



2012 New Law Reference Guide

for Businesses

*Do You Know How
These New Laws
Will Affect Your
Business?*



ASSOCIATED INDUSTRIES OF FLORIDA • *The Voice of Florida Business Since 1920*



2012 New Laws Affecting the Business Community

Thousands of bills were introduced in the Florida Legislature this year. Of those, 292 were passed by the Legislature. Do you know which new laws will affect your business?

- **The Corporate Income Tax exemption on net income has been expanded from \$25,000 to \$50,000 for ALL Florida employers.** (see page 3)
- **Timeshare brokers and advertisers must now provide full and fair disclosure of terms, conditions, and services.** (see page 12)
- **Construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may now be submitted electronically to the building code administrator or building official.** (see page 14)
- **Florida's Personal Injury Protection (PIP) law now only provides up to \$10,000 in medical benefits or emergency medical conditions and up to \$2,500 in benefits for non-emergency medical conditions.** (see page 18)
- **Policyholders utilizing private property and casualty insurance providers will now have assessments levied by Citizens spread over a longer period of time.** (see page 22)
- **Landowners are now further protected from liability when providing his or her property to the public for outdoor recreational activities.** (see page 22)

This easy-to-use guide does not attempt to provide information on all 292 bills passed this year. Rather, we have taken the time to analyze all the bills that were signed into law by the Governor and selected the ones that have the broadest impact on Florida's business community. Then we provide a short synopsis of the bill and highlight some of the more important provisions or requirements affecting your business. Finally, we provide the laws effective date so that AIF members can be sure to be in compliance with these new laws and regulations.

We hope that this guide will serve as a good source of information as you navigate the sometimes complex and complicated regulatory environment. For more information on all the other issues important to the business community and Florida's Future please visit AIF's homepage at www.aif.com.

Questions?

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Economic Development

Administrative Procedures – Chapter No. 2012-63

The bill revises the rulemaking reporting requirement for proposed rules affecting small businesses.

What You Need to Know

Transfers and Name Changes

- Changes the name of the Florida Administrative Weekly to the Florida Administrative Register. The online version of the Florida Administrative Register is the official version.
- Provides that the online version of the Florida Administrative Code is the official version for the state. The Department of State is no longer required to publish a printed version of the Florida Administrative Code.
- Provides that the Department of State is no longer responsible for reviewing agency and entity submissions to the Florida Administrative Register for formatting, grammatical, or typographical errors.
- Directs the Division of Statutory Revision to prepare a reviser’s bill for the 2013 Regular Session to substitute the term “Florida Administrative Register” for the term “Florida Administrative Weekly” throughout the Florida Statutes.

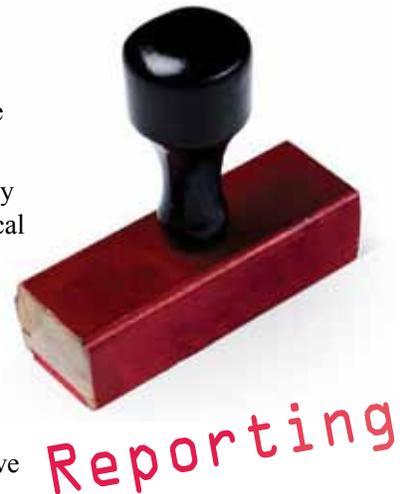
Prints and Copies

- The Department of State may no longer provide free print copies of the Florida Administrative Register to federal and state government entities.
- A printed copy of the Florida Administrative Register may be made available on an annual subscription basis.

Other Changes

- The bill also revises provisions with respect to the Florida Administrative Code and the Florida Administrative Weekly.
- It requires agencies to submit written notice of the proposed rule to the rules ombudsman in the Executive Office of the Governor instead of the Department of Economic Opportunity.

Effective Date: October 1, 2012



Economic Development – Chapter No. 2012-32

The bill contains several provisions designed to encourage economic development in Florida.

What You Need to Know

The economic incentives included in the 2012 Economic Development package include:

New Markets Tax Credit Program

- This bill increases the total amount of tax credits available to be allocated for the New Markets Tax Credit Program from \$97.5 million to \$163.8 million.

Corporate Income Tax Exemption

- This legislation increases the current corporate income tax exemption on net income from \$25,000 to \$50,000 for all Florida employers.

Sales Tax Holiday

- The package includes the reenactment of a three-day “sales tax holiday” for specific clothing,

footwear, and bags that cost \$75 or less, and school supplies that cost \$15 or less. The sales tax holiday is a one-time holiday, and is scheduled from August 3 through August 5, 2012.

Manufacturing & Aerospace Tax Incentives

- Presently, industrial machinery and equipment purchased for exclusive use by an expanding facility engaged in spaceport activities is eligible for a sales tax exemption if productive output has expanded by no less than 10 percent. This exemption is also available to manufacturers who wish to expand facilities or plant units that manufacture, process, compound, or produce for-sale items of tangible personal property. The bill reduces the required increase in productive output from 10 percent to 5 percent in order to qualify for such exemptions.

Film Incentives

- This law creates a requirement that a production wishing to claim credits for expenditures related to principal photography must have at least 50 percent of principal photography shooting days spent within Florida or must have spent at least \$10 million on qualified production expenditures within this state.

Effective Date: July 1, 2012

Reducing and Streamlining Regulations – Chapter No. 2012-32

The bill reduces regulatory requirements for professions and businesses, and streamlines regulatory functions primarily for programs under the Department of Business and Professional Regulation relating to construction contracting, the Florida Building Code, and the distribution of prescription drugs.

What You Need to Know

Licenses

- Waives initial licensure fees for recently discharged military veterans.
- Reduces the required continuing education requirements to reactivate an inactive license to only one cycle of hours required.
- Excludes landscape architecture from the licensure and regulation requirements as a mold assessor.

Real Estate

- Allows real estate continuing education instructors to complete their continuing education through distance learning and permits real estate schools to offer any course through distance learning.
- Extends the time period for classification as a bulk assignee or buyer of condominiums to July 1, 2015, from July 1, 2012.

Other Changes

- Decriminalizes specified violations of several professional boards' rules and administrative requirements that currently carry second-degree misdemeanor fines and penalties.
- Amends appraisal regulations and deletes references to Uniform Standards of Professional Appraisal Practice and provides that the professional standards be adopted by board rule.
- Removes duplication of regulation where natural gas utilities are subject to federal and state regulations.
- Allows distilled spirits that are greater than 153 proof to be distilled, bottled, packaged, or processed for export or sale outside of the state.
- Establishes three new exemptions from the permitting process for distribution of prescription drugs and active pharmaceutical ingredients within the state.



Effective Date: July 1, 2012

One-Stop Business Registration Portal – Chapter No. 2012-139

Currently, an individual desiring to start a business in the State of Florida must interact with several state agencies to register for taxes, request a license or receive certain permits. These tasks include visits to multiple state agency websites which collect duplicative information from the potential applicant. The State of Florida does not have a single point-of-entry where businesses can accomplish these tasks. This bill will change that.

What You Need to Know

Specifically, the One-Stop Business Registration Portal must provide businesses and individuals a single point-of-entry for:

- Completing and submitting applications for various licenses, registrations or permits that must be issued by state agencies or departments to do business in Florida.
- Filing of documents that must be submitted to state agencies or departments to transact business in Florida.
- Remitting of payments for the various fees that must be paid to state agencies or departments to obtain licensure, registration or a permit.

Development and Implementation

- The Departments of Business and Professional Regulation, Economic Opportunity, Financial Services, Lottery, Management Services and State are directed to cooperate with DOR in the development and implementation of the One-Stop Business Registration Portal.

Effective Date: July 1, 2012

Environmental

Environmental Regulation – Chapter No. 2012-205

The bill creates and amends numerous provisions relating to environmental regulation and permitting.

What You Need to Know

Permits

- Provides expedited permitting for any inland multimodal facility receiving and/or sending cargo to and/or from Florida ports.
- Requires action on certain permit applications within 60 days of receipt of last timely requested material and precludes state agencies from delaying action because of pending approval from other local, state, or federal agencies.
- Provides that holders of valid permits or other authorizations are not required to make payments to authorizing agencies for use of certain extensions granted under chapter 2011-139 Laws of Florida.
- Extends certain Environmental Resource Permits (ERP) and development permits for 2 years after its previously scheduled date of expiration.

Additional Changes

- Prohibits a local government from conditioning the approval for a development permit, after July 1, 2012, on an applicant obtaining a permit or approval from any other state or federal agency.



