

**2011 LOUISIANA
LEGISLATIVE ACTS
SUMMARY**

2011 Legislative Acts Summary

Contents

This book summarizes those new laws passed by the Louisiana Legislature in 2011 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 2011 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

Rei Lovetro – downloaded legislative staff summaries from the Legislature's website, implemented all first and second round edits for entire book, and assembled all of the summaries in proper order for entire book

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

Table of Contents

	<u>Page</u>
Constitution.....	1
Civil Code.....	2
Code of Civil Procedure.....	2
Code of Criminal Procedure.....	3
Code of Evidence.....	4
Children's Code.....	4
Multiple Codes or Titles.....	5
Uncodified.....	9
Title 1: General Provisions.....	9
Title 2: Aeronautics.....	9
Title 3: Agriculture and Forestry.....	9
Title 4: Amusements and Sports.....	10
Title 5: Auctions and Auctioneers.....	10
Title 6: Banks and Banking.....	10
Title 7: Bills and Notes.....	12
Title 8: Cemeteries.....	12
Title 9: Civil Code Ancillaries.....	12
Title 10: Commercial Laws.....	15
Title 11: Consolidated Public Retirement Systems.....	15
Title 12: Corporations and Associations.....	15
Title 13: Courts and Judicial Procedure.....	15
Title 14: Criminal Law.....	16
Title 15: Criminal Procedure.....	17
Title 16: District Attorneys.....	19
Title 17: Education.....	19
Title 18: Louisiana Election Code.....	22
Title 19: Expropriation.....	23
Title 20: Homesteads and Exemptions.....	24
Title 21: Hotels and Lodging Houses.....	24
Title 22: Insurance.....	24
Title 23: Labor and Workers' Compensation.....	30
Title 24: Legislature and Laws.....	31
Title 25: Libraries, Museums, and Other Scientific and Cultural Facilities.....	31
Title 26: Liquors – Alcoholic Beverages.....	32
Title 27: Louisiana Gaming Control Law.....	33
Title 28: Mental Health.....	33
Title 29: Military, Naval, and Veterans' Affairs.....	33
Title 30: Minerals, Oil, Gas and Environmental Quality.....	33
Title 31: Mineral Code.....	33
Title 32: Motor Vehicles and Traffic Regulation.....	33
Title 33: Municipalities and Parishes.....	37
Title 34: Navigation and Shipping.....	38
Title 35: Notaries Public and Commissioners.....	39
Title 36: Organization of Executive Branch of State Government.....	39

Table of Contents

(continued)

	<u>Page</u>
Title 37: Professions and Occupations.....	39
Title 38: Public Contracts, Works and Improvements	45
Title 39: Public Finance	49
Title 40: Public Health and Safety	49
Title 41: Public Lands	56
Title 42: Public Officers and Employees	56
Title 43: Public Printing and Advertisements	57
Title 44: Public Records and Recorders.....	57
Title 45: Public Utilities and Carriers	57
Title 46: Public Welfare and Assistance	57
Title 47: Revenue and Taxation	58
Title 48: Roads, Bridges and Ferries.....	66
Title 49: State Administration.....	66
Title 50: Surveys and Surveyors	66
Title 51: Trade and Commerce	67
Title 52: United States	69
Title 53: War Emergency	69
Title 54: Warehouses	69
Title 55: Weights and Measures.....	69
Title 56: Wildlife and Fisheries	69
Appendix A: Summaries by Other Organizations	
Appendix B: Acts of 2011 First Extraordinary Session	
Appendix C: Acts of 2011 Regular Session	

CONSTITUTION

Patient's Compensation Fund (Act No. 421)

Proposed constitutional amendment authorizes the legislature to establish the Patient's Compensation Fund as a private custodial fund in which any income from it is not public money, shall not be state property, and shall not be subject to appropriation by the legislature. Proposed constitutional amendment provides that assets in the fund, including surcharges, reserves, interest earned, and securities, are not state property and are not for deposit in the state treasury.

Proposed constitutional amendment provides that the fund may not rely on the full faith and credit of the state for the payment of legal obligations, and that the fund shall be exempt from any protection of any guaranty fund or insolvency fund.

The proposed amendment is to be submitted to the voters at the statewide election to be held Oct. 22, 2011.

(Adds Const. Art. XII, §16)

Public Employee Retirement Funding (Act No. 422)

Present constitution provides that any money designated in the official forecast as nonrecurring shall be appropriated for certain specified purposes.

Proposed constitutional amendment adds that for FY 2013-2014 and 2014-2015 a minimum of 5% of any money designated in the official forecast as nonrecurring shall be applied toward payment of the balance of the unfunded accrued liabilities for those liabilities which existed as of June 30, 1988, for the La. State Employees' Retirement System and the Teachers Retirement System of La. in proportion to the balance of such unfunded accrued liability of each system.

Proposed constitutional amendment further provides that for FY 2015-2016 and every fiscal year thereafter the minimum amount applied

toward payment of the balance of the unfunded accrued liabilities shall increase to 10%.

The proposed amendment is to be submitted to the voters at the statewide election to be held Oct. 22, 2011.

(Amends Const. Article VII, §10(D)(2)(b))

Tobacco Money Expenditure (Act No. 423)

Present constitution creates the Millennium Trust as a special permanent trust in the state treasury to receive certain monies as a result of the Tobacco Master Settlement Agreement.

Present constitution provides that beginning Fiscal Year 2002-2003, and each fiscal year thereafter, 75% percent of the total monies received that year shall be allocated in a specified manner.

Proposed constitutional amendment appears to update and fix language in present constitution while maintaining essentially the same allocation.

The proposed amendment is to be submitted to the voters at the statewide election to be held on October 22, 2011.

(Amends Const. Art. VII, Section 10.8)

Budget Stabilization Fund (Act No. 424)

Present constitution establishes the Budget Stabilization Fund and provides certain revenues are to be deposited into the fund.

Present constitution permits up to 1/3 of the Budget Stabilization Fund, subject to 2/3 approval of each house of the legislature, to be incorporated in the next fiscal year's official forecast if revenue estimates for the next fiscal year are less than the official forecast for the current fiscal year. Present constitution further permits up to 1/3 of the Budget Stabilization Fund, subject to 2/3 approval of each house of the legislature, to be appropriated for the current fiscal year budget if a deficit for the current fiscal year is projected due to a decrease in the official forecast.

Proposed constitutional amendment provides that if the balance in the fund is at its maximum during the fiscal year and money in the fund is made available for appropriation or use as provided in present constitution, no deposit to the fund of mineral revenues shall be made in the fiscal year for which money in the fund is appropriated or for which money in the fund is incorporated into the official forecast nor for the ensuing fiscal year.

The proposed amendment is to be submitted to the voters at the statewide election to be held on October 22, 2011.

Effective July 1, 2012, if approved by voters.

(Adds Const. Art. VII, Sec. 10.3(C)(5))

Prohibition Against Certain New Taxes (Act No. 425)

Proposed constitutional amendment adds a prohibition, beginning Nov. 30, 2011, on the levy of new taxes or fees upon the sale or transfer of immovable property, including documentary transaction taxes or fees or any other tax or fee, from being levied by the state or by a political subdivision.

Proposed constitutional amendment excludes from the prohibition fees for the cost of recordation, filing, or maintenance of documents, or records effectuating the sale or transfer of immovable property, impact fees for development of property, annual parcel fees, and ad valorem taxes.

The proposed amendment is to be submitted to the voters at the statewide election to be held Nov. 19, 2011.

Effective Nov. 30, 2011.

(Adds Const. Art. VII, §2.3)

CIVIL CODE

There were no new laws of interest.

CODE OF CIVIL PROCEDURE

Executory Process (Act No. 90)

New law adds a certified reproduction of a security agreement as authentic evidence in an action for executory process.

Effective August 15, 2011.

(Amends C.C.P. Art. 2636(5))

Small Successions (Act No. 323)

Prior law in Code of Civil Procedure defines "small succession" as the succession of a person who dies leaving property in Louisiana having a gross value of \$50K or less. On and after January 1, 2010, a "small succession" is the succession of a person who dies leaving property in Louisiana, the deceased's interest in which has a gross value of \$75K or less.

New law defines "small succession" as the succession or the ancillary succession of a person who has died at any time, leaving property in Louisiana having a gross value of \$75K or less valued as of the date of death.

New law provides that under certain circumstances a co-owner in possession of small succession immovable property that is damaged by a declared disaster or catastrophe may receive and expend funds given to him by a public entity to repair, reconstruct, and restore the property, and further authorizes the co-owner to execute mortgages to secure funds and encumber the immovable in order to repair, reconstruct, and restore the property without obtaining the concurrence of the other co-owners. New law shall expire on Jan. 1, 2013.

New law provides that judicial opening of a small succession is not necessary of a person domiciled in Louisiana who died intestate, or domiciled outside of Louisiana whose testament has been probated by court order of another state, and whose sole heirs are limited to specified classes.

New law changes references from "small succession immovable property" to "immovable

property" in provisions setting forth requirements for delivery of property.

Prior law provides that an action by a person, who claims to be a successor of a deceased person but who has not been recognized as such in an affidavit, to assert an interest in small succession immovable property formerly owned by the deceased, against a third person who has acquired an interest in the small succession immovable property, or against his successors by onerous title, is prescribed in two years from the date of the recording of the affidavit.

New law provides that an action by a person, who claims to be a successor of a deceased person but who has not been recognized as such in an affidavit, to assert an interest in *any* property formerly owned by the deceased, against a third person who has acquired an interest in the property, or against his successors by onerous title, is prescribed two years from the date of the recording of the affidavit.

New law is not intended to establish any necessity to open a succession judicially which does not qualify as a small succession.

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

(Amends C.C.P. Arts. 3421, 3431, 3432, and 3434; Adds C.C.P. Art. 3422.1)

CODE OF CRIMINAL PROCEDURE

Rearrest for Same Offense (Act No. 83)

Prior law provides that persons continued or remaining in custody pursuant to an arrest made without a warrant shall be entitled to a determination of probable cause within 48 hours of arrest, and that the failure to conduct the hearing results in release of the defendant on his own recognizance.

New law retains prior law, but permits the defendant's rearrest and resetting of bond for the same offense or offenses upon the issuance of an arrest warrant based upon a finding of probable cause by a magistrate.

Effective August 15, 2011.

(Amends C.Cr.P. Art. 230.2(B))

Mistrial Emergency Writ (Act No. 87)

Prior law provided that if a judge orders a mistrial, the court shall order a 24-hour stay of all proceedings without releasing the jury while the state or defendant takes an emergency writ application to the appropriate reviewing court.

New law provides that the emergency writ applies to all reviewing courts with appellate jurisdiction, including the La. Supreme Court.

Effective August 15, 2011.

(Amends C.Cr.P. Art. 775.1)

Sentencing (Act No. 349)

New law authorizes courts to reduce a defendant's sentence if the defendant provided substantial assistance in furtherance of the investigation or prosecution of another person.

New law provides that if the court reduces the sentence to a time period which is less than the minimum sentence provided by law, that sentence shall not be imposed without the consent of the district attorney.

New law requires the district attorney and the defendant to enter into a written memorandum of understanding prior to the defendant receiving a reduction of sentence. New law provides that when the defendant meets his obligation as described in the memorandum of understanding, the state shall move for a reduction of sentence in accordance with the memorandum of understanding.

Effective August 15, 2011.

(Adds C.Cr.P. Arts. 881.6 and 881.7)

Home Incarceration Reports (Act No. 168)

New law provides that all providers of home incarceration or electronic monitoring services shall submit information to the court, the sheriff, and DPS&C. New law authorizes DPS&C to establish regulations to develop a uniform

reporting format and procedures for providers of home incarceration.

(Amends C.Cr.P. Art. 894.2)

Preservation of Biological Evidence (Act No. 250)

New law provides that prior to Dec. 31, 2012, no criminal justice agency or clerk of court shall destroy any biological evidence in its possession collected in relation to the investigation, prosecution, or adjudication of a homicide, rape, or armed robbery.

New law applies only in cases in which an offender has been convicted at trial or has entered a guilty plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), and the offender is in the custody of Dept. of Public Safety and Corrections.

Effective July 1, 2011.

(Amends C.Cr.P. Art. 926.1(H)(6); Adds R.S. 15:621)

CODE OF EVIDENCE

There were no changes to the Code of Evidence.

CHILDREN'S CODE

Guardianship (Act No. 128)

Prior law in Children's Code provides definition of "legal guardianship" but does not provide rules governing such concept. New law deletes definition and eliminates concept of legal guardianship.

New law defines "guardianship" as the judicial placement of a child under the duty and authority of a guardian to make decisions in matters having a permanent effect on the life and development of the child.

New law sets forth requirements of guardianship, including design to provide a permanent placement for children in need of

care, case plan for children whose permanent plan is guardianship, purpose of guardianship, rights and responsibilities of the guardian, and home study report.

New law sets forth procedures and requirements for motion, hearing, and order for guardianship, and for modification and termination of guardianship. New law provides that if a guardian has been appointed, a petition for voluntary transfer cannot be filed and a change in guardianship is through motion to modify the guardianship.

New law provides that in the performance of his duties the guardian will be liable for his own negligence but will not be vicariously liable for his ward.

(Amends Ch. C. Arts. 116(12.1), 675(B)(3), 681, 1511, 1515(B), and 1516(B); adds Ch. C. Arts. 718, 719, 720, 721, 722, 723, 724 and 1514(D))

Delinquency Proceedings (Act No. 251)

New law provides that in all delinquency proceedings involving first degree murder, second degree murder, aggravated rape, aggravated kidnapping, armed robbery, negligent homicide, or vehicular homicide, the court shall allow the victim and the victim's spouse, children, siblings, parents, grandparents, guardians, and legal custodians to be present at the adjudication hearing.

Effective August 15, 2011.

(Amends Ch.C. Arts. 407 and 879(B))

No Delinquency Petition Dismissals (Act No. 172)

Prior law provides that the court may, if good cause is shown, dismiss a delinquency petition on its own motion, on the motion of the child, or on motion of the petitioner. New law deletes prior law.

(Amends Ch.C. Art. 876)

MULTIPLE CODES OR TITLES

Abstracts and Title Opinions (Act No. 325)

Prior law defines "abstract" or "abstract of title" as a written history, synopsis, or summary of the recorded instruments affecting the title.

New law defines "abstract of title" or "abstract" as a written history, synopsis or summary of the recorded instruments in the public records affecting the title to immovable property that is prepared and certified by the abstractor covering the requisite search periods set forth in the law.

New law requires that the abstract include a photocopy or electronic copy of the recorded instruments or extracts prepared by the abstractor reviewing the records.

New law requires that the abstract be dated and signed by the abstractor and presented for examination to an attorney duly licensed and authorized to practice law in this state.

New law provides that rendering a title opinion as a basis for issuing a title insurance report constitutes the practice of law.

Effective January 1, 2012.

(Amends R.S. 22:512 and 17 and R.S. 37:212)

Effective January 1, 2012.

Local Government Laws (Act No. 248)

New law provides for revision of local government laws as recommended by the La. State Law Institute, including (1) repeal of certain provisions of the Constitution Ancillaries that are no longer effective, and (2) repeal of provisions for the commission form of parish government.

New law directs the La. State Law Institute to redesignate specified statutes relative to judicial branch functions from Title 33 to Title 13.

New law directs the La. State Law Institute to redesignate specified statutes relative to local sales taxes from Title 33 to Title 47.

(Repeals 1921 Const. Art. VI, 29, §§624, 24.2-24.9, 24.11 24.23, and 31.7 (made statutory by 1974 Const. Art. XIV) and R.S. 33:1271-1285)

Environmental Education (Act No. 265)

New law repeals the office of environmental education in the Dept. of Wildlife and Fisheries.

Effective July 1, 2011.

(Amends R.S. 30:2506, 2507 and 2532, R.S. 32:412, R.S. 36:605, and R.S. 47:463.43; Adds R.S. 56:10; Repeals R.S. 30:2504, and 2511, R.S. 36:609(B)(4), §3 of Act No. 527 of the 2003 R.S., Act No. 363 of the 2004 R.S., Act No.190 of the 2007 R.S., and parts of R.S. 32:412 as amended by Act No. 9 of the 2011 1st E.S.)

Watercraft Operation (Act No. 264)

Prior law prohibits any person under 21 years of age to purchase or to have public possession of any alcoholic beverage. New law adds possession upon waterways within the definition of public possession.

New law requires that any person operating a watercraft shall operate in a careful manner, so as not to endanger the life, limb, or property of any person. Failure to do so shall constitute careless operation of a watercraft when such operation violates certain enumerated activities.

New law provides that the careless operation provisions shall not apply to vessels engaged in commercial activity.

Prior law provided for the crime of reckless operation of a watercraft in Title 34 and reckless operation of a vehicle, which included reckless operation of a vessel, in Title 14. New law repeals reckless operation of a watercraft in Title 34.

Effective August 15, 2011.

(Amends R.S. 14:93.10 and 108.1 and R.S. 34:851.4; Repeals R.S. 34:851.5)

Abolishment of Governmental Entities (Act No. 207)

New law abolishes the following entities and their functions: Commission on Public Retirement, Compensation Review Commission,

Emergency/Disaster Medicine Review Panel, Louisiana Governor's Mansion Commission, Hurricane Katrina Memorial Commission, Small Business Entrepreneurship, Louisiana Technology Innovations Council, Louisiana Wetlands Conservation and Hurricane Protection Tourist Center Commission, and Youth Enhanced Services Consortium.

New law abolishes the following entities but transfers their functions elsewhere: Mississippi River Bridge Authority (transfers its powers to the crescent city connection division of the Department of Transportation and Development), and Board of Commissioners of Offshore Terminal Authority (divides its powers between governor and executive director).

(Amends and repeals various statutes)

Inheritance Taxes (Act No. 346)

New law provides that when the deceased does not arrange for the apportionment of taxes, the tax shall be apportioned in proportion to the value of the interest each person bears to the total value of the interests.

New law provides that no beneficial interest in income from a trust and no usufruct shall be subject to apportionment with the principal beneficiary and the naked owner.

New law provides that the person in possession of the property and required to pay the tax, may withhold, prior to distribution, the amount of tax attributable to each person's interest or the court may require interested persons to post a bond for the apportionment liability.

New law provides for exemptions, deductions, and credits in making an apportionment because of a certain relationship to the decedent, previous gift received, or credit for taxes already paid.

New law provides a right of action, with a one year time limit, to recover the original amount of tax apportioned to each person and any additional amounts based on deficiencies.

New law provides that if a person required to pay the tax is domiciled outside of state, he has a right of action for the proportionate amount of

the federal estate tax, estate tax payable to another state, or a death duty due to another state.

Prior law provided that no account holder paying benefits from an individual retirement account due to a death was liable for any estate, inheritance, or succession taxes due the state. New law provides that the provisions regarding benefits payable by reason of death from an individual retirement account shall apply regardless of a designated beneficiary.

New law provides that a pledge of all or part of a savings account or shares owned by two or more persons made to an association by an eligible person, shall be a valid pledge and transfer.

Prior law prohibited an association from transferring or paying the withdrawal value of any shares or savings or demand accounts to any heir, legatee, or representative until the inheritance taxes due were paid. New law authorizes an association to pay to a surviving spouse up to \$10,000 of any savings or demand account or shares, without a court order and regardless of whether they are separate or community assets.

New law provides for retroactive application of the provisions of this Act.

Effective August 15, 2011.

(Amends R.S. 6:765(B) and 767(D) and R.S. 9:2449(B); Adds R.S. 9:2432-2439)

Public Trusts and Their Bonds (Act No. 344)

Prior law requires that prior to the publication of a notice of intention to issue bonds by a public trust, the contents of said notice of intention shall be approved by the State Bond Commission. New law deletes prior law.

New law retains prior law requirement that all bond issues of a public trust be submitted to and approved by the State Bond Commission prior to the issuance and sale of the bonds, but new law changes the seller of the bonds from the State Bond Commission to the public trust, except when the state is the beneficiary of the financing.

Prior law provides that the property of a public trust, having as its beneficiary a parish, municipality, or a political or governmental subdivision thereof, which is authorized under its trust indenture to engage in or issue bonds to finance projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1), which is acquired or held for one or more of said purposes, is public property used for essential public and governmental purposes. New law provides that, accordingly, such public trust, its properties and income, and bonds it issues and income from such bonds are exempt from all taxes of the parish or municipality, the state, or any political subdivision thereof or any other taxing body. New law further provides that such public trust may require the lessee of each of the projects of the public trust to pay annually to parish or municipal taxing authorities or to any other taxing body, through the normal collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities for any services rendered by them to such projects.

Prior law provides for bonds sold by the State Bond Commission for the state and its boards, departments, commissions, authorities and agencies and provides for certain exclusions. New law adds "public trusts" (except when the state is the beneficiary of the financing) to the excluded entities.

Effective on August 15, 2011.

(Amends R.S. 9:2347 and R.S. 39:1403)

Government Kickbacks and Fee-Splitting; Amendment of Government Contracts (Act No. 343)

Prior law prohibits the splitting of profits, fees or commissions with public officers or employees in certain instances. New law clarifies that the prohibition is also applicable to political subdivisions.

Prior law provides that there shall be no splitting of profits, fees or commissions, past or present, derived from the sale of any commodity, goods, services, insurance, or anything of value to the state or any subdivision thereof from which a public official or employee, representing the

state in his official capacity in the contract negotiations, receives or offers to receive a portion of the profits, fees and/or commissions, *unless* the amount thereof and the conditions therefor are included in detail in the contract of sale or the insurance contract and said contract is filed by the public official or employee with the secretary of state at least 10 days prior to execution of said contract. Upon the filing, the secretary of state shall immediately release to the news media the details of such contract and, upon written request, furnish a copy of such contract to the news media.

New law clarifies that the provision also applies to political subdivisions, and that the contract itself is a public record. New law deletes provisions which authorize including such profits, fees, and/or commissions in a contract of sale or insurance if the details of such contracts are filed with the secretary of state 10 days prior to execution and required to be released to news media.

Prior law provides that whoever commits the crime of failure to report the splitting of profits, fees or commissions, and to contain such fee arrangement in the contract of sale or in the insurance contract, shall upon conviction be fined not more than \$1,000 or shall be imprisoned, with or without hard labor, for not more than two years, or both.

New law provides that whoever receives or offers to receive a portion of profits, fees or commissions shall upon conviction be fined not more than \$10,000 or shall be imprisoned, with or without hard labor, for not more than 10 years, or both.

