

EYES ON TALLAHASSEE™

May 2013

Prior to the start of the 2013 Florida legislative session, President Gaetz and Speaker Weatherford outlined a joint agenda that included tackling ethics, elections, campaign finance, state pensions and higher education. The Florida House and Senate worked together to pass legislation that made significant reforms to these policy areas, often with strong bi-partisan support.

Due to an improving economy, the state budget had a surplus. This enabled the Legislature to restore funding to numerous programs that had received significant cuts in recent years, provide pay raises to teachers and state workers, increase funding by \$1.2 billion for K-12 education programs, and put aside \$2.8 billion in reserves for the State of Florida.

One policy issue that created strong disagreement in the House and Senate was whether Florida should accept or reject \$51 billion in federal funds to provide health insurance to more than one million uninsured Floridians, as part of the federal Patient Protection and Affordability Care Act (PPACA). The Senate proposal accepted the federal funds to provide health insurance coverage. The House proposal used state funding only to subsidize coverage for low-income families. Ultimately, the chambers were unable to come to a resolution during the 2013 legislative session.

Members of Holland & Knight's Florida Government Advocacy Team (FGAT) can provide more information or answer questions on any specific legislation addressed during the 2013 session. Contact information for every member of our FGAT is included in this report.

Please note: After a bill is passed by the Legislature and sent to the Governor, the Governor has 15 days to sign it, veto it, or allow it to become law without his signature. Many of the bills in this report have not yet been sent to the Governor. For updated information on a bill's final status, please contact a member of the Florida Government Advocacy Team.

BUDGET

The 2013-2014 General Appropriations Act, SB 1500, provides \$74.5 billion in spending, sets aside \$2.8 billion in cash reserves, and does not include increases in taxes or fees. Budget highlights include:

- \$1.2 billion increase for K-12 funding
- \$300 million to restore prior year funding levels for the State University System
- \$480 million to provide raises for instructional personnel based on performance
- \$200 million to provide raises for state and university employees

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- \$70 million for Everglades Restoration (includes \$32 million in CS/HB 7065)
- \$106.6 million for Florida's Economic Development Partners including Enterprise Florida at \$18.1 million, VISIT FLORIDA at \$63.5 million and Space Florida at \$19.5 million
- Nursing Home Care — 2 percent increase: \$235 million (\$54.3 million GR, \$180.7 TF)
- Medicaid Price Level and Workload — \$32.8 million GR; \$933.4 million TF
- Diagnosis Related Groups Transitional Funding-Hospital Reimbursement Adjustment — \$ 65 million
- \$3.8 million GR to fund electronic monitoring for work release inmates (Department of Corrections)

Governor Scott signed SB 1500 on May 20, 2013, and vetoed \$367.9 million in spending from the budget, bringing the budget total to \$74.1 billion.

EFFECTIVE DATE: The effective date of the bill is July 1, 2013.

CONSTRUCTION

CS/CS/HB 57 — Department of Business and Professional Regulation

This bill authorizes the department to expend funds from the excess revenues of the Building Code Administrators and Inspectors Board (BCAIB) to the Florida Homeowners' Construction Recovery Fund (see sections 489.40-44), which has a backlog of approximately \$8 million in pending claims. These revenues are generated by the 1.5 percent charge on all building permit fees collected by city and county building departments.

EFFECTIVE DATE: October 1, 2013.

CS/CS/HB 269 — Public Construction Projects

This bill amends section 489.1113(2), which was amended effective July 1, 2012, to change "person" to "subcontractor," to provide for retroactive application of last year's change to "March 23, 2012," apparently for a particular pending lawsuit.

EFFECTIVE DATE: July 1, 2013.

CS/CS/CS SB 1594 — Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act

This bill amends section 489.145 to extend the use of Guaranteed Energy, Water and Wastewater Performance Savings Contracts to cities, counties and school boards, and adds remotely controlled systems, and software-based systems. It also requires the current review by the Chief Financial Officer to be completed within 10 days after receipt of the contract or lease, and requires an "investment-grade" audit for all such contracts.

EFFECTIVE DATE: July 1, 2013.

CS/CS/CS/HB 973 — Low-Voltage Systems

This bill revises low-voltage licensing provisions by combining two existing exemptions in section 489.503(14)(a) and (b), and adds "subcontractors" and "affiliates." In addition, the bill adds a new exemption for "an employee or sales representative" of alarm system contractors under specific circumstances. Also, it creates section 553.793 for a bulk permitting system to expedite alarm system installations, and to cap a permit fee to \$55.

EFFECTIVE DATE: October 1, 2013.

CS/CS/SB 286 — Design Professionals (now Chapter 2013-028, Laws of Florida)

This bill amends section 471.023 to add the new "professional liability" exculpation in newly created section 558.0035 to the engineers practice act. This new section applies to all design professionals (engineers, architects, interior designers, landscape architects, surveyors and geologists) who are "persons" (see section 1.011 for definition, which includes individuals and all forms of business entities), unless that person is named in the

contract for services. It also amends section 472.021 to add the new "professional liability" exculpation in newly created section 558.0035 to the surveyors and mappers practice act.

EFFECTIVE DATE: July 1, 2013.

CS/CS/CS/HB 73 — Residential Properties

This bill amends section 399.02(9) to delete the current enforcement date for implementation of new elevator safety standards of July 1, 2015, and, instead, to require such compliance only upon replacement of the elevator.

EFFECTIVE DATE: July 1, 2013.

CS/CS/HB 553 — Workers' Compensation System Administration

This bill amends the administration of Florida's workers' compensation system to delete the "Florida" specific drivers license provisions for exemption notices to allow out-of-state contractors to be eligible to apply, changes the Standard Industry Code 7364 to the North American Industry System Codes 561320 and 561330, adds Limited Liability companies to the "stop-work order" provisions, and drops "certified" from the definition of eligible healthcare providers. This bill also increases the timeframes for healthcare providers to file medical reimbursement disputes with the Department of Financial Services.

EFFECTIVE DATE: July 1, 2013.

CS/CS/SB 1122 — Florida Fire Prevention Code

Creates new subsection (16)(a) to section 633.0215 to provide that fire officers are responsible for inspection and enforcement of wall fire-ratings for one-story and two-story structures less than 10,000 square feet, and new subsection (16)(b) to exempt certain farming or ranching structures from the Florida Fire Prevention Code.

EFFECTIVE DATE: July 1, 2013.

CS/CS/SB 1410 — Fire Safety and Prevention

This bill is a major re-write of Chapter 633 provisions dealing with the licensing and discipline of fire contractors, fire equipment dealers, fire inspectors, and fire service providers (new) and to define support services, firefighter and volunteer firefighter, as well as license suspension, arson investigations, and state preemption. A new Part III is arranged for high-hazard occupancy, and a new Part IV for fire protection and suppression. Powers, duties and membership of the Firefighters Employment Standards and Training Council are also amended. Sections regarding contractors, building code licenses, Florida Building Code and other statutes, are amended solely to conform cross-references to renumbered sections of Chapter 633.

EFFECTIVE DATE: July 1, 2013.

FLORIDA ARBITRATION CODE (CHAPTER 682)

CS/SB 530 — Dispute Resolution

This is a major revision of the Florida Arbitration Code to conform to recent changes in the Uniform Arbitration Code. The "Revised" Florida Arbitration Code governs agreement to arbitrate made on or after July 1, 2013, but does not affect an action or proceeding commenced or right accruing before July 1, 2013. Beginning July 1, 2016, the Revised Florida Arbitration Code applies. Originally enacted in 1957, based on the 1955 Uniform Arbitration Act, and subsequently revised in 1967, this act has remained mostly unchanged since then. These revisions are based on the 2000 revisions to the Uniform Arbitration Act.

EFFECTIVE DATE: July 1, 2013.

INTERNATIONAL COMMERCIAL ARBITRATION ACT (CHAPTER 684)

CS/SB 186 — Jurisdiction of the Court

This bill creates new section 684.0049 providing that the initiation of arbitration in this state, or the making of a contract that provides arbitration in this state, constitutes consent to this exercise of personal jurisdiction by the courts of this state in any action arising out of or in connection with the arbitration and any resulting order or award.

EFFECTIVE DATE: July 1, 2013.

FLORIDA FALSE CLAIMS ACT (CHAPTER 68)

CS/CS/HB 935 — Florida False Claims Act

This bill adds subpoena powers to the enforcement by the Department of Legal Affairs (to the exclusion of all other state agencies), provides for alternative administrative remedies, and conforms some of the definitions to the Federal False Claims Act (which dates from the Civil War). These acts apply to payments of public funds made by or sought from a governmental agency.

EFFECTIVE DATE: July 1, 2013.

PUBLIC SCHOOL PERSONNEL (CHAPTER 1013)

HB 21 — Background Screening for Noninstructional Contractors on School Grounds

This bill adds sub. (8)(a) to section 1012.467 regarding background screening for non-instructional contractors with permitted access to school grounds when students are present to require DOE to create a uniform statewide identification badge.

EFFECTIVE DATE: July 1, 2013.

ECONOMIC DEVELOPMENT AND TAX INCENTIVES

CS/SB 406 — Economic Development

CS/SB 406 provides numerous forms of tax relief and creates additional oversight of economic development initiatives:

Sales Tax Holiday

- Creates a three-day sales tax holiday beginning August 2, exempting certain clothing and shoes valued at \$75 or less, school supplies valued at \$15 or less, and personal computers for non-commercial use valued at \$750 or less

Spring Training Franchise Retention

- Creates a sales tax distribution to local governments for the purpose of constructing or renovating Major League Baseball spring training facilities

Qualified Target Industry and Qualified Defense and Space Contractor Tax Refunds

- Removes the individual company lifetime limit for both the Qualified Target Industry and Qualified Defense and Space Contractor tax refund programs

Enterprise Zone Tax Credit

- Provides that the cap on the enterprise zone tax credit for property taxes paid is applied at each eligible location rather than at the business entity level

Exemption for Natural Gas Used in Fuel Cells

- Effective July 1, 2013, natural gas used to generate electricity in a non-combustion fuel cell is exempt from sales tax

Rotary Wing Aircraft Sales Tax Exemption

- Reduces the maximum takeoff weight threshold for rotary wing aircraft to qualify for an exemption from sales and use tax on the parts and labor used in repair and maintenance

New Markets Development Program

- Increases the cumulative amount of tax credits that can be awarded by \$15 million, to \$178.8 million for the program. The bill also increases the amount of tax credits that can be claimed in a single state fiscal year by \$3 million, to \$36.6 million each year

Oversight of Economic Development Incentives

- Creates a rotating, three-year review schedule for state incentives and economic development programs to be evaluated by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA)
- Directs that all applicants for an incentive be evaluated for "economic benefits" in the same manner, and streamlines the reports and reporting dates that must be submitted by agencies administering economic development programs; the Department of Economic Opportunity is directed to publish on its website project-specific information about economic development incentives provided to businesses

EFFECTIVE DATE: The effective date of the bill is July 1, 2013. The Governor signed the bill on May 20, 2013.

CS/CS/HB 7007 — Economic Development

This bill addresses a number of activities related to economic development, including:

Economic Development Reporting

- Consolidates reports and reporting dates of DEO, Enterprise Florida, Inc., the Office of Film and Entertainment, and Space Florida

Florida Small Business Development Network

- Links Florida's Small Business Development Center Network to the statewide strategic economic development plan and the statewide goals of the university system

Economic Development Incentives

- Requires DEO to use a model developed by EDR to evaluate each application for an economic development program for the economic benefits of the proposed incentive award to the state
- Effective April 30, 2014, provides a sales tax exemption for certain industrial machinery and equipment used at a fixed location in this state; this provision sunsets on April 30, 2017
- Specifies the meaning of the term "brownfield" for purposes of the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund
- Increases the size of enterprise zones between 15 and 20 square miles and located within rural areas of critical economic concern by three square miles, and enterprise zones that are at least 20 square miles and located within rural areas of critical concern to increase the zone by five square miles

Florida Small Cities Community Development Block Grant (CDBG) Loan Guarantee Program

This section of the bill revises the Florida Small Cities CDBG Section 108 Loan Guarantee program to reduce the risk to state and local governments.

Reemployment Assistance

In order to comply with federal requirements, this section of the bill assesses a 15 percent penalty on people who fraudulently collect reemployment assistance benefits; reenacts language assessing penalties for the disclosure of confidential information (inadvertently repealed in 2012); and prohibits DEO from relieving an employer of benefit charges if the employer or its agent fails to timely respond to a notice of claim or request for information.

Gulf Coast Economic Corridor Act

This section of the bill creates Triumph Gulf Coast, Inc., a nonprofit corporation administratively housed within DEO, to administer and invest the Recovery Fund. A Recovery Fund is created for the benefit of the eight

disproportionately affected counties, to be funded by 75 percent of all funds recovered by the Attorney General for economic damages to the state as a result of the Deepwater Horizon oil spill.

EFFECTIVE DATE: Upon becoming law except as otherwise expressly provided in the bill. The Governor signed the bill on May 17, 2013.

BILLS THAT DIED

HB 7097 — Internet Sales Tax

While sales of tangible personal property are subject to the sales and use tax unless specifically exempt, it is difficult for states to collect the tax due on sales made from out-of-state vendors because the state must rely on either out-of-state vendors or purchasers to voluntarily collect or remit the tax. HB 7097 would have added "mail order sale" included in the sale of tangible personal property over the Internet. The bill would have also caused dealers to remit sales tax if they had in-state representatives. The bill would have further established that an out-of-state dealer has nexus with Florida and is therefore obligated to collect tax if a person other than the dealer (excluding common carriers) engages in certain activities within Florida that assist the out-of-state dealer in making sales within this state.

SB 316 — Internet Sales Tax

This bill would have created two new situations under which an out-of-state retailer becomes a dealer required to collect and remit Florida sales tax:

1. When a person with nexus to Florida does one of a number of acts, including selling a similar line of products as a dealer or operates under the same name and uses similar trademarks as a dealer
2. If the dealer enters into an agreement with one or more Floridians, under which the person directly or indirectly refers potential customers to the dealer for a commission or other consideration, and the cumulative gross receipts from referrals are in excess of \$10,000 during the previous 12 months

The bill would have required the Department of Revenue to develop a tracking system to determine the amount of additional sales tax collected by out-of-state retailers and report the information annually.

EDUCATION

CS/CS/SB 1076 — Career and Professional Education

This is a sweeping K-20 educational reform bill that (1) establishes the Next Generation Sunshine State Standards and requires a coordinated statewide standardized assessment program; (2) differentiates college-bound students with new diploma classifications including standard, scholar and merit diplomas; (3) establishes new requirements that integrate technology skills and knowledge into K-12 classrooms including new industry certifications, such as a Florida Cyber Security Recognition and Florida Digital Arts Recognition for elementary students and a Digital Tools Certificate for middle school students; (4) enacts performance funding for public schools, school district workforce education programs, the Florida College System, and state universities to reward education entities that align programs with economic demands; (5) creates a means for designating Preeminent State Research Universities; (6) revises a degree completion pilot program to establish comprehensive online bachelor degree programs; and (7) provides for \$10,000 Bachelor Degrees to be offered at Florida College System. The bill received unanimous support in the House and was approved 33-7 in the Senate.

EFFECTIVE DATE: July 1, 2013.

CS/CS/HB 7009 — K-12 Education

This bill pertains to charter schools and (1) requires that sponsors submit an annual report; (2) limits a Florida College System institution to operating no more than one charter school for teacher preparation; (3) enables school districts to enter into interlocal agreements with governmental entities; (4) provides for an appeal regarding the denial of an application of a high-performing charter school to the State Board of Education and modifies various rules relating to high-performing charter schools; (5) requires that a charter school provide the sponsor with a concise, uniform, monthly financial statement summary sheet and maintain a website; (6) imposes

expenditure limitations and clawbacks on charter schools non-renewed, closed or terminated by their sponsors; (7) clarifies that charter schools may hire on an at-will basis; (8) prevents an employee of the charter school or charter management organization, or his or her spouse from serving as a member of the school's governing board; (9) prevents students from being assigned teachers with performance issues on a consecutive basis; (10) provides that for a school or program that is a public school of choice the maximum class size is the average number of students at the school level; and (11) authorizes districts to operate an innovation school of technology and establishes principles and legal exemptions for them.

EFFECTIVE DATE: July 1, 2013.

CS/HB 7029 — Education Regarding Digital Learning

This bill relates to online digital learning and (1) requires development of an online catalog of digital learning courses and an operational audit of the Florida Virtual School; (2) enacts The Florida Approved Courses and Tests (FACT) Initiative to expand student choices in selecting online courses and approved providers of those courses; (3) sets standards for approving online course providers including a detailed curriculum and student performance accountability plan; and (4) requires the State Board of Education and Board of Governors to adopt rules that enable students to earn academic credit for online courses at postsecondary institutions.

