Committee on Regulated Industries

CS/CS/SB 106 — Vendors Licensed Under the Beverage Law

by Rules Committee; Regulated Industries Committee; and Senator Flores

Current law in s. 565.04, F.S., prohibits package stores from selling, offering and exposing for sale other merchandise besides distilled spirits, beer and wine. However, package stores are allowed to sell bitters, grenadine, nonalcoholic mixer-type beverages (not including fruit juices produced outside Florida), fruit juices produced in this state, home bar, and party supplies and equipment (including but not limited glassware and party-type foods), miniatures of no alcoholic content and tobacco products. Package stores may not have openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded.

The bill:

- Prohibits the Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (DBPR) from issuing a package store license for the sale of beer, wine, and distilled spirits for any location or business located within 1,000 feet of a public or private elementary, middle school, or secondary school.
- Permits package stores licensed on or before June 30, 2017, for a premises located within 1,000 feet of a school to maintain and renew the license for that location, if the place of business complies with the package store restrictions in current law.
- Provides for a 4-year phased repeal of the current law package store restrictions for licensees located more than 1,000 feet from a school.
    - Starting July 1, 2018, one business or 25 percent of a vendor's businesses, whichever is greater, can operate without the restrictions;
    - Starting July 1, 2019, two businesses or 50 percent of a vendor's business can operate without the restrictions;
    - Starting July 1, 2020, three businesses or 75 percent of a vendor's businesses can operate without the restrictions; and
    - Effective June 30, 2021, the restrictions expire and such business can operate without the restrictions.
- Provides a business may sell, offer, or expose for sale distilled spirits in containers of 200 milliliters or less or 6.8 ounces or less only from a restricted area where access is restricted to the vendor or employees of the vendor. A business that maintains the current law package store restrictions is exempt from this requirement.
- Prohibits the division from issuing a license to sell distilled spirits for a location or business that includes a gasoline service station or motor fuel retail outlet, as defined in s. 526.303(14), F.S., unless the location has at least 10,000 square feet of retail space for the general public.
- Permits retail drug stores, grocery stores, department stores, florist shops, specialty gift shops, or automobile service stations licensed to sell alcoholic beverages that derive 30 percent or less of their monthly gross revenue from the sale of alcoholic beverages to employ persons under the age of 18 (minors). Those vendors may employ a minor only if the minor is supervised by a person 18 years of age or older who verifies the purchaser's

age to be 21 years of age or older and approves the sale of alcoholic beverages to the purchaser. The bill provides it is unlawful to employ a minor during a month in which a vendor's gross revenue from the sale of alcoholic beverages exceeds 30 percent of its total revenue.

CS/CS/CS/HB 689 (CS/CS/SB 400 by Appropriations Committee, Regulated Industries Committee, and Senator Perry) amends CS/CS/SB 106 as to the employment of minors by retail drug stores, grocery stores, department stores, florist shops, specialty gift shops, or automobile service stations that are licensed as a package store. To employ a minor, those vendors must derive 30 percent or less of their monthly gross revenue from the sale of alcoholic beverages and may employ a minor to sell distilled spirits only if the minor is supervised by a person 18 years of age or older who verifies the purchaser's age to be 21 years of age or older and approves the sale of distilled spirits.

CS/CS/CS/HB 689 also removes the supervision and verification requirements in CS/CS/SB 106 for sales of beer and wine, and maintains current law that permits minors to be employed by vendors licensed to sell beer or beer and wine, when such sales are only for off premises consumption. Current law does not impose a supervision or verification requirement for sales as to minors employed by licensees selling only beer or bear and wine.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 21-17; House 58-57

Committee on Regulated Industries

CS/HB 141 — Craft Distilleries

by Careers and Competition Subcommittee and Reps. Stevenson, Raschein, and others (CS/CS/CS/SB 166 by Appropriations Committee; Commerce and Tourism Committee; Regulated Industries Committee; and Senators Steube, Brandes, Hutson, and Young)

The bill increases the number of factory-sealed individual containers of distilled spirits a craft distillery may sell in a face-to-face transaction with a consumer per calendar year to a maximum of six containers of each brand.

Current law permits the distillery to sell to consumers in a face-to-face transaction, per calendar year, two containers of each brand of distilled spirits, three containers of one brand and one container of a second brand, or four containers of a single brand.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 114-2

Committee on Regulated Industries

CS/HB 211 — Cosmetic Product Registration

by Health Quality Subcommittee and Rep. Latvala (SB 114 by Senator Brandes)

The bill removes product registration filing requirements by cosmetic manufacturers for cosmetic products. The Department of Business and Professional Regulation (DBPR), Division of Drugs, Devices, and Cosmetics, regulates cosmetics that are manufactured and repackaged by licensed cosmetic manufacturers in Florida. Each product produced or repackaged in Florida is required to be registered with the division every two years.

