

2020

# 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*



## 2020 New Laws Affecting the Business Community

Of the thousands of bills that were introduced to the Florida Legislature this year, Associated Industries of Florida reported to our members throughout the legislative process on the bills that could impact Florida's businesses. We actively opposed those bills that we identified as harmful to employers and provided our support to those that would improve the conditions to do business in the state. When session ended, we updated our members with the *AIF annual Session Wrap-Up* that summarized bill activity and provided an analysis of how each legislator voted on the bills that were most important to the business community in our annual *Voting Records* publication.

### Questions?

Contact Brewster Bevis  
Senior Vice-President  
of State and Federal  
Affairs for Associated  
Industries of Florida  
at 850.224.7173 or  
[bbevis@aif.com](mailto:bbevis@aif.com)

The information contained in the *New Law Reference Guide for Businesses* summarizes the new laws that will have the broadest impact on businesses in our state. We include a short synopsis, highlight the more important provisions or requirements of those laws, and include the assigned Chapter Number within the Florida Statutes where this new law will now be placed.

To view the detailed language for a law, visit <http://laws.flrules.org/> and reference the Chapter Number. To research the path of the original bill from its inception to becoming a Florida law, including amendments and votes, visit <http://www.leg.state.fl.us>.

Each of the laws contained in this publication is currently in effect with the exception of two, as noted.

We hope this guide will serve as a valuable source of information as you navigate the complex regulatory environment. Visit [AIF.com](http://AIF.com) for more information on this and all other issues vital to Florida's future.



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516 North Adams Street • Post Office Box 784 • Tallahassee, FL 32302-0784  
Phone: 850.224.7173 • E-mail: [aif@aif.com](mailto:aif@aif.com)

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## ECONOMIC DEVELOPMENT

### **Keep Our Graduates Working Act – (HB 115) Chapter No. 2020-125**

The law removes the ability for a state authority to take disciplinary action against a healthcare practitioner who defaults on a student loan or who fails to comply with the terms of a service scholarship. Under the law, a healthcare practitioner may not have his or her license suspended or revoked by the Department of Health (DOH) solely because of a loan default or failure to complete service scholarship obligations.

Additionally, the law specifies that a state authority may not suspend or revoke a license that it has issued to a person who is in default on or delinquent in the payment of student loans solely on the basis of such default or delinquency. The law defines the term “state authority” to mean any department, board, or agency with the authority to grant a license to any person in this state.

### **Florida Tourism Marketing – (SB 362) Chapter No. 2020-016**

The law extends the scheduled repeal date for the Florida Tourism Industry Marketing Corporation, doing business as VISIT FLORIDA, until October 1, 2023, and removes the scheduled repeal date for the Division of Tourism Marketing within Enterprise Florida, Inc. Without the law, the statutory provisions for these entities would have been repealed on July 1, 2020.

### **Deregulation of Professions and Occupations – (HB 1193) Chapter No. 2020-160**

An occupational or professional license is a form of regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain permission from the government to perform the work.

Specifically, the law, cited as the “Occupational Freedom and Opportunity Act,” does the following:

- Deregulates interior designers and interior design businesses, hair braiders, hair and body wrappers, nail polishers and makeup applicators, and boxing announcers and timekeepers.
- Partially deregulates talent agents and labor organizations.
- Eliminates the additional business license for architects and landscape architects.
- Reduces the hours of training required to obtain a license for barbers, cosmetologists, and specialty salons.
- Adds new ways for out-of-state professionals to obtain a license in the state for veterinarians, construction and electrical contractors, landscape architects, geologists, engineers, certified public accountants, home inspectors, building code professionals, cosmetologists, and barbers.
- Reduces the number of members on the Florida Building Commission.
- Authorizes unlicensed individuals to provide compensated dietary and nutritional information.
- Prohibits the Department of Business and Professional Regulation from disciplining or revoking a licensee based solely on defaulting on a student loan.

### **Public Procurement of Services – (HB 441) Chapter No. 2020-127**

In 1973, the Florida Legislature enacted the Consultants’ Competitive Negotiation Act (CCNA), which requires state and local government agencies to procure the “professional services” of an architect, professional engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process. Often, agencies use continuing contracts. A continuing contract is a contract for professional services entered into between an agency and a firm whereby the firm provides professional services to the agency for several projects.

