



2018 DEAN MEAD CAPITOL REPORT

Dean Mead's Capitol Report follows below. There were 3,192 bills introduced in the Florida Legislature this year, but only 200 passed both chambers. The Capitol Report highlights some of the bills that passed the Legislature that may affect your businesses. We have provided a short summary of the important provisions within each bill.

The Governor has now acted on all legislation in this report, and the appropriate Session Law number follows the summary on each bill. The full text of each enrolled bill, as well as applicable legislative staff reports, are available on the legislative web sites (www.flsenate.gov; www.myfloridahouse.com).

The Capitol Report is intended to update you on changes to the law that may be of interest. For more information, please contact our Tallahassee Office at 850-999-4100.

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REAL ESTATE AND DEVELOPMENT

Mortgage Brokering: HB 193 by Representative Stark and Senator Baxley creates a limited exemption for a securities dealer to engage in mortgage brokering activities on behalf of securities clients provided that any such solicitation or referral activity otherwise complies with state and federal law. HB 193 passed the Legislature and was approved by the Governor. **(Chapter 2018-44, Laws of Florida.)**

Foreclosure—Bankruptcy Matters: SB 220 by Senator Passidomo and Representative Rommel authorizes lienholders to use documents filed in bankruptcy court by the debtor in a foreclosure proceeding. The legislation provides for judicial notice of the bankruptcy proceedings, and it permits the debtor to raise defenses filed in the bankruptcy proceedings. SB 220 passed the Legislature and was approved by the Governor. **(Chapter 2018-15, Laws of Florida.)**

Homestead Waiver: CS/SB 512 by Senator Young and Representative Berman provides language for the waiver of devise restriction of spousal homestead rights under Article X of Section 4 (c) of the state constitution. CS/SB 512 passed the Legislature and was approved by the Governor. **(Chapter 2018-22, Laws of Florida.)**

Unlawful Detention—Transient Occupancy: CS/SB 566 by Senator Young and Representative Toledo revises the criteria in Chapter 82 for determining transient occupancy of residential real property and provides for recovery of personal belongings by a transient occupant. CS/SB 566 passed the Legislature and was approved by the Governor. **(Chapter 2018-83, Laws of Florida.)**

MRTA—Covenant Exemptions: HB 617 by Representative Edwards-Walpole and Senator Passidomo amends Chapter 712 to permit covenants of all mandatory property owners associations to be extended in the same manner as residential property owners associations are currently permitted to extend; it authorizes the revitalization of covenants to all mandatory property owners associations; and it provides for procedures to revitalize covenants in communities without a mandatory association. HB 617 passed the Legislature and was approved by the Governor. **(Chapter 2018-55, Laws of Florida.)**

Ejectment and Unlawful Detainer: CS/HB 631 by Representative Edwards-Walpole and Senator Passidomo updates Florida law on ejectment and unlawful detainer. It also includes language relating to customary usage of private property that codifies the common law doctrine. CS/HB 631 passed the Legislature and was approved by the Governor. **(Chapter 2018-94, Laws of Florida.)**

Community Associations: CS/CS/CS/HB 841 by Representative Moraitis and Senator Passidomo contains revisions to Florida's housing chapters. The legislation revises the requirements for condominium association websites; eliminates inconsistent provisions in the Condominium Act relating to conflicts of interests; eliminates the repeal of the bulk buyer sunset provision; revises association record-keeping requirements; and makes conforming changes in the Cooperative Act and the Homeowners

Association Act. CS/CS/CS/HB 841 passed the Legislature and was approved by the Governor. **(Chapter 2018-96, Laws of Florida.)**

Statute of Limitations—Construction Improvements: CS/CS/HB 875 by Representative Leek and Senator Passidomo amends subsection 95.11 (3), F.S., to clarify the timing for the completion of the construction contract and to further provide that counterclaims, cross-claims and third party claims may be brought within 45 days after service of process of a party asserting a claim. The legislation also provides that once a certificate of occupancy has been issued for the property, the correction of defects or punch list work will not extend the time within which an action must be commenced. CS/CS/HB 875 passed the Legislature and was approved by the Governor. **(Chapter 2018-97, Laws of Florida.)**