The bill revises the fee that may be charged by the DBPR for a cosmetic manufacturer permit to an amount determined by the DBPR to be sufficient to cover the costs of administering the cosmetic manufacturer permit program. Under current law, the annual permit fee may not be less than $250 or more than $400.

The bill removes the authority of the DBPR to issue a "certificate of free sale" certifying a cosmetic is registered with the DBPR and may be legally sold in Florida.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 33-0; House 117-0

Committee on Regulated Industries

CS/CS/HB 241 — Alarm Systems

by Local, Federal and Veterans Affairs Subcommittee; Agriculture and Property Rights Subcommittee; Rep. Williamson and others (CS/CS/CS/SB 190 by Rules Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Perry

The bill revises s. 489.529, F.S., effective October 1, 2017, to:

- Require residential or commercial intrusion and burglary alarms that have central monitoring have a second verification call made to "a telephone number associated with the premises" generating the alarm signal, if the first verification call is not answered, prior to contacting law enforcement.

- Create an exception to current verification calling requirements for a customer who is federally licensed as a manufacturer, importer, or dealer of firearms or ammunition. Eligible customers may notify the alarm monitoring company that the customer would like to bypass the two-call verification requirement, thereby allowing the central monitoring station to contact law enforcement agencies without making a verification call. The bill requires an alarm monitoring company to make reasonable efforts, upon initiating a new alarm monitoring service contract, to inform eligible customers of the right to opt out of the two-call verification requirement.

The bill also revises s. 553.793, F.S., concerning streamlined low-voltage alarm system installation permitting, to include a new or existing low-voltage electric fence as a "low-voltage alarm system project." A low-voltage electric fence is composed of an alarm system (a device used to detect a burglary, fire, robbery, or medical emergency) consisting of a fence structure and an energizer powered by a commercial storage battery not exceeding 12 volts that produces an electric charge upon contact with the fence structure. The ancillary components or equipment that may be attached to an alarm system or low-voltage electric fence are revised to include closed-circuit television systems, access controls, and battery-recharging devices.

A low-voltage electric fence: 1) must produce a limited electric charge; 2) must be completely enclosed by a nonelectric fence or wall; 3) may be up to 2 feet higher than the perimeter nonelectric fence or wall; 4) must be identified with attached warning signs not more than 60 feet apart; 5) may not be installed in areas zoned exclusively for single-family or multi-family residential use; and 6) may not enclose portions of a property which are used for residential purposes. No further permit may be required for a low-voltage alarm system project composed of a low-voltage electric fence that meets all of the above requirements.

If approved by the Governor, except as otherwise expressly provided in the act, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 119-0

Committee on Regulated Industries

CS/HB 327 — Household Movers and Moving Brokers

by Careers and Competition Subcommittee; and Rep. Yarborough and others (CS/CS/SB 336 by Appropriations Committee; Regulated Industries Committee; and Senators Hutson, Book, and Young)

The bill:

- Prohibits a mover or moving broker from knowingly refusing or failing to provide written notice to a customer before a household move that the mover or an employee or subcontractor of the mover or moving broker who has access to the customer's dwelling or property, including access to give a quote for the move, is a convicted sexual predator in Florida, or has been convicted of a similar offense in another jurisdiction, regardless of when the felony offense was committed.
- Requires the Department of Agriculture and Consumer Services (DACS) to either impose an administrative fine or seek a civil penalty of $10,000 or more for each violation of that requirement.
- Requires the DACS to deny or refuse to renew the registration of a mover or moving broker or the mover's or moving broker's directors, officers, owners, or general partners, if the mover or moving broker has not satisfied a civil fine or penalty imposed for refusing or knowingly failing to provide the customer with the required written notice.

If approved by the Governor, these provisions take effect October 1, 2017.
Vote: Senate 36-0; House 119-0

Committee on Regulated Industries

CS/CS/CS/SB 398 — Estoppel Certificates

by Rules Committee; Judiciary Committee; Regulated Industries Committee; and Senators Passidomo and Perry

The bill revises requirements for estoppel certificates for condominium, cooperative, and homeowners' associations. Under current law, when an ownership interest in a condominium unit, cooperative unit, or homeowners' parcel is transferred, the new owner is jointly and severally liable with the previous owner for unpaid assessments owed to a condominium, cooperative, or homeowners' association. Unpaid assessments may also become a lien on the property. Purchasers may request that the seller provide an estoppel certificate from the condominium, cooperative, or homeowners' association to protect against undisclosed financial obligations so that title to the property may be transferred free of any lien or encumbrance in favor of the association. An estoppel certificate certifies the amount of any total debt owed to the association for unpaid monetary obligations by a unit or parcel owner as of a specified date.

