ADMINISTRATIVE AND CIVIL PROCEEDINGS

CS/CS/CS/SB 1156 — Sport Shooting and Training Ranges

by Appropriations Committee; Criminal Justice Committee; Judiciary Committee; and Senators Peaden and Posey

Necessity for Protection of Sport Shooting and Training Ranges

This bill includes legislative findings that state environmental regulations and unnecessary litigation initiated against sport shooting and training ranges by governmental agencies for violation of environmental laws may bankrupt and destroy the sport shooting and training range industry. Further, findings in the bill state that the elimination of sport shooting and training ranges will impair the ability of state residents to exercise and practice their rights to keep and bear arms guaranteed by the state and federal constitutions.

Environmental Regulation

Under the bill, the Department of Environmental Protection (DEP) must attempt to distribute copies of the *Best Management Practices for Environmental Stewardship of Florida Shooting Ranges* to all shooting and training ranges in the state by January 1, 2005. The ranges must implement appropriate management practices by January 1, 2006. If contamination of a shooting range and training range is suspected or identified, DEP may assist with or perform a contamination assessment. If contamination is found, the range must comply with a site-specific rehabilitation program.

Protection from Environmental Lawsuits

In exchange for compliance with the *Best Management Practices for Environmental Stewardship of Florida Shooting Ranges* and site-specific rehabilitation programs, sport shooting and training ranges are immune from environmental suits by the state and its subdivisions for the use of the range property as a shooting range. The bill also requires that any existing environmental lawsuits brought by the state or its subdivisions against a range be withdrawn. Future actions filed in violation of the provisions of this bill entitle the sport shooting or training range defendant to recover all expenses resulting from the action from the governmental entity. Government employees who intentionally and maliciously bring a lawsuit against a shooting or training range in violation of the provisions of the bill commit a first degree misdemeanor. Lastly, the bill clarifies that except as expressly provided in general law, the Legislature preempts all regulation of firearms and ammunition use at sport shooting and training ranges including the environmental regulation of sport shooting and training ranges.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 80-35

HB 1787 — Name Change Petitions

by Judiciary Committee and others (SB 130 by Senator Dockery)

This bill requires the clerk of court to submit a report of every name change judgment to the Department of Law Enforcement along with the fingerprints of the person whose name has been changed. Additionally, every name change petition must show whether the petitioner has ever been arrested for or charged with, pled guilty or nolo contendere to, or been found to have committed a criminal offense, regardless of adjudication, and if so, when and where. The petitioner is responsible for the cost of fingerprinting.

The Department of Law Enforcement must send a copy of the report of the judgment to the Department of Highway Safety and Motor Vehicles and may also forward the report to any other law enforcement agency believed to retain information related to the petitioner.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 38-0; House 112-1

SB 2718 — Business Corp. Act/Shareholders

by Senator Klein

This bill provides various modifications to the Florida Business Corporation Act, as follows:

- Equal treatment is provided in terms of rights and preferences among the same class of shares, regardless of their date of issuance.
- Time periods are specified within which a shareholder must demand payment for shares from a corporation and the parties cannot agree on the fair value of the shares.
- All shareholders, both in and out of state, whose demands remain unsettled must be made parties to the proceeding, and are required to be served with the initial pleading by the corporation.
- The jurisdiction of the court is declared to be complete and exclusive.
- The court is authorized to appoint appraisers to recommend the fair value of the shares, and each shareholder party is entitled to a judgment to include fair value plus interest.
- A corporation is required to pay judgment within 10 days after the court's final determination, payment of which relinquishes each shareholder's interest.
- When a dissolved corporation opts to notify the public through publishing a notice of dissolution, time periods are specified regarding the date of publication. A proper notice is required, to include language providing that a proceeding on a claim must commence within four years after the date of the second consecutive weekly publication.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 117-0

EVIDENCE

CS/CS/SB 44 — DNA Evidence

by Criminal Justice Committee; Judiciary Committee; and Senators Villalobos, Lynn, and Crist

Under the bill, a person convicted at trial and thereafter sentenced may file a petition for post-conviction DNA testing within four (4) years, instead of two (2) years, of the following dates:

- The date the judgment and sentence becomes final if no appeal is taken;
- The date the conviction is affirmed on appeal; or
- The date collateral counsel is appointed after the conviction is affirmed in a capital case.

