

**Department of Business and Professional
Regulation**

2015 Legislative Action Summary

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Florida Department of
**Business &
Professional
Regulation**

License efficiently. Regulate fairly.

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Section I. Appropriations

Senate Bill 2500-A

Signed Into Law (with line item vetoes)

GENERAL APPROPRIATIONS ACT

SB 2500-A is the General Appropriations Act for Fiscal Year 2015-2016. It provides for a total budget of \$78.7 billion, including:

- General revenue (GR): \$29.0 billion
- Trust funds (TF): \$22.6 billion
- Federal Funds: \$27.1 billion
- Full time equivalent positions (FTE): 113,687

Employee Salary/Benefits Issues & Other Statewide Issues impacting the Department of Business and Professional Regulation (Department):

Employee Salary and Benefit Issues

- No increase in employer, employee, or retiree health insurance premiums.

Statewide Issues

- Fully fund the Unfunded Actuarial Liability and Normal Costs of the Florida Retirement System (FRS) Pension Plan (see chart below).
- Provides additional funding to the Health Insurance Subsidy to ensure solvency through increased employer contribution rates.

Major Issues Funded for the Department of Business and Professional Regulation:

Budget of \$151.4 million – 2.4-percent increase over current year.

- Florida Business Information Portal – Two FTE and \$1.5 million to develop and implement an Internet website that will provide individuals and businesses with the information needed to start and operate a business in Florida.
- Workload – \$437K and four positions are provided for workload increases in the Divisions of Administration, Hotels & Restaurants, and Alcoholic Beverages and Tobacco.
- Visit Florida - \$2 million from the Hotel and Restaurant Trust fund to be transferred to Visit Florida to contract with the Florida Restaurant and Lodging Association, Inc., to develop a coordinated marketing, media and events program to promote Florida tourism by residents of the state. This campaign shall require a

private matching program and shall be conducted throughout the state, as approved by and monitored by Visit Florida and the Florida Restaurant and Lodging Association, Inc., for the purpose of promoting tourism within the state.

- Motor Vehicles - \$201K for 20 additional vehicles to be used for food and lodging inspections in the Division of Hotels and Restaurants.
- Federal Law Enforcement Trust Fund - \$550K to utilize Federal Forfeiture Funds for Law Enforcement training, equipment, travel, and motor vehicles for inspectors.
- Reductions – \$134K and two vacant positions.

Other key matters for DBPR:

Proviso allows the Divisions of Regulation, Real Estate, Pari-Mutuel Wagering and Hotels and Restaurants to purchase one or more motor vehicles for replacement when the mileage of a vehicle is in excess of 150,000 miles unless it is determined by the Secretary that the vehicle replacement is a critical safety issue, or based on an emergency or unforeseen circumstance as provided in section 287.14(3), Florida Statutes.

Proviso directs the how funds totaling \$2.5 million may be expended in the Division of Real Estate, Certified Public Accountancy, and Regulation for the purposes of preventing, combating, and publicizing the dangers of unlicensed activity in Florida. - **\$850,000 was vetoed by the Governor impacting Real Estate, CPA, and the media campaign for the Board of Architecture and Interior Design decreasing the appropriation to \$1.6 million.**

Section 110. Unobligated cash balance amounts specified from the following trust funds shall be transferred to the General Revenue Fund for Fiscal Year 2015-16:

Div. of Florida Condominiums, Timeshares and Mobile Homes Trust Fund	\$3,000,000
Hotels and Restaurants Trust Fund	\$1,000,000
Professional Regulation Trust Fund	\$1,000,000

Except for specific appropriations that were vetoed, the bill became law on June 23, 2015, Chapter 2015-232, Laws of Florida, and except as otherwise specified in the act, was effective July 1, 2015.

*Chapter 2015-232, Laws of Florida
Effective July 1, 2015; to operate retroactively*

**RELATING TO IMPLEMENTING THE 2015-2016
GENERAL APPROPRIATIONS ACT**

This is the budget “Implementing Bill,” which provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2015-2016. The statutory changes are effective for only one year and either expire on July 1, 2016, or revert to the language as it existed before the changes made by the bill.

