

**2007 LOUISIANA  
LEGISLATIVE ACTS  
SUMMARY**

# 2007 Legislative Acts Summary

## Contents

This book summarizes those new laws passed by the Louisiana Legislature in late 2006 and in 2007 that were deemed material to SPWW's practice of law (along with a few not so material).

The book is organized in a logical fashion, rather than Act number order. Please see the Table of Contents. In addition, the appendices contain various summaries prepared by other organizations, as well as a very brief summary of all of the Acts passed in late 2006 and in 2007 in Act number order.

## Warning

The summaries are not intended to substitute for careful examination of a new law itself, if it is at issue. Our summaries are based on more detailed summaries prepared by the Legislative staff, which are available at [www.legis.state.la.us/home.htm](http://www.legis.state.la.us/home.htm) (scroll down to "Bill Search", search by "ACT" rather than "HB", and print the latest "Digest"). We have not attempted to verify the accuracy of the summaries prepared by the Legislative staff; we have simply edited them down. The summaries prepared by other organizations obviously vary widely in quality, scope, and perspective.

## Where to Find Full Text of Acts and Laws

All Acts are available at [www.legis.state.la.us/home.htm](http://www.legis.state.la.us/home.htm) (scroll down to "Bill Search" and search by "ACT" rather than "HB").

All Louisiana laws, once codified, are available at [www.legis.state.la.us/tsrs/search.htm](http://www.legis.state.la.us/tsrs/search.htm).

## Feedback

If you have any thoughts on how this book might be improved, please send an email to Mike Landry, John Farnsworth, or Larry Orlansky. We would like to make the book as useful as possible.

## *Credits*

**Emily Brewer** – downloaded the Legislative staff summaries from the Legislature's website, implemented all edits and conformed them to a common style sheet, assembled the summaries in the Table of Contents order, and assembled all the parts into a single book

**Mike Landry** – selected and edited legislative staff summaries for inclusion in book, found summaries by other organizations, and provided design and oversight

**Copy Department** – made copies of this book for all attorneys and paralegals and distributed it

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APPENDIX C: ACTS OF 2007 REGULAR SESSION

## CONSTITUTION

### **Police and Firemen Compensation (Act No. 483)**

Proposed constitutional amendment prohibits the reduction of state salary supplements for full-time local law enforcement and fire protection officers. Further provides that full funding shall be the amount needed to meet legal requirements by law.

Specifies submission of the amendment to the voters at the statewide election to be held on Oct. 20, 2007.

(Amends Const. Art VII, Sec.10(D)(3)(a) and (c))

### **State Retirement Benefits (Act No. 484)**

Proposed constitutional amendment would provide that no benefit provision for members of a state retirement system having an actuarial cost shall be approved by the legislature unless a funding source providing new or additional funds sufficient to pay all such actuarial cost within 10 years of the effective date of the benefit provision is identified in such enactment.

Specifies submission of the amendment to the voters at the election to be held on October 20, 2007.

(Amends Art. X, Sec. 29 (E)(5))

### **Waterfront Police and Port Firemen Compensation (Act No. 485)**

Proposed constitutional amendment authorizes the legislature to supplement the uniform pay plans for civil service law enforcement officers employed on a full-time basis by a police agency of the state or its political subdivisions who serve by effecting arrests, issuing citations, and serving warrants while patrolling waterways and riverfront areas.

Proposed constitutional amendment additionally authorizes the legislature to supplement the uniform pay plans for fire protection officers

employed on a fulltime basis who provide fire protection services to a port authority.

Specifies submission of the amendment to the voters at the statewide election to be held on October 20, 2007.

(Amends Const. Art. X, Sec.10(A)(1))

### **Ad Valorem Tax Exemption for Consigned Jewelry (Act No. 486)**

Proposed constitutional amendment adds jewelry listed as a consignment article by a jewelry dealer to the list of property exempted from ad valorem taxation.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Oct. 20, 2007.

Effective January 1, 2008. (Amends Const. Art. VII, §21(C)(19))

## CIVIL CODE

### **Settlements (Act No. 138)**

New law rewrites the Civil Code articles on settlement. Here are the new articles verbatim:

Art. 3071. Compromise; definition

A compromise is a contract whereby the parties, through concessions made by one or more of them, settle a dispute or an uncertainty concerning an obligation or other legal relationship.

Art. 3072. Formal requirements; effects

A compromise shall be made in writing or recited in open court, in which case the recitation shall be susceptible of being transcribed from the record of the proceedings.

Art. 3073. Capacity and form

When a compromise effects a transfer or renunciation of rights, the parties shall have the capacity, and the contract shall meet the

requirement of form, prescribed for the transfer or renunciation.

Art. 3074. Lawful object

The civil consequences of an unlawful act giving rise to a criminal action may be the object of a compromise, but the criminal action itself shall not be extinguished by the compromise.

A compromise may relate to the patrimonial effects of a person's civil status, but that civil status cannot be changed by the compromise.

Art. 3075. Relative effect

A compromise entered into by one of multiple persons with an interest in the same matter does not bind the others, nor can it be raised by them as a defense, unless the matter compromised is a solidary obligation.

Art. 3076. Scope of the act

A compromise settles only those differences that the parties clearly intended to settle, including the necessary consequences of what they express.

Art. 3077. (Reserved)

Art. 3078. After-acquired rights

A compromise does not affect rights subsequently acquired by a party, unless those rights are expressly included in the agreement.

Art. 3079. Tender and acceptance of less than the amount of the claim

A compromise is also made when the claimant of a disputed or unliquidated claim, regardless of the extent of his claim, accepts a payment that the other party tenders with the clearly expressed written condition that acceptance of the payment will extinguish the obligation.

Art. 3080. Preclusive effect of compromise

A compromise precludes the parties from bringing a subsequent action based upon the matter that was compromised.

Art. 3081. Effect on novation

A compromise does not effect a novation of the antecedent obligation. When a party fails to perform a compromise, the other party may act either to enforce the compromise or to dissolve it and enforce his original claim.

Art. 3082. Rescission

A compromise may be rescinded for error, fraud, and other grounds for the annulment of contracts. Nevertheless, a compromise cannot be rescinded on grounds of error of law or lesion.

Art. 3083. Compromise suspends prescription

A compromise entered into prior to filing suit suspends the running of prescription of the claims settled in the compromise. If the compromise is rescinded or dissolved, prescription on the settled claims begins to run again from the time of rescission or dissolution.

## **CODE OF CIVIL PROCEDURE**

### **Venue for Child Custody or Support Proceeding (Act No. 99)**

New law requires a child custody or support proceeding to be transferred to the parish where a party has established a new domicile after August 26, 2005, and before August 15, 2007, if the other party was a nonresident of the state. New law requires the motion for transfer to be filed on or before December 31, 2007.

Effective August 15, 2007. (Adds C.C.P. Art. 74.2(F))

### **Venue for Judgment Debtor Exams and Suits on Open Account (Act No. 433)**

Prior law provided that a judgment debtor may be examined in a court of competent jurisdiction

in the parish where the judgment debtor is domiciled. New law adds that a judgment debtor may also be examined in the parish where the judgment was rendered or where the debt that has been reduced to judgment was incurred.

New law provides that an action for the collection of an open account may be brought in the parish where the open account was created or where the services forming the basis of the open account were performed, or in the parish of the debtor's domicile.

Effective August 15, 2007. (Amends C.C.P. Art. 2452(B); Adds C.C.P. Art. 74.4)

#### **Abandonment of Civil Actions after Katrina/Rita (Act No. 361)**

Existing law provides that a civil action is abandoned when the parties fail to take any step in its prosecution or defense for a period of three years.

New law provides an additional abandonment period for pleadings filed prior to August 26, 2005, which were not previously abandoned, when the parties fail to take any step in its prosecution or defense for a period of five years due to Hurricane Katrina or Rita.

New law provides that it shall be null and void as of August 26, 2010.

Effective upon signature of governor (July 9, 2007). (Amends C.C.P. Art. 561(A))

#### **Amendments to Discovery Rules (Act No. 140)**

New law provides that electronically stored information is discoverable.

New law requires parties claiming information as privileged or protected to make the claim expressly and to specify the nature of the document, without revealing protected information.

New law also provides procedures for when protected information is inadvertently disclosed.

New law protects from discovery the mental impressions of the attorney that may be reflected in an expert's draft report.

New law adds "electronically stored information" to the type of business record information which may contain discoverable material.

New law provides for the discovery of "electronically stored information", sound recordings, images, and data compilations "in any medium", and permits the testing and sampling thereof.

New law provides a procedure for reasonably specifying the form or forms in which information is to be produced, objection thereto, and limited access to computers or other storage devices to the requesting party upon a showing of noncompliance and for good cause shown.

New law allows live testimony of witnesses by video.

New law specifies the procedures for utilizing a commercial carrier for service of process.

Effective August 15, 2007. (Amends C.C.P. Arts. 1424, 1425, 1460-1462 and R.S. 13:3205; Adds C.C.P. Art. 1633.1)

#### **Judgments and Liens to Include SSN Ending (Act No. 11)**

New law provides that a final judgment for the payment of money shall include the last four digits of the social security number of the judgment debtors, if known by the attorney preparing the judgment. However, the failure to include such information shall not affect the validity of the judgment.

New law additionally requires that a recorded lien having the effect of a money judgment shall include the last four digits of the social security number or the IRS taxpayer identification number of the debtor, if known by the attorney preparing the lien. However, the failure to include such information shall not affect the validity of the lien.

Effective upon signature of the governor (June 18, 2007). (Amends C.C.P. Art. 1922)

## **CODE OF CRIMINAL PROCEDURE**

### **Witness Subpoenas by 24th JDC (Act No. 29)**

New law provides that the clerk of court for the 24th JDC (Jefferson Parish) may place his signature by electronic means on all subpoenas issued for the compulsory attendance of witnesses at hearings or trials.

Effective August 15, 2007. (Amends C.Cr.P. Art. 731(B))

## **CODE OF EVIDENCE**

### **Subpoenas of and Orders to Government Attorneys (Act No. 23)**

New law provides that the procedural provisions and protections regarding subpoenas of attorneys shall extend to lawyers representing the state or any political subdivision, whether the lawyer is the attorney general or assistant attorney general, a district attorney or assistant district attorney, or a municipal or city attorney or assistant municipal or assistant city attorney, and shall extend to lawyers employed by either house of the Louisiana Legislature.

Effective August 15, 2007. (Adds C.E. Arts. 507(E) and 508(E))

## **CHILDREN'S CODE**

### **Mediation in FINS Cases; Pre-Natal Alcohol Exposure (Act No. 396)**

New law permits a court to refer cases to mediation in families in need of services (FINS) cases.

New law adds that prenatal neglect may also include exposure in utero to chronic or severe use of alcohol that produces observable and harmful effects in the newborn's physical

appearance or functioning, and requires a physician to report to the local child protection office if he observes such effects which he believes are due to such causes.

Effective upon the appropriation of sufficient funds by the legislature. (Amends Ch.C. Arts. 437(A), 603(16.1), and 610(G); Adds Ch.C. Art. 603(14.1.1))

### **Indigent Parents' Representation Program (Act No. 95)**

New law provides for the Indigent Parents' Representation Program to provide qualified legal counsel to indigent parents in child abuse and neglect cases.

New law provides for standards, guidelines, and rules to be adopted by the board in implementation of the program, the creation of the "Louisiana Indigent Parent Representation Program Fund", special reporting requirements for indigent parent representation cases, auditing requirements for attorneys representing indigent parents in child abuse and neglect cases, and a timeline for the incremental implementation of new law.

Effective August 15, 2007 (Amends R.S. 46:460.21; Adds R.S. 46:460.21(B)(1.1) and (G) and Ch.C. Arts. 571-575 and R.S. 15:185.1-185.9)

### **Parent Coordinator Mediators (Act No. 265)**

New law provides for a parenting coordination process, which is an alternate dispute resolution process in which a parenting coordinator assists parents to implement a parenting plan by facilitating the resolution of their disputes in a timely manner.

New law provides that a court may appoint a parenting coordinator on its own motion or upon motion of any party upon a showing of good cause and only if there is a preexisting judgment establishing custody. The initial term for the appointment of the parenting coordinator shall not exceed one year, but for good cause shown, the term may be extended for additional one



year terms. Each party must pay a portion of the costs of the parenting coordinator.

New law provides for qualifications, duties and authority of the parenting coordinator.

The parenting coordinator may not assist the parties in reaching an agreement that would change legal custody or that would change the physical custody or visitation schedule in a way that results in a change in child support.

The parenting coordinator must prepare necessary reports, but may not be called as a witness in the child custody proceeding without prior court approval.

The parenting coordinator may not communicate ex parte with the court, except in an emergency situation; may communicate with the child and other persons not a party to the litigation; and may be terminated for good cause shown.

The court shall order the parties to cooperate with the parenting coordinator by providing requested information.

The parenting coordinator shall not be personally liable for any act or omission resulting in damage, injury, or loss arising out of the exercise of his official duties and in the course and scope of his appointment, unless the damage, injury, or loss was caused by the gross negligence or willful or wanton misconduct of the parenting coordinator.

A parenting coordinator is a mandatory reporter of child abuse and neglect.

Effective August 15, 2007. (Adds Ch.C. Art. 603(13)(h) and R.S. 9:358.1-358.9)

#### **Family Child Day Care Homes (Act No. 119)**

Prior law provided that the term "caretaker" included an operator or employee of a family child day care home. New law limits this provision of the definition to mean a family child day care home that is registered with the state.

New law further allows the Dept. of Social Services to notify parents of children in registered family child day care homes of a valid abuse finding, as is currently allowed for similar findings in public or private day care centers.

New law further authorizes the Dept. of Social Services to release to the Dept. of Education limited information as to valid findings of child abuse, neglect, or exploitation occurring at a family child day care home that is registered by that department.

Effective upon signature of the governor (June 25, 2007). (Amends Ch. C. Art. 603(3) and R.S. 46:56(F)(4)(c))

#### **Notice of Foster Child Hearings (Act No. 334)**

New law makes necessary changes to existing law in order to comply with the federal Safe and Timely Interstate Placement of Foster Children Act of 2006. Among other things:

New law requires that notice of any court hearing regarding a child be given to parents, parties, foster parents, pre-adoptive parents, and relatives providing care. New law also provides for notice of the right to be heard and permits the court to hold various types of hearings even if certain classes of persons are absent.

New law adds that the court will consider in-state and out-of-state permanent placement options.

New law adds that interstate placement is an option when removal is appropriate.

New law requires the court in a permanency hearing to consult the child, in an age-appropriate manner, regarding the new permanency or transition plan for the child.

New law provides that for a child of age 16, the hearing must determine the services the child needs to move from foster care to independent living.

Effective August 15, 2007. (Amends Ch.C. Arts. 623, 624, 645, 672.1, 675, 682, 695, 702, 705,

and 1025; Adds Ch.C. Arts. 116(6) and (8.1), 603(11), 622.1, 679(D), 702(I) and (J), 780(E), and 901(F))

**Adoption by Relatives (Act No. 111)**

New law expands the persons who may petition for intrafamily adoption of a child to include second and third cousins.

Effective August 15, 2007. (Amends Ch.C. Art. 1243(A))

**UNCODIFIED**

**Home Rehabilitation Income Tax Credit Extension (Act No. 188)**

New law extends the individual income tax credit for the rehabilitation of certain owner occupied residential structures until and including the tax years beginning on or before Dec. 31, 2012.

Effective August 15, 2007. (Amends §2 of Act No. 479 of the 2005 R.S.)

**DDD Historic Structures Tax Credit Extension (Act No. 182)**

New law extends last year to take income and corporation franchise tax credit for the rehabilitation of historic structures located in a downtown development district from 2007 to 2011.

Effective August 15, 2007. (Amends §3 of Act No. 60 of the 2002 R.S., as amended by Act No. 12 of the 2004 1st E.S.)

**Capital Improvement Program and State Bond Commission (Act No. 38)**

New law provides for the implementation of a five-year capital improvement program; provides for the repeal of certain prior bond authorizations; provides for new bond authorizations; provides for authorization and sale of such bonds by the State Bond Commission; provides for related matters.

Effective upon signature of governor (July 19, 2007).

**L.A. R.S. TITLE 1: GENERAL PROVISIONS**

Nothing of particular interest.

**L.A. R.S. TITLE 2: AERONAUTICS**

Nothing of particular interest.

**L.A. R.S. TITLE 3: AGRICULTURE AND FORESTRY**

Nothing of particular interest.

**L.A. R.S. TITLE 4: AMUSEMENTS AND SPORTS**

**Professional Boxing, Wrestling, and Mixed Technique Events (Act No. 90)**

New law provides the Louisiana State Boxing and Wrestling Commission also has authority to regulate mixed technique events.

New law provides that each club promoting a boxing, mixed technique, or professional wrestling event shall pay for and obtain the attendance of emergency medical personnel to include no less than two attendants and an ambulance which shall be in attendance throughout each event.

New law provides that an appointed physician as well as referees, judges, and other officials appointed by the commission shall be considered independent contractors of the commission.

New law provides that the fees for the physician, referees and judges for each individual event shall be paid by the club promoting the event in question and shall be reasonable and customary for the size and location of the event.

New law provides that no person shall conduct, promote, or in any manner participate in any boxing, mixed technique, or wrestling event or exhibition without the sanctioning of the commission.

New law does not apply to amateur contests, competitions, or exhibitions. New law repeals definitions provided for in present law and provides new definitions for "amateur", "club", "exhibition", "mixed technique event", "professional boxer", "professional wrestler", and "professional wrestling event".

New law makes various other changes, particularly with respect to fees.

(Amends R.S. 4:61, 63, 64, 65, 67, 70, 72, 73, 75, 76, 79, 81, 82, 83, and 85; Adds R.S. 4:61(F), 82.1, and 82.2)

#### **L.A. R.S. TITLE 5: AUCTIONS AND AUCTIONEERS (REPEALED)**

Nothing of particular interest.

#### **L.A. R.S. TITLE 6: BANKS AND BANKING**

##### **Car Dealers (Act No. 131)**

New law authorizes the seller of a motor vehicle to charge and collect a documentation and compliance fee, not to exceed \$100.

New law makes void and unenforceable any litigation or arbitration clause contained in a motor vehicle credit transaction that was entered into in the state which would remove the transaction outside of Louisiana.

New law exempts from licensing requirements of the La. Motor Vehicles Sales Finance Act, licensed used motor vehicle dealers to the extent they regularly sell, assign, and transfer contracts originated by them to third party assignees within 60 days following origination. New law authorizes a licensed used motor vehicle dealer to retain at any one time, and from time to time

thereafter, a maximum of 12 contracts for its own account without being subject to such licensing requirements.

Effective upon signature of the governor (June 25, 2007). (Amends R.S. 6:969.18(A)(2) and 969.36(A)(8); adds R.S. 6:969.42)

##### **OFI to Use Online Licensing System (Act No. 36)**

New law provides that the commissioner of the Office of Financial Institutions shall have the authority to take all action regarding an online licensing system.

New law provides that the commissioner may disclose information that may be obtained in connection with the online licensing system to other regulatory agencies that utilize the same system and to third-party providers of the system.

New law provides that persons engaged in activities that require licensure pursuant to new law shall be required to pay all applicable fees to utilize the licensing system.

New law provides that a renewal of a license may be rejected for failure to utilize the licensing system.

New law no longer provides that the commissioner may make public any final administrative action instituted against a licensee or exempt registrant for a violation of law.

Effective upon signature of governor (June 18, 2007). (Amends R.S. 6:1088(F)(4); Adds R.S. 6:103(B)(16), 1083(3.2), and 1088.1; Repeals R.S. 6:1092(J))

##### **Conflict of Interest between Residential Mortgage Lending and Real Estate License (Act No. 39)**

New law prohibits a licensee under the Residential Mortgage Lending Act from engaging in or being financially compensated for any loan transaction in which such person, for a fee, commission, or other valuable

consideration, is acting as a licensee under the Louisiana Real Estate License Law, in connection with the same residential loan transaction.

Effective August 15, 2007. (Adds R.S. 6:1090(I))

**OFI May Not Publicize Administrative Actions (Act No. 376)**

Prior law allowed the commissioner of the office of financial institutions (OFI) to make public any administrative action instituted against a licensee or exempt registrant for a violation of law. New law removes this authority from the commissioner.

New law authorizes the commissioner to obtain criminal history information on any person listed on any application, registration, or renewal filed with OFI.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 6:121.2(B), (C), and (D); repeals R.S. 6:1092(J))

**CPE Requirements for Mortgage Professionals (Act No. 34)**

New law changes continuing professional education requirements for all persons applying for reinstatement or renewal of their mortgage broker, mortgage lender, or originator license.

New law provides that recognized professional educational institutions shall be approved by the commissioner and the Residential Mortgage Lending Board and that each course taught by professional education providers shall include at least 30 minutes of instruction relating to changes or updates on new developments in the residential mortgage lending business. New law further provides that the applicant shall acquire four hours of required instruction through courses offered or approved by the Mortgage Bankers Association or the National Association of Mortgage Brokers.

Effective August 15, 2007. (Amends R.S. 6:1094(C)(1))

**Insurance Premiums in Residential Mortgage Loans (Act No. 12 of 2006 2nd Extraordinary Session)**

Existing law provides that no mortgage lender may finance or include in the loan amount of a residential mortgage loan the premium amount for any single premium credit life, dismemberment, health and accident, mortgage life and disability, involuntary unemployment, collateral protection, or debt cancellation insurance sold in connection with a residential loan transaction, unless those premiums are financed prior to 8/14/07.

New law retains existing law, and further clarifies that the loan amount refers to the original principal balance of the residential mortgage loan.

New law exempts residential mortgage loans which have an original principal balance of less than \$50,000 and those which will fully amortize the insurance premium no later than the expiration date of such insurance product.

Effective upon signature of the governor (June 18, 2007). (Amends R.S. 6:1096(G)(3))

**Mutual Savings Banks (Act No. 15)**

New law provides that the articles of incorporation of a mutual savings bank may limit the total number of votes held by each member, provided that the limit is no less than 500 votes.

New law further provides that a mutual savings bank may divide the board of directors into three classes who will serve staggered terms. No director can be elected for a single term of more than three years.

New law provides that the provisions of new law are remedial in nature and are to be applied retrospectively.

Effective upon signature of the governor (June 18, 2007). (Amends R.S. 6:1185(B)(2) and 1188(B))

**L.A. R.S. TITLE 7: BILLS AND NOTES  
(REPEALED)**

Nothing of particular interest.

**L.A. R.S. TITLE 8: CEMETERIES**

Nothing of particular interest.

**L.A. R.S. TITLE 9: CIVIL CODE  
ANCILLARIES**

**Vessel Titles and Security Interests (Act  
No. 319)**

New law, entitled the "Vessel Titling Act," among other things:

1. Authorizes the purchaser or possessor of a vessel which is valued in excess of \$2,500, to be principally operated in this state, transferred for the first time on or after July 1, 2008, and required to be numbered, to obtain a certificate of title from the Dept. of Wildlife and Fisheries.
2. Prohibits the sale, assignment, or transfer of a vessel titled by the department or documented with the U.S. Coast Guard without delivering a certificate of title or certificate of documentation.
3. Prohibits a dealer from purchasing or otherwise acquiring a new vessel without obtaining a manufacturer's or importer's certificate of origin or equivalent document.
4. Requires vessels to have a hull identification number, and
5. Requires certificates of title to show any security interest in the vessel.

New law, relative to the UCC:

1. Provides that a security interest in a titled vessel may be perfected only by compliance with provisions of the UCC and new law.
2. Provides that certain provisions of the UCC do not apply to vessels held in inventory for sale or lease.

3. Provides that the filing office for the perfection of security interests under new law is the Department of Wildlife and Fisheries.

4. Provides that certain provisions of UCC concerning numbering, maintaining, and indexing records do not apply to the Department of Wildlife and Fisheries.

Effective July 1, 2008. (Amends R.S. 10:9-309(1), 311(b) and (d), 506(c), 513(a)(2), 519(i), and 526(a); Adds R.S. 10:9-501(a)(3), 504(4), 515(i), and 516(3), and R.S. 34:852.1-852.22)

**Jefferson Parish Public Trust Bonds May Be  
Tax Exempt (Act No. 93)**

New law provides that the property of a public trust having Jefferson Parish as its beneficiary which is authorized under its trust indenture to engage in or issue bonds to finance projects for certain public purposes is public property used for essential public and governmental purposes, and that, accordingly, such public trust, its properties and income, and bonds it issues and income from such bonds are exempt from all taxes of the parish or municipality, the state, or any political subdivision thereof or any other taxing body.

New law provides that such public trust may require the lessee of each of the projects of the public trust to pay annually a sum in lieu of ad valorem taxes.

New law shall not become effective until approved by resolution of the Jefferson Parish Council.

Effective upon signature of governor (June 22, 2007). (Adds R.S. 9:2347(M))

**Limited Liability for Certain Emergency  
Services (Act No. 331)**

New law provides a limitation of liability for evacuation services and other assistance rendered prior to a storm declared by the NOAA weather service.

New law also provides a limitation of liability for health care providers who render services in

a community health care clinic or community pharmacy following a declared state of emergency.

Effective August 15, 2007. (Amends R.S. 9:2793.3-2793.6; Adds R.S. 9:2799.5(F))

**Limited Liability for Emergency Responders (Act No. 360)**

New law provides that liability shall not be imposed on any authorized duly licensed or certified person or juridical person who acts in good faith and within the scope of applicable protocols adopted and promulgated by the Louisiana Emergency Response Network Board for the Louisiana Emergency Response Network (LERN) for damages from acts or omissions resulting in injury, death, or loss, unless such damage or injury was caused by willful or wanton misconduct or gross negligence.

New law shall not supersede the provisions of R.S. 9:2798.1 (liability for discretionary acts of public entities or officers or employees) or apply to claims covered by R.S. 13:5101 et seq. (Louisiana Governmental Claims Act), R.S. 40:1299.39 et seq. (Malpractice Liability for State Services), or R.S. 40:1299.41 (Medical Malpractice Act).

