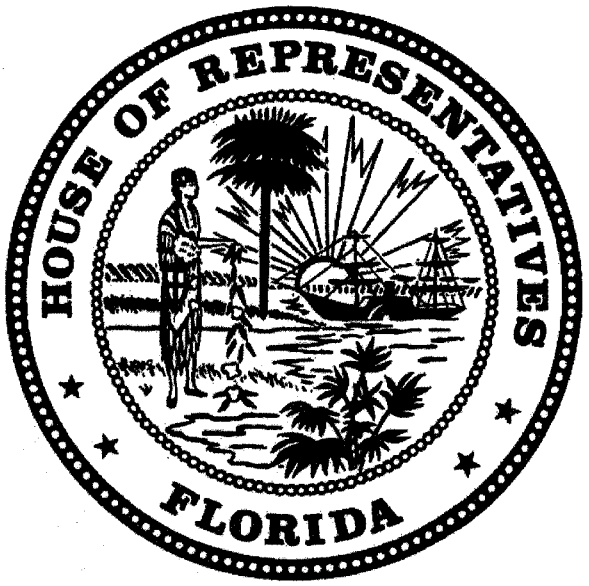

Regulatory Affairs Committee

Wednesday, December 5, 2012
10:30 AM
404 HOB

ORIENTATION PACKET

Business & Professional Regulation Subcommittee
Energy & Utilities Subcommittee
Insurance & Banking Subcommittee

Will Weatherford
Speaker

Doug Holder
Chair

The Florida House of Representatives

Regulatory Affairs Committee

Will Weatherford
Speaker

Doug Holder
Chair

AGENDA

December 5, 2012
404 House Office Building
10:30 AM – 12:00 PM

I. Call to Order

II. Roll Call

III. Committee Overview

IV. Introduction of Members and staff

V. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4870

REGULATORY AFFAIRS
COMMITTEE

Regulatory Affairs Committee

The Regulatory Affairs Committee considers matters related to business and professional regulation, energy and utility regulation, and the regulation of insurance and financial entities.

The committee has full or partial jurisdiction over the following agencies and programs:

- Insurance and Banking
  - Department of Financial Services
  - Office of Insurance Regulation
  - Office of Financial Regulation
  - Citizens Property Insurance Corporation
  - Florida Hurricane Catastrophe Fund
  - Florida Insurance Guaranty Association
  - Authorized Joint Underwriting Associations

- Business and Professional Regulation
  - Department of Business and Professional Regulation
  - Department of Agriculture and Consumer Services
    - Division of Consumer Services
    - Division of Licensing

- Energy and Utilities
  - Public Service Commission
  - Office of Public Counsel
  - Department of Agriculture and Consumer Services
    - Office of Energy
    - Division of Consumer Services
      - Bureau of Standards
      - Bureau of Liquefied Petroleum Gas Inspection
  - Department of Business and Professional Regulation
    - Division of Professions, Florida Building Commission
  - Department of Environmental Protection
    - Division of Air Resource Management, Siting Coordination Office
  - Department of Financial Services
    - Division of Accounting and Auditing, Bureau of Auditing
  - Department of Management Services
    - Division of Real Estate Development and Management
    - Division of Telecommunications
      - Bureau of Public Safety
      - Broadband Florida Initiative
  - Florida Energy Systems Consortium

Regulatory Affairs Committee
303 House Office Building

Kurt Hamon, Staff Director
Martha Ellinor, Senior CAA
James Vanlandingham, Intern

Business & Professional Regulation Subcommittee – 303 HOB 717-4871
Ned Luczynski, Policy Chief
Lindsay Collins, Attorney
Alan Livingston, Senior Legislative Analyst
Michelle Morton, Attorney

Energy & Utilities Subcommittee – 303 HOB 717-4872
Lucretia Shaw Collins, Policy Chief
Cochran Keating, Attorney
Shari Whittier, Senior Legislative Analyst

Insurance & Banking Subcommittee – 303 HOB 717-4873
Tom Cooper, Policy Chief
Katrina Callaway, Senior Attorney
Bob Reilly, Senior Attorney

REGULATORY AFFAIRS COMMITTEE

Kurt Hamon, Staff Director

Kurt William Hamon, the House Regulatory Affairs Committee Staff Director, has worked for the State of Florida for over twenty-two years. Kurt has staff experience in policy and appropriations positions in the Florida House of Representatives, the Florida Senate, the Executive Office of the Governor, and the Department of Business and Professional Regulation. Prior to returning to the House of Representatives, Kurt served as the Staff Director of the Senate Education Appropriations Committees.

Kurt obtained a Master's in Public Administration from Florida State University and a Bachelor of Arts in Political Science and History from the University of Kentucky.

Martha Ellinor, Senior Committee Administrative Assistant

Martha Ellinor, the Administrative Assistant for the House Regulatory Affairs Committee, has been employed with the House since 1985 and has served in various councils/committees/ subcommittees.

Before working with the Legislature, Martha was employed with the Department of Commerce and the State Board of Administration. Martha has also worked for a private real estate firm and a law firm.

James Vanlandingham, Intern

James Vanlandingham, Intern for the House Regulatory Affairs Committee, is a third-year law student at the FSU College of Law. James previously served as a Governor's fellow in the Department of Economic Opportunity, where he was awarded the Jeb Bush Award for Outstanding Achievement. James has also worked for the Hogan Lovells law firm and for the legal department of CSX Transportation.

James has obtained a Master's in Public Administration from Florida State University and Bachelor's degrees in Journalism and Political Science from the University of Florida.

REGULATORY AFFAIRS COMMITTEE MEMBERS

Representative Doug Holder (R-74), Chair
Representative Patrick Rooney, Jr. (R-85), Vice Chair

MEMBERS:

Representative Halsey Beshears (R-7)

Representative Neil Combee (R-39)

Representative Jose Diaz (R-116)

Representative Erik Fresen (R-114)

Representative Matt Gaetz (R-4)

Representative Larry Lee, Jr. (D-84)

Representative Debbie Mayfield (R-54)

Representative Bryan Nelson (R-31)

Representative Daniel Raulerson (R-58)

Representative Darryl Rouson (D-70)

Representative Richard Stark (D-104)

Representative W. Gregory Steube (R-73)

Representative Linda Stewart (D-47)

Representative James Waldman (D-96)

Representative Barbara Watson (D-107)

Representative Alan Williams (D-8)

BUSINESS & PROFESSIONAL REGULATION SUBCOMMITTEE MEMBERS

Representative Debbie Mayfield (R-54), Chair
Representative W. Gregory Steube (R-73), Vice Chair

MEMBERS:

Representative Ben Albritton (R-56)

Representative Travis Cummings (R-18)

Representative Dane Eagle (R-77)

Representative Michael La Rosa (R-42)

Representative Kenneth Roberson (R-75)

Representative Carlos Trujillo (R-105)

Representative Karen Castor Dentel (D-30)

Representative Dwight Dudley (D-68)

Representative Joseph Gibbons (D-100)

Representative Darryl Rouson (D-70)

Representative Cynthia Stafford (D-109)

ENERGY & UTILITIES SUBCOMMITTEE MEMBERS

Representative Clay Ford (R-2), Chair
Representative Jose Diaz (R-116), Vice Chair

MEMBERS:

Representative Halsey Beshears (R-7)

Representative Jason Brodeur (R-28)

Representative Clay Ingram (R-1)

Representative Michael La Rosa (R-42)

Representative Debbie Mayfield (R-54)

Representative Ray Rodrigues (R-76)

Representative John Wood (R-41)

Representative Lori Berman (D-90)

Representative Janet Cruz (D-62)

Representative Michelle Rehwinkel Vasilinda (D-9)

Representative Barbara Watson (D-107)

Representative Alan Williams (D-8)

INSURANCE & BANKING SUBCOMMITTEE MEMBERS

Representative Bryan Nelson (R-31), Chair
Representative Bill Hager (R-89), Vice Chair

MEMBERS:

Representative Douglas Broxson (R-3)

Representative Matthew Caldwell (R-79)

Representative Tom Goodson (R-50)

Representative Clay Ingram (R-1)

Representative Shevrin Jones (D-101)

Representative Larry Lee, Jr. (D-84)

Representative George Moraitis, Jr. (R-93)

Representative Kevin Rader (D-81)

Representative David Santiago (R-27)

Representative Dwayne Taylor (D-26)

Representative John Tobia (R-53)

BUSINESS & PROFESSIONAL
REGULATION SUBCOMMITTEE

BUSINESS & PROFESSIONAL REGULATION SUBCOMMITTEE

REGULATORY AFFAIRS COMMITTEE

The Business & Professional Regulation Subcommittee of the Regulatory Affairs Committee oversees the state's regulation and licensing of a variety of business and professional entities and certain consumer regulatory programs. The subcommittee's oversight responsibilities include the Department of Business & Professional Regulation and the consumer service activities of the Department of Agriculture & Consumer Services.

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SUBCOMMITTEE STAFF

NED LUCZYNSKI, POLICY CHIEF

NED.LUCZYNSKI@MYFLORIDAHOUSE.GOV 850.717.5674

Ned serves as the subcommittee's policy chief and has more than 27 years experience in the private and public sectors. Ned has worked for the State of Florida for the past 8 years, with experience in the Judicial, Executive and Legislative branches. He previously worked as an attorney for the Florida Senate, Committee on Judiciary. He also worked as general counsel and inspector general for the Department of Business and Professional Regulation. Ned holds a Juris Doctorate from Florida State University College of Law, a Masters of Business Administration in Finance and Corporate Accounting from the University of Rochester, and a Bachelor of Science in Hotel Administration from Cornell University.

MARTHA ELLINOR, SENIOR ADMINISTRATIVE ASSISTANT

MARTHA.ELLINOR@MYFLORIDAHOUSE.GOV 850.717.4871

Martha Ellinor, the Administrative Assistant for the House Regulatory Affairs Committee, has been employed with the House since 1985 and has served in various councils/committees/ subcommittees. Before working with the Legislature, Martha was employed with the Department of Commerce and the State Board of Administration. Martha has also worked for a private real estate firm and a law firm.

LINDSAY COLLINS, ATTORNEY

LINDSAY.COLLINS@MYFLORIDAHOUSE.GOV 850.717.5598

Lindsay serves as an attorney for the subcommittee. She has worked on business regulatory issues in the Florida House of Representatives and the Florida Senate for more than a year. Previously, she worked in the Division of Alcoholic Beverages and Tobacco at the Department of Business and Professional Regulation. Lindsay holds a Juris Doctorate and a Master of Business Administration from Florida State University, and a Bachelor of Science in Finance from the University of North Carolina-Wilmington.

ALAN LIVINGSTON, SENIOR ANALYST

ALAN.LIVINGSTON@MYFLORIDAHOUSE.GOV 850.717.5280

Alan is a longtime legislative staffer (for more years than he will admit) and has spent time in both the Senate and the House. He has worked on a broad spectrum of issues, such as, indoor smoking implementing legislation and direct shipment of wine legislation. He now primarily focuses on regulatory issues under the jurisdiction of the Department of Business and Professional Regulation. He is originally from Orlando. He holds a bachelor of arts in political science from Florida State University.

MICHELLE MORTON, ATTORNEY

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Michelle serves as an attorney for the subcommittee. She has worked on business regulatory issues, with a focus on gambling law, in the Florida House of Representatives and the Florida Senate for five years. Michelle holds a Juris Doctorate from Florida State University College of Law and a Bachelor of Arts in English from East Tennessee State University.

SUBCOMMITTEE JURISDICTION

The Business & Professional Regulation Subcommittee oversees the state's regulation and licensing of a variety of business and professional entities and certain consumer regulatory programs. The subcommittee's oversight responsibilities include the Department of Business & Professional Regulation and the consumer service activities of the Department of Agriculture & Consumer Services.

