

## **TELECOMMUNICATIONS**

### **HB 4785 — Telecommunications Services**

by Utilities & Communications Committee and Rep. Arnall (CS/SB 640 by Regulated Industries Committee)

During the 1997 interim, the Senate Regulated Industries Committee evaluated the status of local service competition, intrastate access charges, and universal service. Senate Interim Project Report No. 97-P-12 reflects the findings and recommendations of this review. The report discusses possible reasons why competition has not developed as quickly as was anticipated when the 1995 Florida Telecommunications Act and 1996 Federal Act were enacted. It considers the policy of universal service, its ties to access charges and implications for competition, and some possible alternatives for establishing a permanent universal service mechanism. The report also explores the effects of high access charges on competition, both in the long distance and local telecommunications markets. The report recommends several alternatives for addressing unresolved issues relating to competition, universal service, and intrastate access charges.

House Bill 4785 directs the Public Service Commission to conduct several studies to compile the data necessary for the Legislature to take informed action on these issues. In particular, the bill orders certain studies to provide a basis of information for legislation during the 1999 Session regarding: a permanent universal service mechanism; a “fair and reasonable rate” for basic residential local telecommunications services; and access to multi-tenant buildings to provide competitive telecommunications services.

The bill extends for an additional year the caps on residential basic telecommunications service and multi-line business service that otherwise were due to expire January 1, 1999. It also provides for accelerated reductions in intrastate network access charges (totaling an estimated \$50 million) paid by long distance companies to GTE and Sprint. Long distance companies must pass the benefits of these reductions through to residential and business customers. In addition, the bill provides for new regulations relating to “slamming,” telecommunications companies’ billing procedures, and procedures to resolve disputes among competing providers of telecommunications services.

If approved by the Governor, these provisions take effect upon becoming law.  
*Vote: Senate 37-0; House 111-4*

## **PROFESSIONAL REGULATION**

### **CS/CS/HB 3211 — Real Estate**

by Community Affairs Committee, Real Property & Probate Committee, Business Regulation & Consumer Affairs Committee, Rep. Ogles and others (CS/SB 340 by Regulated Industries Committee and Senators Clary, Harris, McKay, Williams and Kurth)

This bill makes various changes to the regulation of real estate brokers and salespersons in the areas of business entity registration, licensure qualifications, inactive licenses, disciplinary violations and penalties, agency disclosure requirements, instructor qualifications, and the Real Estate Recovery Fund. Significant provisions include creating an exemption from the agency disclosure requirements for owners or their agents selling new construction and creating an exemption from contractor licensing requirements for real estate brokers or salespersons for repairs of \$5,000 or less, if licensed contractors do the work. In addition, the bill allows a real estate broker to designate salespersons to represent different customers in the same commercial real estate transaction, if certain conditions are met.

The bill also amends several provisions relating to the regulation of real estate appraisers in the areas of licensure categories, licensure qualifications, and disciplinary procedures. Significantly, the bill amends experience and education requirements for the various categories of appraisers bringing state law into conformance with federal standards.

Finally, the bill amends the Florida Building Energy-Efficiency Rating Act to simplify notice requirements.

If approved by the Governor, these provisions take effect July 1, 1998.  
*Vote: Senate 39-0; House 112-0*

### **CS/HB 4065 — Public Accountancy**

by Financial Services Committee, Rep. Safley and others (CS/SB 1508 by Regulated Industries Committee and Senators Latvala and Horne)

This bill amends provisions in ch. 473, F.S., relating to the licensure of certified public accountants (CPAs), to allow individuals to practice as CPAs while working for nonlicensed firms, except when providing assurances as to the reliability of financial statements. All CPAs providing services involving assurances of reliability must be licensed as CPA firms or working for licensed CPA firms. These changes are in response to a recent federal case involving American Express

Tax and Business Services, Inc., against DBPR, in which the court held that the current law violates the First Amendment of the United States Constitution, relating to free speech. *See Miller v. Stuart*, 117 F.3d 1379 (11th Cir. 1997) *cert. denied*, 118 S. Ct. 852 (1998). The current definition of the practice of public accounting includes “holding out” as a CPA within the definition and requires that the practice of public accounting be in connection with a licensed CPA firm. (For a firm to be licensed, at least two-thirds of the partners, shareholders, or members of a firm must be certified public accountants in some state.) The district court held that it is unconstitutional to prevent licensed CPAs from truthfully informing the public of their licensure, regardless of whether they work for a licensed CPA firm.