Subject to the Governor’s veto powers the effective date of this bill is July 1, 2015 or, if this act fails to become a law until after that date, it shall take effect upon becoming a law and shall operate retroactively to July 1, 2015.

*Chapter 2015-222, Laws of Florida
Effective July 1, 2015; to operate retroactively*

Section II. Bills Sponsored by the Department

House Bill 401

Signed Into Law

PUBLIC LODGING AND PUBLIC FOOD SERVICE ESTABLISHMENTS

This bill amends ch. 509, F.S., to require the inspection frequency of public food service establishments be reassessed at least annually; eliminate additional temporary food service event licensing for licensed public food service establishments; require public food service establishments and temporary food service events sponsors be notified of the food recovery brochure; allow electronic transmittal of food service and lodging inspection reports; require that a copy of the latest inspection report be available to the division at the time of any inspection; and reduce license renewal late fees.

As it relates to food service establishments, the bill:

- provides the division added flexibility to reassess licensees in real time when changes to risk based food inspection guidelines necessitate,
- reduces the fees on existing public food service establishments that operate at temporary events;
- permits the division the flexibility to provide the food recovery brochure and copies of the inspection report to the licensee electronically, saving resources for the division; and
- simplifies the late fee structure for licensees to a flat \$50.

*Chapter 2015-143, Laws of Florida
Effective July 1, 2015*

Senate Bill 608

Signed Into Law

RELATING TO REAL ESTATE BROKERS AND APPRAISERS

SB 608 allows the Florida Real Estate Commission to adopt certain rules pertaining to broker registration on a temporary, emergency basis; revises the supervision requirements for registered trainee appraisers; requires an appraiser to prepare and retain a work file in certain circumstances; and provides that duly authorized agents and employees of the department may inspect an appraisal management company at all reasonable hours.

Specifically, the bill:

- Exempts persons who hold a higher degree in real estate, such as a Master's or Doctorate Degree, from the pre-licensure and post-licensure education requirements; and
- Allows the commission to reinstate a license that has become void if it is determined that the individual failed to comply because of illness or economic hardship, as defined by rule.

Additionally, to conform with federal standards the bill:

- Requires the documents that appraisers and appraisal management companies retain are the same as required by the Uniform Standards of Professional Appraisal Practice;
- Allows the department to inspect or copy the records of an appraisal management company at any time; and
- Repeals the ability of the Florida Real Estate Appraisal Board to enter into written agreements for reciprocal licensing of out-of-state appraisers.

Chapter 2015-54, Laws of Florida
Effective July 1, 2015

Section III. Bills Impacting the Department

Senate Bill 186

Signed Into Law

RELATING TO ALCOHOLIC BEVERAGES

The bill prohibits the use of the electronic benefit transfer (EBT) card for the purchase of alcoholic beverages. It establishes a maximum of eight vendor licenses that the division is authorized to issue to a manufacturer of malt beverages. SB 186 limits the amount of malt beverage a manufacturer holding multiple manufacturing licenses may transfer to one of its licensed facilities to a maximum amount equal to the yearly production amount of the receiving facility.

The bill authorizes manufacturers, distributors, importers, or contracted third party agents to conduct malt beverage tastings on licensed premises authorized to sell alcoholic beverages for either on-premises or off-premises consumption.

The bill eliminates the required vehicle permit that vendors currently need in order to transport alcoholic beverages. It authorizes the sale of malt beverages in 32, 64, and 128-ounce individual containers, commonly referred to as growlers. Under this bill, malt beverage containers are required to include information specifying the manufacturer and the brand of malt beverage; they are also required to have an unbroken seal or be incapable of being immediately consumed. SB 186 authorizes growlers to be filled at the point of sale by quota license holders and manufacturers also licensed as a vendor. The bill also authorizes that growlers be filled by consumption on-premise license holders, only if the license also permits off-premise consumption.

In addition, SB 186 establishes a first degree misdemeanor for sales of the specified container types without the authorized license. It authorizes the Division of Alcoholic Beverages and Tobacco to suspend or revoke a license and impose a fine up to \$250 for failure of a licensee to label or seal the specified container types in accordance with the requirements of the bill.

