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2 An act relating to the Florida Statutes;
3 amending ss. 20.19, 20.22, 121.021, 121.055,
4 121.091, 121.35, 210.31, 212.02, 228.0565,
5 230.23005, 298.301, 322.056, 325.2135, 373.71,
6 403.0752, 440.442, 447.603, 455.217, 455.507,
7 455.511, 455.541, 455.561, 455.621, 455.631,
8 455.687, 481.329, 489.1195, 489.518, 489.553,
9 493.6305, 501.925, 517.021, 608.4381, 608.4384,
10 620.202, 620.205, 624.425, 626.321, 626.7355,
11 626.741, 626.792, 626.9325, 627.70161, 628.721,
12 631.929, 634.312, 651.114, 667.006, 686.602,
13 686.604, 686.605, 686.606, 686.611, 686.613,
14 721.84, 916.303, 921.0024, and 985.03, Florida
15 Statutes, to conform to the directive in s. 1,
16 ch. 93-199, Laws of Florida, to remove
17 gender-specific references applicable to human
18 beings from the Florida Statutes without
19 substantive change in legal effect.
20

21 Be It Enacted by the Legislature of the State of Florida:
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23 Section 1. Paragraph (i) of subsection (17) of section
24 20.19, Florida Statutes, 1998 Supplement, is amended to read:

25 20.19 Department of Children and Family
26 Services.--There is created a Department of Children and
27 Family Services.

28 (17) CONTRACTING AND PERFORMANCE STANDARDS.--

29 (i) The department must implement systems and controls
30 to ensure financial integrity and service provision quality in
31 the developmental services Medicaid waiver service system no

1 later than December 31, 1998. The Auditor General shall
2 include specific reference to systems and controls related to
3 financial integrity in the developmental services Medicaid
4 waiver service system in his or her audit of the department
5 for the 1998-1999 fiscal year, and for all subsequent fiscal
6 years. The Office of Program Policy Analysis and Government
7 Accountability shall review the department's systems and
8 controls related to service provision quality in the
9 developmental services Medicaid waiver service system and
10 submit a report to the Legislature by December 31, 1999.

11 Section 2. Paragraph (a) of subsection (5) of section
12 20.22, Florida Statutes, is amended to read:

13 20.22 Department of Management Services.--There is
14 created a Department of Management Services.

15 (5)(a) The Florida State Group Insurance Council is
16 created within the division for the purpose of providing joint
17 and coordinated oversight of the operation and administration
18 of the state group insurance program. The council shall
19 consist of the state budget director; an individual from the
20 private sector with an extensive health administration
21 background, appointed by the Governor; a member of the Florida
22 Senate, appointed by the President of the Senate; a member of
23 the Florida House of Representatives, appointed by the Speaker
24 of the House of Representatives; a representative of the State
25 University System, appointed by the Board of Regents; the
26 State Insurance Commissioner or his or her designee; the
27 director of the Division of Retirement; and two
28 representatives of employees and retirees, appointed by the
29 Governor. Members of the council appointed by the Governor
30 shall be appointed to serve terms of 4 years each. Each
31 member of the council shall serve until a successor is

1 appointed. Additionally, the director of the Division of
2 State Employee Insurance shall be a nonvoting member of the
3 council.

4 Section 3. Paragraph (b) of subsection (43) of section
5 121.021, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 121.021 Definitions.--The following words and phrases
8 as used in this chapter have the respective meanings set forth
9 unless a different meaning is plainly required by the context:

10 (43) "Phased retirement program" means a program
11 contracted by the governing board of a university or community
12 college participating under this chapter in which a retiree
13 may be reemployed in a faculty position provided:

14 (b) The retired member is reemployed for not more than
15 780 hours during the first 12 months of his or her retirement;
16 and

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18 Renewed membership for a retiree participating in a phased
19 retirement program shall be determined in accordance with s.
20 121.053 or s. 121.122.

21 Section 4. Paragraph (e) of subsection (6) of section
22 121.055, Florida Statutes, 1998 Supplement, is amended to
23 read:

24 121.055 Senior Management Service Class.--There is
25 hereby established a separate class of membership within the
26 Florida Retirement System to be known as the "Senior
27 Management Service Class," which shall become effective
28 February 1, 1987.

29 (6)

30 (e) Benefits.--

31

1 1. Benefits shall be payable under the Senior
2 Management Service Optional Annuity Program only to
3 participants in the program, or their beneficiaries as
4 designated by the participant in the contract with a provider
5 company, and such benefits shall be paid by the designated
6 company in accordance with the terms of the annuity contract
7 or contracts applicable to the participant. A participant must
8 be terminated from all employment with all Florida Retirement
9 System employers as provided in s. 121.021(39) to begin
10 receiving the employer-funded benefit. Benefits funded by
11 employer contributions shall be payable only as a lifetime
12 annuity to the participant, his or her beneficiary, or his or
13 her estate, except for:

14 a. A lump-sum payment to the beneficiary upon the
15 death of the participant; or

16 b. A cash-out of a de minimis account upon the request
17 of a former participant who has been terminated for a minimum
18 of 6 months from the employment that entitled him or her to
19 optional retirement program participation. A de minimis
20 account is an account with a provider company containing
21 employer contributions and accumulated earnings of not more
22 than \$3,500 made under the provisions of this chapter. Such
23 cash-out must be a complete liquidation of the account balance
24 with that company and is subject to the provisions of the
25 Internal Revenue Code.

26 2. The benefits payable to any person under the Senior
27 Management Service Optional Annuity Program, and any
28 contribution accumulated under such program, shall not be
29 subject to assignment, execution, or attachment or to any
30 legal process whatsoever.

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1 3. A participant who receives optional annuity program
2 benefits funded by employer contributions shall be deemed to
3 be retired from a state-administered retirement system in the
4 event of subsequent employment with any employer that
5 participates in the Florida Retirement System.

6 Section 5. Paragraph (b) of subsection (13) of section
7 121.091, Florida Statutes, 1998 Supplement, is amended to
8 read:

9 121.091 Benefits payable under the system.--Benefits
10 may not be paid under this section unless the member has
11 terminated employment as provided in s. 121.021(39)(a) or
12 begun participation in the Deferred Retirement Option Program
13 as provided in subsection (13), and a proper application has
14 been filed in the manner prescribed by the division. The
15 division may cancel an application for retirement benefits
16 when the member or beneficiary fails to timely provide the
17 information and documents required by this chapter and the
18 division's rules. The division shall adopt rules establishing
19 procedures for application for retirement benefits and for the
20 cancellation of such application when the required information
21 or documents are not received.

22 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
23 and subject to the provisions of this section, the Deferred
24 Retirement Option Program, hereinafter referred to as the
25 DROP, is a program under which an eligible member of the
26 Florida Retirement System may elect to participate, deferring
27 receipt of retirement benefits while continuing employment
28 with his or her Florida Retirement System employer. The
29 deferred monthly benefits shall accrue in the System Trust
30 Fund on behalf of the participant, plus interest compounded
31 monthly, for the specified period of the DROP participation,

1 as provided in paragraph (c). Upon termination of employment,
2 the participant shall receive the total DROP benefits and
3 begin to receive the previously determined normal retirement
4 benefits. Participation in the DROP does not guarantee
5 employment for the specified period of DROP.

6 (b) Participation in the DROP.--

7 1. An eligible member may elect to participate in the
8 DROP for a period not to exceed a maximum of 60 calendar
9 months immediately following the date on which the member
10 first reaches his or her normal retirement date or the date to
11 which he or she is eligible to defer his or her election to
12 participate as provided in subparagraph (a)2. However, a
13 member who has reached normal retirement date prior to the
14 effective date of the DROP shall be eligible to participate in
15 the DROP for a period of time not to exceed 60 calendar months
16 immediately following the effective date of the DROP, except a
17 member of the Special Risk Class who has reached normal
18 retirement date prior to the effective date of the DROP and
19 whose total accrued value exceeds 75 percent of average final
20 compensation as of his or her effective date of retirement
21 shall be eligible to participate in the DROP for no more than
22 36 calendar months immediately following the effective date of
23 the DROP.

24 2. Upon deciding to participate in the DROP, the
25 member shall submit, on forms required by the division:

- 26 a. A written election to participate in the DROP;
27 b. Selection of the DROP participation and termination
28 dates, which satisfy the limitations stated in paragraph (a)
29 and subparagraph 1. Such termination date shall be in a
30 binding letter of resignation with the employer, establishing
31 a deferred termination date. The member may change the

1 termination date within the limitations of subparagraph 1.,
2 but only with the written approval of his or her employer;

3 c. A properly completed DROP application for service
4 retirement as provided in this section; and

5 d. Any other information required by the division.

6 3. The DROP participant shall be a retiree under the
7 Florida Retirement System for all purposes, except for
8 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
9 121.053, and 121.122. However, participation in the DROP does
10 not alter the participant's employment status and such
11 employee shall not be deemed retired from employment until his
12 or her deferred resignation is effective and termination
13 occurs as provided in s. 121.021(39).

14 4. Elected officers shall be eligible to participate
15 in the DROP subject to the following:

16 a. An elected officer who reaches normal retirement
17 date during a term of office may defer the election to
18 participate in the DROP until the next succeeding term in that
19 office. Such elected officer who exercises this option may
20 participate in the DROP for up to 60 calendar months or a
21 period of no longer than such succeeding term of office,
22 whichever is less.

23 b. An elected or a nonelected participant may run for
24 a term of office while participating in DROP and, if elected,
25 extend the DROP termination date accordingly, except, however,
26 if such additional term of office exceeds the 60-month
27 limitation established in subparagraph 1., and the officer
28 does not resign from office within such 60-month limitation,
29 the retirement and the participant's DROP shall be null and
30 void as provided in sub-subparagraph (c)4.d.

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1 c. An elected officer who is dually employed and
2 elects to participate in DROP shall be required to satisfy the
3 definition of termination within the 60-month limitation
4 period as provided in subparagraph 1. for the nonelected
5 position and may continue employment as an elected officer as
6 provided in s. 121.053. The elected officer will be enrolled
7 as a renewed member in the Elected State and County Officers'
8 Class or the Regular Class, as provided in ss. 121.053 and
9 121.22, on the first day of the month after termination of
10 employment in the nonelected position and termination of DROP.
11 Distribution of the DROP benefits shall be made as provided in
12 paragraph (c).

13 Section 6. Paragraph (a) of subsection (5) of section
14 121.35, Florida Statutes, 1998 Supplement, is amended to read:

15 121.35 Optional retirement program for the State
16 University System.--

17 (5) BENEFITS.--

18 (a) Benefits shall be payable under the optional
19 retirement program only to vested participants in the program,
20 or their beneficiaries as designated by the participant in the
21 contract with a provider company, and such benefits shall be
22 paid only by the designated company in accordance with the
23 terms of the annuity contract or contracts applicable to the
24 participant. The participant must be terminated from all
25 employment with all Florida Retirement System employers, as
26 provided in s. 121.021(39), to begin receiving the
27 employer-funded benefit. Benefits funded by employer
28 contributions shall be payable only as a lifetime annuity to
29 the participant, his or her beneficiary, or his or her estate,
30 except for:

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1 1. A lump-sum payment to the beneficiary upon the
2 death of the participant; or

3 2. A cash-out of a de minimis account upon the request
4 of a former participant who has been terminated for a minimum
5 of 6 months from the employment that entitled him or her to
6 optional retirement program participation. A de minimis
7 account is an account with a provider company containing
8 employer contributions and accumulated earnings of not more
9 than \$3,500 made under the provisions of this chapter. Such
10 cash-out must be a complete liquidation of the account balance
11 with that company and is subject to the provisions of the
12 Internal Revenue Code.

13 Section 7. Section 210.31, Florida Statutes, is
14 amended to read:

15 210.31 Payment of taxes by electronic funds
16 transfer.--The Secretary of Business and Professional
17 Regulation may require a distributor who sells tobacco
18 products within the state to remit by electronic funds
19 transfer any tax imposed under s. 210.30 if the taxpayer is
20 subject to the tax and if the total of such taxes the
21 distributor ~~he~~ paid in the prior year amounted to \$50,000 or
22 more.

23 Section 8. Subsection (28) of section 212.02, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 212.02 Definitions.--The following terms and phrases
26 when used in this chapter have the meanings ascribed to them
27 in this section, except where the context clearly indicates a
28 different meaning:

29 (28) "Farmer" means a person who is directly engaged
30 in the business of producing crops, livestock, or other
31 agricultural commodities. The term includes, but is not

1 limited to, horse breeders, nurserymen, dairy farmers
2 ~~dairymen~~, poultry farmers ~~poultrymen~~, cattle ranchers,
3 apiarists, and persons raising fish.

4 Section 9. Paragraph (a) of subsection (3) of section
5 228.0565, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 228.0565 Deregulated public schools.--

8 (3) PROPOSAL.--

9 (a) A proposal to be a deregulated school must be
10 developed by the school principal and the school advisory
11 council. A majority of the members of the school advisory
12 council must approve the proposal, and the principal and the
13 school advisory council chair ~~chairman~~ must sign the proposal.
14 At least 50 percent of the teachers employed at the school
15 must approve the proposal. The school must conduct a survey to
16 show parental support for the proposal.

17 Section 10. Paragraph (a) of subsection (2) of section
18 230.23005, Florida Statutes, 1998 Supplement, is amended to
19 read:

20 230.23005 Supplemental powers and duties of school
21 board.--The school board may exercise the following
22 supplemental powers and duties. Any provision of chapters 228,
23 229, 231, 232, 233, 234, 235, and this chapter prevails over
24 any conflicting provision of this section. The rules adopted
25 under this section must not be inconsistent with the
26 provisions of chapters 228, 229, 231, 232, 233, 234, 235, and
27 this chapter.

28 (2) FISCAL MANAGEMENT.--The school board may adopt
29 policies providing for fiscal management of the school
30 district with respect to school purchasing, facilities,
31 nonstate revenue sources, budgeting, fundraising, and other

1 activities relating to the fiscal management of district
2 resources, including, but not limited to, the policies
3 governing:

4 (a) Sales calls and demonstrations by agents,
5 solicitors, salespersons ~~salesmen~~, and vendors on campus;
6 local preference criteria for vendors; specifications for
7 quantity purchasing; prioritization of awards for bids;
8 declining bid awards; and purchase requisitions, approvals,
9 and routing.

