

## Committee on Commerce and Tourism

### **CS/CS/SB 50 — Taxation**

by Appropriations Committee; Finance and Tax Committee; and Senators Gruters, Perry, Hooper, Taddeo, Burgess, Ausley, Albritton, Harrell, Stewart, and Rouson

Chapter 2021-2, L.O.F., the “Park Randall ‘Randy’ Miller Act,” contains provisions related to the sales and use tax and the reemployment tax.

#### ***Sales and Use Tax***

The law requires out-of-state retailers and marketplace providers with no physical presence in Florida to collect Florida’s sales tax on sales of taxable items delivered to purchasers in Florida if the out-of-state retailer or marketplace provider made a substantial number of sales into Florida in the previous calendar year. A substantial number of remote sales is sales in an amount exceeding \$100,000. Effective April 1, 2022, marketplace providers must also collect the following ancillary fees: the lead-acid battery fee, the waste tire fee, and the “E911” fee; and certain large retailers may contract with a marketplace provider to have the retailer be the party required to collect and remit the sales tax.

The law relieves most taxpayers and remote dealers of liability for tax, penalty, and interest for unpaid taxes on sales and uses that occurred prior to July 1, 2021; however, dealers are only relieved of liability if they register with the Department of Revenue by October 1, 2021. Marketplace sellers and providers are also largely relieved of liability.

The law repeals Florida’s “bracket system” and requires dealers to use traditional rounding conventions to calculate sales taxes.

#### ***Reemployment Tax***

The law deposits an amount equal to the estimated revenues from the collection of sales and use tax from remote dealers into the Unemployment Compensation Trust Fund until such time the trust fund balance exceeds \$4.07 billion.

The law requires recalculation of the 2021 Reemployment Assistance Tax rates, disregarding the reemployment assistance benefits paid that were related to COVID-19, and authorizes refunds for taxpayers that have already paid the first calculation of the 2021 tax rates. Additionally, all future Reemployment Assistance Tax rates will be calculated disregarding benefit charges related to COVID-19.

#### ***Rental of Commercial Real Property***

The law reduces the tax rate on the rental of commercial real property from 5.5 percent to 2 percent beginning the second month after the Unemployment Compensation Trust Fund exceeds a balance of \$4.07 billion.

These provisions were approved by the Governor and take effect July 1, 2021, except where otherwise provided.

THE FLORIDA SENATE  
2020 SUMMARY OF LEGISLATION PASSED  
**Committee on Commerce and Tourism**

*Vote: Senate 27-12; House 93-24*

This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

## Committee on Commerce and Tourism

### **CS/HB 121 — Notaries Public**

by Civil Justice and Property Rights Subcommittee and Rep. Garrison and others (CS/CS/CS/SB 228 by Rules Committee; Judiciary Committee; Commerce and Tourism Committee; and Senators Bradley and Burgess)

The bill provides the following updates to the recently created process for online notarizations in ch. 117, F.S.:

- Institutes a self-certification requirement for remote online notarization service providers to ensure their eligibility to assist with the provision of notary services;
- Transfers specific duties from online notaries public to their remote online notarization service providers;
- Requires the Department of State to publish information about active and inactive online notaries public and remote online notarization service providers;
- Permits online notaries to rely on a foreign passport of an individual who is currently outside of the borders of the United States to perform an online notarization;
- Implements privacy requirements for personally identifying information given during an online notarization;
- Provides several clarifications and technical updates to the process of online notarizations provided for in ch. 117, F.S.; and
- Allows for remote swearing in of witnesses for court proceedings and attorney admission to The Florida Bar.

If approved by the Governor, these provisions take effect on January 1, 2022.

*Vote: Senate 39-0; House 115-0*

## Committee on Commerce and Tourism

### **CS/HB 379 — Public Records/Economic Development Agencies**

by Government Operations Subcommittee and Rep. Giallombardo (CS/SB 968 by Governmental Oversight and Accountability Committee and Senator Gainer)

The bill creates a public records exemption for tax returns, financial information, credit history information, credit reports, and credit scores held by an economic development agency pursuant to its administration of a state or federally funded small business loan program. The bill provides for the automatic repeal of the public records exemption on October 2, 2026, unless reenacted by the Legislature under the Open Government Sunset Review Act.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 39-1; House 102-13*

## Committee on Commerce and Tourism

### **CS/CS/SB 430 — Petroleum Fuel Measuring Devices**

by Rules Committee; Commerce and Tourism Committee; and Senator Rodriguez

The bill requires each person who owns or operates a retail petroleum fuel measuring device to affix or install onto the measuring device a security measure to restrict the unauthorized access of customer payment card information. Permissible security measures include the placement and maintenance of pressure-sensitive security tape or custom branded security tape unique to the station, a physical locking mechanism that requires an access key, a device or system that will sound an alarm, a daily inspection of each measuring device, a device or system that permits customers to use a contactless payment method, or another security measure approved by the Department of Agriculture and Consumer Services (DACS). Effective January 1, 2022, two permissible security measures are required.

