

## Committee on Regulated Industries

### HB 15 — Funerals and Burials

by Reps. Rooney, Eagle, and others (CS/SB 118 by Criminal Justice Committee and Senators Benacquisto, Evers, and Hukill)

The bill provides that it is a misdemeanor of the first degree to knowingly engage in protest activities, or knowingly cause protest activities to occur within 500 feet of the property line of any residence, cemetery, funeral home, house of worship, or other location during or within 1 hour before or 1 hour after the conducting of a funeral, burial, or memorial service at that place.

The bill does not prohibit protest activities that occur next to a funeral procession that extends beyond 500 feet of the property line of the location of the funeral or burial.

A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine not to exceed \$1,000.

The bill defines “protest activities” to mean any action, including picketing, that is undertaken with the intent to interrupt or disturb a funeral or burial.

These provisions were approved by the Governor and take effect October 1, 2013.

*Vote: Senate 38-0; House 116-0*

## Committee on Regulated Industries

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

by Government Operations Appropriations Subcommittee; Business and Professional Regulation Subcommittee; and Rep. Porter (CS/CS/SB 802 by Appropriations Committee; Regulated Industries Committee; and Senator Hays)

The bill amends ss. 468.631 and 489.140, F.S., relating to the funding of the Florida Homeowners' Construction Recovery Fund (fund). The bill revises the method of funding from a surcharge based on square footage (of new construction, renovations, alterations, and additions) to a surcharge based on 1.5% of permit fees associated with enforcement of the Florida Building Code. The bill authorizes any excess funds not needed to fund the Florida Building Code Administrators and Inspectors Board in the Department of Business and Professional Regulation (department) to be transferred by the department to the fund. The bill provides that the department may not transfer excess cash to the fund for the payment of claims if the excess cash exceeds the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S.

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

*Vote: Senate 39-0; House 111-0*

## Committee on Regulated Industries

### **CS/CS/CS/HB 73 — Residential Properties**

by Judiciary Committee; Business and Professional Regulation Subcommittee; Civil Justice Subcommittee; and Rep. Moraitis and others (CS/CS/CS/SB 436 by Appropriations Committee; Judiciary Committee; Regulated Industries Committee; and Senators Altman and Sachs)

The bill revises several provisions relating to the governance of condominium, cooperative, and homeowners' associations.

The bill prohibits the enforcement of the Phase II Firefighter's Service requirements for existing elevators until an elevator is replaced or the elevator requires major modification. This requirement permits the operation and exclusive control of an elevator by firefighters for evacuating the physically disabled in occupied buildings and for moving firefighters and equipment during an emergency.

Regarding condominium, cooperative, and homeowners' associations, the bill:

- Gives association members the right to use their smartphone, tablet, portable scanner, or other technology capable of scanning or taking pictures in lieu of the association providing copies to the member, and without charge to the member;
- Permits associations to print and distribute a directory with the members' name, parcel address, and telephone number. However, the association must permit members to exclude their telephone number from the directory by submitting a written request;
- Requires that any challenge to the election process be commenced within 60 days after the election results are announced;
- Prohibits election recalls when there are less than 60 days before the next election; and
- Provides that the suspension of an owner's rights does not apply to limited common elements that are intended to be used only by that owner, common elements needed to access the unit or home, utility services to the unit or home, parking spaces, or elevators, and that suspended interests are not needed for establishing a quorum, conducting an election, or obtaining member approval.

Regarding condominiums, the bill:

- Decreases the number of votes required for the purchase of a lease;
- Defines the unit owner's responsibility for the cost of reconstruction of condominium property;
- Clarifies that broadcast notice by closed-circuit television may be made in lieu of a notice posted physically on the condominium property;
- Clarifies that the board must maintain a copy of a board member's post election certification for at least 5 years or the duration of the board member's tenure, whichever is longer;
- Revises the hurricane protection provisions to include impact glass, code-compliant windows and doors, and other types of code-compliant hurricane protection and clarifies

the conditions for a unit owner to receive credit for the prior installation of hurricane protection;

- Extends from 7 years to 10 years the period for completion of all phases of a phase condominium;
- Provides for the creation of a secondary condominium within a primary condominium;
- Permits officers or full-time employees of the condominium ombudsman's office to engage in another profession or any other business that is not directly or indirectly related, or conflicts with, his or her work in the ombudsman's office;
- Provides that 50, rather than 75, or fewer units shall prepare a cash report in lieu of a financial statement.