- Provides conditions under which the Department of Environmental Protection (DEP) is authorized to issue permits in advance of the issuance of incidental take authorizations as provided under the Endangered Species Act.
- Expands the use of internet-based self-certification services for certain exemptions and general permits.
- Exempts injection wells under the State Underground Injection Control Program from permitting under Part III of Chapter 373, F.S.
- Provides for the DEP to obtain an expanded state programmatic general permit from the federal government for certain activities in waters of the U.S. governed by the Clean Water Act and Rivers and Harbors Act.
- Provides that the transfer of title for a petroleum contaminated site to a child of the owner, or a corporate entity created by the owner to hold title for the site, does not disqualify the site from financial assistance.
- Authorizes certain zones of discharges to groundwater for existing installations.
- Provides that sludge from a waste treatment works is not a solid waste.
- Allows byproduct from the creation of renewable energy that is recycled to count towards the state recycling goal.
- Provides that a general permit for a stormwater management system of less than 10 acres may be authorized without agency action.
- Expands the definition of blended gasoline, defines the term ‘alternative fuel,’ and authorizes the sale of unblended fuels for certain uses.

Effective Date: July 1, 2012

Reclaimed Water – Chapter No. 2012-150

This bill adds the Department of Environmental Protection’s (DEP) definition of “reclaimed water” to the statutes, and resolves the debate over the extent of DEP’s and the WMDs’ (Water Management Districts) authority to regulate the use of reclaimed water through the CUP (consumptive use permits) process.

What You Need to Know

- Prohibiting a WMD from requiring a permit for the use of reclaimed water and prohibiting WMDs from specifying, in a CUP, any user to whom a reuse utility must provide reclaimed water or restricting the use of reclaimed water provided to a utility’s customers.
- If a proposed use of water includes surface water or groundwater, a CUP for those water sources may include conditions that govern their use in relation to the feasibility or use of reclaimed water.
- DEP and the WMDs may continue to require the use of reclaimed water in lieu of all or a portion of a proposed use of surface water or groundwater when use of reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user.

Other Changes

- Requires DEP to initiate rulemaking to adopt criteria for the use of “impact offsets” and “substitution credits” related to using reclaimed water to replace the use of surface or ground water.



Definitions

- DEP defines reclaimed water, by rule, as water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater (i.e., sewage) treatment facility.
- “Impact offset” is the use of reclaimed water to reduce or eliminate a harmful impact that has occurred, or would otherwise, occur as a result of other surface water or groundwater withdrawals.
- “Substitution credit” is the use of reclaimed water to replace all or a portion of an existing permitted use of resource-limited surface water or groundwater, allowing a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source.

Effective Date: July 1, 2012

Water Storage and Water Quality Improvements – Chapter No. 2012-187

Since 2005, the South Florida Water Management District has been working with a number of agencies, including the Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services (DACCS), along with ranchers to store excess surface water on private, public, and tribal lands. The Dispersed Water Management Program encourages property owners to retain water on their land rather than drain it, accept and detain regional runoff, or do both. Management of the water reduces the amount of water delivered into Lake Okeechobee during the wet season and discharged to coastal estuaries for flood protection.

What You Need to Know

Study Committee

- Creates the Study Committee on Investor-Owned Water and Wastewater Utility Systems.
- Requires the study committee to “identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems and their customers, and research possible solutions.”
- Requires the study committee, by February 15, 2013, to prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and any appropriate agencies, a report detailing its findings and making specific legislative and rulemaking recommendations. The bill provides for termination of the committee on June 30, 2013.
- Requires the Public Service Commission to provide staff, assistance, and facilities to support the study committee. Funding for the committee will be paid from the Florida Public Service Regulatory Trust Fund.

Other Specifications of the Bill

- Specifies that the Legislature encourages public-private partnerships to accomplish water storage and water quality improvements on private agricultural land.
- Specifies that when an agreement is entered into between a water management district or the DEP and a private landowner to establish such partnerships, a baseline condition determining the extent of wetlands and other surface waters on the property must be established and documented in the agreement before improvements are constructed.

Effective Date: July 1, 2012

The Dispersed Water Management Program encourages property owners to retain water on their land rather than drain it, accept and detain regional runoff, or do both.

Environmental Resource Permitting – Chapter 2012-94

The bill directs the Department of Environmental Protection (DEP), in coordination with the Water Management Districts (WMDs), to adopt statewide Environmental Resource Permitting (ERP) rules by October 1, 2012, governing the construction, alteration, operation, maintenance, repair, abandonment, and removal of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works.

What You Need to Know

The bill provides that the rules must provide for statewide, consistent regulation of these activities, and include, at a minimum:

- Criteria and thresholds for requiring permits.
- Types of permits.

Other Components

- Provides that a county, municipality, or local pollution control program that has a delegation of the ERP program authority or proposes to be delegated such authority must, without modification, incorporate by reference the rules adopted pursuant to the provisions in the bill.
- A county, municipality, or local pollution control program that has a delegation of the ERP program authority must amend its local ordinances or regulations to incorporate, by reference, the applicable rules adopted pursuant to this section within 12 months of their effective date.
- Does not prohibit a county, municipality, or local pollution control program from adopting or implementing regulations that are stricter than those adopted pursuant to the provisions in the bill.

Effective Date: July 1, 2012

Rules Establishing Numeric Nutrient Criteria – Chapter No. 2012-3

In 2009, the U.S. Environmental Protection Agency (EPA) determined that Florida’s regulation of nitrogen and phosphorus (“nutrients”) pollution in Florida waters is insufficient to protect water quality as required by the federal Clean Water Act. As a result, in 2010, the EPA finalized rules that impose federal numeric nutrient criteria on lakes and springs throughout the state and flowing waters outside of the southern Florida region.

What You Need to Know

This bill exempts rules proposed by the Florida Department of Environmental Protection (DEP) regarding numeric nutrient criteria related to water quality in Florida from the statutory legislative ratification requirement.

DEP Involvement

- Exempts DEP’s proposed rules, as approved by the Florida Environmental Regulation Commission (ERC) on December 8, 2011, from the statutory legislative ratification requirement.
- Requires DEP to publish, when the rules are adopted, notice of the exemption from ratification.
- Requires DEP to submit its proposed rules to the EPA for review within 30 days after the bill’s effective date.

Effective Date: February 16, 2012

This bill exempts from the statutory legislative ratification requirement rules proposed by the Florida Department of Environmental Protection (DEP) regarding numeric nutrient criteria related to water quality in Florida.

Energy – Chapter No. 2012-117

In response to the energy crisis in the 1970s, the State Energy Office was established by the Legislature in 1975. Prior to becoming a part of the Department of Agriculture and Consumer Services (DACS), it has been housed in the Department of Administration, the Department of Community Affairs, the Department of Environmental Protection, and the Executive Office of the Governor. In 2006, the Legislature established the Florida Energy Commission, as an arm of the Legislature, to develop recommendations for legislation to establish a state energy policy.

What You Need to Know

- Amends the definition of “local government.”
- Revises the ten-year site plan process.
- Reinstates and revises the sales tax exemption for renewable energy technologies.
- Clarifies that renewable energy producers not licensed as electric utilities are qualified to receive a tax refund for qualified target industry businesses.
- Streamlines the permitting process for biofuel feedstock crops and revises financial assurance requirements.
- Requires DACS to conduct a statewide forest inventory analysis.
- Authorizes DACS to establish a clearinghouse on its website regarding cost savings associated with energy efficiency and conservation measures.
- Requires the Public Service Commission (PSC), in consultation with DACS, to contract for a study to evaluate whether the Florida Energy Efficiency and Conservation Act (FEECA) remains in the public interest, and appropriates funds for the study.
- Requires coordination between the Department of Management Services and the DACS in further developing the state energy management plan for state buildings over 5,000 square feet.
- Expands allowable uses of the local government infrastructure surtax proceeds, if a local government ordinance authorizing such use is approved by referendum.
- Expands the Renewable Fuel Standard to include alternative fuel as defined in the bill.

Effective Date: July 1, 2012

General Business

Sale or Lease of a County, District, or Municipal Hospital – Chapter No. 2012-66

The bill amends laws related to the sale or lease of public hospitals. It requires every county, district or municipal hospital, to have commenced by December 31, 2012, an evaluation of continued ownership of such a hospital. This evaluation is to occur regardless of whether the governing board intends to sell or lease the hospital. It also requires that the governing board of a county, district or municipal hospital, prior to completing a proposed sale or lease of the hospital, receive approval from the secretary of the Agency for Health Care Administration (AHCA), or, if provided for in the hospital charter, by a referendum.

What You Need to Know

Requirements of Bill

- Requires certain findings by the hospital governing board.

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- Requires public notice by the hospital governing board; Provides for certain content for petitions to the Agency for Health Care Administration (AHCA).
 - Requires certain findings by AHCA.

