

1
2 An act relating to the Department of State;
3 creating s. 250.115, F.S.; providing for the
4 organization and operation of a direct-support
5 organization for the Department of Military
6 Affairs and the Florida National Guard;
7 providing definitions; providing for a board of
8 directors; providing for the use of property,
9 facilities, and personal services of the
10 Department of Military Affairs by the
11 direct-support organization; providing
12 restrictions; providing for submission of
13 annual budgets and reports; amending s.
14 266.0016, F.S.; providing additional powers of
15 the Historic Pensacola Preservation Board of
16 Trustees; requiring the Division of Historical
17 Resources and the Historic Pensacola
18 Preservation Board of Trustees, in conjunction
19 with specified entities, to develop a
20 regionally based historic preservation plan for
21 West Florida; providing elements of the plan;
22 requiring submission of the plan to the
23 Legislature by a specified date; amending s.
24 15.01, F.S.; striking a reference to
25 performance by the Secretary of State of
26 constitutional duties; amending s. 20.03, F.S.;
27 redefining the term "cabinet" as used in
28 provisions relating to the structure of the
29 executive branch to conform to changes made to
30 the State Constitution; amending s. 20.10,
31 F.S.; providing for the structure of the

1 Department of State and providing for the
2 appointment, term of office, and duties of the
3 head of the department; amending s. 30.17,
4 F.S.; providing for phaseout of sheriff's
5 execution docket; amending s. 30.231, F.S.;
6 clarifying seizure of property for levy;
7 amending s. 55.10, F.S.; increasing the time
8 period to rerecord a lien in order to get the
9 lien extended for a certain time; providing for
10 application; creating s. 55.201, F.S.;
11 requiring the Department of State to establish
12 a database of judgment lien records; creating
13 s. 55.202, F.S.; providing for acquisition of a
14 judgment lien on personal property; creating s.
15 55.203, F.S.; providing requirements for the
16 content, recording, and indexing of judgment
17 lien certificates by the Department of State;
18 creating s. 55.204, F.S.; providing for lapse
19 of a judgment lien; providing for acquisition
20 of a second judgment lien; creating s. 55.205,
21 F.S.; providing for the effect of a judgment
22 lien; creating s. 55.206, F.S.; providing for
23 amendment, termination, partial release,
24 assignment, continuation, tolling, or
25 correction of a recorded judgment lien;
26 creating s. 55.207, F.S.; providing for filing
27 and effect of a correction statement as to a
28 judgment lien record; creating s. 55.208, F.S.;
29 providing for phaseout of the effect of writs
30 of execution delivered to a sheriff prior to a
31 date certain; creating s. 55.209, F.S.;

1 providing for the responsibilities of the
2 Department of State and for filing fees;
3 amending s. 55.604, F.S.; eliminating
4 requirement for the filing of a foreign
5 judgment with the Department of State;
6 conditioning the effect of a foreign judgment
7 as a lien on personal property in this state
8 based on the recording of a lien certificate;
9 amending s. 56.21, F.S.; providing for notice
10 of levy and execution sale and affidavit of
11 levying creditor to judgment creditors and
12 certain secured creditors; amending s. 56.27,
13 F.S.; providing for distribution of money
14 collected under execution; amending s. 56.29,
15 F.S.; clarifying who may file an affidavit for
16 purposes of supplementary proceedings; amending
17 s. 77.01, F.S.; providing entities with right
18 to writ of garnishment; creating s. 77.041,
19 F.S.; providing for notice of procedures for
20 asserting exemptions and requesting a hearing;
21 amending s. 77.055, F.S.; clarifying
22 requirements for service of garnishee's answer
23 and notice of right to dissolve writ of
24 garnishment; amending s. 77.06, F.S.; providing
25 for creation of judgment lien upon service of
26 writ of garnishment; amending s. 222.01, F.S.;
27 revising provisions relating to designation of
28 homestead by the owner before levy; providing
29 procedures; amending s. 222.12, F.S.; providing
30 for taking of oath before notary public
31 regarding exemptions from garnishment; amending

1 s. 679.301, F.S.; revising the definition of a
2 lien creditor; providing appropriations from
3 the Corporations Trust Fund in the Department
4 of State; amending s. 607.1901, F.S.; providing
5 for the transfer of funds from the Corporations
6 Trust Fund; amending ss. 112.3144, 112.3145,
7 F.S.; transferring certain functions relating
8 to the disclosure of financial interests by
9 public officers and employees from the
10 Department of State to the Florida Commission
11 on Ethics; amending ss. 112.3148, 112.3149,
12 F.S.; requiring that reports of certain gifts
13 and honoraria be filed with the Commission on
14 Ethics rather than the Secretary of State or
15 Department of State; amending s. 257.36, F.S.;
16 requiring district officers and agencies to
17 comply with certain laws relating to the
18 management of records and revising provisions
19 governing the destruction or disposition of
20 agency records; amending s. 267.072, F.S.;
21 revising programs administered by the Division
22 of Historical Resources of the Department of
23 State; amending s. 288.8175, F.S.; transferring
24 from the Department of Education to the
25 Department of State certain functions relating
26 to linkage institutes between certain
27 educational institutions and foreign countries;
28 amending s. 403.7145, F.S.; conforming
29 provisions relating to the recycling programs
30 for the capitol to changes made in the
31 structure of the executive branch by the State

1 Constitution; amending s. 415.1065, F.S.,
2 relating to records management; conforming a
3 cross-reference to changes made by the act;
4 amending s. 526.311, F.S.; revising enforcement
5 provisions; transferring from the Department of
6 Legal Affairs to the Department of Agriculture
7 and Consumer Services responsibilities as the
8 lead agency to enforce the Motor Fuel Marketing
9 Practices Act; revising disposition of funds
10 collected in civil actions; amending ss.
11 526.312 and 526.313, F.S., to conform; amending
12 s. 526.3135, F.S.; specifying certain required
13 reporting by the Division of Standards of the
14 Department of Agriculture and Consumer
15 Services; providing an appropriation;
16 transferring, renumbering, and amending ss.
17 617.301-617.312, F.S., relating to homeowners'
18 associations, to clarify that such provisions
19 are not administered by the Division of
20 Corporations of the Department of State;
21 amending ss. 617.0601, 617.0701, 617.0721,
22 617.0831, 712.01, 723.0751, 849.085, 849.0931,
23 F.S.; conforming cross-references; amending s.
24 849.094, F.S.; transferring from the Division
25 of Licensing of the Department of State to the
26 Department of Agriculture and Consumer Services
27 certain functions relating to the regulation of
28 game promotions; amending s. 790.06, F.S.;
29 prescribing additional standards for the
30 Department of State to consider in issuing a
31 license for a concealed weapon or firearm;

1 requiring the Secretary of State to make a
2 report to the Legislature on recommended
3 statutory changes; transferring the John and
4 Mable Ringling Museum of Art to Florida State
5 University; creating s. 240.711, F.S.; creating
6 the Ringling Center for Cultural Arts;
7 providing for its governance, for a
8 direct-support organization, and for
9 operations; providing powers of the university
10 and its agents and employees; repealing s.
11 265.26, F.S., relating to the Trustees of the
12 John and Mable Ringling Museum of Art;
13 repealing s. 265.261, F.S., relating to that
14 museum's direct-support organization; amending
15 s. 265.2861, F.S.; revising distributions from
16 the Cultural Institutions Trust Fund; amending
17 s. 565.02, F.S.; transferring the beverage
18 license of the museum board of trustees to the
19 direct-support organization; providing
20 effective dates.

21

22 Be It Enacted by the Legislature of the State of Florida:

23

24 Section 1. Section 250.115, Florida Statutes, is
25 created to read:26 250.115 Department of Military Affairs direct-support
27 organization.--28 (1) DEFINITIONS.--For the purposes of this section:29 (a) "Direct-support organization" means an
30 organization that is:

31

1 1. A Florida corporation not for profit, incorporated
2 under the provisions of chapter 617 and approved by the
3 Department of State.

4 2. Organized and operated exclusively to raise funds;
5 request and receive grants, gifts, bequests of moneys;
6 acquire, receive, hold, invest, and administer in its own name
7 securities, funds, or property; and make expenditures to or
8 for the direct or indirect benefit of the Department of
9 Military Affairs or the Florida National Guard.

10 3. Determined by the Department of Military Affairs to
11 be operating in a manner consistent with the goals of the
12 Department of Military Affairs and the Florida National Guard
13 and in the best interest of the state. Any organization that
14 is denied certification by the Adjutant General may not use
15 the name of the Florida National Guard or the Department of
16 Military Affairs in any part of its name or its publications.

17 (b) "Personal services" includes full-time or
18 part-time personnel as well as payroll processing.

19 (2) BOARD OF DIRECTORS.--The organization shall be
20 governed by a board of directors. The Adjutant General, or his
21 or her designee, shall serve as president of the board. The
22 board of directors shall consist of up to 15 members appointed
23 by the Adjutant General. Up to 15 additional members shall be
24 appointed by the board of directors. The terms of office of
25 the members shall be 3 years. Members must be residents of the
26 state and highly knowledgeable about the United States
27 military, its service personnel, and its missions. In making
28 appointments, the board must consider a potential member's
29 background in community service. The Adjutant General may
30 remove any member for cause and shall fill vacancies that
31 occur.

1 (3) USE OF PROPERTY.--

2 (a) The Adjutant General is authorized to permit the
3 use of property, facilities, and personal services of the
4 Department of Military Affairs by the direct-support
5 organization, subject to the provisions of this section.

6 (b) The Adjutant General may prescribe by rule any
7 condition with which a direct-support organization organized
8 under this section must comply in order to use property,
9 facilities, or personal services of the Department of Military
10 Affairs.

11 (c) The Adjutant General may not permit the use of
12 property, facilities, or personal services of the Department
13 of Military Affairs by any direct-support organization
14 organized under this section that does not provide equal
15 employment opportunities to all persons regardless of race,
16 color, national origin, sex, age, or religion.

17 (4) ACTIVITIES; RESTRICTIONS.--Any transaction or
18 agreement between the direct-support organization organized
19 pursuant to this section and another direct-support
20 organization or center of technology innovation designated
21 under s. 240.3335 must be approved by the Adjutant General.

22 (5) ANNUAL BUDGETS AND REPORTS.--The direct-support
23 organization shall submit to the Adjutant General its federal
24 Internal Revenue Service Application for Recognition of
25 Exemption form (Form 1023) and its federal Internal Revenue
26 Service Return of Organization Exempt from Income Tax form
27 (Form 990).

28 (6) ANNUAL AUDIT.--The direct-support organization
29 shall make provisions for an annual postaudit of its financial
30 accounts to be conducted by an independent certified public
31 accountant in accordance with rules to be promulgated by the

1 Adjutant General. The annual audit report shall be submitted
2 to the Auditor General and the Adjutant General. The Adjutant
3 General and the Auditor General may require and receive from
4 the organization or its independent auditor any detail or
5 supplemental data relative to the operation of the
6 organization.

7 Section 2. Effective January 7, 2003, section 15.01,
8 Florida Statutes, is amended to read:

9 15.01 Residence, office, and duties.--~~The Secretary of~~
10 ~~State shall reside at the seat of government and shall have~~
11 ~~her or his office in the Capitol and perform the duties~~
12 ~~prescribed by the State Constitution.~~The Department of State
13 shall have the custody of the constitution and Great Seal of
14 this state, and of the original statutes thereof, and of the
15 resolutions of the Legislature, and of all the official
16 correspondence of the Governor. The department shall keep in
17 its office a register and an index of all official letters,
18 orders, communications, messages, documents, and other
19 official acts issued or received by the Governor or the
20 Secretary of State, and record these in a book numbered in
21 chronological order. The Governor, before issuing any order
22 or transmission of any official letter, communication, or
23 document from the executive office or promulgation of any
24 official act or proceeding, except military orders, shall
25 deliver the same or a copy thereof to the Department of State
26 to be recorded.

27 Section 3. Effective January 7, 2003, subsection (1)
28 of section 20.03, Florida Statutes, is amended to read:

29 20.03 Definitions.--To provide uniform nomenclature
30 throughout the structure of the executive branch, the
31 following definitions apply:

1 (1) "Cabinet" means collectively the ~~Secretary of~~
2 ~~State, Attorney General, the Chief Financial Officer, and the~~
3 ~~Comptroller, Treasurer, Commissioner of Agriculture, and~~
4 ~~Commissioner of Education,~~ as specified in s. 4, Art. IV of
5 the State Constitution.

6 Section 4. Effective January 7, 2003, section 20.10,
7 Florida Statutes, is amended to read:

8 20.10 Department of State.--There is created a
9 Department of State.

10 (1) The head of the Department of State is the
11 Secretary of State. The Secretary of State shall be appointed
12 by the Governor, subject to confirmation by the Senate, and
13 shall serve at the pleasure of the Governor. The Secretary of
14 State shall perform the functions conferred by the State
15 Constitution upon the custodian of state records.

16 (2) The following divisions of the Department of State
17 are established:

- 18 (a) Division of Elections.
19 (b) Division of Historical Resources.
20 (c) Division of Corporations.
21 (d) Division of Library and Information Services.
22 (e) Division of Licensing.
23 (f) Division of Cultural Affairs.
24 (g) Division of Administration.

25 Section 5. Subsection (4) is added to section 30.17,
26 Florida Statutes, to read:

27 30.17 Sheriff to keep an execution docket.--

28 (4) On October 1, 2001, the sheriff shall cease
29 docketing newly delivered writs of executions. The sheriff
30 shall maintain the existing docket until October 1, 2003. Upon
31 the request of any person or entity who delivered a writ of

1 execution to the sheriff before October 1, 2001, the sheriff
2 shall provide written certification of the date on which the
3 writ was delivered. Except for any certification requested by
4 a state agency or a political subdivision of the state, the
5 sheriff shall charge a fixed, nonrefundable fee of \$20 for
6 each certification. Fees collected under this section shall be
7 disbursed in accordance with s. 30.231(5). The sheriff's
8 duties under this section shall cease on October 1, 2003.

9 Section 6. Paragraph (d) of subsection (1) of section
10 30.231, Florida Statutes, is amended to read:

11 30.231 Sheriffs' fees for service of summons,
12 subpoenas, and executions.--

13 (1) The sheriffs of all counties of the state in civil
14 cases shall charge fixed, nonrefundable fees for docketing and
15 service of process, according to the following schedule:

16 (d) Executions:

17 1. Twenty dollars for docketing and indexing each writ
18 of execution, regardless of the number of persons involved.

19 2. Fifty dollars for each levy.

20 a. A levy is considered made when any property or any
21 portion of the property listed or unlisted in the instructions
22 for levy is seized, or upon demand of the sheriff the writ is
23 satisfied by the defendant in lieu of seizure. Seizure
24 requires that the sheriff take actual possession, if
25 practicable, or, alternatively, constructive possession of the
26 property by order of the court.

27 b. When the instructions are for levy upon real
28 property, a levy fee is required for each parcel described in
29 the instructions.

30 c. When the instructions are for levy based upon
31 personal property, one fee is allowed, unless ~~although~~ the

1 property ~~is may be~~ seized at different locations, conditional
2 upon all of the items being advertised collectively and the
3 sale being held at a single location. However, if the property
4 seized cannot be sold at one location during the same sale as
5 advertised, but requires separate sales at different
6 locations, the sheriff is then authorized to impose a levy fee
7 for the property and sale at each location.

8 3. Twenty dollars for advertisement of sale under
9 process.

10 4. Twenty dollars for each sale under process.

11 5. Twenty dollars for each deed, bill of sale, or
12 satisfaction of judgment.

13 Section 7. Effective July 1, 2000, section 55.10,
14 Florida Statutes, is amended to read:

15 55.10 Judgments, orders, and decrees; lien of all,
16 generally; extension of liens; transfer of liens to other
17 security.--

18 (1) A judgment, order, or decree becomes a lien on
19 real estate in any county when a certified copy of it is
20 recorded in the official records or judgment lien record of
21 the county, whichever is maintained at the time of
22 recordation, and it shall be a lien for a period of 7 years
23 from the date of the recording provided that the judgment,
24 order, or decree contains the address of the person who has a
25 lien as a result of such judgment, order, or decree or a
26 separate affidavit is recorded simultaneously with the
27 judgment, order, or decree stating the address of the person
28 who has a lien as a result of such judgment, order, or decree.
29 A judgment, order, or decree does not become a lien on real
30 estate unless the address of the person who has a lien as a
31 result of such judgment, order, or decree is contained in the

1 judgment, order, or decree or an affidavit with such address
2 is simultaneously recorded with the judgment, order, or
3 decree.

4 (2) The lien provided for in subsection (1) may be
5 extended for an additional period of 10 7 years, subject to
6 the limitation in subsection (3), by rerecording a certified
7 copy of the judgment, order, or decree prior to the ~~within the~~
8 ~~90-day period preceding the~~ expiration of the lien provided
9 for in subsection (1) and by simultaneously recording an
10 affidavit with the current address of the person who has a
11 lien as a result of the judgment, order, or decree. The one
12 additional period of 10 years shall be effective from the date
13 the judgment, order, or decree is rerecorded. The lien will
14 not be extended unless the affidavit with the current address
15 is simultaneously recorded.

16 ~~(3) In the event the lien is extended under subsection~~
17 ~~(2), the lien of the judgment, order, or decree may be further~~
18 ~~extended by re-recording a certified copy of it within the~~
19 ~~90-day period preceding the expiration of the lien provided~~
20 ~~for in subsection (2) and by simultaneously recording an~~
21 ~~affidavit with the current address of the person who has a~~
22 ~~lien as a result of such judgment, order, or decree. The lien~~
23 ~~will not be extended unless the affidavit with the current~~
24 ~~address is recorded.~~

25 (3)~~(4)~~ In no event shall the lien upon real property
26 created by this section ~~subsections (1), (2), and (3)~~ be
27 extended beyond the period provided for in s. 55.081.

28 (4) Except as otherwise provided in this subsection,
29 this act shall apply to all judgments, orders, and decrees of
30 record which constitute a lien on real property immediately
31 prior to the effective date of this act. Any judgment, order,

1 or decree recorded prior to July 1, 1987, shall be unaffected
2 by the changes in this act and shall remain a lien on real
3 property until the period provided for in s. 55.081 expires or
4 until the lien is satisfied, whichever occurs first.

