

**2010 LOUISIANA
LEGISLATIVE ACTS
SUMMARY**

2010 Legislative Acts Summary

Contents

This book summarizes those new laws passed by the Louisiana Legislature in 2010 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. 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 2010 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 (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 (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.

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 legislative staff summaries from the Legislature's website

Rei Hardee – implemented all first and second round edits for entire book

Shauna Grissett – assembled all of the summaries in proper order for entire book

Boyce Adams – selected and edited legislative staff summaries for inclusion in book, and found summaries by other organizations

Mike Landry – selected and edited legislative staff summaries for inclusion in book, made second round of edits for entire book, found summaries by other organizations, and provided design and oversight

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

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CONSTITUTION

Partial Repeal of "Offer-Back" Provisions (Act No. 1052)

Present constitution requires that property expropriated for the removal of a threat to public health or safety be offered back to the original owner who allowed the property to become a threat to public health or safety, and if he does not repurchase the property, the property is then required to be offered at public sale.

Proposed constitutional amendment removes the requirement that the property be offered back to the original owner who allowed the property to become a threat to public health or safety and the requirement of public sale.

New law provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 2, 2010.

(Amends Const. Art. I, §4(H)(1))

Waiver of Trial by Jury in Criminal Cases (Act No. 1053)

Present constitution permits a criminal defendant, except in capital cases, to knowingly and intelligently waive his right to a trial by jury.

Proposed constitutional amendment requires the defendant to waive no later than forty-five days prior to the trial date and provides that the waiver shall be irrevocable.

New law provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 2, 2010.

Effective 20 days after proclamation by the governor. (Amends Const. Art. I, §17(A))

Worker's Compensation Appeals (Act No. 1051)

Proposed constitutional amendment provides that when an administrative agency determination in a worker's compensation claim is to be modified or reversed and one judge

dissents, the case shall be reargued before a panel of at least five judges prior to rendition of judgment, and a majority must concur to render judgment.

New law specifies submission of the amendment to the voters at the statewide election to be held on November 2, 2010.

(Amends Const. Article V, Section 8(B))

Homestead Exemption Retention Extensions (Act No. 1050)

Present constitution authorizes homesteads whose owners are unable to occupy them due to damage or destruction during a disaster or emergency declared by the governor to retain the exemption by filing an annual affidavit of intent to return and reoccupy the homestead within five years with the assessor.

Present constitution authorizes owners entitled to the "special assessment level" who are unable to occupy their homesteads due to damage or destruction of the homestead caused by a disaster or emergency declared by the governor to retain the "special assessment level" of the homestead prior to its damage or destruction on the repaired or rebuilt homestead, provided the repaired or rebuilt homestead is reoccupied by the owner within five years.

Proposed constitutional amendment authorizes an extension of the homestead exemption and/or the special assessment level for up to two years for owners who are unable to reoccupy their homesteads within the five-year period, if the homeowner's damage claim is filed and pending:

- a. In a formal appeal process with any federal, state, or local government agency,
- b. In a program offering grants or assistance for repairing or rebuilding damaged or destroyed homes as a result of the disaster, or
- c. In a legal claim against the insurer or insurers of the damaged property.

Proposed amendment authorizes an assessor to grant on a case-by-case basis up to three additional one-year extensions of the homestead exemption and/or the special assessment level under circumstances prescribed by law.

New law specifies submission of the amendment to the voters at the statewide election to be held on November 2, 2010.

Effective January 1, 2011. (Amends Const. Art. VII, Secs. 18(G)(5) and 20(A)(10))

Veterans' Extra Homestead Exemption (Act No. 1049)

Proposed constitutional amendment provides that, in addition to the homestead exemption which applies to the first \$7,500 of the assessed valuation of property, the next \$7,500 of the assessed valuation of property receiving the homestead exemption which is owned and occupied by a veteran with a service-connected disability rating of 100% by the U. S. Dept. of Veterans Affairs shall be exempt from ad valorem tax. This exemption shall apply to the surviving spouse of a deceased veteran with a disability rating of 100% if the exemption was in effect on the property prior to the death of the veteran and the surviving spouse remains the owner of the property.

Proposed constitutional amendment provides that the assessment of a property for which this exemption has been claimed shall not be treated as taxable property for purposes of any subsequent reappraisals and valuation for millage adjustment purposes.

The exemption shall only extend and apply in a parish if it is established through an election which shall be called by the parish governing authority.

New law provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 2, 2010.

Effective January 1, 2011. (Adds Const. Art. VII, §21(K))

Super-Majority Vote for Retirement Benefits (Act No. 1048)

Proposed constitutional amendment provides that no benefit provision for members of La. public retirement systems that has an actuarial cost shall be approved except by legislative

enactment by 2/3 vote of the elected members of each house of the legislature.

New law provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 2, 2010.

(Amends Const. Art. X, §29)

CIVIL CODE

Time Periods for Divorce (Act No. 604)

Prior law provides that the time period for a divorce shall be 180 days if, after a contradictory hearing, a protective order or injunction has been issued and is in effect at the time the petition for divorce is filed. New law additionally provides that the time period shall be 180 days when, in accordance with a consent decree, a protective order or injunction has been issued. New law deletes the requirement that the protective order shall be in effect at the time the petition for divorce is filed.

Present law provides that the time period for a divorce shall be 365 days if there are minor children of the marriage. New law provides that the determination of whether there are minor children of the marriage occurs at the time the rule to show cause is filed in accordance with C.C. Art. 102 or when the petition is filed in accordance with C.C. Art. 103.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends C.C. Art. 103.1(1)(c) and (2))

Prohibited Visitation (Act No. 873)

New law provides that the court shall prohibit visitation and contact between a family member and a child, if the court finds by a preponderance of the evidence that the family member's criminal conduct resulted in the death of a parent of the child.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends C.C. Art. 137)

Usufructs (Act No. 881)

New law provides that the usufructuary has the right to exercise rights in other juridical entities that are similar to voting rights in corporations.

New law provides that the usufructuary is responsible to the naked owner for abuse of the property.

New law provides more specific rules relative to the usufructuary's right to dispose of nonconsumables.

New law adds force majeure as a cause for need of ordinary repairs for which the usufructuary is responsible. New law adds force majeure to the list of causes of destruction of property for which restoration is not mandatory.

New law provides that the usufructuary is liable for periodic charges that may be imposed on the property.

Prior law provides that an inter vivos usufructuary is not liable for the debts of the grantor. New law provides an exception that if the debt is secured by an encumbrance of the thing subject to the usufruct, it may be sold for the payment of the debt.

New law amends prior law in order to coordinate with the revision of the law of successions.

New law provides rules for discharge of encumbrances on the property by an inter vivos usufructuary. New law allows the usufructuary to obtain reimbursement for any interest paid that accrued prior to the commencement of the usufruct.

New law provides rules for discharge of a debt on encumbered property by a mortis causa usufructuary.

Prior law provides rules for selling property subject to a universal usufruct or usufruct under universal title to pay succession debts. New law provides that in the case of encumbered property, the naked owner may advance the funds if the usufructuary refuses to do so and demand that the usufructuary pay interest during the period of the usufruct.

New law provides that if property subject to the usufruct is sold to pay debts, the usufruct

attaches to the proceeds of the sale remaining after the debts are paid.

New law provides rules for the payment of succession debts when there are multiple usufructuaries.

New law provides rules for discharge of a debt on encumbered property by a mortis causa usufructuary.

New law provides that a legacy of an annuity chargeable to property subject to the usufruct is to be paid according to a payment order set forth in new law.

New law provides that the usufructuary may not claim reimbursement for improvements that he does not or cannot remove.

New law deletes the naked owner's authority to lease, alienate, or encumber the property subject to the usufruct.

Prior law provided that the naked owner may establish real rights on the property without impairing the rights of the usufructuary. New law restricts the impairment of the rights of a usufructuary.

New law adds force majeure to the causes of loss of property for which usufruct terminates.

New law provides that when the property changes form, the usufruct attaches to the new form received by the usufructuary.

Prior law gives the naked owner the right to demand that cash proceeds received by the usufructuary be invested in certain cases. New law provides that the naked owner has the right to demand that the usufructuary give security for the proceeds.

New law provides that usufruct terminates by the enforcement of any encumbrance established upon the property prior to the creation of the usufruct.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends numerous C.C. Arts. 538-625; Adds C.C. Arts. 568.1, 568.2, and 568.3)

Separation of Property Judgments (Act No. 603)

Prior law provides that when a petition for divorce is filed, either spouse may obtain a separation of property decree by a rule to show cause and proof of living separate and apart. New law further provides that, upon the motion of either spouse, a judgment of separation of property may be obtained.

Prior law provides that if a separation of property judgment is rendered on the ground that the spouses were living separate and apart after filing for divorce, the judgment shall be effective retroactively to the filing date of the original divorce petition. New law provides that if a judgment is rendered on the ground the spouses were living separate and apart for at least 30 days from the date of, or prior to, the filing of the petition for divorce, the judgment shall be retroactive to the date the petition for divorce was filed.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends C.C. Arts. 2374(C) and 2375(C))

Exchange Transactions (Act No. 186)

Old law provided that exchange is a contract whereby the parties give to one another one thing for another, except money. New law provides that exchange is a contract whereby each party transfers to the other the ownership of a thing other than money.

Old law provided that a contract of exchange is perfected by the bare consent of the parties. New law provides that ownership is transferred between the parties as soon as there is consent on the thing.

New law clarifies that if it is the intent of the parties to postpone the transfer of ownership until a later time, then the contract is a contract to exchange.

Old law provided that the party evicted from the thing received in exchange has the choice of either suing for the return of the thing he gave or damages. New law provides that the party

evicted may demand the return or the value of the thing he gave, with damages in either case.

Old law provided that rescission for lesion can only be obtained in two situations:

(1) In the case of an exchange of immovable property for movables, the person that gave the immovable can obtain rescission for lesion if the movables received are not worth more than 1/2 the value of the immovables.

(2) When an immovable is exchanged for another immovable with a balance paid in movables. In this situation, only the person that paid the balance is entitled to sue for lesion.

New law provides that a party that gives a corporeal immovable in exchange for property worth less than 1/2 of the value of the immovable may sue for lesion.

Old law provided that all the other provisions of sales apply to exchange. New law clarifies that the contract of exchange is governed by the rules of the contract of sale with the differences provided in the contract of exchange.

(Amends C.C. Arts. 2660-2667)

Effect of Recordation of Mortgage (Act No. 385)

Old law provided that the mortgage continues until it is terminated by the mortgagor or his successor in the manner provided in the law or until the mortgage is extinguished in some other lawful manner. New law provides that the effect of recordation of the mortgage is governed by Civil Code Arts. 3357 and 3358.

C.C. Art. 3357 provides for a 10-year prescriptive period for recordation of an instrument creating a mortgage or evidencing a privilege.

C.C. Art. 3358 provides that the effect of recordation ceases six years from the latest maturity date described in an instrument creating certain mortgages or evidencing certain privileges.

(Amends C.C. Art. 3298(E))

CODE OF CIVIL PROCEDURE

Continuous Revision of the Code (Act No. 185)

Old law (C.C.P. Art. 44) references former Art. 3991, judicial emancipation venue, as a nonwaivable venue. New law changes cross-reference to refer to the present article on judicial emancipation venue.

Old law (C.C.P. Art. 596) provides for suspension of liberative prescription on class action claims. New law clarifies that the period of suspension is subject to further suspension by the articles on appeal.

Old law (C.C.P. Art. 1293) provides for service by private person. New law broadens grounds on which a court may order service by a private person in a summary proceeding.

Old law (C.C.P. Art. 1313) provides for service by mail, delivery, or "facsimile". New law changes "facsimile" to "electronic means".

Old law (C.C.P. Art. 1462) provides for discovery of documents and things. New law provides for cost-shifting in discovery of electronically stored information and specification of the means for accessing the information.

Old law (C.C.P. Arts. 3652 and 3656) provides venue for the petitory and possessory actions, referencing former Art. 80(1), which provided for venue in actions to assert interests in immovable property. New law corrects the cross-reference from "Art. 80(1)" to "Art. 80(A)(1)".

Old law (C.C.P. Art. 5152) provides for the surety's right to plead discussion. New law deletes the surety's right to plead discussion by operation of law (abolished by C.C. Art. 3045), and recognizes the surety's right to plead discussion when the right has been created by contract.

Old law (R.S.13:3471(8)) provides for service by facsimile in the supplementary rules of service of process. New law updates the law on supplementary service to allow for service by electronic means.

(Amends C.C.P. Arts. 44, 596, 1293, 1313, 1462, 3652, 3656, 3662, 5152, and R.S.13:3471)

Child Support (Act No. 689)

Prior law provided that a proceeding for modification of support may be brought in the parish where the person awarded support is domiciled. New law provides that a proceeding for modification of support may be brought in the parish where the person awarded support is domiciled only if the support award has been registered in that parish in accordance with C.C.P. Art. 2785 et seq., regardless of the domicile requirements of 2786(A).

New law provides that it is unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in this state, if the obligation has remained unpaid for a period longer than six months or is greater than \$2,500.

Prior law authorized the court to suspend all or any portion of the imposition or execution of the sentence in any case in which restitution was made prior to the time of sentencing. New law provides that the court may not suspend all or any portion of the imposition or execution of the sentence for a second or subsequent offense.

Effective upon signature of governor (June 29, 2010). (Amends C.C.P. Art. 74.2 and R.S. 14:75)

Authority to Act Pending Recusal (Act No. 262)

Prior law provides in both civil and criminal matters that a judge has full power and authority to act in the cause until he has recused himself, or a motion for his recusation has been filed.

New law adds that the judge to whom a motion to recuse is assigned shall have full power and authority to act in the cause pending the disposition of the motion to recuse.

Effective August 15, 2010. (Amends C.C.P. Art. 153 and C.Cr.P. Art. 673)

Electronic Filing of and Access to Court Records (Act No. 461)

New law provides that all pleadings, documents, and exhibits may be transmitted electronically through a system established by the clerk of court.

New law requires the clerk to adopt and implement procedures for electronic filing and provides that public access to electronically filed documents is the same as access to written filings.

New law provides that the electronic record is the official record, and all documents electronically filed are deemed filed on the date and time stated on the confirmation by the clerk of court.

Effective August 15, 2010. (Amends C.C.P. Art. 253)

Attorney Signatures on Pleadings (Act No. 540)

Old law provided that the signature of an attorney or party on a pleading is a certification by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact; that it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

New law retains that the signature of the attorney or party is a certification that he has read the pleading but restates the certification requirements by providing that by signing the pleading, the person is certifying that to the best of his knowledge:

(1) The pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

(2) Each claim, defense, or other legal contention in the pleading is warranted by existing law or by a nonfrivolous argument for

the extension, modification, or reversal of existing law.

(3) Each allegation or other factual contention in the pleading has evidentiary support or, for a specifically identified allegation or factual contention, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

(4) Each denial in the pleading of a factual contention is warranted on the evidence or, for a specifically identified denial, is reasonably based on a lack of information or belief.

New law additionally requires the court when imposing a sanction to describe the conduct that is in violation of law and to explain the basis for the imposed sanction.

(Amends C.C.P. Arts. 863)

Service of Divorce Petitions (Act No. 407)

Prior law provided that citation and service are not required actions for divorce in accordance with Civil Code Art. 102. New law provides that when an Article 102 divorce petition is filed, service of the petition shall be requested within 90 days.

New law further provides that a defendant may expressly waive the service requirement, unless he files a declinatory exception of insufficiency of service of process alleging the failure to timely request service of the petition for divorce.

New law provides that an action for divorce shall be dismissed if service is not timely requested and a declinatory exception of insufficiency of service is filed.

New law provides for prospective application only.

Effective August 15, 2010. (Amends C.C.P. Arts. 925 and 1672; Adds C.C.P. Art. 3955)

Summary Judgment (Act No. 690)

Prior law provided time limitations in which motions for summary judgment, memos in support, and opposing affidavits must be served. New law requires all motions for summary

judgment, memos in support, and opposing affidavits to comply with and be served within the time limits in the district court rules.

Prior law provides that a summary judgment may be rendered dispositive of an issue, theory, cause of action, or defense in favor of one or more parties, even though it does not dispose of the entire case. New law adds that a summary judgment shall be rendered or affirmed only as to the issues presently before the court.

New law provides that when the court determines that a party or nonparty in a motion for summary judgment is not negligent, not at fault, or did not cause the injury or harm alleged, that party or nonparty may not be considered in any subsequent allocation of fault, evidence shall not be admitted at trial, and the issue shall not be submitted to the jury.

New law provides that the provisions of new law shall not apply when a summary judgment is granted on the basis of an affirmative defense.

Effective August 15, 2010. (Amends C.C.P. Art. 966)

Service of Process (Act No. 466)

Prior law provided that when the sheriff had not made service within 5 days after receipt of the process or when a return had been made certifying that the sheriff was unable to make service, the court was authorized to grant a motion by a party to appoint a private process server.

New law requires the court to grant a motion by a party to appoint a private process server whom the court deems to be qualified when the sheriff has not made service within 10 days after receipt of the process or when a return has been made certifying that the sheriff has been unable to make service, whichever is earlier.

New law further provides that any person who is a Louisiana licensed private investigator shall be presumed qualified to perform the required duties to make service of process.

Effective upon signature of governor (June 22, 2010). (Amends C.C.P. Art. 1293(A))

Cessation or Suspension of Depositions (Act No. 456)

New law requires that the officer before whom a deposition is taken shall cease or suspend recordation of the testimony, questions, objections, or any other statements only upon agreement of all counsel and parties present at the deposition, or upon termination or suspension of the deposition pursuant to C.C.P. Art. 1444.

Effective August 15, 2010. (Amends C.C.P. Art. 1443(B))

Sanctions for Unlawful Objections at Depositions (Act No. 458)

Prior law provides that counsel shall cooperate with and be courteous to each other and to the witness at a deposition and otherwise conduct themselves as required in open court and shall be subject to the power of the court to punish for contempt.

New law requires the court, unless good cause is shown, to order a party making an objection during a deposition in violation of existing law to pay the costs incurred for editing or redacting the transcript and authorizes appropriate sanctions.

Effective August 15, 2010. (Adds C.C.P. Art. 1443(E))

Discovery Responses (Act No. 682)

Prior law provides that each interrogatory, request for production of documents, and request for admission shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer.

New law requires that the written answer or reasons for objection shall immediately follow a restatement of each interrogatory, request for production of documents, or request for admission.

New law provides that when interrogatories are served on a specific party, that party shall verify

that he has read and confirmed the answers and objections.

Effective January 1, 2011. (Amends C.C.P. Arts. 1458, 1462(B), and 1467)

Sanctions and Attorney Fees for Frivolous Appeals and Writ Applications (Act No. 184)

New law makes the following changes:

(1) Authorizes the court to award sanctions for frivolous writ applications.

(2) Authorizes the court to award attorney fees for both frivolous appeals and writ applications.

(Amends C.C.P. Art. 2164)

Recognition of Foreign Defamation Judgments (Act No. 712 and Act No. 878)

New law defines "foreign defamation judgment" as a judgment or decree rendered in a jurisdiction outside of any state or territory of the U.S. which was founded on a cause of action arising from allegations of defamation.

New law provides that a foreign defamation judgment is not conclusive if: (1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law; (2) the foreign court did not have personal jurisdiction over the defendant; or (3) the foreign court did not have jurisdiction over the subject matter.

New law provides that a foreign defamation judgment need not be recognized if: (1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend; (2) the judgment was obtained by fraud; (3) the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state; (4) the judgment conflicts with another final and conclusive order; (5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; (6) in the case of jurisdiction based only on personal service, the

foreign court was an inconvenient forum for the trial of the action; (7) the foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state; or (8) the court sitting in this state before which the matter is brought determines that the defamation law applied in the adjudication by the foreign court failed to provide at least as much protection for freedom of speech and press in that case as would be provided by the constitutions of this state and the U.S.

New law provides that for the purposes of determining whether the foreign defamation judgment should be deemed recognizable, the courts of this state shall have personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the U.S. against any person who is: (1) a resident of this state; (2) a person or entity amenable to the jurisdiction of this state; (3) a person who has assets in this state; or (4) a person who may have to take action in this state to comply with the judgment.

Effective August 15, 2010. (Adds C.C.P. Art. 2542)

Judgments of Possession (Act No. 226)

Prior law provides that the court shall render and sign a judgment of possession if it finds that the petitioners are entitled to the relief prayed for. Prior law requires the judgment to recognize the petitioners as the heirs, legatees, surviving spouse, or usufructuary and send them into possession.

New law adds that the judgment of possession automatically includes, without restating, all the terms and provisions of the testamentary usufruct or trust when it sends petitioners into possession in accordance with such usufruct or trust.

Effective August 15, 2010. (Amends C.C.P. Art. 3061)

Civil Jurisdictional Amount in Dispute for Various City Courts (Act No. 180)

New law increases the civil jurisdictional amount in dispute for the City Court of Baton Rouge from \$20,000 to \$35,000.

New law increases the civil jurisdictional amount in dispute for the City Court of Crowley and the City Court of Rayne from \$15,000 to \$30,000.

New law increases the civil jurisdictional amount in dispute for the City Court of Baker and the City Court of Zachary from \$25,000 to \$35,000.

(Amends C.C.P. Art. 4843)

Slidell City Court (Act No. 219)

New law provides that the City Court of Slidell shall have the same jurisdictional limit for possession of leased premises in eviction proceedings as a justice of the peace court.

Effective August 15, 2010. (Adds C.C.P. Art. 4844(A)(6))

Deadline to Apply for New Trial (Act No. 56)

Prior law provides for a 3-day delay for applying for a new trial, exclusive of holidays, commencing to run the day after the clerk has mailed, or the sheriff has served the notice of judgment when such notice is required. New law increases the delay for applying for a new trial from 3 to 7.

New law clarifies present law by specifying that "holidays" refer to legal holidays.

Effective August 15, 2010. (Amends C.C.P. Art. 4907(B))

CODE OF CRIMINAL PROCEDURE

Bail (Act No. 892)

New law provides that a court may allow, after a contradictory hearing, any person who voluntarily surrenders following revocation or

forfeiture of bail to be released on the forfeited or revoked bail, provided the revocation or forfeiture of the bail is rescinded by the court and the surety is present or represented at the hearing and consents.

New law provides that previous instances of revocations or forfeitures of bail in unrelated cases will be admissible at the hearing, and that the relief shall be available only at the first instance of revocation or forfeiture of the bail within six months of the forfeiture of the bail.

(Adds C.Cr.P. Art. 334.3(A)(4))

Selection and Impaneling of Grand Jurors (Act No. 347)

Old law provided that the grand jury shall consist of 12 persons plus a first and second alternate for a total of 14 persons qualified to serve as jurors, selected or drawn from the grand jury venire. New law provides for no fewer than two nor more than four alternates and otherwise retains old law.

Old law provided that when a vacancy occurs on a grand jury, the court shall fill the vacancy by seating the first alternate if he is still legally qualified and available, or if he is not, by administering the oath to and seating the second alternate, if still legally qualified and available. If a vacancy occurs after the second alternate has been seated or if the second alternate cannot be seated, the vacancy shall be filled by ordering the sheriff (in Orleans Parish, the jury commissioner) to draw by lot from the grand jury venire a sufficient number of names to complete the grand jury.

New law authorizes the same selection procedure for additional alternates until the grand jury is filled.

New law provides for the use of an electronic device in filling a grand jury vacancy.

Old law provided that if the foreman of the grand jury is, for any reason, unable to act, the court shall designate some member of the grand jury to serve as acting foreman or to serve as a new foreman of that grand jury.

New law provides that if the foreman of the grand jury is unable to act, the court shall cause a random selection to be made of one person from the remaining members of the impaneled grand jury to serve as acting foreman or to serve as foreman of the grand jury.

(Amends C.Cr.P. Arts. 411(A), 413, and 415)

Grand Juries (Act No. 663)

Prior law requires grand juries to inquire into all capital offenses triable within the parish. New law requires grand juries also to inquire into all offenses punishable by life imprisonment triable within the parish.

(Amends C.Cr.P. Art. 437)

Notice of Pretrial Motion (Act No. 713)

New law provides that a defendant may be given notice of any pretrial motion hearing date by mailing notice to the counsel of record.

New law provides that failure of a defendant or counsel to appear for the hearing of a pretrial motion shall be grounds for dismissal of the motion.

New law provides that, by motion of the district attorney, a defendant's pretrial motion may be dismissed when either of the following occurs:

(1) The second failure to appear by the defendant or his counsel, after actual notice, for the hearing of a pretrial motion filed by the defendant, when the hearing for such motion was previously reset due to defendant's failure to appear on the date that the hearing was originally set.

(2) The first failure to appear by the defendant or his counsel, after actual notice, for the hearing of a pretrial motion filed by the defendant, when the defendant has previously failed to appear in court for any other proceeding in the case.

Effective August 15, 2010. (Adds C.Cr.P. Art. 523)

Statute of Limitations on Exploitation of the Infirm (Act No. 317)

Prior law provides that no person shall be prosecuted, tried, or punished for an offense not punishable by death or life imprisonment, unless the prosecution is instituted within specified periods of time after the offense has been committed, which range from 6 months to 6 years depending on the seriousness of the offense.

New law provides for an exception to these time limitations for the crime for exploitation of the infirm, which shall not commence to run until the crime is discovered by a competent victim, or in the case of an incompetent victim, by a competent third person.

(Adds C.Cr.P. Art. 573.1)

Death Row Information (Act No. 674)

New law requires that a defendant in a capital case in which a sentence of death actually has been imposed shall be informed at sentencing of his right to waive all rights of appeal, except the sentence review provided pursuant to prior law. New law provides that this information shall be given both in writing and orally.

Effective October 1, 2010. (Amends C.Cr.P. Art. 912.1(A))

CODE OF EVIDENCE

Hearsay Exception under Forfeiture by Wrongdoing (Act No. 543)

Prior law provides for a hearsay exception under the forfeiture by wrongdoing.

New law requires the party seeking to introduce statements under the forfeiture by wrongdoing hearsay exception to establish by a preponderance of the evidence that the party against whom the statement is offered engaged in or acquiesced to wrongdoing by a preponderance of the evidence.

Effective August 15, 2010. (Amends C.E. Art. 804(B)(7))

Self-Authentication of Electronically Generated Documents (Act No. 541)

New law provides that electronically generated documents that are associated with electronically generated seals are included in the provision relative to domestic public documents under seal.

Effective August 15, 2010. (Amends Code of Evidence Art. 902(1))

CHILDREN'S CODE

Neglected Children Proceedings (Act No. 462)

Prior law authorized the district attorney or any other person authorized by the court to file a child in need of care petition if there were reasonable grounds to believe that the child is a child in need of care. New law eliminates the right of an authorized person to file a child in need of care petition. New law authorizes the Dept. of Social Services (DSS) to seek leave of court to file a child in need of care proceeding if there are reasonable grounds to do so.

New law provides that at any stage of the proceeding, upon written motion of counsel for the child or his parent, the district attorney or DSS, after a contradictory hearing and good cause shown, except if all parties agree, the court shall permit counsel to obtain certain discovery which is relevant to the subject matter of the adjudication hearing.

New law provides that all parties have reciprocal discovery rights and that discovery shall not include any matter that is privileged, including attorney-client privileges or information protected by R.S. 46:56 or by restrictive order by Ch. C. Art. 653.

New law prohibits the court from ordering the production or inspection of any information which contains identifying information regarding a victim of domestic abuse or victim of dating violence or the location of a shelter or other facility.

Effective June 22, 2010. (Amends Ch.C. Arts. 631 and 652)

Adoptions (Act No. 266)

Prior law provides for the contents of the Act of Surrender. New law clarifies that voluntary registration requires both the adopting person and surrendering parent to register and comply with registration requirements.

Prior law provides for the contents of the Statement of Family History form. New law adds common disease names to the medical terms and adds a section for prenatal history drug use.

Prior law provides the grounds for disclosure of information in confidential adoption records. New law adds that descendants of deceased biological parents and adopted deceased persons are eligible to use the voluntary registry.

Prior law provides guidelines for who may register. New law modernizes terminology by changing "birth" to "biological", and adds descendants of deceased biological parents and adopted persons to those eligible to use the registry.

Prior law provided for the death of birth parents and adopted persons registered with the voluntary registry. New law provides that once the death of a biological parent or adopted person is disclosed, a registered person shall be given the option of availing himself of any contact opportunity through the registry.

Prior law provides for the content and form of the petition for voluntary transfer of custody. New law further requires DSS to indicate whether it has recommended filing the petition and, if so, requires the name of person making the recommendation and the reasons therefor and whether petitioners have consulted with an attorney.

Prior law provides for service of notice of the proceedings to any parent or legal custodian who has not joined in the petition for voluntary transfer of custody. New law requires that parents be advised of the right to an attorney under certain conditions, and if DSS has

recommended the transfer, DSS receives notice, and the court may order DSS to report on the safety and well being of the child.

Prior law provided for pretrial order and the parent's contribution to costs. New law adds that counsel may be appointed for an indigent parent when DSS has recommended filing of the petition.

Prior law provides that the hearing shall be on the record. New law adds that when DSS has recommended filing the petition, a DSS representative must testify on the reasons for recommending the petition be filed and other matters.

Prior law provides that the judgment shall recite certain facts if the court grants transfer of custody. New law adds that the court may order the parent to contribute to the costs.

Prior law provides that parties may jointly notify the court of their desire to dismiss the proceedings and return custody to the parents. Upon notification, the court shall order an ex parte dismissal. New law authorizes the court to also order a review of the proposed modification.

Effective August 15, 2010. (Amends Ch.C. Arts. 1122, 1125, 1189, 1270, 1271, 1272, 1273, 1276, 1515, 1517, 1518, 1519, 1520, and 1522)

Infant Relinquishment (Act No. 471)

New law requires designated emergency care facilities (safe haven relinquishment sites) to provide periodic instruction to employees on infant relinquishment procedures.

New law provides that a designated emergency care facility or its employees or volunteers shall not be held liable for any civil penalty for failure to comply with the provisions of new law.

New law requires DSS to make safe haven training materials available for download on its website, and to provide notice to the public of the existence of designated emergency care facilities and the use of safe havens through the DSS website and through the establishment of a toll-free telephone number.

Effective August 15, 2010. (Amends Ch.C. Arts. 1152 and 1160)

Petitioners in Intrafamily Adoption (Act No. 190)

Prior law provided that a stepparent, stepgrandparent, great-grandparent, grandparent, aunt, great aunt, uncle, great uncle, sibling, or first (fourth degree), second (sixth degree), or third (eighth degree) cousins may petition for intrafamily adoption. New law expands prior law to allow collaterals who are related within the twelfth degree (fifth cousins) to petition for intrafamily adoption.

(Amends Ch.C. Art. 1243(A))

Termination of Parental Rights and Adoption Proceedings (Act No. 738)

New law provides a procedure for opposing an intrafamily adoption by filing an answer and opposition within 15 days of service of a petition, provides for the appointment of counsel for the child, provides a due process determination for the parent regarding the appointment of counsel, and provides for notice to all parties.

New law adds to the notice that if the parent does not file a written answer and opposition to the adoption within 15 days of receiving the notice, he will lose the right to object to the adoption, and that if the person chooses to file a written answer and opposition to the adoption, it must be filed with the clerk of court.

New law requires the opposition to request the court to determine if he has the right to appointed counsel.

Old law provided that the court shall set the hearing of the petition for adoption not less than 30 nor more 60 days after the filing of the petition. New law requires the court to hear the petition within 60 days if there is no opposition or within 90 days if there is opposition.

Old law provided that when the court refused to grant an interlocutory or final decree of adoption, it would remove the child from the

petitioner and reinstate the legal custodian or appoint a custodian. New law repeals old law.

Effective August 15, 2010. (Amends Ch.C. Arts. 1244, 1245, 1247, and 1253; Adds Ch.C. Art. 1244.1; Repeals Ch.C. Arts. 1245.1 and 1258)

Interstate Compact on Placement of Children (Act No. 893)

New law repeals and enacts a new Interstate Compact on the Placement of Children and creates the Interstate Commission for the Placement of Children.

New law provides that the compact shall apply to placement of a child due to allegations or findings of abuse, neglect, or deprivation, an adjudication of delinquency, or a preliminary step to a possible adoption.

New law provides that the compact shall not apply to placement of a child in a custody proceeding in which a public child placing agency is not a party, with a non-relative by a parent with legal authority, by one relative with lawful authority, into a residential facility by his parent, with a noncustodial parent in certain circumstances, for foreign adoption, or by an agency for a visit as defined by the rules of the Interstate Commission.

New law provides for jurisdiction over the child by the courts of the sending and receiving state.

New law provides for placement evaluation and financial responsibility for children.

New law provides that the compact shall become effective when the 35th state enacts the compact.

New law provides procedures for withdrawal of a member state and for dissolution of the compact.

New law provides that rules adopted by the Interstate Commission shall not supersede state law and shall not be binding unless also promulgated by this state in accordance with the APA.

(Adds Ch.C. Arts. 1623-1643; Repeals Ch.C. Arts. 1608-1622)

MULTIPLE CODES OR TITLES

NASD Is Now FINRA (Act No. 7)

Prior law provided for references to the National Association of Securities Dealers. New law changes prior law references to the Financial Industry Regulatory Authority.

Effective upon signature of governor (May 19, 2010). (Amends R.S. 11:266.1, R.S. 12:131, R.S. 22:68, 587), and 1801, R.S. 49:191, and R.S. 51:703, 705, 708, and 710)

Mortgage Records (Act No. 284)

Prior law provides for the filing and cancellation of certain documents in the mortgage records. New law retains prior law, but merely relocates certain provisions from Title 44, all relative to mortgage records.

The provisions of new law redesignating certain statutes shall not invalidate a reference to the former citation of the redesignated statute.

Effective January 1, 2011. (Redesignates R.S. 44:104-112 as R.S. 9:2741-43 and 9:5169-76)

References to Inheritance Taxes (Act No. 175)

New law repeals the references to inheritance taxes.

(Amends C.C.P. Arts. 283, 3061, 3228, and 3396.18(B), and R.S. 9:1514, 1551, 1552, 2156, 2157, 2431, and 3839, and R.S. 23:638, and R.S. 33:1501, 4545.23, 4546.16, and R.S. 47:55, 1673 and 2451; repeals C.C.P. Arts. 2951, 2953 and 2954, and R.S. 6:653.4(F), 765(C), and 767(E), and R.S. 8:814, and R.S. 9:2432 - 2439, and 2449(C), and R.S. 12:603(F), and R.S. 40:33(H))

Office of Coastal Protection and Restoration (Act No. 734)

New law adds the Office of Coastal Protection and Restoration for those projects located in the coastal area.

New law provides that landowners and persons holding an interest in property who, without cost to the state or its political subdivisions, provide property, access, easements, and other property interests for an integrated coastal restoration project shall also be immune from premise liability.

Old law authorized the Dept. of Natural Resources to acquire property in the coastal zone for barrier island preservation and restoration or creation of coastal wetlands. New law changes that authority to the Office of Coastal Protection and Restoration.

New law includes the Office of Coastal Protection and Restoration and the Coastal Protection and Restoration Authority in the list of agencies to be included in the development and implementation of that plan.

Effective August 15, 2010. (Amends R.S. 30:2459 and 2460, R.S. 36:351, R.S. 38:111, 112, 213, 221, and 226, R.S. 39:366.3, 1482, R.S. 41:1701.1 and 1702, and R.S. 49:214.61; Adds R.S. 39:14(7) and R.S. 49:214.5.2(F), 214.6.3(B)(5), and 214.6.10(C))

Group Self-Insurance Funds (Act No. 794)

New law specifies that an arrangement or trust that is a workers' compensation group self-insurance fund is not insurance nor is such arrangement or trust to be deemed to be insurance.

New law makes various technical corrections to old law.

New law generally clarifies that employers who are members of a trade or professional association and who pool liabilities for injuries arising from the course and scope of the employment relationship pursuant to provisions of present law are not insurers and are not to be deemed insurance nor subject to the La. Ins. Code nor are member employers of any such arrangement insurers nor subject to the Code.

New law provides for confidentiality of certain documents produced by, obtained by, or disclosed to the commissioner or any other person pursuant to the authority of the

commissioner. New law provides for exceptions for reports or information discovered or developed in furtherance of any legal or regulatory action, for disclosures to regulatory or law enforcement entities agreeing to hold the report or information confidential, and for audited financial statements which have been filed with the Dept. of Ins.

New law provides for the following in relation to group self-insurance funds for workers' compensation:

(1) Upon request of the commissioner of insurance, a workers' compensation group self-insurance fund established pursuant to present law shall cause a rate review to be conducted by a national independent actuarial firm with findings to be reported to the commissioner; however, the commissioner shall not make more than two requests in a calendar year.

(2) The commissioner shall examine each fund not less frequently than once every five years. Findings of fact and conclusions of such examination are prima facie evidence in any legal or regulatory action.

(3) Examination reports shall be comprised of facts only appearing on books, records, or documents of the group self-insurance fund or as ascertained from testimony of persons examined. A verified written report of the examination shall be filed with the Dept. of Ins. with an opportunity for the fund to make written submissions or rebuttal of information in the report. The commissioner shall consider and review the report and order adoption of the examination as filed, or with modifications or corrections, or rejection of the report. New law provides for orders by the commissioner and for confidential hearings before the commissioner. The commissioner may initiate proceedings or actions as a result of any examination. New law prohibits appointment of an examiner who, directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person or entity being examined. New law provides for limitation of liability of the commissioner or his authorized representative or appointee for good faith performance.

(4) Financial review of group self-insurance funds authorized to do business in the state shall include audited financial statements, results of prior examination and office reviews, management changes, consumer complaints, and other relevant information as may be required. Failure of a fund to supply information requested by the Dept. of Ins. subjects the fund to revocation or suspension of its license or, in lieu of a suspension, a fine not to exceed \$10,000 per occurrence.

(5) Expenses of reviews and examinations are to be paid by the group self-insurance fund. The commissioner may employ such examiners, auditors, accountants, actuaries, attorneys, and clerical or other assistants as necessary to conduct an examination and compile his report. The group self-insurance fund may contest expenses incurred by the commissioner.

(6) The commissioner may take depositions, subpoena witnesses or documentary evidence, and administer oaths and examine under oath any individual relative to the affairs of any group self-insurance fund being examined.

(7) The commissioner may employ investigators.

(8) There are criminal penalties for certain intentional misrepresentations.

New law repeals provisions in the La. Ins. Code regarding examination of group self-insurance funds for workers' compensation which are now placed in Title 23.

(Amends R.S. 22:46, 47, 48, 451, and 452, R.S. 23:1168, 1195, 1197 and 1200, and R.S. 44:4.1; Adds R.S. 23:1200.6 - 1200.17; Repeals R.S. 22:461(J) and 1982)

Technical Changes (Act No. 861)

Makes technical changes to various codal provisions and certain Revised Statutes.

(Amends C.C.P. Art. 2593, C.C.P. Art. 512 and 513, numerous provisions from R.S. 3:3501 through 3556, R.S. 11:42, 102, 105, 106, 247, 413, 446, 542.1.1, 701, 783, 883.3, 1481, R.S. 12:202.1, R.S. 14:67.21 and 403.6, R.S. 15:574.7, R.S. 17:7, 17.5, 24.10, 53, 170.4,

183.3, 270, 416, 1206.2, 1518.1, 1519.17, 1874, 2047, 2048.51, 2922, 2923, 2924, 2926, 2927, 2928, 2929, 2930, 2932, 3161, 3165, 3983, 3995, 3997, 4012, 4020, and 4024, R.S. 22:1078, R.S. 24:7, 31.4, 31.5, 52, 55, 101, 107, 653, R.S. 27:381, R.S. 29:653, R.S. 30:10.1, 213, and 2117, R.S. 32:318, R.S. 33:322, 2740.52, 4710.3, 9024, 9206, 9602, and 9614, R.S. 35:406, R.S. 36:4, 4.1, 209, 254, 259, 359, 409, 509, 610, 628, 629, 642, 651, 744, 769, and 802.11, R.S. 42:4.1.1, 1118.1, 1123, and 1141, R.S. 44:1.1, 4.1, R.S. 46:56, 61, 932, and 2132, and R.S. 49:220.23, 220.24, and 965.4; Repeals 11:802.11)

UNCODIFIED

New Civil District Court Site (Act No. 768)

New law authorizes the state to enter into a cooperative endeavor agreement with the City of New Orleans providing for use of the Louisiana State Supreme Court site and state office building site located at 325 Loyola Avenue, New Orleans, Louisiana as a new civil district court site and as a municipal complex in exchange for consideration proportionate to the appraised value of the property.

Effective upon signature of the governor or lapse of time for gubernatorial action.

West Bank Turnpike (Act No. 205)

New law requests DOTD to study the feasibility of a West Bank Turnpike.

Effective August 15, 2010.

Oyster Leases (Act No. 265)

New law requires the Wildlife and Fisheries Commission to set aside an area of the public seed grounds to be leaseable under certain terms and conditions.

New law provides that notwithstanding the statutory requirement of "first-come, first-served" when leasing state water bottoms for oyster production, and notwithstanding the

administrative moratorium on the issuance of oyster leases, any lease located within a public seed ground or lease which was not renewed since 1998 because it was located within a public seed ground may be relocated to that area of the public seed grounds set aside for such relocation.

New law gives the leaseholder of record 60 days to notify the Dept. of Wildlife and Fisheries that they do want to relocate the lease. New law requires promulgation of rules by Jan. 1, 2011.

New law provides that the Act is void on Jan. 1, 2013, but the leases continue under the terms of the lease.

Effective upon signature of governor (June 17, 2010).

Management District Fees (Act No. 641)

New law authorizes the governing authority of a city with boundaries conterminous with the parish, to levy and collect a special parcel fee on each parcel located in a district designated as a management district and located in a parish with a city-parish home rule form of government. New law authorizes the district to also levy any such fee in any subdistrict of the district.

New law provides that the amount of the parcel fee shall be determined by the Bureau of the Treasury within the Department of Finance of the city, or equivalent entity, or its designee as of January 1, 2010.

New law provides that the fee shall be imposed only after the question of its imposition has been approved by a majority of the registered voters of the district, or subdistrict, voting on the proposition at an election held for that purpose.

New law provides that the authority to levy the parcel fee shall expire after the levy of the parcel fee for 2014, but may be renewed for an additional term not to exceed five years only after the renewal is authorized by additional legislation, and the question of renewal is approved by a majority of registered voters of the district, or subdistrict, voting on the question.

New law provides that any parcel fee which is unpaid shall be added to the tax rolls of the city and shall be enforced with the same authority and subject to the same penalties and procedures as unpaid ad valorem taxes.

New law authorizes the board of commissioners of the district, after public notice is given and a public hearing is held, to adopt a resolution designating one or more areas within the district as a separate subdistrict. A subdistrict is a separate political subdivision of the state which shall be governed by the district's board with the same powers of the district, but the levy of the parcel fee shall be limited to parcels within the subdistrict.

New law shall be retroactive to June 1, 2010.

Effective upon signature of the governor or lapse of time for gubernatorial action.

Transfer of State Property to the Greater Baton Rouge Port Commission (Act No. 779)

New law authorizes the Department of Transportation and Development to transfer certain state property to the Greater Baton Rouge Port Commission.

Effective August 15, 2010.

TITLE 1: GENERAL PROVISIONS

Effective Date of Census Changes (Act No. 845)

Present law includes numerous provisions covering a wide variety of subjects which are applicable to classes of parishes or municipalities, with the class being defined by the population according to the "latest" or "most recent" federal census.

