsourcing facilities;
- Authorizes DOH to issue a single license to a prosthetist-orthotist;
- Establishes a path to licensure for certain students enrolled in physical therapist assistant programs;
- Updated national licensure examinations for marriage and family therapists; and

- Deletes obsolete language and makes technical changes.

This bill was signed into law June 23, 2017 as Chapter No. 2017-134, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 557
Controlled Substance Prescribing

In 2009, the Legislature created the Prescription Drug Monitoring Program (PDMP) within the Department of Health (DOH). The PDMP employs a database to monitor the prescribing and dispensing of certain controlled substances. Dispensers of controlled substances listed in Schedule II, III, or IV must report certain information to the PDMP database, including the name of the prescriber, the date the prescription is filled and dispensed, and the name, address, and date of birth of the person to whom the controlled substance is dispensed. Currently, dispensers must report dispensing controlled substances to the database within seven days of dispensing the controlled substances via the internet or other DOH-approved format, such as on a disc or regular mail.

Dispensing and administering controlled substances are exempt from PDMP reporting in certain health care settings where the risk of controlled substances being overprescribed or diverted is low. These health care settings include a licensed hospital, nursing home, ambulatory surgical center, hospice, intermediate care facility for the developmentally disabled, rehabilitative hospital, and assisted living facility.

Beginning January 1, 2018, CS/CS/HB 557 reduces the amount of time a dispenser has to report the dispensing of a controlled substance to the PDMP database to the close of the next business day after the controlled substance is dispensed.

The bill requires PDMP reporting to be completed via the DOH-approved electronic system, and eliminates DOH authority to approve other options for submission.

It also requires the patient to be present and receiving care for the reporting exemption for a rehabilitation hospital, assisted living facility, or nursing home to apply.

It authorizes certain health care employees of the U.S. Veterans' Administration to access the PDMP database in manner established by DOH. Such access is limited to the authorized employee's review of his or her patient's controlled substance prescription history.

The bill limits the initial prescription of an opioid to alleviate acute pain to a 5-day supply.

This bill was signed into law June 26, 2017 as Chapter No. 2017-169, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 577
Discount Medical Plan Organizations

The bill renames a "Discount Medical Plan" and a "Discount Medical Plan Organization" to a "Discount Plan" and a "Discount Plan Organization" (DPO). Plans may use the old plan and organization monikers until June 30, 2018, allowing such plans and organizations enough time to make changes to plan and marketing materials. The bill clarifies the definition of a "Discount Plan" to exclude from licensure requirements any plan that does not charge a fee to its members. The bill also requires third-party entities that enter contracts with providers to administer or provide a Discount Plan platform to providers' patients to be licensed as a DPO.

The bill eliminates all required form filing and approval by OIR for DPOs, repeals the requirement for DPOs to file all member

charges with OIR, and removes the requirement that all charges greater than $30 per month or $360 per year be approved by OIR. These changes will remove administrative burdens on DPOs and OIR relating to form and rate filing. Removing the requirement for the approval of charges over a certain amount by OIR will further reduce administrative burdens and introduce a free-market approach to the determination of charges for Discount Plan products.

The bill makes changes to the disclosure requirements of DPOs. The bill:

- Defines "first page," upon which the disclosures must appear, to be the page of any advertisement, marketing material, or brochure that first includes information describing benefits.
- Requires a DPO or a DPO's marketer to provide the required disclosures to a prospective member and require the member to acknowledge and accept the disclosures before enrolling. This protects members by requiring that the prospective member must affirmatively acknowledge and accept the required disclosures before enrolling in a Discount Plan.
- Requires disclosures made by electronic means to include the required disclosures and to be presented in a readable font size and color.
- Requires disclosures made by telephone to include all required disclosures, and to be followed up with written disclosures provided to the member.
- Allows additional disclosures beyond the statutory requirement.

These changes in disclosure requirements allow DPOs more flexibility in the design and presentation of advertising and marketing materials. The changes maintain consumer protections by requiring acknowledgment and acceptance of the disclosures before allowing enrollment and requiring visibility and follow-up requirements for disclosures made by electronic means or telephone.

The bill creates further consumer protections by establishing new requirements for cancellation and reimbursement after cancellation of Discount Plans. Under these new requirements, DPOs must:

- Cancel a membership on or before 30 days after receipt of a request to cancel;
- Refrain from charging a member any fee after the effective date of cancellation;
- Provide pro rata reimbursement of periodic charges to a member after cancellation of his or her membership;
- Provide pro rata reimbursement of all periodic charges for a member who cancels his or her membership, consistent with open enrollment rules established by an employer or association, upon return of the discount card to the DPO; and
- Maintain an accurate record of each member in a form accessible to OIR for the duration of the agreement and for 5 years thereafter, to include membership materials provided, the discount plan issued, and charges billed and paid.

The bill changes how Discount Plans can be marketed. It explicitly allows a DPO to delegate functions to a marketer and states the DPO will be bound to the actions of marketers within the scope of that delegation which do not comply with statute and also allows a marketer or Discount Plan Organization selling a Discount Plan with medical services and other services to commingle those products on a single page of forms, advertisements, marketing

materials, or brochures. This change allows DPOs and Discount Plan marketers to offer multiple products within one form or on the same marketing materials, further reducing administrative burdens on DPOs.

This bill was signed into law June 14, 2017 as Chapter No. 2017-112, Laws of Florida and the provisions took effect on that date.

HB 589
Prescription Drug Price Transparency

Spending on prescription drugs has risen sharply in the United States over the past few years. From 2013 to 2015, out-of-pocket costs for prescription drugs rose 20 percent, to an average cost of $44 per brand name prescription drug. Specialty prescription drug prices are projected to increase 18.7 percent in 2017, accounting for 35 percent of the prescription drug spending trend even though they account for less than one percent of prescriptions.

In Florida, consumers can research prescription drug prices at www.MyFloridaRx.com (MyFloridaRx). MyFloridaRx is a joint effort between the Office of the Attorney General (AG) and the Agency for Health Care Administration (AHCA). The website lists the usual and customary prices charged by pharmacies for 150 of the most commonly prescribed brand name drugs and associated generic equivalents.

MyFloridaRx shows price data for retail pharmacies dispensing at least one of the top 150 prescription drugs dispensed to a Medicaid beneficiary. The statute requires participating pharmacies to provide AHCA their prices quarterly, including the usual and customary retail price for a 30-day supply of the prescription drug at a standard dose. Once AHCA receives the data, it is submitted to the AG's office, which maintains the website and updates it monthly.

When a consumer queries MyFloridaRx, search results provide the pharmacy name, address and phone number, the prescription drug name and strength, the most commonly dispensed quantity, and price. These results can be sorted by pharmacy name, zip code, drug name, drug quantity, or price.

HB 589 doubles the number of prescription drugs that must be posted to MyFloridaRx, from 150 to 300. Additionally, the bill codifies the current practice by which prescription drug pricing information is reported to AHCA, from quarterly to monthly. As a result, patients who query MyFloridaRx will have access to pricing information for more prescription drugs.

This bill was signed into law June 9, 2017 as Chapter No. 2017-086, Laws of Florida and the provisions took effect on that date.

CS/CS/CS/HB 785
Stroke Centers

CS/CS/CS/HB 785 amends s. 395.3038, F.S. to include a new level of stroke services, acute stroke ready centers. A hospital that meets the certification standards for acute stroke ready centers would receive the acute stroke ready center designation from AHCA in the same manner as primary and comprehensive stroke centers currently do. Currently, there are approximately 60 acute care hospitals that do not have primary or comprehensive stroke center designation and may be eligible for acute stroke ready center designation.

This bill also adds acute stroke ready centers in the list of stroke centers DOH supplies to emergency service providers in the state.

Stroke Center Accreditation

The bill removes language requiring AHCA to base stroke center rules solely on criteria established by the Joint Commission and expands criteria to all nationally recognized accreditation organizations.

Statewide Stroke Registry

The bill requires DOH, subject to a specific appropriation, to contract with a private entity in the state of Florida to establish and maintain a statewide stroke registry. Acute stroke ready centers, primary stroke centers, and comprehensive stroke centers must report information specified by DOH, including nationally recognized performance measures, to the registry. The registry must use a nationally recognized platform to collect such data and ensure that the data is maintained and made available to improve or modify the stroke care system, ensure compliance with standards, and improve patient outcomes.

Stroke centers that do not comply with the reporting requirements to the registry will be subject to licensure denial, modification, suspension, or revocation by AHCA. Section 395.003(7)(a), F.S., authorizes AHCA to deny, modify, suspend, and revoke a license for the substantial failure to comply with any requirements of Part I of Chapter 395, F.S., which is where the statute establishing the stroke registry is located.

The bill grants liability protection from damages or any other relief for any entity that provides information required by the registry.

The bill removes obsolete deadlines for DOH to implement the stroke-triage assessment tool.

This bill was signed into law June 26, 2017 as Chapter No. 2017-172, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 800
Medication Synchronization

The bill requires health insurers and HMOs providing prescription drug coverage to offer medication synchronization services on all policies entered into or renewed on or after January 1, 2018. The medication synchronization services must allow insureds or members the option to align the refill dates of their prescription drugs through a network pharmacy at least once in a plan year.

The bill limits the types of prescription drugs eligible for a partial refill under medication synchronization. It prohibits a partial fill to align refill dates for the following prescription drugs:

- Controlled substances;
- Prescription drugs dispensed in unbreakable packages; or
- Multi-dose units of prescription drugs.

Additionally, the bill requires health insurers and HMOs to pay a full dispensing fee to the network pharmacy unless otherwise agreed to by the plan and the network pharmacy. The health insurer or HMO must prorate cost-sharing obligations of the insured for each partial refill of a covered prescription drug dispensed to align refill dates.

Notwithstanding these requirements for medication synchronization services, the bill deems certain existing medication synchronization programs, which provide for early refills, refill overrides, and access on the insurer or HMO's public website to information about the program as complying with the bill's requirements.

This bill was signed into law June 14, 2017 as Chapter No. 2017-094, Laws of Florida and the provisions take effect January 1, 2018.

CS/CS/HB 807
Marketing Practices for Substance Abuse Services

The Department of Children and Families (DCF) regulates substance abuse treatment under Chapter 397, F.S. Licensed service components include substance abuse prevention, intervention, and clinical treatment services. Individuals in recovery from substance abuse may reside in recovery residences (alcohol- and drug-free living environments) while they receive treatment services on an outpatient basis. Florida does not license recovery residences but allows voluntary certification for recovery residences and recovery residence administrators, implemented by private credentialing entities.

The Legislature appropriated funds for FY 2016-17 to the State Attorney for the Fifteenth Judicial Circuit to conduct a study of how to strengthen investigation and prosecution of criminal and regulatory violations within the substance abuse treatment industry. In its January 2017 report, the task force identified patient brokering and fraudulent marketing as key problems in the substance abuse treatment industry.

CS/HB 807 implements several task force recommendations to address these and other abusive practices in the substance abuse treatment industry. The bill:

- Expands the current prohibitions on referrals between licensed treatment providers and recovery residences that do not obtain voluntary certification from DCF.
- Prohibits a service provider, a recovery residence operator, or a third party who provides advertising or marketing services from engaging in deceptive marketing practices and provides criminal penalties for violations.
- Makes it unlawful for any person to knowingly and willfully make a materially false or misleading statement or provide false or misleading information about the identity, products, goods, services, or geographical location of a licensed service provider, with the intent to induce a person to seek treatment with that provider.
- Expands the items that may not be used to induce a patient referral to include any "benefit" and adds patient brokering to the offenses that can be investigated and prosecuted by the Office of Statewide Prosecution and to the crimes that constitute "racketeering activities." Additionally, the bill creates enhanced penalties for higher volumes of patient brokering.
- Requires entities providing substance abuse marketing services to be licensed by the Department of Agriculture and Consumer Services under the Florida Telemarketing Act.
- Creates a new provision for applications for disclosure of patient records for individuals receiving substance abuse services in an active criminal investigation, permitting the court, at its discretion, to enter an order authorizing the disclosure of an individual's substance abuse treatment records without prior notice.

The bill also strengthens DCF's substance abuse treatment provider licensure program and improve the regulation of service providers. DCF must draft rules on minimum licensure standards and require certain providers be accredited. The bill also expands DCF's authority to take action against a service provider for violations on a

tier-based system and includes fining authority.

This bill was signed into law June 26, 2017 as Chapter No. 2017-173, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 863
Hospice Services

The certificate of need (CON) program, administered by the Agency for Health Care Administration (AHCA), requires certain health care facilities, including hospices, to obtain authorization from the state before offering certain new or expanded services.

Hospice is a program of care and support for terminally ill patients. A specially trained team of professionals and caregivers provide care for the terminally ill patient's physical, emotional, social, and spiritual needs, as well as provide support to the patient's family caregivers. In Florida, AHCA and the Department of Elder Affairs regulate hospices. As of March 23, 2017, there are 45 licensed hospice providers in Florida.

CS/HB 863 creates a CON exemption for a hospice program established by an entity that shares a controlling interest with a not-for-profit retirement community that offers independent living, assisted living, and skilled nursing services in a facility located on the same premises as a teaching nursing home for a minimum of five years. The bill limits the CON exemption to one hospice program per teaching nursing home.

There are two designated teaching nursing homes, pursuant to s. 430.80 F.S.: Miami Jewish Health Systems, in Miami-Dade County, and the Joseph L. Morse Health Center, located in Palm Beach County. An entity that shares a controlling interest with a not-for-profit retirement community that offers the required services in a facility located on the same premises as one of these two teaching nursing homes will be eligible to request an exemption from CON with AHCA to provide hospice services to their residents and patients. Each request for exemption from the CON program must include the $250 fee.

This bill was signed into law June 23, 2017 as Chapter No. 2017-144, Laws of Florida and the provisions take effect July 1, 2017.

HB 883
Memory Disorder Clinics

Section 430.502 establishes 15 Memory Disorder Clinics (MDCs) in the State of Florida that provide comprehensive assessments, diagnostic services, and treatment to individuals who exhibit symptoms of Alzheimer's disease and related memory disorders. MDCs also develop training programs and materials, and conduct training for caregivers, respite service providers, and health care professionals in the care of persons with Alzheimer's disease and related memory disorders. In addition, MDCs conduct service-related research projects. MDCs receive performance based funding from the General Revenue.

HB 883 establishes a 16th MDC at Florida Hospital in Orange County. Florida Hospital in Orange County established a self-funded memory disorder program in 2012. The bill does not provide an appropriation of funds to the MDC at the Florida Hospital.

This bill was signed into law June 23, 2017 as Chapter No. 2017-146, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1041
Laboratory Screening
The Department of Health (DOH) provides numerous public health education and screening programs including:

- The Newborn Screening Program which screens all newborns to identify, diagnose, and manage newborns at risk for selected disorders that, without detection and treatment, can lead to permanent developmental and physical damage or death.
- The Lead Poisoning Prevention Screening and Education program that screens children under 6 years of age who are determined to be at-risk of having elevated blood-lead levels.
- A statewide network of county health departments and other sites that provide confidential and anonymous HIV testing, counseling, prevention outreach, and education to the public.

CS/HB 1041 amends the Lead Poisoning Prevention Screening and Education Act to:

- Update the definition of “elevated blood-lead level” allowing DOH to update the blood-lead cutoff level to align with national guidance as the science determining acceptable blood-lead level changes;
- Require DOH to adopt rules to follow established national guidelines related to reporting elevated blood-levels;
- Remove certain requirements and provide flexibility for DOH to develop and distribute educational information on lead poisoning; and
- Reduce DOH’s reporting and record maintenance requirements.

The bill amends the Newborn Screening Program to:

- Allow the State Laboratory to release metabolic tests to the parent or legal guardian, personal representative, or a person designated by the newborn’s parent or legal guardian;
- Recognize that disorders with no known treatment may be added to the Newborn Screening Panel (NSP) and that detection of these disorders, even without treatment, helps families plan for the care of their children and avoid unnecessary costs in diagnosis; and
- Update the composition of the Genetics and Newborn Screening Advisory Council (GNSAC).

It removes the requirement for providers in healthcare settings to inform a person seeking an HIV test that a positive test result will be reported to the County Health Departments and of the availability and location of anonymous testing sites.

The bill also authorizes DOH to perform laboratory testing related to public health for other states on a fee-for-service basis.

This bill was signed into law June 26, 2017 as Chapter No. 2017-181, Laws of Florida and the provisions take effect July 1, 2017.

HB 1051
Forensic Hospital Diversion Pilot Program
Florida's forensic system is a network of state facilities and community services for individuals who have a mental illness, are defendants in criminal cases, and are found incompetent to stand trial or are adjudicated not guilty by reason of insanity. Forensic services may be provided in jail, the community, a community-based residential setting, or a state treatment facility. The setting depends on the stage of the court proceeding, the nature of the individual’s mental illness, and the type and degree of charge he or she faces. More

serious charges, especially those involving violence, lead to service provision in more restrictive settings.

The Miami-Dade Forensic Alternative Center (MDFAC) is a community-based forensic commitment program.

Section 916.185, F.S., establishes the Forensic Hospital Diversion Pilot Program (FHDPP), which is modeled after the MDFAC. DCF may implement the pilot program in Duval, Broward, and Miami-Dade counties. If the pilot program is implemented, DCF must include a comprehensive continuum of care and services that use evidence-based practices and best practices to treat offenders who have mental health and co-occurring substance abuse disorders. DCF and the judicial circuits including the county sites may implement the pilot if recurring resources are available. DCF is authorized to request budget amendments to realign funds between mental health services and community substance abuse and mental health services in order to implement the pilot.

Currently, DCF has not established any forensic alternative treatment centers modeled after the MDFAC program and has no plans to do so as it does not currently have recurring resources available that can be realigned without negatively impacting other services and programs.

HB 1051 amends s. 916.185, F.S., to add Okaloosa County to the list of counties where DCF may implement a Forensic Hospital Diversion Pilot Program modeled after the MDFAC. This allows, but does not require, DCF to create a Forensic Hospital Diversion Pilot Program in Okaloosa County.

This bill was signed into law June 26, 2017 as Chapter No. 2017-183, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/SB 1124
Newborn Screenings

CS/CS/SB 1124 amends s. 383.14, F.S., to require the DOH to adopt rules requiring every newborn in the state, at the appropriate age, to be tested for any condition included in the federal RUSP that the GNSAC advises should be included in Florida's NSP panel.

The DOH is required to adopt the rules to include any condition the GNSAC recommends within 18 months if an FDA-approved test, or suitable alternative that meets state guidelines, is available. If such a test is not available within 18 months, the DOH shall implement the proposed screening as soon as a test offered by the FDA or alternative vendor becomes available.

The DOH is also required to adopt rules requiring the GNSAC to consider addition of a condition in the NSP panel within one year after a condition is added to the federal RUSP. After the GNSAC recommends a condition be included, the DOH must submit a legislative budget request to seek an appropriation to add testing of the condition to the NSP panel.

This bill was signed into law June 9, 2017 as Chapter No. 2017-078, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1253
Rights and Responsibilities of Patients

The Patient's Bill of Rights and Responsibilities, codified in s. 381.026, F.S., was created to promote better communication among patients and their health care providers and facilities while protecting patients' interests and well-being. This law requires health care providers to provide patients a general understanding of the procedures to be performed on them and with information concerning their health care so that they may make informed decisions. The Patient's Bill of Rights and Responsibilities also provides patients with a general understanding of their responsibilities toward health care providers and health care facilities.

Florida law requires health care facilities and health care providers to recognize the rights in the Patient's Bill of Rights and Responsibilities, and provide the patient with a summary of these rights if the patient requests a copy. Failure to do so can result in administrative fines imposed by the Agency for Health Care Administration, the Department of Health, or the appropriate regulatory board.

