

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/CS/HB 189 — Criminal Restitution

by Judiciary Committee; Justice Appropriations Subcommittee; and Rep. Young, and others (CS/CS/SB 432 by Budget Subcommittee on Criminal and Civil Justice Appropriations; Criminal Justice Committee; and Senators Flores, Diaz de la Portilla, Garcia, and Lynn)

This bill amends s. 775.089, F.S., by including in the definition of victim a victim's trade association if the offense is a violation of s. 540.11(3)(a)3., F.S., and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings, as well as to collect restitution on the victim's behalf. The restitution obligation applies to physical articles on which sounds are recorded, but does not apply to any electronic articles or digital files that are distributed or made available online.

Lastly, the term "trade association" is defined to mean an organization founded and funded by businesses that operate in a specific industry to protect their collective interests.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 39-0; House 118-0

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CS/HB 483 — Uniform Commercial Code

by Civil Justice Subcommittee and Rep. Passidomo (SB 1090 by Senator Richter)

This bill adopts the 2010 amendment to Article 9 of the Uniform Commercial Code (UCC) as prepared by the National Conference of Commissioners on Uniform State laws. The bill provides the following changes to Article 9: revises statutes governing the name of a debtor for purposes of filing a financing statement; modifies definitions; revises s. 679.301, F.S., relating to the location of debtors; modifies provisions relating to guidelines for the continued perfection of security interests that were perfected according to the law of another jurisdiction; provides rules for transition to the proposed version of Article 9; and makes numerous stylistic and grammatical changes.

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

Vote: Senate 40-0; House 116-0

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CS/CS/HB 749 — Consumer Services

by Agriculture and Natural Resources Appropriations Subcommittee; Business and Consumer Affairs Subcommittee; and Rep. Young (CS/CS/CS/SB 888 by Budget Subcommittee on General Government Appropriations; Regulated Industries Committee, Commerce and Tourism Committee; and Senator Flores)

This bill amends consumer protection statutes that fall under the purview of the Department of Agriculture and Consumer Services. Moreover, this bill merges the responsibilities and duties of the Division of Standards into the Division of Consumer Services, as well as amends statutory provisions relating to professional surveyors and mappers, business opportunities, motor vehicle repair shops, pawnshops, health studios, sellers of travel, intrastate movers, telemarketing, brake fluid and anti-freeze products, fair rides, and licensing.

Furthermore, this bill repeals s. 559.922, F.S., with the effect of eliminating the department's financial assistance program for technical training or courses of study in motor vehicle repair, as well as repeals s. 366.85, F.S., dealing with consumer conciliatory conferences.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 39-0; House 114-0

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CS/HB 827 — Limited Agricultural Associations

by Agriculture and Natural Resources Subcommittee; Rep. Porter and others (CS/CS/SB 222 by Agriculture Committee; Commerce and Tourism Committee; and Senator Siplin)

Limited agricultural associations were created by statute in 1941 as a way to enable agricultural producers in the state to benefit from a collective effort without the expenses imposed by a corporate structure. Currently, there are about 60 limited agricultural associations operating in Florida, the majority of which are county farm bureaus which provide services to over 140,000 members.

This bill provides for conversion of a limited agricultural association into a domestic not-for-profit corporation. Specifically, the bill establishes requirements for conversion, including certain information that must be filed with the Department of State to convert into a domestic corporation. The conversion does not affect any obligation or liability of the association.

Additionally, the bill creates a fee of \$35 for filing a certificate of conversion into a domestic corporation.

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

Vote: Senate 39-0; House 116-0

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CS/CS/HB 885 — Transactions by Secondhand Dealers and Secondary Metals Recyclers

by Economic Affairs Committee; Business and Consumer Affairs Subcommittee; and Reps. Ford and others (CS/CS/CS/SB 540 by Criminal Justice Committee; Community Affairs Committee; Commerce and Tourism Committee; and Senators Smith, Montford, Evers, Lynn, and Oelrich)

This bill amends provisions found in ch. 538, parts I and II, F.S., which deals with secondhand dealers and secondary metals recyclers.

As it relates to secondhand dealer, this bill does the following:

- Defines the term "appropriate law enforcement official"; and
- Requires that individuals purchasing, consigning, or trading secondhand goods at a flea market be regulated by secondhand dealer laws.