Effective August 15, 2007. (Amends R.S. 36:259(J); Adds R.S. 9:2798.5)

**Residential Mortgage Lending Act and Consumer Credit Law (Act No. 13)**

New law clarifies that the Residential Mortgage Lending Act is the primary law governing mortgage lending loans. Notwithstanding, the parties to a consumer loan that is secured by a mortgage on one to four family residential immovable property may mutually agree that the loan will be governed by the Louisiana Consumer Credit Law.

New law changes definition of a "consumer loan," for purposes of the Louisiana Consumer Credit Law, to exclude a loan of money to a consumer which is secured by a second or junior lien on owner occupied one to four family

residential immovable property, or which is secured by a first lien or mortgage on owner occupied one to four family residential immovable property to the extent the loan does not qualify as a federally related mortgage loan.

Effective upon signature of the governor (June 18, 2007). (Amends R.S. 9:3516(14) and (19); adds R.S. 9:3511(F))

**Loan Origination Fees (Act No. 31)**

New law provides that a lender may charge an origination fee of not more than \$50 (formerly \$25) on a consumer loan or revolving account.

Effective August 15, 2007. (Amends R.S. 9:3530(A)(1))

**French Quarter Zoning Prescription (Act No. 263)**

New law provides that the prescriptive period regarding any action to enforce a zoning restriction or regulation or a violation thereof in the Vieux Carre shall begin to run on the date the properly authorized agency of the city actually receives written notice of the violation. New law additionally provides that the provisions of new law shall not divest a person of any right obtained as a result of prescription that accrued prior to August 15, 2007.

Effective August 15, 2007. (Adds R.S. 9:5625(G)(3))

**L.A. R.S. TITLE 10: COMMERCIAL LAWS**

Nothing of particular interest.

**L.A. R.S. TITLE 11: CONSOLIDATED PUBLIC RETIREMENT SYSTEMS**

**Investment in Terrorist Nations (Act No. 352)**

New law establishes very complex provisions apparently designed to require Louisiana public retirement and pension systems to discourage

any entities in which they invest from doing business in Iran, North Korea, Sudan, or Syria and to create a "terror-free" index fund.

Effective August 15, 2007. (Amends R.S. 11:312(B)(2); Adds R.S. 11:313-316)

## **L.A. R.S. TITLE 12: CORPORATIONS AND ASSOCIATIONS**

### **Updated Licenses for Converted Business Entities (Act No. 63)**

New law provides that a domestic business entity that converts into a different form of entity shall be recognized by a licensing board or commission. Prior to updating a license, a state board or commission may require various documents.

New law provides that an updated license shall be issued within 30 days of the board or commission receiving all documents or fees requested, unless the licensee owes any unpaid fines or fees, or is cited or charged with a violation of the laws or rules pertaining to the board or commission.

New law provides that an updated license shall have an effective date retroactive to the date stated on the certificate of conversion.

New law provides that except for publicly traded entities, the provisions of new law shall not apply to a converted entity seeking an updated license that has changed ownership.

Effective August 15, 2007. (Adds R.S. 12:1607)

## **L.A. R.S. TITLE 13: COURTS AND JUDICIAL PROCEDURE**

### **Reorganization of Fifth Circuit (Act No. 261)**

New law divides the first district of the Fifth Circuit Court of Appeal, which district is composed of the parish of Jefferson, into two election sections with certain precincts in each section.

New law provides that the first vacancy created by the death, resignation, retirement, or removal of a judge of the first district occurring after 8/15/07, shall be filled by election from election section two of the first district and such judgeship shall be assigned to election section two of the first district for election purposes thereafter. New law further provides that if no such election has occurred or is scheduled to occur prior to the opening of qualifying for the regular statewide elections in 2012, the regular election to fill the judgeship designated as Division G of the first district shall be held in election section two of the first district and such division shall be assigned to election section two for election purposes thereafter.

New law shall become effective upon the entering of a written consent judgment by the United States District Court for the Eastern District of Louisiana,.

Effective August 15, 2007. (Amends R.S. 13:312(5) and 312.1(E))

### **New Judge for North Shore (Act No. 3)**

New law increases the judgeships for the 21st JDC (Livingston, St. Helena, and Tangipahoa) from eight to nine and provides that the new division shall have jurisdiction over juvenile matters.

New law provides that the additional judge shall be elected at large, preside over Division I for purposes of nomination and election, and take office on January 1, 2009.

Effective upon signature of governor (June 8, 2007). (Amends R.S. 13:621.21)

### **Jefferson Parish Blighted Property (Act No. 277)**

New law, relative to eliminating deleterious property in Jefferson Parish, provides that the public authority in Jefferson Parish may enforce health, safety, and welfare statutes or ordinances, or otherwise seek to eliminate blighted property, unsafe structures and equipment, unlawful structures and structures

unfit for human occupancy, housing violations or public nuisances in any court of competent jurisdiction.

New law provides that public officers shall have the authority to (1) investigate the conditions of premises to determine whether said premises are unfit for human habitation and to request and obtain search warrants for entry if necessary, (2) obtain and receive evidence, and (3) enter upon any premises for the purpose of making examinations, provided the entries are made in such manner as to cause the least possible inconvenience to the persons in possession.

New law also provides that the court may order remedial action to be taken, including but not limited to repair of the premises to appropriate standards, securing premises from entry by others, and demolition of any unsafe structures unfit for human occupancy.

New law establishes a separate environmental docket to be heard by Division "J" of the 24th Judicial District Court and provides that any civil judicial proceeding on the environmental docket may be heard by summary proceeding.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 13:621.24.1 and R.S. 33:1373)

#### **Uniform International Child Abduction Prevention Act (Act No. 369)**

New law provides that a petition under the Uniform International Child Abduction Prevention Act may be filed only in a court that has jurisdiction to make a custody determination with respect to the child in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

New law provides a list of factors the court shall consider in determining the risk of abduction, authorizes courts to impose certain abduction prevention measures and remedies, and authorizes the court to issue an ex parte warrant to take physical custody of the child after determining there is a credible risk that the child is imminently likely to be abducted.

Effective August 15, 2007. (Adds R.S. 13:1851-1862)

#### **Local Government Liens and Privileges (Act No. 115)**

Existing law provides procedures whereby certain municipalities or parishes have liens and privileges against immovable property for violations of public health, housing, fire code, environmental, and historic district ordinances.

New law provides that the lien and privilege do not arise until the order, judgment, notice, and lien are final and not subject to appeal when recorded in the mortgage office.

New law authorizes the enforcement of the lien and privilege by applying to the clerk of the district court for the issuance of a writ directed to the sheriff of the parish where the judgment is to be executed.

New law provides that the remedies are nonexclusive and may be pursued independently or all together.

Effective August 15, 2007. Amends R.S. 13:2575(C)(1) and 2576(A)(1))

#### **Hearings for Code Violations (Act No. 193)**

New law authorizes each municipality or parish to adopt ordinances establishing an administrative adjudication hearing procedure to provide, in part, for a time period for persons charged with violating a public health, housing, fire code, environmental, and historic district ordinance to have a hearing.

Effective August 15, 2007. (Amends R.S. 13:2575(B)(1))

#### **Jury Trial Costs (Act No. 5)**

New law, probably only applicable to 24th Judicial District Court (Jefferson), makes numerous changes to jury service rules, including the following:



New law requires the court to fix the amount of the bond to cover all costs related to the jury trial when the case has been set for trial and shall fix the time for filing the bond, which shall be not later than 60 days prior to trial. Also requires the clerk of court to order the jury commission to draw the sufficient number of jurors to try and determine the case when the bond has been filed.

New law authorizes the court to order, in lieu of the bond, a deposit for costs, which shall be a specific cash amount, and requires the court to fix the time for making the deposit, which shall be not later than 60 days prior to trial. Also prohibits the deposit from exceeding \$2,000 for the first day and \$400 per day for each additional day the court estimates the trial will last. Also provides that failure to post the cash deposit shall constitute a waiver of a trial by jury.

New law requires the clerk of court to refund to the party filing the cash deposit any unexpended amounts after payment of all jury costs.

New law requires juror compensation to be paid by the clerk of court out of the funds on deposit upon completion of this service as a juror. Provides that if the jury costs exceed the amount on deposit or if the judge has waived the deposit, or if a bond was posted, the clerk of court shall have the right to seek recovery of such amount immediately from the party or parties cast in judgment, or from the surety on any bond furnished for jury costs.

Effective upon signature of governor (June 8, 2007). (Adds R.S. 13:3049.1)

**Health Care Quality Improvement Corporation (Act No. 359)**

New law describes a "nonprofit health care quality improvement corporation" as a corporation established with the assistance and participation of the Dept. of Health and Hospitals which is incorporated under the Louisiana Nonprofit Corporation Law, is 501(C)(3) tax exempt, and functions as a statewide public-private partnership working to

improve the quality of health care in Louisiana through activities such as reporting, research, collection, and analysis of certain health data and measures and the evaluation and promotion of clinical guidelines and criteria.

New law specifies that all standards, guidelines, or criteria created, developed, or promoted by such a corporation and all opinions, findings, conclusions, decisions, or recommendations made by a corporation shall be strictly voluntary in nature and may not be used or cited in a civil, criminal, or administrative proceeding to prove a legal standard of care, either to support or negate the liability of a party.

New law provides that the proceedings and records of the corporation shall be privileged and confidential and shall not be subject to production pursuant to a subpoena, order, or discovery process, or offered or introduced in evidence in any civil or administrative proceeding or subject to such in any criminal proceeding.

New law additionally provides that no director, officer, employee, staff member, or agent of such a corporation shall be permitted or compelled to testify in any judicial or administrative proceeding or to respond to any discovery request propounded in the proceeding regarding any records or actions of a corporation.

New law provides a limitation of liability for the corporation for the creation, development, or revision of any quality improvement work product or the disclosure of certain information and a limitation of liability for health care providers and health plans for voluntarily reporting or disclosing information to the corporation.

Effective August 15, 2007. (Adds R.S. 9:2800.20 and R.S. 13:3715.6)

**Orders of Appeal (Act No. 82)**

New law requires city court judges to sign an order of appeal within three days and requires

district court judges to sign an order of appeal within seven days.

Effective August 15, 2007. (Amends R.S. 13:4207)

**Costs to Enjoin a Public Nuisance (Act No. 238)**

New law adds the mayor and the chief of police of a municipality to the list of enumerated persons who may petition for an injunction or order of abatement of a public nuisance without the payment of any costs.

Effective August 15, 2007. (Amends R.S. 13:4712)

**L.A. R.S. TITLE 14: CRIMINAL LAW**

**DA Need Not Seek Death for First Degree Murder (Act No. 125)**

New law provides the district attorney, in a first degree murder case, with the option to seek a capital verdict or to not seek a capital verdict.

Effective August 15, 2007. (Amends R.S. 14:30(C))

**Partial Birth Abortions Outlawed (Act No. 473)**

New law prohibits partial birth abortions in light of recent U. S. Supreme Court ruling.

Effective upon signature of the governor (July 11, 2007). (Adds R.S. 14:32.10 and R.S. 40:1299.35.17; repeals R.S. 14:32.9 and R.S. 40:1299.35.16)

**Partial Birth Abortion Cause of Action (Act No. 477)**

New law prohibits a physician from performing a partial birth abortion, except when the partial birth abortion is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury.

New law prohibits a woman upon whom a partial birth abortion is performed from being prosecuted for this offense, as a principal, accessory or co-conspirator.

New law creates a cause of action for civil damages for injuries and wrongful death for a partial birth abortion procedure in favor of (1) father of the fetus; (2) mother of the fetus, unless she is of the full age of majority and consented to the procedure; and (3) parents or guardian of the mother if she is a minor, unless they consented to the procedure.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 14:32.10 and R.S. 40:1299.35.17; Repeals R.S. 14:32.9 and R.S. 40:1299.35.16)

**No Betting on Cockfighting (Act No. 223)**

New law prohibits gambling and wagering at a cockfight and related activities.

Effective August 15, 2007. (Adds R.S. 14:90.6)

**No Cockfighting (Act No. 425)**

New law creates the crime of organizing or conducting a commercial or private cockfight.

New law prohibits persons from possessing, training, purchasing, or selling any chicken with the intent that the chicken engage in an unlawful cockfight.

New law repeals prior law that fowl were not considered animals for purposes of the cruelty to animals statutes, but exempts traditional rural Mardi Gras parades, processions, and runs involving chickens from statutes pertaining to cruelty to animals.

Effective August 15, 2008. (Amends R.S. 14:102.1(C); Adds R.S. 14:102.23; Repeals R.S. 14:102.1(D))

**Illegal Traffic in Sound Recordings (Act No. 104)**

New law provides that any person who, for commercial gain, knowingly transfers, sells, distributes, circulates, directly or indirectly, or possesses for such purposes, any sounds recorded on any article for a consideration without the consent of the owner, shall be guilty of a criminal offense, regardless of when the sound recording was initially fixed.

Law does not apply to motion pictures or other audiovisual works.

Effective August 15, 2007. (Amends R.S. 14:223)

**L.A. R.S. TITLE 15: CRIMINAL PROCEDURE**

**Public Defender Board (Act No. 307)**

New law creates the Louisiana Public Defender Board (LPDB) and provides that the board is a state agency subject to public records and open meetings, bid and procurement, and all other laws applicable to state agencies.

New law provides that except for the inherent regulatory authority of the Louisiana Supreme Court, the LPDB shall have all regulatory authority over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana.

New law repeals prior law provisions providing for the judicial district indigent defender boards.

New law provides for the executive staff of the board, a maximum of eleven public defender service regions in the state, and a regional office in each service region shall provide supervision over the district offices within that region.

New law provides that any attorney providing public defender services in a district shall be licensed to practice law in the state of Louisiana. New law shall not prohibit an attorney licensed to practice in another state from defending an

indigent person in a criminal case on a pro-bono basis.

New law provides that a district public defender may establish a district public defender advisory board.

New law provides that in certain cases, the board shall regionalize and operate the public defender services of a district as a subdivision of the board through a regional office.

New law provides that in any district where the board takes over the operation of indigent defender services, the district office shall be maintained for client services in the judicial district.

New law provides for the creation of the Louisiana Public Defender Fund and the composition of the fund, administration of the fund, and use of monies from the fund.

New law further provides that there is created within each judicial district an indigent defender fund which shall be administered by the district public defender.

New law provides that the board shall provide notice of a public hearing to the district public defender, district advisory panel, if applicable, and the chief judge of the judicial district prior to changing any delivery model, regionalizing a district, or terminating or demoting a district public defender.

Effective August 15, 2007. (Amends R.S. 9:2800.16, R.S. 15:85.1, 146-149.1, 150, 151, 1202, and 1424, R.S. 24:513, 515.1, and 517.1, R.S. 33:1342, R.S. 36:4 and 801.1, R.S. 39:1302, R.S. 46:236.5, Ch.C. Arts. 321, 607, 608, 740, and 809, and C.Cr.P. Arts. 944, 948, and 953; Adds R.S. 15:141-143, 149.2, and 152-184; Repeals R.S. 15:144, 145, 145.1, and 151.2)

**Persons Who May Testify Outside the Courtroom (Act No. 70)**

Prior law authorized the taking of testimony outside of the courtroom in a criminal

prosecution or a juvenile proceeding from a "protected person" defined as a person who is the victim of a crime or a witness in a criminal prosecution or juvenile proceeding who is either fourteen years of age or younger or has a developmental disability. New law amends the definition of "protected person" to include a person under the age of seventeen years.

Effective August 15, 2007. (Amends R.S. 15:283(E)(1) and 440.2(C) and Ch.C. Arts. 323(2)(a) and (b) and 324(B))

#### **Payments to Sheriff or Court (Act No. 228)**

New law provides that the sheriff or the executive officer of any court in the state may accept payment for all fines, forfeitures, penalties, and costs by means of credit card, electronic fund transfer, money order, bank check, teller's check, cashier's check, traveler's check, electronic fund transfer terminal, electronic financial terminal, automated banking device, or similar device or terminal.

New law provides that any sheriff or the executive officer of the court who accepts payments by such means shall collect a fee for processing the payments in an amount that is reasonably related to the expense incurred in processing the payment by credit card, or other means, not to exceed 5% of the amount of taxes and any penalties or interest being paid. The fee shall be in addition to the amount of fines, forfeitures, penalties, or costs imposed.

Effective August 15, 2007. (Adds R.S. 15:571.11(O))

#### **Compensation for Wrongful Imprisonment Limited (Act No. 262)**

New law changes venue for actions for compensation for wrongful conviction and imprisonment to the district court in which the original conviction was obtained, provides that compensation for the loss of life opportunities shall not exceed \$40,000, and requires any judgment rendered to be payable only from the Innocence Compensation Fund.

Effective August 15, 2007. (Amends R.S. 15:572.8)

#### **Authority of Private Prison Guards (Act No. 241)**

New law provides that any correctional facility employee who is employed by the operator of a private correctional facility and who has met the employment and training requirements set forth in the applicable standards of the American Corrections Association shall have full authority to perform his duties and responsibilities under law, including but not limited to exercising the use of force in the same manner and to the same extent as would be authorized if he were employed by the DPS&C in a similar capacity.

Effective August 15, 2007. (Adds R.S. 15:741-743)

#### **Expansion of Inmate Exploitation (Act No. 289)**

New law provides that DPS&C shall operate prison enterprises to provide products and services not only to state agencies and agencies of parishes, municipalities, and other political subdivisions, but now also to public employees, and no longer need sell at cost.

New law provides that the department may use inmate labor to maintain production and service facilities.

Effective August 15, 2007. (Amends R.S. 15:1152, 1153(A)(2), 1154(D) and (E), 1157, 1158, 1159, and 1161(A), (B), and (D); Adds R.S. 15:1157(A)(3))

#### **Ex-Con Rehabilitation Program (Act No. 176)**

New law authorizes the Department of Labor to establish or to contract with a service provider or community service organization to establish a comprehensive post-release skills program for offenders recently released from the custody of the Department of Public Safety and Corrections.

Effective August 15, 2007. (Adds R.S. 15:1193)

**Mandatory Wire Tapping Assistance (Act No. 132)**

New law requires communication providers, landlords, etc. to assist law enforcement with wire tapping when requested by law enforcement.

Effective August 15, 2007. (Amends R.S. 15:1310(D) and 1315(C); adds R.S. 15:1312.1)

**L.A. R.S. TITLE 16: DISTRICT ATTORNEYS**

Nothing of particular interest.

**L.A. R.S. TITLE 17: EDUCATION**

**Public School Teacher Qualifications (Act No. 184)**

New law makes various changes to the required qualifications of public school teachers.

Effective upon signature of governor (June 27, 2007). (Amends R.S. 17:7(6)(b)(i)(cc))

**Public School Screening for Dyslexia (Act No. 217)**

New law requires the State Board of Elementary and Secondary Education (BESE), by the beginning of the 2007-2008 school year, to develop and implement a pilot program to provide for universal screening of students in grades K-3 for characteristics of dyslexia and related disorders, subject to appropriation of funds by the Legislature.

Effective upon signature of the governor (July 2, 2007). (Adds R.S. 17:24.11)

**BESE To Develop Arts Curricula (Act No. 175)**

New law requires BESE to develop, adopt, and provide for the implementation of a visual arts curriculum and a performing arts curriculum in public schools.

Effective upon signature of governor (June 27, 2007). (Adds R.S. 17:7(26))

**Authority of Recovery School District (Act No. 207)**

New law grants the Recovery School District (RSD) the same authority and autonomy afforded to local public school systems under state law regarding the procurement of services, including personal, professional, consulting, and social services; procurement of immovable property; and the leasing of movable property.

New law provides that the RSD is not required to use or obtain approval from any state agency, including the DOA, when procuring data processing and telecommunications goods or services; or in the procurement of materials, supplies, or major repairs; or in the disposition of property, but requires the RSD to comply with all other applicable statutory provisions in Title 39.

New law provides that the RSD is not required to utilize any selection board, when contracting for public works, professional services, and other services, but requires the RSD to comply with all other applicable statutory provisions in Title 38.

Effective upon signature of the governor (June 27, 2007). (Adds R.S. 17:1990(B)(1)(c), (d), and (e))

**Tuition Opportunity Program for Students (Act No. 412)**

New law changes the academic standards for initial eligibility for awards pursuant to the Tuition Opportunity Program for Students (TOPS).

Effective upon signature of governor (July 10, 2007). (Amends R.S. 17:3048.1(Q)(5) and (V)(3); Adds R.S. 17:3048.1(C)(5))

**TOPS Residency Requirements and Related Laws (Act No. 372)**

New law makes various changes to TOPS residency requirements, residency requirements for dependents of military personnel, award eligibility for students who graduate from an out-of-state high school, and TOPS eligibility for hurricane-displaced students.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 17:3048.1(A)(1)(a)(iii)(dd); adds R.S. 17:3048.1(A)(1)(a)(iii)(ee) and (ff))

**L.A. R.S. TITLE 18: LOUISIANA ELECTION CODE**

**Amendments to Voting Laws (Act No. 240)**

New law makes numerous minor and technical changes to laws regarding voter registration, election procedures, absentee voting, ballot inspection, ballot counting, voting machines, and related matters.

Effective August 15, 2007. (Amends R.S. 18:108(A) and (B), 134(D), 154, 423, 434(A)(1), 435(B), 436, 467(3), 562(A)(2), 563(C), 571, 1253(E), 1275.3(C), 1278(B), 1279, 1306, 1307, 1309, 1310, 1313, 1314, 1333, 1351(13), 1355, and 1371(B); Adds R.S. 18:423(I); Repeals R.S. 18:572(A)(1)(a)(ii) and (b)(v))

**Election Procedures (Act No. 448)**

New law makes numerous changes to election procedures, including: (1) provides that, subject to certain exceptions, a change of registration based upon a change of residence within a parish received after the closing of registration for a first party primary or special first party primary becomes effective prior to the second party primary election or special second party primary election; (2) provides for the time period for objecting to candidacy; (3) clarifies that unaffiliated voters may participate in a congressional primary election unless the party prohibits such participation; (4) provides for notice requirements for parties that choose to

prohibit such participation of unaffiliated voters; (5) provides procedures and requirements for reopening the qualifying period for congressional elections; and (6) clarifies language relative to qualifying for congressional second party primary elections and general elections.

Effective August 15, 2007. (Amends R.S. 18:110(B), 1275.1(A), 1275.11(A) and (B), 1275.14(B), 1275.15, 1275.19, 1275.20, 1355(6), and 1405(A))

**Absentee Voting for Elderly and Disabled (Act No. 124)**

New law provides that a person who is 65 or older may vote absentee by mail. New law also provides that a person who is physically disabled may submit his mobility impaired identification card issued by OMV to the registrar of voters to vote absentee by mail.

Effective August 15, 2007. (Adds R.S. 18:1303(I) and (J) and 1307(G))

**Candidates' Self-Contributions (Act No. 144)**

New law amends the Campaign Finance Disclosure Act by providing that a contribution by a candidate for an office other than a major or district office for his own campaign shall not be considered in determining whether the candidate has received a sufficient contribution to subject the candidate to campaign finance reporting requirements.

New law amends Campaign Finance Disclosure Act to provide that a contribution by a candidate for other than a major or district office does not count toward the \$200 threshold that triggers reporting requirements.

Effective upon signature of governor (June 25, 2007). (Amends R.S. 18:1484(2))

## **L.A. R.S. TITLE 19: EXPROPRIATION**

### **Private Expropriation for CO2 Pipelines (Act No. 428)**

Existing law authorizes private companies to expropriate property for pipelines to transport carbon dioxide for use in oil and gas recovery projects only if the recovery project is approved by the commissioner of conservation and a certificate of public convenience and necessity for the pipeline has been issued.

New law specifies that the project need not be located in La., provides that if the recovery project is in another state, the commissioner's approval consists of confirmation that the applicable regulatory authority has approved the recovery project, and specifies that property subject to such expropriation must be located in this state.

Effective upon signature of governor (July 11, 2007). (Amends R.S. 19:2(10) and R.S. 30:4(C)(17))

### **Limitations on Waiver of Right to Contest Expropriation (Act No. 362)**

Existing law provides for the waiver of a property owner's right to contest the necessity of expropriation and just compensation prior to the taking, when the property was possessed in good faith by the expropriating authority.

New law provides that the provisions of existing law shall apply only to privately owned immovable property over which the state or its political corporation or subdivision has both exercised actual possession in good faith for 10 years and completed construction of facilities upon, under, or over such property.

New law provides that the provisions of existing law shall not be deemed to authorize the acquisition of any interest in privately owned immovable property adjoining such facilities, including but not limited to a servitude, right of use, or any right of passage across or access to the private immovable property adjoining such facilities.

New law is interpretative and is intended to clarify existing law.

Effective August 15, 2007. (Amends R.S. 19:14)

## **L.A. R.S. TITLE 20: HOMESTEADS AND EXEMPTIONS**

Nothing of particular interest.

## **L.A. R.S. TITLE 21: HOTELS AND LODGING HOUSES**

Nothing of particular interest.

## **L.A. R.S. TITLE 22: INSURANCE**

### **Effects of Fire Insurance Fraud on Others (Act No. 156)**

New law provides that the actions or fault of a named insured that is determined to be the cause of a loss by fire to the insured property shall not be imputed to any other insured such that the innocent insured would be deprived of coverage provided by the policy. New law specifies that in case of arson, the policy proceeds may only be reduced by the proper interest attributable to the arsonist. New law requires that, in the case of multiple named insureds, an innocent insured shall receive his proportionate share of the policy proceeds.

New law provides that if a court determines that a policy of fire insurance may be voidable for breach of any material representation, warranty, or condition, such judicial determination shall only apply to the claim that is the subject of the litigation and shall not apply retroactively to any prior claim submitted by any insured.

Effective upon signature of governor (June 25, 2007). (Amends R.S. 22:615 and 692.1)

### **Two Years to Sue Insurers (Act No. 43)**

New law provides that no insurance policy shall contain a provision limiting the right of action

against an insurer to less than 24 months after the inception of the loss when the claim arises under a policy of fire and extended coverage, steam boiler and sprinkler leakage, crop and livestock, inland marine insurance, burglary and forgery, glass, and homeowners' insurance.