New law provides that a particular federal census shall become the "latest" and the "most recent" federal census on Aug. 15 of the year after the year the census is taken and remains the "latest" and "most recent" federal census until Aug. 15 of the year after the next census is taken.

New law changes the date to Aug. 1 if proposed constitutional amendment is approved by the voters.

New law does not apply to any law providing for reapportionment or redistricting.

Effective upon signature of governor or lapse of time for gubernatorial action. Effective in part if and when the proposed amendment of Art. III of the Constitution of La. contained in Act No. 537 of the 2009 R.S. is adopted at a statewide election and becomes effective.

(Amends R.S. 1:11)

TITLE 2: AERONAUTICS

TITLE 3: AGRICULTURE AND FORESTRY

Sustainable Agriculture (Act No. 112)

New law provides that "sustainable" or "sustainable agriculture" means science-based practices, including the use of technology, which lead to broad outcome-based performance improvements to meet the needs of present and future generations while advancing environmental, social and economic goals and the well-being of agricultural producers and rural communities. Critical outcomes to consider shall include increasing agricultural productivity; improving human health through access to safe, nutritious and affordable food; and enhancing agricultural and surrounding environments, including water, soil and air quality.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 3:1(5))

Liability for Prescribed Burns (Act No. 276)

Prior law provides that no person shall be liable for damage, injury, or loss caused by fire, resulting smoke, or other consequence of a prescribed burn, unless negligence is proven.

New law provides that if a person conducts a prescribed burn in accordance with the rules and regulations, there shall be a rebuttable presumption of nonnegligence.

Effective August 15, 2010. (Amends R.S. 3:17(E))

Strawberry Pedigree (Act No. 40)

New law provides for a stamp or label to be affixed to the container or package of strawberries offered for sale that identifies its farm of origin.

Effective August 15, 2010. (Amends R.S. 3:730.8; Adds R.S. 3:730.9)

Euthanasia for Cats and Dogs (Act No. 764)

New law prohibits euthanasia by carbon monoxide gas chambers on cats and dogs beginning on January 1, 2013 and thereafter.

New law prohibits euthanasia by intracardiac injection on cats and dogs unless the animal is unconscious or rendered completely unconscious and insensitive to pain through the injection of an anesthetic.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 3:2465(C))

Taxes on Dogs Running at Large (Act No. 108)

New law allows municipal and parish governing authorities to adopt ordinances regulating dogs running at large, and regulating or prohibiting dangerous dogs.

Effective August 15, 2010. (Amends R.S. 3:2731 and 2778; Repeals R.S. 3:2733-2737)

Grain Dealers and Farm Lenders (Act No. 860)

New law authorizes communication between grain dealers and agriculture lenders, either orally or written, of information related to agricultural commodities bookings or contracts

concerning producers with whom both parties share a mutual business relationship, but requires shared information concerning a producer to be limited to certain items, and restricts the applicability of the communication of certain producer information to the duration of a gubernatorially or presidentially declared disaster. New law provides that grain dealers or agriculture lenders that communicate certain information shall be held harmless and not liable to producers in the communication of certain information.

New law authorizes disclosure by a bank that makes agriculture loans that communicates certain information.

Effective August 15, 2010. (Adds R.S. 3:3419.1 and R.S. 6:333(F)(17))

Retail Florist License Exam (Act No. 1040)

Relative to retail florists, prior law required each applicant for a professional license to satisfactorily pass a written examination and included a demonstration of actual floral design work by the applicant. New law repeals the demonstration portion of the examination process.

Effective upon signature of governor (July 8, 2010). (Amends R.S. 3:3807(B)(2))

Temporary Arborist Licenses (Act No. 34)

New law provides that in the event of a catastrophe and a declaration of emergency, the commissioner may issue a temporary arborist license authorizing a person to perform the measures specified by existing law, which are the removal of a tree or a portion of a tree, measures to prolong the life of a tree, and measures to enhance the aesthetic value of a tree.

New law requires the temporary arborist license be applied for within 90 days of the declaration of emergency and remain in effect for 90 days from date of issuance.

Effective August 15, 2010. (Adds R.S. 3:3816(7))

Animal Slaughtering (Act No. 496)

New law requires the commissioner to appoint inspectors to examine and inspect the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in the slaughtering establishments inspected in this state.

New law authorizes the commissioner to refuse inspection to a new slaughtering establishment or temporarily suspend inspection at a slaughtering establishment if the commissioner finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter by any method not in accordance with the Federal Humane Methods of Livestock Slaughter Act.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 3:4201(12) and 4203; Adds R.S. 3:4201(22))

Definition of "Catfish" (Act No. 16)

Old law provided that the definition of catfish means only those species within the family Ictaluridae or the family Anarhichadidae and grown in the United States. New law changes the definition of catfish to mean only those species within the family of Ictaluridae, Ariidae or Loricariidae.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 3:4617, 4734 and 4735)

Technical Revisions (Act No. 495)

New law makes numerous minor revisions to Title 3, including elimination of the Weather Modification Program.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends numerous provisions in Title 3)

TITLE 4: AMUSEMENTS AND SPORTS

Racing Commission Appeals (Act No. 675)

Present law (Administrative Procedure Act) provides that judicial review of an adjudication proceeding may be instituted by filing a petition in the district court of the parish in which the agency is located.

New law provides that notwithstanding present law, proceedings for judicial review of a final decision or order in an adjudication proceeding by the Louisiana State Racing Commission ("commission") may be instituted by filing a petition in the district court for the parish where the matter arose that was the subject of the final decision or order.

(Adds R.S. 4:145.2)

Cyberbullying (Act No. 989)

New law defines cyberbullying as the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of 18.

New law provides an exception for providers of interactive computer services, providers of telecommunications services, and cable operators.

New law provides that whoever commits the crime of cyberbullying shall be fined not more than \$500, imprisoned for not more than six months, or both. When the offender is under the age of 17, the disposition of the matter shall be governed exclusively by the Families in Need of Services provisions of the Children's Code.

New law further provides that new law shall not be construed to prohibit or restrict religious free speech pursuant to Article I, Section 18 of the Constitution of Louisiana.

Effective August 15, 2010. (Adds R.S. 14:40.7 and Ch.C. Art. 730(11))

TITLE 5: AUCTIONS AND AUCTIONEERS

TITLE 6: BANKS AND BANKING

State Bank Dividend and Redemption Limitations (Act No. 77)

New law prohibits the board of directors of a state bank from declaring or paying any dividends in cash or property for a period of two years from the issuance of its certificate of authority or as the commissioner may prescribe.

New law prohibits a state bank from declaring or paying cash or property dividends, or purchasing or redeeming shares of its capital stock, unless the bank has an unimpaired surplus that equals or exceeds 50% of the outstanding capital stock of the bank. New law further prohibits the bank's unimpaired surplus from being reduced below 50% as a result of the payment of any combination of cash or property dividends, or the purchase or redemption of any shares of its capital stock.

New law requires prior approval of the commissioner if the total of all year-to-date cash or property dividends declared and paid by the state bank, and amounts used by the state bank to redeem or purchase shares of its capital stock, exceeds the total of the bank's year-to-date net income combined with its net income from the immediate preceding year, after deducting (1) amounts paid or accrued for the payments of cash dividends, (2) the value of all property paid in dividends, and (3) amounts paid or accrued to redeem or purchase shares of the bank's capital stock over the calculation period.

New law prohibits negative net income from being rounded to zero in the calculation.

New law prohibits a state bank from purchasing or redeeming shares of its capital stock when its combined capital stock and unimpaired surplus accounts are less than, or such purchase or redemption would reduce its combined capital stock and unimpaired surplus accounts below, the aggregate amount payable on liquidation upon any issued shares which have a preferential right to participate in the assets in the event of

liquidation and that remain after the purchase or redemption of any shares.

New law requires that shares of a bank's capital stock acquired pursuant to present law be cancelled and restored to the status of authorized and unissued shares, upon the expiration of the period permitted under present law unless prior to that date the stock has been disposed of by the bank.

New law requires that shares of a state bank's capital stock purchased or redeemed by the bank be deemed cancelled and thereby restored to the status of authorized and unissued shares unless the bank's articles, bylaws, or a resolution of the board of directors provides that such shares may be held as treasury stock following the purchase or redemption thereof.

Effective August 15, 2010. (Amends R.S. 6:263)

Deposit Transfer After Death (Act No. 26)

Prior law provided that upon the death of a depositor who died without a will, along with an affidavit that established jurisdiction and relationship, a depository financial institution was allowed to transfer deposits to a surviving spouse or heirs if the total aggregate amount was \$1,000 or less. New law changes prior law to increase the total aggregate amount from \$1,000 or less to \$5,000 or less.

Effective August 15, 2010. (Amends R.S. 6:315.1(A))

Economic Coercion to Sell Extended Service Contracts (Act No. 258)

New law prohibits any person or any affiliates thereof from making statements, threats, promises, acts, contracts, or offers of contracts that the intended or actual effect of which is to coerce or attempt to coerce any seller to sell or offer to sell any extended service contract, extended maintenance plan, or GAP product offered, sold, backed, or sponsored by a particular entity (including but not limited to any manufacturer or distributor of motor vehicles or affiliates thereof) by setting limits for the

amount financed in regard to the financing of premium or other charges for any insurance coverage, product, or service financed on the retail installment contract, when the discrimination in the amount financed is based, in whole or in part, upon whether or not the product, insurance, or service is provided by the person or affiliates thereof.

New law shall not prohibit a person or any affiliates thereof from offering or providing incentive benefits or bonus programs to a seller or prospective seller who makes the voluntary decision to sell or offer to sell any extended service contract, extended maintenance plan, or GAP product offered, sold, backed, or sponsored by a particular entity (including but not limited to any manufacturer or distributor of motor vehicles or affiliates thereof) or to sell, assign, or transfer any retail installment sale or lease by him of motor vehicles manufactured or sold by the manufacturer or distributor to a specified finance company or leasing company.

New law prohibits any entity or person from requiring a seller to sell any insurance coverage, product, or service, which is provided, administered, or sold by the extender of credit or an affiliate, in order to secure preferential financing or preferential limits on the amounts financed for the dealership or its customers.

Effective August 15, 2010. (Adds R.S. 6:969.24.1 and 969.24.2)

Reverse Mortgages (Act No. 418)

New law requires reverse mortgage loans to comply with all of the following:

(1) Prepayment, in whole or in part, shall be permitted without penalty at any time during the term of the reverse mortgage loan.

(2) A reverse mortgage loan may provide for a fixed or adjustable interest rate or combination thereof, including compound interest, and may also provide for interest that is contingent on the value of the property upon execution of the loan or at maturity, or on changes in value between closing and maturity.

(3) A reverse mortgage may include costs and fees that are charged by the reverse mortgage lender, or the reverse mortgage lender's designee, originator, or servicer, including costs and fees charged upon execution of the loan, on a periodic basis, or upon maturity.

(4) If a reverse mortgage loan provides for periodic advances to a borrower, these advances shall not be reduced in amount or number based on any adjustment in the interest rate.

New law allows for a reverse mortgage loan to become due if (1) the property securing the loan is sold or title to the home is otherwise transferred, (2) any fixed maturity date agreed to by the lender and the borrower occurs, or (3) an event of default specified in the loan documents occurs.

New law provides for the following conditions on repayment of reverse mortgage loans:

(1) Temporary absences from the home not exceeding 60 consecutive days shall not cause the mortgage to become due and payable.

(2) Extended absences from the home exceeding 60 consecutive days, but less than one year, shall not cause the mortgage to become due and payable if the borrower has taken prior action which secures and protects the home in a manner satisfactory to the lender.

(3) A reverse mortgage lender shall prominently disclose in the loan agreement any interest rate or other fees to be charged during the period that commences on the date that the reverse mortgage loan becomes due and payable, and that ends when repayment in full is made.

New law requires the first page of any mortgage securing a reverse mortgage loan to contain the following statement in 10-point boldface type: "This mortgage secures a reverse mortgage loan."

New law prohibits a reverse mortgage lender entering into any agreement that would obligate or refer the borrower to purchase an annuity, an investment, or long-term care insurance before the closing of the reverse mortgage (or before the expiration of the borrower's right to rescind the reverse mortgage agreement, if a rescission period applies).

New law shall not prevent a lender from offering or referring borrowers for title insurance, hazard, flood, or other peril insurance, or other similar products that are customary and normal to a reverse mortgage loan.

New law requires that, prior to accepting a final and complete application for a conventional reverse mortgage loan or assessing any fees, a reverse mortgage lender provide the prospective borrower with a list of at least five nonprofit counseling agencies that have been approved by the U.S. Dept. of Housing and Urban Development for counseling and that offer counseling to residents of the state.

New law prohibits a reverse mortgage lender from paying any counseling service fees without first informing the prospective borrower in writing that this may create a conflict of interest. A reverse mortgage lender shall disclose to the prospective borrower in writing any other payment arrangements or business affiliations between the lender and a counseling agency.

New law prohibits a reverse mortgage lender from accepting a final and complete application for a conventional reverse mortgage loan from a prospective applicant, or assessing any fees upon a prospective applicant, without first receiving a certification from the applicant that the applicant has received counseling from an agency.

New law provides that at least seven calendar days prior to closing a reverse mortgage loan, a reverse mortgage lender shall provide the borrower with a loan term sheet or commitment letter outlining the proposed terms of the loan and informing the borrower that the borrower is not obligated to proceed with the loan transaction.

New law provides that any reverse mortgage lender who offers, sells, or arranges the sale of a reverse mortgage to an elder, shall provide the elder with a notice that the elder should discuss the items outlined in new law with a loan counselor. "Elder" means any person 60 years of age or older.

New law requires a reverse mortgage counselor to discuss a number of specified items with a prospective reverse mortgage borrower.

New law provides that if the prospective reverse mortgage borrower meets with a loan counselor prior to meeting with or discussing a reverse mortgage loan with a lender, the loan counselor shall review the items discussed in new law with the prospective reverse mortgage borrower and also meet the notice requirement in new law.

Effective August 15, 2010. (Amends R.S. 6:1083 and adds R.S. 6:1101-1104)

Mortgage Broker, Lender, and Originator Licenses (Act No. 36)

Prior law prohibited a person from holding himself out as being or advertising as a certified mortgage broker, mortgage lender, or originator unless that person has completed the necessary educational requirements. New law repeals prior law.

Prior law required a nonresident applying for a license to conduct residential mortgage lending activities in La. to demonstrate that he has completed the necessary educational requirements or was entitled to certification by reciprocity. New law repeals prior law.

Prior law required that all persons applying for reinstatement or renewal of their mortgage broker, mortgage lender, or originator license to have completed eight hours of continuing professional education in order to reinstate or renew their license. New law repeals prior law.

Prior law required a licensed mortgage loan originator to complete at least 10 hours of annual continuing education. New law changes prior law from 10 hours to 8 hours.

Prior law required a person to complete at least 24 hours of pre-licensing education. New law changes 24 hours to 20 hours.

Prior law provides that the commissioner of the Office of Financial Institutions may not issue a mortgage loan originator license, unless the commissioner finds that the applicant has not been convicted of, pleaded guilty, or nolo contendere to and been adjudicated guilty of a felony in a domestic, foreign, or military court during the seven-year period preceding the date of application for licensing and registration.

New law removes the provision that the person was adjudicated guilty.

Effective August 15, 2010. (Amends R.S. 6:1088 and 1094)

TITLE 7: BILLS AND NOTES

TITLE 8: CEMETERIES

Removal of Dedication of Cemetery Property (Act No. 79)

Prior law provides that property dedicated for cemetery purposes shall be held and used exclusively for cemetery purposes unless and until the dedication is removed from all or any part of it by judgment of the district court of the parish in which the property is situated in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing to the La. Cemetery Board. New law adds that, when a petition is filed in court to remove the dedication of cemetery property, a copy of the petition shall also be served to the Louisiana Division of Archaeology and the attorney general.

New law provides that the board and division shall have the right to intervene in any action filed to remove the dedication of cemetery property. New law provides that the attorney general may represent the board or the division in any action to remove the dedication of cemetery property.

Effective August 15, 2010. (Amends R.S. 8:306)

Funeral Merchandise Trust Fund (Act No. 18)

New law generally exempts from seizure the principal of the funeral merchandise trust fund and all income derived therefrom, under any writ, mandate, or process whatsoever, by the creditors of the beneficiaries, the trustee, the cemetery authority, or any person or other entity providing cemetery merchandise or services for which the trust fund was created.

Effective August 15, 2010. (Adds R.S. 8:502.3)

Cemetery Construction Delays (Act No. 63)

Prior law requires a cemetery authority to commence construction of a mausoleum or similar structure within 48 months after the first date of sale of a section of the new cemetery structure, with an extension of one additional year for reasonable cause. New law allows for further extensions to be granted based on the occurrence of a force majeure event.

Prior law requires a cemetery authority to commence the installation of necessary improvements to undeveloped land within 24 months after the first date of sale in the new section, with extensions not to exceed one year. New law allows for further extensions to be granted based on the occurrence of a force majeure event.

New law defines "force majeure" as any of the following circumstances:

1. A major storm, major flood, or other similar natural disaster;
2. A major accident beyond the cemetery authority's control and not ultimately found to be the fault of the cemetery authority;
3. The delay by the federal government or any of its agencies, or the state of Louisiana or any of its agencies or political subdivisions, in granting necessary permits; or
4. A valid order of any federal or state court of competent jurisdiction that prevents the timely completion of a project.

Effective August 15, 2010. (Amends R.S. 8:606 and 706; adds R.S. 8:1(22.1))

TITLE 9: CIVIL CODE ANCILLARIES

Visitation (Act No. 277)

Prior law provided that it shall be an affirmative defense that the failure to exercise or allow visitation was by mutual consent, beyond the control of the defendant, or for other good cause

shown. New law changes it from an affirmative defense to a defense.

Effective upon signature of governor (June 17, 2010). (Amends R.S. 9:346(G))

Provisional Custody of Minor Children (Act No. 171)

New law extends to grandparents with custody the right to confer the power of provisional custody by mandate for the care, custody, and control of a minor child.

New law provides that provisional custody by mandate may not be conferred upon a parent or other person previously denied custody by court order.

Effective August 15, 2010. (Amends R.S. 9:951, 952 and 954)

Monetary Compensation Derived from Carbon Sequestration (Act No. 193)

New law provides that the owner of the land or water bottom is the owner of any monetary compensation derived from the land or water bottom through carbon sequestration.

New law provides an exception for sequestration attributable to Coastal Protection and Restoration Authority projects.

(Adds R.S. 9:1103)

Assignment of Access Rights for Agricultural or Aquacultural Purposes (Act No. 994)

New law allows a riparian owner to assign access rights for surface water adjacent to his riparian land for any agricultural or aquacultural purpose by the non-riparian owner, provided such withdrawal of running surface water is environmentally and ecologically sound, would not adversely impact the sustainability of the water body, or have undue impacts on navigation, public drinking water supplies, stream flow energy, sediment load and distribution, and certain other circumstances.

New law prohibits any state fee from being charged for usage except where the state

contracts or assigns rights for withdrawal. New law shall become null and of no effect on Jan. 12, 2035.

Effective upon signature of governor (July 6, 2010). (Adds R.S. 9:1103)

Condominium Assessments, Fines, and Fees (Act No. 245)

New law provides a seller of an initial condominium unit shall collect at least two months of assessments from each unit purchaser, which funds are dedicated for the sole purpose of establishing the association's reserve account and shall be placed in a reserve escrow account. Those funds may be used only for the exclusive benefit of the unit owner's association and shall be turned over to the unit owner's association along with the other condominium assets in accordance with the association declaration or bylaws.

Prior law provides that a condominium association has a privilege on a condominium parcel for all unpaid or accelerated sums, interest, or legal interest assessed by the association. New law also includes privilege on any fines or late fees in excess of \$250 assessed by the association.

Prior law provided that if a unit owner failed to timely pay the assessments for common elements for a period of 6 months or more during an 8-month period, the association could have accelerated the assessment on the common elements for a 12-month period and filed a privilege for the accelerated sums. New law changes the 6 months for failure to timely pay from 6 months to 3 months.

Effective August 15, 2010. (Amends R.S. 9:1123.115; Adds R.S. 9:1121.111)

Solar Collector Rights (Act No. 274)

New law prohibits any person or entity from unreasonably restricting the right of a property owner to install or use a solar collector. New law defines "solar collector" as any device or combination of elements which relies on sunlight as an energy source.

New law does not supersede zoning restrictions, servitude, or building restrictions which require approval prior to the installation or use of solar collectors.

New law does not apply to property or areas which have been identified as historic districts, historical preservations or landmarks by any historic preservation district commission, landmarks commission, or the planning or zoning commission of a governing authority.

Effective August 15, 2010. (Adds R.S. 9:1255)

Electric Generating Unit Ownership (Act No. 221)

Prior law provided that persons who hold in common a nuclear electric generating unit may agree that the unit not be partitioned for a period of time not to exceed 99 years.

New law deletes the word "nuclear" so that persons who hold in common an electric generating unit may agree not to partition for 99 years.

Effective August 15, 2010. (Amends R.S. 9:1702)

Revision of the La. Trust Code (Act No. 390)

Old law provided that for an inter vivos trust, the "proper court" means the district court of the parish designated by the settlor. New law provides that for an inter vivos trust, the proper court is the district court of the parish designated by the trust instrument.

Old law provided that if the settlor has not designated the proper court for an inter vivos trust, the proper court is the district court of the domicile of the resident trustee or the parish where the property is located. New law provides that if the settlor has not designated the proper court for an inter vivos trust, the proper court is any of the following: (a) the district court of the parish in which a settlor was domiciled when the trust was created, (b) if the trust has a trustee domiciled in La., the district court of the parish in which a trustee is domiciled, or (c) if the trust has no trustee domiciled in La., the district court

in which the agent for service of process of any nonresident trustee is domiciled.

Prior law provided that for a testamentary trust, the proper court means the district court having jurisdiction of the settlor's succession.

New law also provides that the settlor can designate the proper court and that all of the trustees, beneficiaries, and living settlers can agree to a proper court after the trustee has been put into possession of the entire legacy.

New law provides that amendments to a trust instrument after an action has been filed shall have no effect on the designation of the proper court.

Old law provided that a class trust may be created with respect to income or principal, or both, but the members of the class must always be the sole beneficiaries of the interest affected, whether income, principal, or both. New law provides that a class trust may be created with respect to all or a portion of principal, or both, and that the members of the class must always be the sole beneficiaries of the portion of the trust of which they are beneficiaries.

Old law provided that an interest of a member of a class trust who dies during the term of the trust may vest in the other members of the class if the member died without descendants and the trust instrument so provides. New law retains present law, but also provides that the trust instrument may provide that, except as to the legitimate interest in trust, the interest of a member of the class who dies leaving one or more descendants vests in the beneficiary's descendant heirs.

New law provides that the trust instrument may provide that the interest of a designated principal beneficiary of a revocable trust shifts to another person or persons, if the substitution occurs no later than the date when the trust becomes irrevocable.

Old law provided the general rule for seizure by a creditor of a beneficiary's interest in income or principal. New law retains present law, but also provides that a beneficiary will not be deemed to have donated property to a trust merely because he fails to exercise a right of withdrawal from the trust.

Old law provides the limits for the delegation of authority to terminate or modify the provisions of a trust. New law (R.S. 9:2025) retains present law, but also adds the exception that the authority to modify the provisions of a trust can be delegated in accordance with R.S. 9:2031.

New law (R.S. 9:2031) provides that a trust instrument may authorize a person other than the settlor to modify the provisions of the trust instrument in order to add or subtract beneficiaries, or modify their rights, if all of the affected beneficiaries are descendants of the person given the power to modify.

Old law provided that the right to revoke a trust can be delegated. New law retains present law, but also adds that the right to amend may not be delegated except as provided in R.S. 9:2025 and 2031.

(Amends R.S. 9:1725, 1893, 1895, 1971, 2004, 2011, 2025, and 2045; Adds R.S. 9:1973(C), 2031, and 2235)

Seizure of Trust Assets (Act No. 457)

New law authorizes the seizure of trust assets if the claim is based upon a judgment for damages arising from a felony criminal offense committed by the beneficiary which results in a conviction or a plea of guilty.

Effective August 15, 2010. (Adds R.S. 9:2005(3))

Delegation by Trustees (Act No. 224)

Prior law provides that a trustee may delegate the performance of acts that he may not be reasonably required to personally perform. New law requires the delegation to be by a power of attorney and limits it to ministerial duties and acts.

Effective August 15, 2010. (Amends R.S. 9:2087(B))

Management of Institutional Funds (Act No. 168)

New law is based upon the Uniform Prudent Management of Institutional Funds Act as approved and recommended by the National Conference of Commissioners on Uniform State Laws in 2006.

New law eliminates the definitions for governing board and historic dollar value, and adds definitions for charitable purpose, person, program-related asset, and record.

New law eliminates the "historic dollar value" limit and provides other factors for consideration in decisions relative to managing and investing.

New law provides the factors for consideration in decisions relative to managing and investing an institutional fund, and for the appropriation for expenditure or the accumulation of assets of an endowment fund.

New law provides for the delegation of investment and management functions. New law provides for the standard of conduct that shall be followed in the management and investment of an institutional fund. New law provides for the release of restrictions on the use or investment of an institutional fund.

New law provides that decisions shall be reviewed based upon the factors that existed at the time the decisions were made.

New law shall govern decisions made on or after July 1, 2010.

New law provides for application in relation to Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq.

Effective on July 1, 2010. (Amends R.S. 9:2337.1-2337.8; adds R.S. 9:2337.9 and 2337.10)

Alienation or Encumbrance of Immovables by Donees (Act No. 225)

Prior law provided that a subsequent alienation or encumbrance of an immovable by a donee was considered an act of corporeal possession and was effective against third parties when

recorded in the parish in which the immovable was located.

New law provides that a subsequent alienation or encumbrance of an immovable by a donee is considered acceptance of the donation and shall be effective against third parties when recorded, regardless of form, in the parish in which the immovable is located.

Effective August 15, 2010. (Amends R.S. 9:2371)

Disclosure of Automatic Renewal Clauses (Act No. 906)

New law requires any person, firm, or corporation engaged in commerce that sells, leases, or offers to sell or lease, any products or services to a consumer pursuant to a contract, where the contract automatically renews unless the consumer cancels the contract, to disclose the automatic renewal clause clearly and conspicuously in the contract or contract offer and to disclose clearly and conspicuously how to cancel the contract in the initial contract, contract offer, or with delivery of products or services.

New law provides that a person, firm, or corporation that fails to comply with the requirements of proposed law is in violation of these requirements unless the person, firm, or corporation demonstrates that all of the following are its routine business practice:

- (1) It has established and implemented written procedures to comply with the law and enforces compliance with the procedures.
- (2) Any failure to comply is the result of error.
- (3) Where an error has caused the failure to comply, it provides, as matter of routine business practice, a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the contract, or the date of the subsequent notice of renewal, whichever occurs first.

New law shall not apply to the following:

- (1) The Louisiana Rental-Purchase Agreement Act as provided in R.S. 9:3351 through 3362.

(2) Banks, trust companies, savings and loan associations, savings banks, credit unions, leasing companies, finance or credit companies, industrial loan companies, or any other financial institution licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or affiliate thereof.

(3) Insurers licensed under Title 22 of the Louisiana Revised Statutes of 1950.

(4) A contract entered into before January 1, 2011.

(5) A contract that allows for cancellation by the consumer by written notice within thirty days or within one month, after the initial period has expired.

New law provides that any contract automatically renewed in violation of new law shall revert to a thirty day renewal contract in accordance with the same terms.

Effective on August 15, 2010. (Adds R.S. 9:2716)

Peremption of Actions Against Contractors (Act No. 651)

Present law grants a 5-year preemptive period for actions against contractors in general involving deficiencies in surveying, design, supervision, or construction of immovables or improvements thereon, but exempts from such preemptive period any action against any such contractor whose fraud has caused the breach of contract or damages sued upon.

New law adds that if fraud is alleged in actions commenced after the five-year period and the court determines that the allegation was brought in bad faith and no fraud is found, then the party who made the allegation shall be liable for court costs and attorney fees. If fraud is proven to have occurred, then the party committing the fraud shall be liable for court costs and attorney fees.

(Amends R.S. 9:2772(H)(2))

Construction and Transportation Services Anti-Indemnity Act (Act No. 492)

New law provides that any provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract or a construction contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the indemnitee from or against any liability for loss or damage where there is negligence or fault (strict liability) on the part of the indemnitee, or an agent or employee of the indemnitee, or an independent contractor over which the indemnitor has no control, is null, void, and unenforceable.

New law provides any provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract or construction contract which purports to require an indemnitor to procure liability insurance covering the acts or omissions or both of the indemnitee, its employees or agents, or the acts or omissions of a third party over whom the indemnitor has no control, is null, void, and unenforceable. New law does not prevent the indemnitee from requiring the indemnitor to provide proof of insurance for obligations covered by the contract.

New law provides that Louisiana law applies to construction contracts performed in this state or motor carrier transportation contracts relative to loading or unloading activities, or any services incidental thereto, which occur in this state. New law further provides that any provision, covenant, or clause in such contracts which conflicts with the provisions of proposed law shall be null, void and unenforceable.

New law defines a "construction contract" to mean any agreement for the design, construction, alteration, renovation, repair or maintenance of a building, structure, highway, road, bridge, water line, sewer line, oil line, gas line, appurtenance or other improvement to real property, including any moving, demolition or excavation, except that no deed, lease, easement, license, or other instrument granting an interest in or the right to possess property shall be deemed to be a construction contract even if the instrument includes the right to design,

construct, alter, renovate, repair or maintain improvements on such real property.

New law further provides that a "construction contract" shall not include any design, construction, alteration, renovation, repair, or maintenance of (i) dirt or gravel roads used to access oil and gas wells and associated facilities, or (ii) oil flow lines or gas gathering lines used in association with the transportation of production from oil and gas wells from the point that oil and gas becomes co-mingled for transportation to oil storage facilities or gas transmission lines.

New law defines a "motor carrier transportation contract" to mean any contract, agreement, or understanding covering the transportation of property for compensation or hire by a motor carrier; entrance upon property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or a service incidental to any such activity, including but not limited to storage of property except agreements providing for the interchange, use or possession of intermodal chassis, containers, or other intermodal equipment, and except with the property consists of agricultural products or timber.

New law is not intended to, nor shall it be judicially interpreted, to alter, add to, subtract from, amend, overlap, or affect the provisions of certain oil field contracts or certain public contracts.

New law shall not apply to prohibited clauses in any motor carrier transportation contract and any construction contract entered into prior to January 1, 2011.

Effective January 1, 2011. (Adds R.S. 9:2780.1)

Attorneys Fees on open Account Suits (Act No. 695)

Prior law provides that when any person fails to pay an open account within 30 days after the claimant sends written demand, that person shall be liable to the claimant for reasonable attorney fees for the prosecution and collection of the claim.

New law provides that "reasonable attorney fees" means attorney fees incurred before judgment and after judgment if the judgment creditor is required to enforce the judgment through a writ of fieri facias, writ of seizure and sale, judgment debtor examination, or other post-judgment judicial process.

New law provides that if the judgment creditor incurs attorney fees after judgment on the principal demand, the judgment creditor may file a rule to show cause and obtain a judgment for those attorney fees which shall be added to the total to be recovered on the principal demand.

New law provides for procedures for obtaining such judgment. New law provides that if the judgment debtor does not timely file a memorandum in opposition, the court may award attorney fees and costs without the necessity of an appearance in court.

New law requires notice to the judgment debtor of the consequences of not timely filing a memorandum in opposition.

Effective August 15, 2010. (Amends R.S. 9:2781)

Limited Liability in Use of Automated External Defibrillators (Act No. 459)

New law provides that, for purposes of limitation of liability, rendering emergency care, first aid, or rescue shall include the use of an automated external defibrillator.

Existing law provides a limitation of liability for certain persons involved with an automated external defibrillator program, including any person responsible for the site. New law adds an owner of the site to the limitation of liability.

Effective August 15, 2010. (Amends R.S. 40:1236.14; Adds R.S. 9:2793(C))

State Suits for Ill-Gotten Gains (Act No. 811)

New law authorizes the state to bring an action for damages against any person who has been convicted of the crimes of public bribery, corrupt influencing, filing or maintaining false public records, malfeasance in office, abuse of

office, public payroll fraud, and public contract fraud to recover the value of any profits, gains, or other benefits obtained through the commission of these crimes.

New law defines "state" as the state of Louisiana, or any parish, municipality, district or other political subdivision thereof or any agency, board, commission, department or institution of the state, parish, municipality, district or other political subdivision.

Effective August 15, 2011. (Amends R.S. 14:118, 120, 133, 134, 134.3, 138, and 140; Adds R.S. 9:2790.5 and 2790.6)

Diminution in Value of Damaged Vehicles (Act No. 725)

New law adds a provision that provides that whenever a motor vehicle is damaged through the negligence of a third-party without being destroyed, and if the owner can prove by a preponderance of the evidence that, if the vehicle were repaired to its preloss condition, its fair market value would be less than its value before it was damaged, the owner of the damaged vehicle is entitled to recover as additional damages an amount equal to the diminution in the value of the vehicle. Notwithstanding, the total damages recovered by the owner cannot exceed the fair market value of the vehicle prior to when it was damaged, and the amount paid for the diminution of value must be considered in determining whether a vehicle is a total loss pursuant to R.S. 32:702.

(Adds R.S. 9:2800.17)

Curator Liability Limits (Act No. 465)

Existing law provides that neither a curator nor an undercurator is personally responsible to a third person for a delictual obligation of the interdict in his charge solely by reason of his office.

New law provides that a curator or undercurator who performs his duties and obligations without compensation shall not be personally liable for any injury, death, damage, civil penalty, or other loss caused by the interdict in his charge, unless

the injury, death, damage, civil penalty, or other loss was caused by the gross negligence or willful and wanton misconduct of the curator or undercurator in executing his duties and obligations.

New law does not apply if there is applicable insurance to cover the loss, but the recovery shall be limited to the amount of such insurance.

Effective August 15, 2010. (Adds R.S. 9:2800.21)

Liens, Privileges, or Judgments Filed After Bond for Deed Contract (Act No. 386)

Old law provided that upon the recordation in the mortgage and conveyance records of a bond for deed contract, any sale, contract, counter letter, lease, or conventional or collateral mortgage executed by the bond for deed seller shall be subject to the rights created by the bond for deed contract. Old law provided that no lien, privilege, or judgment relating to or purporting to affect immovable property that has not been filed previously for registry or recorded in the mortgage records shall be subject to the rights created by the bond for deed contract.

Old law provided that following registry of the bond for deed contract, any instrument that was filed in the mortgage records after the filing of the bond for deed contract shall be cancelled by the clerk of court upon request by affidavit of any interested party, but only insofar as it affects the property described in the bond for deed and subsequent sale, after the noteholder or lienholder has been given 30 days written notice and fails to execute a release.

New law retains old law, except that the reference to conventional or collateral mortgages is changed to apply to any mortgage, and new law provides that any lien, privilege, or judgment relating to or purporting to affect immovable property that has not been filed prior to the bond for deed contract shall be subject to the rights created by the bond for deed contract.

(Amends R.S. 9:2941.1(A))

Consumer Credit Contracts (Act No. 668)

Old law requires that written credit contracts and agreements under the Louisiana Consumer Credit Law accurately reflect the actual terms, conditions, and repayment schedule agreed to by the parties. New law requires that the applicable amount of fees also be reflected in the contracts and agreements.

Effective August 15, 2010. (Amends R.S. 9:3514(B))

Consumer Loan Fees (Act No. 96)

New law authorizes a federally insured depository institution entering into a consumer credit transaction to contract for and receive fees in any amount agreed to in a written agreement signed by the consumer. Fees charged by a federally insured depository institution shall not be considered loan finance charges or credit service charges.

Effective August 15, 2010. (Adds R.S. 9:3530(G))

Real Estate Agency Relationships (Act No. 247)

Prior law provided that a "designated agency" meant a contractual relationship between a broker and a client under which one or more licensees affiliated with the broker are designated as agents of the client. New law instead provides that a "designated agency" means the agency relationship that shall be presumed to exist when a licensee engaged in any real estate transaction is working with a client, unless there is a written agreement providing for a different relationship.

Prior law provided that a "designated agent" meant a licensee named by a broker as the agent of a client. New law instead provides that a "designated agent" means a licensee who is the agent of a client.

New law provides that "substantive contact" means that point in any conversation where confidential information is solicited or received. This includes any specific financial qualifications of the consumer or the motives or

objectives in which the consumer may divulge any confidential, personal, or financial information, which, if disclosed to the other party to the transaction, could harm the party's bargaining position. This includes any electronic contact, electronic mail, or any other form of electronic transmission.

Effective August 15, 2010. (Amends R.S. 9:3891)

Louisiana Binding Arbitration Law (Act No. 545)

New law provides that failure to pay within ten business days any required deposit, fee, or expense shall constitute default in the arbitration proceeding and a party aggrieved by the default shall be entitled to remove the matter under arbitration to a court and shall be entitled to attorney fees and costs in addition to other remedies.

New law provides that the parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the arbitrators may deem necessary to an understanding and determination of the dispute, and strict conformity to the Code of Evidence shall not be necessary, except for laws pertaining to testimonial privileges.

New law requires the arbitrators to determine the admissibility, relevance and materiality of the evidence offered, including the admissibility of expert evidence, and authorizes the exclusion of evidence deemed by the arbitrator or arbitrators to be cumulative or irrelevant.

New law provides that an arbitrator or other person authorized by law to summon witnesses or documents may do so upon the request of any party or independently.

(Amends R.S. 9:4203 and 4206)

Private Works Act - Retainage Escrow Act (Act No. 638)

New law provides that when contracts of \$50,000 or more under the Private Works Act are entered into between an owner and a contractor, and contract funds earned by the

contractor under the terms of the contract are withheld as retainage by the owner from periodic payments due to the contractor, such funds are to be deposited into an interest bearing escrow account. New law shall not apply to a contract for a single family residence, double family residence, or to a contract for the construction or improvement of the certain types of industrial facilities engaged in certain activities.

New law requires the escrow account to be located at a financial institution under the control of an escrow agent, both of which are to be mutually agreed upon by the parties to the contract.

New law requires funds, including any interest, in the escrow account to be released upon the completion of the contract as follows:

(1) If there are no existing claims by the owner, the whole amount shall be paid to the contractor within three business days upon receipt by the escrow agent of a written release signed by the contractor and the owner.

(2) If there is a dispute between the owner and contractor and the contract does not provide for binding arbitration of such dispute, undisputed amounts shall be released by the escrow agent within three business days of receipt of a notarized request of the contractor. Disputed amounts that are the subject of a judicial proceeding shall be released by the escrow agent within three business days of the receipt of a final order by the court specifying the amount of funds to be released.

(3) If there is a dispute between the owner and contractor and the contract provides for binding arbitration of such dispute, undisputed amounts shall be released by the escrow agent within three business days of receipt of a notarized request of the contractor. Disputed amounts that are the subject of binding arbitration under the contract shall be released by the escrow agent within three business days of the receipt of a final order by the arbitrator specifying such amounts.

New law provides that receipt by the escrow agent or the qualified financial institution in which the escrow account is maintained of what

purports to be a written release signed by the contractor and owner, or an order by a court or arbitrator, shall be a full release and discharge of the escrow agent or the qualified financial institution in which the escrow account is maintained in addition to escrow agent authority for transfer of funds to the contractor. New law provides that the escrow agent or the qualified financial institution in which the escrow account is maintained shall not be held liable to any party based on any claim that the written release is unauthorized, forged, or otherwise fraudulent. New law provides that neither the escrow agent nor the qualified financial institutions in which the escrow account is maintained will have any liability to the owner, contractor, or any other person when complying with this proposed law.

Effective August 15, 2010. (Adds R.S. 9:4815)

Termination Notices under Private Works Act (Act No. 601)

Prior law requires that the owner or his representative sign the notice of termination of work under the Private Works Act. New law also authorizes the new owner or his representative to sign the notice if the immovable has been conveyed.

Prior law provides that a notice of termination of work shall be conclusive of the matters certified if it is made in good faith by the owner or his representative. New law also includes matters certified in good faith by the successor to the owner.

(Amends R.S. 9:4822)

Unrecorded Governments Liens and Privileges (Act No. 279)

Prior law requires certain instruments affecting rights in immovable property to be recorded in the mortgage or conveyance records in order to have effect as to third parties.

New law provides that liens and privileges against property granted in favor of parishes or municipalities for assessments for public improvements or for certain statutorily authorized charges imposed on property are not

effective against third parties until filed in the mortgage records.

New law provides that if liens or privileges are placed on the ad valorem property tax bill, the sheriff shall remove them upon request of an interested party whose interest in the property was acquired prior to the recording of the lien in the mortgage records.

Effective August 15, 2010. (Adds R.S. 9:5504)

Actions to Invalidate Documents Executed under Power of Attorney (Act No. 196)

Old law provides for a prescriptive period of five years to set aside a document or instrument executed under authority of a power of attorney on the ground that the power of attorney was without authority to do so or that the power of attorney was not valid. Old law provides that the prescription begins running from the date on which the document is recorded in the conveyance or mortgage records. New law retains old law.

Old law provided that the prescriptive period shall not become final and complete as to any document or instrument executed prior to one year from Aug. 15, 2008, but also provides that the five-year prescriptive period shall be retroactive and shall apply to all such documents whether recorded prior to or after Aug. 15, 2008. Old law further provides that as to any documents as to which prescription has not already run and become final, this prescriptive period shall not become final and complete until 10 years from the date the document was recorded or Aug. 15, 2013, whichever occurs first.

New law clarifies the retroactive application of old law by providing that the prescriptive period established by old law shall be retroactive and shall apply to all documents whether recorded prior to or after Aug. 15, 2008; however, as to any documents recorded prior to Aug. 15, 2008, as to which prescription has not already run and become final, the prescriptive period shall become final 10 years from the date the document was recorded or Aug. 15, 2013, whichever occurs first.

New law provides for prospective and retroactive application to Aug. 15, 2008.

(Amends R.S. 9:5647)

Constitutional Rights, Contracts, and Foreign Laws (Act No. 714 and 886)

New law defines "foreign law" as any law, rule, or legal code or system established and used or applied in a jurisdiction outside of the states or territories of the United States.

New law provides that the public policy of this state is to protect its citizens from the application of foreign laws which will result in the violation of a constitutional right.

New law prohibits the enforcement of a foreign law if doing so would violate a right guaranteed by the constitution of this state or of the United States.

New law provides that if the enforcement of any choice of law, venue, or forum non conveniens provision in a contract would result in the violation of a constitutional right, that provision shall be amended, interpreted or construed so that the enforcement of the provision shall not result in a violation of a constitutional right.

New law provides that if any contractual provision or agreement is incapable of being modified, interpreted or construed in order to preserve the constitutional rights of the parties, it shall be declared null and void.

New law does not apply to a juridical person who is a party to the contract or agreement.

New law applies to only actual or foreseeable violations of constitutional rights.

Effective August 15, 2010. (Adds R.S. 9:6000)

TITLE 10: COMMERCIAL LAWS

**TITLE 11: CONSOLIDATED PUBLIC
RETIREMENT SYSTEMS**

LASERS (Act No. 1026)

New law requires La. State Employees' Retirement System (LASERS) employers to pay individualized normal cost payments and amortization payments depending on which plans within the system its employees fall into.

New law requires, for accounting purposes, that each plan shall be allocated system assets in proportion to the accrued liability of each plan existing on June 30, 2010. Beginning with FY 2010-2011 and thereafter, each plan shall be allocated investment gains and losses in proportion to its individual assets.