Motions for post-conviction DNA testing that are time barred under existing law must be filed by October 1, 2005. Under existing law, motions for post conviction DNA testing that were not filed within the appropriate two-year timeframe were time barred on October 1, 2003.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

CS/SB 1970 — Mediation Alternatives/Judicial

by Judiciary Committee and Senators Campbell and Smith

This bill creates the Mediation Confidentiality and Privilege Act ("Act") and amends existing law as follows:

- Mediation proceedings are standardized, so that both court-ordered and non court-ordered mediation are entitled to the same confidentiality status.
- Mediation participants are not authorized to disclose a mediation communication, and participants are granted a privilege to refuse to testify regarding such communications.
- No confidentiality or privilege attaches to signed written agreements, unless the parties otherwise agree.
- No confidentiality or privilege applies in certain other situations, including a mediation communication that is willfully used to plan a crime, that requires certain mandatory reports by law, that is offered to report or prove professional malpractice occurring in the mediation, offered only to void or reform a settlement agreement based on legality, or offered to report or prove professional misconduct occurring during the mediation, solely for the internal use of the body conducting the investigation of the conduct.

This bill addresses civil remedies as follows:

- Remedies are authorized for violations of mediation communications, to include equitable relief, compensatory damages, attorney's fees, mediator fees, costs and reasonable attorney's fees and costs incurred in the remedy process.
- A statute of limitations applies and ranges from two to four years.
- A mediation participant is not subject to a civil action where he or she acts lawfully in compliance with the public records law.

This bill provides for judicial immunity as follows:

- Judicial immunity applies to arbitrators (serving pursuant to court-ordered or non court-ordered arbitration), mediators (serving pursuant to court-ordered mediation), and trainees (fulfilling a mentorship for Supreme Court certification as a mediator), as well as mediators in non-court ordered mediations required by statute, agency rule or order, conducted under this Act by express agreement, or facilitated by a Supreme Court certified mediator, unless the parties expressly except themselves from the provisions of the Act.
- Mediators serving in non court-ordered mediation have liability immunity only where the liability arises from the performance of their duties, while acting within the scope of the mediation function.
- No immunity exists for acts of bad faith, with malicious purpose, or willful or wanton disregard.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 114-0

CS/SB 2762 — Driving Under Influence

by Criminal Justice Committee and Senator Smith

This bill authorizes records from the Department of Highway Safety and Motor Vehicles, relating to prior convictions for driving under the influence, to be sufficient by themselves to establish previous convictions. This presumption may be introduced with other evidence to establish prior DUI convictions. This evidence may be contradicted or rebutted by other evidence. The Department of Highway Safety and Motor Vehicles shall review the materials submitted by the law enforcement officer to determine whether the materials comply with applicable statutes, rules and policies, and the department shall inform the law enforcement officer when a deficiency exists to correct it prior to the hearing.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 116-0

FAMILY LAW

CS/CS/SB 192 — Magistrates and Masters

by Governmental Oversight and Productivity Committee; Judiciary Committee; and Senator Campbell

This bill (Chapter No. 2004-11, L.O.F.) renames magistrates as trial court judges to conform to the 1972 revision to Art. V, State Constitution. The bill also renames masters as magistrates. Lastly, the bill replaces references to the term "hearing officer" in s. 394.467, F.S., with the term "administrative law judge" to conform to prior legislation redesignating hearing officers as administrative law judges.

These provisions were approved by the Governor and take effect October 1, 2004.
Vote: Senate 40-0; House 119-1

CS/SB 2640 — Parenting Coordination Program

by Children and Families Committee and Senators Villalobos and Lynn

Nine judicial circuits currently use parenting coordinators. However, there is no statutory authority for their use. Rather, these circuits use parenting coordinators apparently through a judicial administrative order.

Parenting Plan and Parenting Coordination

The bill defines "parenting plan" as a temporary or final court order setting out the residence, parental responsibility, visitation or other parental responsibility issues in dissolution of marriage proceeding or any other civil action involving custody or parenting of a child or children. The bill also defines "parenting coordination" as a process in which a parenting coordinator helps the parties implement their parenting plan by facilitating the resolution of disputes between parents or legal guardians and with the prior approval of the court, by making decisions within the scope of the court order appointing the parenting coordinator.