Regarding cooperative associations, the bill provides that meetings of the board held for the purpose of discussing personnel matters are not subject to the open meetings requirement. It also expands the types of official records that are not accessible to members of the association, including records containing specified personal identifying information. The bill also requires newly elected or appointed members of the cooperative board to provide a post-election certification that they have read the governing documents of the association, or alternatively, to submit a certification showing the satisfactory completion of the educational curriculum within 1 year before the election or 90 days after the election or appointment.

Regarding homeowners' associations, the bill includes the personnel records of the management company among the records that are not accessible to the association's members. It also deletes the condition that the parcel owner must submit a written request to speak prior to the meeting in order to exercise his or her right to speak at a meeting.

Regarding cooperative and homeowners' associations, the bill provides a process for amending association documents without the approval of all mortgagees.

Regarding condominium and homeowners' associations, the bill also increases the total annual revenue amounts used to determine the type of financial report that association is required to prepare.

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

*Vote: Senate 38-0; House 117-0*

## Committee on Regulated Industries

### CS/CS/SB 120 — Condominiums

by Rules Committee; Regulated Industries Committee; and Senator Latvala

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

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

- The deadline to bring an action to correct an omission or error in a declaration, which must be brought within 3 years after the recording of the first event;
- The beginning of the 2-year time period, during which the developer and unit owners, when the developer has not turned over control of the association, may vote to waive the financial reporting requirement;
- During the first 2 fiscal years, the date when the developer's right to waive or reduce the funding of reserves expires;
- The beginning date for the 12-month period during which an association may enter into agreements for leasehold interests or membership rights before such an agreement or leasehold is considered a material alteration or substantial addition to the association property which would require a majority vote of the total voting interests or as authorized by the declaration; and
- The beginning date for the time periods for the turnover of association control from the developer to the unit owners.

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

The bill extends from 3 years to 5 years the period of time that a county clerk is required to hold funds deposited by a developer who has not prepared and provided the surveyors certificate of the land which will be a part of the condominium. This provides additional time for developers to provide the surveyor's certificate of the land to the county clerk.

The bill revises the 7-year period for completion of all phases of a condominium project, which is one of the conditions that allows the election of a majority of non-developer board members. The bill provides that the 7-year period runs from the date the surveyor's affidavit of substantial completion is recorded, or 7 years from the date the sale of a unit to a non-developer is recorded in the initial phase of the condominium. The bill deletes from the current provision that

established the beginning of this 7-year period from the date the declaration was recorded. The bill also creates a mechanism to extend the 7-year time period for an additional 3 years.

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

*Vote: Senate 40-0; House 71-1*

## Committee on Regulated Industries

### **CS/HB 171 — Disposition of Human Remains**

by Health Quality Subcommittee; and Rep. Rooney and others (CS/SB 370 by Regulated Industries Committee and Senator Sachs)

The bill amends various provisions relating to the disposition of human remains. The bill:

- Defines the term “final disposition” to include anatomical donation;
- Adds the Department of Health as an authorized issuer of extensions of time to provide the medical certification and of burial-transit permits, adds the appropriate district medical examiner as one of the persons who must file a death certificate, permits electronic transfer of medical certification of cause of death, and clarifies the obligations of primary and attending physicians;
- Defines several terms to have the same meaning as provided in ch. 497, F.S.;
- Defines a nontransplant anatomical donation organization as a tissue bank or other organization that facilitates nontransplant anatomical donations, including activities such as referral, obtaining of consents and authorizations, acquisition, transport, assessment of acceptability of donors, preparation, storage, release, evaluation of intended use, distribution, and final disposition of donations.
- Directs any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at public expense, to notify the anatomical board at the University of Florida Health Science Center (board), and specifies the situations in which notification of the board is not required;
- Defines the reasonable effort that must be undertaken to identify deceased persons and veterans who may be eligible for burial in a national cemetery, and to dispose of unclaimed remains;
- Authorizes the board to embalm the human remains that it receives;
- Permits a funeral director licensed under ch. 497, F.S., to act as a legally authorized person for the unclaimed remains when no family exists or is available, and releases a funeral director from liability for damages when exercising that authority;
- Provides that, when the identity of the unclaimed remains cannot be ascertained, the remains may not be cremated, donated as an anatomical gift, buried at sea, or removed from the state;
- Authorizes counties to dispose of unclaimed remains by burial or cremation pursuant to an ordinance or resolution if the remains are not claimed by the board;
- Clarifies that competing claims for unclaimed remains are prioritized according to the priority of legally authorized persons provided in s. 497.005, F.S.;
- Permits the board to lend remains to accredited colleges of mortuary science for education or research purposes;
- Authorizes the board to pay or reimburse the reasonable expenses, as determined by the board, for the transportation, removal, or storage of unclaimed remains by licensed funeral establishments or removal services;
- Requires the board, rather than the Department of Financial Services (DFS), to keep a record of all fees and other financial transactions, and authorizes the University of Florida to audit