Effective July 1, 2010. (Amends R.S. 11:102)

Investment of Retirement Systems (Act No. 1004)

New law adds to the prudent-man rule for each fiduciary of a retirement or pension system, plan or fund that the asset allocation study and implementation plan shall include an examination of market value risk, credit risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. New law adds that the investment policy of each system shall preserve and enhance principal over the long term and provide adequate liquidity and cash flow for the payment of benefits.

New law provides that the investments shall be diversified to minimize the risk of significant losses unless it is clearly prudent not to do so. New law includes a list of considerations to be taken into account before any investment decision is made. These considerations include: pricing, liquidity, transparency, legal jurisdiction, currency fluctuations, experience of professional managers, financial soundness of money management companies, diversification, leverage, and expected returns.

Effective July 1, 2010. (Amends R.S. 11:263; repeals R.S. 11:267 and 268)

Seizure of Public Retirement Benefits (Act No. 634)

New law provides that the pension or retirement benefit of an elected official or public employee may be garnished or seized to pay any fine or restitution or any costs of incarceration, probation, or parole, imposed as a penalty for conviction of a felony associated with his office.

New law provides that the pension or retirement benefit of a member, former member, or retiree payable from any public retirement or pension system, plan, or fund may be subject to seizure or garnishment for payment of any restitution or fine, or any costs of incarceration, probation, or parole, imposed upon conviction of or a plea of guilty or nolo contendere to a felony associated with the service as an elected official or public employee for which such retirement benefit was earned or accrued.

New law specifies that, notwithstanding any provision of law to the contrary, a garnishment authorized pursuant to new law may be continuing in nature as necessary to pay the court ordered restitution or fine in full.

Effective July 1, 2010. (Amends R.S. 11: 292, 570, 930, 951.3, 952.3, 1378, 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321, 3345, 3389, 3408, 3440, 3470, 3513, 3608, 3691, 3770, 3800, and 3823 and R.S.13:3881)

Parochial Employees Retirement System (Act No. 870)

New law provides that any employer terminating employee coverage with PERS shall pay its share of the system's unfunded accrued liability existing on December 31st prior to such employer's termination of participation. The amount due shall be amortized over 10 years and may, at the option of the employer, be paid in a lump sum or equal monthly payments with interest at the system's valuation interest rate.

Effective July 1, 2010. (Amends R.S. 11:1903)

Parochial Employees Retirement System (Act No. 869)

New law requires a taxing district employer that desires to enroll its employees in Parochial Employees' Retirement System (PERS) to extend benefits to all of its employees. New law prohibits approval of a plan for extending benefits if any of the employer's employees are eligible for membership in another La. public retirement or pension system, plan, or fund because of their employment with the employer applying to enter an agreement with PERS.

New law provides that any person who is ineligible for membership in the publicly funded retirement system (other than PERS) covered by his employment due to any failure to meet eligibility requirement or qualification shall not be eligible for membership in PERS.

New law provides that nothing in this Act shall affect already existing agreements.

Effective July 1, 2010. (Amends R.S. 11:1903 and 1922)

TITLE 12: CORPORATIONS AND ASSOCIATIONS

Low-Profit LLCs (Act No. 417)

New law defines a low-profit limited liability company as a limited liability company organized to satisfy each of the following requirements:

(1) The entity significantly furthers the accomplishment of one or more charitable or educational purposes within the meaning of §170(c)(2)(B) of the Internal Revenue Code and would not have been formed but for the entity's relationship to the accomplishment of charitable or educational purposes.

(2) No significant purpose of the entity is the production of income or the appreciation of property. However, the fact that an entity produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(3) No purpose of the entity is to accomplish one or more political or legislative purposes within the meaning of §170(c)(2)(D) of the Internal Revenue Code.

New law provides that if a company so formed at any time ceases to satisfy any one of the requirements, it shall immediately cease to be a low-profit limited liability company, but by continuing to meet all the other requirements of new law, shall continue to exist as a limited liability company. The name of the company shall be changed to be in conformance with new law.

New law adds that the articles of organization shall also indicate whether the company is a low-profit limited liability company.

New law provides that the name of each low-profit limited liability company shall contain the words "low-profit limited liability company", the abbreviation "L3C", or the abbreviation "l3c".

New law adds that the articles of organization shall be amended when a limited liability company ceases to be a low-profit limited liability company pursuant to new law.

Effective August 15, 2010. (Amends R.S. 12:1306 and 1309; Adds R.S. 12:1301(A)(21), 1302(C), and 1305(B)(3))

Electrical Cooperatives (Act No. 202)

New law provides that nothing in existing law shall limit the rights of members under existing law or any rights otherwise granted in the bylaws and articles of incorporation that may authorize voting by mail or proxy.

Prior law provided that a voluntary dissolution of an electrical cooperative shall be deemed to be approved upon the affirmative vote of not less than 2/3 of those members voting at the annual or special meeting. New law requires an affirmative vote of not less than a majority of all of the members and authorizes voting by mail and proxy.

Effective January 1, 2011. (Amends R.S. 12:407 and 418(B)(1))

TITLE 13: COURTS AND JUDICIAL PROCEDURE

Disbursement of Registry Funds (Act No. 448)

New law provides that after the clerk of court receives a copy of an order authorizing disbursement of funds located in the registry of the court, the clerk within 15 business days shall disburse the funds by check payable to each entity or person entitled to the funds.

New law provides that a person shall be entitled to receive accrued interest if the clerk of court fails to disburse the funds within the required time period.

Effective August 15, 2010. (Adds R.S. 13:918)

New Orleans City Court Judges (Act No. 428)

New law provides that judges of the 1st and 2nd City Court of New Orleans shall have been admitted to the practice of law in Louisiana for at least eight years prior to their election, and qualified resident electors of the territorial jurisdiction of the court for at least one year prior to their election.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 13:2152.3)

Smaller Cities - Civil Fines and Administrative Hearings (Act No. 297)

Prior law provides that municipalities having a population of at least 100,000 may prescribe civil fines for the violation of certain ordinances including prohibited parking, stopping, or standing in certain areas. New law changes the population category from 100,000 to 25,000.

Prior law provides that municipalities having a population of at least 100,000 may adopt an ordinance establishing an administrative adjudication hearing procedure for persons charged with violating parking, stopping, or standing ordinances. New law changes the population minimum to 25,000.

(Amends R.S. 13:2571(A) and (B))

Expanded Municipal Powers (Act No. 449)

Prior law provides that any municipality or parish having a population of 425,000 or more may prescribe civil fines for violation of public health, housing, fire code, environmental, and historic district ordinances in the municipality or parish by owners of immovable property, their agents, tenants, or representatives pursuant to the procedures for administrative adjudication provided in present law. New law extends the right to prescribe such civil fines to any municipality.

New law defines "housing violation" for municipalities having a population of more than 70,000 persons as including building codes, zoning, vegetation, and nuisance ordinances.

Effective August 15, 2010. (Amends R.S.13:2575(A))

Higher Cost and New Building for CDC (Act No. 900)

New law provides that, subject to the approval of the Judicial Council of the Louisiana Supreme Court, the Civil District Court for the parish of Orleans and the clerk of court of the Civil District Court for the parish of Orleans are authorized to impose additional costs in all cases in which the court has jurisdiction, and further provides that such monies shall be designated to the development, construction, and operation of a new facility to house the Civil District Court for the parish of Orleans, the office of the clerk of court for Civil District Court for the parish of Orleans, the First City Court, the clerk of the First City Court, the constable of the First City Court, the office of the civil sheriff, the Orleans Parish Juvenile Court, the mortgage office, the conveyance office, the notarial archives, and such other courts and parochial offices as may be necessary.

Prior law provides that jurors in the trial of civil cases in the Civil District Court for the parish of Orleans shall be entitled to compensation of \$16 each for each and every day, or part of a day, on which they serve as jurors in any civil case, and prior to the commencement of the trial, the party

praying for the jury shall deposit in the registry of the court the sum of \$192 for each day the court estimates the trial will last.

New law increases the compensation paid to jurors from \$16 to \$25 and increases the amount required to be paid in the registry of the court from \$192 to \$300 for each day the court estimates the trial will last.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 13:3105; adds R.S. 13:996.67)

Appellate Records at LSU (Act No. 463)

New law requires that the LSU Law Library shall cease to serve as the depository for duplicate copies of transcripts and briefs of cases finally disposed of by the supreme court.

New law requires the LSU Law Library to continue to store and maintain records transmitted by the clerk of the supreme court between the dates of Jan. 1, 1980, and Aug. 15, 2010, pending further orders of the supreme court. New law authorizes the LSU Law Library to destroy all duplicate records received prior to Jan. 1, 1980.

New law requires that the LSU Law Library shall cease to serve as the depository for duplicate copies of transcripts and briefs of cases finally disposed of by the courts of appeal.

New law authorizes the LSU Law Library to remove and destroy any duplicate records transmitted to it by a court of appeal prior to Aug. 15, 2010, after the lapse of five years from the date of deposit. New law requires the library to retain the duplicate records transmitted by a court of appeal for the five-year period unless ordered by the supreme court.

New law prohibits the LSU Law Library from disposing of any records or criminal cases previously transferred by the 4th and 5th circuit courts of appeal.

New law requires the library to maintain a public record of the materials that are removed and destroyed, which record shall show the respective depositor court of appeal, case name,

docket number, year of deposit, and date of destruction.

Effective August 15, 2010. (Amends R.S. 13:4682 and 4686)

Service of Process on State or its Employees (Act No. 55)

Prior law provides that in all suits in which the state, a state agency, or a political subdivision, or any officer or employee thereof is named as a party, if service of citation is not requested by the party filing the action within 90 days, the action shall be dismissed without prejudice, after contradictory motion as to the state, state agency, or political subdivision, or any officer or employee thereof, who has not been served.

New law specifies that if service is not requested within 90 days of the commencement of the action or the filing of a supplemental or amended petition which initially names the state, a state agency, or political subdivision or any officer or employee thereof as a party, the action shall be dismissed without prejudice, after contradictory motion as to the state, state agency, or political subdivision, or any officer or employee thereof, who has not been served.

Effective August 15, 2010. (Amends R.S. 13:5107(D)(2))

Preservation of Religious Freedom Act (Act No. 793)

New law provides findings, including the intent of the legislature and people of Louisiana in 1974 when adopting Article I, Section 8 of the Constitution of Louisiana.

New law provides that government shall not substantially burden a person's exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability, unless it demonstrates that application of the burden to the person is both in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

New law provides for definitions of "burden", "compelling state interest", "demonstrates", "person", and "government or governmental agency".

New law provides that nothing in proposed law shall be construed to allow any person to cause physical injury to another person.

New law provides that the standards of a compelling governmental interest shall be satisfied by any penological regulation or rule which is established by a jail or correctional facility to protect the safety and security of incarcerated persons, or staff of, or visitors to the jail or correctional facility, or to maintain order or discipline in the jail or correctional facility.

New law provides that nothing in new law shall be construed to authorize any relationship, marital or otherwise, that would violate Art. XII, Section 15 of the Constitution of Louisiana, prohibiting same-sex marriages and providing that marriage in the state of Louisiana shall consist only of the union of one man and one woman.

New law further provides that nothing in the new law shall be construed to authorize the enforcement of any law, rule, or legal code or system established and used or applied in a jurisdiction outside of the states or territories of the U.S.

New law shall be applicable to all state laws and local ordinances and the implementation of those laws and ordinances, whether statutory or otherwise and whether enacted or adopted before, on or after the effective date of new law.

New law provides that nothing in new law shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity.

New law provides that a person whose religious exercise is being, has been, or is likely to be burdened in violation of new law may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, not including punitive or exemplary damages,

without regard to whether the proceeding is brought in the name of the state or by any other person, including but not limited to:

(1) Injunctive relief, protective order, writ of mandamus or prohibition, or declaratory relief against a government agency or person acting under color of law to prevent a violation of the new law.

(2) The actual damages, reasonable attorney fees, and costs.

New law provides that a person shall not bring an action in court to assert a claim unless, at least 30 days prior to bringing the action, the person gives written notice to the person burdening his free exercise, and any governmental agency authorizing such, by certified mail, return receipt requested, informing the person and the agency of all of the following:

(1) The person's free exercise of religion is being, has been, or is about to be substantially burdened by an exercise of the agency's governmental authority.

(2) A description of the act or refusal to act which is burdening, has burdened or is about to burden the person's free exercise of religion.

(3) The manner in which the exercise of the governmental authority burdens the person's free exercise of religion.

New law provides an exception to the 30-day notice if any of the following occur:

(1) The exercise of governmental authority which threatens to substantially burden the person's free exercise of religion is imminent.

(2) The person was not informed and did not otherwise have knowledge of the exercise of the governmental authority in time to reasonably provide notice.

(3) The provision of the notice would delay an action to the extent that the action would be dismissed as untimely.

(4) The claim or defense is asserted as a counterclaim, objection, or defense in a pending proceeding.

New law provides that prior to the expiration of the 30-day period, an agency which receives notice may remedy the substantial burden on the person's free exercise of religion. A person with respect to whom a substantial burden on the person's free exercise of religion has been cured shall not bring an action or must dismiss such action if it is already pending.

New law provides that, subject to certain exceptions, the provisions of the Louisiana Governmental Claims Act, Corrections Administrative Remedy Procedure, and Prison Litigation Reform Act shall apply to an action under proposed law.

New law provides that a person shall bring an action to assert a claim for damages not later than one year after the date the person knew or should have known of the substantial burden on the person's free exercise of religion. New law provides that mailing the 30-day notice shall toll the one-year period until the 75th day after the date on which the notice is mailed.

New law provides that any person found by a court of competent jurisdiction to have abused the protection of new law by filing a frivolous or fraudulent claim may be assessed the court costs of the governmental entity and may be enjoined from filing further claims without leave of the court.

New law provides that a "fraudulent claim" means a claim that is dishonest in fact or that is made principally for a patently improper purpose, such as to harass the opposing party.

New law provides that a "frivolous claim" means a claim which lacks merit under existing law and which cannot be supported by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law.

New law provides that the protections of new law are in addition to the protections granted by federal law and the state and federal constitutions.

New law provides that it shall not affect the grant of benefits or tax exemptions to religious organizations.

New law provides that it shall not affect, interpret, or in any way address that portion of the First Amendment to the Constitution of the United States or of Article 1, Section 8 of the Constitution of Louisiana that prohibits laws respecting the establishment of religion.

(Adds R.S. 13:5230-5242)

JDCs May Cooperate (Act No. 664)

New law authorizes judicial district courts to enter into intergovernmental agreements to jointly operate programs funded by local, state, and federal funds in order to share administrative costs.

(Adds R.S. 13:5401)

TITLE 14: CRIMINAL LAW

Tampering with Surveillance, Accounting, Inventory, or Monitoring Systems (Act No. 351)

New law creates the crime of tampering with surveillance, accounting, inventory, or monitoring systems.

New law provides for penalties including a fine of not more than \$1,000, imprisonment with or without hard labor for not more than one year, or both.

(Adds R.S. 14:110.3)

Human Trafficking (Act No. 382)

Old law provided for the crime of human trafficking and provides that it shall be unlawful for a person to intentionally recruit, harbor, transport, provide, solicit, or obtain another person through fraud, force, or coercion to provide services or labor.

New law changes "intentionally" to "knowingly" and otherwise retains present law.

(Amends R.S. 14:46.2(A))

Fraudulent Postsecondary Degrees (Act No. 206)

New law provides that it will be unlawful for a person to knowingly or intentionally buy, sell, produce, manufacture, or distribute, for any purpose, a fraudulent postsecondary education degree or other document purporting to confer any degree or certify the completion in whole or in part of any course of study.

New law defines "fraudulent postsecondary education degree" as a credential presented as a degree which provides information that is false, forged, altered, or counterfeit and signifies the satisfactory completion of the requirements of a postsecondary education degree.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 14:72.5)

Google Map Crimes (Act No. 62)

New law provides that when an Internet, virtual, street-level map is used in the commission of a criminal offense against a person or against property, an additional period of not less than one year shall be imposed without the benefit of parole, probation, or suspension of the sentence.

New law creates the crime of using an Internet, virtual, street-level map where the map is used in the commission or attempted commission of an act of terrorism. New law provides that an additional sentence of not less than 10 years shall be imposed without the benefit of parole, probation, or suspension of the sentence when an Internet, virtual, street-level map where the map is used in the commission or attempted commission of an act of terrorism.

New law defines "Internet, virtual, street-level map" as any map or image, that contains the picture or pictures of homes, buildings, or people that are taken and dispensed, electronically, over the internet or by a computer network, where the picture can be accessed by entering the address of the home, building, or person.

Effective August 15, 2010. (Adds R.S. 14:73.1(14) and 73.9)

Participation in Cockfighting (Act No. 114)

New law creates the crime of participation in cockfighting. New law provides that it shall be unlawful for any person to attend a cockfight or to bet on a cockfight or to pay admission at any location to view or bet on a cockfight.

Effective August 15, 2010. (Adds R.S. 14:102.24)

Money Laundering (Act No. 608)

New law amends the definition of "funds" with respect to the crime of money laundering to include the following:

- (1) Electronic or written checks, drafts, money orders, traveler's checks, or other electronic or written instruments or orders for the transmission or payment of money.
- (2) Investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.

(Adds R.S. 14:230(A)(2)(d) and (e))

Tracking Devices (Act No. 807)

New law provides that no person shall use a tracking device to determine the location or movement of another person without the consent of that person. New law defines a "tracking device" as any device that reveals its location or movement by the transmission of electronic signals.

New law shall not apply to:

- (1) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to such vehicle.
- (2) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to such vehicle.
- (3) Any law enforcement agency, acting pursuant to a court order or lawfully using the

tracking device in an ongoing criminal investigation.

(4) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(5) The Dept. of Public Safety and Corrections who is tracking offenders in its custody or under its supervision.

(6) Any provider of a commercial mobile radio service which allows the provider to determine the location or movement of a device provided to a customer of such service.

(Adds R.S. 14:323)

TITLE 15: CRIMINAL PROCEDURE

Arrest of Witnesses (Act No. 485)

Prior law provided that a judge shall issue a warrant for the arrest of an essential witness when there are good grounds to fear that the witness may depart or be taken from the jurisdiction of the court.

New law provides that the judge shall issue a warrant for the arrest of an essential witness when it is shown that it may become impracticable to secure the presence of the person by subpoena.

Effective August 15, 2010. (Amends R.S. 15:257)

Admission of Confession into Evidence (Act No. 433)

New law makes technical correction by changing "purposes" to "purports" in regard to allowing a confession into evidence.

Effective August 15, 2010. (Amends R.S. 15:451)

Admissibility of Certificate of Analyses (Act No. 693)

Prior law required the party seeking to introduce a certificate of analyses to give written notice of

intent to offer proof by certificate not less than 10 days prior to the commencement of the trial. New law extends this period to 45 days.

New law provides that the attorney for the defendant, or the defendant acting in his own defense if not represented by counsel, may demand that the person making the examination or analysis testify, by filing a written demand and serving it upon the district attorney or attorney general seeking to introduce the certificate. If such a demand is made timely, the certificate shall not constitute prima facie proof of the facts thereon.

New law provides that the demand for the testimony of the person making the analysis shall be filed and served by counsel for the defendant, or by a defendant acting as his own counsel, within 30 days of the receipt of notice. The trial court may extend this 30-day period for good cause shown if such request is made prior to the expiration of the 30 days.

New law provides, if no request for additional time is made prior to the expiration of the 30-day period, an extension of time in which to make such a demand may be made only upon a showing of exceptional circumstances. Any allegation that such circumstances exist shall constitute a preliminary plea on the defendant's behalf. The demand shall be made in writing, and notice shall be served on the district attorney or the attorney general prosecuting the matter. The court shall conduct a contradictory hearing to determine if the extension is warranted.

New law provides that the filing of a demand by the defendant does not prevent the admission of the certificate or its contents in any other manner otherwise appropriate pursuant to existing law.

Effective August 15, 2010. (Amends R.S. 15:499 and 501)

Hard Labor for Repeat Offenders (Act No. 69)

Present law provides that persons sentenced for second and subsequent offenses serve without benefit of probation or suspension of sentence. New law further requires that sentences imposed be at hard labor.

Effective August 15, 2010. (Amends R.S. 15:529.1(G))

Sex Offender Photo Galleries at School (Act No. 859)

New law provides that notice of all sex offenders who reside within 1 mile of a school shall contain a photograph of the sex offender and shall be posted at the school in conspicuous areas accessible by all students attending the school.

Effective August 15, 2010. (Amends R.S. 15:542.1(A)(1)(b))

Louisiana Arson Registry (Act No. 796)

New law provides that any person over the age of 17 who resides in this state and has pled guilty to, or has been convicted of an offense involving arson shall register with the state fire marshal.

New law requires offenders to notify law enforcement of changes of address and residence.

New law requires offenders to provide notification for five years on a first conviction and for the duration of their lifetime for a second or subsequent conviction, unless the underlying conviction is reversed, set aside, or vacated.

(Adds R.S. 15:562 - 562.6)

Witness Requirements for Executions (Act No. 343)

New law deletes the provision requiring that all witnesses to the execution of a death sentence shall be La. citizens.

(Amends R.S. 15:570(A)(6))

Electronic Monitoring In Lieu of Prison (Act No. 821)

New law authorizes the Lafourche Parish Sheriff's Office to implement a pilot program using, as an alternative mode of incarceration to

traditional imprisonment, active electronic monitoring of eligible offenders.

The pilot program shall begin a termination process not later than 60 days after the date in which a newly constructed correctional facility in Lafourche Parish is opened and occupied.

Effective August 15, 2010. (Adds R.S. 15:571.35.1)

Disclosure of Expunged Arrest or Conviction (Act No. 781)

New law adds the following to the list of entities who have access to expunged records and whom a person must disclose an arrest or conviction which has been expunged:

- (1) The office of the attorney general.
- (2) The various district attorney's offices of the state of Louisiana.
- (3) Any person requesting a record of all criminal arrests and convictions pursuant to law regarding the provision of information to protect children.

Effective August 15, 2010. (Amends R.S. 15:587.1 and R.S. 44:9; adds R.S. 15:587(A)(1)(f))

Criminal Background Checks (Act No. 833)

Existing law authorizes employers to access conviction records from the La. Bureau of Criminal Identification and Information. New law authorizes employers to also access criminal history of potential employees from CAJUN via LACCIE.

Effective August 15, 2010. (Amends R.S. 15:587(F))

Follow-Up DNA Samples (Act No. 213)

New law provides that when a DNA sample is not drawn or taken pursuant to law, or when the first DNA sample is destroyed, tainted, or fails to generate a full DNA profile during analysis, the court may order the person to produce a

DNA sample on an ex parte motion of any of the following:

(1) A law enforcement agency who investigated the person which resulted in the arrest for a felony or other specified violent and sexual offenses, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses.

(2) The warden or the administrator of the booking facility or correctional facility where the person was booked or incarcerated.

(3) The district attorney or attorney general assigned to prosecute the case for which a DNA sample was authorized.

Effective August 15, 2010. (Adds R.S. 15:609(J))

70% Income Tax on Inmates (Act No. 809)

New law provides for a flat rate, not to exceed 70%, that may be deducted from an inmate's gross wages to cover room, board, and other administrative and incidental costs resulting from the inmate's participation in a work release program.

Effective August 15, 2010. (Amends R.S. 15:1111(H))

Expansion of Definition of "Racketeering Activity" (Act No. 787)

New law adds possession of large quantities of marijuana (60 pounds up to 10,000 pounds) and the following crimes to the definition of "racketeering activity": simple kidnapping; simple arson; aggravated burglary; simple burglary; simple burglary of a pharmacy; simple burglary of an inhabited dwelling; unauthorized entry of inhabited dwelling; first degree robbery; second degree robbery; and simple robbery.

Effective August 15, 2010. (Amends R.S. 15:1352)

TITLE 16: DISTRICT ATTORNEYS

TITLE 17: EDUCATION

Restraint of Students (Act No. 698)

New law requires BESE to prepare and adopt guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities.

Effective August 15, 2010. (Amends R.S. 17:7(5))

BESE Meetings on Internet (Act No. 697)

New law provides that all meetings conducted in Baton Rouge by the State Board of Elementary and Secondary Education or any of its committees shall be broadcast live over the Internet. New law provides that all such broadcasts are to be recorded, archived, and made accessible to the public for at least one year from the meeting date.

Effective Jan. 1, 2011. (Adds R.S. 17:3.1)

Abuse by Students (Act No. 404)

New law requires BESE to adopt rules and regulations to address the physical abuse of public school teachers and other school employees by students, as follows:

(1) Requiring school governing authorities to keep an accurate record of incidents of such abuse.

(2) Requiring school governing authorities to provide appropriate equipment to protect teachers and other school employees from such abuse.

(3) Providing support services to teachers and other school employees which afford them the opportunity to discuss the stress caused by such abuse.

(4) Giving any teacher or other school employee who has been the victim of such abuse, the opportunity to seek another position for which he is certified within the same parish in which he

will not have contact with the student(s) involved, provided that there is another position available.

(Adds R.S. 17:7(29))

School Employee Sabbaticals (Act No. 470)

Prior law provides that certain teaching staff of the state special schools or of city, parish, or other local public school boards are eligible for sabbatical leave. New law adds certain school nurses, audiologists, educational diagnosticians, and speech-language pathologists who hold such certificates to the list of eligible employees, but limits their eligibility to a fiscal year for which the amount of the state and local base per pupil cost determination is increased at least 2.75% over the amount established for the previous fiscal year.

(Amends R.S. 17:46(A)(1)(b) and 1170)

Use of Student Biometric Information (Act No. 498)

New law requires the governing authority of each public elementary and secondary school that collects biometric information from students to develop, adopt, and implement policies governing the collection and use of such information that meet specified minimum standards.

New law provides that a student shall not be refused or denied any services due to the failure to provide written consent.

New law defines "biometric information" as the noninvasive electronic measurement and evaluation of any physical characteristics that are attributable to a single person, including fingerprint characteristics, eye characteristics, hand characteristics, vocal characteristics, facial characteristics, and any other physical characteristics used for the purpose of electronically identifying that person with a high degree of certainty.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 17:100.8)

Recovery School District May Contract with Outside Legal Counsel (Act No. 717)

Old law provides relative to a state board or commission retaining or employing an attorney to represent it in a special matter. Establishes procedures for doing so and places conditions and limitations on such actions.

New law permits the state's Recovery School District to contract with outside counsel on a contingency-fee basis for the purpose of obtaining legal services related to the use of tax credits.

New law specifies that outside counsel contracted pursuant to new law shall be selected through a request for proposal (RFP) process.

(Adds R.S. 17:100.10(H))

Fair Final High School Exams (Act No. 445)

New law requires that questions included in any end-of-course examination administered to students pursuing a career major program and curriculum, the passage of which is required for high school graduation, be constructed in a manner that reflects course design and content and the method of instruction employed for the course.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 17:183.3(B)(3))

Admission Required (Act No. 699)

New law prohibits a local school board from denying admission or readmission to school of any student of suitable age who resides within the geographic boundaries of the school system unless such student is legally excluded from attending school.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 17:221(B))

Home Study Diplomas (Act No. 677)

New law provides that a high school diploma awarded by a BESE approved home study program shall be deemed by all public postsecondary educational institutions, all state departments, agencies, boards, and commissions, and all other state and local governmental entities, to have all of the rights and privileges afforded to a high school diploma awarded by a state-approved nonpublic school.

Effective August 15, 2010. (Adds R.S. 17:236.1(G)).

Confidentiality of Student Data (Act No. 453)

New law provides that the La. Association of Independent Colleges and Universities (LAICU) and its member institutions are not liable if any confidential student data or records they submit to the Board of Regents pursuant to a law, rule, or regulation, is breached as the result of actions of the board or its staff and not from the transmission of such data or records by LAICU or a member institution prior to receipt by the board. New law applies to any student data or records that are confidential under any state or federal law, including the federal Family Educational Rights and Privacy Act.

Effective August 15, 2010. (Adds R.S. 17:1814)

GO Grant Program (Act No. 655)

New law provides for participation in the Louisiana GO Grant program of any student who meets the following requirements:

1. Is a Louisiana resident at the time of application.
2. Is enrolled in a Louisiana public college or university or a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities ("eligible colleges and universities").
3. Is a recipient of a federal Pell Grant or a financial need grant from an eligible college or university or any other need-based aid as determined by the Board of Regents (BOR).

4. Is determined to have unmet need with regards to the ability to pay the cost of attendance for the eligible college or university in which the student is enrolled.

5. Maintains steady academic progress as defined by the BOR for continued participation.

6. Meets any other eligibility criteria the BOR may require.

New law requires the BOR to establish the criteria for initial and continuing eligibility, the method for determining the award amount, and other program requirements. New law provides that the Louisiana Student Financial Assistance Commission, through the office of student financial assistance, shall administer the program.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 17:3046-3046.2)

Section 529 Education Funds Protection (Act No. 671)

New law provides that monies paid into or out of the assets and the income of any validly existing qualified tuition program authorized by Section 529 of the Internal Revenue Code of 1986 as amended, including but not limited to an education savings account as defined in R.S. 17:3092, shall not be liable to attachment, levy, garnishment, or legal process in the state in favor of any creditor of or claimant against any program participant, owner or contributor, or program.

Effective August 15, 2010. (Amends R.S. 17:3096(G))

Board of Regents - APA (Act No. 648)

New law provides that rules adopted by the Board of Regents, other than those adopted to regulate the internal management of the board's affairs, must be adopted in accordance with the Administrative Procedure Act. New law further requires the board to submit a copy of any order, rule, regulation, plan, policy, or recommendation so adopted to the Senate Committee on Education and the House Committee on

Education, along with the written reasons and explanations and a summary report of the proceedings of the public hearings conducted.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 17:3123(D) and 3133)

Board of Regents Meetings on Internet (Act No. 696)

New law provides that all meetings conducted in Baton Rouge by the Board of Regents or any of its committees shall be broadcast live over the Internet. Further provides that all such broadcasts are to be recorded, archived, and made accessible to the public for at least one year from the meeting date.

Effective Jan. 1, 2011. (Adds R.S. 17:3123.1)

Postsecondary Education (Act No. 447)

New law provides that, with the exception of those matters enumerated in the state constitution that require legislative approval, the Board of Regents shall adopt such policies and take such actions as deemed appropriate and necessary to maximize the use of all resources available to support and promote postsecondary education in the state.

New law provides that the provisions of the master plan for postsecondary education and any other board policy that is part of a statewide plan or has statewide application also apply to all public postsecondary institutions, including vocational-technical schools.

New law specifies that the supervision and management powers of the postsecondary education management boards are applicable to the "day-to-day operations" of institutions under their control.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 17:3126, 3128, 3130, and 3351)

Teacher Evaluation and Assessment (Act No. 54)

New law provides relative to evaluation and assessment programs for teachers and administrators. Among other things:

New law requires annual formal evaluations by local boards for all teachers and administrators regardless of years of employment in such positions. New law provides that by the 2012-2013 school year, 50% of such evaluations shall be based on evidence of growth in student achievement using a value-added assessment model as determined by BESE for which value-added data is available.

New law requires evaluators to determine whether the teacher or administrator is effective or ineffective instead of satisfactory or unsatisfactory. New law requires BESE to determine a standard for highly effective teachers for use by local school boards.

New law provides for purposes, definitions (including teacher), powers and duties of BESE, and access to assessment and evaluation records. New law changes the powers and duties of local school boards relative to evaluation programs.

New law requires each charter school governing authority to annually evaluate every teacher at the school. New law further provides that by the 2012-2013 school year, 50% of each teacher evaluation shall be based on evidence of growth in student achievement using a value-added assessment model as determined by BESE for which value-added data is available.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 17:10.1, R.S. 17:3881-3886, R.S. 17:3901-3905, and R.S. 17:3997(D); Repeals R.S. 17:3891-3895)

Repeal of Obsolete Provisions of Title 17 (Act No. 500)

New law repeals numerous provisions of Title 17, including laws held unconstitutional in 1957, 1960, and 1970, a 1924 law requiring male high school students to be given instruction in "military science and tactics", and a 1962 law

requiring high school students be taught "the evils of socialism" and "the strategy and tactics used by communists in their efforts to achieve world domination."

Effective August 15, 2010. (Repeals numerous provisions of Title 17)

TITLE 18: LOUISIANA ELECTION CODE

Recall Petitions (Act No. 621)

New law requires the chairman of a recall to provide written notice by certified mail, return receipt requested, to the public officer whose recall is sought on the third day before the petition is submitted to the registrar. New law requires the registrar to provide written notice of the certification to the public officer whose recall is sought on the date the recall petition is sent to the governor.

New law provides that the public officer whose recall is sought and the chairman or vice chairman listed on the recall petition may bring an action contesting the certification of a recall petition. The secretary of state, in his official capacity, shall be made a party defendant to such an action. New law authorizes a party to the action to take a deposition before trial upon at least 48 hours notice. The district courts have exclusive jurisdiction to such an action. The action shall be instituted in the district court for a parish included in whole or in part in the voting area or if the recall is of a statewide elected official, the district court for the parish where the state capitol is located.

Such actions shall be tried summarily, without a jury in open court no later than 10:00 a.m. on the fourth day after the suit was filed.

(Amends R.S. 18:1300.2, 1300.3, 1402, 1403, 1405, 1406, 1409, 1410, and 1411; Adds R.S. 18:1401(E) and 1404(D))

Reporting Contribution to the Supervisory Committee on Campaign Finance Disclosure (Act No. 778)

New law provides that, with regard to expenditures made in support of or in opposition to a proposition or question submitted to the voters by a person who is not a candidate or a member of the principal campaign committee of a candidate or a political committee, the reporting requirements of present law are applicable only if the aggregate amount of expenditures made equals or exceeds \$1,000. New law otherwise retains old law.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 18:1486(B) and 1491.7(B)(4))

Expenditures of Campaign Funds by Electronic Funds Transfer (Act No. 577)

New law authorizes the expenditure of campaign funds by electronic funds transfer provided that the transfer of funds is to a specific person and that records are maintained as to the objects or services for which such transfer of funds was made. New law requires detailed records of each electronic fund transfer to be maintained as part of the records required in present law and otherwise retains present law.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 18:1491.4(D) and 1495.2(D))

PAC Contribution Limits (Act No. 848)

New law specifies that the limitation on contributions by a PAC or a Big PAC to a recognized political party or any committee thereof is \$100,000 in a specified four-year period.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 18:1505.2(H)(2)(g))

TITLE 19: EXPROPRIATION

"Quick-Take" by St. Tammany Parish for Various Projects (Act No. 198)

New law authorizes expropriation by a declaration of taking, "quick-take", by the parish of St. Tammany in order to acquire property for road, drainage, water, utility, or sewerage projects.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 19:351 and 352(A))

TITLE 20: HOMESTEADS AND EXEMPTIONS

TITLE 21: HOTELS AND LODGING HOUSES

TITLE 22: INSURANCE

Technical Changes Relating to Property Insurance (Act No.703)

New law makes numerous technical changes to the La. Insurance Code relative to property insurance. Such changes include correction of citations, updates of terms and language, reorganization of provisions, elimination of obsolete or ineffective provisions, such as transition provisions and past effective dates, and harmonizing of inconsistent provisions.

Effective Jan. 1, 2011. (Amends numerous sections of Title 22)

Liability Trust Funds (Act No. 415)

Prior law provided for the establishment and operation in this state of certain liability trust funds for various groups, including a statewide hospital association, a nonprofit beneficiary organization, and professional associations and provided that such trust funds are not insurance. New law limits establishment of such liability trust funds that are exempt from the definition of

insurance to prior to Oct. 1, 2010. However, new law provides that such liability trust funds deemed to be insurance and subject to the Insurance Code may be created after Oct. 1, 2010.

Prior law further authorized and provided with respect to the establishment of risk indemnification trust funds (a type of liability trust fund) for nonprofit beneficiary organizations. New law prohibits establishment of such funds after Oct. 1, 2010.

Effective upon signature of governor (June 21, 2010). (Amends R.S. 22:46; Adds R.S. 22:420)

Liability Trust Funds - Annual Audited Trust Statements (Act No. 338)

Old law provides that the definition of "insurance" does not include professional or public liability trust funds established and operated by a statewide hospital association or a nonprofit beneficiary organization, nor does it include professional, trade, and occupational or public liability trust funds established and generated by professional associations for the purpose of providing a means by which certain claims are paid. Old law requires that an annual audited statement for each such trust be filed with the commissioner of insurance.

New law retains old law and specifies that the annual audited statement be filed with the commissioner of insurance by June 30 of each year for the immediately preceding year ending December 31 or within six months of the close of the fiscal year, if records are not maintained on a calendar year basis.

Effective August 15, 2010. (Amends R.S. 22:46)

Insurers' Books and Custodial Accounts (Act No. 212)

Prior law provides that original books, records, documents, accounts, and vouchers, or copies of these documents belonging to the home office of any domestic company, or of any principal U.S. office of a foreign or alien company, shall be maintained until authority to destroy is obtained

or, at a minimum, for three years after the date they were last examined. New law deletes the provision regarding authority to destroy and sets the date for maintaining all records at five years after the date they were last examined.

Prior law provides that any domestic company may maintain for its securities, a limited agency, custodial or depository account, or other type of account for the safekeeping of the securities, with specific types of institutions. New law deletes the provisions regarding the types of acceptable institutions, but maintains the commissioner of insurance's authority to promulgate rules.

New law deletes provisions for companies keeping their securities within the state of Louisiana.

New law deletes all provisions regarding review of a domestic insurer's books and documents outside the state of Louisiana.

Effective August 15, 2010. (Amends R.S. 22:68)

HMO Records (Act No. 84)

Prior law required the commissioner of insurance to file the articles of incorporation for health maintenance organizations (HMOs) with the secretary of state. New law requires that the HMO file their articles of incorporation with the secretary of state.

Prior law requires an HMO to maintain the books and records relating to activities conducted in the state in its offices within the state. New law retains present law and allows HMOs to cause any or all books and records to be photographed or reproduced on film.

New law requires all original books, records, documents, accounts and vouchers, or such reproductions thereof, to be preserved and kept available in the state for the purpose of examination until authority to destroy or otherwise dispose of such records is secured by the commissioner. New law requires all original records to be maintained for the period commencing on the first day following the last period examined by the commissioner through

the subsequent examination period, or five years, whichever is greater. New law permits original records to be kept and maintained outside the state if, according to a plan adopted by the company's board of directors and approved by the commissioner, it maintains suitable records in lieu thereof.

Effective August 15, 2010. (Amends R.S. 22:243 and 251)

Technical Changes Relative to Health and Accident Insurance (Act No. 919)

New law makes numerous technical changes to provisions of the Insurance Code relative to health and accident insurance. Such changes include correction of citations, updates of terms and language, reorganization of provisions, elimination of obsolete or ineffective provisions, such as transition provisions and past effective dates, and harmonizing of inconsistent provisions. New law standardizes language exempting limited benefit policies or contracts from health insurance mandates.

Effective Jan. 1, 2011. (Amends numerous provisions of Title 22)

Foreign and Alien Insurers (Act No. 105)

New law repeals the requirement of filing policies and applications by foreign and alien insurers when applying for a certificate of authority.

Effective August 15, 2010. (Repeals R.S.22:332(A)(5))

Conversion and Demutualization of Mutual Life and Non-Life Insurers and Insurance Companies (Act No. 730)

New law provides relative to conversion and demutualization of mutual life and non-life insurers and life and non-life mutual insurance companies.

Among other things:

(1) New law permits the use of a trust for any type of shares issued in demutualization and extends the life of such a trust to 21 years.

(2) Old law defined the term "policy" in prior law relative to non-life insurance company demutualization to include an annuity contract. New law deletes "annuity contract".

(3) Old law included additional life insurance and annuity benefits in the types of consideration that could be distributed in a non-life insurance company demutualization. New law deletes prior law and instead provides that premium credits are a permitted type of consideration.

New law provides that the articles of incorporation of a reorganizing mutual life or non-life insurer shall be approved and recorded in accordance with existing law relative to incorporation of domestic incorporated insurers.

New law provides, with respect to a mutual insurance holding company or an intermediate holding company resulting from the reorganization of a domestic mutual insurance company:

(1) After approval of the commissioner of insurance, the articles showing such approval shall be filed in the office of the secretary of state together with an initial report, as prescribed by the La. Business Corporation Law.

(2) Requires that a certified copy of the articles and initial report, bearing the certificate of the proper parish recorder with a copy of the certificate of incorporation, shall be filed with the commissioner.

Effective June 29, 2010. (Amends R.S. 22:236, 236.3, 236.8, 237.2, 237.5, 237.10, and 696)

Return of Deposit Upon Withdrawal of a Foreign Insurer (Act No. 357)

Old law provided that when a foreign or alien insurer has withdrawn from this state and desires to withdraw any deposit made in this state, the commissioner of insurance shall, upon the application of the insurer and at its expense, give notice of such intention to the insurance commissioner or other proper supervisory

official of each state or country in which the insurer is authorized to transact business and shall publish notice of such intention in a newspaper of general circulation in this state once a week for four consecutive weeks. After such notice and publication, the commissioner of insurance shall authorize the state treasurer to deliver to such insurer the securities so deposited when he is satisfied upon examination and investigation and upon the oaths of the president and secretary or other chief officers of the insurer that all debts and liabilities due and to become due which the deposit was made to secure have been extinguished.

New law provides that the commissioner only give notice of the intention to withdraw a deposit to the proper supervisory official of the insurer's domiciliary state or country rather than every state in which the insurer is authorized to transact business. Also provides that the financial institution rather than the state treasurer deliver the deposit to the insurer. Otherwise retains present law.

(Amends R.S. 22:341(C))

Unauthorized Insurers Delivering Surplus (Act No. 189)

New law provides that approved unauthorized insurers delivering surplus lines insurance in this state shall not be required to file or seek approval of their forms and rates.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 22:446)

Title Searches for Title Opinions (Act No. 1028)

New law requires a title opinion to contain a search of the mortgage records for a period of 20 years for federal judgments.

Prior law provides that a title opinion must contain the length of examiner's search and date of earliest recorded instrument reviewed by the examiner.

New law specifies that if the transaction is a sale, the minimum search period must be 30

years, or longer, in order to reach an arms-length sale between unrelated, third parties. New law provides that if only a mortgage is being insured, then the search must be for a minimum of 10 years or two links in the chain of title, whichever is greater.

(Amends R.S. 22:512)

Insurance Anti-Fraud Plans (Act No. 688)

New law requires each authorized insurer and each health maintenance organization (HMO) licensed to operate in this state to prepare, implement, and maintain an insurance anti-fraud plan for its operations in this state.

New law requires that such a plan be filed with the commissioner of insurance and outline specific procedures, actions, and safeguards that are applicable, relevant, and appropriate to the type of insurance the authorized insurer writes or the type of coverage offered by the HMO in this state and shall include certain specified matters.

New law authorizes the commissioner to review the insurance anti-fraud plan submitted by each entity to determine compliance with the requirements of new law. New law authorizes the commissioner to investigate and examine the records and operations of each such entity to determine if it has implemented and maintained compliance with the insurance anti-fraud plan. New law authorizes the commissioner to direct each such entity to make any modification to its insurance anti-fraud plan necessary to obtain and maintain compliance with the requirements of new law. New law provides that the commissioner may require any other reasonable remedial action to the entity's insurance anti-fraud plan if the investigation and examination reveals substantial noncompliance by the entity with the terms of its anti-fraud plan.

