

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/CS/SB 1346 — Obsolete References and Programs

by Children, Families, and Elder Affairs Committee; Commerce and Tourism Committee; and Commerce and Tourism Committee

CS/CS/SB 1346 amends or repeals 35 obsolete references to the former Department of Labor and Employment Security, or one of its former programs, and ten obsolete references to the Florida Department of Commerce still remaining in Florida Statutes. Additionally, it repeals or amends other statutes that have been identified that relate to programs related to or within a department that were obsolete prior to department abolishment.

The bill repeals provisions related to the obsolete Florida-Caribbean Basin Trade Initiative; the obsolete microenterprise program; an obsolete public records exemption for Base Realignment and Closure (BRAC); and the inactive Inner City Redevelopment Review Panel. The bill also removes references to the inactive Florida Trade Data Center.

Finally, the bill repeals or amends numerous sections of law relating to programs or functions of the Department of Children and Family Services (DCF), which are outdated, no longer effective, applicable, or being implemented.

This bill amends the following sections of the Florida Statutes: 14.2015, 20.18, 20.195, 39.00145, 39.0121, 39.301, 39.3031, 45.031, 49.011, 69.041, 112.044, 252.85, 252.87, 252.937, 287.09431, 287.09451, 287.0947, 288.012, 288.021, 288.035, 288.1168, 288.1229, 288.1169, 311.07, 331.369, 377.711, 377.712, 381.006, 381.0072, 390.01114, 402.35, 409.1685, 409.2576, 411.01013, 414.24, 414.40, 440.385, 440.49, 450.161, 464.203, 469.002, 489.1455, 489.5335, 553.62, 597.006, 753.03, 877.22, 944.012, and 944.708.

This bill repeals the following sections of the Florida Statutes: 39.0015, 39.305, 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, 39.318, 39.816, 39.817, 255.551, 255.552, 255.553, 255.5535, 255.555, 255.556, 255.557, 255.558, 255.559, 255.56, 255.561, 255.562, 255.563, 288.038, 288.386, 288.9618, 288.982, 383.0115, 393.22, 393.503, 394.922, 402.3045, 402.50, 402.55, 409.1672, 409.1673, 409.1685, 409.801, 409.802, 409.803, 409.946, 446.60, and 469.003(2)(b).

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 38-0; House 102-8

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/SB 1884 — Consumer Protection

by Commerce and Tourism Committee and Senator Gaetz

This bill prohibits a post-transaction third-party seller from charging a consumer for a good or service sold over the Internet unless specific disclosures are made and the seller receives the informed consent of the consumer. It also requires a post-transaction third-party seller to provide a simple mechanism for a consumer to cancel a purchase of a good or service and stop any recurring charges. Finally, it prohibits an initial merchant from disclosing a consumer's credit card number, debit card number, bank account number, or other account number, or disclose other consumer billing information, to a post-transaction third-party seller.

This bill is very similar to recently enacted federal law, enacted to counter "negative option marketing," which refers to a category of commercial transactions in which sellers interpret a customer's failure to take an affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services.

By including these same protections in our statutes, Florida has jurisdiction to enforce the consumer protections provided in the act under state law.

If approved by the Governor, these provisions take effect October 1, 2011.

Vote: Senate 38-0; House 116-1

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/HB 4013 — Television Picture Tubes

by Business & Consumer Affairs Subcommittee; and Rep. Eisnaugle (CS/SB 1626 by Commerce and Tourism Committee and Senator Lynn)

The bill repeals s. 817.559, F.S., which requires cathode ray tubes (CRT, or television picture tubes) be correctly labeled to indicate the new and used components and materials in such picture tubes. The bill also repeals s. 817.56, F.S., which prohibits activities related to the sale or servicing of cathode ray tubes.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 37-1; House 116-0

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

HB 4023 — Sales Representative Contracts/Commissions

by Rep. Plakon (SB 474 by Senator Evers)

This bill repeals s. 686.201, F.S., relating to sales representatives contracts.

Enacted in 1984, this provision requires a written contract between principal and commissioned sales representatives which specifies the terms of the commission. In the event that there was no written contract, this provision requires that the sales representative be paid within 30 days of termination of the unwritten contract. Should the principal not comply with this requirement, the sales representative has a cause of action for damages equal to triple the amount of commission found to be due, and reasonable attorney's fees and court costs.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 36-1; House 93-25

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

HB 4033 — Florida Industrial Development Corporation

by Rep. Dorworth (SB 1632 by Senator Lynn)

This bill repeals all of ch. 289, F.S., the Florida Industrial Development Corporation (FIDC). The chapter had been enacted by the Legislature in 1961 to create a process by which residents, businesses, and financial institutions could create an FIDC to issue revenue bonds for economic development projects. It appears that only two FIDCs have been created, and both have dissolved, according to the state Division of Corporations.

