

2014 LOUISIANA

LEGISLATIVE ACTS

SUMMARY

## 2014 Legislative Acts Summary

### Contents

This book summarizes those new laws passed by the Louisiana Legislature in 2014 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 2014 in Act number order.

### Warning

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

### Where to Find Full Text of Acts and Laws

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

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

### Feedback

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

### *Credits*

**Emily Brewer** – downloaded legislative staff summaries from the Legislature's website and summaries by other organizations, assembled all of the summaries in proper order, implemented edits and formatting, and distributed copies to all attorneys and paralegals

**Abigail Hamrick** – downloaded legislative staff summaries from the Legislature's website, implemented edits

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Appendix A: Summaries by Other Organizations

Appendix B: Acts of 2014 Regular Session

## **CONSTITUTION**

### **Orleans Property Taxes (Act No. 870)**

Present constitution authorizes of a parish to levy an ad valorem tax for general purposes not to exceed four mills. However, for Orleans Parish the maximum is seven mills, and Orleans Parish may levy an additional ad valorem tax for fire protection not to exceed five mills, and an additional ad valorem tax for police protection not to exceed five mills.

Proposed constitutional amendment increases the millages that Orleans Parish is authorized to levy for such purposes to ten mills for fire protection and ten mills for police protection, and eliminates the provision providing that the millage rates for such additional ad valorem taxes may not be increased.

Proposed constitutional amendment requires that the revenues generated by the fire and police millages be used solely for police and fire protection service that directly contribute to the safety of the residents of Orleans Parish.

Proposed constitutional amendment requires that any additional ad valorem tax authorized by the proposed constitutional amendment shall be levied only if approved by a majority of the electors of Orleans Parish.

To be submitted to the voters on Nov. 4, 2014.

(Amends Const. Art. VI, §26(E))

### **Tax Collector Agents (Act No. 871)**

Present constitution requires, relative to delinquent taxes, the tax collector to seize and sell property of the delinquent taxpayer to pay the tax.

Proposed constitutional amendment allows an authorized agent of the collector to sell the property of the delinquent taxpayer, and authorizes the agent's fee to be included in the costs the collector may recover on the sale, but prohibits the fee from exceeding a maximum amount. Proposed amendment specifies that the use of such an authorized agent does not relieve the tax collector of its duties and responsibilities under law to the delinquent taxpayer.

To be submitted to the voters on Nov. 4, 2014.

(Amends Const. Art. VII, §25(A)(1) and (E))

### **Lower 9th Ward Property Sales (Act No. 872)**

Proposed constitutional amendment authorizes the city of New Orleans to sell, at a (nominal) price that may be set by the legislature, property located in the Lower Ninth Ward to qualified purchasers.

To be submitted to the voters on Nov. 4, 2014.

(Amends Const. Art. VII, §14(B))

### **Infrastructure Bank (Act No. 873)**

Existing constitution prohibits the funds, credit, and property of the state or any of its political subdivisions from being loaned, pledged, or donated to or for any person, association, or corporation, public or private, subject to numerous exceptions.

Proposed constitutional amendment adds an exception for the investment of public funds to capitalize a state infrastructure bank, and for the bank to loan, pledge, guarantee, or donate public funds for eligible transportation projects.

To be submitted to the voters on Nov. 4, 2014.

(Amends Art. VII, §14(B))

### **Department of Elderly Affairs (Act No. 874)**

Proposed constitutional amendment changes the maximum number of executive branch departments from 20 to 21, and provides that no department in the executive branch may be created that has the powers, duties, and functions to perform or administer programs or services historically performed or administered by any other agency, office, or department of the state.

The department created by the amendment shall be able to use federal funding under Title 19. (Note: Act No. 384 of 2013 created the Dept. of Elderly Affairs and provided it would become effective when an existing department was abolished or the constitution was amended to permit an additional department.)

The proposed constitutional amendment shall not become effective until funding is provided by the legislature, but no sooner than June 12, 2015.

To be submitted to the voters on Nov. 4, 2014.

(Amends Const. Art. IV, §1(B))

### **Judicial Retirement (Act No. 875)**

Present constitution provides that a judge shall not remain in office beyond his 70th birthday and provides that a judge who attains the age of 70 while serving a term of office shall be allowed to complete that term of office. Proposed constitutional amendment deletes this language.

To be submitted to the voters on Nov. 4, 2014.

(Amends Const. Art. V, §23)

## **CIVIL CODE**

### **Domestic Abuse (Act No. 315)**

New law authorizes exemplary damages to be awarded in suits between certain household members arising from acts of domestic abuse when the injuries are caused by a wanton and reckless disregard for the rights and safety of the household member through acts of domestic abuse resulting in serious bodily injury or severe emotional and mental distress.

New law provides that if the court finds an action alleging domestic abuse is frivolous or fraudulent, it shall award costs of court, reasonable attorney fees, and other related costs to the defendant and other sanctions and relief requested under CCP Article 863.

Effective August 1, 2014.

(Adds C.C. Art. 2315.8)

### **Tutorship Continuation (Act No. 26)**

Prior law required the title of a proceeding to continue certain tutorships to be "Continuing Tutorship of (Name of Person), A Mentally Retarded Person" and established procedural rules.

New law deletes from the title the required designation "A Mentally Retarded Person".

Effective August 1, 2014.

(Amends C.C. Art. 356)

### **Visitation Rights (Act No. 586)**

Prior law provided that a grandparent not granted custody of a child may be granted reasonable visitation rights. New law removes phrase "not granted custody of a child".

Prior law provided that under extraordinary circumstances, any other relative, by blood or affinity, or a former stepparent or step-grandparent, not granted custody of the child may be granted reasonable visitation rights. New law removes phrase "not granted custody of the child".

Effective August 1, 2014.

(Amend C.C. Art. 136(B) and (C))

### **Divorce and Spousal Support (Act No. 316)**

New law changes the following grounds for divorce after 180 days to grounds for immediate divorce:

- (1) When a spouse or child has been physically or sexually abused by the other spouse.
- (2) When a protective order or injunction has been issued against the other spouse.

New law requires the court to consider the existence, effect, and duration of domestic abuse during the marriage in determining a final award amount.

New law requires the payment of interim spousal support for 180 days after the rendition of the judgment of divorce, unless a final spousal support award exceeds the interim amount.

New law provides that the obligation to pay the final spousal support award does not begin until the interim spousal support award has terminated.

New law provides for rights to seek other remedies.

New law requires the court to award final spousal support when the court finds that the spouse seeking divorce was the victim of domestic abuse committed by the other spouse during the marriage, and authorizes the court to award a final award in an amount greater than one-third of the obligor's net income.

New law requires the court to consider all criminal convictions of the obligor spouse committed against the obligee spouse during the course of the marriage in determining whether the obligee was the victim of acts of domestic abuse of the obligor.

New law provides that in the absence of a criminal conviction, the court may order an evaluation of both parties which may be used to assist the court in determining the existence and nature of the alleged domestic abuse. Such evaluation shall be conducted by an independent mental health professional who is an expert in the field of domestic abuse.

Effective August 1, 2014.

(Amends C.C. Arts. 103, 103.1, 112, and 113; adds C.C. Art. 118 and R.S. 9:327)

#### **Spousal Support (Act No. 616)**

Existing law authorizes the court to award final spousal support and provides certain factors to consider in determining the amount and duration, including financial obligations of the parties. New law adds that financial obligations include any interim allowance or final child support obligation.

Existing law authorizes the court to award interim spousal support when a demand for final spousal support is pending and provides factors to consider. New law adds any interim allowance or final child support obligations as factors to consider in awarding interim spousal support.

Effective Aug. 1, 2014.

(Amends C.C. Arts. 112 and 113)

### **CODE OF CIVIL PROCEDURE**

#### **Electronic Signatures by Judges (Act No. 606)**

New law provides that a judge or justice presiding over a court in this state may sign judgments, court orders, notices, official court documents, and other writings, required to be executed in connection with court proceedings, by use of an electronic signature.

New law provides that the various courts shall provide by court rule for the method of

electronic signature to be used and to ensure the authenticity of the electronic signature.

Effective August 1, 2014.

(Amends C.C.P. Arts. 253 and 1911 and R.S. 9:2603)

#### **Summary Judgment (Act No. 187)**

New law authorizes the court to permit documentary evidence to be filed in an electronic format authorized by the local rules or the clerk of the district court.

New law provides that a memorandum or motion to strike objecting to evidence in support of or in opposition to a motion for summary judgment shall be served pursuant to Art. 1313 within the time limits provided by District Court Rule 9.9.

Effective August 1, 2014.

(Amends C.C.P. Art. 966(F)(2) and (3))

#### **Service of Process (Act No. 379)**

Prior law, relative to service of citation and process in a civil case, provided generally that, if service of citation is not waived, then service shall be requested within 90 days of commencement of the action.

New law adds that if service of citation is not waived, a request for service of citation upon the defendant shall be considered timely if requested on the defendant within the time period specified, notwithstanding insufficient or erroneous service.

Effective upon signature of the governor (May 30, 2014).

(Amends R.S. 13:5107(D)(1); Adds C.C.P. Arts. 1201(D) and 3955(D))

#### **Judgments (Act No. 144)**

Existing law requires a final judgment in district court to be signed by the judge. Existing law requires a judgment in parish or city court to be signed by the judge.

New law retains existing law and requires the judgment to contain the typewritten or printed name of the judge rendering the judgment.

New law prohibits the invalidation of a judgment that does not contain the typewritten or printed name of the judge.

Effective August 1, 2014.

(Amends C.C.P. Arts. 1911 and 4906)

#### **TROs Extended in Emergencies (Act No. 618)**

Existing law authorizes the issuance of a temporary restraining order effective for a specific period of time during the pendency of an action for a protective order or for a preliminary injunction.

New law adds that if the hearing on the rule for the protective order or issuance of a preliminary injunction is continued by the court because of a declared state of emergency, any temporary restraining order issued in the matter shall remain in force for five days after the date of conclusion of the state of emergency. When a temporary restraining order remains in force under new law, the court shall reassign the rule for a protective order for hearing at the earliest possible time, but no later than five days after the date of conclusion of the state of emergency. The reassignment of the rule shall take precedence over all matters except older matters of the same character.

Effective Aug. 1, 2014.

(Amends C.C.P. Arts. 3604(C) and 3606)

#### **Answers, Experts, and Discovery Responses (Act No. 655)**

New law makes the deadline for answering incidental demands the same as provided for principal demands.

New law specifies that a party is under no obligation to identify a testifying expert absent a discovery request or order for an expert report.

New law extends the period for the state and its political subdivisions to respond to a request for production of documents and things from 15 to 30 days.

(Amends C.C.P. Arts. 1035, 1425(C), and 1462(B)(1))

#### **Digital Accounts of Decedents (Act No. 758)**

New law provides that subject to any restrictions provided in a valid testament of a decedent or an order of a court of competent jurisdiction, a succession representative shall have the power and authority to take control of, handle, conduct, continue, distribute, or terminate any digital account of the decedent.

New law provides that, except as provided in new law and to the extent permitted by federal law, any person that electronically stores, maintains, manages, controls, operates, or administers the digital accounts of a decedent shall transfer, deliver, or provide a succession representative access or possession of any digital account of a decedent within 30 days after receipt of letters testamentary, letters of administration, or letters of independent administration evidencing the appointment of the succession representative.

New law provides that provisions of the Louisiana Banking Law shall control how federally insured financial institutions provide Internet or other electronic access to an authorized succession representative for the administration of a decedent's estate.

New law provides that it supersedes any contrary provision in the terms and conditions of any service agreement and that a succession representative shall be considered an authorized user with lawful consent of the decedent for purposes of accessing or possessing the decedent's digital accounts.

New law prohibits any cause of action in any court of this state against a provider of digital account service, including its officers, directors, employees, agents, members, or other specified persons, for any action taken to disclose or otherwise provide access to the contents of a digital account.

New law is subject to copyright law and shall not increase the scope of the license granted in the terms of service of any digital account. New law provides that the agent, representative or fiduciary shall be personally responsible for any infringement of third party copyrights that occurs in the transfer or distribution of any digital account or its contents.



Effective August 1, 2014.

(Amends C.C.P. Art. 3191)

#### **Child Custody Allocation (Act No. 619)**

Existing law provides procedures for ex parte orders of temporary custody of a minor child and requires the court to allocate time between the parents when an ex parte order is denied.

New law clarifies that the allocation of time occurs at the hearing on the rule to show cause why the respondent should not be awarded the custody, joint custody, or visitation of the child.

Effective Aug. 1, 2014.

(Amends C.C.P. Art. 3945(F))

#### **Tutor's Certificate (Act No. 189)**

Present law provides that a natural tutor shall record in the mortgage records of the parish of his domicile a certificate of the clerk setting forth the date of birth of the minor, the last four digits of the social security number of the tutor, and the total value of the minor's property according to the inventory or detailed descriptive list filed in the tutorship proceeding.

Present law requires that the certificate be recorded in the mortgage records of every other parish in the state in which the tutor owns immovable property, and that the recordation operates as a legal mortgage for the amount of the certificate in favor of the minor on all the immovable property of the tutor.

New law adds that if the certificate recorded is in the amount of zero dollars, it shall not create a legal mortgage, and that if the certificate does not contain the information required by present law, it will not be effective against third parties.

(Amends C.C.P. Art. 4134(C))

#### **Actions to Compel Expenditure of State Funds (Act No. 41)**

New law provides that in any action or proceeding seeking a declaratory judgment as to the constitutionality of the expenditure of state funds, the court shall set the matter with preference and proceed to hear and determine the matter expeditiously, notwithstanding resolution of a pending petition for injunction or mandamus.

New law repeals the duplicate provisions of present law.

(Amends C.C.P. Art. 1878)

### **CODE OF CRIMINAL PROCEDURE**

#### **Arrest of School Employees (Act No. 723)**

New law provides that a magistrate or peace officer cannot issue a warrant for the arrest of a school employee for any misdemeanor allegedly committed upon a student during the course and scope of the school employee's employment. New law provides that in such instances, a summons is to be issued to the school employee.

New law provides a peace officer may arrest a school employee without a warrant for a misdemeanor if:

(1) The peace officer personally witnesses an alleged simple battery committed upon a student by a school employee; or

(2) The peace officer receives a complaint of an alleged simple battery committed upon a student by a school employee, and there is physical evidence of a resulting injury to the student which is personally witnessed by such officer.

Effective upon signature of the governor (June 18, 2014).

(Amends C.Cr.P. Art. 213; adds C.Cr.P. Art. 202(F))

#### **Domestic Abuse and Bail (Act No. 318)**

New law requires a contradictory bail hearing for a felony offense against the defendant's family or household member or dating partner, provides for the timing of such hearings, and provides relative to the evidence and factors that the court shall take into consideration at the hearing.

New law authorizes the court, upon proof by clear and convincing evidence that the defendant might flee, that the defendant poses a threat or danger to the victim, or that the defendant poses an imminent danger to any other person or the community, to order the defendant be held without bail pending trial.

New law authorizes the court to require the defendant, as a condition of bail, to wear an electronic monitoring device and to be placed under active electronic monitoring.

New law provides:

(1) If the judge orders the defendant to refrain from going to the residence, school, or place of employment of the victim, or otherwise contacting the victim, the judge shall sign and have filed a Uniform Abuse Prevention Order.

(2) The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, La. Supreme Court, for entry into the La. Protective Order Registry as expeditiously as possible.

(3) The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside.

(4) If, as part of a bail restriction, an order is issued, the court shall also order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

Effective Aug. 1, 2014.

(Amends R.S. 14:79, R.S. 46:2136.2, and C.Cr.P. Art. 335.1; Adds C.Cr.P. Art. 330.3)

#### **Withdrawal of Guilty Pleas (Act No. 85)**

Present law provides that the court may permit a plea of guilty to be withdrawn at any time before the defendant is sentenced.

New law retains present law but provides that a motion to withdraw a guilty plea may only be granted after a contradictory hearing which may be waived by the state.

(Amends C.Cr.P. Art. 559(A))

#### **Theft (Act No. 61)**

Prior law provided for the following responsive verdicts for theft and attempted theft: guilty of theft or attempted theft of property having a value in excess of \$500, property having a value of less than \$500 but more than \$300, and property having a value of less than \$300.

New law changes prior law amounts to be consistent with the crime of theft (R.S. 14:67) as follows: guilty of theft or attempted theft of property in excess of \$1,500, property having a value of less than \$1,500 but more than \$500, and property having a value of less than \$500.

Effective Aug. 1, 2014.

(Amends C.Cr.P. Art. 814(A))

#### **Restitution in Installments (Act No. 180)**

Present law requires the court to order a defendant to pay restitution to a crime victim in certain cases. New law retains present law.

New law provides that if the defendant is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court may order a periodic payment plan consistent with the person's financial ability.

(Adds C.Cr.P. Art. 883.2(D))

#### **Minimum Mandatory Sentences (Act No. 634)**

New law amends prior law to authorize the waiver of minimum mandatory sentences for certain crimes of violence and to prohibit the waiver for certain other offenses.

Effective Aug. 1, 2014.

(Amends C.Cr.P. Art. 890.1(D))

#### **Notice of Decisions (Act No. 600)**

New law provides that, in addition to the requirements regarding transmission of notice of judgment and copies of decisions under the Uniform Rules of La. Courts of Appeal, when a decision in an appellate court in a criminal appeal is rendered, the clerk of court is to transmit a notice or copy of the decision to the clerk of court from which the appeal was taken and to the Dept. of Public Safety and Corrections.

New law provides that when a decision of the Supreme Court is rendered in a criminal appeal, the clerk of court is to transmit a notice or copy of the decision to the clerk of court from which the appeal was taken and to the Department.

Effective August 1, 2014.

(Adds C.Cr.P. Art. 921.1)

### **DNA Testing (Act No. 266)**

Prior law created an exception to the time period for filing an application for post-conviction relief by allowing inmates until Aug. 31, 2014 to seek post-conviction DNA testing. New law extends the time period for such applications to be filed to Aug. 31, 2019.

Prior law required, once an application for DNA testing is served on the district attorney or the law enforcement agency in possession of the evidence to be tested, the clerks of court of each parish and all law enforcement agencies to preserve, until Aug. 31, 2014, all items of evidence in their possession which are known to contain biological material that can be subjected to DNA testing, in all cases that, as of Aug. 15, 2001, have been concluded by a verdict of guilty or a plea of guilty. New law extends the time period for such preservation until Aug. 31, 2019.

Effective Aug. 1, 2014.

(Amends C.Cr.P. Art. 926.1)

### **Probation Revocation (Act No. 271)**

Prior law provided that a defendant who is placed on probation by the drug division probation program and whose probation is revoked for a technical violation may be required to serve not more than six months in the intensive incarceration program. New law increases the length of time to not more than one year.

Effective Aug. 1, 2014.

(Amends C.Cr.P. Arts. 895 and 900)

### **Probation (Act No. 275)**

Prior law authorized the court to modify, change, or discharge the conditions of a defendant's probation, or to add further conditions, and to terminate the defendant's probation or suspended sentence at any time in misdemeanor cases and after one year of probation in felony cases.

New law amends prior law to provide for the following:

(1) The court may, at any time during the probation period, modify, change, or discharge the probation conditions if the state has

previously provided written verification that it has no opposition to a modification, change, or discharge, or after a contradictory hearing with the state.

(2) The court may, at any time during the probation period, impose additional conditions of probation authorized by existing law without a contradictory hearing with the state.

(3) In a felony case, the court may terminate the defendant's probation, early or as unsatisfactory, and discharge him at any time after the expiration of one year of probation if the state has previously provided written verification that it has no opposition to the termination of probation, or after a contradictory hearing with the state.

(4) In a misdemeanor case, the court may terminate the defendant's suspended sentence or probation and discharge him at any time if the termination or discharge is ordered in open court and the state is present and has been afforded an opportunity to participate in a contradictory hearing on the matter.

(5) If the court orders a contradictory hearing on the issue of the modification, change, or discharge of probation conditions or on the termination of a defendant's probation in a felony case, the court shall provide notice of the hearing to the defendant at least 15 days prior to the hearing date.

Effective Aug. 1, 2014.

(Amends C.Cr.P. Arts. 896 and 897)

### **Technical Violations (Act No. 633)**

New law amends the definition of "technical violation" to include a violation of misdemeanor possession of marijuana or tetrahydrocannabinol, or chemical derivatives thereof.

Effective Aug. 1, 2014.

(Amends C.Cr.P. Arts. 899.1 and 900)

### **Expungement (Act No. 145)**

Existing law provides for the expungement of records of arrest and misdemeanor convictions in certain circumstances.

Existing law provides for the confidentiality of expunged records and authorizes access to those records by law enforcement, criminal justice agencies, and statutorily defined entities.

New law provides for a comprehensive revision to existing law provisions, including the following major changes:

- (1) Moves expungement provisions of law from provisions regarding public records to the Code of Criminal Procedure.
- (2) Provides for statutorily mandated forms to be used in motions for expungement and judgments of expungement.
- (3) Prohibits the unauthorized dissemination of expunged records by third parties and provides civil penalties for the unauthorized dissemination of expunged record information.
- (4) Provides for a five-year cleansing period without a conviction of a felony to obtain an expungement for a misdemeanor conviction.
- (5) Provides for a 10-year cleansing period without conviction to obtain an expungement for a felony conviction.
- (6) Deletes provisions of existing law authorizing the destruction of criminal records.
- (7) Provides for a limitation on the number of expungements a person may obtain.
- (8) Provides eligibility criteria to obtain an expungement.
- (9) Prohibits the expungement of crimes of violence, sex offenses, and most controlled dangerous substances violations.
- (10) Allows the expungement of a conviction for possession of a controlled dangerous substance or the possession with intent to distribute a controlled dangerous substance.
- (11) Authorizes the district attorney or the La. Bureau of Criminal Identification and Information to request a contradictory hearing on a motion to expunge and provides for time periods for raising objections.
- (12) Provides for an expungement by redaction of certain identifying information in the records of a person who is arrested or convicted with

other offenders who are not entitled to an expungement.

(13) Provides for an interim expungement of a felony arrest when that original arrest results in a conviction for a misdemeanor. Provides that these expungements are not subject to the cleansing period and are unlimited. Prohibits the expungement of misdemeanor convictions arising from the felony arrest.

(14) Authorizes the use of expunged records by law enforcement, criminal justice agencies, prosecutors and judges for the purposes of defending a law enforcement, criminal justice agency, or prosecutor in a civil suit for damages resulting from wrongful arrest or other civil litigation and the expunged record is necessary to provide a proper defense.

Effective August 1, 2014.

(Amends R.S. 44:4.1(B)(38); Adds C.Cr.P. Arts. 971-995; Repeals R.S. 44:9)

## **CODE OF EVIDENCE**

### **Expert Opinions (Act No. 630)**

Existing law authorizes a witness qualified as an expert to testify if his specialized knowledge will assist the trier of fact to understand the evidence or determine a fact in issue.

New law retains existing law and codifies existing jurisprudence requiring an expert's opinion to have a reliable basis.

New law provides that no change in law or result in a ruling on evidence admissibility shall be presumed or is intended by the passage of new law.

Effective Aug. 1, 2014.

(Amends C.E. Art. 702)

## **CHILDREN'S CODE**

### **Verification of Petitions (Act No. 133)**

Prior law required that petitions filed in child in need of care proceedings, family in need of services proceedings, juvenile delinquency

proceedings, and involuntary termination of parental right proceedings be verified.

New law removes requirement that such petitions be verified.

Effective August 1, 2014.

(Amends Ch. C. Arts. 633, 748, 844 and 1018)

#### **Intra-Family Adoption (Act No. 169)**

Old law specified who may petition for an intra-family adoption and included several categories of family relationships and the requirements thereunder.

New law changes the requirement that the petitioner be related through a child's parent having parental rights to the requirement that the petitioner be related to the child's mother or father who is filiated to the child.

Effective August 1, 2014.

(Amends Ch.C. Arts. 1243)

#### **Child Representation System (Act No. 354)**

New law provides relative to legal representation for children and indigent parents in child protection cases and establishes the La. Child Representation System under the oversight of the La. Supreme Court.

New law requires that the Supreme Court, through such program as it may designate, provide child representation services to each court exercising jurisdiction over abuse and neglect cases in accordance with a service delivery plan developed by the program and approved by the Supreme Court.

New law relocates the Indigent Parents' Representation Program from the La. Indigent Defense Assistance Board to the La. Public Defender Board.

New law adds provisions requiring that the child be a party to child in need of care (CINC) proceedings. New law provides that the attorney for the child shall have the authority to (1) represent the child at all stages of the proceedings, (2) accompany the child and be present for all court appearances, school hearings, and educational and other meetings related to the child, and (3) view and copy the

child's medical, dental, psychological, psychiatric, educational, or counseling records.

Old law provided that the parents of a child who is the subject of a CINC proceeding shall be entitled to counsel, and that the parents may waive such right. New law adds that a parent may waive such right if he has been instructed by the court about his rights and the possible consequences of waiver.

New law establishes that if a parent of a child in a CINC proceeding is entitled to representation by the Indigent Parents' Representation Program, the unavailability of counsel to represent the parent shall be good cause for a continuance of the continued custody hearing for up to three days and the hearing shall not proceed until a qualified, independent attorney is provided to the parent.

New law requires that an order setting a continued custody hearing provide for appointment of counsel for the child and notice to the child representation program.

New law provides that upon the filing of a petition for commencement of a CINC proceeding, the court shall provide notice and a copy of the petition to the child representation program.

New law provides that after a child has been adjudicated to be in need of care, DCFS may submit a case plan along with the case review report to the court and all counsel of record recommending guardianship in accordance with present law.

New law stipulates that the program providing legal representation to a child in CINC proceedings and the program representing the indigent parents in those proceedings also provide representation in guardianship proceedings.

New law requires that a copy of any motion to modify a guardianship order be personally served on the parents, and that the court promptly notify the programs representing the child and indigent parents, respectively, in CINC proceedings.

Present law provides that within 10 days after filing of a petition relative to continuing contact

with a child, DCFS or the attorney for the prospective adoptive parents shall file in the court in which the adoption is pending an agreement for continuing contact. New law adds an attorney for the child and an attorney for the parent as parties authorized to file such agreement.

Present law provides that a juvenile court may adopt rules not in conflict with provisions of present law relative to the conduct of proceedings. New law provides that a juvenile court may only establish such rules on the condition that applicable procedures are not otherwise provided through rules promulgated by the La. Supreme Court.

New law establishes the Child Protection Representation Commission (commission) for the purpose of reviewing the system of representation of children and indigent parents in child protection cases provided in proposed law.

(Amends Ch.C. Arts. 401, 552, 553, 558, 560, 571, 574, 575, 607, 608, 624, 625, 627, 631, 720, 723, 724, 1016, and 1269.4; Adds Ch.C. Arts. 581, 635.1, and 1405.1; Repeals Ch.C. Arts. 559)

### **Child Safety Plans (Act No. 486)**

Prior law provided that "safety plan" means a short-term plan for the purpose of assuring a child's immediate health and safety by imposing conditions for the continued placement of the child with a custodian and terms for contact between the child and his parents or other persons.

New law provides that "safety plan" means a plan for the purpose of assuring a child's health and safety by imposing conditions for the child to safely remain in the home, or, after a child has been removed from the home, for the continued placement of the child with a custodian and terms for contact between the child and his parents or other persons.

New law provides that the department shall request a temporary restraining order, protective order, or an instanter safety plan order, if the department determines that a previously ordered

visitation or custody would put the child's health and safety at risk.

New law adds an instanter safety plan order as an additional option prior to removal of a child in need of care.

New law includes the implementation of a safety plan as an option available to a peace officer, district attorney, or employee of the local child protection unit of the department to include in a verified complaint alleging facts showing that there are reasonable grounds to believe that the child is in need of care to secure the child's protection.

New law provides that after the complaint has been filed, the parent is without authority to place the child with any individual or institution except the department until legal custody is returned to the parent or the safety plan is terminated.

Prior law provided that upon presentation of the verified complaint, the court shall immediately determine whether emergency removal is necessary to secure the child's protection. New law adds whether the issuance of a safety plan order is necessary to secure the child's protection.

New law provides that if, upon request by the state, the court determines that with the issuance of a safety plan order that the child's welfare can be safeguarded without removal, the court shall immediately issue a written instanter order directing compliance with the terms of the safety plan.

New law provides that the order shall contain written findings of fact supporting the necessity for the safety plan to safeguard his welfare. The safety plan shall set forth conditions as determined by or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home.

New law provides that if the court determines that emergency removal or the issuance of a safety plan order is not necessary to secure the child's protection, the court shall issue a written order denying the request for custody or for the implementation of a safety plan.

New law provides that any peace officer having territorial jurisdiction over the child is authorized to serve a summons upon a parent or caretaker, commanding him to appear at court for a continued custody or continued safety plan hearing.

New law provides that in exceptional circumstances, the facts supporting the issuance of an instant order and the exceptional circumstances may be relayed orally, including telephonically, to the judge and his order directing that a child be taken into custody or, upon request by the state, that a safety plan order be implemented may be issued orally.

New law provides that in such cases, an affidavit containing the information previously relayed orally, including telephonically, shall be filed with the clerk of the court within 24 hours and a written order shall be issued.

New law provides that the written order shall include the court's findings of fact supporting the necessity for the child's removal or the implementation of a safety plan order in order to safeguard his welfare and, if the child has been removed, shall determine the child's custodian in accordance with prior law.

New law provides that if the court ordered the implementation of a safety plan, the department shall promptly notify the parents or caretaker of the nature of the allegations, the conditions of the safety plan, and the time and place of a continued safety plan order hearing.

New law provides that if a safety plan has been ordered, a hearing shall be held by the court within three days from the issuance of the safety plan order, unless the parents are in agreement with the safety plan.

New law provides that if it appears from the record that the parent cannot be found or has been served a summons or notified by the department to appear at the continued custody or continued safety plan hearing and fails to appear at the hearing, then the hearing may be held in the parent's absence.

New law provides that at this hearing, the state has the burden to prove the existence of a

ground for continued custody or the continued implementation of a safety plan.

New law provides that the court may authorize, with the consent of the state, continued implementation of a safety plan prior to the adjudication if there are reasonable grounds to believe the child is in need of care and that the continued implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home.

New law provides that if the court finds that the child can safely remain in or return to the home with the implementation of a safety plan developed and agreed upon by the state pending adjudication, the court may order compliance with the conditions of the safety plan.

New law provides that if the child remains in the home and a safety plan order has been issued, a petition requesting that the child be adjudicated in need of care shall be filed within 45 days of the issuance of the safety plan order.

New law provides that if no petition is filed within the applicable time period, the safety plan shall automatically be terminated.

Effective August 1, 2014.

(Amends Ch.C. Arts. 603, 612, 615, 619, 620, 624, 625 627, and 632; adds Ch.C. Arts. 626(E))

## **MULTIPLE CODES OR TITLES**

### **Domestic Abuse (Act No. 194)**

New law adds domestic abuse aggravated assault to the list of crimes of violence.

Old law provided that an offender may only be placed on probation for a commission of domestic abuse battery if he is required to participate in a "court-approved" domestic abuse "prevention" program.

New law amends old law to provide that the offender shall be required to participate in a "court-monitored domestic abuse intervention program" and provides that such program shall be comprised of a minimum of twenty-six in-

person sessions, and follow a model designed specifically for perpetrators of domestic abuse.

Present law provides that any crime of violence against a person committed by one household member against another household member shall be designated as an act of domestic violence. New law clarifies that this designation as domestic violence is for purposes of any civil or criminal proceeding authorized by law.

New law adds domestic abuse aggravated assault, false imprisonment, and false imprisonment while the offender is armed with a dangerous weapon to the list of offenses for which a defendant may not be released on their own recognizance or on the signature of any other person.

New law amends present law to provide that a person shall not be released on his own recognizance, or on the signature of any other person, for a violation of a protective order regardless of whether the person has a prior conviction for the same offense.

(Amends R.S. 14:35.3 and C.Cr.P. Art. 334.2; Adds R.S. 14:2(B)(45) and 35.3(B)(6); Repeals C.Cr.P. Art. 334.4(A)(4))

### **Security and Pledge (Act No. 281)**

Prior law Title XX provided for "Of Pledge." New law provides for "Security" and provides for "Pledge" in new Title XX-A.

New law provides that an obligor is obligated to fulfill his obligation out of all of his property, present and future.

New law provides that in the absence of a preference, an obligor's property is available to all of his creditors and the proceeds of its sale are distributed ratably.

New law provides that a written contract can restrict the obligee's recourse against the obligor to a particular property or a specified class or kind of property.

New law provides a definition of "security" but it does not change the law.

New law clarifies the law by providing that security can be either personal or real and provides definitions of "personal" and "real" property.

New law provides that suretyship, privilege, mortgage, pledge, and a security interest established to secure a performance of an obligation are kinds of security.

New law provides that the laws of security interest are defined by the Uniform Commercial Code.

New law provides that, unless expressly permitted by law, a clause in a contract that provides in advance that the ownership of a thing given as security will transfer upon default in performance of the obligation is absolutely null.

New law provides for a new Title XX-A, "Pledge".

New law provides a definition of "pledge".

New law provides an exhaustive list of things susceptible of pledge.

New law provides that a contract by which a person purports to pledge a thing that is susceptible of encumbrance by security interest does not create a pledge under this Title, but may create a security interest in the thing.

New law provides that a pledge is an accessory to the obligation that it secures.

New law provides that a pledge gives the pledgee the right to be satisfied from the thing pledged and its fruits in preference to unsecured creditors of the pledgor.

New law provides that a pledge may be given to secure the performance of any lawful obligation.

New law provides that a pledge that secures an obligation other than the payment of money secures the claim of the pledgee for the damages he may suffer from the breach of the obligation.

New law provides that a person may pledge his property to secure an obligation of another person.

New law provides the formal requirements of a contract of pledge.

New law provides that a written contract of pledge need not be signed by the pledgee because his acceptance is presumed.



New law provides that a contract of pledge may be established only by a person having the power to alienate the thing pledged.

New law provides that a pledge given over a thing that the pledgor does not own is established when the thing is acquired by the pledgor and the other requirements for the establishment of the pledge have been satisfied.

New law provides that a pledge is without effect as to third persons unless it has become effective between the parties and is established by written contract.

New law provides for the requirements that must be satisfied for a pledge of the lessor's rights in the lease of an immovable and its rents to have effect against third persons.

New law provides that if the thing pledged is another person's obligation not arising under the lease of an immovable, the pledge is effective against third persons only from the time that the obligor has actual knowledge of the pledge or has been given notice of it.

New law provides that the pledgee is not obligated to return the pledged thing until all secured obligations have been extinguished.

New law provides that the contract of pledge is indivisible.

New law provides that, if agreed in a written contract of pledge of a movable upon failure of performance of the secured obligation, the pledgee may dispose of the thing pledged.

New law provides that the pledgee is entitled to receive the fruits of the thing pledged, to retain it as security, and to apply it to the secured obligation.

New law provides that the pledgee may apply collections from the third person's obligation to the secured obligation even if the secured obligation has not yet matured.

New law provides the notice that is required when performance is to be made by an obligor of a pledged obligation and what performance of that obligation accomplishes.

New law provides that the obligor may assert against the pledgee any defense arising out of the transaction that gave rise to the pledged

obligation, or assert any other defense that arises against the pledgor before the obligor has been given written notice of the pledge.

New law provides that a clause prohibiting pledge is without effect.

New law provides that parties to a contract from which a pledged obligation arises can agree to modify or terminate the contract or substitute a new contract, and if made in good faith is effective against the pledgee without his consent.

New law provides that upon the modification of a contract from which a pledged obligation arises, the substitution of a new contract encumbers the corresponding rights of the pledgor.

New law provides that the pledgor and pledgee may agree that a modification or termination of the contract from which the pledged obligation of a third person arises or a new contract is substituted is a default by the pledgor.

New law provides that the pledgee is not bound for the pledgor's obligations.

New law provides the requirements for a contract establishing a pledge of the lessor's rights in the lease of an immovable and its rents.

New law provides that the pledge of the lessor's rights in the lease of an immovable and its rents is without effect as to third persons unless the contract establishing the pledge is recorded in the manner prescribed by law, nevertheless, the pledge is effective against the lessee from the time that he is given written notice of the pledge.

New law provides that a pledge of the lessor's rights in the lease of an immovable and its rents may be established in an act of mortgage of the immovable.

New law provides that a pledge can be established over all or part of the leases of an immovable, even those not yet in existence, and that it can be made effective against third persons.

New law provides that the owner of land or holder of a mineral servitude can pledge bonuses, delay rentals, royalties, and shut-in

payments by express provision in a contract establishing a pledge.

New law provides under what circumstances a pledgee shall account to other pledgees for rent collected.

New law provides that a pledge of the lessor's rights in the lease of an immovable and its rents does not entitle the pledgee to cause the rights of the lessor to be sold by judicial process, and any clause to the contrary is absolutely null.

New law provides that in all matters not provided for in Chapter 2 of this Title, the pledge of the lessor's rights in the lease of an immovable and its rents is governed by the provisions of the first Chapter of this Title.

New law provides the place where the instrument creating, establishing, or relating to a mortgage or privilege over an immovable, or the pledge of the lessor's rights in the lease of an immovable and its rents, must be recorded and the duty of the recorder.

Prior law (C.C. Art. 3354) relative to recordation, provided for the applicability of Chapter 2 of Title XXII-A of Book III of the Civil Code. New law provides that the provisions of Chapter 2 of Title XXII-A of Book III of the Civil Code apply to mortgages and privileges encumbering immovables and to pledges of the lessor's rights in the lease of an immovable and its rents.

Prior law provided that mortgages or privileges affecting property in several parishes maybe executed in multiple originals for recordation in each of the several parishes; a certified copy of an instrument recorded in the records of a parish need only describe property that is within the parish where it is filed. New law adds pledges to this provision.

Prior law provided for the transfers, amendments, and releases of an obligation secured by a mortgage. New law adds pledges to this provision.

Prior law provided that the effect of recordation of an instrument creating a mortgage or evidencing a privilege ceases 10 years after the date of the instrument. New law adds pledges to this provision.

Prior law provided that the duration of recordation of an instrument creating a mortgage or evidencing a vendor's privilege matures nine years or more after the date of the instrument, and the effect of recordation ceases six years after the latest maturity date described in the instrument. New law adds pledges to this provision.

Present law provides that the effect of recordation of a judgment creating a judicial mortgage ceases 10 years after the date of the judgment. New law clarifies law with new Comments.

Prior law provided that if prior to the cessation of the effect of recordation, an instrument is recorded that amends a recorded mortgage or privilege, then the effect of recordation is determined by reference to the maturity of the obligation last becoming due as amended. New law adds pledges to this provision.

Prior law provided for the method of reinscribing a recorded instrument that has created a mortgage or evidenced a vendor's privilege by recording a signed written notice of reinscription. New law adds pledges to this provision.

Prior law provided that the method of reinscribing provided in the Chapter is exclusive. New law adds pledges to this provision.

Present law provides that the effect of a timely recorded notice of reinscription continues for ten years from the date the notice is recorded. New law clarifies law with a Comment.

Prior law provided that if the notice of reinscription was recorded after the effect of recordation has ceased, the effects of recordation continue but only for ten years from the time the notice of reinscription was recorded. New law adds some technical clarification to the text, adds pledges to this provision, and removes some of the text of the accompanying Comments.

Prior law provided for the form and consent for the cancellation upon request of a mortgage or privilege by the recorder of mortgages. New law adds pledges to this provision.

Prior law provided that if the effect of recordation ceases for lack of reinscription, the recorder upon receipt of a written signed application shall cancel the recordation of the mortgage or privilege. New law adds pledges to this provision.

Present law provides for the cancellation of a prescribed judicial mortgage. New law clarifies the law by providing that both a timely reinscription and a timely suit for revival are necessary for a judicial mortgage to continue to have effect.

Prior law provided for conditional or collateral assignment of leases or rents. New law provides that any obligation may be secured by a pledge of the rights of a lessor or sublessor in the lease or sublease of an immovable and its rents.

New law provides for the right of the pledgee to cash proceeds of rent.

New law provides the transitional filing rules for assignments of leases and rents recorded prior to January 1, 2015.

Prior law provided for mortgages including collateral assignments and the pledge of certain incorporeal rights. New law clarifies the law by providing that a mortgage of an immovable may contain a pledge of the mortgagor's rights under policies of insurance covering the immovable and the procedure detailing how to pledge a mortgagor's right to insurance.

New law provides a new definition of "Account" for Chapter 9 of Title 10.

Effective January 1, 2015.

(Amends Title XX of Book III of the Civil Code, Arts. 3346, 3354, 3355, 3356, 3357, 3358, 3361, 3362, 3363, 3365, 3366, 3367, and 3368, R.S. 9:4401 and 5386, and R.S. 10:9-102; adds Title XX-A of Book III of the Civil Code and R.S. 9:4402 and 4403; repeals C.C. Arts. 3182, 3183, and 3184)

#### **Protective Orders Violations (Act No. 317)**

New law provides that law enforcement officers shall at a minimum issue a summons to any person in violation of a protective order.

New law provides that whenever a law enforcement officer has reason to believe that a

family or household member or dating partner has been abused and the abusing party is in violation of a protective order, the officer shall immediately arrest the abusing party.

New law provides that the law enforcement officer shall presume that the predominant aggressor is the person against whom a protective order was issued.

New law requires the officer to make an arrest if the predominant aggressor is in violation of a protective order.

Effective Aug. 1, 2014.

(Amends R.S. 9:366 and 372, R.S. 14:79, R.S. 46:2135, 2136, 2136.2, and 2140, Ch.C. Arts. 1569 and 1570, C.C.P. Art. 3607.1, and C.Cr.P. Arts. 30, 327.1, 335.2, and 871.1)

#### **Enforcement of Security Interests (Act No. 440)**

With respect to powers exercised by credit unions and notwithstanding any law or provision to the contrary, new law provides that a reproduction of a member account record constitutes an original record for evidentiary purposes.

Old law provided that the reproduction of a promissory note, negotiable instrument, letter of credit, certificated security, document of title, or a certificate of title pertaining to a motor vehicle is not deemed an original of the record for various purposes, including using the record in executory proceedings. New law removes promissory notes and negotiable instruments from the list and allows for certification of reproductions in judicial proceedings.

New law adds that unless the reproduction of a letter of credit, certificated security, document of title, or a certificate of title pertaining to a motor vehicle is certified by the respective financial institution, it is not deemed to be an original of the record for the purpose of using the record in a judicial proceeding or action involving a claim based on the record, unless the original has been lost, stolen, or inadvertently destroyed.

Old law provided that a substitute check *may* be deemed to be an original of the substitute check in a judicial proceeding or action involving a

claim based on or involving such check. New law provides that a substitute check *shall* be deemed an original of the substitute check in a judicial proceeding or action involving a claim based on or involving such check.

New law generally excludes collateral mortgage notes from provisions authorizing use of reproductions.

New law changes various references to Chapter 9 of the Louisiana Commercial Laws to references to Chapter 9 of the Uniform Commercial Code.

New law provides that if a mortgage sought to be enforced is a collateral mortgage, or if the conventional mortgage or security agreement to be enforced secures multiple or future indebtedness of the debtor, the existence of the actual indebtedness may be proved by verified original or supplemental petition, or by an affidavit submitted with the original or supplemental petition, along with the original or reproduction of the note, bond, handnote, or other evidence representing the actual indebtedness, attached as an exhibit. A reproduction of the note, bond, handnote, or other evidence representing the actual indebtedness shall be certified by a representative of a financial institution.

New law provides that evidence as to the proper party plaintiff entitled to enforce the obligation secured by the note, bond, handnote, or other instrument evidencing the obligation, of which a copy or reproduction is submitted, may be proved by verified original or supplemental petition, or by submitted affidavit.

Effective July 1, 2014.

(Amends R.S. 6:667.3, R.S. 13:3733.1, and C.C.P. Arts. 2636 and 2637)

### **Sexual Exploitation (Act No. 564)**

With regard to the crimes of human trafficking, trafficking of children for sexual purposes, and other offenses involving commercial sexual exploitation, and relative to the victims of these offenses, new law:

(1) Creates the crime of unlawful purchase of commercial sexual activity and requires certain

persons convicted of the offense to register as a sex offender.

(2) Expands existing law crimes of human trafficking and trafficking of children for sexual purposes to include the act of receiving, isolating, and enticing another person in order to engage in the prohibited activity.

(3) Clarifies the definition of "coercion" or "coerce" relative to the crimes of human trafficking, pornography involving juveniles, and computer-aided solicitation of a minor.

(4) Relative to victims of human trafficking involving services that include commercial sexual activity or any sexual contact which constitutes a crime in this state, provides for an affirmative defense to prosecution for certain offenses committed by the victim as a direct result of being trafficked and requires any person seeking to raise the defense to provide notice to the state at least 45 days prior to trial.

(5) Provides that any person who raises the affirmative defense, and who is determined to be a victim of human trafficking or trafficking of children for sexual purposes, shall be notified of any treatment or specialized services that are available for such victims.

(6) Expands the crime of computer-aided solicitation of a minor to prohibit use of a computer to solicit a person to engage in commercial sexual activity.

(7) Provides for the forfeiture of certain property used in the commission of certain offenses involving commercial sexual exploitation.

(8) Expands the list of crimes for which a person convicted of certain offenses is required to make mandatory restitution to the victim.

(9) Provides for the confidentiality of the identity of victims of human trafficking-related offenses.

(10) Provides relative to the admissibility of evidence of the past sexual behavior of a victim of human trafficking or trafficking of children for sexual purposes and of statements made by these victims during the course of an investigation.

(11) Authorizes the filing of a motion for new trial within three years of a verdict or judgment for certain offenses which were committed as a direct result of being a victim of human trafficking or trafficking of children for sexual purposes.

(12) Amends the definition of "abuse" for purposes of classifying a child as a child in need of care.

(13) Provides that any private entity who provides certain services to adult or child victims of human trafficking or trafficking of children for sexual purposes or new law shall report annually on its operations.

(14) Expands the definition of "racketeering activity" to include pornography involving juveniles; computer-aided solicitation of a minor; prostitution, persons under eighteen; soliciting for prostitutes; inciting prostitution; promoting prostitution; letting premises for prostitution; enticing persons into prostitution; keeping a disorderly place; letting a disorderly place; and operation of places of prostitution.

The above provisions of new law are effective Aug. 1, 2014.

New law also adds victims of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by any person, regardless of their relationship to the child, to the list of grounds for which a child may be declared to be a child in need of care. This new law provision shall not become effective until such a child becomes an eligible victim for which federal match funds are available through Title IV-E of 47 U.S.C. 672.

(Amends R.S. 14:46.2, 46.3, 81.1, 81.3, 82, 83.3, 83.4, 86, 89, and 89.2, R.S. 15:539.1, 539.2, 539.3, 541, and 1352, R.S. 46:1802, 1805, 1809, and 1844, C.E. Art. 412, C.Cr.P. Arts. 851 and 853, and Ch.C. Arts. 603, and 725.2; Adds R.S. 14, 82.1(D)(4) and (F), 82.2, 83(B)(4), 83.1(B)(4), 83.2(B)(4), 84(B)(4), 85(B)(4), 104(B)(4), 105(B)(4), and 282(B)(4), R.S. 15:243, 1308(A)(2)(s), and 1352(A)52 - (62), R.S. 40:2405.7, R.S. 46:1805(B)(3), 2161(C), and 2161.1, C.E. Art. 412.3, C.Cr.P. Art. 855.1, and Ch.C. Art. 606(A)(7))

### **Governmental Meat Purchases (Act No. 575)**

Prior laws in the Public Contract Law and in the Procurement Code provided a preference for certain products produced or manufactured in Louisiana, including meat and meat products processed in Louisiana from animals that are alive at the time they enter the processing plant.

New law provides instead that the meat be processed in Louisiana from animals that originated in Louisiana, as evidenced by traceability documentation supplied by the manufacturer.

Effective upon signature of the governor (June 9, 2014).

(Amends R.S. 38:2251 and R.S. 39:1595)

### **Solar Energy Fraud (Act No. 682)**

New law creates the crime of solar tax credit fraud, making it unlawful for any person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system to claim a tax credit if the person fails to perform or complete the installation of the system or fails to maintain or repair the system under the terms of the contract, or fails to maintain or repair the system under the terms of the contract subsequent to claiming the tax credit.

New law provides that the knowing material failure by a contractor to perform or complete the installation of a solar electric or solar thermal system or maintain or repair the system under the terms of the applicable contract shall constitute the crime of solar installation fraud.

New law provides that any person who is found liable under a civil action brought by the attorney general resulting from a violation of new law is liable to the attorney general for all costs, expenses and fees related to investigations and proceedings associated with the violation, including attorney fees. New law provides that an action to recover costs, expenses, fees, and attorney fees is ancillary to, and is to be brought and heard in the same court as, the civil action resulting from a violation of new law.

New law provides that the attorney general, or his agents, may examine under oath any person

concerning the affairs and business of the person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system and who has claimed a tax credit.

New law shall be applicable to entities engaging in the business of selling, leasing, installing, servicing, or monitoring solar energy equipment. New law is not to be construed to impose civil or criminal liability on homeowners or on any third party whose involvement is limited to providing financing to the homeowner or financing for installation. Entities engaged in the business of arranging for the lease or sale of solar energy systems or acquiring customers for financing entities are not exempt.

New law provides an exception to the confidentiality of DOR records and authorizes the secretary of DOR to disclose certain information to the office of the attorney general in order to implement the provisions of new law.

Effective upon signature of the governor (June 18, 2014).

(Adds R.S. 14:202.2 and R.S. 47:1508(B)(35))

#### **Re-Homing of a Child (Act No. 721)**

New law creates the crime of re-homing of a child, defined as any one of the following:

(1) A transaction, or any action taken to facilitate such transaction, by a parent or any individual or entity with custody of a child who intends to avoid or divest himself of permanent parental responsibility by placing the child in the physical custody of a nonrelative, without court approval, unless new law otherwise applies.

(2) The selling, transferring, or arranging for the sale or transfer of a minor child to another person or entity for money or any thing of value or to receive such minor child for such payments or thing of value.

(3) Assisting, aiding, abetting, or conspiring in the commission of any act described in new law by any person or entity, regardless of whether money or any thing of value has been promised to or received by the person.

New law provides that re-homing does not include placements made with a relative,

stepparent, licensed adoption agency, licensed attorney, or DCFS; placements made by a licensed attorney, a licensed adoption agency, or DCFS; temporary placements made by parents or custodians for designated short-term periods with a specified intent and time period for return of the child, due to a vacation or a school-sponsored function or activity or for the incarceration, military service, medical treatment, or incapacity of a parent; placement of child in another state in accordance with the requirements of the Interstate Compact on the Placement of Children; and relinquishment of a child pursuant to a safe haven provision of law.

Effective August 1, 2014.

(Amends Ch.C. Arts. 1217, 1239, 1255, 1282.3, 1283.14, 1284.3, and 1285.14 and R.S. 15:87.1(C)(1); adds R.S. 14:46.4)

#### **Technical Corrections (Act No. 791)**

New law makes technical corrections in provisions of the Revised Statutes, the Code of Civil Procedure, and the Code of Criminal Procedure, including correcting legal citations, correcting names of agencies, department offices, and other entities, designating undesignated statutory provisions, removing references to provisions that have been repealed, correcting punctuation, correcting typographical errors, conforming terms to those elsewhere in the law, and clarifying language.

(Amends numerous statutory and codal provisions.)

#### **Entity Abolishment (Act No. 832)**

New law provides for the abolition of various boards, commissions, authorities, and like entities, including the Coastal Land Stewardship Authority and the Mississippi River Road Commission.

Effective Aug. 1, 2014.

(Amends various statutes)

#### **Depositions; Court Reporters (Act No. 839)**

Old law prohibited the original of a deposition from being filed in the record, but required the original to be made available to all other parties in the matter for inspection or copying. New law removes old law prohibition and requirement.

Old law required the party taking the deposition to give prompt notice to all other parties of its availability for inspection or copying. New law repeals old law requirement.

Present law provides that a deposition shall be taken before an officer, authorized to administer oaths, who is not an employee or attorney of any of the parties or otherwise interested in the outcome of the case. Present law provides that "an employee" includes a person who has a contractual relationship with a party to provide shorthand reporting or other court reporting services.

New law provides that if a licensed Louisiana court reporter has no actual knowledge of a prohibited employment or contractual relationship between a party litigant and a court reporting firm, and if the reporter receives certification that the firm has no prohibited contractual or employment relationship with a party litigant, the reporter may accept employment from the firm and shall not be considered an "employee".

New law requires the Board of Examiners of Certified Shorthand Reporters to establish by rule the procedures and representations by which a court reporting firm shall provide the necessary certification to court reporters.

New law defines "court reporting firm" as any person, company, corporation, organization, partnership, group, limited liability entity, commercial enterprise, or other entity doing business in Louisiana that is owned or controlled by a person who is not licensed by the board to practice court reporting and that engages others or itself engages in any aspect of the practice of court reporting, including such activities as arranging for or engaging the services of a licensed court reporter, reporting, recording, taking, producing, transcribing, delivering, or invoicing depositions, court proceedings, sworn statement, or other similar preservation of testimony, or any other activities as identified in rules promulgated by the board. New law provides that a lawyer admitted to practice in Louisiana, or a group of lawyers, or a law firm, or the clerical or administrative employees of such are not to be considered a court reporting firm.

(Amends C.C.P. Art. 1446 and R.S. 37:2557; adds R.S. 37:2556(D))

### **Early Learning Centers (Act No. 868)**

New law requires all early learning centers to be licensed as a Type I, II or III by DOE. New law exempts day schools, camps, care given without charge, certain religious organizations that are qualified as tax-exempt, and programs licensed or operated by the Department of Health and Hospitals (DHH) or the DCFS.

New law provides for certain types of licenses, including:

(1) A "Type I license" is the type of license issued to an early learning center that is owned or operated by a church or religious organization and that receives no state or federal funds from any source, whether directly or indirectly.

(2) A "Type II license" is the type of license issued to an early learning center that either receives no state or federal funds from any source, whether directly or indirectly, or whose only source of state or federal funds is from the United States Department of Agriculture's food and nutrition programs.

(3) A "Type III license" is the type of license issued to any early learning center that receives state or federal funds, directly or indirectly, from any source other than the federal food and nutrition programs.

New law does not prevent an early learning center otherwise qualified for a Type I license to voluntarily seek a Type II or Type III license, or an early learning center otherwise qualified for a Type II license to voluntarily seek a Type III license.

New law provides that until such time as rules are promulgated by BESE to implement the types of licenses required by new law, early learning centers shall continue to follow the rules in effect for Class A and Class B licensure of child care facilities.

New law provides that upon promulgation by BESE of rules to implement the three types of licenses:

(1) All existing early learning centers possessing a Class B license shall be issued a Type I

license, unless the center meets the definition of a Type II license, in which case it shall be issued a Type II license.

(2) All existing early learning centers possessing a Class A license that meet the definition of a Type II license shall be issued a Type II license.

(3) All existing early learning centers possessing a Class A license that meets the definition of a Type III license shall be issued a Type III license.

New law requires that any early learning center that intends to change its license type at any time during the following calendar year must apply for a new license no later than December first of the preceding year. Such requirements shall not apply to early learning centers changing location or ownership that are required to apply for a new license.

New law requires BESE to promulgate regulations for each type of license which, shall, among other things, prohibit discrimination on the basis of race, color, creed, sex, national origin, handicap, ancestry, or whether the child is being breastfed, provided that this shall not be construed to affect, limit, or otherwise restrict the hiring or admission policies of an early learning center owned by a church or religious organization, or prohibit such a center from giving preference in hiring or admission to members of the church or denomination.

New law requires that each Type III early learning center adhere to the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by BESE.

New law prohibits any individual whose name is recorded on the state central registry within DCFS, as a perpetrator for a justified finding of abuse or neglect of a child, from owning or operating a licensed early learning center or being hired by a licensed early learning center as an employee or volunteer of any kind, unless there is a finding by DCFS that the individual does not pose a risk to children.

New law prohibits any person who has been convicted of or has pled nolo contendere to certain crimes including sex crimes and crimes

against children from directly or indirectly owning, operating, or participating in the governance of an early learning center, or being hired by any early learning center as a volunteer or employee of any kind, or being hired by DOE in a position whose duties include the performance of licensing inspections in early learning centers.

New law requires DOE, through its duly authorized agents, to inspect at regular intervals not to exceed one year, and as deemed necessary by DOE, and without previous notice, all early learning centers. New law requires the early learning centers to be open to inspection by authorized inspection personnel and by parents or legal custodians of children in care only during working hours.

New law authorizes DOE to deny, revoke, or refuse to renew a license for an early learning center if an applicant has failed to comply with the provisions of new law or any applicable published rule or regulation of BESE relating to early learning centers. New law provides for the right to appeal such action to the division of administrative law. New law provides that DOE shall be entitled to seek judicial review from any final decision or order rendered by the division of administrative law.

New law provides that for certain violations, DOE may issue a written warning that includes a corrective action plan, in lieu of revocation. Failure to implement a corrective action plan may result in either the assessment of a civil fine or license revocation, or both.

New law authorizes DOE to institute any necessary civil court action to collect fines imposed and not timely appealed. All costs of any successful action to collect such fines shall be awarded to DOE in addition to the fines.

New law prohibits BESE and DOE from interfering with the parent-child relationship regarding the religious training of a child, where:

(1) The parent or legal custodian has enrolled their child in a child care facility, including but not limited to a child residential facility, operated by a religious, nonprofit organization



that is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3), and

(2) As a condition of enrollment, the child is required to attend religious services or classes and the parent or legal custodian of the child agrees to such condition.

New law requires all family child day care homes serving six or fewer children that receive state or federal funds, directly or indirectly, to be registered.