New law requires that the anti-fraud plan and any summary report be filed with the commissioner on or before April 1 of each calendar year. New law authorizes the commissioner to periodically require that each such entity file any material change to a summary report of the insurance anti-fraud plan

and to direct each such entity as to the format of the summary report.

New law provides that the insurance anti-fraud plan submitted to the department, as well as the summary report of the entity's insurance anti-fraud activities and results, are not public records, are exempt from the laws pertaining to public records, shall be company proprietary and business confidential records and are not subject to public examination or subpoena.

Effective January 1, 2011. (Amends R.S. 44:4.1; adds R.S. 22:572.1 and 572.2).

Investment in Securities by Domestic Insurers (Act No. 362)

Old law provided that domestic insurers may invest in certain shares of capital stock, American Depository Receipts listed on a national securities exchange, bonds, securities, or other evidences of indebtedness of any solvent corporation created under the laws of the U.S., the states, or the District of Columbia, or a foreign corporation whose stock is listed on the New York Stock Exchange or the American Stock Exchange, with certain limitations.

New law specifies that such shares of capital stock or American Depository Receipts listed on a national securities exchange includes the National Association of Securities Dealers Automated Quotations (NASDAQ), and that evidences of indebtedness of any solvent corporation created under the laws of the U.S., the states, or the District of Columbia, or a foreign corporation includes those whose stock is listed on any national securities exchange, including NASDAQ, with certain limitations.

Old law provided that one such limitation is that a domestic insurer may not invest in the shares or American Depository Receipts of a manufacturing corporation, commonly known as "industrial", unless such corporation is listed on a national securities exchange at the time of the investment or meets other criteria, and prohibited investment in more than 5% of the insurer's admitted assets in the shares of any one such manufacturing corporation.

New law instead provides that one such limitation is that a domestic insurer may not invest in the shares or American Depository Receipts of a corporation unless such corporation is listed on a national securities exchange, including NASDAQ, at the time of the investment or meets other criteria, and prohibits investment in more than 5% of the insurer's admitted assets in the shares of any one such corporation.

Old law provided that, with certain limitations, domestic insurers may invest in the stock of a real estate investment trust (REIT) whose stock is listed on the New York Stock Exchange or the American Stock Exchange. New law adds stocks of REITs listed on NASDAQ to those securities in which, with certain limitations, domestic insurers may invest.

(Amends R.S. 22:584)

Control of and Affiliation with Insurers (Act No. 339)

Prior law provided that the presumption of control of an insurer in an insurance holding company may be overcome by use of a disclaimer. New law deletes provision for use of disclaimers and allows the presumption of control to be rebutted by a showing that control does not exist in fact.

Old law provided for a disclaimer of affiliation with an insurer, and authorized the commissioner of insurance to disallow the disclaimer after furnishing all parties in interest notice and opportunity to be heard and after making specific findings of fact to support disallowance.

New law removes this provision and requires a person filing a disclaimer to notify the commissioner of any material change to the affiliations and relationships as reported in the disclaimer within 30 days of the change.

Old law included as admitted assets of an insurer any electronic and mechanical machines constituting a data processing and accounting system provided the cost is at least \$10,000 which costs are amortized in full over a period not to exceed 10 years.

New law eliminates "mechanical machines" and includes as admitted assets electronic data processing equipment as defined in the NAIC Accountancy and Procedures Manual.

New law removes any qualifications on the cost and on the value of such data processing equipment, in order to be an admitted asset.

Effective August 15, 2010. (Amends R.S. 22:598, 692, and 703)

Statements of Actuarial Opinion (Act No. 211)

Present law requires the loss and expense reserves of insurers to be accompanied by a statement of opinion of an associate or fellow of the Casualty Actuarial Society or other qualified loss reserve specialist, setting forth his opinion relative to the reasonableness and sufficiency of loss and loss expense reserves. New law deletes this provision and requires every property and casualty insurance company doing business in the state, unless exempted by the domiciliary commissioner, to annually submit the opinion of a qualified actuary appointed by the company.

New law requires an actuarial report and underlying workpapers to be prepared to support each actuarial opinion. If the insurance company fails to provide acceptable supporting actuarial report or workpapers at the request of the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or workpapers.

New law prohibits the appointed actuary from being held liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct.

New law requires the statement of actuarial opinion to be provided with the annual statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and to be treated as a public document.

New law requires all documents, materials or other information in the possession or control of the commissioner that are considered an actuarial report and any other material provided by the company in connection with the actuarial report, workpapers or actuarial opinion summary be given confidential treatment and not be subject to subpoena and not be made public by the commissioner or any person. New law permits access to be granted to the National Association of Insurance Commissioners, insurance departments of other states, international, federal or state law enforcement agencies or international, federal or state regulatory agencies with statutory oversight over the financial services industry if the recipient agrees to maintain the confidentiality of those documents.

Effective August 15, 2010. (Amends R.S.22:771 and R.S. 44:4.1)

Certificates of Insurance (Act No. 1017)

New law defines a certificate of insurance as any document, instrument, or record, including an electronic record, which is prepared or issued by an insurer or insurance producer as evidence of property and casualty insurance coverage, for the benefit of a third party who has not contracted with the insurer to purchase an insurance policy. New law specifically excludes an insurance binder from such definition.

Old law provided that any insurer or insurance producer acting on behalf of the insurer issuing a certificate of insurance was authorized to use only the standard ACORD or ISO Form "Certificate of Insurance" or other form filed with and approved by the commissioner of insurance.

New law prohibits any person from preparing, issuing, or requesting the issuance of a certificate of insurance for risks located in this state unless the form has been filed with and approved by the commissioner of insurance. New law requires the commissioner to approve or disapprove certificates of insurance filed pursuant to new law in writing within 45 days of receipt of the form. New law provides that standard certificate of insurance forms

promulgated by the Association for Cooperative Operations Research and Development (ACORD), the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO) shall be filed, but are deemed approved by the commissioner of insurance, provided these forms comply with new law.

New law requires the commissioner to disapprove a form filed or withdraw approval of a form that:

- (a) Is unfair, misleading, or deceptive, or violates public policy.
- (b) Violates any law, including any present law or regulation promulgated by the commissioner of insurance.
- (c) Requires certification of insurance coverages that are not available.

New law requires the commissioner of insurance to approve filed certificate of insurance forms that are provided to a person who has an insurable interest in the property insured by the policy, whether or not it contains wording that it is for information only or similar language, but otherwise complies with new law. New law provides that a lender may require use of an approved form that meets its lending requirements.

New law prohibits any person from demanding or requesting the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference. New law prohibits any person from preparing, issuing, or requesting, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence, instrument, or record, including an electronic record, that is inconsistent with new law. New law allows an insurer or insurance producer to prepare or issue an addendum to a certificate that clarifies, explains, summarizes, or provides a statement of the coverages provided by a policy of insurance.

New law shall apply to all certificate holders, policyholders, insurers, insurance producers, and

certificate of insurance forms issued as a statement or evidence of insurance coverages on property, operations, or risks located in this state, regardless of where any such entity is located.

New law provides that a certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. New law specifies that a certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy or any endorsements of insurance provides.

New law provides that no certificate of insurance shall contain references to legal or insurance requirements contained in any contracts other than the underlying contracts of insurance, including construction or service contracts.

New law provides that a person shall only have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance if the person is named within the policy or any endorsement and the policy or endorsement, or law or regulation of this state requires notice to be provided. New law specifies that the terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance in accordance with the laws and regulations of this state and cannot be altered by a certificate of insurance.

New law provides that any certificate of insurance and any attached addendum prepared, issued, or requested in violation of new law shall be null and void and of no force and effect.

The provisions relative to definitions and to filing and approval of certificates of insurance became effective on Aug. 15, 2010; other provisions of proposed law effective Jan. 1, 2011. (Amends R.S. 22:881.1)

Changes Relating to General Insurance Policy Matters (Act No. 375)

New law makes numerous technical changes to provisions of the La. Insurance Code relative to general insurance policy requirements. Such changes include correction of citations, updates of terms and language, reorganization of provisions, elimination of obsolete or ineffective provisions, such as transition provisions and past effective dates, and harmonizing of inconsistent provisions.

Effective Jan. 1, 2011. (Amends numerous provisions of Title 22)

Cancellation of Policy by Insured (Act No. 169)

New law requires that the payment be computed on the customary pro rata rate.

New law provides that if a personal line or commercial line policy is canceled, any unearned premium and commission be computed on a pro rata basis.

New law provides that, except for surplus line insurers, the assessment of any monetary penalty by an insurer against the insured who elects to cancel a policy prior to its expiration is prohibited.

Effective August 15, 2010. (Amends R.S. 22:885(B))

Various Insurance Related Notices (Act No. 1016)

New law adds a requirement, with respect to commercial policies, that the insurer, managing general agent, or general agent receiving notification deliver or mail written or electronic notification within 10 business days advising the premium finance company that an insurance contract or contracts or endorsements listed in and related to the premium finance agreement was not issued.

New law provides that in the event a default of the insurance premium finance agreement is timely cured, the premium finance company shall, within 3 business days from the time the

default was cured, mail or send electronic notice of rescission of the cancellation notice to the insured and to all other parties who had previously been sent notice of cancellation.

New law provides that any insurer that issues notice of cancellation of an automobile insurance policy and later continues or reinstates that insurance policy shall issue notice of reinstatement to every policyholder, insurance producer, mortgagee, pledgee, or other known person shown by the policy to have an interest in any loss which may occur under the policy and who received the notice of cancellation.

New law specifies that the notice required by an insurer before lapsing life policies shall be mailed to the owner of the policy instead of the person whose life is being insured.

Effective August 15, 2010. (Amends R.S. 9:3550; Adds R.S. 22:887(I))

Health and Accident Policy Forms (Act No. 188)

Old law prohibited a health and accident policy from being issued in this state until a copy of the policy form has been filed with the commissioner of insurance, and prohibited use of such policy until the expiration of 30 days after filing unless the commissioner gives his written approval sooner.

New law increases the amount of time before a health and accident policy form is deemed approved for use in this state before the commissioner of insurance's approval from 30 days to 45 days.

(Amends R.S. 22:972(A))

Written Notice to Policyholders of Cancellation, Nonrenewal, or Increase (Act No. 997)

Old law requires every insurer issuing a policy of group, family group, blanket, or association health and accident insurance to notify the policyholder in writing at least 45 days before any increase of 20% or more in the policy rates or at least 60 days before any policy cancellation or nonrenewal.

New law retains old law and requires every insurer to give written notification to the insured, at least 90 days before expiration of the policy, as to the policy's renewal premium.

New law authorizes the insured to make written request to the insurer for coverage, premium, and utilization data and provides that such request be made up to 80 days prior to the expiration or renewal date of the insurance policy. New law requires the insurer to provide the requested data within 14 days of receipt of the written request, and provides for a forfeiture of 10% of the premium due for failing to comply with proposed law.

Effective August 15, 2010. (Adds R.S. 22:978(A)(3) and (4))

Trusts for Multiple Associations for Group Health and Accident Policies (Act No. 896)

New law authorizes a trust for multiple associations to issue group health and accident policies and requires that the policy cover one or multiple associations or members and employees of members of these multiple associations.

Prior law requires that the premium be paid by the employer or association, by the employees or members, or the two parties jointly. New law retains these provisions but includes payment of the premium by multiple associations or members of multiple associations, or employees of members of multiple associations.

Prior law authorizes agreements between the policyholder and the insurer to modify, amend, or cancel the group policy and provides that the agreement is binding on the employee/member of the group. New law retains these provisions but provides that such agreements are also binding on employees of members of the insured group.

Prior law provides that, except as provided under the insurance policy or contract, the insurer is not liable for benefits accrued or expenses incurred for services rendered subsequent to termination of the group policy due to failure of the group policyholder to pay premiums or when coverage is terminated due to failure to maintain eligibility in the group as

provided in the policy or contract of group. New law retains present law but includes the member's employees in these provisions.

Effective August 15, 2010. (Amends R.S. 22:1000)

Increasing Age for Dependant Coverage of Dependant Children or Grandchildren (Act No. 912)

Old law, with respect to group, family group, blanket, and association health and accident insurance, allows dependent coverage of children under 21 years of age and unmarried grandchildren who are in the legal custody of and residing with the grandparent under 21 years of age. New law increases the age for such dependent coverage until the age of 26 and deletes the requirement that such children be unmarried.

Old law, relative to family group health and accident insurance or similar coverage issued by a health maintenance organization (HMO) as an individual policy, allows dependent coverage of unmarried children under 21 years of age or, in the case of full-time students, unmarried children under the age of 24, and unmarried grandchildren under 21 years of age in the legal custody of and residing with the grandparent or, in the case of full-time students, unmarried grandchildren under the age of 24 who are in the legal custody of and residing with the grandparent, except that the policy may provide for continuing coverage for any unmarried child or grandchild in the legal custody of and residing with the grandparent who is incapable of self-sustaining employment by reason of mental retardation or physical handicap, who became so incapable prior to attainment of age 26 and any other person dependent upon the policyholder. New law increases the age for dependent coverage until the age of 26, deletes the requirement that such children be unmarried, and deletes the requirement that grandchildren under 21 years of age be in the legal custody of and residing with the grandparent.

Old law, relative to group and individual health and accident insurance and similar coverage issued by a HMO, allows dependent coverage of

students who are unmarried children who have not yet attained the age of 24 and who are enrolled as full-time students at an accredited college or university, or at a vocational, technical, vocational technical or trade school or institute, or secondary school, and who are dependent upon the primary insured under any such policy or subscriber agreement. New law specifies that such a child shall include a grandchild in the legal custody of and residing with a grandparent, deletes the requirement for full-time student status, increases the age for dependent coverage until the age of 26, and deletes the requirement that such child be unmarried; however, provides that such coverage shall apply only if the child or grandchild is not eligible to enroll in an eligible employer-sponsored health plan.

New law further provides that the premium for coverage under any family group health and accident insurance policy, or similar coverage issued by a HMO shall not increase on the basis of the addition of an unmarried child or unmarried grandchild until the age of 26 unless there are no dependents covered under the policy prior to the addition of such child. New law requires the health insurance issuer or HMO to apply portability rights in reference to preexisting conditions to the newly added child or grandchild and specifies that the preexisting condition waiting period applicable to such child shall be applied to that child in the same manner as any other dependent.

New law requires that the health insurance issuer or HMO offer to all insureds or enrollees a special enrollment period of not less than 30 days upon request of the insured or enrollee to include a child or grandchild until the age of 26 as a new entrant covered under the policy or subscriber agreement, and makes it solely the insured's or enrollee's decision whether to add such child to the policy or subscriber agreement.

New law prohibits the health insurance issuer or HMO from limiting or otherwise restricting the offer of coverage to a child or grandchild until the age of 26 by requiring any of the following:

(a) That such child had to have been previously covered as a dependent.

- (b) That such child resides in this state.
- (c) That such child demonstrate that he had previous creditable coverage.
- (d) That the enrollee or insured requested coverage for such child the first time he was eligible for coverage.

New law prohibits the health insurance issuer or HMO from denying coverage to a child or grandchild until the age of 26 when the enrollee or insured requests coverage.

New law requires that the health insurance issuer or HMO offer coverage for an enrollee's or insured's children or grandchildren until the age of 26 as new entrants through special enrollment and annually provide at least a 30-day enrollment period.

New law provides that for group plans in existence before March 30, 2010, it shall apply only if the child is not eligible to enroll in an eligible employer-sponsored health plan, and that this shall not apply for plan years beginning after January 1, 2014.

New law shall apply to all policies issued or renewed in this state after Sept. 1, 2010, and gives any insurer who on that date has health and accident insurance policies or HMO subscriber agreements in force in this state until Sept. 1, 2011, to convert such existing policies or agreements to conform to proposed law.

New law exempts the Office of Group Benefits from new law, generally providing dependent coverage for unmarried children not in school under the age of 21, unmarried students under the age of 24, and incapacitated children under the age of 24.

(Amends R.S. 22:1000, 1002, and 1003; Adds R.S. 22:1003.1)

Wellness Program Incentives (Act No. 280)

New law authorizes a health insurance issuer to offer a voluntary wellness or health improvement program that allows for rewards or incentives (including but not limited to merchandise, gift cards, debit cards, premium discounts or rebates, contributions toward a member's health savings account, modifications

to copayment, deductible, or coinsurance amounts, or any combination of these incentives) to encourage participation or to reward for participation in the program.

New law provides that any such reward or incentive shall not violate existing law relative to unfair trade practices in the business of insurance if disclosed in the policy or certificate of authority of the health insurance issuer and filed with the Dept. of Insurance in accordance with existing state requirements.

New law provides that the insured or enrollee may be required to provide verification, such as a statement from his physician, that a medical condition makes it unreasonably difficult or medically inadvisable for the individual to participate in the wellness or health improvement program.

New law shall not prohibit health insurance issuers from offering incentives or rewards to members for adherence to wellness or health improvement programs if otherwise allowed by state or federal law.

Effective upon signature of governor (June 17, 2010). (Adds R.S. 22:1016)

Prepaid Entities and Medicaid (Act No. 1)

New law provides that any prepaid entity that participates in the La. Medicaid Program is required to obtain an insurer license or certificate of authority from the La. Dept. of Insurance (DOI). New law requires that such a prepaid entity be regulated by DOI with respect to licensure and financial solvency. However, solely with respect to its products and services offered pursuant to the La. Medicaid Program, such an entity shall be regulated by the La. Dept. of Health and Hospitals (DHH), subject to all applicable federal and state laws, rules, and regulations relating to the La. Medicaid Program.

New law specifies that, except for licensure and financial solvency requirements, no other provisions of the La. Insurance Code shall apply to a prepaid entity with respect to its participation in the La. Medicaid Program.

New law defines "prepaid entity" as any organization paid on a per-person per-month basis for the provision of services to Medicaid eligible beneficiaries, when such organization has entered into a contract with DHH assuming the financial obligation to pay for such services.

Effective upon signature of governor (April 29, 2010). (Adds R.S. 22:1016)

Medication Switching (Act No. 884)

New law requires health care coverage plans to provide coverage for the therapeutic switching of medications.

New law provides that when medications for the treatment of any medical condition are restricted for use by an insurer by a step therapy or fail first protocol, the prescribing physician shall have access to a clear and convenient process to expeditiously request an override of such restriction from the insurer. New law provides for consideration of an override if the prescribing physician can demonstrate, based on sound clinical evidence, that the preferred treatment required under step therapy or fail first protocol (a) has been ineffective in the treatment of the insured's disease or medical condition; or (b) is expected or likely to be ineffective based on the known physical or mental characteristics of the insured and known characteristics of the drug regimen; or (c) will cause or likely cause an adverse reaction or other physical harm to the insured.

New law requires the duration of any step therapy or fail first protocol not be longer than the minimum time necessary to determine clinical effectiveness based on peer-reviewed published clinical literature regarding such therapy deemed clinically ineffective by the prescribing physician.

Effective August 15, 2010. (Adds R.S. 22:1052)

Group Health Insurance (Act No. 484)

New law prohibits health insurance issuers offering group health insurance coverage from rescinding such coverage with respect to an enrollee or insured once the enrollee or insured

is covered, with the exception of those enrollees or insureds who have performed an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact. Prior notice must be given before cancellation, and cancellation must be in accordance with the Public Health Services Act and federal law or regulation.

New law also requires that, with respect to guaranteed renewability of coverage for employers in the group market, any cancellation of coverage by a group health insurer must take place only after prior notice to the enrollee or insured and in accordance with the Public Health Services Act and federal law or regulation. New law is not applicable to limited benefit health insurance policies or contracts, disability income, long-term care, nursing home care, home health care, community based care, dental or vision benefits, Medicare supplement, specified disease or illness, hospital indemnity or other fixed indemnity insurance, workers' compensation, or similar insurance.

Effective September 23, 2010. (Amends R.S. 22:1068 and 1074; Adds R.S. 22:1063(C))

Medical Necessity Review Organizations (Act No. 83)

New law requires an entity licensed as a Medical Necessity Review Organization ("MNRO") to notify the commissioner of any material change in fact or circumstance affecting its qualification for a license in this state within 60 days of the effective date of the change.

New law defines changes in fact or circumstances to include:

- (1) Changes in control or possession of the power to direct or cause the direction of the management and policies by a person.
- (2) Amendments to the articles of incorporation.
- (3) Changes in officers and directors.
- (4) Merger or consolidation of the MNRO with any other person or entity.
- (5) Use of a trade name in the state.

Effective August 15, 2010. (Adds R.S. 22:1123(E))

Car Insurance (Act No. 106)

New law retains present law and includes commercial automobile insurance policies.

Effective August 15, 2010. (Amends R.S. 22:1267(A))

Chinese Drywall and Insurance Cancellation (Act No. 1005)

New law prohibits a homeowners' insurer or a commercial property, casualty, or liability insurer from canceling, failing to renew, increasing the policy deductible on a homeowners' policy, or increasing the premium on any insurance policy when such action is based on the presence of Chinese drywall or the filing of a claim by an insured that is based on the presence of Chinese drywall which, prior to December 31, 2009, was imported from, or manufactured in, the People's Republic of China.

New law provides that any insurer which has canceled, failed to renew, or increased a policy premium or deductible after an insured has made a claim due to the presence of Chinese drywall shall have 30 days from the effective date of new law to reinstate the policy on the same terms and conditions that applied to the policy prior to the claim.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 22:1272 and 1338)

Lapse in Auto Liability Coverage (Act No. 636)

New law prohibits an insurer from increasing the rate or increasing or adding a surcharge when such action is based solely on consideration of a lapse in coverage.

New law defines "lapse in coverage" as period of time during which the owner of a motor vehicle who formerly maintained liability coverage on a vehicle, as required under the law, first voluntarily surrenders the vehicle's license

plate to the office of motor vehicles and then ceases to maintain a policy of insurance or other security as required by the law.

New law requires that one or more lapses in coverage shall not be the sole basis for an insurer's denial of an application for a policy of motor vehicle insurance, nor shall such lapse in coverage be considered by an insurer in determining the rates for such a policy. No insurer shall require that such coverage be provided by another insurer based solely upon such a lapse in coverage.

Effective August 15, 2010. (Adds R.S. 22:1284.1)

Uninsured Motorist Insurance (Act No. 210)

Prior law requires the insurer issuing an automobile liability policy that does not afford collision coverage to provide coverage in the amount of the actual cash value of the motor vehicle described in the policy or \$10,000, whichever is less, for the protection of persons insured who are legally entitled to recover damages from the owner or operator of an uninsured motor vehicle.

New law changes the coverage amount of uninsured motorist insurance from \$10,000 to the minimum amount of property damage liability insurance required by the law.

Effective August 15, 2010. (Amends R.S. 22:1295)

Bail Bond Apprenticeship Program (Act No. 731)

New law provides that the program shall be available to persons who meet current licensing requirements as a bail producer and who do not have a felony conviction.

New law provides that apprentices shall complete the prelicensing course as provided in existing law during the apprenticeship.

New law provides that the program shall consist of six consecutive months of employment by a bail producer licensed in Louisiana. New law provides that apprentices shall be employed and

supervised by a licensed bail producer for six months and shall work no less than 24 hours a week during that time. New law requires the apprentice to observe the bail producer perform every phase of the bail bond business and perform duties in every phase of the bail bond business except for the solicitation, negotiation, quotation of fees, and the execution of a bail bond.

New law requires that the supervising bail bond producer must maintain records to support that the apprentice has worked the required number of hours.

New law requires that the apprentice and supervising bail producer certify on a form provided by the La. Dept. of Insurance that the apprentice has completed all of the requirements of the apprentice program.

New law prohibits any person from taking the examination as a bail bond producer until completion of the apprenticeship program and until the required certification of completion has been submitted to the La. Dept. of Insurance along with the required application for testing and licensure.

Nothing in new law can be interpreted to permit the payment of commissions to an unlicensed producer.

Effective August 15, 2010. (Adds R.S. 22:1574)

Adjusters (Act No. 1007)

New law adds the following to the list of exemptions from the claims adjuster provisions in Title 22:

(1) An individual who collects claim information from, or furnishes claim information to, insured or claimants, and who conducts data entry including entering data into an automated claims adjudication system, provided such individual is an employee of a business entity licensed pursuant to law, or an employee of an affiliate of a business entity licensed pursuant to law.

(2) Individuals who are licensed as producers.

(3) A full-time salaried employee of a property owner or management company retained by the

owner who either does not hold the employee out as an adjuster or has not been hired to handle a specific claim and the employee acts at the discretion of the owner or management company regarding a claim related to the owner's property.

(4) A person who settles only reinsurance or subrogation claims.

New law exempts a producer of an authorized insurer or a licensed employee of a producer who processes an undisputed or uncontested loss for the insurer under a policy issued by the producer from the claims adjuster provisions in Title 22.

New law authorizes the commissioner of insurance to require fingerprints of applicants to perform the criminal history record checks to the Louisiana Bureau of Criminal Identification and Information and the Federal Bureau of Investigation for state and national criminal history checks.

New law authorizes the commissioner of insurance to require all business entities applying to do business as independent adjusting companies to provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, ten percent or more of the outstanding voting securities of the applicant. The commissioner may require any person listed above to submit addresses, social security numbers, criminal and administrative history, fingerprints, background checks, and biographical statement.

New law eliminates the exemption from prelicensing and examination requirements for an individual who, as of January 1, 2007, has been actively engaged in the business of adjusting insurance claims for at least three consecutive years or who has five years of such experience.

Effective August 15, 2010. (Amends R.S. 22:1661, 1662, 1664, 1665 and 1667; repeals R.S. 22:1669(C))

Filing Claims for Emergency Services Rendered (Act No. 340)

New law authorizes a health care provider that does not contract with a health insurance issuer to file a claim with a health insurance issuer for emergency services rendered. New law requires the health insurance issuer to directly pay such a claim by a noncontracted provider in the amount as determined pursuant to the plan or policy provisions between the enrollee or insured and the health insurance issuer for such emergency services, less any amount representing coinsurance, copayments, deductibles, noncovered services, or any other amounts identified by the health insurance issuer pursuant to the plan or policy as an amount for which the insured or enrollee is liable. Payment of such claim by the health insurance issuer shall in no circumstances be made directly to the patient, insured, or enrollee.

New law defines "health insurance issuer" as any entity that offers health insurance coverage through a policy or certificate of insurance subject to state law that regulates the business of insurance. The term shall also include health maintenance organizations and nonfederal government plans and shall include the office of group benefits.

New law exempts limited benefit health insurance policies or contracts.

Effective August 15, 2010. (Adds R.S. 22:1826)

Pharmacy Claim Processing Fees (Act No. 467)

New law prohibits any health insurance issuer or its agent from unilaterally determining the amount of any processing fee on each pharmacy claim. New law requires such determination to be made in conjunction with the affected pharmacist or pharmacy.

Effective January 1, 2011. (Adds R.S. 22:1856(F))

Health Insurance and Physician Credentialing (Act No. 897)

New law provides that when certain circumstances are met, a health insurance issuer shall pay the contracted reimbursement rate of a physician group for covered health care services rendered by a new physician to the group, without health care provider credentialing, in either of the following circumstances:

- (1) The new physician has already been credentialed by the health insurance issuer and such credentialing is still active.
- (2) The health insurance issuer has received the new physician's credentialing application and required documentation, but has not yet notified the physician group that the new physician's credentialing has been denied.

New law provides that if a health insurance issuer determines that a new physician does not meet their credentialing requirements, either of the following actions shall be permitted:

- (1) The health insurance issuer may recover an amount equal to the difference between the in-network benefits payment and the out-of-network benefits payment from the physician or the physician group.
- (2) The physician or physician group may retain any deductible, coinsurance, or copayment collected or in the process of being collected on the date the issuer's determination is received, if the amount does not exceed the amount owed by the insured or enrollee for out-of-network services.

Effective January 1, 2011. (Adds R.S. 22:1874(A)(5))

Medical Billing Information (Act No. 453)

New law requires each health insurer, no later than July 1, 2011, to provide the balance billing disclosure notice specified in new law by various methods.

New law requires each health care facility, no later than July 1, 2011, to provide:

- (1) Written disclosure to each enrollee or insured that confirms whether the facility is a

participating provider contracted with the enrollee's or insured's health insurance issuer on the date the services are to be rendered.

(2) Written notice specified in new law.

(3) A list, upon request of the enrollee or insured, that contains the name and contact information for each individual or group of hospital-contracted physicians, anesthesiologists, pathologists, radiologists, hospitalists, intensivists, and neonatologists who provide services at that facility. New law requires informing the enrollee or insured that he or she may request information from the health insurance issuer as to whether those physicians are contracted with the health insurance issuer and under what circumstances the enrollee or insured may be responsible for payment of any amounts not paid by the health insurance issuer.

If the facility operates a website that includes a listing of physicians who have been granted medical staff privileges to provide medical services at the facility, the facility's website shall include a list that contains the name and contact information for each facility-based physician or facility-based physician group that has been granted medical staff privileges, as well as an update of the list within 30 days of any change.

New law provides that if a facility-based physician bills a patient who has health insurance coverage issued by a health insurance issuer that does not have a contract with the facility-based physician, the physician shall send a bill that includes an itemized list of the services and supplies provided by him as well as the dates such services and supplies were provided.

New law requires disclosure of the amount owed by the enrollee or insured, a telephone number to call to discuss the statement, and language conspicuously displayed on the front of the bill stating that it is a bill and that based on information from the health plan, the amount shown is owed by the enrollee or insured.

Effective August 15, 2010. (Adds R.S. 22:1880)

Arbitration by Auto Insurers (Act No. 828)

New law prohibits the use of arbitration or any other type of binding mediation by automobile insurers to determine fault for purposes of settling a claim resulting from an automobile accident for the purpose of raising premiums of an insured without notifying the insured as to the percentage of fault prior to arbitration.

New law provides that it shall only apply to automobile insurance policies or contracts issued or renewed on or after June 1, 2010.

Effective June 1, 2010. (Adds R.S. 22:1892.1)

Determination of Actual Cash Value of a Motor Vehicle (Act No. 1032)

New law provides that when an insurance policy provides for the adjustment and settlement of first-party motor vehicle total losses on the basis of actual cash value or replacement with another of like kind and quality, and the insurer elects a cash settlement based on the actual cost to purchase a comparable motor vehicle, such costs shall be derived by using one of the following:

(1) A fair market value survey conducted using qualified retail automobile dealers in the local market area as resources. If there are no dealers in the local market area, the nearest reasonable market can be used.

(2) The retail cost as determined from a generally recognized used motor vehicle industry source; such as, an electronic database, if the valuation documents generated by the database are provided to the first-party claimant, or a guidebook that is available to the general public. If the insured demonstrates, by presenting two independent appraisals, based on measurable and discernable factors, including the vehicle's preloss condition, that the vehicle would have a higher cash value in the local market area than the value reflected in the source's database or the guidebook, the local market value shall be used in determining the actual cash value.

(3) A qualified expert appraiser selected and agreed upon by the insured and insurer. The appraiser shall produce a written nonbinding

appraisal establishing the actual cash value of the vehicle's preloss condition.

New law defines local market area as a reasonable distance surrounding the area where a motor vehicle is principally garaged, or the usual location of the vehicle covered by the policy.

Effective August 15, 2010. (Adds R.S. 22:1892(B)(5))

Insurance with an Unauthorized Insurer (Act No. 107)

New law requires that, upon order of the commissioner of insurance, a person who has insurance with an unauthorized insurer shall produce policies and other documents evidencing the insurance and disclose the amount of gross premiums paid or to be paid for the insurance.

Effective August 15, 2010. (Adds R.S. 22:1911)

Health Care Fraud (Act No. 632)

New law defines health care fraud as doing any of the following in conjunction with the delivery of or payment for health care benefits, items, or services:

(1) To execute a scheme or artifice to defraud any health care benefit program.

(2) To obtain, by means of fraudulent claims, or false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

New law defines "knowingly and willfully" as continuing with a practice after written notice to cease such practice from a health care benefit program by certified mail, return receipt requested, except when the health care provider reasonably believes that such practice materially complies with coding or billing standards as issued by the American Medical Association, the U.S. Dept. of Health and Human Services, the Centers for Medicare and Medicaid Services, or the La. Medicaid Program.

(Amends R.S. 22:1924)

Exceptions and Definitions under the Insurance Guaranty Association Law (Act No. 959)

New law removes as a purpose for the law to assist in the detection and prevention of insurer insolvencies.

New law adds as kinds of direct insurance to which it does not apply any bonding obligation, any warranty or service contracts, any transaction involving the transfer of investment or credit risk, unaccompanied by transfer of insurance risk and any insurance provided by or guaranteed by government.

Old law provides that the claimant or insured involved in a "covered claim" must be a resident of this state at the time of the insured event. New law clarifies that as to "entities" the residence of the claimant or insured is the state in which it has its principal place of business at the time of the insured event.

New law provides that a "covered claim" also includes the claimant who is a self-insurer, including any arrangement or trust formed as a group self-insurance fund for workers' compensation and principally domiciled in this state at the time of the insured event. New law clarifies that a "covered claim" does not include the self-insured portion due any self-insurer as subrogation recoveries, reinsurance recoveries, contributions, or indemnification.

New law adds definitions of "Affiliate", "Association similar to the association", "Control", "Insurance", "Insurer", "Insured", "Receiver" and "Self-insurer".

New law deletes a request by the association for an examination of a member insurer as being exempt from the Public Records Law and the Open Meetings Law.

Old law provides for the association to pay covered claims in excess of \$100, up to \$300,000, combined single limits, except for return premiums which are covered up to \$10,000 and workers' compensation which is covered for the full amount of workers' compensation benefits. New law retains old law

but increases the covered claim cap from \$300,000 to \$500,000 combined single limits.

New law provides that in no event is the association obligated to pay an amount in excess of the obligation of the insolvent insurer under the policy or a claim filed more than five years after the order of liquidation or the final date set by the court for the filing of claims, whichever is earlier.

New law provides that the association has no obligation to defend an insured upon payment or tender of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit, or written notice of extinguishment of the obligation due to application of a credit.

New law clarifies that the association has the right to pursue and retain salvage and the right to subrogation, and that the association shall not be deemed the insolvent insurer for the purpose of conferring jurisdiction.

Old law provides the association with the authority to assess member insurers to pay for the obligations of the association in the proportion that the insurers' net direct written premiums bear to the net direct written premiums of all member insurers' in an amount not to exceed one percent of the member insurers net direct written premium for the preceding year.

New law repeals provisions of old law related to assessments to meet obligations pursuant to a cooperative endeavor agreement dated as of October 1, 1990, which have been satisfied.

New law provides that the association may pay claims in any order it deems reasonable and that the association has the right to appoint and direct legal counsel.

New law provides that the association has the right to apply to have a judgment, order, decision, verdict or finding set aside and be permitted to defend the claim on the merits.

New law provides that the receiver for an insolvent insurer may also handle claims on behalf of the association.

New law provides that the association shall implement a system of alternative dispute resolution of lawsuits and claims.

New law provides that the association shall coordinate and work in conjunction with the commissioner of insurance or his designee.

New law provides that the association may submit jointly with the commissioner a plan of rehabilitation or liquidation for court approval and with the approval of the court guarantee or assume policies or other obligations of the member insurer or lend to the member insurer.

New law provides that suits involving the association, except for actions by the receiver, shall be brought in the courts of this state and that the domicile of the association for purposes of venue is East Baton Rouge Parish and that the association may waive venue in its discretion.

New law provides that any person, and any attorney who represents a person, who files a petition against the association alleging the insolvency of an insurer, where the insurer is not an insolvent insurer shall pay the reasonable expenses incurred because of the filing of the petition, including reasonable attorney fees, if the association furnishes written notification that the insurer is not an insolvent insurer and within sixty days of the receipt of the notification, the person or his attorney has not dismissed the petition, with prejudice and at plaintiff's cost.

Old law provides that the association shall submit a plan of operation and any amendments to the plan to the commissioner and the Senate and House committees on insurance for approval and provides for required provisions of the plan of operation.

New law adds the following required provisions of the plan of operation:

(1) Establish procedures for the disposition of liquidating dividends or other monies received from the estate of the insolvent insurer.

(2) Establish policies and procedures designed to increase participation for minorities and women in contractual legal services entered into by the association.

(3) Establish policies and procedures relative to the appointment of legal counsel.

(4) Establish policies and procedures relative to a system of alternative dispute resolution of lawsuits and claims.

(5) Establish procedures whereby a director may be removed for cause.

New law adds that the association shall be entitled to a copy of a petition seeking an order of liquidation with a finding of insolvency against a member company at the same time that the petition is filed.

New law adds that the commissioner may examine, audit, or otherwise regulate the association.

New law provides that the association may join one or more organizations of other state associations of similar purposes, to further the purposes and administer the powers and duties of the association. The association may designate one or more of these organizations to act as a liaison for the association and to bind the association in agreements or settlements with receivers of insolvent insurance companies.

New law provides that the association and any association similar to the association in another state shall be entitled to file a claim in the liquidation of an insolvent insurer for amounts paid by them and shall receive dividends and other distributions.

New law provides that a "high net worth insured" means any policyholder or named insured, other than any state or local governmental agency, whose net worth exceeds \$25,000,000 on December 31 of the year prior to the year in which the insurer becomes an insolvent insurer and that an insured's net worth shall include the aggregate net worth of the insured and all of its subsidiaries and affiliates calculated on the basis of their fair market values and that the association is not responsible for claims of high net worth insureds.

New law provides that member employers of an arrangement or trust formed as a group self insurance fund for workers' compensation are not deemed affiliates of the arrangement or trust

and are not to be included in the determination of the net worth of the arrangement or trust.

New law provides that the member employers of an arrangement or trust formed under Title 23 shall not be deemed to be affiliates of the arrangement or trust, and shall not be included in the determination of the net worth of the arrangement or trust.

New law clarifies that the association is not obligated to provide a defense for high net worth insureds and that the association may recover from high net worth insureds any costs incurred or amounts paid on their behalf.

New law provides that the association shall not be obligated to pay any claim on behalf of a person who has a net worth greater than that allowed by the insurance guaranty association law of the state of residence of the claimant.

New law provides that the association shall establish reasonable procedures for requesting financial information from insureds on a confidential basis and if an insured refuses to provide the requested financial information the association may deem the insured to be a high net worth insured and deny the claim.

Old law provides that where an insured refuses to provide financial information requested there is created a rebuttable presumption that the insured is a high net worth insured. New law retains old law but adds that in the event of a lawsuit, if the insured fails to prove that its net worth was less than \$25,000,000, then the court shall award the association its full costs in contesting the claim, including attorney fees.

New law adds that sums paid on a claim excluded due to the high net worth of an insured may be recovered by the association.

Old law provides that any person having a claim against the association shall be required to first exhaust all coverage provided by any other policy of insurance. New law clarifies that the requirement to exhaust other coverage includes the right to defense, but does not require a person to exhaust any right under a life insurance policy or annuity.

New law adds that only after exhaustion of all solvent insurer's, including a self-insured's, total

policy aggregate limits for any alleged exposure periods will the association be obligated to provide a defense and indemnification.

New law defines the "residence of the insured" to mean the residence, on the date of insolvency of the insurer, of the first named or primary insured or the state to which the insolvent insurer was or would have been liable for the payment of a surcharge or assessment on the subject insurance policy.

Old law provides that the board of directors shall at the conclusion of any insurance company insolvency prepare a report on the history and causes of the insolvency and submit the report to the commissioner.

New law changes "shall" make a report to "may" make a report and provides that the board of directors may make recommendations to the commissioner on matters generally related to improving regulation for solvency and any such reports or recommendations shall not be public records.

Old law provides that there shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents or employees, the board of directors, or the commissioner or his representatives for any action taken by them in the performance of their powers and duties. New law retains old law and provides the same immunity to the participation in any organization of one or more other state associations of similar purposes and to any such organization and its agents or employees.

Old law provides that all proceedings in which an insolvent insurer is a party shall be stayed for 90 days and upon motion of the association the court may extend the stay for an additional 90 days. New law provides that all proceedings in which an insolvent insurer is a party shall be stayed for six months and deletes the provision allowing for the court to extend the stay for an additional 90 days.

New law provides that the liquidator or receiver of an insolvent insurer shall permit access by the association to the insolvent insurer's records that are necessary to carry out its functions and shall provide the association with copies of those

records upon request by and at the expense of the association.

Effective August 15, 2010. (Amends R.S. 22:2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2067, 2068, 2069, and R.S. 44:4.1; adds R.S. 22:2057(D) and (E), 2059(C)(10) through (14), 2060.1, 2061(D), and 2061.1)

Citizens Property Insurance Corp. (Act No. 1023)

New law requires the La. Citizens Property Insurance Corporation to write business with properly licensed general agencies operated by insurance companies that write business through exclusive insurance procedures.

Effective August 15, 2010. (Amends R.S. 22:2302)

Requirement for Insurer Participating in the LCPI Corp. Take-Out Plan (Act No. 397)

Old law provided that at least once per calendar year, the La. Citizens Property Corporation must offer its in-force policies for removal to the voluntary market., and required that the inforce policies be bundled in groups of not less than 500 policies and include both policies issued under the Coastal Plan and the FAIR Plan. The corporation shall include policies in the bundle with geographic and risk characteristics that serve to reduce the exposure of the corporation.

New law removes the provision providing that in-force policies must be bundled in groups of not less than 500 policies and include both policies issued under the Coastal Plan and the FAIR Plan. New law requires the corporation to include offer for depopulation policies with all available geographic and risk characteristics that serve to reduce the exposure of the corporation.

New law requires each insurer participating in the take-out program be offered all of the corporation's in-force policies, and requires insurers to provide the corporation with a list of policies they propose to take-out subject to authorization by the policy's agent of record. New law prohibits the assumption of policy by a

take-out company without the authorization of the agent of record.

New law adds a provision that allows insurers insuring one- or two-family premises for fire and allied lines to apply to the La. Citizens Property Corporation to become a take-out company. New law also removes the requirement that the corporation submit each take-out plan to the Dept. of Insurance for review and approval. New law specifies that the insurers will be approved to participate in the depopulation of La Citizens Property Insurance Corporation based on the following criteria:

(1) An insurer will not be deemed qualified to participate in the take-out program unless that insurer has at least an B+ rating with A.M. Best, or its equivalent.

(2) An insurer must have the rates proposed to be charged for the policies being taken out filed and approved by the La. Dept. of Insurance with an effective date prior to the assumption of policies.

New law removes the requirement that a take-out plan be approved by the Dept. of Insurance. Instead, new law requires the corporation to submit the insurer's application to participate to the governing board for approval.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 22:2314)

Inclusion of Information Relative to Refund of Assessments Levied by LCPI (Act No. 345)

New law provides that at the time of issuance or annual renewal of a property insurance policy, each insurer shall include the following with the policy sent to each insured:

(1) Information on the electronic link to the form designated by the Dept. of Revenue to receive a refund from the state after its payment by the insured for the amount of any surcharge, market equalization charge, or other assessment levied by the corporation due to Hurricanes Katrina and Rita.

(2) A statement in 14-point or boldface type that any surcharge, market equalization charge, or

other assessment levied by the corporation due to Hurricanes Katrina and Rita is refundable.

(Adds R.S. 22:2317)

TITLE 23: LABOR AND WORKERS' COMPENSATION

Restraint from Exercising a Lawful Profession, Trade, or Business (Act No. 164)

New law retains prior law, but specifies that any contract or agreement, or provision thereof, which meets the exceptions as provided in prior law is enforceable.

Effective August 15, 2010. (Amends R.S. 23:921(A)(1))

Workers' Compensation - Medical Exams, False Statements, and Reports (Act No. 3 and 619)

Prior law provides for the duty of the director to order an independent medical examination by a medical practitioner selected and appointed by the director when a dispute arises as to the condition of an injured employee. New law further requires the director, upon application of any party, to order an independent medical examination when a dispute arises as to the injured employee's capacity to work or his current medical treatment.