CONTACTS

DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

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Dan Olson
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DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES

www.FreshFromFlorida.com
Office of Legislative Affairs, 850.488.3022
The Capitol, PL-10, 400 South Monroe Street, Tallahassee, Florida 32399-0800

Grace P. Lovett
Director, Office of Legislative Affairs
Grace.Lovett@FreshFromFlorida.com

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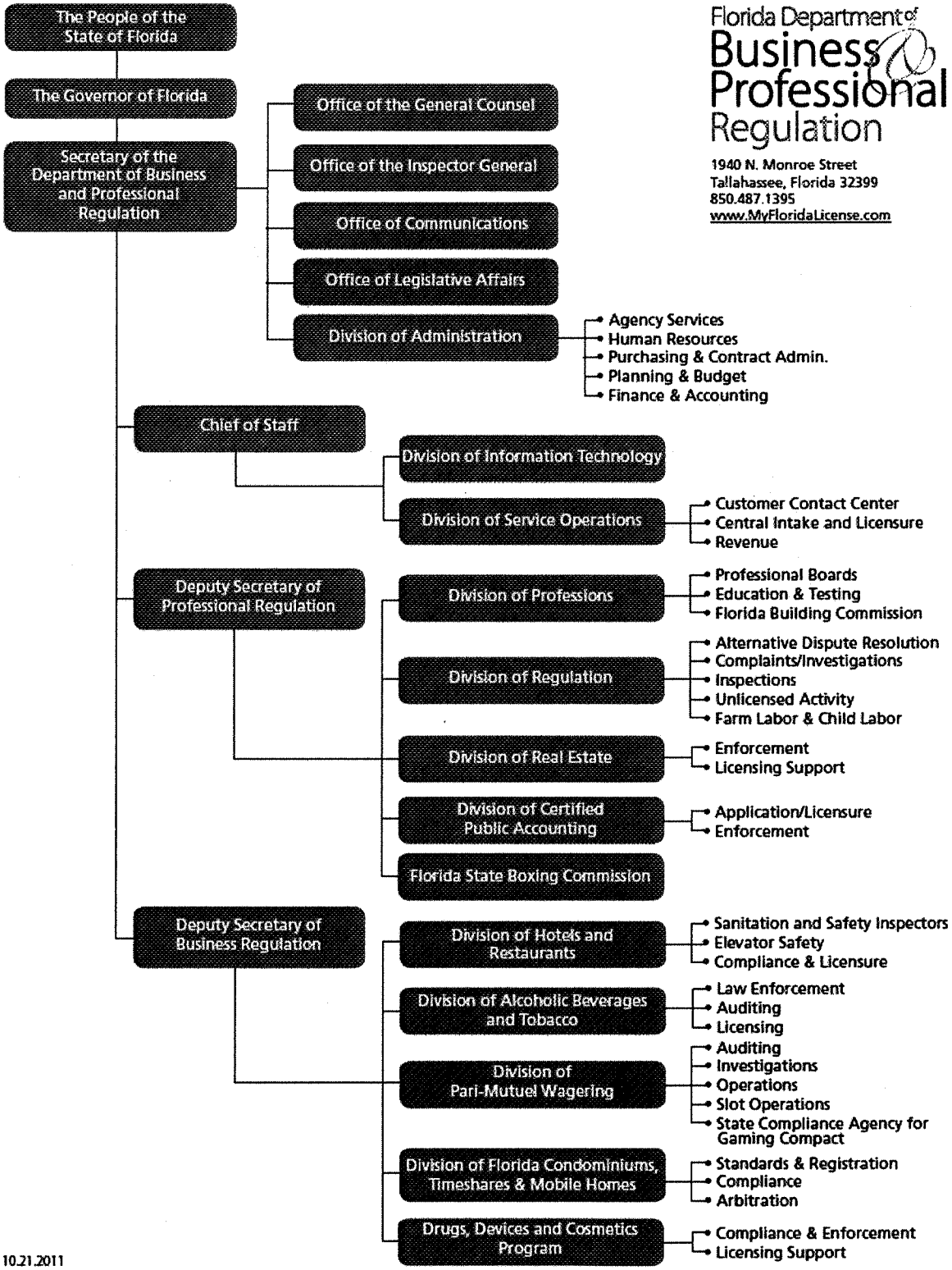
Deputy Director
Justin.Hollis@FreshFromFlorida.com

Department of Business & Professional Regulation

The Department of Business & Professional Regulation (DBPR) oversees the licensing and regulation of a variety of non-health businesses and professionals in Florida. Its stated mission is to license efficiently and regulate fairly.

Structure



Florida Department of Business Professional Regulation

1940 N. Monroe Street
Tallahassee, Florida 32399
850.487.1395
www.MyFloridaLicense.com

ADMINISTRATIVE

The **Division of Service Operations** manages the Central Intake and Licensure unit, the one-stop shop for intake of applications and payments. The division also oversees the Customer Contact Center, which handles all initial interaction conducted via telephone, e-mail and the Web.

The **Division of Technology** oversees the processes for system design, testing, planning, implementation and administration of the department's computer operations and desktop/field support. Development and maintenance of DBPR's corporate database application system, LicenseEase, is handled through this division, as is the development and maintenance of the department's Internet/Intranet presence and various Web based applications.

BUSINESS REGULATION

The DBPR is responsible for licensing and regulating six major industries: Alcoholic Beverages and Tobacco; Drugs, Devices, & Cosmetics; Condominiums, Timeshares, and Mobile Homes; Hotels & Restaurants, including elevator safety; and Pari-Mutuel Wagering.

The **Division of Alcoholic Beverages & Tobacco** licenses individuals and businesses to produce, transport, distribute, or otherwise deal in alcoholic beverages or tobacco.

The **Division of Drugs, Devices and Cosmetics** is responsible for the licensure and regulation of manufacturers of drugs and enforces the Florida Drug and Cosmetic Act with an aim to safeguard the health, safety, and welfare of the public from injury due to the use of adulterated, contaminated, misbranded drugs, drug ingredients and cosmetics.

The **Division of Florida Condominiums, Timeshares, and Mobile Homes** provides consumer support for Florida residents of such communities through education, complaint resolution, mediation and arbitration and developer disclosure. This division also licenses and regulates yacht and ship brokers.

The **Division of Hotels & Restaurants** licenses, inspects and regulates public lodging and food service establishments in Florida. The mission of the division is to protect the health and safety of the public by providing the industry with quality inspections and fair regulation. The division also licenses and regulates elevators, escalators and similar devices.

The **Division of Pari-Mutuel Wagering** is charged with the regulation of Florida's pari-mutuel, cardroom and slot gaming industries, as well as collecting and safeguarding associated state revenues. It also serves as the State Compliance Agency to oversee the state's responsibilities under the Gaming Compact with the Seminole Tribe of Florida and the State of Florida.

PROFESSIONAL REGULATION

The DBPR is responsible for licensing and regulating individual professional licensees, primarily through regulatory boards administratively housed within the department. Such professional licensees include real estate appraisers, brokers and sales associates, certified public accountants, boxers, community association managers, construction and electrical contractors, child and farm labor contractors, cosmetologists, geologists and veterinarians. It also administratively houses the Florida State Boxing Commission and the Florida Building Commission.

The **Division of Professions** is responsible for the licensing of nearly half a million professionals. The division administers 13 professional boards, 5 department-regulated programs and the Regulatory Council of Community Association Managers.

Boards

- Board of Architecture and Interior Design
- Board of Auctioneers
- Barbers' Board
- Building Code Administrators & Inspectors Board
- Construction Industry Licensing Board
- Board of Cosmetology
- Electrical Contractors' Board
- Board of Employee Leasing Companies
- Board of Professional Engineers
- Board of Professional Geologists
- Board of Landscape Architects
- Board of Pilot Commissioners
- Board of Veterinary Medicine

Programs

- Asbestos Licensing Unit
- Athlete Agents
- Home Inspectors
- Mold-related Services
- Talent Agencies

The **Division of Regulation** is the enforcement authority for the professional boards and programs. It monitors the professionals and related businesses; investigates complaints of wrongdoing; enforces compliance through notices of noncompliance and citations; and performs statutorily mandated inspections.

The division is divided into six program areas and operates 8 regional offices and 2 satellite offices. The six program areas are: compliance; complaints/investigations; alternative dispute resolution; unlicensed activity; farm labor; and child labor.

The Board of Architecture and Interior Design is statutorily required to contract for investigative, legal and prosecutorial services.

The **Florida Engineers Management Corporation**, a statutorily created non-profit, single purpose corporation, provides administrative, investigative and prosecutorial services to the Florida Board of Professional Engineers through a contract with the Department of Business and Professional Regulation.

The **Division of Certified Public Accounting** is responsible for the regulation of Certified Public Accountants (CPAs) and accounting firms. The division processes applications to sit for the CPA license, original Florida licensure applications, licensure by endorsement applications, reactivation of a delinquent or inactive CPA license, temporary permit applications, accountancy firm licensure and continuing education reporting forms. The division also provides administrative support to the Board of Accountancy.

The **Division of Real Estate** is responsible for the examination, licensing and regulation of over a quarter of a million real estate professionals, corporations, real estate schools and instructors. Located in Orlando, the division administers the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.

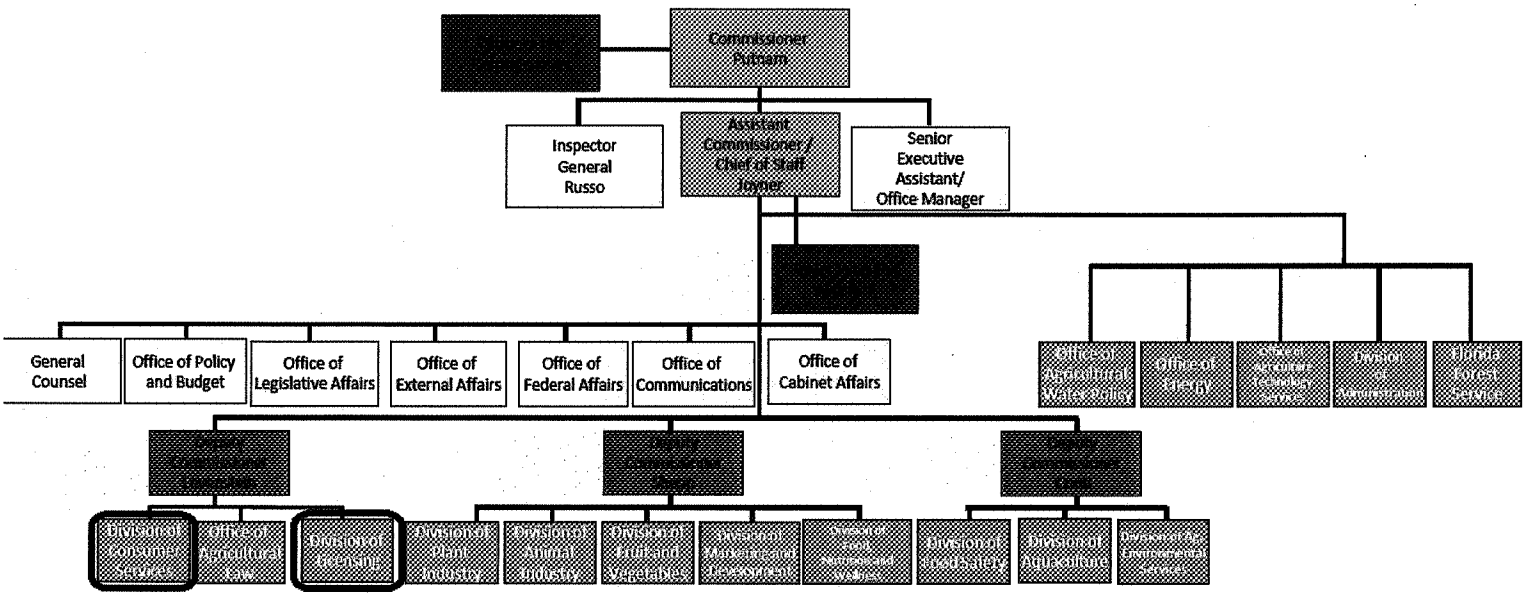
The **Florida State Boxing Commission** oversees the licensing and regulation of professional boxing, kickboxing and mixed martial arts. The Commission is also responsible for the approval of amateur boxing, kickboxing and mixed martial arts sanctioning organizations. It is housed in the DBPR for administrative and fiscal accountability purposes only.

The **Florida Building Commission** is responsible for adopting, updating and administering the Florida Building Code, the unified statewide code governing all construction. It adopts administrative rules and issues binding code interpretations every 3 years. The Commission is housed in the DBPR solely for administrative purposes.

DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES

The Division of Consumer Services within the Department of Agriculture & Consumer Services is the state's clearinghouse for consumer complaints, protection and information. The Division has responsibility for regulating various business industries operating in Florida and conducts investigations of unfair and deceptive trade practices. In addition, the Division functions as the United States Consumer Product Safety Commission's liaison in Florida regarding product recalls, inspections and investigations. Its stated mission is to protect, inform, and empower Florida's consumers and businesses, while promoting a positive business environment in the state.

STRUCTURE



Division of Licensing

The Division of Licensing oversees the licensure and regulation of concealed weapons or firearms and the private security, investigative and recovery services industries.

Division of Consumer Services

The Division of Consumer Services is comprised of four bureaus: Bureau of Compliance, Bureau of Mediation and Enforcement, Bureau of Investigations, and Bureau of Consumer Assistance.

The **Bureau of Compliance** has regulatory responsibility for the following business entities: Business Opportunities, Motor Vehicle Repair Shops, Charitable Organizations, Dance Studios, Pawnbrokers, Health Studios, Sellers of Travel, Intrastate Movers, Sweepstakes/Game Promotions, Lemon Law and Telemarketing. This bureau also administers the Florida Do Not Call Program.

The **Bureau of Mediation and Enforcement** is responsible for mediating complaints filed by consumers regarding goods and services provided by businesses. Complaints that fall under the jurisdiction of another federal, state, or local governmental agency are referred to that office for processing. This bureau also processes administrative enforcement actions for violations by an entity that falls within one of the Division's regulatory programs.