Mandates on Bill

- Mandates distribution of sale or lease proceeds.
- Mandates distribution of ad valorem tax revenue for property that is not exempt after sale or lease.

Other Changes

- Allows for appeal.
- Sunsets hospital taxing authority upon sale.
- Authorizes exemptions from the provisions of the bill for specified circumstances.
- Amends hospital licensure provisions by expanding the definition of “accrediting organization.”

Effective Date: April 6, 2012

Consumer Services – Chapter No. 2012-67

The bill contains modifications to several regulatory and consumer activities under the jurisdiction of the Department of Agriculture and Consumer Services.

What You Need to Know

Authorizations

- Authorizes the department to waive license renewal fees, not to exceed two years, if the General Inspection Trust Fund contains funds that exceed the amount required to cover the necessary functions of the Board of Professional Surveyors and Mappers.
- Authorizes the Board of Professional Surveyors and Mappers to include all inactive and delinquent licensees with active licensees should a special assessment fee be collected to eliminate a cash deficit; or if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the profession.
- Authorizes the temporary waiver of requirements for maintaining power generators at motor fuel dispensing facilities if the generators are to be used in an emergency situation in another state.

Removals, Requirements, and Replacements

- Removes the Division of Standards from the organizational structure of the department and adds conforming terminology specifying the powers and duties of the Division of Consumer Services.
- Eliminates the fee required for the placement on the no sale list and provides for administrative penalties.
- Requires a registrant of a brand of antifreeze not in production for distribution in this state to submit a notarized affidavit attesting to the fact that the brand is not in production for distribution.
- Replaces the outdated term “occupational license” with the term “business tax receipt.”
- Replaces criminal sanctions with administrative and monetary sanctions for violations of requirements for the sale of brake fluids.



Other Changes

- Allows waiver of firearm training requirements of private investigative, private security, or repossession services pursuant to documentation that supports competence of skills and education.
- Specifies that notification of cancellation of insurance coverage for household moving services be provided at least 10 days prior to cancellation.

Effective Date: July 1, 2012

Self-Service Storage Facilities – Chapter No. 2012-175

The bill provides several changes to the Self-Storage Facility Act. The bill removes the requirement to use certified mail and allows notices to be provided to the tenant by first-class mail with a certificate of mailing, and by e-mail in certain circumstances. This bill also requires the rental agreement or application to contain a provision disclosing whether the applicant is a member of the military.

What You Need to Know

- Changes the definition of “last known address” to specifically include a post office box address and to include a change of address if provided by the tenant.
- Removes the requirement that tenants mail notice of a change of address by certified mail.
- Provides that most notices may either be delivered to the tenant or lienholder, e-mailed, or mailed by first-class mail, rather than certified mail. However, e-mail notice may not be utilized to notify the tenant of any balance resulting from a sale of the contents of the storage unit or to notify the tenant or secured lienholders as to the amount of the sale.
- Requires a rental agreement to contain a provision disclosing whether the applicant is a member of the uniformed services as defined in 10 U.S.C. s. 101(a)(5).13. This provision discloses the renter’s military status to the owner of the facility.

Effective Date: July 1, 2012

Changes the definition of “last known address” to specifically include a post office box address and to include a change of address if provided by the tenant.

Background Screening – Chapter No. 2012-73

In 1995, the Legislature created standard procedures for the screening of prospective employees, owners, operators, contractors, and volunteers where the Legislature had determined it necessary to conduct criminal history background screenings to protect vulnerable persons. The Florida Department of Law Enforcement (FDLE) processes criminal history checks for the screening entity. In 2010, the Legislature substantially rewrote the requirements and procedures for background screening of these persons and businesses.

What You Need to Know

The bill creates the Care Provider Background Screening Clearinghouse to create a single “program” of screening individuals and will allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies. Once a person’s screening record is in the Clearinghouse, that person will avoid the need for many future state screens and related fees.

- Requires electronic fingerprinting vendors to use technology systems that are compliant with the systems used by the Florida Department of Law Enforcement.
- Allows employers to hire an employee for training and orientation before the screening is complete, provided the employee does not have any contact with clients until successful completion of the screening.

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- Creates background screening requirements related to the Division of Vocational Rehabilitation (DVR) within the Department of Education.

Persons Exempted From Screening

- Mental health personnel with less than 15 hours of direct contact with adult patients per week working in hospitals.
- Certified Nursing Assistant applicants who have successfully passed background screening within 90 days of applying for certification.
- Law enforcement officers who work or volunteer in summer camps and other facilities regulated under ch. 409, F.S., such as foster group homes and residential child-caring agencies.
- Certain volunteers, relatives of clients, and attorneys who provide services through a direct service provider that has a contractual relationship with the Department of Elder Affairs.

Effective Date: April 6, 2012



Timeshares – Chapter No. 2012-76

Chapter 721, F.S., governs vacation plans and timesharing. Presently, no mention is made regarding resale service providers.

What You Need to Know

The bill requires the full and fair disclosure of terms, conditions, and services offered by timeshare resale service providers, which includes brokers and advertisers who offer unsolicited telemarketing, direct mail, or e-mail in connection with the offering of resale brokerage services or resale advertising services to consumer owners of timeshares who wish to sell their interest in a timeshare. It provides exceptions for sales by consumers and licensed real estate brokers.

What is Provided by the Bill

- Specific activities in which a resale service provider may not engage.
- Specific activities in which a resale advertising service provider may not engage.
- A violation of this section is a violation by both the resale service provider and the individual actually committing the violation.
- Jurisdiction for Florida courts regarding violations of this section by a resale advertising service provider who offers services related to a timeshare interest located or offered within the state, or in a multi-state timeshare plan registered to be offered within the state.
- Requires resale advertising service providers to comply with certain contract requirements including a minimum right of termination that must be afforded to the consumer reseller. Violation of this section results in a civil penalty, and is also a violation of the Florida Deceptive and Unfair Trade Practices Act.

Effective Date: July 1, 2012

Transactions by Secondhand Dealers and Secondary Metals Recyclers – Chapter No. 2012-179

The bill establishes a list of metals more likely to be stolen and enacts more stringent penalties for their theft. It also establishes a statewide framework that will reduce criminal incentive to steal materials in one jurisdiction and attempt to sell them in another.

DISCLOSURE

What You Need to Know

- Defines the terms “appropriate law enforcement official” and “personal identification card” and requires that secondary metals recyclers maintain, and transmit daily, an electronic record of the previous day’s purchase transactions.
- Revises the timeframe that secondary metals recyclers are required to maintain purchase transaction records.
- Creates the definition of “restricted regulated metals property.”
- Limits the liability of secondary metals recyclers for the conversion of motor vehicles to scrap metal.
- Modifies the acceptable forms of payment and outlines time restrictions relating to purchase transactions of regulated metals property.
- Expands the application of penalties for violations to persons who assist with the taking of copper and other nonferrous metals.
- Provides that the regulation of regulated metals property is preempted to the state except with respect to ordinances enacted prior to March 1, 2012, and allows local requirements to be amended to meet or exceed state requirements.
- Provides for liability in an amount equal to three times the actual damages sustained by a utility or communications services provider if the damages are caused by theft of property.
- Provides that an owner of metal property is not liable to a person who is injured during theft, or attempted theft, of metal from their property and provides an owner of metals recycler is not liable for injuries caused.

Expands the application of penalties for violations to persons who assist with the taking of copper and other nonferrous metals.

Effective Date: July 1, 2012

Metal Theft – Chapter No. 2012-185

Throughout the industrialized world, stealing valuable metal has become a serious concern for police, businesses, public utilities, railroad companies, and the community at large. While efforts to combat metal theft have occurred for several decades, reports of dramatic increases in scrap metal theft are occurring throughout the United States. The stolen metals are usually sold to secondary metal recyclers at scrap yards. Florida has responded to this problem by enacting a variety of laws that regulate secondary metal recyclers and that specifically criminalize theft of copper and other nonferrous metals.

What You Need to Know

- Increases the criminal penalty for violations of s. 538.23(1)(a), F.S., from a first degree misdemeanor to a third degree felony.
- Increases the penalty for third or subsequent violations of s. 528.23(1)(a), F.S., from a third degree felony to a second degree felony.
- Also amends s. 812.145, F.S. (relating to theft of copper or other nonferrous metals), to make it a first degree felony for a person to knowingly and intentionally remove copper or other nonferrous metals from an electrical substation without authorization of the utility.

Effective Date: October 1, 2012

Money Services Businesses – Chapter No. 2012-85

The Office of Financial Regulation (OFR) is responsible for licensing money services businesses. There are currently 1,065 licensed businesses authorized to cash checks. Customer files, documenta-

tion, and records are reviewed during an examination or investigation by the OFR.

