

1 A bill to be entitled
2 An act relating to regulation of professions
3 under the Department of Business and
4 Professional Regulation; amending s. 310.071,
5 F.S.; providing for disqualification from
6 applying for and denial of deputy pilot
7 certification for being found guilty of, or
8 having pled guilty or nolo contendere to,
9 certain crimes; amending s. 310.151, F.S.;
10 providing for deposit and disposition of
11 amounts received from imposition of pilotage
12 rates pending rendition of a final order
13 regarding such rates; amending s. 310.151,
14 F.S.; revising and providing factors to
15 consider in the determination of rates of
16 pilotage; amending s. 120.80, F.S.; providing
17 requirements regarding an administrative law
18 judge's recommended order in a dispute relating
19 to action or proposed action of the Pilotage
20 Rate Review Board; amending s. 455.211, F.S.;
21 requiring department concurrence with certain
22 board rulemaking; amending s. 455.217, F.S.;
23 revising provisions relating to translation of
24 examinations; amending s. 455.2179, F.S.;
25 providing for approval of continuing education
26 providers; providing fees; providing rulemaking
27 authority; amending s. 455.219, F.S., and
28 repealing subsection (3), relating to fees
29 required for approval as a continuing education
30 provider; authorizing the department to adopt
31 rules to provide for waiver of license renewal

1 fees under certain circumstances and for a
2 limited period and to advance funds to the
3 Florida State Boxing Commission when operating
4 with a negative cash balance; creating s.
5 455.32, F.S.; creating the Management
6 Privatization Act; providing definitions;
7 authorizing the department to contract with a
8 corporation or other business entity to perform
9 support services specified pursuant to
10 contract; providing contract requirements;
11 providing corporation powers and
12 responsibilities; establishing reporting and
13 audit requirements; providing for future review
14 and repeal; amending s. 468.382, F.S.; defining
15 "absolute auction"; amending s. 468.385, F.S.;
16 revising requirements relating to the conduct,
17 administration, approval, and scope of the
18 examination for licensure as an auctioneer;
19 specifying that an auction may only be
20 conducted by an active licensee; creating s.
21 468.3855, F.S.; providing requirements for
22 auctioneer apprentices; amending s. 468.388,
23 F.S.; adding requirements and responsibilities
24 relating to the conduct of an auction; deleting
25 exceptions from a requirement that auctions be
26 conducted pursuant to a written agreement;
27 amending s. 468.389, F.S.; providing for
28 disciplinary action against licensees who fail
29 to account for certain property; providing
30 penalties; reenacting ss. 468.385(3)(b) and
31 468.391, F.S., relating to licensure as an

1 auctioneer and to a criminal penalty,
 2 respectively, to incorporate the amendment to
 3 s. 468.389, F.S., in references thereto;
 4 amending s. 468.392, F.S.; authorizing the
 5 designee of the Secretary of Business and
 6 Professional Regulation to sign vouchers for
 7 payment or disbursement from the Auctioneer
 8 Recovery Fund; amending s. 468.395, F.S.;
 9 revising conditions of recovery from the
 10 Auctioneer Recovery Fund; providing for
 11 recovery from the fund pursuant to an order
 12 issued by the Florida Board of Auctioneers;
 13 deleting a requirement that notice be given to
 14 the board at the time action is commenced;
 15 providing limitations on bringing claims for
 16 certain acts; providing subrogation rights for
 17 the fund; amending s. 468.397, F.S., relating
 18 to payment of claim; correcting language;
 19 amending s. 468.433, F.S.; revising
 20 requirements for licensure as a community
 21 association manager, to include certain
 22 prelicensure education; providing for provider
 23 approval, including fees; repealing s.
 24 468.525(3)(h), F.S., relating to a prohibition
 25 on employee leasing companies and groups from
 26 including employees who engage in services or
 27 arrangements that are not within the definition
 28 of employee leasing; amending s. 468.526, F.S.;
 29 modifying qualifications for licensure as an
 30 employee leasing company group; amending s.
 31 468.531, F.S.; providing prohibitions against

1 offering to practice employee leasing without
2 being licensed and against the use of certain
3 titles relating to employee leasing without
4 being registered; providing penalties; amending
5 s. 470.005, F.S.; providing rulemaking
6 authority to the Board of Funeral Directors and
7 Embalmers relating to inspection of direct
8 disposal establishments, funeral
9 establishments, and cinerator facilities and
10 the records of each establishment or facility;
11 amending s. 470.015, F.S.; requiring board
12 approval of continuing education providers;
13 revising provisions relating to continuing
14 education hours; amending ss. 470.016 and
15 470.018, F.S.; revising provisions relating to
16 continuing education hours; amending s.
17 470.017, F.S.; revising provisions relating to
18 registration as a direct disposer, including
19 fee-setting responsibility; prohibiting the
20 department from issuing future registrations;
21 amending s. 470.021, F.S.; prohibiting
22 colocation of certain direct disposal
23 establishments with more than one funeral
24 establishment or direct disposal establishment;
25 amending s. 470.028, F.S.; revising provisions
26 relating to registration of agents for preneed
27 sales; amending s. 470.0301, F.S.; revising
28 provisions relating to registration of
29 centralized embalming facilities to provide for
30 operating procedures; providing requirements
31 for full-time embalmers in charge; amending ss.

1 471.003, 471.0035, 471.011, 471.023, and
2 471.037, F.S.; updating references relating to
3 regulation of engineering to incorporate
4 provisions relating to the Florida Engineers
5 Management Corporation and engineers performing
6 building code inspector duties; amending s.
7 471.005, F.S.; defining the term "retired
8 professional engineer"; updating references;
9 amending s. 471.015, F.S.; revising educational
10 requirements for licensure by endorsement;
11 updating references; amending s. 471.017, F.S.;
12 granting the Board of Professional Engineers
13 rulemaking authority to establish biennial
14 licensure renewal procedures; replacing
15 continuing education provisions with provisions
16 requiring a review and report on continuing
17 education requirements in other jurisdictions;
18 amending s. 471.019, F.S., to create s.
19 471.0195, F.S.; separating provisions relating
20 to building code training from provisions
21 relating to licensure reactivation
22 requirements; amending s. 471.025, F.S.;
23 requiring final bid documents to be signed,
24 dated, and sealed and authorizing the
25 electronic transfer of such documents; amending
26 s. 471.031, F.S.; providing a penalty for
27 certain activities prohibited under ch. 471,
28 F.S., relating to engineering; updating
29 references; amending s. 474.202, F.S.; revising
30 the definition of "veterinarian"; amending s.
31 474.203, F.S.; revising and providing

1 exemptions from regulation under ch. 474, F.S.,
 2 relating to veterinary medical practice;
 3 providing that certain exempt persons are duly
 4 licensed practitioners for purposes of
 5 prescribing drugs or medicinal supplies;
 6 amending s. 474.211, F.S.; providing that
 7 criteria for providers of continuing veterinary
 8 medical education shall be approved by the
 9 board; amending s. 474.214, F.S.; increasing
 10 the administrative fine; reenacting ss.
 11 474.207(2) and 474.217(2), F.S., relating to
 12 licensure by examination and licensure by
 13 endorsement, to incorporate the amendment to s.
 14 474.214, F.S., in references thereto; amending
 15 s. 474.215, F.S.; requiring limited service
 16 permittees to register each location and
 17 providing a registration fee; providing
 18 requirements for certain temporary rabies
 19 vaccination efforts; providing permit and other
 20 requirements for persons who are not licensed
 21 veterinarians, but who desire to own and
 22 operate a veterinary medical establishment;
 23 providing disciplinary actions applicable to
 24 holders of premises permits; amending s.
 25 474.2165, F.S.; providing requirements with
 26 respect to ownership and control of veterinary
 27 medical patient records; providing for the
 28 furnishing of reports or copies of records;
 29 providing for participation of veterinarians in
 30 impaired practitioner treatment programs;
 31 amending s. 475.045, F.S.; abolishing the

1 Florida Real Estate Commission Education and
2 Research Foundation Advisory Committee and
3 transferring its duties to the commission;
4 amending s. 477.013, F.S.; revising the
5 definition of "body wrapping"; amending s.
6 477.0132, F.S.; restricting to the Board of
7 Cosmetology authority to review, evaluate, and
8 approve courses required for hair braiding,
9 hair wrapping, and body wrapping registration;
10 exempting providers of such courses from
11 certain licensure; amending s. 477.019, F.S.;
12 revising requirements for licensure to practice
13 cosmetology; providing fees; amending s.
14 477.0201, F.S.; revising requirements for
15 registration as a specialist in a specialty
16 practice within the practice of cosmetology;
17 providing fees; amending ss. 492.101, 492.102,
18 492.104, 492.105, 492.108, 492.112, 492.113,
19 492.116, and 492.1165, F.S.; revising cross
20 references; amending s. 492.107, F.S.; revising
21 provisions relating to the use of seals by
22 licensed geologists; amending s. 492.111, F.S.;
23 providing requirements relating to geologists
24 of record for firms, corporations, and
25 partnerships; providing an appropriation;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (4) is added to section 310.071,
31 Florida Statutes, to read:

1 310.071 Deputy pilot certification.--

2 (4) Notwithstanding s. 112.011 or any other provision
3 of law relating to the restoration of civil rights, an
4 applicant shall be disqualified from applying for and shall be
5 denied a deputy pilot certificate if the applicant, regardless
6 of adjudication, has ever been found guilty of, or pled guilty
7 or nolo contendere to, a charge which was:

8 (a) A felony or first degree misdemeanor which
9 directly related to the navigation or operation of a vessel;
10 or

11 (b) A felony involving the sale of or trafficking in,
12 or conspiracy to sell or traffic in, a controlled substance as
13 defined by chapter 893, or an offense under the laws of any
14 state or country which, if committed in this state, would
15 constitute the felony of selling or trafficking in, or
16 conspiracy to sell or traffic in, such controlled substance.

17 Section 2. Subsection (4) of section 310.151, Florida
18 Statutes, is amended to read:

19 310.151 Rates of pilotage; Pilotage Rate Review
20 Board.--

21 (4)(a) The applicant shall be given written notice,
22 either in person or by certified mail, that the board intends
23 to modify the pilotage rates in that port and that the
24 applicant may, within 21 days after receipt of the notice,
25 request a hearing pursuant to the Administrative Procedure
26 Act. Notice of the intent to modify the pilotage rates in that
27 port shall also be published in the Florida Administrative
28 Weekly and in a newspaper of general circulation in the
29 affected port area and shall be mailed to any person who has
30 formally requested notice of any rate change in the affected
31 port area. Within 21 days after receipt or publication of

1 notice, any person whose substantial interests will be
2 affected by the intended board action may request a hearing
3 pursuant to the Administrative Procedure Act. If the board
4 concludes that the petitioner has raised a disputed issue of
5 material fact, the board shall designate a hearing, which
6 shall be conducted by formal proceeding before an
7 administrative law judge assigned by the Division of
8 Administrative Hearings pursuant to ss. 120.569 and 120.57(1),
9 unless waived by all parties. If the board concludes that the
10 petitioner has not raised a disputed issue of material fact
11 and does not designate the petition for hearing, that decision
12 shall be considered final agency action for purposes of s.
13 120.68.The failure to request a hearing within 21 days after
14 receipt or publication of notice shall constitute a waiver of
15 any right to an administrative hearing and shall cause the
16 order modifying the pilotage rates in that port to be entered.
17 If an administrative hearing is requested pursuant to this
18 subsection, notice of the time, date, and location of the
19 hearing shall be published in the Florida Administrative
20 Weekly and in a newspaper of general circulation in the
21 affected port area and shall be mailed to the applicant and to
22 any person who has formally requested notice of any rate
23 change for the affected port area.

24 (b)1. In any administrative proceeding pursuant to
25 this section, the board's proposed rate determination shall be
26 immediately effective and shall not be stayed during the
27 administrative proceeding.