The **Bureau of Investigations** investigates alleged violations of Florida law that fall within the jurisdiction of the Division's regulated programs and complaints of price gouging during a declared state of emergency. It also conducts regulatory inspections and assists in mediations involving potential violations. Investigators liaise, and conduct joint investigations, with other federal, state, and local agencies responsible for consumer protection throughout the United States.

The **Bureau of Consumer Assistance** houses the Lemon Law program and the Consumer Assistance Center, which manages the state's toll-free Consumer Assistance Hotline.

Policy Issues

Regulatory Reform

With the recent economic downturn, there has been a focus on reducing obstacles to entrepreneurship. The Florida Legislature has taken measures over recent years to reduce unnecessary or duplicative business and professional regulations and to simplify bureaucratic oversight, while maintaining consumer protection. Provisions to assist military families, such as fee waivers, have also been passed. Nevertheless, a recent national study has pointed to potential areas for further reductions in licensing requirements.

Consumer Protection

In recent years, the Florida Legislature has passed legislation to enhance consumer protection and minimize the risk of fraudulent and abusive practices. Examples in the area of business and professional regulation include deceptive practices in the timeshare resale and the online retail markets.

RECENT MAJOR LEGISLATION

Governmental Reorganization

During the 2011 Legislative Session, SB 2156 consolidated several agencies and transferred many functions to existing agencies to the newly created Department of Economic Opportunity in an effort to reorganize state economic development. As part of this reorganization, the Building Code Commission was transferred to the Department of Business and Professional Regulation, where licensing, regulation, and oversight of building codes is currently conducted to streamline and coordinate efforts associated with decision making, investigations, and regulations associated with building codes in the state.

Deregulation

During the 2011 Legislative Session, the Business and Consumer Affairs Subcommittee proposed two bills: House Bill 5005 to repeal licensing and examination requirements and penalties for specified professions, occupations and businesses currently regulated by the state and House Bill 5007 to reduce regulatory requirements for professions and businesses.

While, the bills passed favorably out of the Florida House and, through the legislative Budget Conference process, an agreement was reached to include the language in the 2011-12 Budget Conference Report in the form of conforming bills, the bills failed in the Senate. However, the provisions of HB 5007 became law by being passed in similar legislation during the 2011 and 2012 sessions. No industry was deregulated.

OTHER RECENT LEGISLATION

REGULATORY REFORM

2012 HB 249, PUBLIC LODGING ESTABLISHMENTS, BY BEMBRY

- Exempted roominghouses from regulation as lodging establishments.
- Exempted certain apartment buildings inspected by the U.S. Department of Housing and Urban Development from regulation as lodging establishments.

2012 HB 517, REDUCING AND STREAMLINING REGULATIONS, BY REP. GRANT

- Waived initial licensure fees for recently discharged military veterans.
- Reduced required continuing education requirements to reactivate inactive licenses.
- Decriminalized violations of professional boards' rules.
- Increased reciprocity of architect licensees.
- Removed duplication of natural gas utilities federal regulations.
- Exempted landscape architecture from licensure as a mold assessor.
- Allowed distance learning for real estate continuing education.
- Allowed distilled spirits greater than 153 proof to be distilled, bottled, packaged, or processed for export or sale outside of the state.

2012 HB 693, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BY REP. INGRAM

- Removed licensure requirements for chief administrators of real estate schools.
- Reduced requirements for the barbering exam.
- Reduced licensure requirements for out-of-state real estate professionals.

2012 HB 749, CONSUMER SERVICES, BY REP. YOUNG

- Authorized the waiving of license renewal fees, in certain circumstances, for surveyors and mappers.
- Authorized waiver of firearm training requirements of private investigative, private security, or repossession services.
- Authorized the temporary waiver of requirements for maintaining power generators at motor fuel dispensing facilities if the generators are to be used in an emergency or major disaster situation in another state.
- Replaced criminal sanctions with administrative and monetary sanctions for violations of requirements for the sale of brake fluids.
- Reduced required continuing education requirements to reactivate inactive licenses.

2012 HB 769, PUBLIC ACCOUNTANCY, BY REP. FORD

- Increased reciprocity for certified public accountants.
- Authorized partial amnesty for delinquency of continuing education requirements.
- Authorized a feasibility study of the privatization of the Division of Certified Public Accountants.

2012 HB 887, Business and Professional Regulation, by Rep. Ingram

- Authorized penalties against a tobacco retailer's permit for nonpayment of debts.
- Authorized DBPR to approve continuing education providers and courses without board review.
- Authorized DBPR to reinstate void licenses due to illness or economic hardship.
- Required licensees to provide e-mail addresses.
- Authorized DBPR to send licensees notifications by e-mail.
- Exempted bank-owned appraisal management companies from regulation as appraisal management companies.
- Removed expiration of appraisal national exam scores.
- Increased reciprocity for cosmetologists.
- Eliminated mandatory licensure of glass and glazing contractors.
- Extended grandfathering of "registered" contractors' licenses to statewide "certified" contractors' licenses.
- Eliminated the reporting and tax requirements for showing closed circuit telecasts of boxing matches.

2011 HB 311 Local Business Taxes, by Rep. Roberson

- Exempted employees from local business taxes. Existing local regulations were grandfathered.
- Expanded prohibition against issuing business tax receipts without confirmation of active state registration, license or certificate to include those regulated by the Florida Supreme Court and any other state agencies.

2011 SB 462, Beverage Law, by Rep. Latvala

- Exempted certain volunteers of performing arts centers from division approval for licensure purposes.

2011 HB 883, Public Lodging Establishments and Public Food Service Establishments, by Rep. Horner

- Preempted local regulation of matters relating to nutritional content and marketing.
- Preempted local regulation, with exception, of vacation rentals.
- Exempted nonprofit patient housing from regulation as lodging.
- Revised restrictions related to distributing handbills in public lodging and food service establishments; provided for penalties.

2011 HB 901, Household Moving Services, by Rep. Horner

- Extended registration renewal cycles for intrastate movers to biennial.
- Preempted future local regulation of intrastate movers.

2011 HB 4009, Outdoor Theaters, by Rep. Workman

- Repealed requirements for road access specific to outdoor theaters.

2011 HB 4013, Television Picture Tubes, by Rep Eisnaugle

- Repealed labeling standards for television picture tubes.

2011 HB 4023, Sales Representative Contracts Involving Commissions, by Rep. Plakon

- Repealed requirements for sales representative contracts involving commissions and the related private cause of action.

2011 HB 7209, Consumer Services Functions of the Department of Agriculture and Consumer Services, by Rep. Crisafulli

- Transferred duplicative authority for regulation and enforcement of the Lemon Law and Price Gouging to the Department of Legal Affairs.
- Authorized the sale of certain homemade foods; provides requirements.

Construction Industry

2012 HB 521, State Preemption of the Regulation of Hoisting Equipment, by Rep. Artiles

- Preempted the regulation of hoisting equipment, including power-operated cranes, derricks, hoists, elevators, and conveyors used in construction, demolition, or excavation work.

2012 SB 704, Building Construction and Inspection, by Rep. Bennett

- Amended various provisions relating to the Florida Building Code.
- Required disclosures of competitive solicitation bids offered on public construction projects.
- Revised requirements for on-site sewage treatment and disposal systems.
- Authorized submission of electronically dated, signed, and sealed documents.
- Revised scope of work for roofing contractors.
- Specified exemption criteria for structures used for hunting purposes.
- Provided for revenue sharing of funds collected from the building permit surcharge between the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program.
- Directed the Building Commission to establish a workgroup to address high wind impacts on screen enclosures.

2011 HB 849, Building Construction and Inspection, by Rep. Davis

- Amended various provisions relating to the Florida Building Code.
- Exempted triennial updates of and amendments to the building and fire codes from legislative ratification.
- Prohibited Commission limitations to statutory exceptions and exemptions to coastal construction control and erosion project requirements.
- Exempted Habitat for Humanity International from contracting license requirements for home rehabilitation.
- Required specific justification for diverting from the base codes.

Consumer Protection

2012 HB 1001, Timeshares, by Rep. Eisnaugle

- Addressed issues of fraud in the sale of timeshares.
- Prohibited certain activities of timeshare resale service providers and resale advertising service providers.
- Provided contract requirements, including a minimum right of termination, for resale advertising service providers.
- Provided for civil penalties and penalties under the Florida Deceptive and Unfair Trade Practices Act.

2011 SB 1884, Consumer Protection, by Rep. Gaetz

- Addressed issue of online merchants selling customer billing information to third-party sellers who, in turn, use aggressive, possibly misleading tactics to charge the customers for membership clubs.
- Prohibited certain practices from internet sales, including prohibitions disclosure of billing information.
- Required third-party sellers to allow customers to stop recurring charges by telephone, e-mail or U.S. mail.
- Provides violations are an unfair and deceptive trade practice.

Miscellaneous

2012 HB 885, Transactions by Secondhand Dealers and Secondary Metals Recyclers, by Rep. Ford

- Addressed issues of theft and liability in the metal recycling market.
- Preempted the regulation of regulated metals property to the state, with exceptions.
- Revised requirements for secondary metals recyclers relating to recordkeeping.
- Increased recordkeeping and reporting requirements, and purchase restrictions, on restricted regulated metals property.
- Imposed penalties on those who assist in the taking of copper and other nonferrous metals.
- Clarified liability issues in relation to metals theft.

ENERGY & UTILITIES
SUBCOMMITTEE

Energy & Utilities Subcommittee

Regulatory Affairs Committee

Subcommittee Jurisdiction:

The Energy & Utilities Subcommittee considers matters related to energy resources and efficiency standards, utilities regulation and telecommunications oversight, and regulations associated with energy production and transportation.

The subcommittee's oversight responsibilities cover the Florida Public Service Commission, the Office of Public Counsel, the Governor and Cabinet sitting as the Utility Siting Board, and energy-related programs and activities within the Department of Agriculture and Consumer Services, including the Office of Energy; the Department of Business and Professional Regulation, including the Florida Building Commission; the Department of Environmental Protection; the Department of Financial Services; the Department of Management Services; and the Florida Energy Systems Consortium comprised of the 12 state universities.

Subcommittee Staff:

Lucretia Shaw Collins
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850-717-4872

Lucretia Shaw Collins, Policy Chief of the Energy & Utilities Subcommittee, has served in various capacities in the Florida Legislature for over 30 years. In addition to her present assignment, Lucretia has staff experience with the following committees in the Florida House of Representatives: Future of Florida's Families, Health Care Licensing & Regulation, Business Regulation & Consumer Affairs, Business & Professional Regulation, Corrections, Probation & Parole, Housing, and Ethics & Elections. Lucretia has also worked in the Florida Senate as the Assistant Policy Director/Executive Assistant in the Office of the Senate President.

Lucretia obtained a Master's in Public Administration from Florida State University and a Bachelor of Science in Health and Physical Education from Florida Agricultural & Mechanical University.

Cochran Keating
Cochran.Keating@myfloridahouse.gov
850-717-4872

Cochran Keating serves as Attorney for the Energy & Utilities Subcommittee, a role he has fulfilled over the previous four years. Cochran has also served the Florida House of Representatives as Staff Director of the Committee on Utilities & Telecommunications. Prior to joining the House, Cochran served for ten years as a Senior Attorney for the Florida Public Service Commission, focusing on energy regulatory issues.

Cochran earned a law degree from the Florida State University College of Law and a Bachelor of Science in Multinational Business and Marketing from Florida State University.

Cochran handles issues relating to electric, telecommunications, cable, and water and wastewater utility regulation, the siting of electrical power plants (including nuclear power), energy efficiency and conservation measures, and other issues involving the Public Service Commission and the Office of Public Counsel.

Shari Whittier
Shari.Whittier@myfloridahouse.gov
850-717-4872

Shari Whittier is the Senior Legislative Analyst for the Energy & Utilities Subcommittee. She has worked with the Legislature since 1985 and has held positions in various areas, such as Legislative Personnel, the House Clerk's Office, and House Committees on Agriculture, Rules & Regulations, Juvenile Justice, Corrections, Spaceport & Technology, and Energy.

Shari earned a Master's in Public Administration and a Bachelor of Arts in English, both from Florida State University.

Shari handles issues relating to renewable energy tax incentives and rebates, fuel standards, the Florida Building Commission, energy saving contractors, building standards, energy efficient appliances, alternative vehicles and related infrastructure, and other issues involving the Office of Energy within the Department of Agriculture and Consumer Services.