The bill provides that an owner or manager of a retail petroleum fuel measuring device may not use the device after discovering an unapproved or altered security measure, and allows the DACS to take a device out of service until it is in compliance with the permissible security measures.

The bill preempts regulation of petroleum fuel measuring devices to the State, and provides that the DACS may only impose penalties for violations of petroleum fuel measuring device rules if an owner or operator of a device has failed to install or implement permissible security measures or places a device back in service before it is in compliance with the permissible security measures. The bill also clarifies that the DACS may not impose a penalty against an owner or operator of a petroleum fuel measuring device if sufficient evidence is provided to demonstrate that noncompliance is the result of damage or alteration after repair by the owner or operator of the device.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 111-4*

## Committee on Commerce and Tourism

### HB 483 — Electronic Legal Documents

by Rep. Altman and others (SB 848 by Senator Powell)

The bill amends the existing process for an online notary who witnesses an electronic record to require the online notary to verify both the witness' *and principal's* identities. Under current law, the notary is not required to verify the principal's identity when the notary supervises the witnessing of an electronic record.

The bill requires an online notary to ask the principal certain questions when only one witness is in the physical presence of the principal if an electronic record to be signed is a will, revocable trust, health care advanced directive, agreement regarding succession or a waiver of spousal rights, or power of attorney. These questions are intended to prevent fraudulent or otherwise invalid transactions. For example, these questions might elicit information that would allow the notary to verify that the principal is capable of understanding the record or document in question and capable of giving proper legal consent. Under current law, these questions are necessary and apply in the above scenarios when an online notary witnesses an electronic record, regardless of how many witnesses are in the presence of the principal.

The bill also updates statutory forms used by notaries public and online notaries to reflect how, by physical presence or by audio video technology, the principal and each witness appeared before the notary.

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

*Vote: Senate 40-0; House 118-0*

## Committee on Commerce and Tourism

### CS/SB 602 — Business Organizations

by Commerce and Tourism Committee and Senator Burgess

This bill amends several sections of the Florida Business Corporation Act (FBCA), contained in ch. 607, F.S., and several related statutes. These changes address concerns raised by corporations and the legal community pursuant to a complete revision of the FBCA in 2019. Specifically, the bill:

- Narrows the circumstances under which a shareholder may assert his or her appraisal rights;
- Modifies the market out exception to accommodate privately-held corporations whose stock is not traded on an organized market, but who do have a comparable trading process;
- Addresses appraisal arbitrage, wherein disinterested parties abuse the appraisal rights afforded under Florida law to churn additional profits from the process;
- Makes clarifying and conforming changes to fix minor errors in the 2019 and 2020 FBCA legislation;
- Revises the timeframe for eligible entities to be able to use the name of a dissolved corporation; and
- Clarifies the application of corporation not-for-profit statutes in ch. 617, F.S., to the operation of condominiums, cooperatives, homeowners associations, timeshares, and mobile homeowners associations organized under chs. 718, 719, 720, 721, and 723, F.S.

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

*Vote: Senate 39-0; House 115-1*

## Committee on Commerce and Tourism

### **CS/SB 1120 — Telephone Solicitation**

by Regulated Industries Committee and Senators Gibson, Powell, and Gruters

This bill requires all sales telephone calls, text messages, and direct-to-voicemail transmissions to have the receiving consumer's prior express written consent if the call will be made using an automated machine to dial the recipient's phone number, or will play a recorded message upon connection with the recipient.

The bill creates a rebuttable presumption that a sales call made to a Florida area code is made either to a Florida resident or to a person in this state at the time of the call.

The bill creates a private right of action to enforce the above provisions. An aggrieved party may petition a court to enjoin the violating party. A prevailing plaintiff may recover the greater sum of either their actual monetary damages or \$500. Additionally, a court may increase damages by up to three times, for a willful or knowing violation.

The bill amends the Florida Telemarketing Act to prohibit telephone sellers or salespersons from calling consumers outside of the hours between 8 a.m. and 8 p.m. in the consumer's time zone, and prohibits telephone sellers or salespersons from contacting consumers on the same subject matter more than three times in a 24-hour period. The bill clarifies that calls made through an automated dialer or recorded message are subject to the same prohibitions.

The bill also creates a crime punishable as a second-degree misdemeanor that prohibits telephone sellers or salespersons from using technology that displays a spoofed phone number in order to conceal the caller's identity from the call recipient.

If approved by the Governor, these provisions take effect on July 1, 2021.

*Vote: Senate 40-0; House 115-0*



## Committee on Commerce and Tourism

### **CS/CS/HB 1463 — Department of Economic Opportunity**

by Commerce Committee; Tourism, Infrastructure and Energy Subcommittee; and Rep. LaMarca (CS/CS/SB 1948 by Appropriations Committee; Commerce and Tourism Committee; and Senators Bean, Bradley, Pizzo, and Bracy)

#### *DEO Secretary*

The bill changes the title for the head of the Department of Economic Opportunity (DEO) from “Executive Director” to “Secretary of Economic Opportunity,” and creates the Office of Economic Accountability and Transparency in the DEO. It adds the secretary or his or her designee to the Enterprise Florida, Inc., board of directors and the CareerSource Florida, Inc., board of directors, and allows the secretary to create offices and appoint division directors.