28 2. In any instance of the board proposing a rate
29 increase, and pending rendition of the board's final order,
30 the pilot or pilots in the subject port shall deposit in an
31 interest-bearing account all amounts received which represent

1 the difference between the previous rates and the proposed
2 rates. The pilot or pilots in the subject port shall keep an
3 accurate accounting of all amounts deposited, specifying by
4 whom or on whose behalf such amounts were paid, and shall
5 produce such an accounting upon request of the board. Upon
6 rendition of the board's final order:

7 a. Any amounts deposited in the interest-bearing
8 account which are sustained by the final order shall be paid
9 over to the pilot or pilots in the subject port, including all
10 interest accrued on such funds; and

11 b. Any amounts deposited which exceed the rates
12 sustained in the board's final order shall be refunded, with
13 the accrued interest, to those customers from whom the funds
14 were collected. Any funds that are not refunded after diligent
15 effort of the pilot or pilots to do so shall be disbursed by
16 the pilot or pilots as the board shall direct.

17 Section 3. Subsection (5) of section 310.151, Florida
18 Statutes, is amended to read:

19 310.151 Rates of pilotage; Pilotage Rate Review
20 Board.--

21 (5)(a) In determining whether the requested rate
22 change will result in fair, just, and reasonable rates, the
23 board shall give primary consideration to the public interest
24 in promoting and maintaining efficient, reliable, and safe
25 piloting services. The board shall also give consideration to
26 the economic impact of total pilotage costs on the costs of
27 shipping in Florida.

28 (b) The board shall also give consideration to the
29 following factors:
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31

1 1. The public interest in having qualified pilots
2 available to respond promptly to vessels needing their
3 service.

4 2. A determination of the average net income of pilots
5 in the port, including the value of all benefits derived from
6 service as a pilot. For the purposes of this subparagraph,
7 "net income of pilots" refers to total pilotage fees collected
8 in the port, minus reasonable operating expenses, divided by
9 the number of licensed and active state pilots within the
10 ports.

11 3. Reasonable operating expenses of pilots.

12 4. Pilotage rates in other ports.

13 5. The amount of time each pilot spends on actual
14 piloting duty and the amount of time spent on other essential
15 support services.

16 6. The prevailing compensation available to
17 individuals in other maritime services of comparable
18 professional skill and standing as that sought in pilots, it
19 being recognized that in order to attract to the profession of
20 piloting, and to hold the best and most qualified individuals
21 as pilots, the overall compensation accorded pilots should be
22 equal to or greater than that available to such individuals in
23 comparable maritime employment.

24 7. The impact rate change may have in individual pilot
25 compensation and whether such change will lead to a shortage
26 of licensed state pilots, certificated deputy pilots, or
27 qualified pilot applicants.

28 8. Projected changes in vessel traffic, including
29 whether the impact rate change may reduce the number of
30 vessels at the particular port.

31 9. Cost of retirement and medical plans.

1 10. Physical risks inherent in piloting.

2 11. Special characteristics, dangers, and risks of the
3 particular port.

4 12. The rate of return based on the rate change.

5 13. The total cost of pilotage on the cost of shipping
6 at the particular port compared to the costs at other Florida
7 ports and other states.

8 ~~14.12.~~ Any other factors the board deems relevant in
9 determining a just and reasonable rate.

10 (c) The board may take into consideration the consumer
11 price index or any other comparable economic indicator when
12 fixing rates of pilotage; however, because the consumer price
13 index or such other comparable economic indicator is primarily
14 related to net income rather than rates, the board shall not
15 use it as the sole factor in fixing rates of pilotage.

16 Section 4. Paragraph (c) is added to subsection (4) of
17 section 120.80, Florida Statutes, to read:

18 120.80 Exceptions and special requirements;
19 agencies.--

20 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL
21 REGULATION.--

22 (c) Pilotage rate review.--In a dispute relating to
23 action or proposed action of the Pilotage Rate Review Board,
24 the administrative law judge's recommended order may include
25 conclusions of law and rulings on evidentiary or procedural
26 matters and shall include findings of fact for consideration
27 by the board in applying the factors set forth in s.
28 310.151(5) and (6). The recommended order shall not include a
29 recommendation as to the appropriate rate to be imposed.

30 Section 5. Subsection (4) is added to section 455.211,
31 Florida Statutes, to read:

1 455.211 Board rules; final agency action;
2 challenges.--

3 (4) Any proposed board rule that has not been modified
4 to meet proposed objections of the Administrative Procedures
5 Committee must receive concurrence from the department prior
6 to filing the rule with the Department of State. The
7 department may repeal any rule that any board has enacted and
8 that has taken effect without having met proposed objections
9 of the Administrative Procedures Committee.

10 Section 6. Subsection (6) of section 455.217, Florida
11 Statutes, is amended to read:

12 455.217 Examinations.--This section shall be read in
13 conjunction with the appropriate practice act associated with
14 each regulated profession under this chapter.

15 (6) For examinations developed by the department or a
16 contracted vendor, each board, or the department, when there
17 is no board, may provide licensure examinations in an
18 applicant's native language. Applicants for examination or
19 reexamination pursuant to this subsection shall bear the full
20 cost for the department's development, preparation,
21 administration, grading, and evaluation of any examination in
22 a language other than English or Spanish. Requests for
23 translated examinations, except for those in Spanish, must be
24 on file in the board office, or with the department when there
25 is no board, at least 6 months prior to the scheduled
26 examination. When determining whether it is in the public
27 interest to allow the examination to be translated into a
28 language other than English or Spanish, the board, or the
29 department when there is no board, shall consider the
30 percentage of the population who speak the applicant's native
31 language.

1 Section 7. Section 455.2179, Florida Statutes, is
2 amended to read:

3 455.2179 Continuing education provider approval; cease
4 and desist orders.--

5 (1) If a board, or the department if there is no
6 board, requires completion of continuing education as a
7 requirement for renewal of a license, the board, or the
8 department if there is no board, shall approve providers of
9 the continuing education. The approval of a continuing
10 education provider, ~~the approval~~ must be for a specified
11 period of time, not to exceed 4 years. An approval that does
12 not include such a time limitation may remain in effect only
13 until July 1, 2001, unless earlier replaced by an approval
14 that includes such a time limitation.

15 (2) The department, on its own motion or at the
16 request of a board, shall issue an order requiring a person or
17 entity to cease and desist from offering any continuing
18 education programs for licensees, and revoking any approval of
19 the provider previously granted by the department or a board,
20 if the department or a board determines that the person or
21 entity failed to provide appropriate continuing education
22 services that conform to approved course material.

23 (3) Each board authorized to approve continuing
24 education providers, or the department if there is no board,
25 may establish, by rule, a fee not to exceed \$250 for anyone
26 seeking approval to provide continuing education courses and
27 may establish, by rule, a biennial fee not to exceed \$250 for
28 the renewal of providership of such courses. The Florida Real
29 Estate Commission, authorized under the provisions of chapter
30 475 to approve prelicensure, precertification, and
31 postlicensure education providers, may establish, by rule, an

1 application fee not to exceed \$250 for anyone seeking approval
2 to offer prelicensure, precertification, or postlicensure
3 education courses and may establish, by rule, a biennial fee
4 not to exceed \$250 for the renewal of such courses.

5 (4) The department and each affected board may adopt
6 rules pursuant to ss. 120.536(1) and 120.54 to implement the
7 provisions of this section.

8 Section 8. Subsection (3) of section 455.219, Florida
9 Statutes, is repealed, and subsection (1) of said section is
10 amended to read:

11 455.219 Fees; receipts; disposition; periodic
12 management reports.--

13 (1) Each board within the department shall determine
14 by rule the amount of license fees for its profession, based
15 upon department-prepared long-range estimates of the revenue
16 required to implement all provisions of law relating to the
17 regulation of professions by the department and any board;
18 however, when the department has determined, based on the
19 long-range estimates of such revenue, that a profession's
20 trust fund moneys are in excess of the amount required to
21 cover the necessary functions of the board, or the department
22 when there is no board, the department may adopt rules to
23 implement a waiver of license renewal fees for that profession
24 for a period not to exceed 2 years, as determined by the
25 department. Each board, or the department when there is no
26 board, shall ensure license fees are adequate to cover all
27 anticipated costs and to maintain a reasonable cash balance,
28 as determined by rule of the department, with advice of the
29 applicable board. If sufficient action is not taken by a board
30 within 1 year of notification by the department that license
31 fees are projected to be inadequate, the department shall set

1 license fees on behalf of the applicable board to cover
2 anticipated costs and to maintain the required cash balance.
3 The department shall include recommended fee cap increases in
4 its annual report to the Legislature. Further, it is
5 legislative intent that no regulated profession operate with a
6 negative cash balance. The department may provide by rule for
7 the advancement of sufficient funds to any profession, or the
8 Florida State Boxing Commission, operating with a negative
9 cash balance. Such advancement may be for a period not to
10 exceed 2 consecutive years and shall require interest to be
11 paid by the regulated profession. Interest shall be calculated
12 at the current rate earned on Professional Regulation Trust
13 Fund investments. Interest earned shall be allocated to the
14 various funds in accordance with the allocation of investment
15 earnings during the period of the advance.

16 Section 9. Section 455.32, Florida Statutes, is
17 created to read:

18 455.32 Management Privatization Act.--

19 (1) This section may be cited as the "Management
20 Privatization Act."

21 (2) As used in this section, the term:

22 (a) "Corporation" means the corporation or other
23 business entity with which the department contracts pursuant
24 to subsection (3).

25 (b) "Executive director" means the person appointed by
26 the department pursuant to s. 455.203.

27 (c) "Secretary" means the Secretary of Business and
28 Professional Regulation.

29 (3) Based upon the request of any board, commission,
30 or council, the department is authorized to contract with a
31 corporation or other business entity to perform support

1 services specified in the contract. The contract must be in
2 compliance with this section and other applicable laws and
3 must be approved by the board before the department enters
4 into the contract. The department shall retain responsibility
5 for any duties it currently exercises relating to its police
6 powers and any other current duty that is not provided to the
7 corporation by the contract. The contract shall provide, at a
8 minimum, that:

9 (a) The corporation provide administrative,
10 investigative, examination, licensing, and prosecutorial
11 support services in accordance with the provisions of this
12 section and the practice act of the relevant profession. With
13 approval of the department, the corporation may subcontract
14 for any of these services.

15 (b) The corporation utilize computer technology
16 compatible with the department to ensure compatibility and
17 availability to the public of information provided for other
18 professions by the department.

19 (c) The corporation submit an annual budget for
20 approval by the board and the department.

21 (d) The corporation keep financial and statistical
22 information as necessary to completely disclose the financial
23 condition and operation of the corporation and as requested by
24 the Office of Program Policy Analysis and Government
25 Accountability, the Auditor General, and the department.

26 (e) If the certification process in subsection (10)
27 determines noncompliance, the contract provide for methods and
28 mechanisms to resolve the situation.

29 (f) The corporation provide to the board and the
30 department, on or before October 1 of each year, a report
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1 describing all of the activities of the corporation for the
2 previous fiscal year. The report shall include:

3 1. Any audit performed under subsection (9), including
4 financial reports and performance audits.

5 2. The number of license applications received, the
6 number of licenses approved and denied, the number of licenses
7 issued, and the average time required to issue a license.

8 3. The number of examinations administered and the
9 number of applicants who passed or failed the examination.

10 4. The number of complaints received, the number of
11 complaints determined to be legally sufficient, the number of
12 complaints dismissed, and the number of complaints determined
13 to have probable cause.

14 5. The number of administrative complaints issued and
15 the status of the complaints.

16 6. The number and nature of disciplinary actions taken
17 by the board.

18 7. All revenue received and all expenses incurred by
19 the corporation over the previous 12 months in its performance
20 of the duties under the contract.

21 8. The status of the compliance of the corporation
22 with all performance-based program measures adopted by the
23 board.

24 (4) The provisions of s. 768.28 apply to the
25 corporation, which is deemed to be a corporation primarily
26 acting as an instrumentality of the state, but which is not an
27 agency within the meaning of s. 20.03(11).

28 (5) The corporation shall be funded through
29 appropriations allocated to the regulation of the relevant
30 profession from the Professional Regulation Trust Fund.

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1 (6) If the corporation is no longer approved to
2 operate for the board or the board ceases to exist, moneys and
3 property held in trust by the corporation for the benefit of
4 the board shall revert to the board, or to the state if the
5 board ceases to exist.