these records using an accounting firm paid by the board at least once every three years and provide DFS with the audit;

- Limits the conveyance of human remains by the board outside the state for educational or scientific purposes;
- Allows third parties to convey human remains or any part outside the state for dental education or research purposes, with proper notice to and approval by the board;
- Creates an exception for nontransplant anatomical donation organizations that are accredited by the American Association of Tissue Banks (AATB) to convey human remains into or outside the state, for medical or dental education or research purposes;
- Requires that the original burial-transit permit must accompany human remains received by the board or a nontransplant anatomical donation organization;
- Requires that a nontransplant anatomical donation organization must obtain written consent to dissect, segment, or disarticulate human remains, with such consent expressly stating the long-term preservation or extensive preparation methods that may be used on the remains being dissected, segmented or disarticulated; and
- Prohibits the giving by any person, institution or organization of any monetary inducement or other valuable consideration to the donor's estate, or other third party. It permits the payment or reimbursement of the reasonable costs associated with the removal, storage, and transportation of human remains, including payment or reimbursement to a funeral establishment or removal service, or the reasonable costs after use, including the disposition of human remains.

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

*Vote: Senate 38-0; House 115-0*



## Committee on Regulated Industries

### **CS/SB 286 — Design Professionals**

by Judiciary Committee and Senators Negron and Sobel

The bill permits a design professional employed by a business entity, or an agent of the entity, to be immune from tort liability for damages occurring within the course and scope of the performance of a professional services contract if:

- The contract is made between the business entity and a claimant or another entity for the provision of services to the claimant;
- The contract does not name an individual employee or agent as a party to the contract;
- The contract prominently states that an individual employee or agent may not be held individually liable for negligence;
- The business entity maintains any professional liability insurance required under the contract; and
- Any damages are solely economic in nature and do not extend to persons or property not subject to the contract.

The design professionals affected by this bill are licensed engineers, interior designers, surveyors, architects, landscape architects, and geologists.

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

*Vote: Senate 37-1; House 103-13*

## Committee on Regulated Industries

### **CS/CS/SB 328 — Public Accountancy**

By Appropriations Committee; Regulated Industries Committee; and Senators Latvala and Sobel

The bill renames the Certified Public Accountancy Education Minority Assistance Program in s. 473.3065, F.S., to the Clay Ford Scholarship Program.

The bill increases the frequency of disbursements for approved scholarships funded by a portion of license fees set by the Board of Accountancy and collected by the Department of Business and Professional Regulation for the Clay Ford Scholarship Program from once per year to twice per year and increases the amount available for scholarships from \$100,000.00 to \$200,000.00 per year.

The bill requires certified public accountant (CPA) firms to be enrolled in a peer review program as a condition of licensure as of January 1, 2015, if they are engaged in the practice of public accounting as described in s. 473.302(8)(a), F.S., unless their practice is limited to the performance of compilations and reviews as defined by the board. The bill establishes a peer review program defined as the study, appraisal or review by one or more independent Certified Public Accountants of one or more aspects of the professional work of a licensee engaged in the practice of public accounting.

The bill requires that the Florida Board of Accountancy adopt rules for the minimum standards for peer review programs and the minimum criteria for the peer review organizations that will administer the programs. The board is authorized to establish a peer review oversight committee of three to five members licensed under ch. 473, F.S., and whose firms are subject to peer review and have received a “pass” rating on the most recent peer review.