The bill also exempts attorney CPAs from accounting standards that conflict with Florida Bar rules. In addition, the bill amends provisions in ch. 473, F.S., relating to probable cause panel membership, licensure by examination and endorsement, board advisory committees, and license reactivation.

If approved by the Governor, these provisions take effect October 1, 1998.

*Vote: Senate 31-0; House 115-0*

**HB 3589 — Certified Public Accountants Education Minority Assistance Program**  
by Rep. Bitner and others (SB 1220 by Senators Crist and Holzendorf)

This bill creates the Certified Public Accountant Education Minority Assistance Program to provide scholarships to minority students in Florida enrolled in their fifth year of an accounting program. The scholarships are funded from a fee assessed as a portion of the existing license fee for all new and renewed CPA licenses. The fees must be deposited in a special account within the Professional Regulation Trust Fund earmarked for the scholarship. DBPR may spend up to \$100,000 annually on the program, but is prohibited from allocating overhead charges to the account. The bill creates a five-member advisory council to assist the Board of Accountancy in administering the program. The advisory council consists of five Florida CPAs appointed by the board. Membership must be diverse and representative of gender, ethnic, and racial status. Funds for scholarships may be disbursed only upon recommendation of the advisory council and approval of the board.

If approved by the Governor, these provisions take effect July 1, 1998.

*Vote: Senate 40-0; House 110-0*

**HB 4439 — Contracting**

by Business Regulation & Consumer Affairs Committee, Reps. Ogles, Brown and others (CS/CS/SB 2336 by Community Affairs Committee, Regulated Industries Committee, and Senator Clary)

This bill relates to regulation of the construction industry. It amends provisions relating to the regulation of building code administrators, inspectors, and plans examiners by adding categories of licensure for building code personnel, revising examination and license fees, and allowing engineers and architects to perform building inspections and plan reviews without becoming certified as building inspectors or plans examiners. The bill also amends provisions relating to the regulation of asbestos contractors and consultants, conforming the licensure requirements with federal standards and clarifying licensure requirements relating to financial stability and insurance.

The bill amends provisions relating to the regulation of construction, electrical, and alarm contractors. Significant changes include: exempting the construction of portable sheds and Habitat for Humanity homes from licensure requirements for construction contractors under certain circumstances; establishing training requirements for medical gas installation; making the complaint and supporting documents available to a contractor under investigation by the Department of Business and Professional Regulation (DBPR); prospectively limiting DBPR's jurisdiction to investigate or pursue a complaint when a local enforcement board has initiated action against a contractor; exempting alarm monitoring from licensure requirements for alarm contractors under certain circumstances; extending the \$4 fee to fund the Building Construction Industry Advisory Committee to electrical and alarm contractors (currently only construction contractors pay this fee); requiring locally licensed electrical contractors to have taken a licensing examination to qualify for state registration; and establishing training and criminal history check requirements for fire alarm agents.

The bill also requires industrial hygienists and safety professionals to accurately disclose their credentials and allows them to use specified titles only if they possess a certification from one of two specifically cited boards or from a program with substantially equivalent standards, as determined by DBPR. In addition, the bill amends various provisions relating to ch. 633, F.S., which governs the licensing and permitting by the State Fire Marshal of organizations and individuals who install and service fire safety equipment.

The bill provides that local governments may not assess pay telephone companies occupational license taxes on a per-instrument basis. It also clarifies that the statewide minimum building code to take effect in 2001 may not apply to electric utility generation, transmission, or distribution facilities.