Appointment

Under the bill, the court may appoint a parenting coordinator for the parties if the court finds all of the following:

- The parties failed to implement adequately their parenting plan;
- Mediation has not been successful or has been determined by the judge to be inappropriate; and
- The appointment of a parenting coordinator is in the best interest of the child or children involved in the proceedings.

The court also is directed to consider the effect any domestic violence injunction may have on the parties' ability to engage in parenting coordination.

Qualifications

Qualifications for a parenting coordinator are specified. Unless the parties agree to the appointment of a member of the clergy or a member of the Florida Bar in good standing offering to serve pro bono, qualifications include all of the following,:

- Licensure as a mental health professional or a physician;
- Three years of post-licensure experience;
- Completion of a Florida Supreme Court certified family mediation training program; and
- A minimum of 20 hours of parenting coordination training including: 1. Parenting coordination concepts and ethics; 2. Family dynamics in separation and divorce; 3. The parenting coordination process; 4. Parenting coordination techniques; 5. Family court proceedings; and 6. Domestic violence.

Experience as a parenting coordinator in four or more cases before October 1, 2004 can be substituted for licensure and post-licensure experience.

Duties

The parenting coordinator is to:

- Assist the parties in implementing the parenting plan and in developing structured guidelines for implementing the plan;
- Developing guidelines for communication between the parents;
- Assisting the parents in developing parenting strategies to minimize conflict;
- Teaching communication skills and principles of child development; and
- Educating both parents about the source of their conflict and its effect on the children.

If the parties agree, the court may grant the parenting coordinator the authority to determine specific matters relating to implementing the parenting plan. The coordinator must make the determination in writing, and the coordinator's determination is binding on the parties until the court finds otherwise.

Compensation

If a parenting coordinator or a parenting coordination program charges a fee, the court may refer the parties to such a person or program only if the court first determines that the parties have the ability to pay the fee. The coordinator or program may be compensated by public funds to the extent such funds are available.

Confidentiality and Immunity

Communications with the parenting coordinator are not confidential, unless the court finds confidentiality is in the best interests of the child or children. The parties and the coordinator all

must agree to the determination of confidentiality. A parenting coordinator is immune from liability for civil damages for any act or omission within the scope of the coordinator's duties, unless the person acted in bad faith or with malicious purpose or in manner exhibiting wanton and willful disregard for the rights, safety, or property of the parties.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 39-0; House 69-43

JUDICIARY

HB 529 — Deeds or Conveyances of Real Estate

by Rep. Negron and others (SB 1986 by Senator Aronberg)

This bill (Chapter No. 2004-19, L.O.F.) is designed to supercede the court rulings in *In re Raborn*, 16 Fla. L. Weekly Fed. D 257 (S.D. Fla. 2003) and *In re Schiavone*, 209 B.R. 751 (S.D. Fla. 1997). These courts held that real property belonged to trustees in the trustees' individual capacities and as a result, part of their bankruptcy estates. The deeds conveying the property to the trustees stated the titles of the trusts to which the trustees argued the property belonged, but the deeds did not name a trust beneficiary or state the nature and purpose of the trusts.

This bill retroactively clarifies whether real property or a mortgage belongs to a trust or trustee in the trustee's individual capacity when a person is listed on an instrument as a trustee of an interest in real property or of a mortgage. Under the bill, real property or a mortgage belongs to a trust if the instrument assigning an interest in real property or the mortgage includes any of the following information:

- The name of a beneficiary of the trust;
- The nature and purpose of the trust; or
- The title or date of the trust.

If none of the information above is included on the instrument or mortgage, the real property or mortgage belongs to the trustee in the trustee's individual capacity.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-0

SB 1776 — Practice of Law

by Senator Villalobos

This bill increases the penalty for unlicensed practice of law from a first degree misdemeanor to a third degree felony. The penalty for violating related types of unlicensed practice of law,

including practicing law while disbarred or suspended, and aiding or assisting a disbarred or suspended attorney, is also increased from a first degree misdemeanor to a third degree felony.