Specifically repealed are ss. 289.011, 289.021, 289.031, 289.041, 289.051, 289.061, 289.071, 289.081, 289.091, 289.101, 289.111, 289.121, 289.131, 289.141, 289.151, 289.161, 289.171, 289.181, 289.191, and 289.201, F.S. Also, ss. 212.08, 220.183, 220.62, 440.491, and 658.67, F.S., are revised to remove ch. 289, F.S., cross-references.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 39-0; House 118-0

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/CS/HB 7005 — Unemployment Compensation

by Economic Affairs Committee; Finance and Tax Committee; Economic Development and Tourism Subcommittee; and Rep. Holder (CS/CS/SB 728 by Judiciary Committee; Commerce and Tourism Committee; and Senators Detert and Gaetz)

This bill reforms the unemployment compensation (UC) law in the following manner:

- The bill changes qualifying requirements by (effective August 1, 2011):
 - Requiring claimants to participate in an initial skills review using an online education or training program as part of reporting for benefits;
 - Requiring claimants to make a systematic and sustained effort to find work, and to contact at least five prospective employers each week or report in person to a One-Stop Career Center to meet with a representative for reemployment services each week; and
 - Requiring claimants to file continuing claims by Internet, rather than by phone or mail.
- The bill changes the criteria by which claimants are disqualified from receiving benefits by:
 - Changing the standard to show misconduct from “willful” (a high standard) to “conscious” (a lower standard);
 - Changes the definition of misconduct to specify certain acts of misconduct that would disqualify an individual from benefits, such as absenteeism;
 - Adds a disqualification for any weeks in which an individual receives severance pay from an employer (effective August 1, 2011);
 - Expands disqualification to include being fired for all crimes committed in connection with work (rather than only those punishable by imprisonment) (effective August 1, 2011); and
 - Adds a specific disqualification for individuals who are incarcerated or imprisoned (effective August 1, 2011).
- The bill creates a sliding scale for benefits beginning in 2012 by correlating the maximum weeks of benefits available with the rate of unemployment. The maximum amount of benefits available is 23 weeks when the unemployment rate is 10.5 percent or greater, and this scales down to 12 weeks of benefits when the unemployment rate is 5 percent or less.
- The bill codifies the executive order extending the temporary state extended benefits program and amends the program to conform to new federal law.
- The bill eliminates the payment of benefits by mail (effective August 1, 2011).
- Related to unemployment taxes, the bill:
 - Allows employers to continue to have the option to pay their taxes in installments over 2012, 2013, and 2014;
 - Provides tax relief for employers beginning in 2012 by adjusting the tax calculation;
 - Increases the number of employee leasing companies who may obtain tax information for their clients by filing a memorandum of understanding, instead of filing a power of attorney for each client, with the Department of Revenue.

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

- The bill allows appeals of orders by the Unemployment Appeals Commission to be filed in district courts of appeal where the claimant resides, where the business was located, or where the order was issued (effective August 1, 2011).
- The bill codifies certain agency rules related to the exclusion of evidence that is irrelevant or repetitious, and revises the admissibility of hearsay evidence to allow it to be used to establish a fact under certain circumstances (effective August 1, 2011).
- The bill creates a rebuttable presumption that the date on a document mailed by AWI or DOR is the date that the document was mailed.
- The bill amends law related to statutory construction to repeal language which requires that unemployment laws be liberally construed in favor of a claimant.
- The bill permits AWI to contract with consumer reporting agencies to access wage records and requires that any revenues from the contract be used for administration of the unemployment system.

If approved by the Governor, these provisions take effect upon becoming law, unless otherwise specified in the bill.

Vote: Senate 27-11; House 80-38

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/HB 7209 — Consumer Services Functions/DOACS

by Economic Affairs Committee; Business and Consumer Affairs Subcommittee; and Rep. Crisafulli (CS/CS/SB 1916 Budget Subcommittee on General Government Appropriations; Commerce and Tourism Committee; and Senator Detert)

This bill addresses a number of issues regarding the Department of Agriculture and Consumer Services (department) responsibilities related to consumer services, professional licenses, and inspection of oil and gas operations.

The bill deletes the authority for the department to:

- Enforce the prohibition against unconscionable prices relating to the rental or sale of essential commodities during a declared state of emergency (also known as the statutory “Price Gouging” restriction); and
- Bring actions for injunctive relief under the Bedding Act.

The bill transfers department responsibilities under the Motor Vehicle Warranty Enforcement Act (or “Lemon Law”) to the Attorney General.

The bill creates a regulatory system for Cottage Food Operations, to exempt from permitting by the department a cottage food operation that sells less than \$15,000 annually, and provides for labeling requirements of cottage food products.

As to department responsibilities relating to the inspection of oil and gas, and consistent with requirements imposed by the Department of Revenue, this bill adds terminal suppliers and importers to the list of those who must supply the affidavits currently required of manufacturers and wholesalers.

The bill also deletes obsolete provisions relating to the transition to the sale of ethanol gasoline.

The bill requires applicants for certain licenses to meet the following citizenship and residency qualifications:

- Applicants for an armed security guard or firearms instructor license must be a U.S. citizen or permanent legal resident alien. An applicant who is a permanent resident alien must also provide proof that the applicant has resided in the state of residence shown on the application for at least 90 consecutive days before the date the application is submitted; and
- Applicants for a security guard, private investigator, or recovery agent license must be a U.S. citizen or permanent resident alien or submit proof of current employment authorization issued by the U.S. Citizenship and Immigration Services.

As to other issues relating to licensees, the bill:

- Extends the Class “K” firearms instructor license period from 2 to 3 years.

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

- Amends current law effective January 1, 2012, to require applicants for a security guard or private investigator intern licenses to have completed 40 hours of professional training before they apply for their license;
- Provides that an armed security officer or firearms instructor is subject to discipline if he is prohibited from purchasing or possessing a firearm by state or federal law;
- Deletes the requirement that an application be notarized and requires that it be verified by the applicant under oath as provided in s. 92.525, F.S.;
- Allows for payment of application fees by electronic funds transfer and removes the option to pay by certified check;
- Provides for a more thorough review of an applicants' criminal history; and
- Streamlines current processes, and makes technical and conforming changes to current law.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 35-0; House 113-0