Prior law provides that when any person or other entity enters into any contract awarded without bidding with a state entity or local entity, or any contract with a local entity exceeding \$10,000 awarded with bidding, in which a commission, fee, or other consideration is paid to the contractor for the contractor to sell to or provide to the state entity or local entity any commodity, goods, brokerage service or other service of any kind, insurance, or anything of value, then the full disposition, splitting, or sharing of such commission, fee, or other consideration shall be disclosed to the state entity or local entity by the

contractor in writing by an affidavit of notice of fee disposition prescribed by the Board of Ethics. Prior law provides that if for any reason the information on the recorded affidavit shall be found to be incorrect, then the contract shall become null and void and all payments of the commission, fee, or other consideration shall be rebated to the state entity or local entity which entered into the contract. New law repeals prior law and all other provisions with similar requirements for other types of contracts.

New law provides that each amendment or other revision to any service or insurance contract which adds an amount of 10% or more of the original contract amount and which additional amount is at least \$10,000, or all amendments and other revisions to any service or insurance contract aggregating to an amount of 20% or more of the original contract amount and which additional amount is at least \$10,000, shall be recorded by the public entity which entered into the contract, in the office of the recorder mortgages in the parish where the public entity is domiciled, not later than 30 days after the date of such amendment or other revision takes place. New law provides that the original contract shall be recorded together with the amendments or other revisions if not previously recorded.

New law requires that each change order to a public works contract or to a contract for materials and supplies which adds an amount of 10% or more of the original contract amount and which additional amount is at least \$10,000, or all change orders to a contract aggregating to an amount of 20% or more of the original contract amount and which additional amount is at least \$10,000, shall be recorded by the public entity which entered into the contract, in the office of the recorder of mortgages in the parish where the work is to be done, or if not a public work where the entity is domiciled, not later than 30 days after the date of the change order which requires that the recordation take place.

New law adds requirement that each change order to a contract for a capital outlay project which adds an amount of 10% or more of the original contract amount and which additional amount is at least \$10,000, or all change orders to a contract aggregating to an amount of 20% or

more of the original contract amount and which amount is at least \$10,000, shall be recorded by the agency which entered into the contract, in the office of the recorder of mortgages in the parish where the work is to be done, not later than 30 days after the date of the change order which requires the recordation to take place. New law provides that the original contract shall be recorded together with the amendments or other revisions if not previously recorded. New law shall not apply to the office of facility planning and control and the office of state purchasing.

New law, relative to the Louisiana Procurement Code, requires each change order to a contract which adds an amount of 10% or more of the original contract amount and which additional amount is at least \$10,000, or all change orders to a contract aggregating to an amount of 20% of the original contract amount, shall be recorded by the governmental body which entered into the contract, in the office of the recorder of mortgages in the parish where the work is to be done or where the entity is domiciled, not later than 30 days after the date of the change order which requires that such recordation take place. New law provides that the original contract shall be recorded together with the amendments or other revisions if not previously recorded. New law shall not apply to the office of facility planning and control and the office of state purchasing.

Effective August 15, 2011.

(Amends R.S. 14:141, R.S. 39:126 and 1767, and R.S. 48:251.8; adds R.S. 38:2192 and 2222 and R.S. 39:1557.1; repeals R.S. 38:2196, R.S. 39:200(N), 1493.1, and 1758)

Parishes and Cities Revealed (Act Nos. 3-22 and 25-43 of 2011 First Extraordinary Session)

This series of new laws appears to replace numerous prior provisions of law that referred to parishes and municipalities by population ranges with new provisions that refer to parishes and municipalities by their actual names.

(Amends numerous laws.)

UNCODIFIED

There were no new laws of interest.

TITLE 1: GENERAL PROVISIONS

There were no new laws of interest.

TITLE 2: AERONAUTICS

There were no new laws of interest.

TITLE 3: AGRICULTURE AND FORESTRY

Restaurant Discount on Louisiana Food (Act No. 330)

New law provides incentive payments to certain Louisiana restaurants for the purchase of Louisiana agricultural products. Among other things, the new law provides:

- (1) The amount of the incentive payment is 4% of the total costs of the Louisiana agricultural products purchased by the restaurant establishment.
- (2) An application for an incentive payment shall be submitted to LAFA within the application period set forth by LAFA.
- (3) The restaurant establishment applying for the incentive payment is required to provide and maintain sufficient documentation evidencing the amount of purchases of Louisiana agricultural products and eligibility to claim the incentive payment as determined by LAFA.
- (4) The aggregate amount of incentive payments shall not exceed \$7 million, in the aggregate, per fiscal year.
- (5) If there is insufficient money in the fund to fully satisfy all timely-filed applications for incentive payments, then incentive payments

must be distributed to the applicants on a pro-rated basis.

New law requires the program and fund to terminate on December 31, 2014. No rebate payments shall be granted after December 31, 2014.

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

(Adds R.S. 3:266(23) and 284)

Agricultural Goods Regulation (Act No. 138)

Prior law authorizes the commissioner to examine and audit the accounts, books, and records of any warehouse, cotton merchant or cotton agent, or grain dealer. New law authorizes the representatives to copy necessary records of grain dealers, cotton merchants and warehouses.

Prior law requires each warehouse, cotton merchant, and grain dealer to permit any authorized representative of the commission to enter all locations on any business day during normal working hours to inspect, examine, or audit all contents, facilities, equipment, records, books, and accounts. New law authorizes the representative to copy necessary records of grain dealers, cotton merchants and warehouses.

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

(Amends R.S. 3:3406, 3419, 3421, and 3423)

Co-Owner Consent to Timber Cutting (Act No. 226)

Prior law provides that without the consent of the owner or legal possessor, it shall be unlawful for any person to cut or remove timber from the land of another. New law makes necessary consent from a co-owner or co-heir in order to cut or remove timber on co-owned land.

New law does not apply to the sale of an undivided timber interest pursuant to R.S. 3:4278.2.

Effective August 15, 2011.

(Amends R.S. 3:4278.1)

TITLE 4: AMUSEMENTS AND SPORTS

Horse Racing and Account Wagering (Act No. 356)

Prior law required the La. State Racing Commission to authorize account wagering to be conducted by a licensee operating a parimutuel live horse racing facility located in the city of New Orleans. New law deletes the requirement that the facility be located in the city of New Orleans.

Effective August 15, 2011.

(Amends R.S. 4:149.5(B)(1))

TITLE 5: AUCTIONS AND AUCTIONEERS

There were no new laws of interest.

TITLE 6: BANKS AND BANKING

OFI's Public Records (Act No. 136)

New law authorizes the commissioner of OFI to disclose or cause the employees of the OFI to disclose records (other than criminal history record information provided to OFI by a state or federal law enforcement agency) concerning any person subject to its jurisdiction when such records are requested by another state or federal agency having authority to license or investigate such entity or person.

Effective August 15, 2011.

(Adds R.S. 6:103(B)(17))

OFI Gets Database Licensing System (Act No. 10)

New law authorizes the commissioner of financial institutions to take any action that he deems necessary and appropriate regarding the utilization of an electronic database licensing

system or systems, with respect to persons subject to licensure by him.

New law extends to persons who are covered by the La. S.A.F.E. Residential Mortgage Lending Act, R.S. 6:1081, et seq.

New law defines licensure as licensing, registration, regulation, and notification of all persons by the commissioner of financial institutions, except financial institutions.

(Adds R.S. 6:121.8)

Use of Lenders' Names or Loan Information by Solicitors (Act No. 14)

New law prohibits a solicitor from using a lender's name, trade name, service mark, or trademark in a solicitation for the offering of services or products to a consumer without the written authorization of the lender, unless the oral, electronic, or written solicitation makes certain disclosures.

New law prohibits a solicitor from using a loan number, loan amount, or other specific loan information that is publicly available information in a solicitation for the purchase of services or products unless the oral, written, or electronic solicitation makes certain disclosures.

New law prohibits a solicitation for the purchase of services or products from containing a loan number, loan amount, or other specific loan information that is not publicly available information.

New law shall not apply to a lender who uses a loan number, loan amount, or other specific loan information derived from the business relationship between the lender and a current or former customer in communications with the current or former customer of the lender.

New law provides that any reference to a lender and any reference to a loan number, loan amount, or other specific loan information appearing on the outside of an envelope, visible through the envelope window, or on a postcard in connection with any written communication that includes or contains a solicitation for services or products, shall be prohibited unless

express consent is given by the lender to the solicitor.

New law provides that it shall not be a violation for a solicitor or lender to use the trade name of another lender in an advertisement for services or products to compare the services or products offered by the other lender.

New law authorizes a lender to seek an injunction against a solicitor who violates new law to enjoin the unlawful use of the name, trade name, trademark, service mark, or loan information. The lender seeking the injunction shall not be required to prove actual damages as a result of the violation. Irreparable harm to the lender or owner shall be presumed.

The lender seeking the injunction may also seek to recover actual damages as a result of the violation. The lender, if it prevails, shall be entitled to recover costs and reasonable attorney fees from the solicitor.

(Adds R.S. 6:412.1)

Repossession (Act No. 358)

Prior law requires that before a secured party avails himself of the remedies offered in prior law, the secured party must send notice to all debtors, in writing at the last known address of the debtors, of the right of the secured party to take possession of the collateral without further notice.

New law provides that a repossession agent is not required to obtain, nor is a secured party required to provide to the agent, a copy of the notice that is required in prior law.

(Adds R.S. 6:966.1(E))

Loan Documentation Fees (Act No. 137)

New law permits a federally insured depository institution, its subsidiary, holding company or affiliate, that extends credit under the Louisiana Motor Vehicle Sales Finance Act, to contract for and receive compensation for loan documentation in any amount agreed to in a written agreement signed by the consumer.

Effective August 15, 2011.

(Adds R.S. 6:969.18(A)(7))

Mortgage Loan Originators (Act No. 110)

New law deletes prior law provisions that permitted certain agents of a depository institution to be deemed employees and thereby be eligible to qualify as registered mortgage loan originators.

New law exempts from the residential mortgage loan originator law any individual who meets all of the following requirements:

(1) In any calendar year, originates five or fewer residential mortgage loans exclusively for a single federally chartered depository institution and the loans are closed.

(2) Is contractually prohibited from soliciting, processing, negotiating, or placing a residential mortgage loan with a person other than the single federally chartered depository institution.

(3) Enrolls with the Office of Financial Institutions as an individual who originates exclusively with a single federal depository institution (until the time any registration with the NMLS&R is required for the individual by federal law or regulation and a suitable category is created for that registration with NMLS&R).

(4) Is not barred from licensure, as determined by the commissioner of financial institutions.

(5) Is sponsored by a life insurance company or an affiliate of the company which is authorized to engage in business in this state and which is a licensed mortgage loan broker or originator, and which sponsorship includes both:

(a) Providing an undertaking of accountability supported by a surety bond equal to \$1 million to cover all of the persons who are exempt, which undertaking includes full and direct financial responsibility for the loan origination activities of each such exempt person.

(b) Paying an annual fee on behalf of the individual exempted, in the amount of one half the license fee for a mortgage loan originator, to the Office of Financial Institutions.

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

(Amends R.S. 6:1083(16) and 1087(E)(9); Adds R.S. 6:1087(E)(10))

TITLE 7: BILLS AND NOTES

There were no new laws of interest.

TITLE 8: CEMETERIES

There were no new laws of interest.

TITLE 9: CIVIL CODE ANCILLARIES

Late Charges on Condo Fees (Act No. 180)

Prior law authorizes a condominium unit owners' association to impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association and, when the violation is a failure to pay for services, interrupt those services until the violation has ceased.

New law provides that no charge for late payment of assessments shall be imposed if the assessment is paid within 10 days of the due date, and that charges for assessment that are paid later cannot exceed 30% of the amount of the assessment.

New law requires unit owners' associations to provide to each unit owner written or electronic notice detailing the amount and due date of the assessment due by the unit owner and stating that the assessment is due within 10 days of the due date.

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

(Amends R.S. 9:1123.102(11))

Fidelity Bonds for Condo Association Officers and Employees (Act No. 84)

New law requires any condominium unit owners' association collecting assessments for common expenses to obtain and maintain a blanket fidelity bond covering the officers, directors, and persons employed by the association and any managing agent and employees of the managing agent.

New law requires the bond to provide coverage in an amount equal to the lesser of \$1,000,000 or the amount of reserve balances of the association plus 1/4 of the aggregate annual assessment of the association. New law provides that the minimum coverage amount shall be \$10,000.

New law provides that any association whose managing agent maintains its own bond shall be in compliance with new law if the managing agent's bond meets the requirements set forth in new law and the association is named as an additional insured.

New law requires the association or the managing agent to maintain proof of the bond required by new law on the premises of the condominium at all times, and to make the proof available for inspection by a member of the association upon request.

New law requires the association or the managing agent to also provide every member of the association with written or electronic notice of the fidelity bond, as well as a statement notifying the member that the member has a right to inspect the proof of the bond.

(Adds R.S. 9:1123.113)

Liability of Community Service Coordinators (Act No. 229)

New law limits the liability of nonprofit organizations designated by city or municipal courts to supervise or coordinate community service programs.

(Amends R.S. 9:2792.8(A)(1))

Use of Public School Facilities (Act No. 351)

New law provides that the governing authority of an elementary or secondary school or charter school who enters into a joint-use agreement with another party for use of its facility, owes no duty of care or duty to warn and does not extend any assurance that the premises are safe or incur any liability for injuries to persons or property. New law does not exclude liability for gross negligence or willful and wanton misconduct. New law provides that the school executing a joint-use agreement shall require the other party to maintain and provide proof of insurance coverage.

New law defines "recreational joint-use agreement" as a written agreement between the governing authority of an elementary, secondary, or charter school and a public or private entity, authorizing the entity to access the premises of a school under the governing authority's jurisdiction for the purposes of conducting or engaging in recreational activity. New law provides that the agreement shall set forth the conditions, terms, and requirements under which the authorization and use is granted and requires the entity to indemnify and hold harmless the governing authority from any liability arising from the use.

New law provides that the governing authority may at any time and without cause revoke its authorization to use the premises and terminate the agreement.

Effective upon signature of governor (June 29, 2011).

(Adds R.S. 9:2800.22)

Lender Service Fees (Act No. 115)

Prior law requires the Dept. of Public Safety and Corrections to develop and implement on a statewide basis a computer system which will permit the electronic recording of information concerning the perfection and release of vehicle security interests, and authorizes the public license tag agent to charge a fee to customers utilizing this electronic media system.

Prior law provides that a lender may charge the consumer the convenience fee for services performed by a public license tag agent. New law adds that a lender may also charge the consumer any fee for electronic lien and title services.

Prior law provides that the convenience fee shall not be considered as interest, nor shall it be included in the calculation of interest. New law adds that the fees for electronic lien and title services shall not be considered as interest, nor shall they be included in the calculation of interest.

(Amends R.S. 9:3530(F))

Uniform Mortgage and Vendor's Lien Cancellation Affidavit (Act No. 124)

New law creates uniform cancellation affidavit and provides that it may be used to cancel a mortgage or vendor's lien inscription, except for judgments or legal mortgages. The uniform cancellation affidavit may be used in lieu of any other affidavit otherwise required by law, and no additional affidavit shall be necessary for cancellation.

New law sets forth contents and requirements for uniform cancellation affidavit, including the statutory authorization for the cancellation, any other recitations as may be required by law for cancellation, and a declaration that the affiant has complied with all requirements of law for the cancellation.

New law provides that the uniform cancellation affidavit must be sworn to and subscribed in the presence of a notary public or other properly authorized official, but shall not be required to be an authentic or witnessed act.

New law provides that the filing with the clerk of court as ex officio recorder of mortgages of a uniform cancellation affidavit containing a request to cancel, together with any additional documents as may otherwise be required by law, shall operate as a release and authorization to the clerk of court as ex officio recorder of mortgages to cancel and erase from the mortgage records any mortgage or vendor's lien

inscription described in the uniform cancellation affidavit.

New law provides that the clerk of court as ex officio recorder of mortgages shall not be liable for any damages resulting to any person or entity as a consequence of canceling a mortgage in reliance upon a uniform cancellation affidavit, and that the affiant shall be liable to and indemnify the clerk of court as ex officio recorder of mortgages and any person relying upon the cancellation for any claims or damages suffered if the uniform cancellation affidavit contains materially false or incorrect statements.

New law provides that the preparing, signing, or filing of a uniform cancellation affidavit with the knowledge it contains materially false or incorrect statements shall subject the offender to civil and criminal liability.

New law does not invalidate, prohibit, restrict or limit the use of any other method or form otherwise authorized by law for the cancellation of a mortgage or vendor's lien inscription.

New law sets forth form for uniform cancellation affidavit, including identification and declarations of affiant, legal description of property, agreement to indemnify clerk of court, and request for cancellation.

Effective August 15, 2011.

(Adds R.S. 9:5166)

Mortgage Payoff and Cancellation Procedure (Act No. 342)

Prior law provides that upon extinction of a mortgage, the mortgagor may request the mortgagee to provide a written release directing the recorder of mortgages to erase the mortgage. If the mortgagee fails to deliver the release within 60 days, the mortgagee may file a summary proceeding to obtain a judgment ordering cancellation of the mortgage and awarding costs, attorney fees and any damages sustained by mortgagor. New law adds that prior provisions shall apply only to mortgages recorded prior to January 1, 2012.

New law adds certain requirements relative to release and cancellation of construction and

residential mortgages perfected on and after January 1, 2012, that have been granted to a consumer and are relative to one-to-four family unit properties.

New law provides that upon extinction of the mortgage, a mortgagor, his successor or settlement agent may submit a written request to the current holder of the mortgage to issue a written act of release, directing the appropriate recorder of mortgages to cancel the inscription of the mortgage from the mortgage records. New law provides that the written request that the mortgage be cancelled extinguishes any obligation on the part of the mortgagee, and all additional lenders on whose behalf the mortgagee may be representing or acting for the benefit of, to make any further loan or advance that would be secured by the mortgage. New law provides that if the mortgagee has assigned, transferred or delegated the servicing rights to a third party, the duties and liabilities of the mortgagee under new law apply solely to the third party.

New law provides that the written request shall be delivered to the mortgagee at the address designated by the mortgagee to be used for such written requests, but if the request is accompanied by a payoff check from a settlement agent, the written request is to be delivered to the same address where the payoff check is delivered.

New law provides that the written request for an act of release must be accompanied by sufficient payment to the current mortgagee to pay the mortgagee a fee for this service. New law allows the mortgagee to charge a fee, not to exceed \$40, to the mortgagor or his agent for all services and costs to prepare, execute, and mail the act of release. Any fee charged by the mortgagee has to be clearly itemized to the requesting mortgagor or settlement agent in the payoff letter, statement or other communication.

New law provides that a fee not to exceed \$100 may be charged to the mortgagor if there is no settlement agent involved in forwarding the request.

New law provides that within 45 days after receipt from the mortgagor or settlement agent

of a written request for cancellation of the mortgage, accompanied by the fee, the mortgagee shall issue the act of release, along with a request for cancellation. If the written request and fee was received from a settlement agent, the mortgagee issues the act of release and request for cancellation to the settlement agent, who then has 45 days to file same with the appropriate recorder of mortgages. If the written request and fee was received from the mortgagor, the mortgagee submits the act of release and request for cancellation to the appropriate recorder of mortgages.

New law authorizes the mortgagor to obtain a complimentary copy of the act or release from the mortgagee when there is no settlement agent involved.

New law provides that the mortgagee shall not be liable for damages, fees, or costs caused by the failure of a settlement agent to timely file the act of release and request or cancellation, if the documents are in compliance with the law and sufficient to cancel the inscription of the mortgage from the mortgage records.

New law provides that if either the mortgagee or the settlement agent fails to comply with new law, the mortgagee and settlement agent shall be provided with written notice of noncompliance, identifying the mortgage at issue and an explanation of how they failed to comply with the law. The mortgagee and settlement agent shall then be given an opportunity to prepare and submit an act of release and request for cancellation to the appropriate recorder of mortgages within 15 days of receipt of the noncompliance notice.

New law provides that if the mortgagee or the settlement agent fails to perform the duties as described in new law, the mortgagor or his successor in ownership may, by summary proceedings instituted against the mortgagee, in the parish where the mortgaged property is located, obtain a judgment ordering the mortgage inscription to be cancelled from the records and awarding the costs, reasonable attorney fees, statutory damages in the amount of \$500, and actual damages he has suffered from the failure to comply with new law.

New law provides that any judgment for damages may be awarded individually, but not in a representative capacity. New law provides that the rights to recover damages are personal to the mortgagor or his successor in ownership of the property and may not be assigned.

Effective January 1, 2012.

(Amends R.S. 9:5557; Adds R.S. 9:5165)

TITLE 10: COMMERCIAL LAWS

There were no new laws of interest.

TITLE 11: CONSOLIDATED PUBLIC RETIREMENT SYSTEMS

There were no new laws of interest.

TITLE 12: CORPORATIONS AND ASSOCIATIONS

There were no new laws of interest.

TITLE 13: COURTS AND JUDICIAL PROCEDURE

21st JDC and CDC Reorganization (Act No. 340)

New law maintains nine judges in the 21st Judicial District Court by abolishing the judgeship comprising Division H effective midnight, Dec. 31, 2014 (or at any earlier time upon such judgeship becoming vacant for any reason) and creating a new judgeship effective Jan. 1, 2015 (or at any earlier time upon the judgeship in the former Division H becoming vacant). New law requires that this new judgeship shall preside over Division J and provides that the subject matter for such division shall be limited to family matters. The creation of this judgeship shall not affect any other judge of the district.

New law provides that the first two judgeships in Civil District Court for the parish of Orleans becoming vacant on or after Aug. 15, 2011, shall be abolished and two new judgeships shall be created and limited to family matters including domestic relations matters. New law provides for an exception for Divisions B and E, unless there is a vacancy in one or both of those divisions on or after Feb. 1, 2012.

Prior law provides for the transfer of certain cases to the Domestic Relations Section of the Civil District Court for the parish of Orleans. New law repeals prior law.

New law provides that the individuals to be elected to the judgeships created in new law shall be elected for a six year term at the congressional election held in 2014, and every sixth year thereafter. However, if any of the divisions authorized by new law is created earlier than Jan. 1, 2015, the election to such division shall be for a term which shall end Dec. 31, 2014, and for six year terms thereafter.

New law provides that the judges and their successors created by new law shall be elected at large and shall have jurisdiction throughout the applicable district.

New law provides that the judges and their successors created by new law shall receive the same compensation and expense allowances, payable from the same sources and in the same manner, as are now or may hereafter be provided for other judges of the applicable district.

New law does not reduce the term of office or the jurisdiction of any other judge of the districts affected by proposed law.

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

(Amends R.S. 13:621.21 and 1138, and Section 1 of Act No. 873 of the 2008 Regular Session of the Legislature; Repeals R.S. 13:1139(A))

New Orleans Municipal Court (Act No. 339)

New law provides that the senior and administrative judges of the Municipal Court of New Orleans shall possess the same qualifications that are required of district court

judges and shall receive a salary of not less than \$18,000 per year, but not more than the salary paid, from all sources, to the district court judges in and for the Parish of Orleans. New law requires the governing authority of Orleans Parish to determine the salary paid to the senior and administrative judge.