New law provides that no suit for recovery that is based on the standard fire insurance policy shall be sustainable in a court of law unless commenced within 24 months after the inception of the loss.

New law also makes technical changes.

(Amends R.S. 22:629(B) and 691(F))

### **Homeowner Policy Cancellation (Act No. 381)**

Prior law prohibited a homeowner insurer from cancelling, failing to renew, or increasing a policy deductible that has been in effect and renewed for more than three years unless based on nonpayment of premium, fraud of the insured, a material change in the risk being insured, two or more claims within a period of three years, or if continuation of such policy endangers the solvency of the insurer, unless the insurer ceases writing homeowner's insurance or the policy deductibles are increased for all homeowners' policies in the state.

New law provides that the phrase "two or more claims within a period of three years" does not include any loss incurred or arising from an "Act of God" incident which is due directly to forces of nature and exclusively without human intervention.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 22:635.3(C) and 636.2(D))

### **Homeowner Policies (Act No. 449)**

New law provides that in the gubernatorially declared disaster areas for Hurricane Katrina or Rita, any insurance company that issues a homeowner's policy which includes personal property coverage in the coastal parishes of the state must, upon written request of the

policyholder, offer one of the following options: (1) a residential property policy that provides dwelling coverage without personal property coverage beginning July 20, 2007, or (2) an exclusion of personal property coverage that is accompanied by an appropriate reduction in premium beginning Jan. 1, 2008.

New law provides that a substitute policy or an exclusion of personal property coverage during the existence of the policy shall not be considered a new policy.

New law is only applicable to homeowners' insurance policies written on structures that have been rendered uninhabitable by Hurricanes Katrina or Rita because of more than 50% damage to the dwelling area. Also, new law authorizes an insurer to withdraw the exclusion or substitute policy when the structure is repaired to the point that it is habitable or the homeowners' policy has been terminated.

The option to select a residential property policy that provides dwelling coverage without personal property coverage shall become effective on July 20, 2007. The option to exclude personal property coverage shall become effective on signature by the governor but shall only apply to policies issued or in existence on or after Jan. 1, 2008.

Effective upon signature of governor (July 11, 2007). (Adds R.S. 22:667.1)

### **Group Health Plan Requirements (Act No. 80)**

Prior law provided that the minimum aggregate stop-loss limit for a group health plan shall be 120% of the group health plan's total expected claims per policy period. New law decreases the minimum aggregate stop-loss limit for groups of 51 or more to 110% of the group health plan's total expected claims per policy period.

Effective August 15, 2007. (Amends R.S. 22:675(C)(3))



**Rental Car Insurance (Act No. 354)**

New law provides that automobile collision and liability insurance coverage shall extend to rental motor vehicles (rather than rental private passenger automobiles) and to temporary substitute motor vehicles on a primary basis unless other automobile insurance coverage is purchased by the insured for that vehicle.

New law requires rental car companies to maintain mandatory minimum insurance on their vehicles, but such insurance shall apply only when there is no other valid or collectible insurance meeting the minimum financial responsibility requirement. New law further provides that such financial responsibility protection for third party liability claims against renters and drivers applies only if the renter or driver is not in violation of the rental agreement, if the renter or driver is not otherwise insured to satisfy the minimum financial responsibility laws, and if the third party claimant does not have uninsured or underinsured motorist coverage.

New law provides that it shall not be construed to (1) limit a rental car company from providing by contract that the renter or driver shall assume responsibility for all claims if the renter or driver is already insured; (2) prohibit a rental car company from pursuing the renter or driver for indemnity or contribution or both; (3) obligate a rental car company to defend renters or drivers; or (4) subject a rental car company to existing law relative to direct action, prompt payment, adjustment of claims, or bad faith.

New law provides that if a rental car company provides minimum financial responsibility for third party claims against renters and drivers, it shall not be required to extend uninsured or underinsured motorist coverage.

Effective August 15, 2007. (Amends R.S. 22:681)

**Domestic Insurers May Invest in LLCs (Act No. 294)**

New law authorizes domestic insurers to invest in, acquire debt obligations of, or otherwise acquire an interest in any limited liability company which is formed pursuant to the laws of any state or the U. S. and which invests in assets otherwise permitted under existing law, but retains limitations on any such interests or debt obligations contained in existing law.

Effective August 15, 2007. (Amends R.S. 22:844(D)(3))

**Lower Premiums for Good Construction (Act No. 323)**

New law requires any insurer required to submit rates and rating plans to the office of property and casualty to provide an actuarially justified adjustment to reduce the insurance premium to insureds who:

1. Build or retrofit a structure to comply with the State Uniform Construction Code; or
2. Install mitigation improvements or retrofit their property utilizing construction techniques, demonstrated to reduce the amount of loss from a windstorm or hurricane.

Effective upon signature of governor (July 9, 2007). (Adds R.S. 22:1426)

Natural Losses Don't Count for

**Insurance Rating (Act No. 459)**

New law abolishes the Louisiana Insurance Rating Commission (LIRC) and transfers its powers, duties, and functions and those of the office of property and casualty to the commissioner of insurance.

New law provides that for all lines of insurance, each application for a rate change is to be on file with the commissioner of insurance, and unless disapproved in writing within that 45 days, the application is deemed approved. New law provides that insurers, except with regard to workers' compensation and medical malpractice

insurance, with not less than \$10,000 in annual premiums are required to file insurance rates with the commissioner for informational purposes only. New law provides that a competitive market for a line of insurance is presumed to exist unless the commissioner, after notice and hearing, rules that a reasonable degree of competition does not exist. New law specifies the factors to be considered by the commissioner in making this determination; and requires that the ruling identify those factors that have caused the market to be noncompetitive and the actions to be undertaken to return competition to the market. New law provides that any such ruling expire in one year unless rescinded or renewed; requires a hearing for renewal of a ruling.

New law requires the commissioner to regularly monitor the degree and existence of competition in this state.

New law provides that rates shall not be inadequate or unfairly discriminatory in a competitive market and not excessive, inadequate, or unfairly discriminatory in a noncompetitive market.

New law deletes prior law allowing for informational filings to be made by rating organizations. New law authorizes an insurer to make a rate filing either by filing its final rates or by filing a loss cost multiplier and, if applicable, an expense constant adjustment to be applied to prospective loss costs that have been filed by an advisory organization on behalf of an insurer.

New law deletes prior law allowing the LIRC to suspend or modify filing requirements for rates which could not practicably be filed before they are used.

New law provides that rates and supporting information filed shall be open to public inspection upon expiration of the 45-day period or upon disapproval, except for information deemed confidential, trade secret, or proprietary.

New law authorizes the commissioner to disapprove a rate in a competitive market only if

he determines that the rate is inadequate or unfairly discriminatory.

New law authorizes the commissioner to disapprove a rate in a noncompetitive market only if he determines that the rate is excessive, inadequate, or unfairly discriminatory.

New law provides that any insurer whose rate filing is returned as incomplete more than once or not acted upon within 45 days from the date of receipt by the commissioner shall be given a hearing upon written request made within 30 days of the return of the rate filing, disapproval of the rate filing, or inaction of the commissioner. New law requires the commissioner to issue an order if he disapproves the rate or rate change within 30 days of the hearing and to specify his reasons.

New law specifies that all appeal hearings shall be public, and that any appeals from the commissioner's decision to disapprove shall be to the 19th Judicial District Court.

Effective January 1, 2008. (Amends R.S. 22:1382, 1401, 1402, 1404, 1404.1, 1404.2, 1405, 1407, 1408, 1411, 1416, 1417, 1422, 1422.1, 1430.5, 1430.11, 1430.14, 1441.7, 1441.10, 1441.21, and 2092.5.1, and R.S. 44:4; Adds R.S. 22:15(C)(22), 1402.1, 1402.2, and 1402.3; Repeals R.S. 22:15(C)(8), (E)(16), (F)(7), and (G)(7), 1401.1, 1405, 1406, 1410(B), 1418, and 1450.3 and R.S. 36:686(C)(1))

**Assessments by La. Citizens Property Ins. Corp. (Act No. 235)**

New law, relative to the La. Citizens Property Insurance Corporation, no longer authorizes the board of directors to adopt credit schedules for essential property insurance voluntarily written in the coastal areas or elsewhere in the state, nor provides that participation by assessable insurers in the writings of the Coastal and FAIR plans could be reduced in accordance with such credit schedules.

New law provides that if, during the term of a policy of insurance upon which an emergency or regular assessment is applied, such an insured or

insurer cancels, endorses, or makes changes to the policy of insurance which result in an increase or decrease in the premium, such assessment shall be adjusted such that the insured or insurer shall either owe or be owed payment in an amount computed on a pro rata basis for the term of the policy.

Effective January 1, 2008. (Adds R.S. 22:1430.10(E); Repeals R.S. 22:1430.8(B) and 1430.9(B))

**Assignment of Policies by La. Citizens Property Ins. Corp. (Act No. 377)**

New law requires that the La. Citizens Property Insurance Corporation (Citizens), not less than once per calendar year, offer its in-force policies for removal to the voluntary market. New law requires that these policies be bundled in groups of not less than 500 policies and include certain types of policies.

New law authorizes every insurer authorized to write property insurance in the state to submit a take-out plan to Citizens for the bundled policies and requires that Citizens then submit the take-out plan to the Department of Insurance (DOI) for review and approval based on specified criteria.

New law provides that if a take-out plan is approved by the department then Citizens shall submit it to its board of directors and the La. Insurance Guaranty Association for approval.

New law is not to be construed to impair the right of any Citizens policyholder to retain Citizens as their insurer.

Effective November 1, 2007. (Adds R.S. 22:1430.23)

**Residential Property Insurance Rates of La. Citizens Property Ins. Corp. (Act No. 420)**

New law provides that until August 15, 2010, La. Citizens Property Insurance Corporation (Citizens) must charge the higher of the actuarially sound rates or the rates equal to the highest of the top 10 insurers with the greatest

total direct written premium for residential property insurance in any noncompetitive market until competition resumes.

New law provides that if the commissioner of insurance is informed that Citizens is writing more than 50% of the residential property insurance business in a market, he must determine if a reasonable degree of competition exists in that market. If the commissioner finds that a competitive market does not exist, Citizens shall use such findings in determining the application of its noncompetitive rating structure to residential property insurance policies in the noncompetitive market. New law also establishes the factors that the commissioner should consider in determining if a reasonable degree of competition exists in a particular line of insurance.

Effective August 15, 2007. (Adds R.S. 22:1405(K) and 1430.12(D))

**La. Citizens Property Ins. Corp. and Adjusters (Act No. 468)**

New law requires that, when La. Citizens Property Insurance Corporation (Citizens) is contracting with adjusters to adjust claims, it shall give a preference to adjusters and adjusting companies who are domiciled in Louisiana for a period of not less than five years, if the adjusting of such claims is subject to a fee schedule or other fixed fee arrangement.

Requires each service provider for Citizens to provide monthly reports to Citizens that include the names of the adjusting companies, domiciled in Louisiana for five years, whose services are being used as well as the number of claims provided to these companies.

Effective August 15, 2007. (Adds R. S. 22:1405(K) and 1430.23)

**Insurers Required To Be More Responsive (Act No. 222)**

New law clarifies in the policyholder bill of rights that if a claim is denied, the policyholder has the right to written explanation as to the

reason for the denial, in whole or in part, of any claim made under the insurance policy. New policy adds provisions in the bill of rights that the policyholder, as to property damage claims, has a right to receive any estimates, bids, plans, measurements, and drawings prepared by or for the insurer, but allows the company to keep confidential any adjustor notes, logs, or documents prepared in conjunction with a fraud investigation.

New law provides that a policyholder has a right to a readable policy, to receive a complete property insurance policy, and to request a duplicate or replacement policy as needed.

New law requires an insurer of a residential or commercial property to respond to all inquiries or requests from the insured within fourteen days of the inquiry or request, unless such time period to respond has been extended by the commissioner of insurance because of a declared disaster or emergency, and requires prompt adjustments by a qualified adjuster under the Louisiana Claims Adjuster Act. Provides that violations of new law that are committed or performed with such frequency as to indicate a general business practice shall subject the insurer to Unfair Trade Practices Act of the Insurance Code.

Effective upon signature of the governor (July 2, 2007). (Amends R.S. 36:681(C)(1); adds R.S. 36:696 and R.S. 22:1455 and 1476)

#### **Insure La. Incentive Program (Act No. 447)**

New law creates the Insure La. Incentive Program and provides that its purpose is to foster economic development and stability by encouraging additional insurers to participate in the voluntary property insurance market. The commissioner of insurance is authorized to implement public-private partnerships executed through cooperative endeavors with authorized insurers which may include matching capital fund grants.

New law provides that the commissioner of insurance may grant matching capital funds to

qualified property insurers, including approved unauthorized insurers, from the fund.

New law establishes criteria for insurers applying for matching capital fund grants.

New law establishes a residential property insurance tax credit of 7% of the premiums for a homeowner's insurance policy, condominium owners' insurance policy, or a tenant homeowners' insurance policy paid by the individual during the tax year for the primary residence of the individual, less the amount for which a credit is granted pursuant to a tax credit for the Citizens' assessment.

Parts of new law will become effective on Dec. 1, 2007; other parts on July 1, 2008.

Effective upon signature of governor (July 11, 2007). (Adds R.S. 22:3301-3311 and R.S. 47:297.7)

### **L.A. R.S. TITLE 23: LABOR AND WORKERS' COMPENSATION**

#### **Group Self-Insurance Funds for Workers' Compensation (Act No. 384)**

New law, relative to group self-insurance funds for workers' compensation, defines public entities to include a parish, municipality, and any other unit of local government, including a school board and a special district authorized by law to perform governmental functions, but specifically excludes hospital service districts and health care facilities established by local governing authorities.

New law provides that a self-insurer's fund must maintain at least \$2,000,000 in premiums in the fund per year.

New law requires that a qualifying trade or professional association, for a period of five years prior to application as a group self-insurance fund, must have held regular meetings of its board on no less than an annual basis and must have produced a newsletter on no less than

an annual basis that was mailed to each association member.

New law provides that an application as a group self-insurance fund must contain copies of acceptable excess insurance or reinsurance which must be approved by the Department of Insurance (DOI) prior to use and that there must be a bond covering each third party administrator of the fund. If the fund employs its own administrator, then it is required to purchase a bond, errors and omissions insurance, directors and officers insurance, and other security approved by DOI for the administrator of such funds.

New law requires that during the second and subsequent fund years, the fund must deposit and pledge \$250,000 in money or bonds of the United States, the state, or any political subdivision thereof, of the par value of \$250,000 or post a surety bond in the amount of \$250,000, to secure fund obligations under new law.

New law provides for audits by independent payroll audit firm or by the fund without approval by the department. New law clarifies that the audits of member employers must be conducted by payroll auditors.

New law provides that a fund with three years of consecutive net losses on the audited financial statements of the fund, or two years of consecutive net losses on the audited financial statements of the fund in excess of \$500,000 or 5% of the premium of the latest audited financial statement, whichever is greater, shall take specified actions to communicate with DOI, plan for the future, and obtain an actuarial rate analysis.

New law requires that in the event a fund becomes insolvent, the fund shall submit a plan to DOI which shall notify the fund of the plan approval or disapproval within 30 days.

Effective August 15, 2007. (Amends R.S. 23:1195 and 1196; adds R.S. 23:1191, 1200.4, and 1200.5)

### **Workers' Compensation Second Injuries (Act No. 332)**

New law regarding workers' compensation second injuries changes time period, previously July 1, 2004 to July 1, 2007, to July 1, 2007 to July 1, 2009, for numerous complex provisions.

New law provides that the Second Injury Fund reimburse or credit an employer or creditor for attorney fees paid that have been reviewed and approved by a workers' compensation judge.

New law provides that upon the board's approval of a claim for reimbursement, the insurer no longer need report annually the estimated future medical and indemnity liability to the injured employee.

Effective upon signature of governor (July 9, 2007). (Amends R.S. 23:1378)

### **Electronic Filing of Contribution and Wage Reports by Employers (Act No. 89)**

New law requires all employers to file contribution and wage reports with the Department of Labor electronically, beginning on dates dependent on the number of employees. Hardship waivers may be granted.

Effective upon signature of governor ( June 22, 2007). (Amends R.S. 23:1541(4); Adds R.S. 23:1531.1)

### **Deferment of Government and Nonprofit Unemployment Taxes (Act No. 288)**

New law defers, without penalty and interest, until July 1, 2008, any unemployment benefit reimbursement owed by the state and local governments and eligible nonprofit organizations as a result of Hurricanes Katrina and Rita as well as pursuant to executive orders issued by the governor after the storms.

New law authorizes the administrator to negotiate payment terms for benefit charges to be paid quarterly, without penalty and interest, for a period not to exceed two years, beginning July 1, 2008.

Effective upon signature of governor (July 9, 2007). (Amends R.S. 23:1552(B)(6) and (7))

**Incumbent Worker Training Program (Act No. 59)**

New law changes the eligibility criteria for businesses within the state.

New law makes various changes regarding training, the Employee Security Administration Account, and other details of the program.

Effective August 15, 2007. (Amends R.S. 23:1514 and 1553; Adds R.S. 23:1553(G); Repeals R.S. 23:1553(B)(12))

**Lost Wage Benefits Act for Domestic Violence Victims (Act No. 421)**

New law permits government benefits for a victim if the employee establishes that the employee left work as a result of domestic violence and remains separated from the situation.

New law provides that individual employers shall not be charged with the benefits for employees who fall under the provisions of new law. The benefits shall be charged to the state's general fund.

New law requires the administrator to cease in granting benefits if the amount of benefits paid and the administrative cost exceed the monies available.

New law prohibits the charging of these benefits to the experience-rating account of an employer or to the Unemployment Compensation Fund.

New law shall become ineffective on July 1, 2010.

Effective August 15, 2007. (Adds R.S. 23:1770-1775)

**L.A. R.S. TITLE 24: LEGISLATURE AND LAWS**

Nothing of particular interest.

**L.A. R.S. TITLE 25: LIBRARIES, MUSEUMS, AND OTHER SCIENTIFIC AND CULTURAL FACILITIES**

Nothing of particular interest.

**L.A. R.S. TITLE 26: LIQUORS – ALCOHOLIC BEVERAGES**

Nothing of particular interest.

**L.A. R.S. TITLE 27: LOUISIANA GAMING CONTROL LAW**

**Non-Gaming Supplier Permits (Act No. 292)**

Prior law required the issuance of a non-gaming supplier permit to suitable persons who furnish services or goods and receive compensation or remuneration therefor in excess of \$100,000 per calendar year, to the holder of a riverboat gaming license, or slot machine gaming at live racing facility license, or to the casino gaming operator. New law increases the amount from \$100,000 to \$200,000.

New law provides that any person who, directly or indirectly, furnishes services or goods to the holder of a riverboat gaming license, to slots at track facility license or to the casino gaming operator, or who has a business association with the holder of such a license or the casino operator, may be required by the board or division, when applicable, to be found suitable or apply for a non-gaming supplier permit.

Effective August 15, 2007. (Amends R.S. 27:29.3(A))

**Calcasieu Riverboat Admission Fees (Act No. 171)**

New law authorizes the governing authority of Calcasieu Parish to levy an additional admission fee of \$0.50 for each passenger boarding or embarking upon a riverboat.

Effective August 15, 2007. (Amends R.S. 27:93(A)(6)(intro para); adds R.S. 27:93(A)(10))

**Baton Rouge Riverboat Gaming Fees (Act No. 236)**

New law provides that in East Baton Rouge Parish, in lieu of the admission fee authorized by existing law, the governing authority of the location of the berthing facility may levy a fee not to exceed 4.5% of the monthly net gaming proceeds from each riverboat located within the jurisdiction of that governing authority.

New law provides that the amount of the fee shall be established by contract between the governing authority and the riverboat licensee.

Effective August 15, 2007. (Adds R.S. 27:93(A)(10))

**Video Draw Poker Devices (Act No. 443)**

New law provides that a video draw poker device may not allow more than \$4 to be placed on a game, award games, or credits in excess of the value of \$1,000.

Effective October 15, 2007. (Amends R.S. 27:304)

**Truck Stop Facility Location (Act No. 338)**

New law changes the laws relating to the permissible locations of truck stop facilities having video draw poker devices, seemingly increasing the required distance from historic buildings, public playgrounds, churches, synagogues, public libraries, and schools from 500 to 2,500 feet.

Effective August 15, 2007. (Amends R.S. 27:306(C))

**Video Draw Poker Device Franchise Fees (Act No. 469)**

New law changes the manner of calculation of the franchise fee to be remitted by video draw poker device owners at pari-mutuel wagering facilities.

Effective July 1, 2008. (Amends R.S. 27:311(D)(2))

**L.A. R.S. TITLE 28: MENTAL HEALTH**

Nothing of particular interest.

**L.A. R.S. TITLE 29: MILITARY, NAVAL, AND VETERANS' AFFAIRS**

**Louisiana Military Authority and Courts-Martial (Act No. 309)**

New law clarifies that the governor may, with or without a declaration of emergency, order any part of the National Guard, State Guard, or militia into active service for various missions.

New law provides that the military forces of the state may be called into service to assist civil authorities in Louisiana or to provide support to other states under an Emergency Management Assistance Compact.

New law provides that the adjutant general may order into the active service of the state any member or unit of the National Guard or State Guard for nonemergency purposes which are necessary and attendant to the mission of the state Military Department.

New law provides that the Military Department may establish and maintain the Louisiana Military Police for the purpose of conducting law enforcement missions necessary to the mission of the Military Department. The Louisiana Military Police will be recognized as a law enforcement agency of the state.

New law provides that when any person subject to the Louisiana Code of Military Justice is

placed in arrest or confinement prior to trial, within twenty-four hours of arrest or confinement, the accused shall be informed of the specific wrong of which he is accused and appointed military defense counsel and that arrest or confinement prior to trial shall not exceed 72 hours unless approved by a military judge.

New law provides that a special court-martial shall consist of a military judge and not less than six panel members or only a military judge, if the accused knowingly waives his right to a panel.

New law changes the various punishments that may be imposed by different types of courts-martial.

New law excludes summary courts-martial from appellate jurisdiction. New law makes various changes to appellate procedures.

New law provides that an accused shall have the right to appointed military defense counsel as appellate counsel.

Effective July 1, 2007. (Amends R.S. 29:1, 5, 7, 7.1, 26, 28.1, 110, 115, 116, 118, 119, 120, 122, 158, 161, 165, 166, 170, 171, 173, 174, and 175; Adds R.S. 29:7.1(C))

### **La. Family Recovery Corps (Act No. 313)**

New law, for purposes of the state recovery from emergencies and disasters, authorizes the use of the nongovernmental nonprofit organization known as the La. Family Recovery Corps to provide and coordinate the services needed by La. citizens displaced and affected by those disasters.

Effective August 15, 2007. (Adds R.S. 29:726.1)

## **L.A. R.S. TITLE 30: MINERALS, OIL, AND GAS AND ENVIRONMENTAL QUALITY**

### **Underwater Obstruction Removal Fund (Act No. 167)**

New law changes the termination date of the Underwater Obstruction Removal Fund, and of certain funding of same, from after 6/30/07, to after 6/30/12.

Effective June 29, 2007. (Amends R.S. 30:101.11 and R.S. 56:700.2(A)(4))

### **State Mineral Leases (Act No. 451)**

New law specifies that a prospective leaseholder of a mineral lease on state lands must be registered and in good standing with the La. secretary of state.

New law provides that if the office of mineral resources notes that a current record lessee is not properly registered, the office is to notify the record lessee. If the record lessee is not registered within 30 days, the State Mineral Board may levy liquidated damages in the amount of \$100/day until the record lessee is properly registered with the office.

New law requires any bidder who was not registered at the time of the bid opening, but who submitted an otherwise acceptable bid, to register within two business days of the bid opening, or the bid will be rejected.

New law authorizes the state to assign a trust to the co-owners, thereby relieving the state of responsibility, at any time after July 1, 2007, regardless of the number of co-owners.

Effective August 15, 2007. (Amends R.S. 30:125(B), 127(A)(intro. para.), and 188(D))

### **Odor Control (Act No. 340)**

New law authorizes municipalities and parish governing authorities to enact ordinances that prohibit a person from causing or allowing the emission of odorous air contaminants detectible



after dilution with 7 or more volumes of odor free air in a residential or commercial area, or after dilution with 15 or more volumes of odor free air in other land use areas.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 30:2055.2)

### **Trash Trucks Must Be Covered (Act No. 233)**

Existing law provides that intentional and simple littering prohibitions shall not apply in the course of collecting and transporting solid wastes by duly licensed commercial vehicles. New law limits the exception to vehicles that are covered to prevent rain from reaching the waste and waste from falling or blowing from the vehicle and to ensure leachate is not discharged.

Effective August 15, 2007. (Amends R.S. 30:2531(I))

## **L.A. R.S. TITLE 31: MINERAL CODE**

Nothing of particular interest.

## **L.A. R.S. TITLE 32: MOTOR VEHICLES AND TRAFFIC REGULATION**

### **Driver's Licenses (Act No. 127)**

New law requires an unlicensed minor to be at least 14 years old to drive with a licensed parent or guardian who is providing driving instruction to the minor child, provided the minor is not driving on a public street, road or highway.

New law provides that no driver's license is required by a person who operates farm equipment on the shoulder of a highway, provided that the person is at least 12 years of age and the operation of such equipment is in compliance with prior law.

Effective upon signature of the governor (June 25, 2007). (Amends R.S. 32:298, 402, 416, and 417)

### **Motor Vehicle Sales (Act No. 446)**

New law adds to the definition of "used motor vehicle salesperson" anyone who is actively engaged in the sale of used motor vehicle or recreational products.

New law adds to the commission's powers and duties to include mandatory repurchase disputes; revocation or suspension of licenses; receivership of certificates of title from a used motor vehicle dealer or a recreational products dealer who has failed or refused to provide a certificate of title to their customer; issuing, serving, and enforcing subpoena or subpoena duces tecum after having a hearing or lawful investigation into suspected misconduct of a licensee; and regulating recreational products trade shows.