Martha Ellinor
Martha.Ellinor@myfloridahouse.gov
850-717-4870

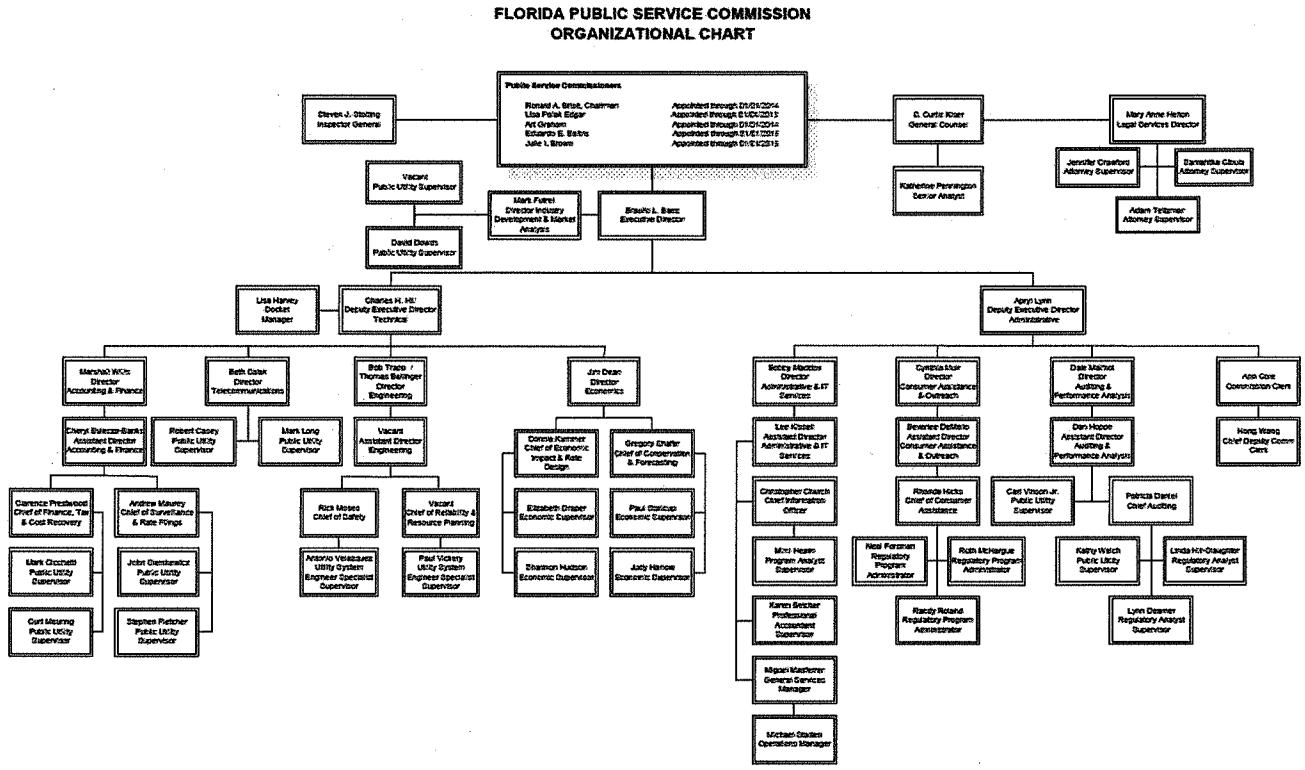
Martha Ellinor, the Administrative Assistant for the House Regulatory Affairs Committee, has been employed with the House since 1985 and has served in various councils/committees/ subcommittees. Before working with the Legislature, Martha was employed with the Department of Commerce and the State Board of Administration. Martha has also worked for a private real estate firm and a law firm.

AGENCY OVERSIGHT:

Florida Public Service Commission (PSC) (Arm of the Legislature)
Contact person: Katherine Pennington, Legislative Affairs Director, 850-413-6960
(kpenning@psc.state.fl.us)

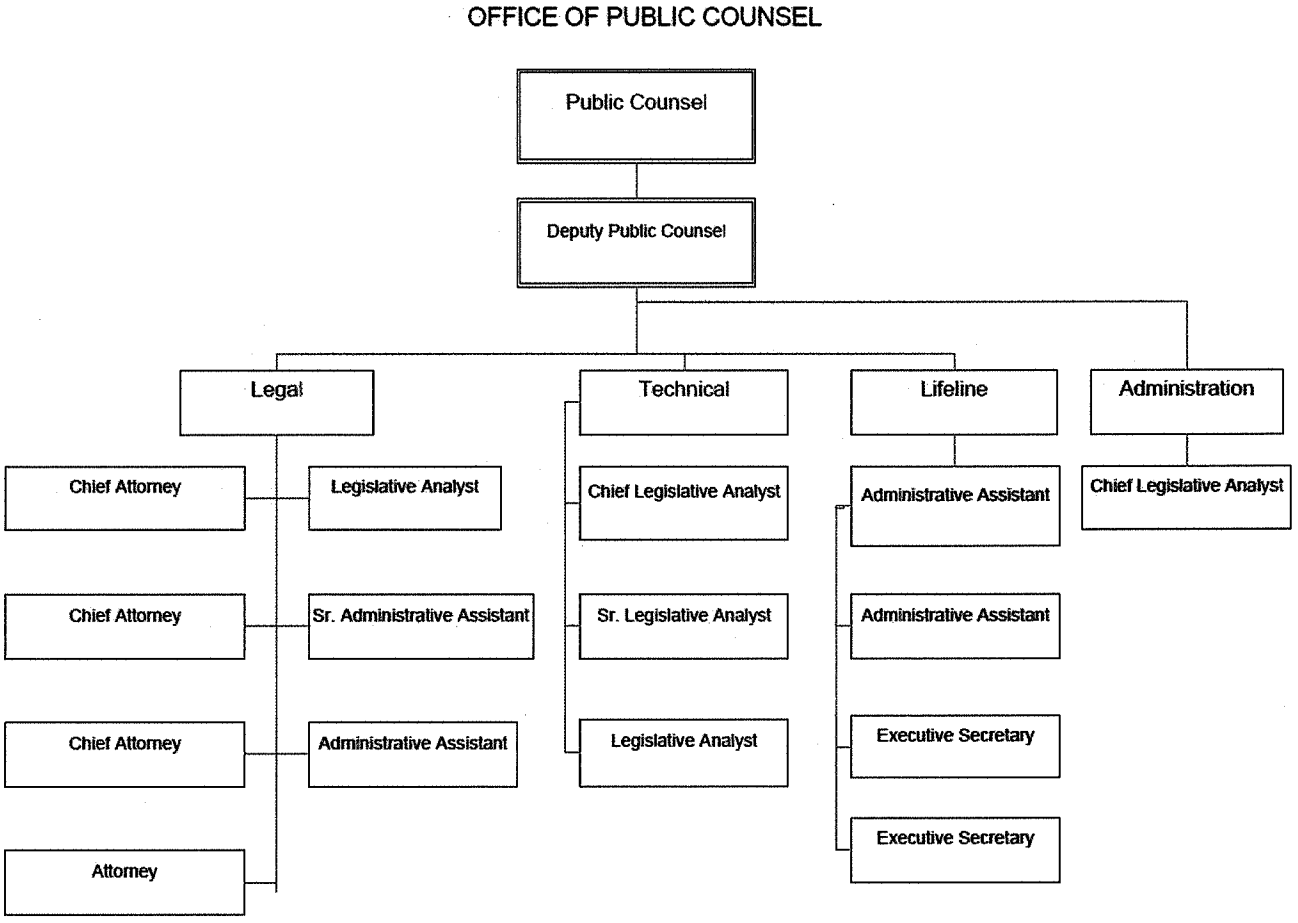
Policy Jurisdiction: The Florida Public Service Commission (PSC) is a 5-member appointed body whose primary responsibility is to ensure that Florida consumers/ratepayers receive their most essential services – electricity, natural gas, telephone, water, and wastewater – in a safe, affordable, and reliable manner. The PSC exercises regulatory authority over utilities in one or more of three key areas: rate base/economic regulation; competitive market oversight; and monitoring of safety, reliability, and service.

The PSC has regulatory authority over 5 investor-owned electric utilities (all aspects of operations, including rates and safety) [account for 7.25 million customers in the state], and limited regulatory authority over 35 municipally-owned electric utilities and 18 rural electric cooperatives. In addition, the PSC has regulatory authority over 7 investor-owned natural gas utilities, and limited regulatory authority over 27 municipally-owned natural gas utilities and 4 special gas districts. As of September 30, 2011, the PSC has regulatory authority over 10 incumbent local exchange companies, 367 competitive local exchange companies, and 105 pay telephone service companies. Finally, as of December 2010, the PSC has regulatory authority over 148 investor-owned water and/or wastewater utilities in 36 of Florida's 67 counties.



Office of Public Counsel (Arm of the Legislature)
Contact person: JR Kelly, Public Counsel, 850-488-9330
(KELLY.JR@leg.state.fl.us)

Policy Jurisdiction: The Public Counsel has the statutory duty to provide legal representation for the people of the State of Florida in proceedings before the Florida Public Service Commission involving electric utilities, gas utilities, water utilities, and wastewater utilities, and in proceedings before counties that elect jurisdiction over water and wastewater utilities pursuant to s. 367.171(8), F.S. The Public Counsel performs independent analyses, presents testimony of expert witnesses, cross-examines witnesses, and files recommendations and briefs in those cases. The Public Counsel does not pursue cases regarding utilities owned by local governments or cooperatives, nor does the Public Counsel pursue criminal or other individual matters. The Public Counsel is independent from any regulatory authority and accounts only to the people of the State of Florida through the Florida Legislature. The Office of Public Counsel also verifies the income eligibility of Florida residents applying for Lifeline telephone assistance.



Department of Agriculture and Consumer Services (DACS)
Office of Energy
Division of Consumer Services
Bureau of Standards
Bureau of Liquefied Petroleum Gas Inspection

Contact person(s): Grace Lovett, Legislative Affairs Director, 850-617-7735
(grace.lovett@freshfromflorida.com)
Patrick Sheehan, Director, Office of Energy, 850-617-7470
(patrick.sheehan@freshfromflorida.com)

Policy Jurisdiction: The Office of Energy within the DACS is the primary organization for state energy and climate change programs and policies. The office holds a variety of responsibilities, including administering financial incentive programs; administering the provisions of the Florida Energy and Climate Protection Act; representing Florida in the Southern States Energy Compact; performing or coordinating the functions of any federal energy programs delegated to the state; and providing recommendations to the Governor and the Legislature. The office also works cooperatively with other state entities to develop state energy and climate change policies and programs.

The Bureau of Standards is responsible for conducting inspections of the petroleum distribution system and analyzes samples of petroleum products to ensure consumers are being offered quality products at a fair measure. The quality of gasoline, alternative fuels (E85, biodiesel, ethanol, etc.), kerosene, diesel and fuel oil are determined at department testing laboratories. The bureau's laboratory personnel also test antifreeze products and brake fluid products to ensure that they pass strict standards before being registered by the department for sale to the public. The Bureau is responsible for conducting inspections at the 9,025 retail facilities and inspects more than 60,000 commercial measuring devices each year.

The Bureau of Liquefied Petroleum Gas Inspection ensures the safe sale, use, storage, handling, and transportation of propane in the State of Florida.

Department of Business and Professional Regulation (DBPR)
Division of Professions
Florida Building Commission

Contact person: Sam Verghese, Legislative Affairs Director, 850-487-4827
(sam.verghese@dbpr.state.fl.us)

Policy Jurisdiction: The Florida Building Commission, authorized under ss. 553.76 and 553.77, F.S., is a 25-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code through a consensus-building process. The Chair is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. Other Commission members appointed by the Governor represent architects, engineers, contractors, building owners, insurance, public education, local governments, building and fire officials, and persons with disabilities. The Commission also approves appliances for energy efficiency and statewide acceptance. The Department of Business and Professional Regulation, Division of Professions, Office of Building Codes and Standards, provides administrative and staff support services to the Commission.

The Florida Building Code, authorized under s. 553.73, F.S., replaced Florida's patchwork of codes and regulations that were developed, amended, administered and enforced by more than 400 local jurisdictions and state agencies with building code regulation responsibilities. The current Code is a

single statewide code based on national model codes and consensus standards, amended for Florida's specific needs for the design and construction of buildings. The Code is designed to make the local building process more efficient, increase accountability, bring new and safer products to the market, increase consumer confidence, and better protect the residents of this natural disaster prone state.

The Florida Energy Code is a statewide uniform code which provides for minimum energy efficiency standards and design tools "compliance methods" for both new construction and alteration of residential and commercial buildings. In order to encourage higher energy standards in buildings, the code provides for computer simulation tools which allow building owners/designers to analyze the whole building energy performance of their buildings and determine the projected energy costs necessary to operate their proposed building design.

Department of Environmental Protection (DEP)
Division of Air Resource Management, Siting Coordination Office
Utility Siting Board (provides administrative support to Governor and Cabinet)
Contact person: Pierce Schuessler, Director, 850-245-2140
(pierce.schuessler@dep.state.fl.us)

Policy Jurisdiction: The Siting Coordination Office within the Division of Air Resource Management coordinates the interagency review and certification for siting, building, and operating electrical power plants (including nuclear power), natural gas pipelines, and electrical transmission lines. It administers Florida's environmental regulatory programs with respect to energy production and transportation. DEP's Siting Coordination Office and General Counsel's Office provide administrative and legal support for the certification process. Certification is an all-encompassing license for affected state, regional, and local agencies, and includes any regulatory activity which would be applicable under these agencies' regulation for the facility. Though DEP is responsible for coordinating the certification process, the Governor and Cabinet, sitting as the Utility Siting Board, issue siting certifications.