The bill clarifies that that the provisions of s. 473.311, F.S., apply to renewal of licenses issued under s. 473.308, F.S., in accordance with rules adopted by the Department of Business and Professional Regulation.

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

*Vote: Senate 39-0; House 116-0*

## Committee on Regulated Industries

### **CS/CS/HB 347 — Alcoholic Beverages**

by Regulatory Affairs Committee; Business and Professional Regulation Subcommittee; and Rep. Renuart and others (CS/CS/SB 642 by Appropriations Committee; Regulated Industries Committee; and Senator Hays)

The bill permits craft distilleries to sell the distilled spirits they produce on their licensed premises to consumers for off premises consumption. The bill defines a “craft distillery” to mean a licensed distillery that produces 75,000 or fewer gallons of distilled spirits on its premises per calendar year.

The craft distilleries’ sales must be made at the souvenir shop that is located on private property contiguous to the licensed distillery premises. The distilled spirits must be sold in factory-sealed containers that are filled at the craft distillery for off-premises consumption. Craft distilleries and licensed distilleries may sell distilled spirits only in face-to-face transactions with consumers making the purchases for personal use and not for resale. The craft distillery may sell no more than two containers per customer.

The bill requires that craft distilleries must cease making sales to consumers on the day after they reach the 75,000 gallon production limitation. The craft distilleries may not ship to consumers within the state. However, the craft distillery may ship, arrange to ship, or deliver to manufacturers of distilled spirits, wholesale distributors, bonded warehouses, and exporters.

The bill prohibits the transfer of a craft distillery license, including the transfer of an ownership interest in the license, to any individual or entity with a direct or indirect interest in another distillery. However, the bill permits a craft distillery to have its ownership interest affiliated with another distiller if the other distiller produces 75,000 gallons or fewer of distilled spirits on its licensed premises per calendar year. The bill authorizes the division to adopt rules to administer the craft distillery provisions of the bill.

The bill allows the board of county commissioners in a county where the voters have approved the sale of intoxicating liquors, wines, and beers by package only in a prior election, to order an election, no more frequently than every two years, on the sole question of whether the sale by the drink for consumption on the premises for alcoholic beverages should be allowed. The bill requires the board to order the second election upon a majority vote of the board of county commissioners or after a petition signed by one-tenth of the registered voters in the county.

The bill provides severability clauses for the provisions of the bill.

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

*Vote: Senate 36-0; House 111-4*

## Committee on Regulated Industries

### **CS/CS/SB 372 — Vehicle Permits for the Transportation of Alcoholic Beverages**

by Appropriations Committee; Regulated Industries Committee; and Senator Latvala

The bill expands the authority of licensed retail vendors to transport alcoholic beverages in vehicles that are owned or leased by the vendor to include vehicles owned or leased by a person disclosed on the alcoholic beverage license application (authorized person) filed by the vendor. The license application must be approved by the Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (DBPR). In addition, the vehicle must have been issued a permit from the division for that purpose. The permit may be issued to an authorized vendor upon filing an application signed by the person and with the payment of a \$5 per vehicle fee. Permitted vehicles must be operated by the vendor or by the authorized person when transporting alcoholic beverages from a distributor's place of business to the vendor's licensed premises or off-premises storage. A permit expires when the authorized person disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or revoked by the division, whichever occurs first. In addition, a vehicle permit may be canceled at the request of the vendor or the authorized person.

An authorized person with a vehicle permit would be subject to the same conditions regarding inspection and search as is a licensee under current law. The bill requires that the invoices or sales tickets for the purchased alcoholic beverages must be carried in the vehicle used by the vendor or the authorized person when the alcoholic beverages are being transported. In addition, the bill deletes the requirement that the division must have decals ready for issuance. This would permit the division to issue only paper permits.