New law changes the grounds upon which the commission may deny an application for a license as a motor vehicle dealer or salesperson.

New law authorizes the commission to revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer or salesperson for any of numerous grounds.

New law provides that the commission may revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle broker for any of various grounds.

New law provides that the commission shall not deny an application for a used motor vehicle dealership based upon consideration of an existing or anticipated economic or competitive effect on other licenses in the surrounding community or territory.

New law prohibits the conduct of any business which sells, offers for sale, or leases recreational products without licensure.

New law provides that no person shall conduct the business of a manufacturer, distributor, or manufacturer's sales representative who sells or offers to sell recreational products through a recreational products dealer in this state without being licensed by the commission.

New law provides that no person conduct the business of recreational products trade shows, including promoters and nonresident exhibitors of trade shows, without being licensed by the commission.

New law provides that it is unlawful for any person to engage in business as a manufacturer or distributor of any recreational product sold by either a recreational products dealer in this state or by the manufacturer or distributor selling into the state.

New law provides that manufacturers, distributors, and their sales representatives be exempt from the educational seminar. New law further requires the owner or operator of a salvage pool to collect and transmit to the commission a \$5 transaction fee per vehicle sold in the event a bid card is not required to purchase a vehicle.

Effective August 15, 2007. (Amends R.S. 32:781(33), 783(F)(6) and (8), 784, 792, and 811(K)(1); Adds R.S. 32:783(F)(9) and (10), 808(F) and 811(L))

#### **Motor Vehicle Commission Licensee Liability (Act No. 27)**

New law provides licensees, motor vehicle dealers, used motor vehicle facilities licensed by the commission, and satellite warranty and repair centers shall have the option of having liability protection provided by a liability trust fund.

New law provides that pursuant to a written and signed sale conditioned on financing, the purchaser shall be responsible for any and all damages to the vehicle or other vehicles damaged by the fault of the purchaser and any and all liability incurred by the purchaser during the purchaser's custody of the vehicle to the extent provided for in present law.

New law provides that it is interpretive and shall apply to any liability trust fund arrangement covered by the provisions of the new law which is in existence on or prior to the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 32:1254 and 1261(2)(f)(iii))

#### **Vehicle Protection Products (Act No. 388)**

New law requires any person who is operating as a warrantor of a vehicle protection product must be licensed by the La. Motor Vehicle Commission, must annually file certain registration records with the department, and must meet one of several financial responsibility conditions.

New law provides that warranty reimbursement insurance policies which are issued, sold, or offered for sale must meet a number of conditions.

New law requires that every vehicle protection product warranty sold or offered for sale must clearly make certain disclosure statements.

New law prohibits a person who issues a vehicle protection product from utilizing certain words or phrases in its written documents, unless such person is also licensed as an insurance company.

New law requires all vehicle protection product warrantors to keep accurate accounts, books, and records regarding all transactions conducted pursuant to new law.

New law will apply to all vehicle protection products sold or offered for sale on or after 9/1/08.

Effective January 1, 2008. (Adds R.S. 32:1271-1282)

#### **Front-Viewing Car Cameras (Act No. 45)**

New law authorizes use of visual display technology for the area immediately in front of a motor vehicle.

Effective upon signature of governor (June 18, 2007). (Amends R.S. 32:365(A)(2)(d))

**Authorized Blood-Drawers (Act No. 96)**

New law adds physician assistants, emergency medical technicians, and nurse practitioners to those authorized to draw blood for the purpose of determining the alcoholic content of the blood or the presence of a controlled dangerous substance.

Effective August 15, 2007. (Amends R.S. 32:664(A) and (B))

**Migrant Farm-Workers Can Drive Sooner (Act No. 112)**

New law provides that in order to be eligible for a driver's license, a citizen of another country who is employed in the agricultural industry must be legally authorized to be in the U.S. for at least 60 days (as opposed to the usual 180 days).

Effective August 15, 2007. (Amends R.S. 32:409.1)

**Protection for Retail Motor Vehicle Dealers (Act No. 170)**

New law prohibits a manufacturer, distributor, a wholesaler, distributor branch, factory branch, converter or officer, agent or other representative to coerce or attempt to coerce any retail motor vehicle dealer or prospective retail motor vehicle dealer to:

1. Offer to sell or sell any extended service contract or extended maintenance plan, or gap product offered, sold, back by, or sponsored by the manufacturer or distributor or affiliate.
2. Sell, assign, or transfer any retail installment sales contract or lease obtained by the dealer in connection with the sale or lease by him of motor vehicles manufactured or sold by the manufacturer or distributor, to a specified finance or class of finance companies, leasing company or class of leasing companies, or to any other specified persons.

New law specifies numerous actions that will constitute coercion or attempted coercion.

New law will not prohibit a manufacturer or distributor from offering or providing incentive benefits or bonus programs to a retail motor vehicle dealer or prospective retail motor vehicle dealer who voluntarily chooses to offer such products.

Effective upon signature of the governor (June 27, 2007). (Adds R.S. 32:1261(1)(w))

**Salvage Car Sales Open to All (Act No. 257)**

New law repeals requirement that the sales of motor vehicles at a salvage pool, salvage disposal sale, or through an insurance company be opened only to persons possessing a Louisiana buyer's ID card.

Effective August 15, 2007. (Amends R.S. 32:808(E)(1); and repeals R.S. 32:808(A) - (D) and 809)

**L.A. R.S. TITLE 33: MUNICIPALITIES AND PARISHES**

**Government Investment in BIDCOs (Act No. 159)**

New law authorizes any parish, municipality, school board, special district, or political subdivision to legally invest any monies or funds belonging to them or within their control in a La. Business and Industrial Development Company (BIDCO) established pursuant to the La. BIDCO Act. New law shall not be construed as relieving any person(s) of any duty of exercising reasonable care in selecting securities.

Effective August 15, 2007. (Adds R.S. 33:2955(A)(1)(i) and R.S. 51:2395.1)

**Purchases of Real Estate by Political Subdivision (Act No. 346)**

New law prohibits a political subdivision from purchasing immovable property with a value greater than \$3,000 unless prior to such purchase the property has been appraised by a qualified appraiser.

Effective August 15, 2007. (Adds R.S. 33:4712.10)

**Expedited Foreclosure and Quiet Title Process for New Orleans Redevelopment Authority (Act No. 256)**

New law provides for the New Orleans Redevelopment Authority to initiate an expedited quiet title and foreclosure action (to quiet title to real property held by the authority or interests in tax reverted property held by the authority) by recording a notice with the register of conveyances.

New law authorizes the authority to file a single petition with the district court listing all property subject to expedited foreclosure by the authority and for which the authority seeks to quiet title.

New law provides for the district court to immediately set the date, time, and place for a hearing on the petition for foreclosure, not more than 10 days after the date requested by the authority.

Not less than 30 days before the quiet title and foreclosure hearing, the authority shall send notice of the hearing to the persons identified with a property interest in property subject to expedited foreclosure.

New law provides for the authority to record a notice of judgment for each parcel of foreclosed property in the office of the register of conveyances.

New law provides for the authority or a person claiming to have a property interest may appeal the district court's order or judgment to the court of appeals.

New law provides that after a judgment of foreclosure is entered, the owner of any extinguished interest who claims that he did not receive notice is barred from bringing an action against the subsequent property owner, but may only bring an action to recover monetary damages from the authority.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 33:4720.60.1)

**New Redevelopment Authorities (Act No. 417)**

New law creates the East Baton Rouge Redevelopment Authority and the Lafayette Redevelopment Authority to provide for the utilization of appropriate private and public resources to eliminate and prevent the development or spread of slum, blighted, and distressed areas. New law provides in great detail the duties, liabilities, authority, and functions of each such redevelopment authority, including the power to levy ad valorem taxes and sales and use taxes.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 33:4720.101)

**Jefferson Parish Redevelopment Authority (Act No. 390)**

New law provides for the preparation and adoption of a community improvement plan by the authority to address slum and blighted areas.

New law provides that the authority shall have the power to acquire any blighted property and to hold, clear, manage, and dispose of said property.

New law provides for the authority to initiate an expedited quiet title and foreclosure action (to quiet title to real property held by the authority or interests in tax reverted property held by the authority) by recording a notice with the clerk of court.

New law provides that the authority shall have power to issue refunding or other bonds of the authority from time to time in its discretion for the payment, retirement, renewal, or extension of any bonds previously issued by it under new law and to provide for the replacement of lost, destroyed, or mutilated bonds previously issued under new law.

Effective upon signature of the governor (July 10, 2007). (Adds R.S. 33:4720.101-4720.117)

**East Feliciana Zoning Law (Act No. 186)**

New law, apparently applicable only to East Feliciana Parish, addresses zoning matters in great detail.

Effective August 15, 2007. (Adds R.S. 33:4780.61-4780.70)

**Political Subdivisions May Pay Post-Employment Benefits (Act No. 202)**

New law authorizes a political subdivision to establish "post-employment benefits" funds, defined as health care, life insurance, or any other benefit, not including pension benefits, provided by the political subdivision to a person who is no longer employed by such political subdivision.

New law provides that any such fund shall be established to pay the employer's share of post-employment benefits of employees, all as prescribed by the ordinance or resolution creating the fund.

New law authorizes a political subdivision to establish one or more trusts or to participate in a multiemployer trust to hold and invest the assets of post-employment benefits funds, and to provide for the management and investment of any such fund or trust, including the establishment of a board or commission or the designation of an existing board or commission for such purposes.

Effective August 15, 2007. (Adds R.S. 33:5161)

**Community Development Districts in Jefferson Parish (Act No. 311)**

New law provides that board members of community development districts in Jefferson Parish shall be appointed by the members of the Jefferson Parish Council rather than elected as in other parishes.

Effective August 15, 2007. (Amends R.S. 33:9039.15(A) and (B))

**L.A. R.S. TITLE 34: NAVIGATION AND SHIPPING**

Nothing of particular interest.

**L.A. R.S. TITLE 35: NOTARIES PUBLIC AND COMMISSIONERS**

Nothing of particular interest.

**L.A. R.S. TITLE 36: ORGANIZATION OF EXECUTIVE BRANCH OF STATE GOVERNMENT**

Nothing of particular interest.

**L.A. R.S. TITLE 37: PROFESSIONS AND OCCUPATIONS**

**Accountants (Act No. 102)**

New law adds Government Auditing Standards as a guideline to which an audit or other engagement can be performed.

New law adds that a report or performance of any engagement can be performed in accordance with standards established by the comptroller of the U.S.

New law requires that out-of-state practitioners notify the board of their intent to offer or render professional services in this state.

New law provides that the board can adopt a rule allowing an individual who offers or renders professional services under existing law to be granted practice privileges in this state without giving notice or paying any fee.

New law makes numerous changes in requirements relating to the practice of accounting in Louisiana by persons based out-of-state.

Effective August 15, 2007. (Amends R.S. 37:73, 77, 79, 80, 81, and 94; Adds R.S. 37:94(A)(3)(d))

### **Cosmetologists (Act No. 106)**

New law adds that one can qualify as a registered cosmetology teacher if he possesses a license as an esthetics, cosmetology, or manicuring instructor issued by another state.

New law provides that the board may contract with a testing service to conduct examinations.

New law requires an applicant to pay for all costs associated with taking an examination at an off-site testing center.

Effective upon signature of governor (June 22, 2007). (Amends R. S. 37:583(B)(2), 585(A), and 586 (A)(1); Adds R. S. 37:586(A)(6))

### **Dental Hygienists (Act No. 42)**

New law adds federal and state institutions where health care is provided to the list of persons that may employ a dental hygienist.

New law authorizes committee in an administrative hearing to levy an administrative fine.

(Amends R.S. 37:766 and 780(B)(1))

### **Certified Medication Attendants (Act No. 293)**

Relative to certified medication attendants, new law provides for the purpose, application, and definitions of new law.

New law provides for DHH to certify medication attendants to work in licensed nursing homes.

New law authorizes certified medication attendants to deliver and administer certain medications under the supervision of a licensed nurse by various methods.

New law prohibits certified medication attendants from performing various tasks.

New law provides for the qualifications an applicant for the medication administration course must meet.

Effective upon signature of governor (July 9, 2007). (Adds R.S. 37:1026.1-1026.9)

### **Eye Medicines (Act No. 66)**

New law defines a "diagnostic and therapeutic agent" as any chemical in solution, suspension, emulsion, ointment base, or other form that when used topically or orally has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, when used in the treatment of disorders or diseases of the eye and its adnexa. (New law removes oral antibiotics and oral antihistamines from definition.)

Effective August 15, 2007. (Amends R.S. 37:1041(C)(2)(a))

### **Mental Health Counseling Includes Psychotherapy (Act No. 206)**

New law includes psychotherapy in the definition of "mental health counseling services" and includes assisting an individual or group through psychotherapy in the definition of the "practice of mental health counseling." New law is interpretive and intended to explain and clarify the existing law and is not intended as a substantive change in the law. New law is to be applied both prospectively and retroactively from its effective date.

Effective upon signature of the governor (June 27, 2007). (Amends R.S. 37:1103)

### **Acupuncture Detoxification Specialists (Act No. 452)**

New law provides for requirements necessary for the certification of acupuncture detoxification specialists.

New law requires that the La. State Board of Medical Examiners promulgate rules for the certification and practice of acupuncture detoxification specialists.

New law deletes the requirement that an acupuncturist's assistant be employed by a physician.

Effective August 15, 2007. (Amends R.S. 37:1358(B); Adds R.S. 37:1356(G), (H), and (I) and 1357.

#### **Real Estate License Renewals (Act No. 35)**

New law reduces prior six-month time period for delinquent renewal of an active or inactive real estate license or registration to a three-month time period, and doubles the amount of fees for delinquency.

(Amends R.S. 37:1442(B), (C), and (D), 1443(4)(a) and (b), and 1462(A))

#### **Required Reporting of Adverse Actions Against Health Care Professionals (Act No. 274)**

New law provides that, except in certain circumstances, a health care entity shall report each instance in which the health care entity takes an adverse action against a health care professional due to impairment or possible impairment or accepts the surrender of clinical privileges, the resignation of employment or a contractual relationship, or the withdrawal from participation in a health care training program of or by a health care professional under certain conditions.

New law provides the reports shall be made to the appropriate professional licensing board within 72 hours of the adverse action, surrender, resignation, or withdrawal. New law provides for the confidentiality of such reports and specifies such reports received by the professional licensing boards shall not be deemed to be or be treated as public records.

New law provides for the limitation of liability for mandatory reporters (health care entities and

employees and agents of such entities), unless the reporter knew of the falsity of the information.

Effective August 15, 2007. (Amends R.S. 44:4.1; adds R.S. 37:1745.2-1745.8 and 2372.1)

#### **Residential Contractors and Home Improvement Contractors (Act No. 398)**

New law provides that a residential contractor's license is required only when the cost of the undertaking exceeds \$75,000. New law further provides that a "residential building contractor" means any person performing home improvement contracting when the cost of the undertaking exceeds \$75,000.

New law provides that any person registered or licensed by the board who is the subject of two or more complaints within a six-month period shall have his name and the nature of each complaint received posted on the board's website.

New law provides that every agreement to perform home improvement contracting services in an amount in excess of \$7,500, but not in excess of \$75,000, shall be in writing.

New law provides that any home improvement contractor who possesses a certificate of registration from the subcommittee as of Oct. 1, 2007, shall be entitled to complete any preexisting contracts they have entered into in excess of \$75,000 without having to obtain a residential contractor's license. New law further provides that such home improvement contractors shall be required to obtain a residential contractor's license prior to bidding on or entering into any contracts in excess of \$75,000 after Oct. 1, 2007.

New law provides that no home improvement contractor who fails to obtain a certificate of registration shall be entitled to file a statement of claim or a statement of lien or privilege with respect to monetary sums allegedly owed under any contract when the contractor is required to possess a certificate of registration.

Effective August 15, 2007. (Amends R.S. 37:2150.1, 2175.1, and 2175.2; Adds R.S. 37:2162(L) and (M) and 2175.6)

### **Social Workers (Act No. 436)**

New law requires a graduate social worker to work only as an employee in a private setting but permits social work services on behalf of a federal, state, or local governmental agency on a contractual basis.

New requires an applicant for licensure as a clinical social worker to complete 5,760 hours of postgraduate social work practice. At least 3,840 hours of the required postgraduate social work experience after January 1, 2000, must be in a setting practicing social work under the supervision of a board-approved clinical supervisor.

Effective August 15, 2007. (Amends R.S. 37:2703(1), 2707(C), and 2708(A)(3); Repeals R.S. 37:2703(9))

### **Podiatrists (Act No. 204)**

New law provides that the treatment of the ankle, muscles, or tendons of the lower leg may be included in the definition of podiatry when performed by qualified podiatrists in accordance with rules promulgated by the Louisiana State Board of Medical Examiners (LSBME).

New law changes and greatly expands the causes for refusal, suspension, or revocation of a certificate, license, or permit to practice podiatry. New law makes a number of changes relating to suspension or revocation hearings, board orders, and judicial orders.

Effective upon signature of governor (June 27, 2007). (Amends R.S. 37:611(3)(a), 616, and 624)

### **Chiropractors (Act No. 44)**

New law requires that, beginning on July 1, 2011, each applicant for licensure as a chiropractor hold a baccalaureate degree from a

college or university approved by an accrediting agency of the U.S. Dept. of Education.

New law increases delinquent fees substantially.

(Amends R.S. 37:2805, 2808, 2809, and 2810)

### **Respiratory Therapy (Act No. 142)**

New law makes extensive changes to the Respiratory Therapy Practice Act, including expanding the definition of respiratory therapy, changing the requirements for licensure, granting regulatory power to the Louisiana State Board of Medical Examiners, and changing provisions regarding education, temporary licenses, work permits, unprofessional conduct, hearings, reinstatement of licenses, fees, and the qualifications for students of respiratory therapy.

Effective August 15, 2007. (Amends R.S. 36:259 and R.S. 37:3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, and 3361; Adds 3357.1-3357.4)

## **L.A. R.S. TITLE 38: PUBLIC CONTRACTS, WORKS AND IMPROVEMENTS**

### **Design-Build Exception to Public Bid Law (Act No. 373)**

New law, relative to the public bid law, authorizes the following public entities to utilize the design-build method in the construction or repair of any public building or structure which has been destroyed or damaged by Hurricane Katrina, Hurricane Rita, or both: the division of administration; the Recovery School District; the city of New Orleans; parish governments in Calcasieu, Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, and Vermilion parishes and the Port of New Orleans.

New law provides for the public entity to prepare plans and specifications of the work, and requires that the governing authority adopt a list of projects under which design-build contracts will be utilized and specify the selection process for awarding the design-build contract.



New law requires every design-builder to be licensed and registered to do business in the state as either an architect, an engineer, or a general contractor, but authorizes the design-builder to sublet responsibility for services to persons or entities registered, licensed, or otherwise qualified to provide those services.

New law requires the governing authority of the public entity to adopt an ordinance establishing procedures to select the design-builder, including a two stage selection process that will utilize a request for qualifications graded and judged by a primary evaluation committee and a request for technical proposals graded and judged by a separate technical review committee.

New law requires each member of the technical review committee to score assigned elements and such scores shall be considered public record.

New law requires that the winning proposal be the proposal with the lowest adjusted score and provides a formula for determining the adjusted score.

New law authorizes design-builders who have submitted bona fide proposals, within seven days of the announcement of an award, to challenge the award.

New law authorizes the head of the public entity to resolve any challenge concerning the award of a contract and that a written decision be rendered within fourteen days.

New law provides that once the design-builder has been chosen and a contract for a stipulated schedule and sum certain price executed, the price of the design-build contract can not be increased other than for inflation as prescribed in the contract and for site or other conditions of which the design-builder had no knowledge and should not have had knowledge as a reasonable possibility existing at the site or concerning the design and construction.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 38:2318.1(B); adds R.S. 38:2212(D)(3) and 2225.2.1)

**Extension of Public Bid Law Exception (Act No. 336)**

New law extends until July 31, 2008 provision of public bid law that authorizes a local government to undertake work costing up to \$300,000 with its own employees if:

1. The local government did not have flood insurance at the time of Hurricanes Katrina and Rita.
2. The public work being done is to repair damage caused by one of the hurricanes.

Effective July 31, 2007. (Amends R.S. 38:2212(A)(1)(d)(iv))

**L.A. R.S. TITLE 39: PUBLIC FINANCE**

**Management of Offshore Royalty Revenues (Act No. 249)**

New law creates the La. Coastal Protection and Restoration Financing Corporation as a special purpose, public corporate entity, which is an independent instrumentality of the state, whose purpose is to carry out the financing, purchasing, owning and managing of offshore royalty revenues.

New law provides that the State Bond Commission, subject to approval of the Joint Legislative Committee on the Budget and subject to approval by a majority vote of the legislature if the legislature is in session and by mail ballot during the interim, is authorized to sell and convey, from time to time, a portion of the state allocation to the corporation, up to one hundred percent thereof. New law further provides that, in order to provide current assets and funds for the Coastal Protection and Restoration Fund, the corporation board may provide for the issuance of bonds, subject to the approval of the State Bond Commission and Joint Legislative Committee on the Budget.

New law provides that all proceeds and monies received by the state, whether received as offshore royalty revenue assets sold or as the residual interests shall be deposited in and credited to the Coastal Protection and Restoration Fund. Authorizes coastal political subdivisions to sell to the corporation all or a portion of their 20% of the allocable share due the state.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 39:99.25-99.43)

#### **Tobacco Settlement Enforcement Fund (Act No. 196)**

New law creates the Tobacco Settlement Enforcement Fund in the state treasury and requires the annual transfer to the fund of the sum of \$400,000 from the state general fund. New law provides that, subject to annual appropriation, monies in the fund shall be used by the Department of Justice solely for the enforcement of the Master Settlement Agreement.

Effective upon signature of governor (June 27, 2007). (Amends R.S. 39:100.21 and 100.26; Adds R.S. 39:98.7; Repeals R.S. 39:100.31(C) and Section 6(C) of Act No. 642 of the 2006 R.S.)

#### **Health Care Redesign Fund (Act No. 172)**

New law provides that monies in the new Health Care Redesign Fund in the state treasury may be appropriated solely to pay costs and expenses associated with the following health care initiatives and services:

1. Development of a medical home to serve the low income uninsured population and reduce the incidence of emergency room services.
2. Funding to maintain, administer and improve various specified health care areas.
3. Initiatives of the Louisiana Health Care Quality Forum designed to improve the quality of health and health care statewide.

4. Initiatives to further the adoption and use of health information technology.

5. Assistance for health care workforce development and employee retention.

Effective upon signature of the governor (June 27, 2007). (Adds R.S. 39:100.51)

#### **Parish Levee and Canal Bonds (Act No. 179)**

New law provides that any parish where the construction of pump and levee drainage systems are required in order to drain its territory, directly or through a special district, may incur debt and issue bonds for the purposes of constructing and improving levees and gravity and forced drainage works. Such indebtedness, including the existing bonded debt of the parish or the district, may exceed 10% but shall not exceed 20% of the assessed valuation of the taxable property of such parish.

Effective upon signature of the governor (June 27, 2007). (Adds R.S. 39:562(N))

#### **Social Service Contracts (Act No. 214)**

Prior law provided that contracts for social services may be awarded without the need for competitive bidding or negotiation but only if the office of contractual review determined that certain conditions are met and documented. Prior law provided that the maximum amount for proposals for social service contracts is \$150,000. New law retains prior law but increases the maximum amount for proposals for social service contracts from \$150,000 to \$250,000.

(Amends R.S. 39:1494.1(A)(7))

#### **Procurement Code Exclusion for Certain School IP (Act No. 302)**

New law adds an exclusion from the requirements of the procurement code for interinstitutional agreements between co-owners of intellectual property when one of the co-owners is a Louisiana regionally accredited college, technical school, or university.

Effective July 1, 2007. (Adds R.S. 39:1554(D)(7))

## **L.A. R.S. TITLE 40: PUBLIC HEALTH AND SAFETY**

### **Sanitary Code to Address Residential Needs (Act No. 267)**

New law provides that rules and regulations of the Sanitary Code shall be designed to regulate the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste, i.e., needles, syringes, and other medical instruments that are capable of puncturing the skin for the delivery of medications derived from a household, including a multifamily residence or household.

Effective August 15, 2007. (Amends R.S. 40:4(A)(2)(b))

### **Housing Counseling Assistance (Act No. 383)**

New law provides that housing counseling assistance may be provided through private nonprofit organizations which are certified through the La. Housing Finance Agency and contracted through an RFP process to be administered by the office of community development.

New law provides that housing counseling assistance providers may counsel owners relative to refinancing options, availability of loans and grants, and determining entitlements from FEMA programs, LRA housing programs, or any other available housing programs.

New law provides that housing counseling providers may also assist displaced persons, who were homeowners or renters, and property owners by creating suitable housing strategies for persons with special needs.

New law shall terminate on 7/1/10.

Effective upon signature of the governor (July 10, 2007). (Adds R.S. 40:600.71-600.76)

### **Patient Disclosure of Prior Drug Prescriptions (Act No. 287)**

New law provides that it shall be unlawful for any person, while being supplied with any controlled dangerous substance or a prescription for any controlled dangerous substance by one health care practitioner, to knowingly and intentionally obtain or seek to obtain any controlled dangerous substance or a prescription for a controlled dangerous substance from a second or subsequent health care practitioner without disclosing the fact of the existing prescription to the practitioner from whom the subsequent prescription for a controlled dangerous substance is sought. New law requires the disclosure to be in writing and to be made a part of that person's medical record and specifies certain information required to be disclosed. New law contains similar provisions for the legend drug Carisoprodol.

Effective August 15, 2007. (Amends R.S. 40:1238.1(B); Adds R.S. 40:971(B)(1)(i) and 1238.1(C))

### **Testing for HIV and Other Venereal Diseases (Act No. 153)**

New law makes extensive revisions to laws governing the manner of obtaining patient consent for and the testing for HIV and other venereal diseases and reporting of the results to health authorities.