What You Need to Know

The bill provides for prevention of workers' compensation premium fraud in Florida, as facilitated by check cashers. It places law-abiding contractors at a competitive disadvantage when competing, on a price basis, with contractors benefitting from the fraud.

What is Eliminated

- The requirement that the OFR provide a 15-day advance notice to money services business licensees prior to conducting an examination or investigation.
- Eliminates the requirement that the OFR conduct an examination of a business within six months of licensure.

Other Additions

- Requires that a check cashing business deposit payment instruments into its own commercial account at a federally insured financial institution and deletes the authorization to sell payment instruments within five business days after acceptance.
- Authorizes disciplinary action and provides for penalties in cases of non-compliance.
- Stipulates that a check casher may only accept or cash a payment instrument from a person who is the original payee or a conductor who is an authorized officer of the corporate payee named on the instrument's face.
- Codifies the \$5 verification fee currently established by rule. Acceptance and cashing of third-party checks is no longer authorized.

Effective Date: July 1, 2012

Growth Management

Electronic Filing of Construction Plans – Chapter No. 2012-58

The bill provides that if a local building code administrator or building official provides for electronic filing, then construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee, may be transmitted electronically to the building code administrator or building official for approval and may be dated and electronically signed and sealed by the licensee in accordance with the "Electronic Signature Act of 1996."

What You Need to Know

- This legislation does not require the electronic submission of construction documents or the use of electronic signatures and seals, but instead provides the building code administrator or building official the authority to allow for the electronic submission of construction documents.
- In addition, it does not specifically address security, tracking, and storage issues related to the electronic filing of construction documents.

Effective Date: July 1, 2012

State Preemption of the Regulation of Hoisting Equipment – Chapter No. 2012-62

The bill amends s. 489.113, F.S., to preempt to the state and prohibit all local regulation of hoisting equipment, unless the regulation is otherwise federally preempted by the Occupational Safety and Health Administration under 29 C.F.R. parts 1910 and 1926.

What You Need to Know

- Local regulation that is prohibited and preempted to the state includes, but is not limited to, local worksite regulation regarding hurricane preparedness or public safety.
- States that the prohibition and preemption includes, but is not limited to, local worksite regulation regarding hurricane preparedness or public safety.
- The prohibition and state preemption does not apply to the regulation of elevators under ch. 399, F.S., also known as the “Elevator Safety Act,” or the regulation of airspace height restrictions in ch. 333, F.S.

Effective Date: April 6, 2012

Building Construction and Inspection – Chapter No. 2012-13

This bill amends a number of provisions related to building construction and inspection in Florida.

What You Need to Know

Solar Panels

- Creates a licensure exemption for property owners installing, uninstalling, or replacing solar panels.
- Exempts solar projects from an owner’s notarized signature or personal appearance to sign the permit application.
- Removes the notary requirement for certain solar project documents submitted electronically.

Water and Sewage Systems

- Revises definitions, outlines permitting measures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems.
- Modifies plumbing contractor scope of services to include water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems.

Fire Safety

- Includes certain fire safety inspectors among those eligible to take the building code inspector or plans examiner certification exam and shortens the time length of a provisional certificate for newly employed or promoted inspectors or examiners.
- Allows for electronic filing related to the Florida Fire Prevention Code.

Other Changes

- Authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes.
- Includes landscape architecture in the mold assessment exemption.
- Requires electronic permit application to include disclosure statement as true and correct.
- Eliminates the glass and glazing contractor as a required licensed contractor.
- Increases the maximum civil penalty a local governing body may levy against an unlicensed contractor.
- Exempts specified hunting structures from the Florida Building Code.
- Provides an expiration date related to a subsection in the Florida Building Code as it relates to exposed mechanical equipment or appliances fastened to a roof or installed on the ground.

Effective Date: July 1, 2012

Authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes.

Specifies that any provision in a payment bond which limits or expands the duration of a bond, or which adds conditions precedent to the enforcement of the claim against the bond, is unenforceable.

Construction Contracting – Chapter No. 2012-211

In Florida, “surety insurance” is defined to include both payment and performance bonds. A payment bond guarantees that the contractor will pay certain subcontractors, laborers, and material suppliers. A performance bond protects the owner from financial loss should the contractor fail to perform the contract in accordance to its terms and conditions. Current law requires any person who enters into a formal contract over \$100,000 with the state, a county, a city, a political subdivision, or other public authority for the construction, completion, or repair of a public building, to deliver a payment and performance bond issued by a state-authorized surety insurer to the public owner.

What You Need to Know

Basic Changes

- Requires the bond number assigned by the surety to be listed on the front page of the bond.
- Specifies that any provision in a payment bond which limits or expands the duration of a bond, or which adds conditions precedent to the enforcement of the claim against the bond, is unenforceable.
- Replaces mailing by clerk of court with service by the contractor or the contractor’s attorney who records a notice of contest of claim against the payment bond.
- Provides that if a contractor furnishes and records a payment and performance bond, the public authority may not condition its payments to the contractor on the production of a waiver from a claimant showing that such claimant does not have an outstanding claim for payments due on the project.
- Requires government entities to open sealed bids for public works projects at a public meeting.

Construction Lien

- Creates a provision in the construction lien law relating to effective notice where a lessor has an interest in a specific premises on a parcel of land.
- Requires that all lienors, including those hired directly by the owner, be served with a notice of termination of a notice of commencement.
- Provides additional information (i.e. description of the project) that must be included in a demand for a copy of contract or statements of account.
- Makes changes to mirror proposed changes related to bonds.
- Makes various grammatical and stylistic changes.

Effective Date: October 1, 2012

Developments of Regional Impact – Chapter No. 2012-75

A development of regional impact (DRI) is defined as “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.” Section 380.06, F.S., provides for both state and regional review of local land use decisions involving DRIs.

What You Need to Know

Regional Planning Councils (RPCs) coordinate the review process with local, regional, state and federal agencies and recommend conditions of approval or denial to local governments. DRIs are also reviewed by the Department of Economic Opportunity (DEO), as the state land planning agency, for compliance with state law and to identify the regional and state impacts of large-scale developments. Local DRI development orders may be appealed by the owner, the developer, or the state land planning agency to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.

Exemptions

- Any proposed development, in local government jurisdictions that are not designated as dense urban land areas, which is approved as a comprehensive plan amendment adopted pursuant to the state coordinated review process in s. 163.3184(4), F.S., and which is the subject of a qualified target industry business tax refund agreement pursuant to s. 288.106(5), F.S.
- The exemption only takes effect if the applicant, local government, and the state land planning agency execute a written agreement.
- The exemption does not apply to areas within the boundary of any area of critical state concern, within the boundary of the Wekiva Study Area, or within two miles of the boundary of the Everglades Protection Area.

Regional Planning Councils

- Provides that the regional planning council (RPC) report may only review affordable housing issues if the has adopted an affordable housing policy as part of its strategic regional policy plan.
- Specifies that the RPC report recommendations must be consistent with the standards required by the applicable state permitting agencies or the water management district.

Other Components

- Provides that changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted are not substantial deviations.
- Allows certain types of DRI-exempt developments to be eligible for the procedures relating to development order rescission.
- Adds flexibility to the requirement for a project's mitigation to be completed before the DRI development order may be rescinded.
- Provides that certain agricultural parcels may receive the same land use designation as the surrounding parcels.

Effective Date: July 1, 2012

Residential Construction Warranties – Chapter No. 2012-161

A recent District Court of Appeal (DCA) decision expanded the common law implied warranty of fitness and merchantability or habitability to off-site improvements, such as roads and drainage areas within a subdivision. This opinion is contrary to a previous Florida Supreme Court opinion.

What You Need to Know

This bill provides that the implied warranty of fitness and merchantability or habitability does not include off-site improvements.

Definitions

“Off-site improvements” are defined as streets, roads, driveways, sidewalks, drainage, utilities; or any other improvement or structure that is not located on or under the lot on which a new home is constructed, except such improvements that are shared by and part of the overall structure of two or more separately owned homes that are attached, if such improvements affect the fitness and merchantability or habitability of one or more of the other adjoining structures.

Effective Date: July 1, 2012, and applies to all cases accruing before, pending on, or filed after that date

Adds flexibility to the requirement for a project's mitigation to be completed before the DRI development order may be rescinded.



Questions?

*Please contact José
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Affairs, at
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Growth Management – Chapter No. 2012-99

The bill makes a number of non-substantive modifications and clarifications to ch. 2011-139, L.O.F., “The Community Planning Act” (The Act), which were compiled through various discussions and feedback received from stakeholders including the state land planning agency and local governments.