Prior law provides that no person or entity acting without malice, fraudulent intent, reckless disregard for the truth, or bad faith shall be liable to another by virtue of the filing of reports or furnishing other information relative to a violation by an employer of the provisions of the present law. New law places an affirmative burden on any person, insurer, or member of a self-insurance fund who believes that a false, fraudulent, or misleading statement has been knowingly made or has been knowingly omitted with the purpose of affecting the payment of any workers' compensation premium to report such statement or omission within 60 days to the office of workers' compensation administration.

New law requires the office to provide an independent examination of the facts surrounding the report. Any alleged violations of law disclosed by an independent examination of the facts shall be reported to the appropriate licensing agency and the proper prosecuting authority.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 23:1123, 1172.2, and 1201; Repeals R.S. 23:1201.1)

Workers' Compensation - Penalties and Fines (Act No. 288)

Prior law provided that any employer who fails to secure workers' compensation coverage as required by prior law shall be liable for civil penalties. New law increases the maximum civil penalty for a first offense to \$10,000.

Prior law provided that under criminal penalties an employer who is in violation of securing workers' compensation may be fined not more than \$10,000. New law provides under criminal penalties employers who fail to provide workers' compensation coverage may be fined up to \$250 per day that the employer willfully failed to provide security for compensation.

Prior law provided an employer who willfully misrepresents in writing that he has provided workers' compensation coverage shall be fined not more than \$10,000. New law provides instead the employer may be fined up to \$250 per day that the employer willfully failed to provide compensation.

Effective August 15, 2010. (Amends R.S. 23:1170,1171.1,1172,1172.1, and 1172.2)

Worker's Compensation - Electronic Medical Bills (Act No. 4)

New law provides that the director of the office of workers' compensation shall adopt rules and regulations regarding an electronic system of submission, processing, and payment of workers' compensation-related medical bills. New law provides that insurance carriers shall accept electronic medical bills and health care

providers shall accept electronic payment of such bills.

New law provides that on or after 1/1/12, the director may promulgate additional rules and regulations regarding the electronic medical billing system.

Effective August 15, 2010. (Adds R.S. 23:1203.2)

Workers' Compensation and Mediation (Act No. 53)

New law adds payment of the filing fee within five days to the list of requirements that constitute the initiation of a claim for workers' compensation benefits.

Prior law requires all mediation conferences to be before a workers' compensation mediator who shall mediate and encourage settlement of the case or determine issues in dispute. New law specifies that the mediator shall be a La. Workforce Commission, office of workers' compensation administration mediator.

Prior law provides that, if the plaintiff fails to appear after proper notice, the workers' compensation judge may dismiss the plaintiff's case without prejudice. New law deletes prior law.

New law requires any dispute open in excess of 300 days to have a mandatory pretrial mediation with a La. Workforce Commission, office of workers' compensation administration mediator.

New law provides that, upon joint request of the parties, or upon order of the presiding workers' compensation judge, the parties shall engage the services of a La. Workforce Commission, office of workers' compensation administration mediator selected by mutual agreement of the parties or a private mediator and such mediation shall be held at a location mutually agreeable to the parties.

New law provides that the parties may engage the services of a private mediator at any time or when ordered by the judge. New law requires the parties to certify to the court when a private mediation has occurred and the results thereof.

New law provides that nothing shall prohibit the parties from requesting a mediation conference with a La. Workforce Commission, office of workers' compensation administration mediator.

New law provides that a representative with authority to enter into negotiation for each party at the mediation must be present either in person or via telephone. New law provides that should a party fail to appear for a mediation conference the workers' compensation judge may fine the delinquent party upon request of a party mediator.

New law provides that the mediation shall not interrupt the running of prescription.

(Amends R.S. 23:1310.3)

Worker's Compensation - Employment Records (Act No. 6)

Prior law provides that employment records and reports shall be held confidential and not subject to subpoena, publication, or public inspection, except for public employees in performance of their public duties.

Prior law specified that the office of workers' compensation shall have access to answers to limited question regarding whether benefits have been paid and the period of time paid. New law removes the office of workers' compensation qualification regarding information in response to the limited questions regarding length of time benefits have been paid.

Effective August 15, 2010. (Amends R.S. 23:1660(C)(1))

TITLE 24: LEGISLATURE AND LAWS

Lobbying (Act No. 857)

New law provides that the late filing fees applicable to the late filing of an expenditure report by a lobbyist who files one report disclosing all legislative and executive branch lobbying expenditures shall be \$50 per day.

(Amends R.S. 24:58(D)(1), R.S. 42:1157(A)(3), and R.S. 49:78(D)(1))

Government Audit of Non-Profits Receiving Public Funds (Act No. 1045)

Prior law provides for the authority of the legislative auditor to audit the financial statements of any not-for-profit organization that receives and/or expends in excess of \$25,000 in local and/or state assistance in any fiscal year. New law removes the \$25,000 limitation.

Effective August 15, 2010. (Amends R.S. 24:513)

Local Auditee or Vendor Collecting Taxes (Act No. 711)

New law requires any other local auditee or vendor that collects and distributes ad valorem taxes on behalf of taxing authorities to have its tax collection and distribution fund audited annually and to distribute a copy of the audit report to the legislative auditor and each taxing authority for which it collects taxes. New law requires each such local auditee and vendor to provide the legislative auditor with a sworn statement of the gross amount of taxes to be collected, any deductions made from the tax rolls, the amount of taxes collected, and the taxes distributed to the taxing authorities. New law requires the statement to detail any taxes on hand at the end of the reporting period; the amounts of such balance belonging to the taxing authorities; the amounts of collections related to current tax collections; the amounts relating to prior year taxes; the amounts of any interest and penalties collected and disbursed; the extent to which the prior year tax collections relate to collection and audit efforts; and the reason, if any, for failure to collect. New law provides for the statement to include other disclosures as may be determined necessary by the legislative auditor.

New law additionally requires any other local auditee or vendor that collects and distributes taxes other than ad valorem taxes on behalf of a taxing authority to have its annual financial statement audited and to distribute a copy of the audit report to the legislative auditor and each taxing authority for which it collects taxes. New

law requires the audit report to have a footnote disclosure including total collections and a schedule of distribution by taxing authority and other disclosures as may be determined necessary by the legislative auditor.

New law provides that for fiscal periods beginning after Dec. 31, 2010, the audit reports required by new law shall be completed within six months of the close of the local auditee's or vendor's fiscal year.

Effective August 15, 2010. (Amends R.S. 24:513)

TITLE 25: LIBRARIES, MUSEUMS, AND OTHER SCIENTIFIC AND CULTURAL FACILITIES

TITLE 26: LIQUORS – ALCOHOLIC BEVERAGES

Tobacconists (Act No. 412)

New law changes the definition of "tobacconist" from "a retail dealer" to "any bona fide tobacco retailer".

New law provides that a single permit shall allow any bona fide La. tobacconist to operate as a retail tobacco dealer and as a wholesale tobacco dealer.

New law provides that any fee assessed for a tobacconist permit shall be set at the current rate in effect on Aug. 15, 2010.

Effective August 15, 2010. (Amends R.S. 26:932; Adds R.S. 26:901(18) and 903(6))

TITLE 27: LOUISIANA GAMING CONTROL LAW

Seizure of Gambling Winnings (Act No. 425)

New law authorizes DSS to intercept and seize certain gaming winnings for the payment of child support and overpayments owed to the department.

New law authorizes Gaming Control Board to adopt rules establishing a procedure requiring the withholding by licensed entities of payments and progressive slot machine annuities and cash gaming winnings of persons who have outstanding child support arrearages or owe child support overpayments, on payments for which the entity is required to file form W2-G with the Internal Revenue Service. The board may require the agency reporting current child support arrearages or overpayments to provide real-time or immediate electronic database access by the licensed entity to such information for the purposes of the new law and, if the agency does not, the entity shall not be responsible for withholding cash gaming winnings.

New law provides immunity from liability for disclosure of information under the new law.

New law provides for deduction of the child support arrearage or overpayment from the payment of the progressive slot machine annuity or cash gaming winnings, with the deducted amount being forwarded to DSS within seven days.

New law requires the board to institute rulemaking procedures as necessary to implement new law by January 1, 2011.

New law authorizes DSS to intercept and seize casino winnings over \$1,200 from individuals in arrears in support or owing overpayments to the department.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 46:236.15; adds R.S. 27:2(C) and (D) and 24(A)(5))

Regulation of Video Draw Poker Devices (Act No. 908)

Old law provided that payment of a civil penalty for a violation of existing law shall be a requirement for the retention of any permit or license held by the entity which owns or operates video draw poker devices.

New law further provides that the failure to remit civil penalties shall result in the remote

shutdown of video draw poker devices operated or owned by the locality refusing to remit the civil penalty. New law requires the devices to be reactivated upon payment of the penalty.

New law adds to definition of "institutional investor" any regulated investor as the board may determine in its sole discretion consistent with the provisions of law.

Effective August 15, 2010. (Amends R.S. 27:3 and 308.1)

Video Poker Truck Stop Location (Act No. 643)

Prior law provides that no license shall be issued for any truck stop facility located, at the time application is made for a license to operate video draw poker devices, within 2,500 feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

Prior law provides that in municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk. New law provides that the measurement of distance shall be a straight line.

Prior law provides that no license shall be issued for any truck stop facility located, at the time application is made for a license to operate video draw poker devices, within 2,500 feet of any residential property except as provided by law. New law provides that the distance shall be a straight line from the truck stop facility to the nearest point of the residential property.

Effective June 1, 2010. (Amends R.S. 27:306)

TITLE 28: MENTAL HEALTH

Waiver Services Preference for Military Families (Act No. 286)

New law provides that active duty members of the military and their immediate family who have qualified for and received disability waiver

benefits and who have been temporarily moved out of state on assignment by the military shall be eligible to receive the next available slot for waiver services from the DHH upon the resumption of their residence in La. after such assignment.

New law states that in order to qualify for the next available slot for waiver services:

(1) The person must be an active duty member of the armed services, a spouse of a member of the armed services, a child of a member, or someone over whom the member of the armed services has guardianship, and

(2) The member of the armed services must have resumed his residence in La. once the assignment is complete.

New law is subject to approval by the Centers for Medicare and Medicaid Services.

Effective August 15, 2010. (Adds R.S. 28:827)

TITLE 29: MILITARY, NAVAL, AND VETERANS' AFFAIRS

Public Retirement Systems and Military Service (Act No. 1010)

New law provides that all contributions and interest paid by an employee who serves in the military to public retirement or pension systems shall be received by the system within a time period immediately after the employee's reemployment equal to three times the period of qualified military service, not to exceed five years, conforming state law to the federal provisions.

Old law provides that if the employee fails to make the required contributions within the statutory time frame of four years, credit in the retirement system for service in the uniformed services shall only count toward determining eligibility for retirement benefits. New law retains old law and changes the referenced time frame to the permissible payment period.

Old law provides that any unpaid actuarial cost to the system shall be borne by the employers through reflection in the employer contribution

rate established by the Public Retirement Systems' Actuarial Committee.

New law specifies that the employer contribution rate shall be established as provided by the actuarial funding requirements and any other laws, rules, or regulations applicable to the public retirement system in which the employee receives credit.

New law provides that any employee whose service in the uniformed services begins on or before June 30, 2010, shall be granted no less than four years in which to purchase his service credit.

Effective June 30, 2010. (Amends R.S. 29:414)

Louisiana Secedes from Southern Mutual Aid Compact (Act No. 497)

New law repeals provisions for Louisiana membership in the Southern Regional Homeland Security and Emergency Preparedness Management Assistance Compact.

Effective August 15, 2010. (Repeals R.S. 29:751)

Intrastate Mutual Aid Compact (Act No. 1035)

New law provides for a system of intrastate mutual aid between parishes in the state for the prevention of, response to, and recovery from, any emergency disaster, in participating parishes. New law provides for mutual cooperation in conducting disaster related exercises, testing, or other training activities outside actual emergency periods.

New law authorizes a parish to request assistance of any other parish in preventing, mitigating, responding to, and recovering from emergencies or disasters in concert with authorized drills or exercises as allowed under the compact.

New law authorizes GOHSEP to request assistance from any parish for the purpose of establishing a pre-positioned cache of resources in order to expedite requests in the wake of an anticipated disaster and to also request resources

from any parish in order to help fill requests for assistance received from other states as part of a national mutual aid system.

New law shall not be interpreted to impair the authority of a parish president during a declared emergency.

New law requires that when a person or entity who holds a license, certificate, or other permit issued by a parish or the state evidencing qualification in a professional, mechanical, or other skill and the assistance of that person or entity is requested by a parish, the person or entity shall be deemed to be licensed, certified, or permitted in the parish requesting assistance for the duration of the declared emergency or authorized drills or exercises and subject to any limitations and conditions the chief executive of the parish receiving the assistance may prescribe by executive order or otherwise.

New law provides that personnel authorized by their employer to respond to an event who sustain injury or death in the course and scope of employment remain entitled to all applicable benefits normally available pursuant to their employment even though they may be under the direction and control of a different parish or other entity.

Effective August 15, 2010. (Adds R.S. 29:739)

TITLE 30: MINERALS, OIL, GAS AND ENVIRONMENTAL QUALITY

Oil and Gas Well Maintenance (Act No. 646)

New law requires an owner or operator of a permitted oil and gas well to construct and maintain the drilling activity area in such a manner as to avoid disturbing the use of any privately owned active water well existing at the time of application for the permit to drill. New law provides that an owner or operator may negotiate with the water well owner to relocate and plug such water well at the expense of such owner or operator.

Effective August 15, 2010. (Adds R.S. 30:28.1)

State Lease for Alternative Energy Sources (Act No. 875)

New law authorizes the State Mineral and Energy Board to lease for the development and production of "alternative energy sources".

New law defines "alternative energy sources" as energy sources other than oil, gas, and other liquid, solid or gaseous minerals, including, but not limited to, wind energy, geothermal energy, solar energy and hydrokinetic energy, but excluding the cultivation or harvesting of biomass fuels or the use of state land or water bottoms for facilities which utilize biomass fuel to produce energy.

No lease will be granted for alternative energy sources development on lands or public navigable waterways without prior written approval of a port or terminal, but the approval of the lease will not be unreasonably withheld unless the lease will be detrimental to the needs of commerce and navigation.

Effective August 15, 2010. (Amends R.S. 30:124)

Scrap Metal (Act No. 410)

New law deletes the prohibition against the intentional delivery of scrap to a scrap metal collection and recycling facility if the scrap contains fuel tanks not certified as gas-free.

New law deletes the requirement that persons delivering scrap to a scrap metal collection and recycling facility submit to the facility a certification signed by a duly authorized representative that fuel tanks not certified as gas-free have been removed.

Effective August 15, 2010. (Amends R.S. 30:2419)

DEQ Regulatory Permits (Act No. 49)

Prior law authorizes the delegation of the authority of the secretary or assistant secretary of the Dept. of Environmental Quality to execute minor permit actions to a representative. New law adds to the delegation of the authority to issue regulatory permits to a representative.

Effective August 15, 2010. (Amends R.S. 30:2011, 2014, and 2054)

Sewerage Plant Bonds (Act No. 296)

Prior law authorizes the Dept. of Environmental Quality (DEQ) to administer and operate the Municipal Facilities Revolving Loan Fund. DEQ is authorized to issue, incur, and deliver debt evidenced by bonds, notes, or other evidences of indebtedness, and to guarantee the debt of local municipalities, all payable from or secured by sums in the Fund, for the purpose of assisting municipalities in the financing of construction of wastewater treatment facilities.

New law changes the name of the Fund from the Municipal Facilities Revolving Loan Fund to the Clean Water State Revolving Loan Fund.

New law increases the maximum term for loans from the fund from 20 years to 30 years and increases the term for planning and preparations for projects from two years to five years.

New law provides that the department may enforce any covenant relating to indebtedness or any security for such indebtedness by suit, action, mandamus, or other appropriate proceedings.

New law provides certain revenue bonds issued by a political subdivision and sold to the Clean Water State Revolving Fund or the Drinking Water Revolving Loan Fund must be approved by the State Bond Commission prior to the incurring of such indebtedness; however, no prior approval shall be required of the contents of the notice of intention to issue the revenue bonds.

Effective upon signature of governor (June 17, 2010). (Amends R.S. 30:2011, 2074, 2397, R.S. 33:4548.13, and R.S. 40:2821 and 2824; Adds R.S. 30:2301-2306 and R.S. 39:1022(C); Repeals R.S. 30:2078-2088)

Emergency Response Plans for Solid Waste Permits (Act No. 862)

New law requires rules or regulations to be promulgated by the Dept. of Environmental Quality prior to July 1, 2011, providing for

emergency response requirements that include the preparation of an emergency response plan by an applicant seeking a permit to process or dispose of solid waste.

New law provides that such applicants shall be required to file an emergency response plan as a special structures plan review with the state fire marshal. Such application shall not be filed with nor accepted by the department prior to the approval of the emergency response plan from the state fire marshal's office.

New law shall not apply to an industrial solid waste disposal facility which also disposes of residential, commercial, construction or demolition debris, or wood waste.

Effective July 1, 2010. Repeal of prior law effective upon the effective date of rules and regulations promulgated by DEQ as provided in new law. (Adds R.S. 30:2154(B)(9); Repeals R.S. 30:2157 and 2157.1)

State Conservation (Act No. 852)

New law requires each department of the executive branch, the legislature, and the judicial branch to adopt a program to reduce solid waste, including adopting paperless office programs, and to adopt a recycling program with emphasis on single stream recycling.

Effective upon signature of governor (June 30, 2010). (Amends R.S. 30:2418; Adds R.S. 30:2415(H))

Oil Spill Contingency Fund (Act No. 962)

Prior law provides for the statutory implementation of the constitutionally created Oil Spill Contingency Fund. The purpose of the fund is to immediately provide available funds for response to all threatened or actual unauthorized discharges of oil, for cleanup, and removal costs from discharges of oil. Constitutional provisions limit the fund at \$30 million, unless otherwise provided by law. New law removes the \$30 million limitation during a declared state of emergency or disaster caused by an unauthorized discharge of oil.

Prior law provides for use of monies in the fund for certain administrative and personnel expenses of the office of the coordinator, not to exceed \$600,000 in any fiscal year. New law allows for such expenditures exceeding this amount in the event of a declared emergency or disaster which are approved by the commissioner of administration and the Joint Legislative Committee on the Budget (JLCB).

Prior law provides for use of monies in the fund for certain operating costs and contracts for response and prevention not to exceed \$600,000 in any fiscal year. New law allows for such expenditures exceeding this amount in the event of a declared emergency or disaster which are approved by the commissioner of administration and the JLCB.

Prior law provides for the determination of the fee based upon the balance in the fund, and provides that collections of the fee cease when the balance in the fund reaches \$7 million. New law removes the \$7 million dollar limitation relative to fee collections during a declared state of emergency or disaster.

Effective upon governor signature (July 6, 2010). (Amends R.S. 30:2483 and 2484; adds R.S. 30:2486(F))

TITLE 31: MINERAL CODE

TITLE 32: MOTOR VEHICLES AND TRAFFIC REGULATION

Municipal Speed Bumps (Act No. 85)

New law expressly authorizes municipalities to adopt ordinances installing speed bumps on any nonstate maintained roadway within its jurisdiction.

Effective August 15, 2010. (Amends R.S. 32:41)

Bicycles (Act No. 618)

New law requires driver's education courses to cover sharing the road with pedestrians, bicyclists, and transit vehicles.

Prior law provided that the operator of a motor vehicle shall leave three feet between his vehicle and a bicyclist when passing the bicyclist. New law adds that the operator of a motor vehicle shall exercise due care when passing a bicyclist and may pass a bicycle traveling in the same direction as him in a no-passing zone only when safe to do so.

New law adds additional hand and arm signals for bicyclists.

New law allows for the use of motor vehicles in bicycle lanes under certain circumstances.

New law allows for the riding, stopping, parking, or standing of bicycles on highway shoulders in the case of emergencies.

Prior law allows parishes and municipalities to prohibit operation of electric personal assistive mobility devices. New law adds that the prohibitions may only be enacted if it is necessary and in the interest of safety.

Effective August 15, 2010. (Amends R.S. 17:270, R.S. 32:1, 76.1, 106, 197, 283, 296, and 300.2, and R.S. 48:21, 163.1; Adds R.S. 32:203 and R.S. 48:1(24))

Speed Limits (Act No. 81)

New law authorizes operation of vehicles in excess of any maximum speed set forth in present law within a speed zone established by the department as provided in the new law set forth below.

New law authorizes the Department of Transportation and Development to establish a "speed zone". New law provides that the department may determine and declare a speed in excess of the maximum speed set forth in present law within such speed zone whenever the department determines on the basis of an engineering and traffic investigation that such speed is reasonable and safe. New law further provides that the department shall erect

appropriate signs giving notice of the speed zone.

New law repeals maximum speed limits for certain vehicles.

Effective August 15, 2010. (Adds R.S. 32:61(A)(3) and R.S. 32:63(C); repeals R.S. 32:62)

Death and Organ Transplants (Act No. 885)

Old law provided that in any and all cases of death, when organs are to be used in a transplant, it is not mandatory that an additional physician, not a member of the transplant team, make the pronouncement of death. New law deletes old law.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 32:154)

Malfunctioning Traffic Lights (Act No. 259)

Existing law provides that when a traffic control signal is not functioning at an intersection, the intersection shall revert to an all-way stop. When two or more vehicles approach or enter the intersection from different highways at approximately the same time, the vehicle on the left shall yield the right-of-way to the vehicle on the right. New law clarifies that a traffic light is inoperative when the traffic signal lights are completely dark.

New law adds two additional procedures:

(1) When a traffic control signal is flashing yellow, drivers of motor vehicles may proceed through or past such signal with caution.

(2) When a traffic control signal is flashing red, drivers of motor vehicles shall stop before entering the intersection.

Effective upon signature of governor (June 17, 2010). (Amends R.S. 32:232.1)

Mini-Vehicles (Act No. 761)

New law deletes provisions of prior law which required a mini-vehicle to meet all applicable

federal and state safety and emissions standards and to bear a valid safety inspection certificate issued by the state of Louisiana.

New law adds requirements that mini-vehicles be equipped with the speed restriction device required for such vehicles by the U.S. Environmental Protection Agency or meet Environmental Protection Agency emissions standards and have operating brakes, headlights, taillights, turn signals, windshield wipers, hazard lights, and seatbelts.

Effective August 15, 2010. (Amends R.S. 32:297.1)

Off-Road Vehicles on Campus (Act No. 236)

New law provides that off-road vehicles may be operated by certain persons on streets within the boundaries of state-owned colleges and universities.

Effective August 15, 2010. (Adds R.S. 32:299(A)(3))

Bicycles (Act No. 813)

New law allows persons riding bicycles on a roadway, which includes an improved shoulder, the option of riding on the improved shoulder.

New law requires every bicycle when in use at nighttime to be equipped with a rear lamp that emits a red flashing light. New law prohibits the use of any bicycle on a state highway, parish road, or city street after Dec. 31, 2010, unless the bicycle is equipped with at least one lamp emitting a red reflector flashing light on the rear.

New law provides for a warning for a violation prior to Dec. 31, 2010.

New law shall not apply to bicycles while engaged in sanctioned competition races or to any child under the age of ten years old.

Effective August 15, 2010. (Amends R.S. 32:197 and 329)

Funeral Processions (Act No. 257)

Prior law provides that the legal procedure for motor vehicles participating in funeral processions shall not create a cause of action or substantive legal rights against any funeral home, its director, or any of its employees or agents, and additionally provides that such persons shall not be held liable for a violation of procedure for motor vehicles participating in funeral processions. New law extends prior law to any law enforcement agency or officer.

Effective August 15, 2010. (Amends R.S. 32:300.3(D))

Calling or Texting While Driving (Act No. 203)

Prior law prohibits texting while driving a motor vehicle but provides this shall be enforced only as a "secondary action" when the officer detains a driver for another alleged violation. New law makes it a primary offense for which a driver may be stopped.

Prior law prohibits persons 17 years of age or younger to operate a motor vehicle while using any "wireless telecommunications device" to engage in a call or write, send or read a text-based communication, but makes it a non-moving violation and authorizes enforcement only as a "secondary action". New law makes it a moving violation and a primary offense for which a driver may be stopped.

Effective August 15, 2010. (Amends R.S. 32:300.5 and 300.7)

Non-Impoundment of Vehicles (Act No. 82)

New law prohibits impoundment of a private passenger car, pickup truck, van, recreational vehicle, or motorcycle stopped while being operated by a Louisiana resident by a law enforcement officer where such vehicle or operator, or both, present no imminent danger to the public. New law provides that an operator who is a resident of Louisiana shall be issued a notice of noncompliance and allowed to proceed. New law provides further that a law enforcement officer may remove the license

plate from a private passenger car, pickup truck, van, recreational vehicle, or motorcycle.

New law defines "imminent danger to the public" as a present and apparent danger to the life, health, safety, or property of the public.

New law provides that the impoundment prohibition applies only to a first violation and makes impoundment discretionary with the law enforcement officer for a second or subsequent violation.

Effective August 15, 2010. (Adds R.S. 32:392.1)

Early Driver's Ed Classroom Instruction (Act No. 227)

Prior law provides that a person who is in at least the ninth grade and is within 90 days of his 15th birthday may participate in the classroom instruction component of a driver education and training program established by BESE and Dept. of Education. New law retains prior law.

Prior law provided that a person must be 15 years of age to participate in the education program or prelicensing training course offered by a private entity, including the classroom instruction and driving experience portion. New law provides that a person can participate in the classroom instruction portion of a driver education program offered by a private entity 90 days prior to his 15th birthday if he is in at least the ninth grade. New law retains prior law as it pertains to the driving experience portion of a driver education program.

Effective August 15, 2010. (Amends R.S. 32:402.1(D))

Learner's and Intermediate Driver's Licenses (Act No. 1039)

New law adds that no first time application for a Class "E" license shall be received from any person 17 years of age or older unless there is also submitted with the application a signed statement to the department attesting that the applicant has completed a minimum of 50 hours of supervised driving practice with a licensed parent, guardian, or adult at least age 21 or

older, of which at least 15 hours must be nighttime driving.

New law allows the Class "E" learner's license to be converted to a Class "E" intermediate license upon the applicant being at least 16 years of age and meeting the following conditions:

(1) The applicant's parent or legal guardian must provide a signed statement to the department attesting that the applicant has completed a minimum of 50 hours of supervised driving practice with a licensed parent, guardian, or adult at least age 21 or older, of which at least 15 of these hours must be nighttime driving.

(2) The applicant must pass an on-road driving test.

(3) The applicant must remain accident free, except where the licensee was not at fault, and receive no convictions for moving violations or violations of the seat belt or curfew laws of this state or any law pertaining to drug or alcohol use. Prior law did not contain the "accident free" conditions.

New law adds that, unless accompanied by a licensed parent, guardian, or adult at least age 21 or older, an intermediate licensee may not between the hours of 6:00 p.m. and 5:00 a.m. transport more than one non-immediate family member passenger that is under 21 years of age.

Prior law provides that upon completing the Class "E" intermediate licensing stage, and upon demonstrating that the licensee has remained accident free, except in cases where the licensee was not at fault, has received no convictions for moving violations, and has received no convictions for violations of the seat belt or curfew laws of this state for 12 consecutive months after being issued his intermediate license, an applicant may be issued full Class "E" driving privileges.

New law adds requirement that the driver not be convicted of any laws pertaining to drug or alcohol use for 12 consecutive months after being issued his intermediate license to be issued full Class "E" driving privileges.

New law requires that the intermediate licensee shall not place the vehicle in motion until every occupant of the vehicle has been restrained by a

properly fastened seat belt or other occupant restraint system unless such person is not required to be restrained pursuant to R.S. 32:295.1.

Prior law provided for special provisions for unemancipated minors who applied for any type of license between the ages of 15 and 18 and suspension terms. New law repeals prior law.

Effective January 1, 2011. (Amends R.S. 32:405.1 and 407)

School Bus Driving and Drinking (Act No. 401)

Prior law subjects all persons with commercial drivers licenses, including school bus drivers, to a graduated system of license suspension and disqualification for conviction of operating under the influence of alcohol or controlled dangerous substances.

New law, as an exception to the general scheme, disqualifies commercial drivers from operating school buses for 10 years after a conviction of driving under the influence or refusing to submit to an alcohol concentration or drug test, but reduces disqualification period subject to certain conditions being met.

(Adds R.S. 32:414.2(E))

Car Lease (Act No. 65)

New law authorizes the seller or extender of credit to charge the consumer fees and expenses for electronic lien and title services provided in connection with a motor vehicle credit transaction.

Prior law lists banks as one of the financial institutions that is subject to prior law. New law changes references to banks to federally insured depository institution that originate more than 250 motor vehicle transactions per year.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 32:707.2; adds R.S. 6:969.18(A)(5))

Motor Vehicle Distribution and Sales (Act No. 1036)

Old law provides for licensing of auto shows including promoters and nonresident exhibitors. New law includes trade shows and exhibitions. New law makes the license fee nonrefundable. Beginning Jan. 1, 2011, the duration of the licenses will be staggered from one to two years based on geographical location of the licensee.

New law provides that a license of a recreational products dealer expires on Dec. 31, 2010.

Old law requires a manufacturer or a convertor or secondary manufacturer to immediately file with the commission a copy of a franchise with a motor vehicle dealer, recreational products dealer, or specialty vehicle dealer. New law adds a distributor and wholesaler to the filing requirement.

New law requires all motor vehicle or recreational products dealers, used motor vehicle facilities, motor vehicle lessors, and specialty vehicle dealers to carry insurance that covers its place of business and that complies with the financial responsibility laws of this state as determined by the applicant and its insurance agent.

Old law provides that a motor vehicle or recreational products dealer shall not be required to obtain a license as a motor vehicle lessor, used motor vehicle dealer, or specialty vehicle dealer or converter, when modifying or selling those vehicles or products he is licensed to sell, provided it is conducted at his licensed place of business. New law exempts recreational products dealers from this provision.

Old law provides that non-licensees shall be subject to the provisions of the law. New law includes persons conducting or designing advertising or participating in special sales events on behalf of licensees.

New law authorizes the commission to order the repurchase of all vehicles, signs, special tools, and automotive equipment and pay the costs to the licensee for the cost of transporting, handling, packing, and loading of vehicles, parts, signs, tools, and equipment subject to repurchase requirements.

Old law provides that it be deemed an unauthorized act if a manufacturer, a distributor, a wholesaler, distributor branch, factory branch, converter or officer, agent, or other representative unfairly cancels the franchise of any motor vehicle dealer based on performance standards. New law changes motor vehicle dealer to any licensee, but exempts recreational products dealers from the performance standards of present law.

Old law provides for indemnification for judgments arising out of alleged defective or negligent manufacture, assembly, or design of motor vehicles, parts, or accessories. New includes specialty vehicles and recreational products.

Old law provides that suppliers of mechanical repairs and services for motor vehicles shall provide each consumer with an itemized bill. New law clarifies the bill is for any vehicle subject to regulation.

Old law provides that whenever a new motor vehicle is sold to any person, the seller shall notify the purchaser of any body damage or mechanical damage which the vehicle has sustained that exceeds 6% of the manufacturer's suggested retail price. New law extends this to any new vehicle subject to regulation by the board and further requires a seller of a new recreational vehicle to notify purchaser of any body damage or mechanical damage that exceeded 6% of the manufacturer's wholesale price.

New law provides that replacement of a new recreational vehicle's instrument panels, appliances, furniture, cabinetry, televisions, audio equipment, or similar residential components shall not be deemed damaged if such items are replaced with original manufacturer's parts and materials.

Old law provides for termination requirements for a motor vehicle and specialty vehicle dealer regarding repurchase of parts and products. New law includes recreational products dealers and recreational products respectively.

Old law provides the manufacturer or converter shall make the required repurchase after the dealer terminates his franchise within 30 days of

notification. New law provides repurchase within 30 days for motor and specialty vehicle dealers and 60 days for recreational products dealers.

Old law provides for manufacturer mandatory repurchases when the dealers licensed by the commission cease to do business in the state. New law deletes present law.

(Amends R.S. 32:1252, 1254, 1255, 1261, 1261.1, 1262, 1263, 1264, and 1268; Adds R.S. 32 and 1260(E) and (F); Repeals R.S. 32:1268.1)

Vehicle Still "New" after Recall and Repair (Act No. 1046)

New law provides that a motor vehicle dealer shall not sell a new motor vehicle without first supplying a prospective buyer with the following notice: "A new motor vehicle may have been subject to a National Highway Traffic Safety Administration required recall which would be repaired in accordance with manufacturer standards approved by the National Highway Traffic Safety Administration. If such a repair is a concern before you purchase, please ask for a copy of the recall notice, if applicable, to the vehicle being sold".

This notice shall be included on the buyer's order in a box and in bold print which is signed by the buyer and the seller or his representative next to the box. If the buyer requests the recall notice, the recall notice shall be included in the sales transaction. If the selling dealer performed the repair, the documents supporting the repair shall also be included in the sales transaction.

Effective August 15, 2010. (Adds R.S. 32:1264.1)

Marine Dealer Franchise Agreements (Act No. 1043)

New law repeals prior mandatory manufacture repurchase of marine products when a marine dealer ceased to sell that product.

New law provides that if any marine dealer enters into a franchise with a manufacturer,

distributor, or wholesaler wherein the marine dealer agrees to maintain an inventory of marine products or repair parts, the manufacturer, distributor, or wholesaler shall not terminate such franchise unless there is a breach of the franchise by the marine dealer and until 90 days after notice of such intention to terminate, including breach of the franchise, has been sent by certified mail, return receipt requested, or commercial delivery service with verification of receipt, to the marine dealer, and the marine dealer has failed to correct the breach within such period.

New law provides that if the franchise is terminated as a result of any action by the marine dealer and the manufacturer, distributor, or wholesaler is not in breach of such franchise, the manufacturer, distributor, or wholesaler shall not be required to repurchase the inventory; however, if the franchise is terminated as a result of any action by the marine dealer and the manufacturer, distributor, or wholesaler is in breach of the franchise, the manufacturer, distributor, or wholesaler shall be required to repurchase the inventory.

New law provides that it shall be unlawful for the manufacturer, wholesaler, or distributor, without due cause and pursuant to its own initiating action, to terminate or fail to renew a franchise, unless the manufacturer, distributor, or wholesaler repurchases the inventory as provided for in new law.

New law provides that if a manufacturer, wholesaler, or distributor does not intend to renew a franchise, the manufacturer, wholesaler, or distributor shall give the marine dealer 90 days written notice prior to the effective date by certified mail, return receipt requested, or commercial delivery service with verification of receipt.

New law requires a manufacturer, distributor, or wholesaler to repurchase that inventory previously purchased from them, including all new and unused marine products of the current and immediate prior model or program year and parts on hand and held by the marine dealer on the date of termination of the contract. The manufacturer, distributor, or wholesaler shall pay an amount equivalent to the cost actually

paid by the marine dealer, including discounts given and rebates paid per unit for any new, unused, undamaged, unaltered from original invoice and delivery, and complete marine product. The manufacturer, distributor, or wholesaler shall also pay an amount equal to the price paid by the marine dealer for any new, unused, and undamaged repair parts and accessories which are listed in the manufacturer's, distributor's, or wholesaler's prevailing parts list and are not more than three model years old, or in the case of parts inventory, that does not have a model year not more than 48 months old.

New law shall not require the repurchase from a marine dealer of various enumerated classes of items.

New law provides that upon termination of the franchise, the marine dealer shall submit a final inventory of marine products and parts on hand to the manufacturer, distributor, or wholesaler by certified mail, return receipt requested, or commercial delivery service with verification of receipt. If a manufacturer, distributor, or wholesaler fails or refuses to repurchase within 30 days of the receipt of the inventory, without just cause, the manufacturer, distributor, or wholesaler shall be subjected to a penalty of the marine dealer's reasonable attorney fees, court costs, and interest on the inventory value of returnable marine products and parts required to be purchased, computed at the legal interest rate per annum from the 31st day, as long as such repurchase is not made.

New law provides that in the event of the death or incapacity of the marine dealer or the majority owner of a person operating as a marine dealer, the manufacturer, distributor, or wholesaler shall, at the option of the heirs if the marine dealer died intestate or the legatees or transferees under the terms of the deceased marine dealer's last will and testament if the marine dealer died testate, repurchase the inventory from the heirs, legatees, or transferees as if the manufacturer, distributor, or wholesaler had terminated the contract, and the inventory repurchase provisions of new law shall apply. The heirs or legatees shall have until the end of the contract term or one year from the date of

the death of the marine dealer or majority owner of a person, whichever comes first, to exercise their option pursuant to proposed law; provided, however, that nothing in proposed law shall require the repurchase of inventory if the heirs, legatees, or transferees and the manufacturer, distributor, or wholesaler enter into a new franchise to operate the marine dealership.

(Adds. R.S. 32:1268.3; Repeals R.S. 32:1268.1(B))

"Antique" Vehicles (Act No. 229)

Prior law provided that motor vehicles which were 40 years old or older, used primarily for exhibition in shows, parades, tours, and other special uses and not for general transportation, and registered and licensed as antiques pursuant to law, were exempt from the motor vehicle inspection requirements. New law reduces the minimum age requirement to 25 years, consistent with the definition of "antique vehicle" in existing law.

Effective August 15, 2010. (Amends R.S. 32:1311(B))

Transportation of Hazardous Material (Act No. 653)

Prior law prohibits a person from offering or accepting for transportation, load or unload, or transport, a hazardous waste or hazardous material in a manner that endangers or could endanger human life or health.

New law changes the standard to "in a criminally negligent or reckless manner that could endanger human life or health."

New law authorizes the DPS&C to revoke the "H"- hazardous materials endorsement or "X"-combination tank vehicle and hazardous materials endorsement, or both, on a commercial driver's license of any person upon conviction or assessment of civil penalty for a second or subsequent offense for reckless handling of hazardous materials.

New law authorizes the DPS&C to consider any prior final judgment of conviction or assessment of civil penalty in determining whether or not to

revoke such "H" or "X" endorsements on commercial driver's license.

Effective August 15, 2010. (Amends R.S. 32:1518)

Vehicle Storage/Parking Facilities (Act No. 839)

New law changes the evidence a storage or parking facility must provide to obtain a permit to sell or dismantle a stored vehicle.

Effective August 15, 2010. (Amends R.S. 32:1728 and 1728.2)

Towing Company Business Hours (Act No. 837)

New law specifies that the release of a towed vehicle must be before or after normal business hours. New law provides that the "normal business hours" of any towing or storage company shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of legal holidays.

Effective August 15, 2010. (Amends R.S. 32:1734)

TITLE 33: MUNICIPALITIES AND PARISHES

Nullification of Contracts Resulting from Bribery (Act No. 450)

New law provides that any contract awarded or executed, or purchase made, in violation of the criminal statute defining public bribery, where a conviction has been obtained, shall be null and void and shall not be enforced in the courts of this state.

New law provides that in instances where the contract or purchase agreement encompasses a service or commodity that is of a vital need to or for the public, a court may allow a limited transition period to enable the local government authority to secure an alternative source for the service or commodity.

New law imposes a duty on the local governmental authority that is a party to the contract or purchase agreement, to apply in its name, through an attorney of its choosing, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds or the execution or performance of any contract or purchase order made on its behalf in contravention of law, or which was procured by fraud or corruption.

New law provides that if the attorney chosen by the local government authority fails to apply for the order or injunction required by new law, within 90 days following a conviction, the district attorney shall apply for such order or injunction on behalf of the local government authority.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 33:41)

Sustainable Energy Financing Districts (Act No. 611)

Prior law authorizes special districts known as sustainable energy financing districts to make loans to owners of property in the district to request loans from the district to cover the costs of energy-related improvements to property.

Prior law provides that if agreed by the district, the amount of the loan shall be assessed against the property and collected in the same manner as ad valorem taxes.

New law instead provides that in order to secure repayment of loans, the local government subdivision that created the district shall file a statement of lien with the recorder of mortgages for the parish in which the property is located. The lien or privilege shall take effect against third persons upon the filing of the statement of lien and the lien shall rank according to the time of filing of such statement and be inferior to all mortgages and privileges that are effective against third persons before such statement is filed. The lien shall have priority over other mortgages and privileges except for privileges for ad valorem taxes.

Prior law authorizes, upon failure of the property owner to pay the assessment within 30 days of receipt, the local governmental subdivision to file a certified copy of charges with the recorder of mortgages, which shall operate as a lien and privilege in favor of the local governmental subdivision and district, shall have the same ranking as an ad valorem tax lien on immovable property, and may be enforced and collected by ordinary civil proceeding or as any ordinary property tax lien assessed against the property and collected in the manner fixed for collection of tax and subject to the same civil penalties for delinquencies, together with attorney fees and costs.

New law removes the provisions relative to the filing of the certified copy of charges which shall operate as a lien and privilege and how they may be enforced and collected and instead provides that upon such failure to pay, the local governmental subdivision may collect the amount due for the current year by ordinary civil proceedings.

(Amends R.S. 33:130.812(C))

Lawrason Act Municipalities - Special Meetings (Act No. 250)

Prior law prohibits the discussion of business at special meetings of the board of aldermen in Lawrason Act municipalities that was not specified in the local notice advertising the meeting, unless such discussion is approved by 2/3 of the aldermen present. New law removes this prohibition.

(Amends R.S. 33:405(C))

Special Legislative Charter Municipalities (Act No. 52)

New law provides that if the provisions of a special legislative charter are silent on a particular matter, then the provisions of the Lawrason Act shall govern. New law further provides that if a conflict exists between the provisions of the special legislative charter and the Lawrason Act, then the provisions of the special legislative charter shall govern.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 33:481)

No More Commission Plan or Commission-Manager Plan Form of Municipal Government (Act No. 39)

Prior law requires that all municipalities be governed by the mayor-board of alderman (Lawrason) form of government except those municipalities governed by a special legislative charter, a home rule charter, or plan of government adopted pursuant to the state constitution, the commission plan, or the commission-manager plan.

New law repeals provisions for the commission plan and the commission-manager plan forms of municipal government.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 33:321; Repeals R.S. 33:501-571 and 611-851)

Housing and Environmental Court Division of Municipal Court of New Orleans (Act No. 472)

New law extends the jurisdiction of the Housing and Environmental Court Division of the Municipal Court of New Orleans to the trial of ordinance violations of the city of New Orleans and the violations of state statutes which are not triable by a jury in certain criminal matters for civil enforcement of health, safety, and welfare ordinances, for administrative adjudication for violations of public health, housing, fire code, environmental building code, zoning, historic district, permitting vegetation, and nuisance ordinances.

New law provides, in Orleans Parish, that the public authority 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 additionally in the Housing and Environmental Court Division of the Municipal Court of New Orleans.

New law provides for the establishment of a separate environmental docket of the Housing and Environmental Court Division of the Municipal Court of New Orleans.

New law authorizes these matters being heard in the Municipal Court of New Orleans to be heard by summary proceeding.

Effective August 15, 2010. (Amends R.S. 33:1373(D) and 1374(D); Adds R.S. 13:2493.1(D))

Government Vehicles (Act No. 436)

New law provides that a political subdivision may purchase or lease any motor vehicle if the vehicle is capable of and equipped for using alternative fuel. New law also adds hybrid vehicles to the purchase and lease options.