Electric and magnetic fields generated by electrical transmission lines are also regulated by DEP. The Siting Coordination Office reviews required compliance reports submitted by companies that construct or operate transmission lines and assists county tax appraisers in determining eligibility for ad valorem tax reductions for air or water pollution control equipment.

Department of Financial Services (DFS)
Division of Accounting and Auditing
Bureau of Auditing
Contact person: Logan McFaddin, Legislative Affairs Director, 850-413-2910
logan.mcfaddin@dfs.state.fl.us

Policy Jurisdiction: Within the Division of Accounting and Auditing, the Bureau of Auditing is responsible for providing reasonable assurance to the taxpayers of Florida that funds disbursed from the State Treasury are valid obligations of the state and are in general compliance with state statutes. Energy Savings Contracts (ESCOs) are subject to audits performed by this bureau. This division works with the Department of Management Services in managing the state ESCO program.

Department of Management Services (DMS)
Division of Real Estate Development and Management
Division of Telecommunications
Bureau of Public Safety
Broadband Florida Initiative

Contact person: Stephanie Leeds, Legislative Affairs Director, 850-933-6535
(stephanie.leeds@dms.myflorida.com)

Policy Jurisdiction: The Division of Real Estate Development and Management in the DMS administers the Florida Energy Conservation and Sustainable Buildings Act which directs state agencies to incorporate sustainable building practices into the design, construction, and renovation of state buildings. DMS, through this act, has developed the Florida Life-Cycle Cost Analysis Program which pertains to the evaluation of life-cycle energy performance for alternative building designs. Additionally, DMS developed the State Energy Management Plan which is a comprehensive plan to help state agencies reduce energy consumption and costs. DMS has adopted the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system for new construction and renovation projects for state buildings.

Through its Division of Telecommunications, Bureau of Public Safety, the DMS has the following responsibilities for statewide coordination of 911 and enhanced 911 (E911) services:

- Statewide Emergency Communications Number E911 State Plan
- Coordinating effective delivery of 911 services statewide
- Assisting counties with technical standards and operational capabilities
- Assisting counties with designing and implementing new systems
- Inspecting and issuing certificates to all Public Service Answering Points (PSAP) in compliance with the 911 Plan
- Assisting with county 911 coordinator training
- Monitoring the Florida Public Service Commission (FPSC); Federal Communications Commission (FCC); and other regulatory entities on 911/E911 issues.

Presently, the DMS is responsible for implementing the state's broadband program. (The 2012 Legislature required DMS, in consultation with the Department of Economic Opportunity (DEO), to request federal approval to transfer the federal broadband grant from DMS to DEO. That approval has not been received from the U.S. Department of Commerce.) Under this program, DMS is authorized to work collaboratively with Enterprise Florida, state agencies, local governments, private businesses, and community organizations to:

- Assess the needs for broadband Internet service and develop data and maps that provide a baseline assessment of the availability and speed of broadband service throughout Florida
- Create a strategic plan to increase use of broadband Internet service in Florida
- Build local technology planning teams
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved areas of the state through grant programs.

DMS is also authorized to apply for and accept federal funds, as well as gifts and donations from individuals, foundations, and private organizations, for these purposes.

Florida Energy Systems Consortium (FESC)
Contact person: Dr. Timothy J. Anderson, FESC Director, University of Florida, 352-392-8049 (tim@ufl.edu)

Policy Jurisdiction: The Florida Energy Systems Consortium was created by the 2008 Legislature, pursuant to s. 1004.648, F.S., to "promote collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and energy efficient strategic plan for the state." The consortium is administered at the University of Florida by a director appointed by the President of the University of Florida, and includes the following state universities as defined in s. 1000.21(6), F.S.:

- The University of Florida (UF)
- The Florida State University (FSU)
- The Florida Agricultural and Mechanical University (FAMU)
- The University of South Florida (USF)
- The Florida Atlantic University (FAU)
- The University of West Florida (UWF)
- The University of Central Florida (UCF)
- The University of North Florida (UNF)
- The Florida International University (FIU)
- The Florida Gulf Coast University (FGCU)
- New College of Florida (NCF)
- The Florida Polytechnic University (FPU) – was established by the 2012 Legislature

In its annual report submitted to the Governor, President of the Senate, Speaker of the House of Representatives, and the Department of Agriculture and Consumer Services, on November 1, 2012, the FESC listed the following:

Major Accomplishments over the last three years:
- 20 companies have been formed based on university developed technologies.
- 336 students (Undergraduate: 35, M.S.: 104, PhD: 163, JD Law: 2) and 32 Post-docs supported.
- Over 50 Fact sheets generated to help Florida citizens better conserve and increase energy efficiency.
- FAU designated by U.S. Department of Energy as one of three National Marine Renewable Energy Centers.

Key accomplishments during the reporting period October 1, 2011 thru September 30, 2012
- 259 proposals requesting $334M submitted by State University System (SUS) energy faculty.
- 274 research awards totaling $64M to SUS energy faculty.
- 25 technologies were licensed to industry.
- 59 Invention Disclosures were submitted and/or patents received by the SUS faculty.
- 242 technical publications and 202 professional presentations were produced by FESC faculty.
- 17,713 have visited the FESC web site.

Overview of Recent Passed Legislation within subcommittee's jurisdiction:

2011 Legislature

CS/CS/CS/HB 887 - Communications Services Tax by State Affairs Committee; Finance & Tax Committee; Energy & Utilities Subcommittee; Dorworth

Chapter 202, F.S., provides that sales of communications services, except direct-to-home satellite service, are subject to a state communications services tax (CST), a gross receipt tax, and a local CST. Federal law prohibits direct-to-home satellite service sales from being subject to a local CST. Direct-to-home satellite sales are subject to a different state CST rate and gross receipt rate than that of other communications services sales.

The Department of Revenue (DOR) is required to make available, in an electronic format or otherwise, the tax amounts and brackets applicable to each taxable sale so that the tax collected is not less than allowed by statute. To clarify the law, the DOR has created proposed Rule 12A-19.021, F.A.C. The proposed rule provides that any communications services tax resulting in a fraction of a cent be rounded to the next whole cent.

The bill eliminated the requirement of the DOR to provide tax amounts and brackets to communications services dealers. The bill required communications services dealers to compute state and local CSTs based on a rounding algorithm. This algorithm must be carried to the third decimal place and be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. The bill authorized a dealer to apply the rounding algorithm to the state CST based on one of three ways:

- Total 9.17 percent;
- Separate 6.65 percent and 2.52 percent; or
- Separate 6.8 (combined .15 percent and 6.65 percent) and 2.37 percent

The bill provided that a dealer may compute the taxes on an item or invoice basis. The aggregate tax amount for all items on the invoice must equal at least the result that would have been obtained if the rounding algorithm had been applied to the aggregate tax amount computed on all taxable items on the invoice. A dealer may satisfy this requirement by setting a minimum tax amount of not less than $0.01 with respect to each item, or group of items, to which the rounding algorithm is applied. A dealer must apply the rounding algorithm to the local CST separately from the state CST. The bill stated that a dealer is not required to collect the taxes based on a bracket system.

The bill provided that the act is intended to be remedial in nature and apply retroactively. However, the act did not provide a basis for an assessment of any tax not paid or create a right to a refund of any tax paid before July 1, 2011.

The 2011 Revenue Estimating Conference estimated that there will not be a fiscal impact on state or local governments.

The bill went into effect on July 1, 2011.

CS/CS/HB 1231 – Telecommunications by State Affairs Committee; Energy & Utilities Subcommittee; Horner; Williams, A., and others

In 1995, the Legislature opened local telephone service markets to competition beginning January 1, 1996. The 1995 law allowed an incumbent local exchange company to elect "price regulation" instead of traditional rate-of-return regulation, making it subject to price caps on basic service (i.e., single-line, flat-rate residential local exchange service) and nonbasic service (i.e., any service other than basic service, including a combination of basic service with any nonbasic or unregulated service). The 1995 law retained the Public Service Commission's (PSC) jurisdiction over service quality issues and granted it new authority to address consumer issues in the transition to a sufficiently competitive market. After changes to the law in 2009, local exchange companies remained subject to the price regulation scheme adopted in 1995, with slight modifications to the caps, though only basic service remained subject to service quality oversight by the PSC. According to the PSC, approximately four percent of local service customers are considered basic service customers now.

On August 1, 2010, the PSC issued its Report on the Status of Competition in the Telecommunications Industry as of December 31, 2009. In its Report, the PSC found:

> Florida's communications market continues to exhibit competitive characteristics. Estimates of wireless-only households have increased from prior years, and in the most recent reporting period, Florida cable companies expanded the number of VoIP customers served. These facts, coupled with continued residential access line losses by ILECs, suggest an active market for voice communications services in many areas of Florida.

Legislative Intent

The bill provided legislative findings that "the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and has provided customers with freedom of choice, encouraged the introduction of new telecommunications service, encouraged technological innovation, and encouraged investment in telecommunications infrastructure."

Consistent with these findings, the bill deregulated retail service provided by local exchange companies through the repeal of several provisions of law, including repeal of all price and service quality regulation. The bill maintained the role of the PSC in resolving wholesale disputes between telecommunications service providers.

Deregulation of Telecommunications Services

The bill repealed or amended several provisions of existing law related to the regulation of telecommunications services. Specifically, the bill:

- Eliminated PSC jurisdiction over basic service and nonbasic service offered by a local exchange company;
- Eliminated price regulation caps for basic and nonbasic service offered by a local exchange company and provided such companies with the flexibility to offer competitively priced services;
- Eliminated the requirement that a local exchange company offer flat-rate pricing options;
- Eliminated the PSC's authority to compel repairs for purposes of securing adequate service or facilities for basic service;

- Eliminated the requirement that an alphabetical directory listing (e.g., a phone book) be provided as an element of basic service;
- Removed any remaining PSC oversight of intrastate interexchange telecommunications companies (i.e., companies that provide long distance service between points within the state);
- Eliminated rate caps on pay telephone service providers;
- Exempted operator services from PSC jurisdiction and removed any statutory operational and billing requirements for operator service providers;
- Eliminated shared tenant services from PSC jurisdiction; and
- Eliminated PSC jurisdiction over otherwise exempt services where such jurisdiction is specifically authorized by federal law.

The bill directed the PSC to reduce the regulatory assessment fees it imposed on telecommunications companies to reflect the reduction in its regulatory responsibilities.

The bill repealed requirements related to the development of a state universal service mechanism.

Certification of Service Providers

The bill provided that either a certificate of necessity or a certificate of authority is required to provide telecommunications service to the public in Florida. The bill provided that the PSC shall cease to provide certificates of necessity after July 1, 2011, though existing certificates of necessity will remain valid. The bill also established the process and requirement for obtaining a certificate of authority to provide telecommunications service to the public in Florida. The PSC must grant a certificate of authority to provide telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

The bill provided that the transfer of a certificate of necessity or authority from the certificate holder's parent company or affiliate or to another person holding a certificate, or its parent company or affiliate, may occur without prior approval of the PSC, provided that notice of the transfer is provided to the PSC within 60 days after completion of the transfer. The transferee assumed the rights and obligations conferred by the certificate.

Consumer Education and Assistance

The bill repealed or amended several other provisions of existing law to reflect the deregulation of local exchange service in light of the development of competition. Specifically, the bill:

- Removed obsolete requirements to educate consumers concerning the transition from a regulated monopoly system to a competitive market for local exchange service;
- Removed the PSC's authority to assist customers in resolving billing and service disputes involving regulated companies and services;
- Eliminated the requirement that local exchange companies disclose to residential customers the lowest cost option when service is requested and advise customers annually of the price of each service option they have selected;
- Maintained the PSC's authority to adopt rules and resolve complaints regarding the unauthorized changing of a customer's telecommunications service, referred to as "slamming";
- Maintained the PSC's authority to provide consumer education and information concerning the Lifeline and Link-Up programs;
- Eliminated the requirement that billing parties provide detailed bills and a toll-free number that must be answered by a customer service representative or a voice response unit;

- Removed a provision stating that a customer is not liable for any charges for services that the customer did not order, referred to as "cramming"; and
- Removed the PSC's authority to regulate the terms of contracts between a telecommunications company and its customers.

Competitive Market Oversight
The bill described the PSC's authority to oversee carrier-to-carrier relationships and to prevent anticompetitive behavior, including, but not limited to, issues involving the resale of services, number portability, dialing parity, access to rights of way, access to poles and conduits, and reciprocal compensation. It also maintained the PSC's authority to arbitrate and enforce interconnection agreements in accordance with applicable Federal law and regulations.