The bill:

- Revises the period in which an association must respond to a request for an estoppel certificate from 15 days to 10 business days.
- Requires an association to designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certrificate.
- Provides an estoppel certificate delivered by hand, mail, or e-mail has a 30-day effective period, and a certificate sent by regular mail has a 35-day effective period.
- Identifies the persons who may complete the estoppel certificate on behalf of the board or association.
- Specifies the information the association must provide in the estoppel certificate.
- Prohibits an association from charging a fee for an amended estoppel certificate, and provides a new effective period of 30 days or 35 days, depending on the method used to deliver the amended certificate.
- Provides an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person, and his or her successors and assigns, who in good faith relies upon the certificate.
- Prohibits an association from charging a fee for preparing and delivering an estoppel certificate that is requested, if it is not delivered within 10 business days.
- Authorizes the use of a summary proceeding pursuant to s. 51.011, F.S., to compel compliance with the estoppel certificate requirements for a cooperative association, as existing law provides for condominium and homeowners' associations.
- Permits an association to charge a maximum fee of $250 for the preparation and delivery of an estoppel certificate, if there are no delinquent amounts owed to the association.
- Permits an association to charge an additional $100 fee for an expedited estoppel certificate delivered within 3 business days after a request for an expedited certificate.
- Permits an association to charge an additional maximum fee of $150, if there is a delinquent amount owed to the association.

- Specifies the maximum fee an association may charge when it receives simultaneous requests for estoppel certificates for multiple units or parcels owned by the same person and there are no past due monetary obligations owed to the association.
- Provides a lender or purchaser who pays for the preparation of an estoppel certificate may not waive the right to reimbursement if the closing does not occur and the prevailing party in a suit to enforce a right of reimbursement shall be awarded damages, attorney fees, and costs.
- Authorizes a cooperative to charge a fee for preparing and delivering an estoppel certificate but the authorization must be established be a written resolution adopted by either the board or a written management, booking, or maintenance contract.
- Requires the Department of Business and Professional Regulation to adjust the estoppel certificate fees for inflation every five years, rounded to the nearest dollar, and to publish the adjusted amounts on its website.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 35-1; House 117-0

Committee on Regulated Industries

CS/CS/HB 615 — Professional Regulation

by Government Operations and Technology Appropriations Subcommittee; Careers and Competition Subcommittee; and Rep. Renner and others (CS/CS/SB 1272 by Appropriations Committee; Regulated Industries Committee; and Senators Brandes and Stargel)

The bill creates the "Occupational Opportunity Act," which grants new and expands existing exemptions from professional licensure application and renewal requirements by certain boards and programs in the Department of Business and Professional Regulation (DBPR) for current and former active duty members of the U.S. Armed Forces and certain spouses and surviving spouses of such members.

Eligible spouses and surviving spouses in good standing with a DBPR board or program who are absent from the state due to the active duty member's duties with the Armed Forces are exempted from licensure renewal provisions. The period of time active duty members remain in good standing after discharge from active duty is expanded from six months to two years.

The DBPR is required to issue a professional license to an applicant who holds a valid professional license issued by another state or jurisdiction and is or was an active duty member of the Armed Forces, is the spouse of an active duty member, or is the surviving spouse of a member who died while on active duty. An applicant who was an active duty member must have received an honorable discharge from the Armed Forces. The bill specifies additional application requirements for such licensure including fingerprints for state and federal criminal history checks and compliance with any insurance or bonding requirements. Renewal of such licenses requires the licensee to meet the same conditions required for all licensees under the applicable practice act, including continuing education requirements.

Additionally, the bill requires the DBPR, or the appropriate board, to waive the initial licensure fee for applicants who are active duty members of the Armed Forces, certain spouses and surviving spouses of active duty members, and low-income individuals.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 36-0; House 118-0

Committee on Regulated Industries

CS/CS/CS/HB 653 — Community Associations

by Commerce Committee; Civil Justice and Claims Subcommittee; Careers and Competition Subcommittee; and Rep. Moraitis (CS/CS/SB 744 by Judiciary Committee; Regulated Industries Committee; and Senator Passidomo)

The bill revises requirements for the governance and operation of condominium, cooperative, and homeowners' associations.