Effective August 15, 2007. (Amends R.S. 40:1061, 1065, 1091, 1092, 1300.12, and 1300.13; Repeals R.S. 40:1300.13(F) and 1300.16)

### **Pharmacists May Not Prescribe Based Solely on Electronic Questionnaire (Act No. 318)**

New law provides that a prescription issued solely on the results of an electronic questionnaire, in the absence of a documented patient evaluation and physical examination, is issued outside of the physician-patient relationship and is not a valid prescription.

New law prohibits a pharmacist from knowingly dispensing a prescription which is authorized solely on the results of an electronic questionnaire or in the absence of a valid physician-patient relationship.

Effective August 15, 2007. (Adds R.S. 40:1238.4)

### **Informed Consent for Abortions (Act No. 282)**

New law requires that, at least 24 hours before an abortion, the physician who will perform the abortion inform the woman, orally and in person, as a requirement to informed consent, of the availability of anesthesia or analgesics to alleviate or eliminate organic pain to the unborn child that could be caused by the method of abortion to be employed, and the option of reviewing and receiving an explanation of an obstetric ultrasound image of the unborn child.

Effective August 15, 2007. (Amends R.S. 40:1299.35.6(C)(1)(a); Adds R.S. 40:1299.35.6(A)(5)(d) and (B)(1)(g) and (h))

### **Public Rural Hospitals May Lease to Part-Time Health Care Providers (Act No. 224)**

New law provides that notwithstanding any law to the contrary, a public rural hospital may employ a licensed health care provider on a part-time basis, and may lease, at fair market value, a portion or all of a facility or equipment to such health care provider for the provision of health care services.

Effective upon signature of the governor (July 2, 2007). (Adds R.S. 40:1300.143(5) and (6) and 1300.147)

### **Increased Medicaid Money for Rural Hospitals (Act No. 327)**

New law requires a Medicaid state plan amendment to provide that rural hospitals be reimbursed at 110% of their costs and specifies that if the Centers for Medicare and Medicaid Services (CMS) authorize a reduction in

reimbursement, rural hospitals and clinics will retain a 100% reimbursement level.

If CMS approves the amendment to the state Medicaid plan, new law authorizes the Dept. of Health and Hospitals (DHH) to promulgate an emergency rule to implement the cost-based payment system and then to set interim payment rates to minimize the amount of annual cost settlements.

New law provides for a definition of "reasonable cost", to include only outpatient services.

New law requires DHH to pay 75% of interim rural hospital outpatient cost report settlement amounts and 100% of final rural hospital outpatient cost report settlement amounts within 14 days of receipt from the Medicaid audit contractor.

New law provides that the new payment methodology be effective July 1, 2008, or as soon thereafter as is allowable under federal law.

Effective upon signature of governor (July 9, 2007). (Amends R.S. 40:1300.144(A)(2); Adds R.S. 40:1300.142(A)(7)-(13) and 1300.143(5) and (6))

### **Aging and Disability Information Station Program (Act No. 406)**

New law creates the Aging and Disability Information Station program in the Office of Elderly Affairs within the governor's office.

New law provides that the Aging and Disability Information Station program assist people with adult-onset disabilities in accessing and applying for manufacturers' discount cards, pharmaceutical assistance programs, and other supports and service programs.

Effective August 15, 2007. (Amends R.S. 40:1300.211, 1300.212, 1300.213, 1300.214, 1300.215, and 1300.216)

**Cigarette Performance Standards (Act No. 409)**

New law provides that no cigarettes may be sold or offered for sale unless the cigarettes meet certain test method and performance standards. New law requires filed written certification and marking of cigarettes.

New law permits a wholesale dealer or retailer to continue to sell its existing cigarettes after the effective date of new law if they were purchased prior to the effective date of the new law.

New law provides that each manufacturer submit to the state fire marshal a written certification stating that each cigarette has been tested and meets the performance standards.

New law provides that a manufacturer mark individual packages of cigarettes to signify that the cigarettes are in compliance with the fire safety performance standards established by new law.

New law does not prohibit any person or entity from manufacturing or selling cigarettes outside this state that do not meet the requirements set forth by new law if that person or entity takes reasonable steps to ensure the cigarettes will not be sold in this state.

Effective August 31, 2009. (Adds R.S. 40:1601.1-1601.11)

**Major Facility Projects Must Be Energy Efficient (Act No. 270)**

New law requires the office of facility planning and control of the division of administration to adopt rules and regulations that require certain state-funded "major facility projects" to meet energy efficiency requirements.

New law requires that such major facility projects must be designed, constructed, and certified to exceed the requirements of the state energy code by at least 30%.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 40:1730.49)

**Energy Conservation Codes Updated (Act No. 110)**

Prior law provided that ANSI/ASHRAE/IESNA 90.1-2001 is the Commercial Building Energy Conservation Code for applicable buildings. New law changes prior law from the 2001 edition to the 2004 edition.

Prior law provided that the 2000 edition of the International Energy Conservation Code is the Commercial Building Energy Conservation Code for applicable buildings not covered by prior law. New law changes prior law from the 2000 edition to the 2006 edition.

Effective upon signature of governor (June 22, 2007). (Amends R.S. 40:1730.42, and 1730.45)

**Construction Code Matters (Act. No. 335)**

New law provides that all municipalities and parishes shall use building code enforcement officers or certified third-party providers contracted by the municipality, parish, or regional planning commission to enforce the State Uniform Construction Code, and their enforcement procedures shall include examination or review of plans, drawings, or specifications; the conducting of inspections; and the issuance, denial, or revocation of permits.

New law provides that the exemption for manufactured housing shall extend to driveways, steps, decks, or other similar accessory structures or work, but shall not include any additional living area or other type of heated and cooled space outside of the original footprint of the manufactured home.

New law provides that homeowners who are excepted from the contractor licensing law may establish agreements with certified third-party providers to conduct plans review and inspections.

New law provides that beginning Jan. 1, 2008, upon application and fulfillment of necessary requirements, a third-party provider who is a La. licensed architect or engineer shall be granted a

certificate of registration without certification by a recognized code organization for their specialty work only.

New law amends the latest edition of the International Residential Code to include the wind speed map of the 2003 edition of the International Residential Code in lieu of the wind speed map of the 2006 edition. The code shall remain in effect until the 2009 edition of the International Residential Code is published, at which time such edition of the code shall be adopted by the council. New law provides that enforcement of the adopted standards of the International Residential Code shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the residential code, and extensive alterations. New law defines extensive alteration as an alteration when the total area of all the work areas included in the alteration exceeds 50% of the area of the dwelling unit.

New law provides definitions for "reconstruction", "alteration", and "addition".

New law provides that Appendix J of the International Residential Code, which is entitled Existing Buildings and Structures, shall not be adopted by the council and may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

New law amends the energy part of the code to require that supply and return ducts be insulated to a minimum of R-6.

Effective upon signature of governor (July 9, 2007). (Amends R.S. 40:1730.22, 1730.23, 1730.24, 1730.26 and 1730.28 and (3); Adds R.S. 40:1730.28(C))

### **Industrialized Buildings (Act No. 364)**

New law provides that industrialized buildings constructed after Jan. 1, 2007, meet or exceed the requirements of the building code and the requirements of the state fire marshal.

New law provides that industrialized buildings constructed prior to Jan. 1, 2007, meet or exceed

the requirements established by the parish or municipality in which the building is to be located at the time of construction of the industrialized building.

New law provides that an industrialized building not accessible by the public may be relocated within the state without the requirement of modification or alteration unless the building allows access by the public.

New law provides that a municipality or parish not make any requirement more stringent than the standards set forth in new law when granting or approving a building or construction permit or certificate of occupancy.

New law provides that third-party providers be registered with the council.

New law requires the state fire marshal or an approved third-party provider to review designs, plans, and specifications of industrialized buildings for compliance with the building code.

New law provides that the state fire marshal may determine from an engineering standpoint all questions concerning building code equivalency or alternative materials or methods of construction or as approved by the La. State Uniform Construction Code Council. New law requires the state fire marshal to inspect the construction of industrialized buildings.

New law provides that a parish or municipality may regulate the on-site construction or installation of industrialized buildings.

Effective August 15, 2007. (Adds R.S. 40:1730.51-1730.66)

### **Liquefied Petroleum Gas Handling Exemptions (Act No. 273)**

New law exempts certain persons, firms, or corporations from permit requirements relating to storage, sale, or transportation of liquefied petroleum gases or installation of related items, if they qualify and their normal and routine business is not primarily the transportation of liquefied petroleum gases.

New law excepts from the personnel competency test administered by the LPG Commission, drivers transporting 300 gallons or less of liquefied petroleum gas in 25 gallon or more containers that conform to USDOT specifications if the driver's normal and routine duties are not the transportation of liquefied petroleum gases.

Effective upon signature of the governor (July 6, 2007). (Amends R.S. 40:1849(C)(1); adds R.S. 40:1847.1(E))

### **Nursing Home Fire Sprinklers (Act No. 328)**

New law permits a nursing home to request DHH to grant an extension of time for submission of supervised automatic fire sprinkler plans by August 31, 2007.

New law provides that nursing home operators are in compliance with the requirement that facilities must be protected by a supervised automatic fire sprinkler system if:

1. The operator attests to the fact that its facility will be replaced by a licensed and operable facility that will be protected throughout with a supervised automatic fire sprinkler system by Dec. 31, 2009; and
2. The operator presents plans for the replacement facility to DHH and the state fire marshal by Nov. 1, 2007.

Effective August 15, 2007. (Amends R.S. 40:2009.4.1(A))

### **Medicaid Money for Social Workers and Psychologists (Act No. 343)**

New law provides that, subject to an appropriation by the legislature, the Department of Health and Hospitals (DHH) must include licensed clinical social workers and medical psychologists with three years of work experience in private practice as providers for the purposes of Medicaid reimbursement.

New law requires DHH to establish an administrative organization to oversee all behavioral health services.

Effective August 15, 2007. (Amends R.S. 40:2017)

### **Donation of Nursing Homes to Government (Act No. 165)**

New law authorizes the offer of a donation to the state, political subdivision, or other public entity of the buildings and grounds constituting a nursing facility for uses consistent with public purposes.

Effective upon signature of the governor (June 27, 2007). (Adds R.S. 40:2116(D)(4))

### **Exceptions to Moratorium on Nursing Homes and Beds (Act No. 253)**

New law provides that the moratorium on replacement of existing nursing facilities does not apply if certain criteria are met.

New law provides an exception to the moratorium for the licensing of additional beds for nursing facilities if certain criteria are met.

New law provides that DHH license, but not certify for Medicaid participation, up to thirty additional beds for a continuing care retirement community meeting certain criteria.

New law provides licensed beds, at the discretion of the continuing care retirement community provider, to be used for persons who are not residents of the care retirement community and who are not parties to a care contract, for up to five years after receipt of occupancy certification. Thereafter, the licensed beds may only be used by owners of the care contract with the continuing care retirement community provider.

New law provides that DHH shall adopt rule(s) allowing a nursing home, located in a service area having less than 93% occupancy, to temporarily convert a number of licensed beds for alternate use. Beds can be converted for alternate use until the average annual occupancy exceeds 93%. Thereafter, the facility shall either re-license the beds as nursing home beds or the beds will be deemed expired. Nothing precludes

nursing homes from taking beds out of alternate use, at any time, unless deemed expired.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 40:2116(D)(4) and (5) and (K))

**Washington Parish Exempted from Nursing Home Moratorium (Act No. 378)**

New law excepts Washington Parish from the moratorium on additional facilities and additional beds in nursing facilities.

New law provides that the department may license and approve additional nursing facilities and additional beds in nursing facilities, located in the service area known as Washington Parish, as follows: (1) the department shall follow the facility need review process; (2) the total number of additional beds in nursing facilities licensed and approved shall not exceed 120; and (3) any additional beds in nursing facilities licensed shall be enrolled and participate in the Medicaid program.

New law provides that within 60 days after the effective date of new law, any nursing facility in Washington Parish that is involuntarily terminated from participation in the Medicare and Medicaid programs shall not be eligible to participate in the bed abeyance program.

Effective upon signature of the governor (July 10, 2007). (Adds R.S. 40:2116(D)(4) and (5))

**Hospice License Moratorium (Act No. 444)**

New law imposes a moratorium on the issuance of hospice licenses until 12/31/08.

New law allows DHH to license hospices that have submitted their applications to the department prior to July 1, 2007. If an applicant is unable to comply with the survey within 90 days of submission of the application, no license shall be issued under the moratorium.

Effective July 1, 2007. (Adds R.S. 40:2183(E))

**Pre-Judgment Sale of Seized Contraband (Act No. 71)**

New law provides that the district attorney may petition the court for a sale pending forfeiture of any vessel, vehicle, aircraft, merchandise, or other property which is subject to forfeiture as contraband if the hearing has not been held within 60 days of filing a claim or 180 days of the seizure and either (1) it appears that the property is liable to perish or to greatly depreciate in value during storage, or (2) the costs associated with storage of the property are disproportionate to its value.

New law provides that after notice to interest holders and claimants and a contradictory hearing, the court may order an immediate sale of such property and the proceeds thereof deposited until a final judicial disposition is reached. New law provides that the use of minimum bids is required to ensure that the greater of 50% of the fair market value or 100% of the principal for any interest holder is obtained.

New law provides that prior to sale, the property seized shall be published in an appropriate newspaper.

New law provides that if the final judicial disposition is in favor of the claimant, neither the seizing agency nor the district attorney shall be liable for any difference in the amount received at auction and the retail sale price for any property sold.

Effective August 15, 2007. (Adds R.S. 40:2607(D) and 2608.1)

**L.A. R.S. TITLE 41: PUBLIC LANDS**

Nothing of particular interest.



**L.A. R.S. TITLE 42: PUBLIC OFFICERS AND EMPLOYEES**

**State to Contract with HMOs (Act No. 479)**

New law requires that the office of group benefits contract with certain Louisiana-based health maintenance organizations if such organizations submit competitive offers, proposals, or bids to solicitations of the office regarding the provision of health insurance for persons participating in office programs.

Effective upon signature of governor (July 19, 2007). (Amends R.S. 42:802(B)(6); Adds R.S. 42:802.1))

**Nepotism in New School Systems (Act No. 150)**

New law provides that Code of Governmental Ethics shall not prohibit the school board of a school system created after June 1, 2006, from employing an immediate family member of a school board member, provided that the immediate family member was previously employed in a similar capacity by a school board within the same parish for a period of at least one year prior to the creation of the new school system. New law further requires any school board member whose immediate family member is either being considered for employment or is employed by the school board to recuse himself from any decision involving the hiring, promotion, or assignment of such employee.

Effective upon signature of governor (June 25, 2007). (Adds R.S. 42:1119(F))

**Nepotism Exception for Hospital Service Districts Broadened (Act No. 225)**

Existing law provides for an exception to the prohibition of employment by any governing authority of a member of the immediate family of a member of the governing authority or of the chief executive of the governmental entity by allowing any hospital service district with a population of 100,000 persons or less or hospital public trust authority located in such district to employ a health care provider who is a member

of the immediate family of any district board or authority member or of the chief executive of the district or authority.

New law, in addition to retaining the exception for employment, permits any such hospital service district or hospital public trust authority to enter into an initial recruiting contract with a health care provider who is a member of the immediate family of any district board or authority member or of the chief executive of the district or authority.

New law requires an immediate family member who enters into an initial recruiting contract with or is employed by the hospital service district or the hospital public authority to file a disclosure statement with the board of ethics stating the facts of such employment no later than January 13th of each year.

Effective August 15, 2007. (Amends R.S. 42:1119(B)(2)(b))

**Physician Exception to Code of Governmental Ethics (Act No. 152)**

New law expands exceptions to the Code of Governmental Ethics to allow a licensed physician who is a member of a hospital service district board located within a parish with a population of 125,000 or less to contract with the hospital over which the board exercises jurisdiction, to subcontract with another provider who contracts with the hospital, and to have an ownership interest in an entity that contracts with the hospital. New law requires the physician to recuse himself from participating in a transaction before the board relating to such contracts permitted by new law.

Effective upon signature of governor (June 25, 2007). (Amends R.S. 42:1123(18)(a); Repeals R.S. 42:1123(18)(b))

**Conflicts in Provision of Insurance for Governmental Entities (Act No. 250)**

New law provides, as an exception to the Code of Governmental Ethics, that an insurance producer of record for a governmental entity will

not be precluded from providing to that governmental entity all of the normal insurance and risk management services to a governmental entity, including but not limited to providing advice or recommendations regarding insurance coverages, markets, costs, terms, selection of coverages and all related matters.

New law provides that an insurance producer who solicits to be producer of record or serves as producer of record for a governmental entity will not serve in any other official decision making capacity over insurance issues for the governmental entity, including but not limited to elected or appointed positions, advisory committees, as an employee, or as risk manager.

New law requires that any insurance producer who has served in any official decision making capacity over insurance issues for a governmental entity who wishes to solicit or serve as producer of record for that same governmental entity shall comply with the two year prohibition provided for in the Code of Governmental Ethics.

New law requires that an insurance producer of record fully disclose in writing to the governmental entity in writing all fees, commissions, or other compensation payable to the producer of record from the insurer or any source other than the governmental entity that relate to the placement of the insurance coverages.

New law does not preclude a governmental entity from contracting with an insurance consultant, separate from the producer of record, to provide risk management services and to assist the governmental entity in making insurance decisions.

New law does not apply to individually underwritten guaranteed renewable limited benefit health insurance policies.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 42:1123(37))

### **Board of Ethics To Be More Visible (Act No. 315)**

New law requires the Board of Ethics to offer training on a regular basis on the use of its computerized data management system as well as educational materials detailing the procedures necessary to file reports electronically.

New law provides that the Board of Ethics conduct educational activities and seminars and publish educational materials on a regular basis and provides that such activities, seminars, and materials shall also be open or available not only to public servants in all state and local agencies, and persons who do business with such agencies, but also to candidates, lobbyists, and other interested persons.

New law further requires the board to design and make available to all interested persons via the Internet training and educational materials pertaining to the ethics code, the campaign finance disclosure laws, and the laws relative to lobbying. New law requires the board to publish, both in hardcopy format and via the Internet, all public charges, opinions, letters of advice, and decisions of the board and its predecessors concerning all of the laws under the jurisdiction of the board. New law requires the board to compile and publish, both in hardcopy format and via the Internet, an index referencing each such charge, opinion, letter of advice, and decision of the board and its predecessors to the specific citations of law on which the charge, opinion, letter of advice, or decision is based.

New law requires the board to keep records of compliance with the requirements of law by each public servant and by state agencies.

Effective on Jan. 1, 2008; however, requires the board to take actions consistent with the new law which are necessary for implementation after signature by governor (July 9, 2007). (Amends R.S. 42:1134(M) and (N) and 1170; Adds R.S. 42:1134(O))

**Public Posting of Whistle-Blowing Protections (Act No. 148)**

New law requires each agency head to ensure that a notice containing an explanation in plain language of the rights of public employees against reprisals for whistle-blowing is posted and maintained at some convenient and conspicuous point in each building where more than ten public employees are employed.

Effective August 15, 2007. (Amends R.S. 42:1169(A) and (E); Adds R.S. 42:1169(G))

**L.A. R.S. TITLE 43: PUBLIC PRINTING AND ADVERTISEMENTS**

Nothing of particular interest.

**L.A. R.S. TITLE 44: PUBLIC RECORDS AND RECORDERS**

**Secrecy of Notarial Exams (Act No. 155)**

New law provides that the laws relating to public records do not apply to any portion of a notarial examination administered or to be administered by the secretary of state, nor to any answers for such a notarial examination.

Effective upon signature of governor (June 25, 2007). (Adds R.S. 44:4(42))

**Attorney Regulators May Use Expunged Records (Act No. 314)**

New law adds the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, and the Louisiana Supreme Court Committee on Bar Admissions to the list of organizations authorized to receive and use expunged records of arrest.

Effective August 15, 2007. (Amends R.S. 44:9)

**Notice of Mineral Leases (Act No. 8)**

New law, relative to recordation of documents in the mortgage and conveyance records, provides

that the notice of lease provisions now also apply to mineral leases.

New law provides that notices for mineral leases shall include the primary term of the lease and any additional period during which the lease may be maintained by the payment of the rentals.

Effective upon signature of the governor (June 18, 2007). (Amends R.S. 44:104(E))

**Cancellation of Mortgages (Act No. 337)**

New law requires the recorder of mortgages to cancel a mortgage or vendor's privilege upon receipt of an affidavit from a notary public or title insurer when the paraphed promissory note secured by a mortgage or vendor's privilege on immovable property has been lost or destroyed.

Prior law provided that the affidavit of cancellation shall include a statement that the affiant had made a due and diligent search for the last holder, the last holder could not be located, and one year had elapsed since recordation of the act of sale or mortgage which gave rise to the affidavit of cancellation, or it was required to be accompanied by an affidavit from the last holder stating that the promissory note marked "Paid in Full" was delivered to the notary public.

New law provides the statement will be that the affiant has made a due and diligent search for the note, the note cannot be located, and 60 days have elapsed since payment or satisfaction of the note.

New law authorizes a person under the direction of the notary public or an officer of a licensed title insurer to submit an affidavit of cancellation which sets forth certain facts, including a description of the property.

New law provides that no mandamus proceeding is required to use the cancellation provisions of new law.

New law provides that the affiant who has signed an affidavit that is provided to the

recorder of mortgages pursuant to new law that contains materially false or incorrect statements that cause the recorder to incorrectly cancel the recordation of a mortgage or privilege is liable to and shall indemnify the recorder and any person relying upon the cancellation for any damages that they may suffer as a consequence of such reliance.

New law provides that the request for cancellation shall have attached to it an act executed before a notary public or duly acknowledged before a notary public with or without witnesses or any act that is otherwise self-proving under the provisions of C.E. Art. 902(1), (2), (3), or (8).

New law provides a cancellation form which shall be accepted by the recorder of mortgages for each and every parish.

Existing law provides that a person requesting the recorder to cancel recordation of a mortgage or privilege and who provides the recorder with an act or declaration that contains materially false or incorrect statements that cause the recorder to incorrectly cancel the recordation of a mortgage or privilege is personally liable to and shall indemnify the recorder and any person relying upon the cancellation for any damages that they may suffer as a consequence of such reliance, and that a person who knowingly provides the materially false or incorrect statement is also guilty of false swearing under the provisions of R.S. 14:125.

New law extends existing law to any person who knew or should have known that the act or declaration he provided to the recorder contained materially false or incorrect statements and provides that any person who knowingly executes the materially false or incorrect statement is also guilty of false swearing under the provisions of R.S. 14:125.

Effective August 15, 2007. (Amends R.S. 9:5167 and R.S. 44:106(A), 109(A), and 110; Adds R.S. 44:109.1)

### **Orleans Parish Notary Law Repealed (Act No. 212)**

New law repeals prior law that required custodian of notarial records in Orleans Parish to keep a list of all notaries public in the parish, to file proceedings annually to test the surety on the bonds of non-attorney notaries in the parish, and to revoke notary commissions for failure to pay required fees or post bonds.

Effective upon signature of the governor (July 2, 2007). (Repeals R.S. 35:325-328 and 330-335 and R.S. 44:182.2-182.10)

### **L.A. R.S. TITLE 45: PUBLIC UTILITIES AND CARRIERS**

#### **Tow Trucks Are Motor Carriers (Act No. 108)**

New law provides that a "motor carrier" shall include tow trucks.

Effective August 15, 2007. (Amends R.S. 45:162(10) and 169.1)

#### **Natural Gas System Disconnection Hearings (Act No. 272)**

New law prohibits a distributor from disconnecting the supply of natural gas to a local distribution system, unless the local distributing system is given at least 90 days written notice of the disconnect or shut-off and at least one public hearing is held by the Public Service Commission (PSC) prior to the disconnect or shut-off.

New law further provides that the PSC must consider certain factors related to disconnecting the supply of natural gas to a local distribution system, including whether or not the local distribution system has agreed to the shut-off for a specific period of time; the length of time required to obtain public financing, time constraints necessary to construct necessary facilities; the time constraints and requirements of the State Bond Commission; and time

constraints and requirements of the Federal Energy Regulatory Commission.

Effective upon signature of the governor (July 6, 2007). (Amends R.S. 45:302)

**PSC Attorneys and Fees (Act No. 234)**

Prior law provided that the Public Service Commission (PSC) select an attorney for the PSC and pay the attorney out of the fees collected pursuant to prior law. New law repeals prior law.

Prior law provided that attorneys or special counsel may be retained by the PSC to assist the "economics and rate analysis division" for the purpose of evaluating and reviewing matters affecting services and rates charged by public utilities to Louisiana consumers and for representing the PSC in such cases or the judicial review thereof. New law changes "economics and rate analysis division" to PSC and makes the compensation standards previously applicable to attorneys assisting the economics and rate analysis division applicable to attorneys assisting the PSC.

New law similarly substitutes PSC for the economics and rate analysis division with respect to the employment of engineers, consultants, accountants and others.

Prior law required each common carrier, contract carrier, and public entity, subject to the control of the PSC, to pay a fee for the inspection and control and supervision of their business service and rates. New law increases the fees paid to the PSC.

Prior law provided for the Economics and Rate Analysis Division and Hearing Examiners Division Supplemental Fee Fund. New law repeals prior law.

Prior law provided that each gas, electric, and telephone utility doing business in Louisiana subject to regulation by the PSC pay supplemental fees for the financing of the costs of the economics and rate analysis division and

the hearing examiners division. New law repeals prior law.

Effective August 15, 2007. (Amends R.S. 45:1177(A)(2) and (3) and (C), 1180(A) and (B), and 1181(A); Repeals R.S. 45:1177(D) and (E), 1177.1, and 1178)

**La. Utilities Restoration Corp. (Act No. 55)**

The legislature declares as valid public purposes the restoration and rebuilding of utility systems after natural disasters using low cost capital and supporting the financial strength and stability of utility companies that have restored and rebuilt their systems. New law provides that the Louisiana Utilities Restoration Corporation (LURC) shall be a nonprofit corporation created for the purpose of providing an alternate financing mechanism available to the Public Service Commission (PSC) and the council of the city of New Orleans, as applicable, to attract low-cost capital to finance utility system restoration.