EFFECTIVE DATE: July 1, 2013.

CS/HB 7165 — Early Learning

This bill concerns early childhood education and (1) creates the Office of Early Learning within the Office of Independent Education and Parental Choice of the Department of Education and delineates its powers; (2) recognizes 31 or fewer early learning coalitions established to provide direct enhancement services at the local level; (3) establishes a body corporate known as the Child Care Executive Partnership to create flexible partnerships with employers; (4) enacts a standard statewide provider contract to be used with each Voluntary Prekindergarten Education Program provider; (5) enacts a school readiness program for at-risk children such as children from a family under investigation by the Department of Children and Families; and (6) creates a Teacher Education and Compensation Helps (TEACH) Scholarship Program to provide educational scholarships to caregivers and administrators of early childhood programs, family day care homes and large family child care homes.

EFFECTIVE DATE: July 1, 2013.

HB 209 — Lake-Sumter Community College Name Change

This bill renames "Lake-Sumter Community College" as "Lake-Sumter State College."

EFFECTIVE DATE: July 1, 2013.

BILLS THAT DIED

CS /SB 862 — Relating to Parent Empowerment in Education

The Parent Empowerment in Education bill or so-called Parent Trigger Bill, failed for the second consecutive year as a result of a Senate deadlock. The bill would have allowed parents at low-performing schools to demand changes, including having the school converted into a charter school.

CS/ SB 1164 — Relating to High School Athletics

This bill would have drastically altered the finances, structure and functions of the Florida High School Athletic Association, which regulates high school sports.

ENERGY

In 2008, the Florida Legislature passed comprehensive energy legislation designed to increase energy efficiency, foster development of renewable energy technologies and decrease carbon emissions throughout the state. The

legislation, among other things, directed the Florida Public Service Commission (FPSC) to develop rules to establish a renewable portfolio standard (RPS) and a renewable energy credit trading system, but reserved to the Legislature the right to ratify these rules. After passage of the legislation, some lawmakers began to question the cost of Florida's renewable energy policy; consequently, the Legislature never ratified the FPSC's RPS rules.

While Florida's focus on renewable energy has waned, its interest in natural gas has grown. Exploration and the use of hydraulic fracturing ("fracking") in other parts of the U.S. have increased the supply and decreased the price of natural gas. The declining price and lower emissions of natural gas, in turn, have motivated electric utilities to increase their reliance on natural gas-fired generating units to meet Florida's demand for electricity. Indeed, Florida's largest electric utility has recently issued an RFP for a new natural gas pipeline to serve its fuel supply needs. Some of these same factors have prompted businesses to consider converting gas and diesel powered vehicles to natural gas.

NATURAL GAS

CS/CS/CS/HB 999 — Environmental Regulation

Section 25 of this bill abbreviates the permitting process for a FERC-regulated interstate natural gas pipeline project.

EFFECTIVE DATE: July 1, 2013.

CS/CS/CS/HB/1083 — Underground Natural Gas Storage

Prior to this Session, there was no regulatory framework for the underground storage of natural gas. HB 1083 expressly declares that underground natural gas storage is in the public interest and directs the Florida Department of Environmental Protection (FDEP) to adopt rules regarding natural gas storage and recovery of gas from natural gas storage reservoirs.

EFFECTIVE DATE: July 1, 2013.

CS/CS/HB 1085 — Public Records/Natural Gas Storage Facility Permit

This bill is associated with HB 1083 and exempts natural gas storage trade secrets from public records disclosure.

EFFECTIVE DATE: October 1, 2013.

CS/HB 579 — Natural Gas Motor Fuel

This bill encourages the use of natural gas vehicles by providing \$6 million per year over the next five years in tax rebates for converting commercial fleet vehicles to natural gas. (The rebates are limited to \$25,000 per vehicle.) The bill also provides for the licensing of natural gas retailers and exempts natural gas fuel from fuel taxes for the next five years.

EFFECTIVE DATE: January 1, 2014.

NUCLEAR ENERGY

In 2006, the Florida Legislature passed legislation [ss. 366.93 and 403.519(4)(c)] to encourage development of nuclear power plants by allowing utilities to accelerate the recovery of their preconstruction and construction costs prior to the plant becoming operational. Opponents of the law argued that it was wrong to allow the utilities to recover these costs when there was no assurance that the plants would ever be built. Legislation was filed this session to repeal the nuclear cost recovery law, which also has been the subject of multiple legal challenges. (Coincidentally, on the next to the last day of the session, the Florida Supreme Court issued an opinion which held that Florida's existing nuclear cost recovery laws were constitutional and did not vest unbridled discretion in the FPSC.)

CS/CS/SB 1472 — Nuclear and Integrated Gasification Combined Cycle Power Plants

This bill retained the accelerated cost recovery provisions in the nuclear cost recovery law but included additional levels of FPSC review if a nuclear project was subject to substantial delays or cost over-runs. The bill also refined the definition of preconstruction costs and required that prior to constructing the nuclear plant, the utility must prove that the planned project remains feasible and the projected costs are reasonable. The bill originally required a utility to refund certain monies that the utility had recovered if it later decided not to build the nuclear plant. However, that language was stripped out of the bill at the waning moments of the Session.

EFFECTIVE DATE: July 1, 2013.

RENEWABLE ENERGY

HB 4001 — Florida Renewable Fuel Standard Act

In 2008, the Legislature passed the Florida Renewable Fuel Standard Act [ss.526.201-526.207, Fla. Stat.] which required that all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler must be "blended gasoline," which was defined as a mixture of 90-91 percent gasoline and 9-10 percent ethanol or other alternative fuel by volume. In 2012, the Florida Legislature clarified that the Florida Renewable Fuel Standard Act did not prohibit a retail dealer from selling or offering to sell unblended gasoline (i.e., gasoline with no ethanol). The 2013 Legislature went even further and repealed the Florida Renewable Fuel Standard Act altogether. HB 4001 eliminates the requirement that terminal suppliers, importers, blenders, or wholesalers must sell blended gasoline, and removes the requirement that those entities report to the Department of Revenue the number of gallons of blended and unblended gasoline sold. Opponents have urged Governor Scott to veto the bill claiming that it would discourage biofuel companies from creating jobs in Florida, and that it is inconsistent with federal requirements for ethanol.

EFFECTIVE DATE: July 1, 2013.

CS/CS/HB 277 — Assessment of Residential and Nonhomestead Real Property

This bill implements a 2008 constitutional amendment that exempts specified renewable energy improvements from property tax assessments.

EFFECTIVE DATE: July 1, 2013.

ENERGY EFFICIENCY

SB 1594 — Energy Savings Contracts

Section 489.145, Florida Statutes currently authorizes certain governmental entities to enter into formal agreements with qualified contractors for measures designed to produce energy, water, or wastewater efficiencies. Such contracts require the qualified contractor to give a written guarantee that cost savings will meet or exceed the cost of the efficiency measure. SB 1594 expands the list of governmental entities that can enter into these performance-based contracts to include county school districts and institutions of higher education. The bill also expands the definition of efficiency measures to include building retrofits, renovations and a variety of other energy savings projects. Furthermore, the bill requires that a proposed contract or lease with the state agency include an investment grade audit certified by the Department of Management Services (DMS) which states that the projected cost savings are appropriate and sufficient for the term of the contract.

EFFECTIVE DATE: July 1, 2013.

HB 269 — Sustainable Building Certification

HB 269 was passed in response to a sustainable building certification program established in 2008, which required that new state office buildings be designed and constructed to comply with a sustainable building rating or a national model green building code. Critics of the certification program argued that it favored building certification under the U.S. Green Building Council Leadership Energy and Environmental Design (LEED). The Florida Forestry Association and the Florida Farm Bureau Federation argued that the LEED certification program was so difficult and expensive to attain that most growers refused to participate. HB 269 was designed to give state

agencies more flexibility to determine which green building certification process they want to adopt. The bill also requires that when a state agency constructs public bridges, buildings or other structures it must use lumber, timber or other forest products produced and manufactured in Florida if such products are available and their price, fitness and quality are equal. In addition, the bill renames the statewide standard for energy efficiency and shifts the Department of Business and Professional Regulation's responsibilities regarding a statewide uniform building and energy efficiency rating system to the DMS.

EFFECTIVE DATE: July 1, 2013.

BILLS THAT DIED

HB 743 and **SB 1028**: These bills would have required the FDEP to establish and maintain an online hydraulic fracturing chemical registry for all wells where hydraulic fracturing was being performed. This bill was supported by the Florida Petroleum Council but opposed by environmental groups.

HB 745 and **SB 1776**: These bills were associated with HB 743 and SB 1028 would have created a public records exemption for trade secrets related to hydraulic fracturing which the FDEP retained in connection with maintaining the hydraulic fracturing chemical registry.

HB 431: This bill would have allowed drilling partnerships in Northwest Florida within the Blackwater River State Forest. The bill was withdrawn prior to the start of the session.

HB 4003: This bill would have repealed Florida's nuclear cost recovery law found in Section 366.93, Florida Statutes.

HB 309 and **SB 498**: This bill would have allowed third-party producers of renewable energy to sell electricity on a retail basis to property, tenants, or adjacent landowners without being regulated by the FPSC as a public utility. These bills were never heard in committee.

ETHICS, ELECTIONS AND CAMPAIGN FINANCE

ETHICS

SB 2 — Ethics

This wide-ranging bill was passed early in the Session. Among other things, it expands the authority of the Commission on Ethics (COE) to investigate complaints referred by law enforcement agencies and the Governor, and enhances the COE's authority to collect unpaid fines from government officials who have violated ethics laws. The bill also bans former legislators from lobbying any state agency for two years after they leave office, and prohibits legislators in certain situations from accepting second jobs on public payrolls.

EFFECTIVE DATE: These provisions became law on May 1, 2013, when the Governor signed the bill.

SB 4 — Ethics

This bill complements SB 2 and provides that ethics complaints referred to the COE by law enforcement agencies and the Governor are not subject to public disclosure until a determination has been made as to their validity. This bill also authorizes the COE to meet in private to initially discuss new ethics complaints.

EFFECTIVE DATE: These provisions became law without the Governor's signature on May 1, 2013.

CAMPAIGN FINANCE

HB 569 — Campaign Finance

The bill imposes more frequent reporting deadlines for political candidates and political committees, and raises the maximum contribution limits for the first time since 1991. The current limit of \$500 will increase to \$3,000 for statewide candidates and to \$1,000 for all other candidates. The increased contribution limits take effect on November 1, 2013. The bill also prohibits contributions to committees of continuous existence (CCEs) after July

31, 2013, and abolishes CCEs as of September 30, 2013. The bill, however, allows for the creation of new political committees that can accept unlimited contributions beginning November 1, 2013.

EFFECTIVE DATE: These provisions were approved by the Governor and take effect on November 1, 2013, unless otherwise provided.

ELECTIONS

HB 7013 — Florida Election Code

This bill extends early voting in Florida for up to 14 days and equips counties with flexibility to select multiple voting sites to ease problems associated with long voting lines. The bill also provides a mechanism to cure unsigned absentee ballots, and confirms that military personnel and their family members are eligible for late voter registration.

EFFECTIVE DATE: If approved by the Governor, these provisions take effect on January 1, 2014, except where otherwise provided.

GROWTH MANAGEMENT, WATER AND ENVIRONMENT

CS/CS/HB 203 — Agricultural Lands

This bill prohibits a governmental entity (not just a county, as is provided by current law) from adopting or enforcing any prohibition, restriction, regulation, or other limitation or from charging a fee on any activity of a bona fide farm operation on land classified as agricultural land under certain circumstances if the activity is already regulated through best management practices adopted by rule by DEP, DACS or a water management district or if the activity is regulated by USDA, EPA or the Army Corps of Engineers.

The bill also clarifies that the existing preemption of local regulation provided for farm buildings, farm fences and farm signs is limited to those located on lands used for bona fide agricultural purposes, and the bill defines such bona fide agricultural purposes.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/CS/SB 1106 — Agritourism

This bill prohibits a local government from prohibiting or restricting any "agritourism activity" on land classified as agricultural land. The bill also revises the definition of "agritourism activity" to include any agriculture related activity on a bona fide farm or ranch or working forest that allows members of the public to view or enjoy certain activities and attractions. The term expressly does not include the construction of new or additional structures intended primarily to accommodate members of the general public. The bill also provides limitations on liability for the land owner and certain other persons for the inherent risks of agritourism activity, as defined.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/CS/HB 537 — Growth Management (Baby Hometown Democracy)

This bill addresses a "glitch" in the law that sought to grandfather only certain existing local laws that provide for referenda on local comprehensive plans. The bill makes clear that local referenda and initiatives on comprehensive plan and map amendments are prohibited unless expressly authorized by specific language in a local government charter that was in effect on June 1, 2011; a general charter provision for an initiative or referendum is not sufficient. The bill also clarifies that local referenda and initiatives are not allowed with respect to development orders. Significantly, the bill applies retroactively to any initiative or referendum process commenced after June 1, 2011, and declares any process commenced or completed after that date to be null and void and of no legal force and effect.

Similar provisions are also included in **CS/HB 7019**.

AGRICULTURAL ENCLAVE REPEALED

CS/CS/HB 537 also repeals an unrelated provision enacted in 2012 to benefit an "agricultural enclave" in St. Johns County.

EFFECTIVE DATE: If approved by the Governor, this bill will be effective upon becoming law.

CS/CS/CS/HB 319 — Community Transportation Projects

This bill amends the Community Planning Act (CPA) relating to transportation concurrency. Under the new CPA, local governments could opt out of transportation concurrency. This bill clarifies that local governments that implement transportation concurrency are encouraged to follow existing guidelines. The bill also encourages implementation of a mobility fee-based funding system and requires local governments to set standards for proportionate share development agreements to fund transportation infrastructure.

EFFECTIVE DATE: If approved by the Governor, this bill will be effective upon becoming law.

CS/CS/CS/HB 999 — Environmental Regulation

This bill is a comprehensive measure relating to environmental regulation, also includes a provision relating to development permits. The bill provides that, with respect to an application for a development permit, a local government may not request additional information from an applicant more than three times, unless the applicant waives this limitation in writing.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/HB 7019 — Development Permits

This bill requires cities and counties to attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development. This is intended to address concerns by FEMA with legislation enacted in 2012.

EFFECTIVE DATE: If approved by the governor, the effective date of this bill is July 1, 2013.

EXTENSION OF PERMITS

CS/HB 7019 also provides yet another opportunity to qualify for the additional two-year permit extension enacted in 2011 for any building permit and any environmental resource permit (ERP) that has an expiration date from January 1, 2012, through January 1, 2014. The holder of the permit or other authorization that is eligible for the two-year extension must notify the authorizing agency in writing by October 1, 2013 (the prior deadline was December 31, 2012, which last year was extended from December 31, 2011), identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

The bill also extends for three years any building permit or ERP in certain parts of the Florida Keys Area of Critical State Concern that has an expiration date from January 1, 2012, through January 1, 2016.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/HB 357 — Manufacturing Development

This bill establishes the Manufacturing Competitiveness Act. The purpose of the bill is to authorize local governments to establish local manufacturing development programs which grant master plan approval for new manufacturing sites. DEO is authorized to develop a model manufacturing master plan ordinance. Projects which go through this master plan approval would have the benefit of coordinated and expedited state permit approval as DEO is authorized to shepherd new manufacturing projects through the permitting system.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/CS/SB 50 — Public Meetings

This bill specifies that members of the public must be given a reasonable opportunity to be heard on a proposition before a board or commission. "Board or commission" is defined to include any board or commission of a state agency or authority, or of any agency or authority of a county, municipal corporation, or political subdivision. Certain exemptions are provided, including quasi-judicial proceedings. The right to be heard may be enforced in circuit court and attorney fees can be awarded against the board or commission for violations, or against a member of the public found to be pursuing a frivolous action. The bill does not prohibit the board or commission from maintaining orderly conduct or proper decorum in a public meeting, including time limits on speakers

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is October 1, 2013.