6 (7) The executive director shall supervise the
7 activities of the corporation to ensure compliance with the
8 contract and provisions of this section and the practice act
9 of the relevant profession. The executive director shall be an
10 employee of the department and serve as a liaison between the
11 department, the board, and the corporation and shall ensure
12 that the police powers of the state are not exercised by the
13 corporation.

14 (8) The corporation may not exercise any authority
15 assigned to the department or board under this section or the
16 practice act of the relevant profession, including determining
17 legal sufficiency and probable cause to pursue disciplinary
18 action against a licensee, taking final action on license
19 applications or in disciplinary cases, or adopting
20 administrative rules under chapter 120.

21 (9) The corporation shall provide for an annual
22 financial and compliance audit of its financial accounts and
23 records by an independent certified public accountant in
24 accordance with generally accepted auditing standards. The
25 annual audit report shall include a detailed supplemental
26 schedule of expenditures for each expenditure category and a
27 management letter. The annual audit report must be submitted
28 to the board, the department, and the Auditor General for
29 review. The Auditor General may, pursuant to his or her own
30 authority or at the direction of the Legislative Auditing
31 Committee, conduct an audit of the corporation.

1 (10) The board and the department shall annually
2 certify that the corporation is complying with the terms of
3 the contract in a manner consistent with the goals and
4 purposes of the board and in the best interest of the state.

5 (11) Nothing in this section shall limit the ability
6 of the corporation to enter into contracts and perform all
7 other acts incidental to those contracts that are necessary
8 for the administration of its affairs and for the attainment
9 of its purposes.

10 (12) The corporation may acquire by lease, and
11 maintain, use, and operate, any real or personal property
12 necessary to perform the duties provided by the contract and
13 this section.

14 (13) No later than October 1, 2000, the department
15 shall contract with a corporation in accordance with
16 subsection (3) for the provision of services for architects
17 and interior designers.

18 (14) The department shall retain the independent
19 authority to open, investigate, or prosecute any cases or
20 complaints, as necessary, to protect the public health,
21 safety, or welfare. In addition, the department shall retain
22 sole authority to issue emergency suspension or restriction
23 orders pursuant to s. 120.60 and to prosecute unlicensed
24 activity cases pursuant to ss. 455.228 and 455.2281.

25 (15) Corporation records are public records subject to
26 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
27 State Constitution; however, public records exemptions set
28 forth in ss. 455.217 and 455.229 for records created or
29 maintained by the department shall apply to records created or
30 maintained by the corporation. The exemptions set forth in s.
31 455.225, relating to complaints and information obtained

1 pursuant to an investigation by the department, shall apply to
2 such records created or obtained by the corporation only until
3 an investigation ceases to be active. For the purposes of this
4 subsection, an investigation is considered active so long as
5 the corporation or any law enforcement or administrative
6 agency is proceeding with reasonable dispatch and has a
7 reasonable, good faith belief that it may lead to the filing
8 of administrative, civil, or criminal proceedings. An
9 investigation ceases to be active when the case is dismissed
10 prior to a finding of probable cause and the board has not
11 exercised its option to pursue the case or 10 days after the
12 board makes a determination regarding probable cause. All
13 information, records, and transcriptions regarding a complaint
14 that has been determined to be legally sufficient to state a
15 claim within the jurisdiction of the board become available to
16 the public when the investigation ceases to be active, except
17 information that is otherwise confidential or exempt from s.
18 119.07(1). However, in response to an inquiry about the
19 licensure status of an individual, the corporation shall
20 disclose the existence of an active investigation if the
21 nature of the violation under investigation involves the
22 potential for substantial physical or financial harm. The
23 department and the board shall have access to all records of
24 the corporation, as necessary, to exercise their authority to
25 approve and supervise the contract.

26 (16) If any provision of this section is held to be
27 unconstitutional or is held to violate the state or federal
28 antitrust laws, the following shall occur:

29 (a) The corporation shall cease and desist from
30 exercising any powers and duties enumerated in this section.

31

1 **(b) The department shall resume the performance of**
2 **such activities. The department shall regain and receive,**
3 **hold, invest, and administer property and make expenditures**
4 **for the benefit of the board.**

5 **(c) The Executive Office of the Governor,**
6 **notwithstanding chapter 216, is authorized to reestablish**
7 **positions, budget authority, and salary rate necessary to**
8 **carry out the department's responsibilities related to the**
9 **board.**

10 **(17) This section is repealed on October 1, 2005, and**
11 **shall be reviewed by the Legislature prior to that date for**
12 **the purpose of determining its continued existence.**

13 Section 10. Subsection (8) is added to section
14 468.382, Florida Statutes, to read:

15 468.382 Definitions.--As used in this act, the term:

16 **(8) "Absolute auction" means an auction that requires**
17 **no minimum opening bid that limits the sale other than to the**
18 **highest bidder.**

19 Section 11. Subsections (4), (6), and (7) of section
20 468.385, Florida Statutes, are amended to read:

21 468.385 Licenses required; qualifications;
22 examination; bond.--

23 (4) Any person seeking a license as an auctioneer must
24 ~~shall~~ pass a written examination approved by the board
25 ~~prepared and administered by the department~~ which tests his or
26 her general knowledge of the laws of this state relating to
27 provisions of the Uniform Commercial Code that are relevant to
28 ~~bulk sales, auctions, the laws of agency brokerage,~~ and the
29 provisions of this act.

30 (6) No person shall be licensed as an auctioneer
31 unless he or she:

1 (a) Has held an apprentice license and has served as
2 an apprentice for 1 year or more, or has completed a course of
3 study, consisting of not less than 80 classroom hours of
4 instruction, that meets standards adopted by the board;

5 (b) Has passed the required ~~an~~ examination ~~conducted~~
6 ~~by the department~~; and

7 (c) Is approved by the board.

8 (7)(a) Any auction that is subject to the provisions
9 of this part must be conducted by an auctioneer who has an
10 active license or an apprentice who has an active apprentice
11 auctioneer license and who has received prior written sponsor
12 consent.

13 (b) No business shall auction or offer to auction any
14 property in this state unless it is licensed as an auction
15 business by the board or is exempt from licensure under this
16 act. Each application for licensure shall include the names
17 of the owner and the business, the business mailing address
18 and location, and any other information which the board may
19 require. The owner of an auction business shall report to the
20 board within 30 days of any change in this required
21 information.

22 Section 12. Section 468.3855, Florida Statutes, is
23 created to read:

24 468.3855 Apprenticeship training requirements.--

25 (1) An auctioneer may not sponsor more than three
26 apprentices at one time. Any auctioneer who serves as a
27 sponsor must have held an active, valid license for 3
28 consecutive years preceding the date on which that auctioneer
29 is named as sponsor of the apprentice.

1 (2) Any auctioneer who undertakes the sponsorship of
2 an apprentice shall ensure that the apprentice receives
3 training as required by board rule.

4 (3) An apprentice must actively participate in auction
5 sales as required by board rule, and a record of each auction
6 for which participation credit is claimed must be made as
7 required by board rule.

8 (4) Apprentices are prohibited from conducting any
9 auction without the prior express written consent of the
10 sponsor. The apprentice's sponsor must be present at the
11 auction site at any time the apprentice is actively
12 participating in the conduct of the auction. If the
13 apprentice's sponsor cannot attend a particular auction, the
14 sponsor may appoint a qualified auctioneer who meets the
15 requirements of board rule to attend the auction in his or her
16 place. Prior written consent must be given by the apprentice's
17 sponsor for each substitution.

18 (5) Each apprentice and sponsor shall file reports as
19 required by board rule.

20 (6) A sponsor may not authorize an apprentice to
21 conduct an auction or act as principal auctioneer unless the
22 sponsor has determined that the apprentice has received
23 adequate training to do so.

24 (7) The sponsor shall be responsible for any acts or
25 omissions of the apprentice which constitute a violation of
26 law in relation to the conduct of an auction.

27 (8) All apprentice applications shall be valid for a
28 period of 6 months after board approval. Any applicant who
29 fails to complete the licensure process within that time shall
30 be required to make application as a new applicant.

31

1 (9) Any licensed apprentice who wishes to change the
2 sponsor under whom he or she is licensed must submit a new
3 application and application fee. However, a new license fee
4 shall not be required and credit shall be awarded for training
5 received or any period of apprenticeship served under the
6 previous sponsor.

7 (10) Credit for training received or any period of
8 apprenticeship served shall not be allowed unless it occurred
9 under the supervision of the sponsor under whose supervision
10 the apprentice is licensed.

11 Section 13. Section 468.388, Florida Statutes, is
12 amended to read:

13 468.388 Conduct of an auction.--

14 (1) Prior to conducting an auction in this state, an
15 auctioneer or auction business shall execute a written
16 agreement with the owner, or the agent of the owner, of any
17 property to be offered for sale, stating:

18 (a) The name and address of the owner of the property;

19 (b) The name and address of the person employing the
20 auctioneer or auction business, if different from the owner;
21 and

22 (c) The terms or conditions upon which the auctioneer
23 or auction business will receive the property for sale and
24 remit the sales proceeds to the owner.

25 (2) The auctioneer or auction business shall give the
26 owner one copy of the agreement and shall keep one copy for 2
27 years after the date of the auction.

28 ~~(3) A written agreement shall not be required if:~~

29 ~~(a) The auction is to be conducted at an auction house~~
30 ~~or similar place where the public regularly offers property~~
31 ~~for sale;~~

1 ~~(b) There has been no prior negotiation between the~~
2 ~~owner or the owner's agent and the auctioneer or auction~~
3 ~~business involving terms or conditions pertaining to the~~
4 ~~property being offered for sale; and~~

5 ~~(c) The total estimated value of the property is \$500~~
6 ~~or less. If the actual sale price of the property exceeds~~
7 ~~\$550, the written agreement required by subsection (1) shall~~
8 ~~be executed after the sale.~~

9 ~~(3)(4)~~ Each auctioneer or auction business shall
10 maintain a record book of all sales ~~for which a written~~
11 ~~agreement is required.~~ The record book shall be open to
12 inspection by the board at reasonable times.

13 (4) Each auction must be conducted by an auctioneer
14 who has an active license or by an apprentice who has an
15 active apprentice auctioneer license and who has received
16 prior written sponsor consent. Each auction must be conducted
17 under the auspices of a licensed auction business. Any
18 auctioneer or apprentice auctioneer conducting an auction, and
19 any auction business under whose auspices such auction is
20 held, shall be responsible for determining that any
21 auctioneer, apprentice, or auction business with whom they are
22 associated in conducting such auction has an active Florida
23 auctioneer, apprentice, or auction business license.

24 (5) The principal auctioneer shall prominently display
25 at the auction site the licenses of the principal auctioneer,
26 the auction business, and any other licensed auctioneers or
27 apprentices who are actively participating in the auction. If
28 such a display is not practicable, then an oral announcement
29 at the beginning of the auction or a prominent written
30 announcement that these licenses are available for inspection
31 at the auction site must be made.~~Each auctioneer or auction~~

1 ~~business shall prominently display his or her license, or make~~
2 ~~it otherwise available for inspection, at each auction in~~
3 ~~which he or she participates.~~

4 (6) If a buyer premium or any surcharge is a condition
5 to sale at any auction, the amount of the premium or surcharge
6 must be announced at the beginning of the auction and a
7 written notice of this information must be conspicuously
8 displayed or distributed to the public at the auction site.

9 (7) At the beginning of an auction must be announced
10 the terms of bidding and sale and whether the sale is with
11 reserve, without reserve, or absolute or if a minimum bid is
12 required. If the sale is absolute and has been announced or
13 advertised as such, an article or lot may not be withdrawn
14 from sale once a bid has been accepted. If no bid is received
15 within a reasonable time, the item or lot may be withdrawn.

16 (8) If an auction has been advertised as absolute, no
17 bid shall be accepted from the owner of the property or from
18 someone acting on behalf of the owner unless the right to bid
19 is specifically permitted by law.

20 (9) The auction business under which the auction is
21 conducted is responsible for all other aspects of the auction
22 as required by board rule. The auction business may delegate
23 in whole, or in part, different aspects of the auction only to
24 the extent that such delegation is permitted by law and that
25 such delegation will not impede the principal auctioneer's
26 ability to ensure the proper conduct of his or her independent
27 responsibility for the auction. The auction business under
28 whose auspices the auction is conducted is responsible for
29 ensuring compliance as required by board rule.