5 ~~(5) This section shall be deemed to operate~~
6 ~~prospectively.~~

7 (5)(6) Any lien claimed under this section ~~subsections~~
8 ~~(1), (2), and (3)~~ may be transferred, by any person having an
9 interest in the real property upon which the lien is imposed
10 or the contract under which the lien is claimed, from such
11 real property to other security by either depositing in the
12 clerk's office a sum of money or filing in the clerk's office
13 a bond executed as surety by a surety insurer licensed to do
14 business in this state. Such deposit or bond shall be in an
15 amount equal to the amount demanded in such claim of lien plus
16 interest thereon at the legal rate for 3 years plus \$500 to
17 apply on any court costs which may be taxed in any proceeding
18 to enforce said lien. Such deposit or bond shall be
19 conditioned to pay any judgment, order, or decree which may be
20 rendered for the satisfaction of the lien for which such claim
21 of lien was recorded and costs plus \$500 for court costs. Upon
22 such deposit being made or such bond being filed, the clerk
23 shall make and record a certificate showing the transfer of
24 the lien from the real property to the security and mail a
25 copy thereof by registered or certified mail to the lienor
26 named in the claim of lien so transferred, at the address
27 stated therein. Upon the filing of the certificate of
28 transfer, the real property shall thereupon be released from
29 the lien claimed, and such lien shall be transferred to said
30 security. The clerk shall be entitled to a fee of \$10 for
31 making and serving the certificate. If the transaction

1 involves the transfer of multiple liens, an additional charge
2 of \$5 for each additional lien shall be charged. Any number of
3 liens may be transferred to one such security.

4 ~~(6)(7)~~ Any excess of the security over the aggregate
5 amount of any judgments, orders, or decrees rendered, plus
6 costs actually taxed, shall be repaid to the party filing the
7 security or his or her successor in interest. Any deposit of
8 money shall be considered as paid into court and shall be
9 subject to the provisions of law relative to payments of money
10 into court and the disposition of these payments.

11 ~~(7)(8)~~ Any party having an interest in such security
12 or the property from which the lien was transferred may at any
13 time, and any number of times, file a complaint in chancery in
14 the circuit court of the county where such security is
15 deposited for an order:

- 16 (a) To require additional security;
17 (b) To require reduction of security;
18 (c) To require change or substitution of sureties;
19 (d) To require payment or discharge thereof; or
20 (e) Relating to any other matter affecting said
21 security.

22 Section 8. Effective October 1, 2001, section 55.201,
23 Florida Statutes, is created to read:

24 55.201 Central database of judgment liens on personal
25 property.--The Department of State shall maintain a database
26 of judgment lien records established in accordance with ss.
27 55.201-55.209.

28 Section 9. Effective October 1, 2001, section 55.202,
29 Florida Statutes, is created to read:

30 55.202 Judgments, orders, and decrees; lien on
31 personal property.--

1 (1) A judgment lien securing the unpaid amount of any
2 money judgment may be acquired by the holder of a judgment
3 entered by:

4 (a) A court of this state;

5 (b) A court of the United States having jurisdiction
6 in this state;

7 (c) A court of the United States or any other state to
8 the extent enforceable under the Florida Enforcement of
9 Foreign Judgments Act, ss. 55.501-55.509;

10 (d) A foreign state as defined in the Uniform
11 Out-of-Country Foreign Money-Judgment Recognition Act, ss.
12 55.601-55.607, from the time and to the extent enforceable
13 thereunder;

14 (e) An issuing tribunal with respect to a support
15 order being enforced in this state pursuant to chapter 88; or

16 (f) Operation of law pursuant to s. 61.14(6).

17 (2) A judgment lien may be acquired on the judgment
18 debtor's interest in all personal property subject to
19 execution in this state, other than fixtures, money,
20 negotiable instruments, and mortgages.

21 (a) A judgment lien is acquired by recording a
22 judgment lien certificate in accordance with s. 55.203 with
23 the Department of State after the judgment has become final
24 and if no stay of the judgment or its enforcement is in effect
25 at the time the certificate is filed.

26 (b) For any tax lien or assessment granted by law to
27 the state or any of the political subdivisions for any tax
28 enumerated in s. 72.011, a judgment lien may be acquired by
29 recording the lien or warrant with the Department of State.

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1 (c) A judgment lien is effective as of the date of
2 recording, but no lien attaches to property until the debtor
3 acquires an interest in the property.

4 (d) Except as provided in s. 55.204(3), a judgment
5 creditor may record only one effective judgment lien
6 certificate based upon a particular judgment.

7 (3) Except as otherwise provided in s. 55.208, the
8 priority of a judgment lien acquired in accordance with this
9 section or s. 55.204(3) is established at the time the
10 judgment lien is recorded. Such judgment lien is deemed
11 recorded as of its effective date as provided in this section
12 or s. 55.204(3).

13 (4) As used in ss. 55.201-55.209, the terms "holder of
14 a judgment" and "judgment creditor" include the Department of
15 Revenue with respect to a judgment being enforced by the
16 Department of Revenue as the state IV-D agency.

17 (5) Liens, assessments, or judgments administered by
18 or secured on behalf of any state agency or political
19 subdivision of the state may be filed directly into the
20 central database by such agency or subdivision through
21 electronic or information data exchange programs approved by
22 the Department of State.

23 Section 10. Effective October 1, 2001, section 55.203,
24 Florida Statutes, is created to read:

25 55.203 Judgment lien certificate; content, recording,
26 and indexing.--

27 (1) An original judgment lien certificate, as provided
28 in s. 55.202, must include:

29 (a) The legal name of each judgment debtor and, if a
30 recorded legal entity, the registered name and document filing
31 number as shown in the records of the Department of State.

1 (b) The last known address and social security number,
2 federal identification number, or, in the instance in which
3 the judgment creditor is a state agency or a political
4 subdivision of the state, a taxpayer or other distinct
5 identification number of each judgment debtor, except that in
6 cases of default judgment, the social security number must be
7 included only if known, or federal employer identification
8 number of each judgment debtor.

9 (c) The legal name of the judgment creditor and, if a
10 recorded legal entity, the registered name and document filing
11 number as shown in the records of the Department of State, and
12 the name of the judgment creditor's attorney or duly
13 authorized representative, if any.

14 (d) The address and social security number or federal
15 employer identification number of the judgment creditor.

16 (e) The identity of the court which entered the
17 judgment and the case number and the date the written judgment
18 was entered.

19 (f) The amount due on the money judgment and the
20 applicable interest rate.

21 (g) The signature of the judgment creditor or the
22 judgment creditor's attorney or duly authorized
23 representative.

24 (h) With respect to a lien created by a delivery of a
25 writ of execution to a sheriff prior to October 1, 2001, an
26 affidavit by the judgment creditor which attests that the
27 person or entity possesses any documentary evidence of the
28 date of delivery of the writ, and a statement of that date or
29 a certification by the sheriff of the date as provided in s.
30 30.17(4).

31

1 (2) A second judgment lien certificate, as provided in
2 s. 55.204(3), must include the information required in
3 subsection (1) and must state the file number assigned to the
4 record of the original judgment lien certificate, the money
5 amount remaining unpaid, and the interest accrued thereon.

6 (3) An amendment, as provided in s. 55.206, or a
7 correction statement, as provided in s. 55.207, must state the
8 file number of the judgment lien record to which the amendment
9 or correction statement relates and must state the action,
10 change, or statement to be added.

11 (4) The Department of State shall examine, for
12 compliance with ss. 55.201-55.209, each document submitted for
13 recording and shall accept or reject the document accordingly.
14 For each judgment lien certificate recorded, the department
15 shall:

16 (a) Create a record.

17 (b) Assign a unique file number to the record.

18 (c) Include the date of filing of the judgment lien
19 certificate.

20 (d) Maintain the record in a database accessible to
21 the public via the Internet.

22 (e) Index the judgment lien certificate according to
23 the name of each judgment debtor.

24 (f) Index all subsequently filed documents relating to
25 an original judgment lien certificate in a manner that
26 associates them to the original judgment lien certificate.

27 (5) The validity of a judgment lien certificate
28 recorded under this section may not be defeated by technical
29 or clerical errors made in good faith which are not seriously
30 misleading, nor may any claim of estoppel be based on such
31 errors.

1 (6) The Department of State shall prescribe mandatory
2 forms of all documents to be filed under this section.

3 Section 11. Effective October 1, 2001, section 55.204,
4 Florida Statutes, is created to read:

5 55.204 Duration and continuation of judgment lien;
6 destruction of records.--

7 (1) Except as provided in this section, a judgment
8 lien acquired under s. 55.202 lapses and becomes invalid 5
9 years after the date of recording the judgment lien
10 certificate.

11 (2) Liens securing the payment of child support or tax
12 obligations as set forth in s. 95.091(1)(b) shall not lapse
13 until 20 years after the date of the original filing of the
14 warrant or other document required by law to establish a lien.
15 No second lien based on the original filing may be obtained.

16 (3) At any time within 6 months before the scheduled
17 lapse of a judgment lien under subsection (1), the judgment
18 creditor may acquire a second judgment lien by recording a new
19 judgment lien certificate. The second judgment lien becomes
20 effective on the date of lapse of the original judgment lien
21 or on the date on which the judgment lien certificate is
22 recorded, whichever is later. The second judgment lien is
23 deemed recorded on its effective date. The second judgment
24 lien is deemed a new judgment lien and not a continuation of
25 the original judgment lien. The second judgment lien
26 permanently lapses and becomes invalid 5 years after its
27 effective date, and no additional liens based on the original
28 judgment may be obtained.

29 (4) A judgment lien continues only as to itemized
30 property for an additional 90 days after lapse of the lien.
31 Such judgment lien will continue only if:

1 (a) The property had been itemized and its location
2 described with sufficient particularity in the instructions
3 for levy;

4 (b) The levy had been delivered to the sheriff prior
5 to the date of lapse of the lien to permit the sheriff to act;
6 and

7 (c) The property was located in the county in which
8 the sheriff has jurisdiction at the time of delivery of the
9 instruction for levy. Subsequent removal of the property does
10 not defeat the lien. A court may order continuation of the
11 lien beyond the 90-day period on a showing that extraordinary
12 circumstances have prevented levy.

13 (5) The date of lapse of a judgment lien whose
14 enforceability has been temporarily stayed or enjoined as a
15 result of any legal or equitable proceeding is tolled until 30
16 days after the stay or injunction is terminated.

17 (6) The Department of State shall maintain each
18 judgment lien record and all information contained therein for
19 a minimum of 1 year after the judgment lien lapses in
20 accordance with this section.

21 Section 12. Effective October 1, 2001, section 55.205,
22 Florida Statutes, is created to read:

23 55.205 Effect of judgment lien.--

24 (1) A valid judgment lien gives the judgment creditor
25 the right to take possession of the property subject to levy
26 through writ of execution, garnishment, or other judicial
27 process. A judgment creditor who has not recorded a judgment
28 lien certificate in accordance with s. 55.203 or whose lien
29 has lapsed may nevertheless take possession of the judgment
30 debtor's property through such other judicial process. A
31 judgment creditor proceeding by writ of execution obtains a

1 lien as of the time of levy and only on the property levied
2 upon. Except as provided in s. 55.208, such judgment creditor
3 takes subject to the claims and interest of priority judgment
4 creditors.

5 (2) A buyer in the ordinary course of business as
6 defined in s. 671.201(9) takes free of a judgment lien created
7 under this section even though the buyer knows of its
8 existence. A valid security interest as defined in chapter 679
9 in after-acquired property of the judgment debtor which is
10 perfected prior to the effective date of a judgment lien takes
11 priority over the judgment lien on the after-acquired
12 property.

13 Section 13. Effective October 1, 2001, section 55.206,
14 Florida Statutes, is created to read:

15 55.206 Amendment of judgment lien record; termination,
16 partial release, assignment, continuation, tolling,
17 correction.--

18 (1) An amendment to a judgment lien acquired under s.
19 55.202 may be recorded by the judgment creditor of record,
20 which may provide for:

21 (a) The termination, partial release, or assignment of
22 the judgment creditor's interest in a judgment lien;

23 (b) The continuation and termination of the
24 continuation of a judgment lien, as provided in s. 55.204(4);

25 (c) The tolling and termination of the tolling of a
26 lapse of a judgment lien, as provided in s. 55.204(5); or

27 (d) The correction or change of any other information
28 provided in the record of a judgment lien.

29 (2) Within 30 days following receipt of a written
30 demand by a judgment debtor after the obligation underlying a
31 judgment lien has been fully or partially released, the

1 judgment lienholder must deliver to the judgment debtor a
2 written statement indicating that there is no longer a claim
3 for a lien on the personal property of the judgment debtor or
4 that the judgment lien has been partially released and setting
5 forth the value of the lien remaining unpaid as of the date of
6 the statement. A statement signed by an assignee must include
7 or be accompanied by a separate written acknowledgement of
8 assignment signed by the judgment creditor of record. If the
9 judgment lienholder fails to deliver such a statement within
10 30 days after proper written demand therefor, the judgment
11 lienholder is liable to the judgment debtor for \$100, and for
12 any actual or consequential damages, including reasonable
13 attorney's fees, caused by such failure to the judgment
14 debtor.

15 (3) The judgment debtor, the judgment creditor, or
16 assignee may file such statement with the Department of State.

17 Section 14. Effective October 1, 2001, section 55.207,
18 Florida Statutes, is created to read:

19 55.207 Correction of judgment lien record.--

20 (1) A person may file with the Department of State a
21 correction statement with respect to a judgment lien record,
22 as provided in s. 55.203, indexed under the person's name, if
23 the person believes that the record is inaccurate or that the
24 judgment lien certificate was wrongfully filed.

25 (2) A correction statement must:

26 (a) State the judgment debtor named and the file
27 number assigned to the judgment lien record to which the
28 correction statement relates;

29 (b) Indicate that it is a correction statement;
30
31

1 (c) Provide the basis for the person's belief that the
2 judgment lien certificate was wrongfully filed or the record
3 is inaccurate; and

4 (d) Indicate the manner in which the person believes
5 the record should be corrected to cure any inaccuracy.

6 (3) The department shall ensure that a correction
7 statement is indexed and available in the same manner as any
8 recorded lien certificate in the central database of judgment
9 lien records.

10 (4) The filing of a correction statement does not
11 affect the effectiveness of the judgment lien or other filed
12 record.

13 Section 15. Effective October 1, 2001, section 55.208,
14 Florida Statutes, is created to read:

15 55.208 Effect of recorded judgment lien on writs of
16 execution previously delivered to a sheriff.--

17 (1) Any lien created by a writ of execution which has
18 been delivered to the sheriff of any county before October 1,
19 2001, remains in effect for 2 years thereafter as to any
20 property of the judgment debtor located in that county before
21 October 1, 2001, and remaining within that county after that
22 date. As to any property of the judgment debtor brought into
23 the county on or after October 1, 2001, such writs create no
24 lien, inchoate or otherwise.

25 (2) If a judgment creditor who has delivered a writ of
26 execution to a sheriff in any county prior to October 1, 2001,
27 properly files a judgment lien certificate with the Department
28 of State by October 1, 2003, the resulting judgment lien is
29 deemed recorded on the date the writ was delivered to the
30 sheriff as to all leviable property of the judgment debtor
31 which is located in that county on October 1, 2001, and that

1 remains continuously in that county thereafter. As to all
2 other property of the judgment debtor, the effective date of
3 the judgment lien is as provided in s. 55.202. The duration of
4 all judgment liens is as provided in s. 55.204, regardless of
5 the date on which a lien is determined to have been recorded.

6 (3) If a judgment creditor who has delivered a writ of
7 execution to a sheriff in any county before October 1, 2001,
8 does not properly record a judgment lien certificate with the
9 Department of State by October 1, 2003, such writ is
10 considered to have been abandoned and to be of no effect after
11 October 1, 2003.

12 Section 16. Effective October 1, 2001, section 55.209,
13 Florida Statutes, is created to read:

14 55.209 Department of State; processing fees,
15 responsibilities.--

16 (1) Except for liens, assessments, or judgments filed
17 electronically by a state agency or a political subdivision of
18 the state, as provided in s. 55.202(6), the Department of
19 State shall collect the following nonrefundable processing
20 fees for all documents filed or recorded in accordance with
21 ss. 55.201-55.209:

22 (a) For any judgment lien certificate or other
23 documents permitted to be filed, \$20.

24 (b) For the certification of any recorded document,
25 \$10.

26 (c) For copies of judgment lien documents which are
27 produced by the Department of State, \$1 per page or part
28 thereof. However, no charge may be collected for copies
29 provided in an online electronic format via the Internet.

30 (d) For indexing a judgment lien by multiple judgment
31 debtor names, \$5 per additional name.

1 (e) For each additional facing page attached to a
2 judgment lien certificate or document permitted to be filed or
3 recorded, \$5.

4 (2) Unless otherwise provided by law, the Department
5 of State may not conduct any search of the database
6 established under s. 55.201 to determine the existence of any
7 judgment lien record or to perform any service other than in
8 connection with those services for which payment of services
9 are required under this section. The information maintained in
10 the database is for public notice purposes only and the
11 department may make no certification or determination of the
12 validity of any judgment lien acquired under ss. 55.202 and
13 55.204(3).

14 Section 17. Effective October 1, 2001, subsection (1)
15 of section 55.604, Florida Statutes, is amended, and
16 subsection (8) is added to that section, to read:

17 55.604 Recognition and enforcement.--Except as
18 provided in s. 55.605, a foreign judgment meeting the
19 requirements of s. 55.603 is conclusive between the parties to
20 the extent that it grants or denies recovery of a sum of
21 money. Procedures for recognition and enforceability of a
22 foreign judgment shall be as follows:

23 (1) The foreign judgment shall be filed with ~~the~~
24 ~~Department of State~~ and the clerk of the court and recorded in
25 the public records in the county or counties where enforcement
26 is sought. ~~The filing with the Department of State shall not~~
27 ~~create a lien on any property.~~

28 (a) At the time of the recording of a foreign
29 judgment, the judgment creditor shall make and record with the
30 clerk of the circuit court an affidavit setting forth the
31 name, social security number, if known, and last known

1 post-office address of the judgment debtor and of the judgment
2 creditor.

3 (b) Promptly upon the recording of the foreign
4 judgment and the affidavit, the clerk shall mail notice of the
5 recording of the foreign judgment, by registered mail with
6 return receipt requested, to the judgment debtor at the
7 address given in the affidavit and shall make a note of the
8 mailing in the docket. The notice shall include the name and
9 address of the judgment creditor and of the judgment
10 creditor's attorney, if any, in this state. In addition, the
11 judgment creditor may mail a notice of the recording of the
12 judgment to the judgment debtor and may record proof of
13 mailing with the clerk. The failure of the clerk to mail
14 notice of recording will not affect the enforcement
15 proceedings if proof of mailing by the judgment creditor has
16 been recorded.

17 (8) A judgement lien on personal property is acquired
18 only when a judgment lien certificate satisfying the
19 requirements of s. 55.203 has been recorded with the
20 Department of State.

21 Section 18. Effective October 1, 2001, section 56.21,
22 Florida Statutes, is amended to read:

23 56.21 Execution sales; notice.--Notice of all sales
24 under execution shall be given by advertisement once each week
25 for 4 successive weeks in a newspaper published in the county
26 in which the sale is to take place. The time of such notice
27 may be shortened in the discretion of the court from which the
28 execution issued, upon affidavit that the property to be sold
29 is subject to decay and will not sell for its full value if
30 held until date of sale. On or before the date of the first
31 publication or posting of the notice of sale, a copy of the

1 notice of sale shall be furnished by certified mail to the
2 attorney of record of the judgment debtor, or to the judgment
3 debtor at the judgment debtor's last known address if the
4 judgment debtor does not have an attorney of record. Such copy
5 of the notice of sale shall be mailed even though a default
6 judgment was entered. When levying upon personal property, a
7 notice of such levy and execution sale and a copy of the
8 affidavit required by s. 56.27(4) shall be made by the levying
9 creditor to the attorney of record of the judgment creditor or
10 the judgment creditor who has recorded a judgment lien
11 certificate as provided in s. 55.202 or s. 55.204(3) at the
12 address listed in the judgment lien certificate, or, if
13 amended, in any amendment to the judgment lien certificate,
14 and to all secured creditors who have filed financing
15 statements as provided in s. 679.401 in the name of the
16 judgment debtor reflecting a security interest in property of
17 the kind to be sold at the execution sale at the address
18 listed in the financing statement, or, if amended, in any
19 amendment to the financing statement. Such notice shall be
20 made in the same manner as notice is made to any judgment
21 debtor under this section.When levying upon real property,
22 notice of such levy and execution sale shall be made to the
23 property owner of record in the same manner as notice is made
24 to any judgment debtor pursuant to this section. When selling
25 real or personal property, the sale date shall not be earlier
26 than 30 days after the date of the first advertisement.

27 Section 19. Effective October 1, 2001, section 56.27,
28 Florida Statutes, is amended to read:

29 56.27 Executions; payment to ~~execution creditor~~ of
30 money collected.--

31

1 (1) All money received under executions shall be paid,
2 in the order prescribed, to the following: the sheriff, for
3 costs; the levying creditor in the amount of \$500 as
4 liquidated expenses; and the judgment lienholder having the
5 earliest recorded judgment lien acquired under ss. 55.202 and
6 55.204(3), as set forth in an affidavit required by subsection
7 (4), or his or her attorney, in satisfaction of the judgment
8 lien, provided that the judgment lien has not lapsed at the
9 time of the levy ~~party in whose favor the execution was issued~~
10 ~~or his or her attorney.~~ The receipt of the attorney shall be a
11 release of the officer paying the money to him or her. When
12 the name of more than one attorney appears in the court file,
13 the money shall be paid to the attorney who originally
14 commenced the action or who made the original defense unless
15 the file shows that another attorney has been substituted.

16 (2) When property sold under execution brings more
17 than the amount needed to satisfy the provisions of subsection
18 (1), the surplus shall be paid in the order of priority to any
19 judgment lienholders whose judgment liens have not lapsed.
20 Priority shall be based on the effective date of the judgment
21 lien acquired under s. 55.202 or s. 55.204(3), as set forth in
22 an affidavit required under subsection (4). If there is a
23 surplus after all valid judgment liens and execution liens
24 have been satisfied ~~of the execution,~~ the surplus must be paid
25 to the defendant ~~or, if there is another writ against the~~
26 ~~defendant docketed and indexed with the sheriff, the surplus~~
27 ~~must be paid to the junior writ.~~

28 (3) The value of the property levied upon shall not be
29 considered excessive unless the value unreasonably exceeds the
30 total debt reflected in all unsatisfied judgment liens that
31

1 have not lapsed and any unsatisfied lien of the levying
2 creditor.

3 (4) On or before the date of the first publication or
4 posting of the notice of sale provided for under s. 56.21, the
5 levying creditor shall file an affidavit setting forth the
6 following as to the judgment debtor:

7 (a) An attestation that the levying creditor has
8 reviewed the database or judgment lien records established in
9 accordance with ss. 55.201-55.209 and that the information
10 contained in the affidavit based on that review is true and
11 correct;

12 (b) The information required under s. 55.203(1) and
13 (2) for each judgment lien certificate indexed under the name
14 of the judgment debtor as to each judgment creditor; the file
15 number assigned to the record of the original and, if any, the
16 second judgment lien; and the date of filing for each judgment
17 lien certificate under s. 55.202 or s. 55.204(3); and

18 (c) A statement that the levying creditor either does
19 not have any other levy in process or, if another levy is in
20 process, the levying creditor believes in good faith that the
21 total value of the property under execution does not exceed
22 the amount of outstanding judgments.

23 (5) A sheriff paying money received under an execution
24 in accordance with the information contained in the affidavit
25 under subsection (4) is not liable to anyone for damages
26 arising from a wrongful levy.

27 Section 20. Subsection (1) of section 56.29, Florida
28 Statutes, is amended to read:

29 56.29 Proceedings supplementary.--

30 (1) When any person or entity ~~sheriff~~ holds an
31 unsatisfied execution and has delivered a writ of execution to

1 any sheriff, the plaintiff in execution may file an affidavit
2 so stating and that the execution is valid and outstanding and
3 thereupon is entitled to these proceedings supplementary to
4 execution.

5 Section 21. Section 77.01, Florida Statutes, is
6 amended to read:

7 77.01 Right to garnishment.--Every person or entity
8 who has sued to recover a debt or has recovered judgment in
9 any court against any person or entity, ~~natural or corporate~~,
10 has a right to a writ of garnishment, in the manner
11 hereinafter provided, to subject any debt due or any debt
12 under a negotiable instrument that will become due to
13 defendant by a third person, and any tangible or intangible
14 personal property of defendant in the possession or control of
15 a third person. The officers, agents, and employees of any
16 companies or corporations are third persons in regard to the
17 companies or corporations, and as such are subject to
18 garnishment after judgment against the companies or
19 corporations.

20 Section 22. Section 77.041, Florida Statutes, is
21 created to read:

22 77.041 Notice to defendant for claim of exemption from
23 garnishment; procedure for hearing.--

24 (1) Upon application for a writ of garnishment by a
25 plaintiff, the clerk of the court shall attach to the writ the
26 following "Notice to Defendant":

27
28 NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT
29 OF WAGES, MONEY, AND OTHER PROPERTY
30 The Writ of Garnishment delivered to you with this
31 Notice means that wages, money, and other property belonging

1 to you have been garnished to pay a court judgment against
2 you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES,
3 MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

4 State and federal laws provide that certain wages,
5 money, and property, even if deposited in a bank, savings and
6 loan, or credit union, may not be taken to pay certain types
7 of court judgments. Such wages, money, and property are exempt
8 from garnishment. The major exemptions are listed below on the
9 form for Claim of Exemption and Request for Hearing. This list
10 does not include all possible exemptions. You should consult a
11 lawyer for specific advice.

12 TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY
13 FROM BEING GARNISHED, OR TO GET BACK ANYTHING
14 ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR
15 CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS
16 SET FORTH BELOW AND HAVE THE FORM NOTARIZED.
17 YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE
18 WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS
19 NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU
20 MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM
21 TO THE PLAINTIFF AND THE GARNISHEE AT THE
22 ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

23 If you request a hearing, it will be held as soon as
24 possible after your request is received by the court. The
25 plaintiff must file any objection within 2 business days if
26 you hand delivered to the plaintiff a copy of the form for
27 Claim of Exemption and Request for Hearing or, alternatively,
28 7 days if you mailed a copy of the form for claim and request
29 to the plaintiff. If the plaintiff files an objection to your
30 Claim of Exemption and Request for Hearing, the clerk will
31 notify you and the other parties of the time and date of the

1 hearing. You may attend the hearing with or without an
2 attorney. If the plaintiff fails to file an objection, no
3 hearing is required, the writ of garnishment will be dissolved
4 and your wages, money, or property will be released.

5 YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION
6 IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR
7 PROPERTY FROM BEING APPLIED TO THE COURT
8 JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL
9 ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD
10 SEE A LAWYER. IF YOU CAN'T AFFORD A PRIVATE
11 LAWYER, LEGAL SERVICES MAY BE AVAILABLE.
12 CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE
13 CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM
14 IN YOUR AREA.

15 CLAIM OF EXEMPTION AND REQUEST FOR HEARING

16 I claim exemptions from garnishment under the following
17 categories as checked:

18 _____ 1. Head of family wages. (You must check a
19 or b below.)

20 _____ a. I provide more than one-half of the
21 support for a child or other dependent and
22 have net earnings of \$500 or less per week.

23 _____ b. I provide more than one-half of the
24 support for a child or other dependent, have
25 net earnings of more than \$500 per week, but
26 have not agreed in writing to have my wages
27 garnished.

28 _____ 2. Social Security benefits.

29 _____ 3. Supplemental Security Income benefits.

30 _____ 4. Public assistance (welfare).

31 _____ 5. Workers' Compensation.

1 COUNTY OF

2

3 Sworn and subscribed to before me this day of

4(month and year), by (name of person making

5 statement).....

6

7 Notary Public/Deputy Clerk

8

9 Personally KnownOR Produced Identification....

10

11 Type of Identification Produced.....

12 (2) The plaintiff must mail, by first class, a copy of

13 the writ of garnishment, a copy of the motion for writ of

14 garnishment, and the "Notice to Defendant" to the defendant's

15 last known address within 5 business days after the writ is

16 issued or 3 business days after the writ is served on the

17 garnishee, whichever is later. However, if such documents are

18 returned as undeliverable by the post office, or if the last

19 known address is not discoverable after diligent search, the

20 plaintiff must mail, by first class, the documents to the

21 defendant at the defendant's place of employment. The

22 plaintiff shall file in the proceeding a certificate of such

23 service.

24 (3) Upon the filing by a defendant of a claim of

25 exemption and request for hearing, a hearing will be held as

26 soon as is practicable to determine the validity of the

27 claimed exemptions. If the plaintiff does not file a sworn

28 written statement that contests the defendant's claim of

29 exemption within 2 business days after hand delivering the

30 claim and request or, alternatively, 7 business days, if the

31 claim and request were served by mail, no hearing is required

1 and the clerk must automatically dissolve the writ and notify
2 the parties of the dissolution by mail.

3 Section 23. Section 77.055, Florida Statutes, is
4 amended to read:

5 77.055 Service of garnishee's answer and notice of
6 right to dissolve writ ~~Notice to defendant and other~~
7 ~~interested persons.~~--Within 5 days after service of the
8 garnishee's answer on the plaintiff or after the time period
9 for the garnishee's answer has expired, the plaintiff shall
10 serve, by mail, the following documents: ~~a copy of the writ,~~
11 a copy of the garnishee's answer, and a notice advising, ~~and a~~
12 ~~certificate of service.~~ ~~The notice shall advise the recipient~~
13 ~~that he or she must move to dissolve the writ~~ of garnishment
14 within 20 days after the date indicated on the certificate of
15 service in the notice if any allegation in the plaintiff's
16 motion for writ of garnishment is untrue within the time
17 ~~period set forth in s. 77.07(2) or be defaulted and that he or~~
18 ~~she may have exemptions from the garnishment which must be~~
19 ~~asserted as a defense.~~ The plaintiff shall serve these
20 documents on the defendant at the defendant's last known
21 address and any other address disclosed by the garnishee's
22 answer and on any other person disclosed in the garnishee's
23 answer to have any ownership interest in the deposit, account,
24 or property controlled by the garnishee. The plaintiff shall
25 file in the proceeding a certificate of such service.

26 Section 24. Subsection (1) of section 77.06, Florida
27 Statutes, is amended to read:

28 77.06 Writ; effect.--

29 (1) Service of the writ shall make garnishee liable
30 for all debts due by him or her to defendant and for any
31 tangible or intangible personal property of defendant in the

1 garnishee's possession or control at the time of the service
2 of the writ or at any time between the service and the time of
3 the garnishee's answer. Service of the writ creates a lien in
4 or upon any such debts or property at the time of service or
5 at the time such debts or property come into the garnishee's
6 possession or control.

7 Section 25. Effective July 1, 2000, section 222.01,
8 Florida Statutes, is amended to read:

9 222.01 Designation of homestead by owner before
10 levy.--

11 (1) Whenever any natural person residing in this state
12 desires to avail himself or herself of the benefit of the
13 provisions of the constitution and laws exempting property as
14 a homestead from forced sale under any process of law, he or
15 she may make a statement, in writing, containing a description
16 of the real property, mobile home, or modular home claimed to
17 be exempt and declaring that the real property, mobile home,
18 or modular home is the homestead of the party in whose behalf
19 such claim is being made. Such statement shall be signed by
20 the person making it and shall be recorded in the circuit
21 court.

22 (2) When a certified copy of a judgment has been filed
23 in the public records of a county pursuant to s. 55.10, a
24 person who is entitled to the benefit of the provisions of the
25 State Constitution exempting real property as homestead and
26 who has a contract to sell or a commitment from a lender for a
27 mortgage on the homestead may file a notice of homestead in
28 the public records of the county in which the homestead
29 property is located in substantially the following form:

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31 NOTICE OF HOMESTEAD

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To:...(Name and address of judgment creditor as shown on recorded judgment and name and address of any other person shown in the recorded judgment to receive a copy of the Notice of Homestead)....

You are notified that the undersigned claims as homestead exempt from levy and execution under Section 4, Article X of the State Constitution, the following described property:

...(Legal description)...

The undersigned certifies, under oath, that he or she has applied for and received the homestead tax exemption as to the above-described property, that is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from ...(date)... to the date of this Notice of Homestead. Further, the undersigned will either convey or mortgage the above-described property pursuant to the following:

...(Describe the contract of sale or loan commitment by date, names of parties, date of anticipated closing, and amount. The name, address, and telephone number of the person

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conducting the anticipated closing must be set forth.)...

The undersigned also certifies, under oath, that the judgment lien filed by you on ...(date)... and recorded in Official Records Book, Page, of the Public Records of County, Florida, does not constitute a valid lien on the described property.

YOU ARE FURTHER NOTIFIED, PURSUANT TO SECTION 222.01 ET SEQ., FLORIDA STATUTES, THAT WITHIN 45 DAYS AFTER THE MAILING OF THIS NOTICE YOU MUST FILE AN ACTION IN THE CIRCUIT COURT OF COUNTY, FLORIDA, FOR A DECLARATORY JUDGMENT TO DETERMINE THE CONSTITUTIONAL HOMESTEAD STATUS OF THE SUBJECT PROPERTY OR TO FORECLOSE YOUR JUDGMENT LIEN ON THE PROPERTY AND RECORD A LIS PENDENS IN THE PUBLIC RECORDS OF THE COUNTY WHERE THE HOMESTEAD IS LOCATED. YOUR FAILURE TO SO ACT WILL RESULT IN ANY BUYER OR LENDER, OR HIS OR HER SUCCESSORS AND ASSIGNS, UNDER THE ABOVE-DESCRIBED CONTRACT OF SALE OR LOAN COMMITMENT TO TAKE FREE AND CLEAR OF ANY JUDGMENT LIEN YOU MAY HAVE ON THE PROPERTY.

This day of, 2.....

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...(Signature of Owner)...

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.....
...(Printed Name of Owner)...

.....
...(Owner's Address)...

Sworn to and subscribed before me by
..... who is personally
known to me or produced
..... as identification,
this day of, 2.....

.....
Notary Public

(3) The clerk shall mail a copy of the notice of
homestead to the judgment lienor, by certified mail, return
receipt requested, at the address shown in the most recent
recorded judgment or accompanying affidavit, and to any other
person designated in the most recent recorded judgment or
accompanying affidavit to receive the notice of homestead, and
shall certify to such service on the face of such notice and
record the notice. Notwithstanding the use of certified mail,
return receipt requested, service shall be deemed complete
upon mailing.

(4) A lien pursuant to s. 55.10 of any lienor upon
whom such notice is served, who fails to institute an action
for a declaratory judgment to determine the constitutional
homestead status of the property described in the notice of
homestead or to file an action to foreclose the judgment lien,

1 together with the filing of a lis pendens in the public
2 records of the county in which the homestead is located,
3 within 45 days after service of such notice shall be deemed as
4 not attaching to the property by virtue of its status as
5 homestead property as to the interest of any buyer or lender,
6 or his or her successors or assigns, who takes under the
7 contract of sale or loan commitment described above within 180
8 days after the filing in the public records of the notice of
9 homestead. This subsection shall not act to prohibit a lien
10 from attaching to the real property described in the notice of
11 homestead at such time as the property loses its homestead
12 status.

13 (5) As provided in s. 4, Art. X of the State
14 Constitution, this subsection shall not apply to:

15 (a) Liens and judgments for the payment of taxes and
16 assessments on real property.

17 (b) Liens and judgments for obligations contracted for
18 the purchase of real property.

19 (c) Liens and judgments for labor, services, or
20 materials furnished to repair or improve real property.

21 (d) Liens and judgments for other obligations
22 contracted for house, field, or other labor performed on real
23 property.

24 Section 26. Section 222.12, Florida Statutes, is
25 amended to read:

26 222.12 Proceedings for exemption.--Whenever any money
27 or other thing due for labor or services as aforesaid is
28 attached by such process, the person to whom the same is due
29 and owing may make oath before the officer who issued the
30 process or before a notary public that the money attached is
31 due for the personal labor and services of such person, and

1 she or he is the head of a family residing in said state.
2 When such an affidavit is made, notice of same shall be
3 forthwith given to the party, or her or his attorney, who sued
4 out the process, and if the facts set forth in such affidavit
5 are not denied under oath within 2 business days after the
6 service of said notice, the process shall be returned, and all
7 proceedings under the same shall cease. If the facts stated
8 in the affidavit are denied by the party who sued out the
9 process within the time above set forth and under oath, then
10 the matter shall be tried by the court from which the writ or
11 process issued, in like manner as claims to property levied
12 upon by writ of execution are tried, and the money or thing
13 attached shall remain subject to the process until released by
14 the judgment of the court which shall try the issue.

15 Section 27. Subsections (2) and (3) of section
16 679.301, Florida Statutes, are amended to read:

17 679.301 Persons who take priority over unperfected
18 security interests; right of "lien creditor."--

19 (2) If the secured party files with respect to a
20 purchase money security interest before or within 15 days
21 after the debtor receives possession of the collateral, the
22 secured party ~~he or she~~ takes priority over the rights of a
23 transferee in bulk or of a lien creditor ~~which arise between~~
24 ~~the time the security interest attaches and the time of~~
25 filing.

26 (3) A "lien creditor" means a creditor who has
27 acquired a lien on the property involved by attachment, levy,
28 or the like and includes a judgment lienholder as provided
29 under ss. 55.202-55.209, an assignee for benefit of creditors
30 from the time of assignment, and a trustee in bankruptcy from
31

1 the date of the filing of the petition or a receiver in equity
2 from the time of appointment.

3 Section 28. There is hereby appropriated from the
4 Corporations Trust Fund to the Department of State the
5 following positions and funds to administer this act:

6 (1) Effective July 1, 2000, four full-time equivalent
7 positions and \$274,858 in recurring salaries and benefits,
8 \$200,000 in recurring expense, and \$442,753 in nonrecurring
9 operating capital outlay; and

10 (2) Effective March 1, 2001, nine additional full-time
11 equivalent positions and \$67,111 in recurring salaries and
12 benefits and \$32,247 in nonrecurring operating capital outlay.

13 Section 29. Subsection (2) of section 607.1901,
14 Florida Statutes, is amended to read:

15 607.1901 Corporations Trust Fund creation; transfer of
16 funds.--

17 (2)(a) The Legislature shall appropriate from the fund
18 such amounts as it deems necessary for the operation of the
19 division.

20 (b) An amount equal to 2.9 percent of all moneys
21 deposited each month in the fund is transferred to the
22 Corporation Tax Administration Trust Fund created pursuant to
23 s. 213.31.

24 (c) In the last six months of any fiscal year, an
25 amount equal to 43 percent of all moneys deposited each month
26 into the fund is transferred to the General Revenue Fund.

27 (d) The division shall transfer from the trust fund to
28 the Cultural Institutions Trust Fund, quarterly, the amount of
29 \$10 from each corporate annual report fee collected by the
30 division and prorations transferring \$8 million each fiscal
31 year, to be used as provided in s. 265.2861. Effective October

1 1, 2001, an additional \$2 million each fiscal year shall be
2 transferred from the Corporations Trust Fund to the Cultural
3 Institutions Trust Fund to be used as provided in s. 265.2861.
4 The additional \$2 million is contingent upon the receipt of
5 corresponding revenues collected under s. 55.209, as created
6 by this act.

7 (e) The division shall transfer from the trust fund to
8 the Cultural Institutions Trust Fund, quarterly, prorations
9 transferring \$250,000 each fiscal year, to be used as provided
10 in s. 265.609.

11 (f) The division shall transfer from the trust fund to
12 the Cultural Institutions Trust Fund, quarterly, prorations
13 transferring \$550,000 each fiscal year, to be used as provided
14 in s. 265.608.

15 (g) The division shall transfer from the trust fund to
16 the Historical Resources Operating Trust Fund, quarterly,
17 prorations transferring \$2 million each fiscal year, to be
18 used as provided in s. 267.0671.

19 (h) The division shall transfer from the trust fund to
20 the Historical Resources Operating Trust Fund, quarterly,
21 prorations transferring \$1.5 million each fiscal year, to be
22 used as provided in s. 267.072.

23 (i) Effective October 1, 2001, the division shall
24 transfer from the trust fund to the department's Grants and
25 Donations Trust Fund quarterly prorations equaling not more
26 than \$1.6 million each fiscal year, to be used in the
27 provision of services under s. 288.816. The transfer of \$1.6
28 million is contingent upon the receipt of corresponding
29 revenues collected under s. 55.209, as created by this act.

30 Section 30. Effective July 1, 2001, section 112.3144,
31 Florida Statutes, is amended to read:

1 112.3144 Full and public disclosure of financial
2 interests.--

3 (1) An officer who is required by s. 8, Art. II of the
4 State Constitution to file a full and public disclosure of his
5 or her financial interests for any calendar or fiscal year
6 shall file that disclosure with the Florida Commission on
7 Ethics.

8 ~~(2)(1)~~ No person who is required, pursuant to s. 8,
9 Art. II of the State Constitution, to file a full and public
10 disclosure of financial interests and who has filed a full and
11 public disclosure of financial interests for any calendar or
12 fiscal year shall be required to file a statement of financial
13 interests pursuant to s. 112.3145(2) and (3) for the same year
14 or for any part thereof notwithstanding any requirement of
15 this part, except that a candidate for office shall file a
16 copy of his or her disclosure with the officer before whom he
17 or she qualifies.

18 ~~(3)(2)~~ For purposes of full and public disclosure
19 under s. 8(a), Art. II of the State Constitution, the
20 following items, if not held for investment purposes and if
21 valued at over \$1,000 in the aggregate, may be reported in a
22 lump sum and identified as "household goods and personal
23 effects":

24 (a) Jewelry;

25 (b) Collections of stamps, guns, and numismatic
26 properties;

27 (c) Art objects;

28 (d) Household equipment and furnishings;

29 (e) Clothing;

30 (f) Other household items; and

31 (g) Vehicles for personal use.

1 ~~(4)(3)~~ Forms for compliance with the full and public
2 disclosure requirements of s. 8, Art. II of the State
3 Constitution, ~~and a current list of persons required to file~~
4 ~~full and public disclosure by s. 8, Art. II of the State~~
5 ~~Constitution, or other state law,~~ shall be created ~~provided~~ by
6 the Commission on Ethics. ~~The commission to the Secretary of~~
7 ~~State, who~~ shall give notice of disclosure deadlines and
8 delinquencies and distribute forms in the following manner:

9 (a) Not later than May 1 of each year, the commission
10 ~~on Ethics~~ shall prepare a current list of the names and
11 addresses of and the offices held by every person required to
12 file full and public disclosure annually by s. 8, Art. II of
13 the State Constitution, or other state law, ~~and shall provide~~
14 ~~the Secretary of State with the mailing list.~~ In compiling the
15 list, the commission shall be assisted by each unit of
16 government in providing at the request of the commission the
17 name, address, and name of the office held by each public
18 official within the respective unit of government.

19 (b) Not later than 30 days before July 1 of each year,
20 the commission ~~Secretary of State~~ shall mail a copy of the
21 form prescribed for compliance with full and public disclosure
22 and a notice of the filing deadline to each person on the
23 mailing list.

24 (c) Not later than 30 days after July 1 of each year,
25 the commission ~~Secretary of State~~ shall determine which
26 persons on the mailing list have failed to file full and
27 public disclosure and shall send delinquency notices by
28 certified mail to such persons. Each notice shall state that a
29 grace period is in effect until September 1 of the current
30 year ~~and that, if the statement is not filed by September 1 of~~
31

1 ~~the current year, the Secretary of State is required by law to~~
2 ~~notify the Commission on Ethics of the delinquency.~~

3 ~~(d) Not later than 30 days following September 1 of~~
4 ~~each year, the Secretary of State shall certify to the~~
5 ~~Commission on Ethics a list of the names and addresses of and~~
6 ~~the offices held by all persons on the mailing list who have~~
7 ~~failed to timely file full and public disclosure. The~~
8 ~~certification shall be on a form prescribed by the commission~~
9 ~~and shall indicate whether the Secretary of State has provided~~
10 ~~the disclosure forms and notice as required by this section to~~
11 ~~all persons named on the delinquency list.~~

12 ~~(d)(e)~~ Any person subject to the annual filing of full
13 and public disclosure under s. 8, Art. II of the State
14 Constitution, or other state law, whose name is not on the
15 commission's mailing list of persons required to file full and
16 public disclosure ~~provided to the Secretary of State~~ shall not
17 be deemed delinquent for failure to file full and public
18 disclosure in any year in which the omission occurred.

19 ~~(e)(f)~~ The notification requirements of this
20 subsection do not apply to candidates or to the first filing
21 required of any person appointed to elective constitutional
22 office. The appointing official shall notify such newly
23 appointed person of the obligation to file full and public
24 disclosure by July 1.

25 Section 31. Effective July 1, 2001, paragraph (c) of
26 subsection (2) and subsections (4) and (6) of section
27 112.3145, Florida Statutes, are amended to read:

28 112.3145 Disclosure of financial interests and clients
29 represented before agencies.--

30 (2)

31

1 (c) State officers, ~~persons qualifying for a state~~
2 ~~office~~, and specified state employees shall file their
3 statements of financial interests with the Commission on
4 Ethics ~~Secretary of State~~. Local officers shall file their
5 statements of financial interests with the supervisor of
6 elections of the county in which they permanently reside.
7 Local officers who do not permanently reside in any county in
8 the state shall file their statements of financial interests
9 with the supervisor of elections of the county in which their
10 agency maintains its headquarters. Persons seeking to qualify
11 as candidates for local public office shall file their
12 statements of financial interests with the officer before whom
13 they qualify.

14 (4) Each elected constitutional officer, state
15 officer, local officer, and specified state employee shall
16 file a quarterly report of the names of clients represented
17 for a fee or commission, except for appearances in ministerial
18 matters, before agencies at his or her level of government.
19 For the purposes of this part, agencies of government shall be
20 classified as state-level agencies or agencies below state
21 level. Each local officer shall file such report with the
22 supervisor of elections of the county in which the officer is
23 principally employed or is a resident. Each state officer,
24 elected constitutional officer, and specified state employee
25 shall file such report with the commission ~~Secretary of State~~.
26 The report shall be filed only when a reportable
27 representation is made during the calendar quarter and shall
28 be filed no later than 15 days after the last day of the
29 quarter. Representation before any agency shall be deemed to
30 include representation by such officer or specified state
31 employee or by any partner or associate of the professional

1 firm of which he or she is a member and of which he or she has
2 actual knowledge. For the purposes of this subsection, the
3 term "representation before any agency" does not include
4 appearances before any court or Chief Judges of Compensation
5 Claims or judges of compensation claims or representations on
6 behalf of one's agency in one's official capacity. Such term
7 does not include the preparation and filing of forms and
8 applications merely for the purpose of obtaining or
9 transferring a license based on a quota or a franchise of such
10 agency or a license or operation permit to engage in a
11 profession, business, or occupation, so long as the issuance
12 or granting of such license, permit, or transfer does not
13 require substantial discretion, a variance, a special
14 consideration, or a certificate of public convenience and
15 necessity.

16 (6) Forms for compliance with the disclosure
17 requirements of this section and a current list of persons
18 subject to disclosure shall be provided by the Commission on
19 ~~Ethics to the Secretary of State~~ and to each supervisor of
20 elections, who shall give notice of disclosure deadlines and
21 delinquencies and distribute forms in the following manner:

22 (a)1. Not later than May 1 of each year, the
23 Commission on Ethics shall prepare a current list of the names
24 and addresses of, and the offices or positions held by, every
25 state officer, local officer, and specified employee. In
26 compiling the list, the commission shall be assisted by each
27 unit of government in providing, at the request of the
28 commission, the name, address, and name of agency of, and the
29 office or position held by, each state officer, local officer,
30 or specified state employee within the respective unit of
31 government.

1 2. Not later than May 15 of each year, the commission
2 shall provide ~~the Secretary of State with a current mailing~~
3 ~~list of all state officers and specified employees and shall~~
4 ~~provide~~ each supervisor of elections with a current mailing
5 list of all local officers required to file with such
6 supervisor of elections.

7 (b) Not later than 30 days before July 1 of each year,
8 the commission ~~Secretary of State~~ and each supervisor of
9 elections, as appropriate, shall mail a copy of the form
10 prescribed for compliance with subsection (3) and a notice of
11 all applicable disclosure forms and filing deadlines to each
12 person required to file a statement of financial interests.

13 (c) Not later than 30 days after July 1 of each year,
14 the commission ~~Secretary of State~~ and each supervisor of
15 elections shall determine which persons required to file a
16 statement of financial interests in their respective offices
17 have failed to do so and shall send delinquency notices by
18 certified mail to such persons. Each notice shall state that
19 a grace period is in effect until September 1 of the current
20 year; that no investigative or disciplinary action based upon
21 the delinquency will be taken by the agency head or Commission
22 on Ethics if the statement is filed by September 1 of the
23 current year; that, if the statement is not filed by September
24 1 of the current year, he or she is required by law to notify
25 the Commission on Ethics of the delinquency; and that, if upon
26 the filing of a sworn complaint the commission finds that the
27 person has failed to timely file the statement by September 1
28 of the current year, such person shall be subject to the
29 penalties provided in s. 112.317.

30 (d) Not later than 30 days following September 1 of
31 each year, ~~the Secretary of State and~~ the supervisor of

1 elections in each county shall certify to the Commission on
2 Ethics a list of the names and addresses of, and the offices
3 or positions held by, all persons who have failed to timely
4 file the required statements of financial interests. The
5 certification shall be on a form prescribed by the commission
6 and shall indicate whether the respective certifying official
7 has provided the disclosure forms and notice as required by
8 this subsection to all persons named on the delinquency list.

9 (e) Any state officer, local officer, or specified
10 employee whose name is not on the mailing list of persons
11 required to file statements of financial interests ~~provided to~~
12 ~~the Secretary of State or supervisor of elections~~ is not
13 subject to the penalties provided in s. 112.317 for failure to
14 timely file a statement of financial interests in any year in
15 which the omission occurred.

16 (f) The requirements of this subsection do not apply
17 to candidates or to the first filing required of any state
18 officer, specified employee, or local officer.

19 Section 32. Effective July 1, 2001, paragraph (b) of
20 subsection (5), paragraph (d) of subsection (6), and paragraph
21 (a) of subsection (8) of section 112.3148, Florida Statutes,
22 are amended to read:

23 112.3148 Reporting and prohibited receipt of gifts by
24 individuals filing full or limited public disclosure of
25 financial interests and by procurement employees.--

26 (5)

27 (b) However, a person who is regulated by this
28 subsection, who is not regulated by subsection (6), and who
29 makes, or directs another to make, an individual gift having a
30 value in excess of \$25, but not in excess of \$100, other than
31 a gift which the donor knows will be accepted on behalf of a

1 governmental entity or charitable organization, must file a
2 report on the last day of each calendar quarter, for the
3 previous calendar quarter in which a reportable gift is made.
4 The report shall be filed with the Commission on Ethics
5 ~~Secretary of State~~, except with respect to gifts to reporting
6 individuals of the legislative branch, in which case the
7 report shall be filed with the Division of Legislative
8 Information Services in the Office of Legislative Services.
9 The report must contain a description of each gift, the
10 monetary value thereof, the name and address of the person
11 making such gift, the name and address of the recipient of the
12 gift, and the date such gift is given. In addition, when a
13 gift is made which requires the filing of a report under this
14 subsection, the donor must notify the intended recipient at
15 the time the gift is made that the donor, or another on his or
16 her behalf, will report the gift under this subsection. Under
17 this paragraph, a gift need not be reported by more than one
18 person or entity.

19 (6)

20 (d) No later than July 1 of each year, each reporting
21 individual or procurement employee shall file a statement
22 listing each gift having a value in excess of \$100 received by
23 the reporting individual or procurement employee, either
24 directly or indirectly, from a governmental entity or a
25 direct-support organization specifically authorized by law to
26 support a governmental entity. The statement shall list the
27 name of the person providing the gift, a description of the
28 gift, the date or dates on which the gift was given, and the
29 value of the total gifts given during the calendar year for
30 which the report is made. The reporting individual or
31 procurement employee shall attach to such statement any report

1 received by him or her in accordance with paragraph (c), which
2 report shall become a public record when filed with the
3 statement of the reporting individual or procurement employee.
4 The reporting individual or procurement employee may explain
5 any differences between the report of the reporting individual
6 or procurement employee and the attached reports. The annual
7 report filed by a reporting individual shall be filed with the
8 financial disclosure statement required by either s. 8, Art.
9 II of the State Constitution or s. 112.3145, as applicable to
10 the reporting individual. The annual report filed by a
11 procurement employee shall be filed with the Commission on
12 Ethics ~~Department of State~~.

13 (8)(a) Each reporting individual or procurement
14 employee shall file a statement with the Commission on Ethics
15 ~~Secretary of State~~ on the last day of each calendar quarter,
16 for the previous calendar quarter, containing a list of gifts
17 which he or she believes to be in excess of \$100 in value, if
18 any, accepted by him or her, except the following:

- 19 1. Gifts from relatives.
- 20 2. Gifts prohibited by subsection (4) or s.
21 112.313(4).
- 22 3. Gifts otherwise required to be disclosed by this
23 section.

24 Section 33. Effective July 1, 2001, subsection (6) of
25 section 112.3149, Florida Statutes, is amended to read:

26 112.3149 Solicitation and disclosure of honoraria.--

27 (6) A reporting individual or procurement employee who
28 receives payment or provision of expenses related to any
29 honorarium event from a person who is prohibited by subsection
30 (4) from paying an honorarium to a reporting individual or
31 procurement employee shall publicly disclose on an annual

1 statement the name, address, and affiliation of the person
2 paying or providing the expenses; the amount of the honorarium
3 expenses; the date of the honorarium event; a description of
4 the expenses paid or provided on each day of the honorarium
5 event; and the total value of the expenses provided to the
6 reporting individual or procurement employee in connection
7 with the honorarium event. The annual statement of honorarium
8 expenses shall be filed by July 1 of each year for such
9 expenses received during the previous calendar year. The
10 reporting individual or procurement employee shall attach to
11 the annual statement a copy of each statement received by him
12 or her in accordance with subsection (5) regarding honorarium
13 expenses paid or provided during the calendar year for which
14 the annual statement is filed. Such attached statement shall
15 become a public record upon the filing of the annual report.
16 The annual statement of a reporting individual shall be filed
17 with the financial disclosure statement required by either s.
18 8, Art. II of the State Constitution or s. 112.3145, as
19 applicable to the reporting individual. The annual statement
20 of a procurement employee shall be filed with the Commission
21 on Ethics ~~Department of State~~.

22 Section 34. Section 257.36, Florida Statutes, is
23 amended to read:

24 257.36 Records and information management.--

25 (1) There is created within the Division of Library
26 and Information Services of the Department of State a records
27 and information management program. It is the duty and
28 responsibility of the division to:

29 (a) Establish and administer a records management
30 program directed to the application of efficient and
31 economical management methods relating to the creation,

1 utilization, maintenance, retention, preservation, and
2 disposal of records.