If approved by the Governor, these provisions take effect October 1, 2004
Vote: Senate 38-0; House 118-0

CS/CS/SB 2962 — State Judicial System

by Appropriations Committee; Judiciary Committee; and Senators Smith and Villalobos

This bill, along with Chapter 2003-402, L.O.F., implements the 1998 amendment to Art. V of the State Constitution. Effective July 1, 2004, the amendment imposes three requirements on court funding. First, the state must assume responsibility for funding the state court system, state attorneys, public defenders, and court appointed counsel. Second, all funding for the clerks of the circuit and county courts performing court-related functions must be provided from filing fees, service charges, and costs. Finally, counties and municipalities are no longer required to fund any of the aforementioned entities, but they are required to fund facilities for those entities and certain other items. The bill provides for the following:

Optional court cost [s. 939.185, F.S.]
Authorizes counties to impose $65 optional court cost to be divided equally to fund: state court innovations; legal aide; law libraries; and teen court, juvenile assessment centers and juvenile alternative programs.

County funding of court-related functions [ss. 29.008 and 218.245, F.S.]

- Department of Revenue to withhold certain revenue sharing receipts from counties which do not fund court facilities, maintenance, utilities, communication services, existing radio systems, existing multi-agency criminal justice information systems, legal aide programs, and alternative sanctions coordinators. Additional amounts will be withheld in later years if noncompliance continues. State will pay for the items from the funds withheld.
- Revises revenue sharing calculation to municipalities and consolidated local governments to be revenue neutral.

Funding state court facilities [s. 318.18, F.S.]

- Counties and consolidated local governments can impose up to a $15 surcharge on criminal and noncriminal traffic violations to fund state court facilities.
- Counties and consolidated local governments that used court fees and service charges to secure the payment of bonds for court facilities before July 1, 2003 are authorized to impose a surcharge on criminal and noncriminal traffic violations sufficient to secure the bonds until they are paid.
- Counties and consolidated local governments may not impose both of the above service charges.

County responsibility for court-related technology needs [s. 28.24, F.S.]

- A $4 service charge is imposed on instruments recorded in the official records.
- If counties maintain responsibility for court-related technology needs:
    - $2 of the $4 is distributed to the counties to fund court-related technology and court technology needs of the courts, state attorney, and the public defender in the county.
    - $2 goes to the Clerk's Association: $1.90 is retained by the clerk for deposit into the clerks' Public Records Modernization Trust Fund to fund court-related technology needs of the clerk. Ten cents is distributed to fund the clerks' Comprehensive Case Management System.
    - If the counties maintain legal responsibility for court-related technology needs, a county would not be required to provide any additional funding for the clerk's court-related technology needs.
- However, if the state becomes legally responsible for court-related technology needs then the entire $4 service charge would go the state general revenue fund.
- All court records and official records are declared the property of the state, including records of the Comprehensive Case Information System, and neither a clerk nor an association would be permitted to charge a fee to an agency, the Legislature, or the courts for copies of records generated by the Case Information System or held by the clerk or an association.

Florida Clerks of Court Operations Corporation [s. 28.35, F.S.]

The corporation replaces the Clerks of Court Operations Conference enacted into law in 2003. The corporation is charged with:

- Developing performance standards and corrective action to be taken by a clerk not meeting the standards.
- Reviewing and certifying proposed clerk budgets to the Legislature, the Chief Financial Officer (CFO), and the Department of Revenue (DOR). The Chief Financial Officer reviews the certifications and reports its findings to the Legislature.

The bill also provides:

- A list of court-related functions and functions which are not court related.
- Certified public accountants auditing counties are to report whether a clerk of court is complying with the certified budget and the Auditor General is to develop a compliance supplement.
- The corporation is considered a political subdivision of the state and its functions are considered to be for a valid public purpose. The corporation is not subject to state procurement provisions or the Administrative Procedures Act.

Local Ordinance Violations [ss. 27.02, 27.34, 27.51, 28.2402, and 34.045, F.S.]

- State attorneys and public defenders are authorized to contract with counties and cities for prosecution and defense of local ordinance violations.