Regarding fire safety and lifesafety systems in condominium and cooperative buildings, the bill:

- Permits condominium or cooperative associations having a building 75 feet or less in height to vote to forego retrofitting the building with fire sprinklers.
- Permits two-thirds of the voting interests in a building higher than 75 feet to vote to forego retrofitting with fire sprinklers.
- Permits an association that votes to forego retrofitting a building with a fire sprinkler system to also forego retrofitting with an engineered lifesafety system.
- Permits professional engineers also to provide condominium or cooperative associations with a certificate of compliance with fire and lifesafety system requirements (current law allows licensed electrical contractors and electricians to provide the certificate).
- Requires condominium and cooperative associations that have not installed sprinklers in the common areas of buildings of three stories or more to mark these buildings with a sign or symbol approved by the State Fire Marshal to warn persons conducting fire control and other emergency operations about the lack of a sprinkler system in the common areas.

Under existing law, condominium, cooperative, and homeowners' associations must prepare annual financial statements. The complexity of these statements is based upon the annual revenues of the association. Associations having larger revenues must prepare more complex financial statements. The members of these associations, however, may vote to allow the association to prepare less complex financial statements than otherwise required by law but not for more than three consecutive years. The bill repeals the three-consecutive-year limit on allowing a condominium or cooperative association to prepare less complex financial statements. Current law does not limit the ability of homeowners' associations to prepare less complex financial statements.

The bill also repeals the provisions of law that require condominium, cooperative, and homeowners' associations having fewer than 50 units or parcels to prepare a report of cash receipts and expenditures. This change will require these associations to prepare annual financial reports based on annual revenues, unless the association votes to prepare a less complex financial statement.

Regarding homeowners' and cooperative associations, the bill specifies the board members of each type of association may communicate by e-mail, but not vote by e-mail. Condominium law already includes a similar provision.

Regarding the management and governance of condominium associations, the bill:

- Prohibits an officer, director, or manager of an association from accepting a "kickback" from a person providing or proposing to provide goods or services to the condominium.
- Provides forgery of a ballot envelope used in a condominium election or the forgery of a voting certificate constitutes the crime of forgery under existing law.
- Provides theft or embezzlement of the funds of a condominium association is theft under existing law.
- Provides refusal to allow inspection of an official record that is accessible to members is punishable as the crimes of tampering with physical evidence and obstruction of justice.
- Provides an officer or director charged with certain crimes relating to the condominiums may not access condominium records without a court order while the charges are pending.
- Prohibits an association from hiring an attorney who represents the association's management company.
- Prohibits members of the board or the management company for a condominium association that is not a timeshare condominium from purchasing a unit at a foreclosure sale resulting from foreclosure of the association's lien for unpaid assessments or from taking title to a unit by deed in lieu of foreclosure.
- Requires associations maintain as an official records bids for materials, equipment, or services.
- Permits a member's authorized representatives to inspect and copy association's official records.
- Permits renters to inspect and copy the bylaws and rules.
- Effective July 1, 2018, requires condominium associations with 150 or more units to post copies of certain official records on their websites.
- Prohibits condominium associations from using a debit card to pay association obligations.
- Repeals the July 1, 2018, deadline for the classification as a condominium bulk buyer or bulk assignee.

Additionally, regarding access to records, the bill requires condominium associations to mail or hand deliver, without charge, a copy of the most recent financial report within five days of a written request. The bill provides a process for a condominium unit owner to give notice to the Division of Condominiums, Timeshares, and Mobile Homes (division) that an association has failed to do so after a request. The division must give the association notice it must comply with the request. If the association fails to comply within five business days, the association may not prepare less complex financial statements than the statutory default requirements for three years.

The bill makes the following changes affecting the optional termination of a condominium to:

- Decrease the threshold to veto a termination from 10 percent to 5 percent of the voting interests;

- Increase the minimum time period before a successive vote on a termination plan to 24 months, instead of 18 months as under current law;
- Prohibit an optional termination of a condominium created by conversion (such as from an apartment complex) until 10 years after conversion; and
- Decrease the minimum percentage of ownership of units in a condominium that requires a sworn, written disclosure of that ownership interest in the plan of termination.

Regarding cooperative associations, the bill strips a director or officer of the board of a cooperative association of his or her post if he or she is more than 90 days delinquent in paying any money due the association. As to cooperative associations having more than 10 units, the bill prohibits co-owners of a unit from serving simultaneously on the association's board, unless the co-owners own more than one unit or there are not enough eligible candidates.

Regarding homeowners' associations, the bill:

- Authorizes associations to adopt rules, with certain conditions, for providing notice of board meetings in the association's website.
- Provides if an election is not required because there are either an equal number or fewer qualified candidates than vacancies exist, and if nominations from the floor are not required pursuant to this section or the bylaws, then write-in nominations are not permitted and such candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting.
- Clarifies existing law that the accrual of interest on unpaid assessments, and the application of payments to interest, late fees, collection costs and associated reasonable attorney fees, and the delinquent assessment, in that order of priority, controls over any restrictive endorsement, designation, or instruction placed on or accompanying a payment, including any purported accord and satisfaction (that the parcel owner paid a lesser amount in full satisfaction of the amount due) pursuant to s. 673.3111, F.S.