New law creates the position of judicial administrator for the Municipal Court of New Orleans, who shall be appointed by the judges and subject to removal by a majority thereof, at will.

New law deletes prior law provisions requiring the commission council to provide rooms, furniture, and stationery and requires the city of New Orleans to provide these items and other operating expenses for the Municipal Court of New Orleans.

Effective August 15, 2011.

(Amends R.S. 13:2492(F), 2499, 2500.1(C), 2500.2, 2500.3(C) and (D) and 2501; Adds R.S. 13:2495.1 and 2496.4; Repeals R.S. 13:2501.1(M))

TITLE 14: CRIMINAL LAW

Sex Crimes (Act No. 67)

New law amends crimes involving sexual battery and molestation to include elements of sexual abuse of persons with a mental or physical disability and persons 65 years of age and older.

(Amends R.S. 14:43.1, 43.2, 43.3, 43.6, and 81.2)

Slavery and Prostitution (Act No. 64)

New law amends the crimes of human trafficking and trafficking of children for sexual purposes to include those persons who benefit in any way from the trafficking activity, who facilitate the trafficking activity, or who advertise the trafficking activity.

(Amends R.S. 14:46.2 and 46.3)

Retribution for Legal Action as Extortion (Act No. 243)

Prior law establishes the crime of extortion and defines it as the communication of threats to another with the intention to obtain anything of value or any acquittance, advantage, or immunity of any description.

New law adds to the crime of extortion a threat to cause harm as retribution for participation in any legislative hearing or proceeding, administrative proceeding, or in any other legal action.

Effective August 15, 2011.

(Amends R.S. 14:66)

No Chatting by Sex Offenders (Act No. 26)

New law creates the crime of unlawful use or access of social media by certain convicted sex offenders.

(Adds R.S. 14:91.5)

Federal Judges May be Armed (Act No. 159)

Prior law provides for the crime of illegal carrying of weapons and provides exceptions to the crime for active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, and traffic courts, constables, coroners, district attorneys and designated assistant district attorneys and investigators, and certain justices of the peace.

New law adds judges and justices of federal courts domiciled in La.

Effective August 15, 2011.

(Amends R.S. 14:95(H))

Police Badges (Act No. 91)

New law provides that it shall be unlawful for any person to knowingly or intentionally produce, manufacture, distribute, or possess unauthorized peace officer badges.

New law shall not be construed to limit the production, manufacturing, distribution, or possession of a peace officer badge with the designation "police", "marshal", "sheriff", "law enforcement", "warden", or any other designation which does not designate a specific law enforcement agency by name or jurisdiction and which is intended for novelty purposes.

Effective August 15, 2011.

(Adds R.S. 14:112.4)

Possession of Counterfeits (Act No. 73)

Prior law provides for the crime of illegal use of a trademark, under which no person shall knowingly sell or otherwise transfer for compensation anything of value having a counterfeit trademark.

New law adds possession with the intent to sell as an element of the crime.

Effective August 15, 2011.

(Amends R.S. 14:229(A))

TITLE 15: CRIMINAL PROCEDURE

Sex Offenders in College (Act No. 216)

New law requires a sex offender who is a student of an institution of postsecondary education to register with the campus law enforcement agency of the institution at least one business day prior to the beginning of the school term or semester.

Effective August 15, 2011.

(Amends R.S. 15:542)

Sex Offenders and Driver's Licenses (Act No. 74)

New law amends the crime of failure to register as a sex offender to include the failure to comply with sex offender drivers' license and state identification card requirements.

(Adds R.S. 15:542.1.4(C))

Wrongful Imprisonment Compensation (Act No. 262)

Prior law provides for compensation for wrongfully convicted persons.

New law changes the compensation from \$15,000 per year to \$25,000 per year of incarceration, and from \$150,000 total to \$250,000 for physical harm and injury suffered by the petitioner, to be paid at a rate of \$25,000 annually.

New law changes the amount of compensation for loss of life opportunities from \$40,000 to \$80,000.

New law requires payment of the costs of job-skills training for 3 years rather than one, and for the appropriate medical and counseling services for 6 years rather than 3.

New law provides that any petitioner who has been awarded compensation on or after Sept. 1, 2005, and prior to Sept. 1, 2011, shall file a petition seeking supplemental compensation on or before Sept. 1, 2012, or be forever barred from filing a supplemental petition.

Effective September 1, 2011.

(Amends R.S. 15:572.8)

Administrative Sanctions for Technical Parole Violations (Act No. 104)

New law authorizes a parole officer or probation officer to impose administrative sanctions for a technical violation of parole or probation conditions, if the Board of Parole or court determines that the offender is eligible for the imposition of administrative sanctions, and when all of the following occur:

- (1) The offender, after receiving written notification of the right to a hearing before a court and right to counsel, provides a written waiver of a violation hearing.
- (2) The offender admits to the violation or affirmatively chooses not to contest the violation alleged in the violation report.

(3) The offender consents to the imposition of administrative sanctions.

New law provides that if the administrative sanction imposed is jail confinement, the confinement shall not exceed 10 days per violation and shall not exceed a total of 60 days per year.

Effective August 15, 2011.

(Amends R.S. 15:574.7; Adds C.Cr.P. Art. 899.1)

Criminal History Information (Act No. 283)

Prior law provides that an employer or his representative shall be entitled to obtain, from the La. Bureau of Criminal Identification and Information, conviction records of an applicant seeking employment, if the applicant has signed a consent form authorizing the employer to obtain such conviction records. New law requires such applicants to be fingerprinted and requires the Bureau to forward fingerprints obtained for background checks to the FBI for a national criminal history check.

Prior law provides that the conviction of certain offenses prohibits the hiring of individuals for a position of supervisory or disciplinary authority over children. New law adds convictions of first, second, and third degree feticide, aggravated incest, crime against nature by solicitation, and video voyeurism to this list of offenses.

New law further authorizes CASA to obtain criminal history information from the La. Bureau of Criminal Identification and Information for persons being considered for involvement with CASA.

Effective August 15, 2011.

(Amends R.S. 15:587)

Bar Applicant Criminal Records (Act No. 252)

New law adds the La. Supreme Court Committee on Bar Admissions to the list of entities having access to the central repository of criminal history records maintained by the La.

Bureau of Criminal Identification and Information.

Effective August 15, 2011.

(Amends R.S. 15:587)

Prisoner Social Networking (Act No. 312)

New law prohibits any offender sentenced to the legal custody of the Dept. of Public Safety and Corrections from establishing or maintaining an account on a social networking website.

Effective August 15, 2011.

(Adds R.S. 15:833.3)

Regional Juvenile Justice District Finances (Act No. 178)

Prior law provides for a regional system of shelter care and detention facilities for juveniles with multiple districts in the state.

New law requires each regional juvenile justice district to provide sworn annual financial statements to the legislative auditor no later than 90 days following the close of the accounting year.

New law provides that if the legislative auditor determines that there has been misuse of funds by the regional juvenile district, or that a regional juvenile district has failed to comply with state and federal laws and regulations, the legislative auditor shall report such misuse or failure to comply to the Legislative Audit Advisory Council, who shall then, after an independent determination, notify the district attorney and the governing authority of the affected parishes.

New law requires various officials to complete one hour of financial training each year provided by the legislative auditor.

Effective August 15, 2011.

(Adds R.S. 15:1093.2, 1093.3, and 1093.4)

TITLE 16: DISTRICT ATTORNEYS

There were no new laws of interest.

TITLE 17: EDUCATION

Student Seclusion and Restraint (Act No. 328)

New law requires BESE to prepare and adopt rules, in accordance with the Administrative Procedure Act, for the appropriate use of seclusion and restraint for students with exceptionalities. Among other things:

New law restricts the use of seclusion to behaviors that involve an imminent risk of harm and as a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

New law specifies that physical restraint may only be used to the degree necessary to stop dangerous behavior, and in a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

New law prohibits the use of seclusion to address behaviors such as general noncompliance, self stimulation, and academic refusal.

New law prohibits the use of seclusion and physical restraint as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

New law requires that the parent or legal guardian of a student who has been placed in seclusion or physically restrained be notified as soon as possible.

New law applies to public schools and charter schools.

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

(Amends R.S. 17:7(5)(b); Adds R.S. 17:416.21 and 3996(B)(28))

Audit of Schools in Crisis (Act No. 66)

Prior law, when a school system is academically in crisis, requires the school board to select and contract with an independent licensed CPA to conduct an audit of the system's finances and financial practices until:

- (1) The academic performance of the students has improved sufficiently that the system is no longer defined as academically in crisis; and
- (2) All audit findings are corrected.

New law replaces (2) with:

- (2) The system has an unqualified audit opinion on the annual independent audit report.

(Amends R.S. 17:10.6(G))

School Employee Self-Reporting (Act No. 267)

New law requires a public school employee to report his arrest for certain sexual offenses involving minors, other specified crimes, or any justified complaint of child abuse or neglect on file pursuant to certain provisions of the Children's Code.

New law requires the governing authority of a public elementary or secondary school (including a charter school), by not later than Oct. 1, 2011, to adopt rules, regulations, and procedures necessary to administer the provisions of new law.

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

(Adds R.S. 17:16 and 3996(B)(28))

Pre-K at Nonpublic Schools (Act No. 102)

Prior law authorizes public school boards to develop and offer prekindergarten instruction. New law authorizes approved *nonpublic* elementary schools to offer pre-K and provides that the minimum age for pre-K entrance at such schools shall be three years old by Sept. 30 of the year of pre-K entrance.

New law requires nonpublic elementary schools, prior to implementing a pre-K program, to set

forth a statement of needs the program is intended to address, the anticipated results, and the basis upon which such results are expected, an outline of implementation steps, a plan for staff usage, a budget, and a plan for results evaluation.

(Amends R.S. 17:24.8 and 222(C))

High School Equivalency Diploma (Act No. 166)

New law exempts students who are at least 17 years old and have been issued a La. high school equivalency diploma from the compulsory school attendance law and other related provisions.

(Adds R.S. 17:221(K))

Foreign Language Immersion Programs (Act No. 212)

New law requires BESE to develop and implement a process to certify foreign language immersion education programs.

New law provides that notice of receipt of BESE designation as a "Certified Foreign Language Immersion Program" shall be included in the academic records of each student enrolled in the program.

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

(Adds R.S. 17:273.2)

Audit of Colleges (Act No. 367)

New law requires the legislative auditor to annually conduct certain audits of postsecondary education institutions.

Prior law requires the legislative auditor to conduct a performance audit of a postsecondary institution to determine "how well goals and objectives of postsecondary education are being met" and perform an economy and efficiency study.

New law instead requires the auditor annually to audit data submitted by institutions as indicators

of meeting performance objective targets established by or pursuant to prior law to ensure that the data is reliable.

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

(Amends R.S. 17:3139(E))

Remedial Education Commission (Act No. 187)

New law creates the Remedial Education Commission for the purposes of studying the data on educational services provided in public elementary and secondary schools, and remedial education provided at public postsecondary education institutions, and recommending best practices to be used by such schools and institutions in providing such educational services.

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

(Adds R.S. 17:3140 and R.S. 36:651(G)(3))

Yoga Teacher Training (Act No. 80)

New law excludes a school or business enterprise which offers yoga teacher training from the definition of a proprietary school for purposes of licensing by the Board of Regents.

Effective July 1, 2011.

(Amends R.S. 17:3141.2)

UNO Transfer (Act No. 419)

New law provides for the transfer of the University of New Orleans from the Louisiana State University System to the University of Louisiana System.

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

(Amends R.S. 17:3217; adds R.S. 17:3230; repeals R.S. 17:3215(2))

College Credit for Military Courses (Act No. 191)

New law requires each public postsecondary education management board to adopt (by not later than Jan. 1, 2012) a policy requiring each institution under the board's supervision and management to award educational credits to a student who is also a veteran for courses that are part of the student's military training or service and that meet the standards of the American Council on Education (or equivalent standards) for awarding academic credit, if the award of credit is based on the institution's admission standards and its role, scope, and mission.

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

(Adds R.S. 17:3351(E))

Residential Components for Charter Schools (Act No. 181)

New law provides that nothing in present law shall be construed to prohibit a Type 1, Type 2, Type 3, or Type 4 charter school from having a residential component.

(Amends R.S. 17:3973(2)(a))

Charter School Openings (Act No. 131)

New law provides that, upon request, the chartering authority may extend the time period within which any charter school must begin operation, provided that the school must begin operation by not later than 36 months after final approval of the charter.

New law removes the provision that restricts the opening date of a charter school to the months of July, August, or September. New law provides that the charter school may open sooner than eight months after approval if the chartering authority agrees to a lesser time period.

Effective August 15, 2011.

(Amends R.S. 17:3983)

Charter School Proposals (Act No. 213)

Prior law provides that charter proposals that are submitted but not approved by either local school boards or BESE may be resubmitted to either board during the same approval cycle after significant revision.

New law instead provides that before the consideration of a proposal by any local school board or BESE, charter applicants shall be afforded the opportunity to revise and resubmit the proposal, based on an independent evaluation conducted in accordance with BESE and local board review.

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

(Amends R.S. 17:3983(A)(4)(d))

Charter School Preferred Students (Act No. 417)

New law authorizes a charter school to reserve space at the school for children of employees of a corporation or other legal entity that makes a major donation to the school. New law authorizes the charter school to provide for membership on its governing board for representatives of such a corporation.

New law provides that a charter agreement may provide for enrollment of, and an enrollment preference for, dependent children of permanent employees of a corporate partner. New law provides that a charter agreement may provide for a corporate partner to have representation on its governing or management board; however, such representation may not constitute a majority of the board.

New law defines corporate partner as any legal entity, whether for profit or not for profit, registered with the secretary of state, except a gaming related corporation, that has, acting individually or as part of a consortium of corporations, donated one or more of the following to the school: the land on which the school is built, the school building or the space the school occupies, or major renovations to the existing school building or other capital

improvements including major investments in technology.

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

(Adds R.S. 17:3991.1)

TITLE 18: LOUISIANA ELECTION CODE

Foreign Voting Procedures (Act No. 195)

New law provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

New law allows for the transmission of registration documents by facsimile or other means of transmission in addition to mailing.

New law provides that a voter in the U.S. Service or residing outside of the U.S. is not required to obtain the signature of a notary or to execute a certain certificate in the presence of two witnesses.

New law provides that with respect to members of the U.S. Service and persons residing outside the U.S. who are registered to vote, an application to vote by mail may be delivered to the registrar by electronic transmission.

New law makes various minor and technical changes.

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

(Amends R.S. 18:103, 1306, 1307, 1308, 1308.2, 1310, and 1319; Adds R.S. 18:1307(B)(1)(c))

Election Date Moved (Act No. 293)

New law changes the date of the presidential preference primary, and various state and local elections held at the same time, from the second or third Saturday in February to the first Saturday after the first Tuesday in March.

New law changes corresponding dates for general elections from four weeks after the second or third Saturday in February to four

weeks after the first Saturday after the first Tuesday in March.

(Amends R.S. 18:402 and 1280.21)

Election of State Legislators (Act No. 201)

New law requires vacancies in legislative office to be filled at elections held on the regularly scheduled election dates in prior law. However, when a legislative vacancy occurs and six months or more remains in the term, and in the discretion of the appropriate presiding officer, a person may be elected and serve during a legislative session which occurs prior to the next regularly scheduled election dates in prior law, new law provides that the presiding officer determines the dates of qualifying and of the primary and general elections in the same manner as provided in prior law.

Effective Jan. 1, 2012.

(Amends R.S. 18:402 and 601)

Eligibility for Public Office (Act No. 152)

Prior law provides that a notice of candidacy for public office must include a certificate, signed by the candidate, certifying that the candidate does not owe any outstanding fines, fees, or penalties pursuant to the Code of Governmental Ethics.

New law provides that "outstanding fine, fee, or penalty" does not mean any fine, fee, or penalty that has been paid in full as of the time of the filing of the notice of candidacy, but deletes the prior exclusion of a fine for which the candidate is in compliance with a payment plan but which has not been paid in full.

Effective August 15, 2011.

(Amends R.S. 18:463(A)(2)(c))

U.S. House Redistricting (Act No. 2 of the First Extraordinary Session)

New law provides for the new boundaries of the districts for the election of the Louisiana members of the U.S. House of Representatives. Louisiana has dropped from 7 seats to 6.

Effective in part on signature of governor (April 14, 2011) and in part on January 3, 2013.

(Adds R.S. 18:1276.1; Repeals 18:1276)

Dead Politicians' Financing 643 (Act No. 208)

New law provides that when a candidate dies leaving a deficit and the personal representative of the deceased candidate sends notice to the supervisory committee, the following special provisions are applicable:

(1) The personal representative of the estate of the deceased candidate shall be responsible for filing the required reports.

(2) The reports shall be filed at the same time, shall contain the same information, and shall be certified correct in the same manner as reports required for candidates with deficits.

(3) The contribution limit for contributions to a deceased candidate who has a deficit, or the principal campaign committee of such a deceased candidate, shall be \$10,000 per calendar year until there is no deficit. Any contributions received in excess of the deficit shall be returned to the contributors on a pro rata basis.

(4) The penalty provisions in prior law shall not be applicable to violations of new law. If a violation of new law occurs, the supervisory committee shall notify the personal representative of the deceased candidate that each contribution received after the violation shall be returned to the contributor and that no further contributions, except contributions from a family member of the deceased candidate, may be solicited or received to resolve the deficit.

(Adds R.S. 18:1551-1555)

TITLE 19: EXPROPRIATION

Expropriation Procedure (Act No. 316)

Prior law provides a court of Louisiana having jurisdiction of a proceeding instituted by the State of Louisiana, a parish, a municipality or an agency of any of them vested with the power of

expropriation, shall award the owner of any right, or title to, or interest in immovable property sought to be expropriated such sum as will, in the opinion of the court, reimburse such owner for his reasonable attorney fees actually incurred because of the expropriation proceeding, if the final judgment is that the plaintiff cannot acquire the immovable property by expropriation or if the proceeding is abandoned by the plaintiff.

New law changes "State of Louisiana, a parish, a municipality or an agency of any of them vested with the power of expropriation" to "a public or private entity vested with the power of expropriation".

New law further changes "reasonable attorney fees actually incurred" to "reasonable attorney fees, court costs, and expenses, actually incurred".

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

(Amends R.S. 19:201)

TITLE 20: HOMESTEADS AND EXEMPTIONS

There were no new laws of interest.

TITLE 21: HOTELS AND LODGING HOUSES

There were no new laws of interest.

TITLE 22: INSURANCE

Taxation of Surplus Lines Policies (Act No. 361)

New law retains the 5% surplus lines insurance premium tax now levied on surplus lines policies covering risks solely in this state. New law also authorizes the taxation of surplus lines policies covering multistate risks, in conformance with federal law and a multistate agreement, which the commissioner of insurance shall, on behalf

of the state, enter into that allocates such tax revenues among the states.

Prior law requires each surplus lines broker to remit to the commissioner of insurance a 5% tax on the premiums on surplus lines insurance. New law provides that the tax remain only on single-state, La. properties, risks, and exposures.

Prior law requires every person placing insurance with an unauthorized insurer without going through a licensed producer or surplus lines broker, to remit to the commissioner a 5% tax on the gross premiums at the same time and under the same conditions as that levied on surplus lines brokers. New law provides that prior law applies only to such persons placing insurance for single state, La. properties, risks, and exposures.

Prior law provides that if a surplus lines policy covers risks or exposures only partially in this state, the tax so payable shall be computed upon the proportion of the premium which is allocable to the risks or exposures located in this state. New law instead provides that there shall be a tax on all premiums paid for surplus lines insurance covering properties, risks, or exposures for more than one state and for which La. is the home state of the insured.

New law requires the state to return to the insured, through the surplus lines broker, if any, the tax on any portion of the premium unearned at the termination of the insurance. New law prohibits the surplus lines licensee or broker from rebating any part of the tax.

New law requires that the tax shall be on the gross premiums charged for any surplus lines insurance policy covering properties, risks, or exposures in more than one state and for which La. is the home state of the insured. New law requires the surplus lines broker or independently procuring insured to compute the sum payable based upon a detailed formula.

New law requires each surplus lines broker and insured independently procuring surplus lines insurance covering properties, risks, or exposures in more than one state for which La. is the home state of the insured to transmit to the commissioner of insurance a quarterly surplus lines tax report.

New law requires the commissioner, on behalf of the state, to enter into the Nonadmitted Insurance Multi-State Agreement (NIMA) or other cooperative compacts or agreements with other states for any of the following:

- (1) The receipt, allocation, and disbursement among the participating, compacting, or contracting states of premium taxes attributable to the placement of surplus lines insurance.
- (2) A uniform method of allocating and reporting among surplus lines insurance risk classifications.
- (3) Sharing information among states relating to surplus lines insurance premium taxes.
- (4) Such other purposes that are necessary and proper to maintain the state's revenues from surplus lines insurance premium taxes and to comply with the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206, et seq.).

New law is effective when the commissioner, on behalf of the state, enters into NIMA or other cooperative compacts or agreements with other states.

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

(Amends R.S. 22:439)

Acts of Sale and Mortgages (Act No. 164)

Prior law prohibits a title insurance producer or insurer from issuing a title report or policy of title insurance without such report or policy being based on a title opinion of an attorney licensed to practice law in La. Prior law dictates that the search period be at least 30 years for transfers, or the longer of 10 years or two links for mortgage refinance transactions.

New law requires the title insurance producer to include identifying information for the title producer, title insurer, and the examining attorney on all recorded acts of transfer and on all recorded mortgages insured by a title policy where the property described in the recorded act is a one-to-four family residential property.

New law provides that the inclusion of the required information does not create additional

liability for those named therein, nor does it create a separate cause of action against the title insurance producer, title insurer, lender, or examining attorney.

New law provides that failure to include the information required by new law shall not nullify or otherwise affect the validity of the document.

Effective January 1, 2012.

(Adds R.S. 22:513.1)

Insurer Capitalization (Act No. 11)

New law provides that the meaning of "company-action level event" shall include either of the following:

- (1) The filing of a risk-based capital report by an insurer that indicates that the total adjusted capital of the insurer is greater than or equal to its regulatory-action level risk-based capital, but less than its company-action level risk-based capital.
- (2) The filing of a risk-based capital report by an insurer that indicates that the life or health and accident insurer maintains a total adjusted capital which is greater than its company action level risk-based capital, but less than the product of its authorized-control level risk-based capital and 2.5 but has a negative trend.

New law expands the definition of "company-action level event" to also include the filing of a risk-based capital report by an insurer that indicates that, while the property and casualty insurer maintains a total adjusted capital that is greater than or equal to its company action level risk-based capital, it is less than the product of its authorized-control level risk-based capital and 3 but triggers the trend test. The trend test will be determined in accordance with the trend test calculation that is included in the property and casualty risk-based capital instructions.