- Hourly and FTE based contracts are limited to $50/hr. State attorneys and public defenders can contract with counties with a population of less than 75,000 on other terms as the parties agree.
- A county or municipality wishing to enforce a local ordinance violation in state court must pay a $10 filing fee. The court must assess a $40 court cost against the nonprevailing party. A county or municipality is the prevailing party if the defendant is found in violation on any count or lesser included offense.
- 10 percent of fines collected on municipal ordinances are remitted to clerk to offset clerk's cost.

Partial Payment Plans [ss. 28.24, 28.246, and 322.245, F.S.]

- Clerk may impose $5 per-month service charge or $25 one-time charge for establishing a payment plan for payments other than restitution.
- Person seeking to defer payment of fees, service charges, costs, or fines imposed by operation of law or court order must be enrolled by the clerk in a payment program, if the court determines the person cannot make payment in full. Payments to correspond to the person's ability to pay.
- When a person convicted of certain criminal traffic offenses fails to pay in full, or in part under a payment plan, the person's driver's license will be suspended. The license will be reinstated when the person pays in full or pays all delinquent partial payments, agrees in writing to a payment plan, or the court orders reinstatement of the license.

Domestic Violence Centers [ss. 28.101 and 741.01, F.S.]

- Reduces from $30 to $25 the add-on marriage license fee which funds domestic violence centers.
- Increases from $18 to $55 the add-on fee for a petition for dissolution of marriage which also funds domestic violence centers.
- Net effect of the two changes results in a $2.5 million increase in funding for domestic violence centers.

Article V Technology Board [s. 29.0086, F.S.]

- Housed within Office of Legislative Services.
- 10 members
    - Chief Justice.
    - Speaker appointee to represent state agencies that participate in CJIS council.
    - Speaker private sector appointee and President private sector appointee with experience in managing enterprise integration projects.
    - President appointee representing law enforcement agencies.
    - A state attorney, public defender, clerk, county budget director, and county management information system director.
- Board is to report by January 15, 2005 and:

    - Identify data elements and functional requirements needed for each state court system entity to conduct business transactions.
    - Identify security and access requirements.
    - Identify information standards and protocols.
    - Recommend policy, functional and operational changes to achieve access to data.
- By January 15, 2006, the Board is to report:
    - Alternative integration models and the advantages and disadvantages of each model and certain specifics of each model.
    - A proposed operational governance structure.
- The Board is dissolved effective July 1, 2006.

Collection of delinquent fees, service charges, fines, court costs and liens [ss. 28.246 and 938.35, F.S.]

- Clerk can refer collection to private attorney or collection agent, but clerk must have first attempted to collect through collection court, collection docket, or other collection process established by the court, if any.
- Collection fee of agent or attorney is added to balance owed, not to exceed 40 percent of amount owed at time account is referred.

Appellate court filing fees [ss. 25.241 and 35.22, F.S.]

Filing fees for Supreme Court and district court of appeal are increased to $300. Of each fee paid, $50 is distributed to fund court improvement projects in General Appropriations Act.

Children's Advocacy Centers [CS/SB 602] [ss. 39.3035 and 938.10, F.S.]

A $101 court cost is imposed on those guilty of certain offenses against a minor to fund Florida Network of Children's Advocacy Centers. Centers must meet Department of Children and Families (DCF) standards. An annual report to Legislature is required.

Court reporters [s. 25.383, F.S.]

Supreme Court is to determine fees to certify court reporters.

Determination of Indigent Status [s. 27.52, F.S.]

Process for determination of indigent status is reorganized and revised.

Private court-appointed counsel [ss. 27.40 and 27.5303, F.S.]

- Date for selection of private court appointed counsel from the registry is moved back from July 1, 2004 to October 1, 2004.
- Limits to 80 percent the partial payment of fees private court-appointed counsel may receive when a case is on-going for more than 1 year or to an amount proportionate to the maximum fees permitted.
- Court to fix reasonable compensation for representation under sexually transmittable diseases, ch. 384, F.S., and tuberculosis control, ch. 392, F.S.

Guardian ad litem [s. 29.008, F.S.]
Provides that for purposes of county funding of court-related functions, the term "circuit and county courts" includes the office and staffing of the guardian ad litem programs.

Transition cash-flow problems
Effective June 1, 2004, there is an additional service charge of $4 per page for instruments filed to cover cash-flow problems that may affect clerks' offices in July and August 2004. The additional service charge expires July 1, 2004.