The new law increases the maximum limit for continuing contracts covered by the CCNA from an estimated per-project construction cost of \$2 million to \$4 million. The law also increases the maximum limit for studies commissioned using a continuing contract from \$200,000 per study to \$500,000.





### **Broadband Internet Service – (HB 969) Chapter 2020-026**

The law designates the Department of Economic Opportunity (DEO) as the lead state agency to facilitate the expansion of broadband Internet service in the state. It creates the Florida Office of Broadband (Office) within DEO's Division of Community Development for purposes of developing, marketing, and promoting broadband Internet service in the state. The law also transfers to the new Office most of the powers and duties previously given to the Department of Management Services, such as creating a strategic plan for increasing the use of broadband Internet service in the state and building local technology planning teams to represent, among others: libraries, schools, private businesses, economic development organizations, local governments, tourism, and agriculture.

### **Economic Development – (SB 426) Chapter No. 2020-030**

Three regional economic development organizations operate in Florida. Each coincides respectively with one of the state's three Rural Areas of Opportunity (RAO). An RAO is a rural community (or a region comprised of rural communities) which has been adversely affected by an economic event, severe or chronic distress, a natural disaster, or one that presents a unique economic development opportunity of regional impact.

The new law amends the Regional Rural Development Grants Program to increase the total annual grant award available to the three regional economic development organizations serving an entire RAO. Additionally, the law reduces the percentage of grant funds that must be matched with non-state funds from 100% to 25%, increases the maximum amount of funds that DEO may expend for the program from \$750,000 to \$1 million annually, and increases the percentage of total infrastructure costs that may be funded by a grant by expanding eligible projects and uses to include broadband Internet service.

## **ENERGY**

### **Infrastructure Regulation – (HB 1095) Chapter No. 2020-137**

The law is the "Underground Facility Damage Prevention and Safety Act" (Act). The stated purpose of the Act is to identify and locate underground facilities prior to an excavation or demolition to prevent injury to persons or property or interruption of services resulting from damage to those facilities. To accomplish this, the Act creates a not-for-profit corporation (Sunshine 811) to administer a free-access notification system.

## **ENVIRONMENT**

### **Environmental Regulation – (HB 73) Chapter No. 2020-041**

Recyclable materials can become contaminated when residents place materials that are not recyclable into curbside recycling bins. While facilities are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process and result in increased costs and poorer quality recyclables.

The new law requires counties and municipalities to address nonhazardous contamination of recyclable materials by outlining strategies and obligations to reduce the amount of contaminated recyclable materials being collected and creates procedures for identifying, documenting, managing, and rejecting contaminated recyclable materials.

Additionally, state law allows water management districts and the Department of Environmental Protection (DEP) to require an Environmental Resource Permit (ERP) to ensure certain construction activities will not harm water resources. However, some projects can be exempt from the ERP, and local governments often require further verification from DEP.

The new law also prohibits local governments from requiring further verification from DEP that a construction activity meets an ERP exception.

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### **Petroleum Cleanup – (SB 702) Chapter No. 2020-056**

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur due to accidental spills, storage tank system leaks, and/or poor maintenance practices. These potential discharges pose a significant threat to groundwater quality, which is the source of 90% of Florida’s drinking water.

Presently, the owner of contaminated land or the person who caused the discharge is responsible for rehabilitating the land, unless the site owner can show that the contamination resulted from the activities of a previous owner or other responsible party. The Department of Environmental Protection (DEP) has implemented different programs to provide state financial assistance to eligible site owners and parties for site rehabilitation.

The new law authorizes the DEP to pay for specified activities related to removal and replacement of petroleum storage systems and site rehabilitation and provides for petroleum storage system repair or replacement due to damage from state-mandated ethanol additives to gasoline and biodiesel.

### **Environmental Resource Management – (SB 712) Chapter No. 2020-150**

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

The new law includes recommendations from the Blue-Green Algae Task Force regarding Onsite Sewage Treatment and Disposal Systems (OSTDS is commonly known as septic systems), wastewater, stormwater, agriculture, and biosolids.

“Rights of nature” is the concept of recognizing that nature has legal rights and legal standing in a court of law. Regarding rights of nature, the law amends the Florida Environmental Protection Act (EPA) to prohibit a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person or political subdivision; or
- Granting a person or political subdivision any specific rights relating to the natural environment.

The law also provides that the prohibition on granting rights to nonpersons may not limit the:

- Ability of an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan, or to file an action for injunctive relief to enforce the terms of a development agreement, or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- Standing to maintain an action for injunctive relief as otherwise provided by the EPA for the Department of Legal Affairs, any political subdivision of the state, or a resident of the state.