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

*Vote: Senate 40-0; House 114-0*

## Committee on Regulated Industries

### **CS/HB 623 — Wine**

by Regulatory Affairs Committee; and Rep. Artiles and others (CS/CS/SB 658 by Commerce and Tourism Committee; Regulated Industries Committee; and Senators Simpson, Ring, Brandes, Joyner, Hays, Thompson, and Richter)

The bill permits the sale of wine in reusable containers of 5.16 gallons. Current law prohibits the sale of wine in individual containers holding more than 1 gallon. The additional allowable container size would allow retail vendors to use wine kegs to dispense glasses of wine through a tap instead of through individual bottles of wine. The bill also provides that wine sold for off-premises consumption must be in the original, unopened container, except as provided in s. 564.09, F.S., which permits restaurant patrons to leave the restaurant with a partially consumed bottle of wine that has been secured in a bag or other container.

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

*Vote: Senate 36-0; House 116-0*

## Committee on Regulated Industries

### **CS/CS/HB 667 — Real Estate Brokers and Appraisers**

by Rulemaking Oversight and Repeal Subcommittee; Business and Professional Regulation Subcommittee; and Rep. Porter (CS/SB 852 by Regulated Industries Committee and Senator Bean)

The bill relates to the regulation of real estate brokers and real estate appraisers. Regarding real estate brokers, the bill permits brokers to be issued an additional license if that license will not be used in a manner that is likely to be harmful to any person. It also authorizes the Florida Real Estate Commission within the Department of Business and Professional Regulation (department) to deny a multiple license request and provides that all of the licenses of a broker are subject to discipline in the same final order.

The bill deletes references to “licensed appraiser” because, as of 2003, the department has been prohibited under current Florida law from issuing licenses for the category of licensed appraiser.

The bill requires the applicant for an appraiser registration or certification must meet the conditions adopted by the Appraiser Qualifications Board on December 9, 2011, as prescribed by rule of the department’s Real Estate Appraiser Board.

Effective January 1, 2014, the bill changes the term “Appraisal Qualifications Board” to the “Appraiser Qualifications Board.”

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

*Vote: Senate 38-0; House 117-0*

## Committee on Regulated Industries

### **CS/HB 695 — Tied House Regulation**

by Business and Professional Regulation Subcommittee; and Rep. Holder (CS/SB 864 by Regulated Industries Committee and Senator Thrasher)

The bill authorizes the Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation to impose administrative sanctions for any violation of the limitations on credits, coupons and other forms of assistance to alcoholic beverage vendors as provided by the bill. Current law only authorizes the division to establish rules and require reports to enforce the limitation on credits and other forms of assistance to the alcoholic beverage vendor. The bill also extends the rulemaking and the sanctioning authority to violations related to coupons.

The bill prohibits alcoholic beverage licensees from possessing or using, in physical or electronic format, any type of malt beverage coupon in this state. This prohibition also applies to cross-merchandising coupons. Coupons may not be furnished by alcoholic beverage manufacturers, distributors, importers, brand owners or registrants, or their sale representatives. Current law, which the bill repeals, only prohibits distributors from furnishing coupons to consumers that are redeemable by the vendor.

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

*Vote: Senate 38-0; House 114-0*

## Committee on Regulated Industries

### **CS/CS/CS/HB 701 — Electronic Benefits Transfer Cards**

by Health and Human Services Committee; Health Care Appropriations Subcommittee; Healthy Families Subcommittee; and Rep. Smith and others (CS/SB 1048 by Regulated Industries Committee and Senator Gardiner)

The bill prohibits the use or acceptance of electronic benefits transfer cards (EBT cards) for the following activities or at the following locations: establishments licensed to sell distilled spirits, adult entertainment establishments, pari-mutuel facilities, slot machine facilities, commercial bingo facilities, casinos, gaming and gambling facilities, or any gaming activities authorized under part II of ch. 285, F.S., (the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010).

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

*Vote: Senate 37-0; House 89-26*



## Committee on Regulated Industries

### **CS/HB 795 —Premises Inspections**

by Business and Professional Regulation Subcommittee and Rep. LaRosa and others (CS/SB 842 by Regulated Industries Committee and Senator Stargel)

The bill amends s. 509.032, F.S., relating to Premises Inspections. The bill authorizes the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (division) to inspect all licensed public lodging establishments and public food service establishments at least biannually (two times per year), except for certain apartments that must be inspected at least annually. The bill requires that the division adopt a risk-based inspection frequency by rule no later than July 1, 2014 for each licensed public food service establishment (food service establishment) to require at least one but not more than four routine inspections during a year.