(Adds R.S. 22:613(A)(1)(c))

Electronic Delivery of Insurance Policies (Act No. 373)

Prior law provides that any written agreement in conflict with, modifying, or extending the coverage of any insurance contract is deemed to be physically made a part of a policy or other written evidence of insurance whenever the written agreement makes reference to the policy or evidence of insurance and is sent to the policyholder by U.S. mail, postage prepaid, at the policyholder's last known address as shown on the policy or is personally delivered to the policyholder. New law adds electronic transmission as a form of delivery.

Prior law requires every policy to be delivered to the insured within a reasonable period of time after its issuance. New law adds delivery by U.S. mail, personal delivery, private courier, and electronic transmission as acceptable forms of delivery.

Prior law requires the delivery of a duplicate policy or memorandum to any vendee, mortgagor, or pledgor named in the policy when the original policy of any motor vehicle or aircraft is delivered to any vendor, mortgagee, or pledgee. New law adds delivery by U.S. mail, personal delivery, private courier, and electronic transmission as acceptable forms of delivery.

Effective August 15, 2011.

(Amends R.S. 22:867(C) and 873)

Cancellation of Insurance Policies (Act No. 135)

Prior law provides for cancellation by the insured of any policy or binder, upon written notice to the insurer and surrender of the policy or binder prior to or on the effective date of such cancellation.

Prior law requires the insurer pay to the insured any unearned portion of any premium paid on the policy, as computed on the customary pro rata rate or as otherwise specified in the policy. New law provides the payment of unearned premium be paid as computed on the customary pro rata rate unless otherwise stated in a policy filed with and approved by the commissioner.

Prior law provides that in the event a personal line or commercial line insurance policy is canceled, any unearned premium and commission shall be computed on a pro rata basis. New law deletes prior law.

Prior law provides that if no premium has been paid on the policy, the insured shall be liable to the insurer for premium for the period during which the policy was in force. Prior law provides that except for surplus line insurers, any assessment of a monetary penalty by an insurer against an insured as a result of the insured's cancellation prior to the expiration of any policy is prohibited. New law adds provisions that nothing shall prohibit an insurer from calculating unearned premium based on a short-rate provision contained in any insurance policy that has been filed with and approved by the commissioner.

Effective August 15, 2011.

(Amends R.S. 22:885(B))

Cancellation of Credit Property and Casualty Insurance (Act No. 21)

Prior law provides that an insured may cancel an insurance policy by written notice to the insurer and surrender of the insurance policy. Upon cancellation, the insurer shall pay to the insured any unearned portions that the insured has paid on the premium.

Prior law excepts life insurance policies, annuity contracts, and certain other contracts from the cancellation requirements. New law further excepts credit property and casualty insurance from the cancellation requirements.

(Amends R.S. 22:885(D))

Notice of Lapse of Life Insurance (Act No. 19)

Prior law requires, prior to the lapsing of a life insurance policy, that an insurer send written notice to the insured and the assignee at the last known address of *either* the insured or the assignee.

New law requires, prior to the lapsing of a life insurance policy, that an insurer send written

notice to the insured and the assignee at the last known address of *both* the insured and the assignee.

(Amends R.S. 22:905(A)(2))

Health Insurance Coverage of Dependents (Act No. 360)

Prior law set the maximum age for health insurance coverage of dependent children and grandchildren for all policies and contracts at age 26.

New law provides that prior law does not apply to certain "excepted benefits" and to benefits of short-term limited duration insurance. New law provides for applicability of the following age requirements and conditions for these benefits:

(1) To an unmarried dependent child or grandchild who is not a full-time student, until the age of 21.

(2) To an unmarried dependent child or grandchild who is enrolled as a full-time student, until the age of 24.

(3) To an unmarried dependent child or grandchild who is a full-time student and who develops a mental or nervous condition, problem, or disorder which renders the child or grandchild unable to attend school as a full-time student and from holding self sustaining employment, until the age of 24.

(4) To an unmarried dependent child or grandchild who is incapable of self-sustaining employment by reason of mental retardation or physical handicap, who became so incapable prior to the age of 21, optional continuous coverage, regardless of age.

Prior law prohibited a premium increase on the basis of the addition of a dependent child or grandchild unless there were no dependent children covered under the policy or similar coverage prior to the addition of a child or grandchild. New law deletes prior law.

New law specifies that excepted benefits and benefits of short-term limited duration insurance are exempted only from those provisions of prior law for dependent coverage relative to age requirements.

New law adds credit or debit card as an acceptable form of payment of premiums for Medicare supplement policies.

Effective upon signature of governor (June 29, 2011).

(Amends R.S. 22:1000, 1003, 1003.1, and 1111)

Health Care Coverage (Act No. 144)

Prior law provides that any health care coverage plan which is issued for delivery, delivered, renewed, or otherwise contracted for in this state on or after January 1, 2011, shall provide coverage for step therapy or fail first protocols. New law further requires that any health care coverage plan which includes prescription benefits as part of its policy or contract, which utilizes step therapy or fail first protocols, comply with the provisions of law.

Prior 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 request an override of the restriction, which shall be expeditiously *considered* by the insurer under certain circumstances. New law adds that an override shall be expeditiously *granted* by the insurer under certain circumstances.

Prior law provides several circumstances in which a prescribing physician may demonstrate why a request for an restriction override is necessary for a patient. New law clarifies that the circumstances demonstrated by the prescribing physician are to be submitted to the health coverage plan.

Prior law provides a circumstance when the treatment is expected to be ineffective, based on the known relevant physical or mental characteristics of the insured and known characteristics of the drug regimen. New law adds that the prescribing physician demonstrate that the preferred treatment is reasonably expected to be ineffective based on the patient's medical history.

Prior law provides that the duration of any step therapy or fail first protocol shall not be longer

than the customary period for the medication when such treatment is *deemed* clinically ineffective by the prescribing physician. New law requires such treatment to be *demonstrated* by the prescribing physician to be clinically ineffective.

Prior law requires the prescribing physician to demonstrate that the originally prescribed medication is likely to require more than the customary time for relief or amelioration of the condition to the insured, and that in such cases the treatment may be extended for a period of time to be determined by the physician. New law requires the health coverage plan (instead of the prescribing physician) to demonstrate that the medication will require more time to correct the insured's condition. New law provides that treatment in such cases may be extended from a period of time to be determined by the physician to an additional period of time no longer than the original customary period for the medication.

Effective August 15, 2011.

(Amends R.S. 22:1053(A)(B) and (C))

Health Insurance Coverage (Act No. 350)

New law requires notification and disclosure by a health benefit plan of covered prescription drugs, including through the use of a drug formulary, and limits modification of such a formulary during a plan year.

New law requires a health insurance issuer of a health benefit plan that covers prescription drugs and uses one or more drug formularies to provide various information in the coverage documentation provided to each enrollee.

New law further requires such a health insurance issuer to disclose to an individual upon request, not later than the third business day after the date of the request, whether a specific drug is included in a particular drug formulary.

New law requires health insurance issuer of a health benefit plan that covers prescription drugs to offer to each enrollee, until the enrollee's plan renewal date, any prescription drug that was approved or covered under the plan for a medical condition or medical illness, regardless

of whether the drug has been removed from the health benefit plan's drug formulary before the plan renewal date.

New law provides that refusal of a health insurance issuer to provide benefits to an enrollee for a prescription drug is an adverse determination for the purposes of the Medical Necessity Review Organization Act if the drug is not included in a drug formulary used by the health benefit plan and the enrollee's physician or other authorized prescriber has determined the drug is medically necessary. New law authorizes the enrollee to appeal such adverse determination pursuant to prior law.

New law allows a health insurance issuer to modify health insurance coverage offered to a group health plan at the time of coverage renewal only if the modification is approved by the commissioner and is effective among all small or large employers covered by a group health plan. New law requires the issuer to notify each affected covered small or large employer and enrollee of the modification not later than the 60th day before the date the modification is effective.

New law allows a health insurance issuer to modify the health insurance coverage for a policy form offered to individuals in the individual market at the time of coverage renewal only if the modification is approved by the commissioner, is consistent with state law, and is effective on a uniform basis among all individuals with that policy form. New law requires the issuer to notify each affected individual of the modification not later than the 60th day before the date the modification is effective.

New law shall apply only to a health benefit plan, group health plan, or individual health insurance policy delivered, issued for delivery, or renewed on or after Jan. 1, 2012.

Effective January 1, 2012.

(Amends R.S. 22:1068(D) and 1074(D); Adds R.S. 22:1061(5)(y) and 1060.1-1060.4)

Insurance Producer Fees and Commissions (Act No. 09)

New law provides that an insurance producer and a property and casualty insurer may negotiate any combination of commissions and fees, or fees in lieu of commissions, to compensate the insurance producer for the placement of commercial property and casualty insurance coverages if the commercial insurance policyholder meets any of the following criteria:

- (1) Has total annual property and casualty insurance premiums in excess of \$500,000.
- (2) Obtains insurance coverage with a per occurrence or per claim deductible or self-insured retention of \$50,000 or more for workers' compensation, general liability, or automobile insurance coverages.
- (3) Has a net worth in excess of \$25 million.
- (4) Qualifies as a self-insurer with this state.
- (5) Is a governmental entity that had a contract prior to August 9, 2010, with an insurance producer on a stipulated fee basis for the placement of commercial property and casualty insurance coverages.

(Adds R.S. 22:1567)

Health Insurance Reimbursement (Act No. 382)

New law prohibits a health insurance issuer from seeking reimbursement from an insurer that provides automobile medical payment coverage to the issuer's insured or member without obtaining prior written consent of the insured or member or his legal representative. However, after a period of nine months from the date of the accident from which medical claims arise, new law allows the health insurance issuer to seek reimbursement for the full amount of medical payment coverage proceeds.

New law does not prohibit or impair the rights of an insurer or provider from seeking reimbursement of monies paid; however, the total amount to be reimbursed is not to exceed the amount actually paid by the insurer or provider.

New law does not apply to Medicare Advantage plans or self-insured plans.

Effective August 15, 2011.

(Adds R.S. 22:1881)

Insurance Fraud Against Government (Act No. 08)

New law additionally defines as a fraudulent insurance act the act of presenting, causing to be presented, or preparing with the knowledge or belief that it will be presented, to a self-insured governmental entity, any oral or written statement which a person knows to contain materially false information as part of, in support of, denial of, or concerning any fact material to, or conceals any information concerning any fact material to, any claim for payment under a self-insured governmental agency's loss fund or risk pool.

New law defines a "self-insured governmental entity" as any agency of the state, political subdivision of the state, or agency thereof, or consortium of governmental entities that maintain a self-insured loss fund or risk pool.

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

(Amends R.S. 22:1923(intro. para.); Adds R.S. 22:1923(1)(j))

Technical Improvements to Insurance Code (Act No. 94)

New law provides for technical recodification of certain provisions of the La. Insurance Code relative to life insurance and annuities.

New law makes numerous technical changes to provisions of the La. Insurance Code, including 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, harmonizing of inconsistent provisions, and consolidating all provisions authorizing fees into a single provision of law.

New law further directs the LSLI to redesignate R.S. 22:937 as R.S. 22:917.

Effective Jan. 1, 2012.

(Amends numerous provisions of Title 22)

TITLE 23: LABOR AND WORKERS' COMPENSATION

Child Labor (Act No. 177)

New law loosens limitations in the employment of minors as well as makes technical changes and alterations to update terms and bring La. employment law in line with federal laws as it relates to minors.

Prior law provides that minors who work any five-hour period shall be given at least a 30 minute interval for meals. New law provides that if the meal break is actually between 20 and 30 minutes, that such interval is de minimis and not a violation. New law requires that the breaks shall be documented and, if the minor fails to clock in or out and an edit is necessary, that the edit be documented.

Prior law requires that minors under the age of 16 shall not work more than three hours a day, or work between the hours of 7:00 p.m. and 7:00 a.m. when school is in session.

New law provides that between June 1 and Labor Day, the hours during which a minor under the age of 16 may work are extended to 7:00 a.m. to 9:00 p.m.

Prior law prohibits minors under the age of 16 from engaging in certain performance occupations. New law removes singing, dancing, theatrical exhibition, and playing a musical instrument from the list of prohibited occupations for minors under the age of 16.

(Amends R.S. 23:152, 182, 183, 184(2)(f) and (g), 187, 191, 192, 213, 214, 215(B), 233, and 251(A); Repeals R.S. 23:253 and 254)

Employment of Illegal Aliens (Act No. 402)

Prior law prohibits an employer from hiring an alien who is not entitled to lawfully reside or work in the U.S., but prohibits prosecution of an employer who verifies citizenship of his

employees by requiring every employee to present a picture ID as well as a U.S. birth certificate, naturalization certificate, alien registration receipt card, or U.S. immigration form I-94.

New law extends the provisions of prior law to civil investigations of violations and provides that the employer may use the federal E-Verify system to determine employment eligibility.

New law provides that any employer who relies on the E-Verify system for the verification of employment eligibility of an employee shall not be penalized for any error that results in the employment of a person unauthorized to work in the U.S.

The penalties in new law shall not apply to any healthcare facility or entity licensed by the Dept. of Health and Hospitals (DHH). DHH shall follow the applicable licensing statutes and rules for suspension of licenses.

Effective August 15, 2011.

(Amends R.S. 23:995)

Unemployment Experience Ratings (Act No. 139)

Prior law provides for three exceptions to the requirement that unemployment benefits paid be included in the experience rating records of employers. New law provides for a fourth exception stating that when the payment of benefits is caused by an act or omission of a third party, such benefits shall not be included in the experience rating of such employer. Fault of a third party shall be determined in accordance with the Oil Pollution Act, 33 U.S.C. 2701, et seq.

New law requires that the amount of both regular and extended benefits paid out due to the fault of a third party or parties shall be reimbursed by the responsible third party or parties.

New law provides relative to employers who directly reimburse the Unemployment Trust Fund for benefits paid to their employees, and states that these employers shall also be repaid by the responsible third party or parties.

New law shall be retroactively applied back to January 1, 2010.

Effective August 15, 2011.

(Amends R.S. 23:1533 and 1553(E))

TITLE 24: LEGISLATURE AND LAWS

Louisiana Senate Redistricting (Act No. 24 of the First Extraordinary Session)

New law provides for the new boundaries of the districts for the election to the Louisiana Senate.

Effective for next regular Senate election in 2011 and for all purposes on January 9, 2012.

(Adds R.S. 24:35; Repeals 24:35.1)

Louisiana House Redistricting (Act No. 1 of the First Extraordinary Session)

New law provides for the new boundaries of the districts for the election of members of the Louisiana House of Representatives.

Effective in part on signature of governor (April 14, 2011) and in part on January 9, 2012.

(Adds R.S. 24:35.2; Repeals R.S. 24:35.5)

Audit of Governmental Entities and Quasi-Public Agencies (Act No. 290)

New law requires the legislative auditor to establish and provide for an electronic mail notification system to notify subscribers of changes to the list of auditees not in compliance with law.

New law requires each auditee to designate an individual to be responsible for filing annual financial reports with the legislative auditor and to notify the legislative auditor of the name and address of the person so designated.

New law requires a governmental entity that provides funding to a quasi public agency or body to notify each such quasi public agency or body of the designee requirement.

Effective August 15, 2011.

(Amends R.S. 24:513(H); Adds R.S. 24:513(D)(6))

TITLE 25: LIBRARIES, MUSEUMS, AND OTHER SCIENTIFIC AND CULTURAL FACILITIES

Government Services in French (Act No. 106)

New law provides for the establishment of the La. French Language Services Program, to be implemented by the Dept. of Culture, Recreation and Tourism, to identify French-speaking employees in state departments who will provide services in French or assist other employees in providing services to French-speaking persons.

(Adds R.S. 25:671-674)

French Quarter Management District (Act No. 304)

New law changes the name of the French Quarter-Marigny Historic Area Management District to the French Quarter Management District and changes the boundaries.

New law adds the distinctions of National Historic Landmark and historic residential district to the French Quarter Management District.

New law changes the composition of the board of commissioners.

New law gives the board the power and authority to prosecute violations if the governing authority of the city of New Orleans delegates such power and authority to the board.

New law removes the taxing authority of the district.

New law provides for the creation of subdistricts. These subdistricts shall be the Vieux Carre, the Iberville Corridor, the Treme, and the Faubourg Marigny.

Effective August 15, 2011.

(Amends R.S. 25:796, 797, 798, and 799)

Atchafalaya Trace Heritage Area Tax Credits (Act No. 112)

New law extends the period in which new applications for tax exemptions and credits pursuant to the Atchafalaya Trace Heritage Area Development Zone may be approved from Jan. 1, 2012, to Jan. 1, 2014.

(Amends R.S. 25:1226.6(A))

TITLE 26: LIQUORS – ALCOHOLIC BEVERAGES

Two-Year Alcohol and Tobacco Permits (Act No. 259)

Prior law provides that permits for selling alcohol of high or low content or tobacco products are valid for one year.

New law provides that, at the discretion of the commissioner of the office of alcohol and tobacco control, a permit may be issued for two years.

Effective August 15, 2011.

(Amends R.S. 26:71, 76, 79, 88, 89, 271, 276, 279, 285, 904, and 905)

Liquor License Applications (Act No. 334)

New law requires all applicants for a liquor license, members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company, and all other persons required to possess the same qualifications required of the applicant, to submit their fingerprints when the application for the permit is submitted.

Prior law provides that the ATC commissioner may accept from a publicly traded corporation, other than any gaming entity, the necessary documentation of managers, agents, servants, employees, or other representatives and three officers of the corporation in full satisfaction of suitability requirements for an alcoholic

beverage permit. New law adds other corporations and entities in addition to publicly traded corporations.

New law provides that in order to determine the suitability of the spouses of alcoholic beverage permit applicants, and all other persons required to possess the same qualifications required of the applicant, the office of alcohol and tobacco control shall require such persons to provide verification of suitability.

New law provides that fingerprints shall not be required unless the commissioner requests fingerprints based upon credible information that a person may not meet the qualifications of an applicant.

Effective January 1, 2012.

(Amends R.S. 26:80 and 280)

Emergency Suspension of Alcohol Permits (Act No. 211)

New law creates a mechanism for the emergency suspension of permits for dealers in beverages of high alcoholic content or low alcoholic content.

Effective August 15, 2011.

(Adds R.S. 26:93(E) and 290(E))

Electronic Alcohol and Tobacco Permit Hearings (Act No. 86)

New law authorizes the commissioner to use telecommunications equipment for the conduct of administrative hearings regarding alcohol and tobacco permits.

Effective August 15, 2011.

(Adds R.S. 26:99.1, 296.1, and 919.1)

Wine Sales (Act No. 327)

New law allows manufacturers or retailers of sparkling wine or still wine who are domiciled in Louisiana to sell and ship directly to consumers in Louisiana.

New law clarifies that various rules regarding certain applications, fees, consents, reports, and

taxes apply only to retailers domiciled outside of Louisiana.

Effective August 15, 2011.

(Amends R.S. 26:359)

Alcohol and Tobacco Control (Act No. 96)

Prior law provides for the powers and duties of the commissioner of the office of alcohol and tobacco control.

New law adds that the commissioner of the office of alcohol and tobacco control shall have the authority to investigate and enforce provisions of alcohol and tobacco control law against unlicensed persons who are engaged in activities which require the issuance of a permit.

Effective August 15, 2011.

(Adds R.S. 26:792(4))

TITLE 27: LOUISIANA GAMING CONTROL LAW

There were no new laws of interest.

TITLE 28: MENTAL HEALTH

There were no new laws of interest.

TITLE 29: MILITARY, NAVAL, AND VETERANS' AFFAIRS

National Guard Benefits (Act No. 173)

Prior law provides that if a member of the La. National Guard dies while serving in *federal* active duty service or in combat, his surviving spouse and children shall be eligible to enroll in an institution of higher education in this state and shall be exempt from tuition charges.

New law extends the exemption to a spouse and children of members killed while serving in *state* active duty.

Effective August 15, 2011.

(Amends R.S. 29:36.1(G))

TITLE 30: MINERALS, OIL, GAS AND ENVIRONMENTAL QUALITY

There were no new laws of interest.

TITLE 31: MINERAL CODE

There were no new laws of interest.

TITLE 32: MOTOR VEHICLES AND TRAFFIC REGULATION

Bicycle Cops (Act No. 98)

New law affords peace officers riding bicycles the same privileges and duties as peace officers driving vehicles.

(Amends R.S. 32:1(1), 24, 194, and 329(F))

Bicycles, Cars and Pedestrians (Act No. 244)

New law defines bicycle as "every device upon which any person may ride, propelled exclusively by human power, and having one or more wheels".

New law defines "bicycle lane" as "the part of the roadway adjacent to the travel lane, designated by official signs or markings for the preferential or exclusive use by bicycles and electric mobility aid users".

New law provides when traffic-control signals are not in place or not in operation, the driver of a vehicle shall *stop* and yield the right-of-way to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the roadway upon which the vehicle is traveling or the roadway onto which the vehicle is turning.

New law provides that whenever traffic is controlled by traffic-control signals exhibiting a green colored light or arrow signal, vehicular

traffic shall *stop* and yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

New law provides that any bicycle when in use at the times required by law shall be equipped with specified lamps and reflectors.

New law provides that no retailer, distributor, wholesaler, or distributor shall sell or offer for sale a bicycle that does not comply with new law.

New law shall not apply to bicycles or the operators of bicycles while engaged in sanctioned competition races.

Prior law provided that persons riding bicycles upon a roadway, which includes an improved shoulder, may ride upon the improved shoulder. New law repeals prior law.

Effective August 15, 2011.

(Amends R.S. 32:1(4), (4.2), (13), and (65), 212, and 232 and R.S. 47:463.148; Adds R.S. 32:74(C) and 329.1; Repeals R.S. 32:197(B) and 329)

Golf Carts on Highway in Welsh (Act No. 233)

New law requires a valid driver's license when operating a golf cart while crossing U.S. 90 or 99 in the town of Welsh.

Effective August 15, 2011.

(Adds R.S. 32:127.1)

Alarms for Day Care Vans (Act No. 200)

New law permits day care centers to have a child safety alarm installed in any vehicle that is owned or operated by the day care center and used in the transport of children to or from the day care center.

New law specifies that an owner or director of a day care center who elects to have a child safety alarm installed in a vehicle owned or operated by the day care center must ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for

transporting children to or from a day care center.

"Child safety alarm" shall mean an ignition-based alarm system that voice prompts the driver of certain vehicles owned or operated by a day care center to inspect said vehicle for children before exiting the vehicle.

(Adds R.S. 32:295.3.1)

Custom Car Lights (Act No. 202)

New law prohibits the installation in a motor vehicle or the operation of any motor vehicle equipped with, any head lamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, or parts of any of the foregoing, which tend to change the original design or performance, unless the lamp or parts of the lamp is in compliance with Federal Motor Vehicle Safety Standard No.108, as adopted by the National Highway Traffic Safety Administration (NHTSA).

New law prohibits an official inspection station from issuing an official certificate of inspection to the driver of a motor vehicle that is in violation of new law.

Effective August 15, 2011.

(Adds R.S. 32:334)

TVs in Cars (Act No. 174)

Prior law prohibited a person from driving a motor vehicle equipped with a television receiver, screen, or other means of visually receiving a television broadcast, unless it was located behind the driver's seat or it was not visible to the driver while operating the vehicle. New law removes the restriction.

New law provides that the moving images on the television receiver, screen, or other means of visually receiving a television broadcast or video signal cannot be visible to the driver while the vehicle is in motion.

Effective August 15, 2011.

(Amends R.S. 32:365(A)(1))

Ignition Interlock Device Monitoring (Act No. 192)

New law requires ignition interlock devices to be monitored by the manufacturer for proper use at least bimonthly, rather than semiannually.

Effective August 15, 2011.

(Amends R.S. 32:378.2(H))

Drivers' Education (Act No. 307)

New law requires every person licensed to operate a private driving school or agency, or to provide driving courses by the DPSC on or after June 30, 2012, to administer the knowledge and on-road driving skills test required for the issuance of a Louisiana Class "D" or "E" license.

New law requires a person licensed or contracted to operate a private driver education school or agency or to provide driving courses to be or become licensed or contracted on or before June 30, 2012, as a third party tester pursuant to R.S. 32:408. Until the license or contract is obtained, the person is ineligible to operate a driver's education course or instruct in such a course.

New law provides for a driver education instructor to administer the on-road driving skills test and to issue a department approved certificate of completion of such test to the department.

Effective August 15, 2011.

(Amends R.S. 32:402, 402.1, and 407, and R.S. 40:1461)

Commercial Drivers' Vision Requirements (Act No. 257)

New law allows commercial motor vehicle drivers who do not meet the vision requirements in 49 CFR 391.41(b)(10) to drive certain commercial motor vehicles in La. only if the driver meets certain qualifications.

New law prohibits applicants granted a waiver pursuant to new law from transporting passengers for hire and hazardous wastes or hazardous material required to be placarded.

New law provides that waivers granted pursuant to new law shall be valid for the duration of the applicant's commercial driver's license.

Effective August 15, 2011.

(Adds R.S. 32:408(B)(7))

Restricted Driver's Licenses (Act No. 35)

New law provides that upon suspension, revocation, or cancellation of a driver's license for the first time only, a person shall apply to the department for a restricted driver's license.

New law requires that upon the second suspension, revocation, or cancellation of a person's driver's license, the person shall file a petition in the district court of the parish in which the applicant is domiciled.

New law prohibits issuance of a restricted driver's license for a third or subsequent suspension, revocation, or cancellation of driving privileges.

(Amends R.S. 32:415.1)

Vehicle Titles (Act No. 288)

New law provides that any request to convert an existing paper title to an electronic title shall be forwarded to the Dept. of Public Safety and Corrections by the federally insured depository institution, finance company, lending institution, or other lender through its interface with its designated public tag agent. Upon receipt of such a request the department shall convert the paper to an electronic title.

New law directs DPS&C, office of motor vehicles, to establish an expedited processing procedure for the receipt of applications and the issuance of certificate of title for motor vehicles.

New law provides that a title would be available on an expedited basis at public tag agent offices.

Prior law authorizes an owner of a motor vehicle to be issued a certified "duplicate copy" of the title if the original title is lost or stolen. New law authorizes a "perfected lienholder" holding title of a motor vehicle as collateral to also be issued a duplicate copy if the original title is lost

or stolen. New law requires the perfected lienholder to surrender the copy if the original title is recovered or to surrender a statement of destruction of the title.

New law authorizes an insurance company that is unable to obtain a certificate of title from an owner or lienholder within 30 days from settlement of a property damage claim to obtain a salvage title from the office of motor vehicles upon submission of certain documentation.

Effective August 15, 2011.

(Amends R.S. 32:429.2(B), 707(I)(1), 707.3, and 713; Adds R.S. 32:707.2(C)(4), 707.6, and 728(10) and (11))

Surrender of License Plates (Act No. 370)

Prior law requires every registered motor vehicle in the state of La. to be covered by compulsory automobile liability policy with certain limits. Prior law provides that upon cancellation of this coverage, fees were to be assessed by the office of motor vehicles. New law provides that no fee will be assessed against a vehicle owner who cancels the compulsory automobile liability policy if he turns in the vehicle's license plate to the office of motor vehicles within 10 days of the date that the office of motor vehicles sends him a notice.

Prior law provided that if the owner or lessee of a registered vehicle wished to discontinue use of the vehicle and cancel the insurance without being assessed the fees by the office of motor vehicles, he should send a written statement and affidavit to the office of motor vehicles within 10 days of the cancellation, stating the intended period of nonuse. New law requires that the owner or lessee send the written statement and affidavit of nonuse prior to the cancellation of insurance.

Prior law provided for fees against a vehicle owner when the compulsory automobile liability insurance cancelled and was not reinstated by the eleventh day after cancellation, but no fee was to be charged when a vehicle had been uninsured for a period of 10 days or less. New law assesses the fee against a vehicle owner

beginning on the first day after cancellation, unless he surrenders the vehicle's license plate to the office of motor vehicles within 10 days of notice from the office of motor vehicles.

Prior law required the office of motor vehicles to notify any person whose compulsory automobile liability insurance had been cancelled before taking administrative action. New law requires this notice to inform the subject that he has 10 calendar days from the date of the notice to surrender the vehicle's license plates to the office of motor vehicles in order to avoid the administrative fees.

Prior law provides that legitimate reasons for cancellation of compulsory liability insurance include transfer of ownership of the vehicle. New law adds the surrender of the license plate as another legitimate reason for cancellation.

Effective August 15, 2011.

(Amends R.S. 32:861, 863 and 863.2; Adds R.S. 22:885(E))

Mandatory Auto Insurance Coverage (Act No. 17)

Prior law requires an owner's policy of liability insurance to insure the named insured, and any other insured person using the motor vehicle with permission of the named insured, against damages arising from ownership, maintenance, or use of such motor vehicle, subject to limits (exclusive of interests and costs) with respect to each motor vehicle as follows:

- (1) \$15,000 for bodily injury to or death of one person in any one accident.
- (2) Subject to said limit of one person, \$30,000 because of bodily injury to or death of two or more persons in any one accident.
- (3) \$25,000 because of bodily injury to or destruction of property of others in any one accident.

New law changes the \$25,000 limit for coverage for bodily injury or destruction of property of others in any one accident to coverage for damage to or destruction of property of others in any one accident. Otherwise retains present law.

(Amends R.S. 32:900(B)(2)(c))

Motor Vehicle Dealer Laws (Act No. 89)

New law repeals the requirement that nonresident exhibitors be licensed by the Motor Vehicle Commission.

New law exempts recreational products dealers from the requirement to obtain a license for the purposes of modifying or selling vehicles they are duly franchised and licensed to sell from the location from which the recreational products dealer is licensed to do business.

Prior law provides that it is an unauthorized act for any person or other licensee to modify a franchise during the term of the agreement or upon its renewal, if the modification substantially and adversely affects the franchisee's rights, obligations, investment, or return on investment, without giving 60-days written notice of the proposed modification to the licensee and Motor Vehicle Commission. New law requires that the 60-day written notice to the licensee and commission must include the grounds upon which the modification is based. New law exempts recreational products from new law franchise modification requirements.

Prior law provides that warranty and sales incentive audits of dealer records may be conducted by the manufacturer, distributor, distributor branch, or factory branch. Prior law further provides that any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the 12-month period immediately following the date of the close of the promotion, event, program, or activity. New law provides that the 12-month period shall begin following the date of final payment to the dealer under a promotion, event, program, or activity.

New law provides that a dealer shall not be charged back on a claim when a dealer performs a repair covered by the manufacturer's or distributor's warranty, and the dealer reasonably demonstrates that the repair resolved the condition which the customer presented for resolution, and the dealer documents what has been repaired and the process utilized to

accomplish the repair. New law exempts recreational products dealers.

New law provides that it shall be deemed an unfair act to audit a dealer more frequently than two sales-related and two service-related audits in a 12-month period. Nothing in new law shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.

New law provides no claim may be rejected as late if it has been submitted within 60 days of the date the repair order was written.

(Amends R.S. 32:1254, 1261, and 1262)

TITLE 33: MUNICIPALITIES AND PARISHES

La. Sports and Entertainment District Act (Act No. 205)

New law:

(1) Creates the La. Sports and Entertainment District in New Orleans as a political subdivision with the following boundaries: Poydras Street, Loyola Avenue, Girod Street, South Liberty Street, Julia Street, Le Rouge Street, Howard Avenue, and South Claiborne Avenue.

(2) Provides that the district's purpose is to provide for cooperative economic and community development to enhance the development of and improvement to the property within the area of the district, and to expand the entertainment and leisure activities within the district.

(3) Creates and provides for a board of commissioners composed of the members of the Board of Commissioners of the La. Stadium and Exposition District.

(4) Grants the district the powers of an economic development district, including powers of tax increment financing, but excludes the district from authority to levy taxes.

(5) Authorizes the district or a subdistrict to issue bonds or other obligations or evidences of

indebtedness to provide funds to achieve its purposes.

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

(Adds R.S. 33:130.841-130.848)

Police Chief Authority (Act No. 282)

New law grants elected police chiefs in municipalities governed by the Lawrason Act the authority to effect disciplinary action, dismiss police personnel, and to make provisional appointments to fill vacancies in the police department, with various limitations and exceptions.

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

(Adds R.S. 33:423(C))

Police May Use Alternative Fuels (Act No. 246)

New law authorizes use of hybrid or alternative fuel vehicles by local government law enforcement agencies and emergency vehicles.

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

(Repeals R.S. 33:1418(B))

Plaza Districts (Act No. 156)

New law, regarding special districts for cooperative economic development purposes, provides that plaza districts shall not have the power to levy any additional sales tax.

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

(Adds R.S. 33:9039(4))

Local Codes of Governmental Ethics (Act No. 37)

New law authorizes the governing authority of New Orleans, East Baton Rouge Parish, or Jefferson Parish to adopt and enforce local codes

of conduct or ethics ordinances, which may regulate the same or similar activity as regulated by the provisions of the La. Code of Governmental Ethics.

New law prohibits the local governmental subdivisions from adopting and enforcing any local code or ordinance that preempts, preempts, or otherwise precludes the enforcement of the state ethics code by the La. Board of Ethics or precludes the ethics board from having exclusive jurisdiction over the enforcement of the state ethics code.

New law further provides that the adoption and enforcement of any local code or ordinance shall neither abridge nor abrogate any responsibility of an agency head to take preventive measures, report ethics violations, and cooperate in investigations as required by prior law.

(Adds R.S. 33:9612.1)

Lobbyist Registration Fees (Act No. 190)

New law requires a lobbyist to pay a fee of \$110 with each registration and registration renewal form filed with the Board of Ethics.

Effective Dec. 1, 2011, but applicable only to registrations and renewals of registrations for the year 2012 and thereafter.

(Amends R.S. 33:9664(C); Adds R.S. 33:9664(G))

TITLE 34: NAVIGATION AND SHIPPING

Boating Safety (Act No. 123)

Prior law provides that no person born after Jan. 1, 1984, can operate a motorboat powered by a motor in excess of 10 horsepower unless he has successfully completed a boating safety class approved by the National Association of State Boating Law Administrators.

New law exempts a person who is licensed by the United States Coast Guard as a captain to operate a vessel.

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

(Amends R.S. 34:851.36(B))

Bar Pilots (Act No. 111)

Prior law provides that bar pilots may form themselves into a voluntary private association or partnership. New law adds corporations and limited liability companies.

Prior law requires every bar pilot to own or be a part owner of at least one decked pilot boat of not less than 50 tons burden. New law repeals prior law.

Prior law provides that Associated Branch Pilots (bar pilots) of the Port of New Orleans shall also be entitled to enter into agreements with the masters or owners of ships and vessels for special services and the hire of boats and equipment, and the like, at such rates and for such sums as may be agreed between them. New law repeals prior law.

Prior law prohibits members of the Board of Commissioners of the Port of New Orleans from having an interest, directly or indirectly, in any bar pilot boat or pilotage. New law repeals prior law.

(Amends R.S. 34:963; Repeals R.S. 34:950, 951, 952, 954, and 965)

TITLE 35: NOTARIES PUBLIC AND COMMISSIONERS

There were no new laws of interest.

TITLE 36: ORGANIZATION OF EXECUTIVE BRANCH OF STATE GOVERNMENT

DOTD Reorganization (Act No. 261)

New law renames the DOTD office of planning and programming as the office of multimodal planning.

New law eliminates the office of public works and intermodal transportation and transfers its

duties to the office of multimodal planning and the office of engineering.

New law provides that the duties of the office of public works and intermodal transportation relating to the public works functions of the state related to flood and drainage control, reclamation, water resources, soil conservation, mapping, disaster relief, and the National Flood Insurance Program will be under the auspices of the office of engineering.

New law provides that the duties of the office of public works and intermodal transportation relating to aviation, public transportation, public mass transit, and railroad and water transportation systems will be under the auspices of the office of the multimodal planning.

Effective upon signature of governor (June 28, 2011).

(Amends R.S. 36:501, 502, 508, 508.1; Repeals R.S. 36:508.3)

TITLE 37: PROFESSIONS AND OCCUPATIONS

Architecture Licensing Exemptions (Act No. 18)

New law provides that law requiring persons to be registered and licensed and forbidding the practice of architecture by unlicensed persons shall not apply to:

- (1) Persons acting as designers for various classes of buildings.
- (2) Routine maintenance projects that do not exceed the contract limit for public bidding.

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

(Amends R.S. 37:155(A)(4)(f) and (5))

Identification and Cremation of Corpses (Act No. 16)

New law provides that the information regarding the identity of human remains and the time of death shall be considered to be a representation

of the funeral director or funeral establishment that the human remains delivered to the crematory authority have been identified as the decedent listed on the cremation authorization by the coroner or positively identified after a viewing of the remains by a person who is the authorizing agent or a designated representative thereof.

New law provides that the information regarding whether the death occurred as a result of an infectious, contagious, or communicable disease shall be considered to be a representation of the funeral director or funeral establishment of any information received by the funeral director or funeral establishment.

New law provides that the coroner shall provide the identification of any dead body to the funeral director or funeral establishment to whom it relinquishes possession thereof, unless the coroner is not able to establish the identity of the dead body.

New law provides that there shall be no liability for a funeral director, funeral establishment, or crematory authority in relying on information provided by health care providers or the coroner pursuant to new law or their failure to provide such information.

New law provides that there shall be no liability for a funeral director, funeral establishment, or coroner for permitting an authorizing agent or designated representative thereof, or any interested party, to view human remains for the purpose of identification.

(Amends R.S. 37:877 and 883))

Nurse Aides (Act No. 50)

New law makes the medication attendant certification program for certified nurse aides a permanent program.

New law authorizes LCTCS to develop and maintain a clinical preceptor nurse aide training program in accordance with federal law and regulation.

Effective August 15, 2011.

(Amends R.S. 37:1026.1 and 1026.6(B)(10); adds R.S. 40:1300.21 - 1300.22; repeals R.S. 37:1026.9)

Home and Community-Based Services (Act No. 299)

New law amends provisions relative to the licensing standards, rules, and regulations and quality of services applicable to home- and community-based providers.

Prior law establishes criteria which must be met for an individual being served by direct service workers. New law also adds to the list of criteria that an individual being served must require assistance with medication administration or other noncomplex medical tasks.

New law authorizes that a registered nurse may delegate to a licensed practical nurse components of the training and supervision of the direct service worker, provided that the registered nurse shall retain the responsibility and accountability for all acts of delegation and ensuring authorization and competency validation.

New law requires a direct service worker receive complete didactic training and demonstrate competency in order to administer noncomplex tasks. New law specifies that a direct service worker must receive appropriate person-specific training from a registered nurse who has assessed the health status of the individual receiving services and determined that the direct service worker can perform the tasks in a safe, appropriate manner, with additional person-specific training by a registered nurse whenever the tasks to be performed or the types of medications to be administered are changed. New law deletes a requirement that a direct service worker receive training in current cardio-pulmonary resuscitation certification.

Prior law provides that any registered nurse who has properly trained and documented that a direct service worker can perform the prescribed tasks shall not be liable for any civil damages as a result of any act or omission of the direct service worker. New law changes the term "registered nurse" to "licensed nurse."

New law prohibits direct service workers with a finding on the Dept. of Health and Hospital's Direct Service Worker Registry from performing tasks. New law specifies that a direct service worker shall be terminated if he has a finding against him placed on the Direct Service Worker Registry.

New law requires licensure procedures and requirements to include provisions for the granting of deemed status to home- and community-based providers that either obtain accreditation through a recognized national, not-for-profit accrediting body approved by the department, or comply with any other procedure developed by the department to ensure that every home- and community-based provider meets minimum standards for the delivery of services and is in compliance with all applicable federal and state regulations.

New law makes technical changes.

Prior law applied only to direct service workers who are compensated through state or federal funds, and did not apply to direct service workers listed on the Certified Nurse Aide Registry. New law extends to all direct service workers who are compensated in any form.

(Amends R.S. 37:1031, 1033 and 1034, and R.S. 40:2120.4, 2120.5, and 2179; Adds R.S. 40:2119; Repeals R.S. 37:1033(G))

Optometry (Act No. 149)

Prior law provides that licensed optometrists certified by the board to use pharmaceutical agents may direct licensed registered nurses and licensed practical nurses to execute diagnostic and therapeutic orders and administer pharmaceutical agents. New law expands the type of healthcare personnel which may execute diagnostic and therapeutic orders and administer pharmaceutical agents.

Prior law provides until a certificate of practice is recorded an optometrist shall not engage in the practice of optometry. New law removes prior law.

Effective August 15, 2011.

(Amends R.S. 37:1041(C)(2)(e), 1042(B), 1050(B), and 1055)

Mental Health Counseling (Act No. 320)

New law defines mental health counseling services as rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy, of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed professional counselor, which is consistent with his professional training, and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession.

New law limits the definition of mental health counseling services by providing that nothing in the law shall be construed to authorize any person licensed under the provisions of new law to assess, diagnose, or provide treatment to any individual suffering from a serious mental illness, as defined by new law, unless that individual is under the active care of a practitioner who is licensed by the Louisiana State Board of Medical Examiners and is authorized to prescribe medications in the management of psychiatric illness, and only in the context of an ongoing consultation and collaboration with that practitioner.

New law defines the practice of mental health counseling as rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy, of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed professional counselor, any service which is consistent with his professional training as prescribed by law, and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession.

New law defines serious mental illness as any of twelve listed diagnoses.

New law increases the number of graduate semester hours from 48 to 60 after September 1, 2015, and requires that all applicants complete a

course in each of the eight required areas specified in prior law and complete a supervised internship in mental health counseling.

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

(Amends R.S. 37:1103 and 1107)

Physician Advertising (Act No. 337)

New law adds certain advertisements by a physician holding himself out to the public in any manner as being certified by a public or private board as cause for the Louisiana State Board of Medical Examiners to refuse to issue or suspend or revoke any license or permit, or impose probationary or other restrictions on the license of the physician, unless certain criteria are satisfied.

New law requires a physician to list his qualifications for performing the advertised medical procedures in his advertisement, if he advertises and does not meet any of the criteria articulated in new law.

Effective August 15, 2011.

(Adds R.S. 37:1285(A)(32))

Out of State Physicians (Act No. 44)

New law authorizes the Board of Medical Examiners to adopt rules to allow an out-of-state physician to order routine diagnostic testing under certain circumstances.

Effective August 15, 2011.

(Adds R.S. 37:1291.1)

Secondhand Dealers (Act No. 389)

Prior law provided that every person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of used or secondhand property is a secondhand dealer.

New law provides that every person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of

junk or used or secondhand property is a secondhand dealer.

New law further provides that anyone, other than a nonprofit entity, who buys, sells, trades in, or otherwise acquires or disposes of junk or used or secondhand property more frequently than once per month from any other person, other than a nonprofit entity, shall be deemed as being engaged in the business of a secondhand dealer.

New law defines "junk" as any property or material commonly known as "junk".

New law shall not apply to collectors, transporters, or disposers of waste whose waste collection, transportation, and disposal activities are regulated by the Dept. of Environmental Quality, or persons who collect, transport, or manage recyclable materials pursuant to a residential collection, recycling, or disposal contract with a municipality or political subdivision.

New law prohibits any person from willfully or knowingly purchasing junk or used or secondhand property, unpaid for by the seller, or not owned by the seller.

Prior law exempted persons operating as a pawnshop from the record acquisition, maintenance, and reporting requirements of prior law. New law adds an exemption for the prohibition against payments in cash contained in new law.

New law requires every individual, firm, corporation, entity, or partnership, except municipalities, political subdivisions, and public utility companies, engaged in the business of purchasing and reselling any of the materials provided for in new law, to either keep a register and file reports or electronically maintain data and be capable of readily providing reports in the form prescribed by Dept. of Public Safety and Corrections.

New law requires the register to contain various detailed information.

New law shall not apply to purchases of materials from any manufacturing, industrial, or other commercial vendor that generates, as a

byproduct or recyclable waste, or sells such materials in the ordinary course of its business.

New law requires each secondhand dealer to keep either one copy of the completed form in a separate register or book or maintain the information in electronic format which shall be kept for a period of three years at his place of business and shall be made available for inspection by any peace officer or law enforcement official at any time during the three-year period.

New law provides that failure to maintain the information or the register or to produce a report requested by any peace officer or law enforcement official shall be prima facie evidence that the person receiving the material described in new law and not registered or reported, received it knowing it to be stolen.

New law prohibits an owner, employee, keeper, or proprietor of a junk shop, junk store or yard, of a junk cart or other vehicle or boat, or collector of or dealer in junk, from receiving or purchasing from any minor under 17 years of age, any goods, chattels, wares, or other merchandise, including any material defined in new law.

New law prohibits a secondhand dealer from entering into any cash transactions in payment for the purchase of junk or used or secondhand property. New law requires payment to be made in the form of check, electronic transfer, or money order issued to the seller of the junk or used or secondhand property and made payable to the name and address of the seller. New law requires the transactions to be reported separately in the daily reports required by new law.

New law requires every secondhand dealer to obtain a signed statement from the seller that the junk or used or secondhand property has been paid for or is owned by the seller, and a failure of the dealer to exact a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the dealer, sufficient to warrant a conviction.

New law provides that a secondhand dealer who obtains the required statement from the seller

shall be exonerated from any fraudulent, willful, or criminal knowledge.