What You Need to Know

Modifications include fixing cross-references, updating outdated language, and removing provisions that The Act made obsolete such as references to the twice-a-year limitation on adopting plan amendments that no longer exists and references to the evaluation and appraisal report that no longer is required. The bill also addresses items that, although stemming from technical glitches, may have limited policy implications. These include:

- Grandfathering of local government charter provisions in effect on June 1, 2011, relating to a local initiative or referendum process for the approval of development orders and comprehensive plan or map amendments.
- Clarifying provisions relating to the coordination between local governments and military installations regarding local land use decisions.
- Providing criteria for municipalities and the unincorporated area within a county to use in determining population projections.
- Removing criteria that exempts certain municipalities from being signatories to the school interlocal agreement as a prerequisite to implementing school concurrency, because school concurrency is now optional, and restoring criteria to exempt certain municipalities from being a party to the school interlocal agreement.
- Extending the time for the state land planning agency and the Administration Commission to issue recommended and final orders, since the current time requirement is unworkable, and providing a time requirement for the state land planning agency to issue a notice of intent for a plan amendment adopted pursuant to a compliance agreement.
- Deleting a required annual report by the Department of Economic Opportunity related to the optional sector plan pilot program.

Effective Date: April 6, 2012

Insurance

Motor Vehicle Personal Injury Protection Insurance – Chapter No. 2012-197

The bill provides for changes in personal injury protection (PIP) coverage, which is no-fault motor vehicle insurance. Under the bill, to be eligible for no-fault medical benefits, persons injured in motor vehicle accidents are required to receive initial treatment and care within 14 days from specified providers.

What You Need to Know

Associated Costs

- Up to \$10,000 in medical benefits is available for emergency medical conditions; up to \$2,500 in medical benefits is available for non-emergency medical conditions.

Changes to PIP

- Provides for PIP insurers to make rate filings by October 1, 2012, and January 1, 2014 that decrease premium rates by at least 10 percent and 25 percent, respectively.



REGULATIONS

- Provides that the PIP funeral benefit of \$5,000 is in addition to medical and disability benefits.
- Excludes massage and acupuncture from covered medical benefits.
- Requires health care clinics that seek PIP reimbursement to be licensed, with specified exceptions.
- Authorizes a direct-support organization to combat motor vehicle insurance fraud.
- Amends the PIP schedule of maximum charges; requires insurers to include the schedule in their forms; permits use of Medicare coding policies.
- Provides that an insurer's failure to timely pay PIP claims as a general business practice is an unfair and deceptive trade practice.
- Tolls the PIP payment period when fraud is reasonably suspected.
- Requires insureds to comply with all policy terms, including requests for examination under oath.
- Creates a rebuttable presumption that the failure to appear for two mental or physical examinations constitutes an "unreasonable refusal" to submit to examination.
- Prohibits the use of contingency risk multipliers; providing guidelines for judges to consider in determining whether the amount of an attorney fee award is appropriate.
- Revokes the license of health care practitioners found guilty of insurance fraud for five years.

Effective Date: July 1, 2012

Title Insurance – Chapter No. 2012-206

What You Need to Know

Title insurers and title insurance agencies are required to submit to the Office of Insurance Regulation (OIR), by March 31 of each year, data that has been identified as necessary to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry. The Financial Services Commission is authorized to promulgate rules regarding the collection and analysis of such data. Additionally, the Department of Financial Services is required to take adverse action against title insurance agents or agencies that fail to timely file the required data, including suspension or revocation of authority.

OIR Requirements

- OIR must approve or disapprove forms filed by title insurers within 180 days after receipt and, when approving a form, determine if the current rate applies or if the coverages require the adoption of rules.
- In addition, the OIR must expeditiously approve filed forms that contain identical coverages, rates, and approved deviations to a form the OIR has approved for another title insurer to prevent a competitive advantage in the marketplace.

Title Insurance/Real Estate Settlement Agents Requirements

- Requires an attorney serving as title or real estate settlement agent to deposit and maintain funds received in connection with such transactions into a separate trust account, unless maintainin funds in the separate account for a particular client would violate rules of the Florida Bar.
- Such attorneys are also required to permit title insurers for whom they hold funds to audit the separate account.

Requires an attorney serving as title or real estate settlement agent to deposit and maintain funds received in connection with such transactions into a separate trust account.

Other Changes

- For compliance periods beginning on or after October 1, 2014, the credits must be earned in title insurance and escrow management courses specific to Florida that have been approved by the Department of Financial Services.
- At least three of the credit hours must be in ethics, rules, or compliance with state and federal regulations relating to title insurance and closing services.
- The OIR is also authorized to revoke approval of any form after providing 180 days notice to the title insurer.

Effective Date: July 1, 2012

Insurance – Chapter No. 2012-213

The bill provides changes to workers' compensation insurance and commercial lines insurance. It also provides for the payment for professional development expenses for Office of Insurance Regulation (OIR) employees.

What You Need to Know

Under Florida law, corporate officers can elect to be exempt from workers' compensation coverage requirements. Individuals who make such election are not considered "employees" for premium calculation purposes, and are not eligible to receive workers' compensation benefits if they suffer a workplace injury. The term "corporate officer" is defined to include members of limited liability companies (LLCs) in the construction industry who own at least 10 percent of the LLC.

Worker's Compensation

- Expands the definition of corporate officer to include 10 percent owners of non-construction limited liability companies.
- Eliminates the annual mandatory onsite premium audits of policyholders required to be done by the workers' compensation insurer, if the insurer meets certain financial requirements.
- Excludes workers' compensation insurers from the excess profits law which requires these insurers to refund excess profits to policyholders.

Insurance Policy Transfer

- Allows insurance companies writing commercial lines insurance policies to transfer these insurance policies to a different Florida licensed insurance company that is a member of the same insurance group or owned by the same holding company as the first insurer.
- No residential property insurance policy, except specified types covering farms, can be transferred.
- Insurers transferring policies must give policyholders a 45-day notice of the transfer and provide the financial rating of the new insurer.

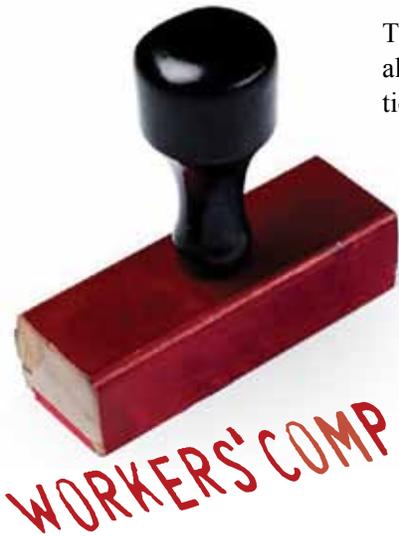
Effective Date: July 1, 2012

Insurance – Chapter No. 2012-151

The bill changes a number of provisions relating to the regulation of insurance companies, insurance agents, insurance adjusters, and insurance coverage.

What You Need to Know

- The bill creates an exemption from the certificate of authority (COA) requirements for an



alien insurer issuing life insurance or annuity contracts covering only persons who are not residents of the U.S., if the insurer meets certain requirements.

- The bill also deletes the current definition of “captive insurer” and redefines it as a “domestic insurer” established under ch. 628, part V, F.S., including any of three specified types of captive formation.
- Allows a not-for-profit self insurance fund to purchase for its members coverage for health, accident, or hospitalization, if certain conditions are met.
- Clarifies that a current exemption from filing specified reinsurance information applies to any insurer with less than \$500,000 in direct written premiums in Florida in the preceding calendar year, and not more than \$250,000 of premiums during the preceding calendar quarter, and less than 1,000 policyholders at the end of the preceding calendar year.
- Expands the list of entities to whom a limited license for travel insurance may be issued.
- Allows a licensed independent adjuster or a licensed agent to supervise up to 25 individuals, who are not required to obtain a license, to perform functions in connection with entering data into an automated claims adjudication system for portable electronics insurance claims.
- Provides that a surplus lines carrier is not required to provide 45 days’ notice of nonrenewal if the insurer has manifested its willingness to renew.
- Provides that an insurer with surplus as to policyholders of \$25 million or less can qualify as a limited apportionment company (LAC) for all statutory purposes.
- Requires Citizens to begin offering a basic personal lines policy similar to an HO-8 policy by January 1, 2013.
- Requires that in establishing replacement costs for dwelling coverage, Citizens must accept the lowest valuation from 3 specified sources.
- Provides that mandated health benefits are not intended to apply only to limited benefit types of health benefit plans, unless specifically designated otherwise.
- Provides a definition of the term “rebate” within the context of performing repairs made pursuant to sinkhole damage.
- Allows an insurer to cancel a private passenger motor vehicle insurance policy within the first 60 days for non-payment of premium.
- Specifies that the alternative dispute resolution procedure for personal and commercial residential property insurance claims can be requested only by the policyholder, as a first-party claimant, or by the insurer.
- Provides that when the notice of loss is reported more than 36 months after a declaration of a state of emergency by the Governor in response to a hurricane, the alternative claim dispute resolution process is not available.
- Allows the cancellation of a private passenger motor vehicle insurance policy, regardless of whether the first 2 months of premiums need to be paid up front, within the first 60 days for non-payment of premium when the check or other method of payment presented is subsequently dishonored.
- Clarifies that when an insurer fails to meet the statutory requirements for timely payment of Personal Injury Protection (PIP) benefits, the obligation will accrue interest at the rate established in the contract or the statutory interest rate that applies to judgments and decrees, whichever is greater, that is in effect on the date the payment became overdue.
- Specifies that an insurer providing PIP coverage does not have a right of reimbursement from an owner or registrant of a motor vehicle used as a taxi cab.