WATER

CS/SB 364 — Consumptive Use Permits for Development of Alternative Water Supplies amends section 373.236, Florida statutes (duration of water use permits) to provide a 30-year term for permits involving alternative water supplies. The bill adds language requiring that there be sufficient data to provide reasonable assurance that the conditions of the permit will be met for the duration of the permit. If the permittee issues bonds to fund the alternative water supply project, it may request that the term of the permit be extended to coincide with the period required for retirement of the debt. However, the request must be made within seven years of permit issuance, and the extension of the term for bond financing may not exceed seven years. Compliance reports are required but quantities are not subject to reduction unless certain conditions occur, including harm to the water resources or interference with prior existing legal uses.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/SB 444 — Domestic Wastewater Discharged Through Ocean Outfalls

This bill provides additional flexibility for utilities to meet the 60 percent reuse requirement and to continue to discharge peak flows up to 5 percent of "baseline flows" through ocean outfalls.

Within the affected counties of Miami-Dade, Broward and Palm Beach, significant cost reductions for wastewater utilities implementing the 60 percent reuse requirement are anticipated.

EFFECTIVE DATE: This bill was approved by the Governor on April 24, 2013, and will take effect on July 1, 2013. It has been codified in Chapter 2013-31, *Laws of Florida*.

CS/HB 7065 — Everglades Improvement and Management

This bill is a major revision of the Everglades Forever Act which guides state government in its Everglades restoration goals. The bill is a rare example of sugar, agricultural and environmental interests reaching agreement in the legislative process. The bill sets an enforceable Everglades water quality effluent limit and proposes a set of projects to remove phosphorous pollution from water leaving farm fields and entering the Everglades Protection Area. The bill ratifies the several specific cleanup projects, extends the tax paid by sugarcane and other farmers to help fund the cleanup, and finds that best management practices reduce nutrients flowing to the Everglades. The legislation also authorizes appropriations of \$92 million from the tax on lands in the EAA and \$32 million from the state budget.

EFFECTIVE DATE: If approved by the Governor, this bill will be effective upon becoming law.

CS/SB 1808 — Numeric Nutrient Criteria

This bill provides guidance for establishing numeric nutrient criteria in certain state waters. The bill allows the Department of Environmental Protection (DEP) to implement its adopted nutrient standards for springs, streams, lakes and estuaries in accordance with the guidance in "Implementation of Florida's Numeric Nutrient Standards." The bill authorizes the implementation of the state's numeric nutrient criteria rules upon the withdrawal by the United States Environmental Protection Agency of all federal numeric nutrient rules in Florida and the end of nutrient rulemaking in the state. The legislation directs DEP to provide a report to the Governor, President of the Senate and Speaker of the House of Representatives by August 1, 2013, on the status of setting

numeric nutrient criteria for estuaries and non-estuarine coastal waters for which numeric nutrient criteria have not been set.

EFFECTIVE DATE: If approved by the Governor, this bill will be effective upon becoming law.

CS/CS/CS/HB 375 — Onsite Sewage Treatment and Disposal Systems

This bill makes a number of changes to the requirements for onsite sewage treatment and disposal systems (OSTDS), particularly those in Monroe County.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/SB 934 — Stormwater Permits

This bill authorizes a local government that has created a community redevelopment area or an urban infill and redevelopment area to adopt a stormwater adaptive management plan. The purpose of the plan would be to address the quantity and quality of stormwater discharges for the redevelopment or infill area so as not to violate water quality standards. The local government would be able to obtain a conceptual permit from the water management district.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

HB 7157 — Ratification of Rules Implementing Total Maximum Daily Loads for Impaired Water Bodies

This bill ratifies a number of DEP rules establishing Total Maximum Daily Loads (TMDLs) for a variety of water bodies designated as impaired, as well as a statewide TMDL for mercury. Legislation enacted in 2010 provides that certain rules with a million dollar impact may not become effective until ratified by the Legislature. This measure provides the required ratification.

EFFECTIVE DATE: If approved by the Governor, this bill will be effective upon becoming law.

SB 1806 — Total Maximum Daily Loads

This bill exempts future DEP rules establishing TMDLs from the legislative ratification requirement.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/SB 948 — Water Supply

This bill amends section 373.236, Florida statutes (duration of water use permits) to provide a 30-year term for permits involving alternative water supplies. The bill adds language requiring that there be sufficient data to provide reasonable assurance that the conditions of the permit will be met for the duration of the permit. If the permittee issues bonds to fund the alternative water supply project, it may request that the term of the permit be extended to coincide with the period required for retirement of the debt. However, the request must be made within seven years of permit issuance, and the extension of the term for bond financing may not exceed seven years. Compliance reports are required but quantities are not subject to reduction unless certain conditions occur, including harm to the water resources or interference with prior existing legal uses.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

SB 244 — Water Management Districts

This bill provides the water management districts (WMDs) with guidance concerning minimum flows and levels (MFLs), water reservations, recovery or prevention strategies, and multi-district projects. WMDs are required to provide DEP with technical information and staff support for the development of a reservation, minimum flow or level, or recovery or prevention strategy being adopted by the department by rule. WMDs are required to apply any reservation, minimum flow or level, or recovery or prevention strategy adopted by DEP without having to adopt their own district rules.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

CS/CS/CS/HB 999 — Environmental Regulation (Water Management Permitting (Sections 9-13 of HB 999))

This bill is a comprehensive measure relating to environmental regulation, also contains several provisions relating to water management. For example:

- The statutory provision addressing competing consumptive use permit (CUP) applications is clarified.
- WMDs and DEP are authorized to notify a permittee by electronic mail of any change or suspension to a permit as a result of a water shortage.
- The issuance of well permits is designated to be the sole responsibility of WMDs, delegated governments, or local county health departments, and other government entities are prohibited from imposing certain requirements and fees.
- Licensure of water well contractors by a WMD must be the only water well contractor license required for the location, construction, repair, or abandonment of water wells in the state or any political subdivision.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

ENVIRONMENT

Extension of Certain ERPs

As noted above, **CS/HB 7019** also provides yet another opportunity to qualify for the additional two-year permit extension enacted in 2011 for any building permit and any environmental resource permit (ERP) that has an expiration date from January 1, 2012, through January 1, 2014. The holder of the permit or other authorization that is eligible for the two-year extension must notify the authorizing agency in writing by October 1, 2013 (the prior deadline was December 31, 2012, which last year was extended from December 31, 2011), identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

The bill also extends for three years any building permit or ERP in certain parts of the Florida Keys Area of Critical State Concern that has an expiration date from January 1, 2012, through January 1, 2016.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

FOSSIL FUEL COMBUSTION PRODUCTS

CS/CS/SB 682 — Fossil Fuel Combustion Products

This bill provides for the regulation of fossil fuel combustion products which are defined as byproducts from the combustion of fossil fuels at fossil fuel-fired or steam electric generation facilities. Under the legislation, beneficial uses of fossil fuel combustion products are not subject to regulation as solid or hazardous wastes under existing law. They are subject to other requirements such as air pollution control limits, wastewater discharge limits and water quality certifications. Beneficial uses include incorporation of these materials into building products, construction materials, use for structural fill and cover material used for lined Class I or Class II landfills. The legislation exempts disposal facilities accepting fossil fuel combustion products from the prohibition on hazardous waste landfills in Florida.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

ENVIRONMENTAL PERMITTING

CS/CS/CS/HB 999 — Environmental Regulation

This bill contains a comprehensive measure relating to environmental regulation, continuing a trend over the last few years to streamline environmental permitting. Among other things, the bill exempts certain farm ponds and wetlands from regulatory requirements, provides for expedited permitting for natural gas pipelines, authorizes

DEP to adopt rules requiring or incentivizing the electronic submission of permit applications, and allows DEP and the water management districts to notify permittees by electronic mail in certain cases.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

SUBMERGED LANDS

CS/CS/CS/HB 999 also contains several provisions designed to streamline requests for approval for the use of state-owned submerged lands. For example, the bill authorizes temporary leases for special events and boat shows. It also authorizes discounts in lease fees for public marinas and marinas which voluntarily comply with Clean Marina or Clean Boatyard programs. The bill also exempts small docks associated with private residences.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

UNDERGROUND NATURAL GAS STORAGE

CS/CS/CS/HB/1083 — Underground Natural Gas Storage

This bill creates a process for regulating the in-ground storage of natural gas. The legislation provides that the Division of Resource Management within DEP has authority to administer and enforce laws relating to storage of gas in and recovery of gas from natural gas storage reservoirs. A permitting process is created and the legislation provides criteria for determining whether a permit should be issued. The permit program provides for life of the facility permit subject to recertification every 10 years. The legislation provides that the injected gas is the property of the injector or the injector's heirs, successors, or assigns, whether owned by the injector or stored under contract.

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

BILLS THAT DIED

GROWTH MANAGEMENT

Impact Fees

CS/CS/CS/HB 321 would have authorized local governments to waive impact fees, concurrency related costs, and proportionate share transportation costs within defined development areas for three years. The purpose of the proposed bill was to incentivize new development in areas preferred by local government. The bill passed the House but died in the Senate.

ENVIRONMENT

Fracking

Hydraulic fracturing (or "fracking") is a process for injection of water and other materials to release natural gas. There is currently no fracking for natural gas in Florida. HB 743 would have created the Fracturing Chemical Usage Disclosure Act that would have required DEP to establish an online chemical registry that includes information about the chemicals used in the process. **CS/CS/HB 743** passed the House but died in the Senate.

More Local Preemption: Fertilizer

Concerns about the water quality of local watersheds has led about five local governments to date to adopt ordinances to limit the amount and types of fertilizers used within the local government's jurisdiction. As passed by the House, **CS/CS/CS/HB 999** would have preempted local governments from adopting these ordinances. The measure became very controversial and was stripped by the Senate on final passage of the bill.

HEALTHCARE

CS/CS/HB 239 — Practice of Optometry

The bill authorizes licensed certified optometrists to administer or prescribe 14 oral medications, including specified analgesics which are controlled substances, for the relief of pain due to ocular conditions of the eye. The optometrist is required to take a 20-hour course and exam before prescribing or administering oral drugs. The bill prohibits an optometrist from prescribing or giving any drug for the purpose of treating a systemic disease

EFFECTIVE DATE: If approved by the Governor, these provisions take effect July 1, 2013.

CS/CS/HB 365 — Pharmacy

The bill authorizes a Class II institutional pharmacy (typically a hospital pharmacy) to add biological products, called "biosimilars," to its institutional formulary system. Pharmacists may only dispense biosimilar products to patients in place of prescribed biological products if FDA has determined that the substitute biological product is biosimilar to and interchangeable for the prescribed biological product; if the prescriber does not express any preference against such a substitution; and if the person presenting the prescription is notified of the substitution with the option to refuse the substitution and request the brand name product.

EFFECTIVE DATE: If approved by the Governor, these provisions take effect July 1, 2013.

CS/CS/CS/HB 1129 — Infants Born Alive

The bill provides protections for an infant born alive during an attempted abortion. Specifically, the bill defines "born alive" and grants an infant who is born alive during or immediately after an attempted abortion the same rights as infants born naturally. The bill makes violations of these provisions to be punishable as a first degree misdemeanor and requires facilities that perform abortions to report monthly the number of infants born alive to the Agency for Health Care Administration.

EFFECTIVE DATE: If approved by the Governor, these provisions take effect July 1, 2013.

CS/CS/HB 1159 — Health Care

The bill changes several sections of law relating to healthcare. Specifically, the bill contains provisions relating to:

Obstetrical Services in Specialty Licensed Children's Hospitals

The bill allows a specialty licensed children's hospital located in a county with a population of 1,750,000 or more to provide obstetrical services, in accordance with the guidelines with the American College of Obstetricians and Gynecologists, to up to 10 beds. These services are restricted to pregnancies that are identified as high risk or who have medical advice or a diagnosis indicating that the fetus may require at least one perinatal intervention.

The Cancer Treatment Fairness Act

The bill creates the Cancer Treatment Fairness Act that requires an individual or group insurance policy, or a health maintenance organization contract, that provides medical, major medical, or similar comprehensive coverage and includes coverage for cancer treatment to also cover prescribed, orally administered cancer treatment medications. The Act restricts policies and contracts from applying cost-sharing requirements for orally administered cancer treatment medications that are less favorable than cost-sharing requirements for other cancer treatment medications covered under the policy or contract except if the cost-sharing requirements for intravenous or injected cancer medications are less than \$50 per month. The cost-sharing requirements for orally administered cancer treatment medications may be up to \$50 a month.

The Prescription Drug Monitoring Program

The bill appropriates \$500,000 of nonrecurring funds to the Department of Health to administer the prescription drug monitoring program.

Level II Trauma Center Designation

The bill requires the Department of Health to designate a hospital as a Level II trauma center if the hospital has a valid certificate of trauma center verification from the American College of Surgeons and is located in an area with limited access to trauma center services. A hospital is located within an area with limited access to trauma center services when it is located in a trauma service area with a population of greater than 600,000 persons and a density of less than 225 persons per square mile; in a county with no verified trauma center; and, at least 15 miles or 20 minutes travel time by ground transport from the nearest verified trauma center.

Clinics

The bill exempts from the definition of "clinic" under s. 400.9905, F.S., pediatric cardiology and perinatology clinical facilities, anesthesia clinical facilities, and entities that are owned by a corporation that has \$250 million or more in total annual sales of healthcare services provided by licensed healthcare practitioners, where one or more of the persons responsible for the operations of the entity are a healthcare practitioner.

Expedited Review for Certain Nursing Home Certificates of Need

The bill allows for an expedited review for the certificate of need application for the construction of a new nursing home, regardless of the moratorium on nursing home certificates of need established by s. 408.0435, F.S., in a retirement community where the residential use area is deed-restricted as housing for older persons as defined in s. 790.29(4)(b), F.S.; that is located in a county with 25 percent or more of its population aged 65 and older; that is located in a county that has a rate of no more than 16.1 nursing home beds per 1,000 people age 65 or older; that has a population of at least 8,000 residents; and, where the number of proposed nursing home beds does not exceed 16.1 beds per 1,000 persons aged 65 or older for the county projected three years into the future. The bill authorizes the expedited review process for up to 120 new beds per application and for a total of 240 beds per community regardless of whether the community spans multiple counties.

EFFECTIVE DATE: If approved by the Governor, and except as specified in the act, these provisions take effect upon becoming law.

CS/SB 1842 — Health Insurance

The bill makes changes to the Florida Insurance Code related to the requirements of the federal Patient Protection and Affordable Care Act (PPACA) that apply to health insurers and health insurance policies. PPACA preempts any state law that prevents the application of a provision of the PPACA. Each state may enforce the requirements of the PPACA, but if the U.S. Department of Health and Human Services (HHS) determines that a state has failed to substantially enforce any provisions, HHS must enforce those provisions.

The bill makes the following changes to the Florida Insurance Code:

- Provides that a provision of the Florida Insurance Code (Code) or rule adopted pursuant to the Code applies unless such provision or rule prevents the application of a provision of PPACA. This is substantially the same preemption provision that is included in PPACA.
- Authorizes the Office of Insurance Regulation (OIR) to assist HHS in enforcing the provisions of the PPACA by reviewing policy forms and performing market conduct examinations or investigations for compliance with PPACA. OIR must first notify the insurer of any noncompliance and then notify HHS if the insurer does not take corrective action.
- Authorizes the Division of Consumer Services within the Department of Financial Services (DFS) to respond to complaints by consumers relating to requirements of PPACA, by performing its current statutory responsibilities to prepare and disseminate information to consumers as it deems appropriate, provide direct assistance and advocacy to consumers, and require insurers to respond, in writing, to a complaint, and further authorizes the division to report apparent or potential violations to OIR and to HHS.
- Temporarily suspends, for 2014 and 2015, the requirement that health insurers and HMOs (insurers) obtain approval from OIR for nongrandfathered health plans which, generally, are plans under which an individual was insured on March 23, 2010, and for which rates must be filed with HHS. Insurers will still be required to file rates and rate changes for such plans with OIR prior to use, but such rates may be used without OIR approval. For this two-year period, the rates for nongrandfathered plans would be exempt from all rating requirements. These rating law changes will be repealed on March 1, 2015. Under PPACA, insurers must file rate changes with HHS for nongrandfathered health plans, subject to review and determination of whether the

rate increase is unreasonable. Grandfathered health plans are not subject to PPACA rate filing requirements and remain subject to the current Florida law requirements for filing rates for approval with OIR.