CS/HB 1253 adds to the Patient's Bill of Rights and Responsibilities, to allow a patient to bring any person of his or her choosing to patient-accessible areas of a health care facility or a health care provider's office to accompany the patient while the patient is receiving inpatient or outpatient treatment or is consulting with his or her health care provider. The bill allows the facility or provider to prohibit patients from exercising this right if doing so would risk the safety or health of the patient, other patients, or staff of the facility or office or cannot be reasonably accommodated.

In addition, the bill requires health care providers and health care facilities to include this new provision in the summary of rights and responsibilities provided to patients.

This bill was signed into law June 23, 2017 as Chapter No. 2017-152, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 1269
Child Protection

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the Department of Children and Families (DCF) and local sheriffs' offices in cases of child abuse and neglect. CPTs provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions. The Statewide Medical Director for Child Protection supervises and evaluates all child protection team medical directors for each of the 15 CPTs statewide.

"Forensic interviewing" is a method to elicit accurate information from children regarding abuse and neglect during an investigation. Although national training programs in child forensic interviewing are generally based on the same body of research and practice, practice is not standardized due to the blending of different models at the local level, jurisdictional expectations, state statutes, and case law.

Sections 458.3175 and 459.0066, F.S., require an expert witness who is licensed in another jurisdiction to obtain an "expert witness certificate" from the Department of Health (DOH) before providing expert

testimony in medical negligence and criminal child abuse and neglect cases.

CS/HB 1269 amends s. 39.303, F.S., to require the Surgeon General and Deputy Secretary for Children's Medical Services to consult with the Statewide Medical Director for Child Protection on decisions regarding screening, employment, and termination of CPT medical directors at headquarters and within the 15 districts statewide. The bill expands the required board certifications for CPT medical directors to include pediatrics or family medicine and changes the timeframe in which a CPT medical director with board-certification must obtain certification from 4 years to 2 years. It also changes "districts" to "circuits" and "district medical directors" to "child protection team medical directors" throughout the section.

The bill requires DOH to develop, maintain, and coordinate one or more sexual abuse treatment programs, details requirements for the programs, and retitles s. 39.303, F.S., to include sexual abuse treatment programs.

It requires DOH to convene a task force to develop a standardized protocol for forensic interviewing for children suspected of having been abused and provide staff to support the task force, as needed. The task force must include various representatives from the disciplines of law enforcement, child welfare, and mental health treatment. The bill does not require implementation of the standardized protocol but does require DOH to provide the protocol to the legislature by January 1, 2018.

Finally, the bill expands the cases in which an expert witness certificate may be used, to include cases involving abandonment, dependency, and sexual abuse.

This bill was signed into law June 23, 2017 as Chapter No. 2017-153, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 1307
Physician Assistants

A physician assistant (PA) is a person licensed to perform health care services delegated by a supervising physician, in the specialty areas in which he or she has been trained. PAs are governed by the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs). A physician may supervise up to four PAs and is responsible and liable for the performance and the acts and omissions of the PA.

CS/CS/HB 1307 requires a PA, as a part of the biennial licensure renewal process, to respond to a biennial workforce survey to collect information regarding the PA's practice, including information on critically needed services. The Department of Health (DOH) currently collects such information as a part of a physician workforce survey.

The bill requires DOH to conduct the PA workforce survey in the same manner as the physician workforce survey. The information collected from the PA workforce survey must be reported to the Board of Medicine and the Board of Osteopathic Medicine every two years beginning July 1, 2018.

This bill was signed into law June 23, 2017 as Chapter No. 2017-154, Laws of Florida and the provisions take effect July 1, 2017.

SB 2514
Health Care Revisions

SB 2514 revises various statutes relating to aspects of multiple health care programs and services:

- Amends s. 210.20(2)(c), F.S., relating to the distribution of cigarette tax

revenue for biomedical research purposes, to redirect the cigarette tax distribution funds that would otherwise be used for the Sanford Burnham Prebys Medical Discovery Institute for distribution to National Cancer Institute research entities under s. 381.915, F.S., for advancement of cures for cancers impacting pediatric populations through basic or applied research, including but not limited to, clinical trials and nontoxic drug discovery.
- Amends s. 381.922 (2), F.S., relating to the Bankhead-Coley Cancer Research Program, and specifically grants thereunder, to stipulate that efforts to improve both research and treatment through greater participation in clinical trials networks shall include identifying ways to increase pediatric and adult enrollment in clinical trials. In addition, the Live Like Bella Initiative is created within the Bankhead-Coley Program to advance progress toward curing pediatric cancer by awarding grants according to the peer-reviewed, competitive process established under subsection (3) of this section. The implementation of this new initiative is subject to an annual appropriation.
- Amends s. 394.9082(10)(a), F.S., relating to behavioral health managing entities and the related acute care services utilization database, to revert the statute back to the reporting requirements in place when the database was initially created in 2015, and also require the Department of Children and Families to post the data on its website.
- Amends s. 395.602, F.S., relating to rural hospitals, to provide that a hospital classified as a sole community hospital is included in the definition of "rural hospital" regardless of its bed size.
- Effective October 1, 2018, amends s. 400.179(2), F.S., relating to liability for Medicaid underpayments and overpayments, to authorize use of leasehold trust fund revenues as enhanced payments to nursing homes as may be specified in the General Appropriations Act as part of nursing home prospective payment transition.
- Amends s. 409.904(11), F.S., to expand optional payments for eligible persons in Medicaid, to add as a person for whom Medicaid payment may be made someone who meets the following criteria: a person who is diagnosed with acquired immune deficiency syndrome (AIDS); who has an AIDS-related opportunistic infection and is at risk of hospitalization; and whose income is at or below 300 percent of the federal benefit rate.
- Amends s. 409.906(13)(b), F.S., relating to optional Medicaid services, and specifically home and community based services, to delete reference to a series of waivers that are or will be obsolete once the waiver enrollees complete their transition into long-term care managed care.
- Amends s. 409.908(2), F.S., relating to reimbursement of Medicaid providers, and more specifically nursing homes, to transition from a cost based reimbursement methodology to a prospective payment reimbursement methodology effective October 1, 2018.

  The parameters for the prospective payment system are specified. Beginning October 1, 2018, and ending September 30, 2021, the Agency shall reimburse nursing home providers the

greater of their September 2016 cost-based reimbursement rate or their prospective payment rate. Effective October 1, 2021, the Agency shall reimburse providers the greater of 95 percent of their cost-based rate or their rebased prospective rate, using the most recently audited cost report for each facility. Pediatric, Florida Department of Veterans Affairs, and government-owned facilities are exempt from this new pricing model. Related provisions are modified to keep in place applicable rate-setting ceilings and targets for those facilities that remain on cost-based reimbursement. Changes are made for calculations of direct care costs, and other patient care costs. Prospective rates are to be rebased every four years, and direct care supplemental payments may be made under specified circumstances.

- Amends s. 409.908, F.S., relating to Medicaid reimbursement, to delete outdated language relating to ambulatory surgical center reimbursement.

  This section specifies that Medicaid reimbursement will be provided for deductibles and coinsurance for Medicare Part B services provided for mobile x-ray services rendered to a person who is Medicare and Medicaid dually eligible when such services are delivered in an assisted living facility or a home, just as such reimbursement is presently provided for a nursing home resident.

  It is further amended to indicate that base rate reimbursement for hospital services will be specified in the General Appropriations Act, with inpatient services based on a diagnosis-related group payment methodology and hospital outpatient services based on an enhanced ambulatory payment group methodology.

  In addition, a new subsection (26) is added which authorizes the use of funds from specified entities for making special exception payments under Medicaid, including federal matching funds. Local government funds may be certified as state match under federal authority as authorized in the General Appropriations Act. Stipulations are provided regarding timelines and requirements for letters of agreements with local governments for securing these funds.

- Effective July 1, 2018, it amends s. 409.9082(4), F.S., relating to the uses of revenue generated by the quality assessment on nursing home facilities, to authorize as a use the partial funding of the quality incentive program for nursing facilities that exceed quality benchmarks under the prospective payment system, in lieu of use for that portion for the facilities' rate not otherwise addressed by the subsection provisions relating to rate reduction and assessment amounts.
- Amends s. 409,909, F.S., to modify the Statewide Medicaid Residency Program such that a qualifying institution, as defined under the program, may receive the same types of program payments as hospitals. Under the program, a qualifying institution is defined as a Federally Qualified Health Center which holds an Accreditation Council for Graduate Medical Education institutional accreditation. References are also incorporated which reflect the hospital

outpatient enhanced ambulatory payment group rate.

- Amends s. 409.911(2)(a), F.S., relating to the Regular Disproportionate Share Program, to require the AHCA to use the average of the 2009, 2010, and 2011 audited disproportionate share hospital (DSH) data to determine each hospital's Medicaid days and charity care for the 2017-2018 fiscal year.
- Amends s. 409.9119, F.S., relating to the disproportionate share program for specialty children's hospitals, to modify the specialty children's hospitals that qualify for funds under this section to include those that have a specific federal certification number, and meet Medicare and Medicaid day criteria. There is an update of the fiscal year referenced for fund distribution purposes.
- Amends s. 409.913(36), F.S., relating to oversight of the integrity of the Medicaid program and the sharing of explanation of medical benefits with service recipients, to authorize that such documents be shared with recipients on a sampling basis rather than to all recipients, other than the exemptions already provided from such distributions.
- Amends s. 409.975(1)(e), F.S., relating to managed care plan accountability, to make optional, rather than mandatory, that Medicaid managed care plans offer a network contract to each home medical equipment and supplies vendor in the plan's region, provided the vendor meets established standards.
- Amends s. 409.979(1) and (2), F.S., relating to eligibility for the Long-term Care Managed Care program, to include those who meet hospital level of care for individuals with cystic fibrosis. In addition, this section specifies that those individuals enrolled in the Traumatic Brain and Spinal Cord Injury Waiver, the Adult Cystic Fibrosis Waiver, and the Project AIDS Care Waiver who meet all applicable criteria shall be transitioned to Long-term Care Managed Care program by January 1, 2018. Once all such persons have been transitioned out of their waiver, the agency may seek federal authorization to terminate these waivers.
- Effective October 1, 2018, amends s. 409.983(6), F.S., relating to long-term care managed care plan payment, to eliminate language requiring plans to reimburse nursing homes based on facility costs adjusted for inflation and other factors. (This is consistent with the transition to the nursing home prospective payment system.)
- Amends s. 409.901(27), F.S., to modify the definition of "third party" as that term is used in the Florida Medicaid program.
- Amends s. 409.910, F.S., relating to responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable, and address federal compliance issues in the current statute. Specifically addressed are applicable federal law limits on recoveries, evidentiary standards, applicability to third party payers, and payment response requirements. Outdated provisions are deleted from the statute.
- Notwithstanding section 27 of chapter 2016-65, Florida Statutes, directs the AHCA, subject to federal approval to become a PACE site, to contract with a not-for-profit organization formed by a

partnership with a not-for-profit hospital, not-for-profit agency serving seniors, and a not-for-profit hospice in Leon County. The organization is authorized to serve eligible enrollees in Leon, Jefferson, Gadsden, and Wakulla counties. The AHCA, in conjunction with the Department of Elder Affairs and subject to a subsequent appropriation, shall approve up to 300 initial enrollees in this PACE program.

- Amends section 17 of chapter 2011-61, Laws of Florida, to authorize the existing PACE provider in Palm Beach County to expand services to eligible enrollees in Martin, St. Lucie, Okeechobee, and Indian River Counties. The initial 150 enrollees were residents of Palm Beach County, and the enrollment in Martin County can be up to 150 persons.
- Amends section 29 of chapter 2016-65, Laws of Florida, to authorize the Lake County hospice-based PACE provider to expand services into the Orlando area with an initial enrollment of 150 persons.
- Amends s. 391.055(3), F.S., relating to Children's Medical Services delivery systems, to incorporate conforming cross-references.
- Amends s. 393.0661(7), F.S., relating to home and community based services, to incorporate conforming cross-references.
- Amends s. 409.968(4)(a), F.S., relating to managed care plan payments, to incorporate conforming cross-references.
- Amends s. 427.0135(3), F.S., relating to purchasing agencies, to incorporate conforming cross-references.
- Amends s. 1011.70(1) and (5), F.S., relating to Medicaid certified school refinancing, to incorporate conforming cross-references.
- Creates an undesignated section of law to provide Fiscal Year 2017-2018 funding authorization for the Low Income Pool program in the Agency for Health Care Administration, as reserved funds. Subject to federal approval of special terms and conditions for the program, the Agency is directed to submit a budget amendment for release of the reserved funds by the Legislative Budget Commission. As part of the proposed amendment submission, the Agency is directed to provide specified supporting documentation. Payments are contingent upon the non-federal share of funding being made available through intergovernmental transfers. If funds are not available, the state is not obligated to make payments. This section expires July 1, 2018.
- Creates an undesignated section of law to provide Fiscal Year 2017-2018 funding authorization to continue medical school faculty physician supplemental payments by the Agency for Health Care Administration, as reserved funds. Funds recipients, and means of payment are specified. Subject to federal approval to continue these supplemental payments, the Agency is directed to submit a budget amendment for release of the reserved funds by the Legislative Budget Commission. Payments are contingent upon the nonfederal share of funding being made available through intergovernmental transfers. If funds are not available, the state is not obligated to make payments. This section expires July 1, 2018.

This bill was signed into law July 16, 2017 as Chapter No. 2017-129, Laws of Florida and the provisions take effect July 1, 2017.

HB 5203
Prescription Drug Monitoring Program

The bill conforms statutes to the funding decisions related to the Prescription Drug Monitoring Program included in the General Appropriations Act (GAA) for Fiscal Year 2017-2018.

Prescription Drug Monitoring Programs (PDMPs) are state-run electronic databases used to track the prescribing and dispensing of certain controlled prescription drugs to patients. PDMPs are designed to monitor this information for suspected abuse or diversion of controlled prescription drugs and provide prescribers and pharmacists with critical information regarding a patient's controlled substance prescription history. As of December 19, 2014, 49 states either had an operational PDMP database or had adopted legislation authorizing the creation of one.

In 2009, the Legislature created the Prescription Drug Monitoring Program (PDMP) within the Department of Health (DOH). The PDMP employs a database to monitor the prescribing and dispensing of certain controlled substances. Dispensers of controlled substances listed in Schedule II, III, or IV must report certain information to the PDMP database, including the name of the prescriber, the date the prescription is filled and dispensed, and the name, address, and date of birth of the person to whom the controlled substance is dispensed.

Current law requires that all costs incurred by the DOH in administering the PDMP shall be funded through federal grants or private funding applied for or received by the state. However, the 2015-2016 and 2016-2017 GAA implementing legislation authorized the use of state funds for administering the PDMP. The 2015-2016 GAA appropriated $500,000 in recurring General Revenue to the DOH to implement the PDMP.

The bill permanently authorizes the DOH to use state funds to administer the PDMP to reflect the GAA for the 2017-2018 Fiscal Year.

This bill was signed into law June 26, 2017 as Chapter No. 2017-191, Laws of Florida and the provisions take effect July 1, 2017.

HB 6021
Home Health Agency Licensure

Home health agencies (HHAs) are organizations licensed by the Agency for Healthcare Administration (AHCA) to provide home health services and staffing services. Home health services are health and medical services and medical supplies furnished to an individual in the individual's home or place of residence. The licensure requirements for HHAs are found in the general health care licensing provisions of part II of ch. 408, F.S., the specific HHA licensure provisions of part III of ch. 400, F.S., and the minimum standards for HHAs in chapter 59A-8, F.A.C.

After the repeal of the certificate of need (CON) program for HHAs in July 2000, the number of HHAs rapidly increased, as did the amount of Medicare and Medicaid fraud by HHAs. In 2008, s. 400.471, F.S., was amended to prohibit the initial licensure of a HHA if another agency owned by the applicant is located within 10 miles of the applicant and in the same county.

HB 6021 repeals this "10-mile" limit, thereby permitting an entity that currently owns or has a controlling interest in a licensed HHA to apply for and obtain an initial license to operate a HHA within 10

miles and in the same county as the existing HHA. This would include an entity applying for a change of ownership of a currently licensed HHA. The repeal permits an existing HHA to operate another licensed HHA in the same location.

This bill was signed into law June 23, 2017 as Chapter No. 2017-160, Laws of Florida and the provisions take effect July 1, 2017.

HB 7097
Direct Support Organization of the Prescription Drug Monitoring Program

Direct support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purposes of DSOs are prescribed by their enacting statutes and, for most, by a written contract with the state agency the DSO was created to support.

In 2009, the Florida PDMP Foundation, Inc. (Foundation), was established as a DSO for the prescription drug monitoring program (PDMP). The PDMP is an electronic database that tracks the prescribing and dispensing of certain controlled substance prescription drugs to patients. The PDMP is designed to monitor this information for suspected abuse or diversion and provide prescribers and pharmacists with a patient's controlled substance prescription history. State law requires the Department of Health to acquire federal and private funds to operate the PDMP.

The mission of the Foundation is to raise funds for the benefit of the PDMP. Since its inception, the Foundation has acquired almost $3 million in funds to support the PDMP, including a $1.9 million donation from the Office of the Attorney General in 2014. Other donations have come from law enforcement agencies and other health care-affiliated entities, such as drug testing laboratories and medical technology providers.

As of January 2017, the Foundation had assets of almost $1.6 million, of which $1.35 million is invested. The annual cost to maintain the PDMP is $600,000. With these funds, the PDMP has sustainable funding through Fiscal Year 2019-2020.

The statutory authority for the Foundation is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.

The bill extends the scheduled repeal of the law authorizing the PDMP DSO to October 1, 2027.

This bill was signed into law June 26, 2017 as Chapter No. 2017-192, Laws of Florida and the provisions take effect July 1, 2017.

Insurance & Financial Services

Insurance

CS/HB 339
Motor Vehicle Service Agreement Companies
Motor vehicle service agreement companies are one type of warranty association and are governed by the provisions in part I of ch. 634, F.S. Warranty associations are regulated by the Office of Insurance Regulation. Motor vehicle service agreements generally provide vehicle owners with protection when the manufacturer's warranty expires. Either the company or the holder may cancel the agreement. Upon cancellation, specified refunds of premium must be issued to the holder.

Among other requirements, motor vehicle service agreement companies may meet statutory reserve requirements by purchasing contractual liability insurance from an admitted insurer. They can also meet their reserve requirements by keeping a reserve equaling 50 percent of their gross unearned premium or purchasing insurance for 100 percent of their claims exposure. All existing casualty insurers in Florida are required to have $4,000,000 in surplus.

A risk retention group is a corporation or limited liability association whose primary purpose is to share any or all of the liabilities of the members of the group. Risk retention groups can only insure certain risks. They are limited to liability insurance and reinsurance of other risk retention groups that share the same common interests required to form a group.

The bill requires service agreement companies that purchase insurance to fund their reserve obligation to use an insurer with $15,000,000 minimum in surplus. It allows service agreement companies to meet reserve requirements by participating in a risk retention group, if the group covers 100 percent of the claims exposure and maintains $15,000,000 minimum in surplus. It removes a prohibition on companies that offer vehicle protection expenses from using an affiliated insurer to meet their reserve requirements. Lastly, lenders, finance companies, and creditors are given specific authority to cancel a service agreement in certain circumstances, if provided for in the agreement.