Effective August 15, 2010. (Amends R.S. 33:1418)

Contingency Fees for Tax Collection Suits (Act No. 439)

Prior law authorizes sheriffs and ex officio tax collectors to employ private counsel to assist in the collection of delinquent ad valorem taxes, penalties or interest, and any other payment which may be legally collected by a sheriff or tax collector. Prior law authorizes the sheriff or tax collector to enter into a contract with a private attorney for the collection of delinquent taxes and obligations which shall provide the hourly rate of payment for services which shall not exceed the attorney general's fee schedule.

New law adds authority for sheriffs and ex officio tax collectors to employ or contract with an agency to assist in the collection of delinquent ad valorem taxes and obligations and to pay a fee not to exceed 10% of the amount collected for such services. The fee amount shall be in addition to the amount of the fine, bond, tax, license fee, or other payment to be collected.

Effective August 15, 2010. (Amends R.S. 33:1423.1)

New Boundaries for New Orleans Int'l Airport Sales Tax District (Act No. 723)

New law defines "terminal building" to include all facilities, appurtenances, and concourses necessary or convenient for the facilitation of commercial aviation passenger travel located on property owned by the city of New Orleans for the New Orleans International Airport. New law specifically includes current and future commercial aviation terminal building constructions but specifically excludes parking facilities.

New law provides that if a business is subject to the sales tax under law and the business moves to another area of the airport property, that business shall remain subject to the sales tax.

New law further provides for severability; if any provision of new law is held invalid, it shall be severed and shall not affect the application or legality of other provisions of new law.

(Amends R.S. 33:2740.17)

Contingency Fee Surcharge for Tax Collection (Act No. 440)

New law authorizes a municipal corporation to appoint an attorney at law or agency to assist the tax collector in the collection of ad valorem taxes. New law provides for the collection of a 10% fee when such assistance is used on the total amount of all taxes, interest, and penalties due.

New law provides that the taxpayer shall pay the fee, and that the tax collector shall collect the fee at the same time that the taxes, interest, and penalties are collected.

New law does not apply to any property tax matter involving correctness or legality challenges.

Effective August 15, 2010. (Adds R.S. 33:2841.1)

Public Investments (Act No. 642)

New law authorizes political subdivisions to invest in debt instruments issued by other states or their political subdivisions.

New law requires that the investments meet a certain minimum national investment grade rating. New law further requires the Louisiana political subdivision purchasing such debt instruments to retain and maintain the services of an investment advisor registered with the U.S. Securities and Exchange Commission for the entirety of the time the political subdivision owns said debt instruments.

Effective August 15, 2010. (Adds R.S. 33:2955(A)(1)(k))

New Orleans Redevelopment Authority (Act No. 1030)

New law authorizes the authority to make decisions and conduct all activities to meet the triple bottom line development objectives of equity, economics, and environment.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 33:4720.55 and 4720.56)

Notice of Condemnation as Proof of Damage (Act No. 1041)

Prior law authorizes parishes and municipalities to condemn and repair or demolish buildings or structures in dangerous conditions, requires the parish or municipal governing authority to serve notice on the owner of the building or structure of the condemnation hearing, and requires the parish or municipal governing authority to file notice with the recorder of mortgages where the property is located.

New law provides that for purposes of any type of funding assistance being sought by the building or structure owner, the notice shall be de facto proof that the building or structure is more than 50% damaged.

Effective August 15, 2010. (Amends R.S. 33:4762(D))

Installation of Culverts by Parish and City Governments (Act No. 719)

New law authorizes parish and city governments to purchase, install, maintain, or replace culverts

within their territory if the parish or city determines such action to be beneficial to the public at large, even if the installation of such culverts may result in a benefit to a private landowner.

New law further authorizes such parish and city governments to adopt ordinances regulating the installation of such culverts. Such regulations may include a requirement that a private person wishing to have a culvert installed within a drain, ditch, or canal affecting his property contract with the governing authority to provide such construction services. New law provides that parish and city governments may only provide materials or construction services, pursuant to such an ordinance, upon full reimbursement of its costs from the private property owner.

Effective August 15, 2010. (Adds R.S. 33:4883)

Code Violation Informant Privilege (Act No. 610)

New law establishes a privilege against compelled disclosure for communications to "code enforcement officers" which allege code violations.

New law establishes a privilege in connection with any code enforcement proceeding against disclosure through testimony, public record request, or otherwise of any privileged communication made to a code enforcement officer or hotline. Such communication and any related documents, records, opinions, or decisions related to it are not discoverable.

"Code enforcement officer" is any local governmental subdivision employee authorized to make inspections, issue notices of violations, or otherwise authorized to enforce the local governmental subdivision's ordinances, but shall not include building or zoning inspectors.

"Privileged communication" means any written or oral statement submitted to a code enforcement officer or hotline for the purpose of reporting alleged local code violations.

New law further provides that the privilege shall cease only under the new law:

(1) When the person who reported the alleged violation voluntarily discloses or consents to disclosure of any significant part of the privileged matter.

(2) When the person who reported the alleged violation testifies or is compelled to testify on behalf of the local government on the matter.

(3) Upon the motion of anyone arrested or charged with a code violation who petitions the court for a closed chambers inspection of the records relating to a privileged communication and alleges facts showing that inspection of such records would yield evidence both favorable to the charged individual and relevant to the issue of adjudicating the violation in question.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 33:4890 and 4891 and R.S. 44:4.1(B)(18))

Tax Increment Finance for Economic Development Projects (Act No. 536)

Old law authorized certain public entities to utilize tax increment finance to finance or refinance economic development projects within their jurisdictions. A "tax increment" is the portion of the extra amount of tax revenue that is collected because of the construction of the economic development project being financed. The public entities may issue revenue bonds payable with a pledge and dedication of such tax increments.

New law authorizes any local governmental subdivision, economic development corporation, tax increment finance district, or other entity authorized to use tax increment finance, referred to hereafter as "TIF districts", to enter into a joint venture or cooperative endeavor for a public purpose with one or more such TIF districts to utilize all or a portion of the tax increments generated within the tax increment areas of the TIF districts in order to jointly finance or refinance in the manner provided for in present law one or more economic development projects located within such TIF district areas. The TIF districts may issue revenue bonds payable with a pledge and dedication of tax increments from revenues

generated by economic development projects within such TIF districts in the same manner as provided for individual TIF districts in present law.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 33:9037(A), 9038.35, and 9038.38(P))

River Park Development District (Act No. 795)

New law creates the River Park Development District in the city of Baton Rouge, parish of East Baton Rouge, as a political subdivision of the state.

New law provides that the district's purpose is to provide for cooperative economic and community development among the district, the city-parish, the state, and the owners of the property in the district, in order to assist in the redevelopment of the property within the district.

New law authorizes the district to exceed the limit for sales taxes set forth in the constitution.

New law authorizes the district to create subdistricts as political subdivisions of the state to be governed by the board of the district. Grants subdistricts the same powers as the district.

New law authorizes the district to issue bonds, notes, certificates of indebtedness and other obligations or evidences of indebtedness.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 33:9038.64)

Cooperation Between Neighborhood Improvement Districts (Act No. 483)

Prior law creates and provides for neighborhood improvement districts in the parishes of East Baton Rouge, Jefferson, and Orleans. Prior law requires the board of commissioners of each district to use district funds within the geographical boundaries of the district.

New law instead authorizes the board of commissioners of any district to, through a

cooperative endeavor agreement, combine the funds of the district with the funds of one or more other such districts. New law requires the board of commissioners to receive the prior approval of the members of the homeowners association of each district present and voting at a meeting of the association. New law prohibits the board of commissioners of any such district from combining the funds of the district with the funds of a district whose boundaries are greater than one mile from its own. New law authorizes the use of combined district funds for any of the stated purposes of any district that is a party to the cooperative endeavor agreement.

Effective July 1, 2010. (Adds R.S. 33:9098.1)

Local Ethics Entities (Act No. 98)

Prior law authorizes any municipality with a home rule charter and a population over 250,000 to designate its local ethics entity as a law enforcement agency and to confer upon said entity all investigative powers and privileges which law enforcement agencies have under present law.

New law retains present law and extends its application to parishes with a home rule charter and a population over 400,000.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 33:9611, 9612, and 9613)

Appeals Process for Local Ethics Review Boards (Act No. 302)

New law creates a right of appeal for any public servant or person against whom an action has been taken by a local ethics review board, or for any such person who has been aggrieved by an action taken by a local ethics review board. New law provides for appeal to the court of appeal where the ethics review board is located. New law requires application to the ethics review board within 30 days of the board's decision becoming final before an appeal may be brought.

(Adds R.S. 33:9615)

Taxation of Nonresidents (Act No. 639)

New law prohibits a political subdivision from charging or imposing a tax upon any person or legal entity, the sole basis of which is the fact that the person or legal entity is domiciled, registered, or organized outside of the jurisdiction of that political subdivision.

New law prohibits a political subdivision from charging or imposing a fee for the general use of the public streets of the political subdivision upon any person or legal entity which is domiciled, registered or organized outside of the jurisdiction of that political subdivision, when such fee is not charged or imposed upon the person or legal entities which are domiciled, residing, registered, organized or doing business within the jurisdiction of that political subdivision.

New law exempts the town of Grand Isle from the provisions of proposed law.

Effective August 15, 2010. (Adds R.S. 33:9661)

TITLE 34: NAVIGATION AND SHIPPING

Hull Identification Numbers (Act No. 628)

New law requires the Dept. of Wildlife and Fisheries to promulgate rules and regulations providing for the assigning of hull identification numbers to undocumented vessels manufactured in this state that do not qualify for the assignment of such number by the U.S. Coast Guard, including eligibility requirements for manufacturers, reporting requirements and record keeping by the manufacturer, and inspections of records, the manufacturer's facility, and vessels.

New law provides that vessels not assigned a hull identification number pursuant to new law shall be assigned such number using the procedure set forth in existing law providing for assigning hull numbers when applying for a title or registration.

New law authorizes a manufacturer eligible for hull number assignment to obtain a certificate of title from the Dept. of Wildlife and Fisheries.

Effective August 15, 2010. (Amends R.S. 34:852.2(5), 852.3(A) and 852.13)

TITLE 35: NOTARIES PUBLIC AND COMMISSIONERS

Non-Resident Attorney as Notary Public Ex Officio (Act No. 692)

New law provides that a person licensed to practice law in this state who is not a resident of this state but who maintains an office for the practice of law in this state, shall be a notary public ex officio and is authorized and empowered to exercise all the powers and functions of a regularly commissioned notary public in this state in any parish or parishes in which he maintains an office open to the public for the practice of law, upon filing a certificate of good standing from the La. Supreme Court with the secretary of state.

No person qualified under new law shall be required to otherwise qualify for, or hold, a regular commission as notary public to exercise such powers.

Any person exercising notarial functions pursuant to new law is authorized to use the designation "notary public ex officio" with respect to the exercise of his powers, and shall be required to post bond or maintain insurance as required by the provisions of R.S. 35:71.

New law provides that any exercise of notarial powers pursuant to the provisions of new law shall be deemed the practice of law for purposes of regulation by the La. Supreme Court.

New law provides that a person authorized as a notary public ex officio pursuant to the provisions of new law shall exercise his powers and functions as a notary public ex officio only within the parishes in which he maintains an office open to the public for the practice of law.

Effective August 15, 2010. (Adds R.S. 35:412)

TITLE 36: ORGANIZATION OF EXECUTIVE BRANCH OF STATE GOVERNMENT

DSS Becomes DCFS (Act No. 877)

New law changes the name of the Department of Social Services to the Department of Children and Family Services.

New law provides that the office of children and family services shall perform the following functions and services:

(1) Public assistance programs to provide aid to dependent children and to adults, who due to age, disability, or infirmity, are unable to adequately meet their basic needs.

(2) The administration of the food stamp program, child support programs, establishment of paternity programs, disaster relief grant programs for individuals and families, and such other programs as assigned by the secretary.

(3) The public child welfare functions of the state, including but not limited to prevention services which promote, facilitate, and support activities to prevent child abuse and neglect; child protective services; voluntary family strengthening and support services; making permanent plans for foster children and meeting their daily maintenance needs of food, shelter, clothing, necessary physical medical services, school supplies, and incidental personal needs; and adoption placement services for foster children freed for adoption.

(4) Functions of the state relating to the licensing of child care facilities that do not receive federal funds under Title XIX of the Social Security Act, and day care centers and agencies that issue and monitor domestic violence services contracts.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 36:3, 4, 8, 9, 471, 472, 473, 474, 475, 475.1 and 477; repeals R.S. 36 and 476)

Non-Flood Protection (Levee) Asset Management Authority (Act No. 1014)

New law provides that after January 1, 2011 the Non-Flood Protection Asset Management Authority shall possess full corporate power to manage, control, regulate, operate, and maintain any non-flood protection facility or improvement asset or function within a levee district within the jurisdiction of a flood protection authority.

New law, from January 1, 2011, to January 1, 2012, places the authority within the Department of Transportation and Development.

New law provides for a board of commissioners to exercise the duties, functions, powers, and responsibilities of the authority.

New law effective January 1, 2012, creates the authority as a political subdivision and removes its placement within the Department of Transportation and Development.

Sections 1 and 2 effective January 1, 2011, and cease to be effective January 1, 2012. Sections 3, 4 and 5 effective January 1, 2012. (Amends R.S. 36:801.1(A), R.S. 38:330.12 and 330.12.1, and R.S. 36:509(P))

TITLE 37: PROFESSIONS AND OCCUPATIONS

Pro Se Appearances by Entities (Act No. 24)

Prior law provides that nothing shall prohibit any partnership, corporation, or other legal entity from asserting any claim, not exceeding \$5,000, or defense pertaining to an open account or promissory note, or suit for eviction of tenants, on its own behalf in the courts of limited jurisdiction or on its own behalf through a duly authorized partner, shareholder, officer, employee, or duly authorized agent or representative.

New law removes the restrictions placed on the type of suits any partnership, corporation, or other legal entity may defend on its own behalf through a duly authorized partner, shareholder, officer, employee, or duly authorized agent or representative.

Effective August 15, 2010. (Amends R.S. 37:212(C))

Professional Engineering and Land Surveying Board (Act No. 252)

Prior law provides that the minimum requirements for licensure of a land surveyor include two or more years of experience in responsible charge of land surveying projects under the supervision of a professional land surveyor. New law instead requires two or more years of progressive experience on land surveying projects.

Prior law provides the board the power to take disciplinary action against any licensee or certificate holder found by the board to be guilty of failure to provide, within 30 calendar days of receipt of notice by certified mail, information requested by the board relating to charges preferred by the board alleging violation of law. New law includes documents requested by the board relating to any alleged violation.

Prior law provides that disciplinary and enforcement proceedings against any licensee, nonlicensee, certificate holder, or non-certificate holder be initiated by the board in the following manner:

(1) The board, on its own initiative and by a majority vote of its entire membership authorized to participate in a proceeding, may prefer charges against any licensee, nonlicensee, certificate holder, or non-certificate holder who commits or engages in any of the acts or offenses listed in the law.

(2) The board, on receipt of a complaint from any person and by majority vote of the board's entire membership authorized to participate in a proceeding, may prefer charges against any licensee, non-licensee, certificate holder, or non-certificate holder who commits or engages in any of the acts or offenses listed in the law.

New law provides a complaint review committee of the board to oversee disciplinary or enforcement proceedings and removes the majority vote requirement. New law provides that any decision to prefer or not prefer charges regarding disciplinary or enforcement

proceedings shall be made by a minimum 2/3 vote of the board members serving on the complaint review committee.

Prior law provides that all disciplinary and enforcement actions taken shall be published in the official journal of the board and may be released to other professional organizations relating to professional engineering and land surveying or to the news media. New law adds that the actions be published on the board's official website.

New law requires complaint review committees to consist of at least three members of the board.

New law provides that other employees or representatives of the board may be on the committees to provide administrative assistance, background information, legal advice, or any other assistance the committees deem necessary, but shall not be granted voting privileges.

New law provides that the board shall have the power to take enforcement action against any non-licensee or non-certificate holder found by the board to be guilty of failure to provide, within 30 calendar days of receipt of notice by certified mail, information or documents requested by the board relating to any alleged violation.

Prior law provides that the board shall advise the charged party of the complaint and set a date, time, and place for a hearing. New law provides that a complaint review committee shall advise the charged party and set a date, time, and place for a hearing.

(Amends R.S. 37:687, 690, 693, 697, 698, 700)

Dental Hygienists (Act No. 66)

Prior law provides that the authority for the administration of nitrous oxide inhalation analgesia, enteral conscious sedation, parenteral conscious sedation, deep sedation, and general anesthesia shall be limited to qualified dentists licensed by the board for use on dental patients.

New law expands the administration of nitrous oxide to dental hygienists licensed by the board and who have obtained a permit for the administration of nitrous oxide inhalation

analgesia. New law further provides that the dental hygienist shall administer nitrous oxide inhalation analgesia under the direct supervision of a dentist licensed by the Louisiana State Board of Dentistry to whom the board has issued a permit to administer nitrous oxide inhalation analgesia.

Effective August 15, 2010. (Amends R.S. 37:793)

Dentists (Act No. 612)

New law provides that no provision in present law shall be construed to prohibit any person licensed as a dentist from being an employee or independent contractor of a nonprofit entity eligible to receive grants under Section 330 of the Public Health Service Act (42 U.S.C. §254b) or its successor.

Effective upon signature of governor or lapse of time for gubernatorial action. (Adds R.S. 37:797)

RN Use of Perineural Catheters (Act No. 246)

Prior law provides authority for registered nurses to administer, in accordance with an order of an authorized prescriber, anesthetic agents to intubated patients in critical care settings, and allows these nurses to titrate and continue infusion of local anesthetic agents through the use of epidural catheters for pain management, excluding obstetric patients.

New law adds authority for registered nurses to administer anesthetic agents through perineural catheters.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 37:935)

Marriage and Family Therapists (Act No. 613)

New law changes the education and experience requirements for licensure as a marriage and family therapist.

Prior law provides that the board shall issue, upon recommendation of the advisory committee, a license to any person licensed or certified as a marriage and family therapist in another state whose requirements for the license or certificate are equivalent to or exceed the requirements of this state and submits appropriate application and fee.

New law provides that the person must be licensed as a marriage and family therapist for at least five years in another state, province, territorial possession of the U.S., D.C., or Puerto Rico and has passed the Association of Marital and Family Therapy Regulatory Board's examination in Marital and Family Therapy.

New law provides that the board shall issue, upon recommendation of the advisory committee, a license to any person licensed as a marriage and family therapist for less than five years in another state, province, territorial possession of the U.S., D.C., or Puerto Rico whose requirements for the license are substantially equivalent to or exceed the requirements of this state, provided the applicant submits appropriate application and fee.

(Amends R.S. 37:1104, 1110, 1116, and 1118; Repeals R.S. 37:1103(12) and 1120)

Flu Shots by Pharmacists (Act No. 287)

New law allows pharmacists to administer influenza immunizations to persons age seven and up if immunizations are performed according to U.S. Centers for Disease Control guidelines; reported to the state registry for immunizations; and recorded by the pharmacist with the record to be maintained for two years.

New law requires pharmacists to report all adverse effects observed, and to refer a patient who experiences an adverse event due to an influenza immunization to appropriate medical care.

New law provides that only pharmacists with the appropriate credential from the La. Board of Pharmacy to administer influenza immunizations may do so.

Effective August 15, 2010. (Adds R.S. 37:1218)

Voluntary Medical Licenses (Act No. 298)

New law establishes a volunteer medical license as a category of license which may be issued by the La. State Board of Medical Examiners. Anyone practicing medicine under such a license must do so exclusively on a volunteer (uncompensated) basis.

Effective August 15, 2010. (Adds R.S. 37:1281.1)

Medical Board Assessments (Act No. 602)

New law authorizes the State Board of Medical Examiners to require a license or permit holder or applicant to pay the costs and expenses of board proceedings through a board decision, consent order, or other agreed order, and to collect additional expenses, such as witness fees and expenses, and the per diem and expenses of the members of the board's hearing panel.

New law authorizes the recovery of costs and attorneys' fees in the collection of the costs of board proceedings, fines, and other ancillary costs if they are not paid within the time specified by the board.

Effective upon signature of governor or lapse of the time for gubernatorial action. (Amends R.S. 37:1285(C))

Home Inspector Cannot Provide Services as Real Estate Agent in Same Transaction (Act No. 195)

New law provides that no person acting as a licensed home inspector shall engage in or be financially compensated for any home inspection in a transaction in which that person received a fee, commission, or other valuable consideration while acting as a licensed real estate professional in connection with the same transaction.

(Adds R.S. 37:1490)

Pawnshops (Act No. 60)

Prior law requires application of a new license from OFI upon a 25% or more change in ownership of any licensed pawnshop.

New law provides an exception when the ownership change is due to the death of an owner and the new ownership results from either of the following circumstances:

1. The deceased held ownership as part of a community of acquets and gains and the surviving spouse obtains ownership of the deceased's share of the community, either in full or via usufruct.
2. The ownership of the deceased transfers via succession to an ascendant, descendant, or collateral heir of the deceased.

New law provides that when a licensee seeks to change ownership pursuant to new law, upon renewal of the license, the licensee must notify the commissioner of financial institutions in writing of the change of ownership and provide proof as the commissioner deems appropriate to support such change in ownership.

Effective August 15, 2010. (Amends R.S. 37:1788(B))

Building Permit Applications (Act No. 67)

Prior law provides that prior to the issuance of any building permit, the local building permit official requires that the applicant for such permit produce proof that the applicant possesses an active, applicable contractors license issued by the board, or that the applicant's proposed building activity is exempt from such licensure under law.

New law further requires nonresident commercial, residential, or home improvement contractor applicants to provide a federal taxpayer identification number to the local building permit official, as well as proof of registration to do business in this state.

Effective August 15, 2010. (Amends R.S. 37:2171.2)

Fee Schedule of Board of Examiners for Nursing Facility Administrators (Act No. 721)

Prior law provides for a schedule of fees and costs which may be imposed by the board. New law eliminates the board's present fee schedule. New law establishes the following process by which the board may establish and impose fees:

(1) A favorable vote of a two-thirds majority of the board, with the vote conducted at a regularly scheduled quarterly meeting in an even-numbered year.

(2) Approval by the Joint Legislative Committee on the Budget prior to implementation.

(Amends R.S. 37:2504(F))

Court Reporters (Act No. 700)

Prior law authorized the board to waive the examination of a person holding an out-of-state certified shorthand reporter certificate who desires to move to this state as a verbatim reporter. New law deletes restriction to verbatim reporters, and authorizes the board to waive examination of a person desiring to practice as a certified reporter in this state.

New law provides that persons holding a certification in digital recording or persons employed as a court reporter in certain courts on or before Dec. 31, 2010, shall be certified as long as they remain employed by that court.

New law excludes the following courts: 15th, 16th, 17th, 19th, 32nd, 34th, and 40th JDCs, the Orleans Parish Civil District Court, the Orleans Parish Criminal District Court, the Jefferson Parish 1st and 2nd Parish Courts, the New Orleans 1st and 2nd City Courts, the New Orleans Municipal and Traffic Courts, and the 41st JDC (after the effective date of its creation).

New law authorizes the use of digital recording equipment for examination purposes. New law adds digital recording to the eligible methods of court reporting. New law provides that the board may establish and administer an examination for digital reporting and certify applicants in the practice of digital recording after Dec. 31, 2010.

New law provides that no person employed as an official court reporter or deputy official court reporter shall perform duties as a general or freelance reporter, unless certified to do so.

Effective August 15, 2010. (Amends R.S. 37:2554 and 2556(A); Adds R.S. 37:2555(F) and 2558(A)(4))

Social Work Practice Act (Act No. 880)

New law makes changes to definitions and names, including licensed clinical social worker, graduate social worker, licensed master's social worker, certified social worker, and licensed master's graduate social worker.

New law deletes provisions for provisionally certified social workers.

New law allows the board to request and obtain state and national criminal background information for each applicant for licensure.

New law provides that the board shall have the authority to grant continuing education waivers and extensions provided there is a declared emergency by the governor or other extenuating circumstances.

New law provides for a certified social worker and provides for qualifications.

Effective Jan. 1, 2011. (Amends R.S. 37:2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2719, 2720, 2722; adds R.S. 37:2703, 2716 and 2724; repeals R.S. 37:2703, 2706, 2707, and 2708)

Radiologic and Fusion Technology Permits (Act No. 75)

New law provides that the board may:

(1) Issue temporary permits authorizing the practice of radiologic or fusion technology for a designated period of time.

(2) Issue permits for specific purposes with restrictions as to the type of radiologic or fusion technology activities that may be engaged in.

(3) Issue permits to radiologic technologists participating in educational and training

programs which include the administration of radiologic or fusion technology services to patients.

New law provides that the board may adopt rules and regulations, pursuant to the APA, which establish the necessary qualifications, requirements, and formalities for the issuance of such permits as are necessary for the adequate protection of the health and welfare of the citizens of this state.

New law provides that the board may issue a temporary permit authorizing the performance of the clinical requirements of the American Registry of Radiologic Technologists (ARRT) Computed Tomography (CT) specialty examination to a licensed nuclear medicine technologist while under the supervision of a licensed radiographer for a term not to exceed one year.

Effective August 15, 2010. (Amends R.S. 37:3200 and 3208(B); adds R.S. 37:3220 and 3221)

Consideration of Energy Efficiency in Real Estate Appraisals (Act No. 504)

Old law defines "appraisal" or "real estate appraisal" as an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. New law allows energy efficiency aspects of the identified real estate to be considered in determining the appraisal.

Old law defines "appraisal report" as any communication, written or oral, of an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. New law allows energy efficiency aspects of the identified real estate to be considered in the appraisal report.

Effective August 15, 2010. (Amends R.S. 37:3392(1) and (3))

TITLE 38: PUBLIC CONTRACTS, WORKS AND IMPROVEMENTS

Levee Elevation Report (Act No. 253)

Prior law requires that every levee district located wholly or partially in the coastal area, and every parish governing authority for parishes located wholly or partially within the coastal area but which are not part of the levee district, shall submit a levee elevation report on tidal levees located within the coastal area once every three years to the CPRA and the office of coastal protection and restoration.

Prior law requires the elevation report to be based upon a centerline profile survey conducted by the levee district or parish governing entity on all tidal levees within the coastal area under its control and the information gathered pursuant to the profile survey to be incorporated into the levee elevation report, which shall indicate the elevation above mean sea level of all tidal levees, including federally funded and nonfederally funded levees.

New law requires the elevation report to indicate elevation based on the North American Vertical Datum of 1988 rather than mean sea level.

(Amends R.S. 38:301.1(A))

Prohibiting Unlicensed Dealers from Submitting Bids or Contracting with Public Entities (Act No. 376)

New law requires any bid submitted by, or a contract or cooperative endeavor agreement with, a dealer to include a copy of a valid state dealer's license issued by the La. Motor Vehicle Commission. A public entity shall not contract with the dealer that does not possess a valid state license.

New law provides that if, in the course of an audit or review by the legislative auditor, a violation of proposed law is found, the legislative auditor shall report such findings to the La. Motor Vehicle Commission.

New law defines "public entity" as any agency, board, commission, department, or public corporation of the state, created by the

constitution or statute or pursuant thereto, or any political subdivision of the state, including port commissions and districts, and any public housing authority, public school board, or any public officer.

(Adds R.S. 38:2212.8 and R.S. 39:2181-2182)

Eminent Domain/Takings (Act No. 853)

New law repeals provision that the owner of property taken by the state or its political subdivisions shall be paid only when and if, in its discretion, the legislature, the levee board, or the federal government appropriates the funds for the compensation.

Effective August 15, 2010. (Repeals R.S. 38:301(C)(2)(e))

Government Contracting and Convicts (Act No. 864)

New law provides that in awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, a business in which any individual with an ownership interest of 5% or more has been convicted of, or has entered a plea of guilty or nolo contendere to, any state felony crime or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts.

New law provides that a public entity does not have a duty, responsibility, or requirement to perform criminal background checks on contractors, vendors, or subcontractors. New law further provides that it shall be the responsibility of any person, company, or entity making an allegation of prior convictions on the part of any individual with an ownership interest of 5% or more in any bidder to present prima facie evidence to the public entity supporting their claim.

New law provides that if evidence is submitted substantiating that any individual with an ownership interest of 5% or more in the lowest bidder has been convicted of, or has entered a plea of guilty or nolo contendere to, any state

felony crime or equivalent federal felony crime and the public entity rejects the lowest bid, the company whose bid is rejected will be responsible to the public entity for the costs of rebidding, the increased costs of awarding to the second low bidder, or forfeiture of the bid bond, whichever is higher.

New law defines "public entity" as any agency, board, commission, department, or public corporation of the state, created by the constitution or statute or pursuant thereto, or any political subdivision of the state, including but not limited to any political subdivision as defined in Art. VI, §44 of the Const. of La., and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision.

Effective August 15, 2010. (Adds R.S. 38:2212.8 and R.S. 39:2181-2182)

Levee Restoration (Act No. 1011)

Prior law provides a \$1 million contract limit for any contract by a public entity to restore or rehabilitate a levee which is not maintained with federal funds or to perform mitigation on public lands owned by the state or a political subdivision. Prior law further provides for a termination date of December 31, 2010. New law changes the termination date from December 31, 2010 to December 31, 2014.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 38:2212)

Public Bid Law (Act No. 625)

Present law provides that public entities shall, in their resolutions providing for the contract or purchase and for the advertisement for bids, designate the time and place that the bids will be received. New law removes the requirement that the resolution designate the time and place for taking of bids.

(Amends R.S. 38:2214(A))

Use of Design-Build Method (Act No. 819)

Prior 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 was destroyed or damaged by Hurricane Katrina, Hurricane Rita, or both: the division of administration; the Recovery School District; the city of New Orleans; and parish governments in Calcasieu, Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, and Vermilion parishes, and the Port of New Orleans. New law extends the length of time from three years to four years for the utilization of the design-build method for projects of certain parishes or entities under existing law.

Effective August 15, 2010. (Amends R.S. 38:2225.2.1(A)(3))

TITLE 39: PUBLIC FINANCE

Funding Request Information Exemptions (Act No. 10)

Prior law requires a nongovernmental entity that is neither a budget unit nor a political subdivision of the state that is requesting funding from the state through the General Appropriation Bill, capital outlay bill, or any supplemental appropriation bill to submit certain information relative to such proposed funding to certain committees. New law exempts from prior law voluntary councils on aging, public community water systems, and volunteer fire departments.

Effective August 15, 2010. (Adds R.S. 39:51.1(H))

Small Rural Water System Projects (Act No. 1038)

Prior law requires nonstate entity projects to provide a match of not less than 25% of the total requested amount of state capital outlay funding. New law adds an exception to the local match requirement for a project for a rural water system servicing less than 1,000 customers to

extend or connect waterlines to other water systems.

New law is applicable to capital outlay applications submitted on or after Jan. 1, 2009.

Effective upon signature of governor (July 8, 2010). (Adds R.S. 39:112(E)(2)(c))

Award Process for Contracts for Fiscal Intermediary Services (Act No. 539)

Old law required that the award process for a contract for fiscal intermediary services include justification for the contract being submitted to the state central purchasing agency and be presented in a public hearing to the House and Senate committees on health and welfare, meeting jointly, or a joint subcommittee thereof prior to the issuance of a solicitation for proposals.

New law removes the requirement that the justification shall be presented in a public hearing to the House and Senate committees on health and welfare and makes this requirement permissive requiring the public hearing only in the event either committee requests such a hearing within 30 days from submission of the justification by DHH to the committees.

Old law provided that no option to renew such contract shall be exercised by the state until after a public hearing concerning such renewal has been held before the House and Senate committees on health and welfare, meeting jointly, or a joint subcommittee thereof.

New law provides that no option to renew such contract shall be exercised by the state until the following criteria have been satisfied:

(1) The Department of Health and Hospitals has conducted a public hearing concerning such renewal.

(2) The Department of Health and Hospitals submits to the House and Senate committees on health and welfare a notice of intention by the Department of Health and Hospitals to exercise the option to renew such contract and a copy of any public testimony which was taken at the public hearing held by the Department of Health and Hospitals. The House and Senate

committees on health and welfare, meeting separately or jointly, may hold a public hearing concerning such renewal within 30 days following the receipt of a notice of intention by the Department of Health and Hospitals to exercise the option to renew such contract.

(3) The House and Senate committees on health and welfare, meeting separately or jointly, have conducted a public hearing concerning such renewal or 30 days have elapsed from the date the Department of Health and Hospitals submitted a notice of intention to renew such contract to the House and Senate committees on health and welfare and neither committee has posted a public notice of meeting concerning the renewal of such contract.

Effective August 15, 2010. (Amends R.S. 39:198(D)(2) and (8))

Disclosure of Fee-Sharing in Non-Bid Public Contracts (Act No. 868)

New law requires any person or other entity who enters into any contract awarded without bidding with a public entity in which a commission, fee, or other consideration is paid to the contractor for the contractor to sell to or provide to the public entity any commodity, goods, brokerage service or other service of any kind, insurance, or anything of value, to disclose the full disposition, splitting, or sharing of such commission, fee, or other consideration to the public entity in writing by an affidavit of notice of fee disposition.

"Public entity" is defined as the state or any political subdivision of the state, or any agency, department, office, or other instrumentality of the state or political subdivision.

The affidavit of notice of fee disposition must be on a form prescribed by the Board of Ethics and must be notarized as to its authenticity; must include the full value of the commission, fee, or other consideration to be paid; the names of all parties to receive dispositions, splits, or shares of the commission, fee, or other consideration; and the signature of the party authorized to commit the entity to the contract, who must attest to the truth of the facts set forth in the affidavit. The

affidavit of notice of fee disposition must be attached to and made a part of the contract for which the commission, fee, or other consideration is paid and must be recorded in the public record.

New law requires the contractor to prepare, execute, notarize, and record in the public record new affidavit reflecting changes in the disposition, splitting, or sharing of the commission, fee, or other consideration or changes in the amount.

If for any reason the information on the recorded affidavit is found to be incorrect, then the contract is null and void and all payments of the commission, fee, or other consideration must be rebated to the public entity. Intentional misrepresentation of the facts on an affidavit subjects the party attesting to the facts to the penalties provided for filing or maintaining false public records which is imprisonment for not more than 5 years with or without hard labor or a fine of not more than \$5,000, or both.

Effective July 1, 2010. (Amends R.S. 39:1767 and R.S. 48:251.8; adds R.S. 38:2196.1, R.S. 39:200(N), 1493.1 and 1758)

Regional Government Service Centers (Act No. 72)

New law provides that the division of administration shall develop a long term plan for the creation of regional governmental service centers as a "one-stop shop" for state services.

New law provides that after approval of the long term plan by the Joint Legislative Committee on the Budget, the commissioner of administration shall not approve a new lease or the renewal of any lease or approve a purchase for agency housing space that is in conflict with the comprehensive plan without approval of the Joint Legislative Committee on the Budget.

Effective August 15, 2010. (Adds R.S. 39:248)

Payments in Lieu of Ad Valorem Taxes (Act No. 1042)

Prior law authorizes political subdivisions and industrial development boards and public trusts

whose property is exempt from ad valorem taxation to require lessees of certain projects involving securitized transactions to make payments to the local taxing authorities in lieu of any ad valorem taxes which would be owing on the leased property if it were privately owned, as well as pay other fees and charges related to such transactions.

New law deems payments made in lieu of taxes, and the fees and other charges imposed on a lessee in relation to a securitized transaction, to the extent that they do not exceed the amount of ad valorem taxes which would be owing on the property if it were privately owned, to be statutory impositions. Prior law provides that the payment of statutory impositions is enforceable in the same manner as ad valorem tax.

Effective upon signature of governor (July 8, 2010). (Amends R.S. 9:2347(M), R.S. 39:996, and R.S. 51:1160; Adds R.S. 39:1002)

Public Benefit Corporations and Financing Public Facilities (Act No. 1009)

New law authorizes public entities to create one or more public benefit corporations solely for the purpose of entering into agreements and engaging in financing arrangements, including new markets tax credit transactions, to plan, renovate, construct, lease, sublease, manage and improve public property and facilities within the jurisdiction of the public entity.

New law authorizes public entities to transfer their properties to public benefit corporations created pursuant to new law through financing arrangements, including without limitation sales, sale-leasebacks, leases, and lease-leasebacks, and such transfer shall be exempted from the limitations or requirements of R.S. 17:87.6 [alienation of school property and R.S. 41:891 and 892 [sale of unused school lands. No transfer shall result in such properties or facilities being used upon such transfer or thereafter for purposes other than public purposes. New law requires that the dedication to public purposes be specifically stated in any transfer or disposition document, and such language shall also specifically provide that the

title and control of the property shall automatically by operation of law revert to the public entity upon the property commencing to be used for a purpose other than a public purpose.

New law authorizes public entities to make and to guarantee loans to a public benefit corporation created by such public entity in order to facilitate the construction of new public properties or facilities or the renovation of existing public properties or facilities, provided that as a condition to any such loan or guaranty the public entity shall demonstrate a public purpose for such loan or guaranty pursuant to Article VII, Section 14 of the Constitution of Louisiana. Such loans or guarantees shall further be subject to the approval of the State Bond Commission.

New law authorizes public benefit corporations to act alone or in partnership with private entities in order to leverage additional funds not otherwise available to public entities for the construction and renovation of properties transferred to or loaned or subleased by such public benefit corporations. The use of any funds loaned or made available shall be dedicated solely for the construction of new public properties or facilities and the renovation of existing public properties or facilities after the payment of all fees and costs related to any financings and partnerships and the setting aside of any reserves required in connection therewith. Such fees and the size of any reserves will be subject to the approval of the State Bond Commission. Such partnerships or other arrangements shall include language specifically providing that title and control of property transferred to the public benefit corporation by the public entity shall automatically by operation of law revert to the public entity upon the property's ceasing, other than temporarily, to be used for public purposes.

A public benefit corporation created pursuant to new law shall not be a political subdivision of the state but shall be a nonprofit corporation organized and governed under the applicable provisions of Chapter 2 of Title 12 of the Revised Statutes of La., as modified by new law, and shall additionally have all of the powers

defined in R.S. 41:1215(B) (leases of public lands) and R.S. 12:202.1(D), except that any transaction between the public benefit corporation and a third party shall be subject to the advertisement and bid requirements of RS. 38:2212.

Notwithstanding the limitations in present law (R.S. 12:202.1(D)) with respect to the right to issue negotiable revenue bonds, the public benefit corporations authorized to be created pursuant to new law may issue negotiable revenue bonds in connection with a new markets tax credit transaction in any amount deemed necessary. Any and all obligations issued by, as well as any related financing arrangements entered into by, such public benefit corporations created pursuant to new law shall be subject to the approval of the State Bond Commission.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 39:1051)

Energy Efficiency Contracts (Act No. 1021)

New law changes the procedures for approval and audit of performance-based energy efficiency contracts for state agencies.

Effective July 1, 2010. (Amends R.S. 39:1496.1)

State Medical Accessory Purchases (Act No. 255)

Prior law provides that licensed optometrists and ophthalmologists are excluded from the requirement that a state agency shall only purchase prostheses, orthoses, prosthetic services, or orthotic services from an accredited facility. New law adds podiatrists and orthopedists to the list of those professionals who are excluded from this requirement.

Effective August 15, 2010. (Amends R.S. 39:1659 and R.S. 40:1300.281(F))

Oil Spill Relief Integrity Act (Act No. 658)

New law provides that no person shall knowingly present or cause to be presented a

false or fraudulent claim for funds, property, use of property, or other compensation from oil spill relief program; that no person shall knowingly engage in misrepresentation to obtain, or attempt to obtain, funds, property, use of property, or other compensation from an oil spill relief program; that no person shall conspire to defraud, or attempt to defraud, an oil spill relief program through misrepresentation or by obtaining, or attempting to obtain, payment for a false or fraudulent claim; and that no person shall knowingly make, use, or cause to be made or used a false, fictitious, or misleading statement on any form or document for the purpose of certifying or qualifying any person for eligibility for oil spill relief programs or receiving any funds, property, use of property, or other compensation from an oil spill relief program that he is not authorized to receive.

New law provides that "oil spill relief program" means any state or federal program or fund created for the purpose of assisting persons who incurred personal, business, or property damage or other losses due to the Deepwater Horizon Oil Spill, but does not include any matter specifically subject to other qui tam action by law, including qui tam actions on behalf of hurricane relief programs and on behalf of medical assistance programs.

New law provides that in addition to any other civil, criminal, or administrative action authorized by law, the attorney general may institute a civil action in the courts of this state to seek recovery from persons who violate the provisions of the new law. New law provides for recovery of damages, costs, expenses, fees, and attorney fees, including recovery by the defendant if the court determines the action was frivolous.

New law provides that, subject to certain limitations, a person who is found to have violated the new law shall be subject to a civil fine in an amount not to exceed three times the amount of actual damages sustained by the oil spill relief programs as a result of the violation, and a civil monetary penalty of not more than ten thousand dollars for each false or fraudulent claim, misrepresentation, illegal remuneration, or other act prohibited by the new law.

New law provides that a private person may institute a civil action to seek recovery on behalf of oil spill relief programs and himself, except for the civil monetary penalty provided, for a violation of the new law. The institutor shall be known as a "qui tam plaintiff" and the civil action shall be known as a "qui tam action".

New law provides that a qui tam plaintiff must be an original source of the information which serves as the basis for the alleged violation.

New law provides that a person who is or was a public employee or public official, or a person who is or was acting on behalf of the state, shall not bring a qui tam action if the person has or had a duty or obligation to report, investigate, or pursue allegations of wrongdoing or misconduct by persons receiving funds from oil spill relief programs, or if the person has or had access to records of the state through the normal course and scope of his employment or other relationship with the state.

New law provides that no employer of a qui tam plaintiff shall discharge, demote, suspend, threaten, harass, or discriminate against a qui tam plaintiff at any time arising out of the fact that the qui tam plaintiff brought an action under the new law, unless the court finds that the qui tam plaintiff has instituted or proceeded with an action that is frivolous, vexatious, or harassing.

New law provides that the court shall allow the attorney general to intervene and proceed with the qui tam action in the district court at any time during the qui tam action proceedings.

New law provides that a qui tam complaint and information filed with the attorney general shall not be subject to discovery or become public record until judicial service of the qui tam action is made on any of the defendants, except that the information contained therein may be given to other governmental entities or their authorized agents for review and investigation.

New law provides qui tam action procedures.

New law provides that, subject to certain limitations, if the attorney general intervenes in the action brought by a qui tam plaintiff, the qui tam plaintiff shall receive at least 10% percent, but not more than 20%, of actual damages and

civil fines awarded by the court, exclusive of the civil monetary penalty provided by the new law. The court may award less if it finds the action to be based primarily on disclosures of specific information other than information provided by the qui tam plaintiff. If the attorney general does not intervene in the action, the court may award up to 30% of damages. New law provides for award of costs, expenses, fees, and attorney fees, and for the making whole of the oil spill relief program.

New law provides that a qui tam plaintiff shall not be entitled to recovery if the court finds that the plaintiff instituted or proceeded with an action that was frivolous, vexatious, or harassing. New law provides for recovery by the defendant against a qui tam plaintiff under certain circumstances. New law provides that in no instance shall the attorney general or the state be liable for any costs, expenses, fees, or attorney fees incurred by the qui tam plaintiff or for any award entered against the qui tam plaintiff.

New law authorizes attorney general to provide a reward of up to \$2000 to an individual for fraud and abuse information, subject to funds being appropriated for such purpose.

New law provides that no employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken pursuant to the new law in regard to a person from whom recovery is or could be sought. Such an employee may seek any and all relief for his injury to which he is entitled under state or federal law.