30 (10)(a) When settlement is not made immediately after
31 an auction, all sale proceeds received for another person must

1 be deposited in an escrow or trust account in an insured bank
2 or savings and loan association located in this state within 2
3 working days after the auction. A maximum of \$100 may be kept
4 in the escrow account for administrative purposes.

5 (b) Each auction business shall maintain, for not less
6 than 2 years, a separate ledger showing the funds held for
7 another person deposited and disbursed by the auction business
8 for each auction. The escrow or trust account must be
9 reconciled monthly with the bank statement. A signed and dated
10 record shall be maintained for a 2-year period and be
11 available for inspection by the department or at the request
12 of the board.

13 (c) Any interest which accrues to sale proceeds on
14 deposit shall be the property of the seller for whom the funds
15 were received unless the parties have agreed otherwise by
16 written agreement executed prior to the auction.

17 (d) Unless otherwise provided by written agreement
18 executed prior to the auction, funds received by a licensee
19 from the seller or his or her agent for expenses, including
20 advertising, must be expended for the purposes advanced or
21 refunded to the seller at the time of final settlement. Any
22 funds so received shall be maintained in an escrow or trust
23 account in an insured bank or savings and loan association
24 located in this state. However, this does not prohibit
25 advanced payment of a flat fee.

26 (11)(a)(6) All advertising by an auctioneer or auction
27 business shall include the name and Florida license number of
28 such auctioneer and auction business. The term "advertising"
29 shall not include articles of clothing, directional signs, or
30 other promotional novelty items.

31

1 (b) No licensed auctioneer, apprentice, or auction
2 business may disseminate or cause to be disseminated any
3 advertisement or advertising which is false, deceptive,
4 misleading, or untruthful. Any advertisement or advertising
5 shall be deemed to be false, deceptive, misleading, or
6 untruthful if it:

7 1. Contains misrepresentations of facts.

8 2. Is misleading or deceptive because, in its content
9 or in the context in which it is presented, it makes only a
10 partial disclosure of relevant facts.

11 3. Creates false or unjustified expectations of the
12 services to be performed.

13 4. Contains any representation or claim which the
14 advertising licensee fails to perform.

15 5. Fails to include the name and license number of the
16 principal auctioneer and the auction business.

17 6. Fails to include the name and license number of the
18 sponsor if an apprentice is acting as the principal
19 auctioneer.

20 7. Advertises an auction as absolute without
21 specifying any and all items to be sold with reserve or with
22 minimum bids.

23 8. Fails to include the percentage amount of any
24 buyer's premium or surcharge which is a condition to sale.

25 (c) The provisions of this subsection apply to media
26 exposure of any nature, regardless of whether it is in the
27 form of paid advertising.

28 (d) The auction business shall be responsible for the
29 content of all advertising disseminated in preparation for an
30 auction.

31

1 Section 14. Paragraph (c) of subsection (1) of section
2 468.389, Florida Statutes, is amended to read:

3 468.389 Prohibited acts; penalties.--

4 (1) The following acts shall be grounds for the
5 disciplinary activities provided in subsections (2) and (3):

6 (c) Failure to account for or to pay or return, within
7 a reasonable time not to exceed 30 days, money or property
8 belonging to another which has come into the control of an
9 auctioneer or auction business through an auction.

10 Section 15. For the purpose of incorporating the
11 amendment to section 468.389, Florida Statutes, in references
12 thereto, paragraph (b) of subsection (3) of section 468.385
13 and section 468.391, Florida Statutes, are reenacted to read:

14 468.385 Licenses required; qualifications;
15 examination; bond.--

16 (3) No person shall be licensed as an auctioneer or
17 apprentice if he or she:

18 (b) Has committed any act or offense in this state or
19 any other jurisdiction which would constitute a basis for
20 disciplinary action under s. 468.389.

21 468.391 Penalty.--Any auctioneer, apprentice, or
22 auction business or any owner or manager thereof, or, in the
23 case of corporate ownership, any substantial stockholder of
24 the corporation owning the auction business, who operates
25 without an active license or violates any provision of the
26 prohibited acts listed under s. 468.389 commits a felony of
27 the third degree, punishable as provided in s. 775.082 or s.
28 775.083.

29 Section 16. Subsection (2) of section 468.392, Florida
30 Statutes, is amended to read:

31

1 468.392 Auctioneer Recovery Fund.--There is created
2 the Auctioneer Recovery Fund as a separate account in the
3 Professional Regulation Trust Fund. The fund shall be
4 administered by the Florida Board of Auctioneers.

5 (2) All payments and disbursements from the Auctioneer
6 Recovery Fund shall be made by the Treasurer upon a voucher
7 signed by the Secretary of Business and Professional
8 Regulation or the secretary's designee. Amounts transferred to
9 the Auctioneer Recovery Fund shall not be subject to any
10 limitation imposed by an appropriation act of the Legislature.

11 Section 17. Section 468.395, Florida Statutes, is
12 amended to read:

13 468.395 Conditions of recovery; eligibility.--

14 (1) Recovery from the Auctioneer Recovery Fund may be
15 obtained as follows:

16 (a) Any aggrieved person is eligible to receive
17 recovery from the Auctioneer Recovery Fund if the Florida
18 Board of Auctioneers has issued a final order directing an
19 offending licensee to pay restitution to the claimant as the
20 result of the licensee violating, within this state, any
21 provision of s. 468.389 or any rule adopted by the board and
22 if the board determined that the order of restitution cannot
23 be enforced; or

24 (b)(1) Any aggrieved person who obtains a final
25 judgment in any court against any licensee to recover damages
26 for any actual loss that results from the violation, within
27 this state, by failure to meet the obligations of a licensee
28 of any provision of s. 468.389 or any rule under this part and
29 the rules adopted by the board, with or without findings by
30 the board, that results in an actual cash loss to the
31 aggrieved person may, upon termination of all proceedings,

1 including appeals and proceedings supplemental to judgment for
2 collection purposes, file a verified application to the board
3 ~~in the court in which the judgment was entered~~ for an order
4 directing payment out of the Auctioneer Recovery Fund of the
5 amount of actual ~~and direct~~ loss in the transaction that
6 remains unpaid upon the judgment. ~~Notwithstanding subsection~~
7 ~~(3), any application received by the court in which the~~
8 ~~judgment was entered within 6 months of termination of all~~
9 ~~proceedings, including appeals and proceedings supplemental to~~
10 ~~judgment for collection purposes, shall be considered timely~~
11 ~~filed.~~The amount of actual ~~and direct~~ loss may include court
12 costs, but shall not include attorney's fees or punitive
13 damages awarded.

14 (2) The amount paid from the Auctioneer Recovery Fund
15 may not exceed \$50,000 per claim judgment or claims judgments
16 arising out of the same transaction or auction or ~~and~~ an
17 aggregate lifetime limit of \$100,000 with respect to any one
18 licensee. For purposes of this subsection, auctions conducted
19 under a single contract, agreement, or consignment shall be
20 considered a single transaction or auction even though
21 conducted at more than one time or place.

22 ~~(2) At the time the action is commenced, such person~~
23 ~~shall give notice thereof to the board by certified mail,~~
24 ~~except that, if no notice is given to the board, the claim may~~
25 ~~still be honored if, in the opinion of the board, the claim is~~
26 ~~otherwise valid.~~

27 (3) A claim for recovery from the Auctioneer Recovery
28 Fund shall be made within 2 years from the time of the act
29 giving rise to the claim or within 2 years from the time the
30 act is discovered or should have been discovered with the
31 exercise of due diligence; however, in no event may a claim

1 for recovery be made more than 4 years after the date of the
2 act giving rise to the claim.

3 (4) The board ~~court~~ shall not issue an order for
4 payment of a claim from the Auctioneer Recovery Fund unless
5 the claimant has reasonably established to ~~for~~ the board ~~court~~
6 that she or he has taken proper and reasonable action to
7 collect the amount of her or his claim from the licensee
8 ~~licensed auctioneer~~ responsible for the loss and that any
9 recovery made has been applied to reduce the amount of the
10 claim on the Auctioneer Recovery Fund.

11 (5) Notwithstanding any other provision of this part,
12 no claim based on any act or omission that occurred outside
13 this state or that occurred before October 1, 1991, shall be
14 payable ~~submitted for payment to or payment~~ from the
15 Auctioneer Recovery Fund ~~until after October 1, 1995.~~

16 (6) In case of payment of loss from the Auctioneer
17 Recovery Fund, the fund shall be subrogated, to the extent of
18 the amount of the payment, to all the rights of the claimant
19 against any licensee with respect to the loss.

20 Section 18. Section 468.397, Florida Statutes, is
21 amended to read:

22 468.397 Payment of claim.--Upon a final order of the
23 court directing that payment be made out of the Auctioneer
24 Recovery Fund, the board shall, subject to the provisions of
25 this part, make the payment out of ~~to~~ the Auctioneer Recovery
26 Fund as provided in s. 468.395.

27 Section 19. Section 468.433, Florida Statutes, is
28 amended to read:

29 468.433 Licensure by examination.--

30 (1) A person desiring to be licensed as a community
31 association manager shall apply to the department to take the

1 licensure examination. Each applicant must file a complete
2 set of fingerprints that have been taken by an authorized law
3 enforcement officer, which set of fingerprints shall be
4 submitted to the Department of Law Enforcement for state
5 processing and to the Federal Bureau of Investigation for
6 federal processing. The cost of processing shall be borne by
7 the applicant.

8 (2) The department shall examine each applicant who is
9 at least 18 years of age, who has successfully completed all
10 prelicensure education requirements,and who the department
11 certifies is of good moral character.

12 (a) Good moral character means a personal history of
13 honesty, fairness, and respect for the rights of others and
14 for the laws of this state and nation.

15 (b) The department may refuse to certify an applicant
16 only if:

17 1. There is a substantial connection between the lack
18 of good moral character of the applicant and the professional
19 responsibilities of a community association manager; and

20 2. The finding by the department of lack of good moral
21 character is supported by clear and convincing evidence.

22 (c) When an applicant is found to be unqualified for a
23 license because of a lack of good moral character, the
24 department shall furnish the applicant a statement containing
25 its findings, a complete record of the evidence upon which the
26 determination was based, and a notice of the rights of the
27 applicant to a rehearing and appeal.

28 (d) The council shall establish by rule the required
29 amount of prelicensure education, which shall consist of not
30 more than 24 hours of in-person instruction by a
31 department-approved provider and which shall cover all areas

1 of the examination specified in subsection (3). Such
 2 instruction shall be completed within 12 months prior to the
 3 date of the examination. Prelicensure education providers
 4 shall be considered continuing education providers for
 5 purposes of establishing provider approval fees. A licensee
 6 shall not be required to comply with the continuing education
 7 requirements of s. 468.4337 prior to the first license
 8 renewal. The department shall, by rule, set standards for
 9 exceptions to the requirement of in-person instruction in
 10 cases of hardship or disability.

11 ~~(3)(2)~~ The council shall approve an examination for
 12 licensure. The examination must demonstrate that the
 13 applicant has a fundamental knowledge of state and federal
 14 laws relating to the operation of all types of community
 15 associations and state laws relating to corporations and
 16 nonprofit corporations, proper preparation of community
 17 association budgets, proper procedures for noticing and
 18 conducting community association meetings, insurance matters
 19 relating to community associations, and management skills.

20 ~~(4)(3)~~ The department shall issue a license to
 21 practice in this state as a community association manager to
 22 any applicant who successfully completes the examination in
 23 accordance with this section and pays the appropriate fee.

24 Section 20. Paragraph (h) of subsection (3) of section
 25 468.525, Florida Statutes, is repealed.

26 Section 21. Subsection (2) of section 468.526, Florida
 27 Statutes, is amended to read:

28 468.526 License required; fees.--

29 (2) Two or more, but not more than five, employee
 30 leasing companies that are ~~corporations which are~~ majority
 31 owned by the same ultimate parent, entity, or persons may be

1 licensed as an employee leasing company group. An employee
2 leasing company group may satisfy the reporting and financial
3 requirements of this licensing law on a consolidated basis.
4 As a condition of licensure as an employee leasing company
5 group, each company that is a member of the group shall
6 guarantee payment of all financial obligations of each other
7 member.