New law authorizes DOE to visit and inspect registered family child day care homes as deemed necessary.

New law provides DHH or DOE is authorized to deny, revoke, or refuse to renew a registration of a registered family child day care home if an applicant has failed to comply with new law.

New law provides for appellate procedure for the family child day care home after DHH or DOE's refusal to grant or renew a registration or upon the revocation of a registration, with the right to appeal such action to the division of administrative law.

New law prohibits employment of persons convicted of certain crimes against children or sex-related crimes. DOE may require a criminal background check. Further, the primary child care provider of any family child day care home shall have documented current certification in either Infant/Child CPR or Infant/Child/Adult CPR.

New law removes prior law relating to the licensing and regulation of child care facilities that shall be provided by the Dept. of Education as provided in Part X-B and Part X-C of Chapter 1 of Title 17. New law repeals the provisions of prior law known as the Child Care Registration Law (Chapter 14-B of Title 46).

New law renames Chapter 14 as the "Specialized Provider Licensing Act" and generally retains prior law relating to licensing and regulation of "specialized providers" by DCFS. New law defines "specialized provider" as a child-placing agency, maternity home, or residential home.

Some provisions of new law are effective October 1, 2014, and others are effective on February 1, 2015.

(Amends R.S. 15:587.1, R.S. 36:474, and 477, R.S. 46:1401, 1402, 1402.1, 1403, 1404, 1405, 1406, 1407, 1414.1, 1415, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1427, 1428, and 1430; adds R.S. 17:407.26, 407.31-407.53, 407.61-407.72, and 407.81-407.84; and repeals R.S. 46:1414, 1426, 1429, 1441-1441.14, and 1445-1448)

### **Terminology Update (Act No. 811)**

New law provides for the following changes to terminology in prior law:

(1) "intellectual disability" replaces "mental retardation";

(2) a "person with an intellectual disability" replaces "mentally retarded";

(3) "disability" replaces "handicap";

(4) a "person with a physical disability" and a "person with a disability" replaces "physically handicapped", a "handicapped person", "the handicapped", a "crippled person", a "disabled person", or "the disabled";

(5) a "person who is infirm" and a "person with an infirmity" replaces "the infirm" or "the infirmed";

(6) "acquires a disability" replaces "becomes disabled";

(7) "certified as having a disability" replaces "certified as disabled";

(8) "accessible" and "accessibility" replaces "handicapped accessible" and "handicapped accessibility";

(9) For purposes of new law, references to a "person with a mobility impairment" mean a person formerly referred to as "mobility impaired".

(10) a "person with mental illness" replaces "the mentally ill" or a "mentally ill person".

New law provides that "person first language", which emphasizes a person's humanity over any condition or characteristic the person may have, is employed wherever possible to refer to

persons with disabilities and other persons with exceptionalities.

Effective upon signature of governor (June 23, 2014).

### **Incest Renamed (Act No. 602)**

New law repeals the crime of incest and places the elements and penalties for the crime into the offense of crime against nature.

New law repeals the crime of aggravated incest and places the elements and penalties for the crime into the offense of aggravated crime against nature.

New law amends various provisions using the old terminology in the Children's Code, the Code of Criminal Procedure, and Titles 13, 14, 15, and 40 of the Revised Statutes regarding criminal procedure, sex offender registration and notification, determination of mental capacity or incapacity, diminution of sentence, grounds for termination of parental rights, and the use of public funds for certain purposes that reference the prior law crimes of incest, aggravated incest, crime against nature, and aggravated crime against nature.

New law amends these prior law provisions to reflect the new law placement of the elements of the crime of incest into the offense of crime against nature and aggravated incest into the offense of aggravated crime against nature.

Effective upon signature of the governor (June 12, 2014).

(Amends Ch.C. Arts. 855, 884.1, 897, and 1015, C.Cr.P. Arts. 571.1 and 648, R.S. 13:5713, R.S. 14:43.6, 89, and 89.1, and R.S. 15:536, 537, 541, 542, and 571.3, R.S. 40:1299.34.5, 1299.35.2, 1299.35.7, and 1300.13; Repeals Ch.C. Arts. 502 and 603, R.S. 14:2, 78 and 78.1, and R.S. 15:571.3)

## **UNCODIFIED**

### **Tax Refunds (Act No. 412)**

Makes permanent the authority of the Dept. of Revenue to pay refunds of overpayments of tax by debit card and provisions relating to the

methods of payment authorized for refunds of overpayments of individual income tax.

New law makes permanent provisions authorizing the use of debit cards in the payment of tax refunds, and taxpayer selection of the method of payment of their individual income tax refund by either check, direct deposit, or debit card.

New law removes the authority for a taxpayer option to receive a refund payment by any other format by which the department may pay a refund.

New law changes present law, regarding the payment of a refund if a taxpayer does not choose a particular method of payment on their individual income tax return, from a method determined by the secretary to payment by check.

Applicable for taxable years beginning on and after Jan. 1, 2014.

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

(Amends Act No. 818 of 2012 R.S.)

### **Tax Refunds (Act No. 560)**

New law provides that if a taxpayer chooses to receive a refund by debit card, the department shall allow the taxpayer no less than 12 months to activate the debit card.

New law makes permanent provisions of present law authorizing the use of debit cards in the payment of tax refunds, and taxpayer selection of the method of payment of their individual income tax refund by either check, direct deposit, or debit card.

New law is applicable for taxable years beginning on and after Jan. 1, 2014.

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

(Amends Act No. 818 of 2012 R.S.)

### **Tax Amnesty Program (Act No. 822)**

Present law authorizes the Dept. of Revenue (DOR) to develop and implement a tax amnesty program to be effective for at least one month in the second half of 2014 and 2015.

The amnesty program applies to all taxes administered by DOR, except for motor fuel taxes, and penalties for failure to submit information reports that are not based on an underpayment of tax.

New law provides that the amnesty program shall apply to taxes for all of the following:

- (1) Taxes for taxable periods that began before Jan. 1, 2014.
- (2) Taxes for which the department and the taxpayer have entered into an agreement to suspend the running of prescription until Dec. 31, 2014.
- (3) For the 2014 amnesty program: taxes due prior to Jan. 1, 2014, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2014.
- (4) For the 2015 amnesty program: taxes due prior to Jan. 1, 2015, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2015.

New law changes the waiver of the penalties and interest for the 2014 and 2015 amnesty programs to the following:

- (1) Waiver of all of the penalties and 50% of the interest owed if amnesty is approved during the 2014 amnesty period.
- (2) Waiver of 33% of penalties and 17% of interest owed if amnesty is approved during the 2015 amnesty period.

New law requires the doubling of penalties for any taxpayer who has a final judgment in accordance with R.S. 47:1565 or 1568 rendered against him by a court, or who has exhausted all rights to protest taxes owed to the state pursuant to such statutes 90 days prior to either the 2014 or 2015 amnesty period, and who then fails to submit an amnesty application before the end of the applicable amnesty period 90 days prior to which the final judgment was rendered or 90 days prior to which his rights to protest taxes have been exhausted.

New law prohibits the department from accepting tax credits as payment of any tax, interest, penalty, or fee as a result of participation in the amnesty program.

New law authorizes taxpayers who dispute a portion of the amount of a delinquent tax to participate in amnesty, if the taxpayer remits the payment of that portion of the tax that is not in dispute, plus applicable interest and penalties, and otherwise complies.

New law authorizes installment agreements for the payment of delinquent taxes, interest, penalties, and fees. New law requires the taxpayer to submit an application to make installment payments and once approved by the secretary of DOR, requires the taxpayer to provide a down payment of no less than 20% of the total amount of delinquent tax, penalty, interest, and fees owed by the taxpayer at the time that the installment agreement is approved.

New law authorizes the secretary of DOR to procure amnesty program collection services for the administration and collection of installment agreements.

New law prohibits, after conclusion of the amnesty period in 2015, DOR from implementing a new amnesty program before Jan. 1, 2025.

(Amends Act No. 421 of the 2013 R.S.)

#### **New Orleans Exhibition Hall Authority (Act No. 557)**

New law expands the authority of the Ernest N. Morial-New Orleans Exhibition Hall Authority, including authorization of a Phase V expansion project.

New law adds to the definition of "project", infrastructure and site improvements to facilitate the private development and funding of lodging facilities.

New law authorizes the Authority to enter into contracts relative to hotels.

New law extends the Authority's exemption from the Public Works Act to hotel services.

Old law precluded the Authority from utilizing nontraditional tax-free bonds from any source when such use would benefit any properties

being developed by a private person, firm, or corporation. New law eliminates this prohibition.

New law authorizes Phase V, which is a tourism development plan to enhance the Convention Center and install basic infrastructure to facilitate private development, including private development of lodging facilities, on property owned by the Exhibition Hall Authority.

Effective upon signature of governor or lapse of time for gubernatorial veto

(Amends Act No. 305 of the 1978 R.S., as amended)

#### **Frank Davis Bridge (Act No. 578)**

New law names the bridge along Interstate 10 that crosses the eastern end of Lake Pontchartrain connecting New Orleans to Slidell the Frank Davis "Naturally N'Awlins" Memorial Bridge.

Effective August 1, 2014.

### **TITLE 1: GENERAL PROVISIONS**

There were no new laws of particular interest.

### **TITLE 2: AERONAUTICS**

#### **Southeast Regional Airport (Act No. 274)**

Old law created the Southeast Regional Airport Authority as a body politic and corporate and a political subdivision of the state. New law repeals old law.

Effective upon signature of governor (May 28, 2014).

(Repeals R.S. 2:701-710)

### **TITLE 3: AGRICULTURE AND FORESTRY**

#### **Crawfish (Act No. 219)**

New law retains existing law provisions for the levy of certain assessments on artificial crawfish bait, on crawfish packaging bags, and crawfish tail meat, but removes prior law referendum requirement for assessment purposes.

New law retains existing law stipulation for crawfish tail meat assessment collection at the first point of sale, but removes prior law referendum requirement for assessment purposes.

Prior law provided that no assessment be levied or imposed unless approved by a majority of farmers and harvesters voting in a referendum. New law repeals prior law.

Prior law provided for a referendum to abolish an assessment to be called by the board if the crawfish tail meat producers submit a petition for such purpose. New law repeals prior law.

Effective August 1, 2014.

(Amends R.S. 3:556.6 and 556.14; Repeals R.S. 3:556.3(D) and 556.7)

#### **Exotic Animal Farm Licenses (Act No. 110)**

New law expands existing law to require any owner or lessee of farms or preserves engaged in owning, raising, selling, or harvesting imported exotic deer, antelope, elk, farm-raised white tail deer and other exotic cervidae, for any purpose, to apply to the commissioner for a license.

New law removes the current fencing height requirement and authorizes the commissioner to adopt rules regarding fencing requirements for owners or breeders of imported exotic deer, elk, and antelope.

Effective upon signature of the governor (May 16, 2014).

(Amends R.S. 3:3103, 3105, and 3108)

#### **Rice Promotion (Act No. 216)**

New law provides for the membership and terms of the La. Rice Promotion Board and clarifies the duties of the board.

New law removes the board's authority to plan and conduct referenda among producers.

New law changes assessment amount on dry rough "paddy" rice and on "green weight" rice and removes requirement of prior referendum of rice producers.

New law provides that a refund be paid to the producer no later than 60 days after the

commissioner receives the producer's application for a refund.

Old law provides for the imposition of assessments, effective for five crop years and extended indefinitely in five-year increments, only by referendum vote of a majority of rice producers. New law repeals old law.

Old law provided for additional assessments on dry rough "paddy" rice and on "green weight" rice. New law repeals old law.

(Amends R.S. 3:3533, 3534, and 3537)

#### **Rice Assessments (Act No. 345)**

New law changes the assessment amount on dry rough "paddy" rice and removes requirement of prior referendum by rice producers.

Old law provided for an assessment refund upon written application to the commissioner, but also for a referendum vote of the producers to abolish the refund provisions which would render such refund null and void.

New law removes referendum requirements and provides that the refund be paid, and requires a two-thirds vote of the legislature to repeal the refund.

New law changes the additional assessment rate on dry rough "paddy" rice.

Old law allowed the assessment on rice to be extended indefinitely in five-year increments by approval in a referendum vote of rice producers. New law repeals prior law.

Prior law provided for the imposition of the assessment only by referendum vote of a majority of rice producers. New law repeals prior law.

Prior law provided that additional assessments be subject to all other assessment requirements including provisions for referenda and extension in five-year increments, subject to referenda. New law repeals prior law.

Effective Aug. 1, 2014.

(Amends R.S. 3:3543, 3544 and 3547)

#### **Oysters (Act No. 217)**

Existing law authorizes shell stock oysters to be sold by volumetric measure, weight, or count.

New law requires all such oysters to be market size and wholesome.

New law requires all shucked oysters to be labeled and packaged as required under the Natl. Shellfish Sanitation Program and the Natl. Institute of Standards and Technology.

New law requires that all licensed oyster captains, harvesters, and certified wholesale/retail dealers of shell stock and shucked oyster products verify that oysters being sold are in compliance with these standards.

Effective August 1, 2014.

(Amends R.S. 3:4631 and R.S. 56:433 and 440)

### **TITLE 4: AMUSEMENTS AND SPORTS**

#### **Racing (Act No. 731)**

New law provides that the State Racing Commission may impose upon any licensed association a fine not to exceed \$100,000 per occurrence of a violation, may suspend a license indefinitely, or both.

New law authorizes any person or corporation to apply for a license to operate a track to conduct horse racing within the state for a period up to and including ten years.

New law removes the authority of the commission to issue a 10 year license or permit.

New law provides that beginning January 1, 2015, the commission may require a licensed association to submit a written report that may include (1) the plan of operation for the fiscal year, and (2) a summary of the implementation and status of the prior year's plan.

New law authorizes the commission to impose fines.

New law further adds the following acts as just cause for the commission to take adverse action: (1) failure to meet criteria for licensing, (2) failure to maintain suitable racing surfaces, (3) failure or inability to conduct racing in a manner that is in the best interest of racing, and (4) failure to provide responses to inquiries made by the commission regarding the status or progress of any matter related to racing.

New law shall apply to any licensee or association, regardless of the date on which the license was issued to the licensee or association.

Effective August 1, 2014.

(Amends R.S. 4:143(1), 155, 158, 160, and 225; adds R.S. 4:158.1)

## **TITLE 5: AUCTIONS AND AUCTIONEERS**

There were no new laws of particular interest.

## **TITLE 6: BANKS AND BANKING**

### **Notices of Repossession (Act No. 516)**

Prior law required a secured party utilizing additional default remedies in obtaining possession of collateral to file a "Notice of Repossession" with the recorder of mortgages in the parish where the collateral was located and with the appropriate official within three days of taking possession of collateral.

New law requires a secured party's "Notice of Repossession" to be delivered in person or sent by mail to the recorder of mortgages and to the appropriate official within three business days of taking possession of the collateral. New law provides that the timeliness of a notice sent by mail shall be shown only by official U.S. postmark, receipt, or certificate of the U.S. Postal Service or private delivery service.

Prior law required a secured party to pay \$75 to the recorder of mortgages and \$250 to the appropriate official for each "Notice of Repossession" filed.

New law requires the payments to be delivered in person or sent by mail within three business days of taking possession of the collateral. New law provides the timeliness of a payment sent by mail is shown only by official U.S. postmark, receipt, or certificate of the U.S. Postal Service or private delivery service.

Prior law provided that if the sheriff was the appropriate official in Orleans Parish, no fee shall be paid to the sheriff; however, the "Notice of Repossession" shall still be filed with the sheriff.

New law adds that the notice must be delivered in person or sent by mail to the sheriff within three business days of taking possession of the collateral and that timeliness of a notice sent by mail is shown only by official U.S. postmark, receipt, or certificate of the U.S. Postal Service or private delivery service.

Effective Aug. 1, 2014.

(Amends R.S. 6:966.1)

### **Motor Vehicle Sales (Act No. 36)**

Existing law provides that a motor vehicle seller, who also may be an extender of credit, may charge a fee for credit investigation, compliance with federal or state law, preparation of documents, and any other functions incidental to the titling of the retail sale. New law changes the maximum fee permitted to be charged from \$100 to \$200.

Existing law requires the seller to provide written disclosure to the consumer of the amount of the fee collected along with certain specified statements. New law makes technical changes.

Effective upon signature of governor (May 16, 2014).

(Amends R.S. 6:969.18)

### **Currency Exchange Services Licenses (Act No. 125)**

Prior law provided for the regulation of currency exchange services.

New law provides that any person required to be licensed shall, prior to application for licensure, be duly registered with the secretary of state and be in possession of a certificate of authority to transact business in this state.

New law establishes a new licensing system.

New law provides that beginning January 1, 2015, and thereafter, a licensee may submit through the Nationwide Mortgage Licensing System and Registry his renewal application on or before December 31st of each year.

New law provides that if the commissioner has not received the renewal fee and late fee before March first, the license to engage in currency exchange shall lapse without hearing or notification, and the license shall not be

reinstated. However, the person whose license has lapsed may apply for a new license.

Effective upon signature of the governor (May 16, 2014).

(Amends R.S. 6:1004 and 1004.1)

#### **Residential Mortgage Servicing (Act No. 260)**

New law adds licensure requirement for persons engaged in residential mortgage servicing.

New law defines "mortgage servicing" as a means of collecting or remitting payment for another, or the right to collect or remit payments for another, relative to the principal, interest, tax, insurance, or other payment under a mortgage loan.

New law subjects mortgage servicers to the licensure requirements under the Mortgage Licensing Act of 2009.

Persons required to obtain a license solely because of the provisions of new law must do so on or before June 30, 2015.

Effective June 30, 2014.

(Amends R.S. 6:1082, 1083, 1086, 1087, 1088, 1088.2, 1088.3, 1089, 1090, 1092, and 1099(F))

### **TITLE 7: BILLS AND NOTES**

There were no new laws of particular interest.

### **TITLE 8: CEMETERIES**

#### **Cemetery Board (Act No. 67)**

New law authorizes the La. Cemetery Board to impose fines upon a natural or juridical person for violation of present law.

(Amends R.S. 8:75)

#### **Cemetery Trustee Reports (Act No. 88)**

Present law provides that, with regards to a cemetery care fund, within 60 days of the resignation of a trustee, the resigning trustee shall file with the board a final accounting and set forth a detailed list of all items of trust property from the last reporting period through the date of resignation and transfer of the trust fund to the successor trustee. New law adds that

the resigning trustee has 60 days from the date of resignation as well as the transfer of the trust to the successor trustee.

Present law provides that, with regards to a merchandise trust fund, within 60 days of a trustee's resignation, the trustee shall file with the board a financial report of the fund including income earned and disbursed from the last reporting period through the date of resignation and transfer of the trust fund to the successor trustee. New law adds that the resigning trustee has 60 days from the date of resignation as well as the transfer of the trust to the successor trustee.

(Amends R.S. 8:203, 456(B), and 505(B))

#### **Corpse Control (Act No. 819)**

New law adds that the right to control interment of the decedent's remains is established when the decedent designates a specific person to control disposition in the form of a written and notarized declaration or U.S. Department of Defense Form 93 (DD Form 93, Record of Emergency Data) or its successor form.

New law provides that in the event that the decedent has made multiple notarized declarations or designations of interment, and the decedent executed a DD Form 93, the declaration or designation or the DD Form 93, whichever is dated last, controls interment of the decedent's remains.

(Amends R.S. 8:655)

### **TITLE 9: CIVIL CODE ANCILLARIES**

#### **Child Care Costs (Act No. 134)**

New law defines child care costs to include the reasonable child care expenses incurred by either parent while receiving job training, or education necessary to obtain employment or enhance earning potential, when calculating the basic child support obligation.

Effective August 1, 2014.

(Amends R.S. 9:315.3 and 315.20)

**Covenant Marriage (Act No. 360)**

Existing law requires that on receiving an application for a license to marry, the license issuing officer shall deliver to each prospective spouse a printed summary of the current matrimonial regime laws of this state and the covenant marriage law of this state.

Existing law requires that the summary emphasize certain things.

New law retains existing law and requires the summary to emphasize that expenses for additional legal and marital counseling may be incurred by a couple in order to obtain a legal termination of a covenant marriage.

Effective Aug. 1, 2014.

(Amends R.S. 9:237(C))

**Domestic Abuser Treatment Programs (Act No. 333)**

New law changes prior law by defining a "treatment program" as used in the Post-Separation Violence Relief Act as a treatment program comprised of a minimum of 26 in-person sessions that follows a model designed specifically for perpetrators of domestic abuse.

New law requires the provider of the program to have: (1) experience in working directly with the perpetrators and victims of domestic abuse; (2) experience in facilitating batterer intervention groups; and (3) training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity of victims.

Effective August 1, 2014.

(Amends R.S. 9:362(7))

**Visiting Parents in Jail (Act No. 383)**

New law provides that, when the court is considering the supervised visitation of a minor child with an incarcerated parent, the court shall consider the best interest of the child, including but not limited to a long list of factors.

Effective August 1, 2014.

(Adds R.S. 9:364.1)

**CDs as Security (Act No. 182)**

Present law provides that if a statement of claim or privilege or a notice of pendency of action is filed, any interested party may deposit with the recorder of mortgages either a bond of a lawful surety company authorized to do business in the state, cash, certified funds, or a federally insured certificate of deposit, to guarantee payment of the obligation secured by the privilege.

Present law provides that if the recorder of mortgages finds the amount of the cash, certified funds, or certificate of deposit or the terms and amount of a bond deposited with him to be in conformity with present law, he shall cancel the statement of claim or privilege or the notice of pendency of action from his records.

New law removes a federally insured certificate of deposit as an acceptable form of security to be filed in certain civil matters.

(Amends R.S. 9:4835(A) and (B))

**Sales of Immovable by Trustees (Act No. 188)**

Present law provides that a trustee shall not delegate the performance of his duties except as provided by law.

Present law provides that a trustee may, by power of attorney, delegate the performance of ministerial duties and acts that he could not reasonably be required to perform personally.

New law provides that a written power of attorney in authentic form executed by a trustee authorizing a mandatary to sell specifically described immovable property at a specific price shall be considered the delegation of a ministerial duty.

(Amends R.S. 9:2087(B))

**Security Freezes for Protected Persons (Act No. 201)**

New law provides for credit reporting agencies to place a security freeze on protected persons' credit reports.

New law defines "protected person" as an individual who is either (1) under the age of 16 years, or (2) an interdicted person for whom a curator has been appointed, or an incapacitated



person for whom a guardian or conservator has been appointed.

New law provides that a "protected person security freeze" prohibits the credit reporting agency from releasing the protected person's credit report, or any information derived from the protected person's credit report, with certain exceptions.

New law defines "record" as a compilation of information that (1) identifies a protected consumer, (2) is created by a credit reporting agency solely for the purpose of complying with new law, and (3) is not created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

New law defines "representative" as a person who provides to a credit reporting agency sufficient proof of authority to act on behalf of a protected person.

New law does not apply to entities or persons, such as banks, fraud detection services, and databases listed under present law.

New law provides that a credit reporting agency shall place a protected person security freeze for a protected person if the credit reporting agency receives a request from the protected person's representative for the placement of the security freeze. To place the security freeze, the protected person's representative must provide the credit reporting agency sufficient proof of identification of the protected person and the representative and sufficient proof of authority to act on behalf of the protected person.

New law provides that a credit reporting agency shall create a record for the protected person if the credit reporting agency does not have a credit report pertaining to a person when the credit reporting agency receives a request.

New law provides that a protected person security freeze shall be made within 30 days of receipt of the request. Unless a protected person security freeze is removed, a credit reporting agency may not release the protected person's credit report, any information derived from the

protected person's credit report, or any record created for the protected person.

New law provides that a protected person security freeze shall remain in effect until the protected person or the protected person's representative requests the credit reporting agency to remove the protected person security freeze.

New law provides that if a protected person or a protected person's representative wishes to remove a protected person security freeze, the protected person or representative must provide the credit reporting agency sufficient proof of identification of the protected person and representative and sufficient proof of authority to act on behalf of the protected person.

New law provides that a protected person security freeze shall be removed within 30 days of receipt of the request.

New law provides that a credit report agency may remove a protected person security freeze or delete a record of a protected person, if the protected person security freeze was placed or the record was created based on a material misrepresentation of fact by the protected person or the protected person's representative.

New law provides that any consumer damaged by an intentional or negligent violation of new law may bring an action for and shall be entitled to recovery of actual damages, in addition to reasonable attorney fees, court costs, and other reasonable costs of prosecuting the suit.

Effective Jan. 1, 2015.

(Adds R.S. 9:3571.3)

### **Leases to Troops (Act No. 252)**

Existing law authorizes any active or reserve member of the armed forces of the U.S., including the National Guard and the U.S. Coast Guard, to terminate his residential lease agreement if certain events occur. New law extends authorization to terminate a residential lease to the husband or wife of the military member.

New law provides for the termination of a residential lease if a member is injured requiring

hospitalization of at least 15 days or has been killed while on active duty.

New law requires a member who is injured incidental to his service which requires hospitalization for more than 15 days to terminate a rental agreement by serving upon the lessor a written notice of termination to be effective on a date stated in the notice, which cannot be less than 30 days after the date the notice is served on the lessor.

New law requires that the lessee furnish the lessor with clear and convincing evidence of the hospitalization or death of the service member.

New law provides for the lessee to be entitled to recover \$200 in damages, in addition to any other damages or remedies and costs to which the lessee may be entitled, if he establishes in a civil proceeding against the owner that a violation has occurred.

Effective Aug. 1, 2014.

(Amends R.S. 9:3261)

#### **Partition of Immovable Property (Act No. 279)**

Prior law, relative to partition of immovable property, provided that if immovable property is susceptible of partition by licitation or private sale, and a co-owner or co-owners owning an aggregate interest of 15% or less of the immovable property petition the court to partition the property, the court shall allow the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser.

New law provides that if immovable property is susceptible to partition by licitation or private sale, and a petition to partition the property is filed by a co-owner or co-owners owning either an aggregate interest of 15% or less of the immovable property or an aggregate interest of 20% or less of the immovable property if there was past ownership of the whole by a common ascendant, the court shall allow the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser.

Prior law provided that each remaining co-owner shall have 30 days from the date the last defendant is served with the petition to partition or 30 days from receipt of written notice, sent by certified mail or commercial courier, from a co-owner waiving his right to purchase, whichever is earlier, in which to file a notice to exercise his option to purchase his pro rata share of the property being sold. New law adds that where past ownership of the property was by a common ascendant, each remaining co-owner shall have 90 rather than 30 days to file such notice.

Effective upon signature of governor (May 28, 2014).

(Amends R.S. 9:1113)

#### **Consumer Loan Activities (Act No. 293)**

New law provides that the commissioner of the Office of Financial Institutions may collect and compile information and data from all licensees concerning the operation, function, and extent of all consumer loan activities. The information and data collected by the commissioner from the licensee shall include, for the preceding year, the following: (1) the total number and dollar amount of consumer loans originated; (2) the total number and dollar amount of consumer loans outstanding; (3) the aggregate amount of fees earned; (4) the total number of consumer loans in default or collection status and the balance of those loans as of the reporting date; and (5) the total number of consumer loans reduced to judgment and the principal amount of those judgments.

New law provides that the information and data shall be reported by the licensee by March 1 of each year, through the Nationwide Mortgage Licensing System and Registry or in a format deemed acceptable by the commissioner. Upon request from the commissioner, all licensees shall submit any requested documentation to validate the information contained in the report in a format deemed acceptable by the commissioner.

Effective August 1, 2014.

(Adds R.S. 9:3554(A)(6) and (N))

### **Review of Mandatary's Acts (Act No. 356)**

New law provides protection of the elderly from abuses by a mandatary by authorizing an individual with an interest to request the court to review the acts of the mandatary and to grant appropriate relief.

New law authorizes certain individuals with an interest in the principal's welfare to file an action on the principal's behalf requesting the court to review the mandatary's acts and grant appropriate relief. New law also specifies the required contents of the petition, and service and venue requirements.

New law provides that if the principal files a motion to dismiss the action, the principal shall testify in person, or in certain cases by remote technology or deposition, and the court shall grant the motion to dismiss if the principal is able to comprehend generally the nature and consequences of the mandatary's act and is not subject to fraud, duress, or undue influence.

New law provides for substitution of the plaintiff by a curator or the principal's legal successor upon the principal's interdiction or death.

New law provides that if the court finds that the mandatary has violated a duty, the court may grant any relief to which the principal is entitled and may also enjoin a mandatary from exercising some or all of the powers granted under the mandate.

New law authorizes the court to take certain actions while the action is pending, including discovery, disclosure of information by financial institutions and healthcare providers, an accounting by a mandatary, temporarily enjoining a mandatary from exercising all or some of the powers granted by the mandate, and appointing someone to temporarily exercise some or all of the powers granted by the mandate.

New law specifies that a mandatary's unauthorized acts constitute irreparable injury for purposes of injunctive relief.

New law provides that the court may award costs and attorney fees against any party, but not when the petition is dismissed on the merits.

New law is also applicable to a procuration and representative, but is not applicable when the mandate is irrevocable by law.

Present law provides that the mandate and the authority under the mandate terminate upon the mandatary's notice of resignation to the principal. New law adds that when the mandatary has reasonable grounds to believe that the principal lacks capacity, the termination is effective only upon notice to other specified individuals.

Present law provides that a federally insured financial institution may rely on an original or certified copy of a power of attorney that is sufficient to authorize the named agent to transact business, unless the institution receives written notice of the power of attorney's revocation. Present law specifies that written notice is a writing indicating revocation of the power of attorney and that it has been received upon receipt by an institution's officer. Present law relieves the institution of liability for transactions occurring prior to the receipt of notice. New law retains present law, provides for applicability to "procuration" and "mandate", expands "written notice" to include a court order, and expands applicability to notice of modification and termination in addition to revocation.

New law authorizes the court to order disclosure of financial records by a bank when the court finds that a mandatary violated a duty under a contract of mandate.

(Amends C.C. Art. 3029, R.S. 6:311.1 and 333(B)(intro. para.); Adds R.S. 9:3851-3856)

### **Insurance Premium Finance (Act No. 359)**

Existing law provides that if the default of an insured, pursuant to a premium finance agreement, has not been cured within 10 days after notice of cancellation has been mailed to the insured from an insurance premium finance company, or within 14 days when the notice is sent from an insurance premium finance company outside of the state of La., the insurance premium finance company retains certain rights to cancel the insurance contracts or endorsements of the insured, provided that

certain mailing and notification requirements are met.

New law repeals the 14-day delay applicable to out-of-state insurance premium finance companies.

Effective Aug. 1, 2014.

(Amends R.S. 9:3550)

#### **Merchants and Thieves (Act No. 384)**

New law provides that any damages awarded in a civil action to a merchant against a thief shall be reduced by the amount recovered from the thief as restitution to the merchant as a condition of sentence in the criminal case.

Effective August 1, 2014.

(Amends R.S. 9:2799.1)

#### **Escheat of U.S. Savings Bonds (Act No. 588)**

New law provides a procedure for the escheatment of United States savings bonds presumed abandoned. New law provides that U.S. savings bonds which are unclaimed property and subject to prior law shall escheat to the state three years after becoming unclaimed property by virtue of prior law, and all property rights and legal title to and ownership of such bonds, or proceeds from such bonds, shall vest solely in the state according to the procedure set forth in new law.

New law provides that within 180 days after the three years prescribed in new law, if no claim has been filed in accordance with new law for such U. S. savings bonds, the administrator shall commence a civil action in the 19th JDC for a determination that such savings bonds shall escheat to the state. New law provides that the administrator may postpone the bringing of such action until sufficient U.S. savings bonds have accumulated in his custody to justify the expense of such proceedings.

New law requires that the administrator make service by publication of the proceeding in the 19<sup>th</sup> JDC in East Baton Rouge Parish in accordance with prior law.

New law provides that, in addition, before service by publication, the administrator or the administrator's attorney shall file with the court

an affidavit or a declaration stating certain facts regarding attempting service.

New law provides that if no person shall file a claim, or appear at the hearing to substantiate a claim, or where the court determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the administrator has substantially complied with state law, shall enter a judgment that the subject U. S. savings bonds have escheated to the state.

New law provides that any person making a claim for U. S. savings bonds escheated to the state, or for the proceeds from such bonds, may file a claim in accordance with prior law. New law provides that upon providing sufficient proof of the validity of such person's claim, the administrator may, in his sole discretion, pay such claim in accordance with prior law.

Otherwise retains prior law.

Effective upon signature of the governor (June 9, 2014).

(Amends R.S. 9:182)

#### **Consumer Credit Transactions (Act No. 636)**

New law provides that a consumer credit transaction or deferred presentment transaction shall be null, void, unenforceable, and uncollectible if the creditor has not obtained a license from the Office of Financial Institutions (OFI) if required to do so.

Prior law prohibited a creditor from taking assignments of and undertaking direct collection of payments from, or enforcing rights against, consumers arising from consumer loans without an office in this state and first having obtained a license from the commissioner of OFI. New law removes requirement that the creditor have an office in this state.

Prior law provided that a creditor having no office within this state who offers credit to Louisiana consumers through the mail and other means of interstate commerce is not required to be licensed by OFI. New law removes prior law.

Prior law provided that each licensee shall maintain a place of business in the state and, unless otherwise provided by rule, shall maintain

records of its consumer loans at that location. New law provides that each licensee making consumer loans to La. residents shall maintain records of its consumer loans at the location stated on its license.

New law adds that if the lender's records are located outside this state, the lender, at the commissioner's option, shall make them available in a format deemed by the commissioner to be acceptable, to include physical reproductions and digital electronically imaged records, or via electronic transmittal or delivery of optical imaging disc containing electronic copies of the records.

New law provides that any person required to be licensed pursuant to this Chapter shall, prior to application for licensure, be duly registered with the La. secretary of state and be in possession of a certificate of authority to transact business.

New law authorizes certain finance charges and fees in conjunction with a deferred presentment transaction or small loan.

Prior law provided that if the loan remains unpaid at contractual maturity, then the licensee may charge (1) an amount equal to the rate of 36% per annum for a period not to exceed one year and beginning one year after contractual maturity, the rate shall not exceed 18% per annum, or (2) a one-time delinquency charge of 5% of the unpaid amount or \$10, whichever is greater. New law removes the second option.

New law permits a consumer who is unable to repay a deferred presentment transaction or small loan when due to a licensee to elect once in any 12-month period to repay the licensee the amount due by means of installments, referred to as an extended payment plan.

New law provides that a consumer is ineligible for an extended payment plan if the consumer previously obtained an extended payment plan from the licensee within the preceding 12 months.

New law requires the consumer to request to enter into the plan before the due date of the outstanding deferred presentment transaction or small loan.

New law provides that if a consumer is unable to request to enter into an extended payment plan prior to the due date of the outstanding deferred presentment transaction or small loan because of incapacitation that results in or from hospitalization, upon the consumer's presentation of proof of hospitalization, the lender shall allow the consumer to request to enter into the plan within 72 hours from the discharge of the consumer from the hospital.

New law requires the licensee and consumer to execute an agreement, in writing, that modifies the terms of the outstanding small loan or deferred presentment plan and establishes the terms of the extended payment plan.

New law provides that the terms of the extended payment plan shall:

(1) Allow the consumer to repay the outstanding deferred presentment transaction or small loan, including any fees due prior to entering into the plan, in at least four substantially equal installments.

(2) Allow the consumer to prepay sums due pursuant to an extended payment plan in full at any time without penalty.

(3) Prohibit the licensee from charging the consumer any interest or additional charges or fees during the term of the plan.

(4) Require that the first plan installment shall be due no sooner than 30 days following the execution of the plan, unless a shorter period of time is agreed. The dollar amount of each installment shall be substantially the same and the installment due dates shall be spread out substantially evenly over the term of the extended payment plan.

New law provides that the terms of the extended payment plan may permit the licensee to do either of the following:

(1) With each payment under the plan by a consumer, provide for the return of the consumer's previously held check and require a new check for the remaining balance under the plan.

(2) Require the consumer to provide multiple checks, one for each of the installments in the

amounts of each installment at the time the plan is executed.

New law requires that a licensee immediately give a consumer receipts, signed and dated by the licensee, for any payments made in connection with the extended payment plan. The receipts shall also state the balance due under the extended payment plan after each payment.

New law provides that if the consumer fails to pay any extended payment plan installment when due, the consumer shall be in default of the extended payment plan and the licensee may immediately accelerate payment on only the remaining balance of the extended payment plan.

New law provides that upon default, the licensee may take action to collect only the amount outstanding on the extended payment plan. New law provides that a licensee is prohibited from collecting any amount on an extended payment plan other than what the consumer owes pursuant to the plan on the date of default.

New law provides that if a consumer enters into an extended payment plan, the consumer and licensee are prohibited from entering into a subsequent deferred presentment transaction or small loan until repayment in full of the extended payment plan.

New law provides that at each licensed location or on the homepage of a licensee's website, a licensee shall prominently post a notice visible to the public stating that if a consumer is unable to repay either a deferred presentment transaction or small loan when due, the consumer can enter into one extended payment plan if he notifies the licensee before the payment is due of his inability to make payment.

New law provides that a licensee shall also notify a person of his right to enter into an extended payment plan by including a specified statement, in at least sixteen-point bold type, on the first page of each deferred presentment transaction or small loan agreement.

New law requires a consumer to sign a statement acknowledging that he has been informed of the extended payment plan. The statement shall be in at least twelve-point bold type, on the first

page of each deferred presentment transaction or small loan agreement.

New law provides that the commissioner may provide a notice, which includes a toll free number to the commissioner's office, which shall be posted, along with the fees, in a conspicuous place and manner by the licensee at the lending location or on the homepage of the website of the licensee, or both if the licensee has both a physical location in the state and a website.

Effective January 1, 2015.

(Amends R.S. 9:3557, 3560, 3561, 3561.1, 3578.4 and 3578.7;

adds R.S. 9:3518.4, 3561.2, and 3578.4.1)

#### **Child Ministers (Act No. 651)**

Existing law authorizes certain religious officials to perform marriage ceremonies when authorized by the authorities of their religion and when they are registered to perform marriages.

New law retains existing law and also requires the religious official to have attained the age of majority.

Effective Aug. 1, 2014.

(Amends R.S. 9:202(1))

#### **Donations by Curators (Act No. 743)**

Prior law provided that a court under certain conditions may authorize a curator, in the name and on behalf of the interdict, to make donations inter vivos from the surplus funds or other surplus property of the interdict, in a value of not more than \$10,000 annually to each of various relatives of the interdict. New law provides that the maximum annual donation value shall be the greater of \$14,000 or the maximum amount that may be excluded from federal gift taxation pursuant to 26 U.S.C. 2503(b).

Prior law provided that the curator must satisfy the court that the total fair market value of the interdict's estate, after subtracting the value of the proposed donations, is not less than a sum amounting to \$50,000 multiplied by then number of years of life expectancy remaining to the interdict at the time of the donation. New

law increases the amount from \$50,000 to \$65,000.

Effective August 1, 2014.

(Amends R.S. 9:1022, and 1024(A))

## **TITLE 10: COMMERCIAL LAWS**

### **Funds Transfers (Act No. 520)**

Existing law provides that the U.C.C. - Funds Transfers Chapter does not apply to a funds transfer that is governed by the federal Electronic Fund Transfer Act. New law provides an exception for a remittance transfer, unless the remittance transfer is an electronic fund transfer.

Effective Aug. 1, 2014.

(Amends R.S. 10:4A-108)

## **TITLE 11: CONSOLIDATED PUBLIC RETIREMENT SYSTEMS**

There were no new laws of particular interest.

## **TITLE 12: CORPORATIONS AND ASSOCIATIONS**

### **Business Corporation Act (Act No. 328)**

New law repeals the Business Corporation Law.

New law enacts the "Business Corporation Act", modeled after the Model Business Corporation Act.

Old law provided for the conversion of domestic entities. New law repeals old law and provides for the conversion of domestic business entities.

New law provides for the continuation and updating of a professional or other license.

New law provides for filing methods.

New law provides for the confidentiality of electronic mail addresses and short message service numbers submitted to or captured by the secretary of state.

New law provides for electronic notification of status changes when a filing has occurred that may remove a person's name from documents and records of an entity.

New law provides for judicial review of the removal of officers, members, managers, and partners.

New law provides that a "derivative proceeding" as defined in the Business Corporation Act is exempt from the provisions of Chapter 5 of Title II of the Code of Civil Procedure and subject to the relevant provisions of the Business Corporations Act.

For a detailed review of the new Louisiana Business Corporation Act, see doc. id. no. 1168055.

Effective Jan. 1, 2015.

(Amends R.S. 12:1501, 1502, 1601-1604, and 1701, R.S. 44:4.1, R.S. 49:222, and C.C.P. Art. 611; Adds R.S. 12:1-101 to 1-1704 and 1702-1704; Repeals R.S. 12:1 to 12:178 and 12:1605-1607)

### **Limited Liability Companies (Act No. 251)**

Relative to members of a limited liability company, existing law provides that if a member who is an individual dies, or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the member's membership ceases and the member's executor, administrator, guardian, conservator, or other legal representative shall be treated as an assignee of such member's interest in the limited liability company.

New law provides that if the last remaining member dies, the duly appointed executor or administrator of the member shall have the authority to sell any real estate owned by the limited liability company.

New law provides that if the last remaining member is an individual and a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the curator of the member shall have the authority to sell any real estate owned by the limited liability company.

Effective Aug. 1, 2014.

(Amends R.S. 12:1333)

### **Limited Liability Companies (Act No. 261)**

Relative to limited liability companies, new law adds a common law trust, business trust, statutory trust, voting trust, or any other form of trust to the definition of "person".

New law adds that in the absence of such a provision in the articles or operating agreement, no manager of a limited liability company has the right to vote by proxy.

New law adds that a member has the right to cast his vote either in person or, subject to certain provisions of new law, by proxy duly authorized in writing, signed by the member and filed in the registered office of the limited liability company at or before the meeting.

New law includes provisions relative to member voting by proxy, such as revocable and irrevocable proxy voting, challenging a proxy regular, proxy voting when voting shares are registered in the names of two or more persons, other than trustees, and transmission methods to authorize another to act as a proxy.

New law permits and provides for voting trusts, including provisions relative to trust agreements, the transfer of certificates of voting shares to trustees, the execution and deliverance of voting trust certificates to transferors, trustee voting rights, and trustee requirements to maintain and keep available for holders of voting trust certificates correct and complete books and records of accounts relative to the trusts.

Effective Aug. 1, 2014.

(Amends R.S. 12:1301 and 1316; Adds R.S. 12:1318(E) and 1370)

### **Business Corporation Act (Act No. 328)**

New law repeals the Business Corporation Law.

New law enacts the "Business Corporation Act", modeled after the Model Business Corporation Act.

Old law provided for the conversion of domestic entities. New law repeals old law and provides for the conversion of domestic business entities.

New law provides for the continuation and updating of a professional or other license.

New law provides for filing methods.

New law provides for the confidentiality of electronic mail addresses and short message service numbers submitted to or captured by the secretary of state.

New law provides for electronic notification of status changes when a filing has occurred that may remove a person's name from documents and records of an entity.

New law provides for judicial review of the removal of officers, members, managers, and partners.

New law provides that a "derivative proceeding" as defined in the Business Corporation Act is exempt from the provisions of Chapter 5 of Title II of the Code of Civil Procedure and subject to the relevant provisions of the Business Corporations Act.

For a detailed review of the new Louisiana Business Corporation Act, see doc. id. no. 1168055.

Effective Jan. 1, 2015.

(Amends R.S. 12:1501, 1502, 1601-1604, and 1701, R.S. 44:4.1, R.S. 49:222, and C.C.P. Art. 611; Adds R.S. 12:1-101 to 1-1704 and 1702-1704; Repeals R.S. 12:1 to 12:178 and 12:1605-1607)

## **TITLE 13: COURTS AND JUDICIAL PROCEDURE**

### **Judicial Bond Recordation (Act No. 178)**

Prior law required a clerk to record in a bound book all judicial bonds, particularly those given by tutors, administrators of successions, and curators. New law repeals prior law.

Effective Aug. 1, 2014.

(Repeals R.S. 13:1218)

### **Court Costs (Act No. 179)**

Present law requires that a processing fee of \$5 for the clerk of court and \$5 for the office of judicial administrator for the supreme court, not to exceed \$10 in each suit, be taxed as costs of court in each suit for any information that is required by supreme court rule to be submitted



by the clerk of court. New law retains present law.

Old law requires that the court cost shall be paid only at the conclusion or dismissal of the suit. New law deletes this provision of old law.

(Amends R.S. 13:4688(B))

#### **Firearms Exempt from Seizure (Act No. 322)**

Prior law included the debtor's arms and military accoutrements in the list of properties exempt from seizure. Prior law provided an exemption from seizure of one firearm necessary for the exercise of a trade, calling, or profession with a maximum value of \$500.

New law specifies that all of the debtor's firearms, arms and ammunition, and accessories thereto, not exceeding a total maximum value of \$2,500, are exempt from seizure.

Effective Aug. 1, 2014.

(Amends R.S. 13:3881)

#### **Contempt of Court (Act No. 330)**

New law provides that, in addition to or in lieu of the penalties provided by existing law, the penalties for contempt of court may include court-approved litter abatement or community service, not to exceed the maximum sentence as provided by existing law.

Effective Aug. 1, 2014.

(Amends R.S. 13:4611(1)(d))

#### **Drug Division Probation Program (Act No. 337)**

New law amends prior law to provide that:

(1) A defendant who has a prior felony conviction for any crime of violence, except for any homicide offense, shall be eligible to participate in a drug division probation program.

(2) A defendant whose current charge before the court is a crime of violence or a felony offense of domestic abuse battery shall not be eligible to participate in a drug division probation program.

Effective Aug. 1, 2014.

(Amends R.S. 13:5304)

#### **Tobacco Importers (Act No. 358)**

Existing law, relative to tobacco, requires a nonparticipating manufacturer located outside of the U.S. to provide a declaration from each of its importers which provides that the importer consents to personal jurisdiction and accepts joint and several liability with the nonmanufacturer of all obligations to place funds into a qualified escrow fund for payment of all civil penalties and reasonable costs and expenses for investigation and prosecution including attorney fees.

New law clarifies that the importer consents to personal jurisdiction and accepts liability for all escrow fund obligations, for payment of all civil penalties, and for payment of all reasonable costs and expenses of investigation and prosecution.

Effective Aug. 1, 2014.

(Amends R.S. 13:5073 and 5075(K))

#### **Appeals from Criminal District Court (Act No. 364)**

Prior law, relative to Orleans Parish Criminal District Court, provided procedures for preparation of transcripts and reports of testimony by court reporters in cases appealed from judgments of the criminal district court to the judges of the court sitting as a court of appeals, and to the supreme court. New law changes "the supreme court" to "an appellate court" and retains remainder of prior law.

Effective August 1, 2014.

(Amends R.S. 13:1373(B))

#### **24th Reentry Division (Act No. 376)**

Prior law authorized the 19th JDC, the 22nd JDC, the 11th JDC, and the Criminal District Court for the Parish of Orleans to create a reentry division that would be responsible for developing a workforce development sentencing program with specific qualifications and requirements.

New law adds the 24th JDC to the list of courts authorized to establish a reentry division of court.

Effective August 1, 2014.

(Adds R.S. 13:5401(C)(5))

#### **15th JDC Reentry Division (Act No. 7)**

Present law authorizes the 11th JDC, the 19th JDC, the 22nd JDC, and the Criminal District Court for the Parish of Orleans to create a reentry division which would be responsible for developing a workforce development sentencing program with specific qualifications and requirements.

New law authorizes the 15th JDC to establish a reentry division of court.

Effective Aug. 1, 2014.

(Adds R.S. 13:5401(C)(5))

#### **1st and 26th JDC Reentry Divisions (Act No. 327)**

Existing law authorizes the 11th JDC, the 19th JDC, the 22nd JDC, and the Criminal District Court for the Parish of Orleans to create a reentry division which would be responsible for developing a workforce development sentencing program with specific qualifications and requirements.

New law authorizes the 1st and 26th JDCs to establish a reentry division of court.

Effective Aug. 1, 2014.

(Amends R.S. 13:5401)

#### **Coroners (Act No. 390)**

New law removes the coroner's duty to investigate deaths without an attending physician 36 hours prior to the death.

Prior law provided for the "burial" of paupers. New law changes "burial" to "disposition."

New law adds any coroner, deputy coroner, or coroner investigator to the list of individuals that would be considered a "peace officer".

New law adds coroner investigators to the list of individuals that may possess and conceal a handgun when they are POST certified.

New law requires a coroner or his designee make a reasonable search of a dead person for a document of post anatomical gift or other information identifying the person as a donor or

a person who has refused to make such a donation.

Effective August 1, 2014.

(Amends R.S. 13:5713 and 5715, R.S. 14:30 and 95, and R.S. 17:2355.1)

#### **Court Costs (Act No. 405)**

New law requires an additional court cost or fee of \$.50 to be collected for the initial filing in all writs or appeals filed in the La. Supreme Court and all courts of appeals relative to civil matters, and further provides that the additional cost shall not apply to juvenile or family cases.

New law requires an additional court cost or fee of \$.50 to be collected for the initial filing in all civil and traffic matters by the clerks of the following courts: all district courts, the Civil District Court of New Orleans, all city and municipal courts, the city courts of New Orleans, the Municipal Court of New Orleans, the Traffic Court of New Orleans, and all parish courts.

Effective Aug. 1, 2014.

(Adds R.S. 13:126.1, 352.1, 841.4, 1213.3, 1912, 2157.1, 2500.5, 2520, and 2565)

#### **Orleans Parish Juvenile Court (Act No. 466)**

New law removes Section "D" as an existing section of the court.

New law provides the judgeship created for Section "D" of the Orleans Parish Juvenile Court shall be abolished effective Dec. 31, 2014.

New law provides that the first judgeship that becomes vacant shall be abolished the following day.

New law makes each of the remaining sections a special division of court with exclusive jurisdiction over child in need of care proceedings, and a special division of court with exclusive jurisdiction over delinquency proceedings.

Effective Dec. 31, 2014, as to part and August 1, 2014 as to the remainder of the Act.

(Amends R.S. 13:1568.3, 1595, and 1595.1)

**Constables and Justices of the Peace (Act No. 495)**

Prior law provided that persons who are serving or already elected to service as constable or justice of the peace on August 15, 2006, are exempt from all age requirements to serve or run for their offices in the future. New law removes the exemption.

Effective August 1, 2014.

(Amends R.S. 13:2582 and 2583)

**Special Masters (Act No. 521)**

Present law provides that pursuant to the inherent judicial power of the court and upon its own motion and with the consent of all parties litigant, the court may enter an order appointing a special master in any civil action wherein complicated legal or factual issues are presented or wherein exceptional circumstances of the case warrant such appointment.

New law adds that the consent of the parties litigant may be contingent upon an estimate of the amount of the compensation of the special master, the identity of the special master, and the court's anticipated specifications of the powers of the special master.

Present law provides that the master's compensation shall be reasonable, fixed by the court, and taxed as costs of court. New law adds that the compensation shall be subject to approval by the parties litigant as provided by new law.

(Amends R.S. 13:4165)

**Human Trafficking Court (Act No. 554)**

New law authorizes the judges of any judicial district court, by majority vote of the judges sitting en banc, to designate a certain division or section of court as a specialized division or section having subject matter jurisdiction over human trafficking cases.

New law requires all offenses involving commercial sexual exploitation to be transferred to the human trafficking section of the court.

New law provides that if it is determined by a judge, after a contradictory hearing, that a case involves a victim in need of services (1) the

victim may be mandated to attend appropriate support services for victims of human trafficking, if available, and (2) the victim shall be considered for a noncriminal disposition or dismissal of the case if the victim complies with mandated support services and the district attorney consents.

Effective Aug. 1, 2014.

(Amends R.S. 13:587.4)

**Civil Court Fees (Act No. 596)**

New law provides that any clerk of court who establishes procedures for the filing, receipt, or issuance of any of a list of certain documents involved in the filing of civil matters by electronic means shall establish fees for the filing, receipt, or issuance of electronic documents that shall not exceed the fee that would apply if the document was received, filed, or issued in paper.

New law provides that exhibits up to 8½ by 14 inches, including but not limited to attachments, transcripts, and depositions, shall be \$2.00 per page.

New law provides that all exhibits larger than 8 1/2 inches by 14 inches, shall be \$5.00 per page and all other exhibits shall be \$5.00 per exhibit.

Effective August 1, 2014.

(Amends R.S. 13:841)

**Drug Division Probation Program (Act No. 604)**

Prior law provided that in order to be eligible for the drug division probation program, the defendant must satisfy certain criteria. New law removes the prohibition against defendants having a prior felony conviction for any crime of violence and prohibits program eligibility for defendants with prior felony convictions for any offense defined as a homicide.

New law removes the prohibition against a defendant whose crime before the court was a crime of violence and prohibits program eligibility for defendants whose crime before the court is a crime of violence or an offense of domestic abuse battery which is punishable by imprisonment at hard labor.

Effective August 1, 2014.

(Amends R.S. 13:5304)

#### **24th JDC Reentry Division (Act No. 624)**

New law authorizes the 24th JDC to establish a reentry division of court to create a reentry division which would be responsible for developing a workforce development sentencing program with specific qualifications and requirements.

Effective Aug. 1, 2014.

(Adds R.S. 13:5401(C)(5))

#### **CDC Courthouse (Act No. 642)**

Prior law terminated the authority to levy additional costs and charges if public bids were not let for the construction of the Civil District Court for the parish of Orleans by Aug. 15, 2014. New law extends the termination date to Aug. 15, 2015.

Effective Aug. 1, 2014.

(Amends R.S. 13:996.67(D))

#### **Collections (Act No. 672)**

New law adds authorization for a municipal governing authority to contract with a private collection agency for purposes of collecting fines, forfeitures, penalties, and costs.

Effective Aug. 1, 2014.

(Amends R.S. 13:1898(A))

#### **Veterans Court Program (Act No. 716)**

New law provides that the "Veterans Court Program" means a program that has certain essential characteristics, including:

- (1) The use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and protect the due process rights of program participants.
- (2) Careful monitoring of treatment and services provided to program participants.
- (3) Ongoing judicial interaction with program participants.

New law provides that the court must make a determination that the defendant is an eligible

veteran for him to be enrolled as a program participant.

New law provides that if the defendant requests to undergo treatment and is accepted into the Veterans Court program, the defendant will be placed under the program for a period of at least 12 months.

New law provides that during the treatment the defendant may be confined in a treatment facility or, at the discretion of the court, the defendant may be released on a probationary basis for treatment or supervised aftercare in the community.

New law provides that the court may impose any conditions reasonably related to the complete rehabilitation of the defendant.

New law provides that the defendant shall be required to participate in any court-ordered alcohol and drug testing program at his own expense, unless indigent.

New law provides that if the defendant completes the Veterans Court program, and successfully completed all other requirements of his court-ordered probation, the conviction may be set aside and the prosecution dismissed.

New law provides that in addition to the report submitted by the examiner, the judge and district attorney shall consider various factors in determining whether the Veterans Court program would be in the interests of justice and of benefit to the defendant and the community.

New law provides that in order to be eligible for the Veterans Court program:

- (1) The defendant cannot have any prior felony convictions for crimes of violence.
- (2) The crime before the court cannot be a crime of violence.
- (3) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the defendant.
- (4) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

New law provides that when appropriate, the imposition or execution of sentence will be postponed while the defendant is enrolled in the treatment program. As long as the probationer follows the conditions of his agreement, he will remain on probation. At the conclusion of the period of probation, the district attorney, on advice of the person providing the probationer's treatment and the probation officer, may recommend that the court take one of several courses of action.

New law provides that if a defendant who has been admitted to the probation program fails to complete the program and is thereafter sentenced to jail time for the offense, he will be entitled to credit for the time served.

New law provides that upon successful completion of the Veterans Court program and its terms and conditions, the judge, after receiving the recommendation from the district attorney, may vacate the judgment of conviction and dismiss the criminal proceedings against the probationer or may discharge the defendant from probation.

New law provides that discharge and dismissal under new law will have the same effect as acquittal, except that the conviction may be considered in order to provide the basis for subsequent prosecution of the party as a multiple offender and will be considered as an offense for the purposes of any other law or laws relating to cumulation of offenses.

New law provides that no statement, or any information procured therefrom, with respect to the specific offenses with which the defendant is charged, which is made to any probation officer or program treatment worker subsequent to the granting of probation, will be admissible in any civil or criminal action or proceeding, except a Veterans Court program revocation proceeding.

New law provides that the law that prohibits the court from suspending or deferring the imposition of sentences for violations of the Uniform Controlled Dangerous Substances Law will not apply to prosecutions in Veterans Court probation programs.

New law provides that the minimum mandatory sentence provided for in third and fourth offense

DWI laws which otherwise would be imposed without benefit of probation, parole, or suspension of sentence, may be suspended if the offender is prosecuted in a Veterans Court program.

Effective August 1, 2014.

(Amends R.S. 44:4.1(B)(6); Adds R.S. 13:5361-5367)

#### **Fourth Circuit (Act No. 720)**

New law provides that the Fourth Circuit Court of Appeal may charge a filing fee not to exceed \$50 for a civil motion not otherwise subject to any other fee.

Effective upon signature of the governor (June 18, 2014).

(Adds R.S. 13:312.5)

#### **Orleans Second City Court (Act No. 763)**

Prior law provided that the Second City Court of the city of New Orleans has civil jurisdiction in cases where the amount does not exceed \$20,000. New law provides such jurisdiction in cases that do not exceed \$25,000.

Effective August 1, 2014.