- Requires insurers to provide a notice to individual and small group policyholders of nongrandfathered health plans that describes or illustrates the estimated impact of PPACA on monthly premiums. This notice is required one time, when the policy is issued or renewed on or after January 1, 2014. The notice must be in a format established by rule by the Financial Services Commission. The OIR and DFS must develop a summary of the estimated impact of PPACA on monthly premiums as contained in the notices, which must be available on their respective websites by October 1, 2013.
- Requires individuals acting as a "navigator" under PPACA to be registered with DFS, beginning August 1, 2013. Under PPACA, beginning on October 1, 2013, individuals and small businesses will be able to purchase private health insurance through Affordable Insurance Exchanges (Exchanges). Exchanges must certify qualified health plans (QHPs) offered by insurers through the Exchange. PPACA directs Exchanges to award grants to "navigators" that will facilitate enrollment in QHPs and exercise certain other duties.
- To be registered as a navigator under the bill, an individual must certify completion of federally-required training, submit fingerprints for a criminal background check, and pay a \$50 application fee (currently, there is a \$50.30 fingerprint processing fee for agents, so the total cost for a navigator would be \$100.30). Certain crimes would either permanently bar an individual from registration or disqualify an applicant for specified periods. A navigator will be prohibited from:
 - recommending the purchase of a particular health plan or represent that one health plan is preferable over any other
 - recommending or assisting with the cancellation of insurance coverage purchased outside the Exchange
 - receiving compensation or anything of value from an insurer, health plan, business, or consumer in connection with performing activities as a navigator, other than from the Exchange or an entity or individual who has received a navigator grant under the PPACA
- Specifies grounds for suspension or revocation of registration and authorizes DFS to impose an administrative fine in lieu of, or in addition to suspension or revocation. Any person who acts as a navigator without registration is subject to an administrative penalty not to exceed \$1,500.
- Makes the following changes that allow or require insurers to take certain actions that would preserve the status of grandfathered health plans which, in general, are plans under which an individual was insured on March 23, 2010, and which are exempt from many of the requirements of PPACA:
 - if a policy form covers both grandfathered health plans and nongrandfathered health plans, the bill allows an insurer to non-renew coverage only for all of the nongrandfathered health plans, subject to certain conditions
 - requires that the claims experience for grandfathered health plans be separated from nongrandfathered health plans for rating purposes, as also required by PPACA
 - allows an insurer to discontinue a policy form that does not comply with PPACA without being subject to the current prohibition on selling a new, similar policy form after a policy form is discontinued
- Provides two different definitions of "small employer" — one for grandfathered health plans, which is the current law definition, and one for nongrandfathered health plans, which is the same as the federal definition used for PPACA (but capped at 50 employees, as allowed by PPACA). For nongrandfathered health plans, any state law that applies to small group coverage will apply to coverage for a small employer as defined under PPACA and will no longer apply to an employer who is not a small employer under the federal definition.
- Requires the dissolution of the Florida Comprehensive Health Association (FCHA), which is the state's high risk pool for persons unable to obtain health insurance, by September 1, 2015. Coverage for current FCHA policyholders will be terminated by June 30, 2014. The FCHA is required to assist each policyholder in obtaining health insurance coverage, which is available to all persons on a guaranteed-issue basis under PPACA beginning October 1, 2013, with coverage beginning January 1, 2014.
- Specifies that health insurers and HMOs may nonrenew individual conversion policies if the individual is eligible for other similar coverage (which is available under PPACA).
- Repeals the statute that establishes the Florida Health Insurance Plan, which has never been implemented.

EFFECTIVE DATE: If approved by the Governor, these provisions take effect upon becoming law.

CS/SB 1844 — Florida Health Choices Program

The bill expands the current Florida Health Choices Program (FHCP) eligibility guidelines by modifying the participation criteria for individuals and employers as long as other program criteria are met. The bill provides Florida Health Choices Corporation (FHCC) with more flexibility in setting open enrollment periods and removes product pricing guidelines that are in conflict with the provisions of the federal Patient Protection and Affordable Care Act. The bill also provides \$900,000 of non-recurring general revenue for FHCC.

EFFECTIVE DATE: If approved by the Governor, these provisions take effect July 1, 2013.

BILLS THAT DIED

MEDICAID EXPANSION

SB 1816 — Healthy Florida

SB 1816 would have used federal funding to assist individuals and families with purchasing private insurance coverage by establishing an alternative benchmark plan. Under the Healthy Florida plan, enrollees would have been provided a choice of plans and options to select individual or family coverage. The bill would have established requirements for cost sharing and would have authorized Florida Healthy Kids to collect premiums and copayments from enrollees in accordance with federal law and in amounts established annually in the General Appropriations Act.

HB 7169 — Florida Health Choices Plus

The Florida Health Choices (FHC) program is a single, centralized marketplace for the sale and purchase of healthcare coverage products and services. HB 7169 would have created Florida Health Choices Plus, making uninsured parents and Social Security Income-eligible disabled adults with incomes under 100 percent of poverty who are not eligible for Medicaid, eligible for the program. Enrollees in FHC Plus would have received \$2,000 to fund a contribution amount for responsible expenditures (CARE) account to purchase health coverage, products and services in the FHC Plus marketplace. Each enrollee would have been required to make a monthly individual contribution of \$25 to the account and could make additional contributions to increase their buying power. The new program would have utilized state revenues.

ASSISTED LIVING FACILITIES

SB 646/HB 1319 — Assisted Living Facilities Reform

This bill would have strengthened the enforcement of current regulations for Assisted Living Facilities (ALF) by:

- Specifying who is responsible for assuring that mental health residents in an ALF receive necessary services.
- Creating a provisional Extended Congregate Care (ECC) license for new ALFs and specifying when the Agency for Health Care Administration (AHCA) may deny or revoke a facility's ECC license. Clarifying the criteria under which AHCA must revoke or deny a facility's license
- Specifying circumstances under which AHCA must impose an immediate moratorium on a facility
- Allowing AHCA to revoke the license of a facility with a controlling interest that has or had a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or that was the subject of other specified administrative sanctions
- Setting fines for all classes of violations and doubling fines for repeated serious violations

INSURANCE

GENERAL INSURANCE

SB 356 — Mutual Insurance Corporations

The bill allows a financial guaranty insurance corporation to be organized as a mutual insurer. If the corporation is organized as a mutual insurer, it must be organized and licensed in accordance with the provisions of the Florida Insurance Code.

Financial guaranty insurance is a surety bond, insurance policy, or indemnity contract issued by an insurer, or a similar guaranty, under which loss is payable once the insured claimant, obligee, or indemnitee provides proof of an occurrence of:

- The failure, as a result of a financial default or insolvency of an obligor on a debt instrument or other monetary obligation to make principal, interest, premium, dividend, or purchase price payments when due
- Changes in interest rate levels or the differential in interest rates between various markets or products
- Changes in currency exchange rates
- Changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general
- Other events that the Office of Insurance Regulation determines are substantially similar to any of the foregoing

The bill permits a mutual insurance holding company to acquire the membership interests of a not-for-profit insurance company or nonprofit healthcare plan. The mutual insurance holding company may also acquire a not-for-profit insurance company or nonprofit healthcare plan through the merger of such entities with a mutual insurance company or a not-for-profit insurance company subsidiary of the mutual insurance holding company or intermediate holding company. The bill allows a not-for-profit insurance company subsidiary to pay dividends or distributions to its mutual insurance holding company.

EFFECTIVE DATE: Upon becoming a law.

CS/HB 223 — Insurance

The bill allows property and casualty insurance policies and endorsements that do not contain personally identifiable information to be posted on the insurer's Internet website. If the insurer elects to post insurance policies and endorsements on its Internet website the insurer must:

- Make each policy and endorsement easily accessible on the insurer's Internet website for as long as the policy and endorsement remain in force
- Archive all of its expired policies and endorsements on its Internet website and make any expired policy and endorsement available upon an insured's request for at least five years after expiration of the policy and endorsement
- Post each policy and endorsement in a manner that enables the insured to print and save the policy and endorsement using a program or application that is widely available on the Internet without charge
- Notify the insured, in the manner the insurer customarily uses to communicate with the insured, that the insured has the right to request and obtain without charge a paper or electronic copy of the insured's policy and endorsements
- Clearly identify the exact policy form and endorsement form purchased by the insured on each declarations page issued to the insured

EFFECTIVE DATE: July 1, 2013.

CS/HB 157 — Delivery of Insurance Policies

The bill allows an insurer to use electronic transmission as an acceptable means to meet statutory requirements for delivery of an insurance policy. Under current law, an insurer must mail or deliver a policy to the insured within 60 days after the insurance takes effect. The bill further specifies electronic transmission of an insurance

policy related to commercial risks constitutes delivery of the policy to the policyholder unless the policyholder notifies the insurance company in writing or in an electronic format that they do not agree to have their policy delivered by electronic transmission. If a policy covering commercial risks is transmitted to the policyholder electronically, the transmission is required to include notice to the policyholder indicating the policyholder has a right to receive the policy by mail instead of electronic transmission. In addition, a paper copy of the policy must be provided to policyholders upon request.

EFFECTIVE DATE: July 1, 2013.

PROPERTY INSURANCE

CS/SB 1770 — Property Insurance

The bill makes the following changes to the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation and Public Adjusters:

Florida Hurricane Catastrophe Fund (CAT Fund)

- Renames the "Florida Hurricane Catastrophe Fund Finance Corporation" to the "State Board of Administration Finance Corporation"
- Extends the CAT Fund assessment exemption for medical malpractice until May 31, 2016
- Repeals outdated language for the \$10 million additional coverage for specified insurers and the Temporary Emergency Options for Additional Coverage
- Requires the CAT Fund submit to the Legislature and Financial Services Commission an annual Probable Maximum Loss (PML) report for the upcoming storm season

Citizens Property Insurance Corporation

- Exempts Citizens from "exchange of business" restrictions to facilitate the operations of the clearinghouse
- Adds a professional structural engineer to the Florida Commission on Hurricane Loss Projection Methodology
- Reduces the maximum Citizens' policy limit from \$2 million to \$1 million and further reduces this amount by \$100,000 a year for three years to \$700,000; allows for an exemption in certain counties in which the Office of Insurance Regulation (OIR) determines that Citizens does not have a reasonable degree of competition
- Prohibits Citizens from covering structures commencing construction after July 1, 2014, seaward of the coastal construction control line
- Allows the Governor of Florida to appoint a consumer representative to the Citizens Board of Governors in addition to the current two appointments
- Clarifies a private company's offer within 15 percent of Citizens' rate for a new policy and no greater than the current rate for a renewal makes the policy ineligible for coverage with Citizens
- Requires that Citizens disclose potential surcharge and assessment liabilities with each renewal notice
- Allows insurers who take policies out of Citizens to use Citizens' policy forms for three years without approval from the OIR to use the forms
- Establishes an office of Inspector General at Citizens to be appointed by the Financial Services Commission
- Requires Citizens to prepare an annual report on Citizens' loss ratio for non-catastrophic losses on a statewide and county basis
- Subjects Citizens to the purchasing of commodities restrictions under s. 287.057, F.S.
- Establishes the Citizens' clearinghouse by January 1, 2014
- Requires the establishment of a process to divert commercial residential policies
- Requires that companies participating in the clearinghouse must either appoint the agent of record or offer a limited servicing agreement
- Requires that agents are to be paid Citizens' commission or the company's standard commission, whichever is greater
- Clarifies that the 45-day notice of nonrenewal applies to policies submitted to the clearinghouse

- Provides that independent and captive agents are granted and must maintain ownership of records including policies placed in Citizens
- Allows captive companies to approve their agents limiting servicing agreements with each participating company
- Requires Citizens to submit to the Legislature and Financial Services Commission an annual PML report for the upcoming storm season

Public Adjusters

- Prohibits a public adjuster from receiving compensation from any source over the statutory fee cap. Applies disciplinary provisions in current law to public adjusters who violate the statutory fee caps through any maneuver, shift, or device
- Repeals the current provision that for any claim filed with Citizens, a public adjuster cannot charge more than 10 percent of the difference between Citizens' initial offer and the amount actually paid
- Requires a public adjuster to meet or communicate with the insurer to try to settle. Prohibits a public adjuster from acquiring any interest in salvaged property, without the written consent of the policyholder

EFFECTIVE DATE: July 1, 2013, except as otherwise expressly provided in this act.

SB 1850 — Public Records/Citizens Property Insurance Corporation Clearinghouse

The bill exempts from public record proprietary business information which is owned or controlled by an insurer participating in the Citizens' clearinghouse program created in CS/SB 1770, and:

- Is identified by the insurer as proprietary business information and is intended to be and is treated by the insurer as private in that the disclosure of the information would cause harm to the insurer, an individual, or the company's business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public
- Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to the clearinghouse
- Includes, but is not limited to:
 - trade secrets
 - information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information

Proprietary business information may be found in underwriting criteria or instructions which are used to identify and select risks through the program for an offer of coverage and are shared with the clearinghouse to facilitate the shopping of risks with the insurer.

The clearinghouse may disclose confidential and exempt proprietary business information:

- If the insurer to which it pertains gives prior written consent
- Pursuant to a court order, or
- To another state agency in this or another state or to a federal agency if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has verified in writing its legal authority to maintain such confidentiality

The bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

EFFECTIVE DATE: This act shall take effect upon becoming law, if CS/SB 1770 is approved, and shall take effect July 1, 2013.

CS/CS/CS/HB 573 — Manufactured and Mobile Homes

The bill imposes a \$3,000 minimum insured value, instead of \$6,000. Thus, Citizens is required to offer coverage for mobile and manufactured homes for a minimum insured value of at least \$3,000. This minimum applies to buildings, other structures, contents, additional living expense and liability coverage for owner-occupied mobile or

manufactured homes. It also applies to contents, additional living expense and liability coverage provided to a renter or tenant of a mobile or manufactured home.

In addition, the bill requires Citizens to provide coverage for the following attached structures to mobile or manufactured homes:

- Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as that of the primary dwelling
- Carports that are aluminum or carports not covered by the same or substantially the same materials as that of the primary dwelling
- Patios that have a roof covering constructed of materials that are not the same or substantially the same materials as that of the primary dwelling

The bill amends s. 723.06115, F.S., to specify the manner in which funds from the Florida Mobile Home Relocation Trust Fund are to be disbursed to the Florida Mobile Home Relocation Corporation.

Specifically, the bill provides that the Department shall disburse funds from the Trust Fund to the Corporation using the following procedures:

- At the beginning of each fiscal year, the Corporation shall determine its operating costs and provide that amount to the Department, in writing. One-fourth of the operating budget shall be transferred to the Corporation each quarter. The Department shall make the first one-fourth quarter transfer on the first business day of the fiscal year and make the remaining one-fourth transfers before the second business day of the second, third and fourth quarters.
- Throughout the year, additional requests for necessary operating funds may be submitted to the Department, in writing, indicating the changes to the operating budget and the conditions that were unforeseen at the time the Corporation developed the operating budget at the beginning of the fiscal year.
- As it deems necessary, the Corporation shall advise the Department, in writing, of the amount needed to make payments to mobile home owners under the relocation program. The Department must distribute the amount within five business days of the Corporation's written request. Funds transferred from the Department to the Corporation shall be transferred electronically and maintained by the Corporation in a qualified public depository as defined in s. 280.02, F. S.

Finally, the bill specifies that other than the requirements set forth in the section, neither the Corporation nor the Department is required to take any other action as a prerequisite to accomplishing the provisions of this section. This effectively nullifies any additional disbursement "prerequisites" listed in the current Memorandum of Understanding between the Department and the Corporation.

EFFECTIVE DATE: Upon becoming a law.

CS/CS/SB 468 — Property and Casualty Insurance Rates, Fees and Forms

CS/CS/SB 468 expands the number of commercial lines insurance that are exempt from the rate filing and review requirements of s. 627.062(2)(a) and (f), F.S, to include:

- Medical malpractice for a facility that is not a hospital, nursing home, or assisted-living facility
- Medical malpractice for a healthcare practitioner that is not a licensed dentist, physician, osteopathic physician, chiropractic physician, podiatric physician, pharmacist, or pharmacy technician

The rate filing requirements that these types of medical malpractice insurance are exempt from are:

- The requirement to file with the Office of Insurance Regulation (OIR) rates, rating schedules, or rating manuals via the "file and use" method (at least 90 days prior to the proposed effective date) or the "use and file" method (within 30 days after the effective date of the filing)
- The authority of the OIR to require an insurer to provide, at the insurer's expense, all information necessary to evaluate the condition of the company and the reasonableness of the rate filing

The bill creates an alternative mechanism to the form filing and approval process required by s. 627.410, F.S., for all lines of property and casualty insurance, except workers' compensation and personal lines. Insurers may instead elect to make an informational form filing in which a representative of the insurer executes a sworn certification that the filed forms comply with Florida law if:

- The form is electronically submitted to the OIR in an informational filing 30 days before delivery of the form within the state
- The informational filing includes a certification of compliance

If the form is not in compliance with state laws and rules, the form filing is subject to the prior approval requirements of s. 627.410, F.S. A Notice of Change in Policy Terms form is also required as a part of the informational filing for any renewal policy that contains a change.

