

1
2 An act relating to the Florida Statutes;
3 amending ss. 403.086, 403.0872, 403.08851,
4 403.703, 403.705, 403.706, 403.708, 403.715,
5 403.718, 403.7199, 403.726, 403.788, 403.9415,
6 404.056, 408.05, 408.061, 408.062, 408.08,
7 408.7042, 408.904, 409.145, 409.1685, 409.1757,
8 409.2355, 409.2564, 409.2576, 409.821, 409.905,
9 409.908, 409.910, 409.9116, 409.912, 411.202,
10 411.222, 411.232, 411.242, 414.065, 414.105,
11 415.102, 415.1055, 415.107, 419.001, 420.0004,
12 420.507, 420.525, 420.9072, 421.10, 421.33,
13 430.502, 435.03, 435.04, 440.02, 440.021,
14 440.14, 440.15, 440.185, 440.25, 440.38,
15 440.385, 440.49, 440.51, 442.20, 443.036,
16 443.041, 443.111, 443.141, 443.151, 443.171,
17 443.191, 446.22, 446.25, 455.01, 455.5651,
18 455.5653, 455.5654, 455.607, 455.621, 455.667,
19 458.311, 458.320, 459.0085, 459.018, 462.14,
20 466.014, 468.1655, 468.1695, 468.307, 468.505,
21 468.605, 469.005, 471.045, 473.302, 479.01,
22 481.222, 483.23, 483.825, 487.048, 489.103,
23 489.1136, 489.131, 489.133, 489.140, 489.141,
24 489.519, 489.531, 494.00421, 497.255, 500.03,
25 501.022, 501.0575, 501.608, 509.032, 509.302,
26 514.031, 517.021, 517.12, 550.1625, 550.2625,
27 550.375, 553.06, 553.141, 553.503, 553.506,
28 553.512, 553.73, 553.74, 559.807, 560.129,
29 561.1105, 561.20, 578.28, 585.74, 585.91,
30 589.101, 590.11, 593.111, 601.04, 601.155,
31 608.402, and 616.242, Florida Statutes; and

1 reenacting ss. 415.1102, 440.191(1), and
2 483.811(6), Florida Statutes, pursuant to s.
3 11.242, Florida Statutes; deleting provisions
4 which have expired, have become obsolete, have
5 had their effect, have served their purpose, or
6 have been impliedly repealed or superseded;
7 replacing incorrect cross-references and
8 citations; correcting grammatical,
9 typographical, and like errors; removing
10 inconsistencies, redundancies, and unnecessary
11 repetition in the statutes; improving the
12 clarity of the statutes and facilitating their
13 correct interpretation; and confirming the
14 restoration of provisions unintentionally
15 omitted from republication in the acts of the
16 Legislature during the amendatory process.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (6) of section 403.086, Florida
21 Statutes, is amended to read:

22 403.086 Sewage disposal facilities; advanced and
23 secondary waste treatment.--

24 (6) As of July 10, 1987, any facility covered in
25 paragraph (1)(c) shall be permitted to discharge if it meets
26 the standards set forth in subsections (4) and (5). ~~Facilities~~
27 ~~that do not meet the standards in subsections (4) and (5) as~~
28 ~~of July 10, 1987, may be permitted to discharge under existing~~
29 ~~law until October 1, 1990.~~ On and after October 1, 1990, all
30 of the facilities covered in paragraph (1)(c) shall be
31

1 required to meet the standards set forth in subsections (4)
2 and (5).

3
4 Reviser's note.--Amended to delete obsolete
5 language.

6
7 Section 2. Paragraph (a) of subsection (11) of section
8 403.0872, Florida Statutes, is amended to read:

9 403.0872 Operation permits for major sources of air
10 pollution; annual operation license fee.--Provided that
11 program approval pursuant to 42 U.S.C. s. 7661a has been
12 received from the United States Environmental Protection
13 Agency, beginning January 2, 1995, each major source of air
14 pollution, including electrical power plants certified under
15 s. 403.511, must obtain from the department an operation
16 permit for a major source of air pollution under this section,
17 which is the only department operation permit for a major
18 source of air pollution required for such source. Operation
19 permits for major sources of air pollution, except general
20 permits issued pursuant to s. 403.814, must be issued in
21 accordance with the following procedures and in accordance
22 with chapter 120; however, to the extent that chapter 120 is
23 inconsistent with the provisions of this section, the
24 procedures contained in this section prevail:

25 (11) Commencing in 1993, each major source of air
26 pollution permitted to operate in this state must pay between
27 January 15 and March 1 of each year, upon written notice from
28 the department, an annual operation license fee in an amount
29 determined by department rule. The annual operation license
30 fee shall be terminated immediately in the event the United
31 States Environmental Protection Agency imposes annual fees

1 solely to implement and administer the major source
2 air-operation permit program in Florida under 40 C.F.R. s.
3 70.10(d).

4 (a) The annual fee must be assessed based upon the
5 source's previous year's emissions and must be calculated by
6 multiplying the applicable annual operation license fee factor
7 times the tons of each regulated air pollutant (except carbon
8 monoxide) allowed to be emitted per hour by specific condition
9 of the source's most recent construction or operation permit,
10 times the annual hours of operation allowed by permit
11 condition; provided, however, that:

12 1. ~~For 1993 and 1994, the license fee factor is \$10.~~
13 ~~For 1995, the license fee factor is \$25. In succeeding years,~~
14 The license fee factor is \$25 or another amount determined by
15 department rule which ensures that the revenue provided by
16 each year's operation license fees is sufficient to cover all
17 reasonable direct and indirect costs of the major stationary
18 source air-operation permit program established by this
19 section. The license fee factor may be increased beyond \$25
20 only if the secretary of the department affirmatively finds
21 that a shortage of revenue for support of the major stationary
22 source air-operation permit program will occur in the absence
23 of a fee factor adjustment. The annual license fee factor may
24 never exceed \$35. ~~The department shall retain a nationally~~
25 ~~recognized accounting firm to conduct a study to determine the~~
26 ~~reasonable revenue requirements necessary to support the~~
27 ~~development and administration of the major source~~
28 ~~air-operation permit program as prescribed in paragraph (b).~~
29 ~~The results of that determination must be considered in~~
30 ~~assessing whether a \$25-per-ton fee factor is sufficient to~~
31 ~~adequately fund the major source air-operation permit program.~~

1 ~~The results of the study must be presented to the Governor,~~
2 ~~the President of the Senate, the Speaker of the House of~~
3 ~~Representatives, and the Public Service Commission, including~~
4 ~~the Public Counsel's Office, by no later than October 31,~~
5 ~~1994.~~

6 2. For any source that operates for fewer hours during
7 the calendar year than allowed under its permit, the annual
8 fee calculation must be based upon actual hours of operation
9 rather than allowable hours if the owner or operator of the
10 source documents the source's actual hours of operation for
11 the calendar year. For any source that has an emissions limit
12 that is dependent upon the type of fuel burned, the annual fee
13 calculation must be based on the emissions limit applicable
14 during actual hours of operation.

15 3. For any source whose allowable emission limitation
16 is specified by permit per units of material input or heat
17 input or product output, the applicable input or production
18 amount may be used to calculate the allowable emissions if the
19 owner or operator of the source documents the actual input or
20 production amount. If the input or production amount is not
21 documented, the maximum allowable input or production amount
22 specified in the permit must be used to calculate the
23 allowable emissions.

24 4. For any new source that does not receive its first
25 operation permit until after the beginning of a calendar year,
26 the annual fee for the year must be reduced pro rata to
27 reflect the period during which the source was not allowed to
28 operate.

29 5. For any source that emits less of any regulated air
30 pollutant than allowed by permit condition, the annual fee
31 calculation for such pollutant must be based upon actual

1 emissions rather than allowable emissions if the owner or
2 operator documents the source's actual emissions by means of
3 data from a department-approved certified continuous emissions
4 monitor or from an emissions monitoring method which has been
5 approved by the United States Environmental Protection Agency
6 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,
7 or from a method approved by the department for purposes of
8 this section.

9 6. The amount of each regulated air pollutant in
10 excess of 4,000 tons per year allowed to be emitted by any
11 source, or group of sources belonging to the same Major Group
12 as described in the Standard Industrial Classification Manual,
13 1987, may not be included in the calculation of the fee. Any
14 source, or group of sources, which does not emit any regulated
15 air pollutant in excess of 4,000 tons per year, is allowed a
16 one-time credit not to exceed 25 percent of the first annual
17 licensing fee for the prorated portion of existing
18 air-operation permit application fees remaining upon
19 commencement of the annual licensing fees.

20 7. If the department has not received the fee by
21 February 15 of the calendar year, the permittee must be sent a
22 written warning of the consequences for failing to pay the fee
23 by March 1. If the fee is not postmarked by March 1 of the
24 calendar year, commencing with calendar year 1997, the
25 department shall impose, in addition to the fee, a penalty of
26 50 percent of the amount of the fee, plus interest on such
27 amount computed in accordance with s. 220.807. The department
28 may not impose such penalty or interest on any amount
29 underpaid, provided that the permittee has timely remitted
30 payment of at least 90 percent of the amount determined to be
31 due and remits full payment within 60 days after receipt of

1 notice of the amount underpaid. The department may waive the
2 collection of underpayment and shall not be required to refund
3 overpayment of the fee, if the amount due is less than 1
4 percent of the fee, up to \$50. The department may revoke any
5 major air pollution source operation permit if it finds that
6 the permitholder has failed to timely pay any required annual
7 operation license fee, penalty, or interest.

8 8. During the years 1993 through 1999, inclusive, no
9 fee shall be required to be paid under this section with
10 respect to emissions from any unit which is an affected unit
11 under 42 U.S.C. s. 7651c.

12 9. Notwithstanding the computational provisions of
13 this subsection, the annual operation license fee for any
14 source subject to this section shall not be less than \$250,
15 except that the annual operation license fee for sources
16 permitted solely through general permits issued under s.
17 403.814 shall not exceed \$50 per year.

18 10. Notwithstanding the provisions of s.
19 403.087(6)(a)4.a., authorizing air pollution construction
20 permit fees, the department may not require such fees for
21 changes or additions to a major source of air pollution
22 permitted pursuant to this section, unless the activity
23 triggers permitting requirements under Title I, Part C or Part
24 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.
25 Costs to issue and administer such permits shall be considered
26 direct and indirect costs of the major stationary source
27 air-operation permit program under s. 403.0873. The department
28 shall, however, require fees pursuant to the provisions of s.
29 403.087(6)(a)4.a. for the construction of a new major source
30 of air pollution that will be subject to the permitting
31 requirements of this section once constructed and for

1 activities triggering permitting requirements under Title I,
2 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
3 7470-7514a.

4

5 Reviser's note.--Amended to delete language
6 that has served its purpose.

7

8 Section 3. Section 403.08851, Florida Statutes, is
9 amended to read:

10 403.08851 Implementation.--The provisions of this act
11 shall be implemented upon approval by the United States
12 Environmental Protection Agency of the National Pollutant
13 Discharge Elimination System program of the state. ~~No state~~
14 ~~permit shall be issued pursuant to the provisions of this act~~
15 ~~before July 1, 1994.~~

16

17 Reviser's note.--Amended to delete obsolete
18 language relating to issuance of state permits
19 prior to July 1, 1994.

20

21 Section 4. Paragraph (b) of subsection (17) of section
22 403.703, Florida Statutes, is amended to read:

23 403.703 Definitions.--As used in this act, unless the
24 context clearly indicates otherwise, the term:

25 (17) "Construction and demolition debris" means
26 discarded materials generally considered to be not
27 water-soluble and nonhazardous in nature, including, but not
28 limited to, steel, glass, brick, concrete, asphalt roofing
29 material, pipe, gypsum wallboard, and lumber, from the
30 construction or destruction of a structure as part of a
31 construction or demolition project or from the renovation of a

1 structure, and including rocks, soils, tree remains, trees,
2 and other vegetative matter that normally results from land
3 clearing or land development operations for a construction
4 project, including such debris from construction of structures
5 at a site remote from the construction or demolition project
6 site. Mixing of construction and demolition debris with other
7 types of solid waste will cause it to be classified as other
8 than construction and demolition debris. The term also
9 includes:

10 (b) Effective January 1, 1997, except as provided in
11 s. 403.707(12)(j)~~403.707(13)(j)~~, unpainted, nontreated wood
12 scraps from facilities manufacturing materials used for
13 construction of structures or their components and unpainted,
14 nontreated wood pallets provided the wood scraps and pallets
15 are separated from other solid waste where generated and the
16 generator of such wood scraps or pallets implements reasonable
17 practices of the generating industry to minimize the
18 commingling of wood scraps or pallets with other solid waste;
19 and

20
21 Reviser's note.--Amended to conform to the
22 redesignation of s. 403.707(13)(j) as s.
23 403.707(12)(j) necessitated by the repeal of
24 former s. 403.707(8) by s. 4, ch. 96-284, Laws
25 of Florida.

26
27 Section 5. Paragraph (f) of subsection (3) of section
28 403.705, Florida Statutes, is amended to read:

29 403.705 State solid waste management program.--

30 (3) The state solid waste management program shall
31 include, at a minimum:

1 (f) Planning guidelines and technical assistance to
2 counties and municipalities to develop and implement programs
3 for alternative disposal or processing or recycling of the
4 solid wastes prohibited from disposal in landfills under s.
5 403.708(13)~~403.708(15)~~and for special wastes.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of s. 403.708(15) as s.
9 403.708(13) necessitated by the deletion of
10 former subsection (10) by s. 18, ch. 93-207,
11 Laws of Florida, and the further redesignation
12 of subunits necessitated by the deletion of
13 former subsection (3) by s. 1, ch. 97-23, Laws
14 of Florida.

15
16 Section 6. Subsection (1) and paragraphs (a) and (b)
17 of subsection (4) of section 403.706, Florida Statutes, 1998
18 Supplement, are amended to read:

19 403.706 Local government solid waste
20 responsibilities.--

21 (1) The governing body of a county has the
22 responsibility and power to provide for the operation of solid
23 waste disposal facilities to meet the needs of all
24 incorporated and unincorporated areas of the county. Unless
25 otherwise approved by an interlocal agreement or special act,
26 municipalities may not operate solid waste disposal facilities
27 unless a municipality demonstrates by a preponderance of the
28 evidence that the use of a county designated facility, when
29 compared to alternatives proposed by the municipality, places
30 a significantly higher and disproportionate financial burden
31 on the citizens of the municipality when compared to the

1 financial burden placed on persons residing within the county
2 but outside of the municipality. However, a municipality may
3 construct and operate a resource recovery facility and related
4 onsite solid waste disposal facilities without an interlocal
5 agreement with the county if the municipality can demonstrate
6 by a preponderance of the evidence that the operation of such
7 facility will not significantly impair financial commitments
8 made by the county with respect to solid waste management
9 services and facilities or result in significantly increased
10 solid waste management costs to the remaining persons residing
11 within the county but not served by the municipality's
12 facility. This section shall not prevent a municipality from
13 continuing to operate or use an existing disposal facility
14 permitted on or prior to October 1, 1988. Any municipality
15 which establishes a solid waste disposal facility under this
16 subsection and subsequently abandons such facility shall be
17 responsible for the payment of any capital expansion necessary
18 to accommodate the municipality's solid waste for the
19 remaining projected useful life of the county disposal
20 facility. Pursuant to this section and notwithstanding any
21 other provision of this chapter, counties shall have the power
22 and authority to adopt ordinances governing the disposal of
23 solid waste generated outside of the county at the county's
24 solid waste disposal facility. In accordance with this
25 section, municipalities are responsible for collecting and
26 transporting solid waste from their jurisdictions to a solid
27 waste disposal facility operated by a county or operated under
28 a contract with a county. Counties may charge reasonable fees
29 for the handling and disposal of solid waste at their
30 facilities. The fees charged to municipalities at a solid
31 waste management facility specified by the county shall not be

1 greater than the fees charged to other users of the facility
2 except as provided in s. 403.7049(5)~~403.7049(4)~~. Solid waste
3 management fees collected on a countywide basis shall be used
4 to fund solid waste management services provided countywide.

5 (4)(a) A county's solid waste management and recycling
6 programs shall be designed to provide for sufficient reduction
7 of the amount of solid waste generated within the county and
8 the municipalities within its boundaries in order to meet
9 goals for the reduction of municipal solid waste prior to the
10 final disposal or the incineration of such waste at a solid
11 waste disposal facility. ~~The goals shall provide, at a~~
12 ~~minimum, that the amount of municipal solid waste that would~~
13 ~~be disposed of within the county and the municipalities within~~
14 ~~its boundaries is reduced by at least 30 percent by the end of~~
15 ~~1994.~~In determining whether the municipal solid waste
16 reduction goal established by this subsection has been
17 achieved, no more than one-half of the goal may be met with
18 yard trash, white goods, construction and demolition debris,
19 and tires that are removed from the total amount of municipal
20 solid waste. However, if a county that is a special district
21 created by chapter 67-764, Laws of Florida, demonstrates that
22 yard trash, construction and demolition debris, white goods,
23 and waste tires comprise more than 50 percent of the municipal
24 solid waste generated in the county and municipalities within
25 its boundaries, the county may meet the reduction goal
26 established by this subsection by reducing the Class I
27 municipal solid waste generated in the county and
28 municipalities within its boundaries at a rate equal to the
29 average rate Class I municipal solid waste is reduced in the
30 20 most populous counties, as determined by the department for
31 the previous reporting period. As used in this subsection,

1 "Class I municipal solid waste" means municipal solid waste
2 other than yard trash, construction and demolition debris,
3 white goods, and waste tires.

4 (b) Notwithstanding the limitation on the waste
5 reduction goal in paragraph (a), a county may receive credit
6 for one-half of the goal for waste reduction from one or a
7 combination of the following:

8 1. The use of pelletized paper waste as a supplemental
9 fuel in permitted boilers other than waste-to-energy
10 facilities.

11 2. The use of yard trash, or other clean wood waste or
12 paper waste, in innovative programs including, but not limited
13 to, programs that produce alternative clean-burning fuels such
14 as ethanol or that provide for the conversion of yard trash or
15 other clean wood waste or paper waste to clean-burning fuel
16 for the production of energy for use at facilities other than
17 a waste-to-energy facility as defined in s. 403.7061 ~~403.7895~~.
18 The provisions of this subparagraph only apply if a county can
19 demonstrate that:

20 a. The county has implemented a yard trash mulching or
21 composting program, and

22 b. As part of the program, compost and mulch made from
23 yard trash is available to the general public and in use at
24 county-owned or maintained and municipally owned or maintained
25 facilities in the county and state agencies operating in the
26 county as required by this section.

27
28 Reviser's note.--Subsection (1) is amended to
29 conform to the redesignation of s. 403.7049(4)
30 as s. 403.7049(5) necessitated by the addition
31 of a new subsection (4) by s. 13, ch. 93-207,

1 Laws of Florida. Paragraph (4)(a) is amended
2 to delete obsolete language relating to goals
3 established for the reduction of the amount
4 municipal solid waste disposed of within a
5 county and the municipalities within the county
6 by the end of 1994. Paragraph (4)(b) is
7 amended to correct an apparent error and
8 facilitate correct interpretation. The
9 reference to s. 403.7061 was originally cited
10 as "section 57 of this act" by s. 15 of C.S.
11 for H.B. 461, 1993, which became ch. 93-207.
12 Section 57 became s. 403.7895. Section
13 403.7061 was in s. 57 of the bill as it
14 appeared in a House amendment; a section of
15 that amendment was subsequently deleted without
16 updating the reference to conform.

17
18 Section 7. Subsections (3), (4), (5), and (6) of
19 section 403.708, Florida Statutes, are amended to read:

20 403.708 Prohibition; penalty.--

21 (3) For purposes of subsections (2), (9), and (10)
22 ~~(3), (10), and (11)~~:

23 (a) "Degradable," with respect to any material, means
24 that such material, after being discarded, is capable of
25 decomposing to components other than heavy metals or other
26 toxic substances, after exposure to bacteria, light, or
27 outdoor elements.

28 (b) "Beverage" means soda water, carbonated natural or
29 mineral water, or other nonalcoholic carbonated drinks; soft
30 drinks, whether or not carbonated; beer, ale, or other malt
31

1 drink of whatever alcoholic content; or a mixed wine drink or
2 a mixed spirit drink.

3 (c) "Beverage container" means an airtight container
4 which at the time of sale contains 1 gallon or less of a
5 beverage, or the metric equivalent of 1 gallon or less, and
6 which is composed of metal, plastic, or glass or a combination
7 thereof.

8 (4) The Division of Alcoholic Beverages and Tobacco of
9 the Department of Business and Professional Regulation may
10 impose a fine of not more than \$100 on any person currently
11 licensed pursuant to s. 561.14 for each violation of the
12 provisions of subsection (2) ~~or subsection (3)~~. If the
13 violation is of a continuing nature, each day during which
14 such violation occurs shall constitute a separate and distinct
15 offense and shall be subject to a separate fine.

16 (5) The Department of Agriculture and Consumer
17 Services may impose a fine of not more than \$100 on any person
18 not currently licensed pursuant to s. 561.14 for each
19 violation of the provisions of subsection (2) ~~or subsection~~
20 ~~(3)~~. If the violation is of a continuing nature, each day
21 during which such violation occurs shall constitute a separate
22 and distinct offense and shall be subject to a separate fine.

23 (6) Fifty percent of each fine collected pursuant to
24 subsections (4) and (5) ~~(5)~~ and ~~(6)~~ shall be deposited into
25 the Solid Waste Management Trust Fund. The balance of fines
26 collected pursuant to subsection (4) ~~(5)~~ shall be deposited
27 into the Alcoholic Beverage and Tobacco Trust Fund for the use
28 of the division for inspection and enforcement of the
29 provisions of this section. The balance of fines collected
30 pursuant to subsection (5) ~~(6)~~ shall be deposited into the
31 General Inspection Trust Fund for the use of the Department of

1 Agriculture and Consumer Services for inspection and
2 enforcement of the provisions of this section.

3
4 Reviser's note.--Subsection (3) is amended to
5 conform to the repeal of former subsection (3)
6 of s. 403.708 by s. 1, ch. 97-23, Laws of
7 Florida, and to conform to the redesignation of
8 subsections (10) and (11) as subsections (9)
9 and (10) necessitated by the repeal of former
10 subsection (3). Subsections (4) and (5) are
11 amended to conform to the repeal of former
12 subsection (3). Subsection (6) is amended to
13 conform to the redesignation of subsections (5)
14 and (6) as subsections (4) and (5),
15 respectively, to conform to the repeal of
16 former subsection (3).

17
18 Section 8. Section 403.715, Florida Statutes, is
19 amended to read:

20 403.715 Certification of resource recovery or
21 recycling equipment.--For purposes of implementing the tax
22 exemption ~~exemptions~~ provided by s. 212.08(7)(p) ~~212.08(5)(e)~~
23 ~~and (7)(p)~~, the department shall establish a system for the
24 examination and certification of resource recovery or
25 recycling equipment. Application for certification of
26 equipment shall be submitted to the department on forms
27 prescribed by it which include such pertinent information as
28 the department may require. The department may require
29 appropriate certification by a certified public accountant or
30 professional engineer that the equipment for which these
31 exemptions are being sought complies with the exemption

1 criteria ~~criteria~~ set forth in s. 212.08(7)(p)~~212.08(5)(e)~~
2 ~~and (7)(p)~~. Within 30 days after receipt of an application by
3 the department, a representative of the department may inspect
4 the equipment. Within 30 days after such inspection, the
5 department shall issue a written decision granting or denying
6 certification.

7

8 Reviser's note.--Amended to conform to the
9 repeal of former s. 212.08(5)(e) by s. 10, ch.
10 92-173, Laws of Florida, and to improve
11 clarity.

12

13 Section 9. Subsection (1) of section 403.718, Florida
14 Statutes, is amended to read:

15 403.718 Waste tire fees.--

16 (1) For the privilege of engaging in business, a fee
17 for each new motor vehicle tire sold at retail is imposed on
18 any person engaging in the business of making retail sales of
19 new motor vehicle tires within this state. ~~For the period~~
20 ~~January 1, 1989, through December 31, 1989, such fee shall be~~
21 ~~imposed at the rate of 50 cents for each new tire sold.~~ The
22 fee imposed under this section shall be stated separately on
23 the invoice to the purchaser. Beginning January 1, 1990, and
24 thereafter, such fee shall be imposed at the rate of \$1 for
25 each new tire sold. The fee imposed shall be paid to the
26 Department of Revenue on or before the 20th day of the month
27 following the month in which the sale occurs. For purposes of
28 this section, a motor vehicle tire sold at retail includes
29 such tires when sold as a component part of a motor vehicle.
30 The terms "sold at retail" and "retail sales" do not include
31 the sale of new motor vehicle tires to a person solely for the

1 purpose of resale provided the subsequent retail sale in this
2 state is subject to the fee. This fee does not apply to
3 recapped tires. Such fee shall be subject to all applicable
4 taxes imposed in chapter 212.

5
6 Reviser's note.--Amended to delete language
7 that has served its purpose. The time period
8 for imposition of the fee at the rate of 50
9 cents for each tire sold ended December 1,
10 1989.

11
12 Section 10. Subsection (3) of section 403.7199,
13 Florida Statutes, is amended to read:

14 403.7199 Florida Packaging Council.--

15 (3) On December 1, 1993, and annually thereafter, the
16 council shall issue a summary to the Governor, the President
17 of the Senate, and the Speaker of the House of
18 Representatives, which summary must contain reports on the
19 aluminum, steel, or other metals, paper, glass, plastic, and
20 plastic-coated paper packaging materials. The summary shall
21 include information for each type of plastic resin identified
22 in s. 403.708(8)~~s. 403.708(9)~~, and may contain information
23 for subclassifications of other packaging materials. The
24 reports must attempt to provide specific recommendations and
25 proposed legislation to develop a comprehensive package
26 reduction and market development program, and must contain the
27 following information for each type of packaging material:

28 (a) A comparison of the recovery rate in this state to
29 the national recovery rate, and an explanation of any
30 variance.

31

1 (b) A comparison of the recycled content of packaging
2 in this state to the national recycled content of packaging,
3 and an explanation of any variance.

4 (c) A comparison of the source reduction of packaging
5 manufactured from that material in this state to the source
6 reduction of packages manufactured nationally, and an
7 explanation of any variance.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 403.708(9) as s. 403.708(8)
11 necessitated by the repeal of former s.
12 403.708(3) by s. 1, ch. 97-23, Laws of Florida.

13
14 Section 11. Subsection (4) of section 403.726, Florida
15 Statutes, is amended to read:

16 403.726 Abatement of imminent hazard caused by
17 hazardous substance.--

18 (4) The department may implement the provisions of
19 chapter 386 ~~and ss. 387.08 and 387.10~~ in its own name whenever
20 a hazardous substance is being generated, transported,
21 disposed of, stored, or treated in violation of those
22 provisions of law.

23
24 Reviser's note.--Amended to conform to the
25 repeal of ss. 387.08 and 387.10 by s. 125, ch.
26 97-237, Laws of Florida.

27
28 Section 12. Subsection (1) of section 403.788, Florida
29 Statutes, is amended to read:

30 403.788 Final disposition of application.--

31

1 (1) For the purposes of issuing a final order, the
2 board shall serve as the agency head. Within 45 days after
3 receipt of the administrative law judge's recommended order,
4 the board shall issue a final order as provided by s.
5 120.57(1)(1)~~120.57(1)(j)~~, approving the application in whole,
6 approving the application with such modifications or
7 conditions as the board deems appropriate, or denying the
8 issuance of a certification and stating the reasons for
9 issuance or denial.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of s. 120.57(1)(j) as s.
13 120.57(1)(1) by s. 5, ch. 98-200, Laws of
14 Florida.

15
16 Section 13. Subsection (4) of section 403.9415,
17 Florida Statutes, is amended to read:

18 403.9415 Final disposition of application.--

19 (4) In determining whether an application should be
20 approved in whole, approved with modifications or conditions,
21 or denied, the board shall consider whether, and the extent to
22 which, the location of the natural gas transmission pipeline
23 corridor and the construction and maintenance of the natural
24 gas transmission pipeline will effect a reasonable balance
25 between the need for the natural gas transmission pipeline as
26 a means of providing natural gas energy and the impact upon
27 the public and the environment resulting from the location of
28 the natural gas transmission pipeline corridor and the
29 construction, operation, and maintenance of the natural gas
30 transmission pipeline. In effecting this balance, the board
31 shall consider, based on all relevant, competent and

1 substantial evidence in the record, subject to s. 120.57(1)(1)
2 ~~120.57(1)(j)~~, whether and the extent to which the project
3 will:
4 (a) Ensure natural gas delivery reliability and
5 integrity;
6 (b) Meet the natural gas energy needs of the state in
7 an orderly and timely fashion;
8 (c) Comply with the nonprocedural requirements of
9 agencies;
10 (d) Adversely affect historical sites and the natural
11 environment;
12 (e) Adversely affect the health, safety, and welfare
13 of the residents of the affected local government
14 jurisdictions;
15 (f) Be consistent with applicable local government
16 comprehensive plans and land development regulations; and
17 (g) Avoid densely populated areas to the maximum
18 extent feasible. If densely populated areas cannot be
19 avoided, locate, to the maximum extent feasible, within
20 existing utility corridors or rights-of-way.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 120.57(1)(j) as s.
24 120.57(1)(1) by s. 5, ch. 98-200, Laws of
25 Florida.

26
27 Section 14. Paragraph (c) of subsection (2), paragraph
28 (f) of subsection (3), and subsections (4) and (5) of section
29 404.056, Florida Statutes, 1998 Supplement, are amended to
30 read:
31

1 404.056 Environmental radiation standards and
2 programs; radon protection.--

3 (2) FLORIDA COORDINATING COUNCIL ON RADON
4 PROTECTION.--

5 (c) Organization.--The council shall be chaired by the
6 Secretary of Community Affairs or his or her authorized
7 designee. A majority of the membership of the council shall
8 constitute a quorum for the conduct of business. The chair
9 shall be responsible for recording and distributing to the
10 members a summary of the proceedings of all council meetings.
11 The council shall meet within 90 days after the effective date
12 of this act for the purpose of organizing, and at least
13 semiannually or more frequently as needed. Members of the
14 council shall not receive compensation for their services, but
15 shall be entitled to reimbursement for necessary travel
16 expenses, pursuant to s. 112.061, from the funds derived from
17 surcharges collected pursuant to s. 553.721 ~~subsection (4)~~.
18 The establishment of the council shall not impede the
19 initiation of building code research and development.

20 (3) CERTIFICATION.--

21 (f) The department is authorized to charge and collect
22 nonrefundable fees for the certification and annual
23 recertification of persons who perform radon gas or radon
24 progeny measurements or who perform mitigation of buildings
25 for radon gas or radon progeny. The amount of the initial
26 application fee and certification shall be not less than \$200
27 or more than \$900. The amount of the annual recertification
28 fee shall be not less than \$200 or more than \$900. Effective
29 July 1, 1988, the fee amounts shall be the minimum fee
30 prescribed in this paragraph, and such fee amounts shall
31 remain in effect until the effective date of a fee schedule

1 promulgated by rule by the department. The fees collected
2 shall be deposited in the Radiation Protection Trust Fund and
3 shall be used only to implement the provisions of this
4 section. The surcharge established pursuant to s. 553.721
5 ~~subsection (3)~~ may be used to supplement the fees established
6 in this paragraph in carrying out the provisions of this
7 subsection.

8 (4) PUBLIC INFORMATION.--The department shall initiate
9 and administer a program designed to educate and inform the
10 public concerning radon gas and radon progeny, which program
11 shall include, but not be limited to, the origin and health
12 effects of radon, how to measure radon, and construction and
13 mitigation techniques to reduce exposure to radon. The
14 surcharge established pursuant to s. 553.721 ~~subsection (4)~~
15 may be used to supplement the fees established in paragraph
16 ~~(3)(f)(5)(e)~~ in carrying out the provisions of this
17 subsection.

18 (5) MANDATORY TESTING.--All public and private school
19 buildings or school sites housing students in kindergarten
20 through grade 12; all state-owned, state-operated,
21 state-regulated, or state-licensed 24-hour care facilities;
22 and all state-licensed day care centers for children or minors
23 shall be measured to determine the level of indoor radon,
24 using measurement procedures established by the department.
25 Initial measurements shall be completed and reported to the
26 department by July 1, 1990, and repeated measurements shall be
27 performed and reported to the department at 5-year intervals.
28 Test results, prior to the effective date of this act, may be
29 accepted by the department as long as the tests conducted meet
30 the standards for testing promulgated by the department, and
31 the school or care facility certifies this in writing to the

1 department. ~~The provisions of paragraph (3)(c) as to~~
2 ~~confidentiality shall not apply to this subsection.~~ No funds
3 collected pursuant to s. 553.721 ~~subsection (4)~~ shall be used
4 to carry out the provisions of this subsection.

5
6 Reviser's note.--Paragraph (2)(c), subsection
7 (4), and subsection (5) are amended to conform
8 to the redesignation of subsection (4) of s.
9 404.056 as subsection (3) necessitated by the
10 repeal of former subsection (2) by s. 28, ch.
11 92-173, Laws of Florida, and the subsequent
12 transfer of subsection (3) to s. 553.721 by s.
13 1, ch. 95-339, Laws of Florida. Paragraph
14 (3)(f) is amended to conform to the transfer of
15 subsection (3) to s. 553.721 by s. 1, ch.
16 95-339. Subsection (4) is also amended to
17 conform to the redesignation of paragraph
18 (5)(e) as paragraph (3)(f) necessitated by the
19 repeal of former subsection (2) by s. 28, ch.
20 92-173, the subsequent transfer of former
21 subsection (3) to s. 553.721 by s. 1, ch.
22 95-339, and the insertion of a new paragraph
23 (3)(e) in s. 404.056 by s. 57, ch. 97-237.
24 Subsection (5) is also amended to delete
25 obsolete language referencing confidentiality
26 no longer in the cited provision.

27
28 Section 15. Paragraph (d) of subsection (5) and
29 subsection (9) of section 408.05, Florida Statutes, 1998
30 Supplement, are amended to read:

31 408.05 State Center for Health Statistics.--

1 (5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.--The
2 center shall provide for the widespread dissemination of data
3 which it collects and analyzes. The center shall have the
4 following publication, reporting, and special study functions:

5 ~~(d) The agency shall prepare and furnish a status~~
6 ~~report on the establishment of the center by April 1, 1993, to~~
7 ~~the Governor, the President of the Senate, and the Speaker of~~
8 ~~the House of Representatives. The report shall include an~~
9 ~~inventory of health data available in this state,~~
10 ~~implementation plans and progress made in implementing the~~
11 ~~functions assigned to the center, and recommendations for~~
12 ~~further legislation or resources needed to fulfill legislative~~
13 ~~intent with regard to the center, particularly with regard to~~
14 ~~establishing a statewide comprehensive health information~~
15 ~~system.~~The center shall thereafter be responsible for
16 publishing and disseminating an annual report on the center's
17 activities.

18 (9) Nothing in this section shall limit, restrict,
19 affect, or control the collection, analysis, release, or
20 publication of data ~~pursuant to the Health Care Cost~~
21 ~~Containment Act of 1988 or by any state agency pursuant to its~~
22 statutory authority, duties, or responsibilities.

23
24 Reviser's note.--Paragraph (5)(d) is amended to
25 delete an obsolete provision. Subsection (9)
26 is amended to conform to the repeal of statutes
27 constituting the Health Care Cost Containment
28 Act of 1988 by s. 82, ch. 92-33, Laws of
29 Florida.

1 Section 16. Subsection (9) of section 408.061, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 408.061 Data collection; uniform systems of financial
4 reporting; information relating to physician charges;
5 confidentiality of patient records; immunity.--

6 (9) The identity of any health care provider, health
7 care facility, or health insurer who submits any data which is
8 proprietary business information to the agency pursuant to the
9 provisions of this section shall remain confidential and
10 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
11 I of the State Constitution. As used in this section,
12 "proprietary business information" shall include, but not be
13 limited to, information relating to specific provider contract
14 reimbursement information; information relating to security
15 measures, systems, or procedures; and information concerning
16 bids or other contractual data, the disclosure of which would
17 impair efforts to contract for goods or services on favorable
18 terms or would injure the affected entity's ability to compete
19 in the marketplace. Notwithstanding the provisions of this
20 subsection, any information obtained or generated pursuant to
21 the provisions of former s. 407.61, either by the former
22 Health Care Cost Containment Board or by the Agency for Health
23 Care Administration upon transfer to that agency of the duties
24 and functions of the former Health Care Cost Containment
25 Board, is not confidential and exempt from the provisions of
26 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
27 Such proprietary business information may be used in published
28 analyses and reports or otherwise made available for public
29 disclosure in such manner as to preserve the confidentiality
30 of the identity of the provider. This exemption shall not
31 limit the use of any information used in conjunction with

1 investigation or enforcement purposes under the provisions of
2 s. 455.621.

3

4 Reviser's note.--Subsection (9) is amended to
5 improve clarity and facilitate correct
6 interpretation. Section 407.61 was repealed by
7 s. 19, ch. 98-89, Laws of Florida. The Health
8 Care Cost Containment Board was abolished by
9 ss. 82 and 83, ch. 92-33, Laws of Florida.

10

11 Section 17. Paragraph (g) of subsection (1) of section
12 408.062, Florida Statutes, 1998 Supplement, is amended to
13 read:

14 408.062 Research, analyses, studies, and reports.--

15 (1) The agency shall have the authority to conduct
16 research, analyses, and studies relating to health care costs
17 and access to and quality of health care services as access
18 and quality are affected by changes in health care costs.
19 Such research, analyses, and studies shall include, but not be
20 limited to, research and analysis relating to:

21 (g) The development of an alternative uniform system
22 of financial reporting of gross revenues per adjusted
23 admission, based on the American Institute of Certified Public
24 Accounts' Hospital Audit and Accounting Guide, which also
25 measures the services provided by a hospital to charity,
26 medically indigent, and other underinsured patients.

27 ~~Recommendations for the development of an alternative uniform~~
28 ~~system of financial reporting shall be submitted to the~~
29 ~~Legislature by July 1, 1993.~~

30

31

1 Reviser's note.--Amended to delete language
2 that has served its purpose.

3
4 Section 18. Subsection (2) of section 408.08, Florida
5 Statutes, 1998 Supplement, is amended to read:

6 408.08 Inspections and audits; violations; penalties;
7 fines; enforcement.--

8 (2) Any health care facility that refuses to file a
9 report, fails to timely file a report, files a false report,
10 or files an incomplete report and upon notification fails to
11 timely file a complete report required under s. 408.061; that
12 violates this section, s. 408.061, or s. 408.20, or rule
13 adopted thereunder; or that fails to provide documents or
14 records requested by the agency under this chapter shall be
15 punished by a fine not exceeding \$1,000 per day for each day
16 in violation, to be imposed and collected by the agency.
17 Pursuant to rules adopted by the agency, the agency may, upon
18 a showing of good cause, grant a one-time extension of any
19 deadline for a health care facility to timely file a report as
20 required by this section, s. 408.061, ~~s. 408.072~~, or s.
21 408.20.

22
23 Reviser's note.--Amended to conform to the
24 repeal of s. 408.072 by s. 19, ch. 98-89, Laws
25 of Florida.

26
27 Section 19. Subsection (2) of section 408.7042,
28 Florida Statutes, is amended to read:

29 408.7042 Purchasing health care for state employees
30 and Medicaid recipients through community health purchasing
31 alliances.--

1 (2) When purchasing health care for Medicaid,
2 MedAccess, and Medicaid buy-in recipients through community
3 health purchasing alliances, the agency shall ensure that the
4 claims experiences, rates, and charges for such recipients are
5 not commingled with those of other alliance members. However,
6 the claims experiences, rates, and charges for Medicaid
7 recipients, participants in the MedAccess program, and
8 participants in the Medicaid buy-in program shall not be
9 commingled with those of other alliance members. Prior to
10 providing medical benefits to Medicaid recipients through a
11 community health purchasing alliance, the agency shall seek
12 consultation with the Legislature pursuant to the provisions
13 of s. 216.177(2). The state shall offer to all Medicaid,
14 MedAccess, and Medicaid buy-in recipients the opportunity to
15 select health plans from all accountable health partnerships,
16 including providers that have a Medicaid managed-care contract
17 or MediPass, that has been approved by the United States
18 Health Care Financing Administration, or from physicians and
19 facilities that participate in MediPass, in the district in
20 which the recipient lives. For purposes of the purchase of
21 health care for such recipients, current Medicaid ~~Medicaid~~
22 providers, including providers participating in the MediPass
23 program and entities with Medicaid managed-care contracts are
24 accountable health partnerships. An entity that provides
25 managed-care for Medicaid recipients pursuant to a contract
26 must obtain a certificate of authority from the agency.
27 Purchase of health care for Medicaid, MedAccess, and Medicaid
28 buy-in recipients by the agency through community health
29 purchasing alliances may not result in a reduction of benefits
30 or any increased costs for such recipients without prior
31 legislative approval.

1 Reviser's note.--Amended to provide consistent
2 terminology and to conform to the context.

3
4 Section 20. Paragraph (j) of subsection (2) of section
5 408.904, Florida Statutes, is amended to read:

6 408.904 Benefits.--

7 (2) Covered health services include:

8 (j) Outpatient mental health visits and substance
9 abuse treatment. Outpatient mental health visits provided by
10 community mental health centers as provided in chapter 394 and
11 by a mental health therapist licensed under chapter 490 or
12 chapter 491 and substance abuse treatment provided by a center
13 licensed under ~~chapter 396~~ or chapter 397, up to a total of
14 five visits per calendar year per member.

15
16 Reviser's note.--Amended to conform to the
17 repeal of chapter 396 by s. 48, ch. 93-39, Laws
18 of Florida.

19
20 Section 21. Paragraph (c) of subsection (3) of section
21 409.145, Florida Statutes, 1998 Supplement, is amended to
22 read:

23 409.145 Care of children.--

24 (3)

25 (c)1. The department is authorized to provide the
26 services of the children's foster care program to an
27 individual who is enrolled full-time in a postsecondary
28 vocational-technical education program, full-time in a
29 community college program leading toward a vocational degree
30 or an associate degree, or full-time in a university or
31 college, if the following requirements are met:

1 a. The individual was committed to the legal custody
2 of the department for placement in foster care as a dependent
3 child;

4 b. The permanency planning goal pursuant to part VII
5 ~~III~~ of chapter 39 for the individual is long-term foster care
6 or independent living;

7 c. The individual has been accepted for admittance to
8 a postsecondary vocational-technical education program, to a
9 community college, or to a university or college;

10 d. All other resources have been thoroughly explored,
11 and it can be clearly established that there are no
12 alternative resources for placement; and

13 e. A written service agreement which specifies
14 responsibilities and expectations for all parties involved has
15 been signed by a representative of the department, the
16 individual, and the foster parent or licensed child-caring
17 agency providing the placement resources, if the individual is
18 to continue living with the foster parent or placement
19 resource while attending a postsecondary vocational-technical
20 education program, community college, or university or
21 college. An individual who is to be continued in or placed in
22 independent living shall continue to receive services
23 according to the independent living program and agreement of
24 responsibilities signed by the department and the individual.

25 2. Any provision of this chapter or any other law to
26 the contrary notwithstanding, when an individual who meets the
27 requirements of subparagraph 1. is in attendance at a
28 community college, college, or university, the department may
29 make foster care payments to such community college, college,
30 or university in lieu of payment to the foster parents or
31 individual, for the purpose of room and board, if not

1 otherwise provided, but such payments shall not exceed the
2 amount that would have been paid to the foster parents had the
3 individual remained in the foster home.

4 3. The services of the foster care program shall
5 continue only for an individual under this paragraph who is a
6 full-time student but shall continue for not more than:

7 a. Two consecutive years for an individual in a
8 postsecondary vocational-technical education program;

9 b. Two consecutive years or four semesters for an
10 individual enrolled in a community college unless the
11 individual is participating in college preparatory instruction
12 or is requiring additional time to complete the college-level
13 communication and computation skills testing program, in which
14 case such services shall continue for not more than 3
15 consecutive years or six semesters; or

16 c. Four consecutive years, 8 semesters, or 12 quarters
17 for an individual enrolled in a college or university unless
18 the individual is participating in college-preparatory
19 instruction or is requiring additional time to complete the
20 college-level communication and computation skills testing
21 programs, in which case such services shall continue for not
22 more than 5 consecutive years, 10 semesters, or 15 quarters.

23 4.a. As a condition for continued foster care
24 services, an individual shall have earned a grade point
25 average of at least 2.0 on a 4.0 scale for the previous term,
26 maintain at least an overall grade point average of 2.0 for
27 only the previous term, and be eligible for continued
28 enrollment in the institution. If the postsecondary
29 vocational-technical school program does not operate on a
30 grade point average as described above, then the individual
31

1 shall maintain a standing equivalent to the 2.0 grade point
2 average.

3 b. Services shall be terminated upon completion of,
4 graduation from, or withdrawal or permanent expulsion from a
5 postsecondary vocational-technical education program,
6 community college, or university or college. Services shall
7 also be terminated for failure to maintain the required level
8 of academic achievement.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of parts necessitated by the
12 repeal or transfer of sections by ch. 98-403,
13 Laws of Florida. Provisions relating to case
14 planning are in part VII.

15
16 Section 22. Section 409.1685, Florida Statutes, 1998
17 Supplement, is amended to read:

18 409.1685 Children in foster care; annual report to
19 Legislature.--The Department of Children and Family Services
20 shall submit a written report to the substantive committees of
21 the Legislature concerning the status of children in foster
22 care and concerning the judicial review mandated by part VIII
23 ~~III~~ of chapter 39. This report shall be submitted by March 1
24 of each year and shall include the following information for
25 the prior calendar year:

26 (1) The number of 6-month and annual judicial reviews
27 completed during that period.

28 (2) The number of children in foster care returned to
29 a parent, guardian, or relative as a result of a 6-month or
30 annual judicial review hearing during that period.

31

1 (3) The number of termination of parental rights
2 proceedings instituted during that period which shall include:

3 (a) The number of termination of parental rights
4 proceedings initiated pursuant to s. 39.703 ~~part III of~~
5 ~~chapter 39~~; and

6 (b) The total number of terminations of parental
7 rights ordered.

8 (4) The number of foster care children placed for
9 adoption during that period.

10
11 Reviser's note.--Amended to conform to the
12 repeal or transfer of sections by ch. 98-403,
13 Laws of Florida. Provisions relating to
14 judicial review are located in part VIII of
15 chapter 39, and provisions relating to
16 initiation of termination of parental rights
17 are located at s. 39.703.

18
19 Section 23. Section 409.1757, Florida Statutes, is
20 amended to read:

21 409.1757 Persons not required to be refingerprinted or
22 rescreened.--Any provision of law to the contrary
23 notwithstanding, human resource personnel who have been
24 fingerprinted or screened pursuant to chapters 393, 394, 397,
25 402, and 409, and teachers who have been fingerprinted
26 pursuant to chapter 231, who have not been unemployed for more
27 than 90 days thereafter, and who under the penalty of perjury
28 attest to the completion of such fingerprinting or screening
29 and to compliance with the provisions of this section and the
30 standards for good moral character as contained in such
31 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6),

1 397.451, 402.305(2)~~402.305(1)~~, and 409.175(4), shall not be
2 required to be refingerprinted or rescreened in order to
3 comply with any caretaker screening or fingerprinting
4 requirements.

5

6 Reviser's note.--Amended to conform to the
7 redesignation of s. 402.305(1) as s. 402.305(2)
8 by s. 2, ch. 91-300, Laws of Florida.

9

10 Section 24. Section 409.2355, Florida Statutes, is
11 amended to read:

12 409.2355 Programs for prosecution of males over age 21
13 who commit certain offenses involving girls under age
14 16.--Subject to specific appropriated funds, the Department of
15 Children and Family Services is directed to establish a
16 program by which local communities, through the state
17 attorney's office of each judicial circuit, may apply for
18 grants to fund innovative programs for the prosecution of
19 males over the age of 21 who victimize girls under the age of
20 16 in violation of s. 794.011, s. 794.05, s. 800.04, or s.
21 827.04(3)~~827.04(4)~~.

22

23 Reviser's note.--Amended to conform to the
24 redesignation of s. 827.04(4), as enacted by s.
25 2, ch. 96-215, Laws of Florida, as s. 827.04(3)
26 necessitated by the repeal and redesignation of
27 subunits by s. 10, ch. 96-322, Laws of Florida.

28

29 Section 25. Subsection (11) of section 409.2564,
30 Florida Statutes, 1998 Supplement, is amended to read:

31 409.2564 Actions for support.--

1 (11) For the purposes of denial, revocation, or
2 limitation of an individual's United States Passport,
3 consistent with 42 U.S.C. s. 652(k)(1)~~42 U.S.C. s. 452(1)(k)~~,
4 the Title IV-D agency shall have procedures to certify to the
5 Secretary of the United States Department of Health and Human
6 Services, in the format and accompanied by such supporting
7 documentation as the secretary may require, a determination
8 that an individual owes arrearages of child support in an
9 amount exceeding \$5,000. Said procedures shall provide that
10 the individual be given notice of the determination and of the
11 consequence thereof and that the individual shall be given an
12 opportunity to contest the accuracy of the determination.

13

14 Reviser's note.--Amended to improve clarity and
15 facilitate correct interpretation. Section 652
16 references the procedures whereby the Secretary
17 of Health and Human Services certifies child
18 support arrearage information to the Secretary
19 of State to be considered for purposes of
20 passport denial, revocation, or limitation.

21

22 Section 26. Subsection (8) of section 409.2576,
23 Florida Statutes, 1998 Supplement, is amended to read:

24 409.2576 State Directory of New Hires; definitions;
25 furnishing reports and data; matches to state registry;
26 service of deduction notices; national registry; disclosure of
27 information; rulemaking authority.--

28 (8) PROVIDING INFORMATION TO NATIONAL DIRECTORY.--Not
29 later than October 1, 1997, the State Directory of New Hires
30 must furnish information regarding newly hired or rehired
31 employees to the National Directory of New Hires for matching

1 with the records of other state case registries within 3
2 business days of entering such information from the employer
3 into the State Directory of New Hires. The State Directory of
4 New Hires shall enter into an agreement with the Florida
5 Department of Labor and Employment Security for the quarterly
6 reporting to the National Directory of New Hires information
7 on wages and unemployment compensation taken from the
8 quarterly report to the Secretary of Labor, now required by
9 Title III of the Social Security Act, except that no report
10 shall be filed with respect to an employee of a state or local
11 agency performing intelligence or counterintelligence
12 functions, if the head of such agency has determined that
13 filing such a report could endanger the safety of the employee
14 or compromise an ongoing investigation or intelligence
15 ~~intelligency~~ mission.

16

17 Reviser's note.--Amended to improve clarity and
18 facilitate correct interpretation.

19

20 Section 27. Section 409.821, Florida Statutes, 1998
21 Supplement, is amended to read:

22 409.821 Sections 409.810-409.820; confidential
23 information.--Notwithstanding any other law to the contrary,
24 any information contained in an application for determination
25 of eligibility for the Florida Kidcare ~~Kids Health~~ program
26 which identifies applicants, including medical information and
27 family financial information, and any information obtained
28 through quality assurance activities and patient satisfaction
29 surveys which identifies program participants, obtained by the
30 Florida Kidcare ~~Kids Health~~ program under ss. 409.810-409.820,
31 is confidential and is exempt from s. 119.07(1) and s. 24(a),

1 Art. I of the State Constitution. Except as otherwise provided
2 by law, program staff or staff or agents affiliated with the
3 program may not release, without the written consent of the
4 applicant or the parent or guardian of the applicant, to any
5 state or federal agency, to any private business or person, or
6 to any other entity, any confidential information received
7 under ss. 409.810-409.820. This section is subject to the Open
8 Government Sunset Review Act of 1995 in accordance with s.
9 119.15, and shall stand repealed on October 2, 2003, unless
10 reviewed and saved from repeal through reenactment by the
11 Legislature.

12

13 Reviser's note.--Amended to conform to the
14 creation of ss. 409.810-409.820, constituting
15 the Florida Kidcare program, by ss. 32-47, ch.
16 98-288, Laws of Florida.

17

18 Section 28. Paragraph (b) of subsection (5) and
19 subsection (8) of section 409.905, Florida Statutes, 1998
20 Supplement, are amended to read:

21 409.905 Mandatory Medicaid services.--The agency may
22 make payments for the following services, which are required
23 of the state by Title XIX of the Social Security Act,
24 furnished by Medicaid providers to recipients who are
25 determined to be eligible on the dates on which the services
26 were provided. Any service under this section shall be
27 provided only when medically necessary and in accordance with
28 state and federal law. Nothing in this section shall be
29 construed to prevent or limit the agency from adjusting fees,
30 reimbursement rates, lengths of stay, number of visits, number
31 of services, or any other adjustments necessary to comply with

1 the availability of moneys and any limitations or directions
2 provided for in the General Appropriations Act or chapter 216.

3 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
4 for all covered services provided for the medical care and
5 treatment of a recipient who is admitted as an inpatient by a
6 licensed physician or dentist to a hospital licensed under
7 part I of chapter 395. However, the agency shall limit the
8 payment for inpatient hospital services for a Medicaid
9 recipient 21 years of age or older to 45 days or the number of
10 days necessary to comply with the General Appropriations Act.

11 (b) A licensed hospital maintained primarily for the
12 care and treatment of patients having mental disorders or
13 mental diseases is not eligible to participate in the hospital
14 inpatient portion of the Medicaid program except as provided
15 in federal law. However, the department shall apply for a
16 waiver, within 9 months after June 5, 1991, designed to
17 provide hospitalization services for mental health reasons to
18 children and adults in the most cost-effective and lowest cost
19 setting possible. Such waiver shall include a request for the
20 opportunity to pay for care in hospitals known under federal
21 law as "institutions for mental disease" or "IMD's." The
22 waiver proposal shall propose no additional aggregate cost to
23 the state or Federal Government, and shall be conducted in
24 Hillsborough County, Highlands County, Hardee County, Manatee
25 County, and Polk County. The waiver proposal may incorporate
26 competitive bidding for hospital services, comprehensive
27 brokering, prepaid capitated arrangements, or other mechanisms
28 deemed by the department to show promise in reducing the cost
29 of acute care and increasing the effectiveness of preventive
30 care. When developing the waiver proposal, the department
31 shall take into account price, quality, accessibility,

1 linkages of the hospital to community services and family
2 support programs, plans of the hospital to ensure the earliest
3 discharge possible, and the comprehensiveness of the mental
4 health and other health care services offered by participating
5 providers. ~~The department is directed to monitor and evaluate~~
6 ~~the implementation of this waiver program if it is granted and~~
7 ~~report to the chairs of the appropriations committees of the~~
8 ~~Senate and the House of Representatives by February 1, 1992.~~

9 (8) NURSING FACILITY SERVICES.--The agency shall pay
10 for 24-hour-a-day nursing and rehabilitative services for a
11 recipient in a nursing facility licensed under part II of
12 chapter 400 or in a rural hospital, as defined in s. 395.602,
13 or in a Medicare certified skilled nursing facility operated
14 by a hospital, as defined by s. 395.002(11)~~395.002(9)~~, that
15 is licensed under part I of chapter 395, and in accordance
16 with provisions set forth in s. 409.908(2)(a), which services
17 are ordered by and provided under the direction of a licensed
18 physician. However, if a nursing facility has been destroyed
19 or otherwise made uninhabitable by natural disaster or other
20 emergency and another nursing facility is not available, the
21 agency must pay for similar services temporarily in a hospital
22 licensed under part I of chapter 395 provided federal funding
23 is approved and available.

24
25 Reviser's note.--Paragraph (5)(b) is amended to
26 delete language that has had its effect.

27 Subsection (8) is amended to conform to the
28 redesignation of s. 395.002(9) as s.

29 395.002(11) by the reviser incident to the
30 compilation of the 1998 Supplement to the
31 Florida Statutes 1997.

1 Section 29. Paragraph (c) of subsection (12) of
2 section 409.908, Florida Statutes, 1998 Supplement, is amended
3 to read:

4 409.908 Reimbursement of Medicaid providers.--Subject
5 to specific appropriations, the agency shall reimburse
6 Medicaid providers, in accordance with state and federal law,
7 according to methodologies set forth in the rules of the
8 agency and in policy manuals and handbooks incorporated by
9 reference therein. These methodologies may include fee
10 schedules, reimbursement methods based on cost reporting,
11 negotiated fees, competitive bidding pursuant to s. 287.057,
12 and other mechanisms the agency considers efficient and
13 effective for purchasing services or goods on behalf of
14 recipients. Payment for Medicaid compensable services made on
15 behalf of Medicaid eligible persons is subject to the
16 availability of moneys and any limitations or directions
17 provided for in the General Appropriations Act or chapter 216.
18 Further, nothing in this section shall be construed to prevent
19 or limit the agency from adjusting fees, reimbursement rates,
20 lengths of stay, number of visits, or number of services, or
21 making any other adjustments necessary to comply with the
22 availability of moneys and any limitations or directions
23 provided for in the General Appropriations Act, provided the
24 adjustment is consistent with legislative intent.

25 (12)

26 (c) The agency shall monitor closely the utilization
27 rate for physician services and identify any trends which may
28 indicate an effort to increase the volume of services to
29 counteract any losses that might result from the new fee
30 schedule. ~~The agency shall prepare a report to the Legislature~~

31

1 ~~on the overall effect of the resource-based relative value~~
2 ~~scale fee schedule by December 31, 1996.~~

3
4 Reviser's note.--Amended to delete language
5 that has served its purpose. The report was
6 due December 31, 1996.