Adoption of Broadband Service
The bill amended existing law related to the deployment and adoption of broadband Internet service throughout Florida. The bill removed broadband "deployment" as the intent of the law, providing instead that the law's intent was to promote "sustainable adoption" of broadband Internet service. "Sustainable adoption" is defined in the bill as "the ability for communications service providers to offer broadband services in all areas of the state by encouraging adoption and utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy." The bill reflected this change in focus through the priority given to projects for purposes of awarding grants.

The bill went into effect July 1, 2011.

SB 2106 – Florida Energy and Climate Commission by Budget

The bill transferred the Energy Office from the Florida Energy and Climate Commission to the Department of Agriculture and Consumer Services.

Since 1975, energy-related policy issues have been administered by several state agencies, including the Departments of Administration, Community Affairs, Environmental Protection, and most recently, the Executive Office of the Governor through the Florida Energy and Climate Commission (FECC or Commission).

In 2009, through the American Recovery and Reinvestment Act of 2009 (ARRA), the federal government provided stimulus monies to qualifying states for energy-related programs and the FECC received approximately $176 million to be administered over a three-year period (2009-2012) within the state. This allocation was a substantial increase to the Commission's prior average funding levels of approximately $20 million.

With the ARRA funding, the focus of the Energy Office changed and the primary role and function became grant management. The FECC calculated that the number of financial transactions completed in a month for the Energy Office was approximately equal to the total amount of other financial transactions completed in a year for the entire Executive Office of the Governor.

The Department of Agriculture and Consumer Services (DACS) has had a role in managing some aspects of energy-related projects with the establishment of the Farm-to-Fuel Initiative in 2006, specifically "to enhance the market for and promote the production and distribution of renewable

energy from Florida-grown crops, agricultural wastes and residues, and other biomass and to enhance the value of agricultural products or expand agribusiness in the state." In 2007, the Legislature appropriated $25 million to the DACS to establish the Farm-to-Fuel Grants Program to provide matching grants for demonstration, commercialization, research, and development projects relating to bioenergy projects. In 2008, the Legislature directed the DACS to administer the Renewable Fuel Standard and to be a consultant to the FECC when awarding bioenergy projects for renewable technology.

Mainly, SB 2106 accomplished the following:

- Abolished the nine-member Florida Energy and Climate Commission.
- Except where otherwise specified, provided for a Type Two Transfer of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts to the DACS.
- Transferred the duties from the FECC for petroleum allocation planning and emergency contingency planning programs to the Division of Emergency Management within the Executive Office of the Governor.
- Transferred administration of the federal Coastal Energy Impact Program to the Department of Environmental Protection.
- Transferred coordination and review, in consultation with the DACS, of the energy conservation programs of all state agencies to the Department of Management Services.
- Created the Office of Energy within the DACS.
- Authorized the DACS to submit an amendment to the Legislative Budget Commission for increased budget authority for a fixed capital outlay appropriation for federal energy grants.
- Made conforming changes to applicable statutes and cross-references.

The bill went into effect July 1, 2011.

2012 Legislation

CS/CS/HB 801 - Emergency 911 Service by Finance & Tax Committee; Community & Military Affairs Subcommittee; Steube; Passidomo

In 1999, the Legislature passed the Emergency Communications Number E911 Act, establishing a statewide enhanced 911 ("E911") system. To fund the E911 system, the act requires voice communications service providers to collect a fee from customers. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service. The act created the E911 Board to implement and oversee the E911 system.

CS/CS/HB 801 modifies the membership of the E911 Board by expanding the total number of members from 9 to 11. This change was achieved by: expanding the number of local exchange company representatives from 2 to 3; adding a requirement that one of these three Board members represent a competitive local exchange telecommunications company; expanding the number of county 911 coordinators from 4 to 5 and the number of at-large county 911 coordinators from 1 to 2; and reducing the number of wireless telecommunications industry representatives on the Board from 2 to 1.

The bill clarifies how the E911 fee will be billed by certain voice communications service providers, including billing to customers served through high-capacity lines. The bill also clarifies that the current indemnification and liability provisions related to the provision of E911 service also apply to non-voice communications (e.g., text, data, images, and video) that may be utilized in new 911 applications currently being developed. The bill reflects the June 2011 dissolution of the Florida Telecommunications Industry Association by removing statutory references to the association and its predecessor.

The bill allows 911 public safety telecommunicators (i.e., public safety dispatchers and 911 operators) to disclose the location of persons having a confirmed coronary emergency to private persons or entities that have automated external defibrillators nearby.

The bill went into effect July 1, 2012.

CS/HB 945 - Broadband Internet Service by Appropriations Committee; Holder and others

CS/HB 945 replaces the Department of Management Services (DMS) with the Department of Economic Opportunity (DEO) as the agency responsible for implementing the state's broadband program. The bill designates DEO as the single state entity to receive and manage all federal State Broadband Initiative funds. Further, the bill:

- Requires DEO to establish a public-private partnership that will work collaboratively with Enterprise Florida, state agencies, local governments, private businesses, community organizations, and nonprofit corporations;
- Provides that community development is a goal of the state broadband program;
- Requires that DEO's strategic plan to increase use of broadband Internet service in Florida be developed with the use of consumer research into residential and business technology utilization data; and
- Specifies that broadband mapping efforts conducted under DEO must, at a minimum, identify transmission speeds and unserved and underserved areas at the census block level, which provides a finer level of detail than required by current law.

The bill requires DMS, in consultation with DEO, to request federal approval to transfer the federal broadband grant from DMS to DEO. Upon approval of the transfer, DMS must request a budget amendment requiring Legislative Budget Commission (LBC) approval to transfer all funds. LBC approval will initiate a type two transfer of all funds and authority of the state broadband program from DMS to DEO.

Approval has not been received from the U.S. Department of Commerce to transfer the program. The remainder of the bill is effective upon LBC's approval of the required budget amendment.

CS/CS/HB 7117 – Energy by State Affairs Committee; Finance & Tax Committee; Energy & Utilities Subcommittee; Plakon; Mayfield and others

CS/CS/HB 7117 was the first major energy policy legislation adopted by the Legislature since 2008. The bill incentivizes the investment and production of renewable energy projects in Florida in the following ways:

- Amends the definition of "local government" to facilitate Property Assessed Clean Energy projects by local governments by including in the definition separate legal entities created by interlocal agreements.
- Revises the ten-year site plan process to specifically require electric utilities to provide information concerning actual and planned renewable energy production.
- Reinstates and revises the sales tax exemption for renewable energy technologies; the renewable energy technologies investment corporate income tax credit; and the renewable energy production corporate income tax credit. Transfers certification of the renewable energy production corporate income tax credits to the Department of Agriculture and Consumer Services (DACS). Directs DACS to do an assessment on the use of each of these programs.
- Provides that the rates, terms, and conditions of electric vehicle charging services by a non-utility are not subject to regulation by the PSC. Directs the PSC to conduct a study on the potential effects of electric vehicle charging stations on both energy consumption and the electric grid.
- Appropriates $250,000 for the PSC, in consultation with DACS, to contract for an independent evaluation of the Florida Energy Efficiency and Conservation Act (FEECA) to determine whether it remains in the public interest.
- Expands allowed uses of the local government infrastructure surtax proceeds to provide loans, grants, or rebates to residential and commercial property owners who make energy efficiency improvements to their property. Requires a local government to approve by referendum the expansion of such uses.
- Expands the Renewable Fuel Standard to include "alternative fuel." Provides that retail dealers are not prohibited from selling or offering to sell unblended gasoline. Directs DACS to compile a list of retail dealers that sell or offer to sell unblended gasoline in the state and post the list on the department's website.

The effective date of the bill was July 1, 2012, and became law without the Governor's signature.

Summary of Possible Policy Issues for 2012-2014

Implementation of the 2008 Constitutional Amendment regarding Renewable Energy Devices

There have been several attempts over the years to implement a property tax incentive for renewable energy source devices. In 1980, Florida voters added the following authorization to Article VII, section 3(d), Florida Constitution:

> By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

During the same year, based on the new constitutional authority, the Legislature approved a property tax exemption for real property on which a renewable energy source device is installed and is being operated. However, the exemption expired after 10 years, as provided in the constitution. Specifically, the exemption period authorized in statute was from January 1, 1980, through December 31, 1990. Therefore, if an exemption was granted in December 1990, the exemption terminated in December 2000. The law required that the exemption could be no more than the lesser of the following:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

In December of 2000, the last of the exemptions expired.

During the 2008 Legislative Session, HB 7135 (ch. 2008-227, L.O.F.) was enacted, removing the expiration date of the property tax exemption, thereby allowing property owners to once again apply for the exemption, effective January 1, 2009. The period of each exemption, however, remained at 10 years. The bill also revised the options for calculating the amount of the exemption for properties with renewable energy source devices by limiting the exemption to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

In the November 2008 General Election, Florida voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission adding the following language to Article VII, section 4, of the Florida Constitution:

> (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:
>
> (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
>
> (2) The installation of a renewable energy source device.

The amendment also repealed the constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated. This repealed language had provided the constitutional basis for legislation passed in 1980 and in 2008.

In 2009, the House passed CS/HB 7113, which codified the constitutional property tax assessment provision that was adopted by the voters in 2008. The bill, however, was not heard in the Senate and died in Messages. In 2011, the House passed CS/CS/HB 531 and in 2012, the House passed CS/HB 133. Both measures would have codified the constitutional provision, but the bills were not heard in the Senate either year.

Studies/Reports Mandated in 2012 Legislative Session:

- Electric Vehicle Charging Station Study – CS/CS/HB 7117 requires the Public Service Commission (PSC) to conduct a study of the potential effects of public charging stations and privately owned electric vehicle charging on both energy consumption and the impact on the electric grid in the state. The PSC shall also investigate the feasibility of using off-grid solar photovoltaic power as a source of electricity for the electric vehicle charging stations. The study is to be submitted to the President of the Senate, Speaker of the House, and the Executive Office of the Governor by **December 31, 2012**.

- Florida Energy Efficiency and Conservation Act (FEECA) Evaluation - The Public Service Commission (PSC), in consultation with the Department of Agriculture and Consumer Services, is required, by CS/CS/HB 7117, to contract for an independent evaluation of the FEECA to determine if the act remains in the public interest. The evaluation is to consider the costs to ratepayers, the incentives and disincentives associated with the provisions in the act, and if the programs create benefits without undue burden on the customer. The PSC contracted with the University of Florida's Public Utility Research Center, the University of Florida's Program for Resource Efficient Communities, and the National Regulatory Research Institute. The report is to be submitted to the President of the Senate, Speaker of the House, and the Executive Office of the Governor by **January 31, 2013**.

- Study Committee on Investor-Owned Water and Wastewater Utility Systems - HB 1389 created an18-member Study Committee on Investor-Owned Water and Wastewater Utility Systems to identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers and research possible solutions. The committee is also to consider, among other issues, the ability of small utilities to achieve economies of scale when purchasing equipment, commodities, or services, the availability of low interest loans, and the impact on customer rates under certain circumstances. Public Service Commissioner Julie Brown serves as chair and staff is provided by the commission. A report with specific legislative recommendations shall be submitted to the Governor, President of the Senate, and Speaker of the House by **February 15, 2013**.

- Statewide Forest Inventory Analysis and Study – CS/CS/HB 7117 requires the Department of Agriculture and Consumer Services to conduct a comprehensive statewide forest inventory analysis and study to identify where available biomass is located, determine the available biomass resources, and ensure forest sustainability within the state. The study is to be submitted to the President of the Senate, Speaker of the House, and Executive Office of the Governor by **July 1, 2013.**

Insurance & Banking Subcommittee
Regulatory Affairs Committee

DEPARTMENT OF FINANCIAL SERVICES

MISSION
The Department of Financial Services' mission is to safeguard the people of Florida and the state's assets through financial accountability, education, advocacy, fire safety and enforcement.

PURPOSE
The Department of Financial Services manages the state's accounting and auditing functions, monitors the investment of state funds, investigates financial fraud, licenses and exercises oversight of insurance agents and agencies, ensures that Florida businesses have workers' compensation coverage, safeguards unclaimed property, helps consumers with financial services issues and serves as the state fire marshal, investigating arson and promoting fire safety.

PROGRAM DESCRIPTION
The Department of Financial Services is comprised of 14 divisions. These include:

Division of Accounting and Auditing
The Division of Accounting and Auditing is responsible for carrying out the Chief Financial Officer's constitutional duty to "settle and approve accounts against the state" by monitoring the expenditure of all appropriated public funds. The Division pays all the state's bills, including employees' salaries, payments for goods and services used by state agencies and benefit payments, promotes financial accountability throughout state government by providing information about its fiscal soundness, and investigates allegations of waste, fraud and abuse.

Division of Administration
The Director's Office supervises the bureaus of Personnel Management, General Services, Financial & Support Services and the Office of Budgeting, coordinating administrative support to the Department of Financial Services. The division develops and coordinates all activities related to financial matters, providing personnel services; mail services; printing services; purchasing services; security, employee safety and emergency evacuation; employee awards programs; telephone receptionist; facilities acquisition; maintenance and renovation; recycling; and parking.