The bill also extends the exemption of medical malpractice insurance policies from Florida Hurricane Catastrophe Fund emergency assessments until May 31, 2016. The exemption was scheduled to expire May 31, 2013.

EFFECTIVE DATE: July 1, 2013.

LIFE INSURANCE

HB 913 — Holocaust Victims Assistance Act

The bill expands the scope of assistance that is provided by the Department of Financial Services (DFS) to Holocaust victims and their heirs. While current law provides the DFS with the authority to assist Holocaust victims and their heirs in identifying and obtaining potential and actual insurance claims, the bill broadens the authority to include:

- Recovery of other financial claims, assets, and property
- Education to mitigate the effects on Holocaust survivors of the nonpayment of claims or the nonreturn of property
- Assistance with gaining access to funding to address the effects of nonpayment of claims and nonreturn of confiscated assets

The bill eliminates the annual report required of insurers and instead requires insurers to file a report with the DFS when there are any changes to the previous report, or when it is requested to do so by the DFS. The bill also specifies that the DFS must submit its annual report to the Legislature by July 1.

EFFECTIVE DATE: July 1, 2013.

CS/CS/SB 166 — Annuities

The bill substantially revises Florida consumer protection laws relating to sales of annuities by incorporating the 2010 National Association of Insurance Commissioners (NAIC) model regulation on annuity protections. The bill expands the scope of the consumer protection laws to generally include all consumers purchasing annuities. Current law only applies the protections to consumers aged 65 and older. The bill also retains current law limiting the surrender charges and deferred sales charges that may be imposed upon senior consumers.

The following are primary consumer protections contained in the bill:

- *Suitability of Annuities* - The bill requires an insurer or insurance agent recommending the purchase or exchange of an annuity that results in an insurance transaction to have reasonable grounds for believing the recommendation is suitable for the consumer, based on the consumer's suitability information. The bill imposes additional duties on insurers and insurance agents when a transaction involves the exchange or replacement of an annuity.
- *Documentation of Sales Transaction* - The bill requires agents and agent representatives to record recommendations made to a consumer.
- *Prohibitions on Agents* - The bill prohibits agents from dissuading or attempting to dissuade a consumer from truthfully responding to the insurer's request for suitability information, filing a complaint, or cooperating with the investigation of a complaint.
- *Unconditional Refund Period* - The bill expands to 21 from 14 days the unconditional refund period for all purchasers of fixed and variable annuities.
- *Limit on Surrender Charges* - The bill retains the prohibition against surrender charges or deferred sales charges in annuity contracts issued to a senior consumer exceeding 10 percent of the amount withdrawn. The charge must be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the premium is paid, whichever is later.

- *Penalties* - Authorizes the imposition of corrective action, appropriate penalties and sanctions on insurers, agents, managing general agencies, or insurance agencies that violate the requirements of s. 627.4554, F.S. An insurance agent must pay restitution to a consumer whose money the agent misappropriates, converts, or unlawfully withholds.

EFFECTIVE DATE: October 1, 2013.

WORKERS' COMPENSATION INSURANCE

CS/SB 662 — Workers' Compensation

The bill revises provisions relating to reimbursement for prescription medications under ch. 440, F.S., Florida's Workers' Compensation Law in the following manner:

- Revises the amount of reimbursement for prescription medications of workers' compensation claimants by providing that the reimbursement rate for repackaged or relabeled drugs dispensed by a dispensing practitioner would be capped at 112.5 percent of the average wholesale price (AWP), plus \$8.00 for the dispensing fee
- Maintains the reimbursement rate for other prescription medications at AWP plus \$4.18 dispensing fee
- Provides that the AWP would be calculated by multiplying the number of units dispensed times the per-unit AWP set by the original manufacturer of the underlying drug dispensed, based upon the published manufacturer AWP published in the Medi-Span Master Drug Database as of the date of dispensing
- Provides an exception to the reimbursement schedule if the employer or carrier, or a third party acting on behalf of the employer or carrier, directly contracts with a provider seeking reimbursement at a lower rate
- Prohibits a dispensing practitioner from possessing such medications unless payment has been made to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of the medication

Chapter 440, F.S., generally requires employers and carriers to provide medical and indemnity benefits to workers who are injured due to an accident arising out of and during the course of employment. Medical benefits can include, but are not limited to, medically necessary care and treatment, and prescription medications. In Florida, the prescription reimbursement rate for dispensing physicians and pharmacies is the AWP plus a \$4.18 dispensing fee, or the contracted rate, whichever is lower.

The National Council on Compensation Insurance estimates that the implementation of the bill would reduce workers' compensation insurance costs by 0.7 percent or approximately \$20 million based on preliminary 2012 statewide workers' compensation insurance premium (insurers and self-insurers).

The Division of Risk Management in the Department of Financial Services estimates that implementation of the bill would result in an estimated annual increase in prescription drug costs of \$210,377 to the State Risk Management Program.

EFFECTIVE DATE: July 1, 2013.

CS/CS/HB 553 — Workers' Compensation System Administration

The bill provides the following changes relating to the administration of the workers' compensation system in Florida:

- Provides that stop-work orders and penalties assessed against a limited liability company (LLC) continue in force against successor companies of the LLC to the same extent (and under the same conditions) that they remain in force against successor companies of corporations, partnerships and sole proprietorships
- Eliminates the requirement that workers' compensation healthcare providers be certified by the Department of Financial Services (DFS)
- Provides additional time for healthcare providers, carriers and employers to file medical reimbursement disputes with the DFS, for carriers to respond to petitions and for the DFS to issue a written determination
- Eliminates the requirements that: (1) the DFS approve the advance payment of workers' compensation benefits in certain circumstances; (2) carriers submit reemployment status reports to the DFS for review; (3) a vocational evaluation always be conducted prior to the DFS authorizing training and education for an injured employee; and (4) the DFS serve as custodian of certain collective bargaining agreements

- Conforms the administrative fine under s. 440.185(9), F.S., that may be assessed against employers or carriers that violate reporting requirements with the \$500 civil penalty per violation provided under s. 440.593(4), F.S., relating to electronic reporting. Currently, s. 440.185(9), F.S., provides for an administrative fine of up to \$1,000 per violation and, for employers that fail to timely submit more than 10 percent of notices of injury or death within a calendar year, an administrative fine of up to \$2,000 per violation. The DFS uses their authority under s. 440.185(9), F.S., to assess penalties for violations of reporting requirements, but it has never assessed a penalty greater than \$500 per violation or against an employer based upon a percentage of late filings.

The elimination of the mandatory vocational evaluation pursuant to s. 440.491, F.S., will result in a reduction of \$80,000 in state expenditures.

EFFECTIVE DATE: July 1, 2013.

CS/CS/SB 810 — Wrap-Up Insurance Policies

CS/CS/SB 810 defines a "wrap-up insurance policy" to mean a consolidated insurance program or series of insurance policies issued to the nonpublic owner or general contractor (or a combination of the two) of a construction project through a consolidated insurance program that provides workers' compensation coverage, various forms of liability coverage, or a combination of such coverages for the contractors and subcontractors working at a specified contracted work site of the construction project.

The bill authorizes a wrap-up insurance policy to include a deductible of \$100,000 or more for workers' compensation claims if all of the following prerequisites are met:

- The workers' compensation minimum standard premium calculated on the combined payrolls for all entities covered by the wrap-up policy exceeds \$500,000.
- The estimated cost of the construction at each specified contracted worksite is \$25 million or more.
- The insurer pays the first dollar of a workers' compensation claim without a deductible.
- The reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims.
- The insurer complies with all workers' compensation filing requirements under ch. 440, F.S., for losses, including those below the deductible limit.
- The insurer files unit statistical reports with the National Council on Compensation Insurance (NCCI) which show all losses, including those below the deductible limit.
- Any unit statistical report needed to calculate an experience modification factor for the insured are filed with the NCCI.
- The insurer complies with NCCI aggregate financial calls, detail claim information calls, unit statistical reporting and other required calls.
- The insurer establishes a program for having the first-named insured, whether the owner, the general contractor, or a combination thereof, reimburse the insurer for losses paid within the deductible.

EFFECTIVE DATE: July 1, 2013.

CS/CS/HB 217 — Money Services Businesses

The bill provides for the establishment of a check-cashing database within the Office of Financial Regulation (OFR). The database can be used by regulators and law enforcement agencies to target and identify persons involved in workers' compensation insurance premium fraud and other criminal activities. The OFR regulates money services businesses that offer financial services, such as check cashing, money transmittals (wire transfers), sales of monetary instruments and currency exchange outside the traditional banking environment. Currently, licensed check cashers are required to maintain specified records, such as copies of all checks cashed, and for checks exceeding \$1,000, certain transactional data in an electronic log.

The bill authorizes the OFR to issue a competitive solicitation for a statewide, real time, online check cashing database. The bill requires that check cashers, after implementation of the new database, to enter specified transactional information into the database. After completion of the competitive solicitation for the database, the OFR may include a request for funding in their fiscal year 2014-2015 Legislative Budget Request. The bill has no fiscal impact on state government for the 2013-2014 fiscal year.

The bill also grants rulemaking authority to the Financial Services Commission to administer these provisions and requires money services businesses to submit additional information to the database.

EFFECTIVE DATE: July 1, 2013.

CS/HB 7135 — Public Records/Money Services Businesses

This bill is a public records exemption that is linked to CS/CS/HB 217. In pertinent part, CS/CS/HB 217 requires specified information relating to a check cashing transaction exceeding \$1,000 to be submitted to a database operated by the Office of Financial Regulation (OFR). This bill creates a public records exemption for payment instrument transaction information held in the database by the OFR. Specifically, any such information that identifies a licensee, payor, payee, or conductor is confidential and exempt from public records disclosure requirements.

This bill authorizes a licensee to access information that it submits to the OFR for inclusion in the database. It also authorizes the OFR to enter into information-sharing agreements with the Department of Financial Services, law enforcement agencies and other governmental agencies in certain circumstances, and requires those agencies to maintain the confidentiality of the information, except as otherwise required by court order.

This bill provides for repeal of the public records exemption on October 2, 2018, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

EFFECTIVE DATE: July 1, 2013.

CS/HB 1191 — Captive Insurance

Current law requires that to be a qualifying reinsurer parent company, a reinsurer must hold a certificate of authority or a letter of eligibility, or be an accredited or satisfactory non-approved reinsurer. The bill removes the current allowance for a satisfactory non-approved reinsurer or a reinsurer that possesses a letter of eligibility to be acceptable alternatives to qualify as being a qualifying reinsurer parent company. The bill, however, adds the alternative that if a reinsurer qualifies for credit for reinsurance under s. 624.610(3), F.S., it will be considered a qualifying reinsurer parent company, even if it does not hold a certificate of authority.

Current law allows an industrial insured captive insurance company to insure only the risks of the industrial insureds that comprise the industrial insured group and their affiliated companies. The bill broadens the entities that an industrial insured captive insurance company is allowed to insure to include the industrial insureds' and affiliates' stockholders or members, and affiliates thereof, or the stockholders or affiliates of the parent corporation of the captive insurance company. The bill allows an industrial insured captive insurance company with unencumbered capital and surplus of at least \$20 million to be licensed to provide workers' compensation and employer's liability insurance in excess of \$25 million in the annual aggregate.

The bill exempts captive insurance companies from the statutory trust deposit required under s. 624.411, F.S., as a condition of obtaining a certificate of authority to transact insurance. A pure captive insurance company must submit to the Office of Insurance Regulation its standards to ensure a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business that is to be insured by the pure captive insurance company. The bill deletes the current authorization for the Financial Services Commission to adopt rules establishing such standards.

EFFECTIVE DATE: July 1, 2013.

CS/HB 341 — Uninsured Motorist Insurance Coverage

The bill deals with the rejection of stackable Uninsured Motorist (UM) motor vehicle insurance benefits. Current law states that when the named insured, applicant, or lessee signs a form rejecting UM coverage, a conclusive presumption arises that "there was an informed knowing acceptance of such limitations" of coverage. The bill specifies that the signed form gives rise to a conclusive presumption that the rejection of stackable coverage benefits was made "on behalf of all insureds."

The bill addresses the decision of the Florida First District Court of Appeal in *Travelers Commercial Insurance Company v. Harrington*, 86 So.3d 1274 (Fla. 1st DCA 1012). In *Harrington*, the Court determined that stackable

UM coverage benefits are available to an insured claimant under an insurance policy where the purchaser executed a signed waiver of stacking benefits, but the insured claimant did not waive such benefits.

EFFECTIVE DATE: Upon becoming a law.

LEGAL REFORM

HB 7015 — Expert Testimony

Currently, Florida courts employ the standard articulated in *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) to determine whether to admit expert testimony. Under the *Frye* standard, the methodology or principle on which expert opinion testimony is based must be generally accepted in the field in which it belongs.

The bill replaces the *Frye* standard with the *Daubert* standard. Under the *Daubert* test, when there is a proffer of expert testimony, the judge as a gatekeeper must make a preliminary assessment of whether the reasoning or methodology properly can be applied to the underlying facts at issue. The bill adopts the *Daubert* standard by amending s. 90.702, F.S., to prohibit an expert witness from testifying in the form of an opinion or otherwise, including pure opinion testimony, unless all the following criteria are met:

- The testimony is based on sufficient facts or data.
- The testimony is the product of reliable principles and methods.
- The witness has applied the principles and methods reliably to the facts of the case.

Additionally, the preamble further states that the Legislature intends to adopt the standards provided in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *General Electric Co. v. Joiner*, 522 U.S. 136 (1997), and *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999) and to prohibit pure opinion testimony as provided in *Marsh v. Valyou*, 997 So. 2d 543 (Fla. 2007).

The bill amends s. 90.704, F.S., to prohibit the disclosure of inadmissible facts or data to a jury by the proponent of an expert opinion or by inference unless the court determines that their probative value in assisting the jury's evaluation of the expert's opinion substantially outweighs their prejudicial effect. As a result of the amendments, the effect of s. 90.704, F.S., is conformed to the effect of Federal Rule of Evidence 703.

EFFECTIVE DATE: July 1, 2013.

SB 1792 — Medical Negligence Actions

This bill clarifies a healthcare practitioner's or provider's right to legal counsel, authorizes a prospective defendant to interview a claimant's treating healthcare providers and revises the qualifications of experts authorized to testify in medical negligence actions against a specialist.

Healthcare Practitioner or Provider Access to Legal Counsel

Whether a healthcare practitioner or provider may consult with legal counsel before serving as a witness in a medical negligence action was made unclear as the result of *Hasan v. Garvar*, 108 So. 3d 570 (Fla. 2012). The bill clarifies that a healthcare practitioner or provider may consult with an attorney before serving as a witness in a medical negligence action.

During a consultation, the practitioner or provider may disclose to his or her attorney information disclosed by a patient or records created during the course of care or treatment of the patient.

However, the bill prohibits the attorney from being a conduit for ex parte communications between the practitioner or provider and the defendant or the defendant's insurer. If the liability insurer for the provider or practitioner represents a defendant or prospective defendant in the action:

- The insurer may not choose an attorney for the practitioner, but may recommend attorneys other than the attorney representing the defendant or a prospective defendant.
- The practitioner's attorney may not disclose any information to the insurer, other than categories of work performed or time billed.

Presuit Investigation of Medical Negligence Claims

This bill revises the informal discovery procedures available for the presuit investigation of a medical negligence claim.

Under existing law, a prospective defendant may not interview the claimant's treating healthcare providers without the consent of the claimant. Under the bill, the claimant's attorney is responsible for arranging an interview between the prospective defendant and the claimant's treating healthcare providers within 15 days after receiving a request. For a subsequent interview, a prospective defendant need only provide 72 hours advance notice of taking the interview to the claimant.

However, if the claimant's attorney fails to schedule the first interview, the prospective defendant may conduct an interview of the claimant's treating healthcare providers without notice to the claimant.

The bill does not require a healthcare provider to submit to an interview.

Medical Specialists as Expert Witnesses

The bill limits the class of individuals who may offer expert testimony in a medical negligence action against a specialist. Under existing law, these experts must specialize in the same or similar specialty as the defendant. Under the bill, these experts must specialize in the same medical specialty as the defendant.

EFFECTIVE DATE: July 1, 2013.