The provisions on financial reporting are also contained in CS/CS/CS/HB 653 (CS/CS/SB 744 by Judiciary Committee, Regulated Industries Committee, and Senator Passidomo), and in CS/CS/HB 1237 (CS/CS/SB 1682 by Rules Committee, Regulated Industries Committee, and Senators Garcia, Rodriguez, Artiles, and Campbell).

CS/CS/HB 1237 (CS/CS/SB 1682 by Rules Committee, Regulated Industries Committee, and Senators Garcia, Rodriguez, Artiles, and Campbell) also contains several of the provisions in this bill related to the conduct of board members and access to records in a condominium association.

CS/SB 1520 by Regulated Industries Committee and Senator Latvala also revises the requirements for the optional termination of a condominium.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 36-1; House 119-0

Committee on Regulated Industries

CS/CS/CS/HB 689 — Division of Alcoholic Beverages and Tobacco

by Commerce Committee; Ways and Means Committee; Careers and Competition Subcommittee; and Rep. Burton (CS/CS/SB 400 by Appropriations Committee; Regulated Industries Committee; and Senator Perry)

The bill:

- Provides Select Exempt Service status to the following employees of the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR): chiefs, assistant chiefs, regional managers (including majors), and district and office managers (including captains).
- Adds the Agency for Health Care Administration as one of the agencies from which an applicant for an alcoholic beverage license for consumption on premises must obtain a certificate that the applicant's place of business meets all sanitary requirements.

Existing law requires a caterer licensed to sell beer, wine, and distilled spirits must derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. The bill provides the percentage is based on a caterer's "gross food and nonalcoholic beverage revenue" instead of "gross revenue." A caterer must comply with the 51 percent requirement for each catered event.

Regarding a caterer's license to sell beer, wine and, distilled spirits, the bill expands the types of records that must be maintained to demonstrate compliance with its license. It requires a caterer maintain all records and receipts for each catered event, including all contracts, customers' names, locations, dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by rule of the DBPR.

The bill amends CS/CS/SB 106, to permit the employment of persons under the age of 18 (minors) in a retail drug stores, grocery stores, department stores, florist shops, specialty gift shops, or automobile service stations that are licensed as a package store. To employ a minor, those vendors must derive 30 percent or less of their monthly gross revenue from the sale of alcoholic beverages and may employ a minor to sell distilled spirits only if the minor is supervised by a person 18 years of age or older who verifies the purchaser's age to be 21 years of age or older and approves the sale of distilled spirits. The bill removes the supervision and verification requirement in CS/CS/SB 106 for sales of beer and wine by a minor.

The bill maintains current law permitting minors to be employed by vendors licensed to sell beer or beer and wine, when such sales are only for off premises consumption. Current law does not impose a supervision or verification requirement as to minors employed by licensees selling only beer or beer and wine.

Additionally, bill also:

- Repeals the fee for a temporary license issued in connection with an application to transfer an alcoholic beverage to the purchaser of a licensed business or to change the type or series of a license;
- Revises the definition of "wine" to include "sake" which is a Japanese alcoholic beverage made of fermented rice; and
- Reduces the annual license tax for a craft distillery from $4,000 to $1,000.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 34-0; House 115-0

Committee on Regulated Industries

CS/CS/CS/HB 727 — Accessibility of Places of Public Accommodation

by Commerce Committee; Government Operations and Technology Appropriations Subcommittee; Careers and Competition Subcommittee; and Reps. Leek, Edwards and others (CS/SB 1398 by Appropriations Committee; and Senators Stewart, Baxley, and Young)

The bill creates a voluntary process to certify places of public accommodation as conforming to the requirements of the federal Americans with Disabilities Act (ADA) after inspection by a qualified expert.

A qualified expert is defined in the bill to be a licensed engineer, general contractor, building contractor, building code administrator, building inspector, plans examiner, interior designer, architect, and landscape architect. Qualified experts also include any person who has had a remediation plan related to a claim under the ADA accepted by a federal court in a settlement agreement or court proceeding, or who has been qualified as an expert in the ADA by a federal court.

An owner of a place of public accommodation who has had the place of public accommodation inspected by a qualified expert may submit certification of conformity with the Department of Business and Professional Regulation (DBPR) which indicates that the place of public accommodation conforms to the ADA.

If the place of public accommodation does not conform to the ADA requirements, the owner of the place of public accommodation may submit with the DBPR a remediation plan that includes a reasonable amount of time, not to exceed 10 years, for completion of the remediation plan.