As it relates to secondary metal recyclers, this bill does the following:

- Defines the terms "appropriate law enforcement official," "personal identification card," "restricted regulated metals," and "utility";
- Requires that secondary metals recyclers maintain and transmit daily an electronic record of all the previous day's purchase transactions to the appropriate law enforcement official;
- Revises the timeframe that secondary metals recyclers are required to maintain purchase transaction records;
- Limits the liability of secondary metals recyclers for the conversion of motor vehicles to scrap metal, as well as in premise liability cases;
- Modifies the acceptable forms of payment; and
- Prohibits the purchase of regulated metals before 7:00a.m. or after 7:00p.m.

As applied to secondary metal recyclers, this bill does the following with respect to preemption:

- Provides that the regulation of purchase transactions involving regulated metals property is preempted to the state with the exception that any ordinance enacted by a county or municipality before March 1, 2012 is precluded from such preemption. Such ordinances or regulations may subsequently be amended to incorporate provisions found under the secondary metal recycler law section; and
- Creates a specific exception to preemption for Miami-Dade County until July 1, 2013.

With respect to metal theft, this bill does the following:

- Increases the penalty for violation of secondary metals recycler laws to a third degree felony;
- Increases the penalty for three or more violations of such provisions to a second degree felony;
- Defines the term "electrical substation" in the theft of copper statute; and

- Provides that a person who knowingly and intentionally engages in the unlawful removal of copper from an electrical substation commits a felony of the first degree.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 114-0

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HB 917 — Jurisdiction of the Courts

by Rep. Bileca and others (SB 486 by Senators Diaz de la Portilla and Lynn)

This bill amends Florida's long arm statute by including language that extends the court's jurisdiction to individuals entering into a contract that complies with Florida's forum-selection statute. The bill also expands the court's jurisdiction to hear cases concerning a commercial dispute that has arisen from the parties' contract where Florida law is designated as governing. Such provisions would apply to contracts entered into on or after July 1, 2012.

Additionally, the term "foreign judgment" as found in the Florida Enforcement of Foreign Judgment Act is amended to apply to any judgment, decree, or order of a court which is entitled to full faith and credit in this state. The effect of this removal would allow for the recognition of judgments, orders, and decrees issued from courts located in U.S. territories.

Lastly, provisions from the Florida International Commercial Arbitration Act are amended to correct cross-references in order to conform to the UNCITRAL Model Law on Commercial Arbitration.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 117-0

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HB 1015 — Tourist Development Tax

by Rep. Hooper (SB 1274 by Senator Latvala)

This bill permits counties to use the tax revenues from the tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 38-2; House 113-0

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CS/HB 1323 — Metal Theft

by Criminal Justice Subcommittee and Reps. Drake and others (CS/SB 1324 by Commerce and Tourism Committee and Senator Norman)

This bill amends s. 538.23, F.S., to increase penalties such that a secondary metals recycler who violates specified secondary metal recycler laws commits a felony of the third degree and that a third or subsequent violation of such provisions will be punished as a felony of the second degree.

This bill also amends s. 812.145, F.S., by defining an "electrical substation" as a facility that takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size. Furthermore, the bill provides that anyone who removes copper or other nonferrous metals from an electrical substation site commits a felony of the first degree.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 40-0; House 107-6

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CS/HB 7023 — Regional Workforce Boards

by Economic Affairs Committee; Business and Consumer Affairs Subcommittee; Rep. Brodeur (CS/CS/SB 1398 by Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; Commerce and Tourism Committee; Senators Gardiner, Fasano, and Lynn)

This bill amends statutes related to Florida's workforce system, and includes measures designed to increase the accountability of the workforce system.

Specifically the bill:

- Limits the total membership of each local regional workforce board to the minimum membership required under federal law. However, upon approval by the Governor the local elected official may appoint additional members. Additionally, if a public education or training provider is on the board, both a representative of a private non-profit provider and a representative of a private for-profit provider must be appointed to the board;
- Requires each member and the executive director or person responsible for the operational and administrative functions of a regional workforce board to file a disclosure of financial interest pursuant to s. 112.3145, F.S., if they are not already required to file a financial disclosure pursuant to Art. II, s. 8, State Constitution, or s. 112.3144, F.S.;
- Provides authority for the Governor to remove any member of a regional workforce board or the executive director or person responsible for the operational and administrative functions of a regional workforce board for cause;
- Requires the regional workforce board to develop an annual budget for the purpose of carrying out its duties that must be approved by the local elected official and submitted to Workforce Florida, Inc., within 2 weeks of approval;
- Requires Workforce Florida, Inc., to evaluate the development of a single, statewide workforce-system brand for Florida and submit a report to the Governor by a date certain;
- Revives from expiration the provision which prohibits the regional workforce boards from utilizing state or federal funds for meals, food, beverages, entertainment, or recreational activities;
- Revives from expiration the provision which requires that any contract between a regional workforce board and a member of the board, or a contract between a board and a relative of a member or employee of the board, has to be approved by a two-thirds vote of the board;
- Requires the regional workforce board's procurement and expenditure procedures to comply with the policies of the Department of Economic Opportunity and Workforce Florida, Inc.;
- Provides that making smaller, multiple payments for a single purchase with the intent to avoid procurement and expenditure procedures is grounds for removal for cause;
- Requires regional workforce boards to provide the greatest possible choice of training providers, and prohibits the boards from limiting choice due to costs, location, or historical training arrangements; and

- Saves from repeal a provision that provides that state workforce services participants in an adult or youth work experience activity are considered employees of the state for the purpose of workers' compensation coverage.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 39-0; House 95-19

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CS/HB 7027 — Unemployment Compensation

by Economic Affairs Committee; Business and Consumer Affairs Subcommittee; and Reps. Holder and Campbell (CS/CS/HB 1416 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; Commerce and Tourism; and Senator Bogdanoff)

This bill rebrands the state's unemployment compensation program in ch. 443, F.S., as the "reemployment assistance program."

Related to Benefits

The bill makes several changes related to benefits, including:

- Requiring the Department of Economic Opportunity (DEO) to establish a numeric score on the initial skills review which demonstrates a minimum proficiency in workforce skills. Individuals who fall below the minimum score may elect to take workforce skills training, and DEO is required to develop best practices, evaluate the training, and report findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2013;
- Clarifying that individuals who are non-Florida residents, on temporary layoffs, union members, or participating in short-time compensation plans are not required to complete the initial skills review;
- Reducing the number of required work search contacts from 5 to 3 to individuals who live in small counties;
- Clarifying work search requirements for union members and individuals on temporary layoffs or participating in short-time compensation plans;
- Increasing the period of disqualification for making a fraudulent claim from the time that the fraudulent claim was made until 1 year after DEO discovers the fraud or until all fraudulent overpayments are repaid in full;
- Applying certain restrictions on the payment of benefits to an individual employed by an educational institution to an individual who provides services to an educational institution through a contract between the individual's employer and the institution (effective July 1, 2013);
- Extending the statute of limitations related to the collection of overpayments by providing that the commencement of collections must be initiated within 7 years after the redetermination or decision;
- Authorizing DEO to noncharge the accounts of employers that are forced to lay off workers due to a man-made disaster of national significance;
- Clarifying what constitutes prima facie evidence that a person claimed and received benefits; and
- Incorporating federal provisions relating to the release of confidential information.

Further, the bill codifies Executive Order 12-03 extending the temporary state extended benefits program.

Related to Employer Contributions

The bill makes several changes related to employer contributions, including:

- Providing tax relief to Florida employers through two changes. The bill lowers the wage base by \$500 from \$8,500 to \$8,000 for tax years 2012 through 2014. The bill also increases the recoupment period used in the calculation from 3 years to 5 years until tax year 2018.
- Creating a work group to study the contribution tax calculation and provide recommendations for changes to the calculation that ensure the long-term solvency of the reemployment assistance program while promoting equitable, minimal tax burdens on Florida employers. The work group must report back to the Legislature with recommendations by December 31, 2012.
- Allowing employee leasing companies to make a one-time decision to change from reporting leased employees under their company account to reporting the employees under their respective clients' accounts, an option that could result in lower taxes for those companies choosing to change.

The bill provides budget authority for the Department of Revenue (DOR) to implement the bill provisions. DOR is allocated \$346,463 in FY 2011-12, and \$100,884 in FY 2012-13 from the federal administrative funds for the unemployment program.