Provides that when the notice of loss is reported more than 36 months after a declaration of a state of emergency by the Governor in response to a hurricane, the alternative claim dispute resolution process is not available.

Effective Date: July 1, 2012

Prevents a drain on the surplus of property insurers in the private market caused by the insurers having to prepay the Citizens' regular assessment and recoup it from policyholders over the following year.

Citizens Property Insurance Corporation – Chapter No. 2012-80

Citizens Property Insurance Corporation is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company. Citizens was created by the Legislature in 2002 by the merger of two existing property insurance associations. Citizens writes various types of property insurance policies and separates the policies written into the following accounts, based on the type of policy: the Personal Lines Account (PLA), the Commercial Lines Account (CLA), and the Coastal Account.

What You Need to Know

The bill provides for the repeal of two regular assessments levied by Citizens Property Insurance Corporation against certain Florida property and casualty policyholders, and reduces a third regular assessment.

Time Provided

- Does not change the amount of or collection process for the emergency assessment, but specifies the Office of Insurance Regulation (OIR) cannot order this assessment paid sooner than 90 days after the assessment is levied.
- Extends the time period limited apportionment companies have to pay a regular assessment to Citizens from 12 months to 15 months.
- Prevents a drain on the surplus of property insurers in the private market caused by the insurers having to prepay the Citizens' regular assessment and recoup it from policyholders over the following year.
- Property and casualty insurance policyholders that are not Citizens' policyholders will have assessments levied by Citizens spread over a longer period of time.

Other Components

- Eliminates the regular assessment for the PLA and the CLA and reduces the assessment percentage for the Coastal Account from six percent to two percent.
- Increases the amount of assessments paid by Citizens' policyholders.
- Citizens may issue more pre-event and post-event bonds than it does currently to ensure the corporation has sufficient cash to pay claims.

Effective Date: July 1, 2012

Legal & Judicial

Premises Liability – Chapter No. 2012-203

The bill provides additional circumstances under which a landowner who makes his or her property available to the public for outdoor recreational activities is protected from liability.

What You Need to Know

- Allows private property owners who provide outdoor recreational opportunities on their land to enter into written agreements with the state, as opposed to a lease, and still receive the benefit of the limitation of liability.
- Provides that the written agreement must recognize that the state is responsible for personal injury, loss, or injury resulting from the state's use of the property subject to the limitations and conditions in s. 768.28, F.S., relating to the waiver of sovereign immunity in tort actions.
- Provides limitation of liability protection to private landowners who make their land avail-



able to specific persons, as opposed to only the general public, for the purpose of hunting, fishing, or wildlife viewing.

- To benefit from this limitation of liability, the landowner must provide notice of the liability limits to the person or persons using the land in addition to the current requirement that the landowner make no profit from, nor charge a fee beyond reasonable expenses, for using the land.

Effective Date: July 1, 2012

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Legal Notices – Chapter No. 2012-212

The bill requires a legal notice to be placed on a newspaper's website in addition to being placed in the newspaper. Current law provides requirements for publishing legal notices and official advertisements. Publications must be in a newspaper that is printed and published at least once a week and that contains at least 25 percent of its words in the English language. In addition, the newspaper must qualify or be entered to qualify as periodicals matter at the post office in the county where published, and be generally available to the public for the purpose of publication of official or other notices.

What You Need to Know

The bill creates a new section of law requiring a legal notice to be placed on a newspaper's website on the same day the notice appears in the newspaper, at no additional charge. Effective July 1, 2013, a newspaper that publishes legal notices must provide a free link to:

- Access legal notices on its website.
- Optimize online visibility.
- Dominantly present the notices on the website.
- Provide a search function for the notices.
- Upon request, provide free e-mail notification of the notices.
- Place the notice on the Florida Press Association website established for such notices.

Effective Date: July 1, 2012, and shall apply to legal notices that must be published on or after that date



Taxation

Transfer of Tax Liability – Chapter No. 2012-55

The bill provides for consolidation of statutes governing the sales of businesses and circumstances where the purchaser of a business takes the business without assuming the seller's liabilities.

What You Need to Know

What is Revoked

- This bill repeals the two specific statutes (sales and communications) and amends the statute relating to all taxes owed to the state.

Circumstances for Liability Exemption

- This bill allows the transferee to take the business without assuming the transferor's liabilities under either of the following circumstances:
 - If the transferor and the transferee do not have common insiders, the transferee may obtain a certificate of compliance from the Department of Revenue showing that a

transferor has not received notice of audit, has filed all required tax returns, and has paid the tax due from those returns; or

- The transferee or transferor may request an audit of the transferor's books and records, to be completed within 90 days by the Department of Revenue, in order to find that a transferor is not liable for any outstanding tax liabilities.

Criminal Penalties

- Repeals misdemeanor criminal penalties for violations of the statutes governing sales of businesses.

New Exemptions

- Creates a new exemption from liability when the transferee is not an insider and the assets transferred are limited to:
 - A one- to four-family residential real property and furnishing and fixtures within
 - Real property that has not been improved with a building; or
 - Owner-occupied commercial real property
- This exception does not apply if such assets are accompanied by a transfer of other business assets.

Effective Date: April 6, 2012

Communications Services Taxes – Chapter No. 2012-70

This legislation allows a dealer of communications services to exclude charges for any good or service that is exempt from the communications services tax, with specified exceptions, so long as those exempt items can be reasonably identified from the selling dealer's books and records.

What You Need to Know

The bill updates and modifies a number of provisions regarding the manner in which the communications services tax is levied:

- The term "cable service" is replaced with "video service."
- The term "internet access" is defined through reference to federal statute.
- The definition of "sales price" is revised to allow additional nontaxable items to be billed together in a single line item on a customer's invoice without the entire amount of the line item being taxable.
- Statutory provisions that govern the liability of a communications services tax dealer in cases of incorrect assignment of customers to local taxing jurisdictions for the purpose of imposing the applicable local communications services tax are revised.
- The liability of a communications services tax dealer in the cases of underpayment of the tax resulting from that dealer assigning a service address to the incorrect local taxing jurisdiction is limited to only those situations where the dealer did not use an approved "siting" method and the Department of Revenue has determined the amount underpaid by that dealer between all jurisdictions.
- The bill makes these revised definitions and liability provisions retroactive and remedial.
- Creates a 9 member working group to review various aspects of the communications services tax and provide recommendations in a report.

Effective Date: July 1, 2012



Taxation – Chapter No. 2012-145

Current law allows documentary stamp tax receipts that are dedicated for other uses to be available to pay debt service for bonds issued before January 1, 2010. The bill extends this provision to bonds issued before January 1, 2013.

What You Need to Know

The Revenue Estimating Conference (REC) estimated that the impact of the one-time estimated corporate income tax “speed up” provision on General Revenue to be a positive \$100 million in FY 2012-13 and a negative \$100 million in FY 2013-14. The REC estimated that the provision related to elimination of the collection allowance for certain sales tax dealers that do not file returns and payments electronically will have positive impact on General Revenue of \$8.1 million in fiscal year 2012-13 (\$8.1 million recurring), a negative impact on state trust revenue of -\$0.2 million (-\$0.2 million recurring), and a positive impact on local government revenues of \$1.9 million (\$1.9 million recurring).

Date Changes

- Updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2012. The change will apply retroactively to January 1, 2012.
- Revises the date on which an estimated corporate tax payment is due. Currently estimated payments are due on the last day of the applicable month; if the last day of the month falls on a Saturday, Sunday, or legal holiday these payments are not credited to the state until the next business day.
- Provides that the estimated tax payment due on Sunday, June 30, 2013, must be paid on or before the June 28, 2013.