#### *Community Development Block Grants*

The bill expands the grant categories that applicants may compete for funding under the Florida Small Cities Community Development Block Grant (CDBG) Program, increases the percentage of CDBG funds that the DEO may set aside annually for use in local government jurisdictions for which an emergency or natural disaster has been declared, and removes distribution limitations. The bill repeals a provision that limits the number of grant applications a local government may submit during each CDBG cycle, as well as a provision that requires unused economic development grant funds to be awarded on a first come, first serve basis. The DEO is authorized to prohibit an applicant from receiving a grant or to penalize an applicant in the rating of a current application under certain circumstances. The bill also requires local governments to expedite the approval of building permits applied for by contractors on behalf of a property owner participating in the CDBG-Disaster Recovery program.

#### *Workforce and Reemployment*

The bill provides that the DEO, for Fiscal Year 2021-2022, must take actions to modernize the reemployment assistance information system to support the efficient distribution of benefits and the effective operation and management of the reemployment assistance program as provided in the General Appropriations Act.

The bill will allow regional workforce boards to conduct level 2 background screenings, and expands the definition of “temporary layoff” to include an employer initiated furlough. The requirement that a reemployment assistance claimant must provide the telephone number of each prospective employer contacted for each week of unemployment claimed is repealed, and “address” means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted. A provision that provides that a domestic violence claimant is ineligible for reemployment assistance benefits if the claimant refuses an employer’s reasonable accommodation is removed, and employers are required to respond to a notice of claim within 14 days, instead of 20 days. The bill also imposes a 5-year statute of limitations on reemployment assistance appeals, and removes the requirement that reemployment assistance appeals referees must be Florida attorneys. Additionally, a process to allow for employer-assisted reemployment assistance claims is created to provide a way for

## Committee on Commerce and Tourism

employers to notify the DEO of a mass separation (1,000 or more employees) and to make a group filing on behalf of the employer's similarly situated employees.

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

*Vote: Senate 40-0; House 118-0*

## Committee on Commerce and Tourism

### **CS/CS/CS/HB 1507 — Workforce Related Programs and Services**

by Education and Employment Committee; Appropriations Committee; Post-Secondary Education and Lifelong Learning Subcommittee; and Reps Yarborough, Melo, and others (CS/SB 98 by Appropriations Committee and Senator Albritton)

The bill creates a system-wide approach to workforce development and education in Florida. Specifically, the bill:

- Authorizes the Governor to seek federal waivers to create greater flexibility and strategic investment in Florida’s implementation of the Workforce Innovation and Opportunity Act (WIOA).
- Creates the Office of Reimagining Education and Career Help (Office) in the Executive Office of the Governor to provide coordination and alignment in Florida’s workforce development system.
- Requires the Office to create a “no-wrong-door” entry strategy whereby Floridians may access services from any workforce partner with a common intake form and case management system.
- Creates an online opportunity portal to provide Floridians with access to available state, federal, and local services and evaluative tools to determine short-term employability and long-term self-sufficiency. In addition, the portal will provide broader access to education and training options, real-time labor market information, career planning and career services tools, and other support available for workforce training and education linked to middle- and high-wage in-demand jobs.
- Requires the Department of Economic Opportunity (DEO) and the Department of Children and Families to evaluate the impact of workforce services on participants receiving benefits and welfare transition programs, to include performance reports on participant earnings.
- Requires local workforce development boards to be assigned a letter grade, which must be made public, based on improvement of participant long-term self-sufficiency and return on investment.
- Charges the Labor Market Estimating Conference as the entity responsible for determining Florida’s real-time supply and demand in the labor market.
- Requires the Talent Development Council to coordinate Florida’s efforts to meet state healthcare workforce needs, by conducting a gap analysis and providing trend information on nursing programs.
- Requires the DEO to establish WIOA eligible training provider criteria focused on participant outcomes.
- Requires the CareerSource state board to appoint a Credentials Review Committee to identify degree and non-degree credentials of value, develop a Master Credentials List for performance funding, and establish policy direction for funding which prioritizes outcomes and leverages resources to support vulnerable populations.
- Creates the Open Door Workforce Grant Program to provide grants to school districts and Florida College System (FCS) institutions to cover up to two-thirds of the cost of short-term, high-demand programs.

## Committee on Commerce and Tourism

- Creates the Money-Back Guarantee Program, requiring each school district and FCS institution to refund the cost of tuition to students who are not able to find a job within 6 months of completing select programs.
- Creates a new workforce performance funding model for school district and FCS institution workforce programs, requiring one-third of performance funding to be based on rewarding student job placement and the remaining two-thirds to be based on student earnings, with a focus on increasing the economic mobility of underserved populations.
- Requires that students entering a public postsecondary institution in 2022-2023, and thereafter, must be able to earn nationally recognized digital credentials for competencies within the general education core courses which demonstrate career readiness.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 117-0*