New law replaces prior similar laws that may have been more onerous.

Effective August 15, 2011.

(Amends R.S. 37:1861, 1862.1, 1864, 1864.2, 1869, and 1870; Adds R.S. 37, 1861.1, 1864.3, and 1864.4; Repeals R.S. 51:571-579)

Secondhand Dealers (Act No. 141)

New law requires secondhand dealers to provide transactional information required under present law to the government by electronic transmission.

Effective August 15, 2011.

(Amends R.S. 37:1866(A))

Bidding for Federally-Funded Public Works (Act No. 107)

Prior law provides that persons bidding work partially funded by the federal government, if a federal regulation or law prohibits the requirement of a contractor's license, are not required to have a license issued by the State Licensing Board for Contractors; however, the successful bidder shall apply for a license and meet all requirements of the law and rules and regulations of the board prior to commencement of work.

New law repeals prior law.

(Repeals R.S. 37:2157(A)(6))

Louisiana Hearing Aid Licensing Act (Act No. 93)

New law requires a licensed hearing aid dealer who sells a hearing aid to a consumer to provide a written receipt or written contract to the consumer that contains a notification that he has a 30-day right to cancel the purchase if he finds that the hearing aid does not function adequately and obtain a refund if he returns the hearing aid to the seller in the same condition, ordinary wear and tear excluded, as when purchased.

The seller of the hearing aid can assess a cancellation fee not to exceed 15% of all fees charged to the consumer, including testing, fitting, counseling, and the purchase price of the hearing aid.

New law authorizes a consumer to cancel any transaction for the purchase of a hearing aid, without any penalty or obligation, within three business days from the date the hearing aid is actually ordered by the consumer; however, if the transaction is cancelled, any property traded in for credit, any payments made by the consumer under the contract or sale, and any negotiable instrument executed thereupon must be returned by the seller to the consumer within 10 business days following receipt by the seller of the cancellation notice.

New law specifies that upon cancellation, the consumer must make available to the seller in the same mode as received, in substantially as good condition as when received, any goods delivered under the contract or sale. New law further provides that if the product, if received by delivery to consumer, is made available to the seller and the seller does not pick it up within 20 days of the date of the notice of cancellation, the consumer bears no further obligation for the return of the product; however, if the consumer fails to make the product available to the seller, or agrees to return the product to the seller and fails to do so, then the consumer remains liable for performance of all obligations under the contract.

New law provides that the notice of cancellation is effective if the consumer delivers the notice to the seller within the time frame and includes a signed and dated copy of the subject contract, receipt, sales form, or other document evidencing all the terms of the transaction and the consumer's written notice to cancel.

New law modifies prior law by changing the licensing process for out-of-state hearing aid dealers from reciprocity to endorsement, and increases the number of required continuing education hours from 10 to 15.

New law specifies that an applicant must be under direct supervision when using a temporary permit to fit or sell hearing aids.

New law specifies that the sponsor and co-sponsor are responsible for direct training of temporary permit holders.

New law specifies that the temporary permit holder must continue training under the direct supervision of the permit holder's sponsor or cosponsor.

New law specifies that sponsor and co-sponsor of a temporary training permit holder must be a licensed hearing instrument dispenser.

New law specifies that a sponsor and co-sponsor must directly supervise a temporary training permit holder, provide direct supervision by being located on the premises and available to the temporary training permit holder for prompt consultation, and provide direct supervision by reviewing daily a temporary training permit holder's patient contact and daily work.

New law specifies that a temporary training permit holder may provide routine fitting and dispensing of hearing instruments that have been ordered by the sponsor or co-sponsor. New law provides that the sponsor or co-sponsor, in consultation with the board, is the sole judge of whether the permit holder has the qualifications necessary to perform routine fitting and dispensing. New law provides that a sponsor or co-sponsor is accountable to the board for the actions and misdeeds of a temporary training permit holder acting at the sponsor's or cosponsor's discretion.

(Amends R.S. 37:2442, 2446.1(C), 2449(B), 2449.1, 2449.2, and 2449.3(A); Adds R.S. 37:2444.1 and 2444.2)

Court Reporters (Act No. 235)

Prior law provides that persons employed as official court reporters and deputy court reporters of a court of record shall be subject to the certification requirements applicable to certified court reporters and provides that any person employed as a court reporter or deputy court reporter on or before Dec. 31, 2010, by a court which uses electronic or audio recording equipment, shall be certified as long as he remains employed by that court in such capacity.

New law extends the date from Dec. 31, 2010, to Dec. 31, 2011.

Effective August 15, 2011.

(Amends R.S. 37:2554(B)(2))

Appraisal Management Licenses (Act No. 114)

New law provides that all licenses granted by the La. Real Estate Appraisers Board shall expire Dec. 31 of each calendar year.

New law provides that, for licenses issued prior to Aug. 15, 2011, and renewed between Aug. 15, 2011, and Dec. 31, 2011, new law shall apply to those licenses as of the first renewal date on or after Aug. 15, 2011.

New law provides that, for initial licenses issued between Jan. 1, 2011, and Aug. 14, 2011, or licenses renewed between Jan. 1, 2011, and Aug. 14, 2011, new law shall apply to those licenses as of the first renewal date on or after Aug. 15, 2011.

(Amends R.S. 37:3415.6; Adds R.S. 37:3415.10)

TITLE 38: PUBLIC CONTRACTS, WORKS AND IMPROVEMENTS

Levees and Levee Districts (Act No. 371)

Prior law prohibits any person from placing upon any part of the levees fronting any waterway, any object, material, or matter of any kind or character which obstructs or interferes with the safety of the levees or is an obstacle to the inspection, construction, maintenance, or repair of any levee. New law adds a restriction of 15 feet.

Prior law prohibits any person to tie or moor logs, rafts, boats, watercraft, or floating objects of any description to the levees, or, when the water is against the levees, tie or moor floating objects insecurely to mooring posts, revetments, trees, or other stationary or supposedly stationary objects on the foreshore where they can be driven against the levees during windstorms. New law includes any floating

objects from being tied or moored to any object within 180 feet from the crown of any levees.

New law authorizes a levee district or levee drainage district to purchase certain items through an existing public contract of another political subdivision within one year of opening of bids, provided that the contract is in compliance with public bid law; the total purchases do not exceed two times the purchase by the political subdivision; written consent is obtained, as well as the contract number; the vendor agrees to the additional purchase; the vendor or items are identical to those specified in the existing public contract; and the price is the same as the original contract price.

New law contains various other provisions relating to levees and levee districts.

Effective August 15, 2011.

(Amends R.S. 38:213, 225, 291; adds R.S. 38:225 and 321.1)

Mandamus Against Public Entities for Payment (Act No. 184)

Prior law provides that all public entities must promptly pay all progressive stage payments and final payments when they become due and payable under the contract, without waiver by contract. Prior law provides that any public entity failing to make any final payments after formal final acceptance and within 45 days following receipt of a clear lien certificate by the public entity shall be liable for reasonable attorney fees.

New law adds that any public entity failing to make any progressive stage payments arbitrarily or without reasonable cause, or any final payment when due, shall be subject to mandamus to compel the payment of the sums due under the contract up to the amount of the appropriation made for the award and execution of the contract.

Effective August 15, 2011.

(Amends R.S. 38:2191)

Public Works Contracts Not to Favor Labor (Act No. 134)

New law provides that a public entity, when engaged in procuring products or services or letting contracts for construction, manufacture, or operation of public works paid for in whole or in part by public funds, or when overseeing or administering such procurement, construction, manufacture, or operation, shall ensure that bid specifications, project agreements, and other controlling documents entered into, required, or subject to approval by the public entity shall not:

- (1) Require bidders, offerors, contractors, subcontractors, or operators to: (a) enter into or adhere to agreements with one or more labor organizations on the same or related projects; (b) enter into agreements whereby they are required to remain neutral toward any labor organization; (c) pay predetermined or prevailing wages.
- (2) Discriminate against bidders, offerors, contractors, subcontractors, or operators for refusing to: (a) become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related projects; (b) enter into any agreement whereby they are required to remain neutral toward any labor organization.
- (3) Require any bidders, offerors, contractors, subcontractors, or operators to enter into, adhere to, or enforce any agreement that requires any employee as a condition of employment to: (a) Become a member of or become affiliated with a labor organization; (b) pay dues or fees to a labor organization over the employee's objection.

New law prohibits public entities from providing financial assistance, issuing grants, or entering into cooperative agreements for projects, a condition of which is that the bid specifications, project agreements, or other controlling documents pertaining to the financial assistance, grant, or cooperative agreement contain any of the elements prohibited by new law.

New law does not prevent contractors and subcontractors from voluntarily entering into various agreements which are otherwise prohibited by new law.

New law allows any interested party to challenge any bid specification, project agreement, neutrality agreement, controlling document, grant, or cooperative agreement which violates new law, and provides for injunctive relief for violation of new law.

New law shall not apply to the following:

- (1) Any inmate work-release program.
- (2) Any contract under the Louisiana Quality Jobs Program.
- (3) Any contract or cooperative endeavor agreement pursuant to the Incumbent Worker Training Program.
- (4) Any public-private agreement for any construction or infrastructure project in which the private entity, as a condition of its investment or partnership with the public entity, requires that the private entity have the right to control its labor relations policy with its own employees and the employees of its contractors and subcontractors in any manner permitted by the National Labor Relations Act.

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

(Amends R.S. 38:2211(A)(12); adds R.S. 38:2225.5)

Public Bid Laws (Act No. 281)

Prior law requires the public bid form for public works projects to be developed by the division of administration, office of facility planning and control, to require a "bid total". New law changes prior law to a requirement for a "base bid". New law prohibits unit prices from being used for the construction of a building project unless the unit price is incorporated into the "base bid".

Prior law required that other documentation and information required for submitting a public bid shall be furnished by all bidders at a later date and time in accordance with the bidding documents. New law instead requires that other documentation and information required for submitting a public bid shall be furnished by the lowest bidder within 10 days after the bid

opening. This requirement cannot be altered or waived by any public entity.

New law provides that the Sewerage and Water Board of New Orleans and all agencies of the City of New Orleans, including but not limited to the Regional Transit Authority and the New Orleans Aviation Board, shall require that the documentation and information required for submitting a public bid shall be furnished by the two lowest bidders within three days of the bid opening.

Effective August 15, 2011.

(Amends R.S. 38:2212)

Public Bids for S&WB Contracts (Act No. 338)

New law requires the Acknowledgment of Addenda of the bid form for public works projects conducted by the New Orleans Sewerage and Water Board to include attachment of the addenda if pricing information is contained therein and the addenda specifies attachment.

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

(Adds R.S. 38:2212(A)(8))

Employment of Illegal Aliens and Public Contracts (Act No. 376)

New law provides that a private employer shall not bid on or otherwise contract with a public entity unless the private employer verifies in a sworn affidavit that:

(1) The private employer is registered and participates in a status verification system to verify that all employees in the state of La. are legal citizens of the U.S. or are legal aliens.

(2) The private employer must continue, during the term of the contract, to utilize a status verification system to verify the legal status of all new employees in the state of La.

(3) The private employer shall require all subcontractors to submit to the employer a

sworn affidavit verifying compliance with new law.

New law defines a "status verification system" as the "E-Verify" program of the U.S. Dept. of Homeland Security.

New law provides that any private employer found to be in violation may be subject to cancellation of any public contract, resulting in ineligibility for any public contract for a period of not more than three years from the date the violation is discovered, and that the private employer shall be liable for any additional costs incurred by a public entity occasioned by the cancellation of a contract or loss of any license or permit to do business in the state.

New law provides that any person, contractor, or employer who complies with the provisions of new law shall not be civilly or criminally liable under state law for (1) the hiring of an unauthorized alien if the information obtained in accordance with the status verification system indicated that the employee's federal legal status allowed the employer to hire that employee, or (2) a refusal to hire an individual if the information obtained in accordance with the status verification system indicated that the individual's federal legal status was that of an unauthorized alien.

No person, contractor, or employer shall be penalized under new law for actions of a subcontractor unless such person, contractor, or employer had actual knowledge of such subcontractor's failure to comply with new law.

New law applies only to contracts entered into or bids offered on or after Jan. 1, 2012.

Effective August 15, 2011.

(Adds R.S. 38:2212.10)

Electronic Bidding for Public Works Contracts (Act No. 81)

Prior law provides the option for bids to be electronically transmitted to political subdivisions via secure electronic interactive environment. Prior law provides an exception for any parish with a police jury form of government and a population of less than 50,000

and any city or municipality with a population of less than 25,000. New law changes 50,000 to 20,000 and changes 25,000 to 10,000.

New law provides for public entities to have the option to require that all bids be submitted electronically for any competitive bid let out for public bid.

New law requires public entities to include all bid documents on the electronic website accepting the electronic bids.

Prior law provides an option for electronic bidding for purchases of materials and supplies by political subdivisions and requires political subdivisions to make provisions for receipt of bids electronically.

Prior law provides for an exception for any parish with a police jury form of government and a population of less than 50,000 and any city or municipality with a population of less than 25,000. New law changes 50,000 to 20,000 and changes 25,000 to 10,000.

(Amends R.S. 38:2212 and 2212.1)

Design - Build Construction (Act No. 170)

New law extends the length of time from four years to five years for the utilization of the design-build method for projects of certain parishes or entities under existing law.

Effective August 15, 2011.

(Amends R.S. 38:2225.2.1(A)(3))

Public Bidding by Electronic Reverse Auctions (Act No. 210)

New law authorizes the use of reverse auction by political subdivisions based on the determination of the procurement officer of such entity that the best interest of that entity would be served by using such electronic procurement method.

New law defines "reverse auction" as a competitive online solicitation process on the Internet for materials, supplies, services, products, or equipment in which vendors

compete against each other online in real time in an open and interactive environment.

New law provides that in a reverse auction, the political subdivision may require, among other things, that:

(1) Vendors shall register before the opening date and time.

(2) Vendors shall be prequalified prior to placing bids.

(3) The solicitation shall designate an opening date and time and the closing date and time.

(4) At the opening date and time, the using agency shall begin accepting online bids and continue accepting bids until the bid is officially closed.

(5) Bidders' identities shall not be revealed during the bidding process.

(6) All bids shall be posted electronically and updated on a real-time basis.

(7) The using political subdivision retains the right to cancel the solicitation if it determines that it is in the political subdivision's best interest.

(8) The using political subdivision retain its existing authority to determine the criteria that will be used as a basis for making awards.

New law requires that adequate public notice for purchases of materials, supplies, or equipment by a political subdivision using a reverse auction be given by publication twice in a newspaper in the locality, the first advertisement to appear at least 15 days before the opening date of the reverse auction.

New law provides that with the approval of the state director of state purchasing and the head of the using state agency, a reverse auction may be utilized for the acquisition of materials, supplies, services, products, or equipment.

New law requires that adequate public notice for the purchase of materials, supplies, services, or equipment by state agencies using a reverse auction be given as follows:

(1) The advertisement or notice shall be published in the official journal of the state at

least 20 days before the opening date of the reverse auction.

(2) In the case of any purchase to meet the needs of a single budget unit, the advertisement shall be published also in a newspaper of general circulation printed in the parish in which the budget unit is situated, or, if there is not a newspaper printed in the parish, in a newspaper printed in the nearest parish that has a general circulation in the parish in which the budget unit is situated.

Effective July 1, 2011.

(Amends R.S. 39:1554(E); adds R.S. 38:2271 and R.S. 39:1598.1, 1661(D) and 1671(H))

Public Works by S&WB (Act No. 51)

Prior law provides that if a potential supplier wishes to submit a request for prior approval of a particular product other than a product specified in the public contract documents, he must do so no later than seven working days prior to the opening of bids.

New law extends the time period from 7 to 14 days prior to the opening of bids for public works projects of the New Orleans Sewerage and Water Board.

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

(Amends R.S. 38:2295(C))

TITLE 39: PUBLIC FINANCE

Preference for Items Made in USA (Act No. 369)

New law provides that each procurement officer, purchasing agent, or similar official who procures or purchases materials, supplies, products, provisions, or equipment under the Louisiana Procurement Code may purchase such items which are manufactured in the U.S., and which are equal in quality to other items, provided that all of the following conditions are met:

(1) The cost of such items does not exceed the cost of other items which are manufactured outside the U.S. by more than 5%.

(2) The vendor of such items agrees to sell the items at the same price as the lowest bid offered on such items.

(3) In cases where more than one bidder offers items manufactured in the U.S. which are within 5% of the lowest bid, the bidder offering the lowest bid on such items is entitled to accept the price of the lowest bid made on such items.

(4) The vendor certifies that such items are manufactured in the U.S.

New law provides that "manufactured in the United States" means produced by a process in which the manufacturing, final assembly, processing, packaging, testing, and any other process that adds value, quality, or reliability to assembled articles, materials, or supplies, occurs in the U.S.

Effective July 1, 2011.

(Adds R.S. 39:1595.7)

TITLE 40: PUBLIC HEALTH AND SAFETY

HANO Police Officers (Act No. 117)

New law provides that the Housing Authority of New Orleans (HANO) may appoint and commission peace officers to enforce laws, rules, and regulations to protect persons, properties or interests relating to HANO.

New law provides HANO's peace officers with the following powers:

a. May carry weapons, concealed or exposed while in the performance of their duties.

b. Shall take such action as is authorized by law, rule, or regulation to protect persons, properties, or interests relating to HANO.

c. Shall exercise regular police powers of the state granted to law enforcement officers, including but not limited to, enforcement of municipal laws, issuance of municipal summons

and citations and with respect to criminal and other offenses.

New law requires HANO's peace officers to be P.O.S.T. certified.

New law provides that the duties of HANO's peace officers are to:

- a. Prevent and detect crime.
- b. Apprehend criminals and enforce the criminal and traffic laws of the state.
- c. Keep the peace and good order in the state by the enforcement of the state's police powers.
- d. Perform any other related duties imposed upon them by the legislature.

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

(Adds R.S. 40:456.1)

Housing Authority Affiliates (Act No. 79)

New law makes housing authority affiliates subject to the Public Records Law.

Prior law defines an "affiliate" of a housing authority as any corporation, entity, partnership, venture, syndicate, or arrangement in which a local housing authority has an ownership or governance interest of less than a majority.

Prior law provides that affiliates of housing authorities are not subject to the laws of the state applicable to public agencies and their governing bodies by virtue of their affiliation with a local housing authority. New law provides for the applicability of the Public Records Law to such housing authority affiliates.

Prior law provides a definition of the term "public body" as it is used in the Public Records Law. New law retains present law and adds affiliates of housing authorities to such definition.

New law does not require the disclosure of documents or records of persons who hold an ownership interest in, or authority over, an affiliate of a housing authority, but does not prevent the disclosure of the identity of persons holding an ownership interest in an affiliate.

(Amends R.S. 40:487 and R.S. 44:1(A)(1))

Louisiana Housing Corporation Created (Act No. 408)

New law provides for abolishing the boards of the Louisiana Housing Finance Agency and the Louisiana Land Trust and transfers these agencies to the Louisiana Housing Corporation (LHC), created by new law, as subsidiaries thereof. New law transfers all of the previous entities' responsibilities relative to providing access to decent, safe, sanitary, accessible, and affordable housing to the LHC.

New law requires the LHC to establish policies for housing finance for all entities involved in financing single family or multi-family housing.

New law provides that the LHC may sell residential loans and may package such loans for sale.

New law provides that the LHC may establish requirements for lending institutions that hold collateral and those that are recipients of loans from the LHC.

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

(Adds R.S. 40:600.4(E), 600.64(C), 600.86 - 600.111, and R.S. 42:1124.2(A)(5); repeals R.S. 36:769(J) and R.S. 40:600.1-600.25.1)

Possession with Intent to Distribute Fake Drugs (Act No. 100)

New law criminalizes possession with intent to distribute or dispense an imitation controlled dangerous substance.

Effective August 15, 2011.

(Amends R.S. 40:971.1(A); Repeals R.S. 40:617.1)

Electronic Drug Prescriptions (Act No. 155)

Prior law requires prescriptions for Schedule II controlled dangerous substances to be in writing. New law allows a prescription for a Schedule II controlled dangerous substances to be in an

electronic format which is in accordance with federal law and regulation.

Prior law requires prescriptions for Schedule III and IV controlled dangerous substances to be in writing or an oral prescription. New law allows a prescription for a Schedule III and IV controlled dangerous substances to be in an electronic format which is in accordance with federal law and regulation.

New law provides that a prescription for a controlled substance listed in Schedule II, III, IV, or V may be generated, signed, transmitted, and received in electronic form, but only in conformance with the federal rules established by the United States Drug Enforcement Administration at 21 CFR 1311.

New law expands the definition of prescription to encompass an electronic prescription order for the purposes of the Louisiana Medical Assistance Trust Fund.

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

(Amends R.S. 40:978 and R.S. 46:2622(17))

Lead Pipes and Plumbing (Act No. 362)

New law provides no person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

New law provides no person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, including kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking.

New law provides for various exclusions, including materials purchased or acquired by public water systems prior to Jan. 1, 2013.

New law provides that no person engaged in the business of selling plumbing supplies, except as

manufactured, shall sell solder or flux that is not lead free.

New law provides that no person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

New law provides that all pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third party as being in compliance with new law.

New law provides that the enforcement of prohibitions on placing certain items into commerce shall be limited to instances of notification to the state health officer.

Effective January 1, 2013.

(Amends R.S. 40:1299.28; Adds R.S. 40:1299.27.1)

Abortion (Act No. 411)

New law contains extensive provisions apparently intended to discourage abortions.

Effective August 15, 2011.

(Amends R.S. 40:1299.35.1, 1299.35.2, 1299.35.6, and 1299.35.19; Adds R.S. 40:1299.35.1(11) and 1299.35.5.1)

Patient Compensation Fund (Act No. 263)

Prior law provided that certain funds collected in accordance with the Medical Malpractice Act shall be considered self-generated revenues and deposited into the Patient's Compensation Fund which shall not be a budget unit of the state.

New law provides that the assets of the Patient's Compensation Fund shall not be state property, and shall not be subject to appropriation by the legislature, nor required to be deposited in the state treasury.

New law provides that the fund shall be exempt from participation in or protection from any guaranty fund or insolvency fund.

New law provides that the board may not rely on the full faith and credit of this state for the payment of legal obligations. New law provides that the fund and the board shall not be entitled to appropriations of state general funds without a specific appropriation approved by the legislature.

Effective August 15, 2011.

(Amends R.S. 40:1299.44(A)(1))

Health Record Copy Charges (Act No. 125)

Prior law provides that a patient or his legal representative shall have the right to obtain copies of the patient's medical records from a health care provider and for the fees which may be charged to the patient for a copy of those records.

New law provides that the charges provided for in law shall be the only charges applied by the healthcare provider for the production of healthcare records.

Effective August 15, 2011.

