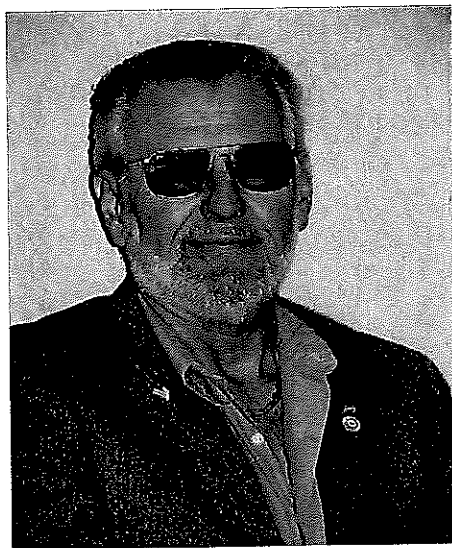


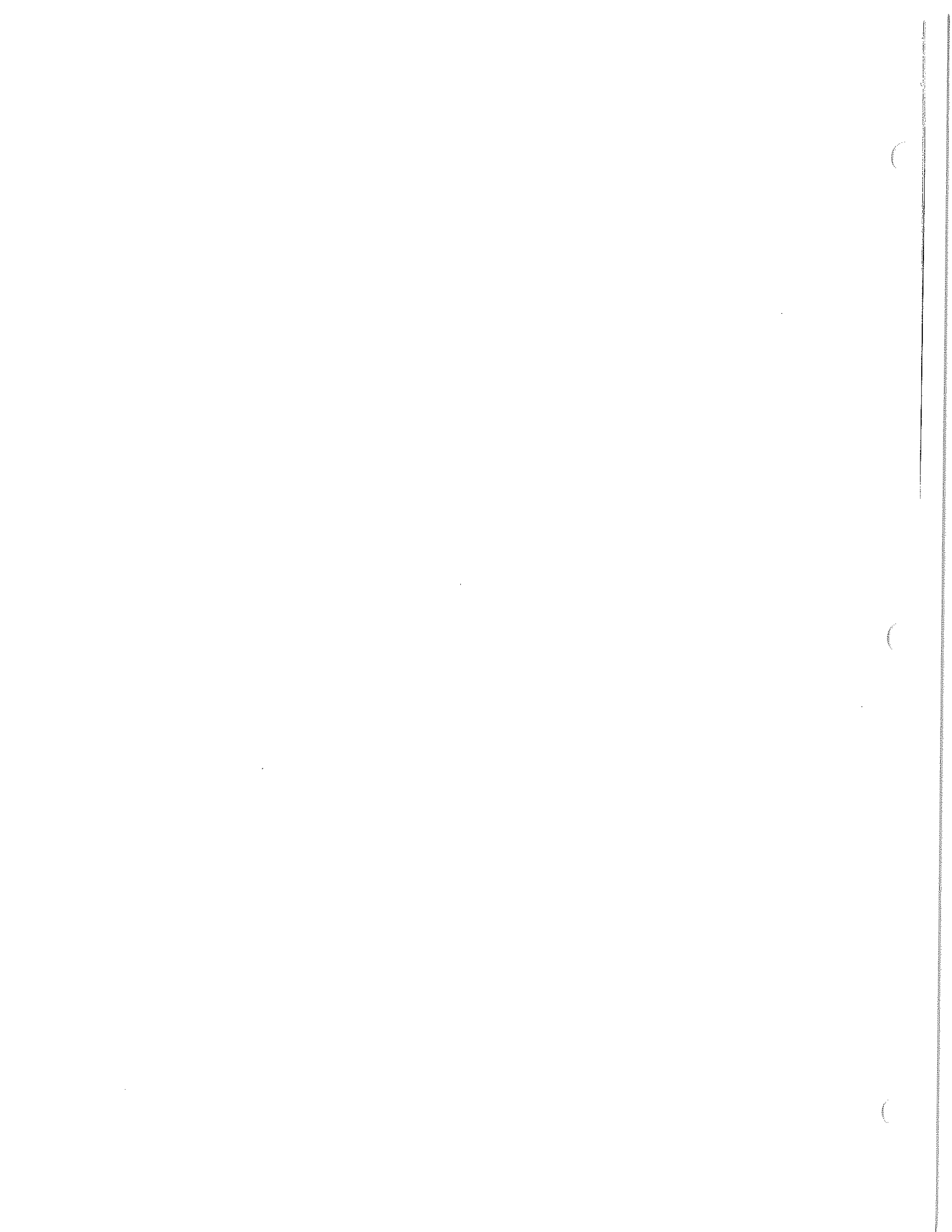
**THE FLORIDA ALLIANCE FOR  
RETIRED AMERICANS, INC.**

**LEGISLATIVE REPORT**



***TONY KIWAK, LEGISLATIVE DIRECTOR***

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## **Florida Legislators Face Major Issues for 2015**

Here are some of the major Issues facing the Florida Legislature as it begins meeting on Tuesday March 3

### **BUDGET**

With more than a \$1 billion surplus, the 2015-16 state budget should present fewer obstacles to lawmakers. Yet how the money is spent will be sharply debated. Gov. Rick Scott has already made a large claim by pushing \$673 million in tax cuts and calling for record spending on public schools in his \$77 billion budget plan. Lawmakers will cut taxes and increase education funding – but the level is yet to be determined. Putting more pressure on the budget is a new constitutional amendment that will require the Legislature to spend \$757 million on environmental programs. Lawmakers must do that without impacting other programs, such as affordable housing, that have previously counted on that funding. There is also uncertainty over the future of a \$2.2 billion federal program that reimburses Florida hospitals that have large case loads of poor and uninsured patients.

### **TAX CUTS**

Scott has put a \$673 million tax-cutting plan on the table. Lawmakers will likely go along with much of it, although they may differ on the type of tax cuts and the amount. Lawmakers are interested in Scott's plan to cut the tax that Floridians pay on their cell phone and cable television bills. It's the biggest cut in Scott's package at \$471 million, although it only amounts to a \$43 annual reduction for every \$100 a month that Floridians spend on communications services. Scott also wants to let college students buy their textbooks tax free and he wants to permanently eliminate the state tax on manufacturing equipment. Another back-to-school sales tax holiday will be in the mix.

### **HEALTHCARE**

Hospitals and business lobbying groups will lead a renewed push for expansion of Medicaid under the federal Affordable Care Act. They are motivated by the possibility that major employers who do not offer health care coverage could face fines under the ACA. Hospitals are worried about the potential demise of the \$2.2 billion "low income pool (LIP)" that reimburses hospitals for the care of uninsured patients. The expansion

proposals would offer a modified version of the standard Medicaid program and include provisions such as having the patients pay a premium and require participation in work and education programs. The Senate remains willing to consider a Medicaid plan, while the stumbling block is the House, where leaders remain firmly opposed.

## TESTING

Everyone agrees that Florida public school students face too much testing. It will be up to lawmakers to decide how far those tests, which include the new Florida State Assessments (FSA), will be pared back. Gov. Scott has outlined an initial move, including the elimination of an 11th-grade language arts tests that teachers and administrators say is redundant. But there could be other moves, including limiting the time that students spend on testing and reducing the way the tests are used to evaluate teacher performance. School superintendents, school boards and teachers are calling for a "pause" on using the new FSA, which replaces the FCAT this year, to evaluate teachers and schools. But legislative leaders seem reluctant to make a major shift in what they see as a critical "accountability" system.

## ENVIRONMENT

This will be one of the dominant issues of the 2015 session. Lawmakers are moving forward with a major water policy for the state. There are differences in the approaches but key elements include springs protection, dealing with water discharges in the Lake Okeechobee region and continuing efforts to restore the Everglades. Added into the mix is the new Amendment 1, approved by 75 percent of the voters, that requires one-third of the state's real estate tax to be used for environmental programs. A debate has already ensued over whether the Amendment 1 money should go for land conservation and the protection of water sources or whether it can be used for projects like sewage treatment or stormwater systems.

## GUNS

Lawmakers are moving bills that would allow college and university students to carry guns on their campuses if they have a concealed-weapons permit from the state. Proponents, including Rep. Greg Steube, R-Sarasota, say allowing the guns to be carried by students who must be at least 21 years old and pass a firearms safety course will improve campus security. But the measure is opposed by many professors and university administrators. Another Steube bill (HB 19) would let designated

public school officials carry a concealed weapon in kindergartens through high schools subject to approval by the local school superintendent and local school boards.

## BEER

The clash between the growing craft brewing industry and the established liquor distributors and retailers will continue. At the very least, the craft brewers want the ability to sell 64-ounce containers, called "growlers," at their establishments. On a broader level, the crafter brewers want confirmation and the expansion of their ability to directly sell their IPA beers and stouts to consumers. The retailers and distributors want to protect their system that requires most alcoholic products to be moved through an established distributor. An added fight in the liquor legislation has Publix and ABC Fine Wine & Spirits opposing a move by Walmart and other national chains to allow hard liquor sales in their grocery stores.

## GAMBLING

This issue will hinge on the soon-to-expire gambling agreement with the Seminole Tribe. If Gov. Scott can craft a new agreement with the tribe, it will move to the Legislature for approval. The current agreement brings more than \$100 million to the state each year but will end in July. A new gambling deal will likely bring a call from other gaming interests to consider issues such as helping the existing horse and dog tracks in the state and allowing Las Vegas-style casinos for the first time in Florida.

## DISABLED FLORIDIANS

This issue has long been a priority for Senate President Andy Gardiner, whose son has Down syndrome. House Speaker Steve Crisafulli is also in full support of an initiative to help Floridians "with unique abilities." The proposal is aimed at improving education and work opportunities for disabled residents. It would expand on legislation passed last year that allowed disabled students to use "personal savings accounts" to direct their education and training. It will also expand opportunities for post-high school education and training and would provide incentives for Florida businesses to hire workers with disabilities.

## GUARDIANSHIPS

Legislation is moving that is aimed at curbing abuses in Florida's adult guardianship system by providing new protections for Floridians who end up under a guardian's supervision because of illness or mental

incapacitation. The bills follow a December series that detailed cases of people who believe they were denied due process in court and afterward. Advocates are calling for more oversight and transparency in the process for families whose members end up in guardianships.

#### MUNICIPAL POLICE AND FIREFIGHTER PENSIONS

Since 1999 municipalities have been required to provide additional pensions for firefighters and police above just the standard pensions based on the dangers of the jobs. The state is considering changes to strengthen city retirement plans because lawmakers believe many may be underfunded which could cause problems for cities and their tax bases in the future. But cities say the proposed changes remove their flexibility and ignores that they are required to discuss them in collective bargaining and handcuff them in negotiations.

## Political Donations: Justice For Sale In Florida

Five years ago, the U.S. Supreme Court opened the floodgates to unlimited political donations with the Citizens United decision. Recently, the court considered striking down a Florida Bar rule that helps ensure the wave of campaign cash doesn't corrupt our judicial system.

The case involves a woman who unsuccessfully ran for judge in Hillsborough County in 2009. After signing a fundraising letter, she was reprimanded and required to pay \$1,860 in court costs. Florida's Code of Judicial Conduct restricts judicial candidates from personally soliciting campaign contributions. Twenty-nine of the 39 other states with judicial elections have similar restrictions.

The Supreme Court seemed divided on whether such rules violate the First Amendment, according to news reports. Justices pointed out seeming inconsistencies with a rule that bans judicial candidates from personally appealing for money but lets them write thank-you notes to contributors. But the difference is significant. As The New York Times reported, Justice Antonin Scalia noted the distinction between saying thanks and begging for money — with the latter being demeaning to judicial dignity. More important, public confidence that the judiciary is impartial will be eroded if judges personally seek contributions.

Fundraising can also lead to outright corruption, a problem with which Florida is all too familiar. In the 1970s, more than half of our state's Supreme Court justices resigned in corruption scandals. Two had attempted to fix cases on behalf of campaign supporters. Today, the risk is even greater, as an increasing amount of money is spent on judicial races. Judicial candidates raised about \$83.3 million from 1990 to 1999, a figure that jumped to \$206.9 million over the next decade, according to a study by an Emory University law professor. Such money threatens to destroy the role of judges as neutral arbiters of the law.

Switching completely to a merit-based nominating system would help create a more independent judiciary. But even that system isn't free of political influence. Florida's judicial nominating commissions have had their political independence reduced in recent years and nearly eliminated under Gov. Rick Scott, who has repeatedly rejected Florida Bar choices for the posts in favor of more conservative choices. In this environment, the Bar's

rule restricting judges from soliciting contributions seems almost quaint. Yet, if for nothing more than its symbolism, it is an important measure to show that justice shouldn't be for sale in our country.



## 5 Insurers Approved To Shrink Citizens Insurance

The great shrinkage of Citizens Property Insurance rolls on.

State insurance regulators approved five Florida-based insurers to take up to 132,441 more homeowners policies out of state-run Citizens in February, bolstering the company's goal to shed as many policies as possible.

Carriers approved in the latest round are:

American Colonial Insurance Co. — approved to remove up to 5,441 personal residential policies.

Anchor Property & Casualty Insurance Co. — up to 30,000 residential policies.

Heritage Property & Casualty Insurance Co. — up to 20,000 residential policies.

Homeowners Choice Property & Casualty Insurance Co. — up to 50,000 residential policies.

Mount Beacon Insurance Co. — up to 27,000 residential policies.

Heritage also was approved to take out up to 500 commercial residential policies.

Citizens says it is trying to push policies into the private market to reduce risk for the state. Under state law, every insured Floridian can be assessed if Citizens is swamped by claims after a major storm that it is unable to cover.

The latest move by Florida Insurance Commissioner Kevin McCarty brings the total number of policies approved for takeouts in 2015 to 315,508.

Not every policy approved for a takeout leaves Citizens, however.

Companies may choose to seek less than their maximum approved number, while policyholders may "opt out" of leaving Citizens. In fact, roughly 40 percent of targeted Citizens customers have been rejecting the takeout offers since 2008, expressing concern that the companies seeking Citizens policies are not financially fit and/or have never had to handle claims after a major hurricane.

A recent Tampa Bay Times story also detailed concerns with how Citizens has run the takeout program itself, including customer accusations that they were deceived about their ability to opt out or never sent opt-out forms. Customers also bristled at language in the letters warning of possibly huge surcharges if they stick with Citizens.

Citizens has shrunk from 1.5 million policies in 2012 to about 727,000 as of the end of November.



## Florida's Cabinet, History Lesson for Sure

This story was underscored by the recent controversy over the resignation and appointment of a new commissioner at the Florida Department of Law Enforcement. The FDLE is a "Cabinet agency," meaning it is jointly controlled by the governor and three Cabinet members: the attorney general, chief financial officer and agriculture commissioner.

Florida's Cabinet structure can be confusing. Unlike the president and his Cabinet, the Florida Cabinet is not the governor's Cabinet and all three members are independently elected and serve four-year terms like the governor.

The Cabinet members preside over their own departments, like the Office of the Attorney General and the Department of Agriculture and Consumer Services, but also oversee, along with the governor, another dozen executive agencies and boards, such as the FDLE, the Department of Highway Safety and Motor Vehicles and the Department of Veterans Affairs.

The FDLE controversy stems from the fact that Gov. Rick Scott decided to force former FDLE Commissioner Gerald Bailey out of his job in December but didn't fully inform the Cabinet members. They were told Bailey decided to resign. Bailey later told the Tampa Bay Times and Miami Herald that Scott's general counsel had given him an ultimatum to resign or be fired. But under the Cabinet system, Scott does not have the power to unilaterally fire or hire an FDLE commissioner.

He'd need the approval of at least one Cabinet member and that decision would have to be reached in a public meeting.

Now, with questions about how Bailey's departure was handled, Cabinet members say they want to discuss the issue at a Feb. 5 meeting and talk about a more "transparent" system for hiring Cabinet agency heads and evaluating their performances.

It will be a debate about the essence of the Cabinet system, which was originally designed to dilute the executive power of the governor — or at least force the governor to share some of his decision-making.

To understand the background, you must know a little Florida history. The independently elected Cabinet, which was then six members, was created in the 1885 Florida Constitution, which was a repudiation of the

1868 Constitution passed after the Civil War and designed to consolidate power in the governor's office. The 1885 Constitution dramatically changed that dynamic. In fact, the governor was limited to one four- year term, while Cabinet members could serve in perpetuity.

A number of Cabinet members served for decades in the 20th century while governors came and went.

The governor gained the right for a second term in the 1968 Constitution. The members have faced term limits since the 1990s. And the Cabinet was reduced to its current three members in 2003.

Nonetheless the Cabinet's executive power is still substantial. And it has been a source of frustration for many governors. Gov. Claude Kirk referred to the Cabinet members as "the six dwarfs."

Gov. Reubin Askew, considered one of Florida's best governors, also had problems with the Cabinet's authority. He pushed unsuccessfully to diminish the Cabinet's role through the state Constitution Revision Commission.

## **Do Not Call Offenders: Top List of Complaints**

Florida consumers were once again most annoyed by receiving unwanted phone calls from unfamiliar numbers.

### **Facts**

#### **TOP 10 CONSUMER COMPLAINTS**

Consumers filed more than 44,000 complaints with the Florida Department of Agriculture and Consumer Services consumer assistance center in 2014. The top 10 most common complaints from Jan. 1 through Dec. 22 were:

1. Do Not Call – 18,067
2. Fuel/Petroleum – 2,193
3. Cable – 1,921
4. Telemarketing – 1,813
5. Motor Vehicle Sales – 1,697
6. Credit/Banking – 1,659
7. Communications – 1,588
8. Motor Vehicle Repair – 1,488
9. Landlord/Tenant – 1,328
10. Travel/Vacation Plans – 1,271

The Florida Department of Agriculture and Consumer Services recently released its list of top 10 most common complaints filed during 2014. For the fifth year in a row, violators of the state and national "do not call" lists easily topped the list. The department received 18,067 complaints related to "do not call" violations, which is more than the rest of the top 10 combined.

The second most common complaints were related to "fuel/petroleum" — the price at the pump not being displayed on the marquee, or bad gasoline ruining an engine — and the third most common complaints involved "cable" billing and service disputes with providers.

"One of our priorities is to assist consumers in need across Florida," said Adam Putnam, commissioner of agriculture, in a news release. "Anyone can call our 1-800-HELP-FLA consumer hotline to file a complaint, to find information about businesses and professionals, and to learn how to protect themselves from fraud and scams."

The department saw a decrease in the overall number of complaints filed with its consumer assistance center. Last year, there were more than

47,000 complaints filed, while this year the number came in at just over 44,000.

And despite being a fixture at the top of the list, the number of "do not call" violators decreased by 4 percent in 2014.

"We take our responsibility to protect Florida consumers seriously, and helping to stop unwanted sales calls can cut down on frauds and scams," said Erin Gillespie, spokeswoman for the department.

Phone numbers remain on the Florida Do Not Call List for five years before they need to be renewed, while numbers on the national registry are removed when they are disconnected, reassigned, or a consumer opts out of the list.

According to records the top two phone scams of 2014 involved fraudsters calling potential victims claiming to represent the Internal Revenue Service and threatening bodily harm, and an electric company scam in which the fraudsters threatened to shut down customers' power if they did not immediately purchase a prepaid money card and share the card's information.

Gillespie said the department has stepped up its efforts to investigate "do not call" complaints and administer fines to companies that are violating Florida law. Punishments range from a written warning to a \$10,000 fine depending on the number of infractions.

The department collected more than \$430,000 in administrative fines related to "do not call" violations.

Overall, more than \$5.3 million was recovered on behalf of Florida consumers last year, which is up from \$3.5 million in 2013.

In addition to the complaints filed, the department's consumer assistance center responded to about 200,000 calls, more than 5,000 emails and nearly 9,500 online chats this year from consumers requesting information. Consumers who want to file a complaint of any sort can call 800-HELP-FLA or visit [www.freshfromflorida.com](http://www.freshfromflorida.com).