



2020 LEGISLATIVE REPORT



Representative Clay Yarborough

FBA Legislators
of the Year



Senator Dennis Baxley



FLORIDA BANKERS ASSOCIATION

2020 Legislative Report

“Patience, persistence and perspiration make an unbeatable combination for success.” –Napoleon Hill

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Anthony F. DiMarco
Executive Vice President/ Director of Government Affairs

Kenneth D. Pratt
Senior Vice President of Government Affairs

Courtney J. Larkin
Assistant Vice President of Government Affairs



Alex Sanchez



Anthony DiMarco



Kenneth Pratt



Courtney Larkin

Pictured on the cover: Senator Dennis Baxley and Representative Clay Yarborough

Dear Florida Bankers:

During the final weeks of 2020 Legislative Session, legislative leaders learned that several members had recently come in contact with someone who had tested positive for the coronavirus, also known as COVID-19. Both the House and Senate chambers were evacuated immediately and the entire Capitol was cleaned by the Department of Management Services. Simultaneously, the world was only beginning to learn more about the virus, how it is contracted, and how we as a society could best slow the spread.

The timing of when this pandemic hit our society could not have been worse from a state budget revenue standpoint. Many of the fiscal allocations had already been determined and economic revenues were projected as somewhere between a flat line to a slight increase. Nevertheless, the session ended after 66 days, with a House and Senate unanimous vote on a record high \$92.3 billion-dollar budget.

Roughly 1,699 general bills were filed this session; of those bills, only 191 passed both chambers. Two of the 1,508 bills that did not pass and which continue to be a legislative focus for our industry, dealt with Public Deposits for Credit Unions (HB 721/SB 990). The FBA will continue to oppose credit union efforts to take in and lend public dollars for profit, without fully paying into the tax base, as banks do.

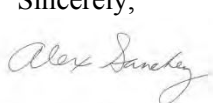
Two of the 191 bills passed by both houses were major FBA priorities:

- House Bill 1439—Bank Property of Deceased Account Holders
- House Bill 813—Protection of Vulnerable Investors

This was another successful year of moving forward our key legislative priorities and stopping several bills/amendments which would negatively impact the banking industry. Whether you served on FBA's Board of Directors, Government Relations Council, Trust Executive or Legislative Committees, participated on our weekly calls, attended Capitol Night, or emailed your local representative, the collective efforts of our industry made a difference.

Special thanks goes to: Lauren Abraham, Capital One; Kelly Beazley, Bank of America; April S. Blanco, Wells Fargo; Mike Carlson, BBVA; Jim Daughton, Metz Husband & Daughton, PA (representing Regions Bank); Dan Donohoe, Comerica Bank; Russ Hale, Carrie Ann Wozniak, Akerman LLP; Jon Johnson, Travis Blanton, Diane Carr, Johnson & Blanton (representing Bank of America); Robert Kottler, IBERIABANK; Tom Lamb, PNC; Rick Mahler, JPMorgan Chase; Tom Pennekamp, Truist Bank; Jeff Rabren, Regions Financial Corporation; Erin Smith, TD Bank; Sean Stafford, McGuireWoods Consulting, LLC (representing Capital One); Monte Stevens and Clark Smith (representing Wells Fargo); and Alan West, CitiBank, N.A.

Sincerely,



Alex Sanchez
President & CEO



Anthony DiMarco
EVP Government Affairs



Kenneth Pratt
Senior VP GR/ Director
of Trust Leg Affairs



Courtney Larkin
AVP Government Affairs

My Fellow FBA Colleagues,

Relationships are the cornerstone of our advocacy success at the Florida Bankers Association. This type of advocacy is hard work. It means that wherever there is a debate on credit union taxes, you tell business leaders the real story of unfair taxation and an unlevel playing field. Whenever there is an unintended consequence of an amendment, it means you make the effort to send an email or text or make a phone call to explain to a lawmaker why it will affect your bank's ability to lend in your community. It requires that you leave the confines of your bank and walk the halls of Congress to meet, face to face, with elected and appointed officials, regulators and other industry allies to discuss a strategy that will reform BSA/AML. It is this kind of continuous and persistent effort to develop relationships that causes FBA to be recognized as one of the strongest advocacy groups in our state, our country and even across the world.