If approved by the Governor, these provisions take effect at different times. The temporary state extended benefits program is effective retroactive back to January 4, 2012, and expires January 5, 2013. The issues relating to the employer contributions take effect upon becoming law, retroactive back to June 29, 2011. The budget authority for DOR takes effect upon becoming law. All other provisions take effect July 1, 2012.

Vote: Senate 39-1; House 108-11

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CS/HB 7041 — Governmental Reorganization

by Economic Affairs Committee and Rep. Nehr (CS/SB 1204 by Commerce and Tourism Committee)

This bill is the result of a review of the Florida Statutes for changes necessary due to the governmental reorganization provided by ch. 2011-142, L.O.F. (Senate Interim Report 2012-112). The bill updates references to the Department of Community Affairs, the Agency for Workforce Innovation, the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor, the Black Business Investment Board, and the Florida Sports Foundation; updates provisions or references which were enacted by other chapter laws; revises provisions or references which were drafting errors; and repeals any remaining outdated provisions.

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

Vote: Senate 39-0; House 116-0

THE FLORIDA SENATE
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Committee on Commerce and Tourism

HB 7103 — OGSR/Florida Opportunity Fund and Institute for the Commercialization of Public Research

by Government Operations Subcommittee and Rep. Mayfield (SB 798 by Commerce and Tourism Committee)

This bill is the result of the Commerce and Tourism Committee's Open Government Sunset Review (Interim Report 2012-303) of the public records and public meetings exemption for the Florida Opportunity Fund and the Institute for the Commercialization of Public Research. The exemptions will expire October 2, 2012, unless saved from repeal through reenactment by the Legislature and approval by the Governor.

In 2007, the Legislature created the Florida Opportunity Fund (FOF) and the Institute for the Commercialization of Public Research (institute) to provide certain types of businesses access to capital – both public and private investments – that would assist them in reaching their full potential as job-creators. Additionally, the Legislature created exemptions from the state's public records and public meetings laws, under specified circumstances, for both entities.

The Sunset Review recommended re-enactment of the public records exemption and public meetings exemption in s. 288.9626, F.S., with a few changes. The key change separates the portions related to the FOF and the institute into two separate statutes to make the exemption clear as it applies to each entity. These changes clarify, but do not expand, the scope of the current statutory exemptions.

If approved by the Governor, these provisions take effect October 1, 2012

Vote: Senate 39-0; House 114-0

THE FLORIDA SENATE
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CS/HB 7115 — OGSR/Economic Development Agencies

by State Affairs Committee; Government Operations Subcommittee; Rep. Patronis (CS/CS/SB 1206 by Governmental Oversight and Accountability Committee; Commerce and Tourism Committee; and Senator Lynn)

Currently, certain business records are confidential and exempt from Florida's public records requirements when held by an economic development agency and requested to be exempt by the affected business. Examples of economic development agencies include the Department of Economic Opportunity (DEO), Enterprise Florida, Inc., (EFI), and public economic development agencies of local governments.

The following information is confidential and exempt from public records requirements:

- Upon written request, information relating to a business's plans, intentions, and interests to locate, relocate, or expand its business activities in Florida.
- Trade secrets.
- Proprietary confidential business information.
- A federal employer identification number, unemployment compensation account number, or Florida sales tax registration number.
- Certain information pertaining to economic incentive programs.

This bill reenacts the public records exemptions, which will repeal on October 2, 2012, if this bill does not become law.

The bill makes additional changes, including:

- Providing that a business's plans, intentions, and interests may become public record 180 days after a final project order for an economic incentive agreement is issued, or until a date specified in the final order; and
- Making certain wage, job, and tax information public 180 days after a final project order for an economic incentive agreement is issued, or until a date specified in the final order.

These changes do not expand the public records exemption currently in law.

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

Vote: Senate 39-0; House 116-0

THE FLORIDA SENATE
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HB 7121 — Ratification of Rules

by Rulemaking and Regulations Subcommittee and Rep. Artiles (SB 2130 by Commerce and Tourism Committee)

The bill ratifies Rule 5F-11.002, F.A.C., adopted by the Department of Agriculture and Consumer Services that updates the minimum standards for the storage and handling of liquefied petroleum gases pursuant to s. 527.06, F.S. The rule requires that all new underground installations of gas steel containers be protected from corrosion damage by use of a cathodic protection system.

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

Vote: Senate 39-0; House 113-0