

## **SPECIAL REPORT FOR MAY 30, 2002**

The Governor signed two very important pieces of legislation into law today. Signed were HB 1341 related to Brownfield Redevelopment and SB 1946 related to premise liability.

### **BROWFIELD REDEVELOPMENT**

Actually, HB 1341 by Representative Paula Dockery (R-Lakeland) deals with a number of subjects, but of principle interest to the business community were the provisions amended onto the bill near the end of session related to Brownfield Redevelopment. The "Brownfield Redevelopment" language will increase the number of businesses potentially eligible for Brownfield redevelopment. Numerous Brownfield sites are abandoned, idled, or underused industrial and commercial properties where expansion or redevelopment is complicated by actual or perceived environmental contamination. In 1997, the Legislature created the Brownfield Redevelopment Program, which is a voluntary program through which the cleanup of Brownfield sites is initiated by landowners and developers rather than government regulators. By broadening the eligibility requirements, as provided for in this bill, more businesses can locate to Brownfield areas and therefore, more Brownfield redevelopment could occur. This new law will make a difference in taking abandoned and blighted property sites and restoring their commercial viability as productive and useful element in the community.

### **PREMISES LIABILITY**

SB 1946 by Senator Jim Sebesta (R-Tampa), also signed today by the Governor, became the unlikely "vehicle" for premise liability relief this year. In the midst of the confusion of numerous bills sailing back and forth between the two chambers in the final days and hours of the session, Representative David Simmons (R-Altamonte Springs) wisely pivoted and "switched out" the substance of SB 1946 for the substance of HB 1545. As a result, the Senate caught SB 1946 on the rebound and passed it, essentially passing HB 1545. Thanks need to go to not only the bill sponsors in the House and Senate, Representative David Simmons and Senator Ginny Brown-Waite (R-Brooksville), but also Senator Jim Sebesta for agreeing to this maneuver.

The need for this legislation was created by yet another unfortunate anti-business decision by the Florida Supreme Court last fall. The Florida Supreme Court struck again on November 15, 2001, handing down an opinion on a "Slip & Fall" case that only distantly had anything to do with prior precedent or pre-existing law. In this *Owens v. Publix Supermarkets* case, the Court held that the plaintiff need only show that they fell as a result of the errant fruit product. Thenceforth, the burden of proof immediately shifts to the defendant to prove non-negligence. The defendant must now show that its actions were reasonable both with regards to inspection and maintenance procedures. With this recent Court decision, unless the Florida Legislature enacted a remedy, every slip and fall case was virtually guaranteed to go before a jury. Needless to say, this decision by the Court could have cost businesses millions of dollars each year. The Florida Supreme Court had simply turned the law on its head with its *Owens v. Publix Supermarkets* decision.

By dramatically shifting the burden of proof in slip and fall cases to the defendant, the Florida Supreme Court increased the legal exposure of Florida's employers exponentially by the tens of millions of dollars. The Florida Legislature acted to restore some sanity and clarity to a body of case law maimed by the Court. The bill signed by the Governor today represents a compromise between the interests of the trial attorneys and the business community.