7
8 Section 30. Subsection (17) of section 409.910,
9 Florida Statutes, 1998 Supplement, is amended to read:
10 409.910 Responsibility for payments on behalf of
11 Medicaid-eligible persons when other parties are liable.--
12 (17) A recipient or his or her legal representative or
13 any person representing, or acting as agent for, a recipient
14 or the recipient's legal representative, who has notice,
15 excluding notice charged solely by reason of the recording of
16 the lien pursuant to paragraph (6)(c) ~~(6)(d)~~, or who has actual
17 knowledge of the department's rights to third-party benefits
18 under this section, who receives any third-party benefit or
19 proceeds therefrom for a covered illness or injury, is
20 required either to pay the department, within 60 days after
21 receipt of settlement proceeds, the full amount of the
22 third-party benefits, but not in excess of the total medical
23 assistance provided by Medicaid, or to place the full amount
24 of the third-party benefits in a trust account for the benefit
25 of the department pending judicial or administrative
26 determination of the department's right thereto. Proof that
27 any such person had notice or knowledge that the recipient had
28 received medical assistance from Medicaid, and that
29 third-party benefits or proceeds therefrom were in any way
30 related to a covered illness or injury for which Medicaid had
31 provided medical assistance, and that any such person

1 knowingly obtained possession or control of, or used,
2 third-party benefits or proceeds and failed either to pay the
3 department the full amount required by this section or to hold
4 the full amount of third-party benefits or proceeds in trust
5 pending judicial or administrative determination, unless
6 adequately explained, gives rise to an inference that such
7 person knowingly failed to credit the state or its agent for
8 payments received from social security, insurance, or other
9 sources, pursuant to s. 414.39(4)(b), and acted with the
10 intent set forth in s. 812.014(1).

11 (a) In cases of suspected criminal violations or
12 fraudulent activity, the department may take any civil action
13 permitted at law or equity to recover the greatest possible
14 amount, including, without limitation, treble damages under
15 ss. 772.11 and 812.035(7).

16 (b) The department is authorized to investigate and to
17 request appropriate officers or agencies of the state to
18 investigate suspected criminal violations or fraudulent
19 activity related to third-party benefits, including, without
20 limitation, ss. 414.39 and 812.014. Such requests may be
21 directed, without limitation, to the Medicaid Fraud Control
22 Unit of the Office of the Attorney General, or to any state
23 attorney. Pursuant to s. 409.913, the Attorney General has
24 primary responsibility to investigate and control Medicaid
25 fraud.

26 (c) In carrying out duties and responsibilities
27 related to Medicaid fraud control, the department may subpoena
28 witnesses or materials within or outside the state and,
29 through any duly designated employee, administer oaths and
30 affirmations and collect evidence for possible use in either
31 civil or criminal judicial proceedings.

1 (d) All information obtained and documents prepared
2 pursuant to an investigation of a Medicaid recipient, the
3 recipient's legal representative, or any other person relating
4 to an allegation of recipient fraud or theft is confidential
5 and exempt from s. 119.07(1):

6 1. Until such time as the department takes final
7 agency action;

8 2. Until such time as the Department of Legal Affairs
9 refers the case for criminal prosecution;

10 3. Until such time as an indictment or criminal
11 information is filed by a state attorney in a criminal case;
12 or

13 4. At all times if otherwise protected by law.
14

15 Reviser's note.--Amended to conform to the
16 redesignation of paragraph (6)(d) of s. 409.910
17 as paragraph (6)(c) by s. 1, ch. 98-411, Laws
18 of Florida.
19

20 Section 31. Section 409.9116, Florida Statutes, 1998
21 Supplement, is amended to read:

22 409.9116 Disproportionate share/financial assistance
23 program for rural hospitals.--In addition to the payments made
24 under s. 409.911, the Agency for Health Care Administration
25 shall administer a federally matched disproportionate share
26 program and a state-funded financial assistance program for
27 statutory rural hospitals. The agency shall make
28 disproportionate share payments to statutory rural hospitals
29 that qualify for such payments and financial assistance
30 payments to statutory rural hospitals that do not qualify for
31 disproportionate share payments. The disproportionate share

1 program payments shall be limited by and conform with federal
2 requirements. ~~In fiscal year 1993-1994, available funds shall~~
3 ~~be distributed in one payment, as soon as practicable after~~
4 ~~the effective date of this act. In subsequent fiscal years,~~
5 Funds shall be distributed quarterly in each fiscal year for
6 which an appropriation is made. Notwithstanding the provisions
7 of s. 409.915, counties are exempt from contributing toward
8 the cost of this special reimbursement for hospitals serving a
9 disproportionate share of low-income patients.

10 (1) The following formula shall be used by the agency
11 to calculate the total amount earned for hospitals that
12 participate in the rural hospital disproportionate share
13 program or the financial assistance program:

14

$$15 \qquad \qquad \qquad \text{TAERH} = (\text{CCD} + \text{MDD}) / \text{TPD}$$

16

17 Where:

18 CCD = total charity care-other, plus charity care-Hill
19 Burton, minus 50 percent of unrestricted tax revenue from
20 local governments, and restricted funds for indigent care,
21 divided by gross revenue per adjusted patient day; however, if
22 CCD is less than zero, then zero shall be used for CCD.

23 MDD = Medicaid inpatient days plus Medicaid HMO
24 inpatient days.

25 TPD = total inpatient days.

26 TAERH = total amount earned by each rural hospital.

27

28 In computing the total amount earned by each rural hospital,
29 the agency must use the most recent actual data reported in
30 accordance with s. 408.061(4)(a).

31

1 (2) In determining the payment amount for each rural
2 hospital under this section, the agency shall first allocate
3 all available state funds by the following formula:

$$4 \qquad \qquad \qquad 5 \qquad \qquad \qquad \text{DAER} = (\text{TAERH} \times \text{TARH}) / \text{STAERH}$$

6
7 Where:

8 DAER = distribution amount for each rural hospital.

9 STAERH = sum of total amount earned by each rural
10 hospital.

11 TAERH = total amount earned by each rural hospital.

12 TARH = total amount appropriated or distributed under
13 this section.

14
15 Federal matching funds for the disproportionate share program
16 shall then be calculated for those hospitals that qualify for
17 disproportionate share payments under this section.

18 (3) The Agency for Health Care Administration may
19 recommend to the Legislature a formula to be used in
20 subsequent fiscal years to distribute funds appropriated for
21 this section that includes charity care, uncompensated care to
22 medically indigent patients, and Medicaid inpatient days.

23 (4) In the event that federal matching funds for the
24 rural hospital disproportionate share program are not
25 available, state matching funds appropriated for the program
26 may be utilized for the Rural Hospital Financial Assistance
27 Program and shall be allocated to rural hospitals based on the
28 formulas in subsections (1) and (2).

29 (5) In order to receive payments under this section, a
30 hospital must be a rural hospital as defined in s. 395.602 and
31 must meet the following additional requirements:

1 (a) Agree to conform to all agency requirements to
2 ensure high quality in the provision of services, including
3 criteria adopted by agency rule concerning staffing ratios,
4 medical records, standards of care, equipment, space, and such
5 other standards and criteria as the agency deems appropriate
6 as specified by rule.

7 (b) Agree to accept all patients, regardless of
8 ability to pay, on a functional space-available basis.

9 (c) Agree to provide backup and referral services to
10 the county public health departments and other low-income
11 providers within the hospital's service area, including the
12 development of written agreements between these organizations
13 and the hospital.

14 (d) For any hospital owned by a county government
15 which is leased to a management company, agree to submit on a
16 quarterly basis a report to the agency, in a format specified
17 by the agency, which provides a specific accounting of how all
18 funds dispersed under this act are spent.

19 (6) For the 1998-1999 fiscal year only, the Agency for
20 Health Care Administration shall use the following formula for
21 distribution of the funds in Specific Appropriation 240 of the
22 1998-1999 General Appropriations Act for the disproportionate
23 share/financial assistance program for rural hospitals.

24 (a) The agency shall first determine a preliminary
25 payment amount for each rural hospital by allocating all
26 available state funds using the following formula:

27

28
$$\text{PDAER} = (\text{TAERH} \times \text{TARH}) / \text{STAERH}$$

29

30 Where:

31

1 PDAER = preliminary distribution amount for each rural
2 hospital.

3 TAERH = total amount earned by each rural hospital.

4 TARH = total amount appropriated or distributed under
5 this section.

6 STAERH = sum of total amount earned by each rural
7 hospital.

8 (b) Federal matching funds for the disproportionate
9 share program shall then be calculated for those hospitals
10 that qualify for disproportionate share in paragraph (a).

11 (c) The state-funds-only payment amount is then
12 calculated for each hospital using the formula:

13
14 SFOER = Maximum value of (1) SFOL - PDAER or (2) 0

15

16 Where:

17 SFOER = state-funds-only payment amount for each rural
18 hospital.

19 SFOL = state-funds-only payment level, which is set at
20 4 percent of TARH.

21 (d) The adjusted total amount allocated to the rural
22 disproportionate share program shall then be calculated using
23 the following formula:

24

25
$$ATARH = (TARH - SSFOER)$$

26

27 Where:

28 ATARH = adjusted total amount appropriated or
29 distributed under this section.

30 SSFOER = sum of the state-funds-only payment amount
31 calculated under paragraph (c) for all rural hospitals.

1 (e) The determination of the amount of rural
2 disproportionate share hospital funds is calculated by the
3 following formula:

$$4 \qquad \qquad \qquad \text{TDAERH} = [(\text{TAERH} \times \text{ATARH}) / \text{STAERH}]$$

6
7 Where:

8 TDAERH = total distribution amount for each rural
9 hospital.

10 (f) Federal matching funds for the disproportionate
11 share program shall then be calculated for those hospitals
12 that qualify for disproportionate share in paragraph (e).

13 (g) State-funds-only payment amounts calculated under
14 paragraph (c) are then added to the results of paragraph (f)
15 to determine the total distribution amount for each rural
16 hospital.

17 (h) This subsection is repealed on July 1, 1999.

18 (7) This section only applies to hospitals that were
19 defined as statutory rural hospitals, or their
20 successor-in-interest hospital, prior to July 1, 1998. Any
21 additional hospital that is defined as a statutory rural
22 hospital, or its successor-in-interest hospital, on or after
23 July 1, 1998, is not eligible for programs under this section
24 unless additional funds are appropriated each fiscal year
25 specifically to the rural hospital disproportionate share and
26 financial assistance programs in an amount necessary to
27 prevent any hospital, or its successor-in-interest hospital,
28 eligible for the programs prior to July 1, 1998, from
29 incurring a reduction in payments because of the eligibility
30 of an additional hospital to participate in the programs.

31

1 Reviser's note.--Amended to delete language
2 that has served its purpose.

3
4 Section 32. Subsection (26) of section 409.912,
5 Florida Statutes, 1998 Supplement, is amended to read:
6 409.912 Cost-effective purchasing of health care.--The
7 agency shall purchase goods and services for Medicaid
8 recipients in the most cost-effective manner consistent with
9 the delivery of quality medical care. The agency shall
10 maximize the use of prepaid per capita and prepaid aggregate
11 fixed-sum basis services when appropriate and other
12 alternative service delivery and reimbursement methodologies,
13 including competitive bidding pursuant to s. 287.057, designed
14 to facilitate the cost-effective purchase of a case-managed
15 continuum of care. The agency shall also require providers to
16 minimize the exposure of recipients to the need for acute
17 inpatient, custodial, and other institutional care and the
18 inappropriate or unnecessary use of high-cost services.

19 (26) Beginning July 1, 1996, the agency shall perform
20 choice counseling, enrollments, and disenrollments for
21 Medicaid recipients who are eligible for MediPass or managed
22 care plans. Notwithstanding the prohibition contained in
23 paragraph (18)(f), managed care plans may perform
24 preenrollments of Medicaid recipients under the supervision of
25 the agency or its agents. For the purposes of this section,
26 "preenrollment" means the provision of marketing and
27 educational materials to a Medicaid recipient and assistance
28 in completing the application forms, but shall not include
29 actual enrollment into a managed care plan. An application
30 for enrollment shall not be deemed complete until the agency
31 or its agent verifies that the recipient made an informed,

1 voluntary choice. The agency, in cooperation with the
2 Department of Health and Rehabilitative Services, may test new
3 marketing initiatives to inform Medicaid recipients about
4 their managed care options at selected sites. The agency
5 shall report to the Legislature on the effectiveness of such
6 initiatives. The agency may contract with a third party to
7 perform managed care plan and MediPass choice-counseling,
8 enrollment, and disenrollment services for Medicaid recipients
9 and is authorized to adopt rules to implement such services.
10 ~~Until October 1, 1996, or the receipt of necessary federal~~
11 ~~waivers, whichever is earlier, the agency shall adjust the~~
12 ~~capitation rate to cover any implementation, staff, or other~~
13 ~~costs associated with enrollment, disenrollment, and~~
14 ~~choice-counseling activities. Thereafter,~~The agency may
15 adjust the capitation rate only to cover the costs of a
16 third-party choice-counseling, enrollment, and disenrollment
17 contract, and for agency supervision and management of the
18 managed care plan choice-counseling, enrollment, and
19 disenrollment contract.

20

21 Reviser's note.--Amended to delete language
22 that has served its purpose.

23

24 Section 33. Paragraph (k) of subsection (9) of section
25 411.202, Florida Statutes, is amended to read:

26 411.202 Definitions.--As used in this chapter, the
27 term:

28 (9) "High-risk child" or "at-risk child" means a
29 preschool child with one or more of the following
30 characteristics:

31

1 (k) The child is a handicapped child as defined in
2 subsection (8)~~(7)~~.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of subsection (7) of s. 411.202
6 as subsection (8) by s. 1, ch. 95-321, Laws of
7 Florida.

8
9 Section 34. Paragraph (f) of subsection (4) of section
10 411.222, Florida Statutes, is amended to read:

11 411.222 Intraagency and interagency coordination;
12 creation of offices; responsibilities; memorandum of
13 agreement; creation of coordinating council;
14 responsibilities.--

15 (4) STATE COORDINATING COUNCIL FOR EARLY CHILDHOOD
16 SERVICES.--

17 (f) Reporting requirements.--

18 1. ~~The council shall submit by March 1, 1991, to the~~
19 ~~Governor, the Commissioner of Education, the Secretary of~~
20 ~~Health and Rehabilitative Services, the President of the~~
21 ~~Senate, and the Speaker of the House of Representatives, a~~
22 ~~report including recommendations regarding methods and~~
23 ~~procedures for promoting coordination among agencies and~~
24 ~~programs serving preschool children and their families and~~
25 ~~recommendations regarding methods and procedures for promoting~~
26 ~~coordination among agencies and programs designed to reduce~~
27 ~~teenage pregnancy. Thereafter, The council shall report by~~
28 March 1 of each year on the progress the state is making
29 toward coordination and the status of services for preschool
30 children and teenagers at risk of pregnancy in the state and
31 shall recommend needed changes and improvements.

1 2. The council shall submit copies of all reports and
2 formal recommendations as required by this subsection to the
3 appropriate substantive committees and appropriations
4 subcommittees of the respective houses.

5
6 Reviser's note.--Amended to delete language
7 that has served its purpose.

8
9 Section 35. Paragraph (a) of subsection (4) of section
10 411.232, Florida Statutes, is amended to read:

11 411.232 Children's Early Investment Program.--

12 (4) IMPLEMENTATION.--

13 (a) The Department of Health and Rehabilitative
14 Services or its designee shall implement the Children's Early
15 Investment Program using the criteria provided in this
16 section. The department or its designee shall evaluate and
17 select the programs and sites to be funded initially. ~~The~~
18 ~~initial contract awards must be made no later than January 15,~~
19 ~~1990.~~ No more than one of each of the following prototypes
20 may be selected among the first sites to be funded:

21 1. A program based in a county health department;

22 2. A program based in an office of the Department of
23 Health and Rehabilitative Services;

24 3. A program based in a local school district;

25 4. A program based in a local board or council that is
26 responsible for coordinating and managing community resources
27 from revenue sources earmarked for helping children and
28 meeting their needs;

29 5. A program based in a local, public or private,
30 not-for-profit provider of services to children and their
31 families; and

1 6. A program based in a local government.

2

3 Reviser's note.--Amended to delete language
4 that has served its purpose.

5

6 Section 36. Paragraph (a) of subsection (4) of section
7 411.242, Florida Statutes, is amended to read:

8 411.242 Florida Education Now and Babies Later (ENABL)
9 program.--

10 (4) IMPLEMENTATION.--The department must:

11 (a) Implement the ENABL program using the criteria
12 provided in this section. The department must evaluate,
13 select, and monitor the two pilot projects to be funded
14 initially. ~~The initial contract awards must be made no later~~
15 ~~than August 1, 1995.~~The following community-based local
16 contractors may be selected among the first sites to be
17 funded:

18 1. A program based in a local school district, a
19 county health department, or another unit of local government.

20 2. A program based in a local, public or private,
21 not-for-profit provider of services to children and their
22 families.

23

24 Reviser's note.--Amended to delete language
25 that has served its purpose.

26

27 Section 37. Paragraph (a) of subsection (3) and
28 paragraph (c) of subsection (7) of section 414.065, Florida
29 Statutes, 1998 Supplement, are amended to read:

30 414.065 Work requirements.--

31

1 (3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.--The
2 following individuals are exempt from work activity
3 requirements:

4 (a) A minor child under age 16, except that a child
5 exempted from this provision shall be subject to the
6 requirements of paragraph(1)(j)~~(i)(i)~~and s. 414.125.

7 (7) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.--The
8 situations listed in this subsection shall constitute
9 exceptions to the penalties for noncompliance with
10 participation requirements, except that these situations do
11 not constitute exceptions to the applicable time limit for
12 receipt of temporary cash assistance:

13 (c) Noncompliance related to treatment or remediation
14 of past effects of domestic violence.--An individual who is
15 determined to be unable to comply with the work requirements
16 under this section due to mental or physical impairment
17 related to past incidents of domestic violence may be exempt
18 from work requirements for a specified period pursuant to s.
19 414.028(4)(g), except that such individual shall comply with a
20 plan that specifies alternative requirements that prepare the
21 individual for self-sufficiency while providing for the safety
22 of the individual and the individual's dependents. The plan
23 must include counseling or a course of treatment necessary for
24 the individual to resume participation. The need for treatment
25 and the expected duration of such treatment must be verified
26 by a physician licensed under chapter 458 or chapter 459; a
27 psychologist licensed under s. 490.005(1), s. 490.006, or the
28 provision identified as s. 490.013(2) in s. 1, chapter 81-235,
29 Laws of Florida; a therapist as defined in s. 491.003(2) or
30 (6); or a treatment professional who is registered under s.
31 39.905(1)(g)~~415.605(1)(g)~~, is authorized to maintain

1 confidentiality under s. 90.5036(1)(d), and has a minimum of 2
2 years experience at a certified domestic violence center. An
3 exception granted under this paragraph does not constitute an
4 exception from the time limitations on benefits specified
5 under s. 414.105.

6
7 Reviser's note.--Paragraph (3)(a) is amended to
8 conform to the redesignation of paragraph
9 (1)(i) of s. 414.065 as paragraph (1)(j) by s.
10 42, ch. 97-246, Laws of Florida. Paragraph
11 (7)(c) is amended to conform to the
12 redesignation of s. 415.605(1)(g) as s.
13 39.905(1)(g) by s. 117, ch. 98-403, Laws of
14 Florida.

15
16 Section 38. Subsection (3) of section 414.105, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 414.105 Time limitations of temporary cash
19 assistance.--Unless otherwise expressly provided in this
20 chapter, an applicant or current participant shall receive
21 temporary cash assistance for episodes of not more than 24
22 cumulative months in any consecutive 60-month period that
23 begins with the first month of participation and for not more
24 than a lifetime cumulative total of 48 months as an adult.

25 (3) In addition to the exemptions listed in subsection
26 (2), a victim of domestic violence may be granted a hardship
27 exemption if the effects of such domestic violence delay or
28 otherwise interrupt or adversely affect the individual's
29 participation in the program. Hardship exemptions granted
30 under this subsection shall not be subject to the percentage
31 limitations in subsection (2)~~(3)~~.

1 Reviser's note.--Amended to correct an apparent
2 typographical error. Percentage limitations
3 are found in s. 414.105(2).
4

5 Section 39. Subsection (4) of section 415.102, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 415.102 Definitions of terms used in ss.

8 415.101-415.113.--As used in ss. 415.101-415.113, the term:

9 (4) "Caregiver" means a person who has been entrusted
10 with or has assumed the responsibility for frequent and
11 regular care of or services to a disabled adult or an elderly
12 person on a temporary or permanent basis and who has a
13 commitment, agreement, or understanding with that person or
14 that person's guardian that a caregiver role exists.

15 "Caregiver" includes, but is not limited to, relatives,
16 household members, guardians, neighbors, and employees and
17 volunteers of facilities as defined in subsection (15)~~(13)~~.
18 For the purpose of departmental investigative jurisdiction,
19 the term "caregiver" does not include law enforcement officers
20 or employees of municipal or county detention facilities or
21 the Department of Corrections while acting in an official
22 capacity.
23

24 Reviser's note.--Amended to conform to the
25 redesignation of subsection (13) of s. 415.102
26 as subsection (15) by s. 1, ch. 98-182, Laws of
27 Florida.
28

29 Section 40. Paragraph (f) of subsection (1) of section
30 415.1055, Florida Statutes, 1998 Supplement, is amended to
31 read:

1 415.1055 Notification to administrative entities,
2 subjects, and reporters; notification to law enforcement and
3 state attorneys.--

4 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

5 (f) If at any time during a protective investigation
6 the department has reasonable cause to believe that an
7 employee of a facility, as defined in s. 415.102(15)
8 ~~415.102(13)~~, is the alleged perpetrator of abuse, neglect, or
9 exploitation of a disabled adult or an elderly person, the
10 department shall notify the Agency for Health Care
11 Administration, Division of Health Quality Assurance, in
12 writing.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 415.102(13) as s.
16 415.102(15) by s. 1, ch. 98-182, Laws of
17 Florida.

18
19 Section 41. Subsection (8) of section 415.107, Florida
20 Statutes, 1998 Supplement, is amended to read:

21 415.107 Confidentiality of reports and records.--

22 (8) The department, upon receipt of the applicable
23 fee, shall search its central abuse registry and tracking
24 system records pursuant to the requirements of ss. 110.1127,
25 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,
26 402.305(2)~~402.305(1)~~, 402.3055, 402.313, 409.175, 409.176,
27 and 985.407 for the existence of a confirmed report made on
28 the personnel as defined in the foregoing provisions. The
29 department shall report the existence of any confirmed report
30 and advise the authorized licensing agency, applicant for
31 licensure, or other authorized agency or person of the results

1 of the search and the date of the report. Prior to a search
2 being conducted, the department or its designee shall notify
3 such person that an inquiry will be made. The department shall
4 notify each person for whom a search is conducted of the
5 results of the search upon request.

6

7 Reviser's note.--Amended to conform to the
8 redesignation of s. 402.305(1) as s. 402.305(2)
9 by s. 2, ch. 91-300, Laws of Florida.

10

11 Section 42. Section 415.1102, Florida Statutes, 1998
12 Supplement, is reenacted to read:

13 415.1102 Adult protection teams; services; eligible
14 cases.--Subject to an appropriation, the department may
15 develop, maintain, and coordinate the services of one or more
16 multidisciplinary adult protection teams in each of the
17 districts of the department. Such teams may be composed of,
18 but need not be limited to, representatives of appropriate
19 health, mental health, social service, legal service, and law
20 enforcement agencies.

21 (1) The department shall utilize and convene the teams
22 to supplement the protective services activities of the adult
23 protective services program of the department. This section
24 does not prevent a person from reporting under s. 415.1034 all
25 suspected or known cases of abuse, neglect, or exploitation of
26 a disabled adult or an elderly person. The role of the teams
27 is to support activities of the adult protective services
28 program and to provide services deemed by the teams to be
29 necessary and appropriate to abused, neglected, and exploited
30 disabled adults or elderly persons upon referral. Services
31 must be provided with the consent of the disabled adult, or

1 elderly person or that person's guardian, or through court
2 order. The specialized diagnostic assessment, evaluation,
3 coordination, and other supportive services that an adult
4 protection team must be capable of providing include, but are
5 not limited to:

6 (a) Medical diagnosis and evaluation services,
7 including provision or interpretation of X rays and laboratory
8 tests, and related services, as needed, and documentation of
9 findings relative thereto.

10 (b) Telephone consultation services in emergencies and
11 in other situations.

12 (c) Medical evaluation related to abuse, neglect, or
13 exploitation as defined by department policy or rule.

14 (d) Psychological and psychiatric diagnosis and
15 evaluation services for the disabled adult or elderly person.

16 (e) Short-term psychological treatment. It is the
17 intent of the Legislature that short-term psychological
18 treatment be limited to no more than 6 months' duration after
19 treatment is initiated.

20 (f) Expert medical, psychological, and related
21 professional testimony in court cases.

22 (g) Case staffings to develop, implement, and monitor
23 treatment plans for disabled adults and elderly persons whose
24 cases have been referred to the team. An adult protection
25 team may provide consultation with respect to a disabled adult
26 or elderly person who has not been referred to the team. The
27 consultation must be provided at the request of a
28 representative of the adult protective services program or at
29 the request of any other professional involved with the
30 disabled adult or elderly person or that person's guardian or
31 other caregivers. In every such adult protection team case

1 staffing consultation or staff activity involving a disabled
2 adult or elderly person, an adult protective services program
3 representative shall attend and participate.

4 (h) Service coordination and assistance, including the
5 location of services available from other public and private
6 agencies in the community.

7 (i) Such training services for program and other
8 department employees as is deemed appropriate to enable them
9 to develop and maintain their professional skills and
10 abilities in handling adult abuse, neglect, or exploitation
11 cases.

12 (j) Education and community awareness campaigns on
13 adult abuse, neglect, or exploitation in an effort to enable
14 citizens to prevent, identify, and treat adult abuse, neglect,
15 and exploitation in the community more successfully.

16 (2) The adult abuse, neglect, or exploitation cases
17 that are appropriate for referral by the adult protective
18 services program to adult protection teams for supportive
19 services include, but are not limited to, cases involving:

20 (a) Unexplained or implausibly explained bruises,
21 burns, fractures, or other injuries in a disabled adult or an
22 elderly person.

23 (b) Sexual abuse or molestation, or sexual
24 exploitation, of a disabled adult or elderly person.

25 (c) Reported medical, physical, or emotional neglect
26 of a disabled adult or an elderly person.

27 (d) Reported financial exploitation of a disabled
28 adult or elderly person.

29

30 In all instances in which an adult protection team is
31 providing certain services to abused, neglected, or exploited

1 disabled adults or elderly persons, other offices and units of
2 the department shall avoid duplicating the provisions of those
3 services.

4
5 Reviser's note.--Section 6, ch. 98-182, Laws of
6 Florida, purported to amend paragraph (2)(c),
7 but failed to republish the flush left language
8 at the end of the section. In the absence of
9 affirmative evidence that the Legislature
10 intended to repeal the flush left language, s.
11 415.1102 is reenacted to confirm that the
12 omission was not intended.

13
14 Section 43. Paragraph (d) of subsection (1) of section
15 419.001, Florida Statutes, 1998 Supplement, is amended to
16 read:

17 419.001 Site selection of community residential
18 homes.--

19 (1) For the purposes of this section, the following
20 definitions shall apply:

21 (d) "Resident" means any of the following: a frail
22 elder as defined in s. 400.618; a physically disabled or
23 handicapped person as defined in s. 760.22(7)(a); a
24 developmentally disabled person as defined in s. 393.063(12)
25 ~~393.063(11)~~; a nondangerous mentally ill person as defined in
26 s. 394.455(18); or a child as defined in s. 39.01(14)
27 ~~39.01(11)~~, s. 984.03(9) or (12), or s. 985.03(8).

28
29 Reviser's note.--Amended to conform to the
30 redesignation of s. 393.063(11) as s.
31 393.063(12) by s. 23, ch. 98-171, Laws of

1 Florida, and the redesignation of s. 39.01(11)
2 as s. 39.01(14) by s. 20, ch. 98-403, Laws of
3 Florida.

4
5 Section 44. Subsections (1) and (3) of section
6 420.0004, Florida Statutes, are amended to read:

7 420.0004 Definitions.--As used in this part, unless
8 the context otherwise indicates:

9 (1) "Adjusted for family size" means adjusted in a
10 manner which results in an income eligibility level which is
11 lower for households with fewer than four people, or higher
12 for households with more than four people, than the base
13 income eligibility determined as provided in subsection
14 (9)~~(6)~~, subsection(10)~~(7)~~, or subsection(14)~~(11)~~, based upon
15 a formula as established by the United States Department of
16 Housing and Urban Development.

17 (3) "Affordable" means that monthly rents or monthly
18 mortgage payments including taxes, insurance, and utilities do
19 not exceed 30 percent of that amount which represents the
20 percentage of the median adjusted gross annual income for the
21 households as indicated in subsection(9)~~(6)~~, subsection
22 (10)~~(7)~~, or subsection(14)~~(11)~~.