Other Components

- The bill limits the sales tax dealer’s collection allowance to those tax dealers who file returns and pay taxes by electronic means.

Effective Date: July 1, 2012



Unemployment Compensation – Chapter No. 2012-30

Effective for tax years 2012 through 2014, the bill reduces the taxable wage base for employer UC (Unemployment Compensation) taxes by \$500, from \$8,500 to \$8,000. Further, the bill extends the positive adjustment factor recoupment period from three years to five years through 2017. Taken together, these changes will provide tax relief to employers through the 2014 tax year.

What You Need to Know

Taxes/Budget

- Related to the tax structure and long-term solvency of the UC program, the bill establishes a work group to review the program and provide recommendations to the Legislature.
- Provides budget authority to the Department of Revenue (DOR) in FY 2011-12 (\$346,463) and FY 2012-13 (\$100,884) to implement provisions related to employer tax relief, professional employer organizations, and leased educational employees.

Other Components

- Extends the federally-funded temporary extended benefits program through the end of the year.
- Takes additional steps to improve efficiency of the state UC system.
- Clarifies that certain requirements for employees of an educational institution to receive UC

benefits are also applicable to employees of a private employer holding a contractual relationship with an educational institution.

- Reduces the number of weekly employer contacts from five to three for individuals that reside in a small county.
- Reforms provisions related to disaster relief, fraudulent claims, collection of overpayments, and confidential information.

Effective Date: July 1, 2012

Administration of Property Taxes – Chapter No. 2012-193

This legislation contains recommendations by the Department of Revenue for property tax oversight improvements. Among other things, the bill clarifies ambiguous language, deletes obsolete statutory provisions, and eliminates unneeded reporting requirements in the property tax statutes.

What You Need to Know

Exemptions

- Allows certain disabled veterans and other disabled persons to apply for property tax exemptions before they have received required documentation from certain agencies of the federal government.
- Updates the list of operations for which certain deployed service members may receive an additional homestead exemption.
- Amends the current order in which homestead tax exemptions are to be applied to require that the base \$25,000 homestead exemption and the additional \$25,000 non-school levy homestead exemption (which applies to assessed value from \$50,001 to \$75,000) apply before all other homestead exemptions, which are then to be applied in a manner that results in the lowest taxable value.
- Provides an exemption for certain property used exclusively for educational purposes.
- Provides that all property of municipalities of this state shall be exempt from ad valorem taxation when used as an essential ancillary function of a facility constructed with financing obtained in part by pledging proceeds from the tax authorized under s. 212.0305(4), F.S., that is upon exempt or immune Federal, State or County property.

Homestead/Non-homestead Property

- Allows a husband and wife who abandon jointly titled homestead property to designate the percentage of the differential between just (market) value and assessed value that is portable to a new homestead property and that is attributed to each spouse.
- Clarifies that rental of all or substantially all of a dwelling previously claimed to be a homestead constitutes abandonment of such dwelling as a homestead.
- Clarifies that certain non-homestead property is to be assessed at just value when it is subject to a new assessment limitation.

Others

- Amends statutory requirements for scheduling value adjustment board hearings.
- Requires the property appraiser to mail an additional form along with the Truth in Millage (TRIM) notice.

Effective Date: April 27, 2012



Exemptions from Local Business Taxes – Chapter No. 2012-102

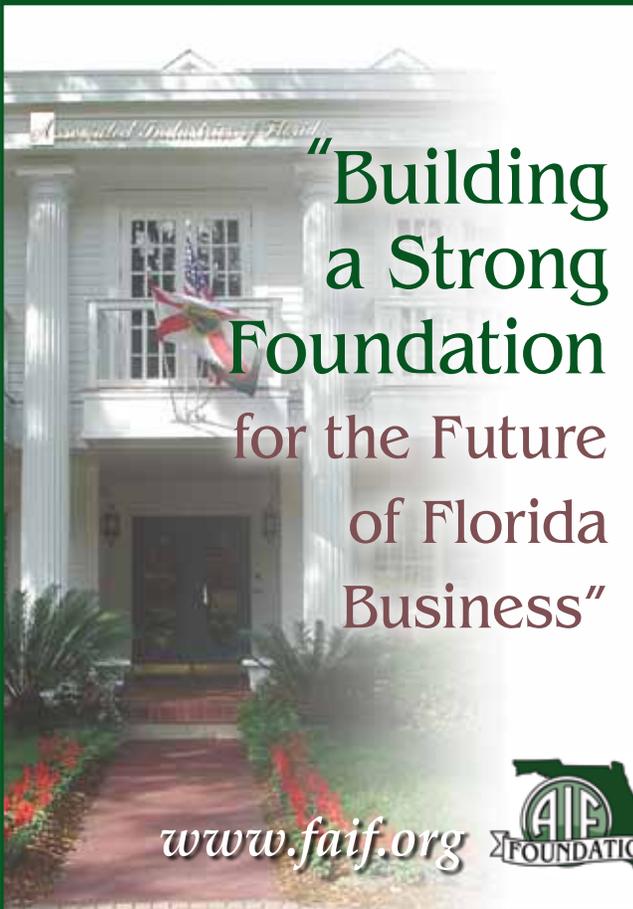
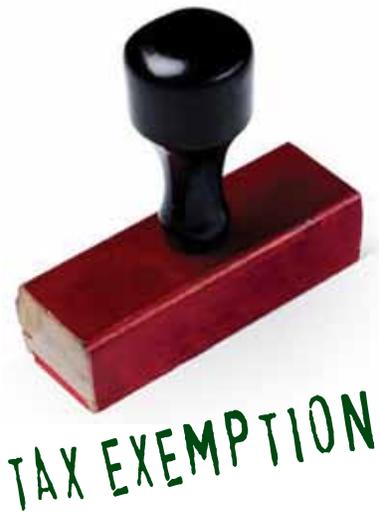
The local business tax represents the fees charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government. This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.

What You Need to Know

Creates the exclusion of any individual who is licensed and operating as a real estate broker associate or sales associate under ch. 475, F.S., from being required to apply for an exemption from a local business tax, paying a local business tax or obtaining a local business tax receipt when operating in the employ of another.

- No local governing authority may hold the individual sales associate or broker associate liable for the failure of his employer to pay local business tax, obtain a local business tax receipt, or apply for an exemption from the local business tax.
- An employer who is required to obtain a local business tax receipt may not be required by a local governing authority to provide contact information to that authority for his or her sales associates and broker associates.

Effective Date: October 1, 2012



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Constitutional Amendments

Health Care Services – Amendment 1

What You Need to Know: This is a joint resolution proposing the creation of s. 28, Art. I of the Florida Constitution to preserve the freedom of Florida residents to provide for their own health care. If adopted by the voters at the 2012 General Election, this resolution will take effect January 3, 2013. The joint resolution:

- Prohibits a law or rule from compelling a person or employer to purchase, obtain, or otherwise provide for health care coverage;
- Permits a person or employer to pay directly for lawful health care services without being penalized or taxed;
- Permits a health care provider to accept direct payment for lawful health care services without being penalized or taxed; and
- Prohibits a law or rule from abolishing the private market for health care coverage of any lawful health care service.



Ad Valorem Tax Exemption for Deployed Service Members – Amendment 2

What You Need to Know: This joint resolution would implement Amendment 2 (now Art. VII, s. 3(g) of the Florida Constitution), which provides a partial ad valorem tax exemption on homestead property for Florida military personnel who are deployed outside the United States. If approved by 60 percent of persons voting in the November 2012 General Election, the following provisions will take effect on January 1, 2013:

- A disabled veteran age 65 or older applying for the discount will no longer be required to provide proof that he or she was a Florida resident at the time of entering the United States military, but would still need to prove that the disability was combat-related and that he or she was honorably discharged.
- A disabled veteran who qualifies for this homestead property tax discount receives a discount equal to the veteran's percentage of disability, as determined by the United States Department of Veterans Affairs.

State Government Revenue Limitation – Amendment 3

What You Need to Know: The joint resolution proposes to amend the Florida Constitution to replace the existing state revenue limitation, which is based on Florida personal income growth, with a new state revenue limitation based on inflation (Consumer Price Index) and changes in population. If approved by 60 percent of the voters in the 2012 General Election, the resolution provides that the provisions will first apply to the 2014-2015 state fiscal year. The joint resolution:

- Replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation;
- Requires excess revenues to be deposited into the Budget Stabilization Fund, used to support public schools by reducing property taxes used to fund education, or returned to the taxpayers;
- Adds fines and revenues used to pay debt service on bonds issued after July 1, 2012, to the state revenues subject to the limitation;
- Authorizes the Legislature to increase the revenue limitation by a supermajority vote; and
- Authorizes the Legislature to place a proposed increase of the revenue limitation before the voters, requiring approval by 60 percent of the voters.