(Amends R.S. 13:2151.4 and R.S. 40:39.1)

#### **Interstate Depositions and Discovery (Act No. 793)**

Existing law provides for Uniform Foreign Depositions Law. New law adds the La. Uniform Interstate Depositions and Discovery Act, which adopts, in addition to the current mechanisms of discovery provided in the Uniform Foreign Depositions Law, including letters rogatory, additional mechanisms for discovery and depositions, limited to discovery in state courts.

New law adds a reference to C.C.P. Art. 1435, allowing discovery from a nonresident nonparty by utilizing the compulsory process of the foreign state or territory pursuant to that Article.

Existing law provides for court orders to persons domiciled or found in this state to give testimony or produce documents in another state or foreign jurisdiction. New law includes references to the new La. Uniform Interstate

Depositions and Discovery Act as a mechanism for compelling such discovery.

Effective Aug. 1, 2014.

(Amends R.S. 13:3822, 3823, and 3824; Adds R.S. 13:3825)

#### **Justices of the Peace (Act No. 794)**

New law adds that a justice of the peace may perform a marriage ceremony in any parish which has no justice of the peace court, except for Orleans Parish.

Existing law authorizes a justice of the peace to appoint a person residing within the territorial boundaries of the court to serve as a justice of the peace ad hoc for a maximum of 30 days in each year. New law requires the justice of the peace to notify the office of the attorney general within 72 hours of the appointment.

Effective Aug. 1, 2014.

(Amends R.S. 9:203 and R.S. 13:2592)

#### **Online Court Records (Act No. 826)**

New law creates the Louisiana Clerks' Remote Access Authority (LCRAA) for the purpose of providing infrastructure, governance, standard operating procedures, technology, and training to support a statewide portal for secure remote access of certain records maintained by LCRAA members to Internet users and for document preservation.

New law provides for immunity for the LCRAA from suits arising from any acts or omissions related to providing remote access unless the LCRAA was grossly negligent or engaged in willful misconduct.

New law prohibits the sale or posting of any records accessed through the statewide portal on any public or private website or in any way redistributed to any third party by a user and authorizes the LCRAA to deny remote access when necessary to ensure compliance.

New law provides that data from records accessed by secure remote access may be included in products or services provided to a third party if: (1) records used to compile the data are not made available to the general public, (2) the third party maintains administrative,

technical, and security safeguards to protect integrity and limited access of the records, and (3) the third party discloses that he is not the official custodian of the records used to compile the data.

Effective upon signature of governor (June 23, 2014).

(Adds R.S. 13:754)

#### **New Orleans Clean-Up (Act No. 828)**

Present law generally authorizes any parish or municipality to prescribe civil fines for blighted and abandoned property, or for violations of public health, housing, fire code, environmental, and historic district ordinances by owners of immovable property, their agents, tenants, or representatives. Present law establishes administrative adjudication procedures relative to such violations.

New law additionally authorizes the city of New Orleans to prescribe civil fines for violations of nuisance, sanitation, and litter ordinances on immovable property pursuant to administrative adjudication procedures.

New law requires the hearing officer to issue an order stating whether the person who received the sanitation ticket is liable for a violation of the ordinance and the amount of any fine, penalty, cost, or fee assessed against him, which order may be filed in the mortgage or conveyance office of the city and constitutes a lien and privilege against the property, to be paid the same as taxes.

New law provides for an appeal process with the appropriate district court.

(Adds R.S. 13:2575.6 and 2575.7)

### **TITLE 14: CRIMINAL LAW**

#### **Aggravated Flight from an Officer (Act No. 50)**

New law increases the possible term of imprisonment for the commission of aggravated flight from an officer from not more than 2 years to not more than 5 years and, if the crime results in serious bodily injury, up to 10 years.

New law defines "serious bodily injury" as bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Effective August 1, 2014.

(Amends R.S. 14:108.1(E))

#### **False Lien Filings Against Court Officers (Act No. 17)**

Present law provides for the crime of filing a false lien against a law enforcement or court officer, which occurs when a person files in any public records, or any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of a law enforcement officer or court officer, as retaliation against the officer for the performance of his official duties, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation.

New law expands the definition of "court officer" to include any clerk of court, deputy clerk of court, or recorder of mortgages.

(Amends R.S. 14:133.6(B)(1))

#### **Residential Contractor Fraud (Act No. 62)**

Prior law provided for the crime of home improvement fraud. New law deletes prior law and creates the crime of residential contractor fraud, which is defined as the misappropriation or intentional taking of anything of value which belongs to another, either without the consent of the other or by means of fraudulent conduct, practices, or representations, by a person who has contracted or subcontracted to perform any home improvement or residential construction. New law provides for actions which may be inferred as a misappropriation or intentional taking.

Effective Aug. 1, 2014.

(Amends R.S. 14:202.1)

#### **Fire Prevention Interference (Act No. 74)**

Present law provides that fire prevention interference is the intentional performance of any of the following acts:

(1) Defacing or destroying fire warning notices or posters.

(2) Injuring, destroying, removing, or in any manner interfering with the use of any tools, equipment, towers, buildings, or telephone lines used in the detection, reporting, or suppression of fire.

New law adds life safety systems to the definition of the crime and additionally adds the following two acts:

(1) Obstructing exits, impeding egress, or exceeding the capacity or posted occupant load of a building or structure.

(2) Unauthorized use or proximate display of fireworks in a building or structure.

(Amends R.S. 14:206)

#### **Fake Air Bags (Act No. 105)**

New law prohibits the manufacture, importation, sale, or offer for sale of a counterfeit air bag, a nonfunctional air bag, or any other object intended to fulfill the function of an air bag, but that does not meet all applicable federal safety regulations for a vehicle of that make, model, and year.

New law provides that no person can knowingly sell, install, or reinstall a device in a motor vehicle that causes the diagnostic system of the vehicle to indicate inaccurately that the vehicle is equipped with a functional air bag.

New law provides that each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of new law constitutes a separate and distinct violation.

Effective upon signature of the governor (May 16, 2014).

(Amends R.S. 14:231)

#### **Illegal Possession of Stolen Firearms (Act No. 141)**

Prior law defined illegal possession of stolen firearms as the intentional possessing, procuring,

receiving, or concealing of a firearm which has been the subject of any robbery or theft under circumstances which indicate that the offender knew or should have known that the firearm was the subject of a robbery or theft.

New law changes the elements of the crime to include any form of misappropriation and not only robbery or theft.

New law further provides that it shall be an affirmative defense that the offender had no knowledge that the firearm was the subject of any form of misappropriation.

New law further provides that it shall be an affirmative defense that the alleged offender has or had possession of the firearm pursuant to his regular course of business, is in possession of a valid federal firearms license, is routinely in the possession of firearms for sale, pawn, lease, rent, repair, modification, or other legitimate acts as part of his normal scope of business operations, and is enforcing a privilege pursuant to existing law.

Effective August 1, 2014.

(Amends R.S. 14:69.1(A))

#### **Guns in Bars (Act No. 147)**

Existing law provides that no person, with certain exceptions, shall intentionally possess a firearm while on the premises of an alcoholic beverage outlet, which is defined broadly.

Prior law provided an exception for a law enforcement officer or other person vested with law enforcement authority acting in the performance of his official duties. New law removes the condition that the law enforcement officer must be acting in the performance of his official duties.

New law provides an exception for certain retired and auxiliary law enforcement officers and certain persons including judges and district attorneys.

New law provides an exception for persons or law enforcement officers possessing a firearm in accordance with a concealed handgun permit on the premises of an alcoholic beverage outlet which has been issued a Class A-Restaurant permit.

New law does not limit the ability of a sheriff or chief law enforcement officer from establishing policies within his department or office regarding the carrying of a concealed handgun on the premises of an alcoholic beverage outlet by any law enforcement officer under his authority.

Effective August 1, 2014.

(Amends R.S. 14:95.5(C))

#### **First Degree Murder (Act No. 157)**

Existing law defines first degree murder as the killing of a human being when certain circumstances exist or when the specific intent to kill or to inflict great bodily harm is directly related to the victim's status.

Existing law provides that persons convicted of first degree murder shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

New law adds "correctional facility employee" to the existing law list of specific victims of the crime of first degree murder.

New law defines "correctional facility employee" as any employee of any jail, prison, or correctional facility that is not a "peace officer" as defined by existing law.

Effective August 1, 2014.

(Adds R.S. 14:30(A)(12) and (B)(4))

#### **Justifiable Homicide (Act No. 163)**

Existing law provides for justification in the use of force or violence when committed for the purpose of preventing a forcible offense against the person, or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense.

New law adds that the use of force is justified when committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle,



and the person using the force or violence reasonably believes that the use of force or violence is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

Effective Aug. 1, 2014.

(Amends R.S. 14:19 and 20)

#### **Driving While Intoxicated (Act No. 175)**

Existing law provides for the crime of operating a vehicle while intoxicated and provides for increased penalties for second and subsequent convictions of this offense.

New law provides that convictions of vehicular homicide and first degree vehicular negligent injuring are not eligible for the ten-year cleansing period such that a conviction for either of these offenses shall count as a prior conviction regardless of the date of conviction relative to the current offense.

Effective Aug. 1, 2014.

(Amends R.S. 14:98(F))

#### **Incest (Act No. 177)**

New law repeals the crime of incest and places the elements and penalties for this crime into the existing law offense of crime against nature.

New law repeals the crime of aggravated incest and places the elements and penalties for this crime into the existing law offense of aggravated crime against nature.

New law directs the La. State Law Institute to change all references in La. law from "incest" to "crime against nature" and from "aggravated incest" to "aggravated crime against nature" to reflect the changes made in new law.

Effective August 1, 2014.

(Amends R.S. 14:89 and 89.1; Repeals R.S. 14:78 and 78.1)

#### **Guns and Domestic Abuse (Act No. 195)**

New law provides that any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse shall be prohibited from possessing a firearm for the duration of the injunction or protective order if both of the following occur:

(1) The order includes a finding that the person represents a credible threat to the physical safety of a family member or household member.

(2) The order informs the person that the person is prohibited from possessing a firearm pursuant to both state and federal law.

New law creates the crime of possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery.

New law provides that if 10 years has passed since the completion of the sentence for domestic abuse battery or from probation, parole, or suspension of sentence, it shall not be a violation of new law.

(Adds R.S. 14:95.10 and R.S. 46:2136.3)

#### **Electronic Sweepstakes (Act No. 233)**

New law creates the crime of gambling by electronic sweepstakes device, which is defined as the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit, through the operation of an electronic gaming machine or device that does or purports to (1) conduct a sweepstakes through the use of a simulated gambling device, including the entry process or the revealing of a prize, or (2) promote such a sweepstakes.

New law creates exceptions for (1) legalized forms of gaming which are authorized by present law if the activity is conducted on the licensed premises, (2) stock market trading done by computer, (3) providing Internet or cable services, and (4) a charitable veterans' organization.

(Adds R.S. 14:90.7)

#### **Theft (Act No. 255)**

New law amends the penalties for the crime of theft, including:

(1) When the taking amounts to a value of \$25,000 or more; imprisonment, with or without hard labor, for five to 20 years, a fine up to \$50,000, or both.

(2) When the taking amounts to a value of \$5,000 or more, but less than \$25,000:

imprisonment, with or without hard labor, for up to 10 years, a fine of up to \$10,000, or both.

New law retains existing law crime of theft, and repeals certain theft statutes relative to livestock, animals, crawfish, timber, alligators, rental motor vehicles, motor vehicle fuel, used building components, and copper from a religious building, cemetery, or graveyard.

New law amends the prior law threshold amounts for the penalties for the attempt to commit the crime of theft as follows:

(1) Attempted theft of an amount not less than \$750 nor more than \$25,000: a fine not more than \$500, imprisonment for not more than one year, or both.

(2) Attempted theft of an amount over \$25,000: a fine of up to \$2,000, imprisonment for not more than five years, or both.

New law amends responsive verdicts relative to the crime of theft to reflect the changes made to that crime in new law, and repeals the responsive verdict provisions relative to the theft and attempted theft of cattle, horses, mules, sheep, hogs, or goats.

Effective Aug. 1, 2014.

(Amends R.S. 14:27 and 67 and C.Cr.P. Art. 814; Repeals R.S. 14:67.1, 67.2, 67.5, 67.12, 67.13, 67.14, 67.17, 67.23, and 67.27)

### **Nicotine and Vapor Products (Act No. 278)**

New law treats vapor products and alternative nicotine products like cigarettes.

New law defines "alternative nicotine product" as any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means, but does not include any of the following: (1) tobacco product, (2) vapor product, (3) product that is a drug pursuant to federal law, (4) device pursuant to federal law (21 U.S.C. 321(h)), or (5) combination product described in federal law (21 U.S.C. 353(g)).

New law defines "vapor product" as any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other

electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. New law further provides that "vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. New law provides that "vapor product" does not include (1) product that is a drug pursuant to federal law, (2) device pursuant to federal law (21 U.S.C. 321(h)), or (3) combination product described in federal law (21 U.S.C. 353(g)).

Prior law prohibited the sale of tobacco to, or the purchase or possession of tobacco by, any person under the age of 18 years. New law adds alternative nicotine products and vapor products.

Prior law prohibited the distribution of sample tobacco products to persons under the age of 18 years. New law adds alternative nicotine products and vapor products.

Prior law provided that the sale or delivery of tobacco products through a vending machine is prohibited unless (1) the machine is located in an establishment to which persons under the age of 18 are denied access, or (2) the machine is located in facilities where the dealer ensures that no person younger than 18 years of age is present or permitted to enter at any time, and the machine is located within the unobstructed line of sight of a dealer or a dealer's agent or employee who is responsible for preventing persons younger than 18 years of age from purchasing tobacco products through that machine. New law adds alternative nicotine products and vapor products.

Prior law provided that the sale or delivery of tobacco products through a self-service display is prohibited. New law adds alternative nicotine products and vapor products.

Prior law provided relative to retail dealer permits and the renewal of retail dealer permits for the sale of cigars, cigarettes, and other

tobacco products. New law adds alternative nicotine products and vapor products.

Prior law provided relative to the sale of tobacco products through vending machines and self-service displays. New law adds alternative nicotine products and vapor products.

Prior law defined "retail tobacco business" as a bona fide retail dealer engaged in the sale of tobacco products and accessories for retail sale where 50% or more of the total sales for the preceding 12 months, excluding fuel sales, were tobacco products, including cigarettes. New law adds alternative nicotine products and vapor products.

Prior law defined "tobacconist at a particular outlet" as a bona fide retail dealer engaged in receiving bulk smoking tobacco for the purpose of blending such tobacco for retail sale at a particular retail outlet where 50% or more of the total purchases for the preceding 12 months were purchases of tobacco products, excluding cigarettes. New law also excludes alternative nicotine products and vapor products.

Prior law prohibited any person, agent, associate, employee, representative, or servant of any person from selling or serving tobacco products over-the-counter in a retail establishment to any person under the age of 18 years unless such person submits a driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity or correctness of the identification. New law adds alternative nicotine products and vapor products.

Prior law provided that the sale of tobacco products to a minor by a retail dealer's agent, associate, employee, representative, or servant is considered an act of the retail dealer except under certain circumstances. New law adds the sale of alternative nicotine products and vapor products.

Prior law provided that "server" means any employee of a vendor, other than security personnel, who is authorized to sell or serve alcoholic beverages or tobacco products in the normal course of his or her employment or deals with customers who purchase or consume

alcoholic beverages or tobacco products. New law adds alternative nicotine products and vapor products.

Prior law provided that vending machine operators must affix a sticker in a prominent place on each machine, stating that "Louisiana Law Prohibits the Purchase of Tobacco Products by Anyone Under Age 17". New law adds alternative nicotine products and vapor products and changes the age to be stated in the sticker from 17 years to 18 years.

Effective upon signature of the governor (May 28, 2014).

(Amends R.S. 14:91.6 and 91.8, R.S. 26:901, 902, 905, 909, 910, 910.1, 911, 917, and 932, and R.S. 47:851)

### **Vehicular Homicide (Act No. 280)**

New law adds that whoever commits the crime of vehicular homicide is to be sentenced as an offender convicted of a crime of violence if the offender's blood alcohol concentration, at the time of the offense, exceeds 0.20 percent by weight based on grams of alcohol per 100 cubic centimeters of blood.

Effective upon signature of the governor (May 28, 2014).

(Adds R.S. 14:2(B)(45) and 32.1(C))

### **Home Invasion (Act No. 300)**

New law adds that whoever commits the crime of home invasion armed with a dangerous weapon is to be imprisoned for a minimum of five years.

Effective upon signature of the governor (May 28, 2014).

(Amends R.S. 14:62.8(B)(2))

### **Sexting (Act No. 313)**

Prior law provided that it is unlawful for a person under the age of 17 years to knowingly and voluntarily use a computer or telecommunication device to transmit an indecent visual depiction of himself to another person. New law adds that any offense is deemed to have been committed at either the place from which the indecent visual depiction

was transmitted or at the place where the indecent visual depiction was received.

Effective upon signature of the governor (May 28, 2014).

(Amends R.S. 14:81.1.1)

### **Vehicular Homicide (Act No. 372)**

New law provides that if the offense of vehicular homicide proximately or directly causes the death of two or more human beings, the offender shall be sentenced separately for each victim, and the sentences shall run consecutively.

New law provides that in calculating the number of deaths, a human being shall include an unborn child.

Effective upon signature of the governor (May 30, 2014).

(Adds R.S. 14:32.1(C))

### **Penalties for DWIs (Act No. 385)**

New law makes extensive revisions to the penalties for DWI, some of which are:

Prior law provided that when the state proves that a minor child 12 years of age or younger was a passenger in the vehicle, at least two years shall be served without benefit of suspension of sentence for a fourth or subsequent DWI offense.

New law provides that, for fourth and subsequent DWI offenses, the mandatory minimum sentence imposed for such offenses shall not be suspended.

Prior law provided that imposition or execution of sentence can be suspended under certain circumstances, including serving 48 hours in jail or performing at least four eight-hour days of community service, half of which must consist of litter abatement or collection.

New law adds the requirement of participation in a court approved substance abuse program.

New law provides that the total period of imprisonment for first offense DWI, including imprisonment for default in payment of a fine or costs, cannot exceed six months.

New law provides that if the offender convicted of a third offense DWI has previously received

the benefit of parole, probation, or suspension of sentence, then on a subsequent conviction the offender is to be fined \$2,000 and imprisoned at hard labor for between two and five years. New law further provides that at least two years of the sentence must be served without benefit of parole, probation, or suspension of sentence. New law further provides that such offender cannot be sentenced to home incarceration unless certain new law conditions are met.

New law adds that the mandatory minimum sentence of two years for fourth offense DWI cannot be served on home incarceration.

New law adds that the offender is not to be eligible to have the mandatory portion of his sentence suspended because of his participation in a drug division program.

New law authorizes the court to sentence an offender to home incarceration for underage DWI and authorizes the court to order the offender to install an ignition interlock device on his vehicle.

Effective January 1, 2015.

(Amends R.S. 14:98, 98.1, 98.2, and 98.3; Adds R.S. 14:98.4, 98.5, 98.6, 98.7, and 98.8)

### **DWI Penalty (Act No. 386)**

New law retains prior law but clarifies that periods of time awaiting trial, under an order of attachment for failure to appear, or on probation or parole for a DWI offense, or periods of time during which the offender was incarcerated in a penal institution in this or any other state for any offense, including DWI offenses, are to be excluded from the ten-year computation made to exclude counting prior offenses.

Effective upon signature of the governor (May 30, 2014).

(Amends R.S. 14:98(F)(2))

### **Alcohol, Drugs, and Liability (Act No. 392)**

New law provides that a peace officer shall not take a person into custody based solely on the commission of an offense involving alcohol if the peace officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

(1) the person in good faith requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance due to alcohol consumption and the person did not illegally provide alcohol to the individual; and

(2) the person: (a) provides his full name and any other relevant information requested by the peace officer; (b) remains at the scene with the individual who reasonably appeared to be in need of medical assistance due to alcohol consumption until emergency medical assistance arrives; and (c) cooperates with emergency medical assistance personnel and peace officers at the scene.

New law provides that a person who meets the criteria is immune from criminal prosecution for any offense related solely to the possession and consumption of alcohol.

New law provides that a person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance or failure to comply with new law.

New law provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law if the evidence for possession of a controlled dangerous substance was obtained as a result of the person's seeking medical assistance, unless the person illegally provided or administered the controlled dangerous substance.

New law provides that a person who experiences a drug-related overdose and is in need of medical assistance shall not be charged, prosecuted, or penalized for possession of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law if the evidence for possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

New law provides that protection from prosecution for possession offenses under the Uniform Controlled Dangerous Substances Law

may not be grounds for suppression of evidence in other criminal prosecutions.

New law authorizes first responders to administer, without prescription, opiate antagonists when encountering an individual exhibiting signs of an opiate overdose.

New law requires that a first responder, before administering an opioid antagonist, complete the training necessary to safely and properly administer an opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

New law provides that any first responder administering an opiate antagonist in a manner consistent with addressing opiate overdose is not liable for any civil damages as a result of any act or omission in rendering such care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in the emergency, unless the damage or injury was caused by willful or wanton misconduct or gross negligence.

Effective August 1, 2014.

(Adds R.S. 14:403.9, 403.10, and 403.11)

### **Cockfighting (Act No. 395)**

New law provides that it is illegal to possess, train, purchase, or sell any chicken, with the intent that the chicken will engage in an unlawful commercial or private cockfight.

New law provides that possessing, manufacturing, buying, selling, or trading of paraphernalia, such as spurs, gaffs, knives, leather training spur covers, and other items normally used in cockfighting with the intent that they shall be used in a cockfight together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a chicken to fight with another chicken, along with the possession of any such chicken, shall be admissible as evidence of a violation.

New law is not to be construed to prohibit the possessing, buying, selling, or trading of any spurs, gaffs, knives, leather training spur covers, or any other items normally used in cockfighting which are at least five years old and have historical value.

New law changes the penalties on conviction of cockfighting.

New law provides that when one chicken is subject to an act that would constitute cockfighting, then each chicken involved constitutes a separate offense.

Effective August 1, 2014.

(Amends R.S. 14:102.23)

#### **Obscenity Publicity (Act No. 531)**

New law provides that when acts of obscenity occur within 2,000 feet of a school, within 24 hours of receiving the report of the incident, the law enforcement agency acting in response to the reported incident shall notify the principal or headmaster of the school that the incident occurred, and within 24 hours after that, the principal or headmaster shall notify the parents of all students enrolled at the school.

New law provides that the principal, headmaster, school, owner of the school, operator of the school, and the insurer or self-insurance program for the school shall be immune from any liability that arises as a result of compliance or noncompliance with new law, except for any willful violation.

New law defines "school" as any public or private elementary or secondary school in this state, including all facilities of the school located within the geographical boundaries of the school property.

Effective Aug. 1, 2014.

(Adds R.S. 14:106(I))

#### **Theft of Motor Vehicle (Act No. 597)**

Prior law provided that a person who alleges that there has been a theft of a motor vehicle shall attest to that fact by signing an affidavit, and if the affidavit is not taken in person by a law enforcement officer or agency, the person who alleges that the theft of a motor vehicle has occurred shall mail or deliver a signed and notarized affidavit to the appropriate law enforcement agency within seven days.

New law adds that the failure to provide an affidavit shall not of itself create any

presumption for civil purposes of participation by the insured in the theft of the motor vehicle.

Effective upon signature of the governor (June 12, 2014).

(Adds R.S. 14:67.26(B)(3))

#### **Aircraft Lasering and Spy Drones (Act No. 661)**

New law defines the crime of unlawful aiming of a laser at an aircraft as the intentional projection of a laser on or at an aircraft or at the flight path of an aircraft in the aircraft jurisdiction of the state of Louisiana.

New law creates the crime of unlawful use of an unmanned aircraft system, which is defined as the intentional use of an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record a certain types of industrial facility without the prior written consent of the owner of the targeted facility.

New law provides that third persons retained by the owner of the property are not to be prohibited from using an unmanned aircraft system to conduct the activities.

New law provides an exception for unmanned aircraft systems used for motion picture, television, or similar production where filming is authorized by the property owner.

Effective Aug. 1, 2014.

(Adds R.S. 14:336 and 337)

#### **Battery and Obstruction of Emergency Personnel (Act No. 664)**

New law creates the crime of battery of emergency room personnel, emergency services personnel, or a healthcare professional. New law defines the offense as battery committed without the consent of the victim when the offender has reasonable grounds to believe that the victim is emergency room personnel, emergency services personnel, or a healthcare professional acting in the performance of his employment duties, including the use of force or violence by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is transported to or from a medical

facility or while being evaluated or treated in a medical facility.

Prior law provided for the crime of obstruction of a fireman and defined "fireman" as any certified first responders, certified emergency medical technicians, and any firefighter regularly employed by a fire department or any volunteer fireman of the state of La.

New law amends the definition to apply not only to firemen but also to all "emergency medical services personnel" or "emergency medical services practitioners," which includes licensed emergency medical responders, licensed emergency medical technicians, licensed advanced emergency medical technicians, licensed paramedics, and any person trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of a basic life support or advanced life support pre-hospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital.

Effective Aug. 1, 2014.

(Amends R.S. 14:327(A)(2); Adds R.S. 14:34.8)

#### **Solicitation (Act No. 673)**

New law provides that it shall be unlawful for any person to solicit funds or transportation with the intention to solicit the person to engage in indiscriminate sexual intercourse for compensation.

Effective Aug. 1, 2014.

(Adds R.S. 14:107.5)

#### **Second Degree Battery (Act No. 722)**

New law increases the maximum period of imprisonment for second degree battery from five years to eight years.

New law further increases the minimum period of imprisonment that must be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the U.S. Armed Forces or a veteran from one year to 18 months.

Effective August 1, 2014.

(Amends R.S. 14:34.1(C))

#### **Battery of Referees (Act No. 815)**

Prior law defined the crime of battery of a school or recreation athletic contest official as battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a school athletic or recreation contest official. New law amended prior law offense to apply only if the battery occurs while the official is actively engaged in the conducting, supervising, refereeing, or officiating of a school sanctioned interscholastic or recreation athletic contest.

New law increases the penalties for the offense.

Effective Aug. 1, 2014.

(Amends R.S. 14:34.4)

### **TITLE 15: CRIMINAL PROCEDURE**

#### **Witness Fees for Cops (Act No. 4)**

New law requires the payment of witness fees to a former or retired law enforcement officer who is required to be present as a witness in any criminal case or delinquency adjudication in any district or parish court or any court exercising juvenile jurisdiction.

New law provides for the payment of \$50 each day per case, but not more than \$150 in any one day, regardless of the number of cases for which he is required to be present or whether he actually testified, and further requires that the sum be paid from court costs collected in individual cases tried in district or parish courts or in any court exercising juvenile jurisdiction.

(Amends R.S. 15:255.1)

#### **Videotape Recordings of Protected Persons (Act No. 647)**

Existing law authorizes the court, on its own motion or on motion of the district attorney, a parish welfare unit or agency, or the Dept. of Children and Family Services, to require that a statement of a protected person be recorded on videotape.

Existing law defines "protected person" as any person who is a victim of a crime or a witness in

criminal proceeding and who is either under the age of 17 years or has a developmental disability.

New law retains existing law and authorizes the recording of statements of protected persons outside of the courtroom, without the necessity of the issuance of an order by the court in any individual case, either by local court rule or by the execution of a written protocol between the court and law enforcement agencies, a parish welfare unit or agency, DCFS, or a child advocacy center operating in the judicial district.

Effective Aug. 1, 2014.

(Amends R.S. 15:440.2(A)(1) and Ch.C. Art. 324(A))

#### **Repeal of Obsolete Laws (Act No. 5)**

New law repeals various old laws deemed antiquated or obsolete, including old laws that:

(1) Required all jails and facilities to meet standards of health and decency established by the state division of health, and required the state health officer to periodically inspect all correctional institutions to determine if such institutions are in compliance with the established standards (R.S. 15:751).

(2) Required the Dept. of Corrections to establish and maintain a drug education and rehabilitation program at all juvenile correctional institutions under its jurisdiction and authorized the director to seek assistance from other state agencies involved in drug education and rehabilitation. (R.S. 15:840).

(3) Authorized the creation, operation, and maintenance of community rehabilitation centers by the Dept. of Corrections and the criminal sheriff of the Parish of Orleans for prisoners who have strong rehabilitation potential (R.S. 15:1131).

Effective August 1, 2014.

(Repeals R.S. 15:751, 823, 825, 834, 835, 838, 840, 840.2, and 1131)

#### **Pardons (Act No. 6)**

Present law provides that persons sentenced to life imprisonment are ineligible to apply to the Board of Pardons for a pardon or commutation

of sentence for 15 years after being sentenced by the trial court. Old law further provided that if the initial application is denied, the applicant may file a new application to the board no earlier than seven years from the date of the action of the board.

New law reduces the seven years to five years.

(Amends R.S. 15:572.4(D))

#### **Work Release Programs (Act No. 37)**

Existing law provides that any inmate who has been convicted of forcible rape, aggravated arson, armed robbery, attempted murder, or attempted armed robbery, and persons sentenced as habitual offenders shall be eligible to participate in a work release program during the last six months of his term.

New law allows habitual offenders to be eligible to participate in a work release program during the last 12 months of their terms if the offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the DPS&C.

Effective August 1, 2014.

(Amends R.S. 15:1111(I)(1))

#### **Parolees and District Attorneys (Act No. 52)**

New law provides that the committee on parole shall provide written notification to the district attorney for the parish where the offender was convicted at least 30 days prior to the parole hearing date.

New law further authorizes the district attorney of the parish where the offender was convicted to review the record of the offender since incarceration, to present testimony to the committee on parole, and to submit information relevant to the proceedings.

Effective Aug. 1, 2014.

(Amends R.S. 15:574.2(D)(8))

#### **Restoration of Forfeited Good Time (Act No. 87)**

New law provides that in order to be eligible for restoration of forfeited good time, the inmate shall not have been found guilty of a major rule



violation for a consecutive 24-month period or a minor rule violation for a consecutive six-month period.

(Amends R.S. 15:571.4(C))

#### **Sexual Assault Collection Kits (Act No. 124)**

New law requires all criminal justice agencies charged with the maintenance, storage, and preservation of sexual assault collection kits to conduct a physical inventory of all such kits being stored by the agency and to compile, in writing, a report to the director of the LSP Crime Lab.

Effective August 1, 2014.

(Adds R.S. 15:622)

#### **Parole (Act No. 126)**

Prior law provided that a person, otherwise eligible for parole, convicted of a second felony offense will be eligible for parole consideration upon serving 1/3 of the sentence imposed. The provisions of prior law did not apply to any person who has been convicted of a crime of violence, has been convicted of a sex offense, has been sentenced as a habitual offender, or is otherwise ineligible for parole.

New law provides an exception to an offense being considered a second or subsequent offense if more than 10 years have lapsed between the date of the commission of the current offense or offenses and the expiration of the person's maximum sentence or sentences of the previous conviction or convictions, or between the expiration of his maximum sentence or sentences of each preceding conviction and the date of the commission of the succeeding offense or offenses.

New law provides that for purposes of computing the intervals of time, any period of parole, probation, or incarceration by a person in a penal institution, within or without the state, will not be included in the computation of any of the 10-year periods between the expiration of the person's maximum sentence or sentences and the next succeeding offense or offenses.

Effective August 1, 2014.

(Amends R.S. 15:574.4(A)(1)(b)(ii))

#### **Parole (Act No. 127)**

Prior law provided numerous criteria for parole eligibility and consideration. Each set of criteria required that the offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.

New law changes the criteria to require that the offender has not committed a major disciplinary offense and changes the relevant time period from the 12 months prior to the parole eligibility date to the 12 months prior to the parole hearing date.

Prior law required as part of the conditions for eligibility that the offender has completed the mandatory minimum of 100 hours of prerelease programming, if available, and substance abuse treatment, if applicable and available. New law limits the requirement of such program and treatment to that available at the facility where offender is incarcerated.

Effective August 1, 2014.

(Amends R.S. 15:574.4)

#### **Videotaped Statements of Protected Persons (Act No. 138)**

Prior law authorized the use of videotaped statements of a crime witness or victim who is either under the age of 17 or has a developmental disability.

New law provides that in addition to the defendant and his attorney, the following persons who are involved in preparing the defense are authorized to view the videotaped statement: the attorney's regularly employed staff, the defense investigator designated to work on the case, the defense paralegal designated to work on the case, and other staff members of the attorney who are transcribing the videotaped oral statement.

Prior law provided that no copies of the videotaped statement provided to the defense can be made by any person. New law provides that copies of the videotaped statement provided to the defense may be made if they will be used as exhibits for trial.

Prior law provided that the defense copy of the videotaped statement must be securely retained

by the defendant's attorney at all times and cannot be possessed, transferred, distributed, copied, or viewed by any unauthorized party. New law adds that any transcript of the videotaped statement must also be securely retained by the defendant's attorney.

Effective August 1, 2014.

(Amends R.S. 15:440.5(C))

#### **Arson (Act No. 140)**

New law adds to the definition of "offense involving arson" the crime of injury by arson.

Prior law required a person to register with the state fire marshal for a period of five years for a first offense. New law increases the requirement to 10 years.

Effective August 1, 2014.

(Amends R.S. 15:562.2, 562.3, 562.4, 562.5, and 562.6; adds R.S. 15:562.1(3)(i))

#### **Parole (Act No. 153)**

Prior law provided that any inmate, except when incarcerated for first or second degree murder, may be considered by the committee on parole for medical parole, unless the inmate is sentenced to death or has a contagious disease. New law removes the disqualification of having a contagious disease from eligibility for consideration of medical parole.

Prior law contained criteria for consideration involving inmates who are "permanently incapacitated" or "terminally ill". Both of the criteria contained the element that the inmate, because of his condition, does not constitute a danger to himself or others. New law removes the "danger to himself or others" element. New law adds the definition of "terminally ill" to mean a life expectancy of less than one year due to an underlying medical condition.

New law provides that no inmate shall be recommended for medical parole by the Dept. of Public Safety and Corrections until full consideration has been given to the inmate's crime and criminal history, length of time served in custody, institutional conduct, an indication that the inmate represents a low risk to himself or society, and a medical assessment of the inmate's condition.

New law provides that the committee on parole shall determine the risk to public safety and shall grant medical parole only after determining the inmate does not pose a threat to public safety.

Effective August 1, 2014.

(Amends R.S. 15:574.20)

#### **Sex Offenders and Child Predators (Act No. 190)**

New law expands prior law and provides that it shall also be considered a failure to register and notify as a sex offender or child predator if the offender does any of the following: (1) fails to timely register; (2) fails to timely provide any information required by existing law; (3) fails to timely renew and update registration information as required by existing law; or (4) fails to timely provide proof of residence or notification of change of address or other registration information.

Effective Aug. 1, 2014.

(Amends R.S. 15:542.1.4(A)(1))

#### **Intensive Parole Supervision for Habitual Offenders (Act No. 191)**

New law provides that the secretary of the Dept. of Public Safety and Corrections may release to intensive parole supervision any person sentenced as a habitual offender and denied eligibility for diminution of sentence if all of certain specified conditions are met.

(Adds R.S. 15:529.2)

#### **Public Defender Board (Act No. 214)**

New law changes the educational requirements for the juvenile justice compliance officer for the La. Public Defender Board to include a doctoral degree in any field.

(Amends R.S. 15:158(A)(3))

#### **Criminal Database (Act No. 299)**

New law provides that the Bureau of Criminal Identification and Information is to obtain and file the name, fingerprints, description, photographs, and any other pertinent identifying data as the deputy secretary deems necessary, of any person who: (1) has been arrested, or has been issued a summons, for any offense that

requires the collection of a DNA sample pursuant to prior law, or (2) has been arrested, or has been issued a summons, for operating a vehicle while intoxicated.

Effective August 1, 2014.

(Adds R.S. 15:590(6) and (7))

#### **Criminal History Checks (Act No. 326)**

Existing law provides that when an institution of postsecondary education requests a criminal history records check on an applicant prospective employee, the Bureau of Criminal Identification and Information shall make available to the institution all prior arrests for any sex offense or any crime of violence.

New law adds arrests for any aggravated offense or any sexual offense against a victim who is a minor.

Effective August 1, 2014.

(Amends R.S. 15:587.2(B))

#### **Parole Eligibility (Act No. 332)**

Existing law provides that a person committed to the Dept. of Public Safety and Corrections for a term or terms of imprisonment with or without benefit of parole for 30 years or more shall be eligible for parole consideration upon serving at least 20 years of the term or terms of imprisonment in actual custody and upon reaching the age of 45.

New law exempts those persons convicted of a crime of violence or a sex offense.

New law has prospective application only and applies only to offenders convicted on and after the effective date of new law.

Effective Aug. 1, 2014.

(Amends R.S. 15:574.4(A)(2))

#### **Registration of Homeless Sex Offenders (Act No. 339)**

New law provides that if a sex offender or child predator is homeless, or is without a fixed residence, he shall appear in person to renew and update his registration with the sheriff of the parish in which he is homeless, or is living without a fixed residence, every 14 days from

the date on which he initially appeared to register with the sheriff of that parish.

New law provides that if the offender regularly resides homeless, or without a fixed place of residence, in more than one parish, he shall register with the sheriff of each parish in which he regularly resides and shall renew and update his registration every 14 days with each sheriff of those parishes.

If an offender no longer plans to reside without a fixed residence in a particular parish, new law requires him to give notice, in person, to the sheriff of the parish in which he intends to no longer reside.

Effective Aug. 1, 2014.

(Adds R.S. 15:542.1.1(A)(4))

#### **Retroactive Leniency (Act No. 340)**

Existing law provides that certain more lenient penalty provisions shall also apply to those persons who committed, were convicted, or were sentenced for certain crimes prior to June 15, 2001.

New law provides that persons who are eligible for consideration for such ameliorative relief may apply to the committee on parole.

Effective Aug. 1, 2014.

(Adds R.S. 15:308(C) and 574.2(I))

#### **Stalking (Act No. 522)**

New law adds to the definition of "criminal offense against a victim who is a minor" persons convicted of the crime of stalking when the offense is a felony punishable by imprisonment at hard labor and when the victim is under the age of 18, but not if (1) the defendant is the parent of the victim, or (2) the defendant is less than four years older than the victim and is sentenced under the provision of existing law which provides criminal penalties for a first conviction of stalking when the victim is under the age of 18, and the offense does not involve reasonable fear of death or bodily injury to the victim or the victim's family.

New law applies to any person who is convicted or who is in the custody or under the supervision

of the Dept. of Public Safety and Corrections on or after the effective date of new law.

Effective Aug. 1, 2014.

(Amends R.S. 15:541)

### **Abortion Facilities (Act No. 565)**

New law adds outpatient abortion facilities to the list of establishments required to post information about the National Human Trafficking Resource Center hotline.

Effective Aug. 1, 2014.

(Adds R.S. 15:541.1(A)(4) and (C)(3))

### **Sex Offenders (Act No. 798)**

Existing law requires certain persons convicted of certain sex offenses or criminal offenses against a victim who is a minor to register as a sex offender and to provide notification to certain persons. New law provides for the procedure by which an offender's registration and notification period end date is determined.

Effective when Act No. 631 is enacted and becomes effective. (Aug. 1, 2014)

(Adds R.S. 15:544.2)

## **TITLE 16: DISTRICT ATTORNEYS**

There were no new laws of particular interest.

## **TITLE 17: EDUCATION**

### **Interstate Online Schools (Act No. 13)**

New law authorizes the Board of Regents to enter into state authorization reciprocity agreements that allow proprietary schools and accredited academic degree-granting institutions located in one state to offer online instruction in other states pursuant to the terms of the reciprocity agreement. New law provides that if the Board of Regents enters into such an agreement, such institutions or proprietary schools located in La. may apply to the Board of Regents for authorization to offer online instruction in other states pursuant to the terms of the reciprocity agreement. New law provides that institutions and proprietary schools in other states offering online instruction to La. residents

are exempt from present law licensure requirements, subject to the terms of such agreements.

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

(Amends R.S. 17:1808(J)(1) and (K) and 3141.15(G); Adds R.S. 17:1808(L) and 3141.15(H))

### **Montessori High Schools (Act No. 34)**

New law provides that a Montessori program may include students through age 18 and that the junior school encompasses the child's learning experience from kindergarten through high school.

(Amends R.S. 17:3402(D)(1))

### **Foreign Language Immersion Programs (Act No. 196)**

New law provides that, beginning with the 2014-2015 school year, a local public school board, if requested in a writing signed by the parents or legal guardians of at least 25 students enrolled in kindergarten or first grade who reside within the jurisdictional boundaries of the school district, shall establish a foreign language immersion program for such students if specified other criteria are met.

New law prohibits local school boards from denying enrollment in a foreign language immersion program to any student if certain conditions are met.

New law provides that, for a foreign language immersion program established prior to the 2012-2013 school year, the requirements of present law that require enrollment of 20 students for continuation of the program and that require enrollment of timely applicants shall apply. New law provides that the local school board shall ensure that such program is designated as a Certified Foreign Language Immersion Program by the State Board of Elementary and Secondary Education in accordance with present law (R.S. 17:273.2) by not later than July 1, 2017.

Effective July 1, 2014.

(Amends R.S. 17:273.3)

**School Buses (Act No. 257)**

New law prohibits school buses used to transport students, including activity and backup buses, from being more than 25 years old. New law requires that activity and backup school buses be 15 or fewer model years old. New law prohibits activity and backup buses that are older than 15 model years from being used more than 60 consecutive school days in a school year.

(Adds R.S. 17:158.2(D) and (E))

**School Choice Program (Act No. 272)**

Present law establishes a program, known as the School Choice Program for Certain Students with Exceptionalities, which provides for use of public funds to pay a portion of the tuition at nonpublic schools that specifically address the needs of such students.

Old law required that the student be in need of services for autism, a mental disability, emotional disturbance, developmental delay, other health impairment, specific learning disability, or traumatic brain injury, and excluded students who are deemed gifted or talented. New law repeals exclusion of gifted or talented students.

Old law requires that student have an Individual Education Plan or a services plan in accordance with Title 34 of the Code of Federal Regulations Part 300.37. New law adds a plan created by the nonpublic school that the student will attend that clearly identifies the services provided by the nonpublic school and how those services adequately address the student's needs as an alternative to the plans required by present law.

Old law terminated at the end of the 2014- 2015 school year. New law repeals this termination.

(Amends R.S. 17:4031; Repeals Section 2 of Act 424 of the 2012 R.S.)

**Gun Sales at Schools (Act No. 324)**

New law provides that if property at a public postsecondary education institution is leased to a nonprofit corporation or association for the purpose of holding a fundraising event, the lease may authorize and provide for the auction and sale of firearms at the event, subject to certain safety-related conditions.

Effective Aug. 1, 2014.

(Amends R.S. 14.95.2(C)(3); Adds R.S. 17:3361.1)

**Public School Eligibility (Act No. 411)**

New law provides eligibility criteria for admission or readmission to a public school and prohibits a school board from denying admission or readmission based on certain characteristics.

New law requires a public school board to grant admission or readmission to school to any person who: (1) resides within the geographic boundaries of the school system; (2) meets certain age requirements; (3) has not received a high school diploma or its equivalent; and (4) is otherwise eligible.

New law prohibits school boards from denying admission or readmission to a person because such person: (1) withdrew from school; (2) is pregnant; (3) is a parent; or (4) is married.

New law requires that the admission or readmission of a person who is 20 be limited to grade 12.

New law provides that the admission or readmission of any person who has been suspended or expelled from a La. public school is subject to all laws and policies applicable to such disciplinary actions, and that the admission or readmission of a person with an exceptionality is subject to federal and state law governing the age of eligibility for services for students with exceptionalities.

(Amends R.S. 17:221(B))

**Christmas Displays at School (Act No. 425)**

New law authorizes a school board to educate students about the history of traditional celebrations in winter and to allow students and district staff to offer traditional greetings regarding the celebrations, including Merry Christmas, Happy Hanukkah, Happy Holidays, and Happy Kwanzaa.

New law authorizes a school board to display on school property scenes or symbols associated with traditional celebrations in winter, including a menorah or a Christmas image such as a nativity scene or Christmas tree, if the display includes a scene or symbol of more than one

religion or one religion and at least one secular scene or symbol.

New law prohibits a display relating to a traditional celebration from including a message that encourages adherence to a particular religious belief.

Effective Aug. 1, 2014.

(Adds R.S. 17:2118)

#### **Charter Schools (Act No. 443)**

New law requires that a charter school recruit, employ, and train employees without regard to race, color, religion, sex, or national origin. New law provides that proficiency in a foreign language may constitute a bona fide occupational qualification for a teacher who spends more than half of his daily instruction time providing instruction in or teaching in a foreign language.

(Amends R.S. 17:3996(C))

#### **Agricultural Immersion Programs (Act No. 450)**

New law requires BESE to create a pilot program to provide for the establishment of agricultural education immersion programs

Effective upon signature of governor (June 4, 2014).

(Amends R.S. 17:185.4; Adds R.S. 17:185.5 and 185.6 and R.S. 36:651(G)(4))

#### **Systemic Initiatives Program (Act No. 452)**

Prior law provided for the Louisiana Systemic Initiatives Program (LaSIP) composed of activities designed to improve mathematics and science education, pursuant to an agreement with the National Science Foundation (NSF).

Prior law created the LaSIP Council to administer the program and authorized the council to employ staff to implement LaSIP programs and projects.

New law repeals prior law.

Effective upon signature of the governor (June 4, 2014).

(Repeals R.S. 17:2751-2759 and R.S. 36:651(D)(6))

#### **College Funding (Act No. 462)**

New law provides for the creation and implementation of an outcomes-based funding formula for postsecondary education, in great but vague detail.

New law requires that formula implementation shall begin as soon as practicable, but not later than the beginning of the 2016-2017 fiscal year.

Effective upon signature of the governor (June 4, 2014).

(Adds R.S. 17:3129.2)

#### **Private and Parochial Schools (Act No. 467)**

Prior law provided that schools participating in the Student Scholarships for Educational Excellence Program must submit to the state Department of Education an independent financial audit of the school. New law adds that schools must account for all scholarship funds separately from other funds.

Existing law authorizes the legislative auditor to perform audits on quasi public agencies or bodies. Prior law provided that a quasi public agency or body is defined as any not-for-profit organization that receives or expends any local or state assistance, but does not include, among other things, assistance to private or parochial schools. New law includes private or parochial schools participating in the Student Scholarships for Educational Excellence Program as organizations that receive and expend local or state assistance.

Effective August 1, 2014.

(Amends R.S. 17:4022 and R.S. 24:513)

#### **Arbitration of Athletic Eligibility (Act No. 476)**

New law provides that no public school or nonpublic school that receives any public funds may be a member of, or participate in any competition sponsored by, any intrastate interscholastic extracurricular athletic association or organization that does not provide for third-party arbitration of eligibility issues.

New law provides specific requirements to be met by the third party arbitration process, including:

(1) Arbitrators shall be approved by the American Arbitration Association.

(2) Except for the presentation of each party's case, the party losing the arbitration shall bear all additional costs of the arbitration proceeding.

Effective upon signature of the governor (June 4, 2014).

(Adds R.S. 17:176(F))

### **Course Choice Program (Act No. 482)**

Existing law provides for the Course Choice Program and requires the State Board of Elementary and Secondary Education (BESE) to create a process for authorizing course providers, including online or virtual providers, postsecondary education institutions, and corporations that offer vocational or technical courses.

New law re-defines "eligible funded student" to mean a student who resides in Louisiana, attends a public elementary or secondary school, and has obtained permission from the local school superintendent to enroll in a course offered by a course provider.

New law re-defines "eligible participating student" to mean a student who resides in Louisiana and: (1) is the recipient of a scholarship pursuant to the Student Scholarships for Educational Excellence Program; (2) attends a nonpublic school that is approved, provisionally approved, or probationally approved by BESE; or (3) is enrolled in a BESE-approved home study program.

New law additionally requires each public school to establish policies and procedures whereby an eligible funded student may be granted approval to enroll in a course offered by a course provider, including a determination of whether a requested course is academically appropriate for the student.

New law allows a course provider to charge tuition to any eligible participating student in an amount approved by DOE.

Prior law provided that no local public school system shall actively discourage, intimidate, or threaten an eligible funded student or an eligible participating student during the course

enrollment process or at any time for that local school system. New law deletes prior law.

Prior law required each public school student to enroll in at least one course at the school in which he is enrolled full time. New law deletes prior law.

Effective upon signature of governor (June 5, 2014).

(Amends R.S. 17:4002.3, 4002.4, 4002.5, and 4002.6)

### **School Evaluation (Act No. 483)**

New law provides that International Baccalaureate, Advanced Placement, and dual enrollment courses, and any related examinations as approved by BESE, shall be given equal status and recognition by the board for purposes of determining school performance scores and letter grades.

Effective upon signature of the governor (June 5, 2014).

(Amends R.S. 17:2928(B))

### **Dating Violence (Act No. 506)**

New law requires each public school enrolling students in grades seven through 12 to provide certain instructions to certain employees and certain information to parents regarding dating violence, to include in student codes of conduct certain information regarding dating violence, and to collect certain information relative to dating violence.

New law requires each local superintendent, in the spring of each school year, to make a verbal report at a meeting of the school governing authority regarding dating violence.

New law is applicable to all public schools enrolling students in grades seven through 12, including charter schools.

(Adds R.S. 17:81(T)(3) and (4))

### **High School CPR and AED Instruction (Act No. 517)**

New law requires, in considerable detail, public high schools to provide instruction relative to cardiopulmonary resuscitation (CPR) and the

use of an automated external defibrillator (AED).

New law is applicable to all public schools enrolling students in grades nine through 12, including charter schools.

(Adds R.S. 17:81(X) and 3996(B)(34))

#### **Sexual Abuse and Assault Education (Act No. 525)**

New law requires each public elementary and secondary school, including charter schools, to provide age and grade appropriate classroom instruction relative to sexual abuse and assault awareness and prevention.

(Adds R.S. 17:81(X) and 3996(B)(34))

#### **Drop-Out Recovery Programs (Act No. 530)**

New law provides that each school district and charter school that provides instruction to high school students may offer a dropout recovery program for eligible students.

(Amends R.S. 17:221.4(A); Adds R.S. 17:221.6)

#### **Curriculum Development (Act No. 532)**

New law authorizes public school governing authorities to develop and implement curriculum, content, and methodology for required subjects for the schools under their jurisdiction in lieu of the curriculum, content, and methodology recommended by the state Dept. of Education or BESE.

(Amends R.S. 17:24.4(E))

#### **Facilities Preservation (Act No. 543)**

New law establishes a school facilities preservation program in school districts in which failing schools were transferred to the Recovery School District (RSD).

New law prohibits the school board and the RSD from charging rent or any other fee to charter schools for the occupancy, use, or repair of a campus it controls other than as provided for in new law.

Effective July 1, 2014.

(Adds R.S. 17:100.11)

#### **Deferred Compensation Plans (Act No. 547)**

New law requires school boards and governing authorities of charter schools to offer their employees the opportunity to participate in the deferred compensation plan for public employees established by present law. New law does not prohibit such employers from offering opportunities to participate in other deferred compensation plans.

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

(Adds R.S. 17:81(X) and 3996(B)(34))

#### **Teachers (Act No. 570)**

New law provides relative to teacher tenure and the discipline of teachers, in great detail.

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

(Amends R.S. 17:441, 442, 443, and 444)

#### **Career Major Programs (Act. No. 643)**

Prior law relative to the high school career option program provided for an academic major (college prep. courses) and a career major (academic courses and modern vocational studies). New law deletes the reference to an academic major.

New law provides that a career diploma shall be recognized by all La. public postsecondary education institutions. New law provides a career diploma shall be given the same status and recognition for purposes of calculations of the school and district accountability system as is given a regular, standard diploma. New law prohibits a school or school system from being penalized in any manner for students who are issued a career diploma.

Prior law required public school systems to develop and offer at least one career major program, subject to BESE approval, and provide that any such system may be granted a waiver by BESE for good cause. New law instead requires such program to be developed and offered by school boards pursuant to BESE policy and deletes the waiver allowance.



New law provides for various changes to and retention of the career major course requirements.

(Amends R.S. 17:183.1, 183.2, 183.3, and 2925)

#### **Early Childhood Program (Act No. 644)**

New law revises the Cecil J. Picard LA 4 Early Childhood Program, including:

New law no longer assures funding to charter schools and puts BESE in charge rather than DOE.

New law changes the eligibility criteria for children to participate in a program.

New law changes the cost to be charged for participation in a program.

New law changes various specifications regarding the manner in which a program must be conducted.

(Adds R.S. 17:407.26; Repeals R.S. 17:24.10)

#### **School Buses (Act No. 654)**

New law requires each public school, including charter schools, to adopt policies and procedures or to make provision in its bus transportation service agreement to:

(1) Prohibit a bus driver from loading or unloading students at school while the bus is in a traffic lane and require that students be loaded or unloaded on a shoulder, in a school parking lot, or at other appropriate off-road location at the school, unless the shoulder of a municipal road is the only available alternative.

(2) Prohibit a bus driver from loading or unloading students at or near their homes while the bus is in a traffic lane and require that students be loaded or unloaded on a shoulder, unless there is no shoulder and the bus is in the lane farthest to the right.

(3) Prohibit a bus driver from loading or unloading students either at school or at or near their homes in a manner or in a location that results in students crossing lanes of traffic.

(Adds R.S. 17:158(J) and 3996(B)(34))

#### **Student Information (Act No. 677)**

New law requires the state Dept. of Education and each local education agency that has a website to post certain information regarding agreements providing for the transfer of personally identifiable student information.

New law requires that such information be made available on the respective website no later than 10 business days following the execution of an agreement providing for a transfer of personally identifiable student information and remain available for the duration of the agreement.

New law requires that the websites contain information on a process by which parents of students attending public schools may register a complaint related to the unauthorized transfer of personally identifiable student information.

(Adds R.S. 17:3913)

#### **Parents' Bill of Rights for Public Schools (Act No. 699)**

New law provides that the parents of public school children shall have various rights, including the right:

(1) to inspect their child's school records, including academic records, medical or health records, records of any mental health counseling, or records of any vocational counseling.

(2) to be notified when medical services are being offered to their child.

(3) To be notified if a criminal action is deemed to have been committed against their child or by their child.

(4) To be notified if enforcement personnel question their child, except in cases where the parent has been accused of abusing or neglecting the child.

(5) To receive written notice and the option to opt their child out of any surveys that include questions about the student's sexual experiences or attractions, family beliefs, morality, religion, or political affiliations, and mental health or psychological problems of the student or a family member.

(6) To receive written notice and have the option to opt their child out of instruction on topics associated with sexual activity.

New law provides a public school shall not be required to release any records or information regarding a student's medical or health records or mental health counseling records to a parent during the pendency of an investigation of child abuse or neglect conducted by any law enforcement agency or the Department of Children and Family Services where the parent is the target of the investigation, unless the parent has obtained a court order.

Effective August 1, 2014.

(Adds R.S. 17:406.9)

### **Early Learning Enrollment Coordinators (Act No. 717)**

New law establishes La. early learning enrollment coordination procedures. New law requires the State Board of Elementary and Secondary Education (BESE) to approve a process to authorize entities as local early learning enrollment coordinators to begin performing required services in school systems in the 2015-2016 school year.

New law requires that a coordinator must be a state agency, a public school system, or a nonprofit or for-profit corporation having an educational or social services mission.

New law authorizes BESE to establish start-up or incubation grants to encourage sufficient supply of high-quality local early learning enrollment coordinators.

New law requires local early learning enrollment coordinators to annually submit to DOE an independent financial audit of those records necessary to ensure that the coordinator has used funds to perform required services. New law provides that the cost of the audit shall be paid by the DOE.

Effective upon signature of governor (June 18, 2014).

(Adds R.S. 17:407.41-407.46)

### **Common Application to College (Act No. 732)**

New law provides for a La. common application for public colleges and universities.

New law provides that if a student uses the "Common Application" developed and administered by the not-for-profit membership organization, The Common Application, Inc., a public college and university may accept such application in lieu of the La. common application.

New law provides that the La. common application shall be fully implemented and available to students applying for admission for the 2016-2017 academic year.

New law shall not apply to graduate or professional schools or degree programs.

Effective upon signature of governor (June 19, 2014).

(Adds R.S. 17:3138)

### **TOPS Scholarships (Act No. 733)**

New law adds honors courses and articulated courses for college credit among those for which TOPS GPA calculation shall use a five-point scale.

Effective upon signature of governor (June 19, 2014).

(Amends R.S. 17:3048.1)

### **TOPS Scholarships (Act No. 737)**

New law provides that the TOPS fine arts survey may include one unit of drafting as a substitute unit.

New law expands the use of the TOPS-Tech Early Start Award. New law provides for payment of TOPS-Tech Early Start Awards to students enrolled in an eligible program of study or a training program provider. New law reduces the requirements to be eligible for an initial TOPS-Tech Early Start Award.

New law includes students in a nonpublic postsecondary education institution or a training program in the requirements to maintain TOPS eligibility.

New law removes requirement that a student take chemistry or applied chemistry to receive a

TOPS-TECH Award and instead includes these courses in the list of science courses from which students must choose two units to satisfy science requirements.

Effective upon signature of the governor (June 19, 2014).

(Amends R.S. 17:3048.1 and 3048.5)

#### **BESE Planning (Act No. 752)**

New law requires BESE to formulate and make timely revisions of a master plan for elementary and secondary education.

Effective August 1, 2014.

(Adds R.S. 17:6(C))

#### **Technology for Public Schools (Act No. 772)**

New law requires the state Dept. of Education to develop and implement a statewide educational technology plan for public elementary and secondary schools to ensure that every classroom has sufficient infrastructure and capacity to provide a high quality, digital instructional environment.

Effective August 1, 2014.