If approved by the Governor, these provisions take effect October 1, 1998.

*Vote: Senate 37-0; House 119-0*

**SB 1976 — Construction Industries Recovery Fund**

by Senator Forman

To provide recourse for consumers who suffer monetary damages because of improper actions by contractors, s. 489.140, F.S., creates the Construction Industries Recovery Fund (CIRF) as a separate account within the Professional Regulation Trust Fund.

This bill revises the limits on payments of claims from the CIRF to cap them at \$100,000 annually, up to a lifetime limit of \$250,00 per licensee. The bill provides that, beginning January 1, 1998, if a claim is approved that would exceed a licensee's annual cap of \$100,000, it is eligible for payment in succeeding years up to the lifetime limit, but only after all claims filed for the then-current calendar year are paid.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 117-0*

**CS/HB 3343 — Barbering and Cosmetology**

by Governmental Rules & Regulation Committee and Rep. Chestnut (CS/SB 880 by Regulated Industries Committee and Senator Clary)

This bill amends provisions in the barbering practice act relating to examination procedures and criteria for issuing restricted licenses. It also amends provisions in the cosmetology practice act relating to: licensure; examinations; requirements for hair braiders, hair wrappers, and photography studio salons; continuing education requirements for renewal of cosmetology and specialty licenses; and authorization for mobile cosmetology salons.

The bill requires hair wrappers to be registered and to complete 6 hours of training approved by the Board of Cosmetology. Hair braiding and hair wrapping may be performed outside a licensed cosmetology salon, if specified sanitation requirements are met. The bill exempts photography studio salons from licensure as cosmetology salons, if hair arranging services are performed under the supervision of a licensed cosmetologist employed by the photography studio salon and specified sanitation requirements are met.

The bill also authorizes the board to require up to 16 hours of continuing education biennially, as a condition for renewing a cosmetology license. Hair braiders and hair wrappers are specifically exempt from the continuing education requirements. In addition, the board is authorized to adopt rules for the licensure and operation of mobile cosmetology salons, including rules relating to facilities, personnel, and safety and sanitary requirements.

If approved by the Governor, these provisions take effect July 1, 1998.

*Vote: Senate 39-0; House 114-0*

## **LAND SALES AND CONDOMINIUMS**

### **CS/CS/SB 626 — Timeshare Plans/Timeshare Lien Foreclosure Act**

by Judiciary Committee, Regulated Industries Committee and Senators Silver and Dyer

This bill (Chapter 98-36) revises ch. 721, F.S., relating to timeshare plans. The changes are in response to recommendations of a task force established by the Department of Business and Professional Regulation in 1996 to address the financial distress of some timeshare resorts in the state. The bill creates the “Timeshare Lien Foreclosure Act,” which provides for an expedited judicial foreclosure proceeding for timeshare properties to allow consolidation of foreclosure proceedings under certain conditions, to allow the use of a registered agent for service of notices and process, and to permit service of process by registered agent or mail. The bill is intended to assist vacation ownership resort owners’ associations and mortgagees, reduce court congestion, and minimize taxpayer costs by simplifying the foreclosure process. The bill also eliminates the surety bond requirement for a developer offering incidental benefits to purchasers and provides for a disclosure statement regarding the developer’s option to renew or extend the availability of incidental benefits; revises language regarding reservation agreements; defines the term “regulated short term product” and provides for disclosure and cancellation provisions; authorizes the advertisement of such agreements subject to the division’s approval; and allows developers greater flexibility in the allocation of common expenses. In addition, the bill amends provisions regarding the audit of financial statements and requires that the certified public accountants preparing such audits be licensed in the state of Florida.

The bill creates commissioners of deeds, appointed by the Governor for 4-year terms, to execute timeshare instruments outside the United States.

These provisions were approved by the Governor, without his signature, and take effect April 30, 1998. However, timeshare plan filings approved by the division before this date will not be subject to the amendment to s. 721.06(1)(f), F.S., relating to the required notice in contracts for purchase of a timeshare unit, until January 1, 1999.