The bill requires the courts of this state to consider remediation plans filed with the DBPR to determine whether an ADA claim was filed in good faith and to evaluate the appropriateness of any award of attorney's fees.

The bill appropriates the sums of $5,000 in recurring funds and $155,000 in nonrecurring funds from the Professional Regulation Trust Fund for Fiscal Year 2017-2018 to the DBPR for new costs necessary to carry out the provisions of the bill.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 37-0; House 117-0

Committee on Regulated Industries

HB 741 — Department of Business and Professional Regulation Fees

by Rep. Trumbull (SB 514 by Senator Stargel)

The bill provides, notwithstanding the professional practice acts administered by the Department of Business and Professional Regulation (DBPR), for a $25 delinquency fee that must be imposed on a delinquent status licensee. Under current law, the delinquency fee for a profession regulated by the DBPR may not exceed the amount of the biennial renewal fee for an active status license.

The bill reduces from 1.5 percent to 1.0 percent, the surcharge assessed on building permit fees which is transferred to the DBPR to administer and carry out the purposes of the Florida Building Code. Under current law, the surcharge is allocated to fund the Florida Building Commission, the Florida Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations managed by the State Fire Marshal.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 35-0; House 116-0

Committee on Regulated Industries

CS/CS/HB 747 — Mortgage Regulation

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Stark (CS/CS/SB 830 by Banking and Insurance Committee; Regulated Industries Committee; and Senator Baxley)

The bill exempts a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation as a loan originator or mortgage broker under ch. 494, F.S., if the person in the normal course of conducting securities business with corporate or individual clients:

- Solicits or offers to solicit a mortgage loan from a securities client, or refers a securities client to an entity exempt from regulation under parts I or II of ch. 494, F.S., pursuant to s. 494.00115, F.S., a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and
- Does not accept or offer to accept a mortgage loan application, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

Any referral or solicitation made under this exemption must comply with the provisions of ch. 517, F.S., the federal Real Estate Settlement Procedures Act, and any applicable federal law or general law of this state.

Additionally, the bill revises the definition of "mortgage loan" to include residential mortgage loans made for business purposes by deleting the condition that a residential mortgage is a loan primarily for personal, family, or household use. As a result, the bill allows residential loans made for a business purpose to fall under the definition of a "mortgage loan" and to be subject to regulation by the OFR. The bill requires persons originating, brokering, or lending such loans to obtain licensure under ch. 494, F.S., unless they fall within an exemption in s. 494.00115, F.S. At present ch. 494, F.S., only requires licensure by the Office of Financial Regulation (OFR) if a person participates in making residential mortgage loans, which required such loans be made primarily for personal, family, or household use.

Chapter 494, F.S., provides two exemptions that permit an individual investor to make or acquire a mortgage loan with his or her own funds, or to sell a mortgage loan, without being licensed as a mortgage lender, if the individual does not "hold himself or herself out to the public as being in the mortgage lending business." However, this phrase was undefined in current law. The bill defines that phrase as any of the following:

- Representing to the public, through advertising or other means of communicating, information that such individual can or will perform the activities described in s. 494.001(23), F.S. (mortgage lender);
- Soliciting in a manner that would lead the intended audience to reasonably believe that such individual is in the business of performing the activities of a mortgage lender;

- Maintaining a commercial business establishment where such individual regularly performs the activities of a mortgage lender, or regularly meets with current or prospective borrowers;
- Advertising, soliciting, or conducting business through use of a name, trademark, service mark, trade name, Internet address, or logo which indicates or reasonably implies the business is that of a licensed mortgage lender; and
- Using any federally authorized forms while performing the activities of a mortgage lender.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 37-0; House 113-1

Committee on Regulated Industries

CS/SB 818 — Timeshares

by Regulated Industries Committee and Senator Hutson

The bill amends ch. 721, F.S., the Florida Vacation Plan and Timesharing Act (act), which establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers.

The changes made by the bill:

- Revise the term "interestholder" with respect to a multisite timeshare plan governed by part II of the act;
- Revise requirements for instruments that establish or govern a component site property regime, including the requirement to issue or provide certain documents to creditors;
- Revise requirements for terminations of timeshare plans;
- Revise requirements for extensions of timeshare plans, which apply to all timeshare properties in the state;
- Allow reasonable termination expenses to be paid pro rata by owners of former timeshare properties; and
- Amend requirements for voting upon an extension of a term of a timeshare plan, including meeting notices, voter eligibility, proxies, and quorum requirements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 115-0

Committee on Regulated Industries

CS/CS/HB 927 — Real Estate Appraisers

by Commerce Committee; Careers and Competition Subcommittee; and Rep. Rommel (CS/CS/SB 716 by Appropriations Committee; Regulated Industries Committee; and Senator Passidomo)

The bill revises Florida law to implement registration and supervision systems for appraisal management companies to meet minimum requirements for such companies established by federal rule. An appraisal management company is an entity that serves as an intermediary and provides certain prescribed services to creditors. Implementation of a registration system for appraisal management companies that satisfies federal requirements will allow eligible persons and appraisal management companies licensed in Florida to continue to perform appraisal services for federally related transactions.