(Adds R.S. 17:3921.2)

#### **GO Grants and TOPS (Act No. 778)**

New law provides that any public or private entity, including any nonprofit organization, may make a directed donation to any eligible postsecondary institution for a student who is a recipient of a Louisiana GO Grant or a Louisiana TOPS award.

New law provides relative to the Go Grants Program and the TOPS Program that private businesses, industry, foundations, charities, individuals and other groups may request the division of administration to create privately funded scholarship programs to make payments to eligible colleges and universities on behalf of eligible students.

New law provides that the new private scholarship program shall in no way be interpreted in such a manner that a student would receive less benefits from the private scholarship than he would have from the Go

Grant or TOPS Program had there been no private scholarship program.

New law provides relative to the scholarship programs for Go Grants and TOPS awards, when an eligible college or university receives private scholarship funds on behalf of a student, state funds shall be reduced by the amount of the private scholarship funds so received.

Effective July 1, 2014.

(Amends R.S. 17:3046; adds R.S. 17: 3046.3 and 3048.1(M) and (Y))

#### **SSEE Scholarships (Act No. 779)**

New law provides that any public or private entity, including any nonprofit organization, may make a directed donation to any participating school for a student who is a recipient of a Student Scholarships for Educational Excellence scholarship.

New law adds that private businesses, industry, foundations, charities, and other groups may request the division of administration to create privately funded scholarship programs to make payments to eligible colleges and universities to participating schools on behalf of eligible students.

New law provides that the new private scholarship program shall in no way be interpreted in such a manner that a student would receive less benefits from the private scholarship than he would have from the SSEE scholarship had there been no private scholarship program.

New law provides relative to the SSEE scholarship, when an eligible college or university receives private scholarship funds on behalf of a student, the annual appropriation of state funds shall be reduced by the amount of the private scholarship funds so received.

Effective July 1, 2014.

(Amends R.S. 17:4016 and 4017; adds R.S. 17:4019)

#### **Early Childhood Program (Act No. 780)**

New law authorizes any public or private entity, including a nonprofit organization, to make a directed donation to a participating school

district for a student who is enrolled in LA 4 Early Childhood Program classes.

New law authorizes private businesses, industry, foundations, charities, and other groups to make a request to the division of administration that they may create privately funded scholarship programs to make payments to participating school districts on behalf of qualified students.

New law provides that if the division approves such a program, funds received by a school district from the program shall cause an equivalent reduction in the amount allocated to the district.

New law prohibits the interpretation of new law in a manner that would cause a school district to receive less benefits than it would have received or that would cause the loss of any funding for early childhood programs or services.

New law provides that if a district receives scholarship funds, the annual appropriation of state funds for the LA 4 Program shall be reduced by the amount of such funds.

Effective July 1, 2014.

(Adds R.S. 17:407.26)

### **Students with Exceptionalities (Act No. 833)**

New law provides that students with exceptionalities be afforded the same opportunities to pursue a high school diploma and to exit with all course credits, honors, and financial awards as other students.

New law specifies that such students are not guaranteed a diploma and have to meet either the standard requirements or those established by his IEP team to be awarded a diploma.

New law provides for applicability of high school career option program to students with exceptionalities, except gifted and talented students.

New law provides for determinations relative to promotion and graduation requirements to be made by the student's IEP team. New law provides for involvement by the IEP team in the development and review of an Individual Graduation Plan.

(Amends R.S. 17:24.4, 183.2, 183.3, and 2925)

### **Student Information (Act No. 837)**

New law provides relative to the collection and sharing of personally identifiable student information, including:

New law prohibits the collection of certain student information by local public school systems and charter schools unless the information is voluntarily disclosed by the parent or legal guardian.

New law, beginning June 1, 2015, generally prohibits local school system and charter school officials and employees from sharing personally identifiable student information with local school board members and any other person or public or private entity.

New law prohibits access to public school computer systems where student information is stored, with certain exceptions.

New law allows only certain persons to access a computer system of a city, parish, or other local public school system on which student information for students from throughout the system is stored.

New law requires any person given access to a public school computer system to maintain the confidentiality of the student information accessed.

New law prohibits any person who has access to student information reported to DOE from converting student information in manner that can be used to identify a student.

New law prohibits BESE and DOE from requiring a city, parish, or other local public school system to limit a student's learning opportunity or opportunities to explore any occupation based upon predictive modeling.

New law permits local public school boards and charter schools to contract with a private entity for student and other education services and prohibits a contractor from allowing access to, releasing, or allowing the release of such student information except as specified in the contract.

New law requires a contractor to return student information that has been removed from the contractor's servers to the local school board, upon termination of the contract.

New law is applicable to each charter school, its governing authority, and any education management organization under contract to operate a charter school.

New law provides that a school, school system, local or state governmental agency, public or private entity, or any person with access to student information shall not sell, transfer, share, or process any student data for use in commercial advertising, or marketing, or any other commercial purpose.

New law requires the governing authority of each public school, with the permission of a student's parent or legal guardian, to collect specified personally identifiable information for each high school student which may be disclosed only to a Louisiana postsecondary educational institution and the Office of Student Financial Assistance, to be used solely for the purpose of processing applications for college admission and for state and federal financial aid and related financial aid program reporting. New law requires the governing authority of each public school to destroy all data collected for this purpose not later than three years after the student graduates from high school.

(Adds R.S. 17:3913 and 3996(B)(34))

#### **Public School Choice (Act No. 853)**

New law provides that, beginning with the 2014-2015 school year, the parent or other legal guardian of any student may enroll their child in the public school of their choice, without regard to residence, school system geographic boundaries, or attendance zones, if:

(a) the public school in which the student was most recently enrolled, or would otherwise attend, received a school performance letter grade of "D" or "F" for the most recent school year, and

(b) the school in which the student seeks to enroll received a school performance letter grade of "A", "B", or "C" for the most recent school year, and has sufficient capacity at the appropriate grade level.

Effective upon signature of the governor (June 23, 2014).

(Adds R.S. 17:4035 and 4035.1)

## **TITLE 18: LOUISIANA ELECTION CODE**

### **Election Code (Act No. 60)**

New law makes numerous minor changes to the La. Election Code, including:

Present law requires the list of poll watchers to be filed before 5:00 p.m. on the 10th day before the primary or general election. New law instead requires the list to be filed before 4:30 p.m.

Present law provides deadlines for a candidate to submit a nominating petition. New law provides that if the deadline falls on a Saturday, Sunday, or legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the deadline.

Present law provides relative to bond, debt, and tax elections and other elections where a proposition or question is put to the voters. New law provides that the proposition shall not include words that are struck through, underscored, or in boldface type.

Present law authorizes the secretary of state to purchase voting machines and absentee by mail and early voting counting equipment. New law provides instead that the secretary of state may "procure" such equipment by a competitive request for proposals process or public bid.

Present law provides that title to all voting machines vests in the state. New law specifies that title to only those voting machines purchased by the secretary of state vests in the state.

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

(Amends R.S. 18:58, 104, 154, 425, 433, 435, 465, 531.1, 566.2, 571, 573, 1284, 1299.1, 1300.3, 1300.7, 1300.32, 1302(2), 1308, 1309, 1353, 1361, and 1362; Repeals R.S. 18:174 and 411-417)

### **Qualifying in Primary Elections (Act No. 42)**

New law removes the provision requiring qualifying in a primary election to be reopened if no candidate qualifies or if the number of candidates who have qualified for an office is

fewer than the number of positions to be filled in that office.

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

(Amends R.S. 18:469)

#### **Qualifying Fee Refunds (Act No. 63)**

Present law provides for a refund of qualifying fees under certain circumstances when a person files multiple notices of candidacy. New law repeals present law.

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

(Amends R.S. 18:461(B))

#### **Independent Party (Act No. 152 and 594)**

Old law provided that no political party shall be recognized which declares its name solely to be "Independent" or "the Independent Party". New law repeals old law.

Effective January 1, 2015.

(Repeals R.S. 18:441(B)(4))

#### **Political Committee Contributions (Act No. 244)**

New law requires that a political committee, which is not the principal campaign committee or designated subsidiary committee of a candidate, that makes a contribution to a candidate, or to the principal campaign committee or designated subsidiary committee of a candidate, clearly indicate to the candidate or the principal campaign committee or designated subsidiary committee of the candidate that the contribution is from a political committee, either by a designation on the check or by a separate notification attached to the contribution.

(Adds R.S. 18:1491.4(D)(3))

#### **Use of Campaign Contributions (Act No. 613)**

New law prohibits a candidate, political committee, or other person required to file reports pursuant to the Campaign Finance Disclosure Act (CFDA) from using a contribution, loan, or transfer of funds received by such candidate or committee or person to

purchase immovable property or a motor vehicle.

Effective Aug. 1, 2014.

(Adds R.S. 18:1505.2(I)(6))

#### **Recounts for Propositions (Act No. 615)**

Existing law provides that if the number of absentee by mail and early voting ballots cast for all candidates for an office could make a difference in the outcome of the election for such office, the parish board of election supervisors shall recount the absentee by mail ballots if a candidate makes a written request for a recount.

New law applies existing law to proposition elections in addition to candidate elections. New law requires a request by a person who voted in the proposition election. New law provides that if the recount changes the outcome of the election, the costs paid by the candidate or voter in the proposition election shall be refunded by the clerk of court and that the costs of the recount shall be a reimbursable election expense as provided in existing law.

Effective Aug. 1, 2014.

(Amends R.S. 18:1313(J)(2))

#### **Campaign Finance Disclosure (Act No. 657)**

New law authorizes the Supervisory Committee on Campaign Finance Disclosure or its staff to request clarification or additional information from a candidate, political committee, or other person required to file reports, regarding any information disclosed on a report or required to be disclosed on a report.

Effective Aug. 1, 2014.

(Adds R.S. 18:1511.2(C))

#### **Precinct Changes (Act No. 675)**

Existing law provides that a precinct shall not be changed, and no precinct shall be established or altered in any way, and no annexation shall be implemented during a specified time period that ends on the date of the general election. New law provides that the time period commences on the fifth business day prior to the date the qualifying period opens rather than on such date.

Prior law provided that for an election which was exclusively for bonds, taxes, and other propositions or questions and for no other kind of election, a precinct could not be changed within the 46 days immediately preceding the election. New law repeals prior law.

Existing law provides that no precinct change or annexation shall become effective for an election unless certain specified information is received by the secretary of state prior to a specified deadline. New law provides that the information must be received by the secretary of state prior to the fifth business day prior to the date the qualifying period opens rather than prior to such date.

Existing law specifies the information that must be submitted concerning a precinct change or annexation.

Prior law required a statement of no objection to the change from the U.S. attorney general to also be submitted. New law instead requires the submission of notice of preclearance if required pursuant to the Voting Rights Act of 1965.

Prior law provided that in the case of an election exclusively for bonds, taxes, and other propositions or questions, no precinct change or annexation that was made prior to the 46th day before the election could become effective for the election unless certain specified information was received by the secretary of state prior to the 46th day before the election. New law repeals prior law.

Effective Aug. 1, 2014.

(Amends R.S. 18:532.1(E))

#### **Recalls (Act No. 5278)**

New law provides that a public officer who has been recalled and removed from office shall be ineligible as a candidate at an election called to fill the vacancy created by the recall of such public officer.

Effective August 1, 2014.

(Amends R.S. 18:1300.13)

#### **Campaign Finance Disclosure (Act No. 786)**

Existing law requires each candidate, political committee, and person required to file reports to

file a report within 10 days after an election disclosing the total amount of expenditures made on election day, by category. New law adds automated calls using a prerecorded or artificial voice as a category of expenditures on such reports.

New law exempts all political committees, candidates, and other persons required to file reports that have no election day expenditures from the requirement to file the election day expenditure report.

Effective Jan. 1, 2015.

(Amends R.S. 18:1532)

#### **Campaign Finance Disclosure; Elections During Mardi Gras (Act No. 792)**

New law provides that for a committee that is supporting, opposing, or otherwise influencing the nomination or election of a person to public office that has made an expenditure in the form of a direct contribution to a candidate who was an elected official at the time of the contribution and who determines after the contribution was made to seek an office other than the office the candidate held at the time the contribution was made, no penalty for knowingly failing to timely file shall be assessed provided the contribution was disclosed on a report filed by the political committee prior to the election in which the candidate participates. New law retains and makes applicable existing law specifying that it shall not apply to a candidate's principal campaign committee or any designated subsidiary committee of a candidate.

Prior law provided that the presidential preference primary was held on the third Saturday after the first Tuesday in March. New law changes the date of the presidential preference primary and elections held at the same time to the first Saturday in March.

Prior law provided that the date of the corresponding general elections was the fourth Saturday after the third Saturday after the first Tuesday in March. New law changes the date for corresponding general elections to the fourth Saturday after the first Saturday in March.

Effective Aug. 1, 2014.

(Amends R.S. 18:402, 1280.21, and 1505.4)

### **Campaign Finance Disclosure (Act No. 838)**

Existing law requires that the amount, purpose, and date of each expenditure be reported.

New law requires that a description of the purpose as it relates to the expenditure be reported.

Effective Jan. 1, 2015.

(Amends R.S. 18:1491.7 and 1495.5)

## **TITLE 19: EXPROPRIATION**

### **Expropriation (Act No. 632)**

New law prohibits the expropriation of mortgages. New law does not apply to an expropriating authority which seeks to expropriate needed property that is subject to a mortgage.

Existing law prohibits the expropriation of a graveyard or cemetery by the state, certain legal entities, and municipal corporations unless the court finds that the route of expropriation cannot be diverted from that proposed by the plaintiff without great public loss or inconvenience.

New law prohibits application of existing law to a graveyard or cemetery in which no interred remains are located at the time the plaintiff makes its first offer to acquire the rights sought to be acquired.

Effective Aug. 1, 2014.

(Amends R.S. 19:3 and 104)

### **Expropriation (Act No. 625)**

New law specifies that the failure to file a motion to dismiss on the ground that the property was not expropriated for a public use within 20 days of service constitutes a waiver of all defenses.

New law provides that if a motion to dismiss an expropriation proceeding on the ground that the property was not expropriated for a public use is timely filed, the court shall set the hearing within 30 days and render a decision within five days. New law provides that a judgment rendered determining the validity of the taking

shall be designated as a final judgment for the purpose of an immediate appeal.

New law provides that if the defendant desires a trial by jury on the amount of compensation due, he shall file his demand for a jury trial within 30 days from the date he is served with the notice required by R.S. 19:146, and failure to do so constitutes a waiver of the right to a jury trial.

New law provides that a suspensive appeal shall not be available in an expropriation proceeding, that the judgment determining the validity or the extent of the taking shall be subject to a devolutive appeal, that the delays for taking such an appeal shall commence upon the signing of that judgment, and that the appellate court shall consider an appeal of a judgment rendered pursuant to R.S. 19:147 on an expedited basis.

New law shall have prospective application only and shall apply only to actions or claims filed on and after its effective date.

(Amends R.S. 19:147, 150, 151, and 159)

## **TITLE 20: HOMESTEADS AND EXEMPTIONS**

There were no new laws of particular interest.

## **TITLE 21: HOTELS AND LODGING HOUSES**

There were no new laws of particular interest.

## **TITLE 22: INSURANCE**

### **Health Care Sharing Ministries (Act No. 20)**

New law exempts health care sharing ministries from all provisions of the Louisiana Insurance Code, unless these ministries are expressly addressed in the Code or if provisions of new law are specifically made applicable to these ministries.

New law defines a "health care sharing ministry" as a faith based, nonprofit, tax-exempt organization that does each of the following:

(1) Limits participants to those who are of a similar faith and acts as a facilitator between



participants who have financial or medical needs and participants who have the ability to provide financial or medical assistance.

(2) Provides amounts that participants may contribute without assumption of risk or the promise to pay by the participants or the ministry.

(3) Provides written monthly statements to all participants listing the total dollar amount of qualified financial or medical needs submitted to the ministry as well as the dollar amount actually published or assigned to the participants for their contribution.

(4) Provides for a specified written disclaimer to be used on or with all applications and guideline materials published by or on behalf of the ministry.

Effective August 1, 2014.

(Adds R.S. 22:318 and 319)

#### **Auto Insurance and Excluded Operators (Act No. 21)**

Existing law provides that an insurer and insured may agree to exclude named persons from coverage of a policy of motor vehicle liability insurance.

New law provides that, when the named insured provides express permission to the excluded driver to operate the vehicle, the named insured and the operator who has been excluded from coverage shall be solidarily liable for the damages caused by the operator's negligent or intentional acts that occur as a result of his operation of the vehicle.

New law limits the liability that can be attributed to the named insured to the minimum required automobile insurance as provided by R.S. 32:900, unless the named insured is the parent or tutor of the excluded driver, is vicariously liable for the acts or omissions of the excluded driver, or is responsible for the acts or omissions of the excluded driver.

New law provides that the insurer shall not be liable for bodily injury, loss, or damage under any coverage of the policy if the operator was properly excluded, and that the insurer is not

obligated to provide a defense or to pay the costs of defense.

Effective August 1, 2014.

(Adds R.S. 22:1295.1)

#### **Life Insurance Policies (Act No. 47)**

Present law lists standard provisions to be contained in individual life insurance policies. New law adds a provision requiring that the insurer notify the policyholder of his option to convert his policy from term life insurance to permanent life insurance at least 31 days prior to the expiration of the conversion option, if such an option is applicable.

New law provides that an insurer's practice of mailing the required notice to the policyholder at the policyholder's address shall be sufficient to prove that the required notice was provided. New law does not apply to a policyholder covered under a child term rider.

Present law provides that an individual no longer eligible for coverage under a group term life policy because he is no longer eligible may convert to any individual life insurance policy issued by the insurer except a term life policy. New law provides that the individual may convert to an individual term life policy.

(Amends R.S. 22:942(10)(a); Adds R.S. 22:931(A)(12))

#### **Licensing and Past Convictions (Act No. 70)**

New law adds that the commissioner of insurance may deny, refuse to renew, or revoke the license of an insurance producer who receives a deferred sentence under Code of Criminal Procedure Article 893 and then subsequently has the conviction set aside and the prosecution dismissed.

(Amends R.S. 22:1554(A)(7))

#### **Vehicle Mechanical Breakdown Insurers (Act No. 80)**

New law requires vehicle mechanical breakdown insurers licensed in La. to notify the commissioner of insurance of any changes in their corporate structure, including but not limited to:

(1) Changes in officers or directors.

- (2) Changes in ownership.
- (3) Change in articles of incorporation.
- (4) A merger.
- (5) An addition or change of a trade name or "d/b/a".
- (6) Cessation of business in the state.

New law provides that the commissioner may levy a fine rather than suspend or revoke a license.

New law grants a 90-day grace period for reinstatement of a vehicle mechanical breakdown insurer's license when the insurer fails to timely pay the annual renewal fee or file the annual audited financial statement.

(Amends R.S. 22:369(A)(intro. para.); Adds R.S. 22:362(C), and 369.1)

#### **Property Residual Value Insurers (Act No. 82)**

New law requires property residual value insurers licensed in La. to notify the commissioner of insurance of any changes in their corporate structure, including but not limited to:

- (1) Changes in officers or directors.
- (2) Changes in ownership.
- (3) Change in articles of incorporation.
- (4) A merger.
- (5) An addition or change of a trade name or "d/b/a".
- (6) Cessation of business in La.

New law provides that the commissioner may levy a fine in lieu of suspending or revoking a license.

New law grants a 90-day grace period for reinstatement of a property residual value insurer's license when the insurer fails to timely pay the annual renewal fee or file the annual audited financial statement.

(Amends R.S. 22:382 and 389; Adds R.S. 22:389.1)

#### **Fire Insurance Policies (Act No. 91)**

Existing law, relative to fire insurance policies and valued policy clauses, provides that if an insurer places a valuation on covered property and uses that valuation to determine the premium charge, then the insurer shall compensate any covered loss at that valuation. Such provisions shall not apply to a loss covered by a blanket-form policy of insurance nor to a loss covered by a builders risk policy of insurance.

New law provides that, as used in such law, the term "fire insurance policy" shall mean any property insurance policy, with the exception of builders risk policies of insurance, that provides coverage for the peril of fire, regardless of any other coverage provided by the policy.

Effective Aug. 1, 2014.

(Amends R.S. 22:1318(D))

#### **Take-Out Companies (Act No. 114)**

Prior law permits each insurer admitted to write homeowners' insurance, or insurance insuring one- or two-family owner occupied premises for fire and allied lines, or insurance which covers commercial structures in the state, to apply to the La. Citizens Property Insurance Corporation to become a take-out company. Prior law provided that insurers will be approved to participate in the depopulation of the corporation based on certain criteria, including that the rates that are charged by the company submitting a take-out plan must comply with prior law in the first year that the company charges premiums to the customer, and that during the "second and subsequent" years of coverage, the take-out company shall apply to the department for rates that are actuarially justified.

New law changes "second and subsequent" to "second and third" years of coverage.

Effective August 1, 2014.

(Amends R.S. 22:2314(C)(3))

#### **Fraudulent Insurance Acts (Act No. 116)**

Present law defines "fraudulent insurance acts" to include various acts or omissions committed by a person with intent to defraud an insurance

company. New law adds the following acts to those constituting insurance fraud:

(1) Impersonating an insurance company, or a representative of an insurance company, without the authorization or consent of the insurance company for the purpose of executing a scheme or artifice to defraud a person.

(2) Impersonating another person or entity, whether real or fictitious, and purporting to have the authority to direct healthcare treatment for the purpose of executing a scheme or artifice to defraud a person.

(3) Receiving money or any other thing of value from any person, firm, or entity as a means of compensation for the acts of solicitation or criminal conspiracy done for the purpose of executing a scheme or artifice to defraud a person.

Effective August 1, 2014.

(Adds R.S. 22:1923(2)(k), (l), and (m))

### **Travel Insurance (Act No. 117)**

Prior law provided for the definition of limited lines insurance and limited lines producer.

New law deletes prior law and defines travel insurance as coverage for personal risks incident to planned travel, including: (1) interruption or cancellation of a trip or event; (2) loss of baggage or personal effects; (3) damages to accommodations or rental vehicles; and (4) sickness, accident, disability, or death occurring during travel.

New law defines a limited lines travel insurance producer as a: (1) licensed managing general underwriter; (2) licensed managing general agent or third party administrator; or (3) licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity.

New law allows the commissioner to issue to an individual or business entity, who has submitted an application, a limited lines travel insurance producer license which authorizes the producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

New law provides that the producer shall establish and maintain a register of each travel

retailer that offers travel insurance on the producer's behalf.

New law requires the producer or retailer to provide specified written material to the purchasers of travel insurance.

New law requires a producer to designate one of its employees, who is a licensed individual producer, as the designated responsible producer for the limited lines travel insurance producer's compliance with La. travel insurance laws, rules, and regulations.

New law requires anyone who directs or controls the producer's operations to comply with the fingerprinting requirements applicable to the producer's resident state.

New law requires the producer to provide a program of instruction or training to each employee and authorized representative of the retailer. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers. New law exempts any producer and those registered under its license from pre-licensing and continuing education requirements in present law.

New law prohibits a travel retailer's employee or authorized representative who is not licensed as a producer from evaluating or interpreting technical terms, benefits, and conditions of the offered travel insurance coverage, providing advice concerning a prospective purchaser's existing insurance coverage, or holding himself or itself out as a licensed insurer, producer, or insurance expert.

New law permits a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a producer to receive related compensation for such services upon the registration by the producer.

New law repeals the transportation ticket policy definition.

Effective August 1, 2014.

(Amends R.S. 22:1542, 1547, and 1551; adds R.S. 22:1782.1 - 1782.3; repeals R.S. 22:992)

#### **Insurance Time Periods (Act No. 118)**

Prior law permitted an insurance producer who allows his license to lapse to reinstate the same license within five years from the expiration upon proof of fulfilling all continuing education requirements through the date of reinstatement and upon payment of all fees due. New law changes the five-year time frame to two years.

Prior law required every licensee to notify the commissioner of any alteration in his residential, mailing, or business address within 10 days of the alteration. New law changes the 10-day time frame to 30 days.

Effective August 1, 2014.

(Amends R.S. 22:1547(D) and (G))

#### **Small Insurers and Anti-Fraud Plans (Act No. 121)**

Prior law required each authorized insurer and each health maintenance organization licensed to operate in this state to prepare, implement, and maintain an insurance anti-fraud plan for operations in the state.

New law exempts a small company from the requirement to have an anti-fraud plan.

Effective August 1, 2014.

(Amends R.S. 22:572.1)

#### **Qualified Health Plan Issuers (Act No. 174)**

New law provides notice requirements and procedures for qualified health plan issuers on the health insurance exchange for enrollees in a grace period.

New law requires that when a physician, other healthcare provider, or his representative requests information from a qualified health plan issuer regarding the eligibility of an enrollee, his coverage, plan benefits, status of a claim, or reports a claim in a remittance advice, and the request is made in the second or third month of a grace period, the qualified health plan issuer shall provide the information and identify that the enrollee is in a grace period.

New law provides that the information regarding the enrollee's grace period status is binding on the qualified health plan.

New law further requires that the information be provided through the same medium the information was sought or be provided on the qualified health plan issuer's website or by the method the provider who requested the information normally receives claims remittance advice information.

New law provides that if a qualified health plan issuer informs a physician or healthcare provider that an enrollee is eligible for services but does not inform the provider that the enrollee is in a grace period, then the qualified health plan issuer is responsible for paying the claims and will be unable to recoup payment from the physician or other healthcare provider.

New law requires the qualified health plan issuer to clearly outline on the qualified health plan website whether it will pay any claims during the grace period as well as a statement which indicates whether and how it will seek recoupment of payment for the payment of such claims.

New law provides that failure to comply with the requirements of new law will result in the mandate of the qualified health issuer to pay for any and all covered claims for services furnished by the physician or healthcare provider to an enrollee during a grace period in accordance with the terms of the qualified health plan.

New law provides that a qualified health plan issuer has up to 60 days after the expiration of the grace period to seek recoupment of services provided during the grace period.

New law prohibits the waiver of any provisions of new law by contract.

Effective Aug. 1, 2014.

(Adds R.S. 22:1260.31-1260.38)

#### **HMOs (Act No. 220)**

New law provides an expanded definition of health organizations (formerly health maintenance organizations) subject to regulation.

New law redefines "authorized-control level risk-based capital" to mean the number determined under the risk-based capital formula in accordance with the risk based capital instructions, rather than 1.25 times such number.

Present law provides that "mandatory-control level risk-based capital" is the product of 0.95 and the number determined under the risk-based capital formula in accordance with the risk-based capital instructions. New law instead requires the use of 0.70 in the formula to determine mandatory-control risk-based capital.

New law provides that a "company-action level event" means when a health organization has total adjusted capital which is greater than or equal to its company-action level risk-based capital, but less than the product of its authorized-control level risk-based capital and three, and triggers the trend test determined in accordance with the trend test calculation included in the health risk based capital instructions.

New law provides that the risk-based capital requirements are for health organizations that bear risk.

(Amends R.S. 22:631 and 634)

#### **La. Life & Health Insurance Guaranty Association (Act No. 374)**

New law provides relative to coverage by the Louisiana Life and Health Insurance Guaranty Association (LLHIGA), as follows:

New law adds structured settlement annuities as a type of insurance protected by LLHIGA.

New law adds supplemental contracts for covered certificates under direct group policies and contracts.

Prior law provided for the exclusion of certain interest payments from coverage by LLHIGA. New law makes a number of changes to the language of the exclusion and adds language regarding interest or crediting rates determined by reference to an external index.

New law raises the limit for the net cash surrender and net cash withdrawal values of annuities to \$250,000.

New law defines "impaired insurer" and "receivership court," and makes technical changes to the definition of "resident," and adds provisions regarding the treatment of U.S. citizens who reside in foreign countries or in U.S. territories without guaranty funds.

Prior law provided for certain assistance to impaired domestic insurers, foreign, and alien insurers. New law removes the distinctions between domestic and foreign and alien for LLHIGA purposes. New law deletes provisions for assistance to impaired insurers that involves assuming obligations of a delinquent insurer not yet found insolvent. New law makes technical changes to the provisions governing the assumption of obligations of an insolvent insurer.

New law adds provisions that permit LLHIGA to offer substitute policies that pay interest subject to certain limitations.

New law authorizes LLHIGA to provide such notes and loans as are reasonably necessary to discharge its duties with respect to an insolvent member insurer.

Effective August 1, 2014.

(Amends R.S. 22:2083, 2084(6) and (12), and 2087; adds R.S. 22:2083, 2084 (11.1) and (12.1), and 2087(Q))

#### **Pharmacy Benefits Managers (Act No. 391)**

New law allows a pharmacy benefits manager to use the National Drug Code (NDC) only when certain conditions have been met.

New law requires a pharmacy benefits manager to: (1) provide access to its Maximum Allowable Cost List; (2) update its Maximum Allowable Cost List on a timely basis; and (3) provide a process for each pharmacy to review an update to the Maximum Allowable Cost List.

New law requires a pharmacy benefits manager to provide a reasonable administrative appeal procedure. New law permits a pharmacy to file an appeal by following the appeal process in new law. New law requires the pharmacy benefits manager to respond to a challenge within seven business days after receipt of a challenge.

New law requires a pharmacy benefits manager to perform the following if an appeal is upheld: (1) make the change in the Maximum Allowable Cost List; (2) permit the challenging pharmacy or pharmacist to reverse and rebill the claim; and (3) make the change effective for each similarly situated pharmacy.

New law requires a pharmacy benefits manager to provide the challenging pharmacy or pharmacist the NDC number if an appeal is denied.

New law deems a violation of new law to be an unfair or deceptive act and practice pursuant to R.S. 22:1961 et seq.

Effective August 1, 2014.

(Adds R.S. 22:1863-1865)

#### **Managed Care Organizations and Providers (Act No. 396)**

New law provides any contract or agreement between a managed care organization and a health care provider shall include provisions that provide for the reimbursement of a health care provider in any instance in which the managed care organization requests or requires substitution of a medication for an enrollee.

New law does not apply to generic substitution or step therapy programs utilized by the managed care organization that promote generic drugs as a first-line therapy.

Effective January 1, 2015.

(Amends R.S. 22:1007)

#### **Homeowners' Insurers (Act No. 427)**

New law requires that insurance companies writing homeowner's policies annually submit to the commissioner data on their total direct incurred losses, number of policies in force, and direct earned premiums by zip code and parish for the prior calendar year, commencing on or before May 1, 2015, and requires that the same data be submitted dating back to the calendar year 2004.

New law provides that the data provided by each insurer is confidential and exempt from the Public Records Law.

(Amends R.S. 44:4.1(B)(11); Adds R.S. 22:1488)

#### **Lymphedema Coverage Required (Act No. 445)**

New law provides that any health insurance policy issued or issued for delivery in this state shall include as an option, to be exercised by the policyholder, covered benefits for the treatment of lymphedema, including multilayer compression bandaging systems and custom or standard fit gradient compression garments.

New law requires any insurer who, on August 1, 2014, has health insurance policies in force in this state to convert such existing policies to conform to the provisions of new law on or before the renewal dates.

New law does not apply to limited benefit health insurance policies or contracts.

Effective August 1, 2014.

(Adds R.S. 22:1025.1)

#### **Prescription Drugs (Act No. 453)**

New law requires a health insurance issuer of a health benefit plan that covers prescription drugs and utilizes a formulary tier that is higher than a preferred or non-preferred brand drug tier, sometimes known as a specialty drug tier, to limit any required co-payment or coinsurance applicable to drugs on such tier to an amount not to exceed \$150 per month for each drug up to a 30-day supply of any single drug. New law requires such limit to be inclusive of any co-payment or coinsurance and be applicable after any deductible is reached and until the individual's maximum out-of-pocket limit has been reached.

New law requires a health care issuer of a health benefit plan that covers prescription drugs and utilizes specialty tiers to implement an exceptions process allowing enrollees to request an exception to the formulary. New law provides that under such an exception, a non-formulary specialty drug could be deemed covered under the formulary if the prescribing physician determines that the formulary drug for treatment of the same condition either would not be as

effective for the individual, would have adverse effects for the individual, or both.

New law provides that in the event an enrollee is denied an exception, such denial shall be considered an adverse event and shall be subject to the health plan internal review process and the state external review process.

Effective January 1, 2015.

(Adds R.S. 22:1060.5)

#### **Pharmacy Organizations (Act No. 490)**

New law provides that an organization that negotiates with a pharmacy or pharmacies, and an organization that represents an independent pharmacy or a group of independent pharmacies, shall provide to each pharmacy that the organization represents a copy of any new contract, provider agreement, amendment to such contract or agreement, or other provider documentation concerning the pharmacy's network participation with a third party payor.

New law provides that failure to provide such documentation shall be deemed an unfair or deceptive act and practice.

Effective August 1, 2014.

(Adds R.S. 22:1857.1 and 1964(26))

#### **Health Insurers and HMOs (Act No. 491)**

New law prohibits a health insurance issuer or health maintenance organization from refusing to accept premium payments when such payment is made by a third party to the insurance contract, if payment is made from one of the following: (1) the Ryan White HIV/AIDS Program, (2) Indian tribes, tribal organizations, or urban Indian organizations, (3) state or federal government programs, or (4) the American Kidney Fund.

Effective August 1, 2014.

(Adds R.S. 22:1080)

#### **Auditing of Pharmacy Records (Act No. 502)**

Existing law requires a managed care company or its representative, an insurance company, or a third-party payor that conducts an initial onsite audit of a pharmacy to give the pharmacy notice at least two weeks before such audit for each

audit cycle. New law adds that if a vendor or subcontractor conducts an initial onsite audit of a pharmacy on behalf of such an entity, the vendor or subcontractor is subject to the same notice requirement.

New law adds that a vendor or subcontractor conducting a pharmacy records audit must identify to the pharmacy the entity on whose behalf the audit is being conducted without being requested by the pharmacy.

New law adds that a pharmacy records audit must be based only on information obtained by the entity conducting the audit and not based on any audit report or other information gained from an audit conducted by a different auditing entity. New law does not prohibit an auditing entity from using an earlier audit report prepared by that auditing entity for the same pharmacy. New law provides that, except as required by existing law or federal law, an entity conducting an audit may have access to a pharmacy's previous audit report only if the previous report was prepared by that entity.

New law stipulates that no pharmacy shall be subject to recoupment of any portion of the reimbursement for the dispensed product of a prescription unless: (1) the pharmacy has engaged in fraudulent activity or other intentional and willful misrepresentation, (2) the pharmacy has engaged in dispensing in excess of the benefit design, (3) the pharmacy has not filled prescriptions in accordance with the prescriber's order, or (4) the pharmacy has received an actual overpayment.

Effective upon signature of governor (June 5, 2014).

(Amends R.S. 22:1856.1)

#### **Insurance Holding Companies (Act No. 528)**

Prior law required insurance holding companies to file annual registration statements by April 1 for the previous calendar year. New law changes the deadline to April 30.

Effective Aug. 1, 2014.

(Amends R.S. 22:691.6(A)(2) and (J)(2))

### **Coverage for the Dying (Act No. 541)**

New law provides that refusing coverage for medically necessary treatment to be rendered to an individual based solely on the individual's life expectancy or the fact that the individual is diagnosed with a terminal condition shall be a violation of new law.

New law prohibits a health care coverage plan, or health benefit paid directly or indirectly with state funds including but not limited to Medicaid, from denying coverage for medically necessary treatment prescribed by a physician and agreed to by a fully informed individual based solely on an individual's life expectancy or the fact that the individual has been diagnosed with a terminal condition.

New law defines "health coverage plan" as any hospital, health or medical insurance policy, hospital or medical service contract, employee welfare benefit plan, contract or agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan and the Office of Group Benefits programs.

New law defines "terminal condition" as any malignancy or chronic end-stage cardiovascular or cerebral vascular disease that is likely to result in the insured's death.

Effective upon signature of governor (June 5, 2014).

(Adds R.S. 22:1054 and R.S. 46:2921)

### **Health Care Providers (Act No. 555)**

New law prohibits a healthcare provider that accepts a patient's health insurance coverage from requiring an enrollee or insured to consent to payment for health care services as a condition for verification of health insurance coverage for such health care services.

New law provides that any provision in an agreement between a provider of healthcare services and a health insurance issuer that conflicts with new law shall be deemed null and void.

Effective Aug. 1, 2014.

(Adds R.S. 22:1827)

### **Release of Claims Data (Act No. 558)**

Existing law provides for the release of claims data by a health and accident insurer within 90 days of renewal of the group policy to the group policyholder upon certification that the policyholder will only use and disclose the data in compliance with federal regulation.

New law provides for the release of the claims data to the agent of the policyholder, and limits the claims data that must be released to the current and two immediately preceding policy periods.

New law provides that the insurer shall not be required to release information protected as confidential by federal law.

New law requires that the data provide a unique identifying number or code for the claimant.

Effective Aug. 1, 2014.

(Amends R.S. 22:978)

### **Health Insurance Navigators (Act No. 635)**

New law provides for regulation of health insurance navigators and registration of non-navigator personnel by the commissioner of insurance, including:

- (1) Requires that health insurance navigators be licensed by the commissioner of insurance and that non-navigator personnel register with the commissioner, with various exemptions.
- (2) Requires that each entity licensed as a navigator provide the commissioner with a list of licensed individual navigators employed by the entity.
- (3) Authorizes the commissioner to require education and training for individual navigators in addition to that required by the federal government or an exchange.
- (4) Specifies the activities that navigators and non-navigator personnel may perform and may not perform.
- (5) Requires an entity acting as a navigator that terminates the employment or other association with an individual navigator to notify the commissioner within 30 days following the effective date of the termination if the reason for



the termination is one set forth in present law relative to prohibited activities by producers.

(6) Requires navigators to file with the commissioner the annual and quarterly progress reports or annual financial reports required to be filed with the Centers for Medicare and Medicaid Services.

(Amends R.S. 44:4.1; Adds R.S. 22:1566; Repeals R.S. 22:753(H)(5))

### **Confidentiality of Proposed Insurance Policies (Act No. 695)**

New law exempts all policy forms and premium rates for major health and accident and dental policies from disclosure to any person under the Public Records Law until the beginning of the open enrollment period of the policy year in which the forms and rates are to be utilized. New law requires a health insurance issuer, including a health maintenance organization, to mark such filings as confidential or proprietary to utilize the exemption. New law provides that the exemption shall not prevent the commissioner from publishing a summary or description of rate filings in the course of an effective rate review program in accordance with federal law.

Effective upon signature of governor (June 18, 2014).

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:972(D))

### **Health Benefit Plan Rate Review (Act No. 718)**

Prior law provided for approval and disapproval of health and accident insurance forms and policies by the commissioner of insurance. New law increases the time for the review of forms from 45 days to 60 days after filing.

New law makes rate review requirements applicable to health benefit plans which provide coverage in the small group and individual markets. New law requires each health benefit plan to file a copy of its rates with all insurance policy forms.

New law authorizes the commissioner to review rates; specifies that such review shall not constitute a determination under the APA, and

shall not be subject to other administrative or judicial relief.

New law provides for risk pools and limits variations on health insurance premiums to variations based on whether the insured is an individual or member of a family group, the age of the insured, geographic region, and whether the insured uses tobacco products. New law prohibits insurers from using the health status of the insured in the calculation of rates. New law lists and identifies those benefits not subject to the requirements.

New law subjects HMOs and any entity that offers health insurance coverage through a policy, certificate, or subscriber agreement to new rating law. New law requires rate filings with the department, made under certain time lines, and containing required information in prescribed, standardized formats. New law requires any such filings containing rate increases beyond a specific threshold to be summarized and published for public comment on the department's website.

New law exempts limited benefits plans from new law rating restrictions.

New law requires the rating practices, methods, and restrictions imposed by law upon grandfathered health coverage in the individual market and small group market that exist when new law takes effect, including the restrictions on rate increases and required notices for such increases, to remain binding upon such grandfathered health coverage.

Prior law allowed health insurers to create and maintain separate risk pools through closed blocks of business or classes of business. New law prohibits the maintenance of separate risk pools. New law requires all health insurance issuers to maintain a single, state-wide risk pool in each of the following markets: small group, individual, and student health plans.

New law, beginning January 1, 2016, requires all nongrandfathered coverage in the individual market to be offered on a calendar year basis. New law provides that, for purposes of new enrollment effective on any date other than January 1st, the first policy year following such enrollment may comprise a prorated policy year,

ending on December 31st. Any exceptions or modifications to the calendar year requirement by federal law or rule shall also apply to health insurance issuers under new law.

Effective upon signature of the governor (June 18, 2014).

(Amends R.S. 22:972 and 1091-1097; add R.S. 22:1098-1099)

#### **Independent Producers (Act No. 844)**

Present law provides that it is an unfair trade practice to require or offer any incentive to a producer who represents multiple companies to limit the information provided to consumers on limited benefit plans.

New law adds information provided to consumers on supplemental benefit plans. New law adds that any attempt to enforce provisions in a sales agreement, a sales agent agreement, a non-solicitation agreement, or a noncompetition agreement against such a producer which would result in limiting the information provided by the producer to consumers on limited benefit and supplemental benefit plans is an unfair trade practice in the business of insurance.

Present law provides that it is an unfair trade practice in the business of insurance to require or offer any incentive to a producer who represents multiple companies to limit the number of other insurers that such a producer may represent.

New law adds that any attempt to enforce provisions in a sales agreement, a sales agent agreement, a non-solicitation agreement, or a non-competition agreement against such a producer is an unfair trade practice in the business of insurance.

(Amends R.S. 22:1964(24) and (25))

#### **Home Service Contract Providers (Act No. 855)**

New law requires a home service contract provider to submit an annual financial statement to the commissioner showing the solvency of the provider.

New law requires each home service contract provider to provide the commissioner of insurance, by March 1, 2016, a report

documenting for calendar year 2015 the number of home service contracts issued or sold with respect to residential property; the gross consideration received; the number and dollar amount of claims paid, categorically by the cost of repair or by the cost of replacement; and the number of claims denied for failure of the service contract holder to receive prior approval for the repair or replacement.

Effective August 1, 2014.

(Amends R.S. 22:1806.3)

#### **Insurance Miscellanea (Act No. 353)**

Old law provided that a homeowner's policy may be cancelled or nonrenewed by an insurer due to two or more claims being made within a period of three years.

New law changes the law by requiring that the two claims must be made within a continuous three-year period in the five years preceding the current policy renewal date.

New law requires an authorized property, casualty, and liability insurer to withdraw from the homeowners' insurance market in La. for a minimum of five years when it will no longer write policies in La. and cancels its homeowners' policies.

New law requires an approved unauthorized insurer to agree to the termination of its status as an approved unauthorized insurer when it withdraws from the homeowners' insurance market in La. for a minimum of five years when it will no longer write policies in La. and cancels its homeowners' policies.

Present law provides that an insurer's business plan filed with the commissioner is considered proprietary or trade secret pursuant to the Uniform Trade Secrets Act. New law clarifies that the plan is considered trade secret pursuant to the Act.

(Amends R.S. 22:1265 and 1333)

## **TITLE 23: LABOR AND WORKERS' COMPENSATION**

### **Negligent Hiring or Supervision of Ex-Cons (Act No. 335)**

New law prohibits a cause of action from being brought against an employer, general contractor, premises owner, or other third party for negligent hiring or failing to adequately supervise an employee or independent contractor due to damages or injury caused by that employee solely because that employee has been previously convicted of a criminal offense.

New law does not apply to:

(1) Acts committed by the employee arising out of the course and scope of his employment when the act is substantially related to the nature of the crime for which the employee was convicted and the employer, general contractor, premises owner, or other third party knew or should have known about the conviction.

(2) Acts of an employee who was convicted of a crime of violence or a sex offense and the employer, general contractor, premises owner, or other third party knew or should have known about the conviction.

New law provides that an employer's vicarious liability pursuant to C.C. Art. 2320 shall not be affected by new law.

Effective August 1, 2014.

(Adds R.S. 23:291(E))

### **Unemployment Compensation (Act No. 349)**

New law makes technical changes to unemployment compensation statutes. New law deletes obsolete practices and obsolete dates which are no longer needed from prior law.

Effective Aug. 1, 2014.

(Amends R.S. 23:1472, 1474, 1493, 1512, 1513, 1532.1, 1533, 1536, 1541, 1542, 1552, 1592, 1600; Repeals R.S. 23:1543(H))

### **Workers Compensation Coverage (Act No. 375)**

New law provides that a workers' compensation judge shall assess a civil penalty against an employer who fails to provide proof of

compliance within 15 days of any notice, and shall order the employer to provide proof of workers' compensation coverage within 45 days of the order.

Prior law provided that the financial and compliance officer shall determine a fair and equitable resolution of the violation and assess a penalty commensurate with the violation. Prior law provided that any appeal regarding a disputed claim shall be decided in the district court in which the business of the employer is located or East Baton Rouge Parish.

New law provides that the workers' compensation judge shall conduct the hearing on the matter and an appeal may be made in the appropriate circuit court of appeal.

Prior law provided that the director shall investigate an employer if he receives information from any person or entity that such employer has failed to provide workers' compensation coverage for his employees. Prior law provided that if such allegations can be reasonably substantiated, the director shall notify the employer that, unless he can show proof of coverage, he may be subject to further fines and penalties, including but not limited to an injunction against further business operations.

New law adds that if such allegations can be reasonably substantiated and the employer has been fined or penalized, the director shall notify the employer that unless he can show proof of coverage within 15 days, the employer will be subject to further fines and penalties, including but not limited to an injunction against further business operations.

New law provides that if within 15 days of the employer's receipt of such notice he has not submitted to the director satisfactory proof of such compliance, the director shall request the workers' compensation judge of any district where the employer does business to set the matter for hearing and the workers' compensation judge shall issue a rule to show cause to the employer why he should not be fined or penalized for failure to show proof of workers' compensation coverage.

Effective August 1, 2014.

(Amends R.S. 23:1168, 1170, 1171, 1171.1, and 1291)

#### **Wage Payment Frequency and Speed (Act No. 417)**

Prior law required that every person engaged in manufacturing make full payment to employees as often as every two weeks. New law changes the time period for payment in prior law from as often as every two weeks to no less than twice during a calendar month.

Prior law required that payment be made no more than 10 days after the service was performed, except for public service corporations, which were allowed up to 15 days. New law deletes prior law and provides that payment shall be made no later than the payday at the conclusion of the next payroll period.

Effective Aug. 1, 2014.

(Amends R.S. 23:633(B))

#### **Payroll Reports (Act No. 419)**

Present law requires employers to file payroll reports to the Louisiana Workforce Commission (LWC). Present law provides that if an employer fails to file a payroll report, that the administrator (the executive director of LWC) shall make an estimate of the information that is required based on what is available to him at the time. New law changes the mandate that the administrator "shall" make an estimate, authorizing an estimate.

Present law provides that an employing unit will cease to be an employer subject to present law if the unit has been inactive for at least three calendar years. New law changes the time period for inactivity from three calendar years to four consecutive quarters.

(Amends R.S. 23:1538(A)(1) and 1572)

#### **Contribution and Wage Reports (Act No. 420)**

Existing law provides that employers accrue and must pay contributions with respect to wages for employment.

Prior law provided that contribution and wage reports may be filed by magnetic media or other electronic means.

New law deletes the ability to file contribution and wage reports by magnetic media and provides that contribution and wage reports may be filed by any electronic means.

Effective Aug. 1, 2014.

(Amends R.S. 23:1531.1(A)(intro. para.))

#### **Unemployment Audits (Act No. 489)**

New law provides that if, in response to the unemployment administrator's request, an employer refuses to allow an audit of its records, fails to make all necessary records available for audit or inspection, or in response to a fraud investigation fails to provide a claimant's weekly wage information, the employer may be assessed an administrative penalty (i.e., a civil fine) of \$5,000.

Effective August 1, 2014.

(Amends R.S. 23:1660)

#### **Unemployment Administration (Act No. 497)**

Prior law provided that in making determinations of unemployment claims, the administrator shall require that information necessary for the prompt determination of claims be sought from each employer. Prior law provided that a response to such requests shall be timely if it is received within 10 days of mailing. New law changes the time in which to respond to the time specified in the notice.

Prior law provided that the employer must complete all forms and reports that are requested by the administrator of the office of workers' compensation. New law adds that a response is adequate if it provides sufficient facts to enable the agency to make the correct determination, and may not be considered inadequate if the agency failed to ask for all necessary information.

New law provides that no contributing employer's reserve account or reimbursable employer's account shall be relieved of any charges for benefits relating to an improper benefit payment to a claimant established after October 21, 2013, if the improper benefit payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of

the administrator for information relating to a claim for benefits.

Effective August 1, 2014.

(Amends R.S. 23:1625.1; adds R.S. 23:1553.1)

### **Unemployment Insurance (Act No. 529)**

Old law relative to unemployment insurance contributions provided that within 180 days of the date of issuance of a liability determination, or a tax rate resulting from that determination, an employer may apply for review of the determination unless it is found to have resulted from an administrative error. New law revises the time delays and procedures.

New law deletes present law requiring the administrator of the unemployment compensation program (administrator), not later than Oct. 1 annually, to render a statement to each employer of benefits paid to each individual and charged to his experience-rating record for the most recent 12-month period ending June 30.

Old law stipulates that no employer shall have standing in any proceeding involving chargeability of benefits to his experience-rating record to contest the chargeability of any benefits paid in accordance with a determination or decision of which he was given notice and an opportunity to be heard, or to contest the chargeability to his record of any benefits on the grounds of potential disqualification because of circumstances surrounding separation from employment if he was not entitled to such notice. New law revises old law to stipulate that no employer that was a party to the separation or was issued a notice of chargeability shall have standing to contest the quarterly charge statement.

New law deletes all of the following provisions of old law:

(1) Provisions establishing that subject to certain limitations, if an employer in application for review alleges error in the determination or decision under which benefits charged to his experience-rating record were paid, the determination or decision shall have no force and effect as against such employer.

(2) Provisions requiring the administrator to affirm, modify, or reverse the determination or decision in (1) above; and requiring that notice of the administrator's action be given, and authorizing appeal therefrom to be taken.

(3) Provisions requiring the administrator to adjust the experience-rating record of an employer in accordance with any reconsidered determination or decision modifying or reversing the determination, reconsidered determination, or decision alleged to be in error by the employer; and to affirm or modify any contribution rate based upon such record.

(4) Provisions establishing that subject to certain limitations, if an employer alleges that certain benefits are not properly chargeable to his experience-rating record on grounds other than error in the determination or decision under which the benefits were paid, the administrator shall give him an opportunity for a fair hearing; and, based on findings, shall make such adjustments in the employer's experience-rating record and contribution rate as may be required.

(5) Provisions requiring prompt notification to an employer of the administrator's action which shall become final unless within 20 days after the mailing, or 15 days after delivery, of notice of the action a petition for judicial review is filed in the district court of the employer's domicile.

New law provides that if an employer who was not a party to the separation determination or decision, or who was not issued a determination of chargeability pursuant to proposed law, alleges in his application for review of the quarterly charge statement that benefits were not properly charged to his experience-rating record, the administrator shall affirm, modify, or reverse such charges by issuing a determination of chargeability.

Old law provided that a determination relative to an employer's rate of contribution for the forthcoming calendar year to the Incumbent Worker Training Account shall be conclusive and binding unless the employer appeals the determination within 20 days after the mailing of notice or, in the absence of mailing, within 15 days after the delivery of such notice. New law deletes reference to 15-day period commencing

with delivery of such notice, and provides that the employer may appeal only within 20 days after the mailing of notice.

New law changes procedure for contesting a determination of chargeability of benefits to base-period employers from an application for review by the administrator of the unemployment compensation program to an appeal procedure in which an administrative law judge shall hear and act upon the appeal.

New law revises old law, relative to penal provisions within the unemployment compensation program, to authorize determinations of liability and to extend the period allowed for action by employers and the administrator in certain review and appeal procedures from 10 days to 30 days.

New law revises present law relative to Professional Employer Organizations (PEOs) to change the period allowed for actions on application for, renewal, and revocation of certain registrations from within 30 days of receipt of a statement to within 30 days of mailing of a statement.

(Amends R.S. 23:1540-1541.1, 1711, 1722-1724, 1728, 1766, and 1767)

#### **Shared-Work Unemployment Benefits (Act No. 550)**

New law repeals all provisions relative to shared-work unemployment compensation benefits.

Effective Aug. 1, 2014.

(Repeals R.S. 23:1750-1750.10)

#### **Apprenticeships (Act No. 740)**

New law provides that, except in cases of prohibited discrimination, any disagreement arising pursuant to an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice, or by the apprentice's authorized representative, to the Director of Apprenticeship, Louisiana Workforce Commission-Apprenticeship Division.

New law provides that the director of apprenticeship may not investigate or conduct

hearings regarding prohibited discrimination (e.g. age, disability, veteran status, race, color, religion, sex, national origin, pregnancy, childbirth, sickle cell traits, protected genetic information).

New law shall not be construed to preclude an apprentice from pursuing any remedy to address prohibited discrimination in employment which is otherwise available in any other part of the labor code.

Effective upon signature of the governor (June 19, 2014).

(Amends R.S. 23:382, 384, 385, 386, 387, 388, 389, 390, and 391)

#### **Sex Discrimination; Final Wage Payment (Act No. 750)**

New law provides that intentional discrimination in employment includes an employer who intentionally pays wages to an employee at a rate less than that of another employee of the opposite sex for equal work on jobs in which their performance requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

New law prohibits an employer from reducing wages of any other employee in order to comply with new law.

New law provides that it is not unlawful discrimination in employment for an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to any other differential based on any factor other than sex.

Prior law provided that upon the discharge of any employee the employer must pay the wages then due on or before the next regular payday or 15 days following discharge, whichever occurs first. Prior law provided that any employer who fails or refuses to pay such wages shall be liable for 90 days wages, or full wages from demand, whichever is less. Prior law provided that reasonable attorney fees shall be paid by the employer, in a well-founded suit for unpaid wages filed after three days from demand.

New law creates a good faith exception so that, when an employer disputes the amount of wages

due and is subsequently found by the court to owe the amount in dispute, the employer shall be liable only for the amount of wages in dispute plus judicial interest incurred from the date that the suit is filed, but the employer will not be liable for the penalty wages, so long as the employer was in good faith.

New law provides that if the court determines that the employer's failure or refusal to pay the amount of wages owed was not in good faith, then the employer shall be subject to the penalty.

New law retains prior law regarding attorneys fees.

Effective August 1, 2014.

(Amends R.S. 23:332 and 632)

### **Unemployment Insurance (Act No. 753)**

New law requires that the La. Workforce Commission will work with multi-state employers to propose interstate reciprocal agreements that will safeguard multi-state employers from paying duplicative unemployment insurance on the same worker and protect the solvency of a state's trust fund by ensuring sufficient tax streams to cover benefit liabilities.

Effective August 1, 2014.

(Adds R.S. 23:1665(C))

### **Blind Vendors (Act No. 761)**

Prior law provided for a special fund in the state treasury known as the Blind Vendors Trust Fund consisting of monies collected from certain vending machines located on state, federal, and other property pursuant to the Randolph-Sheppard Act.

New law changes the Blind Vendors Trust Fund account from being under the La. Workforce Commission to La. Rehabilitation Services.

Prior law provided money in the trust fund from vending machines located on state-owned property or on property leased by the state or any state agency, or on other property shall be distributed for any purpose associated with the provisions of the Randolph-Sheppard Act as may be determined by LWC. New law clarifies that the vending machines or cafeterias must be

located on the portions, or portions thereof, of properties that those state agencies, boards, commissions, and institutions own, maintain, occupy, or control.

New law provides that a person who is blind means a person who, after examination by a licensed physician skilled in diseases of the eye or by a licensed optometrist, has been determined to have not more than 20/200 central visual acuity in the better eye with correcting lenses, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

New law provides that La. Rehabilitation Services shall be the designated state unit as defined by the Rehabilitation Act of 1973.

New law excepts any 24 hour residential healthcare facility within DHH from the provisions of new law.

New law provides that La. Rehabilitation Services shall establish employment and training targets for persons who are blind or otherwise disabled for all blind vendors employing greater than ten employees and for all businesses servicing facilities under new law with greater than ten employees. New law provides blind vendors and businesses servicing facilities under this part operating under prior contracts and permits shall be exempt.

New law provides that, for any claim or controversy between state agencies, boards, commissions, and institutions regarding the state priority for blind vendors, the generation of unassigned income, or the job placement and training of persons who are blind or disabled not resolved by mutual agreement, a full evidentiary hearing shall be conducted by an impartial and qualified official designated by the La. Rehabilitation Services. New law provides that the report of the hearing officer shall be issued to all parties within 30 calendar days of the hearing and shall be final and conclusive unless fraudulent, or unless either party institutes a suit before the 19<sup>th</sup> Judicial District Court.

Effective upon signature of the governor (June 19, 2014).

(Amends R.S. 23:3001, 3021, 3022, 3023, 3032, 3041, 3042, 3043, 3044, and 3045; adds R.S. 23:3022, 3023, 3042; repeals R.S. 23:3031)

## **TITLE 24: LEGISLATURE AND LAWS**

### **Misappropriation of Public Funds (Act No. 684)**

New law provides that all costs incurred by the legislative auditor to audit, investigate, or report possible fraud, theft, or other misappropriation shall be recoverable by civil suit against the responsible party.

New law authorizes the attorney general, upon a finding of fraud, theft, or other misappropriation and at the request of the legislative auditor, to seek recovery on behalf of the auditor of these costs through civil suit against the responsible party.

New law provides that all costs and reasonable attorney fees incurred by the attorney general in the civil suit shall be recoverable from the responsible party.

New law requires the attorney general or the local district attorney prosecuting such crimes to also seek restitution.

New law defines "responsible party" as the person or entity actually responsible for the misappropriation.

Effective August 1, 2014.