The law also addresses a consumptive use study to be carried out by the Department in conjunction with water management districts. The law is a huge step forward in addressing Florida’s current water quality crisis and the data collected will prove invaluable in preventing further degradation of our waterways.

### **Environmental Accountability – (HB 1091) Chapter No. 2020-158**

By July 1, 2022, the law encourages each county and municipality to establish an evaluation and rehabilitation program for sanitary sewer laterals (the pipe that connects a property to the sewage main) on residential and commercial properties within the county’s or municipality’s jurisdiction to identify and reduce sewage leaks. The law requires a seller of real property to disclose to a prospective purchaser any known defects in the property’s sanitary sewer lateral.



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## HEALTHCARE

### Practice of Pharmacy – (HB 389) Chapter No. 2020-007

The law amends the definition of the “practice of the profession of pharmacy” to include the testing for and treatment of influenza (flu) and streptococcus (the bacteria that causes strep throat) by a pharmacist.

### Direct Care Workers – (HB 607) Chapter No. 2020-009

Previously, Florida law required Advanced Practice Registered Nurses (APRNs) to practice under a supervising protocol with a physician. Similarly, Physician Assistants (PAs) were required to practice under a supervising physician and could only perform those tasks delegated by the physician.

The new law authorizes APRNs who meet certain criteria to practice advanced or specialized nursing without physician supervision or a protocol and authorizes PAs to practice primary care without physician supervision. These APRNs and PAs may act as a patient’s primary care provider; provide a signature, certification, stamp, verification, affidavit, or other endorsement currently required to be provided by a physician; and certify a cause of death, sign, correct, and file death certificates.

### Nurse Registries – (HB 437) Chapter No. 2020-101

Under the workers’ compensation law, injured workers are entitled to receive all medically necessary treatment, care, and attendance for as long as the nature of the injury and process of recovery requires. Among other services, workers’ compensation covers attendant care. Attendant care is care rendered by trained professional attendants that is beyond the scope of household duties. Attendant care includes services from skilled nursing care to unskilled tasks, such as bathing, dressing, personal hygiene, and administration of medications. Most attendant care is provided by licensed medical providers; however, family members may provide and receive carrier payment for non-professional attendant care services.

A nurse registry is an agency licensed to secure temporary employment for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, certified nursing assistants, homemakers, and companions in a patient’s home or with health care facilities. A workers’ compensation carrier may use a nurse registry to place attendant care services to be rendered to an injured worker, but nurse registries are not expressly mentioned in the workers’ compensation statute.

The new law specifically authorizes a workers’ compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker.

## INFORMATION TECHNOLOGY

### Technology Innovation – (HB 1391) Chapter No. 2020-161

The Department of Management Services (DMS) oversees information technology governance and security for the executive branch of state government. The Division of State Technology (DST), a subdivision of DMS, implemented the duties and policies in this area.

The new law:

- Abolishes DST and establishes the Florida Digital Service (FDS) in its place.
- Places new duties and responsibilities under FDS and expands the duties and responsibilities currently assigned to DMS and DST.
- Creates the Division of Telecommunications within DMS, removes DST as the head of the E911 system in Florida, and places the Division of Telecommunications as its new head.
- The Office of Financial Regulation (OFR) regulates money services businesses, which include money transmitters and payment instrument sellers. The law creates the Financial Technology Sandbox within the OFR to allow a person to make an innovative financial product or service available to consumers as a money transmitter or payment instrument seller during a sandbox period that is initially not longer than 24 months but which can be

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extended one time for up to 12 months. The sandbox provides regulatory flexibility by permitting the OFR to waive specified statutes and corresponding rule requirements.

## INSURANCE

### Insurance Claims Data – (SB 292) Chapter No. 2020-051

A loss run statement is a report generated by an insurance carrier showing the claims history of an insured. The new law creates loss run reporting requirements for all admitted and non-admitted insurance carriers and requires an insurance carrier to provide a loss run statement to the insured within 15 days of receipt of a written request. For personal lines of insurance, carriers may instead provide information on how to obtain a loss run statement at no charge through a consumer reporting agency. The loss run statement must be provided electronically or made available through an electronic portal, and the insurance carrier must notify the agent of record at the time the statement was provided. The law requires the statement to include a loss run history for the preceding 5 years or, if the history is less than 5 years, a complete loss run history with the insurance carrier. The law prohibits an insurance carrier from charging a fee for preparing or annually providing one loss run statement.