Growth Management: CS/CS/HB 1151 by Representative La Rosa and Senator Lee makes comprehensive revisions to Florida’s growth management laws. Among its provisions, it eliminates state and regional review of existing Developments of Regional Impact (DRI); it ends DRI appeals to the Florida Land and Water Adjudicating Commission except when a local government abandons an approved DRI; it clarifies and permits a binding letter of vested rights to be issued by a local government; it provides the procedures by which a local government may approve changes to a DRI; it provides conditions for abandonment of a DRI; it provides an extensive list of exemptions for developments otherwise governed by section 380.06, F.S; and it creates a statutory foundation for “master development plans.” CS/CS/HB 1151 passed the Legislature and was approved by the Governor. **(Chapter 2018-158, Laws of Florida.)**

Tax Deeds: CS/HB 1383 by Representative Latvala and Senator Rouson modifies the tax deed process. The legislation contains provisions concerning the disposition of excess funds, noticing the pendency of tax deed applications, and providing notice to tax deed applications and sales at public auction. CS/HB 1383 passed the Legislature and was approved by the Governor. **(Chapter 2018-160, Laws of Florida.)**

Inter-spousal Transfers: CS/HB 7087 by the House Ways and Means Committee contains a provision that exempts the transfer of homestead property between spouses from documentary stamp tax charges. CS/HB 7087 passed the Legislature and was approved by the Governor. **(Chapter 2018-118, Laws of Florida.)** The tax package is discussed in more detail in the Tax & Taxation section of this report.

FAMILY AND WEALTH MANAGEMENT

Trusts: HB 413 by Representative Moraitis and Senator Hukill amends the Florida Trust Code to clarify that the settlor’s intent is paramount when interpreting and applying Florida trust law; clarifies the duty of a trustee to account to the qualified beneficiaries of a trust; fixes several practical considerations for posting trust accounting statements on a secure website; and clarifies the period for which qualified beneficiaries can seek trust accountings. HB 413 passed the Legislature and was approved by the Governor. **(Chapter 2018-35, Laws of Florida.)**

Elder Abuse: CS/CS/CS/HB 1059 by Representative Burton and Senator Passidomo creates a cause of action for an injunction for protection against exploitation of a vulnerable adult. CS/CS/CS/HB 1059 passed the Legislature and was approved by the Governor. **(Chapter 2018-100, Laws of Florida.)**

Guardianship: CS/HB 1187 by Representative Spano and Senator Passidomo expands the rights of the Clerk to conduct audits of annual guardianship reports; it will permit ex parte communications with a judge; and it will permit the Clerk to disclose information to the Department of Family Services or law enforcement agencies as provided in an order of the court. CS/HB 1187 passed the Legislature and was approved by the Governor. **(Chapter 2018-68, Laws of Florida.)**

AGRICULTURE & WATER

Nonnative Animals: SB 168 by Senator Steube and Representative Beshears requires the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to mitigate the impacts of priority invasive species by authorizing FWC to enter into competitively bid contracts with individuals and entities to capture and destroy the priority invasive species found on public lands and public waters. SB 168 has been signed into law by the Governor. **(Chapter 2018-82, Laws of Florida.)**

Theft: HB 491 by Representative Roth and Senator Grimsley extends the mandatory \$10,000 fine to theft of commercially farmed animals to bee colonies. HB 491 has been signed into law by the Governor. **(Chapter 2018-49, Laws of Florida.)**

Sale of Surplus Lands: CS/HB 703 by Representative Burgess and Senator Baxley provides the procedures for the sale of surplus lands to an adjacent property owner by water management districts. If not purchased by the adjacent property owner, the surplus lands are made available for sale to the general public. CS/HB 703 passed the Legislature and was approved by the Governor. **(Chapter 2018-155, Laws of Florida.)**

Daylight Saving Time: HB 1013 by Representatives Nunez and Fitzenhagen and Senator Steube provides that it is the intent of the Legislature to adopt daylight saving time as the year-round standard time in Florida contingent on an act of Congress to allow the change. HB 1013 has been signed into law by the Governor. **(Chapter 2018-99, Laws of Florida.)**