LOCAL GOVERNMENT

PENSION ISSUES

Pension Actuarial Reporting

CS/CS/CS/SB 534 — Publicly-Funded Defined Benefit Retirement Plans

This bill provides that the state is not liable for any obligation relating to any financial shortfalls in any local government retirement plan. The bill requires each public pension plan, except the Florida Retirement System, to submit the following information to the Department of Management Services (DMS):

- Annual financial statements in compliance with Government Accounting and Standard Board's "Statement No. 67, Financial Reporting for Pension Plans" and "Statement No. 68, Accounting and Financial Reporting for Pensions"
- Annual financial statements which use an assumed rate of return on investments and an assumed discount rate that are equal to 200 basis points less than the plan's assumed rate of return
- Information indicating the number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits as determined in the plan's latest valuation
- Information indicating the recommended contributions to the plan based on the plan's latest actuarial valuation and the contributions necessary to fund the plan based on the financial statements using alternative actuarial assumptions, stated as an annual dollar value and a percentage of valuation payroll

The new information must be included in the DMS-produced fact sheet for the respective local government defined benefit pension plan. The bill provides that any plan that fails to submit the required information to the DMS may be deemed to be in noncompliance with the law and may jeopardize its revenue-sharing funds. The bill also specifies the types of financial information that must be included on plan websites.

EFFECTIVE DATE: July 1, 2013.

Employment Benefits

CS/HB 655 — Employment Benefits

CS/HB 655 amends current law to prohibit political subdivisions, such as counties and municipalities, from requiring an employer to provide certain employment benefits not required by state or federal law. The term "employment benefits" is defined as anything of value that an employee may receive from an employer in addition

to wages and salary. The term includes, but is not limited to, health benefits; disability benefits; death benefits; group accidental death and dismemberment benefits; paid or unpaid days off for holidays, sick leave, vacation and personal necessity; retirement benefits; and profit-sharing benefits. The term "employer" is defined as any person who is required to pay a state or federal minimum wage to the person's employees. The bill does not limit the authority of a political subdivision to establish a minimum wage or provide employment benefits not otherwise required under state or federal law for its own employees or for the employees of an employer contracting with, or receiving a direct tax abatement or subsidy from, the political subdivision. The bill further specifies that provisions of the act do not apply to a domestic violence or sexual abuse ordinance, order, rule or policy adopted by a political subdivision.

The bill also creates an 11-member Employer-Sponsored Benefits Task Force to analyze employment benefits and the impact of the state preemption of the regulation of such benefits. Task force findings and recommendations are to be included in a report submitted to the Governor, the President of the Senate, and the Speaker of the House by January 15, 2014. Workforce Florida, Inc. shall provide administrative and staff support for the task force.

EFFECTIVE DATE: July 1, 2013.

GENERAL GOVERNMENT ISSUES

Synthetic Drugs

CS/SB 294 — Controlled Substances

A recent trend in drug abuse is the creation of chemical compounds called "synthetic drugs." These drugs mimic the effects of cocaine, methamphetamine, and hallucinogens and have significant, and often dangerous, side effects. Unless these drugs are scheduled as controlled substances, sellers of these drugs will avoid arrest and prosecution. For this reason, in 2011 and 2012, the Legislature identified and scheduled synthetic drugs as Schedule I controlled substances. The bill is a continuation of the Legislature's efforts to schedule synthetic drugs as they are identified. The bill codifies the Schedule I scheduling of the substances listed in the Attorney General's emergency rule issued on December 11, 2012, that temporarily scheduled several new synthetic cannabinoids, cathinones and phenethylamines as Schedule I controlled substances. The Attorney General filed this emergency rule to address the public safety risk of new synthetic substances being sold and abused in Florida. As a result of this scheduling, persons who engage in certain unlawful acts involving these substances may be subject to arrest and prosecution.

EFFECTIVE DATE: April 24, 2013.

Cameras at Red Lights

CS/CS/HB 7125 — Highway Safety and Motor Vehicles

The bill makes numerous changes to the way the Department of Highway Safety and Motor Vehicles (DHSMV, department) administers many of its programs and functions.

The major provisions of this bill include:

- Correcting inconsistencies and references to the International Registration Plan
- Revising procedures related to red light camera enforcement. The bill provides a 60-day period in which a person must pay the fine, identify another driver was in control of the vehicle, or request a hearing before a local hearing officer. Enforcement of right-turn-on-red violations is restricted.
- Requiring drivers to yield the left lane to overtaking vehicles when traveling 10 mph slower than posted speed
- Lowering the blood alcohol level threshold at which an ignition interlock device (IID) will prevent a vehicle from starting from 0.05 to 0.025 for persons convicted of DUI and required to install an IID
- Requiring commercial motor vehicle drivers to comply with federal regulations relating to the use of handheld mobile devices and medical certification standards, and establishing a schedule of penalties for violations
- Requiring holders of commercial learners' permits adhere to the same noncriminal traffic infraction provisions as commercial driver license holders

- Allowing the DHSMV to use a new form for buyers and sellers when transferring electronic titles as it relates to motor vehicle casual sales
- Clarifying vehicle and vessel registration identification requirements
- Allowing the DHSMV to eliminate certificates of repossession as such documents are effectively obsolete
- Clarifying the DHSMV's rulemaking authority to regulate driver improvement schools
- Clarifying the DHSMV's criteria for approval of traffic law and substance abuse education courses, and the requirements of course providers
- Revising the requirements of eligibility for serving on the Medical Advisory Board
- Allowing county tax collectors to have re-examination authority for vehicle operators based on mental and physical abilities
- Authorizing the department to implement a pilot program in Miami-Dade and Hillsborough Counties to evaluate rebuilt motor vehicle inspection services provided by private firms
- Revising Commercial Driver License and Commercial Learner Permits to align with federal rules, and allowing penalties
- Authorizing the DHSMV to prohibit future financial transactions with an individual when an insufficient check fee has not been satisfied with the agency
- Authorizing driver license suspension for persons under 21 years of age when found driving with blood alcohol level of 0.02 or higher
- Allowing law enforcement authorities to disqualify Commercial Driver License holders found driving with unlawful blood alcohol levels and refusing to submit to a breath, urine or blood test, and issue a 10-day temporary permit while a determination is made
- Allowing persons with an IID to be granted a medical waiver for an employment purposes only license
- Providing same day DUI convictions be treated as separate offenses
- Clarifying the reinstatement process for habitual traffic offenders in license restoration
- Requiring insurance companies to report new or cancelled policies within 10 days of processing date or effective date
- Changing requirements for self-insuring motorists
- Providing identification requirements for vessel registration applications
- Allowing persons with certain alcohol-related driving offenses, having no previous convictions, to be issued a business purposes only driver license without a hearing
- Reclassifying Florida Highway Patrol captains positions to select exempt from career service
- Authorizing the Florida Department of Transportation to immediately receive crash reports ordinarily confidential and exempt
- Creating definitions, provisions and remedies relating to the electronic collection of personal data from driver licenses or identification cards by private entities
- Authorizing the attachment of a forklift to the rear of a straight truck for towing purposes provided the overall length does not exceed 50 feet
- Expanding exceptions to width and height limitations to include farming and agricultural equipment operated within a 50-mile radius of managed or harvested real property by the equipment owner
- Requiring a salvage motor vehicle dealer to notify the National Motor Vehicle Title Information System (NMVTIS) when a motor vehicle is sold to a salvage dealer or upon applying for a certificate of destruction or salvage certificate of title
- Requiring a person claiming a lien upon a vehicle to conduct a records check using NMVTIS or an equivalent commercially available system, e.g., CARFAX
- Establishing a valid driver license/identification card and passport are acceptable documents for motor vehicle registration
- Authorizing the use of electronic media as roadside proof-of-insurance
- Establishing a \$1 voluntary donation check-off on driver license application forms with proceeds going to the Auto Club Group Traffic Safety Foundation, Inc., (AAA), a not-for-profit organization

- Creating additional specialty license plates and allowing distribution of use fee proceeds: Lauren's Kids license plate, \$25; Big Brothers Big Sisters license plate, \$25; American Legion license plate, \$25
- Creating Operation Desert Storm and Operation Desert Shield special license plates for members of the Armed Forces who participated in these operations
- Increasing the use fee and redirecting the proceeds of the Hispanic Achievers specialty license plates
- Authorizing the DHSMV to redirect previously collected and future specialty license plate revenues accruing from an organization found to be in non-compliance with statutory use fee controls, to an organization able to perform the same or similar purpose as defined by the originating statute
- Creating definitions, provisions, exemptions and remedies relating to electronic collection of personal data on driver licenses or identification cards by private entities
- Requiring wreckers to disclose, in writing and prior to towing a vehicle, his or her full name and driver license number, the maximum charges for towing and storage, and whether the wrecker carries liability insurance of \$300,000 and on-hook insurance of \$50,000
- Authorizing the DHSMV to retain administrative funds from the vessel registration program and distribute \$400,000 to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services to fund activities relating to protection, restoration and research of the natural oyster reefs and beds of the state, and allows that \$300,000 may be used by the Fish and Wildlife Conservation Commission for boating safety education

EFFECTIVE DATE: July 1, 2013.

CS/CS/SB 50 — Public Meetings

Neither the Florida Constitution nor the Sunshine Law specifies that members of the public have the right to speak at public meetings. This bill creates a new section of law that requires members of the public to be given a reasonable opportunity to be heard on a proposition considered by the board or commission of a state agency or local government. Such opportunity does not have to occur at the same meeting at which the board or commission takes official action if certain requirements are met. The bill excludes specified meetings and acts from the opportunity to be heard requirement.

The bill authorizes a board or commission to adopt certain reasonable rules or policies governing the opportunity to be heard. If a board or commission adopts such rules or policies and thereafter complies with them, it is deemed to be acting in compliance with the section.

The bill authorizes a circuit court to issue injunctions for the purpose of enforcing the section upon the filing of an application for such injunction by any citizen of Florida. If such an action is filed and the court determines that the board or commission violated the section, the bill requires the court to assess reasonable attorney fees against the board or commission. The bill also authorizes the court to assess reasonable attorney fees against the individual filing the action if the court finds that the action was filed in bad faith or was frivolous. The bill excludes specified public officers from such attorney fee provisions. If a board or commission appeals a court order finding that it violated the section and the order is affirmed, the bill requires the court to assess reasonable appellate attorney fees against the board or commission.

The bill provides that any action taken by a board or commission that is found to be in violation of the section is not void as a result of such violation.

Finally, the bill includes a legislative finding of important state interest.

EFFECTIVE DATE: October 1, 2013.

CS/CS/CS/SB 52 — Use of Wireless Communications Devices While Driving

CS/CS/CS/SB 52 creates the Florida Ban on Texting While Driving Law. The bill prohibits the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a handheld wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication. The bill makes exceptions for emergency workers performing official duties, reporting emergencies or suspicious activities, and for receiving various types of navigation information, emergency traffic data, radio broadcasts and autonomous vehicles. The bill also makes an exception for

interpersonal communications that can be conducted without manually typing the message or without reading the message.

The prohibition is enforceable as a secondary offense. A first violation is punishable as a nonmoving violation, with a fine of \$30 plus court costs that vary by county. A second violation committed within five years after the first is a moving violation punishable by a \$60 fine plus court costs. The bill allows for the admissibility of a person's wireless communications device billing records as evidence in the event of a crash resulting in death or personal injury.

In addition to the fines, a violation of the unlawful use of a cell phone which results in a crash will result in six points added to the offender's driver license record and the unlawful use of a cell phone while committing a moving violation within a school safety zone will result in two points added to the offender's driver license record in addition to the points for the moving violation.

EFFECTIVE DATE: October 1, 2013.

BILLS THAT DIED

POLICE AND FIREFIGHTER PENSIONS

CS/CS/SB 458 — Firefighter and Police Officer Pension Plans

This bill would have required all plans to meet the requirements of specified provisions, in order to receive insurance premium tax revenues. The bill also would have revised existing payment provisions and provided for an additional mandatory payment by the municipality or special fire control district to the firefighters' pension trust fund.

SOBER HOMES

CS/SB 738 — Substance Abuse Services

This bill would have defined the term "sober house transitional living home" as it relates to the Hal S. Marchman Alcohol and Other Drug Services Act. The bill also would have required that an applicant seeking licensure for a proposed facility that would provide specified substance abuse services adhere to local, municipal, or county standards for zoning and occupancy.

Please note: Proviso language was added to the budget that directs Department of Children and Families to conduct a study on sober homes and submit a report with findings to the Legislature by December 2013.

TRANSPORTATION ISSUES

CS/CS/HB 7127 — Department of Transportation

This bill would have revised provisions relating to the Transportation Commission, Statewide Passenger Rail Commission, personnel, commercial motor vehicles, Space Florida, aerospace facilities, airports, lease-purchase agreement, maintenance, construction contracts and bids, disposition of property, parking time limit devices, public-private facilities, tolls, bonds, MPOs, corporations, infrastructure bank, intercity bus service, intermodal development, Orlando-Orange County Expressway Authority and environmental impact.

PROCUREMENT

CS/CS/HB 85 — Public-Private Partnerships

This bill provides express legislative authority for public-private partnerships by counties, municipalities, school boards, other political subdivisions of the state, public bodies, or regional entities that serve a public purpose; states legislative intent to encourage private investment in projects involving the construction or upgrade of public facilities; creates the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force for the purpose for recommending guidelines to the Legislature to create a uniform process for establishing public-private partnerships; authorizes responsible public entities to receive unsolicited proposals or to solicit proposals for

public-private partnership projects; requires certain findings to be made prior to approval of a public-private partnership relating to the project serving the public interest, resulting in ownership of the facilities by the public entity, and ensuring safeguards are in place to protect the public; requires notice to affected local jurisdictions of a proposed public-private partnership project; authorizes a responsible public entity to enter into an interim agreement in advance of a comprehensive agreement for a public-private partnership; requires a comprehensive agreement for a qualifying public-private partnership project and specifies contract terms that must be included in any such comprehensive agreement; authorizes the imposition of user fees by the private entity; authorizes use of private-source finding, lending of public funds and innovative financing techniques for a qualifying public-private partnership project; affirms that the responsible public entity does not waive sovereign immunity; authorizes public-private partnerships to contract with certain not-for-profit organizations and charitable youth organizations without competitive bidding; provides for a county to enter into a public-private partnership to construct, improve or extend a county road following a public hearing; and extends the term of a permissible lease by the Orlando-Orange County Expressway Authority from 40 years to 99 years.

Applicable Provisions:

- Creates Section 287.0512, F.S., providing express statutory authority for public-private partnerships by local governmental entities, political subdivisions, public bodies, or regional entities serving a public purpose including:
 - establishing definitions relevant to new public-private partnership provisions
 - stating legislative intent in support of public-private partnerships
 - creating the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force and directing the Task Force to recommend guidelines to the Legislature by July 1, 2014, that would provide a uniform process for establishing public-private partnerships
 - authorizing a responsible public entity to request or receive proposals for a qualifying public-private partnership project in the absence of uniform guidelines and to adopt its own guidelines
 - authorizing a responsible public entity to receive unsolicited proposals for public-private partnership projects which may include a reasonable application fee and requires notice and a time frame for allowing receipt of other proposals between 21 and 120 days following publication of the notice
 - requiring a determination before approval of a public-private partnership that the proposed project is in the public's best interest, is for a facility that is or will be owned by the public entity, includes safeguards to protect the public in the event of default, includes safeguards to allow the addition of capacity in the future, and will be owned by the responsible public entity upon completion or termination of the agreement and payment of amounts financed
 - requiring the responsible public entity to ensure provision is made for the private entity's performance and payment of subcontractors
 - requiring the responsible public entity to perform an independent analysis of the cost-effectiveness and overall public benefit of a public-private partnership before a procurement process is initiated or a contract is awarded
 - requiring a responsible public entity to provide notice of a proposed public-private partnership project to affected local jurisdictions with an opportunity for each affected local jurisdiction to comment on the project
 - authorizing a responsible public entity to enter into an interim agreement with a private entity proposing the development or operation of a qualifying public-private partnership project
 - requiring a comprehensive agreement for a qualifying public-private partnership project and specifying certain terms that must be included in the comprehensive agreement;
 - authorizing a private entity that enters into a public-private partnership agreement to impose fees on the using public provided that a negotiated portion of the fee revenue must be returned to the public entity over the life of the agreement
 - authorizing the private entity to enter into a private-source financing agreement, the public entity to lend funds to private entities that construct facilities under a public-private partnership agreement, and the use of innovative finance techniques for a qualifying public-private partnership project
 - affirming that sovereign immunity is not waived by a responsible public entity in connection with a qualifying public-private partnership project

- Amends Section 255.60, F.S., to authorize a public-private partnership to contract for public service work with a not-for-profit organization or charitable youth organization notwithstanding the competitive procurement requirements of Chapter 287, F.S., or municipal or county charter
- Creates Section 336.71, Florida Statutes, to authorize use by counties of public-private partnerships to construct, extend or improve county roads following a noticed public hearing
- Amends Section 348.754 to extend the term of a permissible lease by the Orlando-Orange County Expressway Authority from 40 years to 99 years

EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

HB 5401 — Transparency in State Contracting

This bill amends the Transparency Florida Act to provide for additional information to be included in the single website established and maintained by the Governor's Office providing information relating to the approved operating budget of each branch of state government and state agency; require the Governor's Office to establish and maintain a website providing information relating to fiscal planning for the state; requires the Florida Department of Management Services to establish and maintain a website that includes salary or hourly pay information for all officers or employees of a state agency, state university or the State Board of Administration; requires the Legislative Auditing Committee to make recommendations regarding whether any transparency website should be expanded to include additional governmental entities; requires the Chief Financial Officer (CFO) to establish and maintain a contract tracking system through a secure website on which state agencies must post their contracts and information relating to the contracts within 30 days of contract execution or execution of an amendment; requires state agencies to post existing contracts from which payments will be made after June 30, 2013, to the contract tracking system by January 1, 2014; requires state agencies to redact confidential information from contracts or contract information posted to the website; allows the Department of Legal Affairs and Department of Agriculture and Consumer Services to use their own agency-maintained websites instead of the CFO's contract tracking system; grants rulemaking authority to the CFO; and establishes the User Experience Task Force to look at combining transparency websites.