The bill:

- Defines or revises definitions of the terms "appraisal management company" "appraisal panel," "covered transaction," "evaluation," "federally regulated appraisal management company," "order file," and "secondary mortgage market participant," to conform to the final federal rule that establishes standards for appraisal management companies;
- Requires, as part of the implementation of a federally-compliant registration system for appraisal management companies, the Department of Business and Professional Regulation (DBPR) to collect data and required fees, and to transmit a roster, no less than annually, listing the persons or companies that hold a valid state registration as an appraisal management company to a federal appraisal subcommittee, consisting of federal financial institution regulatory agencies.
- Removes the authority currently granted to the Florida Real Estate Appraisal Board (board) to qualify a person who is otherwise disqualified for licensure, if it appears to the board, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, that the interest of the public is not likely to be endangered by the granting of registration.
- Allows the board to deny the renewal of the registration of an appraisal management company based on disciplinary action against the licensee, rather than limiting denial to the initial application for licensure.
- Authorizes the board to deny an application for registration or renewal of a registration or to reprimand or fine an appraisal management company that has required or attempted to require clients to sign any indemnification agreement that would require a client to hold harmless the appraisal management company or its owners, agents, or employees, from any liability, damage, loss, or claim arising from the services performed by an appraiser.
- Permits an appraiser to perform an evaluation of real property in connection with a federally regulated real estate financial transaction, and requires the appraiser comply with the standards for evaluation imposed by the federal financial institutions regulatory agency and other standards as prescribed by the board.
- Grants authority to the board to adopt rules to establish standards of practice for nonfederal transactions; and

- Requires the board mandate compliance with the Ethics and Competency Rules of the standards adopted by the Appraisal Standards Board of the Appraisal Foundation for all appraisals other than those in a federal transaction.

Additionally, the bill allows distance learning courses for real estate practice coursework required for initial licensure as a real estate broker or sales associate, repeals duplicative post licensure education requirements for trainee appraisers, and removes obsolete language.

If approved by the Governor, these provisions take effect October 1, 2017.
Vote: Senate 35-0; House 115-0

Committee on Regulated Industries

CS/CS/HB 937 — Warnings for Lottery Games

by Commerce Committee; Tourism and Gaming Control Subcommittee; and Rep. Sullivan and others (CS/CS/SB 1370 by Rules Committee; Judiciary Committee; and Senator Perry)

The bill requires, beginning January 1, 2018, one of six specified warnings be placed in every advertisement or promotion of lottery games:

1. "WARNING: GAMBLING CAN BE ADDICTIVE."
2. "WARNING: LOTTERY GAMES MAY BE ADDICTIVE."
3. "WARNING: LOTTERY GAMES ARE A FORM OF GAMBLING."
4. "WARNING: YOUR ODDS OF WINNING THE TOP PRIZE ARE EXTREMELY LOW."
5. "WARNING: GAMBLING CAN CAUSE FINANCIAL PROBLEMS."
6. "WARNING: PLAYING THE LOTTERY CONSTITUTES GAMBLING."

Each of the six warnings must appear in an equal number of advertisements and promotions. A warning must occupy not less than 10 percent of the surface area of each advertisement or promotion of lottery games on television, the Internet, other electronic media, newspapers, magazines, and billboards. The warning must be announced at the end of radio advertisements.

The bill provides that beginning January 1, 2018, every contract between the Department of the Lottery and a lottery ticket vendor must include a provision requiring the vendor to place or print one of the six warnings on every lottery ticket. The warning must occupy not less than 10 percent of the total face of every lottery ticket, and be in black type on a white background. The bill also requires that one of the warnings be printed on every lottery ticket printed on or after January 1, 2018; each of the six warnings must appear on an equal number of lottery tickets.

If approved by the Governor, these provisions take effect January 1, 2018.
Vote: Senate 23-15; House 114-3

Committee on Regulated Industries

CS/HB 987 — Public Accountancy

by Careers and Competition Subcommittee; Rep. Gruters and others; (CS/SB 1348 by Regulated Industries Committee and Senators Young and Campbell)

The bill extends the privilege of "practice mobility" to a public accountancy firm or certified public accountancy firm (CPA firm) that does not have an office in Florida or a Florida license to allow the firm to practice public accountancy in the state without a license, notice, or payment of any fee. Current law provides the privilege of practice mobility to out-of-state certified public accountants (CPAs), but not to CPA firms. To qualify for practice mobility, a firm must comply with the practice mobility requirements in current law, be enrolled in a peer review program, perform services through a Florida-licensed CPA, and lawfully perform services in a state where a CPA with practice mobility privileges has his or her principal place of business.