10 Section 11. Subsections (2), (4), and (6) of section
11 298.301, Florida Statutes, 1998 Supplement, are amended to
12 read:

13 298.301 District water control plan adoption; district
14 boundary modification; plan amendment; notice forms;
15 objections; hearings; assessments.--

16 (2) Before adopting a water control plan or plan
17 amendment, the board of supervisors must adopt a resolution to
18 consider adoption of the proposed plan or plan amendment. As
19 soon as the resolution proposing the adoption or amendment of
20 the district's water control plan has been filed with the
21 district secretary, the board of supervisors shall give notice
22 of a public hearing on the proposed plan or plan amendment by
23 causing publication to be made once a week for 3 consecutive
24 weeks in a newspaper of general circulation published in each
25 county in which lands and other property described in the
26 resolution are situated. The notice must be in substantially
27 the following form:

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29 Notice of Hearing
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1 To the owners and all persons interested in the lands
 2 corporate, and other property in and adjacent to the ...name
 3 of district... District.

4 You are notified that the ...name of district...
 5 District has filed in the office of the secretary of the
 6 district a resolution to consider approval of a water control
 7 plan or an amendment to the current water control plan to
 8 provide ...here insert a summary of the proposed water control
 9 plan or plan amendment.... On or before its scheduled meeting
 10 of ...(date and time)... at the district's offices located at
 11 ...(list address of offices)... written objections to the
 12 proposed plan or plan amendment may be filed at the district's
 13 offices. A public hearing on the proposed plan or plan
 14 amendment will be conducted at the scheduled meeting, and
 15 written objections will be considered at that time. At the
 16 conclusion of the hearing, the board of supervisors may
 17 determine to proceed with the process for approval of the
 18 proposed plan or plan amendment and direct the district
 19 engineer to prepare an engineer's report identifying any
 20 property to be taken, determining benefits and damages, and
 21 estimating the cost of implementing the improvements
 22 associated with the proposed plan or plan amendment. A final
 23 hearing on approval of the proposed plan or plan amendment and
 24 engineer's report shall be duly noticed and held at a
 25 regularly scheduled board of supervisors meeting within 60
 26 days after filing of the engineer's report with the secretary
 27 of the district.

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 29 Date of first publication:, 19....
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 31 (Chair ~~Chairman~~, Board of Supervisors)

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..... County, Florida

(4) The engineer may at any time call upon the attorney of the district for legal advice and information relative to her or his duties. The engineer shall proceed to view the premises and identify all lands, within or without the district, to be acquired by purchase or condemnation and used for rights-of-way, or other works set out in the proposed plan or plan amendment. The engineer shall, with the advice of the district attorney, staff, and consultants, determine the amount of benefits and the amount of damages, if any, that will accrue to each subdivision of land (according to ownership), from carrying out and putting into effect the proposed plan or plan amendment. The engineer shall determine only those benefits that are derived from the construction of the works and improvements set out in the proposed plan or plan amendment. The engineer has no power to change the proposed plan or plan amendment without board approval.

(6) Upon the filing of the engineer's report, the board of supervisors shall give notice thereof by arranging the publication of the report together with a geographical depiction of the district once a week for 2 consecutive weeks in a newspaper of general circulation in each county in the district. The notice must be substantially as follows:

Notice of Filing Engineer's Report for
..... District

Notice is given to all persons interested in the following described land and property in County (or Counties), Florida, viz.: ...(Here describe land and

1 property)... included within the district that
 2 the engineer hereto appointed to determine benefits and
 3 damages to the property and lands situated in the district and
 4 to determine the estimated cost of construction required by
 5 the water control plan, within or without the limits of the
 6 district, under the proposed water control plan or plan
 7 amendment, filed her or his report in the office of the
 8 secretary of the district, located at ...(list address of
 9 district offices),... on the day of,
 10 19...., and you may examine the report and file written
 11 objections with the secretary of the district to all, or any
 12 part thereof, on or before ...(enter date 20 days after the
 13 last scheduled publication of this notice, which date must be
 14 before the date of the final hearing).... The report
 15 recommends ...(describe benefits and damages).... A final
 16 hearing to consider approval of the report and proposed water
 17 control plan or plan amendment shall be held ...(time, place,
 18 and date at least 30 days but no later than 60 days after the
 19 last scheduled publication of this notice)....

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 21 Date of first publication:, 19....
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 23 (Chair ~~Chairman~~, Board of Supervisors)
 24 County, Florida

25 Section 12. Paragraph (c) of subsection (1) of section
 26 322.056, Florida Statutes, is amended to read:

27 322.056 Mandatory revocation or suspension of, or
 28 delay of eligibility for, driver's license for persons under
 29 age 18 found guilty of certain alcohol, drug, or tobacco
 30 offenses; prohibition.--

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1 (1) Notwithstanding the provisions of s. 322.055, if a
2 person under 18 years of age is found guilty of or delinquent
3 for a violation of s. 562.11(2), s. 562.111, or chapter 893,
4 and:

5 (c) The person is ineligible by reason of age for a
6 driver's license or driving privilege, the court shall direct
7 the department to withhold issuance of his or her driver's
8 license or driving privilege for a period of:

9 1. Not less than 6 months and not more than 1 year
10 after the date on which he or she would otherwise have become
11 eligible, for the first violation.

12 2. Two years after the date on which he or she would
13 otherwise have become eligible, for a subsequent violation.

14 Section 13. Subsection (2) of section 325.2135,
15 Florida Statutes, 1998 Supplement, is amended to read:

16 325.2135 Motor vehicle emissions inspection program;
17 development of specifications; fees; reporting.--

18 (2) If no specific legislation is passed during the
19 1999 legislative session to direct the department to implement
20 a motor vehicle inspection program, the department may issue a
21 request for proposal and enter one or more contracts for a
22 biennial inspection program for vehicles 5 model years and
23 older using the basic test for hydrocarbon emissions and
24 carbon monoxide emissions. The requirements for the program
25 included in the proposals must be based on the requirements
26 under chapter 325 unless those requirements conflict with this
27 section. No contract entered into under this subsection may be
28 for longer than 2 years. Notwithstanding the provisions of s.
29 325.214, if the fee for motor vehicle inspection proposed by
30 the Department of Highway Safety and Motor Vehicles will
31 exceed \$10 per inspection, the department may impose the

1 higher fee if such fee is approved through the budget
2 amendment process set forth in chapter 216 and notice is
3 provided to the chairs ~~chairmen~~ of the Senate and House
4 Transportation and Natural Resources Committees at the time it
5 is provided to the Senate Ways and Means and House
6 Appropriations Committees.

7 Section 14. Section 373.71, Florida Statutes, is
8 amended to read:

9 373.71 Apalachicola-Chattahoochee-Flint River Basin
10 Compact.--

11 The states of Alabama, Florida and Georgia and the
12 United States of America hereby agree to the following compact
13 which shall become effective upon enactment of concurrent
14 legislation by each respective state legislature and the
15 Congress of the United States.

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17

SHORT TITLE

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19 This Act shall be known and may be cited as the
20 "Apalachicola-Chattahoochee-Flint River Basin Compact" and
21 shall be referred to hereafter in this document as the "ACF
22 Compact" or "Compact."

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ARTICLE I

25

COMPACT PURPOSES

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27 This Compact among the states of Alabama, Florida and
28 Georgia and the United States of America has been entered into
29 for the purposes of promoting interstate comity, removing
30 causes of present and future controversies, equitably

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1 apportioning the surface waters of the ACF, engaging in water
2 planning, and developing and sharing common data bases.

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ARTICLE II

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SCOPE OF THE COMPACT

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This Compact shall extend to all of the waters arising
within the drainage basin of the ACF in the states of Alabama,
Florida and Georgia.

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ARTICLE III

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PARTIES

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The parties to this Compact are the states of Alabama,
Florida and Georgia and the United States of America.

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ARTICLE IV

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DEFINITIONS

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For the purposes of this Compact, the following words,
phrases and terms shall have the following meanings:

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(a) "ACF Basin" or "ACF" means the area of natural
drainage into the Apalachicola River and its tributaries, the
Chattahoochee River and its tributaries, and the Flint River
and its tributaries. Any reference to the rivers within this
Compact will be designated using the letters "ACF" and when so
referenced will mean each of these three rivers and each of
the tributaries to each such river.

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(b) "Allocation formula" means the methodology, in
whatever form, by which the ACF Basin Commission determines an
equitable apportionment of surface waters within the ACF Basin

1 among the three states. Such formula may be represented by a
2 table, chart, mathematical calculation or any other expression
3 of the Commission's apportionment of waters pursuant to this
4 compact.

5 (c) "Commission" or "ACF Basin Commission" means the
6 Apalachicola-Chattahoochee-Flint River Basin Commission
7 created and established pursuant to this Compact.

8 (d) "Ground waters" means waters within a saturated
9 zone or stratum beneath the surface of land, whether or not
10 flowing through known and definite channels.

11 (e) "Person" means any individual, firm, association,
12 organization, partnership, business, trust, corporation,
13 public corporation, company, the United States of America, any
14 state, and all political subdivisions, regions, districts,
15 municipalities, and public agencies thereof.

16 (f) "Surface waters" means waters upon the surface of
17 the earth, whether contained in bounds created naturally or
18 artificially or diffused. Water from natural springs shall be
19 considered "surface waters" when it exits from the spring onto
20 the surface of the earth.

21 (g) "United States" means the executive branch of the
22 government of the United States of America, and any
23 department, agency, bureau or division thereof.

24 (h) "Water Resource Facility" means any facility or
25 project constructed for the impoundment, diversion, retention,
26 control or regulation of waters within the ACF Basin for any
27 purpose.

28 (i) "Water resources," or "waters" means all surface
29 waters and ground waters contained or otherwise originating
30 within the ACF Basin.

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ARTICLE V
CONDITIONS PRECEDENT TO LEGAL
VIABILITY OF THE COMPACT

This Compact shall not be binding on any party until it has been enacted into law by the legislatures of the states of Alabama, Florida and Georgia and by the Congress of the United States of America.

ARTICLE VI
ACF BASIN COMMISSION CREATED

(a) There is hereby created an interstate administrative agency to be known as the "ACF Basin Commission." The Commission shall be comprised of one member representing the state of Alabama, one member representing the state of Florida, one member representing the state of Georgia, and one non-voting member representing the United States of America. The state members shall be known as "State Commissioners" and the federal member shall be known as the "Federal Commissioner." The ACF Basin Commission is a body politic and corporate, with succession for the duration of this Compact.

(b) The Governor of each of the states shall serve as the State Commissioner for his or her state. Each State Commissioner shall appoint one or more alternate members and one of such alternates as designated by the State Commissioner shall serve in the State Commissioner's place and carry out the functions of the State Commissioner, including voting on Commission matters, in the event the State Commissioner is unable to attend a meeting of the Commission. The alternate

1 members from each state shall be knowledgeable in the field of
2 water resources management. Unless otherwise provided by law
3 of the state for which an alternate State Commissioner is
4 appointed, each alternate State Commissioner shall serve at
5 the pleasure of the State Commissioner. In the event of a
6 vacancy in the office of an alternate, it shall be filled in
7 the same manner as an original appointment.

8 (c) The President of the United States of America
9 shall appoint the Federal Commissioner who shall serve as the
10 representative of all federal agencies with an interest in the
11 ACF. The President shall also appoint an alternate Federal
12 Commissioner to attend and participate in the meetings of the
13 Commission in the event the Federal Commissioner is unable to
14 attend meetings. When at meetings, the alternate Federal
15 Commissioner shall possess all of the powers of the Federal
16 Commissioner. The Federal Commissioner and alternate
17 appointed by the President shall serve until they resign or
18 their replacements are appointed.

19 (d) Each state shall have one vote on the ACF Basin
20 Commission and the Commission shall make all decisions and
21 exercise all powers by unanimous vote of the three State
22 Commissioners. The Federal Commissioner shall not have a
23 vote, but shall attend and participate in all meetings of the
24 ACF Basin Commission to the same extent as the State
25 Commissioners.

26 (e) The ACF Basin Commission shall meet at least once
27 a year at a date set at its initial meeting. Such initial
28 meeting shall take place within ninety days of the
29 ratification of the Compact by the Congress of the United
30 States and shall be called by the chair ~~chairman~~ of the
31 Commission. Special meetings of the Commission may be called

1 at the discretion of the chair ~~chairman~~ of the Commission and
2 shall be called by the chair ~~chairman~~ of the Commission upon
3 written request of any member of the Commission. All members
4 shall be notified of the time and place designated for any
5 regular or special meeting at least five days prior to such
6 meeting in one of the following ways: by written notice
7 mailed to the last mailing address given to the Commission by
8 each member, by facsimile, telegram or by telephone. The
9 Chairmanship of the Commission shall rotate annually among the
10 voting members of the Commission on an alphabetical basis,
11 with the first chair ~~chairman~~ to be the State Commissioner
12 representing the State of Alabama.

13 (f) All meetings of the Commission shall be open to
14 the public.

15 (g) The ACF Basin Commission, so long as the exercise
16 of power is consistent with this Compact, shall have the
17 following general powers:

18 (1) To adopt bylaws and procedures governing its
19 conduct;

20 (2) To sue and be sued in any court of competent
21 jurisdiction;

22 (3) To retain and discharge professional, technical,
23 clerical and other staff and such consultants as are necessary
24 to accomplish the purposes of this Compact;

25 (4) To receive funds from any lawful source and expend
26 funds for any lawful purpose;

27 (5) To enter into agreements or contracts, where
28 appropriate, in order to accomplish the purposes of this
29 Compact;

30 (6) To create committees and delegate
31 responsibilities;

1 (7) To plan, coordinate, monitor, and make
2 recommendations for the water resources of the ACF Basin for
3 the purposes of, but not limited to, minimizing adverse
4 impacts of floods and droughts and improving water quality,
5 water supply, and conservation as may be deemed necessary by
6 the Commission;

7 (8) To participate with other governmental and
8 non-governmental entities in carrying out the purposes of this
9 Compact;

10 (9) To conduct studies, to generate information
11 regarding the water resources of the ACF Basin, and to share
12 this information among the Commission members and with others;

13 (10) To cooperate with appropriate state, federal, and
14 local agencies or any other person in the development,
15 ownership, sponsorship, and operation of water resource
16 facilities in the ACF Basin; provided, however, that the
17 Commission shall not own or operate a federally-owned water
18 resource facility unless authorized by the United States
19 Congress;

20 (11) To acquire, receive, hold and convey such
21 personal and real property as may be necessary for the
22 performance of its duties under the Compact; provided,
23 however, that nothing in this Compact shall be construed as
24 granting the ACF Basin Commission authority to issue bonds or
25 to exercise any right of eminent domain or power of
26 condemnation;

27 (12) To establish and modify an allocation formula for
28 apportioning the surface waters of the ACF Basin among the
29 states of Alabama, Florida and Georgia; and

30 (13) To perform all functions required of it by this
31 Compact and to do all things necessary, proper or convenient

1 in the performance of its duties hereunder, either
2 independently or in cooperation with any state or the United
3 States.

4
5 ARTICLE VII

6 EQUITABLE APPORTIONMENT

7
8 (a) It is the intent of the parties to this Compact to
9 develop an allocation formula for equitably apportioning the
10 surface waters of the ACF Basin among the states while
11 protecting the water quality, ecology and biodiversity of the
12 ACF, as provided in the Clean Water Act, 33 U.S.C. Sections
13 1251 et seq., the Endangered Species Act, 16 U.S.C. Sections
14 1532 et seq., the National Environmental Policy Act, 42 U.S.C.
15 Sections 4321 et seq., the Rivers and Harbors Act of 1899, 33
16 U.S.C. Sections 401 et seq., and other applicable federal
17 laws. For this purpose, all members of the ACF Basin
18 Commission, including the Federal Commissioner, shall have
19 full rights to notice of and participation in all meetings of
20 the ACF Basin Commission and technical committees in which the
21 basis and terms and conditions of the allocation formula are
22 to be discussed or negotiated. When an allocation formula is
23 unanimously approved by the State Commissioners, there shall
24 be an agreement among the states regarding an allocation
25 formula. The allocation formula thus agreed upon shall become
26 effective and binding upon the parties to this Compact upon
27 receipt by the Commission of a letter of concurrence with said
28 formula from the Federal Commissioner. If, however, the
29 Federal Commissioner fails to submit a letter of concurrence
30 to the Commission within two hundred ten (210) days after the
31 allocation formula is agreed upon by the State Commissioners,

1 the Federal Commissioner shall within forty-five (45) days
2 thereafter submit to the ACF Basin Commission a letter of
3 nonconcurrence with the allocation formula setting forth
4 therein specifically and in detail the reasons for
5 nonconcurrence; provided, however, the reasons for
6 nonconcurrence as contained in the letter of nonconcurrence
7 shall be based solely upon federal law. The allocation
8 formula shall also become effective and binding upon the
9 parties to this Compact if the Federal Commissioner fails to
10 submit to the ACF Basin Commission a letter of nonconcurrence
11 in accordance with this Article. Once adopted pursuant to
12 this Article, the allocation formula may only be modified by
13 unanimous decision of the State Commissioners and the
14 concurrence by the Federal Commissioner in accordance with the
15 procedures set forth in this Article.

16 (b) The parties to this Compact recognize that the
17 United States operates certain projects within the ACF Basin
18 that may influence the water resources within the ACF Basin.
19 The parties to this Compact further acknowledge and recognize
20 that various agencies of the United States have
21 responsibilities for administering certain federal laws and
22 exercising certain federal powers that may influence the water
23 resources within the ACF Basin. It is the intent of the
24 parties to this Compact, including the United States, to
25 achieve compliance with the allocation formula adopted in
26 accordance with this Article. Accordingly, once an allocation
27 formula is adopted, each and every officer, agency, and
28 instrumentality of the United States shall have an obligation
29 and duty, to the maximum extent practicable, to exercise their
30 powers, authority, and discretion in a manner consistent with
31

1 the allocation formula so long as the exercise of such powers,
2 authority, and discretion is not in conflict with federal law.
3 (c) Between the effective date of this Compact and the
4 approval of the allocation formula under this Article, the
5 signatories to this Compact agree that any person who is
6 withdrawing, diverting, or consuming water resources of the
7 ACF Basin as of the effective date of this Compact, may
8 continue to withdraw, divert or consume such water resources
9 in accordance with the laws of the state where such person
10 resides or does business and in accordance with applicable
11 federal laws. The parties to this Compact further agree that
12 any such person may increase the amount of water resources
13 withdrawn, diverted or consumed to satisfy reasonable
14 increases in the demand of such person for water between the
15 effective date of this Compact and the date on which an
16 allocation formula is approved by the ACF Basin Commission as
17 permitted by applicable law. Each of the state parties to
18 this Compact further agree to provide written notice to each
19 of the other parties to this Compact in the event any person
20 increases the withdrawal, diversion or consumption of such
21 water resources by more than 10 million gallons per day on an
22 average annual daily basis, or in the event any person, who
23 was not withdrawing, diverting or consuming any water
24 resources from the ACF Basin as of the effective date of this
25 Compact, seeks to withdraw, divert or consume more than one
26 million gallons per day on an average annual daily basis from
27 such resources. This Article shall not be construed as
28 granting any permanent, vested or perpetual rights to the
29 amounts of water used between January 3, 1992 and the date on
30 which the Commission adopts an allocation formula.
31

1 (d) As the owner, operator, licensor, permitting
2 authority or regulator of a water resource facility under its
3 jurisdiction, each state shall be responsible for using its
4 best efforts to achieve compliance with the allocation formula
5 adopted pursuant to this Article. Each such state agrees to
6 take such actions as may be necessary to achieve compliance
7 with the allocation formula.

8 (e) This Compact shall not commit any state to agree
9 to any data generated by any study or commit any state to any
10 allocation formula not acceptable to such state.

11
12 ARTICLE VIII
13 CONDITIONS RESULTING IN
14 TERMINATION OF THE COMPACT
15

16 (a) This Compact shall be terminated and thereby be
17 void and of no further force and effect if any of the
18 following events occur:

19 (1) The legislatures of the states of Alabama, Florida
20 and Georgia each agree by general laws enacted by each state
21 within any three consecutive years that this Compact should be
22 terminated.

23 (2) The United States Congress enacts a law expressly
24 repealing this Compact.

25 (3) The States of Alabama, Florida and Georgia fail to
26 agree on an equitable apportionment of the surface waters of
27 the ACF as provided in Article VII(a) of this Compact by
28 December 31, 1998, unless the voting members of the ACF Basin
29 Commission unanimously agree to extend this deadline.

30 (4) The Federal Commissioner submits to the Commission
31 a letter of nonconcurrence in the initial allocation formula

1 in accordance with Article VII(a) of the Compact, unless the
2 voting members of the ACF Basin Commission unanimously agree
3 to allow a single 45 day period in which the non-voting
4 Federal Commissioner and the voting State Commissioners may
5 renegotiate an allocation formula and the Federal Commissioner
6 withdraws the letter of nonconcurrency upon completion of this
7 renegotiation.

8 (b) If the Compact is terminated in accordance with
9 this Article it shall be of no further force and effect and
10 shall not be the subject of any proceeding for the enforcement
11 thereof in any federal or state court. Further, if so
12 terminated, no party shall be deemed to have acquired a
13 specific right to any quantity of water because it has become
14 a signatory to this Compact.

15
16 ARTICLE IX

17 COMPLETION OF STUDIES PENDING

18 ADOPTION OF ALLOCATION FORMULA

19
20 The ACF Basin Commission, in conjunction with one or
21 more interstate, federal, state or local agencies, is hereby
22 authorized to participate in any study in process as of the
23 effective date of this Compact, including, without limitation,
24 all or any part of the
25 Alabama-Coosa-Tallapoosa/Apalachicola-Chattahoochee-Flint
26 River Basin Comprehensive Water Resource Study, as may be
27 determined by the Commission in its sole discretion.

28
29 ARTICLE X

30 RELATIONSHIP TO OTHER LAWS

31

1 (a) It is the intent of the party states and of the
2 United States Congress by ratifying this Compact, that all
3 state and federal officials enforcing, implementing or
4 administering other state and federal laws affecting the ACF
5 Basin shall, to the maximum extent practicable, enforce,
6 implement or administer those laws in furtherance of the
7 purposes of this Compact and the allocation formula adopted by
8 the Commission insofar as such actions are not in conflict
9 with applicable federal laws.

10 (b) Nothing contained in this Compact shall be deemed
11 to restrict the executive powers of the President in the event
12 of a national emergency.

13 (c) Nothing contained in this Compact shall impair or
14 affect the constitutional authority of the United States or
15 any of its powers, rights, functions or jurisdiction under
16 other existing or future laws in and over the area or waters
17 which are the subject of the Compact, including projects of
18 the Commission, nor shall any act of the Commission have the
19 effect of repealing, modifying or amending any federal law.
20 All officers, agencies and instrumentalities of the United
21 States shall exercise their powers and authority over water
22 resources in the ACF Basin and water resource facilities, and
23 to the maximum extent practicable, shall exercise their
24 discretion in carrying out their responsibilities, powers, and
25 authorities over water resources in the ACF Basin and water
26 resource facilities in the ACF Basin in a manner consistent
27 with and that effectuates the allocation formula developed
28 pursuant to this Compact or any modification of the allocation
29 formula so long as the actions are not in conflict with any
30 applicable federal law. The United States Army Corps of
31 Engineers, or its successors, and all other federal agencies

1 and instrumentalities shall cooperate with the ACF Basin
2 Commission in accomplishing the purposes of the Compact and
3 fulfilling the obligations of each of the parties to the
4 Compact regarding the allocation formula.

5 (d) Once adopted by the three states and ratified by
6 the United States Congress, this Compact shall have the full
7 force and effect of federal law, and shall supersede state and
8 local laws operating contrary to the provisions herein or the
9 purposes of this Compact; provided, however, nothing contained
10 in this Compact shall be construed as affecting or intending
11 to affect or in any way to interfere with the laws of the
12 respective signatory states relating to water quality, and
13 riparian rights as among persons exclusively within each
14 state.

15
16 ARTICLE XI
17 PUBLIC PARTICIPATION
18

19 All meetings of the Commission shall be open to the
20 public. The signatory parties recognize the importance and
21 necessity of public participation in activities of the
22 Commission, including the development and adoption of the
23 initial allocation formula and any modification thereto. Prior
24 to the adoption of the initial allocation formula, the
25 Commission shall adopt procedures ensuring public
26 participation in the development, review, and approval of the
27 initial allocation formula and any subsequent modification
28 thereto. At a minimum, public notice to interested parties
29 and a comment period shall be provided. The Commission shall
30 respond in writing to relevant comments.

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ARTICLE XII

FUNDING AND EXPENSES OF THE COMMISSION

Commissioners shall serve without compensation from the ACF Basin Commission. All general operational funding required by the Commission and agreed to by the voting members shall obligate each state to pay an equal share of such agreed upon funding. Funds remitted to the Commission by a state in payment of such obligation shall not lapse; provided, however, that if any state fails to remit payment within 90 days after payment is due, such obligation shall terminate and any state which has made payment may have such payment returned. Costs of attendance and participation at meetings of the Commission by the Federal Commissioner shall be paid by the United States.

ARTICLE XIII

DISPUTE RESOLUTION

(a) In the event of a dispute between two or more voting members of this Compact involving a claim relating to compliance with the allocation formula adopted by the Commission under this Compact, the following procedures shall govern:

(1) Notice of claim shall be filed with the Commission by a voting member of this Compact and served upon each member of the Commission. The notice shall provide a written statement of the claim, including a brief narrative of the relevant matters supporting the claimant's position.

(2) Within twenty (20) days of the Commission's receipt of a written statement of a claim, the party or

1 parties to the Compact against whom the complaint is made may
2 prepare a brief narrative of the relevant matters and file it
3 with the Commission and serve it upon each member of the
4 Commission.

5 (3) Upon receipt of a claim and any response or
6 responses thereto, the Commission shall convene as soon as
7 reasonably practicable, but in no event later than twenty (20)
8 days from receipt of any response to the claim, and shall
9 determine if a resolution of the dispute is possible.

10 (4) A resolution of a dispute under this Article
11 through unanimous vote of the State Commissioners shall be
12 binding upon the state parties and any state party determined
13 to be in violation of the allocation formula shall correct
14 such violation without delay.

15 (5) If the Commission is unable to resolve the dispute
16 within 10 days from the date of the meeting convened pursuant
17 to subparagraph (a)(3) of this Article, the Commission shall
18 select, by unanimous decision of the voting members of the
19 Commission, an independent mediator to conduct a non-binding
20 mediation of the dispute. The mediator shall not be a
21 resident or domiciliary of any member state, shall not be an
22 employee or agent of any member of the Commission, shall be a
23 person knowledgeable in water resource management issues, and
24 shall disclose any and all current or prior contractual or
25 other relations to any member of the Commission. The expenses
26 of the mediator shall be paid by the Commission. If the
27 mediator becomes unwilling or unable to serve, the Commission
28 by unanimous decision of the voting members of the Commission,
29 shall appoint another independent mediator.

30 (6) If the Commission fails to appoint an independent
31 mediator to conduct a non-binding mediation of the dispute

1 within seventy-five (75) days of the filing of the original
2 claim or within thirty (30) days of the date on which the
3 Commission learns that a mediator is unwilling or unable to
4 serve, the party submitting the claim shall have no further
5 obligation to bring the claim before the Commission and may
6 proceed by pursuing any appropriate remedies, including any
7 and all judicial remedies.

8 (7) If an independent mediator is selected, the
9 mediator shall establish the time and location for the
10 mediation session or sessions and may request that each party
11 to the Compact submit, in writing, to the mediator a statement
12 of its position regarding the issue or issues in dispute.
13 Such statements shall not be exchanged by the parties except
14 upon the unanimous agreement of the parties to the mediation.

15 (8) The mediator shall not divulge confidential
16 information disclosed to the mediator by the parties or by
17 witnesses, if any, in the course of the mediation. All
18 records, reports, or other documents received by a mediator
19 while serving as a mediator shall be considered confidential.
20 The mediator shall not be compelled in any adversary
21 proceeding or judicial forum to divulge the contents of such
22 documents or the fact that such documents exist or to testify
23 in regard to the mediation.

24 (9) Each party to the mediation shall maintain the
25 confidentiality of the information received during the
26 mediation and shall not rely on or introduce in any judicial
27 proceeding as evidence:

- 28 a. Views expressed or suggestions made by another
29 party regarding a settlement of the dispute;
30 b. Proposals made or views expressed by the mediator;
31 or

1 c. The fact that another party to the hearing had or
2 had not indicated a willingness to accept a proposal for
3 settlement of the dispute.

4 (10) The mediator may terminate the non-binding
5 mediation session or sessions whenever, in the judgment of the
6 mediator, further efforts to resolve the dispute would not
7 lead to a resolution of the dispute between or among the
8 parties. Any party to the dispute may terminate the mediation
9 process at any time by giving written notification to the
10 mediator and the Commission. If terminated prior to reaching
11 a resolution, the party submitting the original claim to the
12 Commission shall have no further obligation to bring its claim
13 before the Commission and may proceed by pursuing any
14 appropriate remedies, including any and all judicial remedies.

15 (11) The mediator shall have no authority to require
16 the parties to enter into a settlement of any dispute
17 regarding the Compact. The mediator may simply attempt to
18 assist the parties in reaching a mutually acceptable
19 resolution of their dispute. The mediator is authorized to
20 conduct joint and separate meetings with the parties to the
21 mediation and to make oral or written recommendations for a
22 settlement of the dispute.

23 (12) At any time during the mediation process, the
24 Commission is encouraged to take whatever steps it deems
25 necessary to assist the mediator or the parties to resolve the
26 dispute.

27 (13) In the event of a proceeding seeking enforcement
28 of the allocation formula, this Compact creates a cause of
29 action solely for equitable relief. No action for money
30 damages may be maintained. The party or parties alleging a
31 violation of the Compact shall have the burden of proof.

1 (b) In the event of a dispute between any voting
2 member and the United States relating to a state's
3 noncompliance with the allocation formula as a result of
4 actions or a refusal to act by officers, agencies or
5 instrumentalities of the United States, the provisions set
6 forth in paragraph (a) of this Article (other than the
7 provisions of subparagraph (a)(4)) shall apply.

8 (c) The United States may initiate dispute resolution
9 under paragraph (a) in the same manner as other parties to
10 this Compact.

11 (d) Any signatory party who is affected by any action
12 of the Commission, other than the adoption or enforcement of
13 or compliance with the allocation formula, may file a
14 complaint before the ACF Basin Commission seeking to enforce
15 any provision of this Compact.

16 (1) The Commission shall refer the dispute to an
17 independent hearing officer or mediator, to conduct a hearing
18 or mediation of the dispute. If the parties are unable to
19 settle their dispute through mediation, a hearing shall be
20 held by the Commission or its designated hearing officer.
21 Following a hearing conducted by a hearing officer, the
22 hearing officer shall submit a report to the Commission
23 setting forth findings of fact and conclusions of law, and
24 making recommendations to the Commission for the resolution of
25 the dispute.

26 (2) The Commission may adopt or modify the
27 recommendations of the hearing officer within 60 days of
28 submittal of the report. If the Commission is unable to reach
29 unanimous agreement on the resolution of the dispute within 60
30 days of submittal of the report with the concurrence of the
31 Federal Commissioner in disputes involving or affecting

1 federal interests, the affected party may file an action in
2 any court of competent jurisdiction to enforce the provisions
3 of this Compact. The hearing officer's report shall be of no
4 force and effect and shall not be admissible as evidence in
5 any further proceedings.

6 (e) All actions under this Article shall be subject to
7 the following provisions:

8 (1) The Commission shall adopt guidelines and
9 procedures for the appointment of hearing officers or
10 independent mediators to conduct all hearings and mediations
11 required under this Article. The hearing officer or mediator
12 appointed under this Article shall be compensated by the
13 Commission.

14 (2) All hearings or mediations conducted under this
15 article may be conducted utilizing the Federal Administrative
16 Procedures Act, the Federal Rules of Civil Procedure, and the
17 Federal Rules of Evidence. The Commission may also choose to
18 adopt some or all of its own procedural and evidentiary rules
19 for the conduct of hearings or mediations under this Compact.

20 (3) Any action brought under this Article shall be
21 limited to equitable relief only. This Compact shall not give
22 rise to a cause of action for money damages.

23 (4) Any signatory party bringing an action before the
24 Commission under this Article shall have the burdens of proof
25 and persuasion.

26

27

ARTICLE XIV

28

ENFORCEMENT

29

30 The Commission may, upon unanimous decision, bring an
31 action against any person to enforce any provision of this

1 Compact, other than the adoption or enforcement of or
2 compliance with the allocation formula, in any court of
3 competent jurisdiction.

4
5 ARTICLE XV

6 IMPACTS ON OTHER STREAM SYSTEMS

7
8 This Compact shall not be construed as establishing any
9 general principle or precedent applicable to any other
10 interstate streams.

11
12 ARTICLE XVI

13 IMPACT OF COMPACT ON USE OF WATER

14 WITHIN THE BOUNDARIES

15 OF THE COMPACTING STATES

16
17 The provisions of this Compact shall not interfere with
18 the right or power of any state to regulate the use and
19 control of water within the boundaries of the state, providing
20 such state action is not inconsistent with the allocation
21 formula.

22
23 ARTICLE XVII

24 AGREEMENT REGARDING WATER QUALITY

25
26 (a) The States of Alabama, Florida, and Georgia
27 mutually agree to the principle of individual State efforts to
28 control man-made water pollution from sources located and
29 operating within each State and to the continuing support of
30 each State in active water pollution control programs.

31

1 (b) The States of Alabama, Florida, and Georgia agree
2 to cooperate, through their appropriate State agencies, in the
3 investigation, abatement, and control of sources of alleged
4 interstate pollution within the ACF River Basin whenever such
5 sources are called to their attention by the Commission.

6 (c) The States of Alabama, Florida, and Georgia agree
7 to cooperate in maintaining the quality of the waters of the
8 ACF River Basin.

9 (d) The States of Alabama, Florida, and Georgia agree
10 that no State may require another state to provide water for
11 the purpose of water quality control as a substitute for or in
12 lieu of adequate waste treatment.

13
14 ARTICLE XVIII

15 EFFECT OF OVER OR UNDER DELIVERIES
16 UNDER THE COMPACT

17
18 No state shall acquire any right or expectation to the
19 use of water because of any other state's failure to use the
20 full amount of water allocated to it under this Compact.

21
22 ARTICLE XIX

23 SEVERABILITY

24
25 If any portion of this Compact is held invalid for any
26 reason, the remaining portions, to the fullest extent
27 possible, shall be severed from the void portion and given the
28 fullest possible force, effect, and application.

29
30 ARTICLE XX

31 NOTICE AND FORMS OF SIGNATURE

1
2 Notice of ratification of this Compact by the
3 legislature of each state shall promptly be given by the
4 Governor of the ratifying state to the Governors of the other
5 participating states. When all three state legislatures have
6 ratified the Compact, notice of their mutual ratification
7 shall be forwarded to the Congressional delegation of the
8 signatory states for submission to the Congress of the United
9 States for ratification. When the Compact is ratified by the
10 Congress of the United States, the President, upon signing the
11 federal ratification legislation, shall promptly notify the
12 Governors of the participating states and appoint the Federal
13 Commissioner. The Compact shall be signed by all four
14 Commissioners as their first order of business at their first
15 meeting and shall be filed of record in the party states.

16 Section 15. Paragraph (e) of subsection (8) of section
17 403.0752, Florida Statutes, is amended to read:

18 403.0752 Ecosystem management agreements.--

19 (8)

20 (e) A person who requests a binding ecosystem
21 management agreement and as a part of that request seeks a
22 permit, license, approval, variance, or waiver that is subject
23 to a statutory application review time limit waives her or his
24 right to a default permit, license, approval, variance, or
25 waiver.

26 Section 16. Subsection (2) of section 440.442, Florida
27 Statutes, is amended to read:

28 440.442 Code of Judicial Conduct.--The Chief Judge,
29 and judges of compensation claims shall observe and abide by
30 the Code of Judicial Conduct as provided in this section. Any
31 material violation of a provision of the Code of Judicial

1 Conduct shall constitute either malfeasance or misfeasance in
2 office and shall be grounds for suspension and removal of such
3 Chief Judge, or judge of compensation claims by the Governor.

4 (2) A JUDGE SHOULD AVOID IMPROPRIETY AND THE
5 APPEARANCE OF IMPROPRIETY IN ALL HIS OR HER ACTIVITIES.--

6 (a) A judge should respect and comply with the law and
7 should conduct himself or herself at all times in a manner
8 that promotes public confidence in the integrity and
9 impartiality of the judiciary.

10 (b) A judge should not allow his or her personal
11 relationships to influence his or her judicial conduct of
12 judgment. A judge should not lend the prestige of the office
13 to advance the private interest of others; nor convey or
14 authorize others to convey the impression that they are in a
15 special position to influence him or her. A judge should not
16 testify voluntarily as a character witness.

17 Section 17. Subsection (1) of section 447.603, Florida
18 Statutes, is amended to read:

19 447.603 Local option.--

20 (1) Any district school board or political
21 subdivision, other than the state or a state public authority,
22 may elect to adopt, by ordinance, resolution, or charter
23 amendment, its own local option in lieu of the requirements of
24 this part, provided such provisions and procedures thereby
25 adopted effectively secure to public employees substantially
26 equivalent rights and procedures as set forth in this part.
27 However, notwithstanding any provision of s. 447.205 to the
28 contrary, members of local commissions established pursuant to
29 this section shall be appointed so that the composition of the
30 local commission is as follows: One appointee shall be a
31 person who, on account of previous vocation, employment, or

1 affiliation, is or has been classified as a representative of
2 employers; one appointee shall be a person who, on account of
3 previous vocation, employment, or affiliation, is or has been
4 classified as a representative of employees or employee
5 organizations; and all other appointees, including alternates,
6 shall be persons who, on account of previous vocation,
7 employment, or affiliation, are not or have not been
8 classified as representatives of employers, employees, or
9 employee organizations. The chair ~~chairman~~ and all members of
10 any such local commission shall be appointed for 4-year
11 staggered terms. Neither the chair ~~chairman~~ nor any member
12 shall be employed by, or hold any commission with, any
13 governmental unit in the state or any employee organization
14 while serving in such office.

15 Section 18. Paragraph (f) of subsection (1) of section
16 455.217, Florida Statutes, is amended to read:

17 455.217 Examinations.--This section shall be read in
18 conjunction with the appropriate practice act associated with
19 each regulated profession under this chapter.

20 (1) The Division of Technology, Licensure, and Testing
21 of the Department of Business and Professional Regulation
22 shall provide, contract, or approve services for the
23 development, preparation, administration, scoring, score
24 reporting, and evaluation of all examinations. The division
25 shall seek the advice of the appropriate board in providing
26 such services.

27 (f) If the professional board with jurisdiction over
28 an examination concurs, the department may, for a fee, share
29 with any other state's licensing authority an examination
30 developed by or for the department unless prohibited by a
31 contract entered into by the department for development or

1 purchase of the examination. The department, with the
2 concurrence of the appropriate board, shall establish
3 guidelines that ensure security of a shared exam and shall
4 require that any other state's licensing authority comply with
5 those guidelines. Those guidelines shall be approved by the
6 appropriate professional board. All fees paid by the user
7 shall be applied to the department's examination and
8 development program for professions regulated by this part.
9 All fees paid by the user for professions not regulated by
10 this part shall be applied to offset the fees for the
11 development and administration of that profession's
12 examination. If both a written and a practical examination
13 are given, an applicant shall be required to retake only the
14 portion of the examination for which he or she failed to
15 achieve a passing grade, if he or she successfully passes that
16 portion within a reasonable time of his or her passing the
17 other portion.

18 Section 19. Subsection (1) of section 455.507, Florida
19 Statutes, is amended to read:

20 455.507 Members of Armed Forces in good standing with
21 administrative boards.--

22 (1) Any member of the Armed Forces of the United
23 States now or hereafter on active duty who, at the time of ~~his~~
24 becoming such a member, was in good standing with any
25 administrative board of the state and was entitled to practice
26 or engage in her or his profession or vocation in the state
27 shall be kept in good standing by such administrative board,
28 without registering, paying dues or fees, or performing any
29 other act on her or his part to be performed, as long as she
30 or he is a member of the Armed Forces of the United States on
31 active duty and for a period of 6 months after ~~his~~ discharge

1 from active duty as a member of the Armed Forces of the United
2 States, provided she or he is not engaged in her or his
3 licensed profession or vocation in the private sector for
4 profit.

5 Section 20. Section 455.511, Florida Statutes, is
6 amended to read:

7 455.511 Restriction on requirement of citizenship.--A
8 person is not disqualified from practicing an occupation or
9 profession regulated by the state solely because she or he is
10 not a United States citizen.

11 Section 21. Subsection (1) of section 455.541, Florida
12 Statutes, is amended to read:

13 455.541 Accountability and liability of board
14 members.--

15 (1) Each board member shall be accountable to the
16 Governor for the proper performance of duties as a member of
17 the board. The Governor shall investigate any legally
18 sufficient complaint or unfavorable written report received by
19 the Governor or by the department or a board concerning the
20 actions of the board or its individual members. The Governor
21 may suspend from office any board member for malfeasance,
22 misfeasance, neglect of duty, drunkenness, incompetence,
23 permanent inability to perform his or her official duties, or
24 commission of a felony.

25 Section 22. Subsection (2) of section 455.561, Florida
26 Statutes, is amended to read:

27 455.561 Limited licenses.--

28 (2) Any person desiring to obtain a limited license,
29 when permitted by rule, shall submit to the board, or the
30 department when there is no board, an application and fee, not
31 to exceed \$300, and an affidavit stating that the applicant

1 has been licensed to practice in any jurisdiction in the
2 United States for at least 10 years in the profession for
3 which the applicant seeks a limited license. The affidavit
4 shall also state that the applicant has retired or intends to
5 retire from the practice of that profession and intends to
6 practice only pursuant to the restrictions of the limited
7 license granted pursuant to this section. If the applicant
8 for a limited license submits a notarized statement from the
9 employer stating that the applicant will not receive monetary
10 compensation for any service involving the practice of her or
11 his profession, the application and all licensure fees shall
12 be waived.

13 Section 23. Subsections (1), (4), and (10) of section
14 455.621, Florida Statutes, are amended to read:

15 455.621 Disciplinary proceedings.--Disciplinary
16 proceedings for each board shall be within the jurisdiction of
17 the department.

18 (1) The department, for the boards under its
19 jurisdiction, shall cause to be investigated any complaint
20 that is filed before it if the complaint is in writing, signed
21 by the complainant, and legally sufficient. A complaint is
22 legally sufficient if it contains ultimate facts that show
23 that a violation of this part, of any of the practice acts
24 relating to the professions regulated by the department, or of
25 any rule adopted by the department or a regulatory board in
26 the department has occurred. In order to determine legal
27 sufficiency, the department may require supporting information
28 or documentation. The department may investigate, and the
29 department or the appropriate board may take appropriate final
30 action on, a complaint even though the original complainant
31 withdraws it or otherwise indicates a desire not to cause the

1 complaint to be investigated or prosecuted to completion. The
2 department may investigate an anonymous complaint if the
3 complaint is in writing and is legally sufficient, if the
4 alleged violation of law or rules is substantial, and if the
5 department has reason to believe, after preliminary inquiry,
6 that the violations alleged in the complaint are true. The
7 department may investigate a complaint made by a confidential
8 informant if the complaint is legally sufficient, if the
9 alleged violation of law or rule is substantial, and if the
10 department has reason to believe, after preliminary inquiry,
11 that the allegations of the complainant are true. The
12 department may initiate an investigation if it has reasonable
13 cause to believe that a licensee or a group of licensees has
14 violated a Florida statute, a rule of the department, or a
15 rule of a board. Except as provided in ss. 458.331(9),
16 459.015(9), 460.413(5), and 461.013(6), when an investigation
17 of any subject is undertaken, the department shall promptly
18 furnish to the subject or the subject's attorney a copy of the
19 complaint or document that resulted in the initiation of the
20 investigation. The subject may submit a written response to
21 the information contained in such complaint or document within
22 20 days after service to the subject of the complaint or
23 document. The subject's written response shall be considered
24 by the probable cause panel. The right to respond does not
25 prohibit the issuance of a summary emergency order if
26 necessary to protect the public. However, if the secretary, or
27 the secretary's designee, and the chair ~~chairman~~ of the
28 respective board or the chair ~~chairman~~ of its probable cause
29 panel agree in writing that such notification would be
30 detrimental to the investigation, the department may withhold
31 notification. The department may conduct an investigation

1 without notification to any subject if the act under
2 investigation is a criminal offense.

3 (4) The determination as to whether probable cause
4 exists shall be made by majority vote of a probable cause
5 panel of the board, or by the department, as appropriate. Each
6 regulatory board shall provide by rule that the determination
7 of probable cause shall be made by a panel of its members or
8 by the department. Each board may provide by rule for multiple
9 probable cause panels composed of at least two members. Each
10 board may provide by rule that one or more members of the
11 panel or panels may be a former board member. The length of
12 term or repetition of service of any such former board member
13 on a probable cause panel may vary according to the direction
14 of the board when authorized by board rule. Any probable cause
15 panel must include one of the board's former or present
16 consumer members, if one is available, is willing to serve,
17 and is authorized to do so by the board chair ~~chairman~~. Any
18 probable cause panel must include a present board member. Any
19 probable cause panel must include a former or present
20 professional board member. However, any former professional
21 board member serving on the probable cause panel must hold an
22 active valid license for that profession. All proceedings of
23 the panel are exempt from s. 286.011 until 10 days after
24 probable cause has been found to exist by the panel or until
25 the subject of the investigation waives his or her privilege
26 of confidentiality. The probable cause panel may make a
27 reasonable request, and upon such request the department shall
28 provide such additional investigative information as is
29 necessary to the determination of probable cause. A request
30 for additional investigative information shall be made within
31 15 days from the date of receipt by the probable cause panel

1 of the investigative report of the department or the agency.
2 The probable cause panel or the department, as may be
3 appropriate, shall make its determination of probable cause
4 within 30 days after receipt by it of the final investigative
5 report of the department. The secretary may grant extensions
6 of the 15-day and the 30-day time limits. In lieu of a finding
7 of probable cause, the probable cause panel, or the department
8 if there is no board, may issue a letter of guidance to the
9 subject. If, within the 30-day time limit, as may be extended,
10 the probable cause panel does not make a determination
11 regarding the existence of probable cause or does not issue a
12 letter of guidance in lieu of a finding of probable cause, the
13 department must make a determination regarding the existence
14 of probable cause within 10 days after the expiration of the
15 time limit. If the probable cause panel finds that probable
16 cause exists, it shall direct the department to file a formal
17 complaint against the licensee. The department shall follow
18 the directions of the probable cause panel regarding the
19 filing of a formal complaint. If directed to do so, the
20 department shall file a formal complaint against the subject
21 of the investigation and prosecute that complaint pursuant to
22 chapter 120. However, the department may decide not to
23 prosecute the complaint if it finds that probable cause has
24 been improvidently found by the panel. In such cases, the
25 department shall refer the matter to the board. The board may
26 then file a formal complaint and prosecute the complaint
27 pursuant to chapter 120. The department shall also refer to
28 the board any investigation or disciplinary proceeding not
29 before the Division of Administrative Hearings pursuant to
30 chapter 120 or otherwise completed by the department within 1
31 year after the filing of a complaint. The department, for

1 disciplinary cases under its jurisdiction, must establish a
2 uniform reporting system to quarterly refer to each board the
3 status of any investigation or disciplinary proceeding that is
4 not before the Division of Administrative Hearings or
5 otherwise completed by the department within 1 year after the
6 filing of the complaint. Annually, the department if there is
7 no board, or each board must establish a plan to reduce or
8 otherwise close any investigation or disciplinary proceeding
9 that is not before the Division of Administrative Hearings or
10 otherwise completed by the department within 1 year after the
11 filing of the complaint. A probable cause panel or a board
12 may retain independent legal counsel, employ investigators,
13 and continue the investigation as it deems necessary; all
14 costs thereof shall be paid from a trust fund used by the
15 department to implement this part. All proceedings of the
16 probable cause panel are exempt from s. 120.525.

17 (10) The complaint and all information obtained
18 pursuant to the investigation by the department are
19 confidential and exempt from s. 119.07(1) until 10 days after
20 probable cause has been found to exist by the probable cause
21 panel or by the department, or until the regulated
22 professional or subject of the investigation waives his or her
23 privilege of confidentiality, whichever occurs first. Upon
24 completion of the investigation and pursuant to a written
25 request by the subject, the department shall provide the
26 subject an opportunity to inspect the investigative file or,
27 at the subject's expense, forward to the subject a copy of the
28 investigative file. Notwithstanding s. 455.667, the subject
29 may inspect or receive a copy of any expert witness report or
30 patient record connected with the investigation if the subject
31 agrees in writing to maintain the confidentiality of any

1 information received under this subsection until 10 days after
2 probable cause is found and to maintain the confidentiality of
3 patient records pursuant to s. 455.667. The subject may file a
4 written response to the information contained in the
5 investigative file. Such response must be filed within 20
6 days, unless an extension of time has been granted by the
7 department. This subsection does not prohibit the department
8 from providing such information to any law enforcement agency
9 or to any other regulatory agency.

10 Section 24. Section 455.631, Florida Statutes, is
11 amended to read:

12 455.631 Penalty for giving false information.--In
13 addition to, or in lieu of, any other discipline imposed
14 pursuant to s. 455.624, the act of knowingly giving false
15 information in the course of applying for or obtaining a
16 license from the department, or any board thereunder, with
17 intent to mislead a public servant in the performance of his
18 or her official duties, or the act of attempting to obtain or
19 obtaining a license from the department, or any board
20 thereunder, to practice a profession by knowingly misleading
21 statements or knowing misrepresentations constitutes a felony
22 of the third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084.

24 Section 25. Subsection (2) of section 455.687, Florida
25 Statutes, is amended to read:

26 455.687 Certain health care practitioners; immediate
27 suspension of license.--

28 (2) If the board has previously found any physician or
29 osteopathic physician in violation of the provisions of s.
30 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his
31 treatment of three or more patients, and the probable cause

1 panel of the board finds probable cause of an additional
2 violation of that section, then the Secretary of Health shall
3 review the matter to determine if an emergency suspension or
4 restriction order is warranted. Nothing in this section shall
5 be construed so as to limit the authority of the secretary of
6 the department to issue an emergency order.

7 Section 26. Subsection (5) of section 481.329, Florida
8 Statutes, 1998 Supplement, is amended to read:

9 481.329 Exceptions; exemptions from licensure.--

10 (5) Nothing in this part prohibits any person from
11 engaging in the practice of landscape design, as defined in s.
12 481.303(7). Persons providing landscape design services shall
13 not use the title, term, or designation "landscape architect",
14 "landscape architectural", "landscape architecture", "L.A.",
15 "landscape engineering", or any description tending to convey
16 the impression that she or he is a landscape architect unless
17 she or he is registered as provided in this part.

18 Section 27. Paragraph (b) of subsection (1) of section
19 489.1195, Florida Statutes, 1998 Supplement, is amended to
20 read:

21 489.1195 Responsibilities.--

22 (1) A qualifying agent is a primary qualifying agent
23 unless he or she is a secondary qualifying agent under this
24 section.

25 (b) Upon approval by the board, a business entity may
26 designate a financially responsible officer for purposes of
27 certification or registration. A financially responsible
28 officer shall be responsible for all financial aspects of the
29 business organization and may not be designated as the primary
30 qualifying agent. The designated financially responsible
31 officer shall furnish evidence of the financial

1 responsibility, credit, and business reputation of either
2 himself or herself, or the business organization he or she
3 desires to qualify, as determined appropriate by the board.

4 Section 28. Paragraph (c) of subsection (1) of section
5 489.518, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 489.518 Alarm system agents.--

8 (1) A licensed electrical or alarm system contractor
9 may not employ a person to perform the duties of a burglar
10 alarm system agent unless the person:

11 (c) Has not been convicted within the last 3 years of
12 a crime that directly relates to the business for which
13 employment is being sought. Although the employee is barred
14 from operating as an alarm system agent for 3 years subsequent
15 to his or her conviction, the employer shall be supplied the
16 information regarding any convictions occurring prior to that
17 time, and the employer may at his or her discretion consider
18 an earlier conviction to be a bar to employment as an alarm
19 system agent. To ensure that this requirement has been met, a
20 licensed electrical or alarm contractor must obtain from the
21 Florida Department of Law Enforcement a completed fingerprint
22 and criminal background check for each applicant for
23 employment as a burglar alarm system agent or for each
24 individual currently employed on the effective date of this
25 act as a burglar alarm system agent.

26 Section 29. Paragraph (d) of subsection (4) of section
27 489.553, Florida Statutes, 1998 Supplement, is amended to
28 read:

29 489.553 Administration of part; registration
30 qualifications; examination.--

31

1 (4) To be eligible for registration by the department
2 as a septic tank contractor, the applicant must:

3 (d) Have a total of at least 3 years of active
4 experience serving an apprenticeship as a skilled worker
5 ~~workman~~ under the supervision and control of a registered
6 septic tank contractor or a plumbing contractor as defined in
7 s. 489.105 who has provided septic tank contracting services.
8 Related work experience or educational experience may be
9 substituted for no more than 2 years of active contracting
10 experience. Each 30 hours of coursework approved by the
11 department will substitute for 6 months of work experience.
12 Out-of-state work experience shall be accepted on a
13 year-for-year basis for any applicant who demonstrates that he
14 or she holds a current license issued by another state for
15 septic tank contracting which was issued upon satisfactory
16 completion of an examination and continuing education courses
17 that are equivalent to the requirements in this state. For
18 purposes of this section, an equivalent examination must
19 include the topics of system location and installation, site
20 evaluation, system size determinations, disposal of septage,
21 construction standards for drainfield systems, and the
22 soil-texture classification system of the United States
23 Department of Agriculture. A person employed by and under the
24 supervision of a licensed contractor shall be granted up to 2
25 years of related work experience.

26 Section 30. Subsection (1) of section 493.6305,
27 Florida Statutes, is amended to read:

28 493.6305 Uniforms, required wear; exceptions.--

29 (1) Class "D" licensees shall perform duties regulated
30 under this chapter in a uniform which bears at least one patch
31 or emblem visible at all times clearly identifying the

1 employing agency. Upon resignation or termination of
2 employment, a Class "D" licensee shall immediately return to
3 the employer any uniform and any other equipment issued to her
4 or him by the employer.

5 Section 31. Paragraph (b) of subsection (5) of section
6 501.925, Florida Statutes, is amended to read:

7 501.925 Used watches; sales regulated.--

8 (5) A watch shall be deemed to be used if:

9 (b) Its case serial numbers or movement numbers or
10 other distinguishing numbers or identification marks are
11 erased, defaced, removed, altered or covered; however, a watch
12 will not be deemed used if such numbers or marks are erased,
13 defaced, removed, altered, or covered by any person, firm,
14 partnership, association, or corporation engaged in the
15 business of selling watches who bought or acquired such watch
16 for resale, but not for her or his use or the use of another,
17 from an authorized dealer who bought or acquired such watch
18 directly from its manufacturer, wholesaler, or distributor; or

19 Section 32. Paragraph (b) of subsection (12) of
20 section 517.021, Florida Statutes, 1998 Supplement, is amended
21 to read:

22 517.021 Definitions.--When used in this chapter,
23 unless the context otherwise indicates, the following terms
24 have the following respective meanings:

25 (12)

26 (b) The term "investment adviser" does not include the
27 following:

28 1. Any licensed practicing attorney whose performance
29 of such services is solely incidental to the practice of her
30 or his profession;

31

- 1 2. Any licensed certified public accountant whose
2 performance of such services is solely incidental to the
3 practice of her or his profession;
- 4 3. Any bank authorized to do business in this state;
- 5 4. Any bank holding company as defined in the Bank
6 Holding Company Act of 1956, as amended, authorized to do
7 business in this state;
- 8 5. Any trust company having trust powers which it is
9 authorized to exercise in the state, which trust company
10 renders or performs services in a fiduciary capacity
11 incidental to the exercise of its trust powers;
- 12 6. Any person who renders investment advice
13 exclusively to insurance or investment companies;
- 14 7. Any person who does not hold herself or himself out
15 to the general public as an investment adviser and has no more
16 than 15 clients within 12 consecutive months in this state;
- 17 8. Any person whose transactions in this state are
18 limited to those transactions described in s. 222(d) of the
19 Investment Advisers Act of 1940. Those clients listed in
20 subparagraph 5. may not be included when determining the
21 number of clients of an investment adviser for purposes of s.
22 222(d) of the Investment Advisers Act of 1940; or
- 23 9. A federal covered adviser.
- 24 Section 33. Paragraph (d) of subsection (4) and
25 paragraph (b) of subsection (5) of section 608.4381, Florida
26 Statutes, 1998 Supplement, are amended to read:
- 27 608.4381 Action on plan of merger.--
- 28 (4) The notification required by subsection (3) shall
29 be in writing and shall include:
- 30 (d) A statement of, or a statement of the method of
31 determining, the "fair value," as defined in s.

1 608.4384(1)(b), of an interest in the limited liability
2 company, in the case of a limited liability company in which
3 management is not reserved to its members, as determined by
4 the managers of such limited liability company, which
5 statement may consist of a reference to the applicable
6 provisions of such limited liability company's articles of
7 organization or regulations that determine the fair value of
8 an interest in the limited liability company for such
9 purposes, and which shall constitute an offer by the limited
10 liability company to purchase at such fair value any interests
11 of a "dissenter," as defined in s. 608.4384(1)(a), unless and
12 until such dissenter's right to receive the fair value of his
13 or her interests in the limited liability company is
14 terminated pursuant to s. 608.4384(8).

15 (5) The notification required by subsection (3) shall
16 be deemed to be given at the earliest date of:

17 (b) Five days after the date such notification is
18 deposited in the United States mail addressed to the member at
19 his or her address as it appears in the books and records of
20 the limited liability company, with postage thereon prepaid;

21 Section 34. Paragraph (a) of subsection (1) and
22 subsections (2), (3), (5), (8), and (10) of section 608.4384,
23 Florida Statutes, 1998 Supplement, are amended to read:

24 608.4384 Rights of dissenting members.--

25 (1) For purposes of this section, the term:

26 (a) "Dissenter" means a member of a limited liability
27 company who is a recordholder of the interests to which he or
28 she seeks relief as of the date fixed for the determination of
29 members entitled to notice of a plan of merger, who does not
30 vote such interests in favor of the plan of merger, and who

31

1 exercises the right to dissent from the plan of merger when
2 and in the manner required by this section.

3 (2) Each member of a limited liability company that is
4 a party to a merger shall have the right to be paid the fair
5 value of his or her interests as a dissenter only as provided
6 in this section.

7 (3) Not later than 20 days after the date on which the
8 notification required by s. 608.4381(3) is given to the
9 members, or if such notification is waived in writing by the
10 dissenter, not later than 20 days after the date of such
11 written waiver, the dissenter shall deliver to the limited
12 liability company a written demand for payment to him or her
13 of the fair value of the interests as to which the dissenter
14 ~~he~~ seeks relief that states his or her address, the number and
15 class, if any, of those interests, and, at the election of the
16 dissenter, the amount claimed by him or her as the fair value
17 of the interests. The statement of fair market value by the
18 dissenter, if any, shall constitute an offer by the dissenter
19 to sell the interests to the limited liability company at such
20 amount. A dissenter may dissent as to less than all the
21 interests registered in his or her name. In such event, the
22 dissenter's rights shall be determined as if the interests as
23 to which he or she has dissented and his or her remaining
24 interests were registered in the names of different members.
25 If the interests as to which a dissenter seeks relief are
26 represented by certificates, the dissenter shall deposit such
27 certificates with the limited liability company simultaneously
28 with the delivery of the written demand for payment. Upon
29 receiving a demand for payment from a dissenter who is a
30 recordholder of uncertificated interests, the limited
31 liability company shall make an appropriate notation of the

1 demand for payment in its records. The limited liability
2 company may restrict the transfer of uncertificated interests
3 from the date the dissenter's written demand for payment is
4 delivered. A written demand for payment served on the limited
5 liability company in which the dissenter is a member shall
6 constitute service on the surviving entity.

7 (5) Unless the articles of organization or regulations
8 of the limited liability company in which the dissenter is a
9 member provide a basis or method for determining and paying
10 the fair value of the interests as to which the dissenter
11 seeks relief, or unless the limited liability company or the
12 surviving entity and the dissenter have agreed in writing as
13 to the fair value of the interests as to which the dissenter
14 seeks relief, the dissenter, the limited liability company, or
15 the surviving entity, within 90 days after the dissenter
16 delivers the written demand for payment to the limited
17 liability company, may file an action in any court of
18 competent jurisdiction in the county in this state where the
19 registered office of the limited liability company is located
20 or was located when the plan of merger was approved by its
21 members, or in the county in this state in which the principal
22 office of the limited liability company that issued the
23 interests is located or was located when the plan of merger
24 was approved by its partners, requesting that the fair value
25 of the dissenter's interests be determined. The court shall
26 also determine whether each dissenter that is a party to such
27 proceeding, as to whom the limited liability company or the
28 surviving entity requests the court to make such
29 determination, is entitled to receive payment of the fair
30 value for his or her interests. Other dissenters, within the
31 90-day period after a dissenter delivers a written demand to

1 the limited liability company, may join such proceeding as
2 plaintiffs or may be joined in any such proceeding as
3 defendants, and any two or more such proceedings may be
4 consolidated. If the limited liability company or surviving
5 entity commences such a proceeding, all dissenters, whether or
6 not residents of this state, other than dissenters who have
7 agreed in writing with the limited liability company or the
8 surviving entity as to the fair value of the interests as to
9 which such dissenters seek relief, shall be made parties to
10 such action as an action against their interests. The limited
11 liability company or the surviving entity shall serve a copy
12 of the initial pleading in such proceeding upon each dissenter
13 who is a party to such proceeding and who is a resident of
14 this state in the manner provided by law for the service of a
15 summons and complaint and upon each such dissenter who is not
16 a resident of this state either by registered or certified
17 mail and publication or in such matter as is permitted by law.
18 The jurisdiction of the court in such a proceeding shall be
19 plenary and exclusive. All dissenters who are proper parties
20 to the proceeding are entitled to judgment against the limited
21 liability company or the surviving entity for the amount of
22 the fair value of their interests as to which payment is
23 sought hereunder. The court may, if it so elects, appoint one
24 or more persons as appraisers to receive evidence and
25 recommend a decision on the question of fair value. The
26 appraisers shall have such power and authority as is specified
27 in the order of their appointment or an amendment thereof.
28 The limited liability company shall pay each dissenter the
29 amount found to be due him or her within 10 days after final
30 determination of the proceedings. Upon payment of the
31

1 judgment, the dissenter shall cease to have any interest in
2 the interests as to which payment is sought hereunder.

3 (8) The right of a dissenter to receive fair value for
4 and the obligation to sell such interests as to which the
5 dissenter ~~he~~ seeks relief, and the right of the limited
6 liability company or the surviving entity to purchase such
7 interests and the obligation to pay the fair value of such
8 interests, shall terminate if:

9 (a) The dissenter has not complied with this section,
10 unless the limited liability company or the surviving entity
11 waives, in writing, such noncompliance;

12 (b) The limited liability company abandons the merger
13 or is finally enjoined or prevented from carrying it out, or
14 the members rescind their adoption or approval of the merger;

15 (c) The dissenter withdraws his or her demand, with
16 the consent of the limited liability company or the surviving
17 entity; or

18 (d)1. The articles of organization or the regulations
19 of the limited liability company in which the dissenter was a
20 member does not provide a basis or method for determining and
21 paying the dissenter the fair value of his or her interests.

22 2. The limited liability company or the surviving
23 entity and the dissenter have not agreed upon the fair value
24 of the dissenter's interests.

25 3. Neither the dissenter, the limited liability
26 company, nor the surviving entity has filed or is joined in a
27 complaint under subsection (5) within the 90-day period
28 provided in subsection (5).

29 (10) A member who is entitled under this section to
30 demand payment for his or her interests shall not have any
31 right at law or in equity to challenge the validity of any

1 merger that creates his or her entitlement to demand payment
2 hereunder, or to have the merger set aside or rescinded,
3 except with respect to compliance with the provisions of the
4 limited liability company's articles of organization or
5 regulations or if the merger is unlawful or fraudulent with
6 respect to such member.

7 Section 35. Paragraph (d) of subsection (4) and
8 paragraph (b) of subsection (5) of section 620.202, Florida
9 Statutes, 1998 Supplement, are amended to read:

10 620.202 Action on plan of merger.--

11 (4) The notification required by subsection (3) shall
12 be in writing and shall include:

13 (d) A statement of, or a statement of the method of
14 determining, the "fair value," as defined in s. 620.205(1)(b),
15 of an interest in the limited partnership as determined by the
16 general partners of the limited partnership, which statement
17 may consist of a reference to the applicable provisions of
18 such limited partnership's partnership agreement that
19 determine the fair value of an interest in the limited
20 partnership for these purposes, and which shall constitute an
21 offer by the limited partnership to purchase at such fair
22 value any partnership interests of a "dissenter," as defined
23 in s. 620.205(1)(a), unless and until such a dissenter's right
24 to receive the fair value of his or her interests in the
25 limited partnership is terminated pursuant to s. 620.205(8).

26 (5) The notification required by subsection (3) shall
27 be deemed to be given at the earliest of:

28 (b) Five days after the date such notification is
29 deposited in the United States mail addressed to the partner
30 at his or her address as it appears in the books and records
31 of the limited partnership, with postage thereon prepaid;

1 Section 36. Paragraph (a) of subsection (1) and
2 subsections (2), (3), (5), (8), and (10) of section 620.205,
3 Florida Statutes, 1998 Supplement, are amended to read:

4 620.205 Rights of dissenting partners.--

5 (1) For purposes of this section, the term:

6 (a) "Dissenter" means a partner of a domestic limited
7 partnership who is a recordholder of the partnership interests
8 to which he or she seeks relief as of the date fixed for the
9 determination of partners entitled to notice of a plan of
10 merger, who does not vote such interests in favor of the plan
11 of merger, and who exercises the right to dissent from the
12 plan of merger when and in the manner required by this
13 section.

14 (2) Each partner of a domestic limited partnership
15 that is a party to a merger shall have the right to be paid
16 the fair value of his or her partnership interests as a
17 dissenter as provided in this section.

18 (3) Not later than 20 days after the date on which the
19 notification required by s. 620.202(3) is given to the
20 partners, or if such notification was waived in writing by the
21 dissenter, not later than 20 days after the date of such
22 written waiver, the dissenter shall deliver to the limited
23 partnership a written demand for payment to him or her of the
24 fair value of the interests as to which the dissenter ~~he~~ seeks
25 relief that states his or her address, the number and class,
26 if any, of those interests, and, at the election of the
27 dissenter, the amount claimed by him or her as the fair value
28 of the interests. The statement of fair market value by the
29 dissenter, if any, shall constitute an offer by the dissenter
30 to sell the partnership interests to the limited partnership
31 for such amount. A dissenter may dissent as to less than all

1 the partnership interests registered in his or her name. In
2 such event, the dissenter's rights shall be determined as if
3 the partnership interests as to which he or she has dissented
4 and his or her remaining partnership interests were registered
5 in the names of different partners. If the interests as to
6 which a dissenter seeks relief are represented by
7 certificates, the dissenter shall deposit such certificates
8 with the limited partnership simultaneously with the delivery
9 of the written demand for payment. Upon receiving a demand
10 for payment from a dissenter who is a recordholder of
11 uncertificated interests, the limited partnership shall make
12 an appropriate notation of the demand for payment in its
13 records. The limited partnership may restrict the transfer of
14 uncertificated interests from the date the dissenter's written
15 demand for payment is delivered. A written demand for payment
16 served on the domestic limited partnership in which the
17 dissenter is a partner shall constitute service on the
18 surviving entity.

19 (5) Unless the partnership agreement of the limited
20 partnership in which the dissenter is a partner provides a
21 basis or method for determining and paying the fair value of
22 the interests as to which the dissenter seeks relief, or
23 unless the limited partnership or the surviving entity and the
24 dissenter have agreed in writing as to the fair value of the
25 interests as to which the dissenter seeks relief, the
26 dissenter, the limited partnership, or the surviving entity,
27 within 90 days after the dissenter delivers the written demand
28 for payment to the limited partnership, may file an action in
29 any court of competent jurisdiction in the county in this
30 state where the registered office of the limited partnership
31 is located or was located when the plan of merger was approved

1 by its partners, or in the county in this state in which the
2 principal office of the limited partnership that issued the
3 partnership interests is located or was located when the plan
4 of merger was approved by its partners, requesting a
5 determination of the fair value of the dissenter's partnership
6 interests. The court shall also determine whether each
7 dissenter that is a party to such proceeding, as to whom the
8 limited partnership or the surviving entity requests the court
9 to make such determination, is entitled to receive payment of
10 the fair value for his or her partnership interests. Other
11 dissenters, within the 90-day period after a dissenter
12 delivers a written demand to the partnership, may join such
13 proceeding as plaintiffs or may be joined in any such
14 proceeding as defendants, and any two or more such proceedings
15 may be consolidated. If the limited partnership or surviving
16 entity commences such a proceeding, all dissenters, whether or
17 not residents of this state, other than dissenters who have
18 agreed in writing with the limited partnership or the
19 surviving entity as to the fair value of the partnership
20 interests as to which such dissenters seek relief, shall be
21 made parties to such action as an action against their
22 partnership interests. The limited partnership or the
23 surviving entity shall serve a copy of the initial pleading in
24 such proceeding upon each dissenter who is a party to such
25 proceeding and who is a resident of this state in the manner
26 provided by law for the service of a summons and complaint and
27 upon each such dissenter who is not a resident of this state
28 either by registered or certified mail and publication or in
29 such manner as is permitted by law. The jurisdiction of the
30 court in such a proceeding shall be plenary and exclusive.
31 All dissenters who are proper parties to the proceeding are

1 entitled to judgment against the limited partnership or the
2 surviving entity for the amount of the fair value of their
3 partnership interests as to which payment is sought hereunder.
4 The court may, if it so elects, appoint one or more persons as
5 appraisers to receive evidence and recommend a decision on the
6 question of fair value. The appraisers shall have such power
7 and authority as is specified in the order of their
8 appointment or an amendment thereof. The limited partnership
9 shall pay each dissenter the amount found to be due him or her
10 within 10 days after final determination of the proceedings.
11 Upon payment of the judgment, the dissenter shall cease to
12 have any interest in the partnership interests as to which
13 payment is sought hereunder.

14 (8) The right of a dissenter to receive fair value for
15 and the obligation to sell such partnership interests as to
16 which the dissenter ~~he~~ seeks relief and the right of the
17 domestic limited partnership or the surviving entity to
18 purchase such interests and the obligation to pay the fair
19 value of such interests shall terminate if:

20 (a) The dissenter has not complied with this section,
21 unless the limited partnership or the surviving entity waives
22 in writing such noncompliance;

23 (b) The limited partnership abandons the merger or is
24 finally enjoined or prevented from carrying out the merger, or
25 the partners rescind their adoption or approval of the merger;

26 (c) The dissenter withdraws his or her demand, with
27 the consent of the limited partnership or the surviving
28 entity; or

29 (d)1. The partnership agreement of the domestic
30 limited partnership in which the dissenter was a partner does
31

1 not provide a basis or method for determining and paying the
2 dissenter the fair value of his or her partnership interests.

3 2. The limited partnership or the surviving entity and
4 the dissenter have not agreed upon the fair value of the
5 dissenter's partnership interests.

6 3. Neither the dissenter, the limited partnership, nor
7 the surviving entity has filed or is joined in a complaint
8 under subsection (5) within the 90-day period provided in that
9 subsection.

10 (10) A partner who is entitled under this section to
11 demand payment for his or her partnership interests shall not
12 have any right at law or in equity to challenge the validity
13 of any merger that creates his or her entitlement to demand
14 payment hereunder, or to have the merger set aside or
15 rescinded, except with respect to compliance with the
16 provisions of the limited partnership's partnership agreement
17 or if the merger is unlawful or fraudulent with respect to
18 such partner.

19 Section 37. Subsection (3) of section 624.425, Florida
20 Statutes, 1998 Supplement, is amended to read:

21 624.425 Resident agent and countersignature required,
22 property, casualty, surety insurance.--

23 (3) An agent shall not sign or countersign in blank
24 any policy to be issued outside her or his office, or
25 countersign in blank any countersignature endorsement
26 therefor, or certificate issued thereunder. An agent may give
27 a written power of attorney to the issuing insurance company
28 to countersign such documents by imprinting her or his name,
29 or the name of the agency or other entity with which the agent
30 may be sharing commission pursuant to s. 626.753(1)(a) and
31 (2), thereon in lieu of manually countersigning such

1 documents; but an agent shall not give a power of attorney to
2 any other person to countersign any such document in her or
3 his name unless the person so authorized is directly employed
4 by the agent and by no other person, and is so employed in the
5 office of the agent.

6 Section 38. Paragraph (d) of subsection (1) of section
7 626.321, Florida Statutes, 1998 Supplement, is amended to
8 read:

9 626.321 Limited licenses.--

10 (1) The department shall issue to a qualified
11 individual, or a qualified individual or entity under
12 paragraphs (c), (d), and (e), a license as agent authorized to
13 transact a limited class of business in any of the following
14 categories:

15 (d) Baggage and motor vehicle excess liability
16 insurance.--

17 1. License covering only insurance of personal effects
18 except as provided in subparagraph 2. The license may be
19 issued only:

20 a. To a full-time salaried employee of a common
21 carrier or a full-time salaried employee or owner of a
22 transportation ticket agency, which person is engaged in the
23 sale or handling of transportation of baggage and personal
24 effects of travelers, and may authorize the sale of such
25 insurance only in connection with such transportation; or

26 b. To the full-time salaried employee of a licensed
27 general lines agent, a full-time salaried employee of a
28 business which offers motor vehicles for rent or lease, or to
29 a business office of a business which offers motor vehicles
30 for rent or lease if insurance sales activities authorized by
31 the license are limited to full-time salaried employees.

1
2 The purchaser of baggage insurance shall be provided written
3 information disclosing that the insured's homeowner's policy
4 may provide coverage for loss of personal effects and that the
5 purchase of such insurance is not required in connection with
6 the purchase of tickets or in connection with the lease or
7 rental of a motor vehicle.

8 2. A business office licensed pursuant to subparagraph
9 1., or a person licensed pursuant to subparagraph 1. who is a
10 full-time salaried employee of a business which offers motor
11 vehicles for rent or lease, may include lessees under a master
12 contract providing coverage to the lessor or may transact
13 excess motor vehicle liability insurance providing coverage in
14 excess of the standard liability limits provided by the lessor
15 in its lease to a person renting or leasing a motor vehicle
16 from the licensee's employer for liability arising in
17 connection with the negligent operation of the leased or
18 rented motor vehicle, provided that the lease or rental
19 agreement is for not more than 30 days; that the lessee is not
20 provided coverage for more than 30 consecutive days per lease
21 period, and, if the lease is extended beyond 30 days, the
22 coverage may be extended one time only for a period not to
23 exceed an additional 30 days; that the lessee is given written
24 notice that his or her personal insurance policy providing
25 coverage on an owned motor vehicle may provide additional
26 excess coverage; and that the purchase of the insurance is not
27 required in connection with the lease or rental of a motor
28 vehicle. The excess liability insurance may be provided to
29 the lessee as an additional insured on a policy issued to the
30 licensee's employer.

31

1 3. A business office licensed pursuant to subparagraph
2 1., or a person licensed pursuant to subparagraph 1. who is a
3 full-time salaried employee of a business which offers motor
4 vehicles for rent or lease, may, as an agent of an insurer,
5 transact insurance that provides coverage for the liability of
6 the lessee to the lessor for damage to the leased or rented
7 motor vehicle if:

8 a. The lease or rental agreement is for not more than
9 30 days; or the lessee is not provided coverage for more than
10 30 consecutive days per lease period, but, if the lease is
11 extended beyond 30 days, the coverage may be extended one time
12 only for a period not to exceed an additional 30 days;

13 b. The lessee is given written notice that his or her
14 personal insurance policy that provides coverage on an owned
15 motor vehicle may provide such coverage with or without a
16 deductible; and

17 c. The purchase of the insurance is not required in
18 connection with the lease or rental of a motor vehicle.

19 Section 39. Paragraph (c) of subsection (1) and
20 subsection (5) of section 626.7355, Florida Statutes, are
21 amended to read:

22 626.7355 Temporary license as customer representative
23 pending examination.--

24 (1) The department shall issue a temporary customer
25 representative's license with respect to a person who has
26 applied for such license upon finding that the person:

27 (c) Is a bona fide resident of this state or is a
28 resident of another state sharing a common boundary with this
29 state. An individual who is a bona fide resident of this
30 state shall be deemed to meet the residence requirement of
31 this paragraph, notwithstanding the existence at the time of

1 application for license, of a license in his or her name on
2 the records of another state as a resident licensee of such
3 other state, if the applicant furnishes a letter of clearance
4 satisfactory to the department that his or her resident
5 licenses have been canceled or changed to a nonresident basis
6 and that he or she is in good standing.

7 (5) The applicant shall furnish the following with his
8 or her application:

9 (a) Evidence that the applicant is enrolled in a
10 customer representative educational qualification course which
11 has been approved by the department.

12 (b) A certificate of employment and a report as to the
13 applicant's integrity and moral character on a form prescribed
14 by the department and executed by the supervising general
15 lines insurance agent.

16 Section 40. Paragraph (a) of subsection (1) and
17 subsection (6) of section 626.741, Florida Statutes, 1998
18 Supplement, are amended to read:

19 626.741 Nonresident agents; licensing and
20 restrictions.--

21 (1) The department may, upon written application and
22 the payment of the fees as specified in s. 624.501, issue a
23 license as:

24 (a) A general lines agent to an individual who is
25 otherwise qualified therefor, but who is not a resident of
26 this state, if by the laws of the state of the individual's
27 residence, residents of this state may be licensed in like
28 manner as a nonresident agent of his or her state.

29 (6) Upon becoming a resident of this state, an
30 individual who holds a Florida nonresident agent's license is
31 no longer eligible for licensure as a nonresident agent if

1 such individual fails to make application for a resident
2 license and become licensed as a resident agent within 90
3 days. His or her license and any appointments shall be
4 canceled immediately. He or she may apply for a resident
5 license pursuant to s. 626.731.

6 Section 41. Subsection (8) of section 626.792, Florida
7 Statutes, 1998 Supplement, is amended to read:

8 626.792 Nonresident agents.--

9 (8) Upon becoming a resident of this state, an
10 individual who holds a Florida nonresident agent's license is
11 no longer eligible for licensure as a nonresident agent if
12 such individual fails to make application for a resident
13 license and become licensed as a resident agent within 90
14 days. His or her license and any appointments shall be
15 canceled immediately. He or she may apply for a resident
16 license pursuant to s. 626.785.

17 Section 42. Subsection (1) of section 626.9325,
18 Florida Statutes, is amended to read:

19 626.9325 Service fee.--

20 (1) The premiums charged for surplus lines insurance
21 are subject to a service fee as provided in s. 626.921(3)(f).
22 The surplus lines agent shall collect from the insured the
23 amount of the fee at the time of the delivery of the policy,
24 or other initial confirmation of insurance, in addition to the
25 full amount of the gross premium charged by the insurer for
26 the insurance. The surplus lines agent is prohibited from
27 absorbing such fee or, as an inducement for insurance or for
28 any other reason, rebating all or any part of such fee or of
29 his or her commission.

30
31

1 Section 43. Paragraph (d) of subsection (4) of section
2 627.70161, Florida Statutes, 1998 Supplement, is amended to
3 read:

4 627.70161 Family day care insurance.--

5 (4) DENIAL, CANCELLATION, REFUSAL TO RENEW
6 PROHIBITED.--An insurer may not deny, cancel, or refuse to
7 renew a policy for residential property insurance solely on
8 the basis that the policyholder or applicant operates a family
9 day care home. In addition to other lawful reasons for
10 refusing to insure, an insurer may deny, cancel, or refuse to
11 renew a policy of a family day care home provider if one or
12 more of the following conditions occur:

13 (d) Discovery of willful or grossly negligent acts or
14 omissions or any violations of state laws or regulations
15 establishing safety standards for family day care homes by the
16 named insured or his or her representative which materially
17 increase any of the risks insured.

18 Section 44. Paragraph (a) of subsection (2) of section
19 628.721, Florida Statutes, is amended to read:

20 628.721 Bylaws.--

21 (2) The bylaws shall provide:

22 (a) That each member is entitled to one vote upon each
23 matter coming to a vote at meetings of members, or to more
24 votes in accordance with a reasonable classification of
25 members as set forth in the bylaws and based upon the amount
26 of insurance in force with the mutual insurance holding
27 company's subsidiaries, or upon the amount of the premiums
28 paid to the mutual insurance holding company's subsidiaries by
29 such member, or upon other reasonable factors. If a person's
30 membership is based upon that person holding an insurance
31 policy from a life insurer, the right to vote may be limited

1 to those members whose policies are other than term and group
2 policies and have been in effect for more than 1 year. A
3 member has the right to vote in person or by her or his
4 written proxy. No such proxy shall be made irrevocable or for
5 longer than a reasonable period of time.

6 Section 45. Section 631.929, Florida Statutes, is
7 amended to read:

8 631.929 Election of remedies.--An injured worker who
9 has a date of accident which occurred before January 1, 1994,
10 and is not receiving benefits due under chapter 440 due to the
11 insolvency of a self-insurance fund or its successors,
12 regardless of the date declared insolvent by the court, may
13 elect to seek medical care, treatment, and attendance, and
14 compensation required under ss. 440.15 and 440.16 from the
15 corporation and forego the remedy to seek benefits from his or
16 her employer or the insolvent self-insurance fund. An
17 employee who so elects may be required to obtain medical care,
18 treatment, and attendance through a managed care plan
19 comporting with the requirement of s. 440.134 if the plan of
20 operation so provides. An injured worker has 60 days to seek
21 benefits from the corporation upon ratification by the
22 corporation of his or her right to elect a remedy under this
23 part. If the injured worker elects to pursue his or her
24 remedy under the provisions of this part, the corporation may,
25 with the agreement of the injured employee, pay a lump-sum
26 payment in exchange for the corporation's and employer's
27 release from liability for future medical and compensation
28 expenses, as well as any other benefit provided under chapter
29 440. However, there shall be no entitlement to attorney's
30 fees, penalties, interest, or costs to be paid on any claim
31 presented to the corporation under this part. This section

1 shall not create any cause of action against any employer who
2 purchased workers' compensation insurance coverage pursuant to
3 s. 440.38.

4 Section 46. Subsection (4) of section 634.312, Florida
5 Statutes, is amended to read:

6 634.312 Filing, approval of forms.--

7 (4) All home warranty contracts are assignable in a
8 consumer transaction and must contain a statement informing
9 the purchaser of the home warranty of her or his right to
10 assign it, at least within 15 days from the date the home is
11 sold or transferred, to a subsequent retail purchaser of the
12 home covered by the home warranty and all conditions on such
13 right of transfer. The home warranty company may charge an
14 assignment fee not to exceed \$40. Home warranty assignments
15 include, but are not limited to, the assignment from a home
16 builder who purchased the home warranty to a subsequent home
17 purchaser.

18 Section 47. Subsection (5) of section 651.114, Florida
19 Statutes, is amended to read:

20 651.114 Delinquency proceedings; remedial rights.--

21 (5) Should the department find that sufficient grounds
22 exist for rehabilitation, liquidation, conservation,
23 reorganization, seizure, or summary proceedings of an insurer
24 as set forth in ss. 631.051, 631.061, and 631.071, the
25 department may petition for an appropriate court order or may
26 pursue such other relief as is afforded in part I of chapter
27 631. Before invoking its powers under part I of chapter 631,
28 the department shall notify the chair ~~chairman~~ of the advisory
29 council.

30 Section 48. Paragraph (a) of subsection (1) of section
31 667.006, Florida Statutes, is amended to read:

1 667.006 Conversion of state or federal mutual savings
2 bank or state or federal mutual association to capital stock
3 savings bank.--

4 (1) CONVERSION INTO CAPITAL STOCK SAVINGS BANK.--Any
5 state or federal mutual savings bank or state or federal
6 mutual association may apply to the department for permission
7 to convert itself into a capital stock savings bank operated
8 under the provisions of this chapter in accordance with the
9 following procedures:

10 (a) The board of directors shall approve a plan of
11 conversion by resolution adopted by a majority vote of all the
12 directors. The plan shall include, but not be limited to:

13 1. Financial statements of the savings bank as of the
14 last day of the month preceding adoption of the plan.

15 2. Such financial data as may be required to determine
16 compliance with applicable regulatory requirements respecting
17 financial condition.

18 3. A provision that each savings account holder of the
19 mutual savings bank will receive a withdrawable account in the
20 capital stock savings bank equal in amount to his or her
21 withdrawable account in the mutual savings bank.

22 4. A provision that each member of record will be
23 entitled to receive rights to purchase voting common stock.

24 5. Pro forma financial statements of the savings bank
25 as a capital stock savings bank, which shall include data
26 required to determine compliance with applicable regulatory
27 requirements respecting financial condition.

28 6. With particularity, the business purpose to be
29 accomplished by the conversion.

30 7. Such other information as the department may
31 require by rule.

1 Section 49. Paragraphs (b) and (c) of subsection (1)
2 of section 686.602, Florida Statutes, are amended to read:

3 686.602 Definitions of terms used in ss.
4 686.601-686.614.--In construing ss. 686.601-686.614, unless
5 the context otherwise requires, the word, phrase, or term:

6 (1) "Dealer" or "servicing dealer" means a person who
7 sells, solicits, or advertises the sale of new or used outdoor
8 power equipment to the consuming public and services such
9 equipment or a private business which has contracted with the
10 manufacturer or distributor to sell such equipment at retail
11 and services such equipment and which is required to undergo
12 training in the sale and servicing of such equipment, but does
13 not include:

14 (b) A public officer while performing his or her
15 duties as such officer.

16 (c) A person making casual or isolated sales of his or
17 her own outdoor power equipment not subject to sales tax under
18 the laws of this state.

19 Section 50. Paragraph (a) of subsection (3) of section
20 686.604, Florida Statutes, is amended to read:

21 686.604 Warranty agreements; claims; compensation of
22 dealers.--

23 (3)(a) The minimum lawful basis for compensating a
24 dealer for warranty work, as provided for in this section,
25 shall be calculated for labor in accordance with the
26 reasonable and customary amount of time required to complete
27 such work, expressed in hours and fractions of hours
28 multiplied by the dealer's established hourly retail labor
29 rate. Prior to filing a claim for reimbursement for warranty
30 work, the dealer must notify the applicable manufacturer,
31

1 distributor, or wholesaler of her or his hourly retail labor
2 rate.

3 Section 51. Paragraph (c) of subsection (3) of section
4 686.605, Florida Statutes, is amended to read:

5 686.605 Parts; availability; return.--

6 (3) Every manufacturer, distributor, and wholesaler
7 shall provide to their dealers, annually, an opportunity to
8 return a portion of their surplus parts inventories for
9 credit. The surplus procedure shall be administered as
10 follows:

11 (c) A manufacturer, distributor, or wholesaler must
12 allow surplus parts return authority on a dollar value of
13 parts equal to 6 percent of the total dollar value of parts
14 purchased from the manufacturer, distributor, or wholesaler by
15 the dealer during the 12-month period immediately preceding
16 the notification to the dealer by the manufacturer,
17 distributor, or wholesaler of the surplus parts return
18 program, or the month the dealer's return request is made,
19 whichever is applicable. However, the dealer may, at his or
20 her option, elect to return a dollar value of his or her
21 surplus parts equal to less than 6 percent of the total dollar
22 value of parts purchased by the dealer from the manufacturer,
23 distributor, or wholesaler during the preceding 12-month
24 period as provided herein.

25 Section 52. Subsections (1), (2), and (5) of section
26 686.606, Florida Statutes, are amended to read:

27 686.606 Repurchase of inventory upon termination of
28 dealer agreement.--

29 (1) Whenever any dealer enters into a dealer agreement
30 with a manufacturer, distributor, or wholesaler in which
31 agreement the dealer agrees to maintain an inventory of

1 outdoor power equipment or repair parts and the agreement is
2 subsequently voluntarily or involuntarily terminated, the
3 manufacturer, distributor, or wholesaler shall repurchase the
4 inventory as provided in this section. However, the dealer
5 may keep the inventory if he or she desires. If the dealer
6 has any outstanding debts to the manufacturer, distributor, or
7 wholesaler, then the repurchase amount may be credited to the
8 dealer's account.

9 (2) If the dealer decides not to keep the inventory,
10 the manufacturer, distributor, or wholesaler shall repurchase
11 that inventory previously purchased from him or her and held
12 by the dealer on the date of termination of the contract. The
13 manufacturer, distributor, or wholesaler shall pay:

14 (a) One hundred percent of the actual dealer cost,
15 including freight, of all new, unsold, undamaged, and complete
16 outdoor power equipment or other items of such equipment which
17 are resalable, less a reasonable allowance for depreciation
18 due to usage by the dealer and deterioration directly
19 attributable to weather conditions at the dealer's location;
20 and

21 (b) Eighty-five percent of the current wholesale price
22 of all new, unused, and undamaged repair parts and accessories
23 which are listed in the manufacturer's, distributor's, or
24 wholesaler's current returnable parts list. The manufacturer,
25 distributor, or wholesaler shall also pay the dealer 6 percent
26 of the current wholesale price on all new, unused, and
27 undamaged repair parts returned to cover the cost of handling,
28 packing, and loading. However, the manufacturer, distributor,
29 or wholesaler shall have the option of performing the
30 handling, packing, and loading in lieu of paying the 6-percent
31 sum imposed in this subsection for these services; and, in

1 this event, after receipt by the dealer of the full repurchase
2 amount as provided in this section, the dealer shall make
3 available to the manufacturer, distributor, or wholesaler, at
4 the dealer's address or at the places at which the outdoor
5 power equipment is located, all outdoor power equipment
6 previously purchased by the dealer.

7 (5) If any manufacturer, distributor, or wholesaler
8 fails or refuses to repurchase any inventory covered under the
9 provisions of this section within 60 days after termination of
10 a dealer's contract, he or she is civilly liable for 100
11 percent of the current wholesale price of the inventory plus
12 any freight charges paid by the dealer, the dealer's
13 reasonable attorney's fees, court costs, and interest on the
14 current wholesale price computed at the legal interest rate
15 provided in s. 687.01 from the 61st day after termination.

16 Section 53. Paragraph (b) of subsection (3) of section
17 686.611, Florida Statutes, is amended to read:

18 686.611 Unlawful acts and practices.--Unfair methods
19 of competition and unfair or deceptive acts or practices in
20 the conduct of the manufacturing, distribution, wholesaling,
21 sale, and advertising of outdoor power equipment are declared
22 to be unlawful.

23 (3) It is deemed a violation of this section for a
24 manufacturer, factory branch or division, distributor,
25 distributor branch or division, wholesaler, or wholesale
26 branch or division, or officer, agent, or other representative
27 thereof:

28 (b) To coerce, compel, or attempt to coerce or compel
29 any dealer to enter into any agreement, whether written or
30 oral, supplementary to an existing dealer agreement with such
31 manufacturer, factory branch or division, distributor,

1 distributor branch or division, wholesaler, or wholesale
2 branch or division, or officer, agent, or other representative
3 thereof; or to do any other act prejudicial to such dealer by
4 threatening to cancel any contractual agreement existing
5 between such manufacturer, factory branch or division,
6 distributor, distributor branch or division, wholesaler, or
7 wholesale branch or division and such dealer. However, notice
8 in good faith to any dealer of such dealer's violation or
9 breach of any terms or provisions of such contractual
10 agreement does not constitute a violation of this section if
11 such notice is in writing and is mailed by registered or
12 certified mail to such dealer at her or his current business
13 address and such notice contains the specific facts as to the
14 dealer's violation or breach of such contractual agreement.

15 Section 54. Subsections (1) and (5) of section
16 686.613, Florida Statutes, are amended to read:

17 686.613 Remedies.--

18 (1) In addition to temporary, preliminary, or final
19 injunctive relief as provided in s. 686.611(3)(c)1., any
20 person who is aggrieved or injured in his or her business or
21 property by reason of anything forbidden in ss.

22 686.601-686.614 may bring an action therefor in the
23 appropriate circuit court of this state and shall recover the
24 actual damages sustained and the costs of such action,
25 including a reasonable attorney's fee.

26 (5) The Department of Legal Affairs or the state
27 attorney, if a violation of ss. 686.601-686.614 occurs in his
28 or her judicial circuit, may bring an action for injunctive or
29 other appropriate civil relief for any violation of ss.
30 686.601-686.614.

31

1 Section 55. Subsection (5) of section 721.84, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 721.84 Appointment of a registered agent; duties.--

4 (5) A registered agent may resign his or her agency
5 appointment for any obligor for which he or she serves as
6 registered agent, provided that:

7 (a) The resigning registered agent executes a written
8 statement of resignation that identifies himself or herself
9 and the street address of his or her registered office, and
10 identifies the obligors affected by his or her resignation;

11 (b) A successor registered agent is appointed and such
12 successor registered agent executes an acceptance of
13 appointment as successor registered agent and satisfies all of
14 the requirements of subsection (1). The resigning registered
15 agent may designate the successor registered agent; however,
16 if the resigning registered agent fails to designate a
17 successor registered agent or the designated successor
18 registered agent fails to accept, the successor registered
19 agent for the affected obligors may be designated by the
20 mortgagee as to the mortgage lien and by the association of
21 the timeshare plan as to the assessment lien; and

22 (c) Copies of the statement of resignation and
23 acceptance of appointment as successor registered agent are
24 promptly mailed to the affected obligors at the obligors' last
25 designated address shown on the records of the resigning
26 registered agent and to the affected lienholders. The agency
27 and registered office of the resigning registered agent are
28 terminated and the agency and registered office of the
29 successor registered agent are effective as of the 10th day
30 after the date on which the statement of resignation and
31 acceptance of appointment as successor registered agent are

1 received by the lienholder, unless a longer period is provided
2 in the statement of resignation and acceptance of appointment
3 as successor registered agent.

4 Section 56. Paragraph (b) of subsection (2) of section
5 916.303, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 916.303 Determination of incompetency due to
8 retardation or autism; dismissal of charges.--

9 (2)

10 (b) If the defendant is considered to need involuntary
11 residential services under s. 393.11 and, further, there is a
12 substantial likelihood that the defendant will injure another
13 person or continues to present a danger of escape, and all
14 available less restrictive alternatives, including services in
15 community residential facilities or other community settings,
16 which would offer an opportunity for improvement of the
17 condition have been judged to be inappropriate, then the
18 person or entity filing the petition under s. 393.11, the
19 state attorney, the defendant's counsel, the petitioning
20 commission, or the department may also petition the committing
21 court to continue the defendant's placement in a secure
22 facility or program pursuant to this section. Any defendant
23 involuntarily admitted under this paragraph shall have his or
24 her status reviewed by the court at least annually at a
25 hearing. The annual review and hearing shall determine
26 whether the defendant continues to meet the criteria for
27 involuntary residential services and, if so, whether the
28 defendant still requires placement in a secure facility or
29 program because the court finds that the defendant is likely
30 to physically injure others as specified in s. 393.11 and
31 whether the defendant is receiving adequate care, treatment,

1 habilitation, and rehabilitation, including psychotropic
2 medication and behavioral programming. Notice of the annual
3 review and review hearing shall be given to the state attorney
4 and to the defendant's attorney. In no instance may a
5 defendant's placement in a secure facility or program exceed
6 the maximum sentence for the crime for which the defendant was
7 charged.

8 Section 57. Paragraph (b) of subsection (1) of section
9 921.0024, Florida Statutes, 1998 Supplement, is amended to
10 read:

11 921.0024 Criminal Punishment Code; worksheet
12 computations; scoresheets.--

13 (1)

14 (b) WORKSHEET KEY:

15

16 Legal status points are assessed when any form of legal status
17 existed at the time the offender committed an offense before
18 the court for sentencing. Four (4) sentence points are
19 assessed for an offender's legal status.

20

21 Community sanction violation points are assessed when a
22 community sanction violation is before the court for
23 sentencing. Six (6) sentence points are assessed for each
24 community sanction violation, and each successive community
25 sanction violation; however, if the community sanction
26 violation includes a new felony conviction before the
27 sentencing court, twelve (12) community sanction violation
28 points are assessed for such violation, and for each
29 successive community sanction violation involving a new felony
30 conviction. Multiple counts of community sanction violations
31 before the sentencing court shall not be a basis for

1 multiplying the assessment of community sanction violation
2 points.

3
4 Prior serious felony points: If the offender has a primary
5 offense or any additional offense ranked in level 8, level 9,
6 or level 10, and one or more prior serious felonies, a single
7 assessment of 30 points shall be added. For purposes of this
8 section, a prior serious felony is an offense in the
9 offender's prior record that is ranked in level 8, level 9, or
10 level 10 under s. 921.0022 or s. 921.0023 and for which the
11 offender is serving a sentence of confinement, supervision, or
12 other sanction or for which the offender's date of release
13 from confinement, supervision, or other sanction, whichever is
14 later, is within 3 years before the date the primary offense
15 or any additional offense was committed.

16
17 Prior capital felony points: If the offender has one or more
18 prior capital felonies in the offender's criminal record,
19 points shall be added to the subtotal sentence points of the
20 offender equal to twice the number of points the offender
21 receives for the primary offense and any additional offense.
22 A prior capital felony in the offender's criminal record is a
23 previous capital felony offense for which the offender has
24 entered a plea of nolo contendere or guilty or has been found
25 guilty; or a felony in another jurisdiction which is a capital
26 felony in that jurisdiction, or would be a capital felony if
27 the offense were committed in this state.

28
29 Possession of a firearm, semiautomatic firearm, or machine
30 gun: If the offender is convicted of committing or attempting
31 to commit any felony other than those enumerated in s.

1 775.087(2) while having in his or her possession: a firearm as
2 defined in s. 790.001(6), an additional 18 sentence points are
3 assessed; or if the offender is convicted of committing or
4 attempting to commit any felony other than those enumerated in
5 s. 775.087(3) while having in his or her possession a
6 semiautomatic firearm as defined in s. 775.087(3) or a machine
7 gun as defined in s. 790.001(9), an additional 25 sentence
8 points are assessed.

9

10 Sentencing multipliers:

11

12 Drug trafficking: If the primary offense is drug trafficking
13 under s. 893.135, the subtotal sentence points are multiplied,
14 at the discretion of the court, for a level 7 or level 8
15 offense, by 1.5. The state attorney may move the sentencing
16 court to reduce or suspend the sentence of a person convicted
17 of a level 7 or level 8 offense, if the offender provides
18 substantial assistance as described in s. 893.135(4).

19

20 Law enforcement protection: If the primary offense is a
21 violation of the Law Enforcement Protection Act under s.
22 775.0823(2), the subtotal sentence points are multiplied by
23 2.5. If the primary offense is a violation of s. 775.0823(3),
24 (4), (5), (6), (7), or (8), the subtotal sentence points are
25 multiplied by 2.0. If the primary offense is a violation of s.
26 784.07(3) or s. 775.0875(1), or of the Law Enforcement
27 Protection Act under s. 775.0823(9) or (10), the subtotal
28 sentence points are multiplied by 1.5.

29

30 Grand theft of a motor vehicle: If the primary offense is
31 grand theft of the third degree involving a motor vehicle and

1 in the offender's prior record, there are three or more grand
2 thefts of the third degree involving a motor vehicle, the
3 subtotal sentence points are multiplied by 1.5.

4

5 Criminal street gang member: If the offender is convicted of
6 the primary offense and is found to have been a member of a
7 criminal street gang at the time of the commission of the
8 primary offense pursuant to s. 874.04, the subtotal sentence
9 points are multiplied by 1.5.

10

11 Domestic violence in the presence of a child: If the offender
12 is convicted of the primary offense and the primary offense is
13 a crime of domestic violence, as defined in s. 741.28, which
14 was committed in the presence of a child under 16 years of age
15 who is a family household member as defined in s. 741.28(2)
16 with the victim or perpetrator, the subtotal sentence points
17 are multiplied, at the discretion of the court, by 1.5.

18

19 Section 58. Paragraph (c) of subsection (46) of
20 section 985.03, Florida Statutes, 1998 Supplement, is amended
21 to read:

22

23 985.03 Definitions.--When used in this chapter, the
24 term:

25

26 (46) "Restrictiveness level" means the level of
27 custody provided by programs that service the custody and care
28 needs of committed children. There shall be five
29 restrictiveness levels:

30

31 (c) Moderate-risk residential.--Youth assessed and
classified for placement in programs in this restrictiveness
level represent a moderate risk to public safety. Programs
are designed for children who require close supervision but do
not need placement in facilities that are physically secure.

1 Programs in the moderate-risk residential restrictiveness
2 level provide 24-hour awake supervision, custody, care, and
3 treatment. Upon specific appropriation, a facility at this
4 restrictiveness level may have a security fence around the
5 perimeter of the grounds of the facility and may be
6 hardware-secure or staff-secure. The staff at a facility at
7 this restrictiveness level may seclude a child who is a
8 physical threat to himself or herself or others. Mechanical
9 restraint may also be used when necessary. Programs or program
10 models in this restrictiveness level include: halfway houses,
11 START Centers, the Dade Intensive Control Program, licensed
12 substance abuse residential programs, and moderate-term
13 wilderness programs designed for committed delinquent youth
14 that are operated or contracted by the Department of Juvenile
15 Justice. Section 985.3141 applies to children placed in
16 programs in this restrictiveness level.

17

18 Reviser's note.--Amended to conform to the
19 directive of the Legislature in s. 1, ch.
20 93-199, Laws of Florida, to remove
21 gender-specific references applicable to human
22 beings from the Florida Statutes without
23 substantive change in legal effect.

24

25

26

27

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