The bill states that the rule may include guidelines that consider a food service establishment's inspection and compliance history, the type of food and food preparation methods, and the type of service being provided. The bill requires that the division annually reassess the inspection frequency of all food service establishments.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 38-0; House 114-0*

## Committee on Regulated Industries

### **CS/CS/CS/HB 973 — Low-Voltage Systems**

by Regulatory Affairs Committee; Local and Federal Affairs Committee; Business and Professional Regulation Subcommittee; and Rep. Brodeur and others (CS/CS/SB 1442 by Regulated Industries Committee; Criminal Justice Committee; and Senator Lee)

The bill creates s. 553.793, F.S., regarding Low-Voltage Systems. The bill adds an exemption from regulation and licensing for the sale of certain equipment when those sales are by employees, contractors, subcontractors, or affiliates of telecommunications companies certified under ch. 364, F.S., companies with a state-issued franchise for the provision of cable or video services under ch. 610, F.S., or under a local franchise or right-of-way agreement (certificate holders), if the items transmit data as part of a television, radio, communications or telecommunications system.

The bill provides that employees, contractors, subcontractors or affiliates of certificate holders are not subject to any local ordinance or licensure for the performance of low-voltage electrical work. It clarifies that alarm system contractors are not exempt from contractor licensure requirements. The bill deletes an exemption previously granted to telecommunications companies, which allowed certain limited low voltage electrical work by employees, but not to work by subcontractors.

The bill adds an exemption from regulation and licensing for employees and sales representatives of an alarm system contractor who do not work on end-user premises and are not granted access to passwords or codes to arm or disarm systems. The bill exempts employees and sales representatives who have access to passwords or codes to arm or disarm systems, but only if they work at out-of-state locations and have had a satisfactory background check from a state or federal agency. It does not affect existing exemptions or background checks.

The bill defines a low-voltage alarm system project and states requirements for permitting by a local enforcement agency. The bill requires a local enforcement agency to issue uniform basic permit labels available for purchase by contractors.

The bill regulates labels and the method of issuance and use of permit labels. Labels may be purchased in bulk for unspecified current or future projects and are valid for one year. The labels must be posted by a contractor in a conspicuous place on the premises of the project site before commencement of work on the project. The bill provides that a contractor must submit a uniform notice within 14 days after completing the project.

The bill includes a format for a uniform notice of a low-voltage alarm system project and establishes a maximum cost for uniform basic permit labels of \$55 per label. The bill provides that local enforcement agencies that charged more than \$55 for such permits before January 1, 2013, may continue to charge the same amount until January 1, 2015. Local enforcement agencies that charged more than \$175 before January 1, 2013, may charge a maximum of \$175 until January 1, 2015. After January 1, 2015 all permit labels are limited to \$55.

The bill prohibits a municipality, county, district, or other local government entity from adopting or maintaining an ordinance or rule regarding a low-voltage alarm system project that is inconsistent with the provisions of s. 553.793, F.S.

The bill provides that a uniform basic permit label may not be required for the maintenance, inspection, or service of an alarm system that was permitted in accordance with s. 558.793, F.S. The bill provides that no new or additional licensure requirements are imposed on those licensed as contractors in accordance with ch. 489, F.S.

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

*Vote: Senate 38-0; House 115-0*

## Committee on Regulated Industries

### **CS/SB 1398 — Real Estate Appraisers**

by Judiciary Committee and Senator Hukill

The bill relates to the education requirement for an appraiser license issued by the Florida Real Estate Appraisal Board (board) within the Division of Real Estate of the Department of Business and Professional Regulation. The bill requires that all academic education courses must be completed through in-person classroom instruction or distance learning. Current law does not permit an applicant to meet required classroom hours through distance learning.

The board is required to prescribe by rule the education and experience requirements that meet or exceed the criteria adopted by the federal Appraisal Qualifications Board on December 9, 2011. It allows the board to approve distance learning courses as an alternative to classroom courses. An independent certifying organization authorized by the board must approve the delivery method for distance learning courses. The final examination for a distance learning course must be a written closed-book final examination.