**Effective Date: January 1, 2021**

### Motor Vehicle Dealers – (HB 977) Chapter No. 2020-108

The dangerous instrumentality doctrine holds an owner strictly liable for injuries caused by another person's negligent use of the owner's property. Specifically, when the owner entrusts a dangerous instrumentality to another person, the owner is responsible for damages caused by the other person. In 2005, Congress passed what is commonly known as the Graves Amendment to prohibit states from imposing vicarious liability on car rental companies. In 2011 the Florida Supreme Court held that, as it relates to rental car companies, the Graves Amendment specifically preempts Florida's dangerous instrumentality law and relieves rental car companies, while engaged in the trade or business of renting or leasing motor vehicles, from vicarious liability for harm caused by the driver. In 2019, the Fourth District Court of Appeal, relying on the Supreme Court's analysis, held that the Graves Amendment also limits the liability of a motor vehicle dealer that provides a customer with a temporary replacement vehicle.

The new law states that subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine is both unfair and economically disadvantageous in that it causes dealers and their affiliates to suffer higher insurance costs, which are then passed on to consumers.

Additionally, the law provides that a motor vehicle dealer, or a dealer's leasing or rental affiliate that provides a temporary replacement vehicle to a customer whose vehicle is being held for repair, service, or adjustment by the dealer is immune from vicarious liability in a civil proceeding. This immunity applies if there is no negligent or criminal wrongdoing by the dealer or affiliate. In addition, the law requires the motor vehicle dealer, or the dealer's leasing or rental affiliate, to execute a written rental or use agreement and obtain a copy of the driver's license of the vehicle operator and insurance information to qualify for the immunity from vicarious liability.



## LEGAL & JUDICIAL

### Constitutional Amendments – (SB 1794) Chapter No. 2020-015

The Florida Constitution may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.

The new law modifies several aspects of the citizen initiative process to increase transparency,

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information.

strengthen the integrity of the ballot, and reduce costs for the supervisors of elections. Specifically, the law changes the deadline for gathering signatures, the Fiscal Impact Estimating Conference (FIEC) analysis process, the ballot language requirements, and the requirements for supervisors of elections.

#### **Emergency Reporting – (SB 538) Chapter No. 2020-053**

The State Watch Office (SWO) is located in the State Emergency Operations Center in Tallahassee and is staffed by the Division of Emergency Management (DEM) Operations Officers. The SWO is Florida's official State Warning Point with the Federal Emergency Management Agency and maintains communication systems and warning capabilities. The SWO is not a dispatch center but a clearinghouse of information to be shared with other government entities who can independently act within their own agency authority and protocols.

The new law requires mandatory reporting of certain incidents by political subdivisions (i.e., counties and municipalities) to the State Watch Office (SWO). The law provides that the SWO must create and maintain a list of emergency-related reportable incidents. The list must include but is not limited to: major fire incidents, search and rescue operations, bomb threats, natural hazards and severe weather, public health and population protective actions, animal or agricultural events, environmental concerns, major transportation events, major utility or infrastructure events, and certain military events.

#### **Verification of Employment Eligibility – (SB 664) Chapter No. 2020-149**

Both federal and Florida law prohibit employing a person who is not authorized to work in the United States. Additionally, federal law requires certain employers to use the E-Verify system and requires most employers to verify the eligibility of new hires using employee-provided documents.

E-Verify is an Internet-based system through which an employer can verify that a newly hired employee is authorized to work in the United States.

Regarding public employers and their contractors and subcontractors, the new law:

- Requires all contractors and subcontractors to use E-Verify, rather than only those that meet contract-value and employee-number thresholds.
- Requires compliance by January 1, 2021.
- Expressly requires a party to terminate a contract if it has a good faith belief that a party to the contract knowingly employs an unauthorized alien.
- Requires a public employer to “order” a contractor to terminate its contract with a subcontractor if the public employer has a good faith belief that the subcontractor knowingly employs an unauthorized alien or is not using E-Verify.
- Provides that a termination of contract for a party's knowing employment of an unauthorized alien is not a breach of contract; however, a contractor whose contract is terminated is liable for additional costs incurred by the public employer due to the termination of contract.