This bill was signed into law June 14, 2017 as Chapter No. 2017-099, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 359
Insurance
The bill makes the following changes regarding insurance:

Florida Hurricane Catastrophe Fund (FHCF) Emergency Assessments
Medical malpractice insurance is exempt from FHCF emergency assessment until May 31, 2019. The bill repeals the sunset of the exemption. The exemption becomes permanent, rather than expiring on May 31, 2019.

Florida Workers' Compensation Insurance Guaranty Association Assessments
While receivables related to recoupment of Florida Insurance Guaranty Association (FIGA) assessments are an "asset" for purposes of statutory accounting principles, the same does not apply to such receivables related to Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) assessments. The bill allows receivables related to FWCIGA assessment recoupment surcharges to be treated as assets in the same manner that is currently provided for FIGA assessment related receivables.

Medical Malpractice Rate Filing
Medical malpractice insurers are required to make annual base rate filings. The bill removes the requirement to submit an annual base rate filing, regardless of whether the insurer is proposing a rate change, and substitutes the procedure that applies to all other property and casualty insurers who are required to make an annual base rate filing. It permits medical malpractice insurers to file a certification in lieu of a rate filing when no rate change is proposed.

Payments for Premium and Insufficient Funds Fee
Florida law requires payment of premiums by certain methods. The bill adds payments by "draft" or "electronic check" to the list of acceptable payment methods. In certain instances, a property, casualty, or surety insurer, a premium finance company, or a motor vehicle insurer may charge a fee to the insured if their payment fails due to insufficient funds (this is in addition to any fees charged by their financial provider). The bill authorizes most insurers to charge $15, pursuant to policy terms, if an electronic premium payment fails due to insufficient funds.

Compliance of Electronic Documents with Insurance Code Requirements
The Insurance Code establishes content, readability and formatting requirements for a wide variety of documents used in the transaction of insurance. The bill provides that electronic documents will satisfy certain standards applicable to paper documents if the elements have reasonably similar proportions or emphasis in their electronic format and context or are displayed in a reasonably conspicuous manner.

Motor Vehicle Insurance Policy Exclusions
While motor vehicle insurers may exclude specified vehicles from coverage under a policy, they cannot exclude named individuals if coverage is required by law. The bill authorizes an insurer to specifically exclude named individuals from private passenger motor vehicle insurance coverages, except for periods when the named excluded individual is not operating a covered vehicle, it is unfairly discriminatory, or it is inconsistent with filed underwriting guidelines.

This bill was signed into law June 23, 2017 as Chapter No. 2017-132, Laws of Florida and the provisions took effect on that date.

CS/CS/HB 421
Public Housing Authority Insurance
The Legislature has authorized the creation and operation of public housing authorities due to a shortage of safe or sanitary dwelling accommodations available at rents that low income persons can afford. To provide such accommodations, public housing authorities may acquire property to be used for, or in connection with, housing projects. Among other powers, public housing authorities are authorized to organize and create for-profit corporations, not-for-profit corporations, limited liability companies, and other similar business entities in order to acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects.

As an alternative to obtaining insurance from a licensed insurance company, state law allows certain persons to form a self-insurance fund. Public housing authority self-insurance funds are among the types of self-insurance funds specifically authorized by state law.

The bill authorizes a for-profit corporation, not-for-profit corporation, limited liability company, or other similar business entity that a public housing authority owns, in whole or in part, or participates in the governance thereof to join the same self-insurance fund as the authority that owns or governs them. When such entities join a public housing authority self-insurance fund, they may only self-insure their public housing risks. The bill also authorizes these entities when self-insured to purchase reinsurance, as if they were an insurer, in the same manner as self-insured public housing authorities. Public housing authorities, and the entities that are permitted to join them in self-insurance funds, may only purchase reinsurance if they are participating in a self-insurance fund.

This bill was signed into law June 14, 2017 as Chapter No. 2017-104, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/CS/HB 695
South Florida Regional Transportation Authority Insurance Liability

HB 695 addresses insurance liability issues related to the South Florida Regional Transportation Authority (SFRTA), which operates commuter rail service in Palm Beach, Broward, and Miami-Dade Counties.

The bill primarily addresses liability regarding the use of a rail corridor. The bill provides SFRTA with the ability to indemnify the Florida East Coast Railway (FECR) and All Aboard Florida (AAF) under certain circumstances. The bill provides who is responsible for property damage and injury to certain persons associated with several scenarios involving rail accidents. The bill also provides an allocation of risk between the parties and includes provisions for passengers and other rail corridor invitees.

It authorizes SFRTA to purchase railroad liability insurance of $295 million per occurrence, and allows it to adjust the limit in accordance with applicable law. The bill also requires SFRTA to maintain a $5 million self-insurance retention account. To compare, current Florida law authorizes the Department of Transportation (DOT) to purchase railroad liability insurance for an amount not to exceed $200 million, and establish a self-insurance retention fund not to exceed $10 million.

The bill authorizes DOT to indemnify and insure certain rail services on DOT-owned rail corridors.

It prohibits SFRTA from entering into a contract or other agreement, or renewing or extending any existing contract or other agreement, which may be funded, in whole or in part, with DOT provided funds without DOT's prior review and written approval of SFRTA's proposed expenditures. The bill further clarifies that those DOT funds constitute state financial assistance while outlining the parameters for advancing such funds and reimbursing SFRTA invoices.

This bill was signed into law June 23, 2017 as Chapter No. 2017-138, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 805
Insurance Policy Transfers

Insurance companies writing commercial lines insurance policies may transfer commercial policies to a different Florida licensed insurance company that is a member of the same insurance group or owned by the same holding company as the first insurer. A commercial policy that is transferred under current law is considered a renewal policy, rather than a cancellation, nonrenewal, or termination. The insurer

must provide notice of intent to transfer at least 45 days in advance along with the financial rating of the authorized insurer to which the policy is being transferred.

Insurance companies that write personal lines residential and commercial residential policies, except for certain farm owners policies, are not authorized to use this procedure. Instead, the insurer must first cancel, non-renew, or terminate residential policies and meet current law applicable to cancellations, nonrenewal, or terminations, including a requirement to provide notice 120 days in advance of the action.

The bill allows the transfer of a personal lines residential or commercial residential policy as a renewal. The bill provides certain conditions to protect a policyholder when a policy is being transferred.

This bill was signed into law May 9, 2017 as Chapter No. 2017-019, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 813
Flood Insurance

The National Flood Insurance Program (NFIP) is a federal program that offers subsidized flood insurance to property owners and promotes land-use controls in floodplains. Anticipating substantial rate increases in the NFIP, the Legislature created s. 627.715, F.S., in 2014 to provide a framework for a private, personal lines flood insurance market in Florida. This law does not apply to excess flood insurance or commercial lines flood insurance.

Insurers who wish to provide Florida-authorized coverage may develop rates for flood coverage by filing the rate with the Office of Insurance Regulation (OIR) and obtaining approval, or, until October 1, 2019, using a rate without OIR's approval, so long as it meets ratemaking standards. In addition, until July 1, 2017, a surplus lines agent may export a personal lines flood insurance policy without having to determine that coverage is unavailable from an admitted carrier (i.e., obtain three declinations of coverage, which is known as the statutory due diligence requirement).

The Florida Commission on Hurricane Loss Projection Methodology (Commission) is required to adopt actuarial methods, principles, standards, models, or output ranges for personal lines residential flood loss and is required to revise these adoptions each odd-numbered year.

The bill:

- Extends the exemption from statutory due diligence requirement when exporting flood insurance to surplus lines insurers from July 1, 2017, to July 1, 2019, and provides the exemption ends earlier in certain circumstances.
- Upon expiration of the exemption, provides for an exception related to the statutory due diligence requirement if there are less than three admitted flood insurers so that policies can be exported to surplus lines insurers when all admitted insurers decline coverage.
- Adds a financial strength requirement for surplus lines insurers writing flood insurance.
- Creates new requirements applicable to agents placing an NFIP covered property with a Florida flood insurer and removes the obligation to secure a required acknowledgement from an applicant that is leaving the NFIP, if the NFIP removes limitations on former NFIP-insureds returning to the program at a subsidized rate.
- Eliminates an exclusion that held that regulation under Florida's flood insurance statute did not apply to excess flood insurance. This change allows

excess flood insurers to make information rate filings and gives them relief from due diligence requirements.
- Changes the frequency of Commission adoptions of flood loss projection guidelines from every odd-numbered year to at least once every four years.
- Corrects a technical error regarding issuance of flexible flood insurance coverage.

This bill was signed into law June 23, 2017 as Chapter No. 2017-142, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 837
Insurer Insolvency

Part I of ch. 631, F.S., relates to insurer insolvency and governs the receivership process for insurance companies in Florida. Federal law specifies that insurance companies cannot file for bankruptcy. Instead, they are either "rehabilitated" or "liquidated" by the state. In Florida, the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies. This process involves the initiation of a delinquency proceeding and the placement of an insurer under the control of the DFS as the receiver. The typical causes of insurer insolvency include undercapitalization, uncollectible or inflated assets, insufficient loss reserves for risks assumed, fraudulent transactions, failure to monitor agents, and mismanagement by directors and/or officers.

The bill amends various provisions of part I of ch. 631, F.S., governing insurer rehabilitation and liquidation in Florida. Many of the revisions are to adopt portions of the National Association of Insurance Commissioners (NAIC) Insurer Receivership Model Act (IRMA).

Among its many provisions, the bill:

- Extends reciprocity in the administration of receiverships to states that have adopted the IRMA.
- Revises the requirements related to delinquency proceedings to update the list of guaranty associations that must receive notice of hearings; clarifies the court's jurisdiction over assets of the insurer; provides a conflict of laws provision; establishes timeframes for initiating proceedings; clarifies that the automatic stay during the pendency of the proceeding does not apply to the Office of Insurance Regulation; specifies contracts that may be assumed or rejected by the DFS and its authority for paying expenses; clarifies the authority of the insurer's management subsequent to a liquidation; and specifies what defenses may be raised against the DFS and the form of required evidence to assert a defense.
- Revises claim filing procedures to allow the court to approve alternatives and to allow the court to establish a filing deadline.
- Disallows claims for post-judgment interest.
- Revises the priority of claims to add claims for expenses incurred during administrative supervision and for medical providers, and revises the methodology for calculating interest allowed on claims.
- Revises the procedures applicable to early access distributions to guaranty funds.
- Establishes the process for administering workers' compensation large deductible policies during an insolvency proceeding.

This bill was signed into law June 23, 2017 as Chapter No. 2017-143, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 911
Insurance Adjusters

Chapter 626, F.S., regulates insurance field representatives and operations. Part VI of the chapter governs insurance adjusters. Current law provides for five adjuster licenses: public adjuster, all-lines adjuster, temporary license (all-lines adjuster), public adjuster apprentice, and catastrophe or emergency adjuster. A licensed all-lines adjuster may be appointed as an independent adjuster, or company employee adjuster. An "all-lines adjuster" is defined as a person who acts on behalf of an insurer to determine the amount of and settle a claim. In addition, the law authorizes, but does not require licensure of adjusting firms, unless the person operating the firm fails to designate a primary adjuster within specified timeframes.

The bill eliminates licensure for public adjuster apprentices, substituting instead a requirement to be licensed as an all-lines adjuster and appointed as a public adjuster apprentice, and requires licensure for adjusting firms. The bill also eliminates the temporary license, which is not currently used. The bill revises the requirements for public adjusters to:

- Expressly prohibit unlicensed public adjusting that is done directly or indirectly;
- Delete a provision of law related to contacting policyholders which was held unconstitutional by the Florida Supreme Court;
- Exclude deductibles from the calculation of an adjuster's fee; and
- Reduce the time a public adjuster apprentice must be supervised before becoming eligible for licensure as a public adjuster.

In addition, the bill makes numerous changes to part VI of ch. 626, F.S., and other statutes applicable to adjusters to improve the efficiency of licensure and enforcement.

This bill was signed into law June 23, 2017 as Chapter No. 2017-147, Laws of Florida and the provisions take effect January 1, 2018.

CS/CS/CS/HB 1007
Insurer Anti-Fraud Efforts

The Division of Investigative and Forensic Services (DIFS) within the Department of Financial Services (Department) encompasses all law enforcement and forensic components residing within the Department. The DIFS investigates a wide range of fraudulent and criminal acts, including insurance fraud and workers' compensation fraud.

The bill establishes uniform fraud prevention standards applicable to all insurers. The bill requires all insurers, regardless of size, to establish and maintain a fraud investigation unit, or contract for such services, and to submit an anti-fraud plan. An insurer must submit the plan and the description of the unit, together with the name of the employee designated to oversee fraud investigation activities, to the DIFS beginning December 31, 2017, and annually thereafter. The bill specifies required elements of the plan, which include: acknowledgements related to implementation of fraud detection and investigation procedures, mandatory reporting procedures, and anti-fraud education and training; descriptions of the anti-fraud unit and required education and training; and the rationale for the anti-fraud unit staffing. In addition, the bill creates a requirement for insurers to submit fraud-

related data on an annual basis. The bill modifies the additional requirements applicable to workers' compensation insurers to require reporting of the number of cases referred to the DIFS.

Since 2003, insurance fraud has been prosecuted through dedicated positions within certain state attorneys' offices which are funded by state appropriation. The bill requires state attorneys' offices that receive such an appropriation to report quarterly data to the DIFS regarding their caseloads beginning September 30, 2017. The bill also requires the DIFS to report the caseload data annually to the Governor and the Legislature beginning September 1, 2018.

This bill was signed into law June 26, 2017 as Chapter No. 2017-178, Laws of Florida and the provisions take effect September 1, 2017.

SB 2508
Division of State Group Insurance
The bill authorizes the Division of State Group Insurance Program (DSGI) within the Department of Management Services (DMS) to conduct a dependent eligibility verification audit.

Currently, s. 110.123, F.S., creates the State Group Insurance Program (program) to be administered by the DSGI within the DMS. The state program is optional, and is a benefit program for state employees of all state agencies, state universities, the court system, and the Legislature. The program consists of health, life, dental, vision, disability, and other supplemental insurance benefits.

The bill amends s. 110.12301, F.S., directing the DMS to contract with a third party provider to verify the eligibility of all dependents currently participating in the state program. The DMS is required to notify all members of the Health Insurance Plan regarding the eligibility criteria for dependents by September 1, 2017.

The bill also amends s. 110.12315, F.S., updating the state employee Prescription Drug Program. The bill makes modifications to permanently codify changes annually made to the program through the implementing bill and general appropriations act since 2010.

This bill was signed into law June 16, 2017 as Chapter No. 2017-127, Laws of Florida and the provisions take effect July 1, 2017.

Financial Services

CS/CS/HB 435
International Financial Institutions
The Office of Financial Regulation (OFR) regulates financial institutions, including an international banking corporation (IBC) that transacts business in Florida through an international branch, international bank agency, international administrative office, or international representative office. The OFR also regulates international trust company representative offices (ITCROs), which are offices of "offshore" international non-depository trust companies.

The bill revises regulations relating to licensed offices of IBCs and of "offshore" international non-depository trust companies (international trust entities). The bill relocates the regulation of ITCROs in part I to a newly-created part III, the provisions of which were copied from current part I, including amendments to part I that are proposed in the bill. The bill makes the following changes to the regulation of licensed offices of IBCs and of international trust entities:

- Amends the capital requirements to allow for a risk-based calculation.

- Permits the OFR to allow the continuing operation of licensed offices during certain statuses or events, such as bankruptcy or a government bailout, that occur at the home-country institution.
- Provides for an abbreviated application process by which an IBC or international trust entity may establish additional locations in Florida.
- Provides for the establishment of time limitations on the OFR's approval or disapproval of applications.
- Amends the scope of reciprocity to reduce a barrier to licensure.
- Streamlines the application process in the event of the acquisition, merger, or consolidation of IBCs or international trust entities.
- Expands an international bank agency's investment management services to include domestic investments.
- Provides rulemaking authority to specify permissible deposits for international branches.
- Relaxes the requirements for maintaining books and records in English.
- Provides flexibility for a home-country supervisor to conduct off-site examinations.

The bill creates part IV of ch. 663, F.S., to provide a regulatory framework for a new entity called a qualified limited service affiliate (of international trust entities), which is a person or entity that is qualified to perform specified permissible activities related to or for the benefit of one or more affiliated international trust entities but which is a separate legal entity from the international trust entity. The permissible activities of a qualified limited service affiliate are more limited than those of an ITCRO. Additionally, the bill contains a minimum capital requirement of $1 million to establish an ITCRO, but no minimum capital is required for a qualified limited service affiliate.

This bill was signed into law June 9, 2017 as Chapter No. 2017-083, Laws of Florida and the provisions take effect January 1, 2018, except as otherwise provided in the bill.

CS/CS/HB 925
Department of Financial Services

The bill amends statutes relating to the Department of Financial Services (DFS). It bill addresses clean-up issues at the DFS within the Divisions of Treasury, Accounting and Auditing, State Fire Marshal, Agent and Agency Services, and Risk Management. The bill:

- Replaces the Treasury Investment Committee with the Treasury Investment Council within the Division of Treasury and provides for the duties of the council;
- Applies timely payment and other requirements related to state payments, warrants, and invoices for payments made in relation to certain agreements funded with federal or state assistance;
- Updates the 1991 Boiler Safety Act (Act) as to installation requirements, who can conduct inspections of boilers in public assembly locations, continuing education of inspectors, and changes criminal penalties to administrative fines for violations of the Act;
- Authorizes the DFS, within existing resources, to expend funds for the purpose of staff professional development for certain divisions;
- Allows certain licensed insurance professionals who are active participants in insurance associations to annually earn two hours of continuing education

credits for attendance in four or more hours of association meetings;
- Exempts persons who have the Universal Claims Certification from the Claims and Litigation Management Alliance from the licensure examination for all-lines adjuster and adds that certification training to the approved continuing education requirements for certain adjusters and agents;
- Provides that upon a grant of a pardon or the restoration of civil rights, criminal offenses that would otherwise temporarily or permanently bar certain individuals or entities seeking licensure as an insurance agent, agency, or public adjuster do not automatically bar or disqualify the applicant;
- Clarifies certain exceptions to the unlicensed transaction of life or health insurance;
- Provides that a regular employee of an insurer may handle claims with respect to residential property when the sublimit coverage is less than $500;
- Removes the claims filing deadline of July 1, 2018, relating to the Holocaust Victims Assistance Program;
- Allows for the use of firefighter's confidential information for the purposes of certain studies; and
- Removes a requirement for an individual to send a written notice of claim or serve a summons on the DFS for an action against a county.

This bill was signed into law June 26, 2017 as Chapter No. 2017-175, Laws of Florida and the provisions take effect July 1, 2017.

HB 1347
Application of Florida Deceptive and Unfair Trade Practices Act to Credit Unions

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) prohibits "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce." FDUTPA does not apply to certain entities that are otherwise regulated, such as banks or savings and loan associations, but it does apply to credit unions.

Like banks, state-chartered and federally-chartered credit unions are subject to a number of regulations that govern their activities and provide some protections which overlap with FDUTPA, including the:

- Truth in Savings Act,
- Accuracy of advertising requirement,
- Equal Credit Opportunity and Fair Housing Acts,
- Fair Credit Reporting Act,
- Truth in Lending Act,
- Real Estate Settlement Procedures Act,
- Gramm-Leach-Bliley Act's requirements relating to the privacy of consumer financial information,
- Consumer Financial Protection Bureau's prohibition on unfair, deceptive, or abusive acts or practices, and
- Federal Trade Commission's prohibition on unfair or deceptive acts or practices.

Consistent with current exemptions for banks and savings and loan associations, the bill provides that FDUTPA does not apply to state-chartered and federally-chartered credit unions.

This bill was signed into law June 26, 2017 as Chapter No. 2017-190, Laws of Florida and the provisions take effect July 1, 2017.

SB 7022
State-Administered Retirement Systems

SB 7022 establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2017. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly $149.5 million more revenue on an annual basis beginning July 1, 2017. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, and certain municipalities and other governmental entities.

The bill modifies the employer-paid contributions for FRS retirement benefits and it amends s. 121.71, F.S., to set the employer-paid contributions to the Florida Retirement System Trust Fund for each membership class of the FRS.

This bill was signed into law June 14, 2017 as Chapter No. 2017-88, Laws of Florida and the provisions take effect July 1, 2017.

Legal

Courts & Criminal Justice

Courts

HB 65
Civil Remedies for Terrorism

There is no cause of action in common law or current statutory law that is specific to terrorism. There are, however, causes of action for related acts. Common law allows a victim to sue, for example, for battery or intentional infliction of emotional distress; and statutory law allows an action for wrongful death. In most tort actions, an injured person may recover damages, but not attorney's fees. Current statutory law provides civil causes of action for a person who has been injured by specified criminal activities, but many acts of terrorism would not fall within any of those statutory causes of action.

The bill creates a statutory civil cause of action for a person injured by an act of terrorism. The definition of terrorism is adopted from the criminal law. An injured person is entitled to recover treble damages, minimum damages of $1,000, plus attorney's fees and court costs. The cause of action is not available to a person whose injuries are the result of his or her participation in the act that caused the injury.

The statute of limitations for a common law tort action is 4 years, and the limitation on wrongful death is 2 years. The limitations period for the cause of action created by this bill is 5 years which, in some cases, may be extended an additional 2 years.

This bill was signed into law June 2, 2107 as Chapter No. 2017-44, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 151
Proceedings Involving Minors or Certain Other Persons

Current law authorizes a trial court to enter any order necessary to protect a child victim or witness, a person who has an intellectual disability, or a sexual offense victim or witness of any age from severe emotional or mental harm due to the presence of the defendant. The court may also allow the use of service or therapy animals in proceedings involving a sexual offense to assist a child victim or witness or a sexual offense victim or witness. The support animals must be evaluated and registered according to national standards. Local courts allowing such animals typically develop detailed requirements for their use.

The bill:

- Expands the list of proceedings in which support animals may be used to include any proceeding involving child abuse, abandonment, or neglect;
- Expands the categories of allowable animals to include a “facility dog”;
- Allows a court to set any conditions it finds just and appropriate when taking the testimony of a person who has an intellectual disability, including the use of a therapy animal or facility dog;
- Removes the requirement for evaluation and registration of an animal pursuant to national standards, and replaces it with a requirement that an animal be trained, evaluated, and certified according to industry standards; and
- Provides definitions for the terms "facility dog" and "therapy animal."

This bill was signed into law May 9, 2017 as Chapter No. 2047-013, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 305
Law Enforcement Body Cameras

Current law in Florida requires law enforcement agencies (LEAs) that permit LEOs to wear body cameras to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. These policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on LEO authority to wear body cameras;
- Any limitations on law-enforcement-related encounters in which LEOs 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.

Florida's body camera laws do not address whether a LEO may or may not review body camera footage prior to writing a report or making a statement about an incident.

The bill amends s. 943.1718(2), F.S., to require a LEA that permits the use of body cameras to have a provision permitting a LEO using a body camera to review the recorded footage from the body camera, upon his or her own initiative or request, before writing a report or providing a statement regarding any event arising within the scope of his or her official duties and further provides that any such provision may not apply to an officer's inherent duty to immediately disclose information necessary to secure an active crime scene or to identify suspects or witnesses.

This bill was signed into law May 9, 2017 as Chapter No. 2017-015, Laws of Florida and provides an effect date of July 1, 2017.

CS/HB 329
Child Protection

Current law provides that the public policy of the state is for each minor to have frequent and continuing contact with both parents after the parents separate or divorce. In determining a time-sharing plan for contact with both parents, a court must weigh a number of factors in deciding what is in the best interests of the child.

A recovery residence is a form of group housing advertised as a peer-supported, alcohol-free, and drug-free living environment. These residences may be voluntarily certified through a program administered by the Department of Children and Families. The certification program requires the recovery residence to provide various documentation and establish certain policies in the recovery residence.

The bill prohibits a time-sharing plan from requiring a minor child to visit a parent residing in a recovery residence between the hours of 9 p.m. and 7 a.m., unless the court determines it is in the minor child's best interest.

The bill also provides that a certified recovery residence may allow minor children to visit a resident parent, but may not allow the children to remain between the hours of 9 p.m. and 7 a.m., unless:

- A court has determined it is in the minor child's best interest; or
- The parent does not yet have a time-sharing plan and the recovery residence is a specialized residence for pregnant women or parents whose children reside with them.

The bill prohibits a minor child from visiting a parent at a recovery residence at any time if any resident of the recovery

residence is required to register as a sexual predator or sexual offender.

This bill was signed into law June 9, 2017 as Chapter No. 2017-080, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 377
Limitations on Actions other than for the Recovery of Real Property

A statute of limitations and a statute of repose both limit the time period with which a person may file a lawsuit. A statute of limitations generally begins when the cause of action accrues and bars the lawsuit from being filed after a set period of time. A statute of repose begins at the occurrence of a specified event and extinguishes the right to file a lawsuit altogether. Where both apply, the action is barred when the first limitations period has run.

Under current law, a cause of action founded on the design or construction of a building is subject to a 4 year statute of limitations and a 10 year statute of repose. The statute of limitations and the statute of repose start at the latest date of the following: the date of actual possession; the date a certificate of occupancy is issued; the date construction, if not completed, is abandoned; or the date the contract is completed or terminated. The statute of limitations for a latent defect begins when the defect was or should have been discovered, but the statute of limitations may not extend beyond the statute of repose. The statute of repose thus may limit a cause of action for a latent defect even if the injured party has no knowledge of the latent defect.

A recent court decision found that a construction contract is complete when the final payment is made. For the purposes of both the statute of limitations and the statute of repose, this bill provides that a construction contract is considered complete on the later of the date of final performance of all the contracted services or the date that final payment for such services becomes due without regard to the date final payment is made.

This bill was signed into law June 14, 2017 as Chapter No. 2017-101, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 399
Guardianship

Guardianship is a concept whereby a "guardian" acts for another, called the "ward," whom the law regards as incapable of managing his or her own affairs due to age or incapacity. Before a guardian may be appointed to act for the ward, a court must determine the ward is incapable of handling his or her affairs.

When a petition to determine incapacity is filed, the court appoints a three member examining committee to examine the alleged incapacitated person. If two of the three examining committee members conclude that the person is incapacitated then a hearing is scheduled on the petition.

A copy of each examining committee member's report must be served on the petitioner and the attorney for the alleged incapacitated person within three days after filing and at least five days before a hearing is held on the petition. While examining committee reports are typically received into evidence without testimony at the hearings, a recent Florida appellate decision has found these reports are inadmissible hearsay. In order for the examining committee report to be admissible, an examining committee member must be present at the adjudicatory hearing on incapacity.

CS/HB 399 provides an examining committee report is admissible at an

adjudicatory hearing on incapacity unless an objection is raised. All or any portion of the examining committee member's reports may be objected to by filing and serving a written objection on the other party prior to the adjudicatory hearing. If no objection is made, then the examining committees' reports are admissible into evidence without further proof. The bill creates time limits for serving the examining committee reports on the parties and for raising objections. The bill also extends the deadline for the adjudicatory hearing, unless otherwise waived by the parties, from two weeks after the filing of the examining committee reports to no more than 30 days after the filing of the last filed report.

Following appointment by the court, the guardian files an annual guardianship plan with the court. Currently, if on a calendar-year basis or annual basis, the guardian must file the annual guardianship plan at least 60 days but no more than 90 days before the last day of the anniversary month that the letters of guardianship were signed.

The bill requires the guardian to file the plan within 90 days after the last day of the anniversary month that the letters of guardianship were signed unless the court requires a calendar-year filing. Currently, if the court requires a calendar-year filing the plan must be filed after September 1 but no later than December 1 of the current year. The bill requires that, if the court requires a calendar-year filing, the guardianship plan must be filed on or before April 1 of each year.

Currently, a guardian may not initiate a petition for dissolution of marriage for the ward without receiving court approval and consent from the ward's spouse. The bill removes the requirement to obtain the consent of the ward's spouse.

The bill also removes the statutory cap of $6,000 for funeral, interment, and grave marker expenses from the ward's estate. Additionally, the bill changes the time that the guardian has to file a required annual guardianship plan with the court.

This bill was signed into law May 9, 2017 as Chapter No. 2017-016, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 401
Notaries Public

The Governor may appoint as many notaries public as he or she deems necessary so long as they meet certain requirements, including being a legal resident of Florida. Notaries public are appointed for four years and may only use and exercise the office of notary public within Florida. A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument. Acceptable forms of identification that a notary public may rely on in notarizing a signature on a document include:

- A Florida identification card or driver license;
- A passport issued by the Department of State of the United States or by a foreign government if the document is stamped by the U.S. Bureau of Citizenship and Immigration Services;
- A driver license or an identification card issued by a state other than Florida, a U.S. territory, or Canada or Mexico;
- An identification card issued by any branch of the U.S. armed forces;
- An inmate identification card issued by the Florida Department of Corrections on or after January 1, 1991, or by the U.S. Department of Justice, Bureau of

Prisons, for an inmate who is in its custody;

- A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
- An identification card issued by the U.S. Bureau of Citizenship and Immigration Services.

The bill expands the list of forms of identification that a notary public may rely on in notarizing a signature on a document to include a veteran health identification card issued by the U.S. Department of Veterans Affairs.

This bill was signed into law May 9, 2017 as Chapter No. 2017-017, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 441
Court Records/Immunity

The clerks of court are responsible for maintaining court records and generally making those records available for public inspection and copying. Where such records contain confidential information, the Florida Rules of Judicial Administration require a clerk of court to keep such records confidential. So that the clerk knows that information qualifies as confidential, the rules require the filer of any document containing confidential information to file a "Notice of Confidential Information within Court Filing" along with the document. This notice must indicate that either the entire document is confidential or identify the location of the confidential information within the document being filed.

The bill provides immunity from liability for clerks of court for the release of information that is made confidential by the Florida Rules of Judicial Administration where the filer failed to disclose the existence of the confidential information to the clerk as required by court rule. The bill also amends current law to remove outdated language.

This bill was signed into law June 23, 2017 as Chapter No. 2017-133, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 494
Compensation of Victims of Wrongful Incarceration

The bill amends ch. 961, F.S., the Victims of Wrongful Incarceration Compensation Act. Chapter 961, F.S., currently provides an administrative process for a person who has been wrongfully incarcerated for a felony conviction to seek a court order finding the person to be eligible for compensation. Current law disqualifies a person who is otherwise eligible for compensation if he or she has a record of any prior felony, a felony committed while wrongfully incarcerated, or a felony committed while on parole or community supervision.

Section 2 limits disqualifying felonies to violent felonies. In other words, the bill provides that in order to be found ineligible for compensation based on other crimes, the person must have committed a violent felony, not a simple felony. Specifically a felony is disqualifying if:

- During the person's wrongful incarceration, he or she was convicted of, pled nolo contendere to, regardless of adjudication, any violent felony; or
- During a period of parole or community supervision on the sentence that led to his or her wrongful incarceration, the person committed a violent felony that resulted in the revocation of the parole or community supervision.

A violent felony is defined in section 1 by a cross-reference to ss. 775.084(1)(c)1. and 948.06(8)(c), F.S. The combined list of those violent felony offenses includes attempts to commit the crimes as well as offenses committed in other jurisdictions if the elements of the crimes are substantially similar.

Section 2 also removes as a disqualifying offense any felony for which the person was convicted or pled guilty or nolo contendere to before he or she was wrongfully incarcerated.

Violent felony offenses which would preclude a wrongfully incarcerated person from being eligible for compensation under the bill are:

- False imprisonment of a child;
- Luring or enticing a child;
- Murder;
- Manslaughter;
- Aggravated manslaughter of a child;
- Aggravated manslaughter of an elderly person or disabled adult;
- Robbery;
- Carjacking;
- Home invasion robbery;
- Sexual Battery;
- Aggravated battery;
- Armed burglary and other burglary offenses that are first or second degree felonies;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Arson;
- Aggravated assault;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Treason;
- Aggravated stalking;
- Aircraft piracy;
- Abuse of a dead human body;
- Poisoning food or water;
- Lewd or lascivious battery, molestation, conduct, exhibition, or exhibition on computer;
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person;
- Sexual performance by a child;
- Computer pornography;
- Transmission of child pornography; and
- Selling or buying of minors.

This bill was signed into law June 16, 2017 as Chapter No. 2017-120, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/SB 590
Child Support and Parenting Time Plans

CS/CS/SB 590 authorizes the Department of Revenue (DOR) to establish parenting time plans agreed to by both parents in Title IV-D child support actions. The department will be required to provide parents Title IV-D Parenting Time Plans with a proposed administrative support order. The bill creates a standard Title IV-D Parenting Time Plan that may be used by parents. In the event the parents cannot agree on a parenting time plan, they will be referred to the circuit court for the establishment of a plan. In these instances, parents will not pay a fee to file a petition to determine a parenting time plan. The bill also requires the enforcement or modification of an established parenting time plan to be sought through a court of appropriate jurisdiction.

CS/CS/SB 590 amends s. 409.2551, F.S., to provide that it is the public policy of the state to encourage frequent contact between child and each parent.

The bill amends s. 409.2554, F.S., to provide definitions for "State Case Registry," "State Disbursement Unit," and "Title IV-D Standard Parenting Time Plans."

It amends s. 409.2557, F.S., to provide DOR the authority to establish Title IV-D Standard Parenting Time Plans or any other parenting time plan agreed to and signed by the parents.

It amends s. 409.2563, F.S., to allow DOR to establish parenting time plans only if the parents are in agreement. It also provides that, if the parents do not have a parenting time plan and do not agree to a Title IV-D Standard Parenting Time Plan, a time plan will not be included in the initial administrative order setting child support. A statement explaining the absence of the parenting time plan will be included with the initial administrative order setting child support.

Any notifications by DOR to parents will not include a Title IV-D Standard Parenting Time Plan if Florida is not the child's home state or one parent does not reside in Florida. The Title IV-D Standard Parenting Time Plan is not intended for use by and shall not be provided to either parent if there is a request for nondisclosure due to domestic or family violence, or if the parent who owes child support is incarcerated.

The bill also provides that if both parents have agreed to a parenting time plan before the administrative support order is established, the plan will be incorporated into the administrative support order. However, DOR does not have the jurisdiction to enforce any parenting time plan that is incorporated into an administrative support order. When the department provides notice of proceeding to establish an administrative support order it must include a copy of the Title IV-D Standard Parenting Time Plan. Copies of proposed administrative support orders provided to parents will include a copy of the Title IV-D Standard Parenting Time Plan, along with other required documents. If a hearing is held, an administrative support order will include a parenting time plan or Title IV-D Standard Parenting Time Plan agreed to by both parents.

The bill creates s. 409.25633, F.S., to provide that a Title IV-D Standard Parenting Time Plan must be included in any administrative action to establish child support taken by the department if the parents agree to and sign the plan. If there is no agreement as to a parenting time plan, then the department must enter an administrative order for child support and refer the parents to a court of appropriate jurisdiction to establish a parenting time plan. DOR must also develop a form petition and provide information to the parents on the process to establish such plan. Additionally, a modification or enforcement of an established parenting time plan may be sought through a court of appropriate jurisdiction, after the plan is incorporated into an administrative order.

It also creates a Title IV-D Standard Parenting Time Plan that will be presented to parents in an administrative child support action. The agreed upon parenting time plan is to be in the best interest of the child and special consideration should be given to the age and needs of each child. There is no presumption for or against the father or mother of the child or against any specific time-sharing schedule when a parenting time plan is created. The Title IV-D Standard Parenting Time Plans are not intended for use by and shall not be provided to parents and families with domestic or family violence concerns.

DOR is directed to create and provide a form for a petition to establish a parenting time plan for parents who have not agreed to a parenting schedule at the time of the child support hearing. The department will provide the form to the parents but will not file the petition or represent either parent at a hearing to establish parenting time. The parents will not be required to pay a fee to file the petition to establish a parenting time plan.

It bill amends s. 409.2564, F.S., to provide that when DOR institutes an action to secure the payment of current support or any arrearage that may have accrued under an existing order of support, and a parenting time plan was not incorporated into the existing order of support and is appropriate, the department will include either a parenting time plan or Title IV-D Standard Parenting Time Plan that has been agreed to and signed by the parents.

This bill was signed into law June 15, 2017 as Chapter No. 2017-117, Laws of Florida and the provisions take effect January 1, 2018.

CS/CS/SB 724
Estates

A homestead as provided in Article X, s. 4 of the State Constitution is designed to protect one's home from most creditors and court actions. Homestead includes $2,000 of personal property, but its main component is real property.

Under current law, homestead property is specifically excluded from the elective estate. As such, the value of the homestead is not factored in when calculation of the elective estate. The bill expressly includes homestead property in the elective estate, unless the surviving spouse has waived his or her homestead rights.

Valuation of Homestead for the Purpose of Valuation of the Elective Estate

The bill provides that if the homestead passes to the surviving spouse in fee simple, the homestead is valued at its fair market value on the date of the decedent's death. If the surviving spouse takes a life estate or an undivided one-half interest in the homestead, the homestead is valued at one-half of its fair market value on the decedent's death date.

Deadline to Choose the Elective Share

In order to exercise the option to take the elective share, a surviving spouse must file his or her election with the court. The surviving spouse must file the election by the earlier of 6 months after the date the surviving spouse is served with the estate's Letters of Administration, or 2 years after the death of the surviving spouse. Under current law, the surviving spouse may, *within these timeframes*, petition the court for good cause for an extension of time to make the election. The bill modifies this scheme.

The bill maintains that the surviving spouse may move for an extension with the same timeframes, and the bill maintains the 2-year absolute outer limit. However, the bill also permits a surviving spouse to move for an extension within 40 days after the termination of the proceedings specified in the bill.

Contribution to the Elective Share

Beneficiaries who have received a distribution of property that it included in the elective estate, as well as "direct recipients," are liable to contribute to satisfying the elective share, both under current law and under the bill. These persons may have received property, rather than money, from the decedent's estate.

Under the bill, as under current law, instead of making a cash payment of the dollar amount for which one of these persons is liable, a beneficiary or direct recipient may contribute a proportional part of all property received. This person may also satisfy their contribution obligation by doing one of two things with respect to any property interest received before the date of the court's order of contribution. As one option, he or she may contribute all of the property. Or if the property has been sold or exchanged before the date the spouse's election was filed, the liable person may pay an amount equal to the value of the property on the date it was sold or exchanged, less reasonable costs of the sale. Moreover, if a person pays the value of the property on the date of a sale or exchange, or if a person contributes all of the property received, no further contribution is required as to the property. And that amount satisfies his or her contribution liability, even if it is less than the amount he or she would otherwise owe.

However, under the bill, if this person's required contribution is not fully paid by 2 years after the date of the death of the decedent, the person must pay interest at the statutory rate on any portion of the required contribution that remains unpaid.

Ultimately, it is the duty of the court to determine the elective share and all necessary contributions. And those who owe a contribution must, as a general matter, pay interest on the contribution at the statutory interest rate. This interest begins accruing 90 days after the contribution order under current law. The bill maintains this provision, but also imposes interest on any amount of the elective share not satisfied within 2 years of the date of the decedent's death, *regardless of whether an order of contribution was entered.*

Attorney's Fees and Costs

In current law, if the court determines that an election is made or pursued in bad faith, the court may assess attorney's fees and costs against the surviving spouse or the surviving spouse's estate. The bill significantly expands the scope of this provision.
The bill removes the bad faith requirement, and the bill does not limit assessments of attorney's fees and costs to instances where someone makes or pursues an election.

Under the bill, the court may award fees and costs in *any proceeding* under the elective share statutes in which there is a dispute over:

- The entitled to of the amount of the elective share;
- The property interests included in the elective or its value; or
- The satisfaction of the elective share.

Moreover, the bill specifies that when the court award costs and fees, it may do one or more of the following:

- Direct payment from the estate;
- Direct payment from a party's interest in the elective share or the elective estate; or
- Enter a judgment that can be satisfied from other property of a party.

If the personal representative fails to file a petition to determine the amount of the elective share, as required by the Probate Rules, he or she may be liable for additional costs. Specifically, if the electing spouse or any of the other persons mentioned in the bill file the petition that the personal representative failed to file, he or she may be awarded the reasonable costs, including attorney's fees, incurred in connection with the preparation and filing of the petition.

The changes to the attorney fee provisions apply to all proceedings commenced after July 1, 2017.

<u>Elective Share Trusts</u>

By definition, elective share trusts must provide the surviving spouse with the ability to have non-productive trust assets converted to productive assets. However, current law does not provide a way to "save" a trust that fails to meet this requirement, though the trust otherwise meets the definition of an elective share trust and was intended to be an elective share trust. The bill changes this.

The bill authorizes a surviving spouse who is intended to benefit from an elective share trust to force the trustee to make the trust productive. Thus, the bill "saves" trusts that do not otherwise give the spouse this authority, but that are otherwise legally sufficient.

This bill was signed into law June 16, 2017 as Chapter No. 2017-121, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 1121
Child Welfare

Chapter 39, F.S., creates Florida's child welfare system to protect children and prevent abuse, abandonment, and neglect. The Department of Children and Families (DCF) Office of Child Welfare works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of children.

DCF's child welfare practice model (model) standardizes the approach to risk assessment and decision making used to determine a child's safety. The model seeks to achieve the goals of safety, permanency, and child and family well-being. The model emphasizes parent engagement and empowerment as well as the training and support of child welfare professionals to assess child safety and emphasizes a family-centered practice with the goal of keeping children in their homes whenever possible.

The bill makes multiple changes to the child welfare statutes to protect vulnerable children. The bill changes the process that DCF and the courts use to assess and order services for substance exposed newborns and children who enter households already under investigation or under the dependency court's jurisdiction to improve risk assessment. The bill expedites permanency for children by making changes to the procedures the dependency court and DCF use to identify and locate prospective parents to require inquiry and search much earlier in the dependency case. The bill facilitates more participation by a child in his or her case planning, streamlines processes for child protective investigators, and aligns statute with current practice including conditions for return and Family Functioning Assessments.

The bill also:

- Allows DCF to use confidential abuse registry information and investigation records for residential group home employment screening, to align with foster home screening requirements;
- Defines "child welfare trainer" and grants DCF rulemaking authority to create requirements for child welfare trainers;
- Permits hospitals and physician offices to release patient records to DCF or its contracted entities for investigations of abuse, neglect, or exploitation of children or vulnerable adults; and
- Repeals obsolete sections of law related to residential group care, including provisions dealing with equitable reimbursement for group care services and reimbursement methodology.

This bill was signed into law June 23, 2017 as Chapter No. 2017-151, Laws of Florida and the provisions take effect July 1, 2017.

HB 1239
School Bus Safety

The bill creates the Cameron Mayhew Act. Cameron Mayhew was a 16 year old boy in Ft. Myers who was struck and killed by a driver improperly passing a school bus on June 1, 2016.

It creates s. 316.027(4)(b), F.S., providing that notwithstanding s. 316.027(4)(a), F.S., in addition to any other civil, criminal, or administrative penalty, a court must require a person who fails to stop for a school bus causing or resulting in the serious bodily injury or death of another person to:

- Serve 120 hours of community service in a trauma center or hospital that regularly receives victims of vehicle accidents under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.
- Participate in a victim's impact panel session in a judicial circuity if such panel exists, or if such panel does not exist, attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway.

It creates s. 318.18(5)(d), F.S., establishing a fine of $1,500 for failing to stop for a school bus resulting in the serious bodily injury or death of another. The person may enter into a payment plan with the clerk of the court. In addition to this penalty, DHSMV must suspend the driver license of the person for at least one year.

Finally, it amends s. 322.27(3)(d)4., F.S., providing that passing a school bus where there is no resulting serious bodily injury or death will result in the imposition of four points on a driving record and, where there is a resulting serious bodily injury or death, will result in the imposition of six points on a driving record.

This bill was signed into law June 26, 2017 as Chapter No. 2017-189, Laws of Florida and the provisions take effect July 1, 2017.

SB 2506
Clerks of the Court

SB 2506 redirects revenue from certain fines, filing fees, and penalties from the General Revenue Fund to the clerks of the court to address their revenue shortfalls. The bill also modifies the duties of the Florida Clerks of the Court Operations Corporation with respect to the budget process, removes the Legislative Budget Commission's limitation to consider only Article V revenue projections when approving clerk budgets, and clarifies the use of Public Records Modernization Trust Fund revenues. SPB 2506 also codifies current implementing bill language allowing the clerks to receive reimbursement for juror costs.

- It amends s. 28.241, F.S., to redirect the $295 fee paid by a party who files a pleading for affirmative relief by cross-claim, counterclaim, counter petition, or third-party complaint from the General Revenue Fund to the clerk's fine and forfeiture fund.
- The bill amends s. 318.18, F.S., to redirect to the clerks' funds collected for certain civil violations. Persons who fail to pay required penalties pursuant to ss. 318.14 and s. 318.17, F.S., must pay an additional $16 civil penalty specified in s. 318.18 (8)(a), F.S. The bill redirects $6.50 of this $16 penalty from the

General Revenue Fund to the clerks' fine and forfeiture fund. In addition, drivers who commit civil traffic violations specified in s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S., must pay a $60 fine, of which $30 currently goes to the General Revenue Fund. This section redirects the $30 to the clerks' fine and forfeiture fund.

- It amends s. 318.21(2)(a) and (f), F.S., which distributes civil penalties for traffic infractions committed under chapter 318, F.S. Currently, 20.6 percent of the funds from the penalties goes to the General Revenue Fund and five-tenths percent (0.5%) goes to the clerk for administrative costs. The section redirects 10 percent of the funds from the General Revenue Fund to the clerks for deposit into the fine and forfeiture fund.
- It amends s. 775.083(1), F.S., which sets fine limitations for certain designated crimes and for noncriminal violations. The revenues from fines imposed by this subsection currently are available to the clerks, except for fines imposed when adjudication is withheld, in which case the funds are deposited into the General Revenue Fund. The bill removes the exception for adjudication withheld thereby directing all revenue from the fines in this subsection to the clerks.

Modification of Clerk Duties and Budget Procedures (Sections 2, 3 and 4)
Collectively, these three sections of the bill modify the duties of the Florida Clerks of the Court Operations Corporation with respect to the budget process, remove the Legislative Budget Commission's limitation to consider only Article V revenue projections in approving clerk budgets, and clarifies the use of the Public Records Modernization Trust Fund revenues. These changes are intended to give the corporation and commission more budgetary flexibility within the existing clerk budget procedures.

Section 2 amends s. 28.35, F.S., to add to the duties of the corporation. This section permits the corporation to recommend a budget in excess of the Article V Revenue Estimating Conference revenue estimate, with the caveat that the budget funds only its required court-related functions. Currently, the revenue in the proposed budget is limited to the Article V Revenue Estimating Conference estimate, typically established in July each year. In addition, this section directs the corporation to certify the amounts of additional revenues necessary to fund the clerks' budgets.

This section also moves paragraph (h) of s. 28.35, F.S., which describes the budget process, to s. 28.36, F.S., which relates directly to the clerks' budget procedures. The changes to this language are discussed below in Section 3 of the analysis.

Section 3 amends s. 28.36, F.S., relating to the clerks' budget procedures. First, this section allows the corporation to certify the amount necessary to fund the clerks' expenditures if the corporation determines that total anticipated expenditures will exceed the Article V REC projection. This language mirrors language added in the section 2 of the bill.

Second, this section of the bill includes current provisions moved from s. 28.35(h), F.S., which directs the corporation to submit its budget and the clerks' budgets to the Legislative Budget Commission by August 1 of each year. Before October 1 each year, the commission shall approve, disapprove, or amend and approve the corporation's budget and the combined clerks' budgets or the budget of any individual clerk. If the commission fails to approve or amend and

approve the budgets by October 1, the clerks continue to perform their court-related functions based on the budget from the previous county fiscal year.

Third, this section permits the commission to approve a budget that includes a deficit, meaning a budget in which the clerks' anticipated expenditures exceed the official Article V Revenue Estimating Conference revenue estimates and the corporation certifies that additional revenues are needed to perform court-related functions. The commission may approve a deficit budget if it determines that the budget is justified based on the budget information collected by the corporation under s. 28.35(2)(f), F.S. This includes information such as cost comparisons of similarly-situated counties, workload measure data, annual base budget information, and detailed explanations of expenditure increases that exceed 3% compared to the prior fiscal year.

Fourth, the section permits the corporation to request funds to address deficits. The corporation may request that the legislature approve an appropriation to the Clerks of the Court Trust Fund equal to the difference between the total clerk anticipated expenditures and total estimated revenues, not to exceed the budget approved by the commission. For example, at the time the clerks submit their budgets, the corporation certifies that the clerks' total expenditures are $400 million and the Article V REC estimated revenues are $380 million. The corporation may then certify that $20 million in additional revenues are needed to fund the clerks' expenditures. If the commission agrees and approves a $400 million budget, the corporation may request, during the next legislative session, an appropriation of $20 million to address the deficit.

In addition, if the official revenue estimate is reduced from the estimate available when the commission approved the budget, the clerks may request that, during the next legislative session, the legislature approve general revenue to address the difference between the two revenue projections. For example, the official Article V REC estimate in July used to set the clerks' budget is $400 million. A later Article V REC projection reduces that estimate to $385 million. The bill language allows the corporation to submit a budget request, during the next session, for the $15 million difference between the two estimates.

Section 4 amends s. 28.37, F.S., to direct court-related fines collected in this section to the clerks' fine and forfeiture fund in a similar manner to other remittances of fines, fees, and service charges in statutes. Currently, these revenues are deposited in the Public Records Modernization Trust Fund. The language also clarifies that these revenues are to be used for court-related functions like the clerks' other fines, fees, and service charges.

Codification of Juror Cost Reimbursement Language

Section 5 creates s. 40.29(5), F.S., to allow the clerk to receive reimbursement for juror costs. The 2016 Legislature appropriated $11.7 million in recurring general revenue funds in the General Appropriations Act reimbursing the clerks for juror costs and jury-related personnel costs. The 2016 Legislature also passed an implementing bill provision that set forth the process for clerk reimbursement of juror costs, which only lasts for one fiscal year. The language requires the clerks to send a quarterly estimate of juror costs to the Justice Administrative Commission. The Justice Administrative Commission determines the amount deemed necessary for payment to

the clerks during the upcoming quarter and submits a request for payment to the Chief Financial Officer.

This bill was signed into law June 16, 2017 as Chapter No. 2017-126, Laws of Florida and the bill took effect on that date.

Criminal Justice

CS/CS/HB 39
Autism Awareness Training for Law Enforcement Officers
Autism Spectrum Disorder (ASD) is a developmental disorder characterized by repetitive behaviors and difficulties with social interaction and verbal and nonverbal communication. The Centers for Disease Control and Prevention estimates that approximately one in 68 children has ASD. Individuals with ASD are estimated to have up to seven times more contacts with law enforcement agencies during their lifetimes than others.

Currently, individuals seeking law enforcement officer certification receive information relating to ASD in two sections of the *basic* recruit curriculum developed by the Criminal Justice Standards and Training Commission (CJSTC). Law enforcement officers must complete at least 40 hours of continued employment training (CET) every four years, however, the CJSTC does not currently offer specific *post-basic* training on ASD. The Florida Department of Law Enforcement (FDLE) is developing a CET course that will address the symptoms of ASD and how to respond to individuals who exhibit such symptoms and it will be available in Spring 2017.

The committee substitute creates s. 943.1727, F.S., requiring FDLE to establish a CET component relating to ASD. The training must include, but is not limited to, instruction on the recognition of the symptoms and characteristics of an individual on the autism disorder spectrum and appropriate responses to such individuals. Completion of the training may count toward a law enforcement officer's required 40 hours of CET under s. 943.135, F.S.

This bill was signed into law June 2, 2017 as Chapter No. 2017-43, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/CS/HB 107
Criminal Offenses Involving Tombs and Memorials
Currently, s. 872.02, F.S., provides that it is a third degree felony to willfully and knowingly damage or remove a tomb, monument, or other specified structure and a second degree felony to willfully and knowingly disturb the contents of a tomb. These offenses, however, do not apply to a:

- Person acting under the direction of the Division of Historical Resources of the Department of State;
- Cemetery regulated by the Department of Financial Services (DFS) under ch. 497, F.S.; or
- Person otherwise authorized by law to disturb a tomb, monument, or other specified structure.

On occasion, a cemetery may seek to remove or relocate the contents of a tomb for a legitimate purpose such as maintenance, expansion, or modernization. Currently, a cemetery regulated by DFS may remove or relocate the contents of a tomb only after receiving written authorization from a legally authorized representative of the decedent or a court. For cemeteries that are exempt from DFS regulation, there are no statutorily-specified requirements for the removal or relocation of the contents of a tomb.

Theoretically, an exempt cemetery that relocates the contents of a tomb could be in violation of the criminal offenses specified in s. 872.02, F.S.; however, in a recent case involving the relocation of a tomb by an exempt cemetery, which was not authorized by a representative of the decedent or the court, law enforcement authorities declined to prosecute due to a belief that the criminal offenses apply only to someone entering a cemetery without permission to commit a criminal act.

The bill amends s. 872.02, F.S., to:

- Clarify that the second degree felony offense of disturbing the contents of a tomb includes conduct such as excavation, exposure, movement, or removal of the contents of a tomb.
- Provide an exemption from the section's criminal offenses for an exempt cemetery that:
  - Conducts ordinary maintenance that does not relocate the tomb;
  - Obtains written authorization for the relocation from a legally authorized person or a court;
  - Relocates a tomb if the relocation is necessitated by damage from a natural disaster; or
  - Publishes a notice of the relocation of tomb that is more than 75 years old in a newspaper in the relevant county and does not receive an objection or, if an objection is received, is granted approval for the relocation by the local governing body.

This bill was signed into law May 31, 2017 as Chapter No. 2017-040, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/CS/SB 118
Criminal History Records

The bill prohibits any person or entity that disseminates arrest booking photographs to solicit or accept a fee to remove the photographs. Within ten calendar days of receiving a written request by the person in the photograph or his or her legal representative, the publisher of the photograph must remove the photograph without charge. A person seeking removal of his or her arrest booking photograph must mail, by registered mail, the written request along with sufficient proof of identification to the registered agent of the publisher.

If the publisher does not remove the photograph, the person whose arrest booking photograph was published or otherwise disseminated may bring a civil action to have the court issue an injunction. The court may also impose a civil penalty of $1,000 per day for noncompliance with the injunction. The court must also award reasonable attorney fees and court costs related to the issuance and enforcement of the injunction. Any money recovered for the civil penalties shall be deposited into the General Revenue Fund.

Refusal to remove an arrest booking photograph after a written request constitutes an unfair or deceptive trade practice and subjects the publisher to additional penalties under the FDUTPA.

The bill states that the provisions discussed above do not apply to a person or entity that publishes or disseminates information relating to arrest booking photographs, unless the person or entity solicits or accepts a fee to remove the information.

The bill enables a person to seek expunction of a criminal history record associated with a judgment of acquittal or a not guilty

verdict. Currently, the criminal history records of cases disposed of by a judgement of acquittal or in a trial are ineligible for expunction, regardless of the verdict in the trial.

The bill also allows a person to seek expunction of a criminal history record if he or she has not been adjudicated guilty for a misdemeanor offense or been adjudicated delinquent for committing a misdemeanor specified in s. 943.051(3)(b), F.S., in the past ten years. Currently, a person cannot seek the expunction of a criminal history record if he or she has ever been adjudicated of a misdemeanor or adjudicated delinquent for a misdemeanor specified in s. 943.051(3)(b), F.S.

This bill was signed into law June 16, 2017 as Chapter No. 2017-130, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 128
Self-Defense Immunity/Stand Your Ground/Burden of Proof

CS/SB 128 changes the burden of proof and who must bear it during pretrial hearings to evaluate a defendant's claim of immunity based on a justifiable use of force. Current law provides a defendant a right of immunity from criminal prosecution and civil action if he or she is justified in using force.

The procedures, however, to determine a person's immunity from prosecution are not set forth in current law. As a result, the majority of the Supreme Court in the 2015 opinion of *Bretherick v. State* set forth procedures to effectuate the grant of immunity which it believed was consistent with the intent of the Legislature. Under the majority opinion, a defendant claiming immunity must prove by a preponderance of the evidence the entitlement to the immunity at a pretrial hearing.

The dissenting opinion in *Bretherick*, however, interpreted the existing substantive right to assert immunity and concluded that the state has the burden of proof. Consistent with the *Bretherick* dissent, the bill places the burden of proof on the state at pretrial immunity hearings. Additionally, the bill provides that the state must prove its burden by the beyond a reasonable doubt standard.

This bill shifts the burden of proof to the state in pretrial hearings to determine whether a defendant is immune from criminal prosecution based on claimed justifiable use of force. Additionally, the bill requires the state to prove its burden beyond a reasonable doubt. The burden of proof of beyond a reasonable doubt is the same burden of proof imposed on the state in the prosecution of criminal cases, including cases in which self-defense is raised at trial as an affirmative defense.

Under the bill, a defendant is entitled to an immunity hearing in which the state bears the burden of proof by filing a motion that clearly states the reasons the defendant is immune and alleges the facts on which the immunity claim is based. However, if the court does not grant the motion for immunity, the motion and its contents are inadmissible at trial.

This bill was signed into law June 9, 2017 as Chapter No. 2017-072, Laws of Florida and the provisions took effect on that date.

SB 280
Sentencing for Capital Felonies

SB 280 amends the death penalty sentencing statutes to require jury unanimity in death penalty sentencing procedures.

In October 2016, the Florida Supreme Court determined in Hurst v. State that in order for the death penalty to be imposed the

sentencing phase jury (if the jury was not waived) must vote unanimously for a death sentence. The Hurst v. State ruling was applied to the 2016 death penalty sentencing statutes challenged in Perry v. State.

Amending ss. 921.141 and 921.142, F.S., to require unanimity in the jury vote for death will satisfy the constitutional requirements announced by the court in the Hurst and Perry opinions.

This bill was signed into law March 13, 2017 as Chapter 2017-001, Laws of Florida and the provisions took effect on that date.

CS/SB 312
Eyewitness Identification

SB 312 creates procedures for state, county, and municipal law enforcement agencies to follow when they have a "lineup" for an eyewitness to identify a suspect. The procedures apply whenever a law enforcement agency is investigating a crime and showing potential suspects to an eyewitness for identification. These procedures require the use of a lineup administrator who is unaware of which person in a live lineup is the suspect. For photo lineups, the procedures prohibit the photo administrator from knowing which photograph is presented to the eyewitness.

The bill further provides that the Criminal Justice Standards and Training Commission of the Florida Department of Law Enforcement are responsible for educating police departments on of implementing the new guidelines.

The bill codifies many of the standards for conducting live and photo lineups which were developed in 2011 by the Florida Department of Law Enforcement and associations representing sheriffs, police chiefs, and prosecuting attorneys.

Lineup Procedures

The new procedures, which are codified in s. 92.70, F.S., cover live lineups, where the "suspects" are shown in person to the eyewitness, and photo lineups, where pictures of the "suspects" are shown to the eyewitness.

Under the bill, any live lineup in a law enforcement investigation must be conducted by an "independent administrator," someone "who is not participating in the investigation … and is unaware of which person in the lineup is the suspect." If an independent administrator cannot be found, no live lineup may be conducted.

A photo lineup should also be conducted with an independent administrator, but if one cannot be found, the agency can use any technique that "achieves neutral administration," as long as the administrator of the lineup has no idea which pictures the eyewitness is viewing at which time. Specific examples include using an "automated computer program" to show the pictures to the eyewitness, and giving the photos to the eyewitness from a shuffled and randomly numbered stack of folders.

Before the lineup is given, the bill also requires the agency to instruct the eyewitness:

- The perpetrator might or might not be in the lineup;
- The lineup administrator does not know the suspect's identity (this instruction need not be given if an alternative method is used in lieu of using an independent administrator);
- The eyewitness should not feel compelled to make an identification;
- It is as important to exclude innocent persons as it is to identify the perpetrator; and

- The investigation will continue with or without an identification.

Remedies for Improper Lineups
The bill also specifies consequences in subsequent judicial proceedings of the failure of a law enforcement agency to follow the required procedures. Notably, this section is not included in the FDLE standards on which the bill is modeled. The failure to properly administer the lineup may be considered by the judge on a motion to suppress the eyewitness identification. The failure to follow procedures is also admissible in support of claims of eyewitness misidentification.

Finally, the jury must be instructed that it may consider evidence of compliance or noncompliance with the procedures to determine the reliability of eyewitness identifications when compliance with the procedures is at issue.

Criminal Justice Standards and Training Commission
In addition to the procedures for lineups, the bill directs the Criminal Justice Standards and Training Commission to consult with the Department of Law Enforcement to create educational materials and provide training programs on conducting lineups.

This bill was signed into law June 14, 2017 as Chapter No. 2017-091, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/HB 343
Payment Card Offenses
The bill expands the current definitions of "reencoder" and "scanning device" to include the "computer chip" or "other storage mechanism" of a payment card. It further amends the definition of a "scanning device" so that it includes information encoded "from another device that directly reads the information from the payment card." It incorporates the amended language into the current third degree felony prohibitions against the fraudulent use of a reencoder and scanning device.

The bill creates a definition for a skimming device. Under the bill, "skimming device'" means a self-contained device that:

- Is designed to read and store in the device's internal memory information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card or from another device that directly reads the information from a payment card; and
- Is incapable of processing payment card information for the purpose of obtaining, purchasing, or receiving goods, services, money, or anything else of value from a merchant.

The bill also creates a new third degree felony offense that prohibits a person from knowingly possessing, selling, or delivering a skimming device. The bill exempts specified officials who may come into lawful possession of such a device while acting in the scope of their official duties. These individuals are:

- An employee, officer, or agent of:
  - A law enforcement agency or criminal prosecuting authority for the state or federal government;
  - The state courts system as defined in s. 25.382 or the federal court system; or
  - An executive branch agency in this state.
- A financial or retail security investigator employed by a merchant.

This bill was signed into law June 9, 2017 as Chapter No. 2017-081, Laws of Florida

and the provisions take effect October 1, 2017.

CS/CS/HB 361
Bail Bonds

Bail is a common monetary condition of pretrial release, governed by ch. 903, F.S. Bail requires an arrestee to pay a set sum of money to the court to be released from jail. As an alternative to posting the entire bail amount, a defendant may use a criminal surety bail bond executed by a bail bond agent. A bail bond agent is generally enlisted by paying a nonrefundable fee to the bond agent equal to 10 percent of the bond amount set by the court. If the defendant does not appear in court, the bail bond agent is responsible for paying the entire amount of the bond. This contract acts as an insurance policy against the risk that the defendant will not abide by the conditions of his or her release.

The bill makes a number of changes to ch. 903, F.S., including that it:

- Narrows the general responsibilities and liabilities of a bail bond agent;
- Removes any breach of the bond as a basis on which a forfeiture can occur, and narrows it to only a failure to appear before the court in a proceeding for which the surety bond was posted;
- Revises the reasons for which a forfeiture can be discharged;
- Expands the circumstances in which the clerk of court may automatically discharge a bond to include circumstances where the defendant is arrested and returned to the county of the jurisdiction of the court or has posted a new bond for the case at issue before judgment;
- Adds a circumstance in which a bond is considered to be satisfied for the purposes of canceling the bond to include cases in which a period of 36 months has passed since the original bond was posted;
- Limits the requirements for cancelation of a bond to exclude cases in which a bond has been declared forfeited before the 36-month expiration; and
- Adds placement in any court-ordered program, including a residential mental health facility, to the list of circumstances in which an original bond is not considered to guarantee the defendant's appearance.

This bill was signed into law June 26, 2017 as Chapter No. 2017-168, Laws of Florida and the provisions take effect July 1, 2017.

CS/HB 457
Terrorism and Terrorist Activities

In Florida, there are a limited number of terrorism-related statutes. Chapter 943, F.S., indicates that the Florida Department of Law Enforcement (FDLE) serves as the coordinating agency in statewide counterterrorism efforts and responses to terrorist events. Section 775.30, F.S., defines the term "terrorism," and is modeled after the language used in federal law regarding domestic and international terrorism. Section 775.31, F.S., utilizes this definition and provides for the enhancement or reclassification, to the next highest level, of a misdemeanor or felony that can be attributed to an act of terrorism, while ch. 782, F.S., lists an "act of terrorism" as a predicate for establishing that a homicide crime, such as felony murder, has been committed.

The bill creates new criminal offenses for:

- An act of terrorism or terrorist activity, a violation of which is a first degree felony, or if it results in death or serious bodily injury, a life felony.

- The use of "military-type training" by a designated foreign terrorist organization (FTO) to harm another person or destroy or disrupt critical infrastructure. A violation is a second degree felony or, if there is death or serious bodily injury, a first degree felony.
- Individuals who provide material support or resources for terrorism or to terrorist organizations. A violation is a first degree felony or, if there is death or serious bodily injury, a life felony.
- The act of membership in a designated FTO with the intent to further the organization's illegal goals, a violation of which is a second degree felony.
- Agroterrorism, a violation of which is a second degree felony, or if it results in death or serious bodily injury, a life felony.

This bill was signed into law May 25, 2017 as Chapter No. 2017-37, Laws of Florida and the provisions take effect October 1, 2017.

CS/HB 477
Controlled Substances

Chapter 893, F.S., entitled the, "Florida Comprehensive Drug Abuse Prevention and Control Act," ("Act"), regulates the manufacture, distribution, preparation, and dispensing of controlled substances. The Act classifies such substances into five schedules, based on the substance's "potential for abuse" and whether the substance has a currently accepted medical use. The Act also specifies criminal penalties for the unlawful possession, sale, purchase, manufacture, delivery, and trafficking of the scheduled substances.

The bill amends the Act to enhance existing and create new penalties for unlawful acts relating to opioids, synthetic cannabinoids, and other controlled substances. Specifically, the bill:

- Adds to Schedule I certain fentanyl derivatives and five substances that were originally developed for legitimate research, but that have emerged in the illegal drug market.
- Creates a first degree felony offense for the possession of 10 grams or more of certain Schedule II substances, including fentanyl and other synthetic opioid analgesics.
- Adds codeine and certain phenethylamines and phencyclidines to existing law punishing trafficking in such classes of controlled substances.
- Creates trafficking offenses for fentanyl, synthetic cannabinoids, and n-benzyl phenethylamines, which are punishable by mandatory minimum terms of imprisonment and fines.

The bill also amends the murder statute, s. 782.04, F.S., to add fentanyl and other related synthetic opioid analgesics to the list of controlled substances for which distribution that is proven to be the proximate cause of a user's death is punishable as capital murder.

Finally, the bill authorizes laboratory personnel for the statewide criminal analysis laboratory system to possess and administer emergency opioid antagonists used to treat opioid overdoses and creates s. 893.015, F.S., to provide that a reference in any section of the Florida Statutes to chapter 893, F.S., or to any section or portion of a section of chapter 893, F.S., includes all subsequent amendments.

This bill was signed into law June 14, 2017 as Chapter No. 2017-107, Laws of Florida and the provisions take effect October 1, 2017.

CS/HB 505
Florida Comprehensive Drug Abuse Prevention and Control Act

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act ("the Act"). The Act includes provisions identifying the substances that are controlled in this State; specifying criminal penalties for unlawful conduct relating to the possession, sale, purchase, manufacture, and delivery of controlled substances; authorizing the Attorney General to identify new controlled substances by rule in order to keep pace with designer drugs created by criminals; and providing regulations for the lawful distribution, labeling, and packaging of controlled substances.

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules I through V. 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.

Currently, ioflupane I 123 is a schedule II controlled substance in Florida because of its derivation from cocaine via ecgonine, both of which are schedule II substances. Prior to September 2015, ioflupane I 123 was also a schedule II controlled substance under the federal Controlled Substances Act. However, effective September 11, 2015, the U.S. Drug Enforcement Administration removed ioflupane I 123 from that schedule because the drug is not subject to abuse and currently has a medically acceptable use in DaTscan. DaTscan is a drug product used to visualize striatal dopamine transporters in the brains of adult patients with suspected Parkinsonian syndromes.

The bill amends s. 893.03, F.S., to remove ioflupane I 123 from the list of substances that are classified under schedule II in Florida's controlled substance schedules.

Additionally, in order to ensure that all of Florida's statutes are automatically updated whenever the Act is amended, the bill creates s. 893.015, F.S., to specify that cross-references throughout the Florida Statutes to the Act, or any portion thereof, include all subsequent amendments to the Act.

This bill was signed into law June 14, 2017 as Chapter No. 2017-110, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 699
Internet Identifiers

Florida law currently requires sexual offenders and sexual predators to register their names, addresses, and other personal information, such as electronic mail addresses and Internet identifiers with the Florida Department of Law Enforcement ("FDLE"), through the local sheriff's office.

The 2016 Legislature passed HB 1333/SB 1662, which included an expanded definition of Internet identifiers in s. 775.21, F.S., and also required the collection of Internet identifiers associated with website or URL or software applications. The amended definition of "Internet identifier" had an effective date of October 1, 2016. However, before the amended definition took effect, a group of plaintiffs in Florida filed a lawsuit against the Commissioner of FDLE in federal court. The court determined:

- The 2016 language regarding Internet identifiers was overbroad and vague and required an individual to either forego

protected speech or run the risk of criminal prosecution.
- The injunction did not preclude enforcement of the prior definition of Internet identifier.

The bill amends s. 775.21, F.S., revising the definition of "Internet identifier" and creating a definition for "social Internet communication." The bill requires sexual predators and sexual offenders to register each Internet identifier's corresponding website homepage or application software name with FDLE. The bill also requires sexual predators and sexual offenders to update any changes to the Internet identifier's corresponding website homepage or application software name within 48 hours of using the Internet identifier.

This bill was signed into law June 26, 2017 as Chapter No. 2017-170, Laws of Florida and the provisions took effect on that date.

CS/SB 852
Human Trafficking

CS/SB 852 amends multiple statutes to include the term "commercial sexual exploitation." The term emphasizes the fact that sex is exchanged for money, goods, or services and better defines the victims served by the Department of Children and Families (DCF), sheriff's offices conducting child abuse investigations, and community-based care agencies.

The bill:

- Defines the term "commercial sexual exploitation" to mean the use of any person under the age of 18 for sexual purposes in exchange for, or the promise of, money, goods, or services;
- Changes the date of the annual report by the DCF on commercial sex trafficking of minors from December 1st to October 1st;
- Requires the DCF to maintain data specifying certain services available for verified victims of commercial sexual exploitation;
- Adds the crime of "human trafficking involving commercial sexual activity" to the list of crimes where the defendant's confession is admissible during specified situations in trial;
- Amends various sections of statute to remove references to the outdated definition of "sexually exploited child" and replace it with references to "commercial sexual exploitation;"
- Clarifies procedures for conducting a multidisciplinary staffing for alleged or verified victims of commercial sexual exploitation who are not eligible for relief or benefits under the federal Trafficking Victims Protection Act;
- Requires that the multidisciplinary staffing develop a service plan for any child victims suspected or verified as victims of commercial sexual exploitation and that the plan identify the victim's needs and local services;
- Specifies that services provided in the service plan be in the least restrictive environment and identifies types of services that may be included in the service plan; and
- Requires the DCF or the sheriff's office to follow up with the verified victims of commercial sexual exploitation within six months.

This bill was signed into law May 23, 2017 as Chapter No. 2017-023, Laws of Florida and the provisions take effect October 1, 2017.

CS/HB 879
Unlawful Acquisition of Utility Services

The bill provides that it is prima facie evidence of a person's intent to violate s. 812.14(8), F.S., if a person "should have known" of a presence of the controlled substance and materials for manufacturing the controlled substance in the dwelling or structure. The additional language potentially lowers the standard of proof in determining a person's intent to violate the statute.

Damages Recovered in a Civil Action

The bill establishes mechanisms for determining a defendant's liability for civil damages or criminal restitution for the theft of electricity. The bill first identifies criteria and elements that must be included when determining a defendant's liability and requires the amount of civil damages or a restitution order to include all of the following:

- The costs to repair or replace damaged property owned by a utility, including reasonable labor costs;
- Reasonable costs for the use of specialized equipment to investigate or calculate the amount of unlawfully obtained electricity services, including reasonable labor costs; and
- The amount of unlawfully obtained electricity services.

It also establishes criteria for the methodology used to estimate losses in order to make a prima facie showing of the amount of unlawfully obtained electricity services. The bill provides this prima facie showing may be based on any methodology reasonably relied upon by a utility to estimate such loss. The methodology may consider the estimated start date of the theft and the estimated daily or hourly use of electricity. The bill provides that once this prima facie showing has been made, the burden shifts to the defendant to demonstrate that the loss is other than that claimed by the utility.

The bill provides that the estimated start date of a theft may be based upon one or more of the following:

- The date of an overload notification from a transformer, or the tripping of a transformer, which the utility reasonably believes was overloaded as a result of the theft of electricity.
- The date the utility verified a substantive difference between the amount of electricity used at a property and the amount billed to the account holder.
- The date the utility or a law enforcement officer located a tap or other device bypassing a meter.
- The date the utility or a law enforcement officer observed or verified meter tampering.
- The maturity of a cannabis crop found in a dwelling or structure using unlawfully obtained electricity services the utility or a law enforcement officer reasonably believes to have been grown in the dwelling or structure.
- The date the utility or a law enforcement agency received a report of suspicious activity potentially indicating the presence of the unlawful cultivation of cannabis in a dwelling or structure or the date a law enforcement officer or an employee or contractor of a utility observed such suspicious activity.
- The date when a utility observed a significant change in metered energy usage.
- The date when an account with the utility was opened for a property that receives both metered and unlawfully obtained electricity services.

- Any other fact or data reasonably relied upon by the utility to estimate the start date of a theft of electricity.

These techniques may serve as an accurate way to pinpoint a beginning date for the violation and allow prosecutors and judges to have more certainty when assessing potential restitution.

The bill provides that the estimated average daily or hourly use of the electricity may be based upon any, or a combination, of the following:

- The load imposed by the fixtures, appliances, or equipment powered by unlawfully obtained electricity services.
- Recordings by the utility of the amount of electricity used by a property or the difference between the amount used and the amount billed.
- A comparison of the amount of electricity historically used by the property and the amount billed while the property was using unlawfully obtained electricity.
- A reasonable analysis of a meter that was altered or tampered with to prevent the creation of an accurate record of the amount of electricity obtained.
- Any other fact or data reasonably relied upon by utilities to estimate the amount of unlawfully obtained electricity services.

It provides that a court order requiring a defendant to pay restitution for damages to the property of a utility or for the theft of electricity need only be based on a conviction for a criminal offense that is causally connected to the damages or losses and bears a significant relationship to those damages or losses. The bill specifically details that a conviction for a violation is not a prerequisite for a restitution order. Under this bill, criminal offenses that bear a significant relationship and are causally connected to a violation can result in a defendant being ordered to pay restitution for damages.

The bill adds that the amount of restitution that a defendant may be ordered to pay is not limited by the monetary threshold of any criminal charge on which the restitution order is based. This provision would allow the restitution for damages to go beyond the monetary threshold ranges that are associated with the criminal charge of theft of utilities.

It creates a presumption, through the use of the phrase "prima facie showing," favoring the calculations of losses by the utilities if the utility relies on a methodology detailed above to estimate their losses. Once the amount of the loss the utility incurred is established through the methodology, the burden shifts to the defendant to demonstrate that the loss is something other than the amount calculated by the utility.

This bill was signed into law June 23, 2017 as Chapter No. 2017-145, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/SB 884
Shark Fins

This bill defines the term:

- "Land" to mean "the physical act of bringing a harvested shark organism, or any part thereof, ashore;"
- "Shark" to mean "any of the species from the orders Carcharhiniformes, Lamniformes, Hexanchiformes, Orectolobiformes, Pristiophoriformes, Squaliformes, Squatiniformes, or any part thereof."
- "Shark fin" to mean "the detached fin of a shark, including the caudal or tail fin, or any portion thereof."

The bill codifies the prohibition against shark finning established by the Florida Fish and Wildlife Conservation Commission (FWC) by rule. The bill prohibits the possession of a shark fin in or on the waters of this state that has been separated from a shark or the landing of a separated shark fin in this state, unless:

- Authorized by commission rule; or
- Such fin has been lawfully obtained on land, prepared by taxidermy, and is possessed for the purposes of display.

The bill provides that anyone who violates these provisions is subject to the following penalties:

For a first violation, a misdemeanor of the second degree, punishable by up to 60 days in jail and a $4,500 fine. In addition, all of the person's saltwater license privileges provided for in chapter 379, Florida Statutes, are suspended for 180 days.

For a second violation, a misdemeanor of the second degree, punishable by up to 60 days in jail and a $9,500 fine. In addition, all of the person's saltwater license privileges provided for in chapter 379, Florida Statutes, are suspended for 365 days.

For a third and any subsequent violation, a misdemeanor of the first degree, punishable by up to 60 days in jail and a $9,500 fine. In addition, all of the person's saltwater license privileges provided for in chapter 379, Florida Statutes, are suspended permanently.

The bill clarifies that while a person's license privileges are suspended or revoked due to a violation of these provisions, the person may not participate in the taking or harvesting, or attempt the taking or harvesting, of saltwater products from any vessel within the waters of Florida; be aboard any vessel on which a commercial quantity of saltwater products is possessed; or engage in any activity requiring a license, permit, or certificate issued pursuant to chapter 379, Florida Statutes.

This bill was signed into law May 23, 2017 as Chapter No. 2017-024, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/SB 1052
Justifiable Use of Force/Stand Your Ground II/Clarification

This bill addresses an inconsistency in the self-defense laws which was caused by 2014 legislation amending s. 776.013(3), F.S., a statute governing the right to self-defense in a person's dwelling, residence, or vehicle. The bill also minimizes the circumstances in which a person might be required flee from a dwelling, residence, or vehicle before using deadly force in self-defense.

The relevant part of s. 776.013(3), F.S., which is inconsistent with other statutes states, "A person who is *attacked* in his or her dwelling, residence, or vehicle has no duty to retreat" and has the right to use or threaten to use defensive force. As a result of the inconsistency, the statute implies that a person's rights to self-defense do not begin until the person is physically attacked. However, another subsection of the same statute and other statutes governing the right to use defensive force uniformly state—the right to use force or threaten to use force begins when a person reasonably believes that using or threatening to use force is necessary to prevent or terminate another person's use of unlawful force.

The bill revises s. 776.013(3), F.S., to delete the word "attacked," which makes the subsection more consistent with the other statutory provisions governing the right to use defensive force.

Existing s. 776.013(3), F.S., also includes cross-references to other statutes that restrict a defender from using deadly force outside of a dwelling, residence, or vehicle. The restrictions state that "A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be."

As a result of the incorporated restrictions, a person in a dwelling, residence, or vehicle who is engaged in criminal activity might have a duty to retreat within or flee from the dwelling, residence, or vehicle before he or she may lawfully use deadly force in self-defense. More specifically, this duty to retreat is described in the common law for circumstances outside a home as a duty to use "every reasonable means within his or her power to avoid the danger, including retreat."

The bill provides that the criminal activity that might trigger a defender's duty to flee from a dwelling, residence, or vehicle does not include nonviolent misdemeanors.

This bill was signed into law June 9, 2017 as Chapter No. 2017-077, Laws of Florida and the provisions take effect July 1, 2017.

HB 1385
Domestic Violence

Florida law classifies certain offenses as domestic violence (DV) crimes when one member of a family or household perpetrates the crime on another member of the family or household. Certain DV offenses are subject to mandatory probation terms and requirements, including the requirement to attend a batterer's intervention program (BIP). The BIP is designed to address tactics of power and control by one person over another and require the offender to take responsibility for his or her actions.

Penalties for DV offenses may be increased if it is proven that the offender intentionally caused bodily harm to another, or committed the offense in the presence of a related child. Furthermore, in certain circumstances when an offender is charged with a felony offense the court is prohibited from withholding the adjudication of the defendant, unless a statutory exception applies.

The bill amends s. 741.281, F.S., to require a court to order certain defendants to attend *and complete* BIP. A failure to complete BIP would result in a violation of probation, subjecting the offender to further criminal penalty. Additionally, the bill increases mandatory jail time for offenders who have been adjudicated guilty and who intentionally caused bodily harm to another, and further increases the penalty if, in addition to the previous two factors, the violence was committed in the presence of a related child under 16 years of age. Specifically:

- An offender adjudicated guilty, who intentionally committed bodily harm to another person, must serve 10 days in jail for a first offense; 15 days in jail for a second offense; and 20 days in jail for a third or subsequent offense.
- An offender described above whose violence was committed in the presence of a related child under age 16, must serve 15 days in jail for a first offense; 20 days in jail for a second offense; and 30 days in jail for a third or subsequent offense.

Additionally, the bill amends s. 775.08435, F.S., to prohibit a court from withholding the adjudication of a defendant when he or

she committed a third degree felony offense of domestic violence. The court would be prohibited from doing so, unless one of the following exceptions applies:

- The state attorney makes a written request for adjudication to be withheld; or
- The court makes written findings that the withholding of adjudication is reasonably justified based on the circumstances or statutory mitigating factors.

The bill amends s. 741.30, F.S., to include a provision prohibiting a court from awarding attorney's fees in any proceeding for an injunction for protection against domestic violence. This prohibition addresses the current conflict between Florida's District Courts of Appeal regarding the issue.

This bill was signed into law June 23, 2017 as Chapter No. 2017-156, Laws of Florida and the provisions take effect October 1, 2017.

CS/CS/HB 7059
Juvenile Justice

Statistics from the Department of Juvenile Justice (DJJ), based on Fiscal Years (FYs) 2007-14, indicate that on average for children arrested or referred to DJJ in any given fiscal year: (a) fifty-five percent have been previously referred to DJJ for a felony; (b) almost 29 percent have been previously referred to DJJ for a firearm/weapon charge; and (c) fifteen percent have been previously referred to DJJ at least four times.

Law enforcement officials have recently expressed concerns regarding such repeat juvenile offenders because these juveniles are committing new offenses while awaiting:

- Disposition for a delinquency case. Under current law, a child who is charged with a delinquent act is not required to be placed in detention care pending disposition even if the child has numerous prior arrests or adjudications or other pending delinquency cases.
- Placement in a non-secure residential program. Under current law, only juveniles who are committed to a high- or maximum-risk residential program must be securely detained until placement in the program.

Additionally, concerns have been expressed regarding statute's 21-day maximum for pre-adjudicatory detention care and 15-day maximum for pre-disposition detention care. Under current law, these periods are not tolled when it is alleged that a juvenile has violated non-secure detention care; thus, if a court does not find a violation before expiration of the period, the court cannot continue the detention care based on the violation.

To address these issues, the bill:

- Establishes new criteria to identify a narrow class of repeat juvenile offenders at risk of further recidivism who must be placed in detention care until disposition of their cases. Under the bill, these juveniles, who are classified as "Prolific Juvenile Offenders", must have their adjudicatory hearing held within 45 days after being taken into custody and be held in detention care until disposition.
- Requires secure detention for a juvenile awaiting placement in a non-secure residential program.
- Provides that non-secure detention care periods are tolled on the date that it is alleged that a juvenile has violated detention care. Further, the bill specifies that days served by the child in any type

of detention care before a violation are not counted toward the 21-day and 15-day maximum detention care periods, so that detention care may be continued by the court after a violation.

This bill was signed into law June 23, 2017 as Chapter No. 2017-164, Laws of Florida and the provisions take effect October 1, 2017.

HB 7091
Probation and Community Control

Probation is a form of community supervision that requires an offender to have specified contacts with a probation officer in addition to completing other imposed terms and conditions. In Florida, the Department of Corrections is responsible for supervising probationers.

Chapter 948, F.S., relates to probation and community control and defines the various levels of supervision to which a court may sentence an offender. The bill revises various sections of ch. 948, F.S., to delete obsolete provisions, use terminology consistently, and reflect the Department of Corrections' current practices relating to probation and community control.

The bill also amends s. 948.06, F.S., to address the recent court decision in *Mobley v. State*. In *Mobley*, the Fourth District Court of Appeal held that an offender's probationary term was not tolled when the trial court issued an arrest warrant for technical violations of probation. The court held that the probation statute's reference to s. 901.02, F.S., which authorizes a judge to issue an arrest warrant for the commission of a crime, required the trial court to issue a warrant which alleged the probationer committed a new crime in order for probation to be tolled.

As a result of *Mobley*, an offender's probationary term is not currently tolled if the arrest warrant alleges only technical violations, instead of a new crime. This may result in the offender's probationary term expiring before the court has an opportunity to sentence the offender for the technical violations.

The bill amends s. 948.06, F.S., to remove the requirement for the warrant to be issued pursuant to s. 901.02, F.S., thereby removing the requirement that the warrant be issued for a new crime. As a result, any warrant for a violation of probation, including a technical violation, would result in the offender's probationary term being tolled.

This bill was signed into law June 14, 2017 as Chapter No. 2017-115, Laws of Florida and the provisions take effect July 1, 2017.

Taxation & Economic Development

Taxation & Economic Development

HB 1A
Economic Programs
The bill makes the following changes and additions to the Department of Economic Opportunity (DEO), the Florida Tourism Industry Marketing Corporation (Visit Florida or VF) and Enterprise Florida, Inc. (EFI):

- Eliminates the Displaced Homemaker Program.
- Terminates the Displaced Homemaker Trust Fund.
- Reduces the surcharge on marriage license applications by $7.50 from $59.50 to $52.00.
- Redirects a portion of the fees on dissolution of marriage filings from the Displaced Homemaker Trust Fund to the General Revenue Fund.
- Institutes comprehensive transparency and accountability measures on Visit Florida and EFI.
- Creates the Targeted Marketing Assistance Program.
- Creates the Florida Job Growth Grant Fund.
- Directs the Florida Department of Revenue to audit the Professional Golf Hall of Fame.
- Requires the Professional Golf Hall of Fame to provide the state with certain information.
- Redirects $75 million of revenue from the State Economic Enhancement and Development Trust Fund to the General Revenue Fund.
- Expands the Florida Job Growth Grant Fund program to include infrastructure funding to accelerate the rehabilitation of the Herbert Hoover Dike. Authorizes the Department of Economic Opportunity or the South Florida Water Management District to enter into necessary agreements with the U.S. Army Corps of Engineers.

The reduction of the surcharge on marriage license applications under s. 741.01, F.S., from $59.50 to $52.00, is anticipated to have a negative recurring impact to state revenue of approximately $1.2 million. The repeal of the Displaced Homemaker Program reflects an elimination of a $2 million recurring appropriation in the General Appropriations Act for FY 2017-18.

In addition, the bill provides the following appropriations:

- $76 million to DEO to enter into a contract with VF;
- $16 million to DEO to enter into a contract with EFI; and
- $85 million ($60 million to DEO and $25 million to the Department of Transportation) for the Florida Job Growth Grant Fund.
- $50 million nonrecurring appropriation from General Revenue for the Herbert Hoover Dike.

This bill was signed into law June 26, 2017 as Chapter No. 2017-233, Laws of Florida and the provisions take effect July 1, 2017.

CS/SB 90
Renewable Energy Source Devices
CS/SB 90 provides property tax relief for owners of renewable energy source devices whether these devices are installed on residential or nonresidential real property or are taxed as tangible personal property.

The bill:

- Expands the definition of “renewable energy source device” to include various new devices, but excludes specified

equipment that is involved in distribution and transmission of electricity;
- Expands the prohibition against considering the value of a renewable energy source device in determining the assessed value of real property used for residential purposes to all real property;
- Applies the prohibition to devices without regard to the date of installation, as opposed to the current prohibition, which only applies to devices that were installed (on residential property) on or after January 1, 2013; and
- Exempts renewable energy source devices from the tangible personal property tax.

These provisions expire December 31, 2037.

This bill was signed into law June 16, 2017 as Chapter No. 2017-118, Laws of Florida and the provisions take effect July 1, 2017.

CS/CS/HB 455
Tax Exemptions for First Responders and Surviving Spouses

In November of 2016, Florida voters approved an amendment to the state constitution that allows the legislature to provide ad valorem tax relief to certain totally and permanently disabled first responders. This bill implements that amendment by providing a 100 percent homestead tax exemption to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty. The bill also extends a 100 percent exemption to the surviving spouse of a totally and permanently disabled first responder, provided certain conditions are met.

The bill defines “first responder” by cross reference as a law enforcement officer, correctional officer, firefighter, emergency medical technician or paramedic, who is employed full-time, part-time or serves on a volunteer basis. The bill defines “total and permanent disability” as an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life.

The bill provides that a first responder whose disability renders him or her legally blind, a quadriplegic, paraplegic, hemiplegic or otherwise confined to a wheelchair for mobility purposes may qualify for exemption by providing certification of such from two professionally unrelated Florida licensed physicians and a certification from their former employer that the injury which gave rise to disability occurred in the line of duty. The employer certification must be accompanied by any existing supporting documentation of the injury or incident that gave rise to the first responder’s total and permanent disability.

All other applicants may qualify by providing certification of total and permanent disability from a Florida-licensed physician and an award letter from the Social Security Administration, based on the applicant’s total and permanent disability. These documents must be accompanied by the employer certification and supporting documents described above.

The deadline to apply for exemption from taxes levied in 2017 is August 1st, 2017. However, property appraisers may accept untimely filed applications if certain conditions are met. The deadline to apply for exemption from taxes levied in 2018 and beyond is March 1 of each year.

The bill applies retroactively to January 1, 2017 and takes effect upon becoming law.

This bill was signed into law June 14, 2017 as Chapter No. 2017-105, Laws of Florida and the provisions took effect on that date.

HB 7077
Gulf Coast Economic Corridor

The Gulf Coast Economic Corridor Act (act) was passed by the 2013 Legislature to create Triumph Gulf Coast, Inc., a nonprofit corporation administratively housed within the Department of Economic Opportunity (department). The act directed the corporation to create and administer a trust or "recovery fund" for the benefit of the disproportionately affected counties. The principal of the fund was to be derived from seventy-five percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill.

The bill substantially amends the act to require seventy-five percent of all payments Florida receives pursuant to the settlement agreement between the five gulf states and the BP entities be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund (created in HB 7079) within the department. Triumph Gulf Coast, Inc., is required to establish a trust account at a federally insured financial institution to hold funds released to it from the Triumph Gulf Coast Trust Fund and make deposits and payments. Interest earned in the corporation's trust account must be deposited monthly into the Triumph Gulf Coast Trust Fund. Triumph Gulf Coast, Inc., is authorized to invest funds in the Local Government Surplus Funds Trust Fund and is required to deposit earnings from such investments into the Triumph Gulf Coast Trust Fund on a monthly basis. The bill repeals existing statutory provisions relating to the recovery fund, the investment of funds, money managers, and investment earnings.

The bill revises provisions in the act governing the corporation's board of directors and its operations. The bill provides for the Speaker of the House of Representatives and the President of the Senate to each appoint one additional private sector member from one of the four least populous disproportionately affected counties so that two such counties are represented on the board. The current requirement that a member of the board refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation is extended from two years to six years after termination of appointment. The same change is applied to the corporation's staff. Additional changes address administrative expenses and the corporation's staff.

The bill revises the type of awards the corporation is authorized to make and the criteria used to prioritize projects and programs. The bill provides that an award from the corporation may supplement, but may not supplant existing funding sources. The corporation is required to ensure that each of the eight disproportionately affected counties directly benefit from awards and to ensure that at least 6 percent of funds appropriated for awards from the Triumph Gulf Coast Trust Fund are expended in each county over the lifetime of the settlement agreement.

The bill repeals s. 377.43, F.S., relating to the disbursement of funds received for damages caused by the Deepwater Horizon oil spill, which was passed during the 2011 Legislative Session.

Effective July 1, 2017, the bill appropriates $299,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation to fund awards for programs

and projects authorized in the act. The bill also appropriates $1,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation to pay administrative costs. The bill authorizes appropriated funds to be expended through the 2018-2019 fiscal year.

This bill was signed into law June 2, 2017 as Chapter No. 2017-64, Laws of Florida and the provisions took effect on that date.

HB 7079
Triumph Gulf Coast Trust Fund

Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund.

A companion bill to this bill, HB 7077 relates to the Gulf Coast Economic Corridor. That bill amends s. 288.8013, F.S. to require that seventy-five percent of all payments to the State of Florida pursuant to the "Settlement Agreement Between the Gulf States and the BP Entities with Respect to Economic and Other Claims Arising from the *Deepwater Horizon* Incident," which was entered into on October 5, 2015, in the case styled *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179 in the United States District Court for the Eastern District of Louisiana be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity. That bill also amends s. 288.8017, F.S. to authorize Triumph Gulf Coast Inc., to make awards to projects or programs for certain specified purposes.

This bill creates the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity and provides that the trust fund is established as a depository for the settlement funds described above. The bill also provides that the funds shall be used in conformity with the requirements of ss. 288.8011-288.8018, F.S., as amended by HB 7077, and exempts the trust fund from the general revenue service charge provided in s. 215.20, F.S.

This bill was signed into law June 2, 2017 as Chapter No. 2017-64, Laws of Florida and the provisions took effect on that date.

HB 7099
Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The taxable income Florida uses to calculate corporate income tax owed is based on the taxable income reported for federal taxation purposes. Florida updates its utilization of the Federal Internal Revenue Code by adopting the code as it exists on January 1 in any given year. Adopting the code on an annual basis ensures the Florida tax code reflects any relevant changes to the IRS code that were made during the prior year.

The bill takes effect upon becoming law and operates retroactively to January 1, 2017.

This bill was signed into law June 2, 2017 as Chapter No. 2017-67, Laws of Florida and the provisions took effect on that date.

HJR 7105
Increased Homestead Property Tax Exemption

The joint resolution proposes an amendment to the Florida Constitution to increase the homestead exemption, for all levies other than school district levies, on the assessed value greater than $50,000 and up to $100,000.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

The amendment will take effect January 1, 2019, if approved by the electors.

HB 7107
Homestead Exemption Implementation

HB 7107 amends s. 196.031, F.S., to implement the proposed constitutional amendment in HJR 7105 by increasing the additional homestead exemption amount from $25,000 to $50,000 on the assessed value greater than $50,000 for all taxes other than school district taxes.

It amends s. 200.065, F.S., to provide that taxable values used in the calculation of rolled-back rates for purposes of the 2019 tax roll shall be increased by an amount equal to the reduction in taxable value that will occur if the amendment is adopted. Consequently, rolled back rates used by local governments in their Fiscal Year 2019-2020 tax rate determinations will not automatically increase in response to the tax base reductions associated with the higher homestead exemption.

The bill amends s. 218.125, F.S., to require the Legislature, beginning in Fiscal Year 2019-2020, to annually appropriate funds to fiscally constrained counties for the purpose of offsetting the decrease in ad valorem tax revenues they would otherwise experience as a result of the amendment to Article VII, Section 6(a) of the Florida Constitution. The method for applying and

calculating distributions is the same as that used in s. 218.125, F.S.

This bill was signed into law on May 23, 2017 as Chapter No. 2017-035, Laws of Florida. The bill shall take effect on the same date as the effective date of the amendment to the state constitution proposed by HJR 7105, which is January 1, 2019.

HB 7109
Taxation

HB 7109 provides for a wide range of tax reductions and modifications that affect households and businesses and improve tax administration. The bill:

- Allows low-income residents of homes for the aged to prove their income by providing an affidavit to the property appraiser;
- Provides a 50 percent discount in property taxes to certain multifamily, low-income housing projects;
- Deletes a requirement that circuit courts provide estate administration information to the Department of Revenue;
- Provides guidance for the determination of whether certain heavy construction and agricultural equipment returned under a rent-to-purchase option is inventory and exempt from property tax;
- Repeals several annual license taxes and registration fees;
- Repeals a cigarette tax distribution to the Sanford-Burnham Medical Research Institute;
- Reduces the state sales tax rate on the rental of commercial real estate from 6.0 percent to 4.5 percent for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6.0 percent to 5.5 percent, beginning January 1, 2020;
- Sets forth procedures for certain resellers of admissions to receive a refund of taxes paid when they make a sale to a tax-exempt person;

- Repeals a requirement that a tax notice be placed on vending machines, and the related penalty;
- Increases the exempt sales price for farm trailers from $20,000 to $25,000;
- Exempts from sales tax certain animal health products and other agricultural items;
- Extends the Community Contribution Tax Credit against sales tax, corporate income tax, and insurance premium tax from June 30, 2018, to June 30, 2019, and provides $21.4 million of credits for donations related to housing for special needs persons and low-income households;
- Exempts from sales tax certain purchases made by municipally-owned golf course operators;
- Exempts from sales tax products used to control menstrual flow;
- Exempts from sales tax diapers and incontinence products;
- Provides an annual sales tax holiday for veterans;
- Exempts from sales tax certain purchases of tangible personal property by related companies covered by the federal Dodd-Frank Act;
- Provides $20 million of Contaminated Site Rehabilitation Tax Credits for Fiscal Year 2017-2018 and increases the current $5 million annual credit limit to $10 million, thereafter;
- Increases the amount of Research and Development Tax Credits that may be taken against the Corporate Income Tax from $9 million to $20 million for calendar year 2018;
- Extends the Corporate Income Tax filing extension period from 5 months to 6 months for certain corporate taxpayers to conform with federal changes;
- Requires estimated payments of Corporate income tax that are due on the last Saturday or Sunday in June to be paid on or before the last Friday in June;
- Provides that tax collectors and certain county commissions have the sole authority to contract with private license tag agents for the operation of a branch office to issue and renew license tag registrations and motor vehicle titles;
- Exempts from license fees the registration of certain marine boat trailers;
- Requires local motor fuel taxes to be renewed before July 1 to be effective on September 1 of the year they expire;
- Changes the filing due date for Reemployment Assistance Tax returns and allows the Department of Revenue to waive penalties for late filing in certain circumstances;
- Redefines "beer" for purposes of the beverage law;
- Exempts from sales tax the sale of college textbooks and instructional materials for one year;
- Provides a ten-day "back-to-school" holiday for clothing, footwear, school supplies, and computers; and
- Provides a nine-day "disaster preparedness" holiday for certain items related to disaster preparedness.