(Adds R.S. 24:524)

### **Misappropriation of Public Funds (Act No. 692)**

New law provides that an agency head who has reasonable cause to believe that there has been a misappropriation of public funds or assets of his agency shall immediately notify, in writing, the legislative auditor and the district attorney of the parish in which the agency is domiciled. New law provides that "reasonable cause" includes information obtained as a result of the filing of a police report, an internal audit finding, or other source indicating such a misappropriation has occurred.

New law provides that when misappropriation is discovered and reported, the attorney general, at

the request of the legislative auditor, is authorized to recover misappropriated funds from the responsible party by civil suit. New law requires that upon a finding of misappropriation, the attorney general is to seek restitution from the responsible party of those costs incurred by the legislative auditor to audit, investigate, or report an allegation of misappropriation. New law provides that all costs and reasonable attorney fees incurred by the attorney general are recoverable from the responsible party.

New law defines "responsible party" as the person or entity actually responsible for the reported misappropriation.

New law provides for restitution of audit costs, and provides that costs incurred by the auditor to audit, investigate, or report possible fraud, theft, or other misappropriation are recoverable by civil suit against the responsible party, and authorizes the attorney general, at the request of the legislative auditor, to seek recovery of these costs through civil suit against the responsible party. New law authorizes the attorney general or the local district attorney prosecuting the case to seek recovery of costs and reasonable attorney fees incurred. New law provides that if audit costs were previously reimbursed, then those costs are to be paid to the appropriate public or quasi public entity.

New law provides that no person convicted of misappropriation or theft shall have his record expunged until he has made restitution and at least five years have passed since his conviction.

Effective August 1, 2014.

(Amends R.S. 24:523; adds R.S. 24:524)

### **Misappropriation of Public Funds (Act No. 693)**

New law requires every auditee to post and keep posted in conspicuous places upon its premises a notice, prepared by the legislative auditor and located on his website, setting forth information concerning the reporting of the misappropriation, fraud, waste, or abuse of public funds. New law requires each auditee to post such notices on the website of the auditee.

Effective August 1, 2014.



(Adds R.S. 24:523.1)

#### **Financial Audits (Act No. 706)**

Prior law required the financial statements of local auditees to be audited or reviewed by licensed certified public accountants. New law specifically adds all political subdivisions created by parish or municipal governing authorities or by law to the list of local auditees.

New law requires that the total compensation, reimbursements, and benefits of an agency head or political subdivision head or chief executive officer related to the position, including travel, housing, unvouchered expenses, per diem, and registration fees, be reported as a supplemental report within the financial statement of the agency or political subdivision.

Effective August 1, 2014.

(Amends R.S. 24:513(A)(3))

#### **Additional Audit (Act No. 774)**

Prior law required the financial statements of all local auditees to be audited annually by the legislative auditor.

New law provides for additional procedures, established by the legislative auditor, to be performed on entities with revenues of \$50,000 or more per fiscal year in any parish having a population of not less than 225,000 and not more than 250,000 according to the latest federal decennial census (i.e., St. Tammany Parish).

New law requires audited entities to pay the cost of the legislative auditor's services.

Effective August 1, 2014.

(Adds R.S. 24:513(J)(1)(c)(v))

#### **Confirmation of Appointments (Act No. 760)**

Prior law required confirmation by the Senate of all gubernatorial appointments and certain appointments to office by other public officials.

New law provides that any action taken by a person who is not confirmed, who is notified that he is not confirmed, and who acts in his official capacities, is null and void.

New law provides that any action taken by a person who is not reconfirmed, who is notified that he has not been reconfirmed, and who acts

in his official capacity, is a relative nullity and subject to challenge in district court.

New law requires the Senate, through its president, to send notice to any person not submitted for confirmation or not confirmed by the Senate and to any person submitted for reconfirmation by the Senate, but not reconfirmed, no later than 30 days after the Senate considers confirmations. New law requires the appointing official to notify any person whom he failed to submit for reconfirmation or who was not reconfirmed, and the office, board, commission, committee, or district to which the person was appointed, no later than 30 days after the Senate considers confirmations.

New law provides that persons who serve for a fixed term shall serve until the end of the second regular session of the legislature following the expiration of their term.

Effective upon signature of governor (June 19, 2014).

(Amends R.S. 24:14)

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

There were no new laws of particular interest.

### **TITLE 26: LIQUORS – ALCOHOLIC BEVERAGES**

#### **Alcohol Brokers (Act No. 57)**

New law defines a "broker" to mean any person, other than a licensed dealer, who may solicit, receive, or transmit orders for beverage alcohol as an agent of one or more licensed dealers, and does not maintain an inventory of, possess a property right in, or deliver any beverage alcohol.

(Amends R.S. 26:2 and 71(A)(4))

#### **Alcohol in Theatres (Act No. 777)**

New law prohibits the commissioner of alcohol and tobacco control from issuing a Class A General liquor permit or a Class A General retail

permit for beverages of low alcoholic content to any bona fide commercial film theater unless: (1) alcoholic beverage sales are physically segregated from all other concession sales, (2) no one under the age of 18 is allowed to enter the area where such alcoholic beverage sales are conducted, and (3) requirements in prior law are met.

Effective on July 1, 2014.

(Amends R.S. 26:71.1(1)(e) and 271.2(1)(e))

### **Alcohol and Tobacco Permit Transfers (Act No. 12)**

Present law prohibits permits issued for low and high alcoholic content beverages from being assignable or heritable and requires the permit to be returned or surrendered to the office of alcohol and tobacco control (ATC) within five days of closure or if ownership of the business is transferred or terminated, but if the dissolution of a partnership is by death, the surviving partners are authorized to operate under the partnership permit.

New law adds authorization for the new owner to continue to operate using the permit holder's permit until a new permit is issued or denied, if the new owner notifies the ATC within five days of the transfer and applies for a new permit within 15 days of the transfer of ownership.

New law requires that a corporate or LLC permit holder notify the ATC within 15 days of any changes in the officers, directors, managers, shareholders, members, or previously qualified persons and that the notification include the suitability documents and information for each new individual.

New law requires a permit holder to notify the ATC of any changes that increase or decrease the previously approved licensed business premises.

New law prohibits tobacco permits from being transferred if over 51% of a corporation is sold or transferred during the period for which a permit was issued, and requires an application for a new permit.

Present law provides that a change of the controlling interest shall constitute a change of

ownership if the holder of the permit is an association, partnership, or limited partnership, and further requires the registration certificate holder or permittee to notify the commissioner in writing if the business is physically relocated.

New law prohibits a tobacco permit from being transferred, assigned, or inherited and requires the permit to be returned or surrendered to the ATC within five days of permanently ceasing business operations or change in ownership.

New law requires a permit holder who is a corporation or limited liability company to provide notification within 15 days of changes in its officers, directors, managers, shareholders, or members and requires the notification to include suitability documents and information of each new individual required to meet the qualifications of the applicant.

New law requires a permit holder to notify the commissioner in writing prior to relocating if the business is physically relocated during the permit period.

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

(Amends R.S. 26:76(A)(2), 276(A)(2), and 912(A))

### **Alcohol Permits (Act No. 245)**

Old law required the operator of certain restaurants and cafeterias, where food and drink including light wine is legally sold for consumption on the premises in connection with the consumption of food, to obtain an annual permit from the commissioner before commencing or engaging in the business of handling light wine.

New law changes the permit requirement to the operator of any alcoholic beverage outlet where wine and malt beverages are sold for consumption on the premises or sold in factory-sealed containers for transportation and consumption off the premises.

Old law defined "light wine" to mean any non-effervescent alcoholic beverage, known as still wine, derived from the juice of any fruit or synthesis thereof, of an alcoholic content of not more than 14% by volume.

New law changes the term "light wine" to "wine" and provides for the definition to mean any effervescent or non-effervescent alcoholic beverage derived from the juice of any fruit or synthesis thereof, of an alcoholic content more than 6% by volume. New law provides that wine is exclusive of all "liquors" whether they be defined as intoxicating or spirituous liquors, which are produced by distillation.

New law defines "malt beverages" to mean beverages obtained by alcoholic fermentation of an infusion or by a brewing process or concoction of barley or other grain, malt, sugars, and hops in water, including among other things, ale, beer, stout, porter and the like and containing more than 6% alcohol by volume. New law provides that malt beverages are exclusive of all "liquors" whether they be defined as intoxicating or spirituous liquors, which are produced by distillation.

Old law required the provisions of law relative to alcohol beverage control to apply only to restaurants holding "R" permits. New law repeals old law.

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

(Amends R.S. 26:72(A), (C), and (D))

#### **Drinking ID (Act No. 357)**

Existing law prohibits a person holding a retail dealer's permit, or the agent, associate, employee, representative, or servant of any such person, to sell or serve alcoholic beverages to any person under the age of 21 years on or about the licensed premises, unless such person submits any one of various possible proofs of identification and age, including a valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license.

New law adds a valid, current, special identification card issued by another state as acceptable proof of identification and age.

Effective Aug. 1, 2014.

(Amends R.S. 26:90 and 286)

#### **Wine Bottle Sizes (Act No. 18)**

Present law provides that all wine sold or shipped into this state shall be in certain sized containers. New law adds the following container sizes: 19.5 liters, 20 liters, and 500 milliliters.

Present law requires that wines bottled be packed with a certain number of bottles per shipping case or shipping container and further provides for the bottle size and the corresponding bottles per case. New law changes all references from "bottles" to "containers" and further changes a container size from 5 through 18 liters to 5 through 20 liters and adds a container size of 500 milliliters with 12 bottles per case.

New law exempts cider products from container size restrictions.

(Amends R.S. 26:351(2)(a) and (4); Adds R.S. 26:351(9))

#### **Wine and Distilled Spirits (Act No. 688)**

Prior law provided that all wine and distilled spirits sold or shipped into this state shall be in certain sized containers. New law adds the following container sizes: 19.5 liters, 20 liters, and 500 milliliters. New law adds a container size of 100 milliliters with 48 containers per case.

New law changes a container size from 5 through 18 liters to 5 through 20 liters and adds a container size of 500 milliliters with 12 containers per case.

New law exempts cider products from container size restrictions.

New law prohibits the sale and shipment into this state of any containers of powdered alcohol.

Effective upon signature of the governor (June 18, 2014).

(Amends R.S. 26:351)

#### **Alcoholic Beverages (Act No. 835)**

New law authorizes any person or dealer to donate alcoholic beverages to a licensed Type A special event or an unlicensed civic, religious, or charitable organization subject to the payment of any applicable excise taxes.

Present law authorizes the commissioner to issue by regulation temporary permits for a duration of three consecutive days only, and no more than 12 such permits issued to any one person within a single calendar year, to serve alcoholic beverages at fairs, festivals, civic and fraternal and religious events, Mardi Gras events, and nonprofit functions, and requires fees for the permits to be provided by regulation.

New law creates three types of temporary alcoholic beverage retail permits.

New law requires Type A permits to be issued only to nonprofit organizations with tax exempt status under Sections 501(c)(3), 501(c)(6), and 501(c)(8) of the Internal Revenue Code (IRC), where no transactions exist between the licensed tax exempt organizations and any disqualified person.

New law requires Type B permits to be issued only to nonprofit organizations which are able to provide written proof of their nonprofit status, but are unable to show written proof of their tax exempt status under Sections 501(c)(3) and 501(c)(8) of the IRC.

New law requires Type C permits to be issued to persons holding events where alcoholic beverages are sold or supplied as part of a general admission or other type fee, but who do not meet the requirements for Type A or Type B temporary permits.

New law amends the definition of "vendor" to provide that it does not include any holder of a Type A or Type B temporary alcoholic beverage permit.

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

(Amends R.S. 26:352, 793, and 932)

## **TITLE 27: LOUISIANA GAMING CONTROL LAW**

### **Gaming Report (Act No. 130)**

Prior law provided for the authority and responsibility of the Gaming Control Board. New law requires the board to annually report to the Senate president and the House speaker the impact that developments in technology are

having on gaming and the gaming industry in Louisiana. New law requires the report to specifically address awareness and growth, to the extent known, of any unregulated gaming such as Internet or online games, address Internet gaming in jurisdictions in which it is authorized, address any enforcement issues the jurisdiction is experiencing with age verification and geo-location, and identify issues for legislative concern and make recommendations regarding such concerns.

Effective August 1, 2014.

(Adds R.S. 27:15(H))

### **Gaming Board Records (Act No. 683)**

New law authorizes the Board of Gaming Control to adopt rules to provide for the release of records containing an applicant's personal history forms or questionnaires, disclosure forms, or financial statements and records to such applicant or his designee.

New law authorizes the board to give notice of the content of any information or data furnished or released to the applicant or licensee to whom the information pertains.

Effective August 1, 2014.

(Amends R.S. 27:21(B))

### **Suitability (Act No. 370)**

Prior law prohibited a person whose gaming license or permit has been revoked or who has been found unsuitable in this state or any other jurisdiction, from being eligible to obtain any license or permit pursuant to the Gaming Control Law for a period of five years.

New law provides that a person who has been found unsuitable or whose license, permit, or approval has been revoked, in this state or any other jurisdiction, may not apply for a license, permit, or approval or a finding of suitability for five years, unless the board allows the application for good cause shown.

Prior law prohibited a person whose video poker license has been revoked from obtaining a license for a period of five years.

New law provides that a person who has been found unsuitable or whose license, permit or

approval has been revoked, may not apply for a license, permit, or approval or a finding of suitability for five years, unless the board allows the application for good cause shown.

Prior law provided that if the board or the division awards a license, permit, contract, or other approval to a person who is not current in payments owed to the IRS, the person shall subsequently be found unsuitable if he is not current in payments owed the IRS within 60 days of the issuance of such license, permit, contract, or other approval. New law deletes this provision.

Effective August 1, 2014.

(Amends R.S. 27:28 and 431)

#### **Gaming Suitability (Act No. 738)**

New law requires any person who has the capacity to exercise a significant influence over a licensee, the casino gaming operator, or a permittee, to meet all suitability requirements and qualifications.

New law provides that in determining whether a person has significant influence, the board or division may consider but is not limited to the following: management and decision making authority; operational control; financial relationship; receipt of gaming revenue or proceeds; financial indebtedness; and gaming related associations.

Effective August 1, 2014.

(Amends R.S. 14:90.5(B) and R.S. 27:28(H)(1))

### **TITLE 28: MENTAL HEALTH**

#### **Emergency Certificates (Act No. 685)**

Prior law provided in the case of an emergency certificate issued pursuant to an examination conducted by telemedicine, a copy transmitted by facsimile or other electronic device shall be sufficient authority for the peace officer or ambulance worker to transport the patient to a treatment facility and for the director to accept such patient. New law adds the case where the valid original is not provided to the transporter.

Effective August 1, 2014.

(Amends R.S. 28:53(F))

### **TITLE 29: MILITARY, NAVAL, AND VETERANS' AFFAIRS**

There were no new laws of particular interest.

### **TITLE 30: MINERALS, OIL, GAS AND ENVIRONMENTAL QUALITY**

#### **Solution Mining Injection Wells (Act No. 691)**

New law requires that permits for solution mining injection wells include reimbursement to any person who owns noncommercial residential immovable property located within an area under mandatory or forced evacuation for a period of more than 180 days, without interruption, due to a violation of a rule, regulation, or order issued by the commissioner.

New law requires an offer of reimbursement to be for the replacement value of the property. New law requires that the replacement value of the property will be calculated based on the estimated value of the property prior to the incident resulting in the declaration of the disaster or emergency.

New law provides that the reimbursement will be made to the property owner within 30 days after notice by the property owner to the permittee indicating acceptance of the offer, and showing proof of continuous ownership prior to and during an evacuation that lasts more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and transfers the immovable property free and clear of any liens, mortgages, or encumbrances to the permittee.

Effective August 1, 2014.

(Amends R.S. 30:4(M)(6))

#### **Environmental Procedures (Act No. 400)**

Present law provides that a defendant may request a hearing to determine whether there is good cause for maintaining the defendant as a party in the litigation. Present law provides that a party dismissed will be entitled to a judgment of dismissal with prejudice following a final nonappealable judgment on the claims asserted

by the party against whom the preliminary dismissal was granted.

New law adds that the party against whom the preliminary dismissal was granted will be entitled to recover from the party who asserted the claim an award of reasonable attorney fees and costs, as may be determined by the court.

New law provides that in all cases in which a party makes a limited admission, there will be a rebuttable presumption that the plan approved or structured by the department, after consultation with the DEQ as appropriate, is the most feasible plan to evaluate or remediate to applicable regulatory standards the environmental damage for which responsibility is admitted. For cases tried by a jury, the court must instruct the jury regarding this presumption if so requested by a party.

Prior law did not preclude a judgment ordering damages for or implementation of an additional remediation in excess of the requirements of the plan adopted by the court as may be required in accordance with the terms of an express contractual provision. New law removes prior law.

Prior law provided that any award granted in connection with the judgment for additional remediation is not required to be paid into the registry of the court. New law provides that only awards for additional remediation in excess of the requirements of the plan adopted by the court are not required to be paid into the registry of the court.

New law provides for remediation damages only for the following items:

- (1) The cost of funding the feasible plan adopted by the court.
- (2) The cost of additional remediation if required by an express contractual provision providing for remediation to original condition or some other specific remediation standard.
- (3) The cost of evaluating, correcting, or repairing any environmental damage caused by unreasonable or excessive operations based on rules, regulations, lease terms and implied lease obligations arising by operation of law, or standards applicable at the time of the activity

under questions, provided that such damage is not duplicative of other damages.

(4) The cost of nonremediation damages.

New law will not be construed to alter the traditional burden of proof or to imply the existence or extent of damages in any action, nor will it affect an award of reasonable attorney fees or costs.

New law provides that the plan approved by the department is the most feasible plan to remediate environmental damage under the applicable regulatory standards. New law provides that for cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party.

Effective August 1, 2014.

(Amends R.S. 30:29 and C.C.P. Art. 1563(A)(2))

#### **Bids for Mineral Leases (Act No. 48)**

Existing law provides generally for the process of accepting bids for mineral leases on state lands. Existing law provides for methods of payment of deposits required to accompany bids, including certified check, cashier's check, or bank money order. New law adds electronic funds transfer to the list of acceptable methods of payment.

Effective Aug. 1, 2014.

(Amends R.S. 30:127(F))

#### **Running Surface Water (Act No. 285)**

Prior law required that a cooperative endeavor agreement to withdraw running surface water will have an initial term not to exceed two years, and that no new cooperative endeavor agreement can be entered into for which an application was received by DNR after December 31, 2014. New law extends the date for which an application can be received to December 31, 2016.

Prior law provided that a person or entity who enters into a cooperative endeavor agreement to withdraw running surface waters may terminate such agreement after December 31, 2014. New law extends the termination date to December 31, 2016.

Effective August 1, 2014.

(Amends R.S. 30:961(E))

#### **Public Water Removal (Act No. 556)**

New law requires that entities that remove water from state water bodies determined by the Dept. of Wildlife and Fisheries to be negatively impacted by invasive aquatic vegetation to reimburse the state at a rate of not more than 15 cents per 1,000 gallons, with no consideration for economic development or other considerations.

Effective Aug. 1, 2014.

(Amends R.S. 30:961 and R.S. 56:10.1)

#### **Electric Utilities (Act No. 726)**

New law authorizes DEQ, in collaboration with and input from the Public Service Commission, to establish standards of performance, meeting certain criteria, for measuring carbon dioxide emissions from existing fossil fuel-fired electric generating units.

New law provides the DEQ's plan establishing standards of performance for existing fossil fuel-fired electric generating units must be consistent with new law and may include alternative compliance options for meeting standards. New law requires such options must comply with a guidance document by the EPA, be based on measures that can be implemented, and be consistent with prior law.

Effective August 1, 2014.

(Adds R.S. 30:2060.1)

#### **Hazardous Materials (Act No. 799)**

Present law requires owners and operators to notify the Dept. of Public Safety and Corrections, emergency response entities, and employees of hazardous material stored at their facility and to report releases of such materials.

New law authorizes the department to enter into settlements of civil penalty assessments that allow the respondent to perform beneficial emergency planning, preparedness, and response projects or provide for the payment of a cash penalty to the state, or both.

New law provides that such settlements shall be considered a civil penalty for tax purposes.

New law requires such settlements be submitted along with the underlying enforcement action, a description of the project, and justification for the settlement to the attorney general for approval or rejection. New law requires any approval or rejection to be in writing and, if rejected, include written reasons for the rejection.

New law requires the attorney general to request additional information within 30 days of the request of his review and requires the information to be provided by the department within 30 days of his request.

New law authorizes the department to execute the settlement without the approval of the attorney general if a notice of rejection is not given to the department within 90 days of the attorney general receiving the settlement.

New law provides that beneficial emergency planning, preparedness, and response projects may include providing computers and software, communication systems, chemical emission detection and inactivation equipment, and hazardous materials equipment and training.

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

(Adds R.S. 30:2373(G))

#### **Smoking and Litter (Act No. 100)**

New law adds cigarettes, cigarette butts, cigars, cigarillos, and cigar and cigarillo tips to the definition of litter in existing law.

Effective August 1, 2014.

(Amends R.S. 30:2522(4); Adds R.S. 30:2531(A)(3))

### **TITLE 31: MINERAL CODE**

#### **Mineral Rights Prescription (Act No. 473)**

Prior law provided that mineral rights are subject to a prescription of nonuse for 10 years.

New law provides that when land is acquired from any person by an acquiring authority or other person as part of an economic development project pursuant to a cooperative endeavor agreement between the acquiring

authority and the state through the Dept. of Economic Development and a mineral right subject to the prescription of nonuse is reserved, the prescription of nonuse shall thereafter not run against the right for a period of 20 years from the date of acquisition, whether the title to the land remains in the acquiring authority or is subsequently transferred to a third person, public or private.

Effective August 1, 2014.

(Adds R.S. 31:149(I))

## **TITLE 32: MOTOR VEHICLES AND TRAFFIC REGULATION**

### **Vehicle Inspection (Act No. 19)**

New law provides that any physical inspection of a vehicle for the purpose of vehicle identification number verification shall be by a P.O.S.T. certified law enforcement officer, whether he is full-time or not.

Present law provides that prior to the issuance of the permit to sell or permit to dismantle the stored vehicle, the storage or parking facility owner shall provide the department with an affidavit of physical inspection completed by a full-time P.O.S.T. certified law enforcement officer.

New law removes the requirement that a P.O.S.T. certified law enforcement officer be fulltime but specifies that such officer be trained and certified by the Dept. of Public Safety and Corrections, office of state police, to inspect vehicles.

(Amends R.S. 32:706.2, 707.5, 1728, 1728.2, 1728.3, and 1728.4)

### **DWI Rules (Act No. 58)**

New law extends from 5 years to 10 years the time period in which a person's previous convictions of operating a motor vehicle under the influence of alcohol and/or drugs or refusal to submit to a chemical test for intoxication can be considered in determining the number of offenses in regards to suspension of driving privileges.

(Amends R.S. 32:414 and 667)

### **Commercial Drivers (Act No. 81)**

New law requires a person applying for a commercial driver's license to provide a current medical examiner's certificate (rather than a medical report) on a form approved by the office of motor vehicles. New law requires the applicant to submit a valid medical examiner's certificate upon each renewal and carry a current medical examiner's certificate on his person at all times when driving a commercial motor vehicle.

(Amends R.S. 32:403.4(A)(1))

### **Speed Cameras (Act No. 95)**

New law prohibits the use of automated speed enforcement devices by local municipal authorities or local parish authorities on interstate roadways within their corporate or territorial limits.

New law prohibits any local municipal authority or local parish authority from imposing or collecting any civil or criminal fine, fee, or penalty as a result of an image produced in violation of new law on or after Jan. 1, 2015.

New law requires any local municipal authority or local parish authority to discontinue use of automated speed enforcement devices in violation of this law by Jan. 1, 2015.

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

(Adds R.S. 32:43)

### **Marine Products (Act No. 111)**

New law adds the definition of "watercraft" to mean any contrivance used or designated for navigation on water, including but not limited to a personal watercraft.

Prior law provided for the establishment of a new marine dealership, and provided that it is a violation of law for a manufacturer, a distributor, a wholesaler, distributor branch, or factory branch of marine products or any officer, agent, or other representative thereof to fail to designate and provide to the commission in writing the community or territory assigned to a licensee.



New law exempts marine products consisting of trolling motors, boat trailers, or watercraft trailers.

Effective August 1, 2014.

(Amends R.S. 32:1252 and 1270.1; adds R.S. 32:1270(G))

#### **Required Vehicle Insurance (Act No. 149)**

Old law provided that there "should" be no recovery for the first \$15,000 of bodily injury and no recovery for the first \$25,000 of property damage based on any cause of action arising out of a motor vehicle accident, for damages incurred by an owner or operator who fails to maintain compulsory motor vehicle liability security. New law changes "should" to "shall".

(Amends R.S. 32:866(A)(1))

#### **Vehicle Inspections (Act No. 160)**

Existing law requires every registered motor vehicle, low-speed vehicle, trailer, semitrailer, and pole trailer be inspected and certificate of inspection obtained at least once every other year, with various exemptions. New law adds single axle two-wheel trailers to the list of exemptions.

Effective August 1, 2014.

(Amends R.S. 32:1311)

#### **Boat Trailers (Act No. 235)**

New law exempts boat trailers from the requirement to bear a valid safety inspection certificate.

Effective Aug. 1, 2014.

(Amends R.S. 32:1301 and 1311)

#### **Fake IDs (Act No. 262)**

New law prohibits the manufacture, sale, or possession of any fictitious or facsimile credential that is intended to simulate a valid credential issued by any state, territory, or possession of the U.S., the District of Columbia, the Commonwealth of Puerto Rico, any foreign country or government, a U.S. government-issued credential, or a U.S. passport or foreign government visa. Such valid credentials include any driver's license, driver permit, temporary license, restricted or hardship license,

government-issued identification card, school-issued identification card, vehicle registration certificate, or vehicle license plate.

New law authorizes the office of motor vehicles to issue a cease and desist order to any person not in compliance. New law authorizes the office to petition for injunctive relief.

Effective August 1, 2014.

(Adds R.S. 32:410.1)

#### **Ready-Mixed Concrete Trucks (Act No. 291)**

Prior law prohibited assessment of a penalty on any truck hauling ready-mixed concrete which exceeds its maximum allowable gross weight by 10% or less under certain circumstances, and that if the truck's total excess weight is greater than 10% of the truck's maximum allowable gross weight, the truck shall be assessed a penalty calculated on the excess.

Prior law was effective through July 31, 2014. New law extends termination date to July 31, 2016.

Effective August 1, 2014.

(Amends R.S. 32:388(B)(1)(b)(iv))

#### **Motorcycle Checkpoints (Act No. 301)**

New law requires law enforcement agencies to establish guidelines prohibiting the establishment of checkpoints where the only vehicles subject to or targeted for inspection are motorcycles.

Effective August 1, 2014.

(Adds R.S. 32:295.4(5))

#### **Commercial Driver's Licenses (Act No. 351)**

New law provides that the skills test requirements applicable to Class "A", "B", and "C" commercial driver's licenses are waived if a driver:

(1) certifies that, during the two-year period immediately prior to applying, he has not had any of the following: (a) more than one license, except for a military license; (b) any license suspended, revoked, or cancelled; or (c) certain convictions relating to motor vehicles; or

(2) provides evidence and certifies that he is or was any of the following:

(a) regularly employed within the last 90 days in a military position requiring operation of a commercial motor vehicle.

(b) exempt from the commercial driver's license requirements in SAR.

(c) operating a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate, for at least the two years immediately preceding discharge from the military.

Effective Aug. 1, 2014.

(Adds R.S. 32:408(A)(5))

#### **Cell Phones in School Zones (Act No. 410)**

New law prohibits the operation of wireless telecommunications devices while traveling through a school zone during posted hours.

New law defines "operation of a wireless telecommunication device" as engaging in a call; accessing, reading, or posting to a social networking site; and writing, sending, or reading a text-based communication.

New law defines "wireless telecommunications device" as a cellular telephone, a text messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input.

New law specifies that the wireless telecommunications prohibition in new law does not apply to the following situations:

(1) Reporting a traffic collision, medical emergency, or serious road hazard.

(2) Reporting a situation in which the person believes his personal safety is in jeopardy.

(3) Reporting or averting the perpetration or potential perpetration of a criminal act against the driver or another person.

(4) Operating a wireless telecommunications device while the motor vehicle is lawfully parked.

(5) Using a wireless telecommunications device in an official capacity as an operator of an authorized emergency vehicle.

New law provides that the production of documentary or other evidence proving that the wireless telecommunications device was used for emergency purposes is an affirmative defense against the alleged violation.

Effective Aug. 1, 2014.

(Adds R.S. 32:300.8)

#### **Used Motor Vehicle Dealers (Act No. 423)**

New law provides that "motor vehicle" means any motor-driven car, van, or truck required to be registered pursuant to the Vehicle Registration License Tax Law, R.S. 47:451 et seq., which is used or is designed to be used, for the transporting of passengers or goods for public, private, commercial, or for-hire purposes, including but not limited to motor homes, motorcycles, allterrain vehicles, recreational vehicles, travel trailers, boat trailers, ambulances, buses, fire trucks, conversion vehicles, wreckers, semitrailers, hearses, and marine products.

New law provides that "motor vehicle" also means any vehicle manufactured for off-road use and issued a manufacturer's statement or certificate of origin.

New law adds a nonexclusive list of what shall be considered false, misleading, or unsubstantiated advertising in connection with business.

Present law provides that every used motor vehicle dealer who accepts a deposit or a down payment from a consumer shall provide the consumer with a purchase agreement statement containing certain specified information. New law repeals present law.

Present law provides that every used motor vehicle dealer who accepts a deposit or down payment for a purchase agreement conditioned upon the consumer's ability to obtain financing of the remainder of the purchase price shall return the deposit or down payment upon a determination that the consumer does not qualify for financing. If no determination is made

regarding financing within 20 days of the receipt of the deposit or down payment, the deposit or down payment shall be returned to the consumer at the end of the 20 day period. New law repeals present law.

New law provides that in every transaction between a used motor vehicle dealer and a customer in which the purchaser provides a deposit on a used motor vehicle, the used motor vehicle dealer is required to provide a statement that the deposit given is on an agreement to purchase, and not an actual sale. The agreement shall clearly state that no transaction has actually occurred, and no sales documents have been completed. The deposit is merely intended as a hold on a vehicle.

New law provides that in every transaction between a used motor vehicle dealer and a customer in which the purchaser provides a down payment for the purchase of a used motor vehicle, the used motor vehicle dealer is required to provide, either on the bill of sale, or by separate agreement, a statement that the sale is conditioned upon certain identifiable events, such as financing or obtaining state-mandated compulsory automobile insurance.

New law provides that in every transaction between a used motor vehicle dealer and a customer in which the customer provides either a down payment or a deposit for the purchase of a used motor vehicle, the used motor vehicle dealer is required to complete a disclosure statement that includes certain specified detailed information.

New law provides that if the dealer allows the customer to take delivery on a vehicle which is the subject of either a deposit or a down payment, a pre-delivery sale disclosure statement from the dealer and the customer must include certain specified detailed information.

(Amends R.S. 32:781; Adds R.S. 32:792 and 796)

#### **Rental Dealers (Act No. 430)**

Prior law required rental dealers to purchase their policy of contingent automobile liability insurance through an insurer that is licensed by and admitted in the state. New law removes

prior law requirement and provides that such policy may be surplus lines insurance.

Effective Aug. 1, 2014.

(Amends R.S. 32:793(D))

#### **Brake Tags (Act No. 438)**

New law provides that a certified motor vehicle inspection station may inspect a vehicle for good condition and proper adjustment when it is raining if the conditions are safe and the vehicle can accurately be checked.

Effective August 1, 2014.

(Amends R.S. 32:342(B); Adds R.S. 32:1306(H))

#### **DWI Laws (Act No. 458)**

Existing law requires DPSC to suspend the driver's license of any person for a period of 12 months upon receiving satisfactory evidence of the conviction, guilty plea, or nolo contendere plea and sentencing of any person charged with a first offense of certain crimes.

New law clarifies that a suspended sentence and probation is to be considered as a conviction for purposes of prior law requiring suspension of the person's driver's license.

Prior law provided that a person's vehicle operating record cannot include an arrest for a first or second misdemeanor DWI violation when the person was convicted or entered a plea, and the sentence was suspended and the person placed on probation.

New law clarifies that a person's vehicle operating record cannot include an arrest for a first or second violation of any state, local, parish, city, municipal, or other government ordinance, statute, or legal provision making criminal the operating of a motor vehicle while intoxicated or under the influence of alcohol in certain circumstances.

Prior law provided that DPSC is to add the conviction to the operating record and suspend or revoke the person's driver's license only if the court, clerk, or district attorney subsequently reports that the person was denied a final dismissal.

New law provides that DPSC is to add the first or second misdemeanor DWI conviction to the person's vehicle operating record when the sentence was suspended and the person was placed on probation, until such time as DPSC receives notice that the person achieved a final dismissal under prior law.

Effective August 1, 2014.

(Amends R.S. 32:414(A)(1)(a) and 853(A)(1)(c))

#### **Water-Damaged Vehicles (Act No. 464)**

New law provides for the issuance of title for a vehicle whose power train, computer, or electrical system has sustained water damage, but does not meet the criteria for a salvaged vehicle, or a certificate of destruction. New law requires a branded title to be issued indicating the vehicle has sustained water damage.

Effective August 1, 2014.

(Adds R.S. 32:707(O))

#### **Self-Insured Nonresident Drivers (Act No. 500)**

Prior law required that if a nonresident driver is involved in an accident and is issued a traffic citation in connection with that accident, then the nonresident driver is required to take one of several actions.

New law also allows the nonresident driver to show proof of coverage as a self-insurer or under a self-insurance plan from the state in which he is a resident.

New law provides that proof of coverage as a self-insurer or under a self-insurance plan requires that the self-insurer or plan agrees that:

(1) it shall pay the amount of any claim due a claimant within 30 days after receipt of satisfactory proof of loss from the claimant or any party in interest, and

(2) it shall pay the amount of any third-party property damage claim and any reasonable medical expense claim due any bona fide third-party claimant within 30 days after written agreement of settlement of the claim from the third-party claimant.

New law provides that failure to make a payment within 30 days after receipt of satisfactory proof of loss or within 30 days after written agreement of settlement when the failure is found to be arbitrary, capricious, or without probable cause, shall subject the self-insurer or self-insurance plan to a penalty of 50% damages on the amount due or \$1,000, whichever is greater, payable to the respective claimant. New law provides that if a partial payment or tender has been made, a penalty of 50% of the difference between the amount paid or tendered and the amount found to be due shall be paid, as well as reasonable attorney fees and costs.

New law provides that the self-insurer or self-insurance plan owes a duty of good faith and fair dealing to the injured claimant and has an affirmative duty to adjust any claim fairly and promptly and to make a reasonable effort to settle any claim with a claimant. New law provides that any self-insurer or self-insurance plan who breaches these duties is liable for any damages sustained as a result of the breach.

New law provides that any one of the following acts, if knowingly committed or performed by a self-insurer or self-insurance plan, constitutes a breach of the insurer's duties imposed under new law:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to any coverages at issue.

(2) Failing to pay a settlement within 30 days after an agreement is reduced to writing.

(3) Denying coverage or attempting to settle a claim on the basis of an application that the self-insurer or self-insurance plan knows was altered without notice to, or knowledge or consent of, the claimant.

(4) Misleading a claimant as to the applicable prescriptive period.

(5) Failing to pay the amount of any claim due a claimant within 60 days after receipt of satisfactory proof of loss from the claimant when the failure is arbitrary, capricious, or without probable cause.

New law provides that in addition to any general or special damages to which a claimant is

entitled for breach of the imposed duty, the claimant may be awarded penalties assessed against the self-insurer or self-insurance plan in an amount not to exceed two times the damages sustained or \$5,000, whichever is greater.

Effective August 1, 2014.

(Amends R.S. 32:880)

#### **Nurses (Act No. 551)**

New law authorizes licensed practical nurses to withdraw blood and administer chemical tests to determine the blood alcohol content or the presence of abused or illegal substances.

New law provides that licensed practical nurses shall only withdraw blood pursuant to a subpoena or court order.

Effective Aug. 1, 2014.

(Amends R.S. 32:664 and 666)

#### **International Driver's Licenses (Act No. 562)**

New law provides that only an international driver's license issued in the foreign individual's country of origin and issued in accordance with the applicable treaty shall be a valid noncommercial driver's license in this state.

New law prohibits operating a commercial motor vehicle with an international driver's license.

New law prohibits any person from issuing an international driver's license in this state for use in this state or any other state or territory of the United States.

(Adds R.S. 32:410.1)

#### **Motor Vehicle Liability Insurance (Act No. 639)**

New law increases the penalties, fines, and fees for various violations of the Motor Vehicle Safety Responsibility law.

Effective Feb. 1, 2015.

(Amends R.S. 32:862, 863, 863.1, 864, and 865)

#### **Motor Vehicle Liability Insurance (Act No. 641)**

New law increases the penalties, fines, and fees for various violations of the Motor Vehicle Safety Responsibility law.

New law purports to repeal Act No. 639 which also provides relative to fines and reinstatement fees for lack of motor vehicle liability insurance coverage.

Effective July 1, 2014.

(Amends R.S. 32:862, 863, 863.1, 864, and 865; Adds R.S. 32:868; Repeals Act No. 639 of 2014 R.S.)

#### **Donations of Motor Vehicles (Act No. 660)**

New law authorizes donations of motor vehicles to be executed by an act under private signature duly acknowledged.

New law provides that a donation of a titled movable by manual gift as documented by delivery of the motor vehicle's previously issued certificate of title that is executed by the donor-owner may be submitted to the office of motor vehicles in connection with a motor vehicle transaction by a La. Motor Vehicle Commission licensee.

New law provides that the commission cannot make and enforce rules and regulations that limit or prohibit a dealer from making a monetary donation or contribution that does not directly involve the sale or lease of a motor vehicle in connection with an advertising campaign.

Effective Aug. 1, 2014.

(Amends R.S. 32:1253(E); Adds R.S. 32:705.1)

#### **Driver's Licenses (Act No. 765)**

Prior law provided that the duration of all classes of a driver's license is four years. New law changes the duration of all classes of a driver's license to six years. New law increases numerous license fees.

New law requires that the passports and immigration documents of applicants who are attempting to renew a driver's license must permit the applicant to maintain a legal presence in the United States for at least 30 calendar days.

Effective July 1, 2015.

(Amends 32:409.1, and 429; adds R.S. 32:412.3)

#### **Motor Vehicle Dealers (Act No. 770)**

Prior law provided that it is a violation for a manufacturer, a distributor, a wholesaler, distributor branch, or facility branch of new cars, marine products, motorcycles and allterrain vehicles, recreational vehicles, or any officer, agent, or representative thereof, to fail to compensate its dealers for the work and services that are required to be performed in connection with the dealer's delivery and preparation of obligations according to the terms of compensation that shall be filed with the Motor Vehicle Commission on or before October first of each year. The commission shall find the compensation to be reasonable or the manufacturer shall remedy any deficiencies.

New law repeals prior law as it relates to marine products and motorcycles and all-terrain vehicles. New law, as it relates to new cars and recreational vehicles, revises the filing requirement with the commission.

Effective August 1, 2014.

(Amends R.S. 32:1261 and 1270.20; repeals R.S. 32:1270.1(1)(j) and 1127.11(1)(i))

#### **Road Clearing (Act No. 781)**

New law provides removal authority, as result of a motor vehicle collision or incident, to any police officer, without the consent of the owner, to immediately have removed any movable property that has been damaged or spilled upon the roadway or shoulder which constitutes a hazard or obstructs traffic.

New law requires any police officer to take immediate action and give priority to opening all roadway lanes to traffic provided such action does not impair the protection of public safety.

New law provides that there is no liability for exercise or failure to exercise removal authority in the absence of gross negligence.

New law applies only to roadways included within the state and federal highway system in this state.

Effective August 1, 2014.

(Adds R.S. 32:155)

#### **Booting Motor Vehicles on Private Property (Act No. 800)**

New law provides for the regulation of persons who own or operate motor vehicle booting businesses and who boot motor vehicles parked on private property, meaning any parking facility, parking lot, facility or street which is privately owned and is located near or contiguous to business establishments and which is used for the parking of motor vehicles or for vehicular travel. New law is applicable only to persons engaged in the business of booting motor vehicles in parishes and municipalities that provide, by ordinance, for the regulation of booting.

New law requires all booting companies that do business in La. to (1) maintain minimum specified insurance coverages and (2) deposit with the parish or municipality a continuing surety bond in the amount of \$10,000 to indemnify any person who suffers any loss by reason of a failure to observe provisions of law or ordinance, or any person who suffers any loss, damages, and expenses by reason of a failure to properly boot a vehicle.

New law prohibits any person from booting a vehicle unless the person has complied with all licensing requirements or has a written contract with the owner of the private property. New law prohibits a person from booting a motor vehicle unless a minimum of two signs are conspicuously posted and maintained by the owner of the private property.

New law requires all vehicle booting agents and personnel to wear business identification that is visible at all time while booting and accepting payments.

New law requires any person who has booted a vehicle to immediately affix a sticker containing specified information.

New law requires the person who boots a vehicle to, upon payment of all fees to remove a boot, to remove the boot and the window sticker immediately at no additional charge.

New law requires any person who boots a motor vehicle or any person authorized to accept

payment of any booting fees to provide a signed receipt to the person paying the booting fees at the time such fees are paid. New law requires that the receipt contain notification that the owner or operator of a booted vehicle has a right under parish or municipal ordinance to ask for and receive a hearing. New law requires all booting company personnel responsible for the removing of a boot to be capable of accepting payment by credit or debit card as well as cash.

New law provides that the owner of a motor vehicle that has been booted has a right to an administrative hearing in the parish or municipality in which the motor vehicle was booted, to determine the validity of the booting and the fees imposed. New law requires the owner to make the request within 10 calendar days from the date the motor vehicle was booted.

Nothing in new law prohibits any parish or municipality from adopting more restrictive requirements or regulations.

New law provides that booting companies may not charge any more than the amount specified on posted signs for the release of a booted motor vehicle. New law provides that no boot removal fee or any other charge or fee shall be collected if personnel responsible for removing the boot do not arrive within 90 minutes of the call or other notification that the owner or operator of the vehicle requests removal of the boot.

New law authorizes parishes and municipalities to levy an annual fee for licensing persons to engage in the business of booting motor vehicles parked on private property in the parish or municipality.

New law prohibits a parking facility operation company, valet company, or a general manager of a parking facility from having a direct or indirect monetary or ownership interest in a business engaged in booting motor vehicles on private property which, for compensation, boots unauthorized vehicles in a parking facility.

New law prohibits a parking facility operating company, valet company, or general manager of a parking facility in which vehicles are booted from accepting any rebate, compensation, or other valuable consideration, directly or

indirectly, from the owner or operator of a business engaged in booting motor vehicles on private property in connection with the booting of vehicles, other than the collected unpaid parking fees.

New law provides that a first violation by a person booting motor vehicles parked on private property shall subject such person to a warning and a subsequent violation shall subject such person to a suspension of the violator's right to engage in the business of booting motor vehicles on private property.

New law requires all persons engaged in the business of booting motor vehicles parked on private property in any parish or municipality in the state of La. to comply with all the requirements of new law and all the licensing and other requirements of any ordinance regulating such business of the parish or municipality in which the person engages in such business

New law provides that no person shall boot a motor vehicle parked on private property unless a sign is posted at each lot entrance containing prescribed information. New law requires that the telephone number provided on the posted signs be in operation twenty four hours a day and manned by a live operator.

New law prohibits any person from booting a motor vehicle parked on private property or a pay-to-park lot because the motor vehicle is improperly parked in a marked space on such private property or pay-to-park lot, unless the person booting the vehicle obtains photographic proof sufficient to clearly show the improper parking.

New law requires all vehicles that are used in the operation or assistance of a business engaged in booting motor vehicles on private property to display on each side of the vehicle the name of the business, the address from which the business is operating, and a phone number of the business.

Effective Aug. 1, 2014.

(Adds R.S. 32:1750.1)

**Driving Privileges (Act No. 802)**

New law authorizes the removal of license plates on motor vehicles operated by persons with suspended or revoked driving privileges.

New law provides that if the law enforcement officer determines that an operator's driving privileges are suspended or revoked, and the vehicle is registered in the state in the name of the operator, the officer must remove the license plate from the vehicle and the operator of the vehicle must be issued a notice of suspension or revocation of his driving privileges.

New law requires that a copy of the notice of suspension or revocation of driving privileges be attached to the motor vehicle license plate and requires that both the notice and license plate be delivered to the local office of motor vehicles within three calendar days of notice. New law requires the department to revoke the registration of such motor vehicle after verifying that the operator of the motor vehicle is the registered owner of the vehicle. New law requires the office of motor vehicles to store any license plate removed pursuant to new law at the office to which it was delivered for 10 calendar days after receipt.

New law provides that the notice of suspension or revocation of driving privileges serves as notice of judicial review rights.

New law provides a 10 day period, from the notice, to comply with the law, including the payment of fees and penalties. New law specifies that if the operator fails to comply within 10 business days of the receipt of the notice of driver's license suspension or revocation, the office of motor vehicles shall destroy the plate.

New law requires the department to investigate an allegation made by the vehicle operator that the removal of the vehicle's license plate and the suspension or revocation of his driving privileges will deprive him or his family of the necessities of life or prevent them from earning a livelihood, and if the department finds that the allegation is valid, it may issue a hardship license plate to be placed on the motor vehicle.

New law provides that if the operator and owner of the vehicle was properly licensed in this state at the time notice was issued, any valid license plate shall be returned within 48 hours and at no cost to the owner.

New law requires the issuance of a temporary sticker, denoting its use in lieu of an official license plate, to be attached to the rear end of the motor vehicle, which sticker is valid for a period of 10 days for an operator with a valid driver license to operate the vehicle on public streets and highways. After the expiration of the 10 day period, the vehicle shall not be operated on the public streets and highways until the vehicle is registered. New law specifies that this does not prohibit the sale, transfer, or other reassignment of the vehicle, except that if the department determines the transfer was done to avoid compliance with the requirements of this Section.

New law does not apply if the operator is not also the registered owner of the vehicle as is reflected in the vehicle registration records.

Effective Aug. 1, 2014.

(Adds R.S. 32:415.2)

**Driver's Licenses (Act No. 807)**

Present law provides that Class "D" and "E" driver's licenses expire on the anniversary of the birthday of the applicant that is nearest to a period of four years subsequent to the issuing of the license. New law changes the period from a four-year period to a six-year period.

Present law provides that Class "A", "B", and "C" commercial driver's licenses shall expire on the anniversary of the birthday of the applicant that is nearest to a date of four years subsequent to the issuing of the license. New law changes the period from a four-year period to a six-year period.

New law increases numerous fees.

New law shall become effective July 1, 2015.

(Amends R.S. 32:412, 32:412.1, and 32:429; Adds R.S. 32 and 412.3)



**Transportation Infrastructure Bank (Act No. 830)**

New law creates the La. Transportation Infrastructure Bank as an agency of the state, to fund or assist in funding "eligible transportation projects" of public entities through a revolving loan fund, to be capitalized by federal grants, state funds when required or available, and other funds generated by the operation of the fund.

New law authorizes the board to establish, administer, maintain, and operate the fund as the "transportation infrastructure bank" and authorizes the bank to issue and incur debt, to guarantee debt issued by other entities, and to secure the debt of other entities in order to fund eligible transportation projects.

New law authorizes the bank to review, accept, or deny all loan applications made by any public entity, but requires that all projects have prior approval of the Dept. of Transportation and Development.

New law requires that loans made from the fund and any other action by the department on behalf of a transportation project receive State Bond Commission approval.

New law authorizes a political subdivision to dedicate a portion of its revenues for repayment of any portion of the loan.

New law provides for the sale, advertisement, and contesting of bonds, notes, or other evidence of indebtedness of a political subdivision and exempts such bonds, notes, and other evidence of indebtedness from taxation for state, parish, municipal, or other purposes.

New law provides that the debt will not be considered net state tax supported debt for purposes of the debt limitation.

New law provides that funds expended under new law shall be exclusively for public purposes to fund eligible transportation projects.

Effective if and when the proposed constitutional amendments contained in the Acts which originated as House Bill Nos. 628 and 629 of the 2014 Regular Session of the Legislature are adopted at the statewide election in Nov. 2014.

(Amends R.S. 48:77(B)(2); Adds R.S. 32:1801-1806)

**TITLE 33: MUNICIPALITIES AND PARISHES**

**Lawrason Act Mayor Pro Tempore Powers (Act No. 38)**

New law authorizes the mayor pro tempore, in the case of a vacancy in the office of the mayor, to perform the duties of the mayor during the vacancy, in municipalities governed by the Lawrason Act.

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

(Amends R.S. 33:405)

**Redevelopment Authorities and Public Benefit Corporations (Act No. 97)**

New law authorizes redevelopment authorities to create public benefit corporations for the purpose of redeveloping, owning, planning, renovating, reconstructing, constructing, leasing, subleasing, managing, operating and improving property and facilities within the jurisdiction of the authority. New law provides that the authority is the sole shareholder of the corporation and the governing board of the authority serves as the board of directors of the corporation. New law provides that the corporations are not political subdivisions of the state but are nonprofit corporations and instrumentalities of the authorities that create them.

New law provides that the corporations have all the power, authority, privileges, immunities, tax exemptions, and other exemptions granted by law to the respective authority that created the corporation. New law requires the corporation to conduct all of its activities in accordance with the provisions of law that govern the authority that created the corporation.

New law provides that the corporations are distinct and separate juridical entities, and the rights, interests, and liabilities of each corporation are not considered those of the authority that created it.

New law authorizes the board of the corporation to dissolve it once its purposes have been substantially completed, and that upon dissolution, all of its funds and property become owned by the authority the created it.

New law provides that each corporation is subject to the provisions of the Public Records Law, Open Meetings Law, and the Code of Governmental Ethics.

(Adds R.S. 33:4720.201)

#### **General Technical Revisions (Act No. 158)**

New law makes numerous technical revisions of local government laws, provides for revision and repeal of certain obsolete, superseded, and inaccurate provisions, authorizes the La. State Law Institute to redesignate certain laws, and removes obsolete references to provisions of the 1921 Constitution of La.

Old law authorized municipalities to compel males to perform street duty or to pay a street tax in lieu thereof. New law repeals old law.

Old law authorized municipalities to designate sweeping and sprinkling districts, upon petition of the majority of the residents of a street, and to provide for the financing of the sprinkling and sweeping services. New law repeals old law.

(Amends R.S. 33:130.31, 1333, 3821, 4051, 4161, 4162, and 4306; Repeals R.S. 33:3744 and 3745)

#### **Jefferson Parish Special Taxing District (Act No. 212)**

Present law authorizes the governing authority of Jefferson Parish to create a special taxing district for the purpose of promoting, encouraging, and participating in infrastructure improvements to stimulate the economy through commerce, industry, and research and for the utilization and development of natural, physical, and human resources of the area.

New law expands the boundaries of the district and instead provides that the purpose of the district is to promote, encourage, and participate in projects or plans, rather than infrastructure improvements, to stimulate the economy.

New law requires the board to collaborate with the parish government to prepare, implement,

and maintain a redevelopment plan for the district and a program to implement the redevelopment plan to address capital improvements, which must be a part of the parish's comprehensive plan. New law authorizes the district to employ or contract with contractors, engineers, architects, attorneys, underwriters, and other professionals.

New law authorizes the district to issue revenue bonds payable solely from ad valorem tax increments. New law authorizes the district to collect a parcel fee as requested by duly adopted resolution of the council, subject to voter approval, which fee expires four years from its initial levy, but may be renewed.

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

(Amends R.S. 33:1420.19)

#### **Economic Development Corporations (Act No. 267)**

Existing law provides that any group of three or more persons may apply to the legislature or the governing authority of certain classes of local governmental subdivision for permission to organize and be designated as an economic development corporation.

New law adds an economic development district or authority created as a political subdivision of the state to this definition, thereby providing that such an entity may authorize the creation of an economic development corporation.

Effective Aug. 1, 2014.

(Amends R.S. 33:9022(5))

#### **Condemnation and Demolition (Act No. 288)**

Prior law provided that the parish or municipal governing authority may condemn a building after 24 hours notice served upon the owner or his agent or the occupant and attorney at law appointed to represent the absentee owner. Prior law provided that any such notice may be attached to a door or entrance of the premises and shall have the same effect as delivery to or personal service on the owner, occupant, or attorney. New law provides for any such notice to be attached to a door or main entrance of the

premises or in a conspicuous place on the exterior of the premises.

Prior law provides that the owner of the building who desires to prevent the demolition or removal thereof must file his petition within 48 hours. New law clarifies the filing must be made within 48 hours of the posting of the notice of the demolition or removal order on the property.

New law requires in cases of grave public emergency, the posting of the notice attached to the door or main entrance of the premises or in a conspicuous place on the exterior of the premises giving the time when work will begin upon the demolition or removal of the building, structure, or public nuisance is sufficient notice to the owner, occupant or attorney at law appointed to represent the absentee owner.

Effective upon signature of the governor (May 28, 2014).

(Amends R.S. 33:4762, 4764, and 4765)

#### **Meetings of Certain Districts (Act No. 338)**

New law makes requirements for additional notice of certain meetings of political subdivisions and for recording or broadcast of board or commission meetings inapplicable to certain crime prevention and security districts, improvement districts, and other similar districts.

Effective Aug. 1, 2014.

(Adds R.S. 33:9099.2)

#### **New Trial Delay (Act No. 380)**

Prior law provided for the procedure to enforce health, safety, and welfare statutes and ordinances or to eliminate blighted property, housing violations, and public nuisances in Orleans and Jefferson parishes.

Prior law provided procedures and time limitations for applying for new trial and appeals from final judgments.

New law provides that the delay for a new trial commences after the judgment or after the notice of judgment is either mailed by the clerk or served by the sheriff, whichever is later, when such notice is required.

Effective upon signature of the governor (May 30, 2014).

(Amends R.S. 33:1373(G)(1) and (2))

#### **Firearms Buyback Programs (Act No. 407)**

New law authorizes all parishes and municipalities to institute a firearms buyback program.

New law provides that no public funds other than donations and funds from assets, seizures, and forfeitures may be used to implement the program.

New law authorizes the program to exist for not more than a 30-day period in a calendar year or until the funds acquired for the purchase of the firearms are depleted.

New law provides that all acquired firearms must be either destroyed or delivered to law enforcement agencies for departmental use, which includes the sale of firearms at a public auction.

New law limits the use of the proceeds of such sales to defraying the cost of the auction, training, and purchase of law enforcement equipment.

Effective Aug. 1, 2014.

(Amends R.S. 33:4879(B) and (C))

#### **Tax Increment Funding Audits (Act No. 667)**

New law authorizes certain development districts that receive tax increment funding from a municipality to provide for an audit of related financial activities of the municipality and other entities that provide such funding to the district. More specifically:

New law authorizes the governing authority of a development district to provide for an audit of financial activities, statements, and records of the municipality in which it is located and of other local governmental entities related to tax increment financing from which the development district receives or should receive funds pursuant to agreements with the municipality and other local governmental entities. New law authorizes the district governing authority to request the legislative auditor to conduct such audit or to contract with

an auditor approved by the legislative auditor to conduct such audit.

New law requires that the audit be in compliance with governmental auditing standards and that the audit report make specific recommendations for future avoidance together with the response of the municipality and any other entities audited.

New law applies only to a development district created by law that has a board of commissioners that is not the governing authority of a parish or municipality and the municipality in which the district is located is authorized to levy taxes and incur indebtedness for the benefit of the district; and the district receives tax increment funds through agreements with the municipality in which it is located.

New law authorizes such audits as frequently as the district governing authority deems necessary but not more frequently than once in a 12-month period.

Effective upon signature of governor (June 18, 2014).

(Adds R.S. 33:9038.1)

#### **Dual Meetings (Act No. 707)**

Prior law authorized local governmental subdivisions (parishes and municipalities) to establish various special districts for a variety of purposes. In some cases, the governing authority of the local governmental subdivision serves as the governing authority of the special district.

New law provides that if an action of the special district's governing authority requires the approval of the local governmental subdivision's governing authority and the local governmental subdivision's governing authority also serves as the special district's governing authority, the action of the special district's governing authority and the approval by the local governmental subdivision's governing authority may occur in one meeting of the local governmental subdivision's governing authority.

New law limits its application to instances where the members of the local governmental subdivision's governing authority and the special

district's governing authority are identical in number and in name.

New law requires the governing authority of a local governmental subdivision and the governing authority of a special district to independently follow any notice requirements applicable to any actions taken by such entity.

Effective upon signature of governor (June 18, 2014).

(Adds R.S. 33:1420.21)

#### **Notice of Public Works Project (Act No. 742)**

New law provides that a state or any political subdivision of the state shall provide additional notice to the owners of record of property that will be directly affected by any public works projects, by U.S. mail at least 10 days prior to the time and place of the public hearing regarding the public works project.

Effective August 1, 2014.

(Adds R.S. 33:4690.13)

#### **Infrastructure Donations and Tax Rebates (Act No. 746)**

New law creates the Cooperative Local Government Infrastructure Act to stimulate a partnership between government and the private sector for business growth in depressed areas of the state through local incentives for private sector funding of local public infrastructure.

New law authorizes political subdivisions and political corporations to enter into a cooperative endeavor agreement with a public or private association, corporation, or individual to carry out a local infrastructure project to achieve a public purpose. New law requires that any capital improvements be on public property and consistent with the purpose of new law.

New law provides that cooperative endeavor agreements may provide for the investment, pledge, use, or deposit of private funds and the guarantee by the public or private association, corporation, or individual of certain financial obligations, to achieve the goals set forth in the agreement.

New law provides that the cooperative endeavor agreement set forth in reasonable detail the following:

- (1) The obligations of the various parties.
- (2) A showing of reasonable expectations that the benefits to be received by the local government authority equal or exceed any local tax rebates, tax credits, or other incentives to be awarded.
- (3) Consequences to the public or private association, corporation, or individual in the event of a default or breach of the agreement that shall include a repayment to the local governmental entity, when appropriate, of any rebates, tax credits or other incentives awarded or expenses incurred.

New law allows tax rebates, tax credits, or other incentives for qualified donations made to a local governmental entity for a qualified project, subject to the following limitations:

- (1) A participating donor must submit a written report reasonably documenting the cash, equipment, goods, or services donated for a qualified project, and the value of the qualified donation must be verified by the government.
- (2) The local governmental entity may approve a tax rebate, tax credit, or other incentive to the donor for the verified qualified donation in an amount equal to one-half of the value of the cash, equipment, goods, or services donated, or \$500,000, whichever is less. The total amount of the tax rebates, tax credits, or other incentives which may be received by any donor in any fiscal year is limited to \$500,000.

New law defines "qualified donation" and "qualified project".

New law provides that it shall apply to verified qualified donations made after July 1, 2014.

Effective upon signature of the governor (June 19, 2014).

(Adds R.S. 33:7631-7634)

#### **Lower 9th Ward Lots (Act No. 801)**

New law requires the city of New Orleans to sell, for \$100 per parcel, vacant lots that are located in the Lower Ninth Ward, that were

acquired prior to Jan. 1, 2015 through the La. Road Home program, and that are either owned by the New Orleans Redevelopment Authority or the authority has been tasked with management and disposition of the property.

New law provides that such sales shall only be to these groups in the order they are listed:

- (1) persons qualified under the Lot Next Door program, which authorizes the sale of property to adjacent property owners, who agree to retain and maintain the property for at least five years.
- (2) persons who lease residential property in the Lower Ninth Ward, have resided there for at least 18 months, and agree to retain and maintain the property for not less than five years.
- (3) veterans of the U.S. armed forces, emergency responders, teachers or former teachers, or former residents of the Lower Ninth Ward.
- (4) persons who agree to build a residence on the property and to reside at that residence for at least five years.

New law prohibits sale to a developer, a corporate entity, or a person with an active code enforcement violation or outstanding tax lien.

Effective if and when the proposed amendment of Article VII of the Constitution of La. contained in Act No. 872 of the 2014 R.S. becomes effective. Ceases to be effective 10 years later.

(Adds R.S. 33:4720.11)

#### **St. Bernard Development Commission (Act No. 834)**

New law creates the St. Bernard Parish Economic Development Commission as a political subdivision of the state for the primary object and purpose of promoting and encouraging industrial development to stimulate the economy through commerce, industry, and research and for the utilization and development of natural and human resources of the area by providing job opportunities.

New law authorizes the commission to construct and acquire industrial parks and industrial plant buildings.

New law authorizes the commission to enter into leases having a term, including all renewal terms, not to exceed 50 years in the aggregate, with provision for rate adjustments.

New law provides that the commission shall have various powers, including the powers: (1) to acquire and to construct and improve, maintain, equip, and furnish economic development projects, and (2) to enter into any cooperative financing of an economic development project or cooperative development.

New law authorizes the board, subject to voter approval, to levy annually an ad valorem tax not to exceed five mills.

New law authorizes the commission, subject to voter approval, to incur debt and issue general obligation ad valorem property tax secured bonds for any commission purpose, and authorizes the commission to issue revenue bonds for commission purposes. New law authorizes the commission to borrow the amount of the anticipated ad valorem tax, not to exceed five mills for a period not to exceed 10 years, and to issue certificates of indebtedness therefor and dedicate the avails of the tax funded for the payment thereof for the period of time the certificates are outstanding.

New law exempts the commission, its properties, and income therefrom, and its bonds and interest and income therefrom from state taxation.

New law does not permit the commission to engage in port, harbor, terminal, or other maritime activities within the jurisdiction, authority, and powers of the St. Bernard Port, Harbor and Terminal District, including, but not limited to the ownership, operation, and maintenance of infrastructure and facilities related to those activities.

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

(Adds R.S. 33:130.591.1-130.591.10)

## **TITLE 34: NAVIGATION AND SHIPPING**

### **Port of South Louisiana (Act No. 698)**

Prior law authorized the Port of South Louisiana to make and enter into contracts, leases, and other agreements for the use of facilities of the port or any part or portion thereon, for a period of time not exceeding 40 years. New law changes the maximum period of time to 80 years.

Effective August 1, 2014.

(Amends R.S. 34:2473(E))

### **Gulf Transfer Terminal (Act No. 471)**

New law provides that any contract, agreement, memorandum of understanding, or cooperative endeavor agreement entered into in order to carry out the purposes of the Louisiana International Deep Water Gulf Transfer Terminal Authority (LIGTT) by any other party, whether public or private, shall require the contracting party to tender their annual financial audit, including all documents required to be submitted to federal regulators, to the authority for each year the agreement is in effect.

New law requires any party to a contract with LIGTT to allow the legislative auditor independently with or through LIGTT, to inspect and audit all data and financial records of the contracting party related to its performance with respect to the contract.

New law provides that the rights of inspection and audit set forth shall commence as of the date of the contract and shall continue until four years have elapsed from the date the contract is terminated.

Effective upon signature of the governor (June 4, 2014).

(Amends R.S. 34:3493 and 3495; adds R.S. 34:3499.1)

## **TITLE 35: NOTARIES PUBLIC AND COMMISSIONERS**

### **Notaries (Act No. 610)**

New law requires that an applicant to be a notary public take a pre-assessment test administered by the secretary of state.

New law provides that in order to qualify to take the pre-assessment test, the applicant shall have satisfied all requirements to be commissioned as a notary public in the parish, except for passing the examination.

New law exempts from the pre-assessment test an applicant who is admitted to practice law or who holds a valid notarial commission in this state.

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

(Amends R.S. 35:191)

## **TITLE 36: ORGANIZATION OF EXECUTIVE BRANCH OF STATE GOVERNMENT**

### **Governmental Suits (Act No. 204)**

New law requires the filing of annual and monthly reports with the legislature by each state agency of all civil actions initiated by the agency and by the attorney general for all civil actions initiated by the state.

New law requires the head of each agency to make and publish an annual report to the legislature containing a list of all civil actions brought in a court of law by the agency as a named party plaintiff. New law requires the attorney general to make and publish an annual report to the legislature containing a list of all civil actions initiated by the state.

New law requires the annual report to cover all lawsuits instituted, pending, or concluded during the preceding calendar year and requires the report to be submitted to the legislature one week before the convening of each annual legislative session.

New law requires each report to contain the following:

(1) The names of all plaintiffs and defendants, the court and docket number, the cause of action, and the relief sought.

(2) The current status of the case, including whether the case has been heard, whether there is a final judgment therein, whether the case has settled, and whether an appeal has been taken.

(3) The names of all outside counsel representing the agency or the state and the agreement with the agency or the state.

New law requires the filing of a monthly, electronic mail report to the David R. Poynter Legislative Research Library on or before the fourth Monday of every month. The monthly report must list all civil actions filed by an agency since the last report and must contain a uniform resource locator (URL) link to the petition, and the agency must maintain the URL for a minimum of one year.

New law generally applies to civil actions filed by the state or state agencies, but provides exceptions for: lawsuits brought pursuant to the Louisiana Children's Code; Medicaid fraud and recovery cases; cases involving the Motor Vehicle Safety Responsibility Law (compulsory motor vehicle insurance); cases brought by the Dept. of Revenue to collect less than \$10,000 of state taxes owed; cases brought for wildlife and fisheries' class one violations; and cases involving recovery of unemployment insurance payments and workers' compensation fraud.

Effective July 1, 2014.

(Adds R.S. 36:8.1)

## **TITLE 37: PROFESSIONS AND OCCUPATIONS**

### **Licensed Specialists in School Psychology (Act No. 136)**

New law adds the following definitions:

(1) "Licensed specialist in school psychology" means any person licensed as a specialist in school psychology who applies their knowledge of both psychology and education during consultation and collaboration with others and engages in specific services for students, such as direct and indirect interventions that focus on

academic skills, learning, socialization, and mental health.

(2) "Practice of licensed specialist in school psychology" is defined as the application of psychological principles, methods, and procedures to help children and youth succeed academically, socially, behaviorally, and emotionally.

(3) "School system" means any institution or facility which provides for education of children in grades one or above, which may include kindergarten or prekindergarten attached thereto.

New law requires that the board issue a license as a specialist in school psychology to any person who files an application upon a form and in such a manner as the board prescribes, accompanied by an application fee, and who furnishes evidence to the board that, except as otherwise required by law, the person meets specified criteria.

New law provides that if the board reasonably believes that a person applying for a license or for a renewal of a license is not physically and mentally competent to render psychological services with reasonable skill and safety to his patients, or is afflicted with a disease or condition, either physical or mental, that would impair his competency to render psychological services, the board may request that the person submit to a physical examination by a medical doctor approved by the board or mental health examination by a psychologist or psychiatrist approved by the board. If the person refuses to submit to the examination, the board, after contradictory hearing and upon finding reasonable cause, may issue an order requiring the person to submit to the physical or mental health examination.

New law provides that a licensed specialist in school psychology, who is engaged in such practice, may practice independently as a contractor of a public, private, or charter school.

New law provides that a licensed specialist in school psychology who is engaged in such practice and working outside of the school system shall be required to do so under the clinical supervision of a licensed psychologist or medical psychologist licensed under state law.

The licensed psychologist or medical psychologist shall be administratively, clinically, and legally responsible for all professional activities of the licensed specialist in school psychology, and the licensed psychologist or medical psychologist shall be required to sign any final reports prepared by the licensed specialist in school psychology.

New law provides that failure to fulfill the continuing education requirements shall cause the license to lapse and provides that for a period of two years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing education requirements applicable through the date of reinstatement and upon payment of all required fees.

New law provides for the denial, revocation, or suspension of a specialist in school psychology's license for a list of acts.

New law provides that suspension of license of a specialist in school psychology shall be for a period not exceeding two years.

New law provides for privileged communication between a licensed specialist in school psychology and a patient.

Effective August 1, 2014.

(Amends R.S. 37:2352, 2354, 2355, 2357, 2359, 2363; adds R.S. 37:2352, 2356.2, and 2359)

### **Provisional Licensed Psychologist (Act No. 137)**

New law defines the term "provisional licensed psychologist" to mean a person provisionally licensed.

New law requires that the board issue a provisional license to each person who files an application with the board upon a form and in such a manner as the board prescribes, submits the fee for a provisional license, and furnishes evidence to the board that the person meets certain requirements.

New law provides that if the board reasonably believes that a person applying for a provisional license or for renewal of a provisional license is not physically or mentally competent to render psychological services with reasonable skill and



safety to his patients, or is afflicted with a disease or condition, either physical or mental, which would impair his competency to render psychological services, the board may request the person to submit to a physical examination by a medical doctor approved by the board or submit to a mental health examination by a psychologist or psychiatrist approved by the board. New law provides that if the person refuses to submit to the examination, the board, after a contradictory hearing and upon finding reasonable cause, may issue an order requiring the person to submit to the examination.

New law limits provisional license renewals to a maximum of three times.

New law requires that a provisional licensed psychologist maintain a relationship with a licensed psychologist or a medical psychologist licensed under state law for the purposes of clinical supervision. New law requires that the supervising psychologist or medical psychologist have legal functioning authority over the professional activities of the provisional licensed psychologist.

New law authorizes the board to suspend, place on probation, require remediation for a specified time, or revoke any provisional license for failure to comply with mandatory reporter laws.

New law provides that the board may deny or withhold for a specified time not to exceed two years the granting of a provisional license to any applicant or candidate who has committed any of the acts listed in prior law.

New law provides that the suspension of a provisional license shall be for a period not to exceed two years.

Effective August 1, 2014.

(Amends R.S. 37:2352, 2354, 2359, and 2359; adds R.S. 37:2356.2)

### **Real Estate Appraisers (Act No. 213)**

New law provides that appraiser licenses shall be granted to persons who have satisfied the minimum education, examination, and experience requirements mandated by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation and published in the most

current version of the Real Property Appraiser Qualification Criteria, including any subsequent amendments and regulations issued pursuant thereto.

New law provides that all applicants for a real estate appraiser license shall undergo a background screening as mandated by the AQB of the Appraisal Foundation and prescribed by the board.

New law provides that a license as a real estate appraiser shall not be issued in any class other than real estate appraiser trainee unless the applicant has passed a qualifying examination approved by the AQB of the Appraisal Foundation for such license.

New law makes changes to requirements for continuing education.

New law provides that it is the duty of each licensed real estate appraiser to notify the board within 10 days by registered or certified mail or by hand delivery of any sanction imposed on the appraiser by another jurisdiction.

New law provides that a licensed real estate appraiser shall comply with generally accepted standards of professional practice in the development and communication of appraisals of real estate located in this state and with generally accepted ethical rules of conduct as contained in the "Uniform Standards of Professional Appraisal Practice", or its successor, as approved by the Appraisal Standards Board of the Appraisal Foundation or its successor.

(Amends R.S. 37:3396, 3397, 3398, 3401, 3408, and 3410; Adds R.S. 37:3392(13), 3397.1, and 3409(E)(4))

### **Professional Geoscientists (Act No. 228)**

New law removes requirement that examination questions, correct answers, and applicants' completed examinations be made available to the La. Board of Professional Geoscientists for examinations prepared, administered, or graded by another organization.

Prior law exempted an applicant who applied for geoscientist licensure prior to Jan. 1, 2014, from taking the examination if he met all the

requirements of law. New law extends the exemption period until Jan. 1, 2015.

Effective upon signature of governor (May 28, 2014).

(Amends R.S. 37:711.14 and 711.15)

### **Scrap Metal Dealers and Facilities (Act No. 243)**

New law prohibits cash transactions by secondhand dealers or operators of scrap metal recycling facilities for the purchase of aluminum-copper air conditioning coils.

(Amends R.S. 37:1864.3 and 1973)

### **Radiologic Technology (Act No. 250)**

New law adds a fusion technologist to the list of occupations that fall under the definition of "radiologic technologist".

Effective Aug. 1, 2014.

(Amends R.S. 37:3200, 3205, 3208, 3209, 3210, 3211, and 3218)

### **Embalmers and Funeral Directors (Act No. 264)**

New law amends the terms "intern" and "unethical or unprofessional conduct" and adds the term "temporary license".

New law changes the minimum qualifications for licensure as a funeral director or as an embalmer and funeral director.

New law requires any establishment where the business of funeral directing or embalming is conducted to be licensed. New law provides all requirements for licensure.

Present law allows a crematory authority to have authority to cremate human remains when they are delivered by a funeral establishment, with certain information including the signature of the authorizing agent.

New law adds the requirement that the signature of the authorizing agent be witnessed by a funeral director of the funeral establishment arranging the cremation or otherwise executed by the authorizing agent before a notary public.

Old law required that the authorization form also be signed by a funeral director of the funeral

establishment that obtained the cremation authorization. New law changes old law by requiring the signature of the funeral director of the establishment that arranges the cremation.

(Amends R.S. 37:831, 842, 845, 846, 854, and 877)

### **Optometry (Act No. 398)**

New law relative to the practice of optometry changes the definition of "diagnostic and therapeutic pharmaceutical agent."

New law provides that, with the exception of certain procedures, the practice of optometry includes ophthalmic surgery procedures such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty.

The following procedures are specifically excluded from the scope of practice:

- (1) Retina laser procedures, Laser-Assisted In Situ Keratomileus (LASIK), Photorefractive Keratectomy (PRK), laser epithelial keratomileusis (LASEK), and any form of refractive surgery.
- (2) Penetrating keratoplasty, corneal transplant, or lamellar keratoplasty.
- (3) The administration of general anesthesia.
- (4) Surgery done with general anesthesia.
- (5) Laser or nonlaser injection into the vitreous chamber of the eye to treat any macular or retinal disease.
- (6) Various nonlaser surgical procedures.

New law authorizes the State Board of Optometry Examiners to require that any therapeutically licensed optometrist meet educational and competence criteria in order to perform expanded therapeutic procedures.

New law provides that all persons desiring to become licensed to practice optometry shall meet the credentialing requirements of the board to perform authorized ophthalmic surgery procedures.

New law deletes present law limiting to a maximum of 48 hours the use or prescription by an optometrist of a pharmaceutical agent listed

in Schedules III through V of the Uniform Controlled Dangerous Substances Law.

New law deletes from the list of offenses for which the board may take adverse action the practice of medicine or surgery by a person in his practice of optometry.

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

(Amends R.S. 37:1041; Adds R.S. 37, 1048(15), and 1049(8); Repeals R.S. 37 and 1061(A)(29))

#### **Athletic Trainers Law (Act No. 418)**

New law changes the prior reference to an athletic trainers certificate to an athletic trainers license.

New law defines "athletic trainer" as an individual licensed by the board as an athletic trainer with the specific qualifications set forth in law who, under the general supervision of a physician, carries out the practice of prevention, emergency management, and physical rehabilitation of injuries and sports-related conditions incurred by athletes.

New law broadly defines "board approved organization."

New law requires the board to license and keep a record of all persons licensed as athletic trainers and establish and collect fees in accordance with its rules. New law authorizes the board to approve, deny, revoke, suspend, probate, and renew licensure of a duly qualified candidate.

New law requires the board to conduct administrative hearings on the denial, suspension, revocation, or refusal to issue or to renew a license.

New law provides that there shall be no liability on the part of, and no action for damages against, any member of the board, its agents or employees, in any civil action for any act performed in good faith.

New law provides that no person, committee, association, organization, firm, or corporation shall be held liable for damages for providing information to the board without malice and under the reasonable belief that such information is accurate, whether providing such information as a witness or otherwise.

New law provides that a person who is not licensed as an athletic trainer, or whose license has been suspended or revoked, shall not perform any of the following:

(1) Activities of an athletic trainer.

(2) Use in connection with his name or place of business the words "trainer", "licensed athletic trainer", "athletic trainer", "certified athletic trainer", "teacher/trainer", "first aid trainer", "sports trainer", "sports medic", the abbreviations "LAT", "ATC", "AT", or any other words, letters, abbreviations, or insignia indicating or implying that he is an athletic trainer, or in any way, orally, in writing, in print or by sign, directly or by implication, represent himself as an athletic trainer.

New law shall not prevent an assigned athletic coach from administering and supervising his normal sports activities.

New law requires a person who applies for an athletic trainer license to possess all of the following qualifications:

(1) A certificate issued by the National Athletic Trainers' Association Board of Certification, Inc. (BOC) evidencing the successful passage of the BOC Certification Examination or its successor.

(2) A degree in athletic training from a Commission on Accreditation of Athletic Training Education (CAATE) accredited program, or such comparable degree accepted by the BOC and approved by the board.

(3) Good moral character, as determined by rules established by the board.

New law provides that a person currently certified by the board as a certified athletic trainer on August 1, 2014, shall be issued a license by the board, without meeting the qualification requirements of new law, upon the submission of a renewal application and payment of the applicable renewal fee to the board during the year immediately following the effective date of new law. An athletic trainer granted a license pursuant to this provision is required to meet all requirements prior to renewal upon expiration of the license issued pursuant to this provision.

New law authorizes the board to refuse to issue a license to an applicant or to suspend, revoke, or impose probationary terms, conditions or restrictions on any license if the applicant has committed any one of a list of acts.

New law provides that denial, refusal to renew, suspension or revocation of a license, or the imposition of probationary terms, conditions, or restrictions upon a licensee, may be ordered by the board in a decision made after a hearing in accordance with procedures established by the APA or by consent of the parties.

New law provides that any license suspended, revoked, or otherwise restricted may be reinstated by the board.

New law does not apply to any athletic training student pursuing a course of study leading to a degree in athletic training at an institution whose program is accredited, recognized, or approved by the CAATE, if the activities and services constitute a part of a supervised course of study and the individual's status is designated by a title which clearly indicates his status as an "athletic training student".

New law requires a license to be conspicuously displayed in the principal office of the licensee. Licensees are required, upon request, to present proof of state licensure when engaged in professional activities as a licensed athletic trainer (LAT).

Effective Aug. 1, 2014.

(Amends R.S. 37:3301, 3302, 3303, 3304, and 3307; Adds R.S. 37:3305.1, 3306.1, 3308.1, 3309.1, 3311(C), and 3313; Repeals R.S. 37:3305, 3306, 3308, 3309, and 3310)

#### **Line Technicians (Act No. 481)**

New law changes laws regarding registration of line technicians.

Effective August 1, 2014.

(Amends R.S. 37:3708 and 3715(6))

#### **Mental Health Counseling (Act No. 484)**

Prior law provided for registration as a counselor intern. New law replaces registered counselor intern with provisional licensed professional

counselor or provisional licensed marriage and family counselor.

New law amends definitions of "mental health counseling services" and "practice of mental health counseling" to include services provided by a provisional licensed professional counselor.

New law provides that provisional licensed marriage and family therapists may use the title only under the direction and active supervision of a board approved supervisor and only while obtaining the post-graduate degree experience required for licensure as a marriage and family therapist. New law provides that a provisional licensed marriage and family therapist shall not, under any circumstances, provide or advertise himself as authorized to provide marriage and family therapy independently.

New law provides that provisional licensed professional counselors may use the title and may practice mental health counseling only under the direction and active supervision of a board approved supervisor and only while obtaining the post-graduate degree experience required for licensure as a professional counselor. New law provides that a provisional licensed professional counselor shall not, under any circumstances, practice mental health counseling independently or advertise that he is authorized to practice independently.

New law provides the board may examine, approve, revoke, suspend, and renew the license of applicants and conduct investigations into alleged violations by a provisional licensed professional counselor, or applicant.

New law provides the board shall approve, revoke, suspend, and renew the license of applicants for licensure as marriage and family therapists and the provisional license of applicants for provisional licensure as marriage and family therapists upon recommendation of the advisory committee.

Prior law provided for fees for the application, renewal, reissuance, and formal verification of registration as a counselor intern. New law amends prior law by replacing "registration" with "provisional license".

New law changes the requirements for licensure as a professional counselor, including removal of citizenship and residency requirements.

New law provides testimonial privileges, exceptions, and waiver with respect to communications between a provisional licensed professional counselor and his client are governed by the La. Code of Evidence.

New law provides the board shall adopt rules pursuant to the APA establishing qualifications and requirements for the renewal of provisional licensed marriage and family therapist licenses.

New law provides no person, unless licensed as a marriage and family therapist, shall advertise as being a "licensed marriage and family therapist" or a "provisional licensed marriage and family therapist".

New law redefines "licensure" to mean any license, provisional license, or certification that the board is authorized to issue.

New law eliminates the prior exemption from the licensing requirements for any person with a master's degree in counseling while practicing mental health counseling under the board approved supervision of a licensed professional counselor.

Prior law provided any person who fails an examination conducted by the board, through the advisory committee, shall not be admitted to a subsequent examination for at least six months. New law deletes this prohibition.

Effective May 1, 2015.

(Amends R.S. 37:1102, 1103, 1105, 1106, 1107, 1110, 1111, 1114, 1116, 1119, 1121, 1122, and 1123; repeals R.S. 37:1113(6) and 1117(D))

#### **Direct Service Workers (Act No. 507)**

Prior law provided that for a person to be served by a direct service worker, the person must, among other things, be able to self-direct the services, or reside in a residence where there is daily monitoring by a family member, a direct service worker, or other health care provider. New law deletes ability to self-direct services.

New law adds that a direct service worker employed as part of an authorized departmental self-directed program must receive training

developed by DHH in conjunction with the La. State Board of Nursing.

Effective Aug. 1, 2014.

(Amends R.S. 37:1031 and 1033)

#### **Private Security (Act No. 519)**

New law provides that all applicants for licensure to operate a private security business are required to successfully pass the examination for licensure.

New law provides that any security officer employed is required to complete, within 30 days of his first work assignment, either eight hours of classroom training or an approved curriculum-based training course under a licensed instructor and successfully pass an examination.

New law provides that any security officer, within 60 days of his first work assignment, is required to complete either an additional eight hours of classroom training or an approved curriculum-based training course under a licensed instructor and successfully pass a 50-question examination administered by the licensed instructor, while achieving a minimum score of 70%.

New law provides that no more than two of the training requirements may be conducted during a 24-hour period.

New law provides that upon a registrant's completion of any training required, the licensed instructor, rather than the licensee or employer, is required to furnish to the board a documented training verification form of such completion signed by a licensed instructor within 15 calendar days from the training.

New law requires an employee of a security company who discharges a weapon while on duty or traveling to or from duty to complete and file a board-provided weapons discharge report with the board within 72 hours of discharging the weapon.

New law requires an instructor or trainee who discharges a weapon for any other reason than range qualification during firearms training and range qualifications to complete and file a board-provided weapons discharge report with

the board within 72 hours of discharging the weapon.

(Amends R.S. 37:3276, 3278, and 3284; Adds R.S. 37:3299)

### **Sports Medicine (Act No. 535)**

New law adds an exemption for physicians who are licensed to practice medicine in another state or country when attending to the acute care needs of the official traveling party of athletes and staff of an athletic team or organization domiciled in another state or country during or in connection with an athletic contest or event conducted in La.

New law stipulates that the exemption shall not be construed to allow the performance of any elective procedure by a physician who is not duly licensed to practice medicine in accordance with existing law.

Effective August 1, 2014.

(Adds R.S. 37:1291(6))

### **Main-Line Utility Work (Act No. 561)**

New law permits any person or firm who is not licensed by the State Plumbing Board, but who is properly licensed for municipal and public works utility construction pursuant to the requirements of the State Licensing Board for Contractors, to perform main-line utility construction on private property or undedicated rights-of-way or servitudes.

New law does not permit any person not properly licensed by the State Plumbing Board to perform any work on any gas main or service lines within the boundary lines of any private property or undedicated right-of-way or servitude.

(Adds R.S. 37:1367(I))

### **Home Inspectors (Act No. 572)**

New law provides that a licensee, registrant, or certificate holder shall be subject to adverse action by the La. Real Estate Commission if such licensee, registrant, or certificate holder engages in any effort, including referral or recommendation of a specific home inspector, with the intent to deceive or defraud.

Prior law required that a licensed home inspector provide a written report of the home inspector to each person for whom the inspector performs a home inspection for compensation within five calendar days from the date of the inspection.

New law provides that a home inspector shall include in his written report the presence of suspected mold growth if during the course of inspecting the systems and components of the structure the licensed home inspector discovers visually observable evidence of suspected mold on the inside of the structure.

Effective August 1, 2014.

(Amends R.S. 37:1478(A); adds R.S. 37:1455(A)(36))

### **Suicide Prevention Training (Act No. 582)**

New law provides that suicide assessment, intervention, treatment, and management training may be included within the existing continuing education requirements for various professionals licensed in Louisiana.

New law provides that obtaining training listed or linked via the DHH website pursuant to new law shall not be construed to establish a legal basis for negligence or the standard of care or duty of care owed by a health care professional to a patient in any civil action for medical malpractice.

New law stipulates that DHH shall be immune from civil liability for the development and posting of a list of programs providing training in suicide assessment, intervention, treatment, and management.

New law provides that nothing therein may be interpreted to expand or limit the scope of practice of any profession regulated under prior law, or be construed to require DHH to develop training programs or curriculums or to create online training programs.

Effective August 1, 2014.

(Adds R.S. 37:24-27)

### **Marriage & Family Therapy (Act No. 736)**

Prior law defined "marriage and family therapy" to mean the professional application of psychotherapeutic and family systems theories

and techniques in the assessment and treatment of individuals, couples, and families.

New law defines "marriage and family therapy" to mean the professional application of psychotherapeutic and family systems theories and techniques in the prevention, diagnosis, assessment, and treatment of mental, emotional, and behavioral disorders in an individual and relational disorders in couples and families.

Prior law defined "practice of marriage and family therapy" to mean the rendering of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through either public or private organizations for a fee, monetary or otherwise.

New law defines "practice of marriage and family therapy" to mean the rendering of professional marriage and family therapy and psychotherapy services, limited to prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through either public or private organizations for a fee, monetary or otherwise in accordance with professional training as provided pursuant to prior law and code of ethics/behavior involving the application of principles, methods, or procedures of the marriage and family therapy profession.

New law, effective Jan 1, 2018, requires any licensed marriage and family therapist who engages in the diagnosis of individuals to furnish satisfactory evidence to the La. Licensed Professional Counselors Board of Examiners ("board") that he has completed specified training and education requirements.

New law provides that nothing shall be construed to authorize any person licensed under the provisions of prior law to assess, diagnose, or provide treatment to any individual suffering from a serious mental illness, when medication may be indicated, except when a licensed marriage and family therapist, in accordance with best practices, consults and collaborates

with a practitioner who holds a license or permit with the La. State Board of Medical Examiners or an advanced practice registered nurse licensed by the La. State Board of Nursing who is certified as a psychiatric nurse practitioner.

Effective August 1, 2014.

(Amends R.S. 37:1103; adds R.S. 37:1116(E) and (F))

### **Pharmacists (Act No. 769)**

New law authorizes a pharmacist to administer to an individual age 17 or older an immunization or a vaccine without a patient specific prescription or medical order if the immunization or the vaccine is administered in conformance with the most current immunization administration protocol as set forth by the U.S. Centers for Disease Control and Prevention Advisory Committee on Immunization Practice. The pharmacist shall inform the individual that the administration of an immunization or vaccine is not to be construed as being in lieu of an annual checkup with the individual's primary care or family physician.

New law requires the pharmacist to report each immunization to DHH at the time of the immunization or as soon as reasonably practicable thereafter.

New law requires the pharmacist to report all adverse events he observes or which are reported to him to various authorities and to refer the patient for appropriate medical care.

New law requires the pharmacist to maintain for at least two years a record of each immunization administered.

New law requires the pharmacist to obtain the appropriate credentials to administer immunizations from the board, prior to administering any such immunization.

New law requires the pharmacist to request the name of a patient's primary care provider prior to the administering of any immunization, and to notify the primary care provider as soon as reasonably possible thereafter that the immunization was administered.

Effective August 1, 2014.

(Amends R.S. 37:1218.1)

### **Cosmetology (Act No. 773)**

New law authorizes the Board of Cosmetology to license by name any registered cosmetology school as an educational institution authorized to operate educational programs beyond postsecondary education, provided the school meets certain requirements.

New law authorizes all registered cosmetology schools to offer one or more specified courses. New law provides that postsecondary schools are required to offer one or more of the specified courses only as a postsecondary educational program.

New law provides that each year, any school registered by the board is required to submit to the board documentation showing specific facts.

New law does not apply to schools that do not provide federal financial assistance to their students and do not require a high school diploma or the passage of a high school equivalency exam for admission. New law does not apply to schools that are not accredited and do not provide federal financial assistance to their students.

Effective August 1, 2014.

Amends R.S. 37:571 and 595; adds R.S. 37:594.1)

### **Licenses for Ex-Cons (Act No. 809)**

New law provides that an entity, with certain exceptions, issuing licenses for persons to engage in certain fields of work pursuant to state law shall issue either a full license or a provisional license to an otherwise qualified applicant who has been convicted of a certain offense or offenses.

New law provides that the licensing entity issuing a provisional license shall determine the term for which the provisional license shall be valid; however, in no event shall a provisional license issued pursuant to new law be valid for fewer than 90 days or more than 360 days.

New law provides that the licensing entity may require up to two years to have passed since an applicant's last conviction or release from

incarceration in order for the applicant to qualify for the provisional license.

New law provides that an ex-offender who is on community supervision and who is issued a provisional license pursuant to new law shall provide the licensing entity the name and contact information of the probation or parole department to which he reports.

New law provides that the licensing entity shall notify the probation or parole department and court in which the holder's offense was adjudicated that a provisional license has been issued to the ex-offender.

New law provides that the licensing entity may revoke the provisional license if the holder commits: (1) a new offense, (2) an act or omission that causes the provisional license holder's community supervision, mandatory supervision, or parole to be revoked, or (3) a violation of law or rules governing the practice of the field of work for which the provisional license was issued.

New law provides that if a licensing entity revokes a provisional license pursuant to new law:

(1) The provisional license holder shall not be entitled to receive another provisional license or regular license for which the applicant originally applied, even if otherwise qualified.

(2) The ability of the provisional license holder to subsequently obtain another provisional license from another licensing entity in the future is within the sole discretion of the issuing agency.

New law provides that a licensing entity shall issue the regular license for which the provisional license was issued on the expiration of the provisional license term if the holder of the provisional license does not commit a new offense, an act or omission that causes the provisional license holder's community supervision, mandatory supervision, or parole to be revoked, or a violation of law or rules governing the practice of the field of work for which the provisional license was issued.

New law provides that a licensing entity shall not be required to issue a provisional license to a



person convicted of: (1) any grade of homicide, (2) a crime of violence, or (3) a sex offense.

New law provides that a licensing entity shall not be required to issue a provisional license to a person convicted of an offense involving fraud if the licensed field of work is one in which the licensee owes a fiduciary duty to a client.

New law provides that a licensing entity shall not be required to issue a provisional license to a person whose conviction directly relates to the position of employment sought, or to the specific field for which the license is required, or profession for which the provisional license is sought.

New law provides that a provisional license holder who supervises children or individuals who lack mental capacity shall not do so without another licensee in the room at all times.

New law does not apply to numerous licensing entities, including law enforcement agencies, many medical or health related boards, and many other departments, agencies, and boards.

New law provides that if a licensing entity believes that another exemption not provided in new law is necessary in a specific case to protect the public from a clear and imminent danger, the entity may seek declaratory relief in district court through a judicial order finding that the applicant should not be issued a provisional or regular license because it would pose such a danger.

Effective upon signature of governor (June 19, 2014).

(Adds R.S. 37:31-36)

#### **Dental Practice (Act No. 856)**

New law re-defines "unprofessional conduct" to include advertising of dental services in any medium that does not contain the dentist's full name as it appears on the license or renewal certificate issued by the board or the dentist's commonly used name, address, and telephone number.

New law defines "advertisement" and "advertising" to mean any statement, oral or written, requested and approved by a licensed dentist, disseminated to or displayed before the

public or any portion thereof with the intent of selling professional dental services, offering to perform professional dental services, or inducing members of the public to enter into any obligation relating to such professional dental services.

New law provides that listing, identifying, or grouping of dentists by an insurance company on a website or by any other means of disseminating information involving a dentist participating with an insurance company and an associated affiliate shall not be deemed an advertisement or advertising by the dentist. Neither the insurance company nor the associated affiliate shall be deemed a referral company and a listed dentist shall not be considered to be advertising through a referral service by participating with such company or affiliate.

New law excludes from the definition of "advertisement" and "advertising" any communication, oral or written, by a nonprofit entity that meets the statutory, regulatory, and program requirements for grantees supported under federal law.

New law adds that "unprofessional conduct" shall also include:

(1) Intentionally releasing inaccurate or misleading information by a dentist to any source that promotes dissemination of inaccurate or misleading information about the dentist by, from, or through such source.

(2) Failing to take immediate steps to request the correction of inaccurate or misleading information that has been released by a source pursuant to the source's relationship with the dentist.

(3) Engaging or hiring an advertising agency or any other agency or person to prepare material to promote the dentist's professional dental services, and thereafter failing to review and approve the material before publication or release, unless the dentist can show the failure to review and approve the material was caused by the failure of the agency or person and not his own.

New law provides that whenever any advertisement is run by or on behalf of a corporation, company, association, limited liability company, or trade name, each dentist practicing in, with or under the corporation, company, association, limited liability company, or trade name shall be responsible for the content of the advertisement, unless an individual dentist practicing in, with or under the corporation, company, association, limited liability company, or trade name, advises the board in writing prior to the time the board takes any action regarding the advertisement that he assumes sole responsibility for the advertisement. If an individual dentist assumes sole responsibility for the advertisement, no other dentist shall be responsible for such advertisement.

Effective upon signature of the governor (June 23, 2014).

(Amends R.S. 37:751, 775, and 776; adds R.S. 37:780(B)(5))

#### **Solar Energy Contractors (Act No. 862)**

New law, relative to the Louisiana State Licensing Board for Contractors, provides that no licensed contractor shall install solar energy equipment or solar energy systems on or after February 1, 2015, unless he is in compliance with new law and any rules adopted by the board.

New law provides that no later than January 1, 2015, the board shall adopt rules regulating the installation of solar energy equipment or solar energy systems by licensed contractors, which shall include for certain contractors a separate written examination.

New law provides that contractors applying for the classification of Solar Energy Equipment must hold at least one of several other classifications and must complete training in the design of solar energy systems by an entity and course approved by the board.

New law provides that any work performed to connect wiring or hookups for any photovoltaic panel or system wherein the panel or system is of a value of \$10,000 or more shall be

performed only by a contractor or subcontractor who holds the classification of Electrical Work.

New law provides that any work performed to connect piping or equipment for any solar thermal system wherein the system is of a value of \$10,000 or more shall be performed only by a contractor or subcontractor who holds the classification of Mechanical Work.

New law shall be applicable to entities engaging in the business of selling, leasing, installing, servicing, or monitoring solar energy equipment.

New law shall not be construed to impose civil or criminal liability on homeowners or on any third party whose involvement is financing to the homeowner, financing for installation, or purchasing the tax credits described from any homeowner or contractor.

New law provides that entities engaged in the business of arranging agreements for the lease or sale of solar energy systems or acquiring customers for financing entities shall not be exempt from new law.

Effective August 1, 2014.

(Adds R.S. 37:2156.3)

#### **Direct Primary Care (Act No. 867)**

New law provides for direct primary care practice.

New law defines "direct practice" to mean, generally, a physician or group of physicians who provide primary care services, do not accept payments from any entity under Title 22 (the Insurance Code), do not provide advanced procedures, services, or supplies, and enter into agreements with patients to charge a fee on a regular basis in return for provision of primary care services when needed, which agreement is terminable by the patient at will.

New law provides a direct practice shall charge a direct fee on a periodic basis. The amount of the fee and the periodic basis upon which such fee shall be paid shall be included in the provisions of the direct agreement. The fee shall represent the total amount due for all primary care services specified in the direct agreement and may be paid by the direct patient or on his behalf by others.

New law provides a direct practice shall maintain appropriate accounts and provide a history of payments and services received upon a request of a direct patient. Further provides if a direct patient chooses to pay more than one periodic direct fee in advance, the funds shall be held in a trust account and paid to the direct practice as earned at the beginning of each period. Any unearned direct fees held in trust following receipt of termination of the direct agreement shall be promptly refunded to the direct patient.

New law provides a direct fee schedule applying to an existing direct patient may not be increased over the annual negotiated amount more frequently than annually. A direct practice shall provide advance notice to existing patients of any change within the fee schedule applying to those existing direct patients. A direct practice shall provide notice of any change in the fee not less than 60 days from the date of the change.

New law prohibits certain types of discrimination by a direct practice.

New law provides a direct practice shall not:

(1) Enter into a participating provider contract with any health insurance issuer or with any health insurance issuer's contractor or subcontractor to provide health care services through a direct agreement except as set forth in the new law.

(2) Submit a claim for payment to any health insurance issuer or any health insurance issuer's contractor or subcontractor for health care services provided to direct patients as covered by their agreement.

(3) With respect to services provided through a direct agreement, be identified by a health insurance issuer or any health insurance issuer's contractor or subcontractor as a participant in the health insurance issuer's or any health insurance issuer's contractor or subcontractor network for purposes of determining network adequacy or being available for selection by an enrollee under a health insurance issuer's benefit plan.

(4) Pay for health care services covered by a direct agreement rendered to direct patients by providers other than the providers in the direct

practice or their employees, except as described in new law.

New law provides a direct practice and provider may:

(1) Enter into a participating provider contract with a health insurance issuer for purposes other than payment of claims for services provided to direct patients through a direct agreement. Such physicians shall be subject to all other provisions of the participating provider contract applicable to participating providers, including but not limited to the right to: (a) make referrals to other participating providers, (b) admit the carrier's members to participating hospitals and other health care facilities, (c) prescribe prescription drugs, and (d) implement other customary provisions of the contract not dealing with reimbursement of services.

(2) Pay for charges associated with: (a) the provision of routine lab and imaging services, and (b) dispensing, at no additional cost to the direct patient, of prescription drugs prescribed by the direct provider.

(3) Charge an additional fee to direct patients for supplies, medications, and specific vaccines provided to direct patients that are specifically excluded under the agreement, provided the direct practice notifies the direct patient of the additional charge, prior to their administration or delivery.

New law provides a direct practice shall not decline to accept new direct patients or discontinue care to existing patients solely because of the patient's health status. A direct practice may decline to accept a patient if the practice has reached its maximum capacity, or if the patient's medical condition is such that the provider is unable to provide the appropriate level and type of health care services in the direct practice.

New law provides that as long as a direct practice provides a patient notice and the opportunity to obtain care from another physician, a direct practice may discontinue care for a direct patient if: (1) the patient fails to pay the direct fee under the terms required by the direct agreement, (2) the patient has performed an act that constitutes fraud, (3) the patient

repeatedly fails to comply with the recommended treatment plan, (4) the patient is abusive and presents an emotional or physical danger to the staff or other patients of the direct practice, or (5) the direct practice discontinues operation as a direct practice.

New law provides, subject to the restrictions established in new law, a direct practice may accept payment of direct fees directly or indirectly from third parties. A direct practice may accept a direct fee paid by an employer on behalf of an employee who is a direct patient. However, a direct practice shall not enter into a contract with an employer relating to direct practice agreements between the direct practice and employees of that employer other than to establish the timing and method of the payment of the direct fee by the employer.

Authorizes a direct practice to accept payment of direct fees directly or indirectly from the La. Medical Assistance Program (Medicaid) or any entity contracting with the state to provide managed care in the program, subject to any necessary approval from the Centers for Medicare and Medicaid Services.

New law provides a direct practice is not an insurer.

New law provides a person shall not make, publish, or disseminate any false, deceptive, or misleading representation or advertising in the conduct of the business of a direct practice or relative to the business of a direct practice.

New law provides a person shall not make, issue, circulate, or cause to be made, issued, or circulated, a misrepresentation of the terms of any direct agreement, the benefits or advantages promised thereby, or use the name or title of any direct agreement misrepresenting the nature thereof.

New law provides for direct agreement requirements.

New law provides violations of the new law shall constitute unprofessional conduct.

Effective August 1, 2014.

(Adds R.S. 37:1360.81-1360.91)

## **TITLE 38: PUBLIC CONTRACTS, WORKS AND IMPROVEMENTS**

### **Access to Drainage (Act No. 241)**

New law provides that no landowner shall refuse to grant access to any natural or artificial public drainage by a local governing authority, drainage district, or other public entity charged with maintaining the public drainage when the landowner has been given 30 days written notice before the commencement of maintenance activities and an opportunity for a hearing before the governing board of the city or parish where the landowner's property is located, subject to judicial review.

New law provides that in any action in a court of competent jurisdiction where the court is required to determine the right of access to the public drainage, the prevailing party shall be entitled to an award of court costs and attorney fees incurred by the prevailing party.

New law defines "public drainage" as any existing natural or artificial drainage ditch, drain, culvert, canal, creek, bayou, or small river.

Effective Aug. 1, 2014.

(Adds R.S. 38:215.1)

### **Payment of Government Obligations (Act No. 487)**

Prior law provided that any public entity that fails to pay any progressive stage payments arbitrarily or without reasonable cause, or any final payment when due, is 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.

New law adds that a public entity is subject to mandamus to compel payment of authorized plan changes.

New law adds liability for reasonable attorney fees when a public entity fails, without reasonable cause, to pay any progressive stage payment within 45 days following receipt of a certified request for payment.

Effective August 1, 2014.

(Amends R.S. 38:2191(B) and (D))

**Public Bid Laws (Act No. 759)**

New law requires written evidence of authority for the person signing the bid, requires a description of each unit on bid forms that use unit prices, and prohibits use of unit prices on building projects unless the unit prices and their extensions are incorporated into the base bid or alternates.

New law requires all public entities to use the Louisiana Uniform Bid Form promulgated by the office of facility planning and control.

New law requires a public entity to declare non-responsive an apparent low bidder who fails to submit information required by bidding documents in 10 days; authorizes a public entity to award the bid to the next lowest bidder and to afford such bidder 10 days to furnish required information; and authorizes a public entity to continue such process until the public entity either determines the low bidder or rejects all bids.

New law allows delivery of bids by registered and certified mail to municipal and parochial governing authorities.

New law provides that, for the purpose of interpretation of the base bid total and alternates, written words govern if a conflict exists between words and numerals.

New law provides that if public works require unit prices and if a discrepancy exists between the base bid total and the sum of the extended prices, the unit price bid governs.

New law requires, beginning Feb. 1, 2015, and annually on Feb. 1 of each subsequent year, the office of facility planning and control within the division of administration to adjust the "contract limit" by an amount not to exceed the annual percentage increase in the Consumer Price Index in the preceding year and to publish the new contract limit for public works contracts in the Louisiana Register in January of each year.

New law increases the contract limit for certain DPSC projects involving inmates to \$75,000 and removes provision for 3% per year increases.

New law requires prime bidders to obtain an original set of bidding documents from the public entity or the design professional who prepared such documents. Either the public entity or the design professional may choose the method and service of plan distribution. New law authorizes the public entity to distribute bidding documents in the manner it chooses when the public entity utilizes an electronic bid submittal system. Public entity has sole discretion to authorize its design professional of record to choose an electronic bid submittal system. New law requires the public entity or its design professional to maintain a list of all prime bidders for addenda distribution.

New law deletes prior law requiring acceptance of electronic bids for all purchases requiring competitive bidding.

New law revises prior law that prohibits advertisement of the project if the designer's estimate is more than the funds budgeted by the public entity for the projects and requires the designer's estimate to be read aloud upon opening bids. New law requires the public entity to provide or to obtain from the project designer an estimate of probable construction costs prior to advertisement for bids. New law prohibits advertisement of a public work unless funds that meet or exceed the estimate of probable construction costs have been budgeted by the public entity for the project. New law requires the estimate of probable construction costs to be made available either by electronic posting or by announcing it aloud at bid opening.

New law provides that any and all bidders' information shall be available upon request, either no sooner than 14 days following the bid opening or after the recommendation of award by the public entity or the design professional, whichever occurs first, and the requester shall pay reasonable reproduction costs. New law requires all bid information to be available upon request 72 hours following opening of bids.

New law requires pre-bid conference information to be contained in all three advertisements for bid.

New law requires all prospective bidders to be present at the beginning of the pre-bid

conference and to remain in attendance for the duration of the conference and prohibits any prospective bidder who fails to attend the conference or remain for the duration from submitting a bid for the project.

New law requires determination of the low bidder on the basis of the sum of the base bid and any alternates accepted, but gives the public entity the right to accept alternates in any order that does not affect determination of the low bidder.

New law retains prior law that restricts the use of allowances to minor items and limits them to hardware, face brick, landscaping, electric light fixtures, and carpeting. New law adds miscellaneous steel, tile, wallpaper and other exterior finishes, fixtures and furnishings to list of allowances. New law prohibits use of allowances to control selection of a subcontractor or supplier.

New law deletes prior law that requires construction contracts to be opened in a public meeting, that all subcontractors bidding the project be invited to the meeting, and that the general contractor list subcontractors in the bid documents.

New law provides option for change orders in electronic format and requires execution of the change order by the contractor and the public entity or its design representative.

New law requires the public entity to pay the contractor for work performed by change order not later than 60 days after the date the public entity receives an approved application for payment for completion of the work performed in the change order.

New law provides for negotiated change orders to be fully documented and itemized as to costs. New law prohibits deviation in unit prices contained in an initial contract in a negotiated change order.

New law retains prior law that requires public works estimated to cost in excess of \$150,000 to be advertised and let by contract to the lowest responsible bidder. New law requires public works to be let to the lowest responsible and responsive bidder.

New law retains prior law that authorizes public works estimated to cost less than \$150,000 to be undertaken by the public entity with its own employees.

New law retains prior law that authorizes a public entity to issue a bid addendum and to extend the bid period for up to 30 days without readvertising. New law requires completion of transmittal of a copy of any addendum issued within 24 hours of its issuance and delivery by either facsimile transmission, email, other electronic means, or by hand by the public entity to all prime bidders who have requested bidding documents.

New law requires postponement of the bid opening by at least seven days if an addendum cannot be transmitted by facsimile transmission, email, or other electronic means, or otherwise effected by hand delivery.

New law adds authority to issue addendum by overnight delivery using a nationally recognized carrier.

New law retains prior law that authorizes the office of facility planning and control to address damage caused by hurricanes Katrina and Rita by public advertisement in the official journal of the locality of the project and the state's official journal and to take public bids in a minimum of 10 days after advertisement. New law prohibits negotiation of such projects except when no bids are received. New law requires competitive bidding negotiations with no fewer than two contractors. New law requires written determination and findings to support decision for every negotiated contract under prior law. New law requires the public entity to take telephone or other oral offers, to obtain written confirmation of an accepted offer, and to include such confirmation in the contract case file. New law requires the public entity to establish a record that contains, as a minimum, certain information for each offer, and to record and include in the contract file the rejection of any quotations that are lower than the accepted quotation. New law requires retention of such records for a minimum of six years after the purchase or completion of the public work.

New law retains prior law that prohibits ownership or operation of a manufacturing plant for construction materials by a public entity. New law adds manufacturing facilities and production of construction materials to such prohibition. New law deletes provisions that excluded any such facilities owned or operated prior to Sept. 11, 1981, from such prohibition.

New law retains prior law that authorizes a public entity to use its regular maintenance employees for labor necessary in the maintenance, construction, or extension of publicly owned and operated electric public utilities. New law authorizes public entities to use their regular maintenance employees to construct or extend all other public utilities when the cost of the work per project does not exceed \$100,000, including labor and materials. New law increases the contract limit for such projects to \$150,000.

New law requires all purchases of materials or supplies exceeding the contract limit (\$150,000) to be let by public bid.

New law requires a professionally employed architect or engineer to determine what is considered an equivalent product on any and all projects in which he has been legally employed to perform his professional services.

New law authorizes a public entity to enter into maintenance contracts for the repair and maintenance of public facilities owned, controlled, or operated by a public entity for a fixed annual fee provided such contracts extend for a duration of not less than two years, include a nonappropriation clause, and are not considered a debt of the public entity. Such maintenance contracts are not considered a public works contract.

New law retains prior law that requires a public entity to give written notice that includes all reasons and an opportunity for a hearing to any bidder who it proposes to disqualify on the grounds that such bidder is not a responsible bidder prior to such disqualification. New law requires the informal hearing to be conducted prior to award of the public work. New law requires the hearing to be conducted by the public entity not later than five business days

after the date of the notice of disqualification of such bidder and requires the public entity to issue a ruling in writing and deliver same to the affected bidder not later than five business days after the date of the informal hearing. New law prohibits award of the contract for the public work by the public entity prior to the expiration of at least five working days after the date of issuance of the decision by the hearing official and requires the hearing official to issue a ruling in writing and deliver it to the affected bidder in the manner agreed upon by such official and the bidder.

New law excepts DOTD from its provisions on disqualification of bidders.

New law retains prior law that prohibits a public entity from entering into a contract for the purpose of public works with a contractor who then finances the project. New law provides that under no circumstances shall the agreement of a contractor to finance a public works project be used in any way to avoid the requirement that public work be advertised and let by contract to the lowest responsible bidder.

New law deletes prior law that authorized a public entity to include bid selection provisions in bid documents relative to participation in a mentor-protégé program.

New law changes prior law to require that private employers verify new employees.

New law changes prior law to uniformly require any public entity, which includes the state, a state agency, and a political subdivision, to execute a contract not later than 60 days after the date of the public entity's award of a public works contract to the lowest responsible and responsive bidder or to reject all bids, if the lowest responsible and responsive bidder has timely provided all documents required, and no injunction or temporary restraining order is in effect.

New law requires the public entity to issue the contractor a notice to proceed with the project or work order not later than 30 calendar days following the date of execution of the contract by both parties, provided that the parties may agree to extend the time to issue a notice to

proceed upon mutual written consent of both contractor and public entity.

Prior law required a public entity to record acceptance of a written contract for public works in the office of the recorder of mortgages in the parish where the work has been done upon substantial completion or to require the contractor to record such acceptance upon written recommendation of the public entity's architect or engineer given within 30 days of completion of the project.

New law requires the public entity to record project acceptance not later than 30 days after completion or substantial completion of the project. New law requires the contractor to file acceptance within 45 calendar days after completion or substantial completion of the project for those public entities that do not record an acceptance only upon written recommendation of the architect or engineer of the public entity made not later than 30 calendar days after the date of completion or substantial completion of the project.

Effective August 1, 2014.

(Amends R.S. 38:2211, 2212, 2212.5, 2212.10, 2215, 2225, and 2241.1)

### **Construction Management (Act No. 782)**

New law authorizes an owner who is a public entity to use the construction management at risk (CMAR) project delivery method to contract for public works.

New law defines the "construction management at risk", or "CMAR", method to mean a delivery method by which the owner uses a design professional, who is engaged by the owner for professional predesign or design services, or both. New law provides the owner contracts separately with a CMAR contractor to engage in the preconstruction phase, and the same CMAR contractor may also provide construction services to build the project.

New law defines "CMAR contractor" as a person or legal entity, properly licensed, bonded, and insured, who may assume the risk to construct the project for a guaranteed maximum price or who provides construction experience to the owner or its design professional during the

preconstruction phase regarding the constructability of the project, or both.

New law defines "selection review committee" to mean the committee appointed by the owner to review the request for qualifications, score the proposers, and recommend award to a CMAR contractor.

New law requires an owner who determines to use the CMAR method to indicate such intent in the RFQ to procure a CMAR contractor and the reasons it deems such method to be in the public interest and beneficial to the owner.

New law prohibits challenges by any legal process to the choice of the successful CMAR contractor except for fraud, bias for pecuniary or personal reasons not related to the taxpayers' interest, or arbitrary and capricious selection by the owner.

New law requires an owner to select and contract with a design professional for design services in a certain manner.

New law requires advertisement of the RFQ to award a contract for CMAR services in the owner's official journal, and on the owner's Internet website, if available. The RFQ shall be advertised at least two times within the 30 day period prior to the deadline for receipt of responses.

New law lists specific items the owner must include in the RFQ. New law requires review and grading of proposals by a review committee identified in the RFQ. New law provides that the review committee results, inclusive of its findings, grading, score sheets and recommendations, shall be available for review by all proposers and shall be deemed public records.

New law requires the review committee to make its recommendations to the owner within 90 days after the deadline for submission of responses to the RFQ. New law requires the proposer recommended by the committee as the CMAR contractor to work with the owner's design professional for the project on constructability and construction phasing and sequencing prior to the owner's award to construct the project.



New law requires the owner to select the CMAR contractor either before, but not later than, when the design professional design is not more than 30% complete if the benefits of the CMAR method reduce as the design process progresses.

New law requires the owner to obtain an opinion of probable cost from the design professional and the CMAR contractor when final project design is not more than 60% and again when final design is not more than 90% complete.

New law requires the CMAR contractor to provide the owner a guaranteed maximum price, or GMP, before or upon completion of final design.

New law provides that, if the owner and CMAR contractor are able to negotiate, establish, and agree upon such GMP for rendering construction services for the project, the owner may authorize the CMAR contractor to undertake construction services. New law provides that an owner may determine and authorize a CMAR contractor to undertake specific items, including items that require a long lead time, further understanding of unknown site conditions, or other issues.

New law requires the owner to readvertise and publicly bid utilizing the design-bid-build delivery method when the owner and the CMAR contractor do not reach a negotiated agreement.

New law does not supersede any conflicting law, including but not limited to Chapter 10 of Title 38 of the LRS, but the Chapter shall otherwise apply to such contracts.

Effective August 1, 2014.

(Adds R.S. 38:2225.2.4)

#### **Public School Purchasing (Act No. 823)**

New law authorizes public school districts or public schools to participate in purchasing cooperatives for procurement of materials, equipment, and supplies and requires such cooperatives to follow a specific request for proposals process when soliciting vendors.

(Adds R.S. 38:2212.1(N))

## **TITLE 39: PUBLIC FINANCE**

### **Annual Report on Service Contracts Awarded Without Bidding (Act No. 33)**

Existing law provides that professional services, personal services, consulting services under \$50,000, and certain social service contracts may be awarded without competitive bidding or competitive negotiation.

New law requires the director of contractual review to prepare an annual report of all professional, personal, consulting, and social services contracts awarded without the necessity of competitive bidding or competitive negotiation.

Effective Aug. 1, 2014.

(Amends R.S. 39:1489)

### **Public Seating (Act No. 416)**

New law requires that when an agency covered by the Louisiana Procurement Code purchases seats for public seating areas in state buildings following the renovation or construction of a state building, no fewer than 5% of the total seats purchased shall have arms.

New law exempts the following from the seat purchasing requirement: (1) seating located in instructional spaces at public educational institutions; (2) seating areas located in stadiums, coliseums, arenas, or similar buildings used as sport or entertainment venues; and (3) cafeterias or other food service areas.

Effective Aug. 1, 2014.

(Adds R.S. 39:1647)

### **Public Entity Compliance with Securities Laws (Act No. 463)**

New law provides procedures for compliance with the municipal securities continuing disclosure rule of the United States Securities and Exchange Commission.

New law requires public entities to continuously maintain certain records relating to securities of which the public entity is the issuer or an obligated person.

New law provides that as part of its annual financial audit of a public entity, a public entity's auditor shall:

(1) Review the public entity's compliance with the recordkeeping requirements of this Section.

(2) Review a sample of the public entity's filings on the Electronic Municipal Market Access system maintained by the Municipal Securities Rulemaking Board to determine if such filings are in compliance with the continuing disclosure agreements to which the public entity is a party.

Effective August 1, 2014.

(Adds R.S. 39:1438)

#### **Permissible Investments by Political Subdivisions (Act No. 465)**

Prior law provided that bonds, debentures, notes, or other evidence of indebtedness issued by a state or any of its political subdivisions must have a final maturity, mandatory tender, or a continuing optional tender of no more than three years, except that such three-year limitation shall not apply to funds held by a trustee, escrow agent, paying agent, or other third party custodian in connection with a bond issue or investment of funds held by either a hospital service district, a governmental 501(c)(3), or a public trust authority.

New law changes the period from three years to five years for bonds, debentures, notes, or other evidence of indebtedness issued by a state or any of its political subdivisions.

New law provides that bonds, debentures, notes, or other evidence of indebtedness issued by domestic United States corporations must have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard & Poor's or a long-term rating of AA- or higher by Fitch, Inc. and that the indebtedness must have a final maturity, mandatory tender, or a continuing optional tender of no more than five years. New law requires that prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing Louisiana political subdivision must retain the services of a registered investment advisor.

Effective August 1, 2014.

(Amends R.S. 33:2955)

#### **Cooperative Purchasing (Act No. 498)**

Prior law, relative to cooperative purchasing under the Procurement Code, authorized local public procurement units and private procurement units to engage in cooperative purchasing.

Prior law defined "private procurement unit" as any independent institution of higher education in this state. New law includes an early childhood learning center in the definition of "private procurement unit".

Effective August 1, 2014.

(Amends R.S. 39:1701(4))

#### **Bond Approval (Act No. 549)**

New law removes requirements of the State Board of Commerce and Industry and the secretary of the Dept. of Economic Development to approve the issuance of certain bonds relating to industrial enterprises.

Effective July 1, 2014.

(Amends R.S. 39:551.1 and 997 and R.S. 51:1157.1)

#### **College Purchasing Cooperative (Act No. 700)**

New law provides that any public postsecondary education institution seeking to utilize its own group purchasing and cooperative purchasing procurement provisions shall submit a request for and obtain the approval of its management board and the Board of Regents.

New law authorizes an institution to participate in its own group purchasing and cooperative purchasing procurement provisions for an initial term of three years. After the initial term, the institution may be authorized to participate in its own procurement provisions for an additional term of five years upon approval of the Joint Legislative Committee on the Budget.

New law provides that the La. Procurement Code provisions relative to group purchasing and cooperative purchasing shall not apply to any public postsecondary education institution if it has requested its own group purchasing and

cooperative purchasing procurement provisions and has been approved by its management board and the Board of Regents, and has adopted its own group purchasing and cooperative purchasing procurement provisions pursuant to rules and regulations adopted in accordance with the APA.

Effective July 1, 2014.

(Adds R.S. 39:196(C) and 1554(J))

#### **Data Processing Software Procurement (Act No. 708)**

Prior law provides that any state agency may procure data processing software, software maintenance, and support services without competitive bidding, provided such procurement has written advance approval from the state central purchasing agency and is not for a price greater than the vendor's published price.

New law provides that any agency seeking to procure a new contract, a contract extension, or any other contract modification for software, software maintenance, and support services must show that the price received or negotiated is the lowest available price.

New law provides that available prices must be from a source that is regularly maintained by a vendor or other contractor, is either published or otherwise available for inspection by customers, is available through inquiries with other state or local governments using similar products and services, and is available through statements of prices on the Internet and are currently or were last made to a significant number of buyers constituting the general buying public for the software or services involved.

New law provides that in the event the lowest available price cannot be obtained in the form or source specified in the new law, the agency seeking to procure a new contract, a contract extension of an existing contract, or any other contract modification for software, software maintenance, and support services shall require the vendor to certify in writing that the price received is the lowest price available to other states or local governments for similar products and services at the time the quote is submitted.

Effective July 1, 2014.

(Amends R.S. 39:199(D))

#### **Information Technology (Act No. 712)**

New law provides for the office of technology services within the executive branch of state government.

New law adds authority for the CIO to oversee operation of information technology and information resources including being responsible for establishing and coordinating all information technology systems across the executive branch of state government.

New law details the responsibilities and duties of the CIO and the office of technology services, including acting as the sole centralized customer for the acquisition, billing, and recordkeeping of information technology systems or services provided to state agencies; developing coordinated information technology systems or services within and among state agencies; and reviewing, coordinating, approving, or disapproving requests by state agencies for information technology procurement.

New law changes "data processing procurement" to "information technology procurement" and provides that the CIO and the office of technology services shall have authority for defining the specific information technology systems and services which shall be applicable under information technology procurement.

New law provides for the types and terms of contracts permitted under information technology procurement.

New law requires prior approval of the JLCB on all contracts let for more than three years.

New law further specifies methods of procurement relative to information technology and information services to encompass requests for proposal, laws and regulations governing the state purchasing office, and other methods.

Prior law provided for the establishment of master purchase contracts for equipment provided by individual manufacturers. New law removes authority for establishing noncompetitive master price agreements, although such competitively priced agreements shall be retained.

New law clarifies the applicability of the Lease of Movables Act with respect to the leasing of information technology equipment under the Information Technology procurement code.

Effective July 1, 2014.

(Amends R.S. 36:4, R.S. 39:15.1, 15.2, 15.3, 196, 197, 198, 199, and 200)

#### **Procurement of Insurance (Act No. 715)**

New law provides that consulting services include the procurement of insurance without complying with the La. Procurement Code if such services are ancillary to such contract.

New law authorizes the office of risk management, under the direction of the commissioner of administration, to contract for consulting services with one or more licensed insurance producers if the commissioner finds that the contract is in the best interest of the state. New law provides that the contract may allow one or more producers to advise the office of risk management regarding the office's insurance programs and to directly procure insurance.

New law provides that no contract executed under new law is effective until it has been approved by the Joint Legislative Committee on the Budget (JLCB).

Effective August 1, 2014.

(Amends R.S. 39:1484 and 1540)

#### **Fiscal Administrator Revolving Loan Fund (SB 118) (Act No. 735)**

New law authorizes any political subdivision for which a fiscal administrator is in the process of being appointed or which has been appointed, to borrow money from and incur debt payable to a new fund maintained by the Department of the Treasury. Such borrowing shall be subject to the approval of: (1) the legislative auditor, the attorney general, and the state treasurer, (2) the fiscal administrator, if one has been appointed by the court, (3) the district court having jurisdiction over the fiscal administration, and (4) the State Bond Commission.

New law provides that the monies in the fund shall be appropriated and used only for the purpose of providing financial assistance to a

political subdivision for which a court has appointed a fiscal administrator by providing a source of funds from which the political subdivision may borrow in order to pay the costs and expenses associated with the independent fiscal administration of the political subdivision, including but not limited to all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

Effective upon signature of the governor (June 19, 2014).

(Adds R.S. 39:1357)

#### **Procurement Code (Act No. 864)**

New law repeals certain exclusions regarding the procurement of professional, personal, consulting and social services.

New law provides that contracts awarded by an agency for the benefit of an industry, payment of which comes from self-generated funds received from that industry, are exempt from the requirements of the procurement code, provided that any such contract is awarded through a competitive process.

New law provides that procurement provisions shall not apply to consulting contracts with appraisers, foresters, economists, right-of-way agents, title abstractors, asbestos abatement inspectors, negotiators, accountants and cost consultants relating to acquisition of rights-of-way for maintenance and construction projects entered into by the DOTD.

New law requires that the state chief procurement officer provide contractual forms and specifications to be used in confection of all contracts.

Prior law provided for reporting on certain contract payments, subcontractors, and performance related to the Road Home Program. New law specifies the reporting shall be for professional, personal, consulting, and social services contracts.

Prior law provided for reports of procurement actions. New law specifies such reports are for

procurement actions related to professional, personal, consulting, and social services contracts.

New law provides that no contract for professional, personal, consulting, or social services shall be entered into by a using agency with any contractor for which a delinquent final evaluation report remains outstanding for a contract with such using agency.

New law specifies that exemptions from central purchasing do not apply to professional services, personal services, consulting services, social services, information technology or vehicle acquisition.

New law provides for the following methods of source selection: (1) competitive sealed bids, (2) competitive sealed proposals, (3) small purchases, (4) sole source, (5) emergency procurements, and (6) other procurement methods: (a) unstable market conditions, (b) group purchasing organizations, (c) used equipment, (d) reverse auctions, and (e) negotiation of noncompetitive contracts.

New law includes "purchasing agencies of" the state along with the division of administration as locations where evidence of agency, corporate, or partnership authority shall be required for submission of a bid. New law requires the bidder to submit or provide on request one of several official documents acceptable to the public entity, including registration on an electronic Internet database maintained by the public entity.

Prior law provided for certain circumstances whereby a competitive request for proposal may be used. New law adds that approval and written determination requirements for such requests for proposal shall not apply to requests for proposal for professional, personal, consulting, or social services.

Prior law provided for requirements for requests for proposals. New law adds that RFPs for consulting, social, and professional services not otherwise exempt shall indicate the relative importance of price and other evaluation factors, shall clearly define the tasks to be performed under the contract, the criteria to be used in evaluating the proposals, and the time frames

within which the work must be completed. New law specifies that all other RFPs shall clearly state the technological or other outcome desired from the procurement of the supplies, services, or major repairs, if applicable, and shall indicate the relative importance of price and other evaluation factors, the criteria to be used in evaluating the proposals, and the time frames within which the work must be completed. New law delineates certain conditions whereby written or oral discussions need not be conducted with responsible proposers who submit proposals.

Prior law described the minimum types of information needed to submit in requests for proposal. New law adds "performance measurements" and "monitoring plan".

Prior law provided for the validity of professional, personal, consulting, and social services contracts. New law changes approval from the director of the office of contractual review to the director of the office of state procurement.

Prior law provided that cost-plus-a-percentage-of-cost contracts shall not be used. New law adds that such contracts may be used in the case of a disaster or emergency declared by the governor.

Prior law provided for reimbursement of costs. New law specifies reimbursement of costs for professional, personal, consulting, and social services contracts.

Prior law provided for contracts related to social services. New law retains prior law and specifies these contracts as "social services contracts".

Prior law provided for consulting service contracts without the necessity of competitive bidding or competitive negotiation. New law provides for negotiation with the highest qualified persons for sole source or emergency procurement or for professional, personal, or those consulting contracts that have a maximum amount of compensation less than \$50,000 for a 12 month period.

Prior law specified that bid specifications may contain an escalation clause. New law specifies such escalation or de-escalation shall be in

accordance with a recognized price index, including but not limited to the U.S. Bureau of Labor Statistics, Consumer Price Index and Wholesale Price Index.

New law adds contract clauses including: (1) security for contract performance, (2) insurance requirements, (3) beginning and ending dates of the contract, and (4) maximum compensation to be paid the contractor.

New law provides for legal and contractual remedies for professional, personal, consulting, and social services contracts.

New law provides for legal and contractual remedies for other than professional, personal, consulting, and social services contracts.

Prior law provided for delinquent payment penalties and late payments to business and penalties paid by state agency. New law retains prior law and provides for interest on the amount due based on the judicial interest rate.

The Act becomes effective January 1, 2015.

(Amends R.S. 36:4(B)(1)(b) and numerous provisions in R.S. 39:1551-1755; repeals R.S. 39:1481-1526)

## **TITLE 40: PUBLIC HEALTH AND SAFETY**

### **Telemedicine (Act No. 442)**

New law requires any physician practicing telemedicine, except for those physicians practicing pursuant to a telemedicine license, to use the same standard of care as if the healthcare services were provided in person.

New law provides that a telemedicine provider, except for those physicians practicing pursuant to a telemedicine license, shall not be required to conduct an in-person patient history or physical examination of the patient before engaging in a telemedicine encounter if all of the following conditions are met:

(1) The physician practicing telemedicine holds an unrestricted license to practice medicine in La.

(2) The physician practicing telemedicine has access to the patient's medical records upon consent of the patient.

(3) The physician practicing telemedicine maintains a physical practice location within the state of La. or executes an affirmation with the LSBME that the physician has an arrangement with another physician who maintains a physical practice location in Louisiana to provide for referrals and follow up care which may be necessary.

New law prohibits, unless authorized by the LSBME, a physician practicing telemedicine from prescribing any controlled dangerous substance prior to conducting an appropriate inperson patient history or physical examination of the patient as determined by the LSBME.

New law provides that a patient receiving telemedicine services maybe in any location at the time that the telemedicine services are rendered and a telemedicine provider may be in any location when providing telemedicine services to a patient.

New law requires a telemedicine provider to document the telemedicine services rendered in the patient's medical records according to the same standard as that required for nontelemedicine services. Medical records, including video, audio, electronic, or other records generated as a result of providing telemedicine services shall be considered as confidential and shall be subject to all applicable state and federal laws and regulations relative to the privacy of health information.

New law authorizes each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider to promulgate any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity. New law requires that the rules shall, at a minimum, provide for all of the following:

(1) Application of all laws regarding the confidentiality of healthcare information and the patient's rights to the patient's medical information to telehealth interactions.

(2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.

(3)(a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in La. The rules shall ensure that any such healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in La. as determined by the respective La. licensing agency, board, or commission.

(b) Each state agency and professional or occupational licensing board or commission is authorized to provide by rule for a reasonable fee for the license or registration.

(4) Exemption from the telehealth license or registration requirement for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.

Nothing in new law shall be construed to authorize a state agency or licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

Effective Aug. 1, 2014.

(Amends R.S. 37:1271; Adds R.S. 40:1300.381-1300.384)

#### **Explosives (Act No. 1)**

New law authorizes the deputy secretary of the Dept. of Public Safety and Corrections or his designee to inspect all facilities for the manufacture, transportation, storage, and use of explosives by any person licensed for various explosive licenses.

New law requires a manufacturer or dealer-distributor of explosives to possess a valid explosives license or permit from the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

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

(Adds R.S. 40:1472.3(A)(4) and (B))

#### **Controlled Dangerous Substances (Act No. 40)**

Existing law provides for the designation of controlled dangerous substances into Schedules I, II, III, IV, and V based upon the substances' potential for addiction and abuse.

New law adds 4-anilino-N-phenethyl-4-piperidine (ANPP) as an immediate precursor to fentanyl to Schedule II.

New law adds perampanel, methasterone, and prostanazol to Schedule III.

New law adds lorcaserin and alfaxalone to Schedule IV.

Effective August 1, 2014.

(Amends R.S. 40:964)

#### **Controlled Dangerous Substances (Act No. 43)**

New law adds 15 substances to the list of Schedule I controlled dangerous substances.

Effective upon signature of governor (May 16, 2014).

(Amends R.S. 40:964)

#### **Small Bombs Unregulated (Act No. 151)**

Existing law provides for the regulation and licensing of explosives and for licensing of manufacturers, dealer-distributors, users, blasters, and handlers of explosives.

New law requires licensing for exploding or explosive targets only in quantities greater than five pounds.

Effective August 1, 2014.

(Amends R.S. 40:1472.2(7)(d); Adds R.S. 40:1472.2(7)(e))

#### **Dextromethorphan (Act No. 176)**

New law prohibits the sale, purchase, or attempt to purchase products containing dextromethorphan by minors.

Effective August 1, 2014.

(Adds R.S. 40:962.1.2)

### **Tanning Facilities (Act No. 193)**

New law prohibits a tanning facility from allowing any person under 18 years of age to use any tanning equipment.

New law requires specified signage to be placed at the entrance of the tanning facility.

Effective Aug. 1, 2014.

(Amends R.S. 40:2707 and 2714(E) and (I))

### **Underground Utilities and Facilities (Act No. 203)**

Present law defines "mark by time" as the date and time provided by the regional notification center by which the utility or facility operator is required to mark the location or provide information to enable an excavator or demolisher to determine the specific location of the utility or facility. New law adds that the mark by time may be extended if mutually agreed upon and documented between the excavator and operator.

Present law requires the excavator or demolisher to wait at least 48 hours, beginning at 7:00 a.m. on the next working day, following notification before commencing any excavation or demolition activity. New law adds that the parties may extend the time by mutual and documented agreement by the excavator and operator.

Present law provides that each operator of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate, shall supply, prior to the proposed excavation, the specific location and type of all of its underground utilities or facilities which may be damaged as a result of the excavation or demolition. New law adds that if the surface over the buried or submerged line is to be removed, supplemental offset markings may be used and shall be on a uniform alignment and shall clearly indicate that the actual facility is a specific distance away.

(Amends R.S. 40:1749.12, 1749.13, 1749.14, and 1749.20)

### **Concealed Handgun Permits (Act No. 221)**

New law adds that an applicant for a concealed handgun permit shall not be ineligible to receive a firearm under federal law.

New law requires state police to make an inquiry on every applicant to the FBI's National Instant Criminal Background Check System.

New law provides that if the applicant is not a U.S. citizen, the applicant shall provide any alien or admission number issued by the U.S. Bureau of Immigration and Customs Enforcement and any basis, if applicable, for an exception to the prohibitions from possession of a firearm under federal law.

(Amends R.S. 40:1379.3)

### **Opioid Antagonists (Act No. 253)**

New law authorizes a first responder to receive a prescription for naloxone or another opioid antagonist, maintain the naloxone or other opioid antagonist in the first responder's possession, and administer the naloxone or another opioid antagonist to any individual who is undergoing or who is believed to be undergoing an opioid-related drug overdose.

New law requires a first responder, before receiving a prescription for naloxone or another opioid antagonist, to complete the training necessary to safely and properly administer naloxone or another opioid antagonist.

New law requires the first responder to keep a record of each instance in which the first responder administers naloxone or another opioid antagonist.

New law authorizes a law enforcement agency or fire department to enter into a written agreement to affiliate with an ambulance service provider or a physician for all of the following purposes:

- (1) Obtaining a supply of naloxone or another opioid antagonist.
- (2) Allowing law enforcement officers and firefighters to obtain the training necessary to safely and properly administer naloxone or another opioid antagonist.



New law provides immunity from civil liability, criminal prosecution, or disciplinary or other adverse action under any professional licensing statute to a first responder who, reasonably believing another person to be undergoing an opioid-related drug overdose, administers naloxone or another opioid antagonist to that person for any outcomes resulting from the administration of the naloxone or another opioid antagonist to that person, unless personal injury results from the gross negligence or willful or wanton misconduct of the first responder administering the drug.

Effective Aug. 1, 2014.

(Adds R.S. 40:978.1)

#### **Drugs (Act No. 265)**

Existing law provides for enhanced penalties for violations of the Uniform Controlled Dangerous Substances Law when the violation occurs on or near certain types of property.

Prior law provided for an exception for violations that occur entirely within a private residence wherein no person 17 years of age or under was. New law repeals the exception.

Effective Aug. 1, 2014.

(Repeals R.S. 40:981.3(D))

#### **Hotels (Act No. 277)**

New law provides that the fire marshal, or his designee, shall have the authority to require the owner or lessee of a structure that was in existence as of August 1, 2014, and is utilized as a hotel to install a carbon monoxide alarm system when he determines, as a result of a plan review, investigation, or inspection, that a carbon monoxide source within or attached to the building or structure poses a threat of carbon monoxide poisoning.

New law requires that an owner or lessee of a hotel, or his agent, shall declare the presence of a carbon monoxide source or the attachment of a parking garage to the hotel at the time building plans and specifications for the hotel are submitted to the fire marshal for review.

Effective Aug. 1, 2014.

(Adds R.S. 40:1563(M) and 1574(L))

#### **Drug-Free Zones (SB 187) (Act No. 289)**

Prior law provided enhanced sentencing for violations of the Controlled Dangerous Substances Law that occur in drug free zones, except for violations that occur entirely within a private residence when no person 17 years of age or under was present. New law repeals the exception.

Effective upon signature of the governor (May 28, 2014).

(Amends R.S. 40:981.3)

#### **Private Driving Schools (Act No. 307)**

New law requires each private driving school to execute a surety bond in the sum of \$40,000, if such surety bond is available for purchase. The bond shall be subject to the condition that, if the school or any of the school's instructors fail to perform any services the school agreed to provide to a student or a student's parent, the private driving school fees may be recovered from the bond. Private driving schools with multiple locations shall be required to furnish only a \$40,000 surety bond.

New law provides that it shall be unlawful for any person to operate a driving school or to offer instruction as a driving school instructor unless both the school and the instructor are currently licensed as a driving school by the Department of Public Safety and Corrections, or for a licensed driving school to engage in any prohibited activity.

Defines "prohibited activity" as:

- (1) Activity normally conducted by a driving school without a license, authorization or approval by the department; or
- (2) Activity conducted by a driving school or an instructor, whether licensed or not, in which a student of the school is requested to go to, or is taken to, a hotel room, a private residence, or any other location not appropriate for a person that age.

New law provides for the procedure in which a cease and desist order may be issued.

New law provides that if the person or business subject to the cease and desist order cannot be served, or does not comply with the cease and

desist order, DPSC may file a petition for injunctive relief in district court. New law provides that there shall be no suspensive appeal or stay of an order or judgment granting the DPSC a preliminary or permanent injunction.

Effective August 1, 2014.

(Adds R.S. 40:1462 and 1463)

### **Investigational Medicine and the Terminally Ill (Act No. 346)**

New law authorizes manufacturers of investigational drugs, biological products, and devices to make available those drugs, products, and devices to eligible patients.

New law provides the following definitions:

(1) "Eligible patient" means a person who (a) has a terminal illness; (b) as determined by the person's physician, has no comparable or satisfactory treatment options that are approved by the U.S. Food and Drug Administration (FDA) and available to diagnose, monitor, or treat the person's disease or condition, and the probable risk to the person from the investigational drug, biological product, or device is not greater than the probable risk from the person's disease or condition; (c) has received a prescription or recommendation from his physician for an investigational drug, biological product, or device; (d) has given his consent in writing for the use of the investigational drug, biological product, or device; and (e) has documentation from his physician indicating that he has met the requirements provided in new law.

(2) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a FDA approved clinical trial, but has not been approved for general use by the FDA and remains under investigation in a clinical trial.

(3) "Terminal illness" means a disease that, without life-sustaining procedures, will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely, which diagnosis has been confirmed by a second independent evaluation by a board-certified physician in an appropriate specialty.

New law authorizes a manufacturer to provide an investigational drug, biological product, or device to an eligible patient with or without compensation.

New law authorizes health insurers to provide coverage for the cost of an investigational drug, biological product, or device.

New law provides that a physician who prescribes an investigational drug, biological product, or device shall be immune from civil liability, including but not limited to any cause of action arising under medical malpractice provisions of existing law, for any adverse outcome resulting from a patient's use of the investigational drug, biological product, or device.

New law prohibits the La. State Board of Medical Examiners from revoking, failing to renew, or taking any other action against the license of a physician based solely upon his recommendation to an eligible patient regarding or prescription for or treatment with an investigational drug, biological product, or device when such recommendation, prescription, treatment is undertaken in strict conformance with new law.

Effective Aug. 1, 2014.

(Adds R.S. 40:1300.381-1300.386)

### **Down Syndrome and Abortion (Act No. 352)**

New law provides that upon receipt of a positive result from a test for Down syndrome, a healthcare facility or healthcare provider shall provide to the expectant parent or the parent of the child diagnosed with Down syndrome certain written information provided or made available by DHH.

New law stipulates that all information provided pursuant thereto shall be culturally and linguistically appropriate for recipients, and that such information not engage in discrimination based on disability or genetic variation by explicitly or implicitly presenting pregnancy termination as a neutral or acceptable option when a prenatal test indicates a probability or diagnosis that the unborn child has Down syndrome or any other health condition.

Effective Aug. 1, 2014.

(Adds R.S. 40:1300.381-1300.382)

#### **Rail Police Officers (Act No. 361)**

New law authorizes the superintendent of state police to issue at his discretion a special officer's commission to any person employed by a rail carrier as a rail police officer in accordance with federal law (49 U.S.C. 28101), and provides for the commission to be valid for one year from the date of issuance.

Effective Aug. 1, 2014.

(Adds R.S. 40:1379.1.2)

#### **Drug Penalties (Act No. 368)**

Prior law provided that any person convicted of manufacturing, distributing, or possessing with the intent to distribute certain narcotic drugs, including heroin, is to be sentenced to imprisonment at hard labor for a term of not less than 5 nor more than 50 years, at least 5 years of which must be served without benefit of probation or suspension of sentence, and may also be fined up to \$50,000.

New law increases the minimum term of imprisonment from 5 to 10 years, except as provided for heroin and its analogues.

New law provides penalties for manufacture, distribution or possession with intent to distribute heroin, first conviction, of imprisonment at hard labor for not less than 10 nor more than 50 years, at least 10 years to be served without benefit of probation or suspension of sentence and may be subject to a fine of not more than \$50,000.

New law provides that as to manufacture, distribution or possession with intent to distribute the narcotic drug heroin or a mixture or substance containing a detectable amount of heroin or of its analogues, upon conviction of a second or subsequent offense requires the offender to be sentenced to a term of imprisonment at hard labor for not less than 10 nor more than 99 years, at least 10 years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Effective upon signature of the governor (May 30, 2014).

(Amends R.S. 40:966)

#### **Carisoprodol (Act No. 397)**

New law amends prior law to move Carisoprodol from a Schedule IV to a Schedule II controlled dangerous substance.

New law provides that wholesale drug distributors licensed by the La. Board of Pharmacy and registered with the U.S. Drug Enforcement Administration are exempt from the storage, reporting, recordkeeping, and physical security requirements for any material, mixture, compound, or preparation which contains any quantity of Carisoprodol.

Effective August 1, 2014.

(Amends R.S. 40:964(Schedule II)(D); repeals R.S. 40:964(Schedule IV)(B)(4.1))

#### **Ex-Cons and Ambulances (Act No. 413)**

New law prohibits an employer from hiring any licensed ambulance personnel or nonlicensed person when the results of a criminal history check reveal that the licensed ambulance personnel or nonlicensed person has been convicted of a felony offense involving theft or theft of assets of an aged person or disabled person in excess of \$500, or an attempt or conspiracy to commit a felony offense involving theft or theft of assets of an aged person or disabled person in excess of \$500, or in any case in which the offender has been previously convicted of theft or theft of assets of an aged person or disabled person regardless of the value of the instant theft.

New law shall be given retroactive application.

Effective upon signature of governor (June 4, 2014).

(Amends R.S. 40:1300.53)

#### **Sanitary Code (Act No. 456)**

New law specifically requires the rules and regulations of the Sanitary Code to require the reporting of cases of Respiratory Syncytial Virus (RSV) when such a test is conducted by a laboratory or hospital.

Effective August 1, 2014.

(Amends R.S. 40:4(A)(2)(intro para))

#### **Pregnancy (Act No. 459)**

Prior law provided non-physicians permitted to attend pregnant women but not permitted to take blood samples shall have a sample of the blood of every pregnant woman attended by them taken by a duly licensed physician, if no objection to the taking of the sample is made by the woman, and submitted to an approved laboratory for a standard test for syphilis.

New law amends prior law to include the third trimester and a standard diagnostic HIV test.

Effective upon signature of the governor (June 4, 2014).

(Amends R.S. 40:1091)

#### **Dispensing of Drugs (Act No. 472)**

Prior law provided that information on the prescribing of certain controlled dangerous substances shall be reported no longer than seven days after the date of dispensing. New law amends prior law to provide each eligible prescription shall be reported no later than the next business day after the date of dispensing.

Effective August 1, 2014.

(Amends R.S. 40:1006(B))

#### **Water Works Rules (Act No. 488)**

Prior law provided for the creation of the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee (committee) within Dept. of Health and Hospitals to develop standards to be placed in the state Sanitary Code for water works construction, operation, and maintenance. Prior law provided that no later than August 1, 2014, the office of public health shall promulgate rules and regulations implementing the standards developed by the committee.

New law removes August 1, 2014, deadline and provides authority of the committee to develop and approve rules and regulations to repeal, revise, and replace LAC 51:XII Chapters 1 and 3 of the Sanitary Code.

Prior law provided the rules and regulations for the Louisiana Standards for Water Works Construction, Operation, and Maintenance shall not be promulgated until the proposed rules and regulations or changes thereto are approved by DHH and approved by a majority vote of the committee.

New law requires that the committee approve, at a minimum, rules and regulations necessary for the state to maintain drinking water program primacy from the EPA and that DHH promulgate only committee approved rules as necessary to secure or maintain this primacy.

Effective upon signature of the governor (June 5, 2014).

(Amends R.S. 40:4.13)

#### **Ambulatory Surgical Centers (Act No. 494)**

New law authorizes DHH to seek approval from Medicaid of a program designed to reimburse ambulatory surgical centers that have an agreement with a governmental entity or entities to provide enhanced Medicaid services.

New law authorizes DHH to develop and maintain a Medicaid upper payment limit financing methodology for the ambulatory surgical centers.

New law provides disbursements of money generated by the use of an upper payment limit methodology shall be made only in accordance with an approved waiver or state plan amendment, and provides the source of the nonfederal match for these payments may only be by voluntary certification of expenditures or intergovernmental transfer of funds.

Effective upon signature of the governor (June 4, 2014).

(Adds R.S. 40:1300.333)

#### **Drug-Traffic Loitering (Act No. 512)**

New law repeals the crime of drug-traffic loitering as remaining in a public place in a manner and under circumstances manifesting the purpose to engage in unlawful conduct in violation of the Uniform Controlled Dangerous Substances Law.

Effective Aug. 1, 2014.

(Repeals R.S. 40:981.4)

### **Home Health Verification System (Act No. 523)**

New law provides for establishment of an electronic visit verification system for in-home care services funded by the Dept. of Health and Hospitals (DHH).

New law defines "electronic visit verification system" as an automated point of service verification system which electronically verifies that service visits occur and documents the points in time when service provision begins and ends.

New law provides that, to the maximum extent practicable, and subject to certain conditions, DHH shall implement an electronic visit verification system for all in-home care services that it funds through medical assistance programs (e.g. Medicaid).

New law authorizes DHH to provide rate enhancements and other financial incentives to providers of long-term care services to facilitate timely and effective implementation of the electronic visit verification system.

New law stipulates that DHH shall implement an electronic visit verification system only if the fiscal impact thereof is reasonably expected to be cost neutral or result in cost savings.

Effective Aug. 1, 2014.

(Adds R.S. 40:1300.324)

### **Home Cooking of Low-Risk Foods (Act No. 542)**

New law provides an exception to Sanitary Code requirements and other food preparation regulations for preparation of certain low-risk foods in the home for public consumption.

New law extends to home-based preparers of breads and pies numerous specific requirements relative to preparers of cakes and cookies.

New law deletes references to confectionery products in specific requirements for preparation of certain baked goods.

New law requires individuals who prepare low-risk foods in the home for sale to affix to any such food offered for sale a label which clearly

indicates that the food was not produced in a licensed or regulated facility.

New law stipulates that no individual who prepares low-risk foods in the home shall sell such foods unless he has applied for and been issued (1) a Louisiana General Sales Tax Certificate from the Louisiana Department of Revenue, and (2) a local sales tax certificate from the local taxing authority of any jurisdiction in which he intends to sell foods.

(Amends R.S. 40:4.9)

### **Smoking (Act No. 546)**

New law provides that smoking shall be prohibited in:

(1) Any outdoor area proximate to a state office building which is within 25 feet of an entrance of the building to which access by the public is not restricted, and

(2) Any outdoor area which is within 25 feet of a wheelchair ramp or other structure which facilitates access to a state office building by a person with a disability.

Effective Jan. 1, 2015.

(Amends R.S. 40:1300.252, 1300.256, and 1300.262; Adds R.S. 40:1263)

### **Abortion (Act No. 569)**

New law provides, in great detail, for information on psychological impacts, illegal coercion, abuse, and human trafficking to be delivered to women and minor females prior to abortion.

(Amends R.S. 40:1299.35.6; Adds R.S. 40:1299.35.5.2, 1299.35.8(A)(6) and (7), and 1299.35.10(A)(27) and (28))

### **Water Systems (Act No. 573)**

New law provides the Dept. of Health and Hospitals, office of public health, shall promulgate rules and regulations that require a public or private water system to maintain a minimum disinfectant level of free or total chlorine in the water being delivered to the distribution system, in finished water storage tanks, and in all points of the distribution.

New law does not apply to any private water system that supplies water to three or less residences or that is used primarily for agricultural operations.

New law provides that any industrial user that owns, operates, or maintains a water system that is dedicated exclusively to its operations may apply for a variance. New law provides that current holders of a variance are not required to reapply for a variance.

Effective August 1, 2014.

(Adds R.S. 40:4.15)

### **Smoking (Act No. 581)**

New law prohibits smoking within 200 feet of the entrances, exits, or outdoor areas of any public or private elementary or secondary school.

New law shall not apply to smoking by a person of the legal age who is within private property (other than the school) or occupying a moving vehicle, within the 200 feet boundary.

Effective upon signature of the governor (June 9, 2014).

(Adds R.S. 40:1300.264)

### **Informed Consent (Act No. 601)**

Prior law provided for the designation of certain persons who may consent to surgical or medical treatment for someone else. New law adds an adult friend as one of the persons who may consent to surgical or medical treatment when any adult is unable to consent for himself, in the absence of the availability of any other person designated to consent. New law defines an adult friend and how such adult friend shall be recognized as authorized to consent for the patient.

New law provides that if none of those persons designated law are reasonably available, then the patient's attending physician shall have the discretion to provide or perform any surgical or medical treatment or procedures, including but not limited to an autopsy, and may also make decisions regarding continued services needed by the patient, including but not limited to approving the placement or transfer of the patient to another facility, without the consent of

the patient or other person authorized to consent for the patient.

New law provides that prior to taking such action, the attending physician shall document in the patient's chart the facts that establish what medical decisions need to be made and why those decisions are needed without undue delay, as well as the steps taken to obtain consent from the patient or another person authorized by law to give consent and then obtain confirmation from another physician, preferably the patient's primary care physician if he is not the attending physician, of the patient's condition and the medical necessity for such action as is appropriate and consistent with the patient's condition and which cannot be omitted without adversely affecting the patient's condition or the quality of medical care rendered.

New law provides that the confirming physician shall personally examine the patient and document his assessment, findings and recommendations in the patient's chart prior to the proposed surgical or medical treatment or procedures being performed.

New law shall not apply to an emergency governed by prior law.

New law provides that when no contact persons are included in the patient's records, in order to justify a finding that none of the authorized persons are reasonably available, the patient's attending physician shall document certain specified information in the patient's record.

New law provides that no hospital or other health care facility, physician, health care provider, or other person or entity shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as to the issue of consent only, based upon the reliance in good-faith on any direction or decision by any person reasonably believed to be authorized and empowered to consent even if death or injury to the patient ensues, except for liability for medical malpractice as to the provision or performance of the surgical or medical treatment, not with regard to the question of consent.

New law provides that each hospital or other health care facility, physician, health care

provider, or other person or entity, who acts in good-faith reliance on any such direction or decision shall be protected and released to the same extent as though such person had interacted directly with the patient as a fully competent person.

New law provides that any physician attending or confirming, who, in accordance with new law, provides or performs any surgical or medical treatment or procedure, or who makes decisions regarding continued services, without the consent of the patient or other person authorized to consent for the patient, shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the decision to perform, or the actual performance of, such treatment or procedure, or with regard to any decisions pertaining to continued services, as to the issue of consent only, even if death or injury to the patient ensues, except for liability for medical malpractice as to the provision or performance of the surgical or medical treatment, not with regard to the question of consent.

New law provides that no hospital or other health care facility, health care provider or other person or entity acting under the direction of a physician shall be subject to criminal prosecution or civil liability, or be deemed to have engaged in unprofessional conduct as a result of any treatment, procedures, continued services, transfer, or placements that were performed in accordance with new law, as to the issue of consent only, even if death or injury to the patient ensues, except for liability for medical malpractice as to the provision or performance of the surgical or medical treatment, not with regard to the question of consent.

Effective August 1, 2014.

(Amends R.S. 40:1299.53)

#### **Concealed Firearms (Act No. 603)**

New law authorizes the carrying of concealed firearms by qualified law enforcement officers and retired law enforcement officers in any place open to the public, subject to the rules and regulations or policies of the agency or office employing the officer or from which the officer

retired. For new law to apply, the officer must be carrying the identification required by his office. In addition, a qualified retired law enforcement officer must have been commissioned by the agency or office from which he retired.

Effective August 1, 2014.

(Adds R.S. 40:1379.1.2-1379.1.4)

#### **Speech by Abortion Clinics (Act No. 617)**

New law prohibits employees of and representatives acting on behalf of organizations that perform elective abortions, and employees and representatives of affiliates of such organizations, from presenting certain categories of information to students at a public elementary or secondary school, or at a charter school that receives state funding.

New law does not apply to any hospital.

Effective Aug. 1, 2014.

(Adds R.S. 40:1299.35)

#### **Abortion Restrictions (Act No. 620)**

New law adds a requirement that on the date an abortion is performed or induced, the physician performing or inducing the abortion shall:

- (1) Have active admitting privileges at a hospital that is located not further than 30 miles from the location at which the abortion is performed or induced and that provides obstetrical or gynecological health care services; and
- (2) Provide the pregnant woman with a telephone number by which the pregnant woman may reach a person at the abortion clinic.

New law requires a physician who prescribes, dispenses, administers, or provides any drug or chemical to a pregnant woman for the purpose of inducing an abortion to report the abortion to DHH, and, if the physician knows that the woman experienced a serious adverse event, the physician shall report the event to the U.S. Food and Drug Administration through the MedWatch Reporting System not later than the third day after the date he learns that the event occurred.

New law provides any person not under the direct and immediate supervision of a physician who knowingly performs or attempts to perform

an abortion using chemicals or drugs shall be subject to penalties.

New law re-defines "first trimester" to mean the time period up to 14 weeks after the first day of the last menstrual period.

New law defines "outpatient abortion facility" as any outpatient facility, other than a hospital or an ambulatory surgical center, in which any second trimester or five or more first trimester abortions per year, rather than month, are performed.

(Amends R.S. 40:1299.35.2(A), 1299.35.2.1, and 2175.3(2) and (5))

#### **Pain Management Clinics (Act No. 714)**

Prior law provided that certain pain management clinics operating on or before June 15, 2005, may be licensed by Department of Health and Hospitals if their license has not been suspended or revoked.

New law provides the prior law exemption for licensure shall not apply to a pain management clinic that is not licensed by or has not made an application to DHH for licensure on or before August 1, 2014.

Effective upon signature of the governor (June 18, 2014).

(Amends R.S.40:2198.12(D))

#### **Homemade Cane Syrup (Act No. 789)**

Present law provides that neither the state Sanitary Code nor any code, law, or regulation providing requirements relative to commercial food preparation shall apply to the preparation of jellies, preserves, jams, honey, honeycomb products, cakes, and cookies in the home for sale. However, there are special restrictions on preparation of cakes and cookies, and the exception to food preparation regulations does not apply to any home-based food preparer whose gross annual sales equal \$20,000 or more.

New law extends application of the exception to food preparation regulations to home-based preparers of cane syrup for sale.

(Amends R.S. 40:4.9)

#### **Medical Information (Act No. 790)**

Existing law provides relative to access to provider specific healthcare cost, quality, and outcome data on healthcare facilities, providers, and insurance plans. New law adds thereto certain conditions and restrictions for the use of healthcare information.

New law requires DHH to maintain a database of personal health information of consumers in a secure environment in compliance with federal laws. New law requires that in the event of a known or suspected data breach, DHH shall, within 30 days of the breach, notify each La. resident whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

New law requires that DHH not release confidential or protected health information collected from hospitals and other healthcare providers, except for the purpose of conducting healthcare research.

New law provides that DHH shall adhere to and comply fully with appropriate privacy protection protocols that are at least as stringent as the HIPAA Privacy Rule.

Effective Aug. 1, 2014.

(Amends R.S. 40:1300.111-1300.114; Adds R.S. 40:1300.115-1300.116)

#### **Appeals of DHH Actions (Act No. 812)**

Existing law, relative to the developmental disabilities services system in DHH, permits a person to file an administrative appeal regarding specified determinations. Prior law provided that such appeals be made to the department's bureau of appeals. New law provides instead for filing such an appeal with the division of administrative law.

Existing law, relative to complaints against a healthcare provider, provides that an informal reconsideration shall constitute final action by DHH unless the complaint concerns a consumer in a facility and involves issues that have or are likely to result in serious harm or death to the consumer. Existing law authorizes the complainant or the provider to appeal the informal reconsideration finding, in cases of



such complaints involving serious harm or death. Prior law provided that such appeals be made to the department's bureau of appeals. New law provides for such appeals to be made to the division of administrative law.

Effective upon signature of governor (June 23, 2014).

(Amends R.S. 28:454.16 and R.S. 40:2009.16)

### **Plumbing (Act No. 836)**

New law provides that in all cases of conflict between the rules and regulations promulgated pursuant to present law and the International Residential Code, Part VII-Plumbing, the International Residential Code, Part VII-Plumbing, shall apply.

New law provides that the building official or his designee shall have the authority to enforce and interpret the plumbing provisions of the State Uniform Construction Code.

New law provides that nothing shall grant the state health officer or the OPH of DHH the authority to supercede the authority of municipalities or parishes to enforce the plumbing provisions of the State Uniform Construction Code.

New law provides that the building official or his designee shall have the authority to enforce the plumbing provisions of the State Uniform Construction Code.

Present law provides that the Louisiana Building Code shall consist of a number of designated and described codes and standards, including Part XIV (Plumbing) of the state Sanitary Code as promulgated by the secretary of DHH. New law retains present law and adds the International Residential Code, Part VII Plumbing.

New law provides that the La. State Uniform Construction Code Council shall adopt rules relative to back flow prevention. New law prohibits the use of plumbing vent systems using air admittance valves.

New law provides that the building official or his designee shall have the authority to enforce the plumbing provisions of the State Uniform Construction Code.

Old law provided that in cases of conflict between the state Sanitary Code and the International Mechanical Code, the state Sanitary Code shall be used. Old law provided that in cases of conflict between the Life Safety Code and either the La. Building Code, the plumbing part of the state Sanitary Code, the International Building Code, the International Mechanical Code or the National Electric Code, the Life Safety Code shall be used. New law repeals old law.

Old law provided that all plumbing and sanitary references in Part V-Mechanical in the International Residential Code shall be replaced with the applicable provisions of the La. State Plumbing Code, Part XIV, Plumbing, of the state Sanitary Code. New law repeals old law.

Proposed law provides for effective dates.

(Amends R.S. 40:4, 5, 1722, 1730.22, 1730.26, and 1730.28; adds R.S. 40:1730.23(I), 1730.28.1, 1730.28.2, 1730.28.3, and 1730.40.1)

### **Drugs (Act No. 865)**

New law provides a Schedule II prescription may not be filled more than 90 days after the date of the prescription.

New law provides a pharmacist shall not dispense more than a ten-day supply at a dosage not to exceed the United States Food and Drug Administration's approved labeling for the medication if the prescriber is not licensed by the state of Louisiana, and the medication is an opiod derivative Schedule II or an opiod derivative Schedule III controlled dangerous substance. The dispensing pharmacist shall notify the prescriber of the supply dispensed and the cancellation of the remainder of the prescription.

New law provides that within 60 days of the dispensing of a medication, such medication shall not be dispensed again for the individual by a prescriber not licensed by the state.

New law provides a prescriber shall access the Prescription Monitoring Program prior to initially prescribing any Schedule II controlled dangerous substance to a patient for the treatment of non-cancer-related chronic or intractable pain.

Effective August 1, 2014.

(Amends R.S. 40:978)

## **TITLE 41: PUBLIC LANDS**

### **Public Benefit Corporations (Act No. 236)**

New law allows rental payments made to public benefit corporations to be made monthly, quarterly, or annually, at the discretion of the lessor.

(Amends R.S. 41:1215(B)(7))

### **Public Leases (Act No. 510)**

Present law, applicable to leases for state lands, authorizes an original lease of no more than 10 years with 10-year extensions authorized based on certain levels of improvements made to the property by the lessee.

New law allows state leases on state land located within the Atchafalaya Basin to be extended for 10-year periods without the necessity of the lessee making improvements.

(Amends R.S. 41:1217(A))

## **TITLE 42: PUBLIC OFFICERS AND EMPLOYEES**

### **Public Attorneys (Act No. 227)**

New law increases the maximum amount of supplemental compensation or benefits allowed to be provided to an attorney who is a public employee who is participating in a bona fide Loan Repayment Assistance Program from \$3,000 to \$5,000.

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

(Amends R.S. 42:1111(A)(4))

### **Government Attorneys (Act No. 796)**

New law requires express statutory authority for compensation to a special attorney or counsel representing the attorney general, or any state agency, board or commission, not including any public postsecondary education institution, on a contingency fee or percentage basis.

New law requires that a preference in hiring be given to attorneys licensed to practice law in this state and law firms domiciled and licensed in this state.

New law provides that any recovery or award of attorney fees including settlement in litigation involving the attorney general, or any state agency, board, or commission, belongs to the state and shall be deposited into the state treasury.

New law prohibits paying employee salary or wages or other expenses to be paid from the recovery or award until funding is approved by the Joint Legislative Committee on the Budget.

New law provides that no payment of attorney fees shall be made out of state funds in the absence of express statutory authority, including certain provisions of existing law, except such payment of attorney fees as may be approved by the Joint Legislative Committee on the Budget during the interim between legislative sessions.

New law provides that any special attorney or counsel retained or employed by the attorney general, or any state agency, board, or commission, not including public postsecondary education institutions, shall not accept nor demand as payment for the services rendered by the special attorney or counsel anything of economic value from any third party.

New law requires the keeping of accurate records of the hours worked and expenses incurred in the representation of the public entity, and prohibits the entity from incurring fees in excess of \$500 per hour for legal services, and any award in excess of the \$500 per hour shall be reduced to an amount equivalent to \$500 per hour, or the maximum rate approved by the Attorney Fee Review Board, whichever is greater.

New law shall not apply to attorneys or counsel retained for purposes of defending the state, its agencies and its employees in tort litigation or other matters involving the Self-Insurance Fund. New law shall not apply to certain legal fees or attorney compensation approved by the State Bond Commission.

Existing law requires written approval from the attorney general and governor for the employment of any special attorney or counsel to represent any state board or commission, not including any public postsecondary education institution, in any matter for which compensation is to be paid for services by application and a resolution setting forth the reasons for the employment of the special attorney or counsel and the proposed compensation.

Existing law authorizes the attorney general and governor to designate the amount of compensation in the written approval which shall be given in their discretion upon application of the board or commission by a resolution setting forth the reasons for the proposed retention or employment of the special attorney or counsel and the amount of the proposed compensation.

New law provides that the attorney general and governor may designate or approve the amount of compensation in writing.

New law requires the applicant to submit an application including a resolution and a copy of the proposed contract.

Existing law prohibits the attorney general and governor from ratifying or approving any action of a board in employing any special attorney or counsel or paying any compensation for special services rendered, unless all of the board or commission has complied with all of the formalities regarding the resolution.

New law excepts public postsecondary education institutions.

New law requires the governor or attorney general to respond to the application in writing by giving approval or rejection with reasons.

New law shall have prospective application only and shall not apply to contracts prior to the effective date of new law, nor to subsequent renewals of those contracts.

New law provisions are effective upon signature of the governor (June 19, 2014), with certain exceptions.

(Amends R.S. 42:262 and R.S. 49:259)

### **Lobbying (Act No. 334)**

New law adds an exception for an immediate family member of a legislator to be a registered lobbyist and to lobby the legislature if the immediate family member was a registered executive branch lobbyist as provided in existing law for at least one year prior to Jan. 9, 2012, provided that such lobbying activity is subject to the prohibitions in existing law.

Effective upon signature of governor (May 30, 2014).

(Amends R.S. 42:1123(39)(a))

### **Government Contractor Whistle-Blower (Act No. 362)**

New law requires a person who is a public employee because of a contractual arrangement with a governmental entity or agency thereof whose contract with the governmental entity or agency is suspended, reduced, or terminated or who is threatened with the suspension, reduction, or termination of the contract with the governmental entity or agency as an act of reprisal for reporting an alleged act of impropriety in violation of existing law, to report such action to the Board of Ethics.

New law adds that a person who is a public employee because of a contractual arrangement with a governmental entity or agency thereof whose contract is wrongfully suspended, reduced, or terminated shall be entitled to reinstatement of his contract and entitled to receive any lost compensation under the terms of the contract.

Effective Aug. 1, 2014.

(Amends R.S. 42:1169(B))

### **Financial Disclosure by Public Officials (Act No. 612)**

Existing law requires all elected officials and certain other specified officials and board and commission members to file a financial disclosure statement by May 15th of each year during which the person holds public office or position and by May 15th of the year following the termination of the holding of such office.

Prior law required that each parcel of immovable property in which the individual or spouse,

either individually or collectively, has a specified interest be included on the disclosure if its fair market value or use value as determined by the assessor for purposes of ad valorem taxes exceeded \$2,000. New law provides that the parcel is to be disclosed if the value of the interest the individual or spouse has in the property, individually or collectively, exceeds \$2,000.

Effective Jan. 1, 2015.

(Amends R.S. 42:1124 and 1124.2)

#### **Open Meetings Law (Act No. 628)**

New law specifies that Saturdays, Sundays, and legal holidays are not part of the 24-hour minimum time periods in the Open Meetings Law.

New law provides that if a public body has a website, a copy of the minutes shall be posted on the body's website and remain posted for at least three months. If the public body is required to publish its minutes in an official journal, the public body shall post its minutes on its website within ten days after publication in the official journal. If the public body is not required to publish its minutes in an official journal, the public body shall post its minutes on its website within a reasonable time after the meeting.

New law provides that the inability of the public to access the public body's website due to any type of technological failure shall not be a violation.

(Amends R.S. 42:17, 19, (2)(a), and 20)

#### **Financial Disclosure Extensions (Act No. 656)**

Existing law requires all elected officials and certain other specified officials and board and commission members to file annual financial disclosure statements. Existing law allows a Tier 2 filer to file the required financial statement within 30 days after the individual files his federal tax return for the year on which he is reporting, taking into consideration any extensions filed by the individual, provided that he notifies the Board of Ethics prior to the May 15th deadline of his intention to do so.

New law additionally requires the individual to notify the board of the deadline for filing his

federal tax return pursuant to the extension filed. New law further requires a Tier 2 filer who has so notified the board and who does not file his financial statement within 30 days after the expiration of the original extension, to notify the board of each extension he is granted beyond the original extension and the length of the extension until the required financial statement is filed. New law requires each such notification to be filed within 30 days after the expiration of the prior extension.

Effective Aug. 1, 2014.

(Amends R.S. 42:1124.2(B)(2))

#### **Late Fees Enforcement (Act No. 687)**

New law provides that when all delays for a request for waiver or appeal of late fees have expired, a final order of the Board of Ethics or its staff shall become executory and may be enforced as any other money judgment.

New law authorizes the Board of Ethics to file civil proceedings to collect the late fees in a court of competent jurisdiction.

Effective August 1, 2014.

(Adds R.S. 42:1157(A)(1)(d))

#### **Open Meetings Law (Act No. 694)**

Prior law required public notice of the date, time, and place of any meeting at which a political subdivision intends to levy, increase, renew, or continue any property tax or sales and use tax or authorize the calling of an election for submittal of such question to the voters of the political subdivision (1) to be published in the official journal of the political subdivision no more than 60 days nor less than 30 days before the public meeting, and (2) to be announced to the public during the course of a public meeting no more than 60 days nor less than 30 days before such public meeting.

New law deletes the public notice requirement in prior law for a meeting in which a political subdivision intends to adopt a measure that "continues" a tax, and limits the notice requirements to levies of new taxes and increases or renewals of existing taxes.

New law provides that, if at a meeting held in accordance with the notice requirements above,

a political subdivision adopts such a tax measure, the notice requirements above do not apply to a subsequent meeting of the political subdivision if the only action taken at the subsequent meeting is one that results in a change to the previously adopted measure that reduces the rate or term of the tax in the measure and thereby reduces the total amount of tax that would be collected under the measure, or otherwise substantially reduces the cost to the political subdivision of any bond or debt obligation to be incurred by the political subdivision.

New law adds to the above a requirement that notice of the meeting be written and hand delivered or transmitted by email to each voting member of any governing authority of a political subdivision that is required to approve such a measure previously adopted by another governing authority and to each state senator and representative in whose district all or a portion of the political subdivision is located, no more than 60 days nor less than 30 days before such public meeting. Email delivery is required to be made to the official email address of such voting members or legislators and to any other address provided in writing to the political subdivision by such a voting member or legislator.

New law provides that inadvertent failure to notify a legislator as required by new law does not constitute a violation but knowing failure or willful disregard of the notice requirement does constitute a violation.

Effective August 1, 2014.

(Amends R.S. 42:19.1(A)(1))

#### **Anti-Nepotism (Act No. 696)**

New law prohibits an appointing authority from appointing to any board, commission, council, authority, or similar entity a person who is a member of the immediate family of a person who serves on the board, commission, council, authority, or similar entity at the time of the appointment.

Effective August 1, 2014.

(Adds 42:2.2)

#### **Financial Disclosure (Act No. 744)**

New law provides that candidates qualifying for an election prior to April 15<sup>th</sup> do not have to certify on the personal financial disclosure report that they have filed their federal or state income tax returns or filed for an extension for the prior year.

Prior law required public servants other than legislators to file income disclosures for state or political subdivision contracts by May first. New law changes the due date of income disclosures for public servants other than legislators to May 15<sup>th</sup>.

New law adds required information to the Tier 3 personal financial disclosures regarding the filer's name, address, and employment and any spouse's name, occupation, and principal business address.

Effective August 1, 2014.

(Amends R.S. 18:1495.7 and R.S. 42:1114; adds R.S. 42:1124.3(C)(3), (4), and (5))

#### **Ethics Training (Act No. 745)**

New law requires each political subdivision to designate at least one person to provide information, notices, and updates to employees and officials of the political subdivision and to assist the Board of Ethics as necessary to fulfill the requirements of law requiring ethics education and educational activities, seminars, and publications relative to ethics and conflicts of interest.

New law adds a provision for the board to send a lobbyist who has failed to complete required training a notice of noncompliance. New law changes the time a person has to complete the training from 30 days after receipt of the notice to 45 days from the mailing of the notice.

Effective August 1, 2014.

(Amends R.S. 42:1170)

#### **Revolving Door Law (Act No. 747)**

Prior law prohibited a former member of a board or commission for a period of two years following the termination of his public service on such board or commission from contracting with, being employed in any capacity by, or

being appointed to any position by that board or commission.

New law excepts the employment of a person by a board when the person has served as a member of the board as a designee of a mayor, but is not subject to confirmation nor confirmed by the council, of a municipality with a population of 300,000 or more.

Effective upon signature of the governor (June 19, 2014).

(Adds R.S. 42:1123(43))

#### **Ethics Fines (Act No. 754)**

New law prohibits the appointment to state or political subdivision boards or commissions of any person with an outstanding fine, fee, or penalty to the Board of Ethics equal to an amount of \$250 or more for which all appeals have been exhausted.

Effective August 1, 2014.

(Adds R.S. 42:2.1(C) and (D))

#### **Hospital Service Districts (Act No. 863)**

Prior law prohibited a governmental entity from employing an immediate family member of a member of a governing authority or of the chief executive of the governmental entity.

Prior law provided an exception for any hospital service district with a population of 100,000 persons or less or in a parish with a population of between 400,000 and 440,000 persons.

New law provides that the exception in prior law is applicable to any hospital service district.

Effective upon signature of the governor (June 23, 2014).

(Amends R.S. 42:1119)

#### **Gifts to Teachers (Act No. 172)**

New law allows a public servant employed by a prekindergarten, kindergarten, elementary, or secondary school to accept a gift from or on behalf of a student or former student when the value of the gift does not exceed \$25 and the aggregate value of all gifts from or on behalf of any one person pursuant to new law does not exceed \$75 in a calendar year.

(Amends R.S. 42:1123(26))

### **TITLE 43: PUBLIC PRINTING AND ADVERTISEMENTS**

#### **Publication of Legal Items in Orleans and Jefferson (Act No. 197)**

New law provides that, for purposes of qualifications for publishing official proceedings, legal notices, or advertisements in the parishes of Jefferson and Orleans, the five-year requirement in present law shall not apply to a daily newspaper with a general paid circulation if such newspaper has maintained a public business office in Orleans Parish for eight consecutive months prior to Jan. 1, 2014.

New law provides an additional exception to present law for Jefferson Parish and authorizes the selection of a daily newspaper with a general paid circulation to run judicial advertisements and legal notices in such parish if such newspaper has maintained a public business office in Orleans Parish for eight consecutive months prior to Jan. 1, 2014.

New law provides an exception to present law and authorizes the selection of a daily newspaper with a general paid circulation to run judicial advertisements and legal notices in Orleans Parish if such newspaper has maintained a public business office in such parish for eight consecutive months prior to Jan. 1, 2014.

New law authorizes the selection of a publication as the official journal of any political subdivision in Jefferson or Orleans Parish if such publication is qualified to publish judicial advertisements and legal notices in Jefferson or Orleans Parish.

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

(Amends R.S. 43:142(B), 171(B), 200(3), and 201(D); Adds R.S. 43:202(D))

## **TITLE 44: PUBLIC RECORDS AND RECORDERS**

### **Public Records and Board of Tax Appeals (Act No. 161)**

New law provides that the Public Records Law shall not apply to any tax information in the possession of the Board of Tax Appeals which is required by law to be held confidential or privileged or to any internal correspondence among the members and staff of the board pertaining to discussion of a case being adjudicated by the board.

(Adds R.S. 44:4(48))

### **Public Power Authority Records (Act No. 269)**

New law provides that nothing in the Public Records Law shall require the disclosure of commercially sensitive information in the custody or control of a public power authority.

New law defines "public power authority" as a political subdivision of the state created by the governing authority of a municipality for the purpose of the construction, acquisition, improvement, operation, or management of a public power project or improvement.

New law defines "commercially sensitive information" as information regarding a utility matter that is directly related to the public power authority's competitive activity which would, if disclosed, give an advantage to competitors or prospective competitors and includes specified types of information.

New law specifies that general information relating to the identity of the parties to any agreement or contract with a public power authority shall be subject to inspection, examination, copying, and reproduction and that nothing in new law shall be construed in a manner as to prevent the inspection, examination, copying, or reproduction of any record or part of a record that does not contain commercially sensitive information.

Effective upon signature of governor (May 28, 2014).

(Adds R.S. 44:3.3)

### **Public Records Requests (Act No. 629)**

New law adds that the right to institute an enforcement action relating to a public record request applies to written and electronic requests in addition to requests made in person, and that the right to institute an enforcement action applies to denial of the right to obtain a copy or reproduction of a record in addition to denial of the right to inspect or copy a record.

Prior law provided that a person may institute an enforcement action when the person is denied access to a record either by a final determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his request without receiving a final determination in writing by the custodian.

New law removes the requirement that the determination of the custodian be a final determination. New law adds that the right to institute an enforcement action does not apply if the requestor, within five days of the date of the request, receives an estimate of the time reasonably necessary for collection, segregation, redaction, examination, or review of the records request.

New law adds that attorney fees may be awarded to a person seeking the right to copy or reproduce a public record or to obtain a copy or reproduction of a public record in addition to a person seeking the right to inspect or receive a copy of a public record.

(Amends R.S. 44:35(A) and (D))

### **Juror Information (Act No. 705)**

New law exempts records and personal information of members of a petit jury venire and individuals serving on a jury from the Public Records Law.

New law does not prohibit dissemination of jury questionnaires to attorneys licensed in this state or the dissemination of venire lists as required in prior law.

Effective August 1, 2014.

(Adds R.S. 44:4(48))

### **Insurance Exemptions (Act No. 846)**

New law provides references in the Public Records Law to various public records exemptions in the La. Insurance Code (R.S. 22:263 and 1008 (payments pursuant to certain health care provider contracts), 265 (medical information), 550.7 (application for a certificate of authority), 571 (annual reports relative to solvency), 639 (risk-based capital reports relative to health maintenance organizations), 691.4-691.10 (insurance holding companies), 834 (La. Municipal Advisory and Technical Services Bureau), 1464 (rate making), 1559 (terminated producers), 1796 (certain examinations), 1801 (suspected or actual fraudulent viatical settlement acts), 2056 (insolvent insurers), 2085 (life and health insurance policies and annuity contracts involving insolvent insurers), 2091 (examinations of insurance insolvencies), and 2293 (La. Citizens Property Insurance Corp.)).

Effective Aug. 1, 2014.

(Amends R.S. 44:4.1(B)(11))

## **TITLE 45: PUBLIC UTILITIES AND CARRIERS**

### **Natural Gas Pipelines (Act No. 310)**

New law defines "interstate natural gas pipeline" to mean an interstate natural gas pipeline where any portion of such pipeline is geographically located within the state of Louisiana, and when the pipeline portion provides service within the state to one or more local distribution systems that in turn provide service to their customers.

New law provides that on and after March 10, 2014, if the Federal Energy Regulatory Commission (FERC) approves a proposal to abandon an interstate natural gas pipeline, then the pipeline portion within the state is to be considered an intrastate natural gas pipeline and a public utility as of the date of the approval and is subject to the jurisdiction of the Louisiana Public Service Commission (LPSC).

New law requires an applicant who files a proposal with the FERC proposing to abandon an interstate natural gas pipeline subject to new law to provide written notice and a copy of its

application and of any FERC abandonment order upon issuance to the LPSC.

New law provides that after issuance of a FERC order, any abandonment proceeding for such pipeline portion in Louisiana is governed by the applicable rules, regulations, and orders of the LPSC. New law provides that no abandonment is effective until the applicant complies with the LPSC's rules, regulations, and orders, and all other applicable state and federal agency regulations.

New law does not apply if the owner or operator of the interstate pipeline seeking abandonment has done all of the following items:

(1) Reached a written agreement with the existing customers providing for the continued availability and supply of natural gas from the interstate pipeline or for the supply and delivery of natural gas from alternative sources.

(2) Filed this agreement as an uncontested settlement with FERC and the commission has issued a final order approving the uncontested settlement without change and the settlement is no longer subject to appeal.

(3) Provided a copy of the uncontested settlement agreement and the final order of the FERC to the LPSC.

Effective upon signature of the governor (May 28, 2014).

(Adds R.S. 45:302.1)

## **TITLE 46: PUBLIC WELFARE AND ASSISTANCE**

### **Stalking (Act No. 355)**

New law adds a complainant seeking protection from dating violence to the list of persons relieved from paying certain court costs associated with obtaining an order of protection.

New law requires a judge to prepare a Uniform Abuse Prevention Order when directing a person accused of stalking to refrain from abusing, harassing, or interfering with the victim of the stalking when the parties are strangers or acquaintances.



New law designates victims of stalking committed by a stranger or acquaintance as a person eligible to receive all applicable services, benefits, and other forms of assistance provided by the Protection From Family Violence Act, including a summary proceeding for obtaining a civil order of protection, maintenance of orders of protection against stalking in the La. Protective Order Registry, and assistance in completing the forms for application for the protective order.

Effective Aug. 1, 2014.

(Amends C.C.P. Arts. 3603.1(C)(1) and 3607.1, R.S. 14:79, and R.S. 46:2136.2(B); Adds R.S. 46:2171-2174)

#### **Foster Homes (Act No. 406)**

New law prohibits a child from being placed in a foster home for temporary care, except for emergency placement, or for adoption, until it is determined that the prospective foster or adoptive parent has not been convicted of or pled nolo contendere to a felony offense involving the possession of a Schedule I, II, III, IV, or V controlled dangerous substance, unless five or more years have elapsed between the date of placement and the date of successful completion of any sentence, deferred adjudication, or period of probation or parole.

New law prohibits a child from being placed into a home where the prospective foster or adoptive parent has been convicted of or pled nolo contendere to a felony offense involving the possession of a Schedule I, II, III, IV, or V controlled dangerous substance until the individual has submitted to and passed an initial drug test and has provided written consent to any plan of random drug testing required by the Dept. of Children and Family Services (DCFS) for the duration of the placement. New law provides that any required drug tests shall be at the expense of the individual.

New law authorizes DCFS to consider prior convictions in determining whether to place a child in a foster home for temporary care or for adoption.

Effective Aug. 1, 2014.

(Amends R.S. 46:51.2(C))

#### **Tax-Advantaged Savings Accounts for Disabled Persons (Act No. 93)**

New law shall be known and may be cited as the "Achieving a Better Life Experience in Louisiana Act" or the "Louisiana ABLE Act".

New law creates the ABLE Account Program, to be administered by the ABLE Account Authority, to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities in endeavors to maintain health, independence, and quality of life.

New law defines "qualified disability expense" as any expense made for the benefit of a person with a disability including, without limitation, various specified expenses.

New law provides legislative intent that the program be treated in the same manner as a qualified tuition program defined in Section 529 of the federal Internal Revenue Code.

New law provides that qualified disability expenses paid from an ABLE Account shall be treated in the same manner as qualified higher education expenses are treated.

Effective upon enactment of amendments to Section 529 of the federal Internal Revenue Code that establish tax-advantaged savings accounts for persons with disabilities.

(Adds R.S. 36:259(Y) and 802.24 and R.S. 46:1721-1740)

#### **Disabilities and Access (Act No. 492)**

New law creates and provides for the policy of the state for those with all disabilities, both physical and mental.

New law prohibits any person with a disability from being denied admittance to any public facility because of such person's disability. New law prohibits persons with disabilities from being denied the use of a white cane, service dogs, wheelchair, crutches, or other device of assistance. New law prohibits using a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a facility that is open to the public.

New law does not require any person to modify his property or facility in any way or provide a

higher degree of care for a disabled person than for a person who is not disabled.

New law defines "service dog" as one trained or being trained to do work or perform a task for a person with a disability.

New law defines "person with a disability" as a person who has a physical or mental impairment that substantially limits one or more of such person's major life activities and who has a record of such impairment or who is regarded as having such an impairment, including military veterans with traumatic brain injury or post traumatic stress disorder.

New law provides a public entity may ask a person with a disability to remove his service dog from a premises if: (1) the service dog is out of control, and the person with the disability accompanying the service dog does not take effective action to control it, or (2) the service dog is not housebroken.

New law provides that if the service dog is properly excluded, the public entity shall give the person with a disability the opportunity to enter without the service dog.

New law provides a public entity shall not ask about the nature or extent of a person's disability or require proof through documentation, but may (1) ask if the service dog is required because of a disability, and (2) ask what work or task the service dog has been trained to perform.

Effective August 1, 2014.

(Amends R.S. 46:1951-1959)

#### **Personal Assistance Services (Act No. 493)**

New law re-defines "state personal assistance services" more broadly to mean goods and services which are required by a person with significant disabilities age 18 or older to increase a person's independence or substitute for a person's dependence on human assistance.

New law amends prior law to provide that the department shall provide a subsidy for personal assistance services to any person who is age 18 or older at inception of services, provided that all other eligibility requirements are met.

Prior law limited the number of qualified providers to six statewide. New law removes this provision.

New law provides the department, by rule, shall establish an evaluation process which takes into consideration the unique economic and social needs of persons with significant disabilities. New law repeals definition of "evaluation team" and duties of same.

Prior law provided the State Personal Assistance Services Program may supplement any other programs for which the person is eligible. New law provides the State Personal Assistance Services Program shall be considered as a source of last resort for personal assistance services after private and governmental sources have been expended.

Effective upon signature of the governor (June 5, 2014).

(Amends R.S. 46:2116.1, 2116.2, 2116.3, and 2116.5)

#### **Medicaid Integrity (Act No. 568)**

New law defines "contractor" and "recovery audit contractor" as a Medicaid recovery audit contractor selected by the Dept. of Health and Hospitals (DHH) to perform audits for the purpose of ensuring Medicaid program integrity in accordance with the provisions of federal law (42 CFR 455 et seq.).

New law defines "adverse determination" as any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim or service being reduced either partially or completely.

New law provides that DHH shall require its recovery audit contractor to perform all of the following functions and tasks:

- (1) Review claims within three years of the date of their initial payment.
- (2) Send a determination letter concluding an audit within 60 days of receipt of all requested materials from a provider.
- (3) Furnish in any records request to a provider adequate information for the provider to identify the patient.

(4) Exclude certain claims from its scope of review.

(5) Develop and implement a process to ensure that providers receive or retain the appropriate reimbursement amount for claims within the lookback period in which the contractor determines that services delivered have been improperly billed, but were reasonable and necessary.

(6) Prohibit the recoupment of overpayments by the contractor until all informal and formal appeals processes have been completed, except in cases of claims that the contractor suspects to be fraudulent.

(7) Refer claims it suspects to be fraudulent directly to DHH for investigation.

(8) Provide a detailed explanation in writing to a provider for any adverse determination that would result in partial or full recoupment of a payment.

(9) Limit records requests in a 90-day period to not more than 1% of the number of claims filed by the provider for the specific service being reviewed in the previous state fiscal year, not to exceed 200 records. New law requires that the contractor allow a provider no less than 45 days to comply with and respond to a record request. New law provides that if the contractor can demonstrate a significant provider error rate, the contractor may make a request to DHH to initiate an additional records request. New law provides that the contractor shall not make the request to DHH until the time period for the informal appeals process has expired, and that the provider shall be given the opportunity to contest the second records request.

(10) Utilize provider self-audits only if mutually agreed to by the contractor and provider.

(11) Schedule any onsite audits of a low-risk provider with advance notice of not less than 10 business days and make a good faith effort to establish a mutually agreed upon date and time.

(12) Publish on its website information on DHH-approved issues for review.

(13) On a semiannual basis, develop, implement, and publish on its website metrics related to its performance.

(14) Post on its website its contract with the department for recovery audit services.

(15) Perform a semiannual review of recovery audit issues and identify any potential opportunities for improvement and correction of medical assistance program policies, procedures, and infrastructure, and submit such reviews to DHH and to publish such reviews on its website.

(16) At least semiannually, perform educational and training programs for providers.

(17) Allow providers to submit in electronic format the records requested in an audit. New law stipulates that if a provider must reproduce records manually because no electronic format is available, or because the contractor requests a nonelectronic format, the contractor shall make reasonable efforts to reimburse to the provider the cost of records reproduction consistent with federal regulations.

New law requires that any contract between the department and a recovery audit contractor set the payment or fee provided to the contractor for identification of Medicaid provider overpayments equal to that provided for identification of underpayments.

New law establishes that in the event of an adverse determination, a provider shall have the right to "informal" and formal appeals processes.

New law provides that if DHH or the hearing officer in a formal appeal finds that the recovery audit contractor's determination was unreasonable, frivolous, or without merit, the contractor shall reimburse to the provider the provider's costs associated with the appeals process.

Effective Aug. 15, 2014 or the date of federal approval of any Medicaid state plan amendment necessary for implementation.

(Adds R.S. 46:440.11-440.16)

### **Food Stamps (Act No. 622)**

New law creates and provides for a workforce training and education pilot initiative within the Supplemental Nutrition Assistance Program

(SNAP, formerly known as food stamps) administered by DCFS.

Effective Aug. 1, 2014.

(Adds R.S. 46:311-318)

### **Medicaid Integrity (Act No. 711)**

Prior law provided that the DHH secretary or the attorney general may institute a civil action in the courts of this state to seek recovery from persons who violate the Medical Assistance Programs Integrity Law. New law adds that a contract of employment of any private counsel, including fee amounts, and all final fees and costs, shall be a public record.

Effective August 1, 2014.

(Amends R.S. 46:438.1)

### **Health Care Reform (Act No. 783)**

New law provides that DHH shall create and administer a healthcare reform plan with all deliberate speed, subject to prior approval by the Joint Legislative Committee on Budget.

New law provides that the plan may include premium support or insurance premium subsidies for eligible individuals to enable their enrollment in a health insurance plan.

New law provides that the department is authorized to pay supplemental costsharing subsidies directly to health insurance plans or health savings accounts for participants in the plan.

New law provides that an eligible individual must acknowledge that the plan shall not be an entitlement program.

New law provides that the state may implement cost-sharing and copays, as a condition of participation in the plan, for plan participants whose earning shall exceed 50% of the applicable federal poverty level.

Effective upon signature of the governor (June 19, 2014).

(Adds R.S. 46:979.1 - 979.6)

### **Homeless Children (Act No. 787)**

New law provides for access to child care assistance by homeless families through the

federal Child Care and Development Fund (CCDF) block grant program.

New law requires the secretary of the Department of Children and Family Services to take such actions as are necessary to:

(1) Ensure that services to families experiencing homelessness are included within the CCDF state plan if allowable.

(2) Establish a grace period of a defined duration in which a homeless family can be authorized to receive subsidized child care pending submission of birth certificates and immunization records.

(3) Waive requirements relative to hours of work and school engagement for homeless parents and demonstrate that they are seeking employment or participating in a transitional living program.

(4) Collaborate and coordinate efforts to improve access by homeless families to information concerning child care and transportation to child care placements.

(5) Collect data that indicates whether parents who receive child care subsidies are homeless.

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

(Amends R.S. 36:474; Adds R.S. 46:1443-1443.3)

### **Medicaid Third-Party Recovery (Act No. 824)**

Existing law provides that in cases of injury, illness, or death that create third party liability or obligate third party payment of damages, the Department of Health and Hospitals (DHH) shall have a cause of action against such third party to recover medical assistance payments obligated or paid on behalf of the injured, ill, or deceased person in connection with the injury, illness, or death.

New law extends the right of Medicaid recovery conferred upon DHH to Medicaid managed care organizations. New law defines "Medicaid managed care organization" as any private entity that contracts with DHH to provide Medicaid benefits and services to Medicaid enrollees.

Effective Aug. 1, 2014.

(Amends R.S. 46:446)

## **Restrictions on Use of Welfare Funds (Act No. 842)**

Present law provides for duties and functions of the Department of Children and Family Services (DCFS) in administering the following cash assistance programs of the Temporary Assistance for Needy Families block grant:

(1) Family Independence Temporary Assistance Program (FITAP), which provides cash assistance to needy families for the purpose of assisting those families in meeting basic needs.

(2) Kinship Care Subsidy Program (KCSP), which provides cash assistance for financially needy kinship caregivers, including grandparents, step-grandparents, and other adult relatives within the fifth degree of consanguinity who have legal custody or guardianship of minor relatives.

New law prohibits FITAP beneficiaries and KCSP beneficiaries from expending cash assistance in an electronic benefits transfer transaction at any of the following places: liquor store; gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes; adult bookstore; adult paraphernalia store; sexually oriented business; commercial body art facility; nail salon; jewelry store; amusement ride; amusement attraction; bail bonds company; bar; cruise ship; psychic business; or any establishment where persons under 18 are not permitted to enter.

New law prohibits FITAP beneficiaries and KCSP beneficiaries from expending cash assistance benefits in any electronic benefits transfer transaction at a retailer for the purchase of an alcoholic beverage, a tobacco product, a ticket for a lottery, or jewelry.

New law prohibits retailers and other business establishments that participate in the cash assistance electronic benefits transfer system from accepting the electronic benefits transfer card in payment for an alcoholic beverage, a tobacco product, a ticket for a lottery, or jewelry.

New law prohibits the following retailers and business establishments from conducting any

electronic benefits transfer transaction: liquor store; gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes; adult bookstore; adult paraphernalia store; sexually oriented business; commercial body art facility; nail salon; jewelry store; amusement ride; amusement attraction; bail bonds company; bar; cruise ship; psychic business; or any establishment where persons under 18 are not permitted to enter.

With the exception of businesses approved as retailers in the Supplemental Nutrition Assistance Program of this state, new law requires each business that is subject to the prohibitions of new law and has an automated teller machine or point-of-sale terminal on its premises to disable access to electronic cash assistance benefits through such machine or terminal.

New law provides that any business that violates new law shall be subject to civil fines.

New law provides that each appeal initiated pursuant to proposed law shall be heard by the division of administrative law in accordance with the applicable provisions of the Administrative Procedure Act.

New law authorizes DCFS to institute any civil court action necessary to collect fines imposed and not timely appealed. New law provides that all costs of any successful action to collect such fines, including travel expenses and reasonable attorney fees, shall be awarded to DCFS in addition to the fines and interest thereon.

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

(Amends R.S. 46:114.4, 231, and 237; Adds R.S. 46:231.3 and 231.14)

## **TITLE 47: REVENUE AND TAXATION**

### **Enforcement and Adjudication of Taxes, Fees, and Penalties (Act No. 198)**

#### *General Tax Administration*

Present law provides authority for the secretary of the Dept. of Revenue (secretary) and

(department) to waive various taxes, fees, and penalties under certain amounts, and to waive liens, privileges, and mortgages in certain specific circumstances, all of which at some point require approval by the Board of Tax Appeals (board).

New law changes thresholds for approval by the board as follows:

(1) Penalty for failure to file an annual tax return by a person who withholds wages for purposes of individual income tax, from \$5,000 to \$25,000.

(2) Penalties generally with regard to income tax, from all waivers to waivers in excess of \$25,000.

(3) Penalties generally with regard to delinquent filing or delinquent payment of any tax subject to collection by the department under certain circumstances, from \$5,000 to \$25,000.

(4) Cancellation of a lien, privilege, or mortgage under certain circumstances, from board approval for all to no board approval.

Present law provides requirements for the filing of La. corporation income tax returns when there are I.R.S. adjustments to or an extension of time for the filing of a federal corporation income tax return. If a federal return is adjusted by the I.R.S., the taxpayer must within 60 days of the date of the adjustment, furnish a statement to the secretary disclosing the nature and amount of the adjustment. Further, the secretary is authorized to provide for an automatic extension of time for the filing of a state return of up to seven months when there has been an extension of time for the filing of the federal tax return.

New law changes present law by requiring that the taxpayer file an amended tax return rather than a statement, and by increasing the time from the date of the federal adjustment for the filing of the amended state tax return from 60 days to 180 days. New law retains present law regarding the secretary's authority to grant an extension of time, and adds authority for the granting of an extension of time equal to that allowed for the federal return.

New law restricts the use of expedited summary court proceedings to the following instances:

(1) The proceeding is for collection of a tax assessment that has become final or is for an assessment of a tax that is shown on the face of a tax return, or an assessment and claim in a bankruptcy or receivership proceeding.

(2) A jeopardy assessment that has been or could be issued against a defendant.

(3) A rule to cease business has been or is concurrently brought against the defendant.

(4) The matter involves the special authority to enforce collection of taxes where a corporation, limited liability company, or limited partnership fails to file a return or remit income taxes withheld from the wages of its employees.

Present law provides procedures for the payment of tax under protest, which includes the taxpayer notifying the department of an intention to file suit to recover their payment. New law adds the filing of a petition with the board as an option for a taxpayer who pays under protest and seeks to recover their payment.

#### *Board of Tax Appeals - General provisions*

New law adds authorization for the board to compel written discovery.

Present law requires that the board's decisions, orders, and judgments be published. New law provides that the board's internal deliberative communications on its cases are to be considered judicial proceedings for purposes of present law governing public records.

#### *Board of Tax Appeals - Appeals of decisions of the board*

Present law establishes procedures for appeal of a decision of the board to a district court as follows: the department or taxpayer may appeal within 30 days of the date of the decision; before filing an appeal, the party intending to appeal must notify the board of their intention; a taxpayer appealing a decision where the board has found tax to be due must post a bond equal to one and one-half times the amount of the tax, interest, and other unspecified additional amounts required by present law.

New law adds a limitation on the requirement for the posting of a bond to exclude from such requirement, any taxpayer who has paid under

protest. The nature of the bond and procedures for posting bond shall be consistent with those required for a suspensive appeal in a civil matter under the Code of Civil Procedure.

New law provides that deadlines other than for the time and notice for the initial filing of the appeal, and rules governing the briefing and answering of the appeal shall be the same as provided for in civil matters under the Code of Civil Procedure and all applicable court rules.

New law changes the venue for appellate review of board decisions from a district court to a court of appeal. New law adds provisions for the respective court of appeal to exercise supervisory jurisdiction over a case pending before the board in the same manner as provided for in a civil matter pending in a district court within its circuit.

Present law authorizes the appellate court to modify, reverse, or remand a decision of the board. New law adds authorization for the appellate court to order that a case be immediately transferred to a district court to consider issues of constitutionality.

New law provides that a decision of the board becomes final under the following two circumstances: if the decision is not appealed within 30 days, or, if it is timely appealed, then the decision of the appellate court is final under the same rules and timing as is provided for in civil matters under the Code of Civil Procedure.

Present law contains provisions requiring that a party petition the legislature for permission to appeal a decision of the board in a claim against the state proceeding.

New law removes provisions requiring a petition to the legislature, and instead authorizes a suit on a claim against the state if that cause of action is otherwise allowed by law.

Effective July 1, 2014.

(Amends R.S. 47:15, 114, 287.614, 295, 299.9, 299.39, 1407, 1408, 1409, 1414, 1416, 1433 through 1435, 1438, 1486, 1508.1, 1561, 1565, 1574, 1576, 1578, 1603, and 1688)

#### **Registration Period (Act No. 94)**

New law provides that the expiration of the registration is one year from the date of issuance for trucks in excess of 10,000 pounds or trailers and thereafter requires annual renewals. New law exempts semitrailers and trailers with permanent registrations and license plates from the annual renewal requirement.

(Adds R.S. 47:508(A)(3))

#### **Valuation of Bank Stock (Act No. 135)**

Prior law provided that negative earnings shall not be considered in the formula, used in determining the fair market value of bank stock for purposes of determining tax liability.

Effective August 1, 2014.

(Amends R.S. 47:1967(D))

#### **Tax Commission (Act No. 215)**

Prior law authorized the La. Tax Commission to levy fees from July 1, 2010, through June 30, 2014, for the assessment of public service properties, insurance companies, and financial institutions. New law extends authority for the La. Tax Commission to levy such fees from July 1, 2014, through June 30, 2018.

Effective July 1, 2014.

(Amends R.S. 47:1838(intro. para.))

#### **Transportation for Hire (Act No. 273)**

Existing law provides that taxi cabs, limousines, horse-drawn carriages, and pedicabs owned or operated by companies licensed by the city of New Orleans shall be issued a special "For Hire" plate.

New law adds general charter tour vehicles, sightseeing tour vehicles, courtesy vehicles, nonemergency medical vehicles, airport shuttles, and accessible taxicabs to existing law.

Effective August 1, 2014.

(Amends R.S. 47:469.1(A) and (C)(2))

#### **Tax Protests (Act No. 304)**

New law requires the taxpayer to submit separate payments for the disputed amount of tax paid under protest and the amount that is not in dispute and not subject to the protest.

Effective August 1, 2014.

(Amends R.S. 47:2134)

#### **Licensed Vehicle Dealer Taxes (Act No.415)**

Present law provides that the secretary, for good cause shown, may extend the time for remitting the taxes for licensed vehicle dealers for a period not to exceed 90 days.

New law changes the authority to grant an extension from the secretary of the Dept. of Revenue to the vehicle commissioner.

New law authorizes the vehicle commissioner, for good cause shown, to waive penalties on payment of taxes by a licensed vehicle dealer who remits the taxes later than 40 days.

(Amends R.S. 47:306(E))

#### **School Tuition Organizations (Act No. 424)**

Present law authorizes a rebate for donations a taxpayer makes to a school tuition organization (STO) which provides scholarships to qualified students to attend a qualified school. Present law provides that an STO provide scholarships to qualified students on a first-come, first served basis with priority given to students who received a scholarship the previous year.

New law specifies that the scholarship was from either the STO or the Student Scholarships for Educational Excellence Program.

New law specifies that the STO's obligation to ensure that the scholarship is portable and that tuition amount is prorated only applies to a qualifying school served by the STO.

New law adds to the definition of a "qualified student", a student who received a scholarship from the Student Scholarships for Educational Excellence Program.

Present law authorizes the Department of Education (DOE) to conduct either a financial review or an audit of an STO as deemed necessary by the department. Further requires the DOE to bar an STO from participating in the rebate program if the STO intentionally and substantially fails to comply with the requirements of present law.

New law requires the DOE to conduct an annual audit of an STO and to publicly report state test

scores for each student receiving a scholarship from an STO in accordance with present federal law and federal regulations. However, the DOE shall not include the name or any other identifying information of individual students.

(Amends R.S. 47:6301)

#### **Exemption for Agricultural Implements (Act No. 428)**

Present constitution provides for an ad valorem property tax exemption for agricultural machinery and other implements used exclusively for agricultural purposes.

Present law provides that for purposes of the ad valorem property tax exemption in present constitution, the term "agricultural machinery and other implements used exclusively for agricultural purposes" shall mean agricultural and horticultural implements immediately and directly employed in cultivation, production, and harvest of crops or in the raising and management of livestock in use upon agricultural lands owned or leased by the person claiming the exemption.

New law deletes the requirement that the exemption applies only to such machinery and implements used on agricultural lands owned or leased by the person claiming the exemption.

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

(Amends R.S. 47:1707)

#### **License Tag Agents (Act No. 448)**

New law adds authority for public license tag agents to administer knowledge and skills tests to applicants for the issuance of the "M" endorsement on Class "D" or "E" drivers' licenses to operate motorcycles, motor driven cycles, and motorized bicycles.

Effective August 1, 2014.

(Amends R.S. 47:532.1(A)(7)(b))

#### **Electronic Filing of Local Sales Tax (Act No. 536)**

New law adds authority, beginning Jan. 1, 2015, for the collector for each taxing authority to require the electronic filing and remittance of local sales and use tax by any taxpayer required



to electronically file and remit state sales and use tax returns, except in cases where the taxpayer can show cause that electronic filing would create an undue hardship.

New law provides for the assessment of a penalty of \$100 or 5% of the tax owed on the return, whichever is greater, for failure to comply, but the total penalty per return shall not exceed \$5,000. New law authorizes the waiver of remittance and payment of the penalty in whole or in part, if the taxpayer's failure to comply was reasonable and attributable to a cause other than negligence which is submitted to the local collector in writing.

(Adds R.S. 47:337.23(K))

### **Taxation of Banks (Act No. 623)**

Existing law authorizes an ad valorem tax on 15% of the fair market value of the shares of stock of all banks and banking companies, firms, associations, and corporations doing a banking business in this state (bank stock).

Existing law exempts from corporate income tax mutual savings banks, building and loan associations, national banking corporations, and banking corporations organized under La. law which pay a tax for their shareholders or whose shareholders pay a tax on their shares of stock.

New law requires ad valorem property tax relief for any bank, firm, association, or corporation doing a banking business in the state (banks) if the corporate income tax is repealed or reduced. In such event, the La. Legislature is required to provide a commensurate level of ad valorem property tax relief to banks paying the tax on bank stock as is afforded payers of corporate income tax.

New law prohibits any action taken by the La. Legislature to comply with the provisions of new law to result in banks being subject to any new tax, fee, or charge that is not applicable to other corporations in the state.

Effective Aug. 1, 2014.

(Adds R.S. 47:1967(H))

### **Board of Tax Appeals (Act No. 640)**

New law transfers the Board of Tax Appeals from the Executive Department to the

Department of State Civil Service as an independent quasi-judicial agency.

New law adds jurisdiction for certain disputes between taxpayers or dealers and local sales and use tax collectors.

New law adds membership criteria and appointment requirements for members of the board.

New law authorizes the voluntary recusal of a board member from any proceeding in which he cannot accord a fair and impartial hearing. New law provides for procedures governing the instance where a party other than a board member requests the recusal of a board member.

New law adds an authorization for board hearings by telephone, video conference, or similar communication equipment if the case involves a state collector and such a hearing is requested by the taxpayer, or with the consent of all parties. In a matter involving only local taxing authorities in a single parish and upon the motion of the local collector, a hearing may be held in that parish at the facilities of a local court. Expenses for such a hearing may be taxed as costs.

New law adds a requirement for the issuance of written reasons for judgment upon the request of any party. All written reasons shall be published on the board's website.

New law adds a requirement that any rule related to a fee be subject to legislative and gubernatorial oversight and veto in accordance with the Administrative Procedure Act.

New law provides that legislative oversight of rules promulgated by the board shall be performed by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

New law provides that the board member appointed at the recommendation of the Local Tax Division Nominating Committee shall be the hearing judge for cases designated for hearing in the Local Tax Division.

New law establishes procedures for the designation of cases for hearing in the Local Tax Division and authorizes a local collector to elect

by affidavit to have all cases involving that collector be heard in the Local Tax Division.

New law establishes procedures and requirements for the filing of petitions and issuance of notices and decisions with respect to hearings for the redetermination of an assessment, consideration of a payment under protest petition, determination of an overpayment, or appeal of a denial of or inaction on a refund claim. The board is prohibited from ruling on the constitutionality of a statute or ordinance.

New law provides for the transfer of cases to the applicable district court.

New law provides conditions and limitations on the consolidation of cases by the board, particularly with respect to cases involving local collectors.

New law changes the appellate jurisdiction from a district court to a court of appeal; the appeal in a local case shall be to the court of appeal for the parish of the local tax collector.

New law adds an exclusion from the board's jurisdiction for any review of a penalty waiver or other discretionary function of a local collector.

New law expands the board's jurisdiction to include questions of law and fact arising from disputes and controversies between a taxpayer or dealer and a collector of local sales and use tax. New law provides that the board shall interpret provisions of law governing the assessment, collection, administration, and adjudication of local sales and use tax in the same manner as courts of La.

New law removes arbitration as a remedy for a taxpayer or dealer and instead provides for an appeal to the board for redetermination of an assessment or overpayment at issue, or a resolution of the dispute.

New law prohibits a taxpayer who fails to file a return or report to appeal their assessment to the board unless the tax was paid to another parish with a timely refund request.

New law adds a petition to the board as an optional additional legal remedy for the adjudication of tax disputes.

Prior law provides district court jurisdiction as the venue for a dispute over a collector's disallowance or inaction concerning a taxpayer's refund request. New law changes the venue for such disputes from a district court to the board.

New law adds provisions for the filing of a pleading with the board by any party as a means of interrupting prescription.

New law provides that an appeal pending before the board shall not delay the filing of an assessment for taxes owed by a taxpayer in bankruptcy.

Prior law provided for an appeal to a district court for redetermination of an assessment for a taxpayer whose property is subject to distraint and sale due to a suspicion by the collector that the collection of the tax is in jeopardy. New law changes the authority for redetermination of the jeopardy assessment from a district court to the board.

New law establishes transitional provisions governing the disposition of cases pending before an arbitration panel, the transfers of cases between district courts and the board, and certain cases filed with the board prior to Jan. 1, 2015.

Effective on July 1, 2014.

(Amends R.S. 36:801.1 and R.S. 47:302, 337.2, 337.45, 337.51, 337.53, 337.54, 337.63, 337.67, 337.77, 337.81, 337.86, 337.101, 1401, 1402, 1403, 1410, 1413, 1431, 1432, 1436, 1437, and 1451 and R.S. 49:967 and 968; Adds R.S. 36:53(J) and R.S. 47, 337.81.1, 1407(3), 1414(E), 1417, 1418, and 1419; repeals R.S. 36:4(B)(1)(p) and R.S. 47:337.51.1)

#### **Severance Tax Refunds (Act No. 658)**

New law requires the Dept. of Revenue (DOR) to pay interest on refunds for overpayments of severance taxes to operators whose wells qualify for the severance tax suspension on new horizontal wells or deep wells.

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

(Adds R.S. 47:1624.1)

### **Garnishment of Gaming Winnings (Act No. 816)**

New law adds to the collection remedies of the office of debt recovery, the authority to withhold, offset, levy, garnish, or seize payments of progressive slot machine annuities and cash gaming winnings and to assume the obligation of payment of certain services in order to collect delinquent debt.

Present law authorizes the La. Gaming Control Board (hereinafter "board") or any licensed or permitted gaming entity to deduct an administrative fee from each payment of progressive slot machine annuities or cash gaming winnings of persons who have outstanding child support arrearages or owe child support overpayments.

New law extends the authority to deduct an administrative fee from each payment of progressive slot machine annuities or cash gaming winnings pursuant to a request by the office of debt recovery. However, the board or gaming entity shall not withhold more than one administrative fee on such annuities or cash winnings.

New law extends the civil and criminal immunity of the board and any licensed or permitted gaming entity from claims for damages when the disclosure of information or withholding of such annuities or winnings is done pursuant to a request by the office of debt recovery.

New law prohibits the office of debt recovery's claim relative to the offset or withholding of payments from progressive slot machine annuities, cash gaming winnings, and lottery prizes from priming the Dept. of Children and Family Services' claim.

Present law authorizes various financial institutions to disclose to the LDR and his designee in the office of debt recovery, for use in enforcing a tax or non-tax debt, the average daily account balance of the debtor for the most recent 30-day period of each calendar quarter. New law authorizes, as an alternative, disclosure

of the debtor's current account balance of the calendar quarter.

(Amends R.S. 6:333, R.S. 46:236.1.4, and R.S. 47:1676, 1677, and 9026)

### **TITLE 48: ROADS, BRIDGES AND FERRIES**

There were no new laws of particular interest.

### **TITLE 49: STATE ADMINISTRATION**

#### **Refill after Excavation (Act No. 168)**

Existing law establishes the coastal zone and provides for a management regime within that zone including issuance of coastal use permits for activities conducted within the coastal zone.

New law requires excavation associated with a pipeline project be refilled upon completion of the project.

Effective August 1, 2014.

(Amends R.S. 49:214.25(F))

#### **State Fruit Tree (Act No. 377)**

New law provides that the mayhaw fruit tree shall be the official state fruit tree and authorizes its use on official documents of the state and with the insignia of the state.

Effective August 1, 2014.

(Adds R.S. 49:160.1)

#### **Proposed Rules on Internet (Act No. 401)**

New law requires each rulemaking agency to include on its Internet website certain information relative to proposed rules and fees. If an agency does not have an Internet website, the department of which the agency is a part shall include the required information for the agency on the website of the department. If an agency in the office of the governor does not have an Internet website, the division of administration shall include the required information for the agency on its Internet website.

New law requires the following information to be included on the website:

(1) A brief description of each rule or fee that the agency is in the process of adopting, amending, or repealing, including links to (a) the full text of the current rule or fee; (b) the proposed rule or statement of the proposed fee; (c) the name and contact information of the person within the agency who has the responsibility for responding to inquiries about the intended action; (d) the time when, the place where, and the manner in which interested persons may present their views; (e) the anticipated effective date for the proposed rule or fee; (f) the notice of intent submitted to the La. Register and the date the notice of intent will be published in the La. Register; (g) the report submitted to the legislative oversight subcommittees and the public notice; (h) any announcement of a hearing and report made; (i) any report received by the agency from a legislative oversight subcommittee finding a proposed rule change or proposed fee to be unacceptable, or from the governor disapproving action of an oversight subcommittee;

(2) The annual report submitted to the legislative oversight subcommittees by the agency.

New law provides that the information described in (1)(a) through (g) above shall be published no later than five days after the date on which the agency submits the report for the proposed rule or fee to the legislative oversight subcommittees. Other information must be published within five days of when it is submitted as required by law or received by the agency, as the case may be.

New law requires that all of the information required to be published be archived for a minimum of one year following the date of publication.

New law shall not require the publication of information concerning the adoption, amendment, or repeal of any rule or fee unless and until the agency gives notice of its intended action. Requirements for publication are effective Jan. 1, 2015.

(Adds R.S. 49:974)

#### **Coastal Protection and Restoration Authority (Act No. 527)**

New law allows the Coastal Protection and Restoration Authority, with approval of the CPRA Board, to enter into a contract for the study, investigation, and cleanup of, or response to, hazardous substances directly with an entity who is already under contract with the Corps of Engineers under certain circumstances.

Effective upon signature of governor (June 5, 2014).

(Adds R.S. 49:214.5.2(G))

#### **Coastal Zone Management Program (Act No. 544)**

New law provides that, except as provided in prior law, no state or local governmental entity may have, nor may pursue, any right or cause of action arising from any activity subject to coastal use permitting under prior law or certain federal statutes in the coastal area, or arising from or related to any coastal use, regardless of the date such use or activity occurred.

New law provides that nothing in the law will constitute a waiver of sovereign immunity under the 11th Amendment of the U.S. Constitution.

New law provides that nothing in the law will prevent or preclude any person or any state or local governmental entity from enforcing contractual rights or from pursuing any administrative remedy otherwise authorized by law arising from or related to certain state or federal permit issued in the coastal area.

New law provides that nothing in new law will alter the rights of any governmental entity, except a local or regional flood protection authority, for claims related to 16th section school lands or claims for damage to property owned or leased by such governmental entity.

New law is applicable to all claims existing or actions pending on new law's effective date and all claims arising or actions filed on or after that date.

Effective upon signature by governor (June 6, 2014).

(Adds R.S. 49:214.36(O))

### **Fox Pen Hunting (Act No. 552)**

New law declares that fox pen hunting is part of the folklife heritage of the state and should be preserved.

Effective Aug. 1, 2014.

(Adds R.S. 49:170.19)

### **Breastfeeding Rooms (Act No. 681)**

New law increases the number of state buildings to have breastfeeding rooms from 10 to 20 and extends the deadline for construction of such rooms from July 1, 2014 to July 1, 2016.

Prior law required the superintendent to consider the particular design aspects of different areas within public buildings in order to determine feasibility of constructing the specified room and to carry out such construction in a manner that minimizes cost.

New law prohibits the use of state general fund (direct) for the construction of such rooms.

Effective upon signature of the governor (June 18, 2014).

(Amends R.S. 49:148.4.1(C))

### **Surplus Electronic Devices (Act No. 724)**

New law allows, prior to the sale of surplus electronic devices, that any political subdivision of the state may transfer surplus electronic devices to a nonprofit entity that is certified by R-2 Solutions or the e-Stewards Initiative.

New law requires the nonprofit entity to pick-up, from the location specified by the transferring political subdivision, and erase the hard drives or memory of the electronic device to certified standards. New law requires the nonprofit entity to ensure environmental protection of the electronic device by a responsible recycling process that guarantees the electronic device will not be disposed of in a sanitary landfill or solid waste disposal facility.

Effective August 1, 2014.

(Adds R.S. 49:125.1)

## **TITLE 50: SURVEYS AND SURVEYORS**

There were no new laws of particular interest.

## **TITLE 51: TRADE AND COMMERCE**

### **Tax Free Shopping Program (Act No. 106)**

New law removes the authority of the Louisiana Tax Free Shopping Program to charge participating retailers a membership fee.

Effective upon signature of the governor (May 16, 2014).

(Amends R.S. 51:1304, 1305, 1305, 1305, and 1309; repeals R.S. 51:1302(7))

### **Private Placements (Act No. 119)**

Prior law provided that the commissioner of financial institutions, by rule, may require the issuer of any security that is a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933, as amended, to make a notice filing no later than 15 days after the first sale in this state of such federal covered security on United States Securities and Exchange Commission Form D, together with a consent to service of process and a filing fee.

New law, based on a redesignation of federal law, makes a technical change to the federal citation in prior law from Section 18(b)(4)(D) of the Securities Act of 1933 to Section 18(b)(4)(E) of the Securities Act of 1933.

Effective upon signature of the governor (May 16, 2014).

(Amends R.S. 51:705(G))

### **Personal Online Account Privacy Protection Act (Act No. 165)**

New law defines "personal online account" as an online account that is used by an employee, applicant, student, or prospective student exclusively for personal communications unrelated to any business purpose of the employer or educational institution.

New law prohibits an employer from doing any of the following:

(1) Requesting or requiring an employee or an applicant for employment to disclose information that allows access to the employee's or applicant's personal online account.

(2) Discharging, disciplining, failing to hire, or otherwise penalizing or threatening to penalize

an employee or applicant for employment for failure to disclose information that allows access to or observation of the employee's or applicant's personal online account.

New law provides that an employer is not prohibited from requesting or requiring an employee or applicant for employment to disclose access information to the employer to gain access to or operate any of the following:

- (1) An electronic communications device paid for or supplied in whole or in part by the employer.
- (2) An account or service provided by the employer, obtained by virtue of the employee's or applicant's relationship with the employer, or used for the employer's business purposes.

New law provides that an employer is not prohibited from disciplining or discharging an employee for transferring the employer's proprietary or confidential information or financial data to an employee's personal online account without the employer's authorization.

New law provides that an employer is not prohibited from conducting an investigation or requiring an employee or applicant to cooperate in an investigation in any of the following circumstances:

- (1) If there is specific information about activity on the employee's personal online account, for the purpose of ensuring compliance with applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct.
- (2) If the employer has specific information about an unauthorized transfer of the employer's proprietary information, confidential information, or financial data to an employee's or applicant's personal online account.

New law provides that an employer is not prohibited from conducting an investigation or requiring an employee or applicant to cooperate in an investigation, including requiring the employee or applicant to share the content that has been reported in order to make a factual determination, without obtaining the username and password to the employee's or applicant's personal online account.

New law provides that an employer is not prohibited from restricting or prohibiting an employee's or applicant's access to certain websites while using an electronic communications device paid for or supplied in whole or in part by the employer or while using an employer's network or resources, in accordance with state and federal law.

New law provides that an employer is not liable for the inadvertent receipt of personal online account access information through the use of any electronic device or program monitoring the employer's network or employer-provided device; however, the employer is prohibited from using the information to access the employee's or applicant's personal online account.

New law provides that an employer is not prohibited or restricted from complying with a duty to screen employees or applicants prior to hiring or to monitor or retain employee communications that is established under state or federal law.

New law provides that an employer is not prohibited or restricted from viewing, accessing, or utilizing information about an employee or applicant that can be obtained without any required access information or that is available in the public domain.

New law provides that an employer is not prohibited or restricted from requiring an employee to provide a personal e-mail address in order to facilitate communication with the employee, in the event the employer's e-mail system fails.

No provision of new law shall be construed to prohibit or restrict an employee or applicant for employment from self-disclosing any username, password, or other authentication information to the employer allowing access to the employee's or applicant's personal online account.

New law prohibits an educational institution from doing any of the following:

- (1) Requesting or requiring a student or prospective student to disclose information that allows access to the student's or prospective student's personal online account.

(2) Expelling, disciplining, failing to admit, or otherwise penalizing or threatening to penalize a student or prospective student for failure to disclose information that allows access to the student's or prospective student's personal online account.

New law provides that an educational institution is not prohibited from requesting or requiring a student or prospective student to disclose access information to the educational institution to gain access to or operate any of the following:

(1) An electronic communications device paid for or supplied in whole or in part by the educational institution, except where the device has been provided to the student or prospective student with the intent to permanently transfer the ownership of the device to the student or prospective student.

(2) An account or service provided by the educational institution that is either obtained by virtue of the student's or prospective student's admission to the educational institution or used by the student or prospective student for educational purposes.

New law provides that an educational institution is not prohibited from viewing, accessing, or utilizing information about a student or prospective student that can be obtained without any required access information or that is available in the public domain.

New law provides that an educational institution is not prohibited from restricting or prohibiting a student's or prospective student's access to certain websites while the student or prospective student uses an electronic communications device paid for or supplied in whole or in part by the educational institution or while the student or prospective student uses an educational institution's network, unless the device has been provided with the intent to permanently transfer ownership of the device to the student or prospective student.

No provision of new law shall be construed to prohibit or restrict an employee or applicant for employment from self-disclosing any username, password, or other authentication information to the employer allowing access to the employee's or applicant's personal online account.

New law does not create a duty for an employer or educational institution to search or monitor the activity of an individual's personal online account.

New law provides that an employer or educational institution is not liable for failure to request or require an employee, a student, an applicant for employment, or a prospective student to disclose information that allows access to the employee's, student's, applicant's or prospective student's personal online account.

Effective Aug. 1, 2014.

(Adds R.S. 51:1951-1955)

### **Regulation A Securities (Act No. 224)**

New law removes Regulation A from the exemption under present law and requires the registration of Regulation A securities under the La. Securities Law.

New law provides for the terms and conditions for registration of Regulation A securities by requiring the following:

(1) A notice of intention to sell, executed by the issuer, any other person on whose behalf the offering is to be made, a registered dealer, or any duly authorized agent of any such person;

(2) A copy of the notification on Form 1-A or any form substituted therefor, and related offering circular or offering sheet, including other exhibits, filed with the Securities and Exchange Commission;

(3) A filing fee of 1/10 of 1/100 of the aggregate price of the securities to be offered to be sold in the state of La, but no less than \$100 and no more than \$1,000, plus a charge of \$250;

(4) A consent to service of process in the form prescribed by the commission, executed by the person who executed the notice of intention to sell, unless the person has previously filed with the commissioner an irrevocable consent to service of process in the form prescribed.

Registration of Regulation A securities pursuant to new law becomes effective when ordered by the commissioner.

(Amends R.S. 51:709; Adds R.S. 51:705(H))

### **Patent Trolls (Act No. 297)**

New law provides that no person shall make a bad faith assertion of patent infringement against an end-user.

New law provides that the attorney general has the sole authority to investigate and pursue any violation of new law as an unfair or deceptive trade practice or act.

New law provides that any person who is found liable shall be liable to the attorney general for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorney fees. An action to recover costs, expenses, fees, and attorney fees shall be ancillary to, and shall be filed and heard in the same court as a civil action filed under new law.

New law provides that a court may consider any of the following factors as evidence that a person has made a bad faith assertion of patent infringement against an end-user:

- (1) The demand letter received by the end-user does not contain certain information.
- (2) The person sends a demand letter to an end-user without first making a reasonable effort to conduct an analysis comparing the claims in the patent to the products, services, or technology obtained by the end-user, or to identify specific areas in which the products, services, or technology are covered by the claims in the patent.
- (3) When the demand letter lacks certain information and the end-user requests information from the person, the person fails to provide the requested information within a reasonable period of time.
- (4) The demand letter requires payment of a license fee or response from an end-user within an unreasonably short period of time.
- (5) The claim or assertion of patent infringement against an end-user is without merit, and the person knew or should have known that the claim or assertion is without merit.
- (6) The person or its subsidiaries or affiliates have previously filed or threatened to file one or more lawsuits based on the same or similar

claim of patent infringement and those lawsuits or threats lacked certain information.

- (7) The demand letter or assertion of patent infringement contains any material misrepresentation of fact.

New law provides that a court may consider any of the following factors as evidence that an assertion of patent infringement against an end-user was not made in bad faith:

- (1) The demand letter received by an end-user contains certain information.
- (2) When the demand letter lacks certain information and the end-user requests the information, the person provides the information within a reasonable period of time.
- (3) The person engages in a good faith effort to establish that the end-user has infringed or may be infringing the patent.
- (4) The person or affiliate makes a substantial investment in the use of the patent or in the production or sale of a product, service, or technology covered by the patent.
- (5) The person is either (a) the inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, the original assignee, or (b) an institution of higher education or a technology transfer organization owned by or affiliated with an institution of higher education.
- (6) The person has demonstrated good faith business practices in previous efforts to enforce the patent, or a substantially similar patent or has successfully enforced the patent, or a substantially similar patent, through litigation.
- (7) Any other factor the court finds relevant.

New law provides that any person outside the state asserting patent infringement by an end-user in the state shall be deemed to be transacting business within the state and shall thereby be subject to the jurisdiction of the courts of this state.

Effective May 28, 2014.

(Adds R.S. 51:1428)



**Investment Adviser Representatives (Act No. 298)**

Prior law provided that no applicant shall be registered as an investment adviser representative, nor shall any such registration be renewed, unless such investment adviser representative has passed a written examination, except for (1) an individual holding one or more certifications designated by the commissioner, or (2) an individual who is employed by an investment adviser registered with the Securities and Exchange Commission (SEC).

New law removes the present law exemption for individuals who are employed by an investment adviser registered with the SEC.

New law provides that beginning on August 31, 2016, and thereafter, investment adviser representatives registered or required to be registered and who are employed by a federal covered adviser shall be required to satisfy the examination requirement or certification requirement.

Effective May 28, 2014.

(Amends R.S. 51:703(D)(4))

**BIDCOs (Act No. 350)**

Existing law provides that a La. corporation or La. limited liability company may apply to the commissioner of the Office of Financial Institutions for licensure as a business and industrial development company (BIDCO).

Existing law provides that unless approved by the commissioner, the total amount of financing assistance provided by a BIDCO outside of this state shall not exceed 50% of the total financing assistance provided by such BIDCO on a cumulative basis. New law exempts a BIDCO that has provided financing assistance in this state in excess of \$100,000,000 and has held a BIDCO license for at least 10 years.

New law provides that a BIDCO may count financing assistance of a licensed affiliate or licensed affiliates to satisfy the requirement of providing an excess of \$100,000,000 financing assistance within the state.

Effective Aug. 1, 2014.

(Amends R.S. 51:2395(A)(7))

**Payroll Incentive Program (Act No. 421)**

Existing law establishes the Competitive Projects Payroll Incentive Program through which businesses can contract with the Dept. of Economic Development for receipt of rebate payments in exchange for the creation of jobs. The contract can provide for three different rebates: a payment based on the amount of new payroll, a payment rebating certain sales and use taxes paid, and a payment equal to 1.5% of the amount of certain qualified capital expenditures associated with a facility utilized in the performance of the contract.

New law adds that the cost of manufacturing machinery and equipment excluded from sales and use tax shall also be excluded from the calculation of the amount of qualified capital expenditures eligible for rebate.

Effective July 1, 2014.

(Amends R.S. 51:3121(C)(4)(c))

**Jazzland (Act No. 511)**

New law repeals prior law protecting the name and logo "Jazzland".

Effective Aug. 1, 2014.

(Repeals R.S. 51:300.1-300.6)

**Employment Discrimination (Act No. 756)**

Prior law defined "discriminatory practice in connection with employment" to include employment practices prohibited by Title 23 of the La. R.S., including age, disability, race, color, religion, sex, or national origin.

New law extends the definition of "discriminatory practice in connection with employment" to include all of the discrimination statutes in Chapter 3-A of Title 23 of the La. R.S., which would add veterans, pregnancy, childbirth, and related medical conditions, sickle cell traits, and genetic information.

New law clarifies that the procedures in prior law shall be used in the investigation and complaint process for all employment discrimination laws.

Prior law made it an unlawful practice for a person or two or more persons to conspire to do certain enumerated practices under the Louisiana

Commission on Human Rights law. New law limits these violations to practices performed by an "employer" as defined in R.S. 23:302(2), the Louisiana Employment Discrimination Law, which, among other things, provides that "employer" applies only to an employer who employs 20 or more employees within this state for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and includes an insurer with respect to appointment of agents, regardless of the character of the agent's employment.

Effective August 1, 2014.

(Amends R.S. 51:2231, 2232, 2235, 2237, and 2256)

#### **Sex Discrimination in Employment (Act No. 702)**

New law extends the La. Commission on Human Rights jurisdiction over matters involving sex discrimination in employment.

Effective August 1, 2014.

(Amends R.S. 23:665 and 667, and R.S. 51:2231, 2232 and 2235)

### **TITLE 52: UNITED STATES**

There were no new laws of particular interest.

### **TITLE 53: WAR EMERGENCY**

There were no new laws of particular interest.

### **TITLE 54: WAREHOUSES**

There were no new laws of particular interest.

### **TITLE 55: WEIGHTS AND MEASURES**

There were no new laws of particular interest.

### **TITLE 56: WILDLIFE AND FISHERIES**

#### **Hunting with Silencers (Act No. 229)**

New law permits hunting game birds and wild quadrupeds with a firearm fitted with a sound suppressor.

(Amends R.S. 56:116.1; Adds R.S. 56:116.6)

#### **Aquaculture (Act No. 286)**

New law allows any properly licensed person to import, sell, or purchase aquaculturally raised game fish.

Prior law required that the buyer or handler of each shipment of any game fish notify the secretary of DWF before its impending arrival. New law provides an exception for any game fish being imported under the domesticated aquatic organisms license.

New law exempts persons engaged in the business of aquaculture from certain notification provisions.

Prior law provided size requirements for the importation of certain fish species. New law increases the maximum size limit for various species.

Prior law provides for the importation of aquaculturally raised fish and cultured fish. New law repeals prior law.

Effective August 1, 2014.

(Amends R.S. 56:327 and 412; repeals R.S. 56:327.1)

#### **Release of Animals (Act No. 287)**

Prior law prohibited the in-state release of any pen-raised or wild animal, fowl, or fish from without the state except upon permission of the secretary of DWF. New law prohibits the in-state release of any pen-raised or wild animal, fowl, or fish from within the state except upon permission of the secretary of DWF.

Prior law prohibited the transportation of any wild animal or fowl for restocking purposes except in accordance with the commission rules. New law adds fish to the list of animals prohibited from transporting for restocking purposes.

Effective August 1, 2014.

(Amends R.S. 56:20(A) and (B))

#### **Shrimping Line (Act No. 294)**

Prior law divided the shrimping waters of the state into inside and outside waters. New law changes the line to conform to the existing

coastline as a result of changes caused by coastal erosion and subsidence. New law allows the W&F Commission to amend by rule the line of demarcation in accordance with the APA.

Effective August 1, 2014.

(Amends R.S. 56:495)

#### **Animal Parts Trafficking (Act No. 295)**

Prior law prohibited any person from selling or offering to sell or purchase any game quadruped, or any part of any wild bird, but makes an exception for persons holding a breeder's license. New law adds "trade, barter, exchange or attempt to sell, purchase, trade, barter, or exchange" to the sell prohibition.

Prior law allowed for the sale of tails and hides of legally taken squirrels, and legally taken deer to licensed buyers and licensed fur dealers, provided that the sale of any such tails or hides is made within 10 days of the close of the squirrel or deer hunting season. New law adds "purchase, trade, barter, or exchange or attempt to sell, purchase, trade, barter, or exchange" language to prior law.

Effective August 1, 2014.

(Amends R.S. 56:116.2)

#### **Hunting with Silencers (Act No. 378)**

Prior law authorized the use of a firearm fitted with a sound suppressor in hunting outlaw quadrupeds, nutria, or beaver.

New law expands the authorization to hunt game birds and all wild quadrupeds.

Effective August 1, 2014.

(Amends R.S. 56:116.1; adds R.S. 56:116.6)

#### **Hunting & Fishing Licenses (Act No. 429)**

New law provides for purchase of a license for hunting or recreational fishing activities where such license does not authorize any commercial activity and reduces the time required to qualify as a bona fide resident from 12 months to six months.

Effective August 1, 2014.

(Amends R.S. 56:8(16))

#### **Wildlife & Fisheries Commission (Act No. 553)**

New law assigns to the Wildlife and Fisheries Commission the responsibility for conservation, management, and sustainability programs for all fisheries in the state, including saltwater and freshwater.

Effective August 1, 2014.

(Amends R.S. 56:638.1-638.5)

#### **Catch & Cook Program (Act No. 577)**

New law authorizes retail food establishments to receive and prepare any freshwater or saltwater recreational fish taken by a licensed recreational fisherman for consumption by that recreational fisherman or any person in his party.

New law requires the DWF to issue permits for retail food establishments who wish to participate in the program.

Effective August 1, 2014.

(Adds R.S. 56:317)

#### **Outlaw Quadrupeds and Birds (Act No. 592)**

New law allows the DW&F to promulgate rules and regulations to permit the taking and disposal of outlaw quadrupeds and outlaw birds by aircraft when such quadrupeds and birds become destructive of private or public property and become a nuisance, which rules will prohibit the sale of the animal or any part of the animal.

New law provides that any person authorized to take any outlaw quadruped or outlaw bird will be exempt from obtaining any other permits or licenses for the taking of such animals.

Effective upon signature of the governor (June 9, 2014).

(Amends R.S. 56:112)