Regarding private employers, the law:

- Provides that a private employer is immune from civil and criminal liability for employing an unauthorized alien if the employer used E-Verify or an I-9 and E-Verify or the I-9 showed the person to be authorized.
- Allows an employer who receives a notice from the DEO regarding the employer's failure to use E-Verify or the I-9 procedure to avoid further consequences by providing an affidavit stating that it has begun complying with these verification requirements, has fired all unauthorized employees, and will not intentionally or knowingly employ an unauthorized alien.



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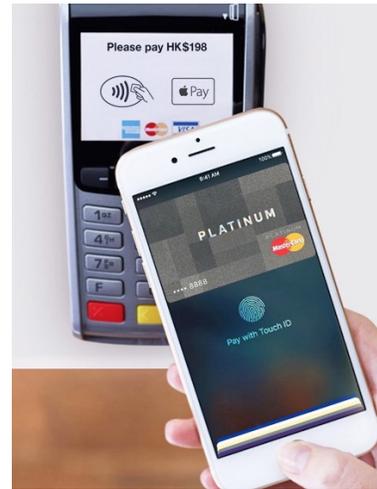
## TAXATION

### Taxation – (HB 7097) Chapter No. 2020-010

The new law provides for several tax reductions and other tax-related modifications designed to directly impact both families and businesses. Specifically, the law provides for a 0.5 percentage point reduction in the state communications services tax. Several provisions related to sales tax are included:

- A reduction in the tax rate for commercial property rentals from 5.5% to 5.4%.
- A three-day “back-to-school” tax holiday for certain clothing, school supplies, and personal computers; and a seven-day “disaster preparedness” tax holiday in May and June of 2020 for specified disaster preparedness items.
- Future sunset of the Charter County and Regional Transportation System Sales Surtax currently levied in Miami-Dade County, and a requirement that any future levy of the tax in any eligible county be limited to 20 years in duration.

The law also provides for a one-time increase of \$8.2 million available for the brownfields tax credit program (brownfields are properties contaminated with hazardous materials) and includes a provision that amends the calculation of a taxpayer’s “final tax liability” for purposes of calculating certain corporate income tax refunds.



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Allowing members to take a leadership role in the public policy issues that affect their companies.



# AIF POLICY COUNCILS

Councils bring together unique sectors of the business community in order to develop and promote issues vital to those respective industries. These Councils are the backbone of policy making at AIF as the member companies of each Council voice their issues, concerns and ideas and help develop the policies that are presented to our Board of Directors for approval.

#### Want to Participate?

Membership is required to participate on AIF's Councils and to receive our member communications.

#### Not a Member?

To learn more about AIF membership services and/or apply for membership,

#### Please Contact:

Brewster Bevis,  
Senior Vice President –  
State and Federal Affairs at  
850.224.7173 or [bbevis@aif.com](mailto:bbevis@aif.com)



#### Environmental Sustainability & Agriculture Council (ESAC)

Addressing recycling, water quality, product stewardship, and other environmental issues important to the business community.



#### Florida Energy Council (FEC)

Developing resources to meet Florida's future energy needs—producers, suppliers, storage facilities, marketers, retailers, wholesalers and users.



#### Financial Services Council (FSC)

Insurance and financial industries, working in concert with other interested parties, to secure a stable fiscal climate for Florida.



#### Florida Transportation & Maritime Council (FTMC)

Ensuring their continued economic prowess in a global marketplace for businesses that operate or support operations at any of Florida's 14 deep water ports.



#### Information Technology Council (ITC)

Promoting Florida's move to the cutting edge of technology—to meet the demands of a diverse, fast-growing population, while balancing the needs of the state and private sector.



#### Manufacturing, Aerospace & Defense Council (MAD)

Advancing the interests of Florida's manufacturing community to help Florida diversify its economy and provide more high-wage and high value-added jobs in the state.





# Building for the Foundation of Florida's Future

**T**he Foundation of Associated Industries of Florida was formed in 2008 to address the educational and development needs of Florida's business community. FAIF is governed by an independent board of directors, and does not engage in any political activities.

The private business sector's support is critical to the success and continuance of FAIF's initiatives and programs. Florida businesses cannot afford to rely on public opportunities alone to train and prepare their future employees and leaders. FAIF will foster programs that identify business needs today and create solutions that will last into the future.

We welcome your participation and suggestions as we move forward. Your contributions to FAIF are tax deductible and can be made by visiting [FAIF.org](http://FAIF.org) or by contacting our executive director, Stephen Trickey at 850.224.7173.

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