The purpose of the new law is to minimize costs charged to ratepayers for system restoration costs. New law provides the PSC may authorize the issuance of system restoration bonds upon certain findings.

New law provides that system restoration charges authorized by the PSC will be imposed by the LURC.

New law provides that a utility receiving securitization financing proceeds shall not be required to provide utility services as a result of receiving such proceeds.

New law provides that LURC shall operate to perform the essential governmental function of financing utility system restoration costs and that LURC shall be a public corporation and instrumentality of the state subject to the Public Records Law, the Open Meetings Law, the Bond Validation Procedures Law, and the Code of Governmental Ethics, with various exceptions.

New law provides that the staff of the PSC may staff LURC and that state officers, departments, and agencies may also render support.

New law provides that LURC may retain such professionals as it deems necessary to carry out its duties, subject to the approval of the PSC.

New law provides for the governing body and officers of LURC.

New law provides that members of the board and persons acting on LURC's behalf shall not be subject to any personal liability while acting within the scope of their duties or employment.

Proposed law provides that LURC shall be required by the terms of any financing order that provides for the assessment of system restoration charges to either (1) sell such specified system restoration property to an issuer in exchange for the net proceeds of the issuance of system restoration bonds or (2) borrow from an issuer the net proceeds from the issuance of system restoration bonds and pledge such system restoration property to the issuer and use the restoration charges to pay LURC's obligation and financing costs. Proposed law further provides that LURC shall be required to provide such bond proceeds as a nonshareholder contribution to capital to the utility collecting such system restoration charges, subject to the requirements in the financing order.

New law provides that LURC may: (1) acquire, sell, pledge, and transfer system restoration property as necessary to effect the purposes of proposed law, and (2) borrow monies from an issuer of system restoration bonds and use the monies from the collection of the pertinent system restoration charges to repay such loans and the related financing costs.

New law provides that LURC shall prepare an annual operating budget to be submitted for approval by the PSC. If requested by the PSC, LURC shall prepare and submit an annual report containing the annual operating and financial statements.

New law provides that the PSC shall regulate LURC with the same plenary regulatory authority as provided under present law with respect to public utilities.

Proposed law provides that a utility may petition the PSC for a financing order.

New law provides that for a financing order to create system restoration property such order shall meet a number of requirements.

New law provides that after the issuance of a financing order, LURC shall arrange for the issuance of system restoration bonds as specified in the financing order by an issuer selected by LURC and approved by the PSC. New law provides that LURC shall enter into a sale or loan transaction with the issuer and then transfer the net proceeds received by LURC to the pertinent utility as a non-shareholder contribution to capital.

New law provides that the PSC may commence a proceeding and issue a subsequent financing order that provides for the refinancing, retiring, or refunding of system restoration bonds issued pursuant to the original financing order. New law provides that system restoration bonds issued pursuant to a financing order shall not be the debt of the utility and system restoration charges paid and collected under any financing order shall not be considered the revenue or property of the utility.

Proposed law provides that an aggrieved party or intervener may file a petition setting forth the particular objection to a financing order in the district court of the domicile of the PSC within 15 days after the financing order made by the PSC becomes effective.

New law provides that the system restoration property specified in a financing order may be sold to an issuer by LURC, or may be pledged to an issuer by LURC to secure LURC's payment to the issuer of monies sufficient to pay the system restoration bonds issued.

New law provides that the utility shall have no ownership or beneficial interest in the system

restoration property, other than the obligation to collect and transfer the system restoration charges as agent of LURC, the issuer, or financing party, as applicable.

New law provides that system restoration property shall be an individualized, separate, incorporeal movable susceptible of ownership, sale, assignment, transfer, pledge, and security interest encumbrance, notwithstanding any of the following:

1. That notice is not given to utility customers that the system restoration property is owned by LURC or a transferee and that the utility or other entity is acting as a collection agent.
2. That the system restoration charges are not shown as a separate line item on individual utility bills.
3. That funds arising from the collection of system restoration charges by the utility as collection agent are commingled with other monies of the utility, prior to the utility's transfer of such funds to LURC, the issuer, or financing party.

New law provides a detailed legal regime for the sale and assignment of system restoration property.

System restoration bonds issued pursuant to a financing order under proposed law shall not be the debt of the utility. System restoration charges paid and collected under any financing order shall not constitute the revenue or property of the utility. System restoration bonds shall be nonrecourse to the credit or any assets of the utility, other than the utility's obligation as collection agent.

LURC shall either sell the system restoration charges and other system restoration property available to LURC to the issuer, or pledge the system restoration property to the issuer as security for LURC's loan obligation. The issuer shall pledge to the financing parties either the system restoration property purchased by the issuer, or the loan payment obligation owing by LURC to the issuer as the source of revenue for

payment of and to secure system restoration bonds and related financing costs.

All bonds issued under the new law shall be approved by the State Bond Commission.

The public purpose of system restoration bonds is to finance the acquisition or replacement of capital assets or permanent working capital of a utility in order to support its financial stability in order to minimize the rates charged by utilities.

The expenditure of money by LURC shall be under the direction of the governing board and the regulation of the PSC.

There shall be created separate accounts by LURC for each utility that is collecting system restoration charges on behalf of LURC, and the net proceeds of system restoration bonds issued pursuant to a financing order transferred to LURC shall be allocated to the account of the utility collecting such system restoration charges.

Upon the deposit of proceeds of system restoration bonds, a utility shall be entitled to request disbursements from the appropriate account of the fund in the amount of the PSC-approved system restoration costs, and LURC shall grant such request consistent with the terms of the PSC's order and the new law.

Any disbursements by LURC to a utility are intended to be non-shareholder contributions to the capital of the utility and such disbursements are not payments for any service provided by the utility to LURC or the utility's customers, but are made only in exchange for the utility's commitment contained in the financing order.

New law provides that LURC is a public corporation and an instrumentality of the state and is subject to certain provisions of present law regarding bankruptcy of political subdivisions and refunding of bonds.

System restoration charges authorized by the PSC shall be regulatory fees and shall not be considered taxes intended to raise revenue for the maintenance of governmental services.

System restoration bonds and the income therefrom shall be free from taxation by the state and any of its political subdivisions or other instrumentalities.

New law provides that nothing in new law shall be construed to constitute any limitation, derogation, or diminution of the jurisdiction or authority granted to the PSC or the council of the city of New Orleans as provided in present law.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 12:202.1(F), R.S. 44:4.1(B)(36), and R.S. 45:1311-1328)

## **L.A. R.S. TITLE 46: PUBLIC WELFARE AND ASSISTANCE**

### **Foster Parents' Rights (Act No. 122)**

New law grants foster parents the right to uniform treatment throughout the state by DHH in the providing of information and in ensuring the exercise of the rights granted to foster parents.

New law adds that information provided to foster parents by DHH shall include written information explaining the rights and duties of foster parents.

New law adds that foster parents have the right to be informed concerning participation as foster caregivers in legal and administrative actions as authorized by law.

Effective upon signature of the governor (June 25, 2007). (Amends R.S. 46:52.1(C)(1)(b) and 286.13(1), (2), and (5))

### **Medicaid Fraud (Act No. 14)**

New law provides that no person shall knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the medical assistance programs (Medicaid).

New law provides that in addition to the actual damages and the civil fines imposed, civil monetary penalties of not less than \$5,000 but no more than \$10,000 for each false or fraudulent claim, misrepresentation, illegal remuneration, or other prohibited acts may be imposed on the violator.

New law provides that when a qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may nevertheless permit the secretary of DHH or the attorney general to intervene at a later date upon a showing of good cause.

New law provides that except under certain circumstances, if the secretary or the attorney general intervenes in the action brought by a qui tam plaintiff, the qui tam plaintiff shall receive at least 15%, but not more than 25%, of recovery, exclusive of the civil monetary penalty provided in law.

New law increases the amount a court may award to the qui tam plaintiff to less than 15% of recovery, exclusive of the civil monetary penalty provided in law, if the court finds the allegations in the qui tam action to be based primarily on disclosures of specific information other than information provided by the qui tam plaintiff.

New law provides that except under certain circumstances, if the secretary or the attorney general does not intervene in the qui tam action, the qui tam plaintiff shall receive an amount, not less than 25% of recovery and not to exceed 30% of recovery, which the court decides is reasonable for the qui tam plaintiff pursuing the action to judgment or settlement.

Effective upon signature of the governor (June 18, 2007). (Amends R.S. 46:438.3, 438.6, 439.2, and 439.4; adds R.S. 46:438.3(H))

### **Coordination of Medicaid and Other Health Insurance (Act No. 147)**

New law complies with the Federal Deficit Reduction Act of 2005 by requiring that third party health insurers be held liable for coverage if a Medicaid recipient has other health



insurance coverage. Further specifies that the Dept. of Health and Hospitals (DHH) can seek reimbursement from health insurers for Medicaid payments up to 36 months from the date health care service was provided in such instances.

New law provides for the definition of "health insurer" to include a list of third parties legally responsible for payment of a claim for a health care item or service.

New law requires health insurers to provide DHH with eligibility and coverage information in order to determine the existence of third-party coverage for Medicaid recipients.

New law requires health insurers to provide information to determine when a Medicaid recipient may be or may have been covered by a health insurer and the nature of the coverage that is or was provided.

New law recognizes the right of DHH to recover payment from a health insurer in the event that payment pursuant to Medicaid has been made.

New law requires health insurers to respond to an inquiry by DHH regarding payment of a claim for any health care item or service submitted no later than three years after the service has been provided.

New law provides that health insurers cannot deny a claim submitted by DHH under certain conditions.

New law provides that in any legal action brought to enforce the new law, the prevailing party is entitled to attorney fees and related collection fees and costs.

New law specifies that a claim submitted by DHH can be denied by a health insurer due to a lack of preauthorization if review after a service has been rendered indicates that the service would have been deemed not to be medically necessary.

Effective August 15, 2007. (Adds R.S. 46:446.6)

### **Louisiana Children and Youth Health Insurance Program (Act No. 407)**

New law requires that the Department of Health and Hospitals (DHH) purchase or provide health care benefits for children eligible for the captioned program which are equivalent to the benefits provided by the federal Children's Health Insurance Program, subject to the general appropriation act of the legislature. New law also allows DHH to provide alternative benefits to the equivalent benefits in certain circumstances. New law specifies that DHH is not required to provide Medicaid or LaCHIP services if alternative benefits are provided.

New law provides cost-sharing requirements for subsidized insurance for the responsible party of a child enrolled in the program.

New law authorizes DHH to collect required premiums from the family or responsible party of a child enrolled in the program, notify them of a change in a premium requirement, refuse payment of services for nonpayment of a premium, and monitor the availability and retention of employer-sponsored dependent health insurance coverage.

Effective upon signature of governor (July 10, 2007). (Adds R.S. 46:977.1-977.13)

### **Louisiana Health First (Act No. 243)**

New law creates a health care delivery system, known as Louisiana Health First, to provide a continuum of evidence-based, quality driven health care services to Medicaid recipients and low-income uninsured citizens. New law provides that Louisiana Health First shall consist of a medical home system of care and shall incorporate health information technology and quality measures.

New law defines the "medical home system of care" as a health care delivery system that is patient and family centered and is guided by a personal primary care provider who coordinates and facilitates preventative and primary care that improves patient outcomes in the most cost efficient manner possible.

New law allows DHH to establish a mechanism to evaluate, promote, and improve the quality of health and health care delivered to Medicaid recipients and low-income uninsured citizens.

New law requires that DHH establish reimbursement methodologies to compensate providers who care for Medicaid recipients and low-income uninsured citizens in the medical home system of care. New law provides that the provisions of new law shall be budget neutral or subject to an annual appropriation of the legislature.

New law provides for legislative oversight of any waiver or state plan amendment that is submitted to the Centers for Medicare and Medicaid Services (CMS).

New law authorizes DHH to apply to CMS for any approval necessary to implement the provisions of the Health Care Reform Act of 2007. New law mandates that DHH implement elements of the Health Care Reform Act of 2007 that are within the state's authority.

Effective August 15, 2007. (Amends R.S. 46:978-979)

#### **Diabetes Initiatives Council (Act No. 418)**

New law adds to the powers, duties, and functions of the La. Diabetes Initiatives Council.

Effective August 15, 2007. (Adds R.S. 46:2617(6)(c)-(i) and (8) and 2618(B)(32))

### **L.A. R.S. TITLE 47: REVENUE AND TAXATION**

#### **Tax Deduction for Bringing Home Up to Code (Act No. 467)**

New law provides a "construction code retrofitting deduction" against taxable income equal to 50% of the cost paid or incurred on or after 1/1/07, by a taxpayer to voluntarily retrofit an existing residential structure for which the taxpayer claims the homestead exemption for ad valorem tax purposes, excluding rental property,

to bring it into compliance with the State Uniform Construction Code, less the value of any other state, municipal, or federal-sponsored financial incentives for such cost paid. New law defines "voluntarily retrofit an existing residential structure" as retrofitting that is not a construction, reconstruction, alteration, or repair of such structure required by the State Uniform Construction Code because the structure is a new residential structure or because of damage or destruction of an existing residential structure.

New law provides that the total amount of the deduction granted under new law shall not exceed \$5,000 per retrofitted residential structure.

New law provides that the tax credit shall be applicable to tax years beginning on and after 1/1/08.

Effective upon signature of the governor (July 11, 2007). (Amends R.S. 47:293)

#### **Income Tax Deduction for Excess Federal Itemized Deductions (Act No. 399)**

New law phases in an individual income tax deduction for excess federal itemized deductions as follows:

1. For tax years beginning during calendar year 2007, 57.5% of such excess federal itemized personal deductions.
2. For tax years beginning during calendar year 2008, 65%.
3. For all tax years beginning on and after January 1, 2009, 100%.

Prior law defined "federal income tax liability" as the total amount of tax due the U.S. for the taxable period on the individual income tax return required to be filed by any taxpayer, except that social security and self-employment taxes are not included. Prior law required that, beginning for tax years starting in 2004, the federal tax liability be increased by any federal income tax credits determined to be disaster relief credits and the amount by which an individual's tax liability was decreased as a

result of claiming a deduction for casualty losses. New law removes the increase in the Louisiana deduction for federal tax liability because of decreases in federal taxes resulting from a deduction for casualty losses.

Effective for all taxable periods beginning on or after January 1, 2007. (Amends R.S. 47:293(3) and (7); adds R.S. 47:293(2) and (6)(a)(i))

#### **Income Tax Deductions for Various Katrina Recovery Benefits (Act No. 247)**

New law grants an individual and corporate income tax deduction for any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by the Road Home Corporation, the Louisiana Recovery Authority, or the Louisiana Family Recovery Corps if such benefit was included in federal adjusted gross income.

Effective upon signature of the governor (July 6, 2007) and retroactive, applying to any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by the hurricane recovery entities set forth above. (Amends R.S. 47:293(7); adds R.S. 47:287.738(G) and 293(6)(a)(i) and (8))

#### **Income Tax Exemption for Military Personnel (Act No. 160)**

Prior law provided for an exemption from the state income tax of the first \$30,000 of income paid to military personnel for active duty service outside of the state for at least 120 consecutive days, effective for taxable periods beginning after 12/31/02 and ending before 1/1/08. New law removes the expiration date for such exemption.

Effective August 15, 2007. (Amends R.S. 47:293(6)(e); repeals R.S. 47:293(6)(f))

#### **Free Hunting/Fishing Licenses for Military (Act No. 306)**

New law provides for an individual income tax credit for amounts paid by active and reserve military servicemembers and their spouses and

dependents for La. noncommercial hunting and fishing licenses.

Effective July 1, 2007 and shall be applicable to all taxable periods beginning on or after Jan. 1, 2007. (Amends R.S. 56:643(B); Adds R.S. 47:297.7 and 297.8)

#### **Cultural Product Districts (Act No. 298)**

New law authorizes the establishment of cultural product districts and grants a state and local sales and use tax exemption for works of art sold in such districts and an income and corporate franchise tax credit for rehabilitation of structures in such districts.

New law provides that a "cultural product district" shall mean a district designated by a local governing authority for the purpose of revitalizing a community by creating a hub of cultural activity, including affordable artist housing and work space.

New law authorizes a state and local sales and use tax exemption for the sale of original, one-of-a-kind works of art from an established location within the boundaries of a cultural product district.

New law authorizes a credit against income and corporation franchise tax for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a cultural product district. The credit shall not exceed 25% of the eligible costs and expenses of the rehabilitation. New law prohibits a taxpayer from receiving more than \$5 million of credit for any number of structures rehabilitated within a particular district.

Effective August 15, 2007, for all taxable years beginning January 1, 2008. (Amends R.S. 47:297.6(A)(1) and (5), 6019(A)(1)(a), (A)(2)(a), and (B)(1); Adds R.S. 47:305.56)

#### **Refundable Earned Income Tax Credit (Act No. 278)**

New law, relative to the individual income tax, provides a refundable earned income tax credit

for individuals in an amount equal to 3.5% of the federal earned income tax credit for which the individual is eligible for the taxable year under Section 32 of the Internal Revenue Code. New law is applicable to tax years beginning on and after 1/1/08.

Effective January 1, 2008. (Adds R.S. 47:297.7)

**Sales Tax Exclusion for Certain Utility Equipment (Act No. 427)**

New law provides for a state sales and use tax exclusion for machinery and equipment purchased as defined in and subject to the requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the Public Service Commission or the council of the city of New Orleans which is assigned a North American Industrial Classification System Code 22111, Electric Power Generation, as it existed in 2002.

New law provides that a political subdivision whose boundaries are not coterminous with those of the state may provide for a sales and use tax exclusion for machinery and equipment as defined in and subject to the requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the Public Service Commission or the council of the city of New Orleans.

Effective July 1, 2008. (Adds R.S. 47:301(16)(m))

**Sales Tax Exclusion for Storm Shutters (Act No. 462)**

New law grants an exclusion from state sales and use tax for the sale, purchase, or use of any storm shutter device. Defines "storm shutter device" as materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms.

Effective July 1, 2007. (Adds R.S. 47:301(10)(dd) and (18)(o) and 337.10)

**Annual Hurricane Preparedness Sales Tax Holiday; Sales Tax Reduction for Recyclable Materials Merchants (Act No. 429)**

New law provides for an annual "sales tax holiday" during the last weekend of May each year beginning at 12:01 a.m. on Saturday and ending at 11:59 p.m. on Sunday, affecting state sales and use taxes on the first \$1,500 of the purchase price on the purchase of certain hurricane-preparedness items or supplies.

New law prohibits hurricane-preparedness items or supplies purchased at airports, public lodging establishments, convenience stores, and entertainment complexes from qualifying for this sales and use tax exemption. New law provides for the tax treatment of exempt items sold in sets, promotional sales, exchanges, layaways, rainchecks, and rebates.

New law authorizes a reduction in state and local sales and use taxes to apply to certain machinery and equipment used by a manufacturer whose principal activity is manufacturing and who is assigned industry code 423930 as a recyclable material merchant wholesaler engaged in manufacturing activities, which must include shredding facilities.

Effective June 30, 2007. (Amends R.S. 47:301(3)(i)(ii)(bb)(I); Adds R.S. 47:305.56)

**Sales Tax Exemptions for Certain Social Projects (Act No. 430)**

New law excludes, for purposes of state sales and use tax, from the definition of "retail sale" or "sale at retail" purchases of food items for school lunch or breakfast programs by nonpublic elementary or secondary schools which participate in the National School Lunch and School Breakfast programs or the purchase of food items by nonprofit corporations which serve such students and which participate in the national program.

New law provides for a state and local sales and use tax exemption for purchases of construction materials by Habitat for Humanity when the

materials are intended for use in constructing residential dwellings in this state.

Effective October 1, 2007. (Adds R.S. 47:301(10)(dd) and 305.56)

**Sales Tax Exclusion for Certain Pallets (Act No. 419)**

New law provides for a state and local sales and use tax exclusion for leases or rentals of pallets which are used in packaging products produced by a manufacturer.

New law defines the term "manufacturer" to mean a person whose primary activity is manufacturing and who is assigned by the La. Dept. of Labor a NAICS code within the manufacturing sectors 31-33 as they existed in 2002.

Effective for all taxable periods beginning on or after July 1, 2008. (Adds R.S. 47:301(7)(l))

**Sales Tax Exclusions to Benefit Newspapers and Radio Stations (Act No. 339)**

New law defines machinery and equipment for purposes of a certain state sales and use tax exclusion to include machinery and equipment used primarily to produce a news publication whether it is ultimately sold at retail or for resale or at no cost.

New law defines the term "manufacturer" to mean a person whose principal activity is manufacturing and who is not required to register with the Dept. of Labor for purposes of unemployment insurance, but who has a NAICS code within the information Sector 51 or the manufacturing Sectors 511-511110 as they existed in 2002.

New law provides for an exclusion from state sales and use tax for machinery and equipment purchased by the owner of a radio station located within the state that is licensed by the FCC for radio broadcasting, if the owner is:

1. An individual domiciled in the state who owns a business with substantially all of its

assets located in the state and substantially all of its payroll paid in the state, or

2. A business entity with substantially all of its assets located in the state and substantially all of its payroll paid in the state, provided that the business entity is not (a) owned or controlled or is otherwise an affiliate of a multi-state business entity; and (b) is not owned or controlled by an individual who is not domiciled in the state.

Effective July 1, 2007. (Amends R.S. 47:301(3)(i)(ii))

**No Sales Tax on Offshore Drilling Rig Repairs (Act No. 173)**

Prior law [R.S. 47:305(I)] "exempted" from state and local sales tax labor and property used in the repair, renovation or converting of any drilling rig, or machinery and equipment which are its component parts, if the rig is "used exclusively" for the exploration or development of minerals in OCS waters. However, prior law "suspended" all sales tax "exemptions" for all four cents of the sales tax - three cents suspended until 7/1/09, one cent permanently, unless the exemption is excluded from the "suspension." New law, in effect, places the "suspended" exemption for drilling rigs and their component parts in the law as an "exclusion" (and therefore not "suspended"), thus making it effective.

New law also makes changes to sales and use tax laws that are specific to particular parishes.

Effective upon signature of the governor (June 27, 2007). (Amends R.S. 47:301(14)(g)(i); adds R.S. 47:301(14)(g)(iii) and 337.10(L))

**Sales Tax Exemption Numbers for Political Subdivisions (Act No. 162)**

New law requires the Department of Revenue, upon request by any political subdivision for a sales/use tax exemption identification number, to issue such number.

Effective August 15, 2007. (Amends R.S. 47:301(8)(c))

**Sales Tax Exclusion for Auto Makers (Act No. 1)**

New law provides for a state sales and use tax exclusion for machinery and equipment by a motor vehicle manufacturer with a North American Industry Classification System (NAICS) Code beginning with 3361. New law also provides that political subdivisions may provide for an exemption of such equipment.

Effective upon signature of governor (May 31, 2007). (Adds R.S. 47:301(16)(m))

**Sales Tax Exclusions for Newspapers and Steelworks (Act No. 480)**

New law excludes newspapers from the definition of "tangible personal property" for purposes of sales and use taxes imposed by the state and its political subdivisions, thereby excluding newspapers from the collection of such taxes.

New law would make the sales and use tax exemption suspension for steelworks and blast furnaces effective for all taxable periods beginning on or after July 1, 2007.

Effective August 15, 2007, for all taxable periods beginning on or after July 1, 2008. (Amends R.S. 47:302(S), 321(I), and 331(Q); Adds R.S. 47:301(16)(m); Repeals R.S. 47:305(D)(1)(e) and 337.9(C)(10))

**Sales Tax Exemption for Certain Steelworks (Act No. 439)**

New law provides that the sales and use tax exemption provided for purchases of utilities by certain steelworks and blast furnaces with more than 125 full-time employees, including certain coke ovens and rolling mills, shall be applicable, operable, and effective indefinitely.

Effective July 1, 2007. (Amends R.S. 47:302(S), 321(I), and 331(Q))

**Sales Tax Exemptions for Certain Farming Items (Act No. 424)**

New law provides that the state sales tax exemption for irrigation wells, drives, motors, and equipment shall be applicable, operable, and effective indefinitely starting July 1, 2007.

New law provides that the state sales tax exemption for the gross proceeds derived from the sale in this state of livestock at public sales sponsored by breeders' or registry associations or livestock auction markets shall be applicable, operable, and effective indefinitely starting July 1, 2007.

Effective July 1, 2007. (Amends R.S. 47:302(R) and 321(H); Adds R.S. 47:331(P)(3))

**Sales Tax Exclusion for Paper and Wood Products Manufacturers (Act No. 471)**

New law permanently excludes from state sales tax natural gas and electricity purchased and used by paper or wood products manufacturing facilities beginning 7/1/07.

Effective July 1, 2007. (Amends R.S. 47:301(3)(j) and (13)(m); adds R.S. 47:305.56 and 337.9(D)(28); repeals R.S. 47:302(T), 321(J), and 331(R))

**Sales Tax Exclusion for Glasses and Contacts (Act No. 463)**

New law exempts from state sales and use tax prescription eyeglasses and contact lenses.

Effective July 1, 2007. (Amends R.S. 47:305(D)(1)(k))

**Sales Tax Exemption for Off-Road Vehicles Purchased by Non-Residents (Act No. 291)**

New law provides that the purchaser of an off-road vehicle who, at the time of purchase, presents proof to the seller that he is domiciled in another state and signs an affidavit indicating he has paid or will pay the sales and use tax on the off-road vehicle in the state in which he is domiciled within 60 days of purchase or delivery

of the vehicle, whichever is later, shall be exempt from state sales and use taxes in Louisiana if the state in which the buyer is domiciled provides a similar exemption.

Effective October 1, 2007. (Amends R.S. 47:303(E)(1) and 304(A); Adds R.S. 47:305.56)

#### **Annual Sales Tax Holidays (Act No. 244)**

Prior law enacted the 2005 Louisiana Sales Tax Holiday Act which exempted from state sales tax the first \$2,500 of any consumer purchase of tangible personal property that occurred on December 16, 17, and 18, 2005.