This year got off to a quick start in September as the FBA board voted to move Alex to Washington for several months to initiate an urgent full court press of Congress on the credit union issue. For the first time in our industry's history, we developed and proposed a bill to Congress that would end the credit union tax loophole. Every long journey begins with a first step and this year FBA began what will likely be a long journey to pass legislation to end the credit union's tax advantage. In October, we had over 500 bankers in Miami to thank Governor Ron DeSantis and First Lady Casey DeSantis for their focus on improving the financial sector in our state. In January, we began the 2020 Legislative Session, took to the State Capitol on Capitol Day and passed two initiatives that were important to our industry. January also featured 100 bankers in Miami with EXIM Bank Chairman and CEO Kimberly Reed to get an update on their status. In February, we hosted over 200 bankers in Tampa with keynote speaker, U.S. Senator Tom Cotton, an important member of the Senate's Banking Committee. In March, we held numerous conference calls with regulators, elected officials, legal experts and other policy makers to address the impact of the COVID-19 pandemic on our customers, our industry and our country. Every television interview, every position paper, every signed agreement this past year was strategically done with the intent to deepen and further strengthen our network of relationships--at home and abroad.

It has been a great professional and personal honor to have spent the last year serving as the chairman of this prestigious association and helping our industry to push our agenda forward. I want to offer my sincere thanks and appreciation to each of you for participating in the collective effort that has resulted in this impressive document. And while there continue to be great challenges for our industry and our country on the horizon, I am confident that the Florida Bankers Association will continue to meet those challenges because we are dedicated to doing the hard work of advocacy.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph DeSantis". The signature is written in a cursive, flowing style.

Chairman, Florida Bankers Association

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MAJOR LEGISLATION

Bank Property of Deceased Account Holders (HB 1439/SB 380)

Description: Currently, heirs of deceased persons must wait 5 years to receive funds where the deceased left no pay on death instructions. This legislation creates a more efficient process for surviving successors to claim the funds of deceased account holders with no pay on death beneficiary. This new process provides the following two options for the heirs to access the accounts:

- For accounts of \$1,000 or less, designated surviving successors would be able to present a sworn affidavit to the financial institution 6 months or more after the decedent has passed. In order to receive the funds from the financial institution, the affiant would also be required to provide identifying documentation, a death certificate, and affirm that there are no creditors and no known will to probate. Persons must also affirm that they understand that fraudulently submitted

affidavits are subject to a criminal penalty and that the affiant is personally liable to rightful heirs if found to have submitted a fraudulent affidavit. The new law also contains indemnification for financial institutions after distribution of the funds.

- After one year from the passing of the decedent, an heir at law of the decedent would be able to petition a court to receive up to \$10,000 of nonexempt assets, which would include accounts at a financial institution, without a formal administration if the decedent passed without a will. The recipient would also be personally liable to rightful heirs who may make claims to the funds.

Impact: This also allows financial institutions the ability to move many small, inactive accounts off of their books while helping to give the money to the rightful heirs in a timelier fashion.

Reference: House Bill 1439 by Representative Clay Yarborough (R-Jacksonville) and Senate Bill 380 by Senator Dennis Baxley (R-Lady Lake)

House Bill 1439 was substituted for Senate Bill 380, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020.

Protection of Vulnerable Investors (HB 813/SB 1672)

Description: House Bill 813 and Senate Bill 1672 allow a dealer or investment adviser to delay a transaction or disbursement of funds from the account of a specified adult, or an account where the specified adult is the beneficiary, if the dealer or adviser believes that financial exploitation is occurring, similarly to current FINRA rule.

The bill requires that suspected exploitation must be immediately reported to the Florida Abuse Hotline, as well as any designated trusted contacts. The bill specifies dealers, investment advisers, and associated persons as mandatory reporters.

A delayed transaction or disbursement expires in 15 business days, but may be extended an additional 10 business days or terminated sooner if good cause exists. Additionally, the bill

requires training to educate employees on exploitation of specified adults.

Under this legislation, a dealer, investment adviser, or an associated person who is acting in good faith while complying with this legislation is immune from any administrative or civil liability that might otherwise arise from a delay in disbursement or transaction.

Impact: This bill allows a way for dealers and investment advisers to protect their clients when they suspect they are being exploited.

Reference: House Bill 813 by Representative Lawrence McClure (R-Plant City) and Senate Bill 1672 by Senator Doug Broxson (R-Pensacola)

House Bill 813 was substituted for Senate Bill 1672, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

**Public Deposits
(HB 721/ SB 990)**

Description: House Bill 721 and Senate Bill 990 are the credit union’s annual public deposits bills. This legislation would make credit unions “qualified public deposits,” meaning credit unions would be allowed to hold public funds. Currently banks are the only financial institutions that can hold public funds. Because credit unions do not pay state income taxes, state sales taxes, or state intangible taxes, allowing credit unions to hold public deposits would uneven the playing field among financial institutions. Additionally, the bill creates a separate pool that would pay for a credit union if it was to fail.

Reference: House Bill 721 by Representative Rick Roth (R-Palm Beach Gardens) and Senate Bill 990 by Senator Travis Hutson (R-Palm Coast)

The FBA Government Relations Team diligently worked to educate members of the legislature about industry concerns relating to credit unions receiving public deposits. The credit union industry pushed to have the bill heard, but due to FBA’s efforts to lobby against it, the bill was not heard in any of the committees of reference.