Homestead/Non-Homestead Property – Amendment 4

What You Need to Know: The joint resolution places a constitutional amendment on the ballot in November 2012. If approved by the voters, the proposed amendment would do several things related to property taxes:

- The proposed amendment would delay until 2023, the repeal, currently scheduled to take effect in 2019, of constitutional amendments adopted in 2008 which limit annual assessment increases for certain non-homestead real property;
- Reduces the current limitation on annual growth in the assessed value of certain non-home-stead property from 10 percent to 5 percent; and
- Clarifies that the non-homestead assessment limitation does not apply to improvements made to the property.

State Courts – Amendment 5

What You Need to Know: The joint resolution proposes an amendment to the Florida Constitution relating to Florida’s Supreme Courts. If approved by 60 percent of the voters in the 2012 General Election, the resolution will take effect on January 8, 2013. The resolution:

- Adds a requirement that a Supreme Court justice selected by the Governor must be confirmed by the Senate to take office;
- Provides for the repeal of a court rule by general law (a simple majority), provided that the Legislature gives reasons for the repeal; and
- Allows the House of Representatives, at the Speaker’s request, to review all investigative files of the Judicial Qualifications Commission, which are currently confidential.

Adds a requirement that a Supreme Court justice selected by the Governor must be confirmed by the Senate to take office.

Abortion/Public Funding/Construction of Rights – Amendment 6

What You Need to Know: The Joint Resolution proposes an amendment to the Florida Constitution to prohibit the spending of public funds for any abortion or for health benefits coverage that includes the coverage of abortion. If approved by 60 percent of the voters in the 2012 General Election, the resolution provides the proposed amendment will take effect on January 8, 2013.

The prohibition on the spending of public funds for any abortion or for health benefits coverage that includes the coverage of abortion does not apply to:

- Expenditures required by federal law;
- A case in which a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed;
- An abortion due to a pregnancy resulting from rape; or
- An abortion due to a pregnancy resulting from incest.

Religious Freedom – Amendment 8

What You Need to Know: This joint resolution proposes an amendment to the State Constitution providing that no individual or entity may be denied, on the basis of religious identity or belief, governmental benefits, funding or other support, except as required by the First Amendment to the United States Constitution. The amendment would also delete the prohibition against using revenues from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution. If approved by the voters, the amendment will take effect on January 8, 2013.

The amendment defines a first responder as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.

Homestead Property Tax Exemption for Surviving Spouse of Military Veteran/First Responder – Amendment 9

What You Need to Know: This joint resolution proposes an amendment to the State Constitution to authorize the Legislature to provide by, general law, ad valorem homestead property tax relief to the surviving spouse of a military veteran who died from service-connected causes while on active duty or to the surviving spouse of a first responder who died in the line of duty. The amendment authorizes the Legislature to totally exempt or partially exempt such surviving spouse's homestead property from ad valorem taxation. Furthermore, the amendment defines a first responder as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. If approved by the voters, the amendment will take effect on January 1, 2013.

Tangible Personal Property Tax Exemption – Amendment 10

What You Need to Know: This joint resolution proposes an amendment to the State Constitution that will:

- Provide an exemption from ad valorem taxes levied by counties, municipalities, school districts, and other local governments on tangible personal property if the assessed value of an owner's tangible personal property is greater than \$25,000 but less than \$50,000. This new exemption, if approved by the voters, will take effect on January 1, 2013, and apply to the 2013 tax roll and subsequent tax rolls.
- Authorize a county or municipality for the purpose of its respective levy, and as provided by general law, to provide tangible personal property tax exemptions by ordinance. This is in addition to other statewide tangible personal property tax exemptions provided by the Constitution and this amendment.

Additional Homestead Exemption for Low-Income Seniors – Amendment 11

What You Need to Know: This joint resolution proposes an amendment to the State Constitution to authorize the Legislature, by general law, to allow counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property if the property:

- Has a just value less than \$250,000 to an owner who has maintained permanent residency on the property for not less than 25 years, who has attained age 65; and
- Who has a low household income, as defined by general law.

If the constitutional amendment is approved by the voters, the joint resolution implements the amendment by general law.

Appointments to the Board of Governors/State University System – Amendment 12

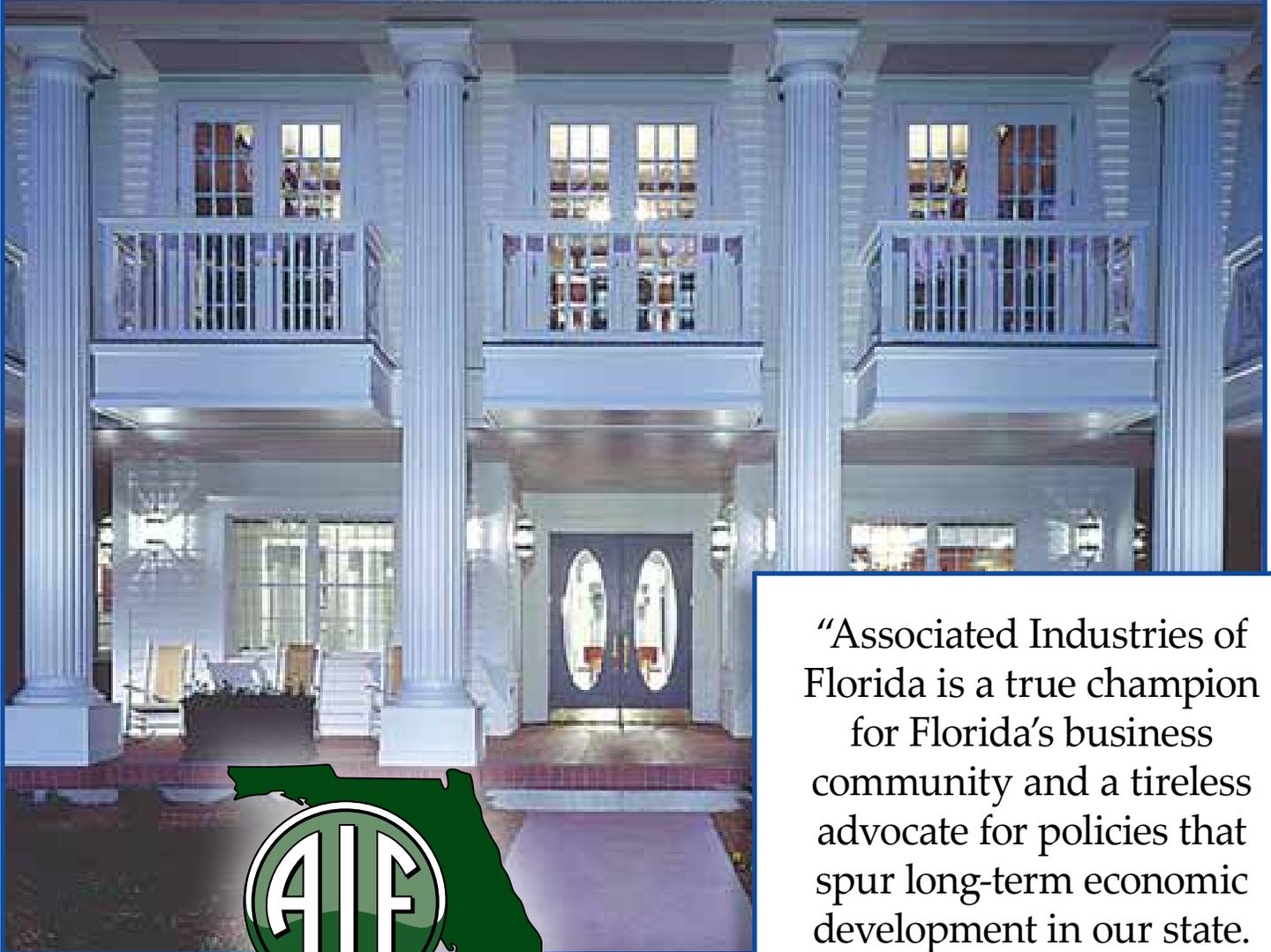
What You Need to Know: This joint resolution proposes an amendment to the State Constitution to replace the president of the Florida Student Association with the chair of the council of state university student body presidents as the student member of the Board of Governors of the State University System. Furthermore, it requires that the Board of Governors organize such council of state university student body presidents. If approved by 60 percent of the voters in the 2012 General Election, the resolution will take effect on January 8, 2013.



Questions? *Please contact José Gonzalez, Vice President of Governmental Affairs, at 850-224-7173 or jgonzalez@aif.com*

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