Acquisition of State Lands: CS/CS/HB 1173 by Representative Raschein and Senator Flores provides for the acquisition of state lands to provide a buffer for military installations; it provides for the acquisition of lands to satisfy private property rights claims in an area of critical state concern; and it authorizes the use of Florida Forever funds to acquire property to mitigate natural disasters and flooding, to provide for temporary water storage areas, and to create greenways for public recreation. CS/CS/HB 1173 passed the Legislature and was approved by the Governor. **(Chapter 2018-159, Laws of Florida.)**

Medical Marijuana: HB 6049 by Representatives Jones and Newton and Senator Rouson eliminates the requirement that one of the next round of Medical Marijuana

Treatment Center licenses be issued to a member of the Black Farmers and Agriculturalists Association-Florida Chapter. HB 6049 has been signed into law by the Governor. **(Chapter 2018-142, Laws of Florida.)**

Dredge and Fill Permits: HB 7043 by Representative Raschein and Senator Simmons authorizes the Department of Environmental Protection to assume the permitting process for the discharge of dredge and fill materials under section 404 of the federal Clean Water Act. HB 7043 passed the Legislature and was approved by the Governor. **(Chapter 2018-88, Laws of Florida.)**

BUSINESS

Business Filings: CS/HB 661 by Representative Miller and Senator Young permits the correction of filings that contain false, misleading or fraudulent information for corporations, corporations not-for-profit, and limited liability partnerships. It provides for notice of changes to the mailing addresses for corporations, corporations not-for-profit, and limited liability partnerships to be provided to the most recent prior address; and it permits the corrections to be filed without charges. CS/HB 661 passed the Legislature and was approved by the Governor. **(Chapter 2018-58, Laws of Florida.)**

Fiduciary Relationship—Life Insurance Agents: CS/CS/CS/HB 1073 by Representative Hager is the comprehensive legislative package for the Department of Financial Services, and Section 31 of the bill clarifies the limited circumstances in which a life insurance agent may be a beneficiary and serve in a fiduciary capacity. CS/CS/CS/HB 1073 passed the Legislature and was approved by the Governor. **(Chapter 2018-102, Laws of Florida.)**

Corporations: HB 1285 by Representative Albritton and Senator Thurston permits confidential information of a corporate filing to be omitted in the filing of the annual benefit report. HB 1285 has passed the Legislature and was approved by the Governor. **(Chapter 2018-139, Laws of Florida.)**

TAX AND TAXATION

Tax Package: The tax package, HB 7087, includes multiple provisions. Some of the highlights are detailed below. The Governor approved the tax package. **(Chapter 2018-118, Laws of Florida.)**

Multiple Parcel Buildings: The tax package directs property appraisers to assign a unique tax identification number to each parcel within a multiple parcel building, such as a mixed-use structure containing residential condominiums on top and commercial establishments on the bottom. Under current law, such buildings share one tax ID number so an entire building is susceptible to tax-deed sale if a single parcel fails to pay property taxes.

Rate Reduction for Commercial Leases: As part of the tax package, the Legislature reduced the state sales tax rate on commercial leases from 5.8% to 5.7%.

Temporary Refund for Nonresidential Farm Buildings and Fencing: The tax package includes a temporary refund for building materials used in the repair of nonresidential farm buildings and fences damaged as a result of Hurricane Irma. The refund applies to materials purchased between September 10, 2017 and May 31, 2018.

Aquaculture Exemptions: The tax package expands various agricultural exemptions to clearly include aquaculture activities including exemptions for liquefied petroleum gas to be used in tractors or farm equipment, electricity used in the raising of aquaculture products, and machinery and equipment used in aquaculture activities.

Citrus Processing: This portion of the tax package provides that tangible personal property owned and operated by citrus fruit packaging or processing facility will be valued no greater than its salvage value if the property is no longer used in the operation of the facility due to the effects of Hurricane Irma or to citrus greening.

Agricultural Classification Extension: The tax package provides that lands classified as agricultural, which are not currently being used for agricultural production due to a 2017 hurricane, will continue to be classified as agricultural lands through December 31, 2022, unless the lands are converted to a nonagricultural use.

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