**Trusts
(HB 1089/SB 1366)**

Description: House Bill 1089 and Senate Bill 1366 modernize Florida’s trust code by allowing an independent trustee of a grantor trust to reimburse the grantor for all or part of the income tax paid by the grantor and attributable to trust income or to pay such taxes directly on the grantor’s behalf, provided the trust instrument does not explicitly prohibit such tax reimbursements or payments.

Additionally, the bill provides that if a trust’s terms require the trustee to act at the direction of a trust adviser, or that tax reimbursements may be made directly by a trust adviser or any other person, the trustee’s powers granted by the bill must instead be granted to that person.

Impact: This legislation updates Florida’s Trust Code and provides additional incentives for testators to utilize Florida trusts.

Reference: House Bill 1089 by Representative Mike Caruso (R-Boca Raton) and Senate Bill 1366 by Senator Joe Gruters (R-Sarasota)

House Bill 1089 was substituted for Senate Bill 1366, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

Clean Energy Programs (HB 225/SB 824)

Description: Florida law permits Property Assessed Clean Energy (PACE) lending for green technology and wind hardening of homes. Under current law, a PACE loan on a property has superior lien priority over any previous lien, including the mortgage. House Bill 225 and Senate Bill 824 amend the program by providing that the original mortgage maintains lien priority and adds additional consumer protections. The bill also requires that the lender, and others, must agree to allow any residential or commercial PACE loan.

Impact: This legislation would provide for any previously recorded lien to be superior to a subsequently recorded PACE loan, ultimately making the PACE loan subordinate to the first mortgage.

Reference: House Bill 225 by Representative Ardian Zika (R-Land O'Lakes) and Senate Bill 824 by Senator Ed Hooper (R-Palm Harbor)

House Bill 225 died in House Energy and Utilities Subcommittee. Senate Bill 824 died in Senate Community Affairs.

Property Assessed Clean Energy Program (HB 365/SB 770)

Description: This legislation expands the current PACE lending program in Florida to include loans for septic tank remediation, septic to sewer projects, and seawall projects.

Impact: This legislation would further expand Florida's PACE loan program, making additional projects eligible to receive lien priority over the first mortgage on a property.

Reference: House Bill 365 by Representative Barbara Watson (D-Miami Gardens) and Senate Bill 770 by Senator Jose Javier Rodriguez (D-Miami)

House Bill 365 died in House Energy and Utilities Subcommittee. Senate

Bill 770 died in Senate Community Affairs.

“When we strive to become better than we are, everything around us becomes better too.” – Paulo Coelho

BANKING

Financial Technology Sandbox (HB 1391/SB 1870)

Description: The bill creates the Financial Technology Sandbox within the Office of Financial Regulation (OFR) to allow a sandbox licensee to make an innovative financial product or service available to consumers as a money transmitter, payment instrument seller, or lender of consumer finance loans during a sandbox period that is initially no longer than 24 months but can be extended one time for up to 12 months.

Upon approval of an application, a sandbox licensee is exempt from specified provisions of general law and the corresponding rule requirements during the sandbox period. OFR may initially authorize a sandbox participant to provide the financial product or service to a maximum of 15,000 consumers, but may authorize up to 25,000 consumers if the sandbox participant demonstrates adequate financial capitalization, risk management process, and management oversight.

Impact: This legislation aims to make Florida more business friendly for financial start-ups, a priority for Governor DeSantis and Chief Financial Officer Patronis.

Reference: House Bill 1391 by Representative Jamie Grant (R-Tampa) and Senate Bill 1870 by Senator Travis Hutson (R-Palm Coast)

House Bill 1391 was substituted for Senate Bill 1870, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

**Public Records/ Financial
Technology Sandbox
(HB 1393/SB 1872)**

Description: House Bill 1393 and Senate Bill 1872 are the required linked public records bills in connection with House Bill 1391 and Senate Bill 1870. The bill creates a public record exemption for certain information related to the sandbox. The bill provides a repeal of the exemption on October 2, 2025, unless saved from repeal by the legislature.

Reference: House Bill 1393 by Representative Jamie Grant (R-Tampa) and Senate Bill 1872 by Senator Travis Hutson (R-Palm Coast)

House Bill 1393 was substituted for Senate Bill 1872, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

**Fees/ Financial Technology
Sandbox
(HB 1395/SB 1874)**

Description: House Bill 1395 and Senate Bill 1874 are the required

linked fee bills in connection with House Bill 1391 and Senate Bill 1870. The bill makes clear that the Office of Financial Regulation may not waive or modify any fee provided under chapter 560, F.S., except as authorized under the Financial Technology Sandbox.

Reference: House Bill 1395 by Representative Tyler Sirois (R-Merritt Island) and Senate Bill 1874 by Senator Travis Hutson (R-Palm Coast)

House Bill 1395 died in House State Affairs. Senate Bill 1874 died in Appropriations.

**Liens and Bonds
(HB 283/SB 868)**

Description: This legislation aims to revise parts of Florida's Construction Lien Law. This legislation requires a copy of notice of nonpayment to be served on surety, and prohibits a person from requiring a claimant or lienor to furnish waiver in exchange for or to induce payments. The bill also provides specified provisions in waivers or releases are unenforceable. The bill revises the process for notarizing forms, provides that waivers apply to certain contracts, and

authorizes a lienor to record one claim of lien for multiple contracts. Moreover, the legislation revises requirements for notice of commencement and notice of termination, and requires service of documents to be made in a specified manner. Lastly, the bill authorizes attorney fees in certain actions.

Impact: This legislation will minimize the ability of those with superior bargaining power to exact waivers or releases at the moment of payment which were not contemplated by the prior agreement of the parties. The FBA was successful early on in removing language that would have done away with the judicial principle of equitable subrogation.

Reference: House Bill 283 by Representative Jackie Toledo (R-Tampa) and Senate Bill 868 by Senator Ben Albritton (R-Bartow)

House Bill 283 passed the House, but died in Senate Judiciary. Senate Bill 868 died in Senate Innovation, Industry, and Technology.

REAL PROPERTY

Uniform Partition of Heirs Property Act (HB 349/SB 580)

Description: This legislation adopts portions of the Uniform Partition of Heirs Property Act, drafted by the Uniform Law Commission. This legislation sets forth procedures for the partition of “heirs property,” which generally includes inherited real property. The legislation provides a right for first refusal, which allows heirs property cotenants to purchase the property interests of cotenants seeking partition before the property is divided or sold. Moreover, the bill requires that the fair market value of the property must be determined by a court, and partitions by sale be made in an open-market sale by a court appointed real estate broker. Under current law, partitions by sale are made in an auction.

Impact: This legislation provides an orderly procedure for heirs who are cotenants of real estate property seeking to divide that property through sale of their portion.

FRIENDS OF THE FBA

2019-2020



LEGISLATORS OF THE YEAR



Pictured from left to right:
Senator Audrey Gibson; Speaker
Jose Oliva; President Bill
Galvano; Senator Wilton
Simpson; Senator Doug
Broxson; Rep. Wyman Duggan;
Rep. Evan Jenne; Rep. Danny
Perez; Senator Kelli Stargel;
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64TH ANNUAL
WASHINGTON, DC
FLY-IN





2020
CAPITOL DAY + CAPITOL NIGHT
TALLAHASSEE, FLORIDA

★ SILENT AUCTION ★

2019

Every year, Annual Meeting attendees are invited to attend BankPac's Silent Auction. This year, FBA members enjoyed great fun with a country western themed event. We are pleased to report that during the 2019 Silent Auction, we exceeded our fundraising goal. One hundred percent of the proceeds from the auction go to our State BankPac and are used to help our friends in the Florida Legislature. Thanks to our event sponsor First National Bankers Bank and all of the individual banks who donated so many wonderful items. Additionally, we appreciate the auctioneering services provided by Seven Hills Auctions.



Reference: House Bill 349 by Representative Loranne Ausley (D-Tallahassee) and Senate Bill 580 by Senator Randolph Bracy (D-Orlando)

Senate Bill 580 was substituted for House Bill 349, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020.

**Errors in Deeds
(HB 567/SB 886)**

Description: House Bill 567 and Senate Bill 886 allow for corrections to be made when there is a legal error in the description of property in a deed by filing a curative notice. The bill lays out what qualifies as an error, and under what circumstances the error may be corrected by curative notice.

Impact: This legislation will help allow a property owner to sufficiently clear title to property without the expenses associated with a claim for reformation of deed or a quiet title action.

Reference: House Bill 567 by Representative Thad Altman (R-

Indian Harbour Beach) and Senate Bill 886 by Senator Bobby Powell (D-West Palm Beach)

Senate Bill 886 was substituted for House Bill 567, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020.

**Uniform Commercial Real Estate
Receivership Act
(HB 783/SB 660)**

Description: The Uniform Commercial Real Estate Receivership Act (UCRERA), adopted by seven other states since 2017, specifies the circumstances under which a receiver may be appointed for commercial real estate, the scope of such a receivership proceeding, and the receiver's powers, duties, and liabilities. This legislation enacts UCRERA as a part of Florida law.

Impact: This legislation will provide protection to creditors by minimizing the risk of the dissipation of a property that is subject to foreclosure proceedings.

Reference: House Bill 783 by Representative Mike Beltran (R-Valrico) and Senate Bill 660 by Senator Lori Berman (D-Boynton Beach)

House Bill 783 was substituted for Senate Bill 660, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

**Rental Agreements upon
Foreclosure
(HB 6033/SB 1362)**

Description: House Bill 6033 and Senate Bill 1362 provide for the protections of the federal Protecting Tenants at Foreclosure Act (PTFA) to take effect as a state law if the federal act is repealed. Under the PTFA, a person who acquires a foreclosure property must give the tenant at least 90 days’ notice before evicting him or her. And if the tenant signed a “bona fide” lease before foreclosure, the successor in interest must allow him or her to remain for the term of the lease, even if that exceeds 90 days, unless the successor in interest sells to a person

who intends to occupy the property as a primary residence.

Impact: This legislation repeals Florida’s current foreclosure-tenant-rights statute and replaces it with the current federal law, which provides more protections to tenants than current Florida law does.

Reference: House Bill 6033 by Representative Tyler Sirois (R-Merritt Island) and Senate Bill 1362 by Senator Jose Javier Rodriguez (D-Miami)

Senate Bill 1362 was substituted for House Bill 6033, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

TRUST

**Decedents’ Property
(HB 505/SB 358)**

Description: House Bill 505 and Senate Bill 358 revise probate law relating to notice of administration,

notice in probate proceedings, personal representative conflict of interest, and compensation of an attorney who serves as a personal representative.

This legislation clarifies that causes of action owned by a decedent at the time of death are property of the estate and that tangible personal property, including precious metals, may have significant sentimental value and should not be treated as legal tender. The bill states that such precious metals include coins and bullion.

In addition, the bill closes the gap in the law relating to relationships that are conflicts of interest for personal representatives and improves the quality of notice administration. The bill also clarifies that formal notice does not confer personal jurisdiction under the Florida Probate Code.

The bill also prohibits an attorney from receiving compensation for serving as the fiduciary if the attorney prepared or supervised the execution of the will or trust. The bill allows for an exception if the attorney is related to the client, or if the attorney makes certain disclosures to the client in writing before the will or trust is signed.

Impact: The legislation will help protect the rights of Florida's property owners while clarifying important provisions in Florida's Probate Code.

Reference: House Bill 505 by Representative Fentrice Diskell (D-Tampa) and Senate Bill 358 by Senator Lori Berman (D-Boynton Beach)

House Bill 505 was substituted for Senate Bill 358, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is October 1, 2020.

Transfers in Divorce (HB 811/SB 1306)

Description: Under current law, creditors are shielded from taking IRA assets in bankruptcy proceedings and when IRA assets are transferred because of the death of a spouse. However, this same protection does not apply to IRA assets transferred as part of a divorce settlement. This legislation would provide such protection from creditors to IRA assets received as a transfer that has occurred through a divorce decree.

Impact: This legislation is considered a clarification of what most consider as the current law, that bankruptcy creditors may not reach the transferee’s IRA assets in bankruptcy proceedings if received in a divorce settlement.

Reference: House Bill 811 by Representative Joe Geller (D-Dania Beach) and Senate Bill 1306 by Senator Perry Thurston (D-Fort Lauderdale)

House Bill 811 died on Second Reading. Senate Bill 1306 died in Senate Rules.

“Things may come to those who wait, but only the things left by those who hustle.” –
Abraham Lincoln

CONSUMER PROTECTION

Housing Discrimination (HB 175/SB 374)

Description: House Bill 175 and Senate Bill 374 amend current law to allow someone alleging housing discrimination under the Florida Fair Housing Act (FFHA) to file a civil action. The aggrieved person may file a civil action regardless of whether that person has filed a complaint with the Florida Commission on Human Relations (Commission). Additionally, the aggrieved person may file a civil action regardless of whether the Commission has resolved a complaint already. Lastly, there are no time restrictions on when the aggrieved person may file a civil action.

The legislation does provide two instances where it prohibits an aggrieved person from filing a civil action under the FFHA if the claimant has consented to a conciliation agreement obtained by the Commission or if an administrative law judge has commenced a hearing.

Impact: This legislation will amend Florida law to allow an aggrieved person to commence a civil action under the FFHA without having to exhaust other administrative remedies

Reference: House Bill 175 by Representative Tracie Davis (D-Jacksonville) and Senate Bill 374 by Senator Darryl Rouson (D-St. Petersburg)

Senate Bill 374 was substituted for House Bill 175, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The bill takes effect on becoming law.

Consumer Data Privacy (HB 963/SB 1670)

Description: This legislation sets out an overall consumer data privacy framework for Florida which would:

- Prohibit the use of any public record to be used to market, solicit, or contact the person in the public record without their consent;
- Require an “operator” to collect data to send a notice to the affected consumer;

- Permit the consumer to opt-out of the sale of their information that is collected

This legislation specifically excludes a financial institution or its affiliates that are subject to the Gramm-Leach-Bliley Act (GLB).