Prior law excluded from the exemption the purchase of vehicles subject to license and title and meals furnished for consumption on the premises where purchased, including to-go orders.

New law establishes the annual La. Sales Tax Holidays to exempt from state sales tax each year the sales to consumers, in the same manner as is provided in the prior law, on the first consecutive Friday and Saturday of August each year.

Effective upon signature of the governor (July 6, 2007). (Amends R.S. 47:305.54)

#### **Sales Tax Exemption for Containerized Cargo Trucks (Act No. 209)**

New law provides that state and local sales and use taxes shall not apply to the purchase, use, or lease of certain qualifying trucks and trailers used to haul containerized cargo to intermodal facilities.

New law requires that, prior to the commencement of an audit or investigation and prior to an examination or investigation of the place of business of any taxpayer, the auditor shall submit written justification of such audit or investigation to the secretary of the Dept. of Revenue. However, the approval of the secretary of the Dept. of Revenue is not needed prior to an audit, examination, or investigation conducted

by a political subdivision in order to determine the correct amount of a tax exemption.

Effective upon signature of governor (June 29, 2007). (Amends R.S. 47:305.50)

#### **Advance Sales Tax (Act No. 393)**

New law reduces the amount of sales necessary for a retail dealer to be exempt from payment of advance sales tax to manufacturers, wholesalers, jobbers and suppliers from \$3 million to \$500,000, effective 1/1/08.

New law prohibits, effective 1/1/09, the collection of "advance sales tax" by the state and any parish, municipality, school board, and any other tax authority.

New law authorizes a deduction for certain amount of tax paid by dealers to manufacturers, wholesalers, jobbers, and suppliers.

Parts of Act effective January 1, 2008 and parts effective January 1, 2009. (Amends R.S. 47:306(B)(1)(a) and (11) and 337.18(B)(1); adds R.S. 47:306(A)(6) and (7) and 337.18(A)(6); repeals R.S. 47:306(B) and (C) and 337.18(B)(2) and (3))

#### **Sales Tax Exclusion for Certain Charitable Institutions (Act No. 464)**

New law grants an exemption to "qualified charitable institutions" from state sales tax on the sale of donated tangible personal property or items made from such donated property. If such institutions submit an application to the secretary of DOR, they receive the exemption in the form of a "restricted" refund of the sales tax which the institution has collected on such sales. However, the refund must be used exclusively in this state for capital construction, or equipment, or debt service related thereto, and/or job training, job placement, employment or other related community services program and support program costs.

"Qualified charitable institution" is defined as an organization which meets various criteria, including that it spends at least 75% of its annual

revenue on job training, job placement, the direct employment of, or other related community services programs and support programs for, people with workplace disabilities or disadvantages.

Effective January 1, 2008. (Adds R.S. 47:315.5)

**Sales Tax Exclusion for Farming Items (Act No. 245)**

New law gives political subdivisions the option to grant an exclusion from their taxes for any machinery, equipment, supplies, materials, or services used or consumed in the business of farming.

Effective July 1, 2007. (Amends R.S. 47:337.10(I))

**Occupational License Tax for Retail Gas Dealers (Act No. 426)**

New law provides that for every fixed location retail dealer in gasoline or other motor fuel, the occupational license tax shall be computed based on the amount of gallons of gasoline or motor fuel sold and the amount of gross sales of merchandise, services, and rentals. The maximum sum of the tax shall not exceed \$6,200.

New law eliminates the prior law deduction for retail gasoline filling and service stations which excludes from "gross sales" the portion of the purchase price paid by the filling and service stations equal to the federal and state dealer's license, privilege, or excise tax paid on gasoline, motor fuels, or lubricating oils.

Effective for all taxable periods beginning on or after January 1, 2008. (Amends R.S. 47:361(A); Adds R.S. 47:354.1)

**Gasoline and Diesel Fuel Taxes (Act No. 303)**

New law requires that a tax be imposed on the sale or transfer of gasoline or undyed diesel fuel in the bulk transfer/terminal system in this state by a supplier to a person who does not hold a

Louisiana supplier or permissive supplier license.

New law clarifies the definition of a "supplier" and adds that a supplier is a person registered under applicable federal law as a producer of agri-biodiesel, biodiesel, or alcohol.

New law provides that an industrial user is any person who receives gasoline blend stocks for their own use in the manufacture of any product other than finished gasoline. New law further clarifies the definition of liquefied petroleum gas.

New law adds an exemption for gasoline blend stocks or undyed kerosene as feedstock received by a licensed supplier or permissive supplier under certain conditions.

New law adds an exemption for gasoline blend stock or undyed kerosene as feedstock received by a qualified purchaser from a licensed supplier or permissive supplier if the gasoline blend stock will be used for purposes other than producing gasoline or the undyed kerosene will be used as a feedstock for purposes other than as a motor fuel.

New law exempts persons dealing solely in tax and fee paid product below the terminal rack from being required to obtain a license. However, in order for an applicant to make a claim for a refund of taxes paid, the applicant shall be licensed.

New law decreases the minimum amount of the surety bond for a supplier and permissive supplier from \$2 million to \$50,000 and provides that for a terminal operator license, the amount of the bond shall be a minimum of \$1 million or an amount equal to three months tax liability, whichever is greater, and only one surety bond shall be required for a terminal operator that is also a supplier.

New law clarifies a conflict in existing law concerning the refund for three-fourths of the gasoline or special fuels tax for contract drivers of privately owned school buses.



Effective upon signature of governor (July 9, 2007). (Amends R.S. 47:715.1(B), 818.2, 818.13(C), 818.15(A)(1), 818.37, 818.40; Adds R.S. 47:818.2(38.1), 818.14(E) and (F), and 818.40(A)(5))

#### **Special Gas Tax Exemption (Act No. 181)**

New law provides for a gasoline tax exemption, until June 30, 2012, for gasoline sold to a manufacturer which will use the gasoline in the manufacture of a premixed two-cycle engine fuel containing gasoline and oil sold in containers of one gallon or less.

Effective for all taxable periods beginning on or after July 1, 2007. (Adds R.S. 47:818.14(A)(4))

#### **Tobacco Tax on Foreign Dealers (Act No. 474)**

Existing law provides a tobacco tax discount of 6% to cigarette dealers affixing stamps.

New law requires the secretary of revenue to allow wholesale tobacco dealers of other states serving a trade area of retail dealers in this state who have a direct purchasing contract with a manufacturer to sell and purchase stamps in this state with the benefit of the discount, provided the discount cannot be greater than that which is extended to the wholesale tobacco dealer by their state of domicile and in any event shall not exceed 6%.

Applicable to taxable periods beginning on and after 9/1/07.

Effective August 15, 2007. (Amends R.S. 47:843(B) and (F) and 851(B)(1) and (2)(b))

#### **Utility Tax Exemption for Household Goods Carriers (Act No. 465)**

Prior law levied a tax on public utilities of 2% of the gross receipts derived from intrastate business, and defined "public utility" as railroads and railways, sleeping cars, motor bus lines, motor freight lines, express companies, telegraph companies, boat or packet lines, and pipe lines.

New law redefines "motor freight lines" and "gross receipts," thereby exempting household goods carriers from the tax.

Effective upon signature of the governor (July 11, 2007). (Amends R.S. 47:1003)

#### **Tax Credits for Motion Picture Investors (Act No. 456)**

Existing law provides for a motion picture investor tax credit for "state-certified productions" and "state-certified infrastructure projects". New law designates and ratifies the office of entertainment industry development in the Department of Economic Development, ("DED"), to administer the program since August 15, 2006.

New law consolidates the prior tax credit into one 40% tax credit for a base investment in excess of \$300,000 lasting until January 1, 2009, for "state-certified infrastructure projects" which meet the criteria provided for in new law and which are approved by the office, the secretary of DED, and the division of administration, provided that the total tax credit allowed for any one project cannot exceed \$25 million. The tax credit must be "earned" and may be "structured" as provided for in new law.

New law provides that the initial certification for state-certified productions shall be effective for a period of 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

New law redefines "state-certified infrastructure project" to mean a film, video, television, and digital production and postproduction facility, and movable and immovable property and equipment related thereto, or any other facility which supports and is a necessary component of such proposed state-certified infrastructure project, all as determined and approved by the office of entertainment industry development, the secretary of DED, and the division, but excludes of movie theaters or other commercial exhibition facilities in existing law.

New law requires the approval of an infrastructure project if it is a film, video, television, or digital production or postproduction facility.

New law provides that the tax credits for infrastructure projects can be "earned" only by meeting certain criteria.

New law authorizes "recapture" of infrastructure tax credits in the event the time limits are not complied with.

New law allows the office, the secretary, and the division to require the tax credits to be taken and/or transferred in the tax period in which the credit is "earned" or allows the credit to be structured in the "initial certification" of the project to provide that only a portion of the tax credit be taken or transferred over the course of two or more tax years.

New law provides that the "intention" of new law is that the approvals of the division required by new law and the other requirements for state-certified infrastructure projects in R.S. 47:6007(C)(2) are required for any state-certified infrastructure project which has not received "initial certification", regardless of the date the infrastructure project applied for the tax credit.

New law designates the office of entertainment development and the secretary of DED as the main administrators of the production credits.

New law specifies that a production credit ends when another production credit begins.

New law provides that the approvals and requirements for state-certified infrastructure projects as provided for in new law shall be required for any state-certified infrastructure project which has not applied for initial certification or pre-certification prior to August 1, 2007.

New law provides that an application for an infrastructure project filed on or before August 1, 2007, shall have 24 months from the date of approval of the rules or January 1, 2008,

whichever is earlier, in which to claim the 40% tax credits. Further requires the credits to be considered earned in the year made, provided that a minimum of 20% or \$10 million of the total base investment provided for in the initial certification that is unique to film production infrastructure shall be expended before infrastructure tax credits can be earned on expenditures. The payment of credits may extend beyond or after the year expenditures are made.

Effective July 1, 2007. (Amends R.S. 36:107(A) and 109(J) and R.S. 47:1123(10), 1125(C)(3), and 6007)

**Gift Tax Repeal; Inheritance Tax Refunds; Tax Credits for Residential Insurance Premiums and Wind or Solar Energy Systems (Act No. 371)**

New law repeals the state gift tax effective 7/1/08.

Prior law repealed the tax on inheritances for deaths occurring after 6/30/04 unless a judgment of possession is not rendered or the succession is not judicially opened before the last day of the ninth month following the death of the decedent. New law deletes this provision and allows a refund for tax paid on deaths occurring after 6/30/04 if a claim is made between 1/1/08 and 12/31/09.

New law amends R.S. 47:297.7(A) as enacted in HB 678 of 07 RS to specify that the refundable individual income tax credit provided in that bill for 7% of premiums paid for homeowners', condominium owners', or tenant homeowners' insurance policies is applicable to tax years beginning during 2008 only.

New law provides a refundable and transferable wind or solar energy system tax credit against individual and corporate income tax for the cost of purchase and installation of a wind or solar energy system by a resident individual at his residence located in this state or by the owner of a residential rental apartment project. Provides that the credit may be claimed in cases where an individual purchases a newly constructed home

with such a system already installed or where such a system is purchased and installed at an existing home, or where such systems are installed in new or existing apartment projects.

New law provides that the credit shall be equal to 50% of the first \$25,000 of the cost of each wind or solar energy system, including installation costs, that is purchased and installed on or after 1/1/08. The credit may be used in addition to any federal tax credits earned for the same system.

Provisions regarding gift tax, inheritance tax, and wind or solar energy systems tax credit are applicable to tax years beginning on and after 1/1/08.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 47:2401(B) and CCP Art. 2953(C)(1); adds R.S. 47:297.7(A) and 2451(A)(5) and 6026; repeals R.S. 47:1201-1212)

#### **Tax Sales of Property Not Divisible in Kind (Act No. 195)**

New law provides, relative to tax sales of property for satisfaction of ad valorem taxes, that if the tax collector determines from the description of the property contained on the assessment rolls that it is not divisible in kind, he shall then sell immediately the least quantity of property which any bidder will buy for the amount of the taxes, interests, and costs.

Effective upon signature of governor (June 27, 2007). (Amends R.S. 47:2184)

#### **Tax Equalization Contracts (Act No. 389)**

Existing law authorizes the Board of Commerce and Industry to enter into tax equalization contracts with manufacturing establishments, headquarters, or warehousing and distribution establishments, under which contracts such businesses are granted exemption from excise taxes imposed by the state (not property taxes).

Prior law further provided each contract of exemption entered into shall be reviewed and

reevaluated, and shall be subject to renegotiation, five years from the date of the execution of the contract and may be renewed for an additional five-year period, provided that the total number of years of exemption shall not exceed 10 years.

New law removes the 10-year limitation and provides that at the discretion of the Board of Commerce and Industry, subsequent renewals for additional five-year or less periods may be granted if the applicant can demonstrate the conditions of the initial contract were met and the activities of the applicant in the state of Louisiana generate economic benefits to the state that exceed 20 times the benefit to the applicant of the incentive provided by existing law for the year preceding the request for renewal.

New law requires the Board of Commerce and Industry to forward its recommendations, together with the proposed contract and all supporting documents, to the Department of Economic Development and the Joint Legislative Committee on the Budget. The committee has 30 days to approve or reject the renewal contract.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 47:3204(B)(1) and 4302(B))

#### **Tax Credits for Investments in Low-Income Areas (Act No. 379)**

New law grants a non-refundable income and corporate franchise tax credit to a taxpayer who holds a "qualified equity investment" on certain "credit allowance dates" if the "qualified equity investment" is in "qualified low-income community investments" on the "credit allowance date."

New law increases the credit percentage from 1% of the first three "credit allowance dates" to 10% of the first two, and from 2% of the remaining four to 5% of the remaining one.

New law caps the tax credit amount of "investments issued to taxpayers" after the date

the new law becomes effective at \$50 million "over the life of the program."

New law defines "qualified low-income community business" the same as in Section 45D of the IRC - (i.e. 50% of gross income earned in the active conducting of a business, use of substantial portion of its property, or a substantial portion of its performance is in a low income area) and "qualified business" the same as in such Section, and specifically includes otherwise qualified businesses located in any special GO Zone Targeted Population or "similar census tract" approved as eligible for receipt of qualified low-income community investments under 45D of the IRC.

New law authorizes the Department of Revenue to recapture some of the state tax credits under certain conditions.

New law provides for the manner in which various entities may claim the credit. New law authorizes the transfer of unused credits and provides for a procedure to do so.

New law provides that credits shall be allowed for qualified equity investments invested in qualified low-income community investments made on and after the earlier of the effective date of the new law, or 7/1/07, until 12/31/12.

New law, relative to the new markets tax credit, provides that the changes in the new law are not applicable to "qualified equity investments" issued prior to 7/1/07 - which are eligible for credits in accordance with provisions of prior law.

Effective upon signature of the governor (July 10, 2007) or July 1, 2007, whichever occurs first. (Amends R.S. 47:6016)

#### **Tax Credits for Buying Inmate-Made Clothing (Act No. 466)**

New law extends indefinitely the tax credit against corporate and personal income taxes and corporate franchise tax for any individual or business which purchases "specialty apparel items" including, but not limited to industrial

clothes, uniforms, and scrubs, from a contractor in a certified Private Sector/Prison Industry Enhancement Program which employs inmates of Louisiana correctional institutions to manufacture such apparel.

Effective upon signature of the governor (July 11, 2007). (Amends R.S. 47:6018)

#### **Tax Credits for Musical and Theatre Productions and Facilities (Act No. 482)**

Extremely detailed new law provides five types of corporate or individual refundable income tax credits for "state-certified musical or theatrical productions" and for "state-certified musical or theatrical facility infrastructure projects."

"Musical or theatrical production" is defined as producing, rehearsing, marketing, administration, recording, performing and/or filming of a live musical or theatrical performance in the state before live audiences the costs of which are not certified for other tax credits provided for in Louisiana law, whether or not there is a charge for admission. Such performances include, but are not limited to drama, comedy, comedy revue, opera, ballet, jazz, cabaret and variety entertainment.

A "state-certified musical or theatrical production" is defined as such a production, or a series of productions occurring over the course of a 12-month period, and the recording or filming of such production, which originate, are developed, or have their initial public performance before a paying audience within Louisiana, or which have their United States debut within Louisiana.

"State-certified musical or theatrical facility infrastructure project" is defined as a capital infrastructure project in the state directly related to the production or performance of musical or theatrical productions, and movable and immovable property and equipment related thereto, or any other facility which supports and is a necessary component of such facility, and any "expenditures in the state" related to the construction, repair, or renovation of such

project, which are certified, verified, and approved as provided for in the new law.

A "base investment credit" is authorized for "production expenditures" for a "state certified musical or theatrical production," or for investments made by a person in such production which are, in turn, expended for such production expenditures.

The credit includes "production expenditures," expenditures for the payroll of residents, "transportation expenditures," and expenditures for employing college and vo-tech students related to such production or productions, that are "certified, verified, and approved" as provided for in the new law.

Until 1/1/14 and under certain conditions, a "base investment credit" may be granted for "expenditures in the state" for the construction, repair, or renovation of a "state-certified musical or theatrical facility infrastructure project," or for investments made by a financier in such infrastructure project which are, in turn, expended for such construction, repair, or renovation. The credit cannot exceed \$10 million per project.

New law provides that no more than \$60 million in tax credits shall be granted for infrastructure projects per year, granted on a first-come, first-served basis. If total credits applied for exceed this amount, the excess is treated as having been applied for on the first day of the next year.

New law provides that 50% of the tax credits granted under new law for infrastructure projects are to be "reserved" for projects located outside of Jefferson and Orleans parishes, but prohibits credits granted for projects within those parishes from being "conditioned" upon the granting of tax credits for projects outside of those parishes.

"Expended in the state" for both productions and infrastructure projects is defined as expenditures for tangible property to be used within the state; and in the case of services, expenditures for services performed within the state; and in the case of "intangible property," means the acquisition of permits, licenses, or other rights

related to such productions or infrastructure projects used within the state.

Subject to the limitations on the credit for infrastructure projects, the "base investment credit" provides income tax credits ranging from 10% to 25% of the base investment, depending on its amount.

"Base investment" is defined for infrastructure projects as "expenditures in the state" for the construction, repair, or renovation of a state-certified musical or theatrical facility infrastructure project.

"Base investment" is defined for productions as expenditures or investments made by a person for "production expenditures" for a state-certified musical or theatrical production. Such "production expenditures" are defined as development, production, or operating "expenditures in this state" for a state-certified production.

New law grants an additional transportation expenditure credit for large percentages of certified, verified, and approved "transportation expenditures"; provided that transportation services are purchased through a company which has a significant business presence in the state.

New law grants an additional tax credit of one tenth of one percent of the amount expended to employ students enrolled in Louisiana colleges, universities, and vo-tech schools in a state-certified production in arts-related positions, such as actor, writer, producer, stage hand, or director, or as a technician working on aspects of the production such as lighting, sound, and actual stage work, or working indirectly on the production in accounting, law, management, and marketing.

New law grants an additional tax credit of 10% of base investment that is expended on payroll for Louisiana residents employed in connection with a state-certified musical or theatrical production, except for the students, or the construction of a state-certified musical or theatrical facility infrastructure project.

However, the additional credit may not include any amount paid to any one person that exceeds \$1 million.

New law provides that the credit is allowed against individual or corporate income tax of the "companies" or "financiers" of the production or infrastructure project in accordance with their share of the credit as provided for in the application for "certification" for the production or infrastructure project. New law authorizes the transfer of the credit on a one-time basis, and/or any refund of an overpayment, to an individual or other entity, provided that the transfer is not effective until receipt by the Department of Revenue.

New law provides that the secretary of the Department of Economic Development, the commissioner of administration, and the office of the governor determines which productions and which infrastructure projects are to be "certified."

Prior to "final certification" of a production or infrastructure project, the applicant must submit to DED a report of the final amount of qualifying expenditures, which report DED may require to be prepared by an independent CPA. DED must review the report and, upon the consent of the commissioner and the office of the governor, issue a "final tax credit certification letter," certifying the applicant and indicating the type and amount of tax credits for which the applicant or other companies or financiers are eligible. An applicant is required to reimburse DED for any audits required in relation to granting the certification or tax credits.

New law provides that if funds for which credits were received were not expended for "production expenditures" or were not "expended in the state" for an infrastructure project, then the taxpayer's income tax for such taxable period must be increased by the amount necessary for the recapture of the credit.

Effective upon signature of the governor (July 19, 2007) and applicable to expenditures incurred after that date. (Adds R.S. 47:6026)

### **Tax Credits for Employers of Apprentices (Act No. 472)**

New law grants employers, for all taxable periods beginning after 12/31/07 and ending prior to 1/1/11, a non-refundable "apprenticeship tax credit" against any income tax or franchise tax each tax year equal to \$1.00 for each hour of employment of each "eligible apprentice," not to exceed 1,000 hours for each eligible apprentice.

An "eligible apprentice" is defined as a person who has entered into a written apprentice agreement with an employer or an association of employers pursuant to a registered apprenticeship program as provided for in prior law or a person who is enrolled in a training program accredited by the National Center for Construction Education and Research which has no less than four levels of training and no less than 500 hours of instruction.

Effective upon signature of the governor (July 11, 2007) and applicable to hours of employment of eligible apprentices on and after January 1, 2008. (Adds R.S. 47:6026)

### **Tax Credits for Milk Producers (Act No. 461)**

New law provides that a resident taxpayer engaged in the business of producing milk for sale shall be allowed a refundable income or corporation franchise tax credit based on the amount of milk produced and sold.

New law provides that the credit for each producer shall not exceed \$30,000 per calendar year, and the total aggregate amount of tax credits for all producers shall be capped at \$2,500,000 per calendar year.

Effective for all taxable periods beginning on or after Jan. 1, 2007. (Adds R.S. 47:6026)

### **Tax Credits for Angel Investors (Act No. 445)**

New law specifies that the Angel Investor Tax Credit is a refundable tax credit.

Effective August 15, 2007. (Amends R.S. 47:6020.1(A) and 6020.2(A)(1))

**Tax Credits for Voluntary Remediation of Brownfields (Act No. 392)**

New law increases the state income tax credit from 15% of the total investment made to 50% of the total investment made by a taxpayer in voluntary remediation at a state-certified brownfield site.

New law deletes prior law provision allowing the tax credit upon the date of completion of the investigation or remediation and allows credits to be applied when expenditures for remediation are certified by the secretary of DEQ.

New law changes the procedure for applying for and obtaining approval of the credits.

New law clarifies that no corporation or partnership including any company owned, affiliated, or controlled, in whole or in part, by any company or person that is a responsible person is eligible for a brownfields tax credit.

New law provides for the transferability or sale of unused tax credits to another Louisiana taxpayer.

New law provides that no tax credits may be granted after 12/31/09; however, the transferability provisions may continue to be effective after 12/31/09 for tax credits authorized prior to that date.

The Act is effective for taxable periods beginning on or after 1/1/08.

Effective August 15, 2007. (Amends R.S. 47:6021)

**Tax Credits for Sound Recording Investors (Act No. 368)**

Prior law authorized the granting of refundable sound recording investor income tax credits for investments made in state-certified productions and state-certified musical recording infrastructure projects until 1/1/08, with a limit upon the aggregate amount of tax credits certified for all investors during any calendar year of \$3 million. Investors are allowed the

following credits: 10% if the total "base investment" is greater than \$15,000 and less than or equal to \$150,000; 15% if greater than \$150,000 and less than or equal to \$1,000,000; 20% if greater than \$1,000,000.

New law extends the 1/1/08 termination date to 1/1/10.

New law further allows investors a tax credit of 25% of base investment in excess of \$15,000 for productions and infrastructure projects certified on and after 7/1/07.

New law requires DED to approve within 180 days of receipt of a complete application for initial certification of an infrastructure project or production.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 47:6023(B); R.S. 47:6026(B)(1) as enacted by that Act which originated as SB 9 of 07 RS)

**Claim Form for Tax Credit for Emergency Assessments (Act No. 382 of 2006 2nd Extraordinary Session)**

Prior law provided for a refundable tax credit from individual and corporation income taxes for the amount of surcharges, market equalization charges, or assessments paid by a taxpayer during the taxable year as a result of the 2005 regular or the emergency assessments levied due to hurricanes Katrina and Rita by La. Citizens Property Insurance Corporation.

Prior law further provided that assessment amounts paid on or after 1/1/07, be claimed and allowed on the first income tax return that is due in the year after the payment. New law instead provides that these assessment amounts be claimed and allowed on a form provided by the secretary after the payment is made.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 47:6025(A)(3))

**Tax Credits for La. Citizens Property Insurance Corporation Assessments (Act No. 4)**

New law provides for a refundable tax credit from individual and corporation income taxes for the amount of surcharges, market equalization charges, or assessments paid by a taxpayer during the taxable year as a result of the 2005 regular or emergency assessments levied due to Hurricanes Katrina and Rita by La. Citizens Property Insurance Corporation for the FAIR Plan and Coastal Plan.

New law provides that the credit shall be applicable to all taxable periods beginning on or after Jan. 1, 2006.

Effective upon signature of the governor (Dec. 21, 2006). (Adds R.S. 47:6025)

**Community Development Corporations and Related Financial Institutions (Act No. 374)**

New law provides for the formation of certified community development corporations and certified community development financial institutions, provides the requirements for each, provides the criteria for certification by the Department of Economic Development, and provides for tax credits for donations, contributions or sales below cost to same.

Effective upon signature of the governor (July 10, 2007). (Adds R.S. 33:130.731-737 and R.S. 47:6026)

**Sugarcane Hauling Permits and Tax Credits (Act No. 365)**

Existing law requires the secretary of the Department of Transportation and Development (DOTD), provided there are no objections from the federal government, to issue annual special permits to persons who own or operate trucks which haul sugarcane at a gross vehicle weight not to exceed 100,000 pounds. Provides that such permits may be issued to either the pulling unit or the trailer contained in the combination which shall have a minimum of 18 wheels.