Division of Consumer Services
The Division of Consumer Services helps consumers make informed insurance and financial decisions. Staff assist consumers by answering questions and providing assistance regarding any line of insurance. Online resources and guides help consumers expand their insurance knowledge. Community education programs are offered throughout the state to provide the public information on various insurance and financial topics.

Division of Funeral, Cemetery and Consumer Services
The Division of Funeral, Cemetery and Consumer Services regulates for-profit cemeteries, preneed funeral sales, funeral establishments and funeral directors and embalmers. Regular audits and inspections ensure consumers' investments are handled properly.

Division of Information Systems (DIS)
The Division of Information Systems (DIS) plans, manages, and operates the information technology (IT) resources for the Department of Financial Services (DFS), Office of Financial Regulation (OFR), and Office of Insurance Regulation (OIR). These entities are DIS customers and rely on information, IT resources, and IT services for their operations.

IT resources and services are defined by policy to be "information processing hardware/software, communication resources, strategic applications, personnel, contracts with outside information technology consultants, facility resources, information technology maintenance, information technology training, and other related resources."

Division of Insurance Agents and Agency Services
The Division of Insurance Agents and Agency Services is responsible for licensing insurance agents and agencies and investigating alleged violations of the Florida Insurance Code and Administrative Rules.

Division of Insurance Fraud
The Division of Insurance Fraud enforces the criminal laws of Florida in relation to insurance transactions. Investigators are certified law enforcement officers with the authority to bear arms and make arrests. The division serves and safeguards the public and businesses in Florida against acts of insurance fraud and the resulting impact those crimes have on taxpayers, personally and financially.

Division of Legal Services
The Division of Legal Services provides legal counsel, advice and representation to the regulatory, administrative, and support offices of the Chief Financial Officer and the State Fire Marshal. The Service of Process Section is also an administrative unit within the Division.

Division of Public Assistance Fraud
The Division of Public Assistance Fraud seeks to safeguard the public and businesses in Florida against acts of public assistance fraud and the resulting impact those crimes have by enforcing federal and state criminal laws in relation to eligibility for public assistance.

Division of Rehabilitation and Liquidation
The Division of Rehabilitation and Liquidation, plans, coordinates and directs the conservation, rehabilitation and liquidation of insolvent insurance companies, unlicensed insurance companies and unlicensed insurance entities and rehabilitates financially troubled insurance companies.

Division of Risk Management
The Division of Risk Management ensures that participating State of Florida agencies receive quality workers' compensation, liability, federal civil rights, automobile liability, and property

insurance coverage at reasonable rates by providing self-insurance, purchase of insurance, claims handling, and technical assistance in managing risk.

Division of Worker's Compensation

The Division of Worker's Compensation actively ensures the self-execution of the workers' compensation system through educating and informing all stakeholders in the system of their rights and responsibilities, compiling and monitoring system data, and holding parties accountable for meeting their obligations.

Treasury

The Treasury operates a cash management system; administers the receipt and disbursement of state moneys; invests excess funds and pays all state obligations as directed by the Division of Accounting & Auditing. The Treasury also operates a large collateral management program to protect the financial assets pledged by entities doing business in the state or with the state. Lastly, the Division manages a supplemental retirement program for State and other public sector employees.

State Fire Marshall

The State Fire Marshal has the responsibility for minimizing loss of life and property due to fire in Florida. This includes sworn law enforcement personnel, crime intelligence analysts and civilian support including detection, apprehension, and aid in prosecution of those who commit arson, insurance fraud, and other related crimes.

Pursuant to s. 20.121, F.S., the Financial Services Commission, composed of the Governor, the Attorney General, Chief Financial Officer, and the Commissioner of Agriculture, exists within the Department of Financial Services. However, the Commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner. The Commission, in turn, directs the Office of Financial Regulation and the Office on Insurance Regulation.

OFFICE OF FINANCIAL REGULATION

MISSION
The Office of Financial Regulation is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.

PURPOSE
The Office of Financial Regulation safeguards the private financial interests of the public by licensing, chartering, examining and regulating financial institutions and financial services companies in the State of Florida. It protects consumers from financial fraud while preserving the integrity of Florida's markets and financial services industries.

PROGRAM DESCRIPTION
The Office of Financial Regulation is structured to include separate divisions, bureaus, units, and offices responsible for carrying out the department's mission and purpose.

Division of Consumer Finance
The Division of Consumer Finance licenses, examines and regulates non-depository financial services companies and other related industries in the State of Florida. It protects consumers from illegal financial activities. The Division has regulatory authority over non-depository financial service industries and individuals, including loan originators, mortgage brokers, mortgage lenders and branch offices, consumer finance companies, retail installment sellers, collection agencies, title loan lenders and money services businesses, including payday lenders. The Division consists of two bureaus, along with a legal support services component.

The Bureau of Registration processes all license and compliance filings for 19 different licenses and ensures that only individuals and businesses that meet the standards for licensure are allowed to conduct business in Florida.

The Bureau of Enforcement conducts examinations, investigates complaints, and regulates non-depository financial institutions for the entire state.

The Division has partnered with the Department of Financial Services' Division of Insurance Fraud, Federal Bureau of Investigation, U.S. Attorney's Office, State Attorneys, and state and local law enforcement agencies to combat and stop fraudulent activities being conducted on Florida's consumers.

Division of Financial Institutions
The Division of Financial Institutions charters, examines and regulates state-chartered financial institutions to ensure they operate in a safe and sound manner and in compliance with applicable state and federal laws and regulations. It consists of four units.

The Bureau of Bank Regulation District I conducts examinations of state-chartered commercial banks in the northern part of the State to ensure they operate in a safe and sound manner.

The Bureau of Bank Regulation District II conducts examinations of state-chartered commercial banks in the southern part of the State and is also responsible for trust companies, trust departments and international bank offices statewide.

The Bureau of Credit Union Regulation conducts examinations of state-chartered credit unions throughout the State to ensure they operate in a safe and sound manner.

The Research/Licensing and Chartering Section processes applications for de novo (new) domestic state banks, associations, savings banks, credit unions and trust companies, as well as requests for changes to existing charters.

Division of Securities

The Division of Securities strives to protect the investing public from investment and securities fraud while facilitating capital formation in the State of Florida. It consists of two bureaus.

The Bureau of Registration reviews all applications to conduct business as a securities firm, branch office or agent; processes amendments and renewals for all entities and individuals regulated by the Division; the Bureau approves, imposes registration restrictions or denies registration based on findings.

The Bureau of Enforcement examines securities dealers, investment advisers, their respective offices, and associated persons who conduct securities business in, to or from Florida, to ensure their compliance with the rules and regulations of the Florida Securities and Investor Protection Act.

Bureau of Financial Investigations

The Bureau of Financial Investigations is a criminal justice agency responsible for conducting financial investigations of illegal activities within the Office's jurisdiction.

Office of Inspector General

The Office of Inspector General functions as the central point within the Office for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government, and protection of private and public resources. Program responsibilities include: Internal Audit and Management Review Programs, Internal Investigations, Whistle Blower Complaints and Inspection Programs. The Inspector General also reviews complaints relating to the Office's service to the public.

OFFICE OF INSURANCE REGULATION

MISSION

The Office of Insurance Regulation's mission is to ensure that insurance companies licensed to do business in Florida are financially viable, operating within the laws and regulations governing the insurance industry; and offering insurance policy products at fair and adequate rates which do not unfairly discriminate against the buying public.

PURPOSE

The Office of Insurance Regulation has primary responsibility for regulation, compliance and enforcement of statutes related to the business of insurance and the monitoring of industry markets.

PROGRAM DESCRIPTION

Bureaus within the Office are organized into eight business units of regulatory expertise related to life and health, property and casualty, specialty lines and other regulated insurance entities.

The Property and Casualty Financial Oversight Unit

The Property and Casualty Financial Oversight Unit monitors the financial stability of property and casualty insurers, title insurers and self-insurance funds by obtaining and reviewing financial statements and conducting on-site financial examinations.

The Property and Casualty Product Review Unit

The Property and Casualty Product Review Unit reviews property and casualty rules, forms, and rate filings for homeowners, automobile, workers' compensation, liability, and other personal and commercial property and casualty lines of coverage to ensure compliance with the Florida Insurance Code.

The Life and Health Financial Oversight Unit

The Life and Health Financial Oversight Unit monitors the solvency of life and health insurers by obtaining and reviewing periodic financial statements. This unit also monitors the financial condition of managed care entities by conducting actuarial reviews and field examinations and analyzing financial statements.

The Life and Health Product Review Unit

The Life and Health Product Review Unit reviews and approves health insurance rates and life and health policies that are to be issued to Florida residents.

The Specialty Product Administration Unit

The Specialty Product Administration Unit provides regulation and oversight to insurance administrators, continuing care retirement communities, motor vehicle service agreement companies, home warranty associations, service warranty associations, insurance premium finance companies, donor annuities, legal expense corporations, viatical settlement providers, third party administrators, and title insurance agents and insurers. This unit licenses and monitors the quality of company assets, adequacy of stated liabilities, general operating results and market conduct of these entities to assure compliance with the Florida Insurance Code.

The Market Investigations Unit
The Market Investigations Unit examines and investigates business practices and alleged violations of the Florida Insurance Code.

The Company Admissions Unit
The Company Admissions Section is responsible for the receipt of all company applications and the coordination of the Office's review of such applications prior to granting approval to a company to sell insurance in the state of Florida.

The Market Research and Technology Unit
The Market Research and Technology Unit collects and distributes information and resource materials relating to the oversight and development of Florida's insurance markets. This unit also provides analysis and discussion at both the national and international levels regarding insurance issues important to Florida.

In addition to these business units, the Office of Insurance Regulation is supported by the Communications Office, Government Affairs Office, and the Legal Services Office.

Insurance & Banking Subcommittee
Major Legislation 2011-2012

The two most significant bills, within the jurisdiction of the Insurance & Banking Subcommittee, passed by the Legislature and enacted into law during the last two years dealt with property and casualty insurance and motor vehicle insurance. In 2011, the Legislature passed CS/CS/CS/SB 408 which became ch. 2011-39, Laws of Florida. This law makes numerous changes to the statutes relating to property and casualty insurance, primarily residential property insurance. The law addresses the following major issues:

- Types of losses, amounts, and expenses reimbursable by the Florida Hurricane Catastrophe Fund.
- Increased surplus requirements for property insurance companies to obtain and maintain a certificate of authority to transact insurance.
- Public adjuster fees, advertisement, solicitation, and other conduct.
- Time period for filing a notice of a property insurance claim.
- Statute of limitations for filing suit on a property insurance policy.
- Rate increases allowed in an expedited rate filing and the timing of an expedited rate filing.
- Prohibition on use of a "use and file" rate filing for property insurance.
- Payment of acquisition costs by insurance companies.
- Certification of additional or supplemental information provided to a property insurance rate filing at the request of the Office of Insurance Regulation (OIR).
- Reduced policyholder notice of nonrenewal for nonrenewals due to an insurance company's problematic financial condition, if a policyholder has been insured with the insurer for five years, or if the policyholder has a combination property and automobile policy.
- Insurer verification of mitigation discount forms submitted by policyholders or insurance agents.
- Change of policy terms of property and casualty insurance by insurers at policy renewal.
- Procedure and payment timing related to payment of replacement costs to policyholders for partial dwelling losses and personal property losses.
- Renegotiation of surplus notes issued to insurers under the Insurance Capital Build-Up Incentive Program.
- Fees charged for use of the public hurricane model.
- Rates and coverage for sinkhole losses incurred by Citizens Property Insurance Corporation (Citizens); a study on outsourcing Citizens' claims functions; the timing, payment, and notification of assessments levied by Citizens; and voting by Citizens' board members.
- Definitions used in sinkhole claims, the insurance adjusting process for sinkhole claims; the payment for sinkhole testing and reporting, sinkhole repair requirements, and the sinkhole neutral evaluation process.
- Repeal of the sinkhole database.
- Payment of sinkhole claims by the Florida Insurance Guaranty Association.