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

*Vote: Senate 37-0; House 119-0*

## Committee on Regulated Industries

### **CS/CS/CS/HB 7005 — Massage Establishments**

by Judiciary Committee; Justice Appropriations Subcommittee; Health Quality Subcommittee; Criminal Justice Subcommittee; and Rep. Kerner and others (CS/CS/CS/SB 500 by Health Policy Committee; Community Affairs Committee; Regulated Industries Committee; and Senators Clemens and Sobel)

The bill amends various provisions relating to Massage Establishments. The bill amends s. 480.033, F.S., to include a college or university eligible to participate in the William L. Boyd, IV Florida Resident Access Grant Program (established in s. 1009.89, F.S.) in the definition of a board-approved massage school. The bill provides that denial of a license or a disciplinary action may be based on advertising to induce or attempt to induce, or to engage or attempt to engage, a client in unlawful sexual misconduct described in s. 480.0485, F.S.

The bill creates s. 480.0475, F.S., to prohibit the operation of certain massage establishments between the hours of midnight and 5 a.m.

The bill exempts specified types of massage establishments based on the location of the facility or the type of supervision over those persons performing massages. The bill prohibits the use of a massage establishment as a principal domicile in areas that are not zoned for residential use by local ordinance.

The bill provides that a person who violates s. 480.0475, F.S., commits a misdemeanor of the first degree punishable as provided in s. 775.082 or s. 775.083, F.S. A subsequent violation is a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. Current violations of ch. 480, F.S., are misdemeanors of the first degree.

The bill amends s. 823.05, F.S., to declare that a massage establishment that operates in violation of the restrictions on hours of operation, or that fails to immediately present to an investigator of the department or a law enforcement officer, all required government identification for each employee or for any person performing massage in the establishment is a nuisance and may be abated or enjoined pursuant to ss. 60.05 and 60.06, F.S.

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

*Vote: Senate 38-0; House 117-0*

## Committee on Regulated Industries

### **CS/HB 7025 — Timeshares**

by Regulatory Affairs Committee; Business and Professional Regulation Subcommittee; and Rep. Eagle (CS/SB 696 by Regulated Industries Committee and Senator Stargel)

The bill relates to the Florida Vacation Plan and Timesharing Act. The bill revises provisions related to the nonjudicial, trustee foreclosure process for the foreclosure of liens on timeshare interests, including liens based on unpaid assessments and unpaid mortgage obligations. In current law, the lienholders appoint a trustee to serve the required notices and forms on the timeshare interest holder.

The bill provides for the regulation of timeshare interest transfer companies. These businesses solicit timeshare owners to transfer ownership of their timeshare to another entity or person for a fee paid by the timeshare owner to relieve the timeshare owner from paying maintenance fees and other obligations of ownership. The bill requires that timeshare transfer companies or their agent must provide an estoppel letter to the managing entity of the timeshare plan. An estoppel letter indicates whether all assessments and other money owed to the managing entity by the timeshare interest owner have been paid. The bill requires timeshare transfer companies to deliver a signed written resale transfer agreement to the consumer timeshare reseller, and specifies the information that must be included in the agreement. The agreement must contain a statement that no fees or costs will be paid before delivery to the consumer timeshare reseller and managing entity of written evidence that the transfer services have been performed. The agreement must also identify the escrow agent.

The person providing transfer services must establish an escrow account. The funds or property must be held with the escrow agent until the transfer company has fully complied with the obligations under the agreement. The escrow records must be kept for 5 years. It provides that it is a third degree felony to intentionally fail to comply with the escrow and recordkeeping requirements. The bill provides managing entities with a private right of action to recover actual damages; plus attorney fees and court costs, to bring an action for a declaratory judgment; and to bring an action to obtain an injunction. The bill also provides exemptions for real estate brokers, licensed attorneys, title insurers, or agents, who receive total consideration from a consumer reseller of less than \$600, and for transfers from a timeshare reseller to the developer or managing entity of that timeshare plan.