Applicable Provisions:

- Amends Section 215.985, F.S., to:
 - specify additional information to be included in the single website established and maintained by the Governor's Office providing information relating to the approved operating budget of each branch of state government and state agency
 - require the Governor's Office to establish and maintain a website that provides information relating to fiscal planning for the state
 - require the Florida Department of Management Services to establish and maintain a website providing information relating to each employee or officer of a state agency, state university, or the State Board of Administration including salary or hourly rate of pay
 - require the Legislative Auditing Committee to recommend to the Senate President and Speaker of the House by November 1, 2013, and annually thereafter whether additional information should be added to a website including whether the scope of information should be expanded to include state universities, Florida College System institutions, school districts, charter schools, charter technical career centers, local governments, and other governmental entities
 - require the CFO to establish and maintain a secure contract tracking system through a website accessible to the public from which information can be downloaded
 - require each state agency to post its contracts and information regarding its contracts, and contract amendments, on the CFO's contract tracking system website within 30 days after executing a contract or a contract amendment
 - require each state agency, by January 1, 2014, to post information to the contract tracking system for existing contracts executed before July 1, 2013, and paid for from state funds made after June 30, 2014
 - require state agencies to redact confidential or exempt information from the records posted to the contract tracking system
 - authorize the Department of Legal Affairs and the Department of Agriculture and Consumer Services to post information on their own agency-maintained website in lieu of the CFO's contract tracking system website

- provide the CFO with authority to adopt rules to administer the Transparency Florida Act
- create the User Experience Task Force to develop and recommend a design for consolidating state-managed transparency websites

EFFECTIVE DATE: The effective date of this bill is July 1, 2013. The Governor signed the bill on May 20, 2013.

CS/CS/HB 1309 — Procurement of Commodities and Contractual Services

This bill amends existing law and enacts new provisions designed to increase accountability under government contracts; requires government contracts for services to include new public records provisions; requires certain provisions to be included in contracts funded with state or federal financial assistance including a provision imposing financial consequences for failure to meet minimum performance standards; requires a grant manager for each state agency contract funded with state or federal financial assistance; authorizes the CFO to establish uniform grant management procedures; provides for audits by the CFO of grant agreements; provides additional authority to the Florida Department of Management Services (DMS) to lead or enter into joint agreements with other governmental entities for purchasing of commodities or contractual services to be used by multiple agencies; confirms that a contract award in an invitation to bid process is to be made to the lowest responsive and responsible bidder; requires public notice of all single source procurements; expands the governmental entities with which a state executive branch entity can contract without competitive bidding; authorizes an agency to negotiate lower pricing for a contract renewal; moves the state's online procurement system to the CFO's office; requires training and certification of agency contract managers; requires performance measures for deliverables; and authorizes the CFS to audit existing contracts and contract manager records.

Applicable Provisions:

- Creates Section 119.0701, F.S., to require each public agency contract for services to include provisions requiring the contractor to keep and maintain and provide access to public records in the same manner as the public agency would do if it was providing the services
- Amends Section 215.971, F.S., to:
 - require agreements funded with state or federal financial assistance to include provisions: (a) specifying the financial consequences that will apply if minimum service levels are not met; (b) specifying the funds may only be expended only for allowable costs; and (c) specifying that excess funds must be returned to the state agency
 - require each agency to designate a grant manger for every agreement funded with federal state or financial assistance
 - require the CFO to establish and disseminate uniform grant management procedures
 - provide for CFO audits of executed state and federal grant agreements and grant manager records
- Amends the definitions in Section 287.012, F.S., to clean up certain provisions, remove the descriptions of circumstances in which a contract may be extended, add a definition of "governmental entity" from which an executive branch state agency may make a purchase without competitive procurement or join with in a cooperative procurement
- Amends Section 287.042, F.S., to authorize the Florida Department of Management Services (DMS) to lead or enter into a joint agreement with governmental entities for the purchase of commodities or contractual services that can be used by multiple agencies
- Amends Section 287.057, F.S., to:
 - confirm that the contract in an invitation to bid process is to be awarded to the responsible and responsive vendor who submits the lowest responsive bid
 - require public notice of all proposed single source purchases
 - broadens the governmental entities with which a Florida executive agency can contract without competitive bidding
 - authorize an agency to negotiate lower pricing for a renewal period
 - move the state's online procurement system to the CFO from the former Agency for Enterprise Information Technology
 - require specified training and certification of contract managers

- Amends Section 287.0571, F.S., to require all contract documents to include a performance measure for successful completion of each deliverable
 - Creates Section 287.136, F.S., to authorize CFS to audit existing contracts and contract manager records
- EFFECTIVE DATE: If approved by the Governor, the effective date of this bill is July 1, 2013.

REAL PROPERTY AND PROBATE

CS/CS/HB 87 — Mortgage Foreclosures

Statute of Limitations on Certain Actions

The bill reduces the statute of limitations period for a lender to enforce a deficiency judgment following the foreclosure of a one-family to four-family dwelling unit from five years to one year, for any such deficiency action that commences on or after July 1, 2013, regardless of when the cause of action accrued.

Foreclosure Complaint

The bill requires that in order to bring a complaint to foreclose a mortgage on residential real property designed principally for occupation by one to four families, including condominiums and cooperatives but excluding timeshare interests under part III of ch. 721, F.S., the complaint must establish that the plaintiff holds the original note or is a person entitled to enforce a promissory note.

If a plaintiff has been delegated the authority to institute a foreclosure action on behalf of the person entitled to enforce the note, the complaint must describe with specificity the authority of the plaintiff and the document that grants such authority to the plaintiff.

A plaintiff in possession of the original promissory note must certify, under penalty of perjury, that the plaintiff possesses the original note. An "original note" or "original promissory note" is defined as the signed or executed promissory note, including a renewal, replacement, consolidation, or amended and restated note or instrument that substitutes for the previous promissory note. The term includes a transferrable record, but not a copy of any of the foregoing. The required certification must be submitted contemporaneously with the foreclosure complaint, and set forth the location of the note and other specified information. The original note and allonges must be filed with the court before the entry of any judgment of foreclosure or judgment on the note.

A plaintiff seeking to enforce a lost, destroyed, or stolen instrument must attach to the complaint an affidavit executed under penalty of perjury, detailing the chain of all endorsements, transfers, or assignments of the promissory note, and setting forth the facts and documents showing that the plaintiff is entitled to enforce the instrument. Adequate protection as required under s. 673.3091(2), F.S., must be provided before final judgment.

Finality of Mortgage Foreclosure Judgment

The bill provides that an action to challenge the validity of a final judgment of mortgage foreclosure, or to establish or re-establish a lien or encumbrance of property is limited to monetary damages if all of the following apply:

- The party seeking relief from the final judgment of mortgage foreclosure was properly served in the foreclosure lawsuit.
- The final judgment of mortgage foreclosure was entered as to the property.
- All applicable appeals periods have run as to the final judgment with no appeals having been taken or having been finally resolved.
- The property has been acquired for value by a person not affiliated with the foreclosing lender or the foreclosed owner, at a time in which no lis pendens regarding the suit is in the official county records.

The bill defines affiliates of the foreclosing lender to include any loan servicer for the loan being foreclosed, and any past or present owner or holder of the loan being foreclosed, as well as one of the following:

- A parent entity, subsidiary, or other person who directly or indirectly controls, is controlled by, or under common control of any such entities
- A maintenance company, holding company, foreclosure services company or law firm under contract with such entities

The bill provides that the former owner can continue to pursue money damages against the lender. The claims of the former owner, however, cannot impact the marketability of the property of the new owner.

The bill provides that when a foreclosure of a mortgage occurs based upon enforcement of a lost, destroyed, or stolen note, a person who was not a party to the foreclosure action but claims entitlement to enforce the promissory note secured by the mortgage has no claim against the foreclosed property once it is conveyed to a person not affiliated with the foreclosing lender or the foreclosed owner. That person may still pursue recovery from any adequate protection given pursuant to s. 673.3091, F.S., or from the party who wrongfully claimed entitlement to enforce the promissory note, from the maker of the note, or any other person against whom a claim may be made.

Deficiency Judgments

The bill limits the amount of a deficiency judgment on owner-occupied residential property to the difference between the judgment amount and the "fair market value" on the date of the foreclosure sale. Similarly, the deficiency for a short sale may not exceed the difference between the outstanding debt and the fair market value of the property on the date of the sale.

Show Cause Procedure

The bill makes several revisions to the show cause process. The bill provides that after filing a complaint, the plaintiff may request an order to show cause for the entry of final judgment, and the court must immediately review the request and the court file in chambers without a hearing. If the complaint is verified, complies with the requirements in s. 702.015, F.S., and alleges a cause of action to foreclose on real property, the court must issue an order to show cause why a final judgment of foreclosure should not be entered to the other parties named in the action.

The bill adds a number of elements that must be included in the court's order to show cause that is sent to the other parties named in the action. The court must set a hearing no sooner than the later of 20 days after service of the order to show cause or 45 days after service of the initial complaint. The hearing is no longer required to be held within 60 days of the date of service, as required by current law. The bill specifies that the Legislature intends that the alternative show cause procedure may run simultaneously with other court proceedings.

The bill adds the requirement that the plaintiff must file the original note, establish a lost note, or show the court the obligation to be foreclosed is not evidenced by a promissory note, before the court can enter a final judgment of foreclosure after the court has found that all defendants have waived the right to be heard. If the hearing time is insufficient, the court may announce a continued hearing on the order to show cause.

The bill exempts foreclosures of owner-occupied residences from provisions authorizing the plaintiff to request the court to enter an order to show cause why it should not enter an order to make payments during the pendency of the foreclosure proceedings, or an order to vacate the premises.

Adequate protections for lost, destroyed, or stolen notes

The bill provides that any one of the following may constitute reasonable means of providing adequate protection, if so found by the court:

- A written indemnification agreement by a person reasonably believed sufficiently solvent
- A surety bond
- A letter of credit issued by a financial institution
- A deposit of cash collateral with the clerk of the court
- Such other security as the court deems appropriate under the circumstances

The bill provides that a person who wrongly claims to be the holder of a note or to be entitled to enforce a lost, stolen, or destroyed note is liable to the actual holder of the note for damages and attorney fees and costs. The bill specifies that the actual holder of the note can pursue any other claims or remedies it may have against the person who wrongly claimed to be the holder, or any person who facilitated or participated in the claim.

Application and Implementation of Bill

The Legislature finds that the act is remedial and not substantive in nature. The act applies to all mortgages encumbering real property and all promissory notes secured by a mortgage, regardless of when executed. The following sections are exempted from this general rule of application:

- Section 702.015, F.S., only applies to cases filed on or after July 1, 2013.
- The amendments to s. 702.10, F.S., and the entirety of s. 702.11, F.S., apply to causes of action pending on the act's effective date.

The Legislature also requests the Florida Supreme Court to amend the Rules of Civil Procedure to implement the expedited foreclosure process.

EFFECTIVE DATE: Upon becoming a law.

CS/CS/CS/SB 112 — Filing False Documents Against Real or Personal Property

The bill creates the offense of filing or directing to file, with the intent to defraud or harass another, a document in an official record which contains materially false, fictitious, or fraudulent statements or representations that affect the owner's interest in property described in the document. A person who commits the new offense commits a third-degree felony. A third-degree felony is punishable by imprisonment of up to five years and the imposition of a fine of up to \$5,000. If a person commits this offense a second or subsequent time, the person commits a second-degree felony. A second-degree felony is punishable by imprisonment of up to 15 years and the imposition of a fine of up to \$10,000.

The bill increases the felony degree of these offenses under circumstances outlined in the bill. The bill also provides that a person who files a fraudulent construction lien is subject to penalties under the Construction Lien Law, not the newly created offense in the bill.

Under current s. 843.0855, F.S., a person commits a third degree felony by engaging in the following actions under color of law or through the use of simulated legal process:

- Deliberately impersonating or falsely acting as a public officer in connection with or relating to any legal process affecting persons and property, or otherwise taking action under color of law against persons or property
- Simulating legal process, including but not limited to, actions affecting title to real estate or personal property, indictments, subpoenas, warrants, injunctions, liens, orders, judgments, or any legal documents or proceedings, knowing or having reason to know the contents of any such documents or proceedings or the basis for any action to be fraudulent. The bill revises the definition of "legal process" to include documents recorded with any state or federal official governmental entity.
- Falsely under color of law attempting in any way to influence, intimidate, or hinder a public officer

For purposes of the offenses under s. 843.0855, F.S., the bill defines public officer or employee to encompass more individuals. As a result, the application of the statute establishes a broader variety of crimes relating to impersonating public officers and employees and fraudulently simulating legal process.

The bill creates additional civil remedies to grant relief to public officers or employees affected by the offense of filing of false statements or claims.

EFFECTIVE DATE: October 1, 2013.

CS/CS/SB 120 — Condominiums

The bill amends the Florida Condominium Act to clarify when a condominium is created. It provides that, regardless of any requirement or description in a declaration of condominium that may provide when a condominium is created, a condominium is created when the declaration is recorded.

For the following procedural time periods, the bill substitutes the recording date of the certificate of a surveyor and mapper, or the recording of an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit (known as the first unit owner deed), whichever occurs first, rather than the recording of the declaration of condominium:

- The deadline to bring an action to correct an omission or error in a declaration, which must be brought within three years after the recording of the first event
- The beginning of the two-year time period, during which the developer and unit owners, when the developer has not turned over control of the association, may vote to waive the financial reporting requirement
- During the first two fiscal years, the date when the developer's right to waive or reduce the funding of reserves expires
- The beginning date for the 12-month period during which an association may enter into agreements for leasehold interests or membership rights before such an agreement or leasehold is considered a material alteration or substantial addition to the association property which would require a majority vote of the total voting interests or as authorized by the declaration
- The beginning date for the time periods for the turnover of association control from the developer to the unit owners

These changes allow a developer to record a declaration, and thereby provide a description of the property to a prospective buyer in compliance with the federal Interstate Land Sales Full Disclosure Act.

The bill extends from three years to five years the period of time that a county clerk is required to hold funds deposited by a developer who has not prepared and provided the surveyors certificate of the land which will be a part of the condominium. This provides additional time for developers to provide the surveyor's certificate of the land to the county clerk.

The bill revises the seven-year period for completion of all phases of a condominium project, which is one of the conditions that allows the election of a majority of non-developer board members. The bill provides that the seven-year period runs from the date the surveyor's affidavit of substantial completion is recorded, or seven years from the date the sale of a unit to a non-developer is recorded in the initial phase of the condominium. The bill deletes from the current provision that established the beginning of this seven-year period from the date the declaration was recorded. The bill also creates a mechanism to extend the seven-year time period for an additional three years.

EFFECTIVE DATE: Upon becoming a law.

CS/CS/HB 229 — Land Trusts

The bill revises the laws relating to land trusts. In general, a land trust is a written instrument in which title to real property is vested in a trustee who has the authority to manage or dispose of the property. More specifically, the bill:

- Clarifies the distinction between a land trust governed by s. 689.071, F.S., and other trusts governed by the Florida Trust Code
- Defines a land trust based on the functional scope of the land trustee's duties, although the power to manage or dispose of property remains an essential element of a Florida land trust
- Relocates provisions of s. 689.071, F.S., to a newly created section, s. 689.073, F.S. These provisions generally state that purchasers and others can rely on a land trustee's authority over property as described in a recorded instrument. These provisions will remain equally applicable to any recorded instrument, created before or after the effective date of the bill, which conveys title to property and the power to manage or dispose of the property.
- Codifies a number of land trust practices and principles commonly used in Florida and Illinois which are derived from judicial precedents or treatises on land trusts

EFFECTIVE DATE: Upon becoming a law.