In 2012, the Legislature passed CS/CS/HB 119, which became ch. 2012-197, Laws of Florida. The law provides for changes in personal injury protection (PIP) insurance (no-fault motor vehicle insurance). Effective January 1, 2013, no-fault medical benefits are available to persons injured in motor vehicle accidents who receive initial services and care from specified health care providers within 14 days. Up to $10,000 in medical benefits is available to persons diagnosed with emergency medical conditions. Up to $2,500 in medical benefits is available to persons who are injured, but do not have emergency medical conditions. Medical benefits do not include massage or acupuncture, regardless of the provider that performs the service. The law also provides a $5,000 funeral benefit, in addition to PIP medical and disability benefits.
The law retains aspects of the PIP system in place prior to its enactment and provides for various changes, including the following:

- Requires PIP insurers to make rate filings by October 1, 2012 and January 1, 2014 that decrease PIP premiums rates by at least 10 percent and 25 percent, respectively, or to provide detailed explanations as to why they could not achieve these savings objectives.
- Requires health care clinics that seek PIP reimbursement to be licensed, with specified exceptions.
- Amends the PIP schedule of maximum charges; requires insurers to include the schedule in their forms; permits the use of Medicare coding policies.
- Provides that an insurer's failure to timely pay PIP claims as a general business practice is an unfair and deceptive trade practice.
- Tolls the PIP payment period when fraud is reasonably suspected.
- Requires insureds to comply with all policy terms, including requests for examination under oath.
- Creates a rebuttable presumption that the failure to appear for two mental or physical examinations constitutes an "unreasonable refusal" to submit to examination.
- Prohibits the use of contingency risk multipliers; provides guidelines for judges to consider in determining whether the amount of an attorney fee award is appropriate.
- Revokes the license of health care practitioners found guilty of insurance fraud for five years.
- Amends crash report forms.
- Specifies certain actions that constitute fraud.
- Authorizes a direct-support organization to combat motor vehicle insurance fraud.

In addition to these two laws, the Legislature passed the following bills:

2011

CS/CS/HB 99 -- **Commercial Insurance Rates** -- Allowed five types of commercial insurance to be exempt from the rate filing and approval process. Thus, insurance companies writing these types of commercial insurance do not file rates for this insurance with the OIR or obtain approval of the rates from the OIR before the insurer charges the rate. The types of commercial insurance exempted are: fiduciary liability; general liability; nonresidential property, but not collateral protection insurance; nonresidential multiperil; excess property; and burglary and theft.

CS/CS/CS/HB 599 -- **Corporations Not For Profit** -- Created the Florida Uniform Prudent Management of Institutional Funds Act to replace the Florida Uniform Management of

Institutional Funds Act. Among its key provisions, this bill: 1) made significant enhancements to provisions currently contained in the Florida Uniform Management of Institutional Funds Act; 2) applied to all charitable institutions, not just those associated exclusively with educational purposes; and 3) expanded the types of assets which can be in a charitable organization's portfolio.

CS/HB 723—**Extraterritorial Reciprocity in Workers' Compensation**—Established that Florida employees injured while temporarily working for their employer in another state will receive benefits under Florida's Workers' Compensation Law.

CS/HB 1007—**Insurer Insolvency**— Revised duties and powers of the Department of Financial Services relating to the rehabilitation and liquidation of insurance companies. Required title insurers in rehabilitation to file a rehabilitation plan that ensures that title insurance policies on real property in Florida remain in force. Authorized the renegotiation of certain surplus notes under established programs and allowed new entities to provide secure financial rating for insurers.

CS/HB 1121 -- **Financial Institutions** – Authorized the Office of Financial Regulation to act in specified cases of failing institutions, reduced duplication of activities of federal regulations, allowed coordination of resources in financial examinations, and provided for compliance with federal law.

CS/CS/SB 1316 -- **Loan Processing** -- Distinguished between in-house loan processors, who will no longer require licensure, and contract loan processors. While retaining the requirement that a good faith estimate be provided to an individual applying for a mortgage loan, as required by federal law, the bill removed the requirement for the borrower to sign and date the good faith estimate. Provided that real estate brokers are not subject to licensure as loan originators unless they are compensated by a lender, mortgage broker, or other loan originator, or by an agent of such parties.

CS/CS/CS/SB 1816 -- **Surplus Lines Insurance** -- Revised the collection method utilized in Florida to apply the surplus lines tax to the entire premium if the state is the home state of the insured as defined in Federal law. The tax rate is limited to the tax rate where an insured risk is located. Authorized the Department of Financial Services and the Office of Insurance Regulation to enter into cooperative reciprocal agreements with other states to collect and allocate nonadmitted insurance taxes for multistate risks pursuant to Federal law and to adopt rules.

2012

HB 307—**Workers' Compensation Certificate of Exemption Process**—Allowed for the electronic submission of workers' compensation exemption applications with streamlined reporting.

CS/CS/HB 643—**Title Insurance**—Required title insurers and title insurance agencies to annually submit data to the Office of Insurance Regulation that are necessary to assist in the analysis of title insurance premium rates.

CS/CS/HB 645—**Public Records/Title Insurance Data**—Provided that proprietary business information provided to the Office of Insurance Regulation pursuant to CS/CS/HB 643 is confidential and exempt from public records requirements.

CS/CS/CS/HB 725 – **Insurance Agents and Adjusters** --- Made numerous changes to the insurance agent and insurance adjuster licensure laws including consolidating laws relating to examination and continuing education of all licensees of the Department of Financial Services (DFS) and merging various types of licenses for agents and adjusters issued by DFS into larger license classes to reduce the number of license types

SB 792 -- **Financial Institutions** -- Required the Financial Services Commission to establish rules regarding minimum due diligence policies, procedures and controls to be followed by Florida-chartered financial institutions in complying with existing federal requirements regarding investments with certain foreign countries.

CS/HB 941 – **Insurance** --- Addressed the following insurance topics: transferring commercial lines policies between insurers, modifying premium audits of policyholders done by workers' compensation insurers, providing for payment for professional development for employees of the OIR, providing a workers' compensation coverage exemption for officers of non-construction limited liability companies, and repealing the law prohibiting excess profits of workers' compensation insurers.

CS/CS/HB 1011 --- **Warranty Associations** --- Modifies the regulation of warranty associations, which are motor vehicle service agreement companies, home warranty associations and service warranty associations, specifically in the areas of refunds, periodic financial and market conduct examinations, and funding for pursuing unauthorized entities operating in violation of the law.

CS/SB 1050 **--- Fiduciaries ---** Allowed a record title owner of a property, a fiduciary or trustee lawfully acting on behalf of a record title owner, or any other person lawfully authorized to act on behalf of a mortgagor or record title owner of the property, to obtain an estoppel letter containing specified mortgage information. Made a number of clarifying and substantive changes to the Florida Principal and Income Act.

CS/CS/HB 1101 – **Insurance** -- Addressed various types of insurance and insurance issues including: insurance agent and adjuster licensure, insurance required for salvage motor vehicle dealers, travel insurance, portable electronics insurance, the filing of reinsurance statements, the mediation program for property insurance claims administered by the Department of Financial Services, cancellation of auto insurance, interest owed on personal injury protection (PIP) benefits, PIP insurer's right to reimbursement related to taxicabs, priority of interest claims against an insolvent insurer's estate, Citizens Property Insurance Corporation, alterations of a certificate of insurance, corporation not for profit self-insurance funds, alien insurers, notices of nonrenewal given by surplus lines insurers, mandatory health benefits, the Employee Health Care Access Act, and captive insurance.

HB 1127 – **Citizens Property Insurance Corporation** – Eliminated the 6% regular assessment that can be levied by Citizens for the Personal Lines and Commercial Lines Accounts. The bill reduced the regular assessment for the Coastal Account from 6% to 2%. The bill did not change the Citizens' assessment levied only on Citizens' policyholders or change the emergency assessment that is levied on most property and casualty policyholders buying property insurance in the private market and Citizens' policyholders.

CS/HB 1277 – **Money Services Businesses** – Addressed fraudulent insurance and money laundering activities related to Florida's construction industry and workers' compensation insurance. Reduced the opportunity for hiding, destroying, or otherwise tampering with records and materials related to check cashing by eliminating the requirement that the Office of Financial Regulation provide a 15-day advance notice to money services business licensees prior to conducting an examination or investigation. Facilitated auditing and tracking of moneys by requiring that the deposit of all payment instruments be made into the business's own account and eliminated the authorization to accept and cash third party checks. Stipulated that a check casher may only accept or cash a payment instrument from a person who is the original payee or a conductor who is an authorized officer of the corporate payee named on the instrument's face.

Issues - 2013

Historically, two frequent property insurance issues the Legislature has faced are Citizens Property Insurance Corporation (Citizens) and the Florida Hurricane Catastrophe Fund (Cat Fund). The actuarial soundness of Citizens' rates has been the subject of major policy discussions regarding Citizens. Additional policy discussions for both Citizens and the Cat Fund have focused on what measures can reduce the possibility of deficits and assessments for both entities.

When making policy decisions about Citizens and the Cat Fund, an important consideration is balancing the benefits of changes to these entities which reduce the possibility of assessments and stimulate the private market with the impact the changes have on the housing market, construction, and the financial impact on homeowners. In addition, deciding what steps should be taken, how extensive should those steps be, and what are reasonable and realistic timeframes for the implementing the steps is vital to successful implementation of policy decisions for these entities.

Citizens Property Insurance Corporation

Focus areas for Citizens include:

- **Eligibility:** Currently, an applicant for residential insurance coverage with Citizens is eligible even if the applicant has an offer of coverage from an insurer in the private market at its approved rates. In this case, a homeowner can buy insurance from Citizens if the premium for the offer of coverage in the private market is more than 15 percent than the premium Citizens would charge for comparable coverage.

- **Depopulation of Citizens:** Current law requires Citizens to adopt a depopulation program to transfer policies from Citizens to the private market and reduce Citizens' exposure. However, current law also allows a Citizens policyholder to remain with Citizens even though the policyholder receives an offer of coverage (assumption) from an insurance company in the private market that is licensed in Florida.

- **Rates Charged by Citizens:** Current law requires Citizens' rates to be actuarially sound. Citizens' rates are set by the Office of Insurance Regulation (OIR) based on a rate filing made by Citizens setting out actuarially sound rates for the corporation. However, although current law requires Citizens' rates to be actuarially sound, the law also restricts Citizens' non-sinkhole rates from increasing more than 10 percent a year per policy until the rates are actuarially sound. Once the rates are actuarially sound, the rate increase percentage is not capped.

- **Coverage Provided by Citizens:** Current law allows Citizens to offer more restrictive coverage to its policyholders than insurers in the private market offer their policyholders. Recently, Citizens has taken steps to reduce their exposure by restricting their coverage.

Florida Hurricane Catastrophe Fund

A key issue for the Cat Fund, a government run reinsurance program, is whether the Fund's coverage should be adjusted to ensure the Fund has enough money to pay claims resulting from hurricanes. Past policy discussions about adjusting Fund coverage have involved the maximum amount the Fund pays in claims, the coinsurance amount private insurers pay for Cat Fund coverage, and the Cat Fund deductible insurers must pay before the Fund pays their claims.

Historically, when contemplating changes to the Fund, policymakers have tried to balance the advantages and disadvantages any change has on property and casualty insurance policyholders and private market insurers. For instance, one advantage of the Cat Fund is that it benefits property insurers in the private market by providing a stable layer of reinsurance coverage. The Fund also benefits homeowners by providing a property insurance premium reduction. But, a disadvantage of the Fund is that it relies on debt to pay claims. This debt is repaid by assessments on those who purchase property and casualty insurance for their homes, automobiles and businesses. Also, the Fund has concerns about its ability to quickly raise funds to pay claims given the current turmoil in the financial markets. This situation could impact private insurers who have purchased insurance from the Fund and have relied on that insurance to ensure the financial stability of the company. Accordingly, any changes to Fund coverage could impact the premium homeowners pay for property insurance, the financial stability of private market insurers, the ability of private market insurers to timely pay property losses after a hurricane, and the amount of assessments levied by the Fund on all property and casualty policyholders.

Subcommittee Staff

Katrina Callaway

Katrina Callaway, Senior Attorney for the House Insurance and Banking Subcommittee, has worked for the House for nine years, all in the insurance policy area. Before joining the Florida House, Katrina worked as an attorney in the Florida Department of Labor and Employment Security advising the agency on workers' compensation issues and spent five years in private practice representing employers and insurers in workers' compensation cases at the trial and appellate levels.

Katrina has a law degree from the Florida State University and a Bachelor of Science degree in Business Administration from the University of Florida. She has been a licensed attorney in Florida for 19 years.

Robert J. Reilly

Robert J. Reilly, Senior Attorney for the Insurance and Banking Subcommittee, has been with the Florida House for five years, working in insurance. Previously, Bob served as Bureau Chief of the Employee Assistance Office of the Florida Division of Workers' Compensation. Before relocating from New York, Bob worked for the National Council on Compensation Insurance (NCCI) for seven years, researching workers' compensation issues and analyzing legislation in all 50 states and the District of Columbia. He has also practiced law in New York.

Bob holds a bachelor's degree in English from Siena College in Loudonville, New York and a J.D. degree from Brooklyn Law School. He is a member of the New York and Florida Bars.

Tom Cooper

Tom Cooper, Policy Chief for the House Insurance and Banking Subcommittee, has worked for the House for over twenty three years as Chief Attorney, Senior Staff Director, Council Director and Policy Chief, primarily in the areas of health care, general government and insurance. He also has done trial and appellate work in the area of health care law. Prior to law school, Tom worked in the areas of mental health, juvenile justice and legislative research.

Tom graduated with Honors from the Florida State University College of Law and holds a BA degree in History from Wake Forest University. He has been a licensed attorney in Florida for 27 years.