Appropriations
- $500,000 for expenses of Article V Technology Board.
- $75,000 for Department of Management Services (DMS) review of procurement policies and practices of state courts system, state attorneys, and public defenders. Department of Management Services to propose strategies for cost savings and report to Governor, President, Speaker, and Chief Justice by January 1, 2005. Department of Management Services may assist State Courts Administrator and Judicial Administration Commission with competitive solicitations for procurement.
- $2.5 million from DFS Administrative Trust Fund in special category created by Executive Office of the Governor and 5 FTEs for FY 2004-2005 to fund contract with Florida Clerks of Court Operation Corp.
- $20 million from Clerks of Court Trust Fund for FY 2004-2005 to fund revenue deficits of clerks of circuit court.
- $13.6 million from Clerks of Court Trust Fund from the $50 filing fee on re-opened cases imposed pursuant to 2003 legislation from July 1, 2003 to June 30, 2004 and the addition $4 recording fee in the bill from June 1, 2004 to July 1, 2004 to address cash-flow problems that may arise in clerks' offices during July and August 2004.
- $2.5 million to DCF to fund the operational costs of certified domestic violence shelters for FY 2004-2005.
- $900,000 to DCF to fund children's advocacy centers for FY 2004-2005.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided in the bill.
Vote: Senate 39-1; House 116-1

PROPERTY

HB 1009 — Residential Tenancies/U.S. Flag

by Rep. Hasner and others (CS/SB 1682 by Comprehensive Planning Committee and Senator Geller)

This bill provides that a landlord cannot prohibit a tenant from displaying a flag with the following conditions:

- The flag must be one portable, removable, cloth or plastic United States flag, not to exceed four and one half feet by six feet in size.
- The flag must be displayed in a respectful manner in or on the dwelling unit.
- In displaying the flag, a tenant is required to comply with other statutory tenant obligations to maintain the dwelling unit.
- In displaying the flag, a tenant may not infringe upon another tenant's space.

A landlord who violates these provisions is liable to the tenant for the greater of actual and consequential damages or three months' rent, and costs to include attorney's fees. For purposes of injunctive relief, a violation of these provisions constitutes irreparable harm.

This bill provides that a landlord is not liable for damages caused by a United States flag displayed by a tenant.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-2

HB 461 — Commercial Real Estate Lien Act

by Rep. Brown and others (CS/SB 1788 by Judiciary Committee and Senator Posey)

This bill creates the Commercial Real Estate Lien Act ("Act") and provides the following:

Application

- The Act applies to commercial real estate, defined as excluding real estate that contains up to four residential units; real estate on which no building or structure is located and which is zoned for single-family residential use; and single-family residential units such as condominiums, townhouses, or subdivision homes sold, leased or conveyed unit-by-unit, even where these units are part of a larger building, parcel, or real estate containing more than four residential units.
- The Act does not apply to subleases or assignments of leases.

Attachment of Lien

- Brokers are authorized to secure liens on commercial property that is to be purchased, leased, or conveyed to a buyer, in the amount due for brokerage, consulting and management fees, where a valid and enforceable written instrument exists.
- The lien attaches as of the date of the recording of the notice of lien, rather than the date of the written instrument.
- If a transferee has executed a written instrument, a lien attaches upon the transferee purchasing or otherwise accepting conveyance or transfer and the recording of a notice of lien by the broker in the office of the clerk of the circuit court of the county in which the property is located, within 90 days after the purchase or conveyance or transfer.

Notice of Lien

- A proper notice of recording is required by the broker, along with a service of notice to the real estate owner.
- Where a lease exists, a lien notice must be recorded up to 90 days after the transferee takes possession of the leased premises, unless the transferor personally serves written notice at least ten days before the intended execution of the lease, in which case the notice must be recorded before the date indicated in the notice for the execution of the lease.
- A proper filing of notice of lien protects the broker's commission even after the sale or conveyance of real estate, so that the broker's lien follows the property.
- If a broker is due future commissions, the broker may record a notice of lien at any time after execution of the lease or other written instrument which contains this option, up to no later than 90 days after the event or occurrence on which the claimed future commission occurs.
- Where the real estate is sold or conveyed before the date on which a future commission or unpaid installment of a commission is due, the purchaser or transferee is considered to have notice of the lien if the broker has recorded a valid notice of lien prior to the sale or conveyance. If a broker claiming a future commission fails to record a notice of lien for a future commission prior to the recording of a deed conveying legal title to the transferee, the broker cannot claim a lien on the real estate.
- Service of notice of lien is required to be provided by the broker within 10 days after recording the notice of lien, through personal delivery or mail, by registered or certified mail, to the owner of record, or his or her agent. Improper service makes the lien unenforceable.