The bill also:

- Exempts timeshare condominiums from the requirements related to the conduct of condominium board member elections;
- Permits timeshare plan reserves to be calculated using the pooling accounting method as an alternative to the straight line accounting method, as is also currently permitted for condominium associations;
- Revises the definition of the term “timeshare estate” in s. 721.05(34), F.S., to include direct and indirect interest in a trust;

- Revises the definition of the term “notice address” to include any address that is known to be the current address of a timeshare mortgagor, owner, or junior interestholder;
- Amends the definition of the term “permitted delivery service” in s. 721.82(11), F.S., to allow the trustee to use a foreign jurisdiction’s recognized equivalent of certified or registered mail;
- Requires that the required title search must be conducted and delivered to the trustee prior to the sale of the timeshare interest with an effective date of within sixty days of the date it is delivered to the trustee;
- Provides that the initiation of a foreclosure proceeding against a timeshare interest does not automatically act as a lis pendens, which is a notice, recorded in the chain of title to real property that gives notice that the property is the subject matter of litigation, and that any interests acquired during the pendency of the suit are subject to its outcome;
- Provides the information that must be included in a notice of lis pendens;
- Provides a good faith standard for determining whether the obligor is the person who signed the receipt of the notice of default and intent to foreclose;
- Provides that it will not be a third degree felony, as provided in current law, if the trustee makes an incorrect determination as to the identity of the signature on the notice receipt and he or she made a good faith effort to properly ascertain if the obligor signed the return receipt in accordance with the good faith standards provided in this bill;
- Delineates the information that must be included in the publication notice that is required if the obligor cannot be served with a notice of default and intent to foreclose;
- Provides that circumstances in which the attestation that a diligent search and inquiry to ascertain the obligor has been done is not required;
- Permits the notice of default and intent to foreclose to be perfected as to all obligors at the same address, so long as notice is perfected as to at least one obligor at that address;
- Permits the trustee to use a third party to conduct the sale on behalf of the trustee; and
- Corrects scrivener’s error by deleting duplicative terms.

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

*Vote: Senate 38-1; House 116-0*

## Committee on Regulated Industries

### **CS/HB 7119 — Homeowners' Associations**

by Judiciary Committee; Business and Professional Regulation Subcommittee; and Rep. LaRosa and others (CS/CS/CS/SB 580 by Rules Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Hays)

The bill revises requirements for the governance of homeowners' associations. The bill provides additional grounds for disciplining licensed community association managers for failing to comply with the governing statutes for condominium, cooperative, and homeowners' associations. Regarding the homeowner's access to official records of the association, the bill:

- Requires that the official records must be maintained for seven years and maintained within 45 miles of the community or within the same county;
- Permits associations to maintain the records electronically;
- Permits members to photograph records using a camera or other electronic device at no charge;
- Permits associations to charge copying costs and personnel costs required to retrieve and copy records that exceed one half hour, but the cost may not exceed \$20 per hour, except that personnel costs may not be charged for requests that result in 25 or fewer pages; and
- Decreases the cost of copies provided on the association's photocopier from 50 cents per page to 25 cents per page.

The bill requires homeowners' associations to report specified information to the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation. It requires the department to establish an Internet-based registration system and to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. This reporting requirement would expire on July 1, 2016, unless reenacted by the Legislature.

The bill provides that associations do not have to allow nominations at the meeting where the election is to be held if it permits nominations in advance of the meeting. It also provides that an election is not required unless more candidates are nominated than board vacancies exist.

The bill limits the liability of associations for assessments that came due before the association acquired title through a foreclosure.

Regarding the officers and directors of homeowners' associations, the bill requires:

- Newly elected directors to certify that they have read, and will uphold, the governing documents;
- Contracts with interested directors to be disclosed and approved by a two-thirds vote of the board, and permits the contract to be cancelled by a vote of the members;
- The removal of officers and directors who solicit or accept things of value from anyone providing or offering to provide services to the association, with exceptions;



- The removal of officers or directors charged with theft or embezzlement of association funds; and
- Associations to maintain insurance or fidelity bonding, but permits the associations to annually waive the insurance requirement upon a majority vote of the members.

Regarding developer control of homeowners' associations, the bill provides:

- Additional events that trigger control of the association by the non-developer members, including when the developer has failed to complete the amenities and infrastructure, has filed chapter 7 bankruptcy, has lost title through foreclosure, or when a receiver has been appointed;
- That homeowners can elect at least one member to the board when 50 percent of the parcels are conveyed to non-developer members; and
- That the right of a developer to amend the association's governing documents must be reasonable and prohibits the developer from making unilateral changes to those governing documents under certain circumstances.

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

*Vote: Senate 37-0; House 113-5*