(Amends R.S. 40:1299.96(A)(2)(b)(i))

Student Sports Injury Management (Act No. 352)

New law creates a comprehensive sports injury management program for student athletics.

New law requires each high school that sponsors or sanctions any athletic activity and which requires a participating student to regularly practice or train and compete to implement a sports injury management program.

New law requires the sports injury management program to:

(1) Establish a set of injuries to be classified as "serious sports injuries" and define the signs and symptoms of such injuries.

(2) Require that any coach, athletic trainer, game official, or on-field licensed health care provider remove a student from practice, training, or competition if any of various circumstances occur involving a serious sports injury.

New law provides that any student who is removed from practice, training, or competition due to a serious sports injury:

(1) Shall, as soon as practicable be examined by a health professional.

(2) May be allowed to return to practice, training, or competition only after the student provides to the coach and an athletic trainer written authorization from a health professional.

New law requires that each coach or official in school-sponsored or school-sanctioned athletic activities receive documented training regarding the nature and risk of serious sports injuries.

New law provides that the sports injury management program shall rely to the greatest possible extent on athletic trainers licensed by the La. State Board of Medical Examiners, but does not require that any school employ an athletic trainer or incur any financial cost for utilizing the services of an athletic trainer.

New law requires that prior to a student participating in athletic activities, the student and student's parent or guardian must document that they have viewed information provided by the school district regarding risks of serious sports injuries.

New law does not create any liability for, or create a cause of action against, a school, its officers, or its employees.

(Adds R.S. 40:1299.181)

Athletic Concussion Prevention (Act No. 314)

New law provides that the governing authority of each public and nonpublic elementary school, middle school, junior high school, and high school shall:

(1) Prior to beginning of each athletic season, provide pertinent information to all coaches, officials, volunteers, youth athletes, and their parents/guardian which informs of the nature and risk of concussion and head injury.

(2) Require each coach to complete an annual concussion recognition education course.

(3) Require that the youth athlete and the youth athlete's parents or legal guardian sign a

concussion and head injury information sheet which provides adequate notice of the statutory requirements which must be satisfied in order for an athlete who has or is suspected to have suffered a concussion or head injury to return to play.

New law requires each private club or public recreation facility and each athletic league which sponsors youth athletic activities to meet substantially the same requirements.

New law requires that a concussion recognition education course include specified information.

New law requires that a coach shall immediately remove any youth athlete from a game, competition, or practice if certain conditions are present.

New law requires that if a youth athlete is removed from play and the signs and symptoms cannot be readily explained by a condition other than concussion, the coach shall notify the athlete's parent or legal guardian and shall not permit the youth athlete to return to play or participate in any supervised team activities involving physical exertion, including games, competitions, or practices, until the youth athlete is evaluated by a health care provider and receives written clearance from the health care provider for a graduated or full return to play.

New law provides that after a youth athlete who has sustained a concussion or head injury has been evaluated and received clearance for a graduated return to play from a health care provider, an organization or association of which a school or school district is a member, a private or public school, a private club, a public recreation facility, or an athletic league may allow a licensed athletic trainer with specific knowledge of the athlete's condition to manage the athlete's graduated return to play.

New law does not create any liability for, or create a cause of action against, a school, its officers, or its employees, an organization or association of which a school or school district is a member, a private or public school, a private club, a public recreation facility, or an athletic league when such person or entity has complied with the provisions of proposed law.

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

(Adds R.S. 40:1299.181 - 1299.185)

Employment of Ex-Cons (Act No. 133)

Prior law prohibits an employer from hiring any licensed ambulance personnel or nonlicensed persons when the results of a criminal history check reveal that the individual has been convicted of certain criminal offenses, and provides that if the employer discovers such after employment of the individual, the employer shall immediately terminate the individual's employment.

Prior law provides exceptions for an employee who has been employed for 24-months of the preceding 36-months and a person who has received a pardon of the conviction.

New law ends the first exception and adds an exception for individuals who have had their conviction expunged.

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

(Amends R.S. 40:1300.53(C)(2))

Medicaid; Donations by Local Government Hospitals (Act No. 150)

New law provides for the creation and maintenance of a Medicaid upper payment limit financing methodology which incorporates any health care provider licensed by the Department of Health and Hospitals.

New law provides that DHH may submit waivers or state plan amendments to CMS in order to secure federal financial participation in relation to any such upper payment limit financing methodology. New law provides that any disbursements of monies generated by the use of an upper payment limit methodology shall be made only in accordance with an approved waiver or state plan amendment.

New law shall be subject to legislative appropriation.

New law provides that a non-state governmental hospital may enter into a cooperative endeavor agreement with other hospitals, persons, or entities which includes the transfer of funds for the provision of health care services; and that such transfer of funds shall be considered to be for a public purpose within the meaning of Const. Art. VII, §14(C).

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

(Adds R.S. 40:1300.331 and 1300.341)

Medicaid; Donations by Local Government Hospitals (Again) (Act No. 310)

New law provides for the creation and maintenance of a Medicaid upper payment limit financing methodology which incorporates any health care provider licensed by the Department of Health and Hospitals.

New law provides that DHH may submit waivers or state plan amendments to CMS in order to secure federal financial participation in relation to any such upper payment limit financing methodology. New law provides that any disbursements of monies generated by the use of an upper payment limit methodology shall be made only in accordance with an approved waiver or state plan amendment.

New law shall be subject to legislative appropriation.

New law provides that a nonstate governmental hospital may enter into a cooperative endeavor agreement with other hospitals, persons, or entities which includes the transfer of funds for the provision of health care services; and that such transfer of funds shall be considered to be for a public purpose within the meaning of Const. Art. VII, §14(C).

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

(Adds R.S. 40:1300.331 and 1300.341)

Concealed Gun Permits (Act No. 242)

Prior law required a person to be a resident of the state for six months or longer to be eligible

for a concealed handgun permit. New law removes the six-month residency requirement.

New law defines a resident as a person who is legally domiciled in Louisiana. New law provides that an individual shall prove legal domicile by providing a copy of a valid Louisiana driver's license or an official Louisiana identification card.

Effective August 15, 2011.

(Amends R.S. 40:1379.3)

Government Aviation Services for Industry (Act No. 147)

New law directs the director of aviation ("DA") of the aviation section of the DOTD to participate in education, communication, and promotion of aviation safety in the offshore oil and gas industry.

New law requires the DA to maintain familiarity with all applicable federal regulations promulgated by the FAA pertaining to over water helicopter operations.

New law requires the DA to facilitate, as he deems necessary, information to the directors of operations for operators who provide over water flight services in this state or adjacent to its shores, through publication on the Internet, summaries and or text of relevant new FAR and Advisory Circulars published by the FAA or Recommended Practices published by HSAC.

New law requires the DA to publish an annual report on:

1. The previous year's developments in safe practices for operators.
2. Efforts made by the DA to insure knowledge of all such practices by operators within the industry.

A copy of the report shall be sent to the director of operations of each helicopter operator then known by the DA to be engaged in providing over water flight services in the offshore oil and gas industry.

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

(Amends R.S. 40:1486.1 and 1486.2)

Storm Shutter Affidavit (Act No. 92)

New law authorizes municipalities and parishes in areas where windblown debris storm shutters are required by the state uniform construction code to accept an affidavit from a property owner stating that the owner has ordered the shutters and will install the shutters upon receipt, in lieu of requiring the shutters to be onsite or installed during the final inspection.

(Adds R.S. 40:1730.23(F))

Building Construction Standards (Act No. 398)

Prior law defined "governmental facility" as a building, structure, or facility designed, constructed, or altered by, on behalf of, or for the use of a quasi public agency, the state, or any agency or department thereof, or any political subdivision or any agency or department thereof.

New law defines "public building or facility" as a building, structure, or facility designed, constructed, or altered by, on behalf of, or for the use of a quasi public agency, the state, or any agency or department thereof, or any political subdivision or any governmental agency or department thereof or as defined by the ADA Standards.

Prior law defined "public facility" as a commercial facility or a place of public accommodation as such terms are defined in the ADAAG.

New law defines "private building or facility" as a commercial facility or a place of public accommodation as such terms are defined by the ADA Standards or in the Life Safety Code.

New law provides that the Americans with Disabilities Act Standards for Accessible Design in effect on Mar. 15, 2011, as adopted by the U.S. Dept. of Justice pursuant to the ADA, are adopted as of Oct. 1, 2011. New law provides that the Americans with Disabilities Act Accessibility Guidelines in effect on Sept. 1, 1994, shall remain in effect through Sept. 30, 2011.

New law provides that public building or facility and private building or facility, as the terms are used in new law, shall include public and private property which is open to the public and to which the public is invited for commercial or governmental purposes.

Prior law provided that any owner or lessee of a public facility who failed to provide and maintain spaces reserved and designated for the exclusive use of vehicles bearing a special license plate or parking card issued to a mobility-impaired driver free of obstructions shall be fined not more than \$500. New law deletes the requirement that the facility be public.

Prior law provided that, prior to final acceptance of any completed public or governmental facility, for which a permit has been issued under prior law, a certificate stating that the building has been constructed in compliance with ADAAG standards as reviewed by the fire marshal shall be required of the owner, signed by the project architect or project engineer, or, in the event there was no project architect or project engineer, the certificate was to be signed by the owner. Prior law required the certificate to be recorded in the mortgage records in the parish where the project was located. New law deletes prior law.

Effective August 15, 2011.

(Amends R.S. 40:1731, 1732, 1733-1736, 1737, 1738, 1740, 1741, 1742, 1742.1, and 1742.2; Repeals R.S. 40:1739)

Excavation and Demolition (Act No. 38)

New law makes various minor changes to the La. Underground Utilities and Facilities Damage Prevention Law.

Effective Oct. 1, 2011.

(Amends R.S. 40:1749.12(4), 1749.13(B), 1749.14, 1749.15, and 1749.20(C); Adds R.S. 40:1749.12(15) and 1749.20(D))

Cross Border Gun Buying (Act No. 130)

New law repeals prior law that made it lawful for any person residing in Louisiana to purchase or otherwise obtain a rifle or shotgun or ammunition in any state which is contiguous to Louisiana and to receive or transport such rifle or shotgun or ammunition into this state, and for any person residing in a contiguous state to purchase shotguns, rifles, or ammunition in Louisiana and to receive or transport such rifles, shotguns, or ammunition in Louisiana.

Effective August 15, 2011.

(Repeals R.S. 40:1801 through 1804)

Pertussis Education for New Parents (Act No. 54)

New law provides that on and after January 1, 2012, every licensed hospital in the state of Louisiana shall, prior to discharge, provide parents of newborns educational information provided by DHH on the Pertussis disease and the availability of a vaccine to protect against contracting the disease.

Effective August 15, 2011.

(Adds R.S. 40:2022)

Washington Parish Nursing Facilities (Act No. 179)

New law repeals the exemption for Washington Parish from the moratorium on additional nursing facilities and additional beds in nursing facilities.

(Repeals R.S. 40:2116(D)(7) and (8))

Certified Nurse Aids (Act No. 132)

Prior law provides that a certified nurse aide shall perform a minimum of 90 days or 720 hours of certified nurse aide duties in one nursing facility within a 120 day period each year. New law repeals prior law.

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

(Repeals R.S. 40:2120.56)

TITLE 41: PUBLIC LANDS

There were no new laws of interest.

TITLE 42: PUBLIC OFFICERS AND EMPLOYEES

Public Contracts Discussed in Open Meetings (Act No. 188)

Prior law generally requires meetings of public bodies be open to the public but also provides exceptions. One exception is a discussion of the character, professional competence, or physical or mental health of a person, which prior law authorizes public bodies to hold in executive session provided notice is given to the person. Prior law specifically indicates that a discussion of the appointment of a person to a public body is not covered by this exception.

New law further specifies that a discussion of the awarding of a public contract is also not covered by the exception; therefore new law requires such discussions regarding the award of a contract to be held in open meetings.

(Amends R.S. 42:17(A)(1))

Dependent Coverage for the Developmentally Disabled (Act No. 129)

Prior law requires dependent coverage for a developmentally disabled person, regardless of age, in any life, health, or other program sponsored by the Office of Group Benefits under the following conditions:

1. The person became developmentally disabled prior to attaining age 21.
2. The disabled person was covered under a parent's policy of insurance but coverage has terminated due to the parent's loss of employment.
3. The disabled person's other parent is a full-time employee of a school board and participates

in a life, health, or other program sponsored by the Office of Group Benefits .

New law includes in Item 3 dependent coverage if the other parent is employed in the classified or unclassified state civil service.

Effective August 15, 2011.

(Amends R.S. 42:808(E))

Ethics Code Exception for Certain School Employees (Act No. 167)

New law authorizes a school board in a parish having a population of fewer than 60,000 to employ a member of the immediate family of a board member or of the superintendent as a special education related services professional, provided that such family member is licensed in an appropriate field for special education related services. New law requires a school board member or superintendent whose immediate family member is employed by the school board to recuse himself from any decision involving the promotion or assignment of services location of such employee.

New law makes applicable to employment of special education related services professionals certain special reporting laws relating to conflicts of interest.

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

(Amends R.S. 42:1119(B)(2)(a)(i))

TITLE 43: PUBLIC PRINTING AND ADVERTISEMENTS

Public School Advertising of Online Programs (Act No. 183)

New law permits any public institution of higher education, any management board thereof, and the Board of Regents to expend public funds for advertising designed to promote the use of online services and programs of any public institution of higher education.

(Adds R.S. 43:111(C)(5))

TITLE 44: PUBLIC RECORDS AND RECORDERS

Secrecy of Tests (Act No. 36)

New law adds an exception to the Public Records Law for promotional or competitive tests and certain records relative thereto in the custody of the Jefferson Parish Personnel Dept.

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

(Adds R.S. 44:21.1)

TITLE 45: PUBLIC UTILITIES AND CARRIERS

Public Service Commission Redistricting (Act No. 23 of the First Extraordinary Session)

New law provides for the new boundaries of the districts for the election of the 5 commissioners of the Public Service Commission.

Effective for regular elections in 2012 and for all purposes on January 1, 2013.

(Adds R.S. 45:1161.5; Repeals R.S. 45:1161.4)

TITLE 46: PUBLIC WELFARE AND ASSISTANCE

Educating Food Stamp Recipients (Act No. 258)

New law provides that the Department of Children and Family Services shall provide printed nutrition education resource materials directly to the heads of all Supplemental Nutrition Assistance Program (food stamps) beneficiary households.

Effective August 15, 2011.

(Adds R.S. 46:236.1)

Medicaid Qui Tam Actions (Act No. 185)

Prior law provides for the Medical Assistance Programs (Medicaid) Integrity Law to combat and prevent fraud and abuse committed by some health care providers and others.

New law additionally defines "claim", "material", "obligation", and "original source".

Prior law provides that when a waiver is requested, the court may waive any recovery, except from actual damages. New law provides that the court may reduce to not less than twice the actual damages, if requested.

Prior law provides that a public employee with a duty to report wrongdoing or who had access to records relative to the activities of a health care provider shall not bring a qui tam action. New law deletes prior law.

New law provides that any employee, contractor, or agent shall be entitled to all relief necessary to make him whole if he is discharged, demoted, suspended, or discriminated against in any manner.

Prior law provides that if more than one action arises out of the same information, the court shall dismiss any action filed more than 30 days after the first qui tam complaint. New law provides that only the attorney general or secretary may intervene or bring a related action based on the same facts.

New law provides that any government intervention shall relate back to the date the complaint was filed, for prescription purposes.

Prior law provides that the court may award less than 15% recovery if it finds that the allegations are not primarily based on information provided by the qui tam plaintiff. New law provides that if the court finds the allegations are based on information related to criminal, civil, or administrative hearings or the media, it may award a sum it considers appropriate, but in no case more than 10% of the proceeds.

Prior law provides that if the qui tam plaintiff fails to comply with the procedures in present law, the court may dismiss the plaintiff after a contradictory hearing. New law deletes prior law.

(Amends R.S. 46:437.3, 438.3, 438.6, 438.7, 439.1, 439.2, and 439.4)

Domestic Abuse Advocates (Act No. 234)

New law authorizes domestic abuse advocates to provide clerical assistance to petitioners in filing a protective order. New law defines "domestic abuse advocate".

Effective August 15, 2011.

(Amends R.S. 46:2138 and Ch. C. Art. 1566)

TITLE 47: REVENUE AND TAXATION

Tax Form Donations to Make-A-Wish Foundation (Act No. 198)

New law provides for an individual income tax checkoff under which an individual can donate a portion of his state income tax refund, or other monies, to the Make-A-Wish Foundation of the Texas Gulf Coast and La. (hereinafter foundation).

Effective for taxable years beginning on or after Jan. 1, 2011.

(Adds R.S. 47:120.95)

Tax Form Donations to Food Bank (Act No. 108)

New law provides for an individual income tax check-off under which an individual can donate a portion of his state income tax refund, or other monies, to the La. Food Bank Association.

New law establishes the La. Food Bank Association Fund (hereinafter fund) as a special escrow fund in the state treasury, which is established to receive deposits of donations made on individual income tax returns for the benefit of the La. Food Bank Association, and which shall be administered by the state treasurer.

Effective for taxable years beginning on and after Jan. 1, 2011.

(Adds R.S. 47:120.95)

Corporate Taxes on Broadcasters (Act No. 381)

Prior law establishes the method and calculation to be used regarding the attribution of income to Louisiana for purposes of determining corporation income and franchise liability of taxpayers who broadcast film and radio programming. The amount is determined by multiplying the total gross apportionable income by an audience factor, which is the ratio of the broadcaster's La. viewing or listening audience to the total viewing or listening audience.

New law adds provisions specific to taxpayers that broadcast film and radio programming, but are not local television or radio stations or cable television systems.

New law provides the calculation used for such taxpayers to determine the amount of gross apportionable income attributable to La. from broadcasting film or radio programming. The amount shall be determined by multiplying the total gross apportionable income by the ratio of income received from customers commercially domiciled in La. to income received from customers everywhere. Further, the amount of gross apportionable income attributable to La. resulting from use of the foregoing ratio shall not be less than 25% of the income that would be attributable to La. using the audience factor provided for in prior law.

New law is applicable to all corporate income tax periods beginning on or after Jan. 1, 2012, and for all corporation franchise tax periods beginning on or after Jan. 1, 2013.

Effective August 15, 2011.

(Amends R.S. 47:287.95(K) and 606(A)(1)(e))

Income Tax Deduction for Hurricane Recovery Entity Benefits (Act No. 401)

Prior law provides a deduction from individual income tax for benefits received by a taxpayer from a "hurricane recovery entity". The definition of hurricane recovery entity includes the Road Home Corporation, the La. Recovery Authority, and the La. Family Recovery Corps.

New law adds the disaster recovery unit within the office of community development, division of administration, to the definition of "hurricane recovery entity".

Effective August 15, 2011.

(Amends R.S. 47:293(5))

Tax Credit for New Barrier-Free Homes (Act No. 392)

New law authorizes a credit against individual income tax in the amount of \$1,000 for the owner of a newly constructed one- or two-family dwelling which includes certain accessible and barrier-free design elements. Eligibility is limited to individuals who own such a dwelling, claim the homestead exemption thereon, and such dwelling meets all of the design elements necessary for claiming the tax credit.

New law requires that the tax credit be taken in the taxable year in which the construction is completed. The credit is limited to the lesser of \$1,000 or the taxpayer's total tax liability. Only one tax credit may be granted per dwelling.

New law is applicable to all tax years beginning on or after Jan. 1, 2012.

Effective August 15, 2011.

(Adds R.S. 47:297(P))

Tax Credits for Rehabilitation of Historic or Blighted Housing (Act No. 412)

Prior law authorizes an individual income tax credit for the amount of eligible costs and expenses incurred during the rehabilitation of an owner-occupied residential or owner occupied mixed use structure which is located in a National Register Historic District, a local historic district, a Main Street District, a cultural products district, or a downtown development district, or an owner-occupied residential structure which has been listed or is eligible for listing on the National Register, or a structure which has been certified as contributing to the historical significance of the district, or a vacant and blighted owner-occupied residential structure that is at least 50 years old.

New law clarifies that a vacant and blighted owner-occupied residential structure may be located anywhere in this state.

New law decreases the required rehabilitation costs necessary to qualify for the credit from \$20,000 to \$10,000.

Prior law required the credit to be calculated using percentages of the eligible costs and expenses of the rehabilitation based on the adjusted gross income of the owner-occupant. New law removes the income provisions for calculating the credit.

New law establishes the amount of the credit for the rehabilitation of an owner-occupied residential structure at 25% of the eligible costs and expenses, provided that the first tax credit application for the project has been filed after July 1, 2011. New law provides that multiple owners shall divide the credit in proportion to their contribution to the eligible costs and expenses for rehabilitation.

With respect to the rehabilitation of vacant and blighted owner-occupied residential structures, new law increases the percentage of the eligible costs and expenses of rehabilitation for which the credit applies from 10% to 50%, provided the first tax credit application for the rehabilitation project has been filed after July 1, 2011.

New law extends applicability of this tax credit from tax years beginning on or before Dec. 31, 2012, to tax years beginning before Jan. 1, 2016.

Effective upon signature of governor (July 7, 2011).

(Amends §2 of Act No. 479 of the 2005 R.S., as amended by Act No. 188 of the 2007 R.S., and R.S. 47:297.6(A)(1))

Private School "Tuition" Deduction (Act No. 121)

Prior law authorizes a deduction from taxable income equal to 50% of "tuition and fees" paid by a taxpayer for a dependent child to a nonpublic elementary or secondary school or to any public elementary or secondary laboratory school which is operated by a public college or

university. The deduction is limited to \$5,000 per child.

"Tuition" is defined as the following:

- (1) The purchase of school uniforms required by schools for general day-to-day use.
- (2) The purchase of textbooks, curricula, or other instructional materials required by schools.
- (3) The purchase of school supplies required by schools.

New law removes the 50% cap, making the deduction equal to the full amount paid by such taxpayers up to \$5,000 per child.

New law is applicable to all income tax years beginning on and after January 1, 2011.

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

(Amends R.S. 47:297.10(A))

Sales Tax Exclusion for Non-Profit Festivals (Act No. 372)

New law grants an exclusion from state and local sales and use tax for tangible personal property and services sold at events sponsored by a tax exempt nonprofit organization if the event transpires over at least seven but not more than twelve days, has an average five-year annual attendance of 300,000 or more, and provides La. heritage, culture, crafts, art, food, and music. The exclusion is limited to sales by or for the benefit of the sponsor of the event.

Prior law specifies that the sales and use tax imposed by taxing authorities shall not apply to sales of tangible personal property and services sold at events sponsored by a nonprofit organization when the entire proceeds, except for necessary expenses such as fees paid for guest speakers, chair and table rentals, and food and beverage utility related items connected therewith, are used exclusively for support of the nonprofit organization.

New law adds the same exclusion as provided in prior law for sales at an event which is sponsored by a nonprofit organization, for which the sponsor has contracted for production management and financing services for the

event, only if the event transpires over at least seven days but not more than twelve days, has an average five-year annual attendance of 300,000 or more, and provides La. heritage, culture, crafts, art, food, and music.

Effective October 1, 2011.

(Amends R.S. 47:305.14(A)(1); Adds R.S. 47:301(10)(hh) and (14)(k))

Sales Tax Exclusion for Alternative Fuels (Act No. 374)

New law extends the effectiveness of the state sales and use tax exclusion for alternative substances from June 30, 2012, to June 30, 2015. Prior law defines the term "alternative substance" as an substance other than oil and natural gas and any product of oil and natural gas, including petroleum coke, landfill gas, reclaimed or waste oil, unblended biodiesel, or tire-derived fuel, but shall not include coal, lignite, refinery gas, nuclear fuel, or electricity.

Effective upon signature of governor (June 30, 2011).

(Amends §3 of Act No. 345 of the 2005 R.S.; Adds R.S. 47:305.66 and 337.9(D)(31))

Sales Tax Exemption for Breastfeeding Items (Act No. 331)

New law provides for an exemption from state sales and use taxes on the purchase of breastfeeding items.

Effective October 1, 2011.

(Adds R.S. 47:305.66)

Sales Tax Exemption for Vehicles for the Lame (Act No. 379)

New law provides an exemption from state sales and use tax for the purchase by an individual of a motor vehicle that has been or will be modified in accordance with a medical prescription for use by a person who is permanently, orthopedically disabled at the time of purchase.

New law provides a list of vehicle modifications relevant to the exemption. New law requires that modifications be completed before a purchaser may claim a rebate. New law is applicable to purchases made beginning Jan. 1, 2010 through June 30, 2013.

Effective October 1, 2011.

(Adds R.S. 47:305.66)

Sales Tax Exemption for Qualifying Radiation Therapy Centers (Act No. 296)

Prior law provides for a state sales and use tax exemption for the purchase, lease, or repair of capital equipment, and the purchase, lease, or repair of software used to operate capital equipment, by qualifying radiation therapy treatment centers, and authorizes political subdivisions to elect to grant this exemption.

New law expands the definition of "qualifying radiation therapy center" to include a radiation therapy facility which, no later than Aug. 1, 2011, employs six or more medical physicists to provide radiation therapy treatment services.

Effective August 1, 2011.

(Adds R.S. 47:305.64(A)(2)(b)(iii))

Sales Tax Exemption for Councils on Aging (Act No. 53)

New law grants a state sales tax exemption to parish councils on aging.

New law defines "parish councils on aging" as the sixty-four nonprofit domestic corporations domiciled one per parish and dedicated to delivering state-approved services directly to senior citizens.

Effective October 1, 2011.

(Adds R.S. 47:305.66)

Occupational License Tax on Oil-Field Related Fabrication (Act No. 326)

Prior law includes oil field-related fabrication within the definition of "contractor" for purposes

of the occupational license tax in parishes with a population of between 450,000 and 480,000.

New law adjusts the population range defining the affected parishes from between 450,000 and 480,000 to between 350,000 and 435,000.

(Amends R.S. 47:342(3)(b))

No Free Cigarettes (Act No. 341)

New law prohibits the distribution of free samples of cigarettes.

New law exempts, from the state tax on tobacco, cigars and pipe tobacco, such items sampled on the premises of convention facilities during the Convention of the International Premium Cigar and Pipe Retailers.

Effective for taxable periods beginning on and after Jan. 1, 2013, through taxable periods ending on Dec. 31, 2016.

Effective August 15, 2011.

(Amends R.S. 47:854)

Tax Information Sharing (Act No.397)

Prior law provides for the confidentiality of taxpayer records and for exceptions under which information may be shared with other public entities.

New law adds an exception for the sharing of taxpayer information with the La. Board of Regents relative to the taxpayer's postsecondary education and employment.

Effective August 15, 2011.

(Adds R.S. 47:1508(B)(29))

Tax Breaks List (Act No. 365)

Prior law requires the Dept. of Revenue to prepare and submit to the governor and the legislature a tax exemption budget each year, including a listing of all state tax exemptions, deductions, credits and incentives, and the estimated revenue loss to the state attributable to each.

New law requires the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs to conduct hearings on the tax exemption budget every odd-numbered year.

Effective August 15, 2011.

(Adds R.S. 47:1517(F))

Managed Audits and Sampling Audits of Tax Returns (Act No. 171)

New law provides for the procedure for and use of managed audits of tax returns. The secretary is authorized to enter into a written agreement with a taxpayer relative to the use of a managed audit of his tax return. The agreement shall specify the period to be audited and the procedure to be followed, and shall be signed by an authorized representative of the secretary and the taxpayer.

New law specifies factors to be considered by the secretary regarding the decision to authorize a managed audit, including: the taxpayer's history of tax compliance, the amount of time and resources the taxpayer has available to dedicate to the audit, the extent and availability of the taxpayer's records, and the taxpayer's ability to pay any expected liability.

New law authorizes the waiver of interest on any amounts found to be due through a managed audit. The secretary is prohibited from assessing a penalty unless the audit or other information reviewed discloses fraud or willful tax evasion. A taxpayer is entitled to a refund of any tax overpayment disclosed by a managed audit.

New law adds the conditions under which the use of sampling audits by the secretary of the Dept. of Revenue is appropriate. These include taxpayer records which are complex, voluminous, insufficient, or potentially more costly to audit than any benefit that might be derived from an audit.

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

(Amends R.S. 47:1541(B); Adds R.S. 47:1541(D) and 1601(A)(2)(e))

Orleans Parish Homestead Exemption (Act No. 58)

Prior law requires tax assessors in certain parishes to provide forms to property owners for permanent registration of the homestead exemption. New law adds Orleans Parish to those parishes.

(Amends R.S. 47:1703.1(A))

Webcasting of Tax Commission Rules Hearings (Act No. 71)

New law requires each hearing held by the tax commission at which proposed changes to rules and regulations are discussed, to be held at the state capitol. New law requires audio and video of the entirety of all such hearings to be broadcast live via the Internet and requires that all such hearings be recorded and maintained for a minimum of three years. New law provides that the commission shall establish a website to provide the public with information concerning such hearings and that all hearings recorded shall be available to the public for viewing through a link clearly identified on the website.

(Amends R.S. 47:1837(G))

Improvements to Tax Sale Properties (Act No. 275)

Relative to property sold at tax sales in the city of New Orleans, new law requires a person redeeming abandoned or blighted property to reimburse the tax sale purchaser for the costs of improvements required to bring the property into compliance with municipal code ordinances.

New law provides that the maximum amount of reimbursement is \$1,500 for abandoned property and \$3,000 for blighted property per property per year. Prior to reimbursement, new law requires a tax sale purchaser to file an affidavit and receipts in the mortgage records of the parish documenting the costs of the improvements within 60 days after receiving notice of redemption. New law provides that failure of the person redeeming the property to reimburse such costs does not impair his right to redeem the property.

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

(Amends R.S. 47:2161)

Tax Rebates for Small Business Innovation Research Grants (Act No. 407)

Prior law grants refundable and transferable research and development tax credits for expenditures incurred of Small Business Innovation Research Grant funds received through December 31, 2013. New law changes the credit to a "rebate" payable by the Department of Revenue upon receipt of a rebate certification from the Department of Economic Development from the current collections of income taxes. New law shortens the rebate program from December 31, 2013 to June 30, 2013.

Prior law grants a credit if a taxpayer claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) of 8% of the "state's apportioned share" of the taxpayer's expenditures for increasing research activities, if the taxpayer employs 100 or more Louisiana residents; 25% if he employs 50 to 99 Louisiana residents. The "state's apportioned share" was defined as the excess of the taxpayer's qualified research expenses for the taxable year over the base amount as defined in the federal law, multiplied by a percentage equal to the ratio of the qualified research expenses in the state for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

New law grants a "rebate" of 8% of the difference of the "Louisiana qualified research expenses" as defined in 26 U.S.C. §41 for the taxable year minus the "base amount", if the taxpayer employs 100 persons in the state; 20% if he employs 50 to 99 persons. "Base amount" is defined as 70% of the average annual "qualified research expenses within Louisiana" during the three years preceding the taxable year.

Prior law grants a credit if a taxpayer claims for the taxable year a federal income tax credit under 26 U.S.C. §41(b) of 40% of the "state's apportioned share" of the taxpayer's qualified

research expenses conducted in this state if the taxpayer employs fewer than 50 Louisiana residents. New law grants a rebate of 40% of the "Louisiana qualified research expenses" as defined in 26 U.S.C. §41 for the taxable year if the taxpayer employs fewer than 50 persons.

Prior law granted a further credit of 25% of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claimed the alternative incremental tax credit under 26 U.S.C. §41. New law deletes this provision.

Prior law authorizes a taxpayer who receives a federal Small Business Innovation Research Grant a credit in an amount equal to 40% of the award received during the tax year. New law changes the credit to a rebate.

New law requires the size of the "entity" for purposes of determining the amount of the rebate earned to be determined by the total number of employees based on the aggregate of all affiliated companies.

New law prohibits a taxpayer from receiving any other incentive administered by DED for any expenditures for which he receives a rebate.

New law grants DED the authority to audit all relevant records and accounts of applicants for the rebate and authorizes the Department of Revenue to require an applicant to submit additional information before a rebate is paid.

New law is applicable to tax years beginning on and after January 1, 2011.

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

(Amends R.S. 47:6015)

Tax Credits for Rehabilitation of Historic Structures (Act No. 409)

Prior law provides a credit against income and corporation franchise tax for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development or a cultural product district.

Prior law was applicable for all taxable years ending prior to January 1, 2012. New law provides that the law shall be effective for the taxable years ending prior to January 1, 2016.

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

(Adds R.S. 47:6019(C))

Refundable Tax Credits for Certain Investments (Act No. 414)

Prior law became null and void on Dec. 31, 2009. It authorized a refundable credit against La. income and corporation franchise tax liability for qualifying individuals who invested in "La. Entrepreneurial Businesses", as approved by the Dept. of Economic Development. Prior law authorized refundable credits equal to 50% of the amount of the investment, for investments of up to \$1 million per year, and \$2 million per business. The credit was divided in equal portions for five years and had no value or effect on tax liability beginning with the 11th tax year after the tax year in which it was originally granted.

New law retains provisions of prior law but provides that for investments made on or after Jan. 1, 2011, a tax credit of 35% of the amount invested may be authorized for qualified investors. The tax credit shall become payable 24 months from the date the department certifies the amount of the investment. New law also provides eligibility requirements for investments and the businesses in which they are made.

New law authorizes the transfer of tax credits and provides the procedure and requirements related thereto.

Provisions of new law become null and void on July 1, 2015.

Effective upon signature of governor (July 8, 2011).

(Amends R.S. 47:6020; Repeals R.S. 47:6020.1, 6020.2, and 6020.3)

Tax Credit for Digital Interactive Media and Software Development (Act No. 415)

Prior law provides for the digital interactive media producer tax credit which is applicable to income and corporation franchise taxes. The tax credit is transferable.

New law changes the name of the tax credit from digital interactive media and producer tax credit to digital interactive media and software development tax credit.

New law changes prior law for tax credits earned for expenditures made on or after Jan. 1, 2012. The tax credit is changed from a transferable tax credit to a refundable tax credit.

New law authorizes a company to elect to receive a rebate in lieu of a tax credit. The amount of the rebate is 85% of the face value of the credit.

New law specifies that "production expenses" shall not include food, entertainment and lodging expenses, and administrative, payroll, and management services which are not directly related to management of the state-certified production.

New law specifies that a company seeking to participate in the tax credit program must apply to the department through an application process established by the department.

New law specifies that an initial certification shall be limited to expenses incurred no more than six months prior to the date of initial certification.

Prior law restricts a project that earns a tax credit from eligibility for tax credits or rebates provided under the La. Quality Jobs Program Act. New law broadens the restriction to include any state tax credit, exemption, exclusion, rebate, or any other tax benefit for any expenditures for which the taxpayer has earned a tax credit under new law.

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

(Amends R.S. 47:6022)

Cane River Heritage Tax Credit (Act No. 56)

New law provides that on and after January 1, 2014, no new applications to receive tax exemptions or credits for a heritage-based cottage industry in the Cane River Heritage Area Development Zone shall be approved by the DCRT. However, a business which, prior to January 1, 2014, has been approved by the DCRT to receive tax exemptions or credits shall continue to receive such tax benefits pursuant to the terms of its agreement with the state as long as the business retains its eligibility.

Effective August 15, 2011.

(Amends R.S. 47:6026(E)(1))

Apprenticeship Tax Credits (Act No. 126)

Prior law grants a non-refundable "apprenticeship tax credit" against income tax and corporation franchise tax each tax year equal to one dollar for each hour of employment of each "eligible apprentice", not to exceed \$1,000 for each eligible apprentice. An "eligible apprentice" is defined as a person who has entered into a written apprentice agreement with an employer or an association of employers pursuant to a registered apprenticeship program or a person who is enrolled in a training program accredited by the National Center for Construction Education and Research that has no less than four levels of training and no less than 500 hours of instruction.

Prior law grants the credit for taxable periods ending prior to January 1, 2011. New law extends the tax credit to taxable periods ending prior to January 1, 2015.

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

(Amends R.S. 47:6033(A) and (B)(1))

Ports of Louisiana Tax Credit (Act No. 146)

Prior law authorizes the issuance of tax credits for certain investments and import and export activity in ports in Louisiana. New law changes the termination date of the Ports of Louisiana tax credit from January 1, 2015 to January 1, 2017.

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

(Amends R.S. 47:6036(G))

TITLE 48: ROADS, BRIDGES AND FERRIES

Small Engineering Consultants (Act No. 197)

Prior law provides that engineering consultants interested in participating in the "Small Engineering Consultant Program" shall annually apply for prequalification, and that only a small engineering consultant whose firm meets certain qualifications may participate in the program.

New law restricts participation in the program to firms that have been in business for less than two years rather than for a continuous period of at least three years.

Effective August 15, 2011.

(Amends R.S. 48:292.1)

TITLE 49: STATE ADMINISTRATION

Gulf Coast Boundary of State (Act No. 336)

Prior law provides that the historic gulfward boundary of the state of Louisiana extends a distance into the Gulf of Mexico 3 marine leagues from the coastline. New law specifies that "3 marine leagues" is equal to 9 geographic miles or 10.357 statute miles.

Prior law provides that the coast or coast line of the state of Louisiana is accepted and approved as designated and defined in accordance with applicable Acts of Congress.

New law provides that the coastline of Louisiana shall be the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and shall be not less than the baseline defined by the coordinates set forth in *United States v. Louisiana*, 422 U.S. 13 (1975).

New law adds that the state of Louisiana shall be entitled to all the lands, minerals and other natural resources underlying the Gulf of Mexico, extending seaward from its coastline for a distance of three marine leagues.

Effective August 15, 2011.

(Amends R.S. 49:1 and 2; adds R.S. 49: 3.1)

Breastfeeding Rooms (Act No. 269)

New law requires that certain state buildings provide suitable accommodation in the form of a room, other than a toilet stall, for the exclusive use of women to breastfeed a child or express breast milk.

New law requires that such breastfeeding and lactation accommodation have, at a minimum: (1) a lockable door, (2) a work surface and chair, (3) storage for cleaning supplies, and (4) conveniently placed electrical outlets.

New law requires the superintendent of the office of state buildings to cause to be constructed at least one such room in at least 10 state buildings on or before July 1, 2014.

Effective July 1, 2012.

(Adds R.S. 49:148.4.1)

State Gemstone and State Mineral (Act No. 232)

New law changes the state gemstone from agate to the cabochon cut gemstone, derived from the *Crassostrea virginica* mollusk predominantly found in the waters of coastal La.

New law designates agate as the state mineral.

Effective August 15, 2011.

(Amends R.S. 49:163; Adds R.S. 49:163.1)

TITLE 50: SURVEYS AND SURVEYORS

There were no new laws of interest.

TITLE 51: TRADE AND COMMERCE

Rebates for Technology Commercialization (Act No. 416)

Prior law provides for the Technology Commercialization Credit and Jobs Program administered by DED, consisting of two refundable tax credits.

New law changes the tax benefit from a refundable tax credit to a "rebate" payable by the secretary of DOR upon receipt of certification from DED of the eligibility of the applicant and the amount of the rebate and any such additional information that the secretary may require.

Prior law prohibits tax credits from being granted or earned after December 31, 2011. New law extends the program as a tax rebate program to December 31, 2017.

Prior law prohibited anyone receiving the tax credits from being eligible for a limited list of tax benefits. New law prohibits anyone receiving the rebates from receiving any other state credit, exemption, exclusion, rebate, or any other tax incentive for any expenditures for which the taxpayer has received a rebate under the program.

Applicable to qualifying expenditures made on or after July 1, 2011.

Effective July 1, 2011.

Equipment Warranty Relations Between Suppliers and Dealers (Act No. 221)

New law provides that, for the purposes of new law, "dealer" shall mean any farm equipment dealer, heavy industrial equipment dealer, construction equipment dealer, material handling equipment dealer, utility equipment dealer, engines equipment dealer, lawn and garden equipment dealer, or retail equipment distributor dealer.

New law requires warranty claims submitted to a supplier by a dealer for payment under a warranty agreement to either be approved or disapproved within 30 days of receipt by the supplier.

New law requires all claims for payment to be paid within 30 days of their approval.

New law requires the supplier, when any claim is disapproved, to notify the dealer within 30 days stating the specific grounds upon which the disapproval is based.

New law provides that if a claim is not specifically disapproved within 30 days of receipt, it shall be deemed approved, and payment by the supplier shall be made within 30 days.

New law provides that if after termination of a contract, the dealer submits a claim to the supplier for warranty work performed prior to the effective date of the termination, the supplier shall accept or reject the claim within 30 days of receipt.

New law provides that warranty work performed by the dealer shall be compensated in accordance with the reasonable and customary amount of time required to complete the work, expressed in hours and fractions thereof, multiplied by the dealer's established customer hourly retail labor rate, which shall have previously been made known to the supplier.

New law provides that expenses expressly excluded under the supplier's warranty to the customer shall not be included nor required to be paid on requests for compensation from the dealer for warranty work performed.

New law requires all parts used by the dealer in performing warranty work to be paid to the dealer in the amount equal to the dealer's net price for parts used, plus a minimum of 15%. The percentage additive is to reimburse the dealer for reasonable costs of doing business in performing warranty service on the supplier's behalf, including but not limited to freight and handling costs incurred.

New law provides that the supplier has the right to adjust for errors discovered during audit and, if necessary, to adjust claims paid in error.

New law provides that the dealer shall have the right to accept the manufacturer's reimbursement terms and conditions in lieu of the provisions of new law.

Effective upon signature of governor (June 27, 2011).

(Adds R.S. 51:501)

La. Enterprise Zone Act (Act No. 359)

New law provides that a transit-oriented development shall be eligible, under the La. Enterprise Zone Act, to enter into a contract for the rebate of sales and use tax imposed by the state and its political subdivisions or a refundable investment income tax credit only if all of the following conditions are met:

- (1) Advance notification for the development is filed with the Dept. of Economic Development after June 30, 2011, and before Jan. 1, 2012.
- (2) Construction of the development begins no later than 180 days after the project beginning date stated on the advance notification.
- (3) The development and the business applying for enterprise zone incentives meet all other requirements of the Enterprise Zone Program.

New law defines "transit-oriented development" as a mixed-use development, consisting of at least 50% multifamily residential housing and at least 30% commercial or retail facilities, on a single contiguous site, all or part of which is located within 1/4 mile of a multimodal transit center, with at least \$10,000,000 in capital expenditures for new construction or conversion of existing structures.

New law defines "multimodal transit center" as a public transit stop or exchange that includes not less than three modes of public transportation including bus, streetcar, rail, ferry, or water taxi.

New law defines "multifamily residential housing" as a minimum of 90 and a maximum of 175 attached dwelling units providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Effective upon signature of governor (June 29, 2011).

(Adds R.S. 51:1783(10)-(12) and 1787(C))

Health Care Benefits and Tax Rebates (Act No. 353)

Prior law provides for the definition of "benefit rate" for use in calculating sales, income, and corporation franchise tax rebates. The benefit rate is based on the amount of wages and health care benefits provided for a new direct job. The amount of a rebate is based on the benefit rate multiplied by the employer payroll. New law clarifies that the value of the health care benefits offered is included in the amount of the wages.

Prior law provides for the definition of "health care benefits" for use in determining the benefit rate. New law specifies that the value of health care benefits offered shall be treated as having been paid, regardless of whether an employee accepts the health plan or coverage, provided that at least 50% of the employees holding new direct jobs accept the health care benefits offered.

New law applies only to rebate requests filed by employers on or after July 1, 2012.

Effective upon signature of governor (June 29, 2011).

(Amends R.S. 51:2453, 2455, and 2457)

Tax Benefits Under Quality Jobs Program Act (Act No. 410)

Prior law prohibits new applications for incentive tax credits or rebates under the Louisiana Quality Jobs Program Act from being approved by the Department of Economic Development on and after January 1, 2012. New law extends the deadline to January 1, 2018.

Prior law provides that an employer who, prior to January 1, 2012, has been approved by the department to receive incentive tax credits or rebates under the program shall continue to receive tax credits or rebates pursuant to the terms of its agreement with the state as long as the employer retains its eligibility. New law extends the deadline to January 1, 2018.

(Amends R.S. 51:2461)

TITLE 52: UNITED STATES

There were no new laws of interest.

TITLE 53: WAR EMERGENCY

There were no new laws of interest.

TITLE 54: WAREHOUSES

There were no new laws of interest.

TITLE 55: WEIGHTS AND MEASURES

There were no new laws of interest.

TITLE 56: WILDLIFE AND FISHERIES

Fish and Oyster Rules (Act No. 266)

New law authorizes the Wildlife and Fisheries Commission to promulgate rules to manage recreational landings of fish species managed cooperatively with the Gulf of Mexico Fishery Management Council.

New law also authorizes the Wildlife and Fisheries Commission to promulgate rules which would require the use of a vessel monitoring system by oyster harvester vessels taking oysters from the natural public reefs or the public seed grounds or reservations.

New law provides for a public records exception for data collected pursuant to the vessel monitoring.

Effective August 15, 2011.

(Amends R.S. 44:4.1(B)(33); Adds R.S. 56:6(34) and 433.1(A)(4))

Feral Hogs and Outlaw Quadripeds (Act No. 95)

New law authorizes the Wildlife and Fisheries Commission to promulgate rules and regulations authorizing the trapping of feral hogs any time of year and remove firearm limitation on taking outlaw quadrupeds, nutria, and beaver on private property.

(Amends R.S. 56:116.1(D))