CS/HB 267 — Real Property Liens and Conveyances

The bill removes the requirement that warranty deeds include a blank space for the grantee's social security number.

The bill also provides that a lien by a governmental or quasi-governmental entity for an improvement, service, fine, or penalty is valid against a creditor or subsequent purchaser only if the lien is properly recorded in the county in which the property is located. The bill specifies information that must be included in a lien by a

governmental or quasi-governmental entity. The bill excludes liens for taxes, non-ad valorem or special assessments, or utilities from the recording requirement.

EFFECTIVE DATE: October 1, 2013.

SB 736 — Limitations Relating to Deeds and Wills

The bill expands the scope of existing law (s. 95.231(1), F.S.), to cure defective documents purporting to transfer title to real property. Under existing law, a five-year limitation period acts to cure defective deeds or wills that are missing required seals or signatures of witnesses. Under the bill, the five-year limitation period will cure such defects in any instrument, including a power of attorney, used in connection with the transfer of title to real property. Additionally, the bill provides a savings clause to allow any person who is adversely affected by the bill's changes to bring a claim within the specified period of time to protect his or her interest.

EFFECTIVE DATE: October 1, 2013.

CS/CS/HB 833 — General Assignments

This bill streamlines procedures for the discharge of duties by an assignee under an assignment for the benefit of creditors. The changes were recommended by the Business Law Section of The Florida Bar as part of its comprehensive review of the law. More specifically, this bill:

- Creates a negative notice procedure to allow an assignee when discharging duties under an assignment for the benefit of creditors to give notice to interested parties of a planned action. In the absence of objection, the assignee may proceed without a hearing. A form is created for providing negative notice of certain acts to be undertaken by the assignee.
- Sets a minimum bond for assignees under an assignment for the benefit of creditors of at least \$25,000 or double the liquidation value of the unencumbered and liquid assets of the insolvent estate, whichever is greater
- Authorizes an assignee to conduct discovery as provided for in the Florida Rules of Civil Procedure in the course of prosecuting or objecting to claims
- Eliminates a conflict in existing law relating to an extension of the time within which an assignee may conduct the business of an insolvent debtor. The change allows the assignee to conduct the business of the insolvent debtor for 45 days, or longer, if needed and appropriate notice is given.
- Identifies the parties entitled to notice and specifies the contents of the notice if an assignee rejects a lease when discharging his or her duties for an insolvent estate
- Creates a form for deeds for use by an assignee in the sale of real property of an insolvent estate

EFFECTIVE DATE: Upon becoming a law.

CS/HB 841 — Powers of Attorney

This bill makes a number of changes to the Florida Power of Attorney Act (Act) which were recommended by the Real Property, Probate, and Trust Law Section of The Florida Bar. These changes:

- Make provisions of the Act which apply to financial institutions expressly applicable to broker-dealers
- Specify that the laws governing powers of attorney do not apply to a power given to a transfer agent to facilitate a specific transfer of a financial instrument, a power authorizing a financial institution or broker-dealer to act as agent for the account owner in executing transfers of financial assets or a delegation of powers by a trustee
- Allow a notary public to sign the principal's name on a power of attorney document if the principal is physically unable to sign
- Allow a third party to require that an original power of attorney be provided for recording in official records if the power of attorney is relied on to transfer real property
- Allow an agent with a power of attorney to delegate authority to a third person using a prescribed government form if the delegation is for a governmental purpose
- Provide a standard for a court to award attorney fees in litigation involving a power of attorney
- Allow a third party to require that an agent provide an affidavit stating whether the agent's authority has been terminated by the filing of an action for dissolution of marriage of the agent and principal

- Clarify when a rejection of a power of attorney by a third party must be in writing
- Clarify that the default cap in existing law on the amount of gifts that an agent may give under a power of attorney applies to gifts given in a single a calendar year

EFFECTIVE DATE: Upon becoming a law.

CS/HB 903 — Adverse Possession

This bill addresses the problem of individuals squatting illegally on property while preserving adverse possession actions for legitimate purposes.

The bill adds new requirements that a person must satisfy to take title to property through adverse possession. One such requirement is that the person pays all outstanding taxes against the property within one year after entering into possession. Additionally, the form of the return a person must file in connection with an adverse possession claim is revised. The form requires a person to acknowledge that the return "does not create any interest enforceable by law" in the property.

The bill subjects a person to criminal penalties for trespassing if the person attempts to occupy or occupies a residential structure on the basis of adverse possession before filing a return with the property appraiser. If the person attempts to occupy a residential structure by claim of adverse possession before filing a return and then offers the property for lease, the bill subjects the person to criminal penalties for theft.

EFFECTIVE DATE: July 1, 2013.

KEY

Committee Substitute (CS) – A Senate or House bill going through the committee hearing process sometimes has numerous amendments, or the amendments change the original concept of the bill. In these instances the bill is rewritten and becomes a "committee substitute." The next committee of reference may again rewrite the bill and more than one bill may be combined. The committee substitute continues to carry the identifying number(s) of the original bill(s) filed. A CS/CS is a committee substitute for committee substitute.

Enacted – The Florida State Constitution requires that each bill be prefaced by the phrase: "Be It Enacted by the Legislature of the State of Florida" which is referred to as the enacting clause. Enacted legislation refers to a bill which has been passed into law.

Enrolled Bill (ER) – This is a Senate or House measure approved by both houses and signed by the legislative officers which is then sent to the governor for action and transmittal to the secretary of state or filed directly with the secretary of state. The bill is enrolled in the house of origin under the supervision of the secretary of the Senate or the clerk of the House.

Joint Resolution (SJR, HJR) – This is a resolution that is the only authorized method by which the Legislature may propose amendments to the Florida Constitution. If passed, the proposed amendment would appear on a statewide ballot for voter approval or rejection. It must pass each house by a three-fifths vote of the membership.

Law – An act becomes a law when the governor either approves it or fails to sign or veto it within the period specified in the Florida State Constitution. An act also can become a law when a subsequent Legislature overrides a veto by the governor. While the Legislature is in session, the constitution allows a seven-day period following presentation of a bill to the governor within which the governor can sign, allow to become law without his signature or veto the bill. If the Legislature adjourns *sine die* before an act is presented to the governor or while an act is in the governor's possession, the governor has 15 days following the date of presentation in which to take action. The identifying number assigned by the secretary of state to a bill that has been enacted or passed into law is referred to as the chapter law. The chapter law number indicates the year passed and the printing number. For example, Chapter 2011-100 represents the 100th law printed in the year 2011. Chapter laws are compiled and published annually in the Laws of Florida.

FLORIDA GOVERNMENT ADVOCACY TEAM



Nathan A. Adams, IV is a partner with Holland & Knight who practices primarily in the areas of education, healthcare, hospitality and election law. He assists clients with government relations on the executive and legislative sides. Dr. Adams is a Board-Certified Specialist in Education Law and is outside general counsel for a number of secondary and post-secondary institutions. He served as counsel for the Executive Office of the Governor, the Department of Education, the Board of Governors and the Division of Community Colleges. He is Chair of the Education Law Committee of The Florida Bar and a director of the Florida Education Foundation, which is the direct support organization for the Department of Education. He is also President-Elect of ECHO and serves on the board of the Florida Tax Watch Center for Smart Justice.

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Kimberly Case* is a senior policy advisor in the Public Policy & Regulation Group in the Tallahassee office of Holland & Knight. She has more than 15 years of experience in the legislative and executive branches of state government. During that time, Ms. Case developed substantive experience across a broad range of subjects, including public safety, litigation reform, insurance, healthcare, financial services and the appropriations process. Prior to joining Holland & Knight, Ms. Case served as director of legislative affairs for three statewide-elected officials — Florida Attorney General Pam Bondi, Florida Attorney General Bill McCollum and Florida Chief Financial Officer Tom Gallagher. She was responsible for developing legislative and budget priorities and leading lobbying efforts before the Florida Legislature. Ms. Case is a designated professional lobbyist (DPL) with the Florida Association of Professional Lobbyists.

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Lawrence N. Curtin is the former executive partner of the firm's Tallahassee office and is a member of the firm's Public Policy & Regulation Practice Group. He is involved in all phases of environmental, public and administrative law, representing and counseling clients on a variety of matters, including permitting, enforcement, and administrative and civil litigation. Mr. Curtin has been active in the Florida Legislature since 1984. He is listed in *The Best Lawyers in America* guide (1995-2012); *Chambers USA – America's Leading Business Lawyers* guide (2008-2012); and Florida Legal Elite, *Florida Trend* magazine (2007-2009). Mr. Curtin has served on the board of directors of Tallahassee Habitat for Humanity and is a former chairman of the Energy Law Committee of The Florida Bar. Mr. Curtin is a designated professional lobbyist (DPL) with the Florida Association of Professional Lobbyists.

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Jim Davis is a partner who joined the firm after serving in the U.S. House of Representatives for 10 years, from 1997 to 2007. During his tenure, he was a member of the Committee on Energy and Commerce, the House Budget Committee and the Committee on Foreign Affairs. While on Energy and Commerce, Mr. Davis served on the Subcommittee on Oversight and Investigations. He was elected president of the freshman congressional class of Democrats and served as a senior whip for Congressman Steny Hoyer and as a national co-chair of the New Democrat Coalition. He has extensive experience with energy and commerce-related issues and continues to remain active in these areas. Mr. Davis is a former member of the Florida Legislature and served as majority leader in 1995 and 1996.

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Frederick R. Dudley is a senior counsel in the firm's Public Policy & Regulation Practice Group. He is a Florida Bar board certified construction lawyer with more than 40 years of experience in real estate practice, with an emphasis on construction liens, licensing and disciplinary cases. Mr. Dudley served 16 years in the Florida Legislature, retiring from the Florida Senate in 1998, where he chaired the Senate Judiciary Committee. As a legislator, Mr. Dudley chaired the study group that re-wrote Florida's Construction Lien laws and sponsored every statutory change thereto from 1990 to 1998. As a legislative advocate since 2000, he has continued to draft numerous state laws governing

contracting activities in Florida. He is listed in *The Best Lawyers in America* guide (2007-2012) and *Chambers USA – America's Leading Business Lawyers* guide (2008-2012). Mr. Dudley served as chair the Florida High Speed Rail Authority and was formerly a member of the Florida Small Business Regulatory Advisory Council. He is currently on the Florida Building Code Administrators and Inspectors Board, and the Executive Councils of The Florida Bar's Real Property, Probate and Trust Law Section and Administrative Law Section. Mr. Dudley is a designated professional lobbyist (DPL) with the Florida Association of Professional Lobbyists.

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Clay Henderson is a senior counsel in the firm's Public Policy & Regulation Practice Group. He practices in the areas of environmental law, land use and smart growth and represents public agencies, large private landowners and conservation organizations before state agencies and local governments. His extensive experience in conservation land acquisition and planning includes negotiating the acquisition of more than 300,000 acres of lands that are now part of national and state parks and preserves and coordinating some of the largest land use planning projects in the state. Prior to joining the firm, he was president of the Florida Audubon Society, the state's oldest and largest conservation organization. Mr. Henderson's previous public service includes election to two terms on the Volusia County Council (1986-1992) and appointment to Florida Constitution Revision Commission (1997-98).

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Ron Klein is a partner in the Public Policy & Regulation Group. He has worked in the private sector as a business and transactional attorney for more than 20 years, and in the public sector as an elected official in both Tallahassee and Washington. He advises private sector principals and management on business and legal issues but also brings to the table valuable experience gained during his tenure in the Florida House, the Florida Senate and the U.S. House of Representatives. Mr. Klein is an advocate who understands clients' issues and concerns, as well as the knowledge, resources and relationships that help them to make key strategic business decisions.

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Karl Koch* is a senior policy advisor for the firm. His significant experience includes having worked in both federal and state governments in the executive and legislative branches, as well as in the private sector. Mr. Koch began his career in public service in 1988 with his work for former U.S. Representative Buddy MacKay. In the 1990s, he served on both campaigns for the late Governor Lawton Chiles and as chief of staff to Lieutenant Governor Buddy MacKay. Mr. Koch also served as chief of staff to U.S. Representative Jim Davis.

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Bob Martinez,* former Governor of Florida, is a senior policy advisor with Holland & Knight's Public Policy & Regulation Practice Group and is chair of the firm's Florida Government Advocacy Team. Mr. Martinez is one of Florida's most respected leaders, and his distinguished career in public service spans more than 40 years. His career highlights include serving in the following positions: Cabinet-level office as the Governor of Florida from 1987-1991, Mayor of the City of Tampa from 1979-1986, the nation's second Drug Czar under President George H.W. Bush from 1991-1993, and Vice Chairman of the Southwest Water Management District from 1975-1979.

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Richard Perez is a partner with extensive experience in governmental transactions, including procurement matters, public-private joint ventures, and land use and zoning. Prior to joining Holland & Knight, Mr. Perez served as general counsel to the Florida Department of State, represented the Florida House of Representatives and advised the federal court on the re-drafting of state legislative districts in the state of Georgia.

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Larry Sellers is a partner in the firm's Public Policy & Regulation Practice Group who practices environmental and administrative law. He has represented clients before the Florida Legislature since 1985 and in administrative licensing, enforcement and rulemaking matters since 1980. Mr. Sellers is a past chair of The Florida Bar Environmental and Land Use Law Section. He is a past president of the Tallahassee Bar Association and a current member of The Florida Bar Board of Governors. In addition, he is a Florida Bar board certified state and federal government and administrative practice lawyer. Mr. Sellers is listed in *The Best Lawyers in America* guide (2005-2012); *Chambers USA – America's Leading Business Lawyers* guide (2008-2012); and Florida Legal Elite (2005-2012), Florida Legal Elite Hall of Fame (2009-2012), *Florida Trend* magazine. He is a member of the Florida Association of Professional Lobbyists.

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ABOUT HOLLAND & KNIGHT

Holland & Knight is a global law firm with more than 1,000 lawyers in 17 U.S. offices as well as Abu Dhabi, Beijing, Bogotá and Mexico City. Holland & Knight is among the nation's largest law firms, providing representation in litigation, business, real estate and governmental law. Interdisciplinary practice groups and industry-based teams provide clients with access to attorneys throughout the firm, regardless of location.

ABOUT OUR FLORIDA GOVERNMENT ADVOCACY PRACTICE

The actions of state and local government impact all companies doing business in the state of Florida. You need a team of experienced government advocates on your side that is committed to helping you navigate through often bureaucratic governmental regulations and procedures; use government to the advantage of your business; and prevent the adoption of laws or regulations that could be detrimental to your business.

A Long History of Advocating for Clients

For more than 30 years, Holland & Knight has represented clients before Florida government. We understand that the actions of state and local governments can significantly impact the success of your company if it is doing business in Florida. Our team of lawyers and public policy advisors applies our depth of experience, relationships and substantive legal know-how to advocate on your behalf to resolve any issues of concern impacted by Florida government.

Our legislative work is not industry specific — we can assist any client who needs to understand the Florida legislative process or is interested in trying to pass or defeat legislation. Members of the firm's Florida Government Advocacy Team (FGAT) are dedicated to assist you by:

- monitoring legislative activity
- drafting bills or amendments
- seeking sponsors of bills or amendments
- obtaining appropriations
- testifying before legislative committees
- passing legislation that is favorable to your company
- defeating legislation that could be harmful

The support you receive from our Florida Government Advocacy practice is not limited to representation before the Florida Legislature — we also have a long-standing and extensive executive branch lobbying and state administrative law practice. This practice includes representing clients before the governor, the Florida Cabinet and all state agencies. Our Florida administrative law practice encompasses a wide range of regulatory matters including rulemaking, permitting, negotiations, administrative litigation, compliance and enforcement proceedings, business and professional licensing, and rate making.

The interactions that you have with Florida government extend beyond Tallahassee — we understand how this impacts your company and how you may be able to benefit from a wider range of opportunities. We regularly

represent clients before all different types of local governments throughout the state including county commissions, city councils, school boards, transportation authorities, and other local and regional governmental entities. Holland & Knight lobbyists also work with our procurement lawyers who are committed to providing a seamless, integrated approach to helping clients win new business or maintain their existing contracts with Florida state agencies and local governments.

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