8 Section 22. Section 468.531, Florida Statutes, is
9 amended to read:

10 468.531 Prohibitions; penalties.--

11 (1) No person or entity shall:

12 (a) Practice or offer to practice as an employee
13 leasing company, an employee leasing company group, or a
14 controlling person unless such person or entity is licensed
15 pursuant to this part;

16 (b) Practice or offer to practice as an employee
17 leasing company or employee leasing company group unless all
18 controlling persons thereof are licensed pursuant to this
19 part;

20 (c) Use the name or title "licensed employee leasing
21 company," "employee leasing company," "employee leasing
22 company group," "professional employer," "professional
23 employer organization," ~~or~~ "controlling person," or words that
24 would tend to lead one to believe that such person or entity
25 is registered pursuant to this part, when such person or
26 entity has not registered pursuant to this part;

27 (d) Present as his or her own or his or her entity's
28 own the license of another;

29 (e) Knowingly give false or forged evidence to the
30 board or a member thereof; or

31

1 (f) Use or attempt to use a license that has been
2 suspended or revoked.

3 (2) Any person or entity that violates any provision
4 of this section commits a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 Section 23. Subsection (3) of section 470.005, Florida
7 Statutes, is amended to read:

8 470.005 Rulemaking authority of board and
9 department.--

10 (3) The board shall adopt rules which establish
11 requirements for inspection of direct disposal establishments,
12 funeral establishments, and cinerator facilities and the
13 records directly relating to the regulated activities of the
14 licensee to ensure compliance with the provisions of this
15 chapter and rules adopted hereunder. Such rules shall
16 include, but not be limited to, requirements to inspect for
17 compliance with federal and state laws relating to the
18 receiving, handling, storage, and disposal of biohazardous and
19 hazardous waste.

20 Section 24. Section 470.015, Florida Statutes, is
21 amended to read:

22 470.015 Renewal of funeral director and embalmer
23 licenses.--

24 (1) The department shall renew a funeral director or
25 embalmer license upon receipt of the renewal application and
26 fee set by the board not to exceed \$250. The board may
27 prescribe by rule continuing education requirements of up to
28 12 classroom hours and may by rule establish criteria for
29 accepting alternative nonclassroom continuing education on an
30 hour-for-hour basis, in addition to a board-approved course on
31 communicable diseases that includes the course on human

1 immunodeficiency virus and acquired immune deficiency syndrome
2 required by s. 455.2226, for the renewal of a funeral director
3 or embalmer license. The board may provide for the waiver of
4 continuing education requirements in circumstances that would
5 justify the waiver, such as hardship, disability, or illness.
6 The continuing education requirement is not required after
7 July 1, 1996, for a licensee who is over the age of 75 years
8 if the licensee does not qualify as the sole person in charge
9 of an establishment or facility.

10 (2) The department shall adopt rules establishing a
11 procedure for the biennial renewal of licenses.

12 (3) The board shall adopt rules to establish
13 requirements for the advertising of continuing education
14 courses.

15 Section 25. Subsection (1) of section 470.016, Florida
16 Statutes, is amended to read:

17 470.016 Inactive status.--

18 (1) A funeral director or embalmer license that has
19 become inactive may be reactivated under s. 470.015 upon
20 application to the department. The board shall prescribe by
21 rule continuing education requirements as a condition of
22 reactivating a license. The continuing education requirements
23 for reactivating a license may not exceed 12 classroom hours
24 and may by rule establish criteria for accepting alternative
25 nonclassroom continuing education on an hour-for-hour basis,
26 in addition to a board-approved course on communicable
27 diseases, for each year the license was inactive.

28 Section 26. Subsection (2) of section 470.017, Florida
29 Statutes, is amended, and subsection (5) is added to said
30 section, to read:

31 470.017 Registration as a direct disposer.--

1 (2) Any person who desires to be registered as a
2 direct disposer shall file an application with the department
3 on a form furnished by the department. The department shall
4 register each applicant who has remitted a registration fee
5 set by the ~~board department~~, not to exceed \$200; has completed
6 the application form and remitted a nonrefundable application
7 fee set by the ~~board department~~, not to exceed \$50; and meets
8 the following requirements:

9 (a) Is at least 18 years of age.

10 (b) Is a high school graduate or equivalent.

11 (c) Has no conviction or finding of guilt, and has
12 never entered a plea of nolo contendere, regardless of
13 adjudication, for a crime which directly relates to the
14 functions and duties of a direct disposer or the ability to
15 practice ~~of~~ direct disposition.

16 (d) Has received a passing grade in a college credit
17 course in Florida mortuary law.

18 (e) Has completed a board-approved course on
19 communicable diseases.

20 (f) Has passed an examination prepared by the
21 department on the local, state, and federal laws and rules
22 relating to the disposition of dead human bodies.

23 (5) After June 30, 2000, no person shall be registered
24 pursuant to this section. However, any person who holds a
25 valid registration under this section on June 30, 2000, may
26 continue to renew such registration pursuant to s. 470.018 so
27 long as the registration remains current and the registrant
28 remains in good standing.

29 Section 27. Subsection (2) of section 470.018, Florida
30 Statutes, is amended to read:

31 470.018 Renewal of registration of direct disposer.--

1 (2) The department shall adopt rules establishing a
2 procedure for the biennial renewal of registrations. The
3 board shall prescribe by rule continuing education
4 requirements of up to 3 classroom hours and may by rule
5 establish criteria for accepting alternative nonclassroom
6 continuing education on an hour-for-hour basis, in addition to
7 a board-approved course on communicable diseases that includes
8 the course on human immunodeficiency virus and acquired immune
9 deficiency syndrome required by s. 455.2226, for the renewal
10 of a registration.

11 Section 28. Subsection (10) is added to section
12 470.021, Florida Statutes, to read:

13 470.021 Direct disposal establishment; standards and
14 location; registration.--

15 (10) A direct disposal establishment may not be
16 operated at the same location as any other direct disposal
17 establishment or funeral establishment unless such
18 establishments were licensed as colocated establishments on
19 July 1, 2000.

20 Section 29. Section 470.028, Florida Statutes, is
21 amended to read:

22 470.028 Preneed sales; registration of agents.--

23 (1) All sales of preneed funeral service contracts or
24 direct disposition contracts shall be made pursuant to chapter
25 497.

26 (2) No person may act as an agent for a ~~funeral~~
27 ~~director, funeral establishment, direct disposer, or direct~~
28 disposal disposer establishment with respect to the sale of
29 preneed contracts unless such person is registered pursuant to
30 chapter 497.

31

1 (3) Each licensee or registrant shall be subject to
2 discipline if his or her agent violates any provision of this
3 chapter applicable to such licensee or registrant as
4 established by board rule.

5 Section 30. Subsection (2) of section 470.0301,
6 Florida Statutes, is amended to read:

7 470.0301 Removal services; refrigeration facilities;
8 centralized embalming facilities.--In order to ensure that the
9 removal, refrigeration, and embalming of all dead human bodies
10 is conducted in a manner that properly protects the public's
11 health and safety, the board shall adopt rules to provide for
12 the registration of removal services, refrigeration
13 facilities, and centralized embalming facilities operated
14 independently of funeral establishments, direct disposal
15 establishments, and cinerator facilities.

16 (2) CENTRALIZED EMBALMING FACILITIES.--In order to
17 ensure that all funeral establishments have access to
18 embalming facilities that comply with all applicable health
19 and safety requirements, the board shall adopt rules to
20 provide for the registration and operation of centralized
21 embalming facilities and shall require, at a minimum, the
22 following:

23 (a) All centralized embalming facilities shall contain
24 all of the equipment and meet all of the requirements that a
25 preparation room located in a funeral establishment is
26 required to meet, but such facilities shall not be required to
27 comply with any of the other requirements for funeral
28 establishments, as set forth in s. 470.024.

29 (b) Each licensed centralized embalming facility shall
30 have at least one full-time embalmer in charge. The full-time
31 embalmer in charge must have an active license and may not be

1 the full-time embalmer in charge, full-time funeral director
2 in charge, or full-time direct disposer in charge of any other
3 establishment licensed under this chapter.

4 (c) Any person, regardless of whether such person is
5 otherwise regulated by this chapter, may own such a facility,
6 provided that such facility is operated in accordance with the
7 rules established by the board.

8 (d) A centralized embalming facility may only provide
9 services to funeral establishments.

10 (e) The practice of embalming done at a centralized
11 embalming facility shall only be practiced by an embalmer
12 licensed under this chapter and shall be provided only to
13 licensed funeral establishments.

14 (f) Application for registration of a centralized
15 embalming facility shall be made on forms furnished by the
16 department and shall be accompanied by a nonrefundable fee not
17 to exceed \$300 as set by board rule, and registration shall be
18 renewed biennially pursuant to procedures and upon payment of
19 a nonrefundable fee not to exceed \$300 as set by board rule.
20 The board may also establish by rule a late fee not to exceed
21 \$50. Any registration not renewed within 30 days after the
22 renewal date shall expire without further action by the
23 department.

24 (g) The board shall set by rule an annual inspection
25 fee not to exceed \$100, payable upon application for
26 registration and upon renewal of such registration.

27 (h) The board shall, by rule, establish operating
28 procedures which shall require, at a minimum, that centralized
29 embalming facilities maintain a system of identification of
30 human remains received for embalming.

31

1 Section 31. Subsections (2) and (3) of section
2 471.003, Florida Statutes, are amended to read:

3 471.003 Qualifications for practice, exemptions.--

4 (2) The following persons are not required to register
5 under the provisions of this chapter ~~ss. 471.001-471.037~~ as a
6 registered engineer:

7 (a) Any person practicing engineering for the
8 improvement of, or otherwise affecting, property legally owned
9 by her or him, unless such practice involves a public utility
10 or the public health, safety, or welfare or the safety or
11 health of employees. This paragraph shall not be construed as
12 authorizing the practice of engineering through an agent or
13 employee who is not duly registered under the provisions of
14 this chapter ~~ss. 471.001-471.037~~.

15 (b)1. A person acting as a public officer employed by
16 any state, county, municipal, or other governmental unit of
17 this state when working on any project the total estimated
18 cost of which is \$10,000 or less.

19 2. Persons who are employees of any state, county,
20 municipal, or other governmental unit of this state and who
21 are the subordinates of a person in responsible charge
22 registered under this chapter ~~ss. 471.001-471.037~~, to the
23 extent that the supervision meets standards adopted by rule of
24 the board.

25 (c) Regular full-time employees of a corporation not
26 engaged in the practice of engineering as such, whose practice
27 of engineering for such corporation is limited to the design
28 or fabrication of manufactured products and servicing of such
29 products.

30 (d) Regular full-time employees of a public utility or
31 other entity subject to regulation by the Florida Public

1 Service Commission, Federal Energy Regulatory Commission, or
2 Federal Communications Commission.

3 (e) Employees of a firm, corporation, or partnership
4 who are the subordinates of a person in responsible charge,
5 registered under this chapter ~~ss. 471.001-471.037~~.

6 (f) Any person as contractor in the execution of work
7 designed by a professional engineer or in the supervision of
8 the construction of work as a foreman or superintendent.

9 (g) A registered surveyor and mapper who takes, or
10 contracts for, professional engineering services incidental to
11 her or his practice of surveying and mapping and who delegates
12 such engineering services to a registered professional
13 engineer qualified within her or his firm or contracts for
14 such professional engineering services to be performed by
15 others who are registered professional engineers under the
16 provisions of this chapter ~~ss. 471.001-471.037~~.

17 (h) Any electrical, plumbing, air-conditioning, or
18 mechanical contractor whose practice includes the design and
19 fabrication of electrical, plumbing, air-conditioning, or
20 mechanical systems, respectively, which she or he installs by
21 virtue of a license issued under chapter 489, under part I of
22 chapter 553, or under any special act or ordinance when
23 working on any construction project which:

24 1. Requires an electrical or plumbing or
25 air-conditioning and refrigeration system with a value of
26 \$50,000 or less; and

27 2.a. Requires an aggregate service capacity of 600
28 amperes (240 volts) or less on a residential electrical system
29 or 800 amperes (240 volts) or less on a commercial or
30 industrial electrical system;

31

1 b. Requires a plumbing system with fewer than 250
2 fixture units; or

3 c. Requires a heating, ventilation, and
4 air-conditioning system not to exceed a 15-ton-per-system
5 capacity, or if the project is designed to accommodate 100 or
6 fewer persons.

7 (i) Any general contractor, certified or registered
8 pursuant to the provisions of chapter 489, when negotiating or
9 performing services under a design-build contract as long as
10 the engineering services offered or rendered in connection
11 with the contract are offered and rendered by an engineer
12 licensed or registered in accordance with this chapter.

13 (3) Notwithstanding the provisions of this chapter ~~ss.~~
14 ~~471.001-471.037~~ or of any other law, no registered engineer
15 whose principal practice is civil or structural engineering,
16 or employee or subordinate under the responsible supervision
17 or control of the engineer, is precluded from performing
18 architectural services which are purely incidental to her or
19 his engineering practice, nor is any registered architect, or
20 employee or subordinate under the responsible supervision or
21 control of the architect, precluded from performing
22 engineering services which are purely incidental to her or his
23 architectural practice. However, no engineer shall practice
24 architecture or use the designation "architect" or any term
25 derived therefrom, and no architect shall practice engineering
26 or use the designation "engineer" or any term derived
27 therefrom.

28 Section 32. Section 471.0035, Florida Statutes, is
29 amended to read:

30 471.0035 Instructors in postsecondary educational
31 institutions; exemption from registration requirement.--For

1 the sole purpose of teaching the principles and methods of
2 engineering design, notwithstanding the provisions of s.
3 471.005(6), a person employed by a public postsecondary
4 educational institution, or by an independent postsecondary
5 educational institution licensed or exempt from licensure
6 pursuant to the provisions of chapter 246, is not required to
7 register under the provisions of this chapter ~~ss.~~
8 ~~471.001-471.037~~ as a registered engineer.

9 Section 33. Section 471.005, Florida Statutes, is
10 amended to read:

11 471.005 Definitions.--As used in this chapter ~~ss.~~
12 ~~471.001-471.037~~, the term:

13 (1) "Board" means the Board of Professional Engineers.

14 (2) "Certificate of authorization" means a license to
15 practice engineering issued by the department to a corporation
16 or partnership.

17 (3) "Department" means the Department of Business and
18 Professional Regulation.

19 (4) "Engineer" includes the terms "professional
20 engineer" and "registered engineer" and means a person who is
21 registered to engage in the practice of engineering under this
22 chapter ~~ss. 471.001-471.037~~.

23 (5) "Engineer intern" means a person who has graduated
24 from, or is in the final year of, an engineering curriculum
25 approved by the board and has passed the fundamentals of
26 engineering examination as provided by rules adopted by the
27 board.

28 (6) "Engineering" includes the term "professional
29 engineering" and means any service or creative work, the
30 adequate performance of which requires engineering education,
31 training, and experience in the application of special

1 knowledge of the mathematical, physical, and engineering
2 sciences to such services or creative work as consultation,
3 investigation, evaluation, planning, and design of engineering
4 works and systems, planning the use of land and water,
5 teaching of the principles and methods of engineering design,
6 engineering surveys, and the inspection of construction for
7 the purpose of determining in general if the work is
8 proceeding in compliance with drawings and specifications, any
9 of which embraces such services or work, either public or
10 private, in connection with any utilities, structures,
11 buildings, machines, equipment, processes, work systems,
12 projects, and industrial or consumer products or equipment of
13 a mechanical, electrical, hydraulic, pneumatic, or thermal
14 nature, insofar as they involve safeguarding life, health, or
15 property; and includes such other professional services as may
16 be necessary to the planning, progress, and completion of any
17 engineering services. A person who practices any branch of
18 engineering; who, by verbal claim, sign, advertisement,
19 letterhead, or card, or in any other way, represents himself
20 or herself to be an engineer or, through the use of some other
21 title, implies that he or she is an engineer or that he or she
22 is registered under this chapter ~~ss. 471.001-471.037~~; or who
23 holds himself or herself out as able to perform, or does
24 perform, any engineering service or work or any other service
25 designated by the practitioner which is recognized as
26 engineering shall be construed to practice or offer to
27 practice engineering within the meaning and intent of this
28 chapter ~~ss. 471.001-471.037~~.

29 (7) "License" means the registration of engineers or
30 certification of businesses to practice engineering in this
31 state.

1 (8) "Retired professional engineer" or "professional
2 engineer, retired" means a person who has been duly licensed
3 as a professional engineer by the board and who chooses to
4 relinquish or not to renew his or her license and applies to
5 and is approved by the board to be granted the title
6 "Professional Engineer, Retired."

7 Section 34. Subsection (1) of section 471.011, Florida
8 Statutes, is amended to read:

9 471.011 Fees.--

10 (1) The board by rule may establish fees to be paid
11 for applications, examination, reexamination, licensing and
12 renewal, inactive status application and reactivation of
13 inactive licenses, and recordmaking and recordkeeping. The
14 board may also establish by rule a delinquency fee. The board
15 shall establish fees that are adequate to ensure the continued
16 operation of the board. Fees shall be based on department
17 estimates of the revenue required to implement this chapter
18 ~~ss. 471.001-471.037~~ and the provisions of law with respect to
19 the regulation of engineers.

20 Section 35. Subsection (4) and paragraph (a) of
21 subsection (5) of section 471.015, Florida Statutes, are
22 amended to read:

23 471.015 Licensure.--

24 (4) The department shall not issue a license by
25 endorsement to any applicant who is under investigation in
26 another state for any act that would constitute a violation of
27 this chapter ~~ss. 471.001-471.037~~ or of part I of chapter 455
28 until such time as the investigation is complete and
29 disciplinary proceedings have been terminated.

30 (5)(a) The board shall deem that an applicant who
31 seeks licensure by endorsement has passed an examination

1 substantially equivalent to part I of the engineering
2 examination when such applicant:

3 1. Has held a valid professional engineer's
4 registration in another state for 15 years and has had 20
5 years of continuous professional-level engineering experience;

6 2. Has received a doctorate degree in engineering from
7 an institution that has an undergraduate ~~a nationally~~
8 ~~accredited~~ engineering degree program which is accredited by
9 the Accreditation Board for Engineering Technology; or

10 3. Has received a doctorate degree in engineering and
11 has taught engineering full time for at least 3 years, at the
12 baccalaureate level or higher, after receiving that degree.

13 Section 36. Subsections (2) and (3) of section
14 471.017, Florida Statutes, are amended to read:

15 471.017 Renewal of license.--

16 (2) The board ~~department~~ shall adopt rules
17 establishing a procedure for the biennial renewal of licenses.

18 (3) The board shall review continuing education
19 requirements in other engineering licensure jurisdictions
20 having such a requirement and report to the secretary of the
21 department, the President of the Senate, and the Speaker of
22 the House of Representatives no later than January 1, 2001,
23 the number of jurisdictions that require continuing education
24 as a requirement of renewal of licensure, the number of hours
25 of continuing education required, the cost to the registrant
26 in fees and lost wages, and any penalties for failure to meet
27 continuing education requirements. In addition, the report
28 shall include the approximate number of regulating staff hours
29 required to implement the requirement in each state, the
30 estimated cost to each registrant, and the impact of the
31 requirement on registrant compliance with engineering law and

1 rules. In addition, the board shall conduct a survey of a
2 statistically valid number of registrants in jurisdictions
3 having a continuing education requirement to determine
4 registrant opinion as to the availability and cost of the
5 continuing education and the relevance of the continuing
6 education requirement to the improvement of their engineering
7 practice. The board shall also evaluate the level of
8 protection of the health, welfare, and safety of the public to
9 see if there is any demonstrable correlation between the
10 imposition of continuing education requirements and
11 improvements to the level of protection of the public.

12 ~~Commencing with licensure renewal in 2002, each licensee~~
13 ~~actively participating in the design of engineering works or~~
14 ~~systems in connection with buildings, structures, and~~
15 ~~facilities covered by the Florida Building Code shall submit~~
16 ~~proof to the board that the licensee participates in~~
17 ~~continuing education courses relating to the core curriculum~~
18 ~~courses or the building code training program or evidence of~~
19 ~~passing an equivalency test on the core curriculum courses or~~
20 ~~specialized or advanced courses on any portion of the Florida~~
21 ~~Building Code applicable to the area of practice.~~

22 Section 37. Section 471.019, Florida Statutes, is
23 amended, and section 471.0195, Florida Statutes, is created,
24 to read:

25 471.019 ~~Reactivation; design of engineering works or~~
26 ~~systems; continuing education.--~~

27 (1) The board shall prescribe by rule continuing
28 education requirements for reactivating a license. The
29 continuing education requirements for reactivating a license
30 for a registered engineer may not exceed 12 classroom hours
31 for each year the license was inactive.

1 471.0195 Florida Building Code training for
2 engineers.--

3 ~~(2)~~ Effective January 1, 2000, all licensees actively
4 participating in the design of engineering works or systems in
5 connection with buildings, structures, or facilities and
6 systems covered by the Florida Building Code shall take
7 continuing education courses and submit proof to the board, at
8 such times and in such manner as established by the board by
9 rule, that the licensee has completed the core curriculum
10 courses and any specialized or advanced courses on any portion
11 of the Florida Building Code applicable to the licensee's area
12 of practice or has passed the appropriate equivalency test of
13 the Building Code Training Program established by s. 553.841.
14 The board shall record reported continuing education courses
15 on a system easily accessed by code enforcement jurisdictions
16 for evaluation when determining license status for purposes of
17 processing design documents. Local jurisdictions shall be
18 responsible for notifying the board when design documents are
19 submitted for building construction permits by persons who are
20 not in compliance with this section. The board shall take
21 appropriate action as provided by its rules when such
22 noncompliance is determined to exist.

23 Section 38. Subsection (1) of section 471.023, Florida
24 Statutes, is amended to read:

25 471.023 Certification of partnerships and
26 corporations.--

27 (1) The practice of, or the offer to practice,
28 engineering by registrants through a corporation or
29 partnership offering engineering services to the public or by
30 a corporation or partnership offering said services to the
31 public through registrants under this chapter ~~ss.~~

1 ~~471.001-471.037~~ as agents, employees, officers, or partners is
2 permitted only if the firm possesses a certification issued by
3 the department pursuant to qualification by the board, subject
4 to the provisions of this chapter ~~ss. 471.001-471.037~~. One or
5 more of the principal officers of the corporation or one or
6 more partners of the partnership and all personnel of the
7 corporation or partnership who act in its behalf as engineers
8 in this state shall be registered as provided by this chapter
9 ~~ss. 471.001-471.037~~. All final drawings, specifications,
10 plans, reports, or documents involving practices registered
11 under this chapter ~~ss. 471.001-471.037~~ which are prepared or
12 approved for the use of the corporation or partnership or for
13 public record within the state shall be dated and shall bear
14 the signature and seal of the registrant who prepared or
15 approved them. Nothing in this section shall be construed to
16 mean that a certificate of registration to practice
17 engineering shall be held by a corporation. Nothing herein
18 prohibits corporations and partnerships from joining together
19 to offer engineering services to the public, provided each
20 corporation or partnership otherwise meets the requirements of
21 this section. No corporation or partnership shall be relieved
22 of responsibility for the conduct or acts of its agents,
23 employees, or officers by reason of its compliance with this
24 section, nor shall any individual practicing engineering be
25 relieved of responsibility for professional services performed
26 by reason of his or her employment or relationship with a
27 corporation or partnership.

28 Section 39. Subsection (1) of section 471.025, Florida
29 Statutes, is amended to read:

30 471.025 Seals.--

31

1 (1) The board shall prescribe, by rule, a form of seal
2 to be used by registrants holding valid certificates of
3 registration. Each registrant shall obtain an impression-type
4 metal seal in the form aforesaid and may, in addition,
5 register his or her seal electronically in accordance with ss.
6 282.70-282.75. All final drawings, specifications, plans,
7 reports, or documents prepared or issued by the registrant and
8 being filed for public record and all final bid documents
9 provided to the owner or the owner's representative shall be
10 signed by the registrant, dated, and stamped with said seal.
11 Such signature, date, and seal shall be evidence of the
12 authenticity of that to which they are affixed. Drawings,
13 specifications, plans, reports, final bid documents, or
14 documents prepared or issued by a registrant may be
15 transmitted electronically and may be signed by the
16 registrant, dated, and stamped electronically with said seal
17 in accordance with ss. 282.70-282.75.

18 Section 40. Section 471.031, Florida Statutes, is
19 amended to read:

20 471.031 Prohibitions; penalties.--

21 (1) A person may not knowingly:

22 (a) Practice engineering unless the person is
23 registered under this chapter ~~ss. 471.001-471.037~~;

24 (b) Use the name or title "registered engineer" or any
25 other title, designation, words, letters, abbreviations, or
26 device tending to indicate that such person holds an active
27 registration as an engineer when the person is not registered
28 under this chapter ~~ss. 471.001-471.037~~;

29 (c) Present as his or her own the registration of
30 another;

31

1 (d) Give false or forged evidence to the board or a
2 member thereof;

3 (e) Use or attempt to use a registration that has been
4 suspended, revoked, or placed on inactive or delinquent
5 status;

6 (f) Employ unlicensed persons to practice engineering;
7 or

8 (g) Conceal information relative to violations of this
9 chapter ~~ss. 471.001-471.037~~.

10 (2) Any person who violates any provision of this
11 section commits ~~is guilty of~~ a misdemeanor of the first
12 degree, punishable as provided in s. 775.082 or s. 775.083.

13 Section 41. Section 471.037, Florida Statutes, is
14 amended to read:

15 471.037 Effect of chapter ~~ss. 471.001-471.037~~
16 locally.--

17 (1) Nothing contained in this chapter ~~ss.~~
18 ~~471.001-471.037~~ shall be construed to repeal, amend, limit, or
19 otherwise affect any local building code or zoning law or
20 ordinance, now or hereafter enacted, which is more restrictive
21 with respect to the services of registered engineers than the
22 provisions of this chapter ~~ss. 471.001-471.037~~.

23 (2) In counties or municipalities that issue building
24 permits, such permits may not be issued in any case in which
25 it is apparent from the application for the building permit
26 that the provisions of this chapter ~~ss. 471.001-471.037~~ have
27 been violated. However, this subsection does not authorize the
28 withholding of building permits in cases involving the
29 exceptions and exemptions set out in s. 471.003.

30 Section 42. Subsection (11) of section 474.202,
31 Florida Statutes, is amended to read:

1 474.202 Definitions.--As used in this chapter:

2 (11) "Veterinarian" means a health care practitioner
3 ~~person~~ who is licensed to engage in the practice of veterinary
4 medicine in Florida under the authority of this chapter.

5 Section 43. Section 474.203, Florida Statutes, is
6 amended to read:

7 474.203 Exemptions.--This chapter shall not apply to:

8 (1) Any faculty member practicing only in conjunction
9 with teaching duties at a school or college of veterinary
10 medicine. ~~Such school or college shall be~~ located in this
11 state and ~~be~~ accredited by the American Veterinary Medical
12 Association Council on Education. However, this exemption
13 shall only apply to such a faculty member who does not hold a
14 valid license issued under this chapter, but who is a graduate
15 of a school or college of veterinary medicine accredited by
16 the American Veterinary Medical Association Council on
17 Education or a school or college recognized by the American
18 Veterinary Medical Association Commission for Foreign
19 Veterinary Graduates.The faculty member exemption shall
20 automatically expire when such school or college terminates
21 the faculty member from such teaching duties. On December 31
22 of each year, such school or college shall provide the board
23 with a written list of all faculty who are exempt from this
24 chapter. Such school or college shall also notify the board in
25 writing of any additions or deletions to such list.

26 (2) A person practicing as an intern or resident
27 veterinarian who does not hold a valid license issued under
28 this chapter and who is a graduate in training at a school or
29 college of veterinary medicine located in this state and
30 accredited by the American Veterinary Medical Association
31 Council on Education or a school or college recognized by the

1 American Veterinary Medical Association Commission for Foreign
 2 Veterinary Graduates. Such intern or resident must be a
 3 graduate of a school or college of veterinary medicine
 4 accredited by the American Veterinary Medical Association
 5 Council on Education. This exemption expires when such intern
 6 or resident completes or is terminated from such training.
 7 Each school or college at which such intern or resident is in
 8 training shall, on July 1 of each year, provide the board with
 9 a written list of all such interns or residents designated for
 10 this exemption, and the school or college shall also notify
 11 the board of any additions or deletions to the list.

12 (3)~~(2)~~ A student in a school or college of veterinary
 13 medicine while in the performance of duties assigned by her or
 14 his instructor or when working as a preceptor under the
 15 immediate supervision of a licensee, provided that such
 16 preceptorship is required for graduation from an accredited
 17 school or college of veterinary medicine. The licensed
 18 veterinarian shall be responsible for all acts performed by a
 19 preceptor under her or his supervision.

20 (4)~~(3)~~ Any doctor of veterinary medicine in the employ
 21 of a state agency, a political subdivision of the state, or
 22 the United States Government while actually engaged in the
 23 performance of her or his official duties; however, this
 24 exemption shall not apply to such person when the person is
 25 not engaged in carrying out her or his official duties or is
 26 not working at the installations for which her or his services
 27 were engaged.

28 (5)~~(4)~~ Any person, or the person's regular employee,
 29 administering to the ills or injuries of her or his own
 30 animals, including, but not limited to, castration, spaying,
 31 and dehorning of herd animals, unless title has been

1 transferred or employment provided for the purpose of
2 circumventing this law. This exemption shall not apply to
3 out-of-state veterinarians practicing temporarily in the
4 state. However, only a veterinarian may immunize or treat an
5 animal for diseases which are communicable to humans and which
6 are of public health significance.

7 (6)~~(5)~~ State agencies, accredited schools,
8 institutions, foundations, business corporations or
9 associations, physicians licensed to practice medicine and
10 surgery in all its branches, graduate doctors of veterinary
11 medicine, or persons under the direct supervision thereof,
12 which or who conduct experiments and scientific research on
13 animals in the development of pharmaceuticals, biologicals,
14 serums, or methods of treatment, or techniques for the
15 diagnosis or treatment of human ailments, or when engaged in
16 the study and development of methods and techniques directly
17 or indirectly applicable to the problems of the practice of
18 veterinary medicine.

19 (7)~~(6)~~ Any veterinary aide, nurse, laboratory
20 technician, preceptor, or other employee of a licensed
21 veterinarian who administers medication or who renders
22 auxiliary or supporting assistance under the responsible
23 supervision of a such licensed veterinarian practitioner,
24 including those tasks identified by rule of the board
25 requiring immediate supervision. However, the licensed
26 veterinarian shall be responsible for all such acts performed
27 under this subsection by persons under her or his supervision.

28 (8) A veterinarian, licensed by and actively
29 practicing veterinary medicine in another state, who is board
30 certified in a specialty recognized by the board and who
31 responds to a request of a veterinarian licensed in this state

1 to assist with the treatment on a specific case of a specific
2 animal or with the treatment on a specific case of the animals
3 of a single owner, as long as the veterinarian licensed in
4 this state requests the other veterinarian's presence. A
5 veterinarian who practices under this subsection is not
6 eligible to apply for a premises permit under s. 474.215.

7
8 For the purposes of chapters 465 and 893, persons exempt
9 pursuant to subsection (1), subsection (2), or subsection (4)
10 are deemed to be duly licensed practitioners authorized by the
11 laws of this state to prescribe drugs or medicinal supplies.

12 Section 44. Subsection (3) of section 474.211, Florida
13 Statutes, is amended to read:

14 474.211 Renewal of license.--

15 (3) The board may by rule prescribe continuing
16 education, not to exceed 30 hours biennially, as a condition
17 for renewal of a license or certificate. The criteria for such
18 programs, providers, and ~~or~~ courses shall be approved by the
19 board.

20 Section 45. Paragraph (c) of subsection (2) of section
21 474.214, Florida Statutes, is amended to read:

22 474.214 Disciplinary proceedings.--

23 (2) When the board finds any applicant or veterinarian
24 guilty of any of the grounds set forth in subsection (1),
25 regardless of whether the violation occurred prior to
26 licensure, it may enter an order imposing one or more of the
27 following penalties:

28 (c) Imposition of an administrative fine not to exceed
29 ~~\$5,000~~\$1,000 for each count or separate offense.

1 In determining appropriate action, the board must first
2 consider those sanctions necessary to protect the public.
3 Only after those sanctions have been imposed may the
4 disciplining authority consider and include in its order
5 requirements designed to rehabilitate the veterinarian. All
6 costs associated with compliance with any order issued under
7 this subsection are the obligation of the veterinarian.

8 Section 46. For the purpose of incorporating the
9 amendment to section 474.214, Florida Statutes, in references
10 thereto, the sections or subdivisions of Florida Statutes set
11 forth below are reenacted to read:

12 474.207 Licensure by examination.--

13 (2) The department shall license each applicant who
14 the board certifies has:

15 (a) Completed the application form and remitted an
16 examination fee set by the board.

17 (b)1. Graduated from a college of veterinary medicine
18 accredited by the American Veterinary Medical Association
19 Council on Education; or

20 2. Graduated from a college of veterinary medicine
21 listed in the American Veterinary Medical Association Roster
22 of Veterinary Colleges of the World and obtained a certificate
23 from the Education Commission for Foreign Veterinary
24 Graduates.

25 (c) Successfully completed the examination provided by
26 the department for this purpose, or an examination determined
27 by the board to be equivalent.

28 (d) Demonstrated knowledge of the laws and rules
29 governing the practice of veterinary medicine in Florida in a
30 manner designated by rules of the board.

31

1 The department shall not issue a license to any applicant who
2 is under investigation in any state or territory of the United
3 States or in the District of Columbia for an act which would
4 constitute a violation of this chapter until the investigation
5 is complete and disciplinary proceedings have been terminated,
6 at which time the provisions of s. 474.214 shall apply.

7 474.217 Licensure by endorsement.--

8 (2) The department shall not issue a license by
9 endorsement to any applicant who is under investigation in any
10 state, territory, or the District of Columbia for an act which
11 would constitute a violation of this chapter until the
12 investigation is complete and disciplinary proceedings have
13 been terminated, at which time the provisions of s. 474.214
14 shall apply.

15 Section 47. Subsection (7) of section 474.215, Florida
16 Statutes, is amended, and subsections (8) and (9) are added to
17 said section, to read:

18 474.215 Premises permits; disciplinary actions.--

19 (7) The board by rule shall establish minimum
20 standards for the operation of limited service veterinary
21 medical practices. Such rules shall not restrict limited
22 service veterinary medical practices and shall be consistent
23 with the type of limited veterinary medical service provided.

24 (a) Any person that offers or provides limited service
25 veterinary medical practice shall obtain a biennial permit
26 from the board the cost of which shall not exceed \$250. The
27 limited service permittee shall register each location where a
28 limited service clinic is held and shall pay a fee set by rule
29 not to exceed \$25 to register each such location.

30 (b) All permits issued under this subsection are
31 subject to the provisions of ss. 474.213 and 474.214.

1 (c) Notwithstanding any provision of this subsection
2 to the contrary, any temporary rabies vaccination effort
3 operated by a county health department in response to a public
4 health threat, as declared by the State Health Officer in
5 consultation with the State Veterinarian, is not subject to
6 any preregistration, time limitation, or fee requirements, but
7 must adhere to all other requirements for limited service
8 veterinary medical practice as prescribed by rule. The fee
9 charged to the public for a rabies vaccination administered
10 during such temporary rabies vaccination effort may not exceed
11 the actual cost of administering the rabies vaccine. Such
12 rabies vaccination efforts may not be used for any purpose
13 other than to address the public health consequences of the
14 rabies outbreak. The board shall be immediately notified in
15 writing of any temporary rabies vaccination effort operated
16 under this paragraph.

17 (8) Any person who is not a veterinarian licensed
18 under this chapter but who desires to own and operate a
19 veterinary medical establishment or limited service clinic
20 shall apply to the board for a premises permit. If the board
21 certifies that the applicant complies with the applicable laws
22 and rules of the board, the department shall issue a premises
23 permit. No permit shall be issued unless a licensed
24 veterinarian is designated to undertake the professional
25 supervision of the veterinary medical practice and the minimum
26 standards set by rule of the board for premises where
27 veterinary medicine is practiced. Upon application, the
28 department shall submit the permittee's name for a statewide
29 criminal records correspondence check through the Department
30 of Law Enforcement. The permittee shall notify the board
31 within 10 days after any designation of a new licensed

1 veterinarian responsible for such duties. A permittee under
2 this subsection is subject to the provisions of subsection (9)
3 and s. 474.214.

4 (9)(a) The department or the board may deny, revoke,
5 or suspend the permit of any permittee under this section and
6 may fine, place on probation, or otherwise discipline any such
7 permittee who has:

8 1. Obtained a permit by misrepresentation or fraud or
9 through an error of the department or board;

10 2. Attempted to procure, or has procured, a permit for
11 any other person by making, or causing to be made, any false
12 representation;

13 3. Violated any of the requirements of this chapter or
14 any rule of the board; or

15 4. Been convicted or found guilty of, or entered a
16 plea of nolo contendere to, regardless of adjudication, a
17 felony in any court of this state, of any other state, or of
18 the United States.

19 (b) If the permit is revoked or suspended, the owner,
20 manager, or proprietor shall cease to operate the premises as
21 a veterinary medical practice as of the effective date of the
22 suspension or revocation. In the event of such revocation or
23 suspension, the owner, manager, or proprietor shall remove
24 from the premises all signs and symbols identifying the
25 premises as a veterinary medical practice. The period of any
26 such suspension shall be prescribed by rule of the board, but
27 may not exceed 1 year. If the permit is revoked, the person
28 owning or operating the establishment may not apply for a
29 permit to operate a premises for a period of 1 year after the
30 effective date of such revocation. Upon the effective date of
31 such revocation, the permittee must advise the board of the

1 disposition of all medicinal drugs and must provide for
2 ensuring the security, confidentiality, and availability to
3 clients of all patient medical records.

4 Section 48. Section 474.2165, Florida Statutes, is
5 amended to read:

6 474.2165 Ownership and control of veterinary medical
7 patient records; report or copies of records to be
8 furnished.--

9 (1) As used in this section, the term "records owner"
10 means any veterinarian who generates a medical record after
11 making a physical examination of, or administering treatment
12 or dispensing legend drugs to, any patient; any veterinarian
13 to whom records are transferred by a previous records owner;
14 or any veterinarian's employer, provided the employment
15 contract or agreement between the employer and the
16 veterinarian designates the employer as the records owner.

17 (2) Each person who provides veterinary medical
18 services shall maintain medical records, as established by
19 rule.

20 (3) Any records owner licensed under this chapter who
21 makes an examination of, or administers treatment or dispenses
22 legend drugs to, any patient shall, upon request of the client
23 or the client's legal representative, furnish, in a timely
24 manner, without delays for legal review, copies of all reports
25 and records relating to such examination or treatment,
26 including X rays. The furnishing of such report or copies
27 shall not be conditioned upon payment of a fee for services
28 rendered.

29 (4) Except as otherwise provided in this section, such
30 records may not be furnished to, and the medical condition of
31 a patient may not be discussed with, any person other than the

1 client or the client's legal representative or other
2 veterinarians involved in the care or treatment of the
3 patient, except upon written authorization of the client.
4 However, such records may be furnished without written
5 authorization under the following circumstances:

6 (a) To any person, firm, or corporation that has
7 procured or furnished such examination or treatment with the
8 client's consent.

9 (b) In any civil or criminal action, unless otherwise
10 prohibited by law, upon the issuance of a subpoena from a
11 court of competent jurisdiction and proper notice to the
12 client or the client's legal representative by the party
13 seeking such records.

14 (c) For statistical and scientific research, provided
15 the information is abstracted in such a way as to protect the
16 identity of the patient and the client, or provided written
17 permission is received from the client or the client's legal
18 representative.

19 (5) Except in a medical negligence action or
20 administrative proceeding when a veterinarian is or reasonably
21 expects to be named as a defendant, information disclosed to a
22 veterinarian by a client in the course of the care and
23 treatment of the patient is confidential and may be disclosed
24 only to other veterinarians involved in the care or treatment
25 of the patient, or if permitted by written authorization from
26 the client or compelled by subpoena at a deposition,
27 evidentiary hearing, or trial for which proper notice has been
28 given.

29 (6) The department may obtain patient records pursuant
30 to a subpoena without written authorization from the client if
31 the department and the probable cause panel of the board find

1 reasonable cause to believe that a veterinarian has
2 excessively or inappropriately prescribed any controlled
3 substance specified in chapter 893 in violation of this
4 chapter or that a veterinarian has practiced his or her
5 profession below that level of care, skill, and treatment
6 required as defined by this chapter.

7 (7) Notwithstanding the provisions of s. 455.242,
8 records owners shall place an advertisement in the local
9 newspaper or notify clients, in writing, when they are
10 terminating practice, retiring, or relocating and are no
11 longer available to patients and shall offer clients the
12 opportunity to obtain a copy of their medical records.

13 (8) Notwithstanding the provisions of s. 455.242,
14 records owners shall notify the board office when they are
15 terminating practice, retiring, or relocating and are no
16 longer available to patients, specifying who the new records
17 owner is and where the medical records can be found.

18 (9) Whenever a records owner has turned records over
19 to a new records owner, the new records owner shall be
20 responsible for providing a copy of the complete medical
21 record, upon written request, of the client or the client's
22 legal representative.

23 (10) Veterinarians in violation of the provisions of
24 this section shall be disciplined by the board.

25 (11) A records owner furnishing copies of reports or
26 records pursuant to this section shall charge no more than the
27 actual cost of copying, including reasonable staff time, or
28 the amount specified in administrative rule by the board.

29 (12) Nothing in this section shall be construed to
30 limit veterinarian consultations, as necessary.

31

1 Section 49. Notwithstanding the transfer of the
2 Division of Medical Quality Assurance to the Department of
3 Health or any other provision of law to the contrary,
4 veterinarians licensed under chapter 474, Florida Statutes,
5 shall be governed by the treatment of impaired practitioner
6 provisions of s. 455.707, Florida Statutes, as if they were
7 under the jurisdiction of the Division of Medical Quality
8 Assurance, except that for veterinarians the Department of
9 Business and Professional Regulation shall, at its option,
10 exercise any of the powers granted to the Department of Health
11 by that section, and "board" shall mean board as defined in
12 chapter 474, Florida Statutes.

13 Section 50. Section 475.045, Florida Statutes, is
14 amended to read:

15 475.045 Florida Real Estate Commission Education and
16 Research Foundation ~~Foundation Advisory Committee~~--

17 (1)(a) There is established a Florida Real Estate
18 Commission Education and Research Foundation, hereinafter
19 referred to as the "foundation," which shall be administered
20 by the commission ~~Foundation Advisory Committee~~.

21 (b) The purposes, objectives, and duties of the
22 foundation are as follows:

23 1. To create and promote educational projects to
24 expand the knowledge of the public and real estate licensees
25 in matters pertaining to Florida real estate.

26 2. To augment the existing real estate programs by
27 increasing the number of teaching personnel and real estate
28 courses in the state in degree-granting programs in
29 universities and colleges in this state.

30 3. To conduct studies in all areas that relate
31 directly or indirectly to real estate or urban or rural

1 economics and to publish and disseminate the findings and
2 results of the studies.

3 4. To assist the teaching program in real estate
4 offered by the universities, colleges, and real estate schools
5 registered pursuant to this chapter in the state, when
6 requested to do so.

7 5. To develop and from time to time revise and update
8 materials for use in the courses in real estate offered by the
9 universities, colleges, and real estate schools registered
10 pursuant to this chapter in the state, when requested to do
11 so.

12 6. To make studies of, and recommend changes in, state
13 statutes and municipal ordinances; provided, however, that
14 such studies are requested by the Governor or the presiding
15 officers of the Legislature. The foundation shall maintain
16 political nonadvocacy.

17 7. To periodically review the progress of persons
18 conducting such research and studies. The results of any
19 research project or study shall not be published or
20 disseminated until it has been reviewed and approved in
21 writing by the commission ~~advisory committee~~ or its designated
22 representative.

23 8. To prepare information of consumer interest
24 concerning Florida real estate and to make the information
25 available to the public and appropriate state agencies.

26 (c) The foundation may make a charge for its
27 publications and may receive gifts and grants from
28 foundations, individuals, and other sources for the benefit of
29 the foundation.

30 (d) A report of the activities and accomplishments of
31 the foundation shall be published annually.

1 (e) On or before January 1 of each year, the
2 commission advisory committee shall file with the Governor,
3 the presiding officer of each house of the Legislature, and
4 the secretary of the department a complete and detailed
5 written report accounting for all funds received and disbursed
6 by the foundation during the preceding year.

7 ~~(2)(a) There is created the Foundation Advisory~~
8 ~~Committee which is composed of nine persons appointed by the~~
9 ~~Governor without regard to race, creed, sex, religion, or~~
10 ~~national origin of the appointee, with the following~~
11 ~~representation:~~

12 ~~1. Six active real estate licensees, one of whom may~~
13 ~~be a real estate salesperson. All licensees shall have been~~
14 ~~active real estate licensees for at least the past 5 years.~~

15 ~~2. Three members shall be representatives of the~~
16 ~~general public, and those appointed after October 1, 1988,~~
17 ~~shall possess qualifications in the fields of education,~~
18 ~~research, or consumer affairs which relate to the committee's~~
19 ~~education and research activities. Members representative of~~
20 ~~the general public shall not be licensed real estate brokers~~
21 ~~or salespersons and shall not have a financial interest, other~~
22 ~~than as consumers, in the practice of a licensed real estate~~
23 ~~broker or salesperson.~~

24 ~~(b)1. No current member of the Florida Real Estate~~
25 ~~Commission shall be eligible for appointment to the Foundation~~
26 ~~Advisory Committee.~~

27 ~~2. The chair of the Florida Real Estate Commission or~~
28 ~~a member of the commission designated by the chair shall serve~~
29 ~~as an ex officio nonvoting member of the advisory committee.~~

30 ~~(c)1. Except for the initial appointees, members of~~
31 ~~the advisory committee shall hold office for staggered terms~~

1 ~~of 4 years, with the terms of three members expiring on~~
2 ~~January 31 of each odd-numbered year. The current members may~~
3 ~~complete their present terms unless removed for cause.~~

4 ~~2. Any vacancy shall be filled by appointment for the~~
5 ~~unexpired portion of the term. Each member shall serve until~~
6 ~~the member's successor is qualified.~~

7 ~~3. Each member of the advisory committee is entitled~~
8 ~~to per diem and travel expenses as set by legislative~~
9 ~~appropriation for each day that the member engages in the~~
10 ~~business of the advisory committee.~~

11 ~~(3) It is grounds for removal from the advisory~~
12 ~~committee, if:~~

13 ~~(a) A broker or salesperson member of the committee~~
14 ~~ceases to be an active licensee; or~~

15 ~~(b) A public member of the committee acquires a real~~
16 ~~estate license or a financial interest in the practice of a~~
17 ~~licensed real estate broker or salesperson.~~

18 ~~(4)(a) The committee shall elect a chair annually from~~
19 ~~among its membership.~~

20 ~~(b) The committee shall meet not less than~~
21 ~~semiannually and, in addition, on call of its chair or on~~
22 ~~petition of any six of its members.~~

23 ~~(c) The advisory committee is subject to the sunshine~~
24 ~~law pursuant to s. 286.011.~~

25 ~~(2)(5)(a)~~ The commission advisory committee shall
26 solicit advice and information from real estate licensees, the
27 commission, universities, colleges, real estate schools
28 registered pursuant to this chapter and the general public for
29 the purpose of submitting proposals for carrying out the
30 purposes, objectives, and duties of the foundation.

31

1 (b) The commission ~~advisory committee~~ shall select the
2 proposals that shall be funded and shall give priority to
3 projects with the greatest potential for direct or indirect
4 benefit to the public.

5 (c) The commission ~~advisory committee~~ shall select the
6 university or college within the state or qualified full-time
7 faculty member of a university or college within the state
8 with the consