

By Senator McKay

rb99-9

1                   A reviser's bill to be entitled  
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, 747.051, 916.303, 921.0024, and 985.03,  
15          Florida Statutes, to conform to the directive  
16          in s. 1, 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:

22  
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

17  
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.

31

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.  
31

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:

28  
29 Notice of Hearing  
30  
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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.

28  
29           Date of first publication: ....., 19....  
30           .....  
31           (Chair ~~Chairman~~, Board of Supervisors)



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)....

20  
21 Date of first publication: ....., 19....  
22 .....  
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.

16

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."

23

24 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

5

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

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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

**CODING:**Words ~~stricken~~ are deletions; words underlined are additions.

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. Subsection (1) of section 747.051, Florida  
5 Statutes, 1998 Supplement, is amended to read:

6 747.051 Summary procedure.--

7 (1) If the spouse ~~wife~~ of any person defined as an  
8 absentee in s. 747.01(1), or her or his next of kin if said  
9 absentee has no spouse ~~wife~~, shall wish to sell or transfer  
10 any property of the absentee which has a gross value of less  
11 than \$5,000, or shall require the consent of the absentee in  
12 any matter regarding the absentee's children or in any other  
13 matter in which the gross value of the subject matter is less  
14 than \$5,000, she or he may apply to the circuit court for an  
15 order authorizing said sale, transfer, or consent without  
16 opening a full conservatorship proceeding as provided by this  
17 chapter. She or he may make the application without the  
18 assistance of an attorney. Said application shall be made by  
19 petition on the following form, which form shall be made  
20 readily available to the applicant by the clerk of the circuit  
21 court:

22  
23 In the Circuit Court

24  
25 In re: ...(Absentee)..., case number .....

26  
27 PETITION FOR SUMMARY RELIEF

28  
29 Petitioner, ...(Name)..., whose residence is ...(Street &  
30 number)..., ...(City or town)..., and ...(County)..., Florida,  
31 and who is the ...(Describe relationship to absentee)... of



1 the absentee, ...(Name)..., states that the absentee has been  
2 ...(Imprisoned or missing in action)... since ...(Date)...  
3 when ...(Describe details).... Petitioner desires to  
4 sell/transfer ...(Describe property)... of the value of  
5 ...(Value)... because ...(Give reasons).... The terms of  
6 sale/transfer are ...(Give reasons).... Petitioner requires  
7 the consent of the absentee for the purpose of .....

8 .....(Petitioner)...

9 State of Florida  
10 County of....

11  
12 Sworn to (or affirmed) and subscribed before me this  
13 .... day of ....., ...(year)..., by ...(name of person  
14 making statement)....

15  
16 ...(Signature of Notary Public - State of Florida)...  
17 ...(Print, Type, or Stamp Commissioned Name of Notary  
18 Public)...

19 Personally Known ..... OR Produced Identification ..  
20 Type of Identification Produced.....

21 Section 57. Paragraph (b) of subsection (2) of section  
22 916.303, Florida Statutes, 1998 Supplement, is amended to  
23 read:

24 916.303 Determination of incompetency due to  
25 retardation or autism; dismissal of charges.--

26 (2)

27 (b) If the defendant is considered to need involuntary  
28 residential services under s. 393.11 and, further, there is a  
29 substantial likelihood that the defendant will injure another  
30 person or continues to present a danger of escape, and all  
31 available less restrictive alternatives, including services in

1 community residential facilities or other community settings,  
2 which would offer an opportunity for improvement of the  
3 condition have been judged to be inappropriate, then the  
4 person or entity filing the petition under s. 393.11, the  
5 state attorney, the defendant's counsel, the petitioning  
6 commission, or the department may also petition the committing  
7 court to continue the defendant's placement in a secure  
8 facility or program pursuant to this section. Any defendant  
9 involuntarily admitted under this paragraph shall have his or  
10 her status reviewed by the court at least annually at a  
11 hearing. The annual review and hearing shall determine  
12 whether the defendant continues to meet the criteria for  
13 involuntary residential services and, if so, whether the  
14 defendant still requires placement in a secure facility or  
15 program because the court finds that the defendant is likely  
16 to physically injure others as specified in s. 393.11 and  
17 whether the defendant is receiving adequate care, treatment,  
18 habilitation, and rehabilitation, including psychotropic  
19 medication and behavioral programming. Notice of the annual  
20 review and review hearing shall be given to the state attorney  
21 and to the defendant's attorney. In no instance may a  
22 defendant's placement in a secure facility or program exceed  
23 the maximum sentence for the crime for which the defendant was  
24 charged.

25 Section 58. Paragraph (b) of subsection (1) of section  
26 921.0024, Florida Statutes, 1998 Supplement, is amended to  
27 read:

28 921.0024 Criminal Punishment Code; worksheet  
29 computations; scoresheets.--

30 (1)

31 (b) WORKSHEET KEY:

1  
2 Legal status points are assessed when any form of legal status  
3 existed at the time the offender committed an offense before  
4 the court for sentencing. Four (4) sentence points are  
5 assessed for an offender's legal status.

6  
7 Community sanction violation points are assessed when a  
8 community sanction violation is before the court for  
9 sentencing. Six (6) sentence points are assessed for each  
10 community sanction violation, and each successive community  
11 sanction violation; however, if the community sanction  
12 violation includes a new felony conviction before the  
13 sentencing court, twelve (12) community sanction violation  
14 points are assessed for such violation, and for each  
15 successive community sanction violation involving a new felony  
16 conviction. Multiple counts of community sanction violations  
17 before the sentencing court shall not be a basis for  
18 multiplying the assessment of community sanction violation  
19 points.

20  
21 Prior serious felony points: If the offender has a primary  
22 offense or any additional offense ranked in level 8, level 9,  
23 or level 10, and one or more prior serious felonies, a single  
24 assessment of 30 points shall be added. For purposes of this  
25 section, a prior serious felony is an offense in the  
26 offender's prior record that is ranked in level 8, level 9, or  
27 level 10 under s. 921.0022 or s. 921.0023 and for which the  
28 offender is serving a sentence of confinement, supervision, or  
29 other sanction or for which the offender's date of release  
30 from confinement, supervision, or other sanction, whichever is

31

1 later, is within 3 years before the date the primary offense  
2 or any additional offense was committed.

3

4 Prior capital felony points: If the offender has one or more  
5 prior capital felonies in the offender's criminal record,  
6 points shall be added to the subtotal sentence points of the  
7 offender equal to twice the number of points the offender  
8 receives for the primary offense and any additional offense.  
9 A prior capital felony in the offender's criminal record is a  
10 previous capital felony offense for which the offender has  
11 entered a plea of nolo contendere or guilty or has been found  
12 guilty; or a felony in another jurisdiction which is a capital  
13 felony in that jurisdiction, or would be a capital felony if  
14 the offense were committed in this state.

15

16 Possession of a firearm, semiautomatic firearm, or machine  
17 gun: If the offender is convicted of committing or attempting  
18 to commit any felony other than those enumerated in s.  
19 775.087(2) while having in his or her possession: a firearm as  
20 defined in s. 790.001(6), an additional 18 sentence points are  
21 assessed; or if the offender is convicted of committing or  
22 attempting to commit any felony other than those enumerated in  
23 s. 775.087(3) while having in his or her possession a  
24 semiautomatic firearm as defined in s. 775.087(3) or a machine  
25 gun as defined in s. 790.001(9), an additional 25 sentence  
26 points are assessed.

27

28 Sentencing multipliers:

29

30 Drug trafficking: If the primary offense is drug trafficking  
31 under s. 893.135, the subtotal sentence points are multiplied,

1 at the discretion of the court, for a level 7 or level 8  
2 offense, by 1.5. The state attorney may move the sentencing  
3 court to reduce or suspend the sentence of a person convicted  
4 of a level 7 or level 8 offense, if the offender provides  
5 substantial assistance as described in s. 893.135(4).

6  
7 Law enforcement protection: If the primary offense is a  
8 violation of the Law Enforcement Protection Act under s.  
9 775.0823(2), the subtotal sentence points are multiplied by  
10 2.5. If the primary offense is a violation of s. 775.0823(3),  
11 (4), (5), (6), (7), or (8), the subtotal sentence points are  
12 multiplied by 2.0. If the primary offense is a violation of s.  
13 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
14 Protection Act under s. 775.0823(9) or (10), the subtotal  
15 sentence points are multiplied by 1.5.

16  
17 Grand theft of a motor vehicle: If the primary offense is  
18 grand theft of the third degree involving a motor vehicle and  
19 in the offender's prior record, there are three or more grand  
20 thefts of the third degree involving a motor vehicle, the  
21 subtotal sentence points are multiplied by 1.5.

22  
23 Criminal street gang member: If the offender is convicted of  
24 the primary offense and is found to have been a member of a  
25 criminal street gang at the time of the commission of the  
26 primary offense pursuant to s. 874.04, the subtotal sentence  
27 points are multiplied by 1.5.

28  
29 Domestic violence in the presence of a child: If the offender  
30 is convicted of the primary offense and the primary offense is  
31 a crime of domestic violence, as defined in s. 741.28, which

1 was committed in the presence of a child under 16 years of age  
2 who is a family household member as defined in s. 741.28(2)  
3 with the victim or perpetrator, the subtotal sentence points  
4 are multiplied, at the discretion of the court, by 1.5.

5 Section 59. Paragraph (c) of subsection (46) of  
6 section 985.03, Florida Statutes, 1998 Supplement, is amended  
7 to read:

8 985.03 Definitions.--When used in this chapter, the  
9 term:

10 (46) "Restrictiveness level" means the level of  
11 custody provided by programs that service the custody and care  
12 needs of committed children. There shall be five  
13 restrictiveness levels:

14 (c) Moderate-risk residential.--Youth assessed and  
15 classified for placement in programs in this restrictiveness  
16 level represent a moderate risk to public safety. Programs  
17 are designed for children who require close supervision but do  
18 not need placement in facilities that are physically secure.  
19 Programs in the moderate-risk residential restrictiveness  
20 level provide 24-hour awake supervision, custody, care, and  
21 treatment. Upon specific appropriation, a facility at this  
22 restrictiveness level may have a security fence around the  
23 perimeter of the grounds of the facility and may be  
24 hardware-secure or staff-secure. The staff at a facility at  
25 this restrictiveness level may seclude a child who is a  
26 physical threat to himself or herself or others. Mechanical  
27 restraint may also be used when necessary. Programs or program  
28 models in this restrictiveness level include: halfway houses,  
29 START Centers, the Dade Intensive Control Program, licensed  
30 substance abuse residential programs, and moderate-term  
31 wilderness programs designed for committed delinquent youth

1 that are operated or contracted by the Department of Juvenile  
2 Justice. Section 985.3141 applies to children placed in  
3 programs in this restrictiveness level.

4

5 Reviser's note.--Amended to conform to the  
6 directive of the Legislature in s. 1, ch.  
7 93-199, Laws of Florida, to remove  
8 gender-specific references applicable to human  
9 beings from the Florida Statutes without  
10 substantive change in legal effect.

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