The bill:

- Updates the professional standards for CPAs to reference the current edition of the Uniform Accountancy Act, which is a model act designed to advance the goal of uniformity in accountancy practice.
- Revises the definition of "client" to provide the term means a person who agrees with an accountant or accountant's employer to receive professional service; and
- Authorizes the Florida Board of Accounting (board) in the Department of Business and Professional Regulation (DBPR) to discipline a licensed CPA who has been disciplined by the Public Company Accounting Oversight Board, which is a private-sector nonprofit corporation established by Congress in the Sarbanes-Oxley Act of 2002 to oversee the audits of public companies.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 36-0; House 115-0

Committee on Regulated Industries

CS/SB 1520 — Termination of Condominium Association

by Regulated Industries Committee and Senator Latvala

The bill revises the requirements for the optional termination of a condominium. Regarding optional terminations, current law requires 80 percent of a condominium's voting interests must approve a plan of optional termination, regardless of what a condominium's governing documents may provide. The bill reduces from 10 percent to 5 percent the percentage of voting interests necessary to veto a termination plan.

The bill also increases the minimum time periods between successive votes on a termination plan. If 5 percent or more of the voting interests of a condominium reject a plan of termination, a subsequent plan may not be considered for 24 months, instead of 18 months as under current law.

The bill also expands the requirement that a termination plan disclose to the unit owners when a person owns a significant portion of the condominium. Specifically, the plan must include written, sworn disclosures of the identity of any person or entity that owns or controls at least 25 percent (instead of 50 percent, as in current law) of the condominium units. Moreover, the bill also requires the written, sworn disclosures of any natural person or persons who, directly or indirectly, own or control 10 percent (instead of 20 percent as under current law) or more of the artificial entity or entities that constitute the bulk owner.

Regarding optional terminations, the bill increases consumer protections by:

- Entitling all persons whose condominium unit is their homestead to be paid at least the original purchase price paid for their units; and
- Requiring approval of a termination plan by the Department of Business and Professional Regulation.

Additionally, the bill expressly states the amendments made by the bill to s. 718.117, F.S., are intended to clarify existing law, are remedial in nature, and are intended to address the rights and liabilities of the affected parties, and apply to all condominiums created under the Condominium Act.

For Fiscal Year 2017-2018, the bill appropriates $85,006 in recurring funds and $4,046 in nonrecurring funds from the Division of Condominiums, Timeshares, and Mobile Homes Trust Fund to the Department of Business and Professional Regulation. The bill also authorizes one full-time equivalent position with an associated salary rate of $56,791 per year to implement the bill.

CS/CS/CS/HB 653 (CS/CS/SB 744 by Judiciary Committee, Regulated Industries Committee, and Senator Passidomo) also revises the requirements for the optional termination of a condominium.

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 37-0; House 119-0

Committee on Regulated Industries

HB 6027 — Financial Reporting

by Rep. Williamson (CS/SB 294 by Judiciary Committee and Senator Bracy)

The bill provides substantively identical changes to the annual financial reporting requirements for condominium, cooperative, and homeowners' associations.

Under existing law, these associations must prepare annual financial statements. The complexity of these statements is based on the annual revenues of the association. Associations having larger revenues must prepare more complex financial statements. The members of these associations, however, may vote to allow the association to prepare less complex financial statements than otherwise required by law but not for more than three consecutive years. The bill repeals the three-consecutive-year limit on allowing a condominium or cooperative association to prepare less complex financial statements. Current law does not limit the ability of homeowners' associations to prepare less complex financial statements.

The bill also repeals the provisions of law that require condominium, cooperative, and homeowners' associations having fewer than 50 units or parcels to prepare a report of cash receipts and expenditures. This change will require these associations to prepare annual financial reports based on annual revenues, unless the association votes to prepare a less complex financial statement.

The provisions of this bill are also contained in CS/CS/CS/HB 653 (CS/CS/SB 744 by Judiciary Committee, Regulated Industries Committee, and Senator Passidomo).

In addition, the repeal of the provision of law that requires condominium associations having fewer than 50 units to prepare a report of cash receipts and expenditures is also contained in CS/CS/HB 1237 (CS/CS/SB 1682 by Rules Committee, Regulated Industries Committee, and Senators Garcia, Rodriguez, Artiles, and Campbell).

If approved by the Governor, these provisions take effect July 1, 2017.
Vote: Senate 36-0; House 117-0