23
24 Reviser's note.--Subsections (1) and (3) are
25 amended to conform to the redesignation of
26 subsection (6), subsection (7), and subsection
27 (11) as subsection (9), subsection (10), and
28 subsection (14), respectively, by s. 13, ch.
29 90-275, Laws of Florida.

30
31

1 Section 45. Subsection (30) of section 420.507,
2 Florida Statutes, 1998 Supplement, is amended to read:

3 420.507 Powers of the corporation.--The corporation
4 shall have all the powers necessary or convenient to carry out
5 and effectuate the purposes and provisions of this part,
6 including the following powers which are in addition to all
7 other powers granted by other provisions of this part:

8 (30) To prepare and submit to the secretary of the
9 department a budget request for purposes of the corporation,
10 which request shall, notwithstanding the provisions of chapter
11 216 and in accordance with s. 216.351, contain a request for
12 operational expenditures and separate requests for other
13 authorized corporation programs. The request shall not be
14 required to contain information on the number of employees,
15 salaries, or any classification thereof, and the approved
16 operating budget therefor need not comply with s.
17 216.181(8)-(10)~~216.181(7)-(9)~~. The secretary is authorized to
18 include within the department's budget request the
19 corporation's budget request in the form as authorized by this
20 section.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 216.181(7)-(9) as s.
24 216.181(8)-(10) by s. 6, ch. 97-286, Laws of
25 Florida.

26
27 Section 46. Paragraph (c) of subsection (2) of section
28 420.525, Florida Statutes, is amended to read:

29 420.525 Housing Predevelopment Fund.--

30 (2) All unencumbered funds, loan repayments, proceeds
31 from the sale of any property, existing funds remaining in the

1 following programs, and any other proceeds that would
2 otherwise accrue pursuant to the activities conducted under
3 this program and the provisions of the following programs
4 shall be deposited in the fund and shall not revert to the
5 General Revenue Fund:

6 (c) The Community-Based Organization Loan Program
7 created by the Affordable Housing Planning and Community
8 Assistance Act ~~Florida Affordable Housing Act of 1986.~~

9
10 Reviser's note.--Amended to conform to the
11 redesignation of the Florida Affordable Housing
12 Act of 1986 to the Affordable Housing Planning
13 and Community Assistance Act by s. 27, ch.
14 92-317, Laws of Florida.

15
16 Section 47. Paragraph (a) of subsection (2) of section
17 420.9072, Florida Statutes, is amended to read:

18 420.9072 State Housing Initiatives Partnership
19 Program.--The State Housing Initiatives Partnership Program is
20 created for the purpose of providing funds to counties and
21 eligible municipalities as an incentive for the creation of
22 local housing partnerships, to expand production of and
23 preserve affordable housing, to further the housing element of
24 the local government comprehensive plan specific to affordable
25 housing, and to increase housing-related employment.

26 (2)(a) To be eligible to receive funds under the
27 program, a county or eligible municipality must:

28 1. Submit to the corporation its local housing
29 assistance plan describing the local housing assistance
30 strategies established pursuant to s. 420.9075;

31

1 2. Within 12 months after adopting the local housing
2 assistance plan, amend the plan to incorporate the local
3 housing incentive strategies defined in s. 420.9071(16) and
4 described in s. 420.9076 ~~420.7096~~; and

5 3. Within 24 months after adopting the amended local
6 housing assistance plan to incorporate the local housing
7 incentive strategies, amend its land development regulations
8 or establish local policies and procedures, as necessary, to
9 implement the local housing incentive strategies adopted by
10 the local governing body. A county or an eligible municipality
11 that has adopted a housing incentive strategy pursuant to s.
12 420.9076 before the effective date of this act shall review
13 the status of implementation of the plan according to its
14 adopted schedule for implementation and report its findings in
15 the annual report required by s. 420.9075(9). If as a result
16 of the review, a county or an eligible municipality determines
17 that the implementation is complete and in accordance with its
18 schedule, no further action is necessary. If a county or an
19 eligible municipality determines that implementation according
20 to its schedule is not complete, it must amend its land
21 development regulations or establish local policies and
22 procedures, as necessary, to implement the housing incentive
23 plan within 12 months after the effective date of this act, or
24 if extenuating circumstances prevent implementation within 12
25 months, pursuant to s. 420.9075(12), enter into an extension
26 agreement with the corporation.

27
28 Reviser's note.--Amended to correct an apparent
29 error. Section 420.7096 does not exist.

30 Section 420.9076 relates to affordable housing
31 incentive strategies.

1 Section 48. Subsection (2) of section 421.10, Florida
2 Statutes, is amended to read:

3 421.10 Rentals and tenant selection.--

4 (2) Nothing contained in this section or s. 421.09,
5 shall be construed as limiting the power of an authority to
6 vest in an obligee the right, in the event of a default by the
7 authority, to take possession of a housing project or cause
8 the appointment of a receiver thereof, free from all the
9 restrictions imposed by this section or s. 421.09 ~~the~~
10 ~~preceding section~~.

11
12 Reviser's note.--Amended to conform to the
13 codification of s. 9, ch. 17981, 1937, Laws of
14 Florida, as s. 421.09. Section 421.10 was
15 enacted by s. 10, ch. 17981, 1937, Laws of
16 Florida, and included the reference to "the
17 preceding section."

18
19 Section 49. Section 421.33, Florida Statutes, is
20 amended to read:

21 421.33 Housing applications by farmers.--The owner of
22 any farm operated, or worked upon, by farmers of low income in
23 need of safe and sanitary housing may file an application with
24 a housing authority created for a county or a regional housing
25 authority requesting that it provide for a safe and sanitary
26 dwelling or dwellings for occupancy by such farmers of low
27 income. Such applications shall be received and examined by
28 housing authorities in connection with the formulation of
29 projects or programs to provide housing for farmers of low
30 income. Provided, however, that if it becomes necessary for an
31 applicant under this section ~~paragraph~~ to convey any portion

1 of the applicant's then homestead in order to take advantages
2 as provided herein, then in that event, the parting with title
3 to a portion of said homestead shall not affect the remaining
4 portion of same, but all rights that said owner may have in
5 and to same under and by virtue of the Constitution of the
6 state or any law passed pursuant thereto, shall be deemed and
7 held to apply to such remaining portion of said land, the
8 title of which remains in said applicant; it being the
9 intention of the Legislature to permit the owner of any farm
10 operated or worked upon by farmers of low income in need of
11 safe and sanitary housing to take advantage of the provisions
12 of this law without jeopardizing their rights in their then
13 homestead by reason of any requirement that may be necessary
14 in order for them to receive the benefits herein provided; and
15 no court shall ever construe that an applicant who has taken
16 advantage of this law has in any manner, shape or form
17 abandoned his or her rights in any property that is the
18 applicant's then homestead by virtue of such action upon his
19 or her part, but it shall be held, construed and deemed that
20 such action upon the part of any applicant hereunder was not
21 any abandonment of the applicant's then homestead, and that
22 all rights that the applicant then had therein shall be and
23 remain as provided by the Constitution and any law enacted
24 pursuant thereto.

25

26 Reviser's note.--Amended to improve clarity and
27 facilitate correct interpretation. Section
28 421.33 is not divided into paragraphs.

29

30

31

1 Section 50. Paragraph (i) of subsection (1) of section
2 430.502, Florida Statutes, 1998 Supplement, is amended to
3 read:

4 430.502 Alzheimer's disease; memory disorder clinics
5 and day care and respite care programs.--

6 (1) There is established:

7 (i) A memory disorder clinic at ~~the~~ Tallahassee
8 Memorial Healthcare ~~Regional Medical Center~~; and

9
10 for the purpose of conducting research and training in a
11 diagnostic and therapeutic setting for persons suffering from
12 Alzheimer's disease and related memory disorders. However,
13 memory disorder clinics funded as of June 30, 1995, shall not
14 receive decreased funding due solely to subsequent additions
15 of memory disorder clinics in this subsection.

16
17 Reviser's note.--Amended to conform to the
18 current name of the hospital.

19
20 Section 51. Paragraph (z) of subsection (2) and
21 paragraph (a) of subsection (3) of section 435.03, Florida
22 Statutes, 1998 Supplement, are amended to read:

23 435.03 Level 1 screening standards.--

24 (2) Any person for whom employment screening is
25 required by statute must not have been found guilty of,
26 regardless of adjudication, or entered a plea of nolo
27 contendere or guilty to, any offense prohibited under any of
28 the following provisions of the Florida Statutes or under any
29 similar statute of another jurisdiction:

30 (z) Former section 827.05, relating to negligent
31 treatment of children.

1 (3) Standards must also ensure that the person:
2 (a) For employees and employers licensed or registered
3 pursuant to chapter 400, does not have a confirmed report of
4 abuse, neglect, or exploitation as defined in s. 415.102(6)
5 ~~415.102(5)~~, which has been uncontested or upheld under s.
6 415.103.

7
8 Reviser's note.--Paragraph (2)(z) is amended to
9 improve clarity and facilitate correct
10 interpretation. Section 827.05 was repealed by
11 s. 11, ch. 96-322, Laws of Florida, and by s.
12 31, ch. 96-388, Laws of Florida. Paragraph
13 (3)(a) is amended to conform to the
14 redesignation of s. 415.102(5) as s. 415.102(6)
15 by s. 94, ch. 95-418, Laws of Florida.

16
17 Section 52. Paragraph (z) of subsection (2) and
18 paragraph (a) of subsection (3) of section 435.04, Florida
19 Statutes, 1998 Supplement, are amended to read:

20 435.04 Level 2 screening standards.--

21 (2) The security background investigations under this
22 section must ensure that no persons subject to the provisions
23 of this section have been found guilty of, regardless of
24 adjudication, or entered a plea of nolo contendere or guilty
25 to, any offense prohibited under any of the following
26 provisions of the Florida Statutes or under any similar
27 statute of another jurisdiction:

28 (z) Former section 827.05, relating to negligent
29 treatment of children.

30 (3) Standards must also ensure that the person:
31

1 (a) For employees or employers licensed or registered
2 pursuant to chapter 400, does not have a confirmed report of
3 abuse, neglect, or exploitation as defined in s. 415.102(6)
4 ~~415.102(5)~~, which has been uncontested or upheld under s.
5 415.103.

6
7 Reviser's note.--Paragraph (2)(z) is amended to
8 improve clarity and facilitate correct
9 interpretation. Section 827.05 was repealed by
10 s. 11, ch. 96-322, Laws of Florida, and by s.
11 31, ch. 96-388, Laws of Florida. Paragraph
12 (3)(a) is amended to conform to the
13 redesignation of s. 415.102(5) as s. 415.102(6)
14 by s. 94, ch. 95-418, Laws of Florida.

15
16 Section 53. Paragraph (d) of subsection (23) and
17 subsection (33) of section 440.02, Florida Statutes, 1998
18 Supplement, are amended to read:

19 440.02 Definitions.--When used in this chapter, unless
20 the context clearly requires otherwise, the following terms
21 shall have the following meanings:

22 (23) "Self-insurer" means:

23 (d) A public utility as defined in s. 364.02 or s.
24 366.02 that has assumed by contract the liabilities of
25 contractors or subcontractors pursuant to s. 624.46225
26 ~~440.571~~; or

27 (33) "Insolvent member" means an individual
28 self-insurer which is a member of the Florida Self-Insurers
29 Guaranty Association, Incorporated, or which was a member and
30 has withdrawn pursuant to s. 440.385(1)(b), and which has been
31 found insolvent, as defined in subparagraph (34)(a)1.

1 subparagraph (34)(a)2., or subparagraph (34)(a)3.~~paragraph~~
2 ~~(34)(a), paragraph (34)(b), or paragraph (34)(c),~~ by a court
3 of competent jurisdiction in this or any other state, or meets
4 the definition of subparagraph (34)(a)4.~~paragraph (34)(d).~~

5
6 Reviser's note.--Paragraph (23)(d) is amended
7 to conform to the redesignation of s. 440.571
8 as s. 624.46225 by s. 81, ch. 93-415, Laws of
9 Florida. Subsection (33) is amended to conform
10 to the redesignation of paragraphs (31)(a),
11 (b), (c), and (d) as subparagraphs (31)(a)1.,
12 2., 3., and 4. by s. 2, ch. 93-415, and the
13 further redesignation of subsection (31) as
14 subsection (34) by s. 1, ch. 98-174, Laws of
15 Florida.

16
17 Section 54. Section 440.021, Florida Statutes, is
18 amended to read:

19 440.021 Exemption of workers' compensation from
20 chapter 120.--Workers' compensation adjudications by judges of
21 compensation claims are exempt from chapter 120, and no judge
22 of compensation claims shall be considered an agency or a part
23 thereof. Communications of the result of investigations by the
24 division pursuant to s. 440.185(4) are exempt from chapter
25 120. In all instances in which the division institutes action
26 to collect a penalty or interest which may be due pursuant to
27 this chapter, the penalty or interest shall be assessed
28 without hearing, and the party against which such penalty or
29 interest is assessed shall be given written notice of such
30 assessment and shall have the right to protest within 20 days
31 of such notice. Upon receipt of a timely notice of protest and

1 after such investigation as may be necessary, the division
2 shall, if it agrees with such protest, notify the protesting
3 party that the assessment has been revoked. If the division
4 does not agree with the protest, it shall refer the matter to
5 the judge of compensation claims for determination pursuant to
6 s. 440.25(2)-(5)~~440.25(3) and (4)~~. Such action of the
7 division is exempt from the provisions of chapter 120.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 440.25(3) and (4) as s.
11 440.25(2)-(5) by s. 30, ch. 93-415, Laws of
12 Florida.

13
14 Section 55. Subsection (4) of section 440.14, Florida
15 Statutes, is amended to read:

16 440.14 Determination of pay.--

17 (4) Upon termination of the employee or upon
18 termination of the payment of fringe benefits of any employee
19 who is collecting indemnity benefits pursuant to s. 440.15(2)
20 or (3)(b), the employer shall within 7 days of such
21 termination file a corrected 13-week wage statement reflecting
22 the wages paid and the fringe benefits that had been paid to
23 the injured employee as defined in s. 440.02(27)~~440.02(24)~~.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of s. 440.02(21) as s. 440.02(23)
27 by s. 3, ch. 89-289, Laws of Florida; further
28 redesignation as s. 440.02(24) by s. 9, ch.
29 90-201, Laws of Florida; and further
30 redesignation as s. 440.02(27) by s. 1, ch.
31 98-174, Laws of Florida.

1 Section 56. Paragraph (f) of subsection (1), paragraph
2 (c) of subsection (2), and paragraph (c) of subsection (10) of
3 section 440.15, Florida Statutes, 1998 Supplement, are amended
4 to read:

5 440.15 Compensation for disability.--Compensation for
6 disability shall be paid to the employee, subject to the
7 limits provided in s. 440.12(2), as follows:

8 (1) PERMANENT TOTAL DISABILITY.--

9 (f)1. If permanent total disability results from
10 injuries that occurred subsequent to June 30, 1955, and for
11 which the liability of the employer for compensation has not
12 been discharged under s. 440.20(11)~~440.20(12)~~, the injured
13 employee shall receive additional weekly compensation benefits
14 equal to 5 percent of her or his weekly compensation rate, as
15 established pursuant to the law in effect on the date of her
16 or his injury, multiplied by the number of calendar years
17 since the date of injury. The weekly compensation payable and
18 the additional benefits payable under this paragraph, when
19 combined, may not exceed the maximum weekly compensation rate
20 in effect at the time of payment as determined pursuant to s.
21 440.12(2). Entitlement to these supplemental payments shall
22 cease at age 62 if the employee is eligible for social
23 security benefits under 42 U.S.C. ss. 402 and 423, whether or
24 not the employee has applied for such benefits. These
25 supplemental benefits shall be paid by the division out of the
26 Workers' Compensation Administration Trust Fund when the
27 injury occurred subsequent to June 30, 1955, and before July
28 1, 1984. These supplemental benefits shall be paid by the
29 employer when the injury occurred on or after July 1, 1984.
30 Supplemental benefits are not payable for any period prior to
31 October 1, 1974.

1 2.a. The division shall provide by rule for the
2 periodic reporting to the division of all earnings of any
3 nature and social security income by the injured employee
4 entitled to or claiming additional compensation under
5 subparagraph 1. Neither the division nor the employer or
6 carrier shall make any payment of those additional benefits
7 provided by subparagraph 1. for any period during which the
8 employee willfully fails or refuses to report upon request by
9 the division in the manner prescribed by such rules.

10 b. The division shall provide by rule for the periodic
11 reporting to the employer or carrier of all earnings of any
12 nature and social security income by the injured employee
13 entitled to or claiming benefits for permanent total
14 disability. The employer or carrier is not required to make
15 any payment of benefits for permanent total disability for any
16 period during which the employee willfully fails or refuses to
17 report upon request by the employer or carrier in the manner
18 prescribed by such rules or if any employee who is receiving
19 permanent total disability benefits refuses to apply for or
20 cooperate with the employer or carrier in applying for social
21 security benefits.

22 3. When an injured employee receives a full or partial
23 lump-sum advance of the employee's permanent total disability
24 compensation benefits, the employee's benefits under this
25 paragraph shall be computed on the employee's weekly
26 compensation rate as reduced by the lump-sum advance.

27 (2) TEMPORARY TOTAL DISABILITY.--

28 (c) Temporary total disability benefits paid pursuant
29 to this subsection shall include such period as may be
30 reasonably necessary for training in the use of artificial
31 members and appliances, and shall include such period as the

1 employee may be receiving training and education under a
2 program pursuant to s. 440.49(1). Notwithstanding s. 440.02(9)
3 ~~440.02(8)~~, the date of maximum medical improvement for
4 purposes of paragraph (3)(b) shall be no earlier than the last
5 day for which such temporary disability benefits are paid.

6 (10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER
7 AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
8 ACT.--

9 (c) No disability compensation benefits payable for
10 any week, including those benefits provided by paragraph
11 (1)(f)(1)(e), shall be reduced pursuant to this subsection
12 until the Social Security Administration determines the amount
13 otherwise payable to the employee under 42 U.S.C. ss. 402 and
14 423 and the employee has begun receiving such social security
15 benefit payments. The employee shall, upon demand by the
16 division, the employer, or the carrier, authorize the Social
17 Security Administration to release disability information
18 relating to her or him and authorize the Division of
19 Unemployment Compensation to release unemployment compensation
20 information relating to her or him, in accordance with rules
21 to be promulgated by the division prescribing the procedure
22 and manner for requesting the authorization and for compliance
23 by the employee. Neither the division nor the employer or
24 carrier shall make any payment of benefits for total
25 disability or those additional benefits provided by paragraph
26 (1)(f)(1)(e) for any period during which the employee
27 willfully fails or refuses to authorize the release of
28 information in the manner and within the time prescribed by
29 such rules. The authority for release of disability
30 information granted by an employee under this paragraph shall
31 be effective for a period not to exceed 12 months, such

1 authority to be renewable as the division may prescribe by
2 rule.

3
4 Reviser's note.--Paragraph (1)(f) is amended to
5 conform to the redesignation of s. 440.20(12)
6 as s. 440.20(11) by s. 26, ch. 93-415, Laws of
7 Florida. Paragraph (2)(c) is amended to
8 conform to the redesignation of s. 440.02(8) as
9 s. 440.02(9) by s. 1, ch. 98-174, Laws of
10 Florida. Paragraph (10)(c) is amended to
11 conform to the redesignation of paragraph
12 (1)(e) of s. 440.15 as paragraph (1)(f) by s.
13 20, ch. 93-415.

14
15 Section 57. Subsection (7) of section 440.185, Florida
16 Statutes, 1998 Supplement, is amended to read:

17 440.185 Notice of injury or death; reports; penalties
18 for violations.--

19 (7) Every carrier shall file with the division within
20 21 days after the issuance of a policy or contract of
21 insurance such policy information as the division may require,
22 including notice of whether the policy is a minimum premium
23 policy. Notice of cancellation or expiration of a policy as
24 set out in s. 440.42(3)~~440.42(2)~~ shall be mailed to the
25 division in accordance with rules promulgated by the division
26 under chapter 120.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 440.42(2) as s. 440.42(3)
30 by s. 10, ch. 98-174, Laws of Florida.

31

1 Section 58. Subsection (1) of section 440.191, Florida
2 Statutes, 1998 Supplement, is reenacted to read:

3 440.191 Employee Assistance and Ombudsman Office.--

4 (1)(a) In order to effect the self-executing features
5 of the Workers' Compensation Law, this chapter shall be
6 construed to permit injured employees and employers or the
7 employer's carrier to resolve disagreements without undue
8 expense, costly litigation, or delay in the provisions of
9 benefits. It is the duty of all who participate in the
10 workers' compensation system, including, but not limited to,
11 carriers, service providers, health care providers, attorneys,
12 employers, and employees, to attempt to resolve disagreements
13 in good faith and to cooperate with the division's efforts to
14 resolve disagreements between the parties. The division may by
15 rule prescribe definitions that are necessary for the
16 effective administration of this section.

17 (b) An Employee Assistance and Ombudsman Office is
18 created within the Division of Workers' Compensation to inform
19 and assist injured workers, employers, carriers, and health
20 care providers in fulfilling their responsibilities under this
21 chapter. The division may by rule specify forms and procedures
22 for administering requests for assistance provided by this
23 section.

24 (c) The Employee Assistance and Ombudsman Office,
25 Division of Workers' Compensation, shall be a resource
26 available to all employees who participate in the workers'
27 compensation system and shall take all steps necessary to
28 educate and disseminate information to employees and
29 employers.

30
31

1 Reviser's note.--Section 5, ch. 98-125, Laws of
2 Florida, purported to amend subsection (1) of
3 s. 440.191, but failed to republish paragraph
4 (1)(c). In the absence of affirmative evidence
5 that the Legislature intended to repeal
6 paragraph (1)(c), subsection (1) is reenacted
7 to confirm that the omission was not intended.

8
9 Section 59. Subsection (3) of section 440.25, Florida
10 Statutes, is amended to read:

11 440.25 Procedures for mediation and hearings.--

12 (3) Such mediation conference shall be conducted
13 informally and does not require the use of formal rules of
14 evidence or procedure. Any information from the files,
15 reports, case summaries, mediator's notes, or other
16 communications or materials, oral or written, relating to a
17 mediation conference under this section obtained by any person
18 performing mediation duties is privileged and confidential and
19 may not be disclosed without the written consent of all
20 parties to the conference. Any research or evaluation effort
21 directed at assessing the mediation program activities or
22 performance must protect the confidentiality of such
23 information. Each party to a mediation conference has a
24 privilege during and after the conference to refuse to
25 disclose and to prevent another from disclosing communications
26 made during the conference whether or not the contested issues
27 are successfully resolved. This subsection and paragraphs
28 (4)(a) and (b)paragraph shall not be construed to prevent or
29 inhibit the discovery or admissibility of any information that
30 is otherwise subject to discovery or that is admissible under
31 applicable law or rule of procedure, except that any conduct

1 or statements made during a mediation conference or in
2 negotiations concerning the conference are inadmissible in any
3 proceeding under this chapter. The Chief Judge shall select a
4 mediator. The mediator shall be employed on a full-time basis
5 by the Office of the Judges of Compensation Claims. A mediator
6 must be a member of The Florida Bar for at least 5 years and
7 must complete a mediation training program approved by the
8 Chief Judge. Adjunct mediators may be employed by the Office
9 of the Judges of Compensation Claims on an as-needed basis and
10 shall be selected from a list prepared by the Chief Judge. An
11 adjunct mediator must be independent of all parties
12 participating in the mediation conference. An adjunct mediator
13 must be a member of The Florida Bar for at least 5 years and
14 must complete a mediation training program approved by the
15 Chief Judge. An adjunct mediator shall have access to the
16 office, equipment, and supplies of the judge of compensation
17 claims in each district. In the event both parties agree, the
18 results of the mediation conference shall be binding and
19 neither party shall have a right to appeal the results. In the
20 event either party refuses to agree to the results of the
21 mediation conference, the results of the mediation conference
22 as well as the testimony, witnesses, and evidence presented at
23 the conference shall not be admissible at any subsequent
24 proceeding on the claim. The mediator shall not be called in
25 to testify or give deposition to resolve any claim for any
26 hearing before the judge of compensation claims. The employer
27 may be represented by an attorney at the mediation conference
28 if the employee is also represented by an attorney at the
29 mediation conference.

30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 440.25(3)(b) as s.
3 440.25(3) and (4)(a) and (b) by s. 30, ch.
4 93-415, Laws of Florida.

5
6 Section 60. Paragraphs (d) and (f) of subsection (1)
7 of section 440.38, Florida Statutes, are amended to read:

8 440.38 Security for compensation; insurance carriers
9 and self-insurers.--

10 (1) Every employer shall secure the payment of
11 compensation under this chapter:

12 (d) By entering into an interlocal agreement with
13 other local governmental entities to create a local government
14 pool pursuant to s. 624.4622 ~~440.575~~;

15 (f) By entering into a contract with an individual
16 self-insurer under an approved individual
17 self-insurer-provided self-insurance program as set forth in
18 s. 624.46225 ~~440.571~~. The division may adopt rules to
19 implement this subsection.

20
21 Reviser's note.--Paragraph (1)(d) is amended to
22 conform to the redesignation of s. 440.575 as
23 s. 624.4622 by s. 80, ch. 93-415, Laws of
24 Florida. Paragraph (1)(f) is amended to
25 conform to the redesignation of s. 440.571 as
26 s. 624.46225 by s. 81, ch. 93-415.

27
28 Section 61. Paragraph (a) of subsection (1) of section
29 440.385, Florida Statutes, is amended to read:

30 440.385 Florida Self-Insurers Guaranty Association,
31 Incorporated.--

1 (1) CREATION OF ASSOCIATION.--

2 (a) There is created a nonprofit corporation to be
3 known as the "Florida Self-Insurers Guaranty Association,
4 Incorporated," hereinafter referred to as "the association."
5 Upon incorporation of the association, all individual
6 self-insurers as defined in ss. 440.02(23)(a)~~440.02(21)(a)~~
7 and 440.38(1)(b), other than individual self-insurers which
8 are public utilities or governmental entities, shall be
9 members of the association as a condition of their authority
10 to individually self-insure in this state. The association
11 shall perform its functions under a plan of operation as
12 established and approved under subsection (5) and shall
13 exercise its powers and duties through a board of directors as
14 established under subsection (2). The corporation shall have
15 those powers granted or permitted corporations not for profit,
16 as provided in chapter 617.

17

18 Reviser's note.--Amended to conform to the
19 redesignation of s. 440.02(21)(a) as s.
20 440.02(23)(a) by s. 1, ch. 98-174, Laws of
21 Florida.

22

23 Section 62. Subsections (4) and (5), paragraph (c) of
24 subsection (6), paragraph (e) of subsection (7), and paragraph
25 (b) of subsection (13) of section 440.49, Florida Statutes,
26 1998 Supplement, are amended to read:

27 440.49 Limitation of liability for subsequent injury
28 through Special Disability Trust Fund.--

29 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL
30 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT
31 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

1 (a) Permanent impairment.--If an employee who has a
2 preexisting permanent physical impairment incurs a subsequent
3 permanent impairment from injury or occupational disease
4 arising out of, and in the course of, her or his employment
5 which merges with the preexisting permanent physical
6 impairment to cause a permanent impairment, the employer
7 shall, in the first instance, pay all benefits provided by
8 this chapter; but, subject to the limitations specified in
9 subsection (6), such employer shall be reimbursed from the
10 Special Disability Trust Fund created by subsection (9)~~(8)~~ for
11 50 percent of all impairment benefits which the employer has
12 been required to provide pursuant to s. 440.15(3)(a) as a
13 result of the subsequent accident or occupational disease.

14 (b) Permanent total disability.--If an employee who
15 has a preexisting permanent physical impairment incurs a
16 subsequent permanent impairment from injury or occupational
17 disease arising out of, and in the course of, her or his
18 employment which merges with the preexisting permanent
19 physical impairment to cause permanent total disability, the
20 employer shall, in the first instance, pay all benefits
21 provided by this chapter; but, subject to the limitations
22 specified in subsection (6), such employer shall be reimbursed
23 from the Special Disability Trust Fund created by subsection
24 (9)~~(8)~~ for 50 percent of all compensation for permanent total
25 disability.

26 (c) Temporary compensation and medical benefits;
27 aggravation or acceleration of preexisting condition or
28 circumstantial causation.--If an employee who has a
29 preexisting permanent physical impairment experiences an
30 aggravation or acceleration of the preexisting permanent
31 physical impairment as a result of an injury or occupational

1 disease arising out of and in the course of her or his
2 employment, or suffers an injury as a result of a merger as
3 defined in paragraph (2)(c)~~subparagraph (1)(b)2.~~, the
4 employer shall provide all benefits provided by this chapter,
5 but, subject to the limitations specified in subsection (7),
6 the employer shall be reimbursed by the Special Disability
7 Trust Fund created by subsection (9)~~(8)~~ for 50 percent of its
8 payments for temporary, medical, and attendant care benefits.

9 (5) WHEN DEATH RESULTS.--If death results from the
10 subsequent permanent impairment contemplated in subsection (4)
11 ~~paragraph (c)~~ within 1 year after the subsequent injury, or
12 within 5 years after the subsequent injury when disability has
13 been continuous since the subsequent injury, and it is
14 determined that the death resulted from a merger, the employer
15 shall, in the first instance, pay the funeral expenses and the
16 death benefits prescribed by this chapter; but, subject to the
17 limitations specified in subsection (6), she or he shall be
18 reimbursed from the Special Disability Trust Fund created by
19 subsection (9)~~(8)~~ for the last 50 percent of all compensation
20 allowable and paid for such death and for 50 percent of the
21 amount paid as funeral expenses.

22 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.--

23 (c) An employer's or carrier's right to apportionment
24 or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and
25 440.151(1)(c) does not preclude reimbursement from such fund,
26 except when the merger comes within the definition of
27 paragraph (2)(c)~~subparagraph (2)(b)2.~~ and such apportionment
28 or deduction relieves the employer or carrier from providing
29 the materially and substantially greater permanent disability
30 benefits otherwise contemplated in those paragraphs.

31 (7) REIMBURSEMENT OF EMPLOYER.--

1 (e) For dates of accident on or after January 1, 1994,
2 the Special Disability Trust Fund shall, within 120 days of
3 receipt of notice that a carrier has been required to pay, and
4 has paid over \$10,000 in benefits, serve notice of the
5 acceptance of the claim for reimbursement. Failure of the
6 Special Disability Trust Fund to serve notice of acceptance
7 shall give rise to the right to request a hearing on the claim
8 for reimbursement. If the Special Disability Trust Fund
9 through its representative denies or controverts the claim,
10 the right to such reimbursement shall be barred unless an
11 application for a hearing thereon is filed with the division
12 or administrator at Tallahassee within 60 days after notice to
13 the employer or carrier of such denial or controversion. When
14 such application for a hearing is timely filed, the claim
15 shall be heard and determined in accordance with the procedure
16 prescribed in s. 440.25, to the extent that such procedure is
17 applicable, and in accordance with the workers' compensation
18 rules of procedure. In such proceeding on a claim for
19 reimbursement, the Special Disability Trust Fund shall be made
20 the party respondent, and no findings of fact made with
21 respect to the claim of the injured employee or the dependents
22 for compensation, including any finding made or order entered
23 pursuant to s. 440.20(11)~~440.20(12)~~, shall be res judicata.
24 The Special Disability Trust Fund may not be joined or made a
25 party to any controversy or dispute between an employee and
26 the dependents and the employer or between two or more
27 employers or carriers without the written consent of the fund.

28 (13) SPECIAL DISABILITY TRUST FUND PRIVATIZATION
29 COMMISSION.--

30 (b) Consistent with the closing of the fund provided
31 in subsection (11), the Special Disability Trust Fund

1 Privatization Commission is authorized to contract with an
2 administrator to review, allow, deny, compromise, controvert,
3 and litigate claims of the Special Disability Trust Fund under
4 this section. The commission, in consultation with the
5 division, is authorized to contract with a qualified entity to
6 assume the reimbursement obligations of the Special Disability
7 Trust Fund for claims which have previously been ~~have~~ accepted
8 for reimbursement by the Special Disability Trust Fund and
9 claims which are determined to be reimbursable by the Special
10 Disability Trust Fund. The qualified entity and the
11 administrator shall not be affiliates of the other, and shall
12 not establish or maintain a financial or contractual agreement
13 with each other for purposes of this section. On or before
14 July 1, 1999, the commission, in consultation with the
15 division, may develop and issue a request for proposal for the
16 transfer and assumption of liabilities, and administration of
17 certain functions related to claims of the Special Disability
18 Trust Fund. The administrator shall have experience in
19 workers' compensation claims management of sufficient scope
20 and size to undertake the duties and responsibilities of this
21 section and shall demonstrate the ability to meet the criteria
22 established by the commission, which shall include the ability
23 to substantially reduce the overall costs of reviewing and
24 reimbursing claims, and to settle and extinguish the
25 liabilities of the Special Disability Trust Fund in a more
26 cost-efficient and more timely manner than presently provided
27 by the division. In the event liabilities on the Special
28 Disabilities Trust Fund are transferred to and assumed by a
29 qualified entity, such entity shall provide the state with
30 financial assurance as to the satisfaction of any such
31 liabilities or claims and the state and the Special Disability

1 Trust Fund shall have no further liability with respect to
2 those liabilities and claims. The financial assurances may
3 include, but are not limited to, cash reserves, reinsurance,
4 guarantees, or letters of credit.

5
6 Reviser's note.--Subsections (4) and (5) are
7 amended to conform to the redesignation of
8 subunits of s. 440.49 by s. 43, ch. 93-415,
9 Laws of Florida. Paragraphs (4)(c) and (6)(c)
10 are amended to conform to the definition of
11 "merger" in paragraph (2)(c). Paragraph (7)(e)
12 is amended to conform to the redesignation of
13 s. 440.20(12) as s. 440.20(11) by s. 26, ch.
14 93-415. Paragraph (13)(b) is amended to improve
15 clarity and facilitate correct interpretation.

16
17 Section 63. Paragraph (b) of subsection (1) and
18 subsection (5) of section 440.51, Florida Statutes, are
19 amended to read:

20 440.51 Expenses of administration.--

21 (1) The division shall estimate annually in advance
22 the amounts necessary for the administration of this chapter,
23 in the following manner.

24 (b) The total expenses of administration shall be
25 prorated among the insurance companies writing compensation
26 insurance in the state and self-insurers. The net premiums
27 collected by the companies and the amount of premiums a
28 self-insurer would have to pay if insured are the basis for
29 computing the amount to be assessed. This amount may be
30 assessed as a specific amount or as a percentage of net
31 premiums payable as the division may direct, provided such

1 amount so assessed shall not exceed 4 percent of such net
2 premiums. The insurance companies may elect to make the
3 payments required under s. 440.15(1)(f)~~440.15(1)(e)~~ rather
4 than having these payments made by the division. In that
5 event, such payments will be credited to the insurance
6 companies, and the amount due by the insurance company under
7 this section will be reduced accordingly.

8 (5) Any amount so assessed against and paid by an
9 insurance carrier, self-insurer authorized pursuant to s.
10 624.4621 ~~440.57~~, or commercial self-insurance fund authorized
11 under ss. 624.460-624.488 shall be allowed as a deduction
12 against the amount of any other tax levied by the state upon
13 the premiums, assessments, or deposits for workers'
14 compensation insurance on contracts or policies of said
15 insurance carrier, self-insurer, or commercial self-insurance
16 fund.

17
18 Reviser's note.--Paragraph (1)(b) is amended to
19 conform to the redesignation of s. 440.15(1)(e)
20 as s. 440.15(1)(f) by s. 20, ch. 93-415, Laws
21 of Florida. Subsection (5) is amended to
22 conform to the redesignation of s. 440.57 as s.
23 624.4621 by s. 79, ch. 93-415.

24
25 Section 64. Subsection (2) of section 442.20, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 442.20 Workplace safety.--

28 (2) The Division of Safety shall have the authority to
29 adopt rules for the purpose of assuring safe working
30 conditions for all workers by authorizing the enforcement of
31 effective standards, assisting and encouraging employers to

1 maintain safe working conditions, and by providing for
2 education and training in the field of safety. For public
3 sector employers, the division may by rule adopt subparts C
4 through T and subpart Z of 29 C.F.R. part 1910; subparts C
5 through Z of 29 C.F.R. part 1926; subparts A through D,
6 subpart I, and subpart M of 29 C.F.R. part 1928; subparts A
7 through G of 29 C.F.R. part 1917; subparts A through L and
8 subpart Z of 29 C.F.R. part 1915; subparts A through J of 29
9 C.F.R. part 1918, as revised July 1, 1993, provided that 29
10 C.F.R. s. 1910.156 applies to volunteer firefighters and fire
11 departments operated by the state or ~~of~~ political
12 subdivisions; the National Fire Protection Association, Inc.,
13 Standard 1500, paragraph 5-7 (Personal Alert Safety System)
14 (1992 edition); and ANSI A 10.4-1990.

15

16 Reviser's note.--Amended to improve clarity and
17 facilitate correct interpretation.

18

19 Section 65. Paragraph (n) of subsection (21) of
20 section 443.036, Florida Statutes, 1998 Supplement, is amended
21 to read:

22 443.036 Definitions.--As used in this chapter, unless
23 the context clearly requires otherwise:

24 (21) EMPLOYMENT.--"Employment," subject to the other
25 provisions of this chapter, means any service performed by an
26 employee for the person employing him or her.

27 (n) Exclusions generally.--The term "employment" does
28 not include:

29 1. Domestic service in a private home, local college
30 club, or local chapter of a college fraternity or sorority,
31 except as provided in paragraph (g).

1 2. Service performed on or in connection with a vessel
2 or aircraft not an American vessel or American aircraft, if
3 the employee is employed on and in connection with such vessel
4 or aircraft when outside the United States.

5 3. Service performed by an individual in, or as an
6 officer or member of the crew of a vessel while it is engaged
7 in, the catching, taking, harvesting, cultivating, or farming
8 of any kind of fish, shellfish, crustacea, sponges, seaweeds,
9 or other aquatic forms of animal and vegetable life, including
10 service performed by any such individual as an ordinary
11 incident to any such activity, except:

12 a. Service performed in connection with the catching
13 or taking of salmon or halibut for commercial purposes.

14 b. Service performed on, or in connection with, a
15 vessel of more than 10 net tons, determined in the manner
16 provided for determining the register tonnage of merchant
17 vessels under the laws of the United States.

18 4. Service performed by an individual in the employ of
19 his or her son, daughter, or spouse, including step
20 relationships, and service performed by a child, or stepchild,
21 under the age of 21 in the employ of his or her father or
22 mother, or stepfather or stepmother.

23 5. Service performed in the employ of the United
24 States Government or of an instrumentality of the United
25 States which is:

26 a. Wholly or partially owned by the United States.

27 b. Exempt from the tax imposed by s. 3301 of the
28 Internal Revenue Code by virtue of any provision of federal
29 law which specifically refers to such section, or the
30 corresponding section of prior law, in granting such
31 exemption; except that to the extent that the Congress shall

1 permit states to require any instrumentalities of the United
2 States to make payments into an unemployment fund under a
3 state unemployment compensation law, all of the provisions of
4 this law shall be applicable to such instrumentalities, and to
5 services performed for such instrumentalities, in the same
6 manner, to the same extent, and on the same terms as to all
7 other employers, employing units, individuals, and services.
8 If this state is not certified for any year by the Secretary
9 of Labor under s. 3304 of the federal Internal Revenue Code,
10 the payments required of such instrumentalities with respect
11 to such year shall be refunded by the division from the fund
12 in the same manner and within the same period as is provided
13 in s. 443.141(6) with respect to contributions erroneously
14 collected.

15 6. Service performed in the employ of a state, or any
16 political subdivision thereof, or any instrumentality of any
17 one or more of the foregoing which is wholly owned by one or
18 more states or political subdivisions, except as provided in
19 paragraph (b), and any service performed in the employ of any
20 instrumentality of one or more states or political
21 subdivisions, to the extent that the instrumentality is, with
22 respect to such service, immune under the Constitution of the
23 United States from the tax imposed by s. 3301 of the Internal
24 Revenue Code.

25 7. Service performed in the employ of a corporation,
26 community chest, fund, or foundation, organized and operated
27 exclusively for religious, charitable, scientific, testing for
28 public safety, literary, or educational purposes, or for the
29 prevention of cruelty to children or animals, no part of the
30 net earnings of which inures to the benefit of any private
31 shareholder or individual, no substantial part of the

1 activities of which is carrying on propaganda or otherwise
2 attempting to influence legislation, and which does not
3 participate in, or intervene in (including the publishing or
4 distributing of statements), any political campaign on behalf
5 of any candidate for public office, except as provided in
6 paragraph (c).

7 8. Service with respect to which unemployment
8 compensation is payable under an unemployment compensation
9 system established by an Act of Congress.

10 9.a. Service performed in any calendar quarter in the
11 employ of any organization exempt from income tax under s.
12 501(a) of the Internal Revenue Code, other than an
13 organization described in s. 401(a), or under s. 521, if the
14 remuneration for such service is less than \$50.

15 b. Service performed in the employ of a school,
16 college, or university, if such service is performed by a
17 student who is enrolled and is regularly attending classes at
18 such school, college, or university.

19 10. Service performed in the employ of a foreign
20 government, including service as a consular or other officer
21 or employee of a nondiplomatic representative.

22 11. Service performed in the employ of an
23 instrumentality wholly owned by a foreign government:

24 a. If the service is of a character similar to that
25 performed in foreign countries by employees of the United
26 States Government or of an instrumentality thereof; and

27 b. The Secretary of State shall certify to the
28 Secretary of the Treasury that the foreign government, with
29 respect to whose instrumentality exemption is claimed, grants
30 an equivalent exemption with respect to similar service
31

1 performed in the foreign country by employees of the United
2 States Government and of instrumentalities thereof.

3 12. Service performed as a student nurse in the employ
4 of a hospital or a nurses' training school by an individual
5 who is enrolled and is regularly attending classes in a
6 nurses' training school chartered or approved pursuant to a
7 state law; service performed as an intern in the employ of a
8 hospital by an individual who has completed a 4-year course in
9 a medical school chartered or approved pursuant to state law;
10 and service performed by a patient of a hospital for such
11 hospital.

12 13. Service performed by an individual for a person as
13 an insurance agent or as an insurance solicitor, if all such
14 service performed by such individual for such person is
15 performed for remuneration solely by way of commission, except
16 for such services performed in accordance with 26 U.S.C.S. s.
17 3306(c)(7) and (8). For purposes of this subsection, those
18 benefits excluded from the definition of wages pursuant to
19 subparagraphs (40)(b)2.-6. ~~(33)(b)2.-6.~~, inclusive, shall not
20 be considered remuneration.

21 14. Service performed by an individual for a person as
22 a real estate salesperson or agent, if all such service
23 performed by such individual for such person is performed for
24 remuneration solely by way of commission.

25 15. Service performed by an individual under the age
26 of 18 in the delivery or distribution of newspapers or
27 shopping news, not including delivery or distribution to any
28 point for subsequent delivery or distribution.

29 16. Service covered by an arrangement between the
30 division and the agency charged with the administration of any
31 other state or federal unemployment compensation law pursuant

1 to which all services performed by an individual for an
2 employing unit during the period covered by such employing
3 unit's duly approved election are deemed to be performed
4 entirely within such agency's state or under such federal law.

5 17. Service performed by an individual who is enrolled
6 at a nonprofit or public educational institution which
7 normally maintains a regular faculty and curriculum and
8 normally has a regularly organized body of students in
9 attendance at the place where its educational activities are
10 carried on as a student in a full-time program, taken for
11 credit at such institution, which combines academic
12 instruction with work experience, if such service is an
13 integral part of such program, and such institution has so
14 certified to the employer, except that this subparagraph does
15 not apply to service performed in a program established for or
16 on behalf of an employer or group of employers.

17 18. Service performed by an individual for a person as
18 a barber, if all such service performed by such individual for
19 such person is performed for remuneration solely by way of
20 commission.

21 19. Casual labor not in the course of the employer's
22 trade or business.

23 20. Service performed by a speech therapist,
24 occupational therapist, or physical therapist who is
25 nonsalaried and working pursuant to a written contract with a
26 home health agency as defined in s. 400.462.

27 21. Service performed by a direct seller. For purposes
28 of this subparagraph, the term "direct seller" means a person:

29 a.(I) Who is engaged in the trade or business of
30 selling or soliciting the sale of consumer products to buyers
31 on a buy-sell basis or a deposit-commission basis, or on any

1 similar basis, for resale in the home or in any other place
2 that is not a permanent retail establishment; or

3 (II) Who is engaged in the trade or business of
4 selling or soliciting the sale of consumer products in the
5 home or in any other place that is not a permanent retail
6 establishment;

7 b. Substantially all of whose remuneration for
8 services described in sub-subparagraph a., whether or not paid
9 in cash, is directly related to sales or other output, rather
10 than to the number of hours worked; and

11 c. Who performs such services pursuant to a written
12 contract with the person for whom the services are performed,
13 which contract provides that the person will not be treated as
14 an employee with respect to such services for federal tax
15 purposes.

16 22. Service performed by a nonresident alien
17 individual for the period he or she is temporarily present in
18 the United States as a nonimmigrant under subparagraph (F) or
19 subparagraph (J) of s. 101(a)(15) of the Immigration and
20 Nationality Act, and which is performed to carry out the
21 purpose specified in subparagraph (F) or subparagraph (J), as
22 the case may be.

23 23. Service performed by an individual for
24 remuneration for a private, for-profit delivery or messenger
25 service, if the individual:

26 a. Is free to accept or reject jobs from the delivery
27 or messenger service and the delivery or messenger service has
28 no control over when the individual works;

29 b. Is remunerated for each delivery, or the
30 remuneration is based on factors that relate to the work

31

- 1 performed, including receipt of a percentage of any rate
2 schedule;
- 3 c. Pays all expenses and the opportunity for profit or
4 loss rests solely with the individual;
- 5 d. Is responsible for operating costs, including fuel,
6 repairs, supplies, and motor vehicle insurance;
- 7 e. Determines the method of performing the service,
8 including selection of routes and order of deliveries;
- 9 f. Is responsible for the completion of a specific job
10 and is liable for any failure to complete that job;
- 11 g. Enters into a contract with the delivery or
12 messenger service which specifies the relationship of the
13 individual to the delivery or messenger service to be that of
14 an independent contractor and not that of an employee; and
- 15 h. Provides the vehicle used to perform the service.
- 16 24. Service performed in agricultural labor by an
17 individual who is an alien admitted to the United States to
18 perform service in agricultural labor pursuant to ss.
19 101(a)(15)(H) and 214(c) of the Immigration and Nationality
20 Act.
- 21 25. Service performed by a person who is an inmate of
22 a penal institution.

23

24 Reviser's note.--Amended to conform to the
25 redesignation of subparagraphs (33)(b)2.-6. of
26 s. 443.036 as subparagraphs (40)(b)2.-6. by s.
27 4, ch. 98-149, Laws of Florida.

28

29 Section 66. Paragraph (b) of subsection (2) of section
30 443.041, Florida Statutes, is amended to read:

31

1 443.041 Waiver of rights; fees; privileged
2 communications.--
3 (2) FEES.--
4 (b) An attorney at law representing a claimant for
5 benefits in any district court of appeal of this state or in
6 the Supreme Court of Florida is entitled to counsel fees
7 payable by the division as fixed by the court if the petition
8 for review or appeal is initiated by the claimant and results
9 in a decision awarding more benefits than did the decision
10 from which appeal was taken. The amount of the fee may not
11 exceed 50 percent of the regular benefits awarded under s.
12 443.111(5)(a)~~443.111(4)(a)~~during the benefit year.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 443.111(4)(a) as s.
16 443.111(5)(a) by s. 5, ch. 96-378, Laws of
17 Florida, and s. 21, ch. 96-423, Laws of
18 Florida.

19
20 Section 67. Paragraphs (f), (g), and (h) of subsection
21 (7) of section 443.111, Florida Statutes, are amended to read:

22 443.111 Payment of benefits.--
23 (7) SHORT-TIME COMPENSATION PROGRAM.--
24 (f) Weekly short-time compensation benefit
25 amount.--The weekly short-time compensation benefit amount
26 payable to an individual shall be an amount equal to the
27 product of her or his weekly benefit amount as provided in
28 subsection(3)~~(2)~~and the ratio of the number of normal weekly
29 hours of work for which the employer would not compensate the
30 individual to the individual's normal weekly hours of work.

31

1 Such benefit amount, if not a multiple of \$1, shall be rounded
2 downward to the next lower multiple of \$1.

3 (g) Total short-time compensation benefit amount.--No
4 individual shall be paid benefits under this paragraph in any
5 benefit year for more than the maximum entitlement provided in
6 subsection (5)~~(4)~~, nor shall an individual be paid short-time
7 compensation benefits for more than 26 weeks in any benefit
8 year.

9 (h) Effect of short-time compensation benefits
10 relating to the payment of regular and extended benefits.--

11 1. The short-time compensation benefits paid to an
12 individual shall be deducted from the total benefit amount
13 established for that individual as provided in subsection
14 (5)~~(4)~~.

15 2. An individual who has received all of the
16 short-time compensation or combined unemployment compensation
17 and short-time compensation available in a benefit year shall
18 be considered an exhaustee for purposes of the extended
19 benefits program as provided in subsection (6)~~(5)~~ and, if
20 otherwise eligible under those provisions, shall be eligible
21 to receive extended benefits.

22 3. No otherwise eligible individual shall be
23 disqualified from benefits for leaving employment instead of
24 accepting a reduction in hours pursuant to the implementation
25 of an approved plan.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of subunits of s. 443.111 by s.
29 5, ch. 96-378, Laws of Florida, and s. 21, ch.
30 96-423, Laws of Florida.

31

1 Section 68. Subsection (5) of section 443.141, Florida
2 Statutes, 1998 Supplement, is amended to read:
3 443.141 Collection of contributions.--
4 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR
5 DISTRIBUTIONS.--In the event of any distribution of any
6 employer's assets pursuant to an order of any court under the
7 laws of this state, including any receivership, assignment for
8 the benefit of creditors, adjudicated insolvency, composition,
9 administration of estates of decedents, or other similar
10 proceeding, contributions then or thereafter due shall be paid
11 in full prior to all other claims except claims for wages of
12 not more than \$250 to each claimant, earned within 6 months of
13 the commencement of the proceeding, and on a parity with all
14 other tax claims wherever such tax claims have been given
15 priority. In the administration of the estate of any
16 decedent, the filing of notice of lien shall be deemed a
17 proceeding required upon protest of the claim filed by the
18 division for contributions due under this chapter, and such
19 claim shall be allowed by the circuit judge. However, the
20 personal representative of the decedent may by petition to the
21 circuit court object to the validity of the claim of the
22 division, and proceedings shall be had in the circuit court
23 for the determination of the validity of the claim of the
24 division. Further, the bond of the personal representative
25 shall not be discharged until such claim is finally determined
26 by the circuit court; and, when no bond has been given by the
27 personal representative, none of the assets of the estate
28 shall be distributed until such final determination by the
29 circuit court. Upon distribution of the assets of the estate
30 of any decedent, the claim of the division shall have class 87
31 priority established in s. 733.707(1)(h)~~733.707(1)(g)~~,

1 subject to the above limitations with reference to wages. In
2 the event of any employer's adjudication in bankruptcy,
3 judicially confirmed extension proposal, or composition, under
4 the Federal Bankruptcy Act of 1898, as amended, contributions
5 then or thereafter due shall be entitled to such priority as
6 is provided in s. 64B of that act (U.S.C. Title II, s. 104(b),
7 as amended).

8
9 Reviser's note.--Amended to conform to the
10 redesignation of class 7 priority in s.
11 733.707(1)(g) as class 8 priority in s.
12 733.707(1)(h) by s. 20, ch. 93-208, Laws of
13 Florida.

14
15 Section 69. Paragraph (a) of subsection (3) and
16 paragraph (e) of subsection (6) of section 443.151, Florida
17 Statutes, 1998 Supplement, are amended to read:

18 443.151 Procedure concerning claims.--

19 (3) DETERMINATION.--

20 (a) In general.--An initial determination upon a claim
21 filed pursuant to subsection (2) shall be made promptly by an
22 examiner designated by the division, shall include a statement
23 as to whether and in what amount claimant is entitled to
24 benefits, and, in the event of a denial, shall state the
25 reasons therefor. A determination with respect to the first
26 week of a benefit year shall also include a statement as to
27 whether the claimant has been paid the wages required under s.
28 443.091(1)(f)~~443.091(1)(e)~~and, if so, the first day of the
29 benefit year, the claimant's weekly benefit amount, and the
30 maximum total amount of benefits payable to the claimant with
31 respect to a benefit year. The claimant, the claimant's most

1 recent employing unit, and all employers whose accounts would
2 be charged with benefits pursuant to such determination shall
3 be promptly notified of such initial determination; and such
4 determination shall be final unless within 20 days after the
5 mailing of such notices to the parties' last known addresses,
6 or in the absence of such mailing, within 20 days after the
7 delivery of such notice, appeal or written request for
8 reconsideration is filed by the claimant or other party
9 entitled to such notice.

10 (6) RECOVERY AND RECOUPMENT.--

11 (e) Notwithstanding any other provision of this
12 chapter, any person who has been determined by either this
13 state, a cooperating state agency, the United States Secretary
14 of Labor, or a court of competent jurisdiction to have
15 received any payments under the Trade Act of 1974, as amended,
16 to which the person was not entitled shall have such sum
17 deducted from any regular benefits, as defined in s.
18 443.111(6)(a)5.~~443.111(5)(a)5.~~, payable to her or him under
19 this chapter; except that no single deduction under this
20 paragraph shall exceed 50 percent of the amount otherwise
21 payable. The amounts so deducted shall be paid to the agency
22 which issued the payments under the Trade Act of 1974, as
23 amended, for return to the United States Treasury. However,
24 except for overpayments determined by a court of competent
25 jurisdiction, no deduction may be made under this paragraph
26 until a determination by the state agency or the United States
27 Secretary of Labor has become final.

28

29 Reviser's note.--Paragraph (3)(a) is amended to
30 conform to the redesignation of s.

31 443.091(1)(e) as s. 443.091(1)(f) by s. 3, ch.

1 94-347, Laws of Florida. Paragraph (6)(e) is
2 amended to conform to the redesignation of s.
3 443.111(5)(a)5. as s. 443.111(6)(a)5. by s. 5,
4 ch. 96-378, Laws of Florida, and s. 21, ch.
5 96-423, Laws of Florida.

6
7 Section 70. Subsection (7) and paragraph (a) of
8 subsection (11) of section 443.171, Florida Statutes, 1998
9 Supplement, are amended to read:

10 443.171 Division and commission; powers and duties;
11 rules; advisory council; records and reports.--

12 (7) RECORDS AND REPORTS.--Each employing unit shall
13 keep true and accurate work records, containing such
14 information as the division may prescribe. Such records shall
15 be open to inspection and be subject to being copied by the
16 division at any reasonable time and as often as may be
17 necessary. The division or an appeals referee may require from
18 any employing unit any sworn or unsworn reports, with respect
19 to persons employed by it, deemed necessary for the effective
20 administration of this chapter. However, a state or local
21 governmental agency performing intelligence or
22 counterintelligence functions need not report an employee if
23 the head of such agency has determined that reporting the
24 employee could endanger the safety of the employee or
25 compromise an ongoing investigation or intelligence mission.
26 Information revealing the employing unit's or individual's
27 identity thus obtained from the employing unit or from any
28 individual pursuant to the administration of this chapter,
29 shall, except to the extent necessary for the proper
30 presentation of a claim or upon written authorization of the
31 claimant who has a workers' compensation claim pending, be

1 held confidential and exempt from the provisions of s.
2 119.07(1). Such information shall be available only to public
3 employees in the performance of their public duties, including
4 employees of the Department of Education in obtaining
5 information for the Florida Education and Training Placement
6 Information Program and the Office of Tourism, Trade, and
7 Economic Development ~~Department of Commerce~~ in its
8 administration of the qualified defense contractor tax refund
9 program authorized by s. 288.1045 ~~288.104~~, the qualified
10 target industry business tax refund program authorized by s.
11 288.106. Any claimant, or the claimant's legal representative,
12 at a hearing before an appeals referee or the commission shall
13 be supplied with information from such records to the extent
14 necessary for the proper presentation of her or his claim. Any
15 employee or member of the commission or any employee of the
16 division, or any other person receiving confidential
17 information, who violates any provision of this subsection is
18 guilty of a misdemeanor of the second degree, punishable as
19 provided in s. 775.082 or s. 775.083. However, the division
20 may furnish to any employer copies of any report previously
21 submitted by such employer, upon the request of such employer,
22 and the division is authorized to charge therefor such
23 reasonable fee as the division may by rule prescribe not to
24 exceed the actual reasonable cost of the preparation of such
25 copies. Fees received by the division for copies provided
26 under this subsection shall be deposited to the credit of the
27 Employment Security Administration Trust Fund.

28 (11) STATE-FEDERAL COOPERATION.--

29 (a)1. In the administration of this chapter, the
30 division shall cooperate with the United States Department of
31 Labor to the fullest extent consistent with the provisions of

1 this chapter and shall take such action, through the adoption
2 of appropriate rules, administrative methods, and standards,
3 as may be necessary to secure to this state and its citizens
4 all advantages available under the provisions of the Social
5 Security Act that relate to unemployment compensation, the
6 Federal Unemployment Tax Act, the Wagner-Peyser Act, and the
7 Federal-State Extended Unemployment Compensation Act of 1970,
8 or other federal manpower acts.

9 2. In the administration of the provisions in s.
10 443.111(6)~~443.111(5)~~, which are enacted to conform with the
11 requirements of the Federal-State Extended Unemployment
12 Compensation Act of 1970, the division shall take such action
13 as may be necessary to ensure that the provisions are so
14 interpreted and applied as to meet the requirements of such
15 federal act as interpreted by the United States Department of
16 Labor and to secure to this state the full reimbursement of
17 the federal share of extended benefits paid under this chapter
18 that are reimbursable under the federal act.

19 3. The division shall comply with the regulations of
20 the United States Department of Labor relating to the receipt
21 or expenditure by this state of moneys granted under any of
22 such acts; shall make such reports, in such form and
23 containing such information, as the United States Department
24 of Labor may from time to time require; and shall comply with
25 such provisions as the United States Department of Labor may
26 from time to time find necessary to assure the correctness and
27 verification of such reports.

28
29 Reviser's note.--Subsection (7) is amended to
30 conform to the substitution of the Office of
31 Tourism, Trade, and Economic Development for

1 the Department of Commerce for purposes of s.
2 288.106 by s. 44, ch. 96-320, Laws of Florida,
3 and the repeal of s. 288.104 by s. 8, ch.
4 96-348, Laws of Florida, and the enactment of
5 new s. 288.1045 governing the qualified defense
6 contractor tax refund program by s. 1, ch.
7 96-348. Paragraph (11)(a) is amended to conform
8 to the redesignation of s. 443.111(5) as s.
9 443.111(6) by s. 5, ch. 96-378, Laws of
10 Florida, and s. 21, ch. 96-423, Laws of
11 Florida.

12
13 Section 71. Paragraph (a) of subsection (5) of section
14 443.191, Florida Statutes, 1998 Supplement, is amended to
15 read:

16 443.191 Unemployment Compensation Trust Fund;
17 establishment and control.--

18 (5) MONEY CREDITED UNDER SECTION 903 OF THE SOCIAL
19 SECURITY ACT.--

20 (a) Money credited to the account of this state in the
21 Unemployment Compensation Trust Fund by the Secretary of the
22 Treasury of the United States pursuant to s. 903 of the Social
23 Security Act may not be requisitioned from this state's
24 account or used except for the payment of benefits and for the
25 payment of expenses incurred for the administration of this
26 law. Such money may be requisitioned pursuant to subsection
27 (3) for the payment of benefits. Such money may also be
28 requisitioned and used for the payment of expenses incurred
29 for the administration of this law but only pursuant to a
30 specific appropriation by the Legislature and only if the
31

1 expenses are incurred and the money is requisitioned after the
2 enactment of an appropriation law which:

3 1. Specifies the purposes for which such money is
4 appropriated and the amounts appropriated therefor;

5 2. Limits the period within which such money may be
6 obligated to a period ending not more than 2 years after the
7 date of the enactment of the appropriation law; and

8 3. Limits the amount which may be obligated during any
9 12-month period beginning on July 1 and ending on the next
10 June 30 to an amount which does not exceed the amount by which
11 the aggregate of the amounts credited to the account of this
12 state pursuant to s. 903 of the Social Security Act during the
13 same 12-month period and the 34 preceding 12-month periods,
14 exceeds the aggregate of the amounts obligated for
15 administration and paid out for benefits and charged against
16 the amounts credited to the account of this state during such
17 35 12-month periods.

18 4. Notwithstanding this paragraph ~~subparagraph 1~~,
19 money credited with respect to federal fiscal years 1999,
20 2000, and 2001 shall be used solely for the administration of
21 the unemployment compensation program and such money shall not
22 otherwise be subject to the requirements of this paragraph
23 ~~subparagraph 1~~ when appropriated by the Legislature.

24
25 Reviser's note.--Amended to improve clarity and
26 facilitate correct interpretation and to
27 conform to the reference as specified in
28 federal model language.

29
30 Section 72. Subsections (1) and (9) of section 446.22,
31 Florida Statutes, are amended to read:

1 446.22 Definitions.--As used in this act, the
2 following words and phrases shall have the meanings set forth
3 herein, except where the context otherwise requires:

4 (1) "Advisory council" means the State Human Resource
5 Investment ~~Job Training Coordinating~~ Council, as created and
6 described by s. 446.20(2).

7 (9) "Private industry council" means an organization
8 comprised of private businesses, local government, education,
9 welfare agencies, organized labor, and community-based
10 organizations designated by the State Human Resource
11 Investment ~~Job Training Coordinating~~ Council under the federal
12 Job Training Partnership Act to deliver training and
13 educational services to youth and unemployed persons.

14

15 Reviser's note.--Amended to conform to the
16 redesignation of the State Job Training
17 Coordinating Council as the State Human
18 Resource Investment Council by s. 7, ch.
19 96-404, Laws of Florida.

20

21 Section 73. Subsection (3) of section 446.25, Florida
22 Statutes, is amended to read:

23 446.25 Implementation.--

24 (3) The State Human Resource Investment ~~Job Training~~
25 ~~Coordinating~~ Council shall review proposed operational
26 policies and rules associated with the program and shall act
27 as advisory council to this program for the purpose of:

28 (a) Establishing general performance standards in
29 conjunction with the department guidelines.

30 (b) Making recommendations to the department with
31 regard to the establishment of program criteria.

1 (c) Assisting in the development of linkages with
2 potential public and private sector participants in the
3 program.

4 (d) Advising the department of changes to the federal
5 Job Training Partnership Act which may impact this program.

6 (e) Providing for followup studies and evaluating the
7 program in conjunction with the Department of Labor and
8 Employment Security.

9

10 Reviser's note.--Amended to conform to the
11 redesignation of the State Job Training
12 Coordinating Council as the State Human
13 Resource Investment Council by s. 7, ch.
14 96-404, Laws of Florida.

15

16 Section 74. Subsection (1) of section 455.01, Florida
17 Statutes, is amended to read:

18 455.01 Definitions.--As used in this part, the term:

19 (1) "Board" means any board or commission, or other
20 statutorily created entity to the extent such entity is
21 authorized to exercise regulatory or rulemaking functions,
22 within the department, including the Florida Real Estate
23 Commission; except that, for ss. 455.201-455.245
24 ~~455.201-455.261~~, "board" means only a board, or other
25 statutorily created entity to the extent such entity is
26 authorized to exercise regulatory or rulemaking functions,
27 within the Division of Certified Public Accounting, the
28 Division of Professions, or the Division of Real Estate.

29

30 Reviser's note.--Amended to conform to the
31 transfer of s. 455.261 to s. 455.707 by s. 94,

1 ch. 97-261, Laws of Florida. The last section
2 of the range, which pertains to professions
3 regulated by the Department of Business and
4 Professional Regulation, is now s. 455.245.
5 Section 455.707 pertains to professions
6 regulated by the Department of Health.

7
8 Section 75. Subsections (1) and (2) of section
9 455.5651, Florida Statutes, 1998 Supplement, are amended to
10 read:

11 455.5651 Practitioner profile; creation.--

12 (1) Beginning July 1, 1999, the Department of Health
13 shall compile the information submitted pursuant to s. 455.565
14 ~~section 1~~ into a practitioner profile of the applicant
15 submitting the information, except that the Department of
16 Health may develop a format to compile uniformly any
17 information submitted under s. 455.565(4)(b)~~paragraph~~
18 ~~1(4)(b)~~.

19 (2) On the profile required under subsection (1), the
20 department shall indicate if the information provided under s.
21 455.565(1)(a)7~~section 1(1)(a)7~~ is not corroborated by a
22 criminal history check conducted according to this subsection.
23 If the information provided under s. 455.565(1)(a)7~~section~~
24 ~~1(1)(a)7~~ is corroborated by the criminal history check, the
25 fact that the criminal history check was performed need not be
26 indicated on the profile. The department, or the board having
27 regulatory authority over the practitioner acting on behalf of
28 the department, shall investigate any information received by
29 the department or the board when it has reasonable grounds to
30 believe that the practitioner has violated any law that
31 relates to the practitioner's practice.

1 Reviser's note.--Amended to correct apparent
2 errors, facilitate correct interpretation, and
3 conform to redesignation of references by the
4 reviser incident to compiling the Florida
5 Statutes 1997. The references to "section
6 1(1)(a)7." in s. 128, ch. 97-237, Laws of
7 Florida, and s. 4, ch. 97-273, Laws of Florida,
8 were not updated to conform to the final
9 location of that material in the laws. The
10 references became "section 127(1)(a)7." for ch.
11 97-237 and "section 3(1)(a)7." for ch. 97-273.
12 The material was codified as s. 455.565(1)(a)7.
13 by the reviser.

14
15 Section 76. Section 455.5653, Florida Statutes, is
16 amended to read:

17 455.5653 Practitioner profiles; data
18 storage.--Effective upon this act becoming a law, the
19 Department of Health must develop or contract for a computer
20 system to accommodate the new data collection and storage
21 requirements under this act pending the development and
22 operation of a computer system by the Department of Health for
23 handling the collection, input, revision, and update of data
24 submitted by physicians as a part of their initial licensure
25 or renewal to be compiled into individual practitioner
26 profiles. The Department of Health must incorporate any data
27 required by this act into the computer system used in
28 conjunction with the regulation of health care professions
29 under its jurisdiction. The department must develop, by the
30 year 2000, a schedule and procedures for each practitioner
31 within a health care profession regulated within the Division

1 of Medical Quality Assurance to submit relevant information to
2 be compiled into a profile to be made available to the public.
3 The Department of Health is authorized to contract with and
4 negotiate any interagency agreement necessary to develop and
5 implement the practitioner profiles. The Department of Health
6 shall have access to any information or record maintained by
7 the Agency for Health Care Administration, including any
8 information or record that is otherwise confidential and
9 exempt from the provisions of chapter 119 and s. 24(a), Art. I
10 of the State Constitution, so that the Department of Health
11 may corroborate any information that physicians are required
12 to report under s. 455.565 ~~section 1 of this act~~.

13

14 Reviser's note.--Amended to correct an apparent
15 error, facilitate correct interpretation, and
16 conform to redesignation of references by the
17 reviser incident to compiling the Florida
18 Statutes 1997. The references to "section 1 of
19 this act" in s. 130, ch. 97-237, Laws of
20 Florida, and s. 6, ch. 97-273, Laws of Florida,
21 were not updated to conform to the final
22 location of that material in the laws. The
23 references became "section 127" for ch. 97-237
24 and "section 3" for ch. 97-273. The material
25 was codified as s. 455.565 by the reviser.

26

27 Section 77. Section 455.5654, Florida Statutes, is
28 amended to read:

29 455.5654 Practitioner profiles; rules;
30 workshops.--Effective upon this act becoming a law, the
31 Department of Health shall adopt rules for the form of a

1 practitioner profile that the agency is required to prepare.
2 The Department of Health, pursuant to chapter 120, must hold
3 public workshops for purposes of rule development to implement
4 this section. An agency to which information is to be
5 submitted under this act may adopt by rule a form for the
6 submission of the information required under s. 455.565
7 ~~section 1.~~

8
9 Reviser's note.--Amended to correct an apparent
10 error, facilitate correct interpretation, and
11 conform to redesignation of references by the
12 reviser incident to compiling the Florida
13 Statutes 1997. The references to "section 1"
14 by s. 131, ch. 97-237, Laws of Florida, and s.
15 7, ch. 97-273, Laws of Florida, were not
16 updated to conform to the final location of
17 that material in the laws. The references
18 became "section 127" for ch. 97-237 and
19 "section 3" for ch. 97-273. The material was
20 codified as s. 455.565 by the reviser.

21
22 Section 78. Subsection (1) of section 455.607, Florida
23 Statutes, is amended to read:

24 455.607 Athletic trainers and massage therapists;
25 requirement for instruction on human immunodeficiency virus
26 and acquired immune deficiency syndrome.--

27 (1) The board, or the department where there is no
28 board, shall require each person licensed or certified under
29 part XIII ~~XIV~~ of chapter 468 or chapter 480 to complete a
30 continuing educational course approved by the board, or the
31 department where there is no board, on human immunodeficiency

1 virus and acquired immune deficiency syndrome as part of
2 biennial relicensure or recertification. The course shall
3 consist of education on modes of transmission, infection
4 control procedures, clinical management, and prevention of
5 human immunodeficiency virus and acquired immune deficiency
6 syndrome, with an emphasis on appropriate behavior and
7 attitude change.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of parts necessitated by the
11 repeal of sections constituting former part XII
12 by s. 23, ch. 97-236, Laws of Florida.

13
14 Section 79. Subsection (6) of section 455.621, Florida
15 Statutes, is amended to read:

16 455.621 Disciplinary proceedings.--Disciplinary
17 proceedings for each board shall be within the jurisdiction of
18 the department.

19 (6) The appropriate board, with those members of the
20 panel, if any, who reviewed the investigation pursuant to
21 subsection (4)~~(5)~~ being excused, or the department when there
22 is no board, shall determine and issue the final order in each
23 disciplinary case. Such order shall constitute final agency
24 action. Any consent order or agreed-upon settlement shall be
25 subject to the approval of the department.

26
27 Reviser's note.--Amended to improve clarity and
28 facilitate correct interpretation. Subsection
29 (4) provides for a probable cause panel.

30
31

1 Section 80. Paragraph (f) of subsection (2) of section
2 455.667, Florida Statutes, 1998 Supplement, is amended to
3 read:

4 455.667 Ownership and control of patient records;
5 report or copies of records to be furnished.--

6 (2) As used in this section, the terms "records
7 owner," "health care practitioner," and "health care
8 practitioner's employer" do not include any of the following
9 persons or entities; furthermore, the following persons or
10 entities are not authorized to acquire or own medical records,
11 but are authorized under the confidentiality and disclosure
12 requirements of this section to maintain those documents
13 required by the part or chapter under which they are licensed
14 or regulated:

15 (f) Athletic trainers licensed under part XIII ~~XIV~~ of
16 chapter 468.

17

18 Reviser's note.--Amended to conform to the
19 redesignation of parts necessitated by the
20 repeal of sections constituting former part XII
21 of chapter 468 by s. 23, ch. 97-236, Laws of
22 Florida.

23

24 Section 81. Subsection (5) of section 458.311, Florida
25 Statutes, 1998 Supplement, is amended to read:

26 458.311 Licensure by examination; requirements;
27 fees.--

28 (5) The board may not certify to the department for
29 licensure any applicant who is under investigation in another
30 jurisdiction for an offense which would constitute a violation
31 of this chapter until such investigation is completed. Upon

1 completion of the investigation, the provisions of s. 458.331
2 shall apply. Furthermore, the department may not issue an
3 unrestricted license to any individual who has committed any
4 act or offense in any jurisdiction which would constitute the
5 basis for disciplining a physician pursuant to s. 458.331.
6 When the board finds that an individual has committed an act
7 or offense in any jurisdiction which would constitute the
8 basis for disciplining a physician pursuant to s. 458.331,
9 then the board may enter an order imposing one or more of the
10 terms set forth in subsection (8)~~(9)~~.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of subsection (9) of s. 458.311
14 as subsection (8) necessitated by the repeal of
15 former subsection (8) by s. 20, ch. 95-145,
16 Laws of Florida.

17

18 Section 82. Paragraph (b) of subsection (4) of section
19 458.320, Florida Statutes, 1998 Supplement, is amended to
20 read:

21 458.320 Financial responsibility.--

22 (4)

23 (b) If financial responsibility requirements are met
24 by maintaining an escrow account or letter of credit as
25 provided in this section, upon the entry of an adverse final
26 judgment arising from a medical malpractice arbitration award,
27 from a claim of medical malpractice either in contract or
28 tort, or from noncompliance with the terms of a settlement
29 agreement arising from a claim of medical malpractice either
30 in contract or tort, the licensee shall pay the entire amount
31 of the judgment together with all accrued interest, or the

1 amount maintained in the escrow account or provided in the
2 letter of credit as required by this section, whichever is
3 less, within 60 days after the date such judgment became final
4 and subject to execution, unless otherwise mutually agreed to
5 in writing by the parties. If timely payment is not made by
6 the physician, the department shall suspend the license of the
7 physician pursuant to procedures set forth in subparagraphs
8 (5)(g)3., 4., and 5~~(5)(g)2., 3., and 4.~~ Nothing in this
9 paragraph shall abrogate a judgment debtor's obligation to
10 satisfy the entire amount of any judgment.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of subparagraphs (5)(g)2., 3.,
14 and 4. of s. 458.320 as subparagraphs (5)(g)3.,
15 4., and 5. by s. 144, ch. 97-237, Laws of
16 Florida, and s. 20, ch. 97-273, Laws of
17 Florida.

18

19 Section 83. Paragraph (b) of subsection (4) of section
20 459.0085, Florida Statutes, 1998 Supplement, is amended to
21 read:

22 459.0085 Financial responsibility.--

23 (4)

24 (b) If financial responsibility requirements are met
25 by maintaining an escrow account or letter of credit as
26 provided in this section, upon the entry of an adverse final
27 judgment arising from a medical malpractice arbitration award,
28 from a claim of medical malpractice either in contract or
29 tort, or from noncompliance with the terms of a settlement
30 agreement arising from a claim of medical malpractice either
31 in contract or tort, the licensee shall pay the entire amount

1 of the judgment together with all accrued interest or the
2 amount maintained in the escrow account or provided in the
3 letter of credit as required by this section, whichever is
4 less, within 60 days after the date such judgment became final
5 and subject to execution, unless otherwise mutually agreed to
6 in writing by the parties. If timely payment is not made by
7 the osteopathic physician, the department shall suspend the
8 license of the osteopathic physician pursuant to procedures
9 set forth in subparagraphs (5)(g)3., 4., and 5~~(5)(g)2., 3.,~~
10 ~~and 4.~~ Nothing in this paragraph shall abrogate a judgment
11 debtor's obligation to satisfy the entire amount of any
12 judgment.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of subparagraphs (5)(g)2., 3.,
16 and 4. of s. 459.0085 as subparagraphs
17 (5)(g)3., 4., and 5. by s. 145, ch. 97-237,
18 Laws of Florida, and s. 21, ch. 97-273, Laws of
19 Florida.

20

21 Section 84. Section 459.018, Florida Statutes, is
22 amended to read:

23 459.018 Search warrants for certain violations.--When
24 the department has reason to believe that violations of s.
25 459.015(1)(t)~~459.015(1)(u)~~ or s. 459.015(1)(u)~~459.015(1)(v)~~
26 have occurred or are occurring, its agents or other duly
27 authorized persons may search an osteopathic physician's place
28 of practice for purposes of securing such evidence as may be
29 needed for prosecution. Such evidence shall not include any
30 medical records of patients unless pursuant to the patient's
31 written consent. Notwithstanding the consent of the patient,

1 such records maintained by the department are confidential and
2 exempt from s. 119.07(1). This section shall not limit the
3 psychotherapist-patient privileges of s. 90.503. Prior to a
4 search, the department shall secure a search warrant from any
5 judge authorized by law to issue search warrants. The search
6 warrant shall be issued upon probable cause, supported by oath
7 or affirmation particularly describing the things to be
8 seized. The application for the warrant shall be sworn to and
9 subscribed, and the judge may require further testimony from
10 witnesses, supporting affidavits, or depositions in writing to
11 support the application. The application and supporting
12 information, if required, must set forth the facts tending to
13 establish the grounds of the application or probable cause
14 that they exist. If the judge is satisfied that probable cause
15 exists, he or she shall issue a search warrant signed by him
16 or her with the judge's name of office to any agent or other
17 person duly authorized by the department to execute process,
18 commanding the agent or person to search the place described
19 in the warrant for the property specified. The search warrant
20 shall be served only by the agent or person mentioned in it
21 and by no other person except an aide of the agent or person
22 when such agent or person is present and acting in its
23 execution.

24

25 Reviser's note.--Amended to conform to the
26 redesignation of subunits necessitated by the
27 repeal of former s. 459.015(1)(k) by s. 2, ch.
28 92-178, Laws of Florida.

29

30 Section 85. Paragraph (t) of subsection (1) of section
31 462.14, Florida Statutes, is amended to read:

1 462.14 Grounds for disciplinary action; action by the
2 department.--

3 (1) The following acts constitute grounds for which
4 the disciplinary actions specified in subsection (2) may be
5 taken:

6 (t) Gross or repeated malpractice or the failure to
7 practice naturopathic medicine with that level of care, skill,
8 and treatment which is recognized by a reasonably prudent
9 similar physician as being acceptable under similar conditions
10 and circumstances. The department shall give great weight to
11 the provisions of s. 766.102 ~~768.45~~ when enforcing this
12 paragraph.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 768.45 as s. 766.102 by the
16 reviser incident to compiling the 1988
17 Supplement to the Florida Statutes 1987.

18
19 Section 86. Section 466.014, Florida Statutes, is
20 amended to read:

21 466.014 Continuing education; dental hygienists.--In
22 addition to the other requirements for relicensure for dental
23 hygienists set out in this act, the board shall require each
24 licensed dental hygienist to complete not less than 24 hours
25 or more than 36 hours of continuing professional education in
26 dental subjects, biennially, in programs prescribed or
27 approved by the board or in equivalent programs of continuing
28 education. Programs of continuing education approved by the
29 board shall be programs of learning which, in the opinion of
30 the board, contribute directly to the dental education of the
31 dental hygienist. The board shall adopt rules and guidelines

1 to administer and enforce the provisions of this section. In
2 applying for license renewal, the dental hygienist shall
3 submit a sworn affidavit, on a form acceptable to the
4 department, attesting that she or he has completed the
5 continuing education required in this section in accordance
6 with the guidelines and provisions of this section and listing
7 the date, location, sponsor, subject matter, and hours of
8 completed continuing education courses. The applicant shall
9 retain in her or his records such receipts, vouchers, or
10 certificates as may be necessary to document completion of the
11 continuing education courses listed in accordance with this
12 section. With cause, the board may request such documentation
13 by the applicant, and the board may request such documentation
14 from applicants selected at random without cause. Compliance
15 with the continuing education requirements shall be mandatory
16 for issuance of the renewal certificate. The board shall have
17 the authority to excuse licensees, as a group or as
18 individuals, from the continuing educational requirements, or
19 any part thereof, in the event an unusual circumstance,
20 emergency, or hardship has prevented compliance with this
21 section ~~subsection~~.

22

23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation. Section
25 466.014 is not divided into subsections.

26

27 Section 87. Subsection (5) of section 468.1655,
28 Florida Statutes, is amended to read:

29 468.1655 Definitions.--As used in this part:

30 (5) "Nursing home" means an institution or facility
31 licensed as such under part II ~~†~~ of chapter 400.

1 Reviser's note.--Amended to conform to the
2 redesignation of part I of chapter 400 as part
3 II necessitated by the creation of a new part I
4 incident to the compilation of ss. 1-16, ch.
5 93-177, Laws of Florida.

6
7 Section 88. Subsection (4) of section 468.1695,
8 Florida Statutes, is amended to read:

9 468.1695 Licensure by examination.--

10 (4) Any person who has been approved by the board to
11 take the examination for a nursing home administrator's
12 license or participate in an approved
13 administrator-in-training program before the provisions of
14 ~~subsection (3) or subsection (4)~~(2) take effect shall be
15 exempt from qualifications specified therein.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of subunits of s. 468.1695 by s.
19 31, ch. 92-173, Laws of Florida, and the
20 subsequent repeal of former subsection (2) and
21 further redesignation of subunits by s. 5, ch.
22 93-259, Laws of Florida.

23
24 Section 89. Paragraph (a) of subsection (2) of section
25 468.307, Florida Statutes, 1998 Supplement, is amended to
26 read:

27 468.307 Certificate; issuance; possession; display.--

28 (2)(a) The department may, at its discretion, issue a
29 temporary certificate to:

30 1. An applicant who has completed an educational
31 program and is awaiting examination for a certificate

1 specified in s. 468.302(2)(b), (c), (e), or (f), if the
2 applicant has met all other requirements established pursuant
3 to s. 468.304.

4 2. A basic X-ray machine operator, if such person is
5 under the direct supervision of a licensed practitioner and
6 the licensed practitioner has not requested issuance of a
7 temporary certificate within the previous 18 months, upon
8 application by a licensed practitioner who is practicing in an
9 office of five or ~~of~~ fewer licensed practitioners.

10 3. A basic X-ray machine operator-podiatric medicine,
11 if such person is under the direct supervision of a licensed
12 podiatric physician and the licensed podiatric physician has
13 not requested issuance of a temporary certificate within the
14 previous 18 months, upon application by a licensed podiatric
15 physician who is practicing in an office of five or fewer
16 licensed podiatric physicians.

17
18 Reviser's note.--Amended to improve clarity and
19 facilitate correct interpretation.

20
21 Section 90. Paragraph (1) of subsection (1) of section
22 468.505, Florida Statutes, 1998 Supplement, is amended to
23 read:

24 468.505 Exemptions; exceptions.--

25 (1) Nothing in this part may be construed as
26 prohibiting or restricting the practice, services, or
27 activities of:

28 (1) A person employed by a nursing facility exempt
29 from licensing under s. 395.002(13)~~395.002(14)~~, or a person
30 exempt from licensing under s. 464.022.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 395.002(14) as s.
3 395.002(13) by the reviser incident to the
4 compilation of the 1998 Supplement to the
5 Florida Statutes 1997.

6
7 Section 91. Paragraph (c) of subsection (2) of section
8 468.605, Florida Statutes, 1998 Supplement, is amended to
9 read:

10 468.605 Florida Building Code Administrators and
11 Inspectors Board.--

12 (2) The board shall consist of nine members, as
13 follows:

14 (c) Two members serving as inspectors ~~an inspector~~.

15
16 None of the board members described in paragraph (a) or
17 paragraph (f) may be an employee of a municipal, county, or
18 state governmental agency.

19
20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation.

22
23 Section 92. Subsection (3) of section 469.005, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 469.005 License requirements.--All applicants for
26 licensure as either asbestos consultants or asbestos
27 contractors shall:

28 (3) When applying for licensure as an ~~as~~ asbestos
29 contractor, successfully complete the following
30 department-approved courses:

31

1 (a) An asbestos contractor/supervisor course. Such
2 course shall consist of not less than 5 days of instruction.

3 (b) A respiratory protection course. Such course shall
4 consist of not less than 3 days of instruction.

5
6 Reviser's note.--Amended to improve clarity and
7 facilitate correct interpretation.

8
9 Section 93. Section 471.045, Florida Statutes, 1998
10 Supplement, is amended to read:

11 471.045 Professional engineers performing building
12 code inspector duties.--Notwithstanding any other provision of
13 law, a person who is currently licensed under this chapter to
14 practice as a professional engineer may provide building
15 inspection services described in s. 468.603(6) and (7) to a
16 local government or state agency upon its request, without
17 being certified by the Board of Building Code Administrators
18 and Inspectors under part XII ~~XIII~~ of chapter 468. When
19 performing these building inspection services, the
20 professional engineer is subject to the disciplinary
21 guidelines of this chapter and s. 468.621(1)(c)-(g). Any
22 complaint processing, investigation, and discipline that arise
23 out of a professional engineer's performing building
24 inspection services shall be conducted by the Board of
25 Professional Engineers rather than the Board of Building Code
26 Administrators and Inspectors. A professional engineer may not
27 perform plans review as an employee of a local government upon
28 any job that the professional engineer or the professional
29 engineer's company designed.

1 Reviser's note.--Amended to correct an apparent
2 error. Building code administrators and
3 inspectors are regulated under part XII of
4 chapter 468.

5
6 Section 94. Paragraph (a) of subsection (7) of section
7 473.302, Florida Statutes, 1998 Supplement, is amended to
8 read:

9 473.302 Definitions.--As used in this chapter, the
10 term:

11 (7) "Practice of," "practicing public accountancy," or
12 "public accounting" means:

13 (a) Offering to perform or performing for the public
14 one or more types of services involving the expression of an
15 opinion on financial statements, the attestation as an expert
16 in accountancy to the reliability or fairness of presentation
17 of financial information, the utilization of any form of
18 opinion or financial statements that provide a level of
19 assurance, the utilization of any form of disclaimer of
20 opinion which conveys an assurance of reliability as to
21 matters not specifically disclaimed, or the expression of an
22 opinion on the reliability of an assertion by one party for
23 the use by a third party;

24
25 However, these terms shall not include services provided by
26 the American Institute of Certified Public Accountants or the
27 Florida Institute of Certified Public Accountants, or any full
28 service association of certified public accounting firms whose
29 plans of administration have been approved by the board, to
30 their members or services performed by these entities in
31

1 reviewing the services provided to the public by members of
2 these entities.

3

4 Reviser's note.--Amended to improve clarity and
5 facilitate correct interpretation.

6

7 Section 95. Subsections (23) and (24) of section
8 479.01, Florida Statutes, are amended to read:

9 479.01 Definitions.--As used in this chapter, the
10 term:

11 (23) "Unzoned commercial or industrial area" means an
12 area within 660 feet of the nearest edge of the right-of-way
13 of the interstate or federal-aid primary system where the land
14 use is not covered by a future land use map or zoning
15 regulation pursuant to subsection (3)~~(2)~~, in which there are
16 located three or more separate and distinct industrial or
17 commercial uses located within a 1,600-foot radius of each
18 other and generally recognized as commercial or industrial by
19 zoning authorities in this state. Certain activities,
20 including, but not limited to, the following, may not be so
21 recognized:

22 (a) Signs.