*Vote: Senate 38-0; ; House 113-0*

### **CS/CS/HB 3321 — Condominiums**

by Governmental Rules & Regulations Committee, Real Property & Probate Committee, and Rep. Crow (CS/SB 1624 by Regulated Industries Committee and Senator Dudley)

This bill provides a procedure for amending the declarations or bylaws of condominiums recorded prior to January 1, 1977, to consolidate financial operations of two or more residential condominiums under a single association. It allows for the commingling of reserve funds and operating funds, for investment purposes only. The bill requires minimum insurance coverage or fidelity bonding in the amount of the maximum funds in an association's accounts. The bill provides that the common expenses of a developer-controlled association that are not covered by insurance proceeds after a natural disaster be equally divided among the unit owners, including those units owned by the developer. It provides for the allocation of common expenses for master antenna services or bulk cable television service contracts.

The bill requires a signed agreement by the buyer of a cooperative waiving the buyer's right to void a sale within 15 days of the purchase. It requires financial disclosure of year-end information. The bill provides procedures and requirements related to cooperative committee meetings. It provides that a person convicted of a felony in the United States is ineligible for board of administration membership unless that person's right to vote has been restored and that action taken by a board is not affected if a member is later determined to be ineligible because of a prior conviction. The bill amends procedures relating to the filling of vacancies on a board and reporting requirements of annual budgets.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 115-0*

## **PARI-MUTUEL WAGERING**

### **HB 1747 — Pari-mutuel Wagering**

by Reps. Fasano, Thrasher, Morrone and others

The 1993 Legislature enacted ch. 93-288, L.O.F., which lowered the tax rate on live and simulcast handle for harness horse track permitholders from 3.3 to 1.0 percent. The 1996 Legislature enacted ch. 96-364, L.O.F., which provided additional tax credits and exemptions for pari-mutuel permitholders, provided increased opportunities for full-card simulcasting and intertrack wagering, established minimum purse requirements to benefit greyhound breeders, and authorized card rooms at pari-mutuel facilities. The reduced tax rates on intertrack wagering and on live handle for thoroughbred, harness, and jai alai permitholders were subject to repeal on July 1, 1998.

House Bill 1747 revives and reenacts the reduced tax rates on intertrack wagering and on live handle for harness horse racing and jai alai, providing permitholders with tax savings of approximately \$5.4 million, compared to letting the current rates repeal.

The bill also addresses issues that impact greyhound and thoroughbred breeders. It specifies a formula whereby greyhound purse supplements are prorated and distributed on a weekly basis. It requires a greyhound track to make additional purse payments on intertrack and simulcast wagers. It also requires greyhound permitholders to provide the division and kennel operators with certain documentation to insure that the proper purses are paid and to automatically deduct, at the request of a majority of kennel operators, at least 1 percent from purses paid as direct payment to local kennel associations. With respect to thoroughbred breeders, the bill allows a stallion standing in the state during a specified period of each year to be eligible for stallion awards.

The bill provides that the each of the three greyhound permitholders in the Florida panhandle, as well as the track with the lowest live handle in the prior state fiscal year, may transfer the unused portions of its tax credits on live handle to a host greyhound track for credits on intertrack wagering. The bill also allows a currently licensed facility that conducts public horse sales and meets certain qualifications (Ocala Breeders' Sales) to apply for a license that allows simulcast wagers on thoroughbred horse races during specified periods.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.

*Vote: Senate 37-1; House 116-0*

### **CS/SB 440 — Pari-mutuel Wagering**

by Regulated Industries Committee

The 1996 Legislature, in ch. 96-364, L.O.F., provided for lower tax rates for thoroughbred permitholders, a "double penalty" provision for thoroughbred permitholders conducting races in more than one racing period, and increased minimum purses for thoroughbred breeders. These tax provisions, penalties and additional purses were subject to repeal on July 1, 1998.

The bill retains all of the provisions in current law regarding thoroughbred taxes, dates, and purses. It provides thoroughbred track permitholders tax savings of \$5.6 million, compared to letting the current rates repeal.

It also provides additional tax reductions, until July 1, 2001, to thoroughbred permitholders that conduct performances during certain periods. For the thoroughbred permitholder conducting performances beginning January 3 and ending March 16 (typically Gulfstream Park) the tax rate on live and simulcast handle was reduced from 2.25 to 2.0 percent. For the thoroughbred

permitholder conducting performances beginning March 17 and ending May 22 (typically Hialeah Park) the tax rate on live and simulcast was reduced from 0.7 to 0.2 percent. For this permitholder, the tax rates on intertrack wagering and rebroadcast of simulcast races also were reduced, from 3.3 and 2.4 percent, respectively, to 0.2 percent. For the thoroughbred permitholder conducting performances beginning May 23 and ending January 2 (typically Calder/Tropical Park) the tax rate on live and simulcast handle was reduced from 2.5 to 1.25 percent.

The bill provides that another provision of the 1996 act, which requires the permitholder conducting performances between May 23 and January 2 (Calder/Tropical) to send broadcasts of live and simulcast events to the permitholder conducting performances between March 17 and May 22 (Hialeah), will repeal on July 1, 2001. The bill also provides that the host facility sending these mandated signals (Calder/Tropical), will receive, for the next 3 years, a tax credit equal to the amount of taxes due, with at least half of that amount to be used as purse supplements.

The bill provides for a study of the feasibility of state or municipal ownership of Hialeah Race Park. The report is to be prepared by the Secretary of State in conjunction with the Office of the Mayor of Hialeah and submitted to the President, Speaker, and Governor by January 31, 1999.

The bill provides additional purses for the thoroughbred permitholder located outside of South Florida (Tampa Bay Downs). It lowers the tax rate on the rebroadcast of simulcast races from 2.4 to 0.5 percent with the host track paying the guest track the additional 1.9 percent, which is to be used to supplement purses.

The bill removes taxes on free admissions. It removes a limitation on the receipt of thoroughbred simulcasts after 10 p.m. It repeals requirements for racetrack laboratories and backside medical and health benefits. It also includes provisions identical to those in HB 1747 regarding stallion awards and the licensure of a facility to accept simulcast wagers on thoroughbred races during special periods.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.

*Vote: Senate 39-1; House 114-1*

**CS/HB 3663 — Pari-mutuel Wagering**

by Regulated Services Committee, Rep. Westbrook and others (SB 1080 by Senators Silver, Gutman, Meadows, Forman and Turner)

This bill provides an additional tax credit to jai alai permitholders, equal to the amount of state taxes paid on handle and admissions taxes that exceed the permitholder's operating earnings. The tax credit will be applied to pari-mutuel taxes due during the permitholder's next ensuing meets. The bill also allows a jai alai permitholder to apply for or amend its license for FY 1998-99. The bill will result in approximately \$6.5 million in tax savings for jai alai permitholders, and will have a corresponding negative impact on general revenue.

If approved by the Governor, these provisions take effect July 1, 1998.

*Vote: Senate 34-3; House 113-1*

**LOTTERY**

**HB 3289 — Florida Lottery Instant Ticket Vending Machines**

by Regulated Services Committee and Rep. Morroni (SB 836 by Senator Gutman)

In 1996, the Florida Department of Lottery was authorized to lease instant ticket vending machines (ITVMs) for an 18-month test period and was required to report results for the first 8 months. The report indicated that retailers with ITVMs experienced a 19 percent sales increase, while retailers without ITVMs experienced a 6 percent sales decrease. House Bill 3289 deletes language that would have limited the operation of ITVMs to an initial 18-month period and reduces the number of clerks on duty to monitor ITVMs from two to one, unless the retailer has violated provisions prohibiting sales to minors.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 20-13; House 112-0*