The bill creates a new definition, "branded product", which means any distilled spirit manufactured on site, which requires a federal certificate and label of approval under federal regulations. SB 186 authorizes the sale of branded products in the craft distilleries' souvenir gift shops. In addition, the bill increases the maximum number of factory-sealed containers that craft distilleries and licensed distilleries may sell to customers in face-to-face transactions from two containers per calendar year up to two containers of each branded product per calendar year.

House Bill 217

Vetoed 6/11/15

RELATING TO ENGINEERS

The bill amends current engineering law to create a license type for “structural engineers.” It modifies current law related to the licensing and regulation of engineers to include structural engineers. Structural engineers will be licensed and regulated similar to licensed engineers. Beginning March 1, 2017, the bill prohibits anyone, other than a duly licensed structural engineer, from practicing structural engineering, and from using the name or title of “licensed structural engineer” or any other similar title. The bill defines structural engineering as a service or creative work that includes the structural analysis and design of threshold buildings. The bill modifies the current law to include qualifications for applicants for a structural engineer license. In order to qualify for licensure as a structural engineer, an applicant must meet the current qualifications to become an engineer, but have four years of structural engineering experience instead of general engineering experience, and must pass a 16-hour structural engineering examination – the National Council of Examiners for Engineering and Surveying Structural Engineering Examination. The bill provides for the simultaneous application for both an engineer and a structural engineer license. The bill provides a “grandfathering” provision for applicants prior to September 1, 2016. It provides applicants with an exemption from taking the National Council of Examiners for Engineering and Surveying Structural Engineering Examination if the applicant is licensed as an engineer in Florida and has four years of experience in structural engineering design or if the applicant is licensed as a threshold building inspector and meets other requirements.

House Bill 239

Signed Into Law

RELATING TO MEDICATION AND TESTING OF RACING ANIMALS

The bill amends the current process related to the collection of split sampling and provides additional guidelines and requirements for the Division of Pari-Mutuel Wagering (division) related to that process. The division may solicit input from the Department of Agriculture and Consumer Services in regards to the adoption of rules related to this section. This bill also increases fine authority related to an impermissible medication or drug to \$10,000 or the amount of the purse or sweepstakes earned, whichever is greater.

*Chapter 2015-88, Laws of Florida
Effective July 1, 2015*

House Bill 277

Signed Into Law

RELATING TO PUBLIC LODGING ESTABLISHMENTS

The bill requires hotels, motels, and bed and breakfast inns to waive any minimum age policy restrictions for active duty individuals who present a valid military identification card. The bill prohibits the public lodging establishments from duplicating military identification cards.

*Chapter 2015-139, Laws of Florida
Effective July 1, 2015*

House Bill 307

Signed Into Law

RELATING TO MOBILE HOMES

This bill makes the following changes:

- Approves training and educational programs for board members of mobile home owners associations;
- Provides requirements for education curriculum information for board member and mobile home owner training;
- Revises mobile home owner's general obligations;
- Provides and revises requirements for lot rental increases;
- Revises provisions relating to rights of purchasers of lifetime leases;
- Provides for removal of member of board of directors;
- Revises quorum and voting requirements; revises provisions relating to board of directors, committee, and member meetings;
- Revises requirements for amendment of articles of incorporation and bylaws;
- Deletes requirement that officers and directors of association have fiduciary relationship to members;
- Revises requirements for recall of board members;
- Provides requirements for alternative resolution of recall disputes;
- Specifies certification or educational requirements for newly elected or appointed cooperative board member; and
- Revises and provides requirements relating to official records of association.

*Chapter 2015-90, Laws of Florida
Effective July 1, 2015*

House Bill 373

Signed Into Law

RELATING TO PUBLIC ACCOUNTANCY

This bill makes the following changes:

- Clarifies the definition of a licensed firm or public accounting firm that must hold a license;
- Clarifies under what circumstances a licensed firm or public accounting firm must hold a Florida Certified Public Accounting firm license;
- Clarifies the definition of a “quality review”, to include a peer review;
- Clarifies the definition of “licensee” as it relates to peer review; and
- Clarifies the practice requirements for partnerships, corporations, and limited liability companies.