New law provides that no individual shall be threatened, harassed, or discriminated against in any manner by a business organization, government agency, or other person because of any lawful act engaged in by the individual or on behalf of the individual in furtherance of any action taken pursuant to the new law in regard to a person from whom recovery is or could be sought. Such an individual may seek any and all

relief for his injury to which he is entitled under state or federal law.

New law provides that an employee of a private entity may bring his action for relief against his employer in the same court as the action or actions were brought pursuant to the new law. New law provides for treble damages. New law provides for no recovery if court finds action was frivolous, vexatious, or harassing.

Effective August 15, 2010. (Adds R.S. 39:2165 - 2165.12)

TITLE 40: PUBLIC HEALTH AND SAFETY

Drug Free Zones (Act No. 506)

Old law provided that a drug free zone is an area within 1,000 feet of any school property, drug treatment facility, religious building property, public housing authority property, or child day care facility. New law increases the drug free zone from 1,000 feet to 2,000 feet.

Effective August 15, 2010. (Amends R.S. 17:405, R.S. 40:981.3 and 1058.10)

Road Home Grants with Restrictions (Act No. 1012)

New law provides for those Road Home applicants whose claims were denied because of unresolved succession or inheritance issues, and provides for the awarding of a Road Home grant, together with a covenant restriction filed against the property to reserve the rights of the Road Home Corporation, or its successor in interest, for any claims arising in favor of the Road Home Corporation against the applicant subsequent to the awarding of the grant.

New law provides that the covenant restriction shall be satisfied and removed upon the occurrence of either of the following:

(1) The signing of a judgment of possession in favor of the Road Home grant recipient subject to the covenant restriction.

(2) The sale or transfer of the property subject to the covenant restriction by the Road Home grant recipient in which the purchaser, heir, or beneficiary receiving the property executes a mortgage in favor of the Road Home Corporation, or secures a mortgage from a third party and repays the Road Home Corporation the amount of the Road Home grant received for the property.

New law provides that the Road Home Corporation is authorized to investigate annually the ownership status of property subject to the provisions of new law, in order to protect its financial interest in the property improved with funds from the Road Home grant program.

New law provides that the disbursement of such funds shall be in accordance with the revised program rules for the Road Home program, as reflected in a duly amended Action Plan approved by the United States Dept. of Housing & Urban Development. If the Action Plan is not approved, certain provisions of proposed law shall be without effect.

Nothing in new law shall be deemed to create any right or cause of action.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 40:600.66(C), (D), and (E) and R.S. 49:220.10)

Prescription Monitoring Program (Act No. 488)

New law provides that each eligible prescription transaction shall be reported as soon as possible but not more than seven days after the date of dispensing.

New law adds out-of-state law enforcement agencies to the list of eligible agencies to receive reports of suspected violations.

New law adds prescribers and dispensers to those persons whose identifying information must be removed before the board may share prescription monitoring information with public or private entities for public research, policy, or educational purposes.

New law provides that persons who are authorized to prescribe or dispense controlled

substances or drugs of concern for the purpose of providing medical or pharmaceutical care for their patients, may access prescription monitoring information after taking certain educational courses. New law adds that those persons may also access information for the purpose of verifying their prescribing records.

(Amends R.S. 40:1006 and R.S. 40:1007)

Donation of Blood by Minors (Act No. 145)

New law adds an allowance for minors of at least 16 years of age to donate blood with the consent of a parent or legal guardian. New law prohibits minors from receiving compensation for the donation of their blood. New law provides that consent pursuant to new law shall not be subject to the deferments because of minority.

(Amends R.S. 40:1097)

Statewide Ambulance Service District (Act No. 887)

New law creates a statewide ambulance service district. New law provides that the object and purpose of the ambulance service district and the governing body shall be to enhance reimbursement and financial stability of ambulance providers.

New law provides that DHH and the statewide ambulance district may enter into an agreement to develop methodologies funding with the intent to maximize, to the fullest extent possible, the return to the providers located within the jurisdiction of the local governing body which subsidized the delivery of services.

New law provides that any licensed provider of ambulance services shall be eligible to participate in the district and that participation is on a strictly voluntary basis.

New law provides for the powers and duties of the commission, including:

- (1) To represent the public interest in facilitating ambulance care in the state.
- (2) To pursue grant funds to advance first responder services.

- (3) To assist ambulance providers in obtaining lowest possible cost for equipment and supplies through group purchasing.

- (4) To establish rates of pay for the use of facilities provided by the district.

- (5) To enter into contractual arrangements with ambulance providers primarily engaged in the operation of ambulance related functions in order to enhance Medicaid funding and reimbursement and for related matters.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 40:1236.21 - 1236.31)

Abortion and Ultrasound (Act No. 888)

New law requires a physician intending to terminate a pregnancy to first perform an ultrasound examination of the unborn child in order to make a finding of the gestational age, weight, and lung maturity of the unborn child. New law provides that except in case of a medical emergency, consent to an abortion at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed.

New law requires that at least two hours prior to the woman having any part of an abortion, performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion, the physician or a qualified shall:

- (1) Perform an obstetric ultrasound and offer to simultaneously display the screen depicting the active ultrasound images so that the pregnant woman may view them.

- (2) Offer to provide a simultaneous explanation of what the ultrasound is depicting, including the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of external members and internal organs, if present and viewable.

- (3) Offer to provide the pregnant woman with a sealed envelope clearly marked "ultrasound print" that contains an ultrasound photograph or print of her unborn child. New law requires the

pregnant woman to be informed that law requires that she be provided with the envelope containing the ultrasound print, but that there is no requirement that she view the print image of her unborn child.

(4) Orally read a specific statement to the pregnant woman in the examination room prior to beginning the ultrasound examination.

(5) Obtain a written certification from the woman, after the ultrasound and prior to the abortion, that the requirements of new law have been complied with.

(6) Retain a copy of the written certification prescribed by new law for a period of not less than seven years or for five years after a minor reaches the age of majority, whichever is greater.

New law defines "medical emergency" as the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

New law requires the abortion provider to certify in writing the specific medical conditions that constitute the emergency and requires such certification to be kept by the abortion provider for a period of not less than seven years or for five years after a minor reaches the age of majority, whichever is greater.

New law provides that the failure by any abortion provider to comply with the provisions of proposed law constitutes a basis for professional disciplinary action.

New law provides for confidentiality in court proceedings if the woman does not give her consent to such disclosure and authorizes the court to close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion has been performed or attempted.

New law stipulates consent to an abortion is voluntary and informed if and only if an ultrasound test and determination of viability are met and the requirement that at least two hours prior to the woman having any part of an abortion performed or induced, the physician or qualified person must perform an obstetric ultrasound for the purpose of preserving the woman's health and determining the viability of the unborn child.

New law requires provider to include in the woman's printed materials a comprehensive list, compiled by the DHH, of facilities that offer obstetric ultrasounds free of charge, along with an oral explanation of the provision that if the woman voluntarily chooses to obtain free ultrasound services, that ultrasound would likely be in addition to the ultrasound required by law.

New law requires DHH to maintain a separate printed listing of facilities that provide obstetric ultrasound services free of charge and requires that all materials include a web site address where the required materials can be accessed on the Internet.

Effective August 15, 2010. (Amends R.S. 40:1299.35.2 and 1299.35.6)

Defining "Health Care Provider" under the Medical Malpractices Act (Act No. 568)

New law adds licensed respiratory therapists, licensed radiologic technologists, and licensed clinical laboratory scientists to the definition of "health care provider" under both the state and private medical malpractice acts.

Old law included occupational therapists in the definition of "health care provider" in the Medical Malpractice Act for private services. New law adds occupational therapists to the definition of "state health care provider".

Effective August 15, 2010. (Amends R.S. 40:1299.39 and 1299.41)

Patient's Compensation Fund (Act No. 78)

New law makes the Patient's Compensation Fund Oversight Board and the Patient's Compensation Fund exempt from rate regulation

by the commissioner of insurance. New law provides that the surcharge shall be determined by the board in a public meeting based upon actuarial principles and reports, experience, and prudent judgment of the board.

New law provides that surcharge rates shall not be excessive, inadequate, or unfairly discriminatory.

New law permits board to consider all relevant factors, except fines and penalties against a health care provider, however levied, shall not be used by the board or considered in any manner in the loss or expense experience for the purpose of determining surcharge rates.

New law requires the board to prepare quarterly statements of the financial condition of the fund and publish the statements on the board's website.

Prior law provides that at all times the fund shall be maintained so as to provide a surplus of 30% of the annual surcharge premiums, reserves established for individual claims, reserves established for incurred but not reported claims, and expenses. New law instead provides that at all times the fund shall be maintained so as to provide assets on hand of at least 30% of the fund's outstanding liabilities, calculated using the most recent actuarial study and report for the fund.

Effective August 15, 2010. (Amends R.S. 40:1299.44)

Clinical Lab Results (Act No. 614)

Prior law provides that medical, hospital, and other records relating to a patient's medical treatment or condition may be obtained by a patient, his legal representative, or other enumerated persons for a fee. New law adds laboratory and test results to the list of enumerated records that a patient or his legal representative or other statutorily authorized persons may obtain.

New law requires clinical laboratories or medical facilities to report results directly to the patient upon request of that patient and authorizes the release of the test results directly

to the patient without prior approval of a health care provider.

New law also requires clinical laboratories or medical facilities to report test results to the health care provider who ordered the test whenever the results are reported directly to the patient.

New law requires the delivery of requested test results directly to the patient who is the subject of the test after verification of the identity of the patient. New law authorizes test results to be delivered by mail to the patient, or any other person, if the facility has executed a HIPPA form and a written authorization by the patient.

New law provides that the patient shall not have a right or cause of action against the clinical laboratories or medical facilities for the release of test results in accordance with new law.

(Amends R.S. 40:1299.96)

Obtaining Medical Records from Hospitals and Health Care Providers (Act No. 740)

New law provides that a patient or his attorney has a right to obtain the entirety of the patient's records in the form by which they are generated, except microfilm, and specifies the charges authorized for obtaining treatment records which are generated, maintained, or stored in paper form.

New law increases the authorized handling charge from \$15 to \$25.

New law provides that if treatment records, X-rays, and other imaging media are generated, maintained, or stored in digital format, copies may be requested to be delivered in digital format, subject to the charges authorized by statute.

New law provides that records requests shall be subject to only one handling charge, and provides that the health care provider shall not divide the separate requests for different types of records, including but not limited to bill or invoice statements.

New law provides a maximum charge of \$100 for producing digital treatment records and a

maximum charge of \$200 for producing digital X-rays and other imaging media.

New law prohibits health care providers from charging any additional fees for copying and delivering treatment records, X-rays, and other imaging media, except for notary fees and fees for expedited requests.

Effective August 15, 2010. (Amends R.S. 40:1299.96(A)(2)(b))

Ambulance Personnel (Act No. 876)

Prior law provides that an employer shall not hire or contract with any licensed ambulance personnel or nonlicensed person if the results of a criminal history check reveal that such person has been convicted of any of numerous offenses or the attempt or conspiracy thereof. New law changes the list of offenses.

New law provides that an employer who provides care or services to any person under the age of twenty-one shall not hire any licensed ambulance personnel or nonlicensed person when the results of criminal background check reveal that such person has been convicted of any of the various offenses.

New law repeals provisions that the employer may waive the provisions of new law under certain circumstances.

Effective August 15, 2010. (Amends R.S. 40:1300.53)

Medicaid Payments for Rural Hospitals (Act No. 883)

New law provides that effective for services provided on or after July 1, 2010, or as soon thereafter as may be permitted by federal law, DHH shall develop and implement, by emergency rule, a payment methodology which optimizes Medicaid inpatient and outpatient payments to rural hospitals.

New law provides that rural hospitals that do not provide the minimum set of documentation required to determine the optimal combination of payments shall not be eligible for additional payments.

Effective August 15, 2010. (Adds R.S. 40:1300.144(A)(4))

Special Identification Cards (Act No. 842)

Prior law provides that identifying information and documents required to obtain a special identification card are the same as those required to obtain a license.

New law provides that for persons 17 years of age, the signature of a parent or guardian shall not be required, provided the applicant has the proper identifying information and documents.

Effective August 15, 2010. (Amends R.S. 40:1321(A))

Concealed Handgun Permits (Act No. 346)

Old law provided for the qualifications and issuance of concealed handgun permits.

New law authorizes permits to be issued to La. residents only.

New law provides that a concealed handgun permit issued by another state is invalid in the state of La. for the purpose of authorizing a La. resident to carry a concealed handgun in the state of La.

New law provides that a nonresident concealed handgun permit valid on Aug. 15, 2010, shall be deemed valid until Aug. 15, 2011. On or after Aug. 15, 2011, any nonresident concealed handgun permit which was valid on Aug. 15, 2010, shall be deemed null, void, and of no effect in the state of La.

(Amends R.S. 40:1379.3(A)(1), (B), (C)(intro. para.), and (T))

Concealed Handgun Permits (Act No. 771)

New law provides that a combat veteran may demonstrate competence with a handgun by proof of his combat veteran status, proof that he has received an honorable discharge or a general discharge under honorable conditions, and completion of the following:

(1) A three-hour course of instruction on the use of deadly force and conflict resolution which shall include a review of certain laws and which may include a review of any other laws relating to the use of deadly force within the preceding 60 months.

(2) One hour of instruction on child access prevention within the preceding 60 months.

(Amends R.S. 40:1379.3(D)(1)(i))

"Jacob's Law" (Act No. 572)

New law requires that prior to Jan. 1, 2011, any aircraft used in the transport of offshore platform workers to provide, for each person on board, a life preserver, life jacket, or life belt and a personal locator beacon. New law provides that the device must be capable of transmitting a digital coded distress signal and a permanent homing signal. New law shall be known as "Jacob's Law".

Effective upon signature of governor (June 25, 2010). (Adds R.S. 40:1486.1 and 1486.2)

Factory Built Homes; Sprinkler Freedom (Act No. 685)

New law requires factory built homes to be inspected in accordance with the codes in effect for the locality where the home will be ultimately sited, on the date construction begins in the factory.

New law prohibits the La. State Uniform Construction Code Council from adopting or enforcing any part of the International Residential Code or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings.

New law prohibits a municipality or parish from adopting or enforcing an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

Effective upon signature of governor (June 29, 2010). (Adds R.S. 40:1730.28(A)(3)(f) and (g))

Excavation (Act No. 249)

Prior law defined "excavation" or "excavate" as any operation for the purpose of movement or removal of earth, rock, or other materials in or on the ground by the use of powered or mechanical or manual means, including pile driving, digging, blasting, auguring, boring, back filling, dredging, compressing, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. New law adds an exception for manual probing.

New law defines "forestry excavator" as an excavator who is a logger, prescribed burner, site preparation operator, or tree planter for commercial forestry operations.

Prior law excluded an operator of an underground cable television utility from the requirement to become a member of, participate in, and share the cost of a regional notification center. New law deletes the exclusion for cable television operators.

New law requires each regional notification center to have the capability to receive emergency locate requests 24 hours a day and to disseminate the information as soon as it is received to the appropriate operators and all affected regional notification centers.

New law requires that, if a forestry excavator has requested that the utilities and facilities be marked for location, the operator of a utility or facility shall mark the area of their utilities or facilities.

Effective September 1, 2010. (Amends R.S. 40:1749.12, 1749.13, 1749.14, and 1749.20)

Nursing Home Residents' Bill of Rights (Act No. 128)

New law expands a resident's right to be granted immediate access to the following:

(1) Any representative of the secretary of the United States Department of Health and Human Services.

(2) Any representative of the state acting pursuant to his duties and responsibilities under state or federal law.

- (3) The resident's individual physician.
- (4) The state long term care ombudsman.
- (5) The agency responsible for the protection and the advocacy system for developmentally disabled individuals.
- (6) The agency responsible for the protection and the advocacy system for mentally ill individuals.
- (7) Immediate family members, other relatives of the resident, and the resident's clergy subject to the resident's right to deny or withdraw consent at any time.
- (8) Other who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.

New law provides that the facility shall provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

New law provides that reasonable restrictions are those imposed by the facility that protect the security of all the facility's residents. The facility may change the location of visits to assist care giving or protect the privacy of other residents.

New law removes the provisions which limit the right if it is otherwise indicated by the resident's physician.

New law retains the right to be free from mental and physical abuse and provides a different standard for the right to be free from any physical or chemical restraint imposed for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

New law adds Title XVIII of the Social Security Act and provides that a resident has the right to participate in a community based activity or program unless such participation would violate infection control or quarantine laws or regulations rather than being medically contraindicated.

New law removes the limiting provision in the right if exercise of the right would be medically contraindicated as documented by a physician in the resident's medical record.

New law provides for the right to retire and rise in accordance with the resident's personal preference.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 40:2010.8; adds R.S. 40:2010.8(A)(2)(c) and (d))

Nursing Bed Moratorium and Facility Need Review (Act No. 278)

Prior law provided for a moratorium on additional beds for nursing facilities which shall remain in effect until July 1, 2012. New law changes termination date of moratorium on additional beds for nursing facilities to July 1, 2016.

Prior law provided that facility need review approval for licensed nursing homes or intermediate care facilities for people with developmental disabilities (ICF/DD) located in officially declared disaster areas shall remain in effect through Jan. 1, 2010. New law removes nursing homes from the provisions of facility need review approval, applying these provisions exclusively to ICF/DD.

New law extends the date through which facility need review approval remains in effect for ICF/DD from Jan. 1, 2010 to Jan. 1, 2012.

Prior law stipulated that this facility need review approval provision shall not apply to ICF/DD which fail to recommence providing services prior to Jan. 1, 2010.

New law changes date from Jan. 1, 2010, to Jan. 1, 2012.

Effective upon signature of governor (June 17, 2010). (Amends R.S. 40:2116)

Ambulatory Surgical Centers (Act No. 491)

New law provides for authorization for an ambulatory surgical center to enter into a use agreement and further provides that the

ambulatory surgical center is still responsible for following minimum licensing standards even during the period of use under the agreement.

New law requires the Dept. of Health and Hospitals to promulgate rules, regulations, and minimum standards for use agreements according to the Administrative Procedure Act.

Effective August 15, 2010. (Adds R.S. 40:2133(C), 2133.1, and 2136(C))

Outpatient Abortion Facilities (Act No. 490)

Prior law provided that the procedure for denying, suspending, or revoking the license of an outpatient abortion facility shall be the same as that for the licensing of hospitals as provided for by law. Prior law on licensing of hospitals stated that the secretary of the Department of Health and Hospitals (DHH) could deny, suspend, or revoke a license in any case in which he found that there had been a substantial failure of the applicant or licensee to comply with the requirements of the law pertaining to hospital licensing.

New law changes prior law by stating that the secretary of DHH may deny, refuse, or revoke an existing license if an investigation or survey determines that the applicant or licensee is in violation of any provision of the law, any rule, or state or federal regulation pertaining to the licensing of outpatient abortion facilities.

New law adds a process for notification to the applicant or licensee and a process to appeal a denial, nonrenewal, or revocation of a license.

New law provides that the secretary of DHH may issue an immediate suspension of a license if an investigation or survey determines that the applicant or licensee is in violation of any provision of the law, any rule, or state or federal regulation pertaining to the licensing of outpatient abortion facilities, and the secretary determines that the violation poses an immediate threat to the health, welfare, or safety of a client or patient.

New law provides for notification of the suspension of the license and a process for the licensee to appeal. New law further provides a

right and a process for the licensee to file for injunctive relief from the immediate suspension of the license.

New law provides that if a license is revoked or the renewal is denied other than for cessation of business or nonoperational status, or if a license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the licensee may be prohibited from owning, managing, directing, or operating another outpatient abortion clinic in La.

Effective upon signature of the governor (June 22, 2010). (Amends R.S. 40:2175.6)

Judicial Agency Referral Residential Facilities (Act No. 493)

Prior law provides that any facility, including pretrial diversion facilities, not otherwise required to be licensed by DHH or DSS, that provides housing or temporary residence for individuals who have been arrested for the commission of a crime and who are referred by any judicial agency shall be regulated by DPS&C.

Prior law prohibits a facility from providing housing or temporary residence to any individual until DPS&C has adopted rules. New law further requires that the facility must be inspected and certified by DPS&C prior to providing housing or temporary residence to any individual.

Prior law requires that all facilities be accredited by the American Correctional Association (ACA) within 18 months of opening a judicial agency referral residential facility. New law extends the period to within 24 months and requires that facilities maintain accreditation by the ACA at all times thereafter.

Effective August 15, 2010. (Amends R.S. 40:2852)

TITLE 41: PUBLIC LANDS

Sale of Lands Adjudicated to the State (Act No. 282)

Existing law provides that whenever a person wants to purchase lands belonging to the state of La., he shall apply to the state land office to do so. New law specifically includes properties adjudicated to the state for nonpayment of taxes between 1880 and 1973.

Existing law requires the register of the state land office to publish for 30 days in the official journal of the state and of the parish in which the property is located the description of the land and the time, place, and terms of the sale. New law further provides that for properties adjudicated to the state, the advertisement must include the name of the tax debtor and the year for which the taxes were not paid.

Prior law authorizes the sheriff to deduct the cost of advertising and a commission from the amount of the bid. New law provides that all proceeds from the sale of adjudicated property, after deduction for costs of the sale, shall be paid pro rata to holders of statutory imposition and governmental liens.

Prior law provides that prior to the sale of any property acquired by the state, the state shall offer the property back to the property owner from which it was acquired. New law exempts property adjudicated to the state for nonpayment of taxes for tax years 1880 through 1973.

Prior law referenced the Dept. of Natural Resources while the responsibility for the tasks currently resides with the state land office. New law makes those technical corrections.

Effective August 15, 2010. (Amends R.S. 41:131, 133, 134, and 135; Adds R.S. 41:1338(A)(2)(c))

TITLE 42: PUBLIC OFFICERS AND EMPLOYEES

Public Comments at Public Meetings (Act No. 850)

Prior law required public bodies to provide an opportunity for public comment at open meetings, subject to reasonable rules adopted by the body. Prior law, relative only to school boards, requires a public comment period for each agenda item prior to a vote on the item.

New law, relative to public bodies except school boards, requires a public comment period at any point during a public meeting prior to action being taken on an agenda item that requires a vote. New law allows the governing body to adopt reasonable rules and restrictions regarding such comment period.

Effective August 15, 2010. (Amends R.S. 42:5(D))

Financial Disclosure Statements for Charter School Officials (Act No. 786)

New law adds to the officials required to file financial disclosure statements pursuant to present law (Tier 3) each member of the governing authority or management board of a charter school.

(Amends R.S. 42:1124.3(A))

Dual Officeholding (Act No. 829)

New law requires the attorney general or district attorney, prior to filing a petition for a declaratory judgment against a person alleged to be holding incompatible offices or employments or holding a prohibited combination of offices or employments, to send written notice by certified mail to the person detailing the alleged violation of law.

New law provides that whether a person has vacated an incompatible or prohibited office or employment prior to the filing of the suit for declaratory judgment or prior to issuance of a final judgment in the suit shall not prohibit the court from declaring that a person has held

incompatible offices or employments or a prohibited combination of offices or employments and ordering reimbursement pursuant to law. New law provides an additional exception to the reimbursement provision where the person vacates the position or office within 14 days after written notice of the alleged violation is sent by the attorney general or a district attorney.

(Amends R.S. 42:65(A) and (C))

Board of Ethics (Act No. 788)

New law provides that the Board of Ethics is to administer the provisions of new law relative to lobbying of local government.

New law defines terms, including:

(1) Local government action - means any act by a local agency or official to effectuate the public powers, functions, and duties of a local government official or a local government agency, including but not limited to any act in the nature of policymaking, rulemaking, adjudication, licensing, regulation, or enforcement; relative to contracts, requests for proposals, development of specifications, or engaging another person to perform a governmental function; to adopt, repeal, increase, or decrease any fee imposed on the affairs, actions, or persons regulated by a local government agency; or to affect the passage, defeat, or implementation of any legislation.

(2) Local government agency - any political subdivision, including any parish, municipality, school board, or special district, and any other unit of local government and any department, office, agency, board, commission, district, governing authority, committee, subcommittee, advisory board, task force, or other instrumentality of a political subdivision or other unit of local government. This definition excludes any entity which is an executive branch agency or any unit of the legislative or judicial branch of state government.

(3) Local government official - an elected official, an appointed official, or an employee in a local government agency.

(4) Expenditure - the gift or payment of money or any thing of value for the purchase of food, drink, or refreshment for the purpose of lobbying and any gift or payment permitted by the ethics code for certain events for a local government official, his spouse, or minor child for the purpose of lobbying when the lobbyist or principal accounts or would be expected to account for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist's, his employer's, or the principal's trade or business.

(5) Lobbying - any direct act or communication with a local government official, the purpose of which is to aid in influencing a local government action.

(6) Lobbyist - any person who acts in a representative capacity and makes an expenditure in excess of \$500 in the aggregate within the calendar year. This definition excludes any person who does not make any direct act or have any direct communication with a local governmental official for the purpose of influencing a local governmental action.

New law provides that except as otherwise provided for lobbyist's principals and employers, provisions are applicable only to persons who are lobbyists. New law specifies that an elected or appointed official or any designee of such an official acting in the performance of his public duties is not to be considered a lobbyist.

New law requires that persons register with the ethics board as soon as possible after employment as a lobbyist or after the first action requiring registration whichever occurs first, but in no event later than five days after employment or five days after the first action requiring his registration whichever occurs first. New law requires that the registration be filed electronically with the board.

New law provides that registration renewal can occur anytime from Dec. 1 until Jan. 31 and that failure to renew by Jan. 31 of each year causes registration to expire retroactively to Dec. 31. New law requires that the lobbyist provide the following information: his name, business address, the name and address of his employers and persons whose interests he represents,

including the business in which such person is engaged, and the name of each person by whom he is paid; and adds that he must include with his initial registration one copy of a 2" x 2" photograph made within six months prior to the initial registration. New law requires a supplemental registration form to be filed when any information changes.

New law further requires that the following information be filed by a lobbyist:

(1) The amount he is paid or is to be paid for lobbying using category ranges: Category I, less than \$24,999; Category II, \$25,000 - \$49,999; Category III, \$50,000-\$99,999; Category IV, \$100,000-\$249,000; Category V, \$250,000 or more.

(2) A characterization of such payment as paid, earned but not received, or prospective.

(3) An indication of potential subject matter about which he anticipates lobbying. New law provides that such indication is to be made by choosing from one or more items on a list of potential subject matter categories. New law lists 32 such categories. New law provides that the unintentional omission of a potential subject matter is not a violation.

(4) The identity of each elected local government official or spouse of an elected local government official with whom he or his employer or principal has, or has had in the preceding 12 months, a business relationship.

New law defines "business relationship" (relative to a local government official and his spouse) as any transaction, contract, or activity that is conducted or undertaken for profit and which arises from a joint ownership interest, partnership, or common legal entity between a lobbyist, his employer, or principal and a local government official or his spouse when the local government official or his spouse owns 10% or more of such interest or entity.

New law provides that within 10 days of the termination of a registrant's employment or representation, such registrant must file a supplemental registration with the ethics board acknowledging termination. New law also provides that a registrant who ceases activities

that require him to register must file a supplemental registration acknowledging termination of lobbying activities, and that each such registrant is required to file disclosure reports for each reporting period he was registered.

New law provides that whenever any information contained in his registration changes, a lobbyist must file a supplemental electronic registration as soon as possible and in no event not later than five days of such change using forms provided by the board.

New law requires lobbyists to pay a \$110 fee for each registration and renewal filed.

New law requires that, as provided by ethics board rule, each lobbyist file monthly a report of all expenditures required to be reported during the reporting period. New law requires each report to include the total aggregate expenditures during the calendar year, aggregated as prescribed by the ethics board. New law provides that the lobbyist must also report by name and agency the total expenditures for any local government official, his spouse, or minor child during a reporting period and the total amount of expenditures for any such local government official, his spouse, or minor child during the calendar year.

New law requires the ethics board to promulgate rules and forms to prescribe the level of organization unit or units of a local government agency for which expenditures are required to be aggregated.

New law provides that each report is to include a statement of total expenditures for each registration or social gathering to which 25 local government officials are invited and is to include the name of the group(s) invited and the date and location of the reception or social gathering. Amounts so reported are not attributable to individual officials for reports as required above. New law exempts from reporting requirements any expenditures by a lobbyist for a reception or social gathering held in conjunction with a meeting of a national or regional organization of local government officials and expenditures for a meal or refreshment consumed or offered to a local government official giving a speech, being

a member of a panel, or otherwise being involved in an informational presentation to a group.

New law requires any expenditures by a lobbyist's principal or employer made in the presence of the lobbyist to be reported by the lobbyist. New law requires any lobbyist's principal or employer who makes direct expenditures required to be reported to timely furnish its lobbyist information about such expenditures as necessary for compliance. New law requires such information to be furnished to the lobbyist no later than two business days after the close of each reporting period.

New law additionally specifies that any lobbyist's principal or employer who makes direct expenditures required to be reported and who fails to provide its lobbyist such information is required to register as a lobbyist and is subject to penalties for violations.

New law allows a lobbyist's principal or employer to opt to file the required reports on behalf of all of the lobbyists who represent such principal's or employer's interests. New law requires the principal or employer to notify the ethics board no later than January 31 of each year. New law provides that such option shall be effective for the reporting of all expenditures made during that calendar year. New law requires the notification to include a listing of all persons on whose behalf the lobbyist's principal or employer is filing reports. New law requires any lobbyist whose principal or employer opts to file the required reports to timely furnish its principal or employer all information about expenditures as necessary for compliance, no later than two business days after the close of each reporting period. New law provides that any lobbyist's principal or employer who opts to file the required reports who fails to file or timely file such reports are liable for and subject to any applicable late fees or penalties, or both.

New law requires that the ethics board:

- (1) Register lobbyists and assign lobbyist registration numbers.
- (2) Issue each registered lobbyist a copy of the provisions and rules adopted.

(3) Promulgate all necessary rules and forms, including but not limited to rules and forms to prescribe the level of organizational unit or units of a local government agency for which expenditures required to be reported are to be aggregated.

(4) Publish all necessary forms electronically, and make registration filings available to the public via the Internet.

New law makes the ethics board responsible for enforcement, and provides that provisions for enforcement of the Code of Governmental Ethics apply, including investigation, hearing procedures, confidentiality, penalties, appeals, powers of the ethics board, and enforcement of orders. New law prohibits commencement of enforcement actions after two years after the alleged violation.

New law authorizes the ethics board to impose and collect penalties and authorizes the ethics board to censure any person found guilty of a recurring or egregious violation and prohibits such person from lobbying for not less than 30 days and not more than one year.

New law provides for late fees of \$50 per day for failure to timely register or timely file any report required by law. New law provides that for being 11 or more days late in registration or filing a report, after a hearing by the ethics board, a civil penalty may be assessed not to exceed \$10,000.

New law provides that prior to the effective date of new law and effective upon signature of the governor, the Board of Ethics is to take whatever action necessary, including the promulgation of rules and forms, for the implementation and administration of the provisions of proposed law by January 1, 2011, at which time proposed law otherwise becomes effective.

(Amends R.S. 42:1132, 1134, and 1157; Adds R.S. 33:9661-9669)

Appeal of Ethics Adjudicatory Board Decisions (Act No. 1002)

New law deletes requiring the Board of Ethics to adopt the determination of the ethics

adjudicatory panel, and provides that if the ethics adjudicatory panel determines that a violation has occurred and prescribes penalties or other sanctions, the public servant or person may appeal as set forth in prior law.

New law provides that a decision of the Ethics Adjudicatory Board or a panel thereof is a final decision that may be appealed within 30 days after the mailing of the notice of the decision, or if a rehearing is requested, within 30 days after mailing of the decision on the rehearing.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 42:1141 and 1142)

Campaign Contribution Searches (Act No. 804)

The Board of Ethics' computerized data management system shall be categorized to provide for citizens' access of all reports filed with the board.

New law provides that the Board of Ethics' computerized data management system shall enable the public to search by contributor names the system's database of campaign finance disclosure reports.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 42:1158(A)(2)(d))

TITLE 43: PUBLIC PRINTING AND ADVERTISEMENTS

Official Journal of the State (Act No. 802)

New law deletes requiring the printing of the date of the publication of acts of the legislature in the official journal of the state.

New law provides that the secretary of state is to take all necessary actions to cause the acts and joint resolutions of the legislature to be made accessible on the Internet website or portal of the Official Journal of the State within the time limits established by law. New law deletes requirement to cause the date of such publication

in the official journal to be printed below each act.

New law deletes the requirement that all laws and joint resolutions of the legislature be published in the official journal.

New law provides that only for purposes of meeting the requirements of the constitution and new law, the Official Journal of the State shall be the Internet website or portal of the Official Journal of the State and that all laws and joint resolutions shall be accessible through the Official Journal of the State prior to the 60th day after final adjournment of the session in which they were enacted and shall remain accessible for at least one year. Any act that contains an effective date prior to the 60th day after final adjournment shall be accessible prior to the effective date contained therein, if possible, or if not possible, as soon as possible after the effective date.

Effective July 1, 2011. (Amends R.S. 43:19, 19.1, 24, 81, 82, and 89; repeals R.S. 43:87)

Deadline to Publish Minutes (Act No. 251)

Prior law provides that parishes, municipalities, and school boards must publish all minutes, ordinances, resolutions, budgets, and other official proceedings in the official journal of such entity, and that the official responsible for preparing and recording the official proceedings must do so within 10 days of the meeting. New law changes the number of days which the official has to publish the official proceedings from 10 to 20.

(Amends R.S. 43:144)

TITLE 44: PUBLIC RECORDS AND RECORDERS

Expungement of Arrest Records After Conviction (Act No. 609)

Prior law provides for the expungement of certain arrest records for misdemeanor and felony offenses under certain conditions. New law provides that any person who has been

convicted for the violation of a municipal or parish ordinance, traffic ordinance, or for a violation of a state statute which is classified as a misdemeanor may make a written motion to the district, parish, or city court in which the violation was prosecuted, or to the district court located in the parish in which he was arrested, for expungement of the arrest record if five or more years has elapsed between the date of the motion and the successful completion of any sentence, deferred adjudication, or period of probation or parole.

New law further provides that an expungement shall occur only once with respect to any person during a five-year period, except for the misdemeanor offense of operating a vehicle while intoxicated which may occur only once with respect to any person during a 10-year period.

New law provides that no person shall be entitled to an expungement if the misdemeanor conviction arose from circumstances involving a sexual act or act of domestic violence.

New law further provides that the motion for expungement shall include a certification obtained from the district attorney which verifies that to his knowledge the applicant has no felony convictions and no pending misdemeanor or felony charges under a bill of information or indictment.

New law provides that if, after a contradictory hearing with the district attorney and the arresting law enforcement agency, the court finds that the mover is entitled to the relief sought for the above reasons, it shall order all law enforcement agencies to expunge, but not destroy, the record.

New law shall not limit or impede the authority under law to consider prior arrests or convictions in pursuing prosecution under multiple offender provisions or impede the investigation of any law enforcement official seeking to ascertain or confirm the qualifications of any person for any privilege or license authorized by law.

Effective August 15, 2010. (Adds R.S. 44:9(A)(5))

Coroner's Records (Act No. 849)

New law, relative to records of a coroner, provides:

(1) That any medical record or personal medical history of a deceased person in the custody of a coroner shall be confidential and shall not be subject to examination, inspection, or copying. New law defines "medical record or personal medical history of a deceased person" as information regarding the physical, mental, or behavioral health or condition of a deceased person prior to death. New law does not apply to a death certificate, final report of a coroner, or autopsy report.

(2) That the information declared not a public record pursuant to prior law and the information made confidential pursuant to new law may be released to a qualified dentist, forensic anthropologist, or forensic pathologist as necessary to establish the identity of the deceased.

Effective upon signature of governor (June 30, 2010). (Amends R.S. 44:19)

TITLE 45: PUBLIC UTILITIES AND CARRIERS

Taxi Liability Insurance (Act No. 895)

Present law requires that in order to receive a certificate, the owner of a public carrier vehicle (a taxi) first must obtain a policy of liability insurance, which includes property damage for at least \$5,000. New law increases the minimum requirements for property damage insurance from \$5,000 to \$25,000.

New law applies to new and renewed policies issued on or after August 15, 2010.

(Amends R.S. 45:200.4)

TITLE 46: PUBLIC WELFARE AND ASSISTANCE

Medication Therapy Management (Act No. 629)

New law gives DHH the authority to create a Medicaid medication therapy management program which may provide medication therapy management services to qualified Medicaid recipients.

New law provides that DHH may promulgate rules and regulations relating to the eligibility of Medicaid recipients, the reimbursement of pharmacists for the provision of medication therapy management services, referrals and coordination with primary care providers, and limitations on the provision of medication therapy management services.

Effective August 15, 2010. (Adds R.S. 46:153.3.1)

Child Support Enforcement (Act No. 272)

New law allows Title IV-D child support agencies from other states to place a levy or lien directly on assets held by an obligor in a Louisiana financial institution without requiring a court order. New law provides for the specific procedures by which a Title IV-D agency and a financial institution may effectuate the enforcement of a lien.

Effective August 15, 2010. (Amends R.S. 46:236.1.4(B))

Medical Support Orders (Act No. 299)

New law requires that medical support be provided for children subject to child support orders. New law provides that a medical support award shall be separate from the child support order and not included in child support calculations.

New law provides that when a child support order has been established, a court may order each party to pay a percentage of extraordinary medical expenses as cash medical support.

New law provides that when a child support order has not been established, a court may order each party to pay a percentage of total medical expenses not covered by insurance as cash medical support.

Effective August 15, 2010. (Amends R.S. 46:236.1.1; Adds R.S. 46:236.1.2(L))

Child Support Garnishment (Act No. 686)

Prior law provides procedures for the withholding of income through an income assignment order for the payment of child support and provides penalties for willfully failing to comply with an assignment order or willfully discharging or penalizing a person ordered to pay support.

Prior law provided that the court may impose a \$25 fine per day for the failure to withhold or pay the support, but limited the fine to no more than the support amount that should have been withheld or paid.

New law increases the amount of the fine from \$25 per day to \$50 per day and deletes the limitation on the total amount to be withheld or paid.

Effective upon signature of governor (June 29, 2010). (Amends R.S. 46:236.3(K)(2))

Contempt for Nonpayment of Support Orders (Act No. 605)

Prior law provides that a representative of the child support collection agency may serve on the defendant a summons ordering him to appear before the proper court. New law gives the representative of the child support collection agency authority to issue as well as serve summonses.

Prior law provides that only the district attorney may file with the court and serve in open court on the defendant a rule for contempt. New law also allows the Dept. of Social Services to file with the court and serve in open court on the defendant a rule for contempt.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 46:236.6(A) and 236.7(B))

Foster Child Placement (Act No. 64)

Prior law provides for the definition of a "child-placing agency" as any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster homes or with substitute parents for temporary care or for adoption, or engaged in assisting or facilitating the adoption of children, but shall not mean a person who may occasionally refer children for temporary care. New law expands the definition to include any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing youth in transitional placing programs.

Prior law provides that the office of community services within the DSS shall be licensed by the office of family support within the DSS and shall perform its child-placing functions in accordance with the established standards or certifications for licensed child-placing agencies. New law repeals prior law and provides that child-placing agencies within the DSS shall be exempt from the provisions of prior law. New law further provides that DSS shall perform its child-placing functions in accordance with the standards promulgated by the department for licensed child-placing agencies.

Prior law requires that all transitional youth residences shall be licensed before beginning operation. New law repeals prior law and requires that any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing youth in transitional placing programs be licensed as a child-placing facility.

Prior law provides for fees, inspections, complaint procedures, renewals of a license, and penalties for operation without a license for transitional youth residences. New law repeals prior law.

Effective October 1, 2010. (Amends R.S. 46:1403 and 1404; repeals R.S. 46:1451-1459)

Day Care by Religious Organizations(Act No. 429)

New law provides an exception to licensure as a day care center for a recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, which remains open for not more than 24 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 46:1429)

Physician Reimbursement Limits (Act No. 434)

New law authorizes DHH to develop mechanisms to support the continued operation of state-funded health care programs, specifically Medicaid, through the utilization of physician upper payment limit reimbursement methodologies, subject to federal law and approval of the CMS.

New law provides that participation in the methodologies shall be limited to only those hospitals which certify public expenditures to the state of Louisiana.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 46:2891)

Medicaid Money for Private Urban Hospitals (Act No. 803)

New law establishes the Community Hospital Stabilization Fund as a special fund in the state treasury to be used solely for:

1. Supplemental payments for Medicaid hospital services, outlier payments, and Medicaid disproportionate share payments to non-state, non-rural community hospitals.
2. Enhanced Medicaid payments to non-state, non-rural community hospitals.
3. Enhanced disproportionate share payments and uncompensated care payments to non-state, non-rural community hospitals.

4. Payments for services of the state Medicaid program for non-state, non-rural community hospitals that are subject to federal financial participation in matching funds.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 46:2901)

TITLE 47: REVENUE AND TAXATION

Non-Profit Income Tax Return Deadline (Act No. 214)

Present law requires nonprofit organizations that have unrelated business taxable income (UBTI) to file a state income tax return and pay income tax on the UBTI no later than April 15, and to file a federal income tax return and pay income tax no later than May 15. New law requires nonprofit organizations to file a state income tax return and pay income tax no later than June 15.

Effective August 15, 2010 (Amends R.S. 47:287.614(A) and 287.651(A))

Local Sales Tax Exemption for Qualifying Radiation Therapy Treatment Centers (Act No. 1015)

New law clarifies that the local sales and use tax exemption for certain purchases, leases, or repairs by qualifying radiation therapy treatment centers is permissive rather than mandatory.

Effective August 15, 2010. (Adds R.S. 47:337.10(N); Repeals R.S. 47:337.9(D)(30))

Tax Collection Contracts (Act No. 1029)

New law requires contracts between taxing authorities and private agencies or audit firms for purposes of enforcement and collection of any tax to include limitations on the sharing of audit leads with other tax collectors, limitations related to the confidentiality of taxpayer records, credentials required for lead auditors, and disclosure of how the private agency or audit firm will be paid for its services.

New law provides for disposition of taxpayer records after the completion of the audit, and specifies that a private agency or auditing firm may retain taxpayer books and records until the termination of any legal proceedings related to an audit or examination. New law authorizes a tax collector to contract with a private agency or auditing firm for the storage of documents otherwise required to be retained by the tax collector.

New law is applicable to audits commenced after July 8, 2010.

Effective upon signature of governor (July 8, 2010). (Amends R.S. 47:337.26)

Arbitrary Tax Assessments (Act No. 1019)

New law prohibits the making of an assessment by a tax collector for the purpose of depriving a taxpayer of his constitutional right to a three-year prescriptive period for the assessment of tax in accordance with Const. Art. VII, §16.

New law prohibits the issuance of "arbitrary assessments" by local collectors, which are defined as assessments not in compliance with provisions of existing law regarding estimated tax assessments. An assessment shall not be considered an "arbitrary assessment" if the taxpayer does not provide records as required by existing law. The taxpayer has the burden of proving that an assessment is arbitrary.

New law provides that if a court determines that a taxpayer has been issued an arbitrary assessment, the assessment neither interrupts nor suspends prescription and the collector must reimburse the taxpayer for reasonable costs of litigation, not to exceed 10% of the taxes, interest, and penalties at issue, subject to the discretion of the court as to reasonableness.