This bill was signed into law May 25, 2017 as Chapter No. 2017-036, Laws of Florida and the provisions take effect on July 1, 2017.

2017
Florida Legislative
Post-Session Report

Vetoed Bills

Vetoed Bills

CS/CS/SB 106
Vendors Licensed Under the Beverage Law

CS/CS/SB 106 amends s. 565.04, F.S., to prohibit the Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (DBPR) from issuing a package store license for the sale of beer, wine, and distilled spirits for any location or business located within 1,000 feet of a public or private elementary, middle school, or secondary school.

The bill permits package stores licensed on or before June 30, 2017, for a premises located within 1,000 feet of a school to maintain and renew the license for that location, if the place of business complies with the package store restrictions in current law in s. 565.04, F.S. Current law prohibits package stores from selling, offering and exposing for sale other merchandise in addition to distilled spirits, beer and wine. In addition, package stores may not have openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded. However, those package stores are allowed to sell bitters, grenadine, nonalcoholic mixer-type beverages (not including fruit juices produced outside Florida), fruit juices produced in this state, home bar, and party supplies and equipment (including but not limited glassware and party-type foods), miniatures of no alcoholic content and tobacco products.

It provides a 4-year phased repeal of the package store restrictions for businesses that are located more than 1,000 feet from a school. During the phase-in period, the number of places of business that a vendor may operate without the restrictions is calculated by the vendor (rounded to the next greater whole number) each year:

- Starting July 1, 2018, one business or 25 percent of a vendor's businesses, whichever is greater, can operate without the restrictions;
- Starting July 1, 2019, two businesses or 50 percent of a vendor's business;
- Starting July 1, 2020, three businesses or 75 percent of a vendor's businesses; and
- The restrictions expire June 30, 2021.

Under the bill, a business may sell, offer, or expose for sale distilled spirits in containers of 200 milliliters or less or 6.8 ounces or less only from a restricted area where access is restricted to the vendor or employees of the vendor. A business that maintains the current package store restrictions is exempt from this requirement.

The bill prohibits the division from issuing a license to sell distilled spirits for a location or business that includes a gasoline service station or motor fuel retail outlet, as defined in s. 526.303(14), F.S., unless the location has at least 10,000 square feet of retail space for the general public.

The bill permits the employment of persons under the age of 18 by an alcoholic beverages vendor that is a retail drug store, grocery store, department store, florist shop, specialty gift shop, or automobile service station and that derives 30 percent or less of its monthly gross revenue from the sale of alcoholic beverages. Those vendors may employ a person under the age of 18 only if the minor is supervised by a person 18 years of age or older who verifies the age of the purchaser to be 21 years of age or older and approves the sale of alcoholic

beverages to the purchaser. The bill provides that it is unlawful to employ a minor during a month in which a vendor's gross revenue from the sale of alcoholic beverages exceeds 30 percent its of total revenue.

VETOED BY THE GOVERNOR MAY 24, 2017.

CS/CS/HB 277
Electronic Wills

A will is a legal document used to designate the distribution of a person's assets upon death. To be admitted to probate, a will must have been signed by the testator (the person making the will) in the presence of 2 witnesses, one of which must testify to the authenticity of the bill unless certain other conditions are met or unless the will is self-proved. The bill provides for electronic wills. An electronic will is executed, modified, and revoked similar as to how a paper will is under current law. However, an electronic will may be witnessed through remote presence of witnesses, in cases where a witness is an attorney or a notary public. The bill provides a means for self-proof of an electronic will, storage, filing, and venue. The bill creates a concept of a "qualified custodian" who is responsible for possessing and controlling the electronic will in addition to other various responsibilities outlined in the bill. Qualified custodians must maintain a surety bond as well as a liability insurance policy.

The Florida Trust Code governs express trusts. Historically, a trust was administered with the primary intent of accomplishing the intent of the settlor. This bill deletes language related to benefiting the beneficiaries and thus makes the intent of the settlor the primary intent of trust administration. The bill changes portions of the Code related to the trustee and their duties, liabilities, and powers to provide which provisions of the Code govern a trustee's duty to provide an accounting to the beneficiaries and extend the period for beneficiaries to file actions alleging a breach of trust. Additionally, the bill amends the application of the portion of the Code relating to posting documents electronically. It expands a trustee's ability to decant trust principal under the terms of the trust; provides support for disabled beneficiaries; and imposes greater notice requirements when a trustee exercises the ability to decant trust principal. Lastly, the bill modifies portions of the Code related to notices for charitable trusts. It requires that notice be sent to only one entity, the Attorney General.

VETOED BY THE GOVERNOR JUNE 14, 2017.

CS/CS/SB 374
Postsecondary Education

CS/CS/SB 374 creates the "College Competitiveness Act of 2017" which restructures the governance of the Florida College System and modifies the mission of the system and its institutions. Specifically, the bill:

- Strengthens public college-to-university articulation by establishing the "2+2" targeted pathway program to provide to students guaranteed access to baccalaureate degree programs at state universities.
- Modifies the governance of the Florida Community College System (FCCS) by:
  - Renaming the Florida College System as the FCCS, and
  - Establishing a State Board of Community Colleges (SBCC), and transferring responsibilities regarding Florida's community

colleges from the State Board of Education (SBE) to the SBCC.
- Clarifies expectations and state oversight of baccalaureate degree programs offered by FCCS institutions, and:
    - Aligns the baccalaureate approval process for St. Petersburg College with the approval process for other FCCS institutions.
    - Establishes a cap on upper-level, undergraduate full-time equivalent (FTE) enrollment at Florida's community colleges, but provides flexibility for planned and purposeful growth of baccalaureate degree programs if certain conditions are met.
- Clarifies the K-20 education system mission by emphasizing the mission must be to avoid wasteful duplication of programs, and reinforces the distinct mission of Florida's community colleges and technical centers in meeting Florida's labor market demands and regional needs.
- Specifies that a district school board may authorize a public high school within the district, including a charter school, to be located on a public or private postsecondary institution's campus.

Implementation of this bill requires the transfer of 34 existing positions and $2.8 million from the State Board of Education budget for the creation of the State Board of Community Colleges. The State Board of Community Colleges will also need an additional 14 positions and $1.7 million for necessary positions.

VETOED BY THE GOVERNOR JUNE 14, 2017

CS/CS/CS/HB 653
Community Associations

The Division of Florida Condominiums, Timeshares, and Mobile Homes (Division), located within the Department of Business and Professional Regulation, has regulatory authority over condominium and cooperative associations. The Division has limited authority regarding homeowner's associations (HOA). The bill:

- Removes the future repeal of condo bulk buyer provisions.
- Removes the option that condos, co-ops, and HOAs operating fewer than 50 units may prepare cash receipt reports in lieu of financial statements, and repeals the limitation that co-ops and condos may not waive financial reporting for more than three consecutive years, thereby allowing unlimited waiver.
- Increases the time in which a condo or co-op must respond to a unit owners' request to inspect records; requires electronic records related to voting be retained as official records, and allows notice of board meetings by website.
- Provides an exemption from retrofitting a fire sprinkler system or engineered lifesafety system; allows professional engineers to issue certificates of compliance; allows voting to forego installing engineered life-safety systems; delays the start date of applicability of retrofitting; requires signs for certain buildings that do not retrofit; increases the voting percentage necessary to forego retrofitting; extends permit application deadlines for retrofitting; authorizes electronic voting to forgo retrofitting; removes the requirement that a vote to retrofit may only be called once every three years if there has been a vote to forego retrofitting; increases the voting percentage necessary to

retrofit if there has been a vote to forego retrofitting.

- Requires that a vote authorizing an alteration or addition to a condo be held prior to beginning work.
- Amends co-op law to mirror condo law regarding removal of board members who are 90 days or more delinquent on payments and restricting co-owners from serving on the board of directors.
- Allows HOAs to provide electronic notice to any member who has provided a fax number or email; provides that write-in nominations are not permitted if elections are not required to fill board positions.
- Amends co-op common expenses to include communication and information services in bulk contracts.
- Removes the ability of a declaration of condo to provide for a termination vote of less than the statutory minimum; reduces the veto provision; extends the re-vote delay after a failed vote and the time before a condo conversion may vote for termination; expands the rights of homestead property owners; changes disclosure requirements of bulk owners before the approval of a termination plan.
- Clarifies that HOAs may apply payments for late assessments to interest, fines, and fees before applying the payments to assessments; adds certain provisions to HOA disclosure summaries.

VETOED BY THE GOVERNOR
JUNE 26, 2017

CS/CS/HB 747
Mortgage Brokering

The Office of Financial Regulation (OFR) licenses and regulates various aspects of the non-depository financial services industries, including individuals and businesses engaged in the mortgage business pursuant to ch. 494, F.S. The OFR also oversees the Securities and Investor Protection Act, ch. 517, F.S., which regulates the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms.

In August 2016, the OFR issued a declaratory statement that determined the petitioner would be in violation of ch. 494, F.S., if it were to start compensating its financial advisors for certain mortgage loan originator activities that are purely incidental to the otherwise authorized securities and investment activities of petitioner and its financial advisors, unless such persons were dually licensed under ch. 494, F.S. The declaratory statement concluded that both the compensation and the referral aspect of the facts presented required that the petitioner be licensed as either a mortgage broker or mortgage lender and that its financial advisor be licensed as mortgage loan originators.

The bill exempts a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation under ch. 494, F.S., if such person, in the normal course of conducting securities business with a corporate or individual client:

- Solicits or offers to solicit a mortgage loan from a securities client or refers a securities client to a depository institution, certain regulated subsidiaries that are owned and controlled by a depository institution,

institutions regulated by the Farm Credit Administration, a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator;
- Does not accept or offer to accept an application for a mortgage loan, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a non-institutional investor for compensation or gain.

Any solicitation or referral made pursuant to the exemption must be made in compliance with ch. 517, F.S.; the federal Real Estate Settlement Procedures Act; and any applicable federal law or general law of this state.

VETOED BY THE GOVERNOR JUNE 26, 2017

CS/CS/HB 937
Warnings for Lottery Games

Gambling is generally prohibited and illegal in Florida. However, in 1986, Florida voters adopted a constitutional amendment authorizing the creation of the Florida Lottery. Since that time, the Florida Lottery has grown into one of the largest state-run lotteries in the country, with annual sales exceeding $5 billion. Lottery tickets can be purchased at over 13,000 retail locations throughout Florida.

Certain studies show that lottery games and other forms of gambling can lead to addiction in gamblers. The Florida Lottery encourages customers to "Play Responsibly" and widely advertises a toll-free phone number for a referral service to assist people with gambling problems.

The bill amends current law by directing the Florida Lottery to contractually require vendors and retailers, respectively, to place the following warning prominently on the front of all lottery tickets and at the point of sale: "WARNING: GAMBLING CAN BE ADDICTIVE."

VETOED BY THE GOVERNOR JUNE 26, 2017

SB 2512
Capitol Complex Advisory Council

SB 2512 creates the Capitol Complex Advisory Council (Council) within the Legislative branch. The Council will contain five members consisting of:
- One person appointed by the President of the Senate;
- One person appointed by the Speaker of the House of Representatives;
- One person appointed by the Governor;
- The Sergeant at Arms of the Senate; and,
- The Sergeant at Arms of the House of Representatives.

The Council may make recommendations on:
- The operation, maintenance, preservation, and protection of the structures and grounds of the Capitol Complex (not including the State Capital Circle Office Complex);
- The design, development, or location of any monuments or temporary installations within the Capitol Complex (not including the State Capital Circle Office Complex);
- Security updates and improvements to the Capitol Complex (not including the State Capital Circle Office Complex); and,
- Budgetary needs to support the recommendations of the Council.

Any recommendations will be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the secretary of the Department of Management Services

(DMS), and the executive director of the Florida Department of Law Enforcement.

Additionally, the DMS is directed to brief the Council periodically on any actions to be undertaken regarding the Capitol Complex (not including the State Capital Circle Office Complex).

VETOED BY THE GOVERNOR JUNE 20, 2017.

HB 5301
Information Technology Reorganization

The bill revises the structure and responsibilities of the Agency for State Technology (AST). Specifically, the bill:

- Removes from statute the deputy executive director, chief planning officer, chief operations officer, and chief technology officer.
- Revises the qualifications for the state CIO by requiring at least 10 years of executive-level experience in either the public or private sector, with experience in the development of information technology strategic planning and the development and implementation of fiscal and substantive information technology policy and standards.
- Revises the project oversight duties and responsibilities of the AST to include:
  - Reviewing state agency project oversight deliverables on IT projects with total costs of $10 million or more,
  - Reviewing project oversight deliverables on cabinet agency IT projects that have a total project cost of $25 million or more and impact another agency or agencies,
  - Recommending improvements for state agency and cabinet agency IT projects and project oversight,
- Requires the State Chief Information Officer (CIO) to recommend best practices for the procurement of cloud computing services.
- Removes the responsibility of the AST to review state agency technology purchases over $250,000.
- Provides for the cost recovery of AST executive direction through charges to state data center customer entities.
- Deletes legislative intent language for data center consolidation and the obsolete consolidation schedule.
- Requires the State Data Center and state agency customer entities to utilize cloud computing services when beneficial use of these services is validated through cost benefit analyses.
- Creates the Florida Cybersecurity Task Force to review and provide recommendations for the improvement of the state's cybersecurity infrastructure, governance, and operations.
- Conforms to the conference report for Senate Bill 2500 General Appropriations Act (GAA) - the positions removed from statute have no funding in the budget except for the chief operations officer, which will be reclassified as the state data center director.
  - Appropriates a total of $100,000 to the Florida Department of Law Enforcement for support of the Florida Cybersecurity Task Force.

VETOED BY THE GOVERNOR JUNE 26, 2017

HB 5501
Economic Programs

The bill conforms statutes relating to the Department of Economic Opportunity (DEO) to the General Appropriations Act for Fiscal Year 2017-2018, reducing the surcharge on marriage license applications by $7.50 from $59.50 to $52.00, and redirecting a portion of the fees on dissolution of marriage filings from the Displaced Homemaker Trust Fund to the General Revenue Fund.

The bill makes the following additional adjustments within DEO programs:

- Eliminates the Displaced Homemaker Program
- Terminates the Displaced Homemaker Trust Fund
- Institutes comprehensive transparency and accountability measures on the Florida Tourism Industry Marketing Corporation (Visit Florida) and Enterprise Florida, Inc. (EFI)
- Creates the Targeted Marketing Assistance Program
- Directs the Florida Department of Revenue to audit the Professional Golf Hall of Fame and requires the Hall of Fame to provide the state with certain information.
- Redirects $75 million of revenue from the State Economic Enhancement and Development Trust Fund to the General Revenue Fund

The reduction of the surcharge on marriage license applications under s. 741.01, F.S., from $59.50 to $52.00, is anticipated to have a negative recurring impact to state revenue of approximately $1.2 million.

The bill repeals the Displaced Homemaker Program, which reflects an elimination of a $2 million recurring appropriation. In addition, the bill provides a recurring appropriation of $25 million to DEO to enter into a contract with Visit Florida, and a recurring appropriation of $16 million to DEO to enter into a contract with EFI.

VETOED BY THE GOVERNOR
JUNE 20, 2017.

2017
Florida Legislative
Post-Session Report

Index

Bill Number Index

Bill No. .... Page

SB 1A 171
HB 3A 24
SB 6A 65
SB 8A 107
SB 10 81
HB 15 24
HB 39 155
SB 60 35
HB 65 142
SB 80 65
SB 90 171
HB 101 35
HB 103 66
HB 105 35
SB 106 178
HB 107 155
HB 111 66
SB 118 156
SB 128 157
HB 141 17
HB 151 142
SB 164 36
HB 169 16
HB 181 36
HB 185 37
HB 207 38
HB 209 108
HB 211 18
HB 221 38
HB 229 109
HB 239 66
HB 241 79
HB 243 67
HB 249 110
HB 277 179
SB 280 157
HB 293 25
HB 299 104
HB 305 143
HB 307 111
SB 312 158
HB 327 44
HB 329 143
HB 335 83
HB 339 131
HB 343 159
HB 357 45

Bill No. .... Page

HB 359 131
HB 361 160
SB 370 45
HB 371 25
SB 374 179
HB 377 144
HB 379 79
SB 396 26
HB 397 68
SB 398 96
HB 399 144
HB 401 145
HB 421 132
HB 435 137
SB 436 26
HB 437 68
HB 441 146
HB 455 172
HB 457 160
HB 465 47
HB 467 48
SB 474 112
HB 477 161
HB 493 27
SB 494 146
HB 501 69
HB 505 162
HB 543 113
HB 557 114
HB 573 84
HB 577 114
HB 589 116
SB 590 147
HB 599 104
HB 615 18
HB 653 180
HB 671 49
HB 687 86
HB 689 19
HB 695 133
HB 699 162
HB 711 49
SB 724 149
HB 727 20
HB 741 20
HB 747 181
HB 749 50

Bill No. .... Page
HB 775 50
HB 781 27
HB 785 116
SB 800 117
HB 805 133
HB 807 118
HB 813 134
SB 818 99
HB 837 135
SB 852 163
HB 859 28
HB 863 119
HB 865 52
HB 879 164
HB 883 119
SB 884 165
SB 886 69
SB 890 28
SB 896 29
HB 899 29
HB 911 136
HB 925 138
HB 927 21
HB 937 182
HB 981 70
HB 987 22
HB 989 30
HB 1007 136
HB 1009 71
SB 1018 85
SB 1020 53
HB 1021 80
HB 1027 54
HB 1031 86
HB 1041 120
HB 1049 55
HB 1051 120
SB 1052 166
HB 1079 71
HB 1107 72
SB 1108 72
HB 1109 31
HB 1121 151
SB 1124 121
HB 1175 56
HB 1201 56
HB 1203 73
HB 1233 57
HB 1237 102

Bill No. .... Page
HB 1239 152
HB 1253 122
HB 1269 122
HB 1307 123
HB 1347 139
HB 1379 58
HB 1385 167
SB 1520 103
SB 1634 81
SB 1672 58
SB 1694 60
SB 1726 61
SB 2504 61
SB 2506 152
SB 2508 137
SB 2510 73
SB 2512 182
SB 2514 123
HB 5203 128
HB 5301 183
HB 5401 62
HB 5501 184
HB 6021 128
HB 6027 103
HB 6037 62
SB 7004 74
SB 7022 140
HB 7035 74
HB 7043 93
HB 7045 75
HB 7059 168
HB 7067 75
HB 7069 31
HB 7073 63
HB 7077 173
HB 7079 174
HB 7087 76
HB 7091 169
HB 7093 76
HB 7097 129
HB 7099 174
HB 7107 175
HB 7109 175
HB 7113 77