3 (b) Establish and operate a records center or centers
4 primarily for the storage, processing, servicing, and security
5 of public records that must be retained for varying periods of
6 time but need not be retained in an agency's office equipment
7 or space.

8 (c) Analyze, develop, establish, and coordinate
9 standards, procedures, and techniques of recordmaking and
10 recordkeeping.

11 (d) Ensure the maintenance and security of records
12 which are deemed appropriate for preservation.

13 (e) Establish safeguards against unauthorized or
14 unlawful removal or loss of records.

15 (f) Initiate appropriate action to recover records
16 removed unlawfully or without authorization.

17 (g) Institute and maintain a training and information
18 program in:

19 1. All phases of records and information management to
20 bring approved and current practices, methods, procedures, and
21 devices for the efficient and economical management of records
22 to the attention of all agencies.

23 2. The requirements relating to access to public
24 records under chapter 119.

25 (h) Provide a centralized program of microfilming for
26 the benefit of all agencies.

27 (i) Make continuous surveys of recordkeeping
28 operations.

29 (j) Recommend improvements in current records
30 management practices, including the use of space, equipment,
31

1 supplies, and personnel in creating, maintaining, and
2 servicing records.

3 (k) Establish and maintain a program in cooperation
4 with each agency for the selection and preservation of records
5 considered essential to the operation of government and to the
6 protection of the rights and privileges of citizens.

7 (l) Make, or have made, preservation duplicates, or
8 designate existing copies as preservation duplicates, to be
9 preserved in the place and manner of safekeeping as prescribed
10 by the division.

11 (2)(a) All records transferred to the division may be
12 held by it in a records center or centers, to be designated by
13 it, for such time as in its judgment retention therein is
14 deemed necessary. At such time as it is established by the
15 division, such records as are determined by it as having
16 historical or other value warranting continued preservation
17 shall be transferred to the Florida State Archives.

18 (b) Title to any record detained in any records center
19 shall remain in the agency transferring such record to the
20 division.

21 (c) When a record held in a records center is eligible
22 for destruction, the division shall notify, in writing, by
23 certified mail, the agency which transferred the record. The
24 agency shall have 90 days from receipt of that notice to
25 respond requesting continued retention or authorizing
26 destruction or disposal of the record. If the agency does not
27 respond within that time, title to the record shall pass to
28 the division.

29 (3) The division may charge fees for supplies and
30 services, including, but not limited to, shipping containers,
31 pickup, delivery, reference, and storage. Fees shall be based

1 upon the actual cost of the supplies and services and shall be
2 deposited in the Records Management Trust Fund.

3 (4) Any preservation duplicate of any record made
4 pursuant to this chapter shall have the same force and effect
5 for all purposes as the original record. A transcript,
6 exemplification, or certified copy of such preservation
7 duplicate shall be deemed, for all purposes, to be a
8 transcript, exemplification, or certified copy of the original
9 record.

10 (5) For the purposes of this section, the term
11 "agency" shall mean any state, county, district, or municipal
12 officer, department, division, bureau, board, commission, or
13 other separate unit of government created or established by
14 law. It is the duty of each agency to:

15 (a) Cooperate with the division in complying with the
16 provisions of this chapter and designate a records management
17 liaison officer.

18 (b) Establish and maintain an active and continuing
19 program for the economical and efficient management of
20 records.

21 ~~(6) Each agency shall submit to the division in~~
22 ~~accordance with the rules of the division a list or schedule~~
23 ~~of records in its custody that are not needed in the~~
24 ~~transaction of current business and that do not have~~
25 ~~sufficient administrative, legal, or fiscal significance to~~
26 ~~warrant further retention by the agency. Such records shall,~~
27 ~~in the discretion of the division, be transferred to it for~~
28 ~~further retention and preservation, as herein provided, or may~~
29 ~~be destroyed upon its approval.~~

30 (6)(7) A public record may be destroyed or otherwise
31 disposed of only in accordance with retention schedules

1 established by the division.~~No record shall be destroyed or~~
2 ~~disposed of by any agency unless approval of the division is~~
3 ~~first obtained.~~The division shall adopt reasonable rules not
4 inconsistent with this chapter which shall be binding on all
5 agencies relating to the destruction and disposition ~~disposal~~
6 of records. Such rules shall provide, but not be limited to:

7 (a) Procedures for complying and submitting to the
8 division records-retention lists ~~lists and schedules of records~~
9 ~~proposed for disposal.~~

10 (b) Procedures for the physical destruction or other
11 disposal of records.

12 (c) Standards for the reproduction of records for
13 security or with a view to the disposal of the original
14 record.

15 Section 35. Paragraph (d) of subsection (1) of section
16 267.072, Florida Statutes, is amended to read:

17 267.072 Museum of Florida history programs.--

18 (1) The division shall:

19 (d) Establish and administer a program, to be entitled
20 the Great Floridians program, which shall be designed to
21 recognize and record the achievements of Floridians, living
22 and deceased, who have made major contributions to the
23 progress and welfare of this state.

24 1. The division shall nominate present or former
25 citizens of this state, living or deceased, who during their
26 lives have made major contributions to the progress of the
27 nation or this state and its citizens. Nominations shall be
28 submitted to the Secretary of State who shall select from
29 those nominated not less than two persons each year who shall
30 be honored with the designation "Great Floridian," provided no
31 person whose contributions have been through elected or

1 appointed public service shall be selected while holding any
2 such office.

3 2. To enhance public participation and involvement in
4 the identification of any person worthy of being nominated as
5 a Great Floridian, the division shall seek advice and
6 assistance from persons qualified through the demonstration of
7 special interest, experience, or education in the
8 dissemination of knowledge about the state's history.

9 a. In formulating its nominations, the division shall
10 also seek the assistance of the Museum of Florida History
11 Foundation, Inc., ~~Florida History Associates, Inc.~~, or its
12 successor, acting in the capacity as a citizen support
13 organization of the division, pursuant to s. 267.17 and
14 approved to act on behalf of the Museum of Florida History.

15 b. Annually, the division shall convene an ad hoc
16 committee composed of representatives of the Governor, each
17 member of the Florida Cabinet, the President of the Senate,
18 the Speaker of the House of Representatives, and the Museum of
19 Florida History Foundation, Inc. ~~Florida History Associates,~~
20 ~~Inc.~~ This committee shall meet at least twice. The committee
21 shall nominate ~~living citizens of this state who during their~~
22 ~~lives have made major contributions to the progress of the~~
23 ~~nation or this state and its citizens and shall from those~~
24 ~~nominated select each year not fewer less than two persons~~
25 whose names shall be submitted to the Secretary of State with
26 the recommendation that they be honored with the designation
27 "Great Floridian."

28 3. Upon designation of a person as a Great Floridian
29 by the Secretary of State, the division shall undertake
30 appropriate activities intended to achieve wide public
31 knowledge of the person designated.

1 a. The division may seek to initiate production of a
2 film or videotape depicting the life and contributions of the
3 designee to this state and to the nation. If technology
4 surpasses the use of film or videotape, another medium of
5 equal quality may be used.

6 (I) In the production of such films, the division
7 shall seek cooperation from local volunteers throughout the
8 state and, in particular, shall seek fundraising and other
9 assistance of the citizen support organization created
10 pursuant to s. 267.17 to support the programs of the Museum of
11 Florida History.

12 ~~(II) In the case of persons nominated as Great~~
13 ~~Floridians as a result of the committee convened pursuant to~~
14 ~~sub-subparagraph 2.b., the division shall immediately begin~~
15 ~~taking the steps necessary to produce a film depicting the~~
16 ~~contributions of such persons to this state and to the nation;~~
17 ~~however, the requirement to produce such a film shall be~~
18 ~~contingent upon appropriation of sufficient funds by the~~
19 ~~Legislature.~~

20 (II)~~(III)~~ The Museum of Florida History shall be the
21 repository of the original negative, the original master tape,
22 and all cuttings, of any film or videotape produced under the
23 authority of this paragraph. The division also may exercise
24 the right of trademark over the terms "Great Floridian" or
25 "Great Floridians" pursuant to s. 286.031.

26 (III)~~(IV)~~ The division shall arrange for the
27 distribution of copies of all films to the general public,
28 public television stations, educational institutions, and
29 others and may establish a reasonable charge to recover costs
30 associated with production and to provide a source of revenue
31 to assist with reproduction, marketing, and distribution of

1 Great Floridians films. Proceeds from such charges shall be
2 deposited into the Historical Resources Operating Trust Fund.

3 b. Deceased persons designated as Great Floridians
4 typically shall be recognized by markers affixed to properties
5 significantly associated with the major contributions of the
6 designee. Such markers shall be erected pursuant to the
7 provisions of s. 267.061(3)(n).

8 Section 36. Section 288.8175, Florida Statutes, is
9 amended to read:

10 288.8175 Linkage institutes between postsecondary
11 institutions in this state and foreign countries.--

12 (1) As used in this section, the term "department"
13 means the Department of State.

14 (2)~~(1)~~ There are created, ~~within the Department of~~
15 ~~Education,~~ Florida linkage institutes. A primary purpose of
16 these institutes is to assist in the development of stronger
17 economic, cultural, educational, and social ties between this
18 state and strategic foreign countries through the promotion of
19 expanded public and private dialogue on cooperative research
20 and technical assistance activities, increased bilateral
21 commerce, student and faculty exchange, cultural exchange, and
22 the enhancement of language training skills between the
23 postsecondary institutions in this state and those of selected
24 foreign countries. Each institute must ensure that minority
25 students are afforded an equal opportunity to participate in
26 the exchange programs.

27 (3)~~(2)~~ Each institute must be governed by an
28 agreement, approved by the department ~~of Education,~~ between
29 the State University System and the Florida Community College
30 System with the counterpart organization ~~of higher education~~
31 in a ~~the~~ foreign country. Each institute must report to the

1 department regarding its program activities, expenditures, and
2 policies.

3 (4)~~(3)~~ Each institute must be co-administered in this
4 state by a university-community college partnership, as
5 designated in subsection(5)~~(4)~~, and must have a private
6 sector and public sector advisory committee. The advisory
7 committee must be representative of the international
8 education and commercial interests of the state and may have
9 members who are native to the foreign country partner. Six
10 members must be appointed by the department ~~of Education~~. The
11 department must appoint at least one member who is an
12 international educator. The presidents, or their designees,
13 of the participating university and community college must
14 also serve on the advisory committee.

15 (5)~~(4)~~ The institutes are:

16 (a) Florida-Brazil Institute (University of Florida
17 and Miami-Dade Community College).

18 (b) Florida-Costa Rica Institute (Florida State
19 University and Valencia Community College).

20 (c) Florida Caribbean Institute (Florida International
21 University and Daytona Beach Community College).

22 (d) Florida-Canada Institute (University of Central
23 Florida and Palm Beach Junior College).

24 (e) Florida-China Institute (University of West
25 Florida, University of South Florida, and Brevard Community
26 College).

27 (f) Florida-Japan Institute (University of South
28 Florida, University of West Florida, and St. Petersburg
29 Community College).

30
31

1 (g) Florida-France Institute (New College of the
2 University of South Florida, Miami-Dade Community College, and
3 Florida State University).

4 (h) Florida-Israel Institute (Florida Atlantic
5 University and Broward Community College).

6 (i) Florida-West Africa Institute (Florida
7 Agricultural and Mechanical University, University of North
8 Florida, and Florida Community College at Jacksonville).

9 (j) Florida-Eastern Europe Institute (University of
10 Central Florida and Lake Sumter Community College).

11 (k) Florida-Mexico Institute (Florida International
12 University and Polk Community College).

13 (6)~~(5)~~ Each institute is allowed to exempt from s.
14 240.1201 up to 25 full-time equivalent students per year from
15 the respective host countries to study in any of the state
16 universities or community colleges in this state as resident
17 students for tuition purposes. The institute directors shall
18 develop criteria, to be approved by the Department of
19 Education, for the selection of these students. Students must
20 return home within 3 years after their tenure of graduate or
21 undergraduate study for a length of time equal to their
22 exemption period.

23 (7)~~(6)~~ Each state university and community college
24 linkage institute partner may enter into an agreement for a
25 student exchange program, that requires that the tuition and
26 fees of a student who is enrolled in a state university or
27 community college and who is participating in an exchange
28 program be paid to the university or community college while
29 the student is participating in the exchange program. The
30 agreement may also require that the tuition and fees of a
31 student who is enrolled in a postsecondary institution in a

1 foreign country and who is participating in an exchange
2 program be paid to the foreign institution of enrollment.

3 (8)~~(7)~~ No later than 60 days before every regular
4 session of the Legislature, the department ~~of Education~~ shall
5 present to the Speaker of the House of Representatives, the
6 President of the Senate, and the minority leaders of the House
7 of Representatives and the Senate a review of linkage
8 institute program activity, criteria for their operation,
9 accountability standards, recommended funding levels, and
10 recommendations for establishing, maintaining, or abolishing
11 linkage institutes. The criteria shall be developed in
12 consultation with Enterprise Florida, Inc. The criteria must
13 include, but need not be limited to, the purpose stated in
14 subsection (2)~~(1)~~ and:

15 (a) The importance of economic, political, and social
16 ties between this state and the country or region.

17 (b) The potential for growth and expansion of
18 commercial, educational, and cultural links.

19 (c) The viability of regionally oriented, rather than
20 country-specific, linkages, based on historical or emerging
21 regional economic or political trading blocs.

22 (9)~~(8)~~ A linkage institute may not be created or
23 funded except upon the recommendation of the department ~~of~~
24 ~~Education~~ and except by amendment to this section.

25 (10)~~(9)~~ The department ~~of Education~~ shall review and
26 make linkage-institute budget requests to the Governor and the
27 Legislature. State appropriations for institutes created under
28 this section must be made by a single lump-sum line item to
29 the department, which must apportion the funds among the
30 various institutes in accordance with criteria established by
31 the department.

1 ~~(11)(10)~~ Linkage institutes may also accept and
2 administer moneys provided by the department ~~of State~~ for
3 research and development of international trade. The
4 department ~~Secretary of State~~ shall, by March 1, report to the
5 Governor, the President of the Senate, and the Speaker of the
6 House of Representatives in each year in which the department
7 ~~of State~~ has provided moneys for a linkage institute. The
8 report must detail the purpose of the expenditure by the
9 department ~~of State~~ and the use of the moneys by the linkage
10 institutes and must include a copy of the research documents
11 or related materials produced, if any.

12 Section 37. Effective January 7, 2003, subsection (1)
13 of section 403.7145, Florida Statutes, is amended to read:

14 403.7145 Recycling.--

15 (1) The Capitol and the House and Senate office
16 buildings constitute the Capitol recycling area. The Florida
17 House of Representatives, the Florida Senate, and the Office
18 of the Governor, the Secretary of State, and each Cabinet
19 officer who heads a department that occupies office space in
20 the Capitol, shall institute a recycling program for their
21 respective offices in the House and Senate office buildings
22 and the Capitol. Provisions shall be made to collect and sell
23 wastepaper and empty aluminum beverage cans generated by
24 employee activities in these offices. The collection and sale
25 of such materials shall be coordinated with Department of
26 Management Services recycling activities to maximize the
27 efficiency and economy of this program. The Governor, the
28 Speaker of the House of Representatives, the President of the
29 Senate, the Secretary of State, and the Cabinet officers may
30 authorize the use of proceeds from recyclable material sales
31 for employee benefits and other purposes, in order to provide

1 incentives to their respective employees for participation in
2 the recycling program. Such proceeds may also be used to
3 offset any costs of the recycling program.

4 Section 38. Subsection (8) of section 415.1065,
5 Florida Statutes, is amended to read:

6 415.1065 Records management.--All records must be
7 maintained in their entirety for their full retention period,
8 except as otherwise provided in this section:

9 (8) MANNER OF STORAGE AND DISPOSAL.--All reports,
10 regardless of classification, shall be stored and disposed of
11 in a manner deemed appropriate to the department and in
12 accordance with ss. 119.041 and 257.36(6)~~257.36(7)~~.

13 Section 39. Subsections (2) and (3) of section
14 526.311, Florida Statutes, are amended to read:

15 526.311 Enforcement; civil penalties; injunctive
16 relief.--

17 (2) The Department of Agriculture and Consumer
18 Services shall investigate any complaints regarding violations
19 of this act and may request in writing the production of
20 documents and records as part of its investigation of a
21 complaint. ~~Trade secrets, as defined in s. 812.081, and~~
22 ~~proprietary confidential business information contained in the~~
23 ~~documents or records received by the department pursuant to a~~
24 ~~written request or a Department of Legal Affairs subpoena are~~
25 ~~confidential and exempt from the provisions of s. 119.07(1)~~
26 ~~and s. 24(a), Art. I of the State Constitution.~~If the person
27 upon whom such request was made fails to produce the documents
28 or records within 30 days after the date of the request, the
29 department, through the department's office of general
30 counsel, may of Agriculture and Consumer Services may request
31 that the Department of Legal Affairs issue and serve a

1 subpoena ~~subpoenas~~ to compel the production of such documents
2 and records. If any person shall refuse to comply with a
3 subpoena issued under this section, the department ~~of Legal~~
4 ~~Affairs~~ may petition a court of competent jurisdiction to
5 enforce the subpoena and assess such sanctions as the court
6 may direct. Refiners shall afford the department ~~of~~
7 ~~Agriculture and Consumer Services~~ reasonable access to the
8 refiners' posted terminal price. ~~After completion of an~~
9 ~~investigation, the Department of Agriculture and Consumer~~
10 ~~Services shall give the results of its investigation to the~~
11 ~~Department of Legal Affairs. The Department of Legal Affairs~~
12 ~~may then subpoena additional relevant records or testimony if~~
13 ~~it determines that the Department of Agriculture and Consumer~~
14 ~~Services' investigation shows a violation has likely occurred.~~
15 Any records, documents, papers, maps, books, tapes,
16 photographs, files, sound recordings, or other business
17 material, regardless of form or characteristics, obtained by
18 the ~~a~~ department ~~of Legal Affairs subpoena~~ are confidential
19 and exempt from the provisions of s. 119.07(1) and s. 24(a),
20 Art. I of the State Constitution while the investigation is
21 pending. At the conclusion of an investigation, any matter
22 determined by the department ~~of Legal Affairs~~ or by a judicial
23 or administrative body, federal or state, to be a trade secret
24 or proprietary confidential business information held by the
25 department pursuant to such investigation shall be considered
26 confidential and exempt from the provisions of s. 119.07(1)
27 and s. 24(a), Art. I of the State Constitution. Such
28 materials may be used in any administrative or judicial
29 proceeding so long as the confidential or proprietary nature
30 of the material is maintained.
31

1 (3) The civil penalty imposed under this section may
2 be assessed and recovered in a civil action brought by the
3 department ~~of Legal Affairs~~ in any court of competent
4 jurisdiction. If the department ~~of Legal Affairs~~ prevails in a
5 civil action, the court may award it reasonable attorneys'
6 fees as it deems appropriate. All funds recovered by the
7 department ~~of Legal Affairs~~ shall be deposited into shared
8 ~~equally between the Department of Legal Affairs Trust Fund and~~
9 the General Inspection Trust Fund.

10 Section 40. Subsection (2) of section 526.312, Florida
11 Statutes, is amended to read:

12 526.312 Enforcement; private actions; injunctive
13 relief.--

14 (2) On the application for a temporary restraining
15 order or a preliminary injunction, the court, in its
16 discretion having due regard for the public interest, may
17 require or dispense with the requirement of a bond, with or
18 without surety, as conditions and circumstances may require.
19 If a bond is required, the amount shall not be greater than
20 \$50,000. Upon proper application by the plaintiff, the court
21 shall grant preliminary injunctive relief if the plaintiff
22 shows:

23 (a) That he or she is a proper person to seek the
24 relief requested.

25 (b) There exist sufficiently serious questions going
26 to the merits to make such questions a fair ground for
27 litigation; and the court determines, on balance, the
28 hardships imposed on the defendant and the public interest by
29 the issuance of such preliminary injunctive relief will be
30 less than the hardship which would be imposed on the plaintiff
31 if such preliminary injunctive relief were not granted.

1
2 The standards specified in paragraphs (a) and (b) shall also
3 apply to actions for injunctive relief brought by the
4 department of ~~Legal Affairs~~ under s. 526.311.

5 Section 41. Section 526.313, Florida Statutes, is
6 amended to read:

7 526.313 Limitations period for actions.--Any action
8 brought by the department of ~~Legal Affairs~~ shall be brought
9 within 2 years after the alleged violation occurred or should
10 reasonably have been discovered. Any action brought by any
11 other person shall be brought within 1 year after the alleged
12 violation occurred or should reasonably have been discovered,
13 except that a private action brought under s. 526.305 for
14 unlawful price discrimination shall be brought within 2 years
15 from the date the alleged violation occurred or should
16 reasonably have been discovered.

17 Section 42. Section 526.3135, Florida Statutes, is
18 amended to read:

19 526.3135 Reports by the Division of Standards
20 ~~Department of Agriculture and Consumer Services~~--The Division
21 of Standards ~~Department of Agriculture and Consumer Services~~
22 is directed to compile a report pursuant to s. 570.544 of all
23 complaints received by the Department of Agriculture and
24 Consumer Services pursuant to this act. Such report shall
25 contain at least the information required by s.
26 570.544(6)(b)2.-4. and shall be presented to the Speaker of
27 the House of Representatives and the President of the Senate
28 no later than January 1 of each year.

29 Section 43. There is hereby appropriated \$100,000 from
30 the General Revenue Fund and two full-time equivalent
31 positions to the Department of Agriculture and Consumer

1 Services to implement the provisions of Chapter 526, Part I,
2 Florida Statutes.

3 Section 44. Section 617.301, Florida Statutes, is
4 transferred and renumbered as section 720.301, Florida
5 Statutes, and amended to read:

6 720.301 ~~617.301~~ Homeowners' associations;
7 definitions.--As used in ss. 720.301-720.312 ~~ss.~~
8 ~~617.301-617.312~~, the term:

9 (1) "Assessment" or "amenity fee" means a sum or sums
10 of money payable to the association, to the developer or other
11 owner of common areas, or to recreational facilities and other
12 properties serving the parcels by the owners of one or more
13 parcels as authorized in the governing documents, which if not
14 paid by the owner of a parcel, can result in a lien against
15 the parcel.

16 (2) "Common area" means all real property within a
17 community which is owned or leased by an association or
18 dedicated for use or maintenance by the association or its
19 members, including, regardless of whether title has been
20 conveyed to the association:

21 (a) Real property the use of which is dedicated to the
22 association or its members by a recorded plat; or

23 (b) Real property committed by a declaration of
24 covenants to be leased or conveyed to the association.

25 (3) "Community" means the real property that is or
26 will be subject to a declaration of covenants which is
27 recorded in the county where the property is located. The
28 term "community" includes all real property, including
29 undeveloped phases, that is or was the subject of a
30 development-of-regional-impact development order, together
31 with any approved modification thereto.

1 (4) "Declaration of covenants," or "declaration,"
2 means a recorded written instrument in the nature of covenants
3 running with the land which subjects the land comprising the
4 community to the jurisdiction and control of an association or
5 associations in which the owners of the parcels, or their
6 association representatives, must be members.

7 (5) "Developer" means a person or entity that:

8 (a) Creates the community served by the association;
9 or

10 (b) Succeeds to the rights and liabilities of the
11 person or entity that created the community served by the
12 association, provided that such is evidenced in writing.

13 (6) "Governing documents" means:

14 (a) The recorded declaration of covenants for a
15 community, and all duly adopted and recorded amendments,
16 supplements, and recorded exhibits thereto; and

17 (b) The articles of incorporation and bylaws of the
18 homeowners' association, and any duly adopted amendments
19 thereto.

20 (7) "Homeowners' association" or "association" means a
21 Florida corporation responsible for the operation of a
22 community or a mobile home subdivision in which the voting
23 membership is made up of parcel owners or their agents, or a
24 combination thereof, and in which membership is a mandatory
25 condition of parcel ownership, and which is authorized to
26 impose assessments that, if unpaid, may become a lien on the
27 parcel. The term "homeowners' association" does not include a
28 community development district or other similar special taxing
29 district created pursuant to statute.

30 (8) "Member" means a member of an association, and may
31 include, but is not limited to, a parcel owner or an

1 association representing parcel owners or a combination
2 thereof.

3 (9) "Parcel" means a platted or unplatted lot, tract,
4 unit, or other subdivision of real property within a
5 community, as described in the declaration:

6 (a) Which is capable of separate conveyance; and

7 (b) Of which the parcel owner, or an association in
8 which the parcel owner must be a member, is obligated:

9 1. By the governing documents to be a member of an
10 association that serves the community; and

11 2. To pay to the homeowners' association assessments
12 that, if not paid, may result in a lien.

13 (10) "Parcel owner" means the record owner of legal
14 title to a parcel.

15 (11) "Voting interest" means the voting rights
16 distributed to the members of the homeowners' association,
17 pursuant to the governing documents.

18 Section 45. Section 617.302, Florida Statutes, is
19 transferred and renumbered as section 720.302, Florida
20 Statutes, and amended to read:

21 720.302 ~~617.302~~ Homeowners' associations; purposes,
22 scope, and application.--

23 (1) The purposes of ss. 720.301-720.312 ~~ss.~~
24 ~~617.301-617.312~~ are to give statutory recognition to
25 corporations that operate residential communities in this
26 state, to provide procedures for operating homeowners'
27 associations, and to protect the rights of association members
28 without unduly impairing the ability of such associations to
29 perform their functions.

30 (2) The Legislature recognizes that it is not in the
31 best interest of homeowners' associations or the individual

1 association members thereof to create or impose a bureau or
2 other agency of state government to regulate the affairs of
3 homeowners' associations. Further, the Legislature recognizes
4 that certain contract rights have been created for the benefit
5 of homeowners' associations and members thereof before the
6 effective date of this act and that ss. 720.301-720.312 ~~ss.~~
7 ~~617.301-617.312~~ are not intended to impair such contract
8 rights, including, but not limited to, the rights of the
9 developer to complete the community as initially contemplated.

10 (3) Sections 720.301-720.312 ~~617.301-617.312~~ do not
11 apply to:

12 (a) A community that is composed ~~comprised~~ of property
13 primarily intended for commercial, industrial, or other
14 nonresidential use; or

15 (b) The commercial or industrial parcels in a
16 community that contains both residential parcels and parcels
17 intended for commercial or industrial use.

18 (4) Sections 720.301-720.312 ~~617.301-617.312~~ do not
19 apply to any association that is subject to regulation under
20 chapter 718, chapter 719, or chapter 721; or to any
21 nonmandatory association formed under chapter 723.

22 Section 46. Section 617.303, Florida Statutes, is
23 transferred and renumbered as section 720.303, Florida
24 Statutes, and amended to read:

25 720.303 ~~617.303~~ Association powers and duties;
26 meetings of board; official records; budgets; financial
27 reporting.--

28 (1) POWERS AND DUTIES.--An association which operates
29 a community as defined in s. 720.301 ~~s. 617.301~~, must be
30 operated by an association that is a Florida corporation.
31 After October 1, 1995, the association must be incorporated

1 and the initial governing documents must be recorded in the
2 official records of the county in which the community is
3 located. An association may operate more than one community.
4 The officers and directors of an association have a fiduciary
5 relationship to the members who are served by the association.
6 The powers and duties of an association include those set
7 forth in this chapter and, except as expressly limited or
8 restricted in this chapter, those set forth in the governing
9 documents. A member does not have authority to act for the
10 association by virtue of being a member. An association may
11 have more than one class of members and may issue membership
12 certificates.

13 (2) BOARD MEETINGS.--A meeting of the board of
14 directors of an association occurs whenever a quorum of the
15 board gathers to conduct association business. All meetings
16 of the board must be open to all members except for meetings
17 between the board and its attorney with respect to proposed or
18 pending litigation where the contents of the discussion would
19 otherwise be governed by the attorney-client privilege.
20 Notices of all board meetings must be posted in a conspicuous
21 place in the community at least 48 hours in advance of a
22 meeting, except in an emergency. In the alternative, if
23 notice is not posted in a conspicuous place in the community,
24 notice of each board meeting must be mailed or delivered to
25 each member at least 7 days before the meeting, except in an
26 emergency. Notwithstanding this general notice requirement,
27 for communities with more than 100 members, the bylaws may
28 provide for a reasonable alternative to posting or mailing of
29 notice for each board meeting, including publication of notice
30 or provision of a schedule of board meetings. An assessment
31 may not be levied at a board meeting unless the notice of the

1 meeting includes a statement that assessments will be
2 considered and the nature of the assessments. Directors may
3 not vote by proxy or by secret ballot at board meetings,
4 except that secret ballots may be used in the election of
5 officers. This subsection also applies to the meetings of any
6 committee or other similar body, when a final decision will be
7 made regarding the expenditure of association funds, and to
8 any body vested with the power to approve or disapprove
9 architectural decisions with respect to a specific parcel of
10 residential property owned by a member of the community.

11 (3) MINUTES.--Minutes of all meetings of the members
12 of an association and of the board of directors of an
13 association must be maintained in written form or in another
14 form that can be converted into written form within a
15 reasonable time. A vote or abstention from voting on each
16 matter voted upon for each director present at a board meeting
17 must be recorded in the minutes.

18 (4) OFFICIAL RECORDS.--The association shall maintain
19 each of the following items, when applicable, which constitute
20 the official records of the association:

21 (a) Copies of any plans, specifications, permits, and
22 warranties related to improvements constructed on the common
23 areas or other property that the association is obligated to
24 maintain, repair, or replace.

25 (b) A copy of the bylaws of the association and of
26 each amendment to the bylaws.

27 (c) A copy of the articles of incorporation of the
28 association and of each amendment thereto.

29 (d) A copy of the declaration of covenants and a copy
30 of each amendment thereto.

31

1 (e) A copy of the current rules of the homeowners'
2 association.

3 (f) The minutes of all meetings of the board of
4 directors and of the members, which minutes must be retained
5 for at least 7 years.

6 (g) A current roster of all members and their mailing
7 addresses and parcel identifications.

8 (h) All of the association's insurance policies or a
9 copy thereof, which policies must be retained for at least 7
10 years.

11 (i) A current copy of all contracts to which the
12 association is a party, including, without limitation, any
13 management agreement, lease, or other contract under which the
14 association has any obligation or responsibility. Bids
15 received by the association for work to be performed must also
16 be considered official records and must be kept for a period
17 of 1 year.

18 (j) The financial and accounting records of the
19 association, kept according to good accounting practices. All
20 financial and accounting records must be maintained for a
21 period of at least 7 years. The financial and accounting
22 records must include:

23 1. Accurate, itemized, and detailed records of all
24 receipts and expenditures.

25 2. A current account and a periodic statement of the
26 account for each member, designating the name and current
27 address of each member who is obligated to pay assessments,
28 the due date and amount of each assessment or other charge
29 against the member, the date and amount of each payment on the
30 account, and the balance due.

31

1 3. All tax returns, financial statements, and
2 financial reports of the association.

3 4. Any other records that identify, measure, record,
4 or communicate financial information.

5 (5) INSPECTION AND COPYING OF RECORDS.--The official
6 records shall be maintained within the state and must be open
7 to inspection and available for photocopying by members or
8 their authorized agents at reasonable times and places within
9 10 business days after receipt of a written request for
10 access. This subsection may be complied with by having a copy
11 of the official records available for inspection or copying in
12 the community.

13 (a) The failure of an association to provide access to
14 the records within 10 business days after receipt of a written
15 request creates a rebuttable presumption that the association
16 willfully failed to comply with this subsection.

17 (b) A member who is denied access to official records
18 is entitled to the actual damages or minimum damages for the
19 association's willful failure to comply with this subsection.
20 The minimum damages are to be \$50 per calendar day up to 10
21 days, the calculation to begin on the 11th business day after
22 receipt of the written request.

23 (c) The association may adopt reasonable written rules
24 governing the frequency, time, location, notice, and manner of
25 inspections, and may impose fees to cover the costs of
26 providing copies of the official records, including, without
27 limitation, the costs of copying. The association shall
28 maintain an adequate number of copies of the recorded
29 governing documents, to ensure their availability to members
30 and prospective members, and may charge only its actual costs
31

1 for reproducing and furnishing these documents to those
2 persons who are entitled to receive them.

3 (6) BUDGETS.--The association shall prepare an annual
4 budget. The budget must reflect the estimated revenues and
5 expenses for that year and the estimated surplus or deficit as
6 of the end of the current year. The budget must set out
7 separately all fees or charges for recreational amenities,
8 whether owned by the association, the developer, or another
9 person. The association shall provide each member with a copy
10 of the annual budget or a written notice that a copy of the
11 budget is available upon request at no charge to the member.
12 The copy must be provided to the member within the time limits
13 set forth in subsection (5).

14 (7) FINANCIAL REPORTING.--The association shall
15 prepare an annual financial report within 60 days after the
16 close of the fiscal year. The association shall, within the
17 time limits set forth in subsection (5), provide each member
18 with a copy of the annual financial report or a written notice
19 that a copy of the financial report is available upon request
20 at no charge to the member. The financial report must consist
21 of either:

22 (a) Financial statements presented in conformity with
23 generally accepted accounting principles; or

24 (b) A financial report of actual receipts and
25 expenditures, cash basis, which report must show:

26 1. The amount of receipts and expenditures by
27 classification; and

28 2. The beginning and ending cash balances of the
29 association.

30 (8) ASSOCIATION FUNDS; COMMINGLING.--

31

1 (a) All association funds held by a developer shall be
2 maintained separately in the association's name. Reserve and
3 operating funds of the association shall not be commingled
4 prior to turnover except the association may jointly invest
5 reserve funds; however, such jointly invested funds must be
6 accounted for separately.

7 (b) No developer in control of a homeowners'
8 association shall commingle any association funds with his or
9 her funds or with the funds of any other homeowners'
10 association or community association.

11 (9) APPLICABILITY.--Sections 617.1601-617.1604 do not
12 apply to a homeowners' association in which the members have
13 the inspection and copying rights set forth in this section.

14 Section 47. Section 617.306, Florida Statutes, is
15 transferred and renumbered as section 720.306, Florida
16 Statutes, and amended to read:

17 720.306 ~~617.306~~ Associations; meetings of members;
18 voting and election procedures; amendments.--

19 (1) QUORUM; AMENDMENTS.--

20 (a) Unless a lower number is provided in the bylaws,
21 the percentage of voting interests required to constitute a
22 quorum at a meeting of the members shall be 30 percent of the
23 total voting interests. Unless otherwise provided in this
24 chapter or in the articles of incorporation or bylaws,
25 decisions that require a vote of the members must be made by
26 the concurrence of at least a majority of the voting interests
27 present, in person or by proxy, at a meeting at which a quorum
28 has been attained.

29 (b) Unless otherwise provided in the governing
30 documents or required by law, and other than those matters set
31 forth in paragraph (c), any governing document of an

1 association may be amended by the affirmative vote of
2 two-thirds of the voting interests of the association.

3 (c) Unless otherwise provided in the governing
4 documents as originally recorded, an amendment may not affect
5 vested rights unless the record owner of the affected parcel
6 and all record owners of liens on the affected parcels join in
7 the execution of the amendment.

8 (2) ANNUAL MEETING.--The association shall hold a
9 meeting of its members annually for the transaction of any and
10 all proper business at a time, date, and place stated in, or
11 fixed in accordance with, the bylaws. The election of
12 directors, if one is required to be held, must be held at, or
13 in conjunction with, the annual meeting or as provided in the
14 governing documents.

15 (3) SPECIAL MEETINGS.--Special meetings must be held
16 when called by the board of directors or, unless a different
17 percentage is stated in the governing documents, by at least
18 10 percent of the total voting interests of the association.
19 Business conducted at a special meeting is limited to the
20 purposes described in the notice of the meeting.

21 (4) CONTENT OF NOTICE.--Unless law or the governing
22 documents require otherwise, notice of an annual meeting need
23 not include a description of the purpose or purposes for which
24 the meeting is called. Notice of a special meeting must
25 include a description of the purpose or purposes for which the
26 meeting is called.

27 (5) ADJOURNMENT.--Unless the bylaws require otherwise,
28 adjournment of an annual or special meeting to a different
29 date, time, or place must be announced at that meeting before
30 an adjournment is taken, or notice must be given of the new
31 date, time, or place pursuant to s. 720.303(2)~~s. 617.303(2)~~.

1 Any business that might have been transacted on the original
2 date of the meeting may be transacted at the adjourned
3 meeting. If a new record date for the adjourned meeting is or
4 must be fixed under s. 617.0707, notice of the adjourned
5 meeting must be given to persons who are entitled to vote and
6 are members as of the new record date but were not members as
7 of the previous record date.

8 (6) PROXY VOTING.--The members have the right, unless
9 otherwise provided in this subsection or in the governing
10 documents, to vote in person or by proxy. To be valid, a
11 proxy must be dated, must state the date, time, and place of
12 the meeting for which it was given, and must be signed by the
13 authorized person who executed the proxy. A proxy is
14 effective only for the specific meeting for which it was
15 originally given, as the meeting may lawfully be adjourned and
16 reconvened from time to time, and automatically expires 90
17 days after the date of the meeting for which it was originally
18 given. A proxy is revocable at any time at the pleasure of
19 the person who executes it. If the proxy form expressly so
20 provides, any proxy holder may appoint, in writing, a
21 substitute to act in his or her place.

22 (7) ELECTIONS.--Elections of directors must be
23 conducted in accordance with the procedures set forth in the
24 governing documents of the association. All members of the
25 association shall be eligible to serve on the board of
26 directors, and a member may nominate himself or herself as a
27 candidate for the board at a meeting where the election is to
28 be held. Except as otherwise provided in the governing
29 documents, boards of directors must be elected by a plurality
30 of the votes cast by eligible voters.

31

1 (8) RECORDING.--Any parcel owner may tape record or
2 videotape meetings of the board of directors and meetings of
3 the members. The board of directors of the association may
4 adopt reasonable rules governing the taping of meetings of the
5 board and the membership.

6 Section 48. Section 617.307, Florida Statutes, is
7 transferred and renumbered as section 720.307, Florida
8 Statutes, and amended to read:

9 720.307 ~~617.307~~ Transition of homeowners' association
10 control in a community.--With respect to homeowners'
11 associations ~~as defined in s. 617.301~~:

12 (1) Members other than the developer are entitled to
13 elect at least a majority of the members of the board of
14 directors of the homeowners' association when the earlier of
15 the following events occurs:

16 (a) Three months after 90 percent of the parcels in
17 all phases of the community that will ultimately be operated
18 by the homeowners' association have been conveyed to members;
19 or

20 (b) Such other percentage of the parcels has been
21 conveyed to members, or such other date or event has occurred,
22 as is set forth in the governing documents in order to comply
23 with the requirements of any governmentally chartered entity
24 with regard to the mortgage financing of parcels.

25
26 For purposes of this section, the term "members other than the
27 developer" shall not include builders, contractors, or others
28 who purchase a parcel for the purpose of constructing
29 improvements thereon for resale.

30 (2) The developer is entitled to elect at least one
31 member of the board of directors of the homeowners'

1 association as long as the developer holds for sale in the
2 ordinary course of business at least 5 percent of the parcels
3 in all phases of the community. After the developer
4 relinquishes control of the homeowners' association, the
5 developer may exercise the right to vote any developer-owned
6 voting interests in the same manner as any other member,
7 except for purposes of reacquiring control of the homeowners'
8 association or selecting the majority of the members of the
9 board of directors.

10 (3) At the time the members are entitled to elect at
11 least a majority of the board of directors of the homeowners'
12 association, the developer shall, at the developer's expense,
13 within no more than 90 days deliver the following documents to
14 the board:

15 (a) All deeds to common property owned by the
16 association.

17 (b) The original of the association's declarations of
18 covenants and restrictions.

19 (c) A certified copy of the articles of incorporation
20 of the association.

21 (d) A copy of the bylaws.

22 (e) The minute books, including all minutes.

23 (f) The books and records of the association.

24 (g) Policies, rules, and regulations, if any, which
25 have been adopted.

26 (h) Resignations of directors who are required to
27 resign because the developer is required to relinquish control
28 of the association.

29 (i) The financial records of the association from the
30 date of incorporation through the date of turnover.

31 (j) All association funds and control thereof.

- 1 (k) All tangible property of the association.
- 2 (l) A copy of all contracts which may be in force with
3 the association as one of the parties.
- 4 (m) A list of the names and addresses and telephone
5 numbers of all contractors, subcontractors, or others in the
6 current employ of the association.
- 7 (n) Any and all insurance policies in effect.
- 8 (o) Any permits issued to the association by
9 governmental entities.
- 10 (p) Any and all warranties in effect.
- 11 (q) A roster of current homeowners and their addresses
12 and telephone numbers and section and lot numbers.
- 13 (r) Employment and service contracts in effect.
- 14 (s) All other contracts in effect to which the
15 association is a party.

16 (4) This section does not apply to a homeowners'
17 association in existence on the effective date of this act, or
18 to a homeowners' association, no matter when created, if such
19 association is created in a community that is included in an
20 effective development-of-regional-impact development order as
21 of the effective date of this act, together with any approved
22 modifications thereof.

23 Section 49. Section 617.3075, Florida Statutes, is
24 transferred and renumbered as section 720.3075, Florida
25 Statutes, and amended to read:

26 720.3075 ~~617.3075~~ Prohibited clauses in homeowners'
27 association documents.--

28 (1) It is ~~hereby~~ declared that the public policy of
29 this state prohibits the inclusion or enforcement of certain
30 types of clauses in homeowners' association documents,
31 including declaration of covenants, articles of incorporation,

1 bylaws, or any other document of the association which binds
2 members of the association, which either have the effect of or
3 provide that:

4 (a) A developer has the unilateral ability and right
5 to make changes to the homeowners' association documents after
6 the transition of homeowners' association control in a
7 community from the developer to the nondeveloper members, as
8 set forth in s. 720.307 ~~s. 617.307~~, has occurred.

9 (b) A homeowners' association is prohibited or
10 restricted from filing a lawsuit against the developer, or the
11 homeowners' association is otherwise effectively prohibited or
12 restricted from bringing a lawsuit against the developer.

13 (c) After the transition of homeowners' association
14 control in a community from the developer to the nondeveloper
15 members, as set forth in s. 720.307 ~~s. 617.307~~, has occurred,
16 a developer is entitled to cast votes in an amount that
17 exceeds one vote per residential lot.

18
19 Such clauses are ~~hereby~~ declared null and void as against the
20 public policy of this state.

21 (2) The public policy described in subsection (1)
22 prohibits the inclusion or enforcement of such clauses created
23 on or after the effective date of section 3 of chapter 98-261,
24 Laws of Florida ~~this section~~.

25 Section 50. Section 617.311, Florida Statutes, is
26 transferred and renumbered as section 720.311, Florida
27 Statutes, and amended to read:

28 720.311 ~~617.311~~ Dispute resolution.--The Legislature
29 finds that alternative dispute resolution has made progress in
30 reducing court dockets and trials and in offering a more
31 efficient, cost-effective option to litigation. At any time

1 after the filing in a court of competent jurisdiction of a
2 complaint relating to a dispute under ss. 720.301-720.312 ~~ss.~~
3 ~~617.301-617.312~~, the court may order that the parties enter
4 mediation or arbitration procedures.

5 Section 51. Sections 617.304, 617.305, 617.308,
6 617.309, 617.31, and 617.312, Florida Statutes, are
7 transferred and renumbered as sections 720.304, 720.305,
8 720.308, 720.309, 720.31, and 720.312, Florida Statutes,
9 respectively.

10 Section 52. Subsection (6) of section 617.0601,
11 Florida Statutes, is amended to read:

12 617.0601 Members, generally.--

13 (6) Subsections (1), (2), (3), and (4) do not apply to
14 a corporation that is an association as defined in s. 720.301
15 ~~s. 617.301~~.

16 Section 53. Subsection (6) of section 617.0701,
17 Florida Statutes, is amended to read:

18 617.0701 Meetings of members, generally; failure to
19 hold annual meeting; special meeting; consent to corporate
20 actions without meetings; waiver of notice of meetings.--

21 (6) Subsections (1) and (3) do not apply to any
22 corporation that is an association as defined in s. 720.301 ~~s.~~
23 ~~617.301~~.

24 Section 54. Subsection (6) of section 617.0721,
25 Florida Statutes, is amended to read:

26 617.0721 Voting by members.--

27 (6) Subsections (1), (2), (4), and (5) do not apply to
28 a corporation that is an association as defined in s. 720.301
29 ~~s. 617.301~~.

30 Section 55. Section 617.0831, Florida Statutes, is
31 amended to read:

1 617.0831 Indemnification and liability of officers,
2 directors, employees, and agents.--Except as provided in s.
3 617.0834, ss. 607.0831 and 607.0850 apply to a corporation
4 organized under this act and a rural electric cooperative
5 organized under chapter 425. Any reference to "directors" in
6 those sections includes the directors, managers, or trustees
7 of a corporation organized under this act or of a rural
8 electric cooperative organized under chapter 425. However, the
9 term "director" as used in ss. 607.0831 and 607.0850 does not
10 include a director appointed by the developer to the board of
11 directors of a condominium association under chapter 718, a
12 cooperative association under chapter 719, a homeowners'
13 association defined in s. 720.301 ~~s. 617.301~~, or a timeshare
14 managing entity under chapter 721. Any reference to
15 "shareholders" in those sections includes members of a
16 corporation organized under this act and members of a rural
17 electric cooperative organized under chapter 425.

18 Section 56. Subsection (4) of section 712.01, Florida
19 Statutes, is amended to read:

20 712.01 Definitions.--As used in this law:

21 (4) The term "homeowners' association" means a
22 homeowners' association as defined in s. 720.301 ~~s.~~
23 ~~617.301(7)~~, or an association of parcel owners which is
24 authorized to enforce use restrictions that are imposed on the
25 parcels.

26 Section 57. Subsection (1) of section 723.0751,
27 Florida Statutes, is amended to read:

28 723.0751 Mobile home subdivision homeowners'
29 association.--

30 (1) In the event that no homeowners' association has
31 been created pursuant to ss. 720.301-720.312 ~~ss.~~

1 ~~617.301-617.312~~ to operate a mobile home subdivision, the
2 owners of lots in such mobile home subdivision shall be
3 authorized to create a mobile home subdivision homeowners'
4 association in the manner prescribed in ss. 723.075, 723.076,
5 and 723.078 which shall have the powers and duties, to the
6 extent applicable, set forth in ss. 723.002(2) and 723.074.

7 Section 58. Subsection (5) of section 849.085, Florida
8 Statutes, is amended to read:

9 849.085 Certain penny-ante games not crimes;
10 restrictions.--

11 (5) The conduct of any penny-ante game within the
12 common elements or common area of a condominium, cooperative,
13 residential subdivision, or mobile home park or the conduct of
14 any penny-ante game within the dwelling of an eligible
15 organization as defined in subsection (2) or within a publicly
16 owned community center owned by a municipality or county
17 creates no civil liability for damages arising from the
18 penny-ante game on the part of a condominium association,
19 cooperative association, a homeowners' association as defined
20 in s. 720.301 ~~s. 617.301~~, mobile home owner's association,
21 dwelling owner, or municipality or county or on the part of a
22 unit owner who was not a participant in the game.

23 Section 59. Subsection (4) and paragraph (e) of
24 subsection (11) of section 849.0931, Florida Statutes, are
25 amended to read:

26 849.0931 Bingo authorized; conditions for conduct;
27 permitted uses of proceeds; limitations.--

28 (4) The right of a condominium association, a
29 cooperative association, a homeowners' association as defined
30 in s. 702.301 ~~s. 617.301~~, a mobile home owners' association, a
31 group of residents of a mobile home park as defined in chapter

1 723, or a group of residents of a mobile home park or
2 recreational vehicle park as defined in chapter 513 to conduct
3 bingo is conditioned upon the return of the net proceeds from
4 such games to players in the form of prizes after having
5 deducted the actual business expenses for such games for
6 articles designed for and essential to the operation, conduct,
7 and playing of bingo. Any net proceeds remaining after paying
8 prizes may be donated by the association to a charitable,
9 nonprofit, or veterans' organization which is exempt from
10 federal income tax under the provisions of s. 501(c) of the
11 Internal Revenue Code to be used in such recipient
12 organization's charitable, civic, community, benevolent,
13 religious, or scholastic works or similar activities or, in
14 the alternative, such remaining proceeds shall be used as
15 specified in subsection (3).

16 (11) Bingo games may be held only on the following
17 premises:

18 (e) With respect to bingo games conducted by a
19 condominium association, a cooperative association, a
20 homeowners' association as defined in s. 720.301 ~~s. 617.301~~, a
21 mobile home owners' association, a group of residents of a
22 mobile home park as defined in chapter 723, or a group of
23 residents of a mobile home park or recreational vehicle park
24 as defined in chapter 513, property owned by the association,
25 property owned by the residents of the mobile home park or
26 recreational vehicle park, or property which is a common area
27 located within the condominium, mobile home park, or
28 recreational vehicle park.

29 Section 60. Section 849.094, Florida Statutes, is
30 amended to read:

31

1 849.094 Game promotion in connection with sale of
2 consumer products or services.--

3 (1) As used in this section, the term:

4 (a) "Game promotion" means, but is not limited to, a
5 contest, game of chance, or gift enterprise, conducted within
6 or throughout the state and other states in connection with
7 the sale of consumer products or services, and in which the
8 elements of chance and prize are present. However, "game
9 promotion" shall not be construed to apply to bingo games
10 conducted pursuant to s. 849.0931.

11 (b) "Operator" means any person, firm, corporation, or
12 association or agent or employee thereof who promotes,
13 operates, or conducts a game promotion, except any charitable
14 nonprofit organization.

15 (2) It is unlawful for any operator:

16 (a) To design, engage in, promote, or conduct such a
17 game promotion, in connection with the promotion or sale of
18 consumer products or services, wherein the winner may be
19 predetermined or the game may be manipulated or rigged so as
20 to:

21 1. Allocate a winning game or any portion thereof to
22 certain lessees, agents, or franchises; or

23 2. Allocate a winning game or part thereof to a
24 particular period of the game promotion or to a particular
25 geographic area;

26 (b) Arbitrarily to remove, disqualify, disallow, or
27 reject any entry;

28 (c) To fail to award prizes offered;

29 (d) To print, publish, or circulate literature or
30 advertising material used in connection with such game
31 promotions which is false, deceptive, or misleading; or

1 (e) To require an entry fee, payment, or proof of
2 purchase as a condition of entering a game promotion.

3 (3) The operator of a game promotion in which the
4 total announced value of the prizes offered is greater than
5 \$5,000 shall file with the Department of Agriculture and
6 Consumer Services ~~State~~ a copy of the rules and regulations of
7 the game promotion and a list of all prizes and prize
8 categories offered at least 7 days before the commencement of
9 the game promotion. Such rules and regulations may not
10 thereafter be changed, modified, or altered. The operator of
11 a game promotion shall conspicuously post the rules and
12 regulations of such game promotion in each and every retail
13 outlet or place where such game promotion may be played or
14 participated in by the public and shall also publish the rules
15 and regulations in all advertising copy used in connection
16 therewith. Radio and television announcements may indicate
17 that the rules and regulations are available at retail outlets
18 or from the operator of the promotion. A nonrefundable filing
19 fee of \$100 shall accompany each filing and shall be ~~deposited~~
20 ~~into the Division of Licensing Trust Fund to be~~ used to pay
21 the costs incurred in administering and enforcing the
22 provisions of this section.

23 (4)(a) Every operator of such a game promotion in
24 which the total announced value of the prizes offered is
25 greater than \$5,000 shall establish a trust account, in a
26 national or state-chartered financial institution, with a
27 balance sufficient to pay or purchase the total value of all
28 prizes offered. On a form supplied by the Department of
29 Agriculture and Consumer Services ~~State~~, an official of the
30 financial institution holding the trust account shall set
31 forth the dollar amount of the trust account, the identity of

1 the entity or individual establishing the trust account, and
2 the name of the game promotion for which the trust account has
3 been established. Such form shall be filed with the
4 Department of Agriculture and Consumer Services ~~State~~ at least
5 7 days in advance of the commencement of the game promotion.
6 In lieu of establishing such trust account, the operator may
7 obtain a surety bond in an amount equivalent to the total
8 value of all prizes offered; and such bond shall be filed with
9 the Department of Agriculture and Consumer Services ~~State~~ at
10 least 7 days in advance of the commencement of the game
11 promotion.

12 1. The moneys held in the trust account may be
13 withdrawn in order to pay the prizes offered only upon
14 certification to the Department of Agriculture and Consumer
15 Services ~~State~~ of the name of the winner or winners and the
16 amount of the prize or prizes and the value thereof.

17 2. If the operator of a game promotion has obtained a
18 surety bond in lieu of establishing a trust account, the
19 amount of the surety bond shall equal at all times the total
20 amount of the prizes offered.

21 (b) The Department of Agriculture and Consumer
22 Services ~~State~~ may waive the provisions of this subsection for
23 any operator who has conducted game promotions in the state
24 for not less than 5 consecutive years and who has not had any
25 civil, criminal, or administrative action instituted against
26 him or her by the state or an agency of the state for
27 violation of this section within that 5-year period. Such
28 waiver may be revoked upon the commission of a violation of
29 this section by such operator, as determined by the Department
30 of Agriculture and Consumer Services ~~State~~.

31

1 (5) Every operator of a game promotion in which the
2 total announced value of the prizes offered is greater than
3 \$5,000 shall provide the Department of Agriculture and
4 Consumer Services ~~State~~ with a certified list of the names and
5 addresses of all persons, whether from this state or from
6 another state, who have won prizes which have a value of more
7 than \$25, the value of such prizes, and the dates when the
8 prizes were won within 60 days after such winners have been
9 finally determined. The operator shall provide a copy of the
10 list of winners, without charge, to any person who requests
11 it. In lieu of the foregoing, the operator of a game
12 promotion may, at his or her option, publish the same
13 information about the winners in a Florida newspaper of
14 general circulation within 60 days after such winners have
15 been determined and shall provide to the Department of
16 Agriculture and Consumer Services ~~State~~ a certified copy of
17 the publication containing the information about the winners.
18 The operator of a game promotion is not required to notify a
19 winner by mail or by telephone when the winner is already in
20 possession of a game card from which the winner can determine
21 that he or she has won a designated prize. All winning
22 entries shall be held by the operator for a period of 90 days
23 after the close or completion of the game.

24 (6) The Department of Agriculture and Consumer
25 Services ~~State~~ shall keep the certified list of winners for a
26 period of at least 6 months after receipt of the certified
27 list. The department thereafter may dispose of all records and
28 lists.

29 (7) No operator shall force, directly or indirectly, a
30 lessee, agent, or franchise dealer to purchase or participate
31 in any game promotion. For the purpose of this section,

1 coercion or force shall be presumed in these circumstances in
2 which a course of business extending over a period of 1 year
3 or longer is materially changed coincident with a failure or
4 refusal of a lessee, agent, or franchise dealer to participate
5 in such game promotions. Such force or coercion shall further
6 be presumed when an operator advertises generally that game
7 promotions are available at its lessee dealers or agent
8 dealers.

9 (8)(a) The Department of Agriculture and Consumer
10 Services ~~State~~ shall have the power to promulgate such rules
11 and regulations respecting the operation of game promotions as
12 it may deem advisable.

13 (b) Whenever the Department of Agriculture and
14 Consumer Services ~~State~~ or the Department of Legal Affairs has
15 reason to believe that a game promotion is being operated in
16 violation of this 2ection, it may bring an action in the
17 circuit court of any judicial circuit in which the game
18 promotion is being operated in the name and on behalf of the
19 people of the state against any operator thereof to enjoin the
20 continued operation of such game promotion anywhere within the
21 state.

22 (9)(a) Any person, firm, or corporation, or
23 association or agent or employee thereof, who engages in any
24 acts or practices stated in this section to be unlawful, or
25 who violates any of the rules and regulations made pursuant to
26 this section, is guilty of a misdemeanor of the second degree,
27 punishable as provided in s. 775.082 or s. 775.083.

28 (b) Any person, firm, corporation, association, agent,
29 or employee who violates any provision of this section or any
30 of the rules and regulations made pursuant to this section
31 shall be liable for a civil penalty of not more than \$1,000

1 for each such violation, which shall accrue to the state and
2 may be recovered in a civil action brought by the Department
3 of Agriculture and Consumer Services ~~State~~ or the Department
4 of Legal Affairs.

5 (10) This section does not apply to actions or
6 transactions regulated by the Department of Business and
7 Professional Regulation or to the activities of nonprofit
8 organizations or to any other organization engaged in any
9 enterprise other than the sale of consumer products or
10 services. Subsections (3), (4), (5), (6), and (7) and
11 paragraph (8)(a) and any of the rules made pursuant thereto do
12 not apply to television or radio broadcasting companies
13 licensed by the Federal Communications Commission.

14 Section 61. Subsection (2) of section 790.06, Florida
15 Statutes, is amended to read:

16 790.06 License to carry concealed weapon or firearm.--

17 (2) The Department of State shall issue a license if
18 the applicant:

19 (a) Is a resident of the United States or is a
20 consular security official of a foreign government that
21 maintains diplomatic relations and treaties of commerce,
22 friendship, and navigation with the United States and is
23 certified as such by the foreign government and by the
24 appropriate embassy in this country;

25 (b) Is 21 years of age or older;

26 (c) Does not suffer from a physical infirmity which
27 prevents the safe handling of a weapon or firearm;

28 (d) Is not ineligible to possess a firearm pursuant to
29 s. 790.23 by virtue of having been convicted of a felony;

30 (e) Has not been committed for the abuse of a
31 controlled substance or been found guilty of a crime under the

1 provisions of chapter 893 or similar laws of any other state
2 relating to controlled substances within a 3-year period
3 immediately preceding the date on which the application is
4 submitted;

5 (f) Does not chronically and habitually use alcoholic
6 beverages or other substances to the extent that his or her
7 normal faculties are impaired. It shall be presumed that an
8 applicant chronically and habitually uses alcoholic beverages
9 or other substances to the extent that his or her normal
10 faculties are impaired if the applicant has been committed
11 under chapter 397 or under the provisions of former chapter
12 396 or has been convicted under s. 790.151 or has been deemed
13 a habitual offender under s. 856.011(3), or has had two or
14 more convictions under s. 316.193 or similar laws of any other
15 state, within the 3-year period immediately preceding the date
16 on which the application is submitted;

17 (g) Desires a legal means to carry a concealed weapon
18 or firearm for lawful self-defense;

19 (h) Demonstrates competence with a firearm by any one
20 of the following:

21 1. Completion of any hunter education or hunter safety
22 course approved by the Fish and Wildlife Conservation
23 Commission or a similar agency of another state;

24 2. Completion of any National Rifle Association
25 firearms safety or training course;

26 3. Completion of any firearms safety or training
27 course or class available to the general public offered by a
28 law enforcement, junior college, college, or private or public
29 institution or organization or firearms training school,
30 utilizing instructors certified by the National Rifle
31

1 Association, Criminal Justice Standards and Training
2 Commission, or the Department of State;
3 4. Completion of any law enforcement firearms safety
4 or training course or class offered for security guards,
5 investigators, special deputies, or any division or
6 subdivision of law enforcement or security enforcement;
7 5. Presents evidence of equivalent experience with a
8 firearm through participation in organized shooting
9 competition or military service;
10 6. Is licensed or has been licensed to carry a firearm
11 in this state or a county or municipality of this state,
12 unless such license has been revoked for cause; or
13 7. Completion of any firearms training or safety
14 course or class conducted by a state-certified or National
15 Rifle Association certified firearms instructor;
16
17 A photocopy of a certificate of completion of any of the
18 courses or classes; or an affidavit from the instructor,
19 school, club, organization, or group that conducted or taught
20 said course or class attesting to the completion of the course
21 or class by the applicant; or a copy of any document which
22 shows completion of the course or class or evidences
23 participation in firearms competition shall constitute
24 evidence of qualification under this paragraph; any person who
25 conducts a course pursuant to subparagraph 2., subparagraph
26 3., or subparagraph 7., or who, as an instructor, attests to
27 the completion of such courses, must maintain records
28 certifying that he or she observed the student safely handle
29 and discharge the firearm;
30 (i) Has not been adjudicated an incapacitated person
31 under s. 744.331, or similar laws of any other state, unless 5

1 years have elapsed since the applicant's restoration to
2 capacity by court order;

3 (j) Has not been committed to a mental institution
4 under chapter 394, or similar laws of any other state, unless
5 the applicant produces a certificate from a licensed
6 psychiatrist that he or she has not suffered from disability
7 for at least 5 years prior to the date of submission of the
8 application;

9 (k) Has not had adjudication of guilt withheld or
10 imposition of sentence suspended on any felony or misdemeanor
11 crime of domestic violence unless 3 years have elapsed since
12 probation or any other conditions set by the court have been
13 fulfilled, or the record has been sealed or expunged; ~~and~~

14 (l) Has not been issued an injunction that is
15 currently in force and effect and that restrains the applicant
16 from committing acts of domestic violence or acts of repeat
17 violence; ~~and~~.

18 (m) Is not prohibited from purchasing or possessing a
19 firearm by any other provision of Florida or federal law.

20 Section 62. Present subsections (14) through (18) of
21 section 266.0016, Florida Statutes, are renumbered as
22 subsections (15) through (19), respectively, subsection (15)
23 is amended, and a new subsection (14) is added to said
24 section, to read:

25 266.0016 Powers of the board.--The department shall
26 monitor the effectiveness of all programs of the board and
27 oversee the board to ensure that it complies with state laws
28 and rules. The board is the governing body and shall exercise
29 those powers delegated to it by the department. These
30 delegated powers shall include, but not be limited to, the
31 power to:

1 (14) Enter into agreements to accept credit card
2 payments as compensation, and establish accounts in credit
3 card banks for the deposit of credit card sales invoices.

4 (15)(a)~~(14)~~ Fix and collect charges for admission to
5 any of the facilities operated and maintained by the board
6 under the provisions of ss. 266.0011-266.0018.~~and~~

7 (b) Permit the acceptance of tour vouchers issued by
8 tour organizations or travel agents for payment of admissions.

9 (c) Adopt and enforce reasonable rules to govern the
10 conduct of the visiting public.

11
12 Any power delegated by the department pursuant to this section
13 may be revoked by the department at any time if, in the
14 department's determination, the board is not exercising a
15 delegated power in accordance with department rules and
16 policies or in the best interest of the state.

17 Section 63. (1) The Division of Historical Resources
18 of the Department of State and the Historic Pensacola
19 Preservation Board of Trustees, in conjunction with
20 representatives from West Florida counties, municipalities,
21 and postsecondary educational institutions, shall develop a
22 regionally based plan for the protection, preservation,
23 restoration, and promotion of sites, objects, and landmarks of
24 historical significance to West Florida and to the state. The
25 plan shall include, but not be limited to, the following:

26 (a) Identification of the needs, including financial
27 needs, of the region for the protection, preservation,
28 restoration, and promotion of historically significant sites,
29 objects, and landmarks.

30 (b) Consideration and evaluation of and
31 recommendations regarding the long-term management of those

1 historic resources currently under the Historic Pensacola
2 Preservation Board of Trustees.

3 (c) Consideration and evaluation of and
4 recommendations regarding the establishment of a West Florida
5 Museum of History to serve as the center for historic
6 protection, preservation, restoration, and promotion in the
7 region.

8 (d) Recommendations for local and regional
9 initiatives.

10 (e) Recommendations for statutory changes and budget
11 considerations.

12 (2) The plan shall be submitted to the President of
13 the Senate and the Speaker of the House of Representatives no
14 later than January 1, 2001.

15 Section 64. The Secretary of State shall review the
16 Florida Statutes, identify any provisions relating to the
17 performance of constitutional or cabinet duties of the
18 Secretary of State, and recommend changes to those sections of
19 law to the President of the Senate and the Speaker of the
20 House of Representatives by January 1, 2002.

21 Section 65. The John and Mable Ringling Museum of Art
22 is transferred from the Board of Trustees of the John and
23 Mable Ringling Museum of Art in the Department of State to the
24 Florida State University.

25 Section 66. Section 240.711, Florida Statutes, is
26 created to read:

27 240.711 Ringling Center for Cultural Arts.--

28 (1) The Florida State University Ringling Center for
29 Cultural Arts is created. The center consists of the following
30 properties located in Sarasota County:

31

1 (a) The John and Mable Ringling Museum of Art composed
2 of:

3 1. The art museum;

4 2. The Ca' d'Zan (the Ringling residence); and

5 3. The Ringling Museum of the Circus.

6 (b) The Florida State University Center for the Fine
7 and Performing Arts, including the Asolo Theater and the
8 Florida State University Center for the Performing Arts, both
9 of which shall provide for academic programs in theatre,
10 dance, art, art history, and museum management.

11
12 The center shall be operated by the Florida State University,
13 which shall be charged with encouraging participation by K-12
14 schools and by other colleges and universities, public and
15 private, in the educational and cultural enrichment programs
16 of the center.

17 (2)(a) The John and Mable Ringling Museum of Arts is
18 designated as the official Art Museum of the State of Florida.
19 The purpose and function of the museum is to maintain and
20 preserve all objects of art and artifacts donated to the state
21 through the will of John Ringling; to acquire and preserve
22 objects of art or artifacts of historical or cultural
23 significance; to exhibit such objects to the public; to
24 undertake scholarly research and publication, including that
25 relating to the collection; to provide educational programs
26 for students at K-12 schools and those in college and graduate
27 school and enrichment programs for children and adults; to
28 assist other museums in the state and nation through education
29 programs and through loaning objects from the collection when
30 such loans do not threaten the safety and security of the
31 objects; to enhance knowledge and appreciation of the

1 collection; and to engage in other activities related to
2 visual arts which benefit the public. The museum shall also
3 engage in programs on the national and international level to
4 enhance further the cultural resources of the state.

5 (b) The Florida State University shall approve a John
6 and Mable Ringling Museum of Art direct-support organization.
7 Such direct-support organization shall consist of no more than
8 31 members appointed by the president of the university from a
9 list of nominees provided by the Ringling direct-support
10 organization. No fewer than one-third of the members must be
11 residents of Sarasota and Manatee Counties, and the remaining
12 members may reside elsewhere. The current members of the Board
13 of Trustees of the John and Mable Ringling Museum of Art may
14 be members of the direct-support organization. They shall
15 develop a charter and by-laws to govern their operation, and
16 these shall be subject to approval by the Florida State
17 University.

18 (c) The John and Mable Ringling Museum of Art
19 direct-support organization, operating under the charter and
20 by-laws and such contracts as are approved by the university,
21 shall set policies to maintain and preserve the collections of
22 the Art Museum; the Circus Museum; the furnishings and objects
23 in the Ringling home, referred as the Ca' d'Zan; and other
24 objects of art and artifacts in the custody of the museum.
25 Title to all such collections, art objects, and artifacts of
26 the museums and its facilities shall remain with the Florida
27 State University, which shall assign state registration
28 numbers to, and conduct annual inventories of, all such
29 properties. The direct-support organization shall develop
30 policy for the museum, subject to the provisions of the John
31 Ringling will and the overall direction of the president of

1 the university; and it is invested with power and authority to
2 nominate a museum director who is appointed by and serves at
3 the pleasure of the president of the university and shall
4 report to the provost of the university or his or her
5 designee. The museum director, with the approval of the
6 provost or his or her designee, shall appoint other employees
7 in accordance with Florida Statutes and rules; remove the same
8 in accordance with Florida Statutes and rules; provide for the
9 proper keeping of accounts and records and budgeting of funds;
10 enter into contracts for professional programs of the museum
11 and for the support and maintenance of the museum; secure
12 public liability insurance; and do and perform every other
13 matter or thing requisite to the proper management,
14 maintenance, support, and control of the museum at the highest
15 efficiency economically possible, while taking into
16 consideration the purposes of the museum.

17 (d) Notwithstanding the provision of s. 287.057, the
18 John and Mable Ringling Museum of Art direct-support
19 organization may enter into contracts or agreements with or
20 without competitive bidding, in its discretion, for the
21 restoration of objects of art in the museum collection or for
22 the purchase of objects of art that are to be added to the
23 collection.

24 (e) Notwithstanding s. 273.055, the university may
25 sell any art object in the museum collection, which object has
26 been acquired after 1936, if the director and the
27 direct-support organization recommend such sale to the
28 president of the university and if they first determine that
29 the object is no longer appropriate for the collection. The
30 proceeds of the sale shall be deposited in the Ringling Museum
31 Art Acquisition, Restoration, and Conservation Trust Fund. The

1 university also may exchange any art object in the collection,
2 which object has been acquired after 1936, for an art object
3 or objects that the director and the museum direct-support
4 organization recommend to the university after judging these
5 to be of equivalent or greater value to the museum.

6 (f) An employee or member of the museum direct-support
7 organization may not receive a commission, fee, or financial
8 benefit in connection with the sale or exchange of a work of
9 art and may not be a business associate of any individual,
10 firm, or organization involved in the sale or exchange.

11 (g) The university, in consultation with the
12 direct-support organization, shall establish policies and may
13 adopt rules for the sale or exchange of works of art.

14 (h) The John and Mable Ringling Museum of Art
15 direct-support organization shall cause an annual audit of its
16 financial accounts to be conducted by an independent certified
17 public accountant, performed in accordance with generally
18 accepted accounting standards. Florida State University is
19 authorized to require and receive from the direct-support
20 organization, or from its independent auditor, any detail or
21 supplemental data relative to the operation of such
22 organization. Information that, if released, would identify
23 donors who desire to remain anonymous, is confidential and
24 exempt from the provisions of s. 119.07(1). Information that,
25 if released, would identify prospective donors is confidential
26 and exempt from the provisions of s. 119.07(1) when the
27 direct-support organization has identified the prospective
28 donor itself and has not obtained the name of the prospective
29 donor by copying, purchasing, or borrowing names from another
30 organization or source. Identities of such donors and

31

1 prospective donors shall not be revealed in the auditor's
2 report.

3 (i) The direct-support organization is given authority
4 to make temporary loans of paintings and other objects of art
5 or artifacts belonging to the John and Mable Ringling Museum
6 of Art for the purpose of public exhibition in art museums,
7 other museums, or institutions of higher learning wherever
8 located, including such museums or institutions in other
9 states or countries. Temporary loans may also be made to the
10 executive mansion in Tallahassee, chapters and affiliates of
11 the John and Mable Ringling Museum of Art, and, for education
12 purposes, to schools, public libraries, or other institutions
13 in the state, if such exhibition will benefit the general
14 public as the university deems wise and for the best interest
15 of the John and Mable Ringling Museum of Art and under
16 policies established by Florida State University for the
17 protection of the paintings and other objects of art and
18 artifacts. In making temporary loans, the direct-support
19 organization shall give first preference to art museums, other
20 museums, and institutions of higher learning.

21 (j) Notwithstanding any other provision of law, the
22 John and Mable Ringling Museum of Art direct-support
23 organization is eligible to match state funds in the Major
24 Gifts Trust Fund established pursuant to s. 240.2605 as
25 follows:

26 1. For the first \$1,353,750, matching shall be on the
27 basis of 75 cents in state matching for each dollar of private
28 funds.

29 2. For additional funds, matching shall be provided on
30 the same basis as is authorized in s. 240.2605.

31

1 Section 67. Sections 265.26 and 265.261, Florida
2 Statutes, are repealed.

3 Section 68. Paragraph (e) of subsection (1) of section
4 265.2861, Florida Statutes, is amended to read:

5 265.2861 Cultural Institutions Program; trust fund.--

6 (1) CULTURAL INSTITUTIONS TRUST FUND.--There is
7 created a Cultural Institutions Trust Fund to be administered
8 by the Department of State for the purposes set forth in this
9 section and to support the following programs as follows:

10 (e) For the officially designated Art Museum of the
11 State of Florida described in s. 240.711, \$2.2 million, and
12 for state-owned cultural facilities assigned to the Department
13 of State, which receive a portion of any operating funds from
14 the Department of State and one of the primary purposes of
15 which is the presentation of fine arts or performing arts,
16 \$500,000 not less than \$2.2 million.

17
18 The trust fund shall consist of moneys appropriated by the
19 Legislature, moneys deposited pursuant to s. 607.1901(2), and
20 moneys contributed to the fund from any other source.

21 Section 69. Subsection (11) of section 565.02, Florida
22 Statutes, is amended to read:

23 565.02 License fees; vendors; clubs; caterers; and
24 others.--

25 (11) The ~~Board of Trustees of the~~ John and Mable
26 Ringling Museum of Art direct-support organization may obtain
27 a license upon the payment of an annual license tax of \$400.
28 Such license shall permit sales for consumption on the
29 premises of the museum in conjunction with artistic,
30 educational, cultural, civic, or charitable events held on the
31 premises of the museum under the auspices or authorization of

1 the licensee. The issuing of a license under this subsection
2 is not subject to any quota or limitation, except that the
3 license shall be issued only to the direct-support
4 organization ~~board of trustees~~ of the museum or its ~~the~~
5 ~~board's~~ designee. Except as otherwise provided in this
6 subsection, the entity licensed hereunder shall be treated as
7 a vendor licensed to sell by the drink the beverages mentioned
8 herein and shall be subject to all provisions relating to such
9 vendors.

10 Section 70. Sections 58, 59, and 60 of this act shall
11 take effect July 1, 2001.

12 Section 71. Except as otherwise provided in this act,
13 this act shall take effect July 1, 2000.

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