*Chapter 2015-174, Laws of Florida
Effective July 1, 2015*

House Bill 453

Signed Into Law

RELATING TO TIMESHARES

This bill amends Ch. 721, F.S., revising definitions for Part I and Part II; requiring for amendments to a timeshare instrument; requiring for a public offering statement; releasing escrow funds and disclosure requirements for advertising material. It amends provisions allowing extension of the termination of timeshare plans, transferring the reservations system of a managing entity. HB 453 also revises provisions relating to trust-based timeshare plans, and the substitution or deletion of requirements of component sites of a multisite timeshare plan.

Specifically the bill:

- provides that an ownership interest in a condominium or cooperative unit or a beneficial interest in a timeshare trust be required for such interests to qualify as timeshare estates;
- expands the definitions of nonspecific and specific multisite timeshare plans to allow that the plans may include interests other than timeshare licenses or personal property timeshare interests;
- limits the required disclosure of public offering statements and amendments to timeshare instruments for component sites located in this state;
- expands the limitation on liability for developers who, in good faith, attempt to and substantially comply with all the provisions of the Act;
- requires the disclosure of unexpired lease terms in timeshare trusts;
- repeals the requirement for judicial approval of transactions involving timeshare trust property;
- creates a procedure for the extension or termination of certain timeshare plans;
- creates new procedures for the transfer of reservation system and owner data when a managing entity is terminated;

- requires all multisite timeshare plans to disclose the term of each component site plan and prominently disclose the term of component sites that are shorter than the term of the plan;
- excludes component site common expenses and ad valorem expenses from the cap on annual increases in common expense assessments;
- allows for substitute and replacement accommodations that are better than the existing accommodations; and
- revises the limitations on substitute accommodations.

Senate Bill 596

Signed Into Law

RELATING TO CRAFT DISTILLERIES

The bill creates a new definition, "branded product," which means the style of distilled spirit manufactured on site, requiring a federal certificate and label approval by the Federal Alcohol Administrative Act or regulations.

It authorizes the sale of branded products in craft distilleries' souvenir gift shops. In addition, the bill increases the maximum number of factory-sealed containers that craft distilleries may sell to customers in face-to-face transactions from two containers per calendar year:

- Up to two containers of each branded product;
- Three containers of a single branded product and up to one container of a second branded product; or
- Up to four individual containers.

*Chapter 2015-52, Laws of Florida
Effective July 1, 2015*

House Bill 643

Signed Into Law

RELATING TO TERMINATION OF A CONDOMINIUM ASSOCIATION

This bill amends Ch. 718, F.S., providing and revising procedures for terminations of condominiums; rejection of a plan of termination; partial termination; and the right to contest a plan of termination. Provides that a dispute regarding a plan of termination to be addressed by filing for arbitration.

The bill provides that if at least 80 percent of the voting interests are owned by a bulk owner, the following terms govern the termination:

- Unit owners must be allowed to lease their units if the units will be offered for lease after termination;
- Any unit owner whose unit was granted homestead exemption must be paid a relocation payment;
- Unit owners must be paid at least 100 percent of the fair market value of their units;
- Certain dissenting or objecting owners must be paid at least the original purchase price paid for their units;
- The outstanding first mortgages of all unit owners current on association assessments and mortgage payments must be satisfied in full;
- A notice identifying any person or entity that owns 50 percent or more of the units and the purchase and sale history of any bulk owners must be provided to owners; and
- A board with at least one-third of the members elected by unit owners other than a bulk owner must approve the termination.

The bill also makes changes to condominium termination proceedings that are not specific to those owned by bulk owners, including the following:

- If a condominium association fails to approve a plan of termination, another termination may not be considered for 18 months;
- A condominium formed by a conversion cannot be terminated for five years, unless there are no objections to the termination;
- A plan of termination may be withdrawn under certain circumstances;
- A termination trustee may reduce termination proceeds to a unit for unpaid fines, costs, and expenses;
- Unit owners may only contest the fairness and reasonableness of the apportionment of the proceeds from the sale, that the liens of the first mortgages of unit owners will not be satisfied, or that the required vote was not obtained;
- An arbitrator may void a plan of termination if it determines that the plan did not apportion the sales proceeds fairly and reasonably, that the plan was not properly approved, or that the procedures to adopt the plan were not properly followed.