Procedural Issues

- Payment due to a broker in installments is authorized.
- The broker has two years to file a complaint after the recording of notice, or the lien is extinguished.

- Other than a satisfaction or release of lien, a waiver of lien rights is considered void.
- An escrow account must be established when a notice of lien has been filed that would prevent the closing of a transaction or conveyance.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 38-0; House 118-0

CS/SB 2666 — Landlords and Tenants

by Regulated Industries Committee and Senators Aronberg and Crist

The bill clarifies that rental agreements with a specific duration may require liquidated damages to be paid by a tenant for failure to timely notify the landlord that the dwelling unit will be vacated at the end of the lease.

The bill requires a landlord to satisfy certain procedural requirements before the landlord may impose liquidated damages on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement. Under the bill, a landlord must notify a tenant in writing of the tenant's obligation in the rental agreement to provide notice that the dwelling unit will be vacated at the end of the rental agreement. This notice must be provided to the tenant within 15 days before the date by which a notice of vacating the dwelling unit is due from the tenant to the landlord. The notice must list all fees, penalties, and other charges that may be imposed for failing to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 116-1

CRIMINAL LAW

HB 1831 — Limitation of Action/Sexual Offenses

by Public Safety and Crime Prevention Committee and Rep. Barreiro (CS/SB 1074 by Judiciary Committee and Senator Fasano)

This bill extends the statute of limitations by one year in sexual battery and lewd or lascivious cases for the purpose of identifying the accused through the analysis of DNA evidence. This bill authorizes the one year extension when a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 115-0

HB 221 — Assisting Self-murder

by Rep. Peterman and others (SB 398 by Senators Miller and Crist)

This bill creates a new law that prohibits the act of assisting an actual self-murder for commercial or entertainment purposes. A self-murder is defined as the voluntary and intentional taking of one's own life, to include an attempted self-murder. This bill specifically prohibits a person from the following:

- Conducting any event that the person knows or reasonably should know includes an actual self-murder as part of the event or deliberately assisting in an actual self-murder.
- Providing a theater, auditorium, club or other venue or location for any event that the person knows or reasonably should know includes an actual self murder as part of the event.

An event during which a simulated self-murder occurs, defined as an artistic depiction of a self-murder, is permitted.

Sanctions for violating these provisions include a third degree felony charge, and civil charges brought by the Attorney General or any state attorney for declaratory, injunctive, or other relief.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

PUBLIC RECORDS

CS/CS/SB 348 — Personal ID Information/Pub. Rec.

by Governmental Oversight and Productivity Committee; Judiciary Committee; and Senator Peaden

This bill provides a public record exemption for the following information:

- The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant U.S. attorneys;
- The home addresses, telephone numbers, social security numbers, photographs and places of employment of spouses and children of current or former U.S. attorneys and assistant U.S. attorneys;
- The names and locations of schools and day care facilities attended by the children of current or former U.S. attorneys and assistant U.S. attorneys;
- The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of the U.S. Courts of Appeal, U.S. District and U.S. Magistrate judges; and,

- The names and locations of school and day care facilities attended by the children of current or former judges of the U.S. Courts of Appeal, U.S. District and U.S. Magistrate judges.

This bill also provides that a state agency that has a social security number in its possession, that is not the employing agency, is required to keep the social security number confidential if the employee or the employing agency submits a written request for confidentiality to that agency. However, the agency is required to release the last four digits of a social security number to certain commercial entities upon a proper request. A social security number provided in a lien filed with the Department of State shall be released in its entirety.

These provisions will be reviewed in accordance with the Open Government Sunset Review Act of 1995, and will stand repealed on October 2, 2009, unless reenacted by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 117-0