23 (b) Agricultural, forestry, ranching, grazing,
24 farming, and related activities, including, but not limited
25 to, wayside fresh produce stands.

26 (c) Transient or temporary activities.

27 (d) Activities not visible from the main-traveled way.

28 (e) Activities conducted more than 660 feet from the
29 nearest edge of the right-of-way.

30 (f) Activities conducted in a building principally
31 used as a residence.

1 (g) Railroad tracks and minor sidings.

2 (24) "Urban area" has the same meaning as defined in
3 s. 334.03(32)~~334.03(28)~~.

4

5 Reviser's note.--Subsection (23) is amended to
6 conform to the redesignation of former
7 subsection (2) of s. 479.01 as subsection (3)
8 by s. 32, ch. 94-237, Laws of Florida.
9 Subsection (24) is amended to conform to the
10 redesignation of s. 334.03(28) as s. 334.03(32)
11 by s. 2, ch. 93-164, Laws of Florida.

12

13 Section 96. Section 481.222, Florida Statutes, 1998
14 Supplement, is amended to read:

15 481.222 Architects performing building code inspector
16 duties.--Notwithstanding any other provision of law, a person
17 who is currently licensed to practice as an architect under
18 this part may provide building inspection services described
19 in s. 468.603(6) and (7) to a local government or state agency
20 upon its request, without being certified by the Board of
21 Building Code Administrators and Inspectors under part XII
22 ~~XIII~~ of chapter 468. With respect to the performance of such
23 building inspection services, the architect is subject to the
24 disciplinary guidelines of this part and s. 468.621(1)(c)-(g).
25 Any complaint processing, investigation, and discipline that
26 arise out of an architect's performance of building inspection
27 services shall be conducted by the Board of Architecture and
28 Interior Design rather than the Board of Building Code
29 Administrators and Inspectors. An architect may not perform
30 plans review as an employee of a local government upon any job
31 that the architect or the architect's company designed.

1 Reviser's note.--Amended to correct an apparent
2 error. Building code administrators and
3 inspectors are regulated under part XII of
4 chapter 468.

5
6 Section 97. Paragraph (a) of subsection (1) and
7 subsection (2) of section 483.23, Florida Statutes, are
8 amended to read:

9 483.23 Offenses; criminal penalties.--

10 (1)(a) It is unlawful for any person to:

11 1. Operate, maintain, direct, or engage in the
12 business of operating a clinical laboratory unless she or he
13 has obtained a clinical laboratory license from the agency or
14 is exempt under s. 483.031.

15 2. Conduct, maintain, or operate a clinical
16 laboratory, other than an exempt laboratory or a laboratory
17 operated under s. 483.035, unless the clinical laboratory is
18 under the direct and responsible supervision and direction of
19 a person licensed under part III ~~IV~~ of this chapter.

20 3. Allow any person other than an individual licensed
21 under part III ~~IV~~ of this chapter to perform clinical
22 laboratory procedures, except in the operation of a laboratory
23 exempt under s. 483.031 or a laboratory operated under s.
24 483.035.

25 4. Violate or aid and abet in the violation of any
26 provision of this part or the rules adopted under this part.

27 (2) Any use or attempted use of a forged license under
28 this part or part III ~~IV~~ of this chapter constitutes the crime
29 of forgery.

30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of part IV of chapter 483 as part
3 III necessitated by the repeal of sections
4 constituting former part III by s. 1, ch.
5 96-108, Laws of Florida.

6
7 Section 98. Subsection (6) of section 483.811, Florida
8 Statutes, is reenacted to read:
9 483.811 Approval of laboratory personnel training
10 programs.--

11 (6) If the board finds that an approved program no
12 longer meets the required standards, the department may
13 rescind the approval.

14
15 Reviser's note.--Section 22, ch. 93-178, Laws
16 of Florida, purported to amend s. 483.811(4)
17 and redesignated it as subsection (6), but
18 failed to republish the phrase "may rescind the
19 approval" at the end of the subsection. In the
20 absence of affirmative evidence that the
21 Legislature intended to repeal the phrase,
22 subsection (6) is reenacted to confirm that the
23 omission was not intended.

24
25 Section 99. Subsection (12) of section 483.825,
26 Florida Statutes, is amended to read:

27 483.825 Grounds for disciplinary action.--The
28 following acts constitute grounds for which disciplinary
29 actions specified in s. 483.827 may be taken against
30 applicants, registrants, and licensees under this part:

31

1 (12) Being unable to perform or report clinical
2 laboratory examinations with reasonable skill and safety to
3 patients by reason of illness or use of alcohol, drugs,
4 narcotics, chemicals, or any other type of material or as a
5 result of any mental or physical condition. In enforcing this
6 subsection ~~paragraph~~, the department shall have, upon a
7 finding of the secretary or his or her designee that probable
8 cause exists to believe that the licensee is unable to
9 practice because of the reasons stated in this subsection
10 ~~paragraph~~, the authority to issue an order to compel a
11 licensee to submit to a mental or physical examination by
12 physicians designated by the department. If the licensee
13 refuses to comply with such order, the department's order
14 directing such examination may be enforced by filing a
15 petition for enforcement in the circuit court where the
16 licensee resides or does business. The department shall be
17 entitled to the summary procedure provided in s. 51.011. A
18 licensee affected under this subsection ~~paragraph~~ shall at
19 reasonable intervals be afforded an opportunity to demonstrate
20 that he or she can resume competent practice with reasonable
21 skill and safety to patients.

22
23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation. Subsection
25 (12) is not divided into paragraphs.

26
27 Section 100. Subsection (1) of section 487.048,
28 Florida Statutes, is amended to read:

29 487.048 Dealer's license; records.--

30 (1) Each person holding or offering for sale, selling,
31 or distributing restricted-use pesticides shall obtain a

1 dealer's license from the department. Application for the
2 license shall be made on a form prescribed by the department.
3 The license must be obtained before entering into business or
4 transferring ownership of a business. The department may
5 require examination or other proof of competency of
6 individuals to whom licenses are issued or of individuals
7 employed by persons to whom licenses are issued. Demonstration
8 of continued competency may be required for license renewal,
9 as set by rule. The license shall be renewed annually as
10 provided by rule. An annual license fee not exceeding \$250
11 shall be established by rule. However, a user of a
12 restricted-use pesticide may distribute unopened containers of
13 a properly labeled pesticide to another user who is legally
14 entitled to use that restricted-use pesticide without
15 obtaining a pesticide dealer's license. The exclusive purpose
16 of distribution of the restricted-use pesticide is to keep it
17 from becoming a hazardous waste as defined in s. 403.703(21)
18 ~~403.703(23)~~.

19

20 Reviser's note.--Amended to conform to the
21 redesignation of s. 403.703(23) as s.
22 403.703(21) necessitated by the repeal of s.
23 403.703(18) and (19) by s. 8, ch. 93-207, Laws
24 of Florida.

25

26 Section 101. Subsection (5) of section 489.103,
27 Florida Statutes, 1998 Supplement, is amended to read:
28 489.103 Exemptions.--This part does not apply to:
29 (5) Public utilities, including special gas districts
30 as defined in chapter 189, telecommunications companies as
31 defined in s. 364.02(12)~~364.02(7)~~, and natural gas

1 transmission companies as defined in s. 368.103(4), on
2 construction, maintenance, and development work performed by
3 their employees, which work, including, but not limited to,
4 work on bridges, roads, streets, highways, or railroads, is
5 incidental to their business. The board shall define, by rule,
6 the term "incidental to their business" for purposes of this
7 subsection.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 364.02(7) as s. 364.02(12)
11 by s. 6, ch. 95-403, Laws of Florida.

12
13 Section 102. Paragraph (a) of subsection (1) of
14 section 489.1136, Florida Statutes, 1998 Supplement, is
15 amended to read:

16 489.1136 Medical gas certification.--

17 (1)(a) In addition to the certification or
18 registration required to engage in business as a plumbing
19 contractor, any plumbing contractor who wishes to engage in
20 the business of installation, improvement, repair, or
21 maintenance of any tubing, pipe, or similar conduit used to
22 transport gaseous or partly gaseous substances for medical
23 purposes shall take, as part of the contractor's continuing
24 education requirement, at least once during the holding of
25 such license, a course of at least ~~of~~ 6 hours. Such course
26 shall be given by an instructional facility or teaching entity
27 that has been approved by the board. In order for a course to
28 be approved, the board must find that the course is designed
29 to teach familiarity with the National Fire Prevention
30 Association Standard 99C (Standard on Gas and Vacuum Systems,
31 latest edition) and also designed to teach familiarity and

1 practical ability in performing and inspecting brazing duties
2 required of medical gas installation, improvement, repair, or
3 maintenance work. Such course shall issue a certificate of
4 completion to the taker of the course, which certificate shall
5 be available for inspection by any entity or person seeking to
6 have such contractor engage in the business of installation,
7 improvement, repair, or maintenance of a medical gas system.

8
9 Reviser's note.--Amended to improve clarity and
10 facilitate correct interpretation.

11
12 Section 103. Subsection (10) of section 489.131,
13 Florida Statutes, 1998 Supplement, is amended to read:

14 489.131 Applicability.--

15 (10) No municipal or county government may issue any
16 certificate of competency or license for any contractor
17 defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless
18 such local government exercises disciplinary control and
19 oversight over such locally licensed contractors, including
20 forwarding a recommended order in each action to the board as
21 provided in subsection (7). Each local board that licenses and
22 disciplines contractors must have at least two consumer
23 representatives on that board. If the board has seven or more
24 members, at least three of those members must be consumer
25 representatives. The consumer representative may be any
26 resident of the local jurisdiction who ~~that~~ is not, and has
27 never been, a member or practitioner of a profession regulated
28 by the board or a member of any closely related profession.

29
30 Reviser's note.--Amended to improve clarity and
31 facilitate correct interpretation.

1 Section 104. Subsection (6) of section 489.133,
2 Florida Statutes, is amended to read:

3 489.133 Pollutant storage systems specialty
4 contractors; definitions; certification; restrictions.--

5 (6) Any person who operates as a pollutant storage
6 systems specialty contractor, precision tank tester, or
7 internal pollutant storage tank lining applicator in violation
8 of this section or any person who violates subsection~~(5)~~~~(6)~~
9 commits a felony of the third degree, punishable as provided
10 in s. 775.082, s. 775.083, or s. 775.084.

11
12 Reviser's note.--Amended to conform to the
13 redesignation of former subsection (6) of s.
14 489.133 as subsection (5) by s. 30, ch. 93-166,
15 Laws of Florida.

16
17 Section 105. Subsection (1) of section 489.140,
18 Florida Statutes, 1998 Supplement, is amended to read:

19 489.140 Construction Industries Recovery Fund.--There
20 is created the Florida Construction Industries Recovery Fund
21 as a separate account in the Professional Regulation Trust
22 Fund.

23 (1) The Florida Construction Industries Recovery Fund
24 shall be disbursed as provided in s. 489.143, on order of the
25 board, as reimbursement to any natural person adjudged by a
26 court of competent jurisdiction to have suffered monetary
27 damages, or to whom the licensee has been ordered to pay
28 restitution by the board, where the judgment or restitution
29 order is based on a violation of s. 489.129(1)(g), (j), or (k)
30 ~~489.129(1)(d), (h), (k), or (l)~~, committed by any contractor,
31 financially responsible officer, or business organization

1 licensed under the provisions of this part at the time the
2 violation was committed, and providing that the violation
3 occurs after July 1, 1993.

4
5 Reviser's note.--Amended to conform to the
6 repeal of s. 489.129(1)(d) by s. 9, ch. 98-419,
7 Laws of Florida, and the redesignation of s.
8 489.129(1)(h), (k), and (l) as s.
9 489.129(1)(g), (j), and (k) necessitated by the
10 repeal of paragraph (1)(d).

11
12 Section 106. Paragraph (a) of subsection (1) of
13 section 489.141, Florida Statutes, 1998 Supplement, is amended
14 to read:

15 489.141 Conditions for recovery; eligibility.--

16 (1) Any person is eligible to seek recovery from the
17 Construction Industries Recovery Fund after having made a
18 claim and exhausting the limits of any available bond, cash
19 bond, surety, guarantee, warranty, letter of credit, or policy
20 of insurance, if:

21 (a) Such person has received final judgment in a court
22 of competent jurisdiction in this state in any action wherein
23 the cause of action was based on a construction contract or
24 the Construction Industry Licensing Board has issued a final
25 order directing the licensee to pay restitution to the
26 claimant based upon a violation of s. 489.129(1)(g), (j) or
27 (k)~~489.129(1)(d), (h), (k), or (l)~~, where the contract was
28 executed and the violation occurred on or after July 1, 1993,
29 and provided that:

30 1.a. Such person has caused to be issued a writ of
31 execution upon such judgment, and the officer executing the

1 writ has made a return showing that no personal or real
2 property of the judgment debtor or licensee liable to be
3 levied upon in satisfaction of the judgment can be found or
4 that the amount realized on the sale of the judgment debtor's
5 or licensee's property pursuant to such execution was
6 insufficient to satisfy the judgment; or
7 b. If such person is unable to comply with
8 sub-subparagraph a. for a valid reason to be determined by the
9 board, such person has made all reasonable searches and
10 inquiries to ascertain whether the judgment debtor or licensee
11 is possessed of real or personal property or other assets
12 subject to being sold or applied in satisfaction of the
13 judgment and by his or her search has discovered no property
14 or assets or has discovered property and assets and has taken
15 all necessary action and proceedings for the application
16 thereof to the judgment but the amount thereby realized was
17 insufficient to satisfy the judgment; or
18 2. The claimant has made a diligent attempt, as
19 defined by board rule, to collect the restitution awarded by
20 the board;

21
22 Reviser's note.--Amended to conform to the
23 repeal of s. 489.129(1)(d) by s. 9, ch. 98-419,
24 Laws of Florida, and the redesignation of s.
25 489.129(1)(h), (k), and (l) as s.
26 489.129(1)(g), (j), and (k) necessitated by the
27 repeal of paragraph (1)(d).

28
29 Section 107. Subsection (3) of section 489.519,
30 Florida Statutes, 1998 Supplement, is amended to read:
31 489.519 Inactive status.--

1 (3) The board shall impose, by rule, continuing
2 education requirements for inactive certificateholders, when
3 inactive status is sought by certificateholders who are also
4 building code administrators, plans examiners, or inspectors
5 certified pursuant to part XII ~~XIII~~ of chapter 468.

6
7 Reviser's note.--Amended to correct an apparent
8 error. Building code administrators and
9 inspectors are regulated under part XII of
10 chapter 468.

11
12 Section 108. Paragraph (i) of subsection (1) of
13 section 489.531, Florida Statutes, 1998 Supplement, is amended
14 to read:

15 489.531 Prohibitions; penalties.--

16 (1) A person may not:

17 (i) Commence or perform work for which a building
18 permit is required pursuant to part VII of chapter 553 ~~533~~
19 ~~code~~ without the building permit being in effect; or

20
21 Reviser's note.--Amended to correct an apparent
22 error. Chapter 533, which relates to mining
23 wastes, is not divided into parts, and part VII
24 of chapter 553 relates to building permits.
25 The word "code" is deleted to improve clarity
26 and facilitate correct interpretation.

27
28 Section 109. Section 494.00421, Florida Statutes, is
29 amended to read:

30 494.00421 Fees earned upon obtaining a bona fide
31 commitment.--Notwithstanding the provisions of ss.

1 494.001-494.0077, any mortgage brokerage business which
2 contracts to receive from a borrower a mortgage brokerage fee
3 upon obtaining a bona fide commitment shall accurately
4 disclose in the mortgage brokerage agreement:

5 (1) The gross loan amount.

6 (2) In the case of a fixed-rate mortgage, the note
7 rate.

8 (3) In the case of an adjustable rate mortgage:

9 (a) The initial note rate.

10 (b) The length of time for which the initial note rate
11 is effective.

12 (c) The frequency of changes.

13 (d) The limitation upon such changes including
14 adjustment to adjustment cap and life cap.

15 (e) Whether the loan has any potential for negative
16 amortization.

17 (f) Identification of the margin-interest rate
18 differential.

19 (g) Identification of a nationally recognized index
20 which index must be free from control of the mortgage broker,
21 mortgage brokerage business, mortgage lender, or correspondent
22 mortgage lender.

23 (4) The estimated net proceeds to be paid directly to
24 the borrower. "Estimated net proceeds" means the cash to be
25 received by the borrower after payment of any fees, charges,
26 debts, liens, or encumbrances to perfect the lien of the new
27 mortgage and establish the agreed-upon priority of the new
28 mortgage.

29 (5) The lien priority of the new proposed mortgage.

30

31

1 (6) The number of calendar days, which are mutually
2 agreed upon, within which the mortgage brokerage business
3 shall obtain a bona fide mortgage commitment.

4 (7)(a) The following statement, in no less than
5 12-point boldface type immediately above the signature lines
6 for the borrowers:

7
8 "You are entering into a contract with a mortgage brokerage
9 business to obtain a bona fide mortgage loan commitment under
10 the same terms and conditions as stated hereinabove or in a
11 separate executed good faith estimate form. If the mortgage
12 brokerage business obtains a bona fide commitment under the
13 same terms and conditions, you will be obligated to pay the
14 mortgage brokerage business fees, including, but not limited
15 to, a mortgage brokerage fee, even if you choose not to
16 complete the loan transaction. If the provisions of s.
17 494.00421, Florida Statutes, are not met, the mortgage
18 brokerage fee can only be earned upon the funding of the
19 mortgage loan. The borrower may contact the Department of
20 Banking and Finance, Division of Finance, Tallahassee,
21 Florida, regarding any complaints that the borrower may have
22 against the mortgage broker or the mortgage brokerage
23 business. The telephone number of the department as set by
24 rule of the department is: ...[insert telephone number]...."

25 (b) Paragraph (a) does not apply to nonresidential
26 mortgage loan commitments in excess of \$1 million.

27 (8) Any other disclosure required pursuant to s.
28 494.0038.

29
30 ~~The Department of Banking and Finance shall review the effects~~
31 ~~of this section on consumers and shall issue a written report,~~

1 ~~by January 31, 1997, to the President of the Senate and the~~
2 ~~Speaker of the House of Representatives. Such report shall~~
3 ~~summarize the findings of the department's review and include~~
4 ~~recommended changes, if any, to this section.~~

5
6 Reviser's note.--Amended to repeal language
7 that has served its purpose. The report on the
8 review was due January 31, 1997.

9
10 Section 110. Subsections (2) and (3) of section
11 497.255, Florida Statutes, 1998 Supplement, are amended to
12 read:

13 497.255 Standards for construction and significant
14 alteration or renovation of mausoleums and columbaria.--

15 (2) The board shall adopt, by no later than July 1,
16 1999, rules establishing minimum standards for all newly
17 constructed and significantly altered or renovated mausoleums
18 and columbaria; however, in the case of significant
19 alterations or renovations to existing structures, the rules
20 shall apply only, when physically feasible, to the newly
21 altered or renovated portion of such structures, except as
22 specified in subsection (4). In developing and promulgating
23 said rules, the board may define different classes of
24 structures or construction standards, and may provide for
25 different rules to apply to each of said classes, if the
26 designation of classes and the application of different rules
27 is in the public interest and is supported by findings by the
28 board based on evidence of industry practices, economic and
29 physical feasibility, location, or intended uses; provided,
30 that the rules shall provide minimum standards applicable to
31 all construction. For example, and without limiting the

1 generality of the foregoing, the board may determine that a
2 small single-story ground level mausoleum does not require the
3 same level of construction standards that a large multistory
4 mausoleum might require; or that a mausoleum located in a
5 low-lying area subject to frequent flooding or hurricane
6 threats might require different standards than one located on
7 high ground in an area not subject to frequent severe weather
8 threats. The board shall develop the rules in cooperation
9 with, and with technical assistance from, the Florida Building
10 Commission ~~Board of Building Codes and Standards~~ of the
11 Department of Community Affairs, to ensure that the rules are
12 in the proper form and content to be included as part of the
13 State Minimum Building Codes under part VII of chapter 553. If
14 the Florida Building Commission ~~Board of Building Codes and~~
15 ~~Standards~~ advises that some of the standards proposed by the
16 board are not appropriate for inclusion in such building
17 codes, the board may choose to include those standards in a
18 distinct chapter of its rules entitled "Non-Building-Code
19 Standards for Mausoleums" or "Additional Standards for
20 Mausoleums," or other terminology to that effect. If the board
21 elects to divide the standards into two or more chapters, all
22 such rules shall be binding on licensees and others subject to
23 the jurisdiction of the board, but only the chapter containing
24 provisions appropriate for building codes shall be transmitted
25 to the Florida Building Commission ~~Board of Building Codes and~~
26 ~~Standards~~ pursuant to subsection (3). Such rules may be in the
27 form of standards for design and construction; methods,
28 materials, and specifications for construction; or other
29 mechanisms. Such rules shall encompass, at a minimum, the
30 following standards:
31

1 (a) No structure may be built or significantly altered
2 for use for interment, entombment, or inurnment purposes
3 unless constructed of such material and workmanship as will
4 ensure its durability and permanence, as well as the safety,
5 convenience, comfort, and health of the community in which it
6 is located, as dictated and determined at the time by modern
7 mausoleum construction and engineering science.

8 (b) Such structure must be so arranged that the
9 exterior of any vault, niche, or crypt may be readily examined
10 at any time by any person authorized by law to do so.

11 (c) Such structure must contain adequate provision for
12 drainage and ventilation.

13 (d) Such structure must be of fire-resistant
14 construction. Notwithstanding the requirements of s. 553.895
15 and chapter 633, any mausoleum or columbarium constructed of
16 noncombustible materials, as defined in the Standard Building
17 Code, shall not require a sprinkler system.

18 (e) Such structure must be resistant to hurricane and
19 other storm damage to the highest degree provided under
20 applicable building codes for buildings of that class.

21 (f) Suitable provisions must be made for securely and
22 permanently sealing each crypt with durable materials after
23 the interment or entombment of human remains, so that no
24 effluvia or odors may escape therefrom except as provided by
25 design and sanitary engineering standards. Panels for
26 permanent seals must be solid and constructed of materials of
27 sufficient weight, permanence, density, imperviousness, and
28 strength as to ensure their durability and continued
29 functioning. Permanent crypt sealing panels must be securely
30 installed and set in with high quality fire-resistant,
31 resilient, and durable materials after the interment or

1 entombment of human remains. The outer or exposed covering of
2 each crypt must be of a durable, permanent, fire-resistant
3 material; however, plastic, fiberglass, and wood are not
4 acceptable materials for such outer or exposed coverings.

5 (g) Interior and exterior fastenings for hangers,
6 clips, doors, and other objects must be of copper, copper-base
7 alloy, aluminum, or stainless steel of adequate gauges, or
8 other materials established by rule which provide equivalent
9 or better strength and durability, and must be properly
10 installed.

11 (3) The board shall transmit the rules as adopted
12 under subsection (2), hereinafter referred to as the
13 "mausoleum standards," to the Florida Building Commission
14 ~~Board of Building Codes and Standards~~, which shall initiate
15 rulemaking under chapter 120 to consider such mausoleum
16 standards. If such mausoleum standards are not deemed
17 acceptable, they shall be returned by the Florida Building
18 Commission ~~Board of Building Codes and Standards~~ to the board
19 with details of changes needed to make them acceptable. If
20 such mausoleum standards are acceptable, the Florida Building
21 Commission ~~Board of Building Codes and Standards~~ shall adopt a
22 rule designating the mausoleum standards as an approved
23 revision to the State Minimum Building Codes under part VII of
24 chapter 553. When so designated by the Florida Building
25 Commission ~~Board of Building Codes and Standards~~, such
26 mausoleum standards shall become a required element of the
27 State Minimum Building Codes under s. 553.73(2) and shall be
28 transmitted to each local enforcement agency, as defined in s.
29 553.71(5). Such local enforcement agency shall consider and
30 inspect for compliance with such mausoleum standards as if
31 they were part of the local building code, but shall have no

1 continuing duty to inspect after final approval of the
2 construction pursuant to the local building code. Any further
3 amendments to the mausoleum standards shall be accomplished by
4 the same procedure. Such designated mausoleum standards, as
5 from time to time amended, shall be a part of the State
6 Minimum Building Codes under s. 553.73 until the adoption and
7 effective date of a new statewide uniform minimum building
8 code, which may supersede the mausoleum standards as provided
9 by the law enacting the new statewide uniform minimum building
10 code.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of the Board of Building Codes
14 and Standards as the Florida Building
15 Commission by s. 41, ch. 98-287, Laws of
16 Florida.

17

18 Section 111. Paragraph (x) of subsection (1) of
19 section 500.03, Florida Statutes, is amended to read:

20 500.03 Definitions of terms; construction;
21 applicability.--

22 (1) For the purpose of this chapter, the term:

23 (x) "Pesticide chemical" means any substance which,
24 alone, in chemical combination, or in formulation with one or
25 more other substances is a "pesticide" within the meaning of
26 the Florida Pesticide Law, part I of chapter 487, and which is
27 used in the production, storage, or transportation of raw
28 agricultural commodities.

29

30 Reviser's note.--Amended to conform to the
31 redesignation of provisions constituting the

1 Florida Pesticide Law as part I of chapter 487
2 by s. 1, ch. 94-233, Laws of Florida.

3
4 Section 112. Paragraph (b) of subsection (1) of
5 section 501.022, Florida Statutes, is amended to read:

6 501.022 Home solicitation sale; permit required.--

7 (1)

8 (b) The following are excluded from the operation of
9 this section:

10 1. Bona fide agents, business representatives, or
11 salespersons making calls or soliciting orders at the usual
12 place of business of a customer regarding products or services
13 for use in connection with the customer's business.

14 2. Solicitors, salespersons, or agents making a call
15 or business visit upon the express invitation, oral or
16 written, of an inhabitant of the premises or her or his agent.

17 3. Telephone solicitors, salespersons, or agents
18 making calls which involve transactions that are unsolicited
19 by the consumer and consummated by telephone and without any
20 other contact between the buyer and the seller or its
21 representative prior to delivery of the goods or performance
22 of the services.

23 4. Solicitors, salespersons, or agents conducting a
24 sale, lease, or rental of consumer goods or services by
25 sample, catalog, or brochure for future delivery.

26 5. Minors, as defined in s. 1.01(13)~~1.01(14)~~,
27 conducting home solicitation sales under the supervision of an
28 adult supervisor who holds a valid home solicitation sale
29 permit. Minors excluded from operation of this section must,
30 however, carry personal identification which includes their

31

1 full name, date of birth, residence address, and employer and
2 the name and permit number of their adult supervisor.

3 6. Those sellers or their representatives that are
4 currently regulated as to the sale of goods and services by
5 chapter 470, chapter 475, or chapter 497.

6 7. Solicitors, salespersons, or agents making calls or
7 soliciting orders on behalf of a religious, charitable,
8 scientific, educational, or veterans' institution or
9 organization holding a sales tax exemption certificate under
10 s. 212.08(7)(a).

11

12 Reviser's note.--Amended to conform to the
13 redesignation of s. 1.01(14) as s. 1.01(13)
14 necessitated by the repeal of s. 1.01(5) by s.
15 8, ch. 88-33, Laws of Florida.

16

17 Section 113. Subsection (2) of section 501.0575,
18 Florida Statutes, is amended to read:

19 501.0575 Weight-Loss Consumer Bill of Rights.--

20 (2) The copies of the Weight-Loss Consumer Bill of
21 Rights to be posted according to s. 501.0573(6) shall be
22 printed in ~~letters~~ at least 24-point boldfaced type on one
23 side of a sign. The palm-sized copies to be distributed
24 according to s. 501.0573(5) shall be in boldfaced type and
25 legible. Each weight-loss provider shall be responsible for
26 producing and printing appropriate copies of the Weight-Loss
27 Consumer Bill of Rights.

28

29 Reviser's note.--Amended to improve clarity.

30

31

1 Section 114. Subsection (3) of section 501.608,
2 Florida Statutes, is amended to read:

3 501.608 License or affidavit of exemption;
4 occupational license.--

5 (3) Failure to display a license or a copy of the
6 affidavit of exemption is sufficient grounds for the
7 department to issue an immediate cease and desist order, which
8 shall act as an immediate final order under s. 120.569(2)(n)
9 ~~120.569(2)(1)~~. The order may shall remain in effect until the
10 commercial telephone seller or a person claiming to be exempt
11 shows the authorities that he or she is licensed or exempt.
12 The department may order the business to cease operations and
13 shall order the phones to be shut off. Failure of a
14 salesperson to display a license may result in the salesperson
15 being summarily ordered by the department to leave the office
16 until he or she can produce a license for the department.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of s. 120.569(2)(1) as s.
20 120.569(2)(n) by s. 4, ch. 98-200, Laws of
21 Florida.

22
23 Section 115. Paragraph (f) of subsection (2) of
24 section 509.032, Florida Statutes, 1998 Supplement, is amended
25 to read:

26 509.032 Duties.--

27 (2) INSPECTION OF PREMISES.--

28 (f) In conducting inspections of establishments
29 licensed under this chapter, the division shall determine if
30 each coin-operated amusement machine that is operated on the
31 premises of a licensed establishment is properly registered

1 with the Department of Revenue. Each month the division shall
2 report to the Department of Revenue the sales tax registration
3 number of the operator of any licensed establishment that has
4 on location a coin-operated amusement machine and that does
5 not have an identifying certificate conspicuously displayed as
6 required by s. 212.05(1)(i)~~212.05(1)(j)~~.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 212.05(1)(j) as s.
10 212.05(1)(i) necessitated by the repeal of s.
11 212.05(1)(g) by s. 20, ch. 97-94, Laws of
12 Florida.

13
14 Section 116. Subsection (2) of section 509.302,
15 Florida Statutes, 1998 Supplement, is amended to read:
16 509.302 Director of education, personnel, employment
17 duties, compensation.--

18 (2) The director of education shall develop and
19 implement an educational program, designated the "Hospitality
20 Education Program," offered for the benefit of the entire
21 industry. This program may affiliate with Florida State
22 University, Florida International University, and the
23 University of Central Florida. The program may also affiliate
24 with any other member of the State University System or
25 Florida State Community College System, or with any privately
26 funded college or university, which offers a program of
27 hospitality administration and management. The primary goal
28 of this program is to instruct and train all individuals and
29 businesses licensed under this chapter, in cooperation with
30 recognized associations that represent the licensees, in the
31

1 application of state and federal laws and rules. Such programs
2 shall also include:

- 3 (a) Vocational training.
4 (b) Management training.
5 (c) Inservice continuing education programs.
6 (d) Awareness of food-recovery programs, as promoted
7 in s. 570.0725.
8 (e) Such other programs as may be deemed appropriate
9 by the director of the division, the advisory council, and the
10 director of education.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of the State Community College
14 System as the Florida Community College System
15 by s. 15, ch. 98-58, Laws of Florida.

16

17 Section 117. Subsection (6) of section 514.031,
18 Florida Statutes, 1998 Supplement, is amended to read:

19 514.031 Permit necessary to operate public swimming
20 pool or bathing place.--It is unlawful for any person or
21 public body to operate or continue to operate any public
22 swimming pool or bathing place without a valid permit from the
23 department, such permit to be obtained in the following
24 manner:

- 25 (6) An owner or operator of a public swimming pool,
26 including, but not limited to, a spa, wading, or special
27 purpose pool, to which admittance is obtained by membership
28 for a fee shall post in a prominent location within the
29 facility the most recent pool inspection report issued by the
30 department pertaining to the health and safety conditions of
31 such facility. The report shall be legible and readily

1 accessible to members or potential members. The department
2 shall adopt rules to enforce this subsection ~~provision~~. A
3 portable pool may not be used as a public pool.

4
5 Reviser's note.--Amended to improve clarity and
6 facilitate correct interpretation. The word
7 "subsection" was inserted by s. 48, ch. 98-151,
8 Laws of Florida, but the previous existing
9 reference to "provision" was not deleted.

10
11 Section 118. Paragraph (b) of subsection (12) of
12 section 517.021, Florida Statutes, 1998 Supplement, is amended
13 to read:

14 517.021 Definitions.--When used in this chapter,
15 unless the context otherwise indicates, the following terms
16 have the following respective meanings:

17 (12)

18 (b) The term "investment adviser" does not include the
19 following:

20 1. Any licensed practicing attorney whose performance
21 of such services is solely incidental to the practice of her
22 or his profession;

23 2. Any licensed certified public accountant whose
24 performance of such services is solely incidental to the
25 practice of his profession;

26 3. Any bank authorized to do business in this state;

27 4. Any bank holding company as defined in the Bank
28 Holding Company Act of 1956, as amended, authorized to do
29 business in this state;

30 5. Any trust company having trust powers which it is
31 authorized to exercise in the state, which trust company

1 renders or performs services in a fiduciary capacity
2 incidental to the exercise of its trust powers;

3 6. Any person who renders investment advice
4 exclusively to insurance or investment companies;

5 7. Any person who does not hold herself or himself out
6 to the general public as an investment adviser and has no more
7 than 15 clients within 12 consecutive months in this state;

8 8. Any person whose transactions in this state are
9 limited to those transactions described in s. 222(d) of the
10 Investment Advisers Act of 1940. Those clients listed in
11 subparagraph 6.5 may not be included when determining the
12 number of clients of an investment adviser for purposes of s.
13 222(d) of the Investment Advisers Act of 1940; or

14 9. A federal covered adviser.

15

16 Reviser's note.--Amended to conform to the
17 redesignation of subparagraph 5. of s.
18 517.021(12)(b) as subparagraph 6. by s. 5, ch.
19 97-35, Laws of Florida.

20

21 Section 119. Subsection (3) of section 517.12, Florida
22 Statutes, 1998 Supplement, is amended to read:

23 517.12 Registration of dealers, associated persons,
24 investment advisers, and branch offices.--

25 (3) Except as otherwise provided in s.
26 517.061(11)(a)4., (13), (16), (17), or (19)~~(18)~~, the
27 registration requirements of this section do not apply in a
28 transaction exempted by s. 517.061(1)-(12), (14), and (15).

29

30 Reviser's note.--Amended to conform to the
31 redesignation of s. 517.061(18) as s.

1 517.061(19) by s. 2, ch. 96-338, Laws of
2 Florida.

3
4 Section 120. Subsection (2) of section 550.1625,
5 Florida Statutes, is amended to read:

6 550.1625 Dogracing; taxes.--

7 (2) A permitholder that conducts a dograce meet under
8 this chapter must pay the daily license fee, the admission
9 tax, the breaks tax, and the tax on pari-mutuel handle as
10 provided in s. 550.0951 and is subject to all penalties and
11 sanctions provided in s. 550.0951(6)~~550.0951(7)~~.

12

13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation. Section
15 550.0951(7) does not exist, and subsection (6)
16 relates to penalties.

17

18 Section 121. Paragraph (b) of subsection (7) and
19 paragraph (b) of subsection (8) of section 550.2625, Florida
20 Statutes, 1998 Supplement, are amended to read:

21 550.2625 Horseracing; minimum purse requirement,
22 Florida breeders' and owners' awards.--

23 (7)

24 (b) The division shall deposit these collections to
25 the credit of the Florida Quarter Horse Racing Promotion Trust
26 Fund in a special account to be known as the "Florida
27 Appaloosa Racing Promotion Fund." The Department of
28 Agriculture and Consumer Services shall administer the funds
29 and adopt suitable and reasonable rules for the administration
30 thereof. The moneys in the Florida Appaloosa Racing Promotion
31 Fund shall be allocated solely for supplementing and

1 augmenting purses and prizes and for the general promotion of
2 owning and breeding of racing Appaloosas in this state; and
3 such moneys may not be used to defray any expense of the
4 Department of Agriculture and Consumer Services in the
5 administration of this chapter, except that the moneys
6 generated by Appaloosa registration fees received pursuant to
7 s. 570.381 may be used as provided in paragraph (5)(b) ~~(4)(b)~~
8 of that section.

9 (8)

10 (b) The division shall deposit these collections to
11 the credit of the Florida Quarter Horse Racing Promotion Trust
12 Fund in a special account to be known as the "Florida Arabian
13 Horse Racing Promotion Fund." The Department of Agriculture
14 and Consumer Services shall administer the funds and adopt
15 suitable and reasonable rules for the administration thereof.
16 The moneys in the Florida Arabian Horse Racing Promotion Fund
17 shall be allocated solely for supplementing and augmenting
18 purses and prizes and for the general promotion of owning and
19 breeding of racing Arabian horses in this state; and such
20 moneys may not be used to defray any expense of the Department
21 of Agriculture and Consumer Services in the administration of
22 this chapter, except that the moneys generated by Arabian
23 horse registration fees received pursuant to s. 570.382 may be
24 used as provided in paragraph (5)(b) ~~(6)(b)~~ of that section.

25

26 Reviser's note.--Paragraph (7)(b) is amended to
27 improve clarity and facilitate correct
28 interpretation. Section 570.381(4)(b) does not
29 exist, and paragraph (5)(b) provides for use of
30 the registration fees. Paragraph (8)(b) is
31 amended to conform to the redesignation of s.

1 570.382(6)(b) as s. 570.382(5)(b) by s. 1, ch.
2 93-7, Laws of Florida.

3
4 Section 122. Subsection (4) of section 550.375,
5 Florida Statutes, is amended to read:

6 550.375 Operation of certain harness tracks.--
7 (4) The permitholder conducting a harness horse race
8 meet must pay the daily license fee, the admission tax, the
9 tax on breaks, and the tax on pari-mutuel handle provided in
10 s. 550.0951 and is subject to all penalties and sanctions
11 provided in s. 550.0951(6)~~550.0951(7)~~.

12
13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation. Section
15 550.0951(7) does not exist, and subsection (6)
16 relates to penalties.

17
18 Section 123. Subsection (1) of section 553.06, Florida
19 Statutes, 1998 Supplement, is amended to read:

20 553.06 State Plumbing Code.--
21 (1) The Florida Building Commission shall, in
22 accordance with the provisions of chapter 120 and ss.
23 553.70-553.895, adopt the Standard Plumbing Code, 1994
24 edition, as adopted at the October 1993 annual meeting of the
25 Southern Building Code Congress International, as the State
26 Plumbing Code which shall be the minimum requirements
27 statewide for all installations, repairs, and alterations to
28 plumbing. The commission ~~board~~ may, in accordance with the
29 requirements of chapter 120, adopt all or parts of updated or
30 revised editions of the State Plumbing Code to keep abreast of
31 latest technological advances in plumbing and installation

1 techniques. Local governments which have adopted the South
2 Florida, One and Two Family Dwelling or EPCOT Plumbing Codes
3 may continue their use provided the requirements contained
4 therein meet or exceed the requirements of the State Plumbing
5 Code. Provided, however, nothing in this section shall alter
6 or diminish the authority of the Department of Business and
7 Professional Regulation to conduct plan reviews, issue
8 variances, and adopt rules regarding sanitary facilities in
9 public lodging and public food service establishments pursuant
10 to chapter 509, providing that such actions do not conflict
11 with the requirements for public restrooms in s. 553.141.

12

13 Reviser's note.--Amended to conform to the
14 redesignation of the Board of Building Codes
15 and Standards as the Florida Building
16 Commission by s. 41, ch. 98-287, Laws of
17 Florida.

18

19 Section 124. Subsection (4) of section 553.141,
20 Florida Statutes, 1998 Supplement, is amended to read:

21 553.141 Public restrooms; ratio of facilities for men
22 and women; application; rules.--

23 (4) The Florida Building Commission ~~Board of Building~~
24 ~~Codes and Standards~~ shall adopt rules to administer this
25 section, pursuant to chapter 120.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of the Board of Building Codes
29 and Standards as the Florida Building
30 Commission by s. 41, ch. 98-287, Laws of
31 Florida.

1 Section 125. Section 553.503, Florida Statutes, is
2 amended to read:

3 553.503 Adoption of guidelines.--Subject to the
4 exceptions in s. 553.504, the federal Americans with
5 Disabilities Act Accessibility Guidelines, as adopted by
6 reference in 28 C.F.R., part 36, subparts A and D, and Title
7 II of Pub. L. No. 101-336, are hereby adopted and incorporated
8 by reference as the law of this state. The guidelines shall
9 establish the minimum standards for the accessibility of
10 buildings and facilities built or altered within this state.
11 The 1997 Florida Accessibility Code for Building Construction
12 must be adopted by the Florida Building Commission ~~Board of~~
13 ~~Building Codes and Standards~~ in accordance with chapter 120.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of the Board of Building Codes
17 and Standards as the Florida Building
18 Commission by s. 41, ch. 98-287, Laws of
19 Florida.

20
21 Section 126. Section 553.506, Florida Statutes, is
22 amended to read:

23 553.506 Powers of the commission ~~board~~--In addition
24 to any other authority vested in the commission ~~board~~ by law,
25 the Florida Building Commission ~~Board of Building Codes and~~
26 ~~Standards~~, in implementing ss. 553.501-553.513, may, by rule,
27 adopt revised and updated versions of the Americans with
28 Disabilities Act Accessibility Guidelines in accordance with
29 chapter 120.

1 Reviser's note.--Amended to conform to the
2 redesignation of the Board of Building Codes
3 and Standards as the Florida Building
4 Commission by s. 41, ch. 98-287, Laws of
5 Florida.

6
7 Section 127. Subsections (1) and (3) of section
8 553.512, Florida Statutes, are amended to read:

9 553.512 Modifications and waivers; advisory council.--

10 (1) The Florida Building Commission ~~Board of Building~~
11 ~~Codes and Standards~~ shall provide by regulation criteria for
12 granting individual modifications of, or exceptions from, the
13 literal requirements of this part upon a determination of
14 unnecessary, unreasonable, or extreme hardship, provided such
15 waivers shall not violate federal accessibility laws and
16 regulations and shall be reviewed by the Handicapped
17 Accessibility Advisory Council consisting of the following
18 seven members, who shall be knowledgeable in the area of
19 handicapped accessibility. The Secretary of Community Affairs
20 shall appoint the following: a representative from the
21 Advocacy Center for Persons with Disabilities, Inc.; a
22 representative from the Division of Blind Services; a
23 representative from the Division of Vocational Rehabilitation;
24 a representative from a statewide organization representing
25 the physically handicapped; a representative from the hearing
26 impaired; a representative from the President, Florida Council
27 of Handicapped Organizations; and a representative of the
28 Paralyzed Veterans of America. The terms for the first three
29 council members appointed subsequent to October 1, 1991, shall
30 be for 4 years, the terms for the next two council members
31 appointed shall be for 3 years, and the terms for the next two

1 members shall be for 2 years. Thereafter, all council member
2 appointments shall be for terms of 4 years. No council member
3 shall serve more than two 4-year terms subsequent to October
4 1, 1991. Any member of the council may be replaced by the
5 secretary upon three unexcused absences. Upon application
6 made in the form provided, an individual waiver or
7 modification may be granted by the commission ~~board~~ so long as
8 such modification or waiver is not in conflict with more
9 stringent standards provided in another chapter.

10 (3) Meetings of the advisory council shall be held in
11 conjunction with the regular meetings of the commission ~~board~~.

12
13 Reviser's note.--Amended to conform to the
14 redesignation of the Board of Building Codes
15 and Standards as the Florida Building
16 Commission by s. 41, ch. 98-287, Laws of
17 Florida.

18
19 Section 128. Effective January 1, 2001, paragraph (b)
20 of subsection (1), paragraph (a) of subsection (4), and
21 subsection (5) of section 553.73, Florida Statutes, 1998
22 Supplement, as amended by section 40 of chapter 98-287, Laws
23 of Florida, as amended by section 61 of chapter 98-419, Laws
24 of Florida, are amended to read:

25 553.73 Florida Building Code.--

26 (1)

27 (b) The technical portions of the Florida
28 Accessibility Code for Building Construction shall be
29 contained in their ~~its~~ entirety in the Florida Building Code.
30 The civil rights portions and the technical portions of the
31 accessibility laws of this state shall remain as currently

1 provided by law. Any revision or amendments to the Florida
2 Accessibility Code for Building Construction pursuant to part
3 V shall be considered adopted by the commission as part of the
4 Florida Building Code. Neither the commission nor any local
5 government shall revise or amend any standard of the Florida
6 Accessibility Code for Building Construction except as
7 provided for in part V.

8 (4)(a) Local governments shall comply with applicable
9 standards for issuance of mandatory certificates of occupancy,
10 minimum types of inspections, and procedures for plans review
11 and inspections as established by the commission ~~board~~ by
12 rule. Any amendments to standards established by the Florida
13 Building Code pursuant to this paragraph shall be more
14 stringent than such standards and shall be transmitted to the
15 commission within 30 days after enactment. The local
16 government shall make such amendments available to the general
17 public in a usable format. The Department of Insurance is
18 responsible for establishing the standards and procedures
19 required in this paragraph for governmental entities with
20 respect to applying the Florida Fire Prevention Code and the
21 Life Safety Code.

22 (5) The commission, by rule adopted pursuant to ss.
23 120.536(1) and 120.54, shall update the Florida Building Code
24 every 3 years. Once initially adopted and subsequently
25 updated by the commission ~~board~~, the Florida Building Code
26 shall be deemed adopted for use statewide without adoptions by
27 local government. When updating the Florida Building Code, the
28 commission shall consider changes made by the adopting entity
29 of any selected model code for any model code incorporated
30 into the Florida Building Code by the commission, the
31 commission's own interpretations, declaratory statements,

1 appellate decisions, and approved statewide and local
2 technical amendments.

3
4 Reviser's note.--Paragraph (1)(b) is amended to
5 improve clarity and facilitate correct
6 interpretation. Paragraph (4)(a) is amended to
7 conform to the existence of the Florida Fire
8 Prevention Code and the Life Safety Code.
9 Paragraph (4)(a) and subsection (5) are amended
10 to conform to the redesignation of the Board of
11 Building Codes and Standards as the Florida
12 Building Commission by s. 41, ch. 98-287, Laws
13 of Florida.

14
15 Section 129. Subsections (3) and (4) of section
16 553.74, Florida Statutes, 1998 Supplement, are amended to
17 read:

18 553.74 Florida Building Commission.--

19 (3) Members of the commission ~~board~~ shall serve
20 without compensation, but shall be entitled to reimbursement
21 for per diem and travel expenses as provided by s. 112.061.

22 (4) Each appointed member is accountable to the
23 Governor for the proper performance of the duties of the
24 office. The Governor shall cause to be investigated any
25 complaint or unfavorable report received concerning an action
26 of the commission ~~board~~ or any member and shall take
27 appropriate action thereon. The Governor may remove from
28 office any appointed member for malfeasance, misfeasance,
29 neglect of duty, incompetence, permanent inability to perform
30 official duties, or pleading guilty or nolo contendere to, or
31 being found guilty of, a felony.

1 Reviser's note.--Amended to conform to the
2 redesignation of the Board of Building Codes
3 and Standards as the Florida Building
4 Commission by s. 41, ch. 98-287, Laws of
5 Florida.

6
7 Section 130. Section 559.807, Florida Statutes, is
8 amended to read:

9 559.807 Bond or trust account required.--If the
10 business opportunity seller makes any representations set
11 forth in s. 559.801(1)(a)3.~~559.801(1)(c)~~, the seller must
12 either have obtained a surety bond issued by a surety company
13 authorized to do business in this state or have established a
14 trust account or a guaranteed letter of credit with a licensed
15 and insured bank or savings institution located in the state.
16 The amount of the bond, trust account, or guaranteed letter of
17 credit shall be an amount not less than \$50,000. The bond or
18 trust account shall be in the favor of the department. Any
19 person who is damaged by any violation of ss. 559.80-559.815,
20 or by the seller's breach of the contract for the business
21 opportunity sale or of any obligation arising therefrom, may
22 bring an action against the bond, trust account, or guaranteed
23 letter of credit to recover damages suffered; however, the
24 aggregate liability of the surety or trustee shall be only for
25 actual damages and in no event shall exceed the amount of the
26 bond, trust account, or guaranteed letter of credit.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 559.801(1)(c) as s.
30 559.801(1)(a)3. by s. 1, ch. 93-244, Laws of
31 Florida.

1 Section 131. Subsection (11) of section 560.129,
2 Florida Statutes, is amended to read:

3 560.129 Confidentiality.--

4 (11) The exemptions created pursuant to subsections
5 ~~(1)-(10)(1)-(11)~~for purposes of the Money Transmitters' Code
6 in this chapter, as created by chapter 94-238, Laws of
7 Florida, and chapter 94-354, Laws of Florida, are exempt from
8 the provisions of ss. 119.07(1) and 286.011 and s. 24(a) and
9 (b), Art. I of the State Constitution.

10

11 Reviser's note.--Amended to conform to the
12 redesignation of subsection (11) of s. 560.129
13 as subsection (10) necessitated by the deletion
14 of former subsection (9) by s. 345, ch. 96-406,
15 Laws of Florida.

16

17 Section 132. Section 561.1105, Florida Statutes, is
18 amended to read:

19 561.1105 Inspection of licensed premises;
20 coin-operated amusement machines.--In conducting inspections
21 of establishments licensed under the Beverage Law, the
22 division shall determine if each coin-operated amusement
23 machine that is operated on the licensed premises is properly
24 registered with the Department of Revenue. Each month, the
25 division shall report to the Department of Revenue the sales
26 tax registration number of the operator of any licensed
27 premises that has on location a coin-operated amusement
28 machine and that does not have an identifying certificate
29 conspicuously displayed as required by s. 212.05(1)(i)
30 ~~212.05(1)(j)~~.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 212.05(1)(j) as s.
3 212.05(1)(i) necessitated by the repeal of s.
4 212.05(1)(g) by s. 20, ch. 97-94, Laws of
5 Florida.

6
7 Section 133. Paragraph (a) of subsection (12) of
8 section 561.20, Florida Statutes, is amended to read:
9 561.20 Limitation upon number of licenses issued.--
10 (12)(a) In addition to any other licenses issued under
11 the provisions of this chapter, the division is authorized to
12 issue a special license to a person or to an organization for
13 the purpose of authorizing:

14 ~~1. A bulk transfer as described in chapter 676;~~
15 1.2. A sale pursuant to a levy and execution;
16 ~~2.3.~~ A sale by an insurance company in possession of
17 alcoholic beverages;
18 3.4. A bankruptcy sale;
19 ~~4.5.~~ A sale resulting from a license suspension or
20 revocation;
21 ~~5.6.~~ A sale of damaged goods by a common carrier;
22 6.7. A sale by a bona fide wine collector; or
23 ~~7.8.~~ A sale of packaged alcoholic beverages pursuant
24 to part V of chapter 679.

25
26 Reviser's note.--Amended to conform to the
27 repeal of chapter 676 by s. 3, ch. 93-77, Laws
28 of Florida.

29
30 Section 134. Subsection (2) of section 578.28, Florida
31 Statutes, is amended to read:

1 578.28 Seed in hermetically sealed containers.--The
2 period of validity of germination tests is extended to the
3 following periods for seed packaged in hermetically sealed
4 containers, under conditions and label requirements set forth
5 in this section:

6 (2) CONDITIONS OF PACKAGING.--The following conditions
7 are considered as minimum:

8 (a) Hermetically sealed packages or containers.--A
9 container, to be acceptable under the provisions of this
10 section, shall not allow water vapor penetration through any
11 wall, including the wall seals, greater than 0.05 gram of
12 water per 24 hours per 100 square inches of surface at 100 °F.
13 with a relative humidity on one side of 90 percent and on the
14 other of 0 percent. Water vapor penetration (WVP) is measured
15 by the standards of the National Institute of Standards and
16 Technology as: gm H₂O/24 hr./100 sq. in./100 °F/90
17 percent RH V. 0 percent RH.

18 (b) Moisture of seed packaged.--The moisture of
19 agricultural or vegetable seed subject to the provisions of
20 this section shall be established by rule of the department.

21

22 ~~A tolerance of 1 percent is applicable to the maximum~~
23 ~~percentage of moisture listed above and the percentage of~~
24 ~~moisture found by an official test. The percentage of~~
25 ~~moisture shall be determined by the air oven method.~~

26

27 Reviser's note.--Amended to conform to the
28 deletion of the table listing moisture
29 percentages for specified seed by s. 27, ch.
30 92-143, Laws of Florida.

31

1 Section 135. Subsection (4) of section 585.74, Florida
2 Statutes, is amended to read:

3 585.74 Grant of inspection; fees.--

4 (4) Each grant of inspection shall be issued for a
5 3-year period. ~~Each person who possesses a grant of inspection~~
6 ~~from the department as of July 1, 1994, must apply before~~
7 ~~December 1, 1995, to renew the grant of inspection.~~The
8 department shall charge a fee not to exceed \$150 to defray the
9 cost of processing the grant of inspection.

10

11 Reviser's note.--Amended to delete language
12 that has served its purpose. The referenced
13 grant of inspection renewal period ended
14 December 1, 1995.

15

16 Section 136. Subsection (6) of section 585.91, Florida
17 Statutes, is amended to read:

18 585.91 Regulation of custom slaughterers and
19 processors; permits.--

20 (6) The department shall charge a fee not to exceed
21 \$75 to defray the cost of processing the permit. ~~Each person~~
22 ~~who possesses a custom slaughtering or processing permit as of~~
23 ~~July 1, 1994, must apply before December 1, 1996, to renew the~~
24 ~~permit.~~Each renewal of a custom slaughtering or processing
25 permit shall be issued for a period of 3 years.

26

27 Reviser's note.--Amended to delete language
28 that has served its purpose. The referenced
29 custom slaughtering or processing permit
30 renewal period ended December 1, 1996.

31

1 Section 137. Section 589.101, Florida Statutes, is
2 amended to read:

3 589.101 Blackwater River State Forest; lease of
4 board's interest in gas, oil, and other
5 minerals.--Notwithstanding the provisions of ss.
6 253.51-253.571 ~~253.51-253.58~~, 253.60, 253.61, the Division of
7 Forestry is hereby expressly granted the authority to lease
8 its 25-percent interest in oil, gas, and other minerals within
9 the boundaries of the Blackwater River State Forest; provided,
10 however, that grants shall be made only to the lessee or
11 lessees holding the 75-percent interest in said minerals
12 retained by the United States in its conveyance to this state.
13 The concurrence of the Board of Trustees of the Internal
14 Improvement Trust Fund required by s. 589.10 shall not be
15 necessary under the provisions of this section.

16
17 Reviser's note.--Amended to conform to the
18 repeal of s. 253.58 by s. 2, ch. 89-358, Laws
19 of Florida.

20
21 Section 138. Section 590.11, Florida Statutes, is
22 amended to read:

23 590.11 Campfires.--It is unlawful for any individual
24 or group of individuals to build a warming fire or campfire
25 and leave same unextinguished.

26
27 Reviser's note.--Amended to improve clarity and
28 facilitate correct interpretation.

29
30 Section 139. Paragraph (a) of subsection (2) of
31 section 593.111, Florida Statutes, is amended to read:

1 593.111 Eligibility for certification of cotton
2 growers' organization.--

3 (2)(a) The terms of office of the board members shall
4 be for 3 years or until their successors are duly appointed
5 and qualified. ~~The terms of office of members of the first~~
6 ~~board shall date from November 1, 1987.~~

7
8 Reviser's note.--Amended to delete language
9 that has served its purpose.

10
11 Section 140. Paragraph (c) of subsection (2) of
12 section 601.04, Florida Statutes, is amended to read:

13 601.04 Florida Citrus Commission; creation and
14 membership.--

15 (2)

16 (c) ~~Each member of the commission in office on October~~
17 ~~1, 1990, shall continue in office until the expiration of her~~
18 ~~or his current term.~~When making an appointment to the
19 commission on or after October 1, 1990, the Governor shall
20 announce the district and classification of the person
21 appointed.

22
23 Reviser's note.--Amended to delete language
24 that has served its purpose.

25
26 Section 141. Subsection (2) of section 601.155,
27 Florida Statutes, is amended to read:

28 601.155 Equalizing excise tax; credit; exemption.--

29 (2) Upon the exercise of any privilege described in
30 subsection (1), the excise tax levied by this section shall be
31 at the same rate per box of oranges or grapefruit utilized in

1 the initial production of the processed citrus products so
2 handled as that imposed, at the time of exercise of the
3 taxable privilege, by s. 601.15 ~~plus that imposed, if any, by~~
4 ~~s. 601.156~~ per box of oranges.

5
6 Reviser's note.--Amended to conform to the
7 repeal of s. 601.156 by s. 2, ch. 95-358, Laws
8 of Florida.

9
10 Section 142. Subsection (6) of section 608.402,
11 Florida Statutes, is amended to read:

12 608.402 Definitions.--As used in this chapter:

13 (6) "Entity" includes any corporation or foreign
14 corporation, as such terms are defined in s. 607.01401
15 ~~607.0140~~; unincorporated association; limited liability
16 company; business trust, estate, partnership, trust, or two or
17 more persons having a joint or common economic interest; or
18 state, local, federal, or foreign governments.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of s. 607.0140 as s. 607.01401 by
22 s. 137, ch. 90-179, Laws of Florida.

23
24 Section 143. Paragraph (j) of subsection (3) of
25 section 616.242, Florida Statutes, 1998 Supplement, is amended
26 to read:

27 616.242 Safety standards for amusement rides.--

28 (3) DEFINITIONS.--As used in this section, the term:

29 (j) "Nondestructive testing" is the development and
30 application of technical methods, including, but not limited
31 to, radiographic, magnetic particle, ultrasonic, liquid

1 penetrant, electromagnetic, neutron radiographic, acoustic
2 emission, visual, and leak testing to examine materials or
3 components in ways that do not impair their ~~the~~ future
4 usefulness and serviceability in order to detect, locate,
5 measure, and evaluate discontinuities, defects, and other
6 imperfections; to assess integrity, properties, and
7 composition; and to measure geometrical characters.

8

9

Reviser's note.--Amended to improve clarity and
facilitate correct interpretation.

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