Effective upon signature of governor (July 8, 2010). (Adds R.S. 47:337.28.1)

Arbitration of Tax Disputes (Act No. 1003)

New law allows a taxpayer who is subject to any collection procedure for local sales tax, penalty, and/or interest, or whose request for a refund of such tax, penalty, and/or interest has been denied

by a collector, in lieu of other remedies provided to him in prior law, to "timely" initiate a mandatory arbitration proceeding by mailing to the collector who is attempting to collect the tax, penalty, and/or interest a written request for mandatory arbitration.

A written request for mandatory arbitration mailed prior to the following is considered "timely":

1. An answer filed in an ordinary suit filed by a collector.
2. A hearing on a rule to cease business or a summary judgment.
3. Within 30 days of the receipt of notice of a final assessment.
4. Within 60 days from the date of payment or the posting of bond in the case of a jeopardy assessment.
5. Within 90 days of the notice of a collector of the disallowance of a claim for a refund. A timely mailed request precludes any collection action by the collector, and shall suspend the running of any prescription or other time limit or requirement to act in any provision of law or ordinance until the arbitration panel has issued a final written decision.

New law requires the taxpayer and the collector to each select one arbitrator from the "registry of arbitrators" set forth below within 10 days of receipt of the notification of the request for arbitration. The two arbitrators selected must then jointly agree on a third arbitrator to complete a panel of three. The arbitrators select one of the three as a chief arbitrator. In the event a taxpayer or a collector fails or refuses to comply with the arbitration procedure within the time periods provided in the new law, plus any additional time as may be granted upon his request, the other party may appoint an arbitrator on behalf of such failing or refusing party.

The Board of Directors of the Louisiana Association of Tax Administrators must annually appoint not less than 10 arbitrators to the registry, each of whom shall be board certified tax administrators.

The Business and Industry Committee of the Louisiana Association of Tax Administrators, the Louisiana Association of Business and Industry, and the Society of Louisiana CPAs must jointly appoint not less than 10 arbitrators to the registry, each of whom shall possess at least 5 years of experience in the area of sales and use tax.

New law requires the chief arbitrator to provide a written request to the taxpayer and the collector for the submission of a detailed statement of fact or law in support of their positions and such other documents as the parties deem necessary, which are to be provided to each member of the panel and to the other party within 30 days of the date of the request. The chief arbitrator then designates a time and place for a hearing, unless a hearing is specifically waived in writing by both parties. All records, documentation, testimony, and other submissions related to the arbitration proceeding are subject to the confidentiality provisions of R.S. 47:1508 et seq. The panel must issue a written decision stating the legal and factual reasons upon which the decision is based. The decision must be the opinion of at least a majority of the panel; provided that any dissenting panel member may submit reasons for dissent from the majority. The decision shall be rendered within 30 days of the conclusion of the hearing, or within 30 days of timely receipt of the statements and documents in the absence of a hearing. The decision of the panel is binding on the parties and is considered a final judgment. Decisions relating to "common sales tax law" as defined in R.S. 47:337.2(C)(1)(b) requires consultation with the Department of Revenue prior to the rendering or issuance of the decision. The parties share equally in the cost of the arbitration proceeding, provided that each party must bear its own respective costs of providing the necessary documentation, witnesses, travel, or other costs and expenses of the arbitration proceeding.

New law authorizes a taxpayer to make a written request to the collector that an additional assessment be included in the pending arbitration matter upon a proper showing that the principle of law involved in the additional assessment is already pending before an

arbitration panel and his agreement to abide by the decision of the arbitration panel. If the collector agrees that the principle of law involved in the additional assessment is already pending before the arbitration panel, then the validity of the assessment shall be determined by the decision of the panel.

Effective January 1, 2011. (Amends R.S. 47:337.33, 337.45, 337.51, 337.53, 337.54, 337.61, 337.63, and 337.81; adds R.S. 47:337.51.1 and 337.67(C)(3); repeals R.S. 47:337.101)

Saints License Plates (Act No. 841)

New law establishes a special prestige motor vehicle license plate honoring the 2009 World Champion New Orleans Saints, provided there is a minimum of 1,000 applicants for the plates.

New law provides for the standard motor vehicle license tax imposed plus an annual royalty fee of \$25 for each plate to be collected every two years upon renewal.

Effective July 1, 2010. (Adds R.S. 47:463.141)

LDR Sharing of Tax Records with La. Workforce Commission (Act No. 617)

Prior law provides records and files of the secretary of the La. Department of Revenue (LDR) and records and files maintained pursuant to a tax ordinance (excluding property taxes and ad valorem property tax assessment rolls of any political subdivision) are confidential.

New law provides that at the secretary of the LDR's discretion, nothing shall prevent the sharing or furnishing of tax record information to the La. Workforce Commission for the purposes of determining, investigating, or prosecuting fraud. New law further requires any information shared or furnished by the LDR must be held confidential and privileged by the La. Workforce Commission.

(Adds R.S. 47:1508(B)(28))

Homestead Exemption Retention (Act No. 865)

Prior law statutorily recognizes the requirement in Const. Art. VII, Sec. 20(A)(10) which authorizes homesteads, whose owners are unable to occupy them on or before December 31st of a calendar year due to damage or destruction during a disaster or emergency declared by the governor, to retain the exemption by filing an annual affidavit of intent to return and reoccupy the homestead within five years from December 31st of the year following the disaster.

Prior law statutorily recognizes the requirement in Const. Art. VII, Sec. 18(G)(5) which authorizes owners entitled to the "special assessment level", who are unable to occupy their homesteads on or before December 31st of a "future" calendar year due to damage or destruction of the homestead caused by a disaster or emergency declared by the governor, to retain the "special assessment level" of the homestead prior to its damage or destruction on the repaired or rebuilt homestead, provided the repaired or rebuilt homestead is reoccupied by the owner within five years from December 31st of the year following the disaster.

New law authorizes the extensions of both 5-year periods as follows:

1. For up to 2 years, by filing an annual affidavit of intent to return and reoccupy the homestead, if the homeowner's damage claim to repair or rebuild the homestead is filed and pending in a formal appeal process with any government agency or program offering grants or assistance for repairing or rebuilding damaged or destroyed homes as a result of the disaster or in a legal claim or action against the homeowner's insurer or insurers.

2. After expiration of the two-year extension set forth above, an assessor is authorized to grant up to three additional one-year extensions of the homestead exemption or special assessment level on a case-by-case basis if the homeowner has made a good faith attempt to secure a contractor or builder to complete the needed repairs or reconstruction of the home, but is unable to complete the project due to uncontrollable contractor or builder delays.

Effective if, as, and when the proposed amendment of Const. Art. VII, Secs. 18(G)(5) and 20(A)(10) contained in Senate Bill No. 21 is adopted at the statewide election to be held on Nov. 2, 2010. (Amends R.S. 47:1703(E))

Notice of Tax Increases to be Considered (Act No. 1027)

Prior law provides for the requirements and procedures necessary for a public hearing at which a taxing authority may consider the levy of additional or increased millages without voter approval. Prior law requires that the notice for the hearing contain a statement that the taxing authority intends to levy additional or increased millages.

New law requires the inclusion of the following information in the public notice:

(1) An estimate of the amount of tax revenues to be collected in the next tax year from the increased millage as compared to the amount of tax revenues collected in the current year and the amount of increase in taxes attributable to the millage increase.

(2) For purposes of the Internet publication only, a recitation of the current budget of the taxing authority.

New law shall not apply to notices published prior to July 8, 2010, with respect to a millage change for the 2010 tax year.

Effective upon signature of governor (July 8, 2010). (Amends R.S. 47:1705)

Fee Levy Extension (Act No. 464)

Prior law authorized the La. Tax Commission to levy fees associated with various services performed by the commission from July 1, 2008, through June 30, 2010. Prior law authorizes the levy of a fee for assessment of public service properties which is equal to .01% of the assessed value of such properties. New law extends the authorization for the levy of fees through June 30, 2014.

Effective July 1, 2010. (Amends R.S. 47:1838)

Orleans Parish Assessor (Act No. 204)

New law provides for the transfer of all books, papers, records, money, account receivables, actions, and other property of every kind, movable and immovable, real and personal, possessed, controlled, or used, by the Board of Assessors of Orleans Parish to the Orleans Parish assessor. New law further provides for the transfer of all legal proceedings and documents relating to activities, facilities, and functions of the Board of Assessors of Orleans Parish to the Orleans Parish assessor, and requires no amendment necessary to any document to substitute the name of the original assessor or other office for the Orleans Parish assessor.

Effective upon signature of governor or lapse of time for gubernatorial action. (Amends R.S. 47:1903.2)

Orleans Parish Assessments (Act No. 676)

Prior law provides that each assessor shall prepare lists showing the assessment of immovable and movable property in and for his parish or district; that such lists shall be exposed daily for inspection by the taxpayers and other interested persons for the period of 15 days; that taxpayers may appeal for a public hearing on the assessment to the board of review; that following the board of review determination, taxpayers may appeal to the tax commission.

New law provides special provisions for the inspection of assessment lists and appeal in Orleans Parish. The assessor shall prepare lists showing assessment of immovable and movable property which shall be exposed daily, except Saturday, Sunday and legal holidays during the period of August 1st through August 15th each year.

New law provides that the board of review shall consider all written complaints in which the taxpayer has timely filed the reports required by law for fair market and use valuation and which meet specified requirements. New law provides that the board of review shall convene hearings on or before Sept. 15th and may appoint one or more board members as hearing officers. New

law provides that the board may make a determination to increase or decrease the assessment of real or personal property made by the assessor in accordance with the fair market or use valuation as determined by the board.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 47:1992(G))

Ad Valorem Tax Notices (Act No. 823)

Prior law provided that on the second day after the deadline for payment of ad valorem taxes each year, or as soon thereafter as possible, the tax collector shall send a written notice by U.S. mail postage prepaid to each tax notice party when the tax debtor has not paid all the statutory impositions which have been assessed on immovable property. New law changes the deadline for mailing notice of the delinquency of ad valorem taxes from the second day after the deadline for payment to Feb. 1 of each year, or as soon thereafter as possible. New law additionally changes the mailing requirement from U.S. mail postage prepaid to certified mail, return receipt requested.

Effective August 15, 2010. (Amends R.S. 47:2153(A))

Tax Sales (Act No. 817)

Prior law provides for the various procedures and forms necessary for the issuance of the notice of delinquency and the conducting of a tax sale. New law authorizes utilization of the Internet to publish the portion of the notification and advertisement that details the names of delinquent tax debtors, the amount of statutory impositions due, and the description of each specific piece of immovable property to be offered for sale. Such Internet publication would be in addition to the printed notice requirements as provided in existing law.

Effective August 15, 2010. (Amends R.S. 47:2153(B)(1))

Deposit Required from Registered Tax Sale Participants (Act No. 716)

New law authorizes a tax collector to require all registered tax sale participants to provide a deposit, up to \$1,000, prior to the commencement of the tax sale. Such deposit shall be made in a form approved by the tax collector.

New law provides that the deposit paid by the winning bidder shall be applied toward the sale price at the time of purchase. The deposit paid by a non-winning bidder shall be returned to the depositor within 14 days of the close of the sale.

Effective August 15, 2010. (Adds R.S. 47:2153(B)(7))

Minimum Bid Requirements for Public Sale of Adjudicated Property (Act No. 947)

Old law authorizes the governing authority of each political subdivision to set a dollar amount as a minimum bid for the public sale of adjudicated property, which shall be at least the total amount of statutory impositions, governmental liens, and costs of sale. Old law authorizes a governing authority to elect to require an appraisal of adjudicated property to be sold at public sale. If the political subdivision elects to use the appraised value to establish a bidding floor instead of setting a dollar amount minimum bid, the political subdivision shall appoint a licensed appraiser to appraise and value the property. The minimum bid at the first public sale shall be at least 2/3 of the appraised value of the property. If the property fails to sell at the first public sale, the minimum bid at the second sale shall be 1/3 the appraised value of the property.

New law retains old law but adds authorization for a governing authority of a political subdivision to elect to sell adjudicated property at a public sale to the highest bidder without setting a minimum bid or requiring an appraisal.

Old law requires a public sale to be advertised twice in the official journal of the political subdivision. The advertisement shall provide for the minimum bid, the latest date written bids

will be accepted, the time and date of in-person bidding, and any other terms of sale.

New law retains old law but adds that if no minimum bid is set by the governing authority of a political subdivision, the advertisement shall include a statement that no minimum bid is set and that the property shall be sold to the highest bidder.

Old law provides that the ordinance allowing for the public sale of adjudicated property may provide that the public sale may be subject to terms and conditions imposed by the political subdivision in the ordinance.

New law retains old law but adds authority for a political subdivision to authorize a public sale of adjudicated property at a price to be determined by the highest bidder without setting a minimum bid or requiring an appraisal.

Effective August 15, 2010. (Amends R.S. 47:2202(A), 2203(C), and 2204)

Sale or Redemption of Property Adjudicated to the State (Act No. 281)

Prior law provides for adjudication of property for nonpayment of taxes to political subdivisions because there are no state property taxes. However between 1880 and 1973, the state did have a state property tax and property for which no tax payments had been made was adjudicated to the state. New law provides that the state may lease, transfer, or sell such property under the statutes authorizing the sale of state immovable property; however, if the property is occupied, the state shall notify the occupier of the adjudication and the need to either redeem or cancel the adjudication.

Prior law provides for redemption of adjudicated properties through the tax collector of the appropriate political subdivision.

New law provides that redemptions of property adjudicated to the state are to be made through the register of the state land office.

Prior law provides that upon payment of the redemption costs, the tax collector issues a redemption certificate and file the certificate in the appropriate conveyance records. New law

provides that when a redemption certificate is issued by the register of the state land office for property that had been adjudicated to the state, the person redeeming the property shall file the redemption certificate in the appropriate conveyance records of the parish in which the property is located.

Prior law provides time limits for the right to redeem property adjudicated to a political subdivision. New law provides that for property adjudicated to the state, any person may redeem the property in the name of the tax debtor subject to any encumbrances placed on it by the state until the state sells or transfers the property.

Effective August 15, 2010. (Amends R.S. 47:2243, 2245, and 2246; Adds R.S. 47:2196(E))

Assessment of Unoccupied Residential Real Estate (Act No. 1044)

New law authorizes an assessor to consider the "income approach" when performing a valuation of unoccupied residential immovable property held for sale by a juridical person prior to the initial occupancy. In considering the income approach, factors such as the estimated sales price of the property, the estimated holding period needed to sell the property, expenses incurred during the holding period, and the capitalization rate which includes the economic risks associated with the holding period shall be considered by the assessor.

New law further provides that the "initial occupancy" of residential immovable property shall mean the first occupancy of the property by a natural person, as well as occupancy by a natural person after substantial modification has been made to the property.

Effective August 15, 2010. (Adds R.S. 47:2323(D))

Estate Transfer Taxes Due to the State (Act No. 727)

New law adds that estate transfer taxes due to the state on estates, subject to the federal estate tax, of decedents who died on or after Jan. 1,

2005 and on or before Dec. 31, 2009, for which no estate transfer tax return has been filed before Jan. 1, 2010, shall be deemed due on Jan. 1, 2010.

New law provides that estate transfer taxes shall be subject to interest and such interest shall begin to accrue nine months after the death of the decedent and shall continue to accrue until the tax is paid. New law provides that no penalty or interest shall apply or be assessed when a succession is opened no later than the last day of the ninth month following the death of the decedent.

New law authorizes the secretary of the department to accept an extension of time to file a U.S. Estate Tax Return for the same decedent as an extension of time to file a La. estate transfer tax return.

Effective Jan. 1, 2010 (except that provisions of existing law as provided for in Act No. 822 of the 2008 R.S. as it relates to inheritance taxes due to the state for deaths occurring before July 1, 2004 for which no inheritance tax return has been filed before Jan. 1, 2008 shall become effective Jan. 1, 2008). (Amends R.S. 47:2433 and §§2 and 3 of Act No. 822 of 2008 R.S.)

TITLE 48: ROADS, BRIDGES AND FERRIES

Statewide Digital Geospatial Database (Act No. 782)

New law authorizes DOTD to develop and maintain a statewide digital geospatial database, with regard to its topographic mapping responsibilities. New law requires DOTD to act as authority for geographic names, set standards for the mapping of topographic features, and plan and manage data collection for incorporation into a statewide database. New law requires DOTD to adopt rules and regulations, in accordance with the APA, as are necessary for the planning and managing of the geospatial data.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 48:36)

Road Construction Signs (Act No. 45)

Prior law required contractors who were under contract with DOTD for the construction or improvement of highways and bridges to erect a sign stating the contractor's name, the scheduled completion date, and other information. New law deletes prior law.

Effective August 15, 2010. (Amends R.S. 48:256.2)

Off-Premise Signs (Act No. 616)

Prior law provides that off-premise advertising shall comply with the federal-state agreement and the state provisions of law and regulations that were in effect at the time the state permit was granted, and with all state provisions of law and regulations that have been enacted subsequent to the erection of the off-premise advertising, which are more stringent than the federal-state agreement.

New law requires the following procedures to apply to conforming out-of-standard signs, subject to expropriation by the department, as follows:

(1) Owners of conforming out-of-standard signs who voluntarily execute a partial waiver and reset agreement with DOTD may reset and illuminate a conforming out-of-standard sign. Reset agreements shall be contingent upon obtaining any required local approval to reset the conforming out-of-standard sign, as well as the approval of the landowner of the same or adjoining property.

(2) The partial waiver and the reset agreement shall specify the width and height of the sign face, the overall height of the sign, the sign type, the type of illumination, the type of construction, the distance to the nearest sign, and the location of the rebuilt sign. If the owner of the conforming out-of-standard signs fails to execute the agreement within 120 days of receiving written notice from DOTD that the conforming out-of-standard signs will be displaced by construction, DOTD shall initiate normal expropriation procedures, and the owner

of the conforming out-of-standard sign shall receive compensation for removal of the conforming out-of-standard sign.

(3) All conforming out-of-standard signs shall be subject to the annual permit fees provided for in DOTD regulations on outdoor advertising.

Effective August 15, 2010. (Amends R.S.48:461.1, and adds 461.6(C))

Limited Liability for RTA Manager (Act No. 854)

Existing law provides a limitation of liability for the Regional Transit Authority (RTA) by providing that the RTA shall not be deemed a "person" or a "common carrier", each as defined in existing law, and provides that the authority shall not be deemed to be a common carrier by any court of this state in a suit for personal injury or property damage. New law extends existing law to include any entity contracted to manage or operate the RTA for purposes of liability.

Effective August 15, 2010. (Amends R.S. 48:1656(23))

Intrastate Rail Compact Act (Act No. 858)

Prior law provided that after a public hearing, the commission may allow the closure of a private crossing of a railroad if it determined that closure or removal of the private crossing was necessary for safety and in the best interest of the public. New law requires a determination by the commission that the private railroad crossing unreasonably burdens or substantially interferes with rail transportation before closure of the crossing is allowed.

New law authorizes any parish or municipality or a combination of parishes and municipalities to form a quasi-governmental entity called a "compact" to construct and operate "transit way facilities" along a transit corridor within the state.

New law authorizes the compact to have powers, including but not limited to fixing, revising, and adjusting from time to time, fees and charges for each project sufficient to pay all or a portion of

maintenance, operation, debt services, and reserve or replacement costs.

New law authorizes eminent domain and the acquisition of property prior to judgment and requires it to be used solely for the purpose of a construction railway transportation system and for other public purposes and not for the exercise of, or accommodation for, private development interests.

New law specifically prohibits a freight railroad system or any of its infrastructure or assets to be taken or included within the operational activities of any compact unless specifically agreed to by the freight railroad company.

New law requires the compact to contract with state police, a law enforcement district, or municipal law enforcement agency for law enforcement and patrol functions.

New law authorizes a compact to levy "special benefit assessments" for needed public rail transit facilities and services on the property which benefits from those facilities and services if the qualified electors of the municipality or parish vote in favor.

New law authorizes a compact to exercise the powers granted to an economic development district but prohibits state tax increments to be dedicated to pay any revenue bonds of any compact.

New law requires contracts for the construction, improvement, repair, or maintenance of any municipal street system project, parish-related project, or project of a compact be made and awarded pursuant to Chapter 10 of Title 38.

New law authorizes the issuance of revenue bonds. Prior to issuance of any bonds, the compact shall adopt and present a plan for projects, estimated expenditures, and receipts for all capital improvements and a time schedule for the projects.

New law provides that an exception be made for publicly funded improvements made to private railway property under contract to the compact for a public benefit, where the labor organizations of the private railway have agreements to carry out work on such property.

New law requires termination of the compact upon repayment of all debt, the deposit of funds in trust for such purpose, or the final resolution of any disputes or litigation pending, whichever item is last.

Effective upon signature of governor (June 30, 2010). (Amends R.S. 48:394(A)(1) and (C); Adds R.S. 48:394(D) and 2170-2189)

TITLE 49: STATE ADMINISTRATION

Coastal Use Permits and Pipeline Repair (Act No. 834)

New law requires that prior to issuance of a coastal use permit, the secretary of the Dept. of Natural Resources shall ensure that the activity for which application is being made is consistent with the state's master plan for integrated coastal protection.

New law requires that any permit granted to repair or replace a pipeline that would impact integrated coastal protection in the state's master or annual plan shall include a requirement that the pipeline owner shall be responsible for the cost to repair or replace such pipeline.

New law provides that the pipeline owner shall be responsible for the performance of any pipeline relocation work to accommodate the construction of any integrated coastal protection, and that any incremental costs associated with such relocation work shall be reimbursed to the pipeline owner by the appropriate federal, state, or local governmental agency.

Effective August 15, 2010. (Amends R.S. 49:214.30(A))

Information from Secretary of State (Act No. 70)

Prior law provides that requests for information, including without limitation requests for a correct corporate name, agent for service of process, and officer's names, which require a written response, will be answered by mailing a letter listing the information. Prior law requires a \$1.00 processing fee for each corporate,

partnership, limited liability company, or trade name letter. New law removes these provisions from present law.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 49:222(B)(12))

DOJ Legal Support Fund (Act No. 1033)

Existing law establishes the Dept. of Justice Legal Support Fund (the fund) for defraying the costs of expert witnesses, consultants, contract legal counsel, technology, specialized employee training and education, and public education initiatives.

Prior law provided that the fund balance should not exceed \$1 million. New law increases the maximum fund balance from \$1 million to \$10 million.

Effective July 1, 2010. (Amends R.S. 49:259(B))

Mineral Income Advisory Committee (Act No. 948)

Old law provides for the state treasurer to engage in mineral revenue contracts.

New law retains old law and creates the Mineral Income Advisory Committee (the committee).

New law provides that no later than May 1 each year, the committee shall report any findings and recommendations to the Revenue Estimating Committee, which shall consider any recommendations at their first meeting following receipt of such report.

Old law provides that all contracts authorized have been selected by the state treasurer through a request for proposal or bid process and any swap bank selected is at least "AA" rated according to industry standards. New law retains old law and provides that the Mineral Income Advisory Committee may also use other standards to select the bank.

Effective August 15, 2010. (Amends R.S. 49:330)

Administrative Procedure Act (Act No. 775)

New law provides that the terms "adopt", "adopted", and "adoption", when pertaining to a fee, shall include action proposed by an agency to adopt, apply, assess, charge, implement, levy, or otherwise collect a fee.

New law provides that the APA applies to the increase or decrease of fees, as well as the adoption of fees.

New law requires that all exceptions, exemptions, and limitations to the APA pertaining to the adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee be provided for in the provisions of the APA or the constitution. New law provides that any exception, exemption, and limitation to the APA pertaining to the adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee not provided for within the provisions of the APA or in the constitution shall have no effect.

New law incorporates by reference the following present law exceptions to some or all of the provisions of the APA into the APA itself:

(1) R.S. 6:121.1(A) relative to the confidentiality of information when the commissioner of financial institutions determines that a public hearing is necessary to enforce the La. Banking Law.

(2) R.S.6:121.3(A), advisory opinions and interpretations of the office of financial institutions relative to the La. Banking Law; R.S. 6:969.34, advisory opinions and interpretations of the La. Motor Vehicle Commission relative to the La. Motor Vehicle Sales Finance Act; R.S. 6:1092(F), advisory opinions and interpretations of the office of financial institutions relative to the La. Secure and Fair Enforcement of Mortgage Licensing Act of 2009; R.S. 9:3552(C) and 3556.2(A), advisory opinions and interpretations of the office of financial institutions relative to the La. Consumer Credit Law; R.S. 37:1806.1(B), advisory opinions and interpretations of the office of financial institutions relative to the La. Pawnshop Act; R.S. 51:1929.1(A), advisory opinions and interpretations of the commissioner of financial institutions relative to the La.

Capital Companies Tax Credit Program; R.S. 51:2389.1(A), advisory opinions and interpretations of the office of financial institutions relative to the La. BATCH Act; R.S. 51:3090, advisory opinions and interpretations of the commissioner of financial institutions relative to the La. Community Development Financial Institution Act. Old law provides that such opinions and interpretations are not considered rules.

(3) R.S. 9:3561(D)(2)), relative to the La. Consumer Credit Law and determinations of the single place of business of a licensee when a person acquires or controls the licensee.

(4) R.S. 13:4202(B)(2), relative to publication of the annual judicial interest rate determined by the commissioner of financial institutions.

(5) R.S. 18:1511.2(B), relative to advisory opinions of the Board of Ethics concerning the application of a general provision of the Campaign Finance Disclosure Act.

(6) R.S. 22:1260.10(B), relative to injunctive relief sought by the commissioner of insurance under the La. Discount Medical Plan Act.

(7) R.S. 27:220(C) which authorizes the La. Economic Development and Gaming Corporation to adopt special procedures for promulgation of rules and regulations.

(8) R.S. 29:788(C), relative to orders to modify or restrict the health services that volunteer health practitioners may provide under the Uniform Emergency Volunteer Health Practitioners Act.

(9) R.S. 30:4(I)(5), relative to the commissioner of conservation's regulation of offsite disposal of nonhazardous wastes.

(10) R.S. 30:918(B) and 925, relative to civil penalties levied by the commissioner of conservation for violation of a permit condition or other provision of law.

(11) R.S. 37:2012(B)(1), relative to reports by the La. State Board of Medical Examiners on continuing education requirements of the La. Occupational Therapy Practice Act of 1979.

(12) R.S. 40:5.3(B), relative to closing and reopening molluscan shellfish growing areas.

(13) R.S. 40:406(B)(1), relative to local housing authorities.

(14) R.S. 40:600.6(A)(4)(b), relative to numerous exceptions from the APA applicable to programs of the La. Housing Finance Agency.

(15) R.S. 49:258(1), relative to the appointment of private legal counsel to represent the state or a state agency.

(16) R.S. 51:1285(A), relative to the La. Tourism Promotion District and its exercise of its rights and powers.

(17) R.S. 56:319(D), relative to permits for exotic fish.

(18) R.S. 56:2014, relative to cease and desist orders of the secretary of the Dept. of Wildlife and Fisheries regarding unlicensed dredging.

New law recognizes that there are provisions of present law which authorize an agency to adopt, increase, or decrease a fee without specifically providing that such action be taken in accordance with the APA. New law provides that any action taken pursuant to such prior authorization shall be in accordance with the APA, unless it is specifically otherwise provided for in the state constitution or in law and the citation of such law appears in the APA.

New law provides that the provisions of the APA relative to fees shall not be applicable to a higher education management board created by present constitution (Article VIII, Section 6, 7, or 7.1).

Effective upon signature of the governor or lapse of time for gubernatorial action. (Amends R.S. 49:951(7) and 967; adds R.S. 49:951(1.1))

APA and Prisons (Act No. 889)

New law provides that the provisions of the Administrative Procedure Act do not apply to the procedures and policies concerning the process for implementing a sentence of death or to any rule, regulation, or policy and procedure statements issued by or for the Dept. of Public Safety and Corrections, corrections services, concerning:

(1) The internal management and daily operations of a correctional institute, probation and parole district office, or headquarters function.

(2) General law statements that are substantially repetitions of state or federal law.

(3) The implementation and processes for carrying out a court ordered sentence of death and any and all matters related to the regulations for the sentence of death.

New law provides that the provisions of the Administrative Procedure Act only apply to the regulations and policies of the Dept. of Public Safety and Corrections, corrections services, that affect the substantial rights of, or administrative remedies available to, the public or any offender incarcerated in a state correctional facility or local jail facility.

Effective August 15, 2010. (Adds R.S. 15:569(D) and R.S. 49:967(E) and (F))

Administrative Procedures (Act No. 683)

Existing law provides that any board, commission, department, or agency which is required, pursuant to a federal mandate and as a condition of federal funding, to conduct or to render a final order in an adjudication proceeding is exempt, to the extent of the federal mandate, from the provisions of existing law requiring all adjudications under the APA to be conducted by the division of administrative law.

Existing law provides that in adjudications commenced by the division of administrative law, the administrative law judge shall issue a final decision or order and the agency shall have no authority to override such order. New law creates an exception to existing law for certain adjudications initiated under new law.

New law, relative to hearings and adjudications of the depts. of health and hospitals (DHH), social services (DSS), and education (DOE), and any agency within these departments, requires such hearings and adjudications to be conducted by the division of administrative law except as follows:

(1) Exempts the hearings function if the agency is prohibited pursuant to a federal mandate or as a condition of federal funding from delegating its fair hearings function. The burden of proving that its hearings function is exempt falls on the department or agency.

(2) Exempts the hearings function and authority to render a final decision or order in an adjudication proceeding if the agency is prohibited pursuant to a federal mandate or as a condition of federal funding from delegating such function and authority. The burden of proving that its function and authority are exempt falls on the department or agency.

(3) (a) Provides that if an agency may delegate its fair hearings function but is required by federal mandate to render the final decision or order in an adjudication proceeding, then in those cases, the division shall conduct the hearing and issue a recommended decision. The recommended decision shall be delivered to the head of the agency, who shall have 35 days to reject, modify, or approve the decision. If he rejects or modifies the recommended decision, he shall specify in writing the findings of fact or conclusions of law which are being rejected or modified, which shall be considered to be the final decision or order in the adjudication proceeding. If the agency head does not reject or modify the initial decision within 35 days, or if he approves the recommended decision, then the recommended decision of the division shall be certified as the final decision or order of the agency.

(b) Provides that in TANF cases, if the secretary of DSS approves, rejects, or modifies the recommended decision of the division, that approved, rejected, or modified decision shall be issued by the division as the final decision of DSS.

(4) Provides that an adjudication of a decision by DHH to deny, suspend, or revoke the license of an outpatient abortion facility, ambulatory surgical center, home health agency, hospital, or nursing home pursuant to existing law shall be heard by a three member panel of administrative law judges. This panel shall be deemed to meet the requirements of a panel appointed by the secretary of DHH, and the panel shall issue a

final decision or order. This final decision or order shall be appealable to the district court for the parish of East Baton Rouge.

(5) Provides that hearings for the DOE required by the Individuals with Disabilities Education Act (IDEA) shall be adjudicated by the division, but the provisions of the Administrative Procedures Act shall not apply to such hearings.

New law requires the division of administrative law to adjudicate all stay requests related to involuntary discharges from nursing homes within 72 hours of receipt, and to adjudicate all appeals related to involuntary discharges from nursing homes within 30 days of receipt.

New law makes existing law exemptions for state professional and occupational licensing boards and other boards or commissions authorized by law to conduct hearings applicable to new law.

New law requires DHH and DOE to each enter into a memorandum of understanding with the division regarding procedures for docketing of appeals and issuing decisions.

New law requires that DHH, DSS, and DOE work with the division of administrative law to complete the transfer of adjudications to the division and the personnel, equipment, furniture, and budgets related to handling such adjudications no later than Jan. 1, 2011.

Effective August 15, 2010. (Amends R.S. 49:992)

Posting of Minutes, Budgets, Etc. of Most Government Boards (Act No. 814)

Existing law requires the commissioner of administration to establish and maintain a website to post certain specified information concerning boards and commissions of licensing agencies, including notices and minutes, statutory citations, contact information, membership information, employee information, information concerning the budget and finances of the board or commission, and rules and regulations of the board or commission.

New law expands the number of boards and commissions required to submit information by

including each board and commission whose members are required to file annual financial disclosure statements pursuant to existing law, namely:

- (1) A board or commission that has the authority to expend, disburse, or invest \$10,000 or more in a fiscal year.
- (2) The State Civil Service Commission.
- (3) The Board of Commissioners of the La. Stadium and Exposition District.

Existing law requires each board, commission, and like entity to submit information concerning the compensation of its members. New law provides that this information shall include per diem and reimbursement for travel expenses, including the amount of such expenses paid per meeting and an aggregate amount of such expenses paid per fiscal year.

Effective May 1, 2011. (Amends R.S. 49:1302(E); Adds R.S. 47:9004(B)(4) and R.S. 49:1305(A)(3) and 1307)

TITLE 50: SURVEYS AND SURVEYORS

TITLE 51: TRADE AND COMMERCE

Filmmakers Grant Program (Act No. 633)

New law, effective July 1, 2010, creates the La. Filmmakers Grant Fund to be used to support Louisiana's independent filmmakers through the La. Filmmakers Grant Program.

New law provides that the Dept. of Economic Development, office of entertainment industry development, shall administer the program. Grants shall not exceed the lesser of 50% of the total cost of the film or \$100,000.

Except as otherwise specified, effective upon signature of governor (June 25, 2010). (Amends R.S. 39:94 and R.S. 51:2365; Adds R.S. 47:6007(C)(7) and R.S.51:2361(C) and 2365(G))

Application for Designation as a Foreign Trade Zone (Act No. 747)

New law allows the New Orleans Regional Business Park and any airport with an industrial park or property designated for industrial development to make an application to be designated as foreign trade zones.

Effective August 15, 2010. (Amends R.S. 51:61, 64, and 65)

Manufactured and Modular Homes (Act No. 1018)

New law creates separate definitions of "code" for manufactured housing and for modular housing.

Old law provided that "seal" or "label" means the permanently affixed device or insignia issued by HUD that is displayed on the exterior of a manufactured home, certifying that the home is in compliance with the Code. New law allows the device or insignia to be issued by other authority having jurisdiction and that it is displayed on the exterior of a factory-built manufactured home.

New law requires all new modular homes sold or offered for sale in this state to comply with the Code.

New law authorizes the La. Manufactured Housing Commission to establish a mandatory uniform written transportation and installation contract that must be used by all transporters and installers when moving or installing a manufactured home in La.

Prior law requires that the area beneath and around a manufactured home be sloped or properly drained so that water will not accumulate under the home. New law allows for the home to be crowned so that water does not flow under the home.

Effective August 15, 2010. (Amends R.S. 51:911.22 and 911.23; Adds 911.26(F)(10))

DED Cooperative Endeavor Agreements (Act No. 1031)

New law imposes new requirements on cooperative endeavor agreements with the Dept. of Economic Development (DED):

(1) An agreement with a nongovernmental entity for economic development purposes shall contain the specific goals sought to be achieved by the nongovernmental entity and methods for reimbursement to the state if those goals are not met. A nongovernmental entity (other than one participating in a business incubator program, Quality Jobs Program, or Enterprise Zone Program) that defaults on the agreement, breaches the terms of the agreement, ceases to do business, or ceases to do business in Louisiana, shall be required to repay the state, and the agreement shall set out the terms of the repayment.

(2) An agreement based on a legislative appropriation to a public or quasi-public agency or entity which is not a state budget unit shall include a comprehensive budget, showing all anticipated uses of the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives, including measures of performance.

(3) A notification from DED to all businesses entering into cooperative endeavor agreements of the specific goals within the Louisiana Hudson Initiative and the Veterans Initiative, as set forth by the Div. of Admin.

(4) All agreements shall contain a plan to monitor compliance with the terms of the agreement, assigning a particular person within DED to be responsible for monitoring the agreement. Written reports shall be provided to DED at least every six months concerning the use of funds and the specific goals and objectives for the use of the funds.

New law shall not apply to any existing economic development programs established prior to the effective date of new law.

Effective August 15, 2010. (Adds R.S. 51:933)

Gift Certificates (Act No. 174)

New law requires the issuer to redeem the remaining value of the gift certificate for cash if the remaining value is \$5.00 or less, upon request of the holder.

Effective August 15, 2010. (Amends R.S. 51:1423; adds R.S. 51:1423(F))

Child Support Collection Protection Act (Act No. 872)

New law provides that FITAP recipients shall not enter into contracts for the collection of support.

New law provides that private child support collection agencies shall register with the secretary of state and shall provide certain information and either a surety bond or a deposit of money in the amount of \$50,000.00.

New law provides requirements for child support enforcement services contracts between obligees and collection agencies.

New law requires the collection agency to act as a trustee and fiduciary, advise that there is no obligation to hire a private agency to collect support, and provide an accounting.

New law requires any collection agency to forward collections due to the obligee within two days of receipt.

New law provides that case records shall be safeguarded in a manner reasonably expected to prevent intentional or accidental disclosure of information.

New law provides that every person who contracts with a private child support collection agency has the right to obtain copies of all files and documents regarding the case which are not required to be kept confidential.

New law requires the collection agency to convey any offer of settlement or compromise made by the obligor to the obligee in writing.

New law requires the collection agency to obtain from the obligee a certified copy of the order of support, a statement executed under oath of the arrears balance and the dates they accrued, and any judgments at the time the contract is signed.

New law provides that the collection agency contact the obligor and provide him with an opportunity to dispute the existence or amount of the child support obligation within 30 days after receipt of the notice.

New law provides various civil penalties for violations of new law and authorizes the court to award court costs and attorney fees in certain circumstances.

Effective upon signature of the governor or lapse of time for gubernatorial action. (Adds R.S. 46:236.1.5(D) and R.S. 51:1441-1448)

Unfair Trade Practices (Act No. 74)

New law provides that it is unlawful for a person to develop or manufacture a product, or to develop or supply a service, using stolen or misappropriated property, including but not limited to computer software that does not have the necessary copyright licenses, where that product or service is sold or offered for sale in competition with those doing business in this state. Any violation is an unfair method of competition and unfair practice or act and subjects the violator to any and all actions and penalties provided for in Unfair Trade Practices and Consumer Protection Law. A violation of new law occurs each time such a product or service is sold or offered for sale.

Effective August 15, 2010. (Adds R.S. 51:1427)

Economic Development Fund Information (Act No. 420)

New law requires the secretary of the Dept. of Economic Development to develop a uniform accountability report for economic development opportunities created by the Rapid Response Fund and the La. Mega-Project Development Fund and to develop a formula for measuring the return on investment for each such project.

New law requires the Dept. of Economic Development to compile and make available a list of the cooperative endeavor agreements, the name of the entity receiving funds, and the amount of the incentive received for all such projects.

Effective Jan. 1, 2011. (Adds R.S. 51:2362 and 2366)

Severance Tax Rebates for Mega Projects (Act No. 1006)

New law authorizes the secretary of the Department of Economic Development (DED), with the concurrence of the governor, to enter into a cooperative endeavor agreement to grant assistance to a mega project, subject to approval of the cooperative endeavor agreement by the Joint Legislative Committee on the Budget. The assistance may be granted only if the secretary determines that the consumption of energy will be a major cost component of the operation of a mega-fund project and assistance in moderating the cost of such energy will be a major factor in inducing a mega-fund project to locate, expand, or remain in the state. Also, the assistance may only be granted if the secretary of DED certifies to the governor and the Joint Legislative Committee on the Budget that the grant of the energy assistance rebate will not harm any business located in the state which may be a competitor of the business to be undertaken by the mega-fund project.

The rebate is in the form of a rebate of Louisiana severance taxes that were paid on any natural gas consumed or used directly in the operation of the mega-project facility or consumed indirectly in the manufacture or creation of energy sold to the mega-project facility for its operation.

Effective July 1, 2010. (Adds R.S. 51:2366)

TITLE 52: UNITED STATES

TITLE 53: WAR EMERGENCY

TITLE 54: WAREHOUSES

TITLE 55: WEIGHTS AND MEASURES

TITLE 56: WILDLIFE AND FISHERIES

Quality Deer Management Program (Act No. 337)

New law creates the Quality Deer Management Program ("program") and provides that the DW&F has authority over the program. New law requires the DW&F to formulate additional guidelines according to property specific objectives, goals, and limitations.

New law requires the program to be developed as a management philosophy that encourages good stewardship and unites landowners, hunters, and managers in a common goal of producing biologically and socially balanced deer herds within existing environmental, social, and legal constraints. New law requires the DW&F to use its resources to do the following:

- (1) Instruct and train qualified personnel as to the policies and procedures for administering the program.
- (2) Supply landowners, hunting clubs and cooperating agencies with pertinent brochures, handouts, and other information containing management techniques and applications.
- (3) Properly suggest and prepare wildlife management recommendations.
- (4) Develop and maintain a close working relationship with other state and federal agencies or non-governmental organizations that have similar or corresponding programs directly or indirectly affecting public and private land development and management.
- (5) Provide incentives to encourage landowners and hunting clubs to participate in the program.

New law provides that the program is voluntary, and landowners or hunting clubs who participate in the Quality Deer Management Assistance Program are eligible to participate in this program.

New law provides that qualification for participation in this program will be determined by rules and regulations promulgated by the department, in accordance with the APA.

Effective August 15, 2010. (Adds R.S. 56:110.1)

Oyster Leases - Recordation (Act No. 267)

Existing law requires the recordation of all oyster leases within 30 days of the issuance of the lease. Prior law provided that renewals or extensions of previous leases be recorded within 30 days as though they were new leases. New law requires recordation of renewals or extensions within six months of the date of the expiration of the previous lease.

Effective August 15, 2010. (Amends R.S. 56:426(D))

Oyster Harvesting (Act No. 270)

New law provides that during the "seed only" portion of oyster season on the public seed grounds the following restrictions apply:

- (1) No harvester actively harvesting in the public seed grounds shall have containers on his vessel that can be used to hold oysters for transport to market.
- (2) All oysters found on a vessel actively harvesting oysters shall be presumed to be harvested from the public seed grounds.
- (3) No harvester can sell or transport to market oysters intended for market sales on the same day as he harvests from the public seed grounds.

Effective August 15, 2010. (Amends R.S. 56:434(G); Adds R.S. 56:434(H))

Raw Oysters (Act No. 269)

New law provides that oysters harvested from La. waters may be sold for raw consumption within the state at all times during the year. New law provides that federal regulations which may prohibit the interstate transportation and sale of oysters which have not been postharvest treated shall not apply to oysters harvested, sold, and consumed within the state of La.

New law authorizes the Dept. of Health and Hospitals to promulgate rules and regulation to administer new law and authorizes the Dept. of Wildlife and Fisheries to enforce such rules and regulations.

Effective August 15, 2010. (Adds R.S. 56:437)

Certification Program to market said product under the auspices of the program.

Effective August 15, 2010. (Adds R.S. 56:578.15)

La. Wild Seafood Certification (Act No. 294)

New law authorizes the secretary of the Dept. of Wildlife and Fisheries to establish a quality certification program for La. wild fish and wild seafood products, including wild-caught shrimp, which are taken, harvested, or landed in La. New law requires promulgation of certification standards which may include harvest requirements, post-harvest refrigeration requirements, quality standards, handling practices, traceability, branding and branding registrations, recording requirements, compliance standards, and packaging regulations.

New law provides that all seafood product intended to be marketed as La. Wild Seafood certified must meet all criteria and requirements as set out in the department's rules and regulations. Any product sold or attempted to be sold under the auspices of the program which does not meet the standards will be removed from the market.

New law requires any fisherman or seafood dealer wishing to participate in the program to apply to the department for a participation permit. Such permit may be suspended or revoked by the department for violation of the provisions of the program. Such permit authorizes anyone who harvests or markets La. wild fish or wild seafood products in accordance with the requirements of the La. Wild Seafood