Senate Bill 716

Signed Into Law

RELATING TO PUBLIC RECORDS/ANIMAL MEDICAL RECORDS

This bill makes animal medical records held by any state college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education confidential and exempt from public inspection and copying. In addition, the bill makes medical records that are transferred by a records owner in connection with official business by any accredited state college of veterinary medicine confidential and exempt from disclosure.

Confidential and exempt animal medical records may be disclosed:

- to another governmental entity in the performance of its duties and responsibilities; and
- as provided by current law governing veterinary medical records.

*Chapter 2015-62, Laws of Florida
Effective July 1, 2015*

House Bill 791

Signed Into Law

RELATING TO RESIDENTIAL PROPERTIES

The bill allows the use of a copy, facsimile transmission, or other reliable reproduction of an original proxy vote for certain purposes; authorizes condominium associations to conduct votes of the membership by online voting under certain conditions; and authorizes the electronic transmission of notices of certain meetings of a cooperative association irrespective of whether authorized by the association's bylaws.

Specifically, the bill:

- regulates the order of application of payments received by a condominium or cooperative association for past due assessments;
- revises provisions related to fines and penalties assessed by associations;
- provides that a homeowners' association may only levy fines up to \$100, unless otherwise provided in the association's governing documents;
- provides that a homeowners' association member who fails to pay a fine may be suspended from the board of directors or barred from running for the board;
- creates a mechanism for electronic voting of the membership of a condominium, cooperative, or homeowners' association, provided that the association's board adopts a resolution to allow for electronic voting;
- authorizes a condominium, cooperative, or homeowners' association to provide electronic notice of certain meetings without amending the association's bylaws;
- provides that a homeowners' association's failure to provide notice of the recording of an amendment does not affect the validity or enforceability of the amendment;

- authorizes non-profit corporation proxy voting based on a reproduction of the original proxy;
- updates the definition of "governing documents" for homeowners' associations to include the rules and regulations that have been adopted by the association; and
- extends the time limitation for classification as bulk assignee or bulk buyer under the Distressed Condominium Relief Act from July 1, 2016 to July 1, 2018.

*Chapter 2015-97, Laws of Florida
Effective July 1, 2015*

House Bill 1329

Signed Into Law

WINTER PARK, ORANGE COUNTY

This bill repeals provisions relating to alcoholic beverage license exemptions within the city. In short, it makes the issuance of special alcoholic beverage licenses for restaurants, hotels, motels, and motor courts in Winter Park subject to General Law.

*Chapter 2015-204, Laws of Florida
Effective upon becoming law*

House Bill 1337

Signed Into Law

PINELLAS COUNTY/ALCOHOLIC BEVERAGE TEMPORARY PERMITS

The bill authorizes DBPR's Division of Alcoholic Beverages and Tobacco to issue 15 additional temporary permits per calendar year to nonprofit civic organization in order to sell alcoholic beverages for consumption on premises within special event permitted area designated by incorporated municipality. It also requires a nonprofit civic organization to comply with certain provisions in obtaining permits.

*Chapter 2015-207, Laws of Florida
Effective upon becoming law*

Section IV. Other Bills of Importance

Senate Bill 144

Signed Into Law

RELATING TO PUBLIC RECORDS/IMPAIRED PRACTITIONER CONSULTANTS

The bill creates a new public records exemption for the identification and location information of current or former impaired practitioner consultants (IPC) who are retained by an agency, current or former employees of an IPC whose duties result in a determination of a person's skill and safety to practice, and the spouses and children of both. The impaired practitioner program assists the Department of Health and the Department of Business and Professional Regulation in determining whether practitioners who have experienced a substance abuse or mental or physical health impairment are safe to practice.

The bill makes the following information exempt from public records requirements:

- The home addresses, telephone numbers, dates of birth, and photographs of current and former IPC and their employees;
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children such IPC or their employees; and
- The names and locations of schools and day care facilities attended by the children of such IPC or their employees.

*Chapter 2015-37, Laws of Florida
Effective upon becoming law*

Senate Bill 982

Signed Into Law

FLORIDA CIVIL RIGHTS ACT

This bill prohibits discrimination on the basis of pregnancy in public lodging and food service establishments, as well as in places of public accommodation.

The bill also:

- prohibits employment discrimination on the basis of pregnancy;
- prohibits discrimination on the basis of pregnancy by labor organizations, joint labor-management committees, and employment agencies;
- makes unlawful discrimination on basis of pregnancy in occupational licensing, certification, and membership organizations, etc.;
- provides for an exception to lawful employment practices based on pregnancy;

- revises the function of the Florida Commission on Human Relations;
- provides administrative and civil remedies for violations of this Act.

*Chapter 2015-68, Laws of Florida
Effective July 1, 2015*

House Bill 985

Signed Into Law

MAINTENANCE OF AGENCY FINAL ORDERS

HB 985 requires agencies to electronically transmit certain agency final orders to a centralized electronic database maintained by the Department of Administrative Hearings; revises provisions for searching and maintaining lists of final orders; provides timeframe for electronically transmitting or listing final orders; provides that a centralized electronic database is the official compilation of final orders issued on or after a certain date for each agency; requires the Department of State to set standards and guidelines for certifying, electronically transmitting, and ensuring security of copies of agency final orders; authorizes an alternative official compiler of agency final orders under certain circumstances.

*Chapter 2015-155, Laws of Florida
Effective July 1, 2015*

House Bill 7023

Signed Into Law

ADMINISTRATIVE PROCEDURES

HB 7023 revises the deadline to propose rules implementing new laws; revises requirements for the annual review of agency rules; repeals provisions relating to the legislative survey of regulatory impacts; and rescinds the suspension of rulemaking authority made under s. 120.745, F.S.

*Chapter 2015-162, Laws of Florida
Effective July 1, 2015*

House Bill 371

Signed Into Law

AGENCY INSPECTORS GENERAL

This year's inspectors general bill provides additional hiring requirements, employment qualifications, and terms of employment for inspectors general and staff. It establishes the duty of specified persons and entities with respect to the inspector general's duties. HB 371 requires contracts and other specified documents to contain certain statements

regarding inspector general's duties. It also authorizes the Chief Inspector General to hire or retain legal counsel, and to issue and enforce subpoenas under certain circumstances. This bill authorizes inspectors general to administer oaths, and requires all personnel to comply with requests of inspectors general under penalty of loss of employment.

*Chapter 2015-173, Laws of Florida
Effective July 1, 2015*

Senate Bill 2506-A

Signed Into Law

FLORIDA BUSINESS INFORMATION PORTAL

Senate Bill 2506-A establishes the Florida Business Information Portal (Portal) within the Department of Business and Professional Regulation (DBPR) to conform to the 2015-2016 General Appropriations Act.

The bill directs DBPR to establish and implement, by June 30, 2017, the Portal, which provides the information needed to start and operate a business in Florida.

Specifically, the Portal must include: (1) a downloadable guide on how to start and operate a business in Florida; (2) a list of business types and a checklist for starting each type of business; (3) links to guide users to the websites of appropriate state licensing, permitting, and registration agencies; (4) information regarding business tax registration and filing; and (5) information regarding registering with the Department of State Division of Corporations.

The bill provides that the state agencies that shall cooperate with DBPR in the development, implementation, and ongoing content updates of the Portal include, but are not limited to: Agency for Health Care Administration, Department of Agriculture and Consumer Services, Department of Economic Opportunity, Department of Environmental Protection, Department of Financial Services, Office of Financial Regulation, Office of Insurance Regulation, Department of Health, Department of Highway Safety and Motor Vehicles, Department of the Lottery, Department of Management Services, Department of Revenue, Department of State, and the Fish and Wildlife Conservation Commission.

The bill requires DBPR to submit a report with recommendations and estimated costs for including local government information in the Portal to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2017.

Senate Bill 2506-A repeals section 215.1995, F.S., which established the One-Stop Business Registration Portal Clearing Trust Fund in the Department of Revenue. The bill terminates the fund.

The bill also repeals s. 288.109, F.S., which directed the Department of Revenue to establish and implement the One-Stop Business Registration Portal.

The bill conforms to the 2015-2016 General Appropriations Act (GAA), as the GAA contains an appropriation of \$1,462,887 from the General Revenue Fund and 2.00 full-time equivalent positions to build and implement the Portal.

Chapter 2015-224, Laws of Florida
Effective July 1, 2015; to operate retroactively