Impact: The legislation aims to give consumers control over their personal data, but could greatly impact the way certain industries conduct their business. The FBA worked to ensure that financial institutions subject to GLB would be exempt from the bill.

Reference: House Bill 963 by Representative David Santiago (R-Deltona) and Senate Bill 1670 by Senator Doug Broxson (R-Pensacola)

House Bill 963 died in House Oversight, Transparency, and Public Management. Senate Bill 1670 died in Senate Commerce and Tourism.

Consumer Protection (HB 1137/SB 1492)

Description: House Bill 1137 and Senate Bill 1492 were part of the legislative package proposed by the Department of Financial Services

(DFS). This legislation modified several areas a regulation by DFS, including:

- Updating electronic signature requirements for motor vehicle-certificates of title of destructions;
- Prohibiting consumer reporting agencies from charging a fee for a PIN used for a security freeze;
- Requiring licensees to provide documents when responding to written requests from DFS;
- Establishing licensure requirements and penalties for insurance adjusting firms;
- Providing DFS authority to disapprove agency names including “Medicaid” and “Medicare”;
- Amending laws regarding industrial life insurance;
- Amending policyholder rights relating to public adjusters;
- Amending who falls under the definition of a public company adjuster;
- Mandating notification requirements regarding the export of a policy to the surplus lines market;
- Adding to the list of acts that constitute as sliding

- Requiring dispute resolution for policies sold in Florida, and insuring property in Florida, on the admitted or surplus lines markets, occurs in Florida;
- Eliminating the Florida Insurance Guaranty Association deductible;
- Creating uniform forms to be used by a claimants’ representative in the unclaimed property process.

Impact: This legislation could have a positive fiscal impact on consumers as it eliminates multiple fees that are usually required.

Reference: House Bill 1137 by Representative Chuck Clemons (R-Jonesville) and Senate Bill 1492 by Senator Tom Wright (R-Port Orange)

House Bill 1137 died on Second Reading. Senate Bill 1492 died on Special Order Calendar.

“The price of success is hard work, dedication to the job at hand, and the determination that whether we win or lose, we have applied the best of ourselves to the task at hand.” – Vince Lombardi

INSURANCE

Insurance (HB 359/SB 1606)

Description: House Bill 359 and Senate Bill 1606 make the following changes regarding insurance:

- Requires using a Level 2 authentication system when using an electronic signature for a salvage certificate of title;
- Requires insurers to file the contact information of the person receiving civil remedy

- notices with the Department of Financial Services (DFS);
- Amends the civil remedy notices’ statute of limitations from 60 days to 65 days;
- Prohibits the dissemination of aggregated information from DFS and the Office of Insurance Regulation (OIR) if it contains trade secret information;
- Extends the closure of OIR’s review period for property and casualty rate and form filings if the deadline falls on a weekend or holiday;
- Makes clarifications about condominium unit owner’s property loss assessments;
- Amends the time in which an insurer can cancel an auto policy for non-payment from 30 days to 60 days;
- Allows for an electronic way for workers compensation payments to be used; and
- Creates a new section of the Florida Insurance Code to regulate travel insurance based on the National Association of Insurance Commissioners Model Act.

Impact: This omnibus legislation updates and clarifies various

provisions relating to the regulation and procedures of Florida's insurance law.

Reference: House Bill 359 by Representative David Santiago (R-Deltona) and Senate Bill 1606 by Senator Keith Perry (R-Gainesville)

Senate Bill 1606 was substituted for House Bill 359, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020.

Insurance (HB 895)

Description: House Bill 895 proposes the following changes regarding insurance law:

Civil Remedies Against Insurers:

- Creates a claimant's good faith requirement, which places a statutory obligation on the insured, claimant, and the representative of the insured, and provides the insurer a defense against bad faith claims;
- Provides a framework for prohibiting a third-party lawsuit

for insurer bad faith in a liability claim;

- Requires the insurer to designate an email address with the Department of Financial Services for the delivery of pre-suit notices and mandates. Additionally, it extends the statute of limitations from 65 days to 60 days, since a grace period for physical mail processing is no longer needed.

Motor Vehicle Personal Injury Protection:

- Amends the maximum allowable charges for emergency care by a hospital or in a hospital by a physician or dentist from 75% of customary charges to 200% of Medicare;
- Increases the requirements for the content of a demand letter (pre-suit notice);
- Allows the insurer an award of attorney fees for defense of a barred claim

Impact: The bill aims to reduce litigation rates and costs, which could result in consumers seeing lower insurance costs. Moreover, the change in maximum allowable chargers for certain PIP medical providers could

result in lower PIP medical reimbursements.

Reference: House Bill 895 by Representative David Santiago (R-Deltona)

House Bill 895 died on Second Reading.

Disposition of Insurance Proceeds (HB 999/SB 1408)

Description: The vast majority of mortgages in Florida are written to adhere to secondary market servicing requirements when receiving property insurance proceeds. This process protects both the bank's collateral and ensures that the mortgagor is not defrauded by unscrupulous contractors. This legislation, however, would amend the current process by:

- Requiring a lender to deposit the proceeds into an interest-bearing account for the benefit of the insured;
- The interest rate on the account may not be less than the insured could expect to obtain from a savings or money market account;

- The interest must begin to accrue on the date the mortgagee or assignee endorses the insurance check;
- Within 10 days of receiving the insurance proceeds, the financial institutions must notify the insured of each requirement that the insured must fulfill for the mortgagee or assignee to release the proceeds;
- The lender must distribute all interest accrued by the account to be insured no later than upon the final disbursement of proceeds;
- Insurance proceeds in which the financial institution does not have a security interest must be promptly distributed;
- Insurance proceeds for additional living expenses must be promptly distributed;
- The financial institution is not required to remit the portion of the proceeds relating to additional living expenses and contents insurance if the financial institution is not able to determine which part of the proceeds relate to additional living expenses and contents insurance.

Impact: This legislation would add additional requirements to financial institutions that receive insurance proceeds and put Florida mortgages out of sync with the current contract requirements set forth by secondary market servicing contracts.

Reference: House Bill 999 by Representative Chip LaMarca (R-Lighthouse Point) and Senate Bill 1408 by Senator Bill Montford (D-Tallahassee)

House Bill 999 died in House Insurance and Banking. Senate Bill 1408 died in Senate Banking and Insurance.

Financial Services (SB 1334)

Description: Senate Bill 1334 aims to make changes to the Florida Hurricane Catastrophe Fund (Cat Fund) by including the reimbursement of collateral protection insurance policy losses that cover the amount requested by a mortgage lender, which may be limited to the remaining debt of the property. It also aims to direct the OIR to retain an independent consultant to

audit the reimbursement premium formula of the Cat Fund.

The bill also makes changes to the statutory civil remedy for insurer bad faith, surplus line insurers and insurance, rates and forms used by property insurers, and the adjustment and litigation related to property insurance claims.

Additionally, this bill includes language which was also included in the DFS legislative package regarding electronic signatures and trade secret information.

Lastly, the legislation makes clarifications regarding condominium insurance, reduces the time period during which an insurer may not cancel a new motor vehicle insurance policy, and provides that a licensed personal lines or general lines agent does not have to obtain a license to perform certain activities.

Impact: The bill would change how the Cat Fund reimburses collateral protection insurance policies.

Reference: Senate Bill 1334 by Senator Jeff Brandes (R-St. Petersburg)

Senate Bill 1334 died in Senate Banking and Insurance. There was no House companion to this bill.

“The only thing that
overcomes hard luck is
hard work.”
– Harry Golden

OTHER IMPACTFUL LEGISLATION

Department of Financial Services (HB 1077/SB 1404)

Description: House Bill 1077 and Senate Bill 1404 were one of the legislative packages proposed by the Department of Financial Services (DFS). The bill aims to amend the following areas of regulation for DFS:

- Establishes the Division of Public Assistance Fraud as a criminal justice agency;
- Creates a permanent bar to licensure based on certain crimes;

- Revises provisions concerning notice to purchaser;
- Expedites repairs to be made through a uniform fire alarm permit application;
- Extends the doorstep and refuse recycling collection provision’s expiration date;
- Eliminates a contractor designation for fire sprinkler systems, and increases the number of sprinklers that can be relocated or deleted;
- Prohibits any person from improperly influencing a fire safety inspector into violating the Fire Prevention Code;
- Requires specific courses an applicant must complete that are offered by the State Fire College to receive a license to install or maintain a fire protection system;
- Revises continuing education for insurance agents;
- Renames the Florida Blockchain Task Force to include financial technology.

Impact: The legislation seeks to make several changes to several different regulatory schemes of DFS, including the establishment of a blockchain task

force to help Florida to take full advantage of this new technology.

Reference: House Bill 1077 by Representative Chip LaMarca (R-Lighthouse Point) and Senate Bill 1404 by Senator Keith Perry (R-Gainesville)

House Bill 1077 died on Second Reading. Senate Bill 1404 died on Special Order Calendar.

**Verification of Employment
Eligibility
(HB 1265/SB 664)**

Description: This legislation requires employers to verify new hires' immigration status prior to hiring them. The bill requires that public businesses and those who contract with them use E-Verify, a program created by the federal government, to check new hires' eligibility to work in the U.S., while private employers have the option of using E-Verify, or keeping a three-year record of documents used by applicants when filling out a form I-9. If a business does not comply, they will be subject to a fine and having their license

suspended, or revoked, if the violation continues.

Impact: The legislation requires employers to only hire employees who are citizens or are here legally to work in the United States. Employers who are currently complying with federal law and using the E-Verify system will follow the state law if adopted.

Reference: House Bill 1265 by Representative Cord Byrd (R-Jacksonville Beach) and Senate Bill 664 by Senator Tom Lee (R-Brandon)

Senate Bill 664 was substituted for House Bill 1265, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

**Towing and Immobilizing Vehicles
and Vessels
(HB 133/SB 1332)**

Description: Under current law, counties and municipalities may independently regulate many aspects of the towing industry through local ordinances. County and municipal governments may contract with

"authorized wrecker operators" to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. This legislation requires local governments to establish maximum towing rates and prohibits a county or municipality from imposing a fee on an authorized wrecker operator or towing business for performing services. Additionally, this legislation adds vessels to the regulatory scheme for the towing of vehicles, and lays out a framework for the sale of unclaimed vehicles or vessels.

This legislation authorizes imposing an administrative fee or business tax on the registered owner or lienholder of a vehicle by the county or municipality to cover enforcement costs. This fee would be collected by the authorized wrecker operator, who would remit it to the county or municipality. The legislation also revises the requirements for tow-away zones.

This legislation exempts certain counties with towing or immobilization licensing, regulatory, or enforcement programs as of January 1, 2020, from the prohibition on imposing a fee on an authorized

wrecker operator. The counties covered by the exemption are Broward, Palm Beach, and Miami-Dade counties.

Impact: The bill will bring uniformity to fees charged by local governments on towing immobilizing vehicles in Florida.

Reference: House Bill 133 by Representative Stan McClain (R-Ocala) and Senate Bill 1332 by Senator Ed Hooper (R-Palm Harbor)

House Bill 133 was substituted for Senate Bill 1332, which passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of the bill is October 1, 2020.

Community Associations (HB 1257/ SB 1154)

Description: This legislation provides that certain community associations may represent, prosecute, or defend owners in certain proceedings. The legislation also provides a unit or parcel owner options for defending a tax suit and sets record keeping requirements that are to be determined

by the Department of Business and Professional Regulation (DBPR). Moreover, the bill authorizes the Division of Condominiums, Timeshares, and Mobile Homes, under DBPR, to adopt certain rules relating to community associations.

Impact: While it is estimated that this legislation would cause an economic loss for local governments, this may reduce the operating costs for homeowners' associations, and condominium unit owners may save money on legal costs by having the association represent them through all phases of a tax assessment appeal.

Reference: House Bill 1257 by Representative Josie Tomkow (R-Auburndale) and Senate Bill 1154 by Senator Dennis Baxley (R-Lady Lake)

House Bill 1257 passed out of the House, but ultimately died on the Senate. Senate Bill 1154 died in Senate Rules.

Taxation (HB 7097)

Description: House Bill 7097 is the 2020 Legislative Tax Package which aims to help both Florida families and businesses. This legislation includes provisions to sales tax, including a three-day back to school sales tax holiday, and a disaster preparedness sales tax holiday.

This legislation also amends the calculation of a taxpayer's "final tax liability" for purposes of calculating certain corporate income tax refunds. If not submitted within 30 days, the taxpayer is subject to being fined.

Regarding property taxes, the legislation amends the requirements for hospitals to qualify for a charitable tax exemption. Non-profit hospitals will be required to document the value of charitable services they provide, and their current charity tax exemption will be limited to the value of that charity care. The bill updates the qualifying operations for the deployed servicemember tax exemption; amends statutory provisions that address conflict of interest for special magistrates; and restricts information that may be mailed with the yearly TRIM notice. The bill also exempts

from property tax vacant affordable housing units and units occupied by persons or families that met the qualifying income thresholds at the time they began their tenancy, but whose income grew through the income thresholds. The bill also exempts from property tax an affordable housing project owned by a limited liability company, which is also owned by a limited liability company, as long as the owner of the second limited liability company is a qualifying 501(c)(3) entity.

The legislation lowers the tax rate on surplus lines insurance and provides that the new lower rate applies to all policies irrespective of where the insured risk is located.

Impact: By making a wide array of tax modifications and reductions, the bill will directly impact both Florida's families and businesses in a positive way. Financial institutions should specifically note the new requirement that their final tax liability must now be sent to the state Department of Revenue as well as the Internal Revenue Service.

The bill also requires financial institutions that file a Form 1099-K with the IRS providing information

about payments made by credit card or third party merchants, must file with the Florida Department of Revenue the same document or one with just Florida addresses within 30 days of filing with the IRS.

Reference: House Bill 7097 by Representative Bryan Avila (R-Hialeah)

House Bill 7095 passed both the House and Senate Chambers and is awaiting approval by the Governor. The effective date of this bill is July 1, 2020

“Let us rather run the risk of wearing out than rusting out.” – Theodore Roosevelt

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