Existing law prohibits the secretary of DOTD from issuing any annual special permits to any owner or operator of a vehicle hauling sugarcane who has not added an additional single axle on the sugarcane trailer for a total of six axles for the vehicle and trailer combination, beginning 8/1/10.

New law extends the date until which the DOTD may continue to issue certain sugarcane hauling special permits to 8/1/12.

New law allows a refundable tax credit for either the acquisition of a sugarcane trailer that is eligible for a special permit which replaces an ineligible sugarcane trailer or for conversion of an ineligible trailer to an eligible trailer.

New law provides that the tax credit is applicable to La. income taxes or corporate franchise taxes. The amount of the credit is \$8,500 per trailer for amounts paid in 2008. The amount decreases by \$500 each year through 2012; no credit is allowed for costs paid after 1/1/13.

New law provides that the provisions pertaining to tax credit for conversion or acquisition of trailers which haul sugarcane shall apply to the cost of conversion or modification of eligible sugarcane trailers paid on or after 1/1/09.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 32:387.7(B); adds R.S. 47:6026)

**Tax Credits for Mentors (Act No. 356)**

New law defines a "mentor" as a business committed and able to provide professional guidance and support to a protégé business to facilitate the protégé's development and growth. New law defines a "protégé" as a business certified active in the Dept. of Economic Development's (DED) Small and Emerging Business Development Program or that is registered in the state's small entrepreneurship program and is the recipient of developmental assistance pursuant to a Mentor-Protégé Agreement.



New law defines a "Mentor-Protégé Agreement" as a written agreement between the mentor and protégé, approved by DED, that includes an assessment of the protégé's needs, a description of the specific assistance that the mentor will provide to address those needs, the term of the agreement, and establishes the amount of the tax credit.

New law provides that in order to qualify for a mentor tax credit, each mentor shall possess a favorable financial health, shall demonstrate its capability to provide managerial or technical skills transfer or capacity building, and must meet the goals and objectives of the Mentor-Protégé Agreement.

New law provides that a mentor may be granted a refundable credit on any income or corporation franchise tax liability owed to the state by the mentor. The amount of the refundable credit shall be established by DED; however, the maximum amount of tax credits available under any one Mentor-Protégé Agreement shall not exceed \$50,000.

New law prohibits tax credits granted by DED in any fiscal year to exceed \$1 million. New law authorizes DED to recapture credits under certain circumstances.

New law provides penalties for any person making a false or fraudulent application or claim for a mentor-protégé tax credit. Further provides that any person convicted of a violation of new law shall be liable for the repayment of all credits which were granted to that person.

Effective August 15, 2007 for all income tax years beginning on or after January 1, 2007, and franchise tax years beginning on or after January 1, 2008. New law shall become null and void on December 31, 2011. (Adds R.S. 47:6026)

#### **Tax Credits for Small Business Inventories (Act No. 357)**

New law provides for a refundable Louisiana income or corporation franchise tax credit for the amount of any overpayment made by a taxpayer with gross receipts from business of

\$500,000 or less as a result of failing to claim any inventory tax credit for each tax year from 1999 through 2002 for income taxes, and for each tax year from 2000 through 2003 for corporation franchise taxes. The credit not previously claimed for these tax years may be claimed on amended returns until December 31, 2007.

New law is limited to \$10,000 per taxpayer and there can be no more than \$500,000 of total credits granted.

Effective August, 15, 2007. (Adds R.S. 47:6026)

#### **Sales Tax on Telecommunications (Act No. 358)**

New law conforms the state sales tax on telecommunications to the definitions from the Streamlined Sales Tax Agreement.

New law provides that any sale of a prepaid calling service or prepaid wireless calling service, or both, shall be deemed to be the sale of tangible personal property.

New law provides that prepaid calling services and prepaid wireless calling services shall be subject to the sales tax if the sale takes place in this state. If the customer physically purchases a service at the vendor's place of business, the sale is deemed to take place there. If the customer does not physically purchase the service at the vendor's place of business, the sale is deemed to take place at the first of the following locations that applies to the sale: (1) the customer's shipping address, if the sale involves a shipment; (2) the customer's billing address; (3) any other address of the customer that is known by the vendor; or (4) the address of the vendor or, alternatively in the case of a prepaid wireless calling service, the location associated with the mobile telephone number.

New law provides that, with certain exceptions, telecommunications services sold on a call-by-call basis shall be subject to the state sales and use tax if: (1) the call both originates and terminates in this state; or (2) the call either originates in this state or terminates in this state

and the service address associated with the call is located in this state.

New law provides that, with certain exceptions, telecommunications services sold on a basis other than a call-by-call basis shall be subject to the state sales and use tax if the telecommunications service is charged to a customer whose place of primary use is in this state.

New law provides that, with certain exceptions, mobile telecommunications services provided by a customer's home service provider shall be subject to the state sales and use tax if the customer's place of primary use is in this state.

New law provides for various exceptions to the sourcing rules provided for in new law.

New law provides that the sales price of telecommunications services shall include, whether or not separately stated, various charges but not others.

New law contains extensive new definitions.

Effective August 1, 2007. (Amends R.S. 47:301, 321(A), 337.10(H)(1), and 6014(E)(1)(a); Adds R.S. 47, 301.1, 302(C), and 331(C); Repeals R.S. 47, 302(C), and 331(C))

### **Tax Credits for Child Care (Act No. 394)**

New law grants credits against income tax and corporate franchise tax for child care for children 5 years old or less.

New law grants a credit against individual income tax for child care expenses which is in addition to the credit provided for such expenses in existing law in R.S. 47:297.4. The new credit is based upon the existing credit and upon the "quality rating" of the "child care facility" which the child attends.

New law grants a refundable credit against any individual or corporation income tax or corporation franchise tax for child care providers. The tax credit is based upon the average monthly number of children who either

participate in the Child Care Assistance Program administered by the Office of Family Support in the Department of Social Services or who are foster children in the custody of the department, and who are attending a child care facility or facilities operated by the child care provider, multiplied by an amount which is based upon the "quality rating" of each child care facility operated by the "child care provider".

New law grants a refundable credit against individual income tax for eligible child care directors and eligible child care staff for various amounts based upon certain qualifications.

New law grants a refundable credit against any income tax or corporation franchise tax for the eligible business child care expenses of a business. The credit is a percentage of such eligible business child care expenses depending upon the "quality rating" of the child care facility to which the expenses are related.

"Eligible business child care expenses" is defined as the following expenses of an employer:

1. For the construction, renovation, expansion, or major repair of an "eligible child care facility" or for the purchase of equipment for such facility, or for the maintenance and operation thereof, not to exceed \$50,000 per tax year.

2. For payments made to an "eligible child care facility" for child care for each child for which the employer pays for services not to exceed \$5,000 per child per tax year.

3. For the purchase of child care slots at eligible child care facilities actually provided or reserved for children of employees, not to exceed \$50,000 per tax year.

There is also an additional refundable credit against any income tax or corporation franchise tax for the payment by a business of fees and grants to child care resource and referral services not to exceed \$5,000 per tax year.

Effective upon signature of the governor (July 10, 2007). (Adds R.S. 47:6101-6109)

**Assignment of Lottery Winnings (Act No. 139)**

New law provides that the right of a person to a prize payable in deferred annuity payments may be voluntarily assigned as a whole or in part, if the assignment is made to a person designated in accordance with an order of the 19th JDC.

New law provides for the criteria the court shall use in ordering a voluntary assignment of lottery annuity prizes, including a certification from DSS, office of family support, as to whether child support payments are in arrears or whether an overpayment exists.

Effective August 15, 2007. (Amends R.S. 47:9025(B)(1); Adds R.S. 47:9027)

**L.A. R.S. TITLE 48: ROADS, BRIDGES AND FERRIES**

**DOTD Project Bid Laws (Act No. 386)**

New law doubles threshold amounts relating to projects for construction, maintenance, or improvements to highways or other public facilities advertised and let by the Dept. of Transportation and Development (DOTD), so that contracts under \$50,000 do not require advertisement or bids; contracts over \$50,000 but less than the "contract limit" of \$500,000 may be let by "invitation to bid," rather than by advertising; and contracts over the "contract limit" of \$500,000 must be advertised for bids, except in emergencies.

New law restricts bids submitted for projects in excess of \$50,000 to using only bid bonds. New law provides that the bid bonds of unsuccessful bidders will not be returned by DOTD.

New law provides that the low bidder must be the lowest responsive bidder on the base bid if the bidding documents contain additive alternates, but retains the authorization in prior law for such alternates to be accepted in any order which does not affect determination of the low bidder.

New law requires bidding documents to specify whether the low bid will be determined based on the lowest bid cost, the lowest combination of bid cost plus construction time, or the lowest combination of bid cost plus construction time plus estimated life cycle cost. If construction time is utilized as a factor to determine the lowest responsive bidder, then its value and use in the determination of the lowest responsive bidder must be specified in the bidding documents.

New law makes various minor procedural changes regarding the means of soliciting and submitting bids.

Effective July 1, 2007. (Amends R.S. 48:251(B), 251.9(A)(1), 252, 253, and 255(C); adds R.S. 48:252(H); repeals R.S. 48:255(B)(7))

**DOTD Small Engineering Consultant Program (Act No. 40)**

New law authorizes the Dept. of Transportation and Development (DOTD) to establish a Small Engineering Consultant Program. Under the program small engineering firms (not more than three engineers) are prequalified for preconstruction engineering services on small DOTD projects (estimated construction costs below \$500,000). Provides that "preconstruction engineering services" includes all professional services before initiation of construction, including but not limited to surveys, environmental analysis, design, and bidding analysis.

New law requires that in order to be prequalified for selection for an engineering contract under the program, a firm must annually apply for participation and meet various qualifications.

New law provides that a firm shall be disqualified if it receives an average performance rating of less than 1.4 on three projects. A prequalified consultant removed from the program may not requalify for three years, unless a corrective action plan is submitted to the department's project manager and approved by the chief engineer or his designee.

New law provides that all firms that timely apply, that meet the qualifications, and that are not disqualified shall be accepted as prequalified firms.

New law provides that when the department has a project appropriate for the program, it shall notify all prequalified firms regarding the project. Based on responses from such firms, the department shall prepare a short list of firms for the particular project; the short list shall be comprised of the five interested firms who are geographically closest to the construction site, or all interested firms if fewer than five express interest. The winning firm is selected at random from the short list. Prequalified firms are limited to five projects through this program.

Effective January 1, 2008. (Amends R.S. 48:285; Adds R.S. 48:292.1)

**L.A. R.S. TITLE 49: STATE ADMINISTRATION**

Nothing of particular interest.

**L.A. R.S. TITLE 50: SURVEYS AND SURVEYORS**

Nothing of particular interest.

**L.A. R.S. TITLE 51: TRADE AND COMMERCE**

**Scrap Metal Dealer Reporting (Act No. 65)**

New law requires that every person engaged in a junk yard, auto wrecker, scrap metal, junk truck or similar business must include in reports filed with the Department of Public Safety and Corrections the driver's license number of each person from whom any material was purchased.

New law provides that the purchaser may electronically maintain certain data and must provide such data to the appropriate law enforcement agency upon its request.

Existing law provides that for a period of not less than 10 days from the date on which all of the reports are required, the material purchased or acquired be kept separated so that it is readily identifiable from all other purchases. New law allows the owner to photograph the material purchased or acquired instead of keeping the material pursuant to existing law. New law requires a time and date stamp on the photograph as well as identification of the individual taking the photograph.

Effective August 15, 2007. (Amends R.S. 51:579(A)(1)(a), (c), and (e), and (2), (B), (C), and (D))

**More Scrap Metal Dealer Reporting (Act No. 322)**

New law requires that all dealers in scrap metal and junk include in their filed report a photocopy of either a valid driver's license or valid identification card issued by the seller's current state of residence.

New law further provides that the purchaser may electronically maintain certain data and must provide such data to the appropriate law enforcement agency upon their request.

(Amends R.S. 51:579)

**Mobile Homes and Manufactured Housing (Act No. 441)**

New law makes various changes to laws relating to the sale, lease, or distribution of mobile homes or manufactured housing, especially by manufactured housing community or park owners.

Effective August 15, 2007. (Amends R.S. 51:911.22, 911.24(C)(2), 912.25(intro. para.), and 912.27(B); Adds R.S. 51:912.51-912:53; Repeals R.S. 51:911.26(I))

**Enterprise Zone Tax Credits Tightened (Act No. 279)**

Present law provides for credits against income tax and corporate franchise tax of \$2,500 or

\$5,000 per tax year per employee depending on the type of business, claimed by a business enterprise in an enterprise zone. New law provides that the credit shall only be applicable to a position within the state that is filled by a person who is a citizen of the United States and who is domiciled in Louisiana, or who is a citizen of the United States and becomes domiciled in Louisiana within 60 days after his employment in such position. New law further provides that the total number of credits allowed to a business enterprise for employees who are citizens of the United States and who become domiciled in Louisiana within 60 days after employment shall not exceed 50% of the total number of credits allowed to the business enterprise under the contract.

Effective upon signature of the governor (July 6, 2007). (Amends R.S. 51:1787(A)(3))

**Enterprise Zone Tax Credits Loosened (Act No. 271)**

Prior law authorized contracts for businesses located in enterprise zones, for a period not to exceed five years, that provide for a \$2,500 credit against income and franchise tax per employee during the taxable year for which credit is claimed, so long as certain criteria are met.

New law changes the employee residency requirement to be that 35% of the employees are residents of any enterprise zone in Louisiana.

New law is applicable to contracts entered into on and after 7/1/07.

Effective upon signature of the governor (July 6, 2007). (Amends R.S. 51:1787(B)(4), (D)(4), and (H)(3))

**Sales Tax Rebates for Commercial Construction; Enterprise Zone Tax Credits; Quality Jobs Program Tax Credits (Act No. 400)**

Existing law authorizes the State Board of Commerce and Industry, with the approval of the secretaries of the Dept. of Revenue and the

Dept. of Economic Development and the governor, to enter into contracts of up to five years to provide for the rebate of state and local sales and use taxes for the following:

1. The use of customer-owned tooling in a compression molding process.
2. The purchases of material used in the construction of a building, or any addition or improvement thereon, for housing any legitimate business enterprise, and machinery and equipment used in that enterprise.

New law provides for the option of choosing the rebate provided for in present law or taking a refundable investment income tax credit equal to 1-1/2% of certain qualified expenditures.

New law defines "qualified expenditures" to mean amounts classified as capital expenditures for federal income tax purposes plus exclusions from capitalization provided for in I.R.C. Section 263(a)(1)(A) through (L), minus the capitalized cost of land, minus: (1) capitalized leases of land, capitalized interest, and capitalized costs of manufacturing machinery and equipment to the extent the capitalized manufacturing machinery and equipment costs are excluded from sales and use tax pursuant to R.S. 47:301(3); and (2) capitalized cost for the purchase of an existing building.

Prior law provided, under an enterprise zone contract, for a \$2,500 tax income or corporation franchise tax credit per employee of a company granted a contract. New law provides that the \$2,500 tax credit shall only be granted for each net new employee as determined by the company's average annual employment reported under the La. Employment Security Law.

New law provides for a sunset date of June 30, 2009 for the \$5,000 tax credit for each new job created by certain motor vehicle parts manufacturers in the Enterprise Zone Program, and a sunset date of June 30, 2012 for the \$5,000 tax credit for each new job created by certain rubber manufacturers in the Enterprise Zone Program.

New law provides that the prior law employee restrictions apply to all business enterprises claiming the enterprise zone employee tax credit.

New law repeals certain duplicative provisions of prior law regarding the enterprise zone tax rebates and credits and merges prior law provisions dealing with rural enterprise zones, economic development zones, and urban economic development zones in Calcasieu Parish into the provisions dealing with urban enterprise zones.

New law allows an employer who has executed a quality jobs program contract to be entitled to a choice of either the enterprise zone sales and use tax rebate or the new enterprise zone refundable investment income tax credit of new law.

New law provides that on and after January 1, 2012, no new applications to receive incentive tax credits or rebates under the La. Quality Jobs Program Act shall be approved by the Department of Economic Development. However, an employer which, prior to January 1, 2012, has been approved by the department to receive incentive tax credits or rebates under the program shall continue to receive tax credits or rebates pursuant to the terms of its agreement with the state of La. as long as the employer retains its eligibility.

Effective upon signature of governor (July 10, 2007). (Amends R.S. 51:1787(A), (B), (I), and (J), 2456(B), and 2461(B); Repeals R.S. 51:1787(C), (D), and (H))

**Technology Commercialization Tax Credit and Jobs Program (Act No. 401)**

New law establishes a program for providing a refundable tax credit against La. income or corporation franchise taxes for those who invest in fees and costs related to obtaining the rights to use or the use of technology and invest, by lease or purchase, in machinery and equipment used in the commercialization of a product or intellectual property owned or research sponsored by a regionally accredited college,

technical school, or university located in La. or any product or intellectual property to which significant development or enhancement occurred in La.

New law further provides for a refundable tax credit for new jobs created, such credits to be earned over not less than five and not more than ten consecutive years.

New law requires, to qualify for earning a credit, an agreement with a La. regionally accredited college, technical school, university, or research company to commercialize or research a technology and an investment of no more than \$250,000 in La.

New law authorizes a qualifying research center that develops technology to be commercialized to apply for a refundable tax credit on new jobs created.

New law provides that a taxpayer may earn and apply for and, if qualified, be granted a credit on any income or corporation franchise tax liability owed to the state by the taxpayer seeking to claim the credit, equal in value to 40% of the amount of money invested by the taxpayer applicant in commercialization costs for one business location.

New law provides that there shall be no tax credits granted or earned after December 31, 2011.

Effective upon signature of governor (July 10, 2007). (Adds R.S. 51:2351-2356)

**La. Quality Jobs Program (Act No. 387)**

The Louisiana Quality Jobs Program provides economic incentives to employers who meet certain qualifications. New law eliminates various industries which qualify for benefits and adds industries which are located in areas designated by DED as being a distressed region.

New law provides that for new direct jobs that pay at least \$14.50 in hourly wages and health care benefits, the benefit rate will be 5% of the new direct jobs receiving the wages; and for new

direct jobs that pay at least \$19.10 in wages and health care benefits, the benefit rate will be 6%. New law requires that the basic health benefit plan offered to individuals must have a value of at least \$1.25 per hour for each new direct job.

New law extends the program until 1/1/12. New law further provides that the provisions of prior law may apply to all contracts executed or filed prior to 6/30/2008, unless the employer chooses to amend its existing contract to adopt the provisions contained in new law.

Effective upon signature of the governor (July 10, 2007). (Amends R.S. 51:2453, 2454(B) and (C), 2455(E)(2), 2457, 2461(B), and 2462

### **Tax Credits for Investing in Community Development Financial Institutions (Act No. 345)**

New law provides individuals or businesses that invest in a La. Community Development Financial Institution (LCDFI) may earn, apply for, and be granted a transferable tax credit on any personal income, corporate income, or corporation franchise tax liability equal to 75% of the person's investment in the LCDFI.

New law defines LCDFI as an entity whose "primary business activity" is investing in "qualified Louisiana businesses" in "low-income communities." "Qualified Louisiana business" is defined as any of the following:

1. A business that performs substantially all of its production in Louisiana, or is headquartered in Louisiana with a substantial portion of its assets located in Louisiana, and of which 80% of the total employees of the business are domiciled in the state and 80% of the payroll is paid to such employees.
2. A Louisiana-based nonprofit corporation which furthers community development and which is in good standing with the secretary of state.
3. Loans to medical service professionals, professional medical corporations, or buildings constructed to house the medical practices of the foregoing provided the medical practice is

located in a "low-income community" or a "medically underserved area".

4. Any qualified Louisiana business that has been temporarily displaced as a result of a natural disaster, regardless of where the temporary location is based.

New law defines "low-income community" as:

5. Any census tract that had 35% of the median family income

6. Any community located in an area in which a major disaster has been declared under the Stafford Act by reason of Hurricane Katrina or Rita for income and franchise tax credits

7. Any census tract which has a poverty rate of at least 20% or in which the median income of that census tract is 80% or less of the statewide median income

8. Any "medically underserved area" to the extent the business assists in the providing of, or delivery of, health care services, prescription drugs, or medical equipment

9. Any location to which a Louisiana business has been temporarily displaced as a result of a natural disaster

New law provides that the portion of a LCDFI's qualified investments outstanding at any one time in any group of affiliated Louisiana entrepreneurial businesses shall not exceed 25% of the LCDFI's total certified capital.

New law extends the program until July 1, 2009, and continues to apply to any granted tax credits until July 1, 2012.

Effective upon the earlier of signature of governor or June 30, 2007. (Amends R.S. 47:1508(A)(1), 51:3083, 3084, 3085, 3087(A) and (B), 3091, 3093, and 3094; Adds R.S. 47:1508(B)(23) and (24))

### **La. Infrastructure Bank Fund (Act No. 276)**

New law creates the Louisiana Infrastructure Bank Fund, to fund or assist in funding "eligible infrastructure projects" of public entities through a revolving loan fund, to be capitalized by

federal grants, state funds when required or available, and other funds generated by the operation of the fund.

New law authorizes the bank to review, accept, or deny all loan applications made by any public entity, but requires that all projects have prior approval of DED.

New law authorizes the infrastructure bank to receive, administer, and expend grants from the federal government; to make loans at or below market interest rates; to guarantee loans; to provide interest reduction on loans and loan guarantees; to make bond interest subsidies; to provide bond guarantees to local governments and political subdivisions; to assist with non-federal share of the cost of a local government or political subdivision project; to finance expenses of publicly owned projects; to finance the cost of purchase or lease agreements for transit projects; to secure bonds or other evidence of indebtedness; to improve credit market access; to fund programs authorized by the federal government; and to provide for any other expenditure consistent with the federal grant and state law.

New law requires that loans made from the fund and any other action by the department on behalf of an infrastructure project receive State Bond Commission approval.

New law requires investment by the state treasurer of money dedicated to the operation of the infrastructure bank.

New law authorizes a political subdivision to dedicate a portion of its revenues for repayment of any portion of a loan. New law provides for the sale, advertisement, and contesting of bonds, notes, or other evidence of indebtedness of a political subdivision. New law exempts such bonds, notes, and other evidence of indebtedness from taxation and authorizes their investment for banks, savings banks, U.S. Treasury securities and other investments. New law provides that the debt will not be considered net state tax supported debt for purposes of the debt limitation.

New law prohibits the use of funds to benefit any private entity.

Effective upon signature of the governor (July 6, 2007). (Adds R.S. 51:3101-3105)

### **Banking Development Districts (Act No. 255)**

New law establishes banking development districts in geographic areas where there is a demonstrated need for banking services.

New law requires a local government and any financial institution which will be located in the proposed banking development district to submit an application to the commissioner of OFI for the designation of such a district.

New law authorizes a local government to designate a financial institution located in the district as a banking district depository for purposes of depositing local funds.

New law authorizes the governing body of a local government to enter into a tax abatement agreement with a financial institution with respect to the property on which the branch is located in a banking development district.

Effective August 15, 2007. (Adds R.S. 51:3101-3109)

### **L.A. R.S. TITLE 52: UNITED STATES**

Nothing of particular interest.

### **L.A. R.S. TITLE 53: WAR EMERGENCY**

Nothing of particular interest.

### **L.A. R.S. TITLE 54: WAREHOUSES**

Nothing of particular interest.



**L.A. R.S. TITLE 55: WEIGHTS AND MEASURES (REPEALED)**

Nothing of particular interest.

**L.A. R.S. TITLE 56: WILDLIFE AND FISHERIES**

**Destruction of Natural Evidence (Act No. 84)**

New law provides that no person shall intentionally conceal, destroy, or deposit any fish, wildlife, or other animal which was taken or possessed illegally if the person knows or has good reason to believe that such act will affect a criminal proceeding.

Effective August 15, 2007. (Adds R.S. 56:16)

**Hunting/Fishing License Issuance Contracts (Act No. 85)**

New law authorizes the Dept. of Wildlife and Fisheries to utilize the request for proposals process in selecting an electronic license issuance contractor and to enter into multiyear contracts not to exceed ten years.

Effective August 15, 2007. (Amends R.S. 56:30.1; Adds R.S. 39:198(G))

**Vessel Monitoring System for Oyster Thieves (Act No. 310)**

New law makes vessel monitoring system (vms) requirements consistent and applicable to all violations of laws regarding taking of oysters.

New law provides that the cost of the VMS is the responsibility of the person convicted of the violation.

New law provides that any person required to harvest from a vessel with a VMS who is found harvesting from a vessel not so equipped shall have his harvester's license suspended for the remainder of the year in which he is convicted, and he shall not be eligible for a harvester's license the following year.

Effective August 15, 2007. (Amends R.S. 56:424(E)(2) and 433(J); Adds R.S. 56:424.1)

**Transient Reptile and Amphibian Dealers (Act No. 81)**

Prior law required nonresidents engaged in buying, acquiring, selling, transporting, or handling any species of native reptile or amphibian in La. to purchase a reptile and amphibian wholesale/retail dealer's license at a cost of \$405. New law authorizes the issuance of a nonresident three-day reptile and amphibian wholesale/retail dealer's license for \$75. The license is valid only for three consecutive days.

Effective August 15, 2007. (Amends R.S. 56:632.5(E); Adds R.S. 56:632.5(F))

**Dredging Licenses (Act No. 454)**

New law prohibits the dredging of fill sand or fill material from state water bottoms without a license from the Dept. of Wildlife and Fisheries.

New law provides for royalties to be paid to the Wildlife and Fisheries Commission.

New law exempts a private landowner from the fees and bond requirements of existing law if it is engaged in an approved coastal conservation or restoration activity.

New law provides that dredging any water bottom to remove sediment buildup, to preserve or restore the natural habitat, or to enhance navigation and recreation activities is exempt from royalty payments and bond requirements, provided certain approvals are obtained.

New law requires any entity or person exempt from royalty payments and bond requirements to obtain a license.

New law specifically exempts port authorities and port, harbor, and terminal districts, but requires them to have applicable federal or state permits.

Effective August 15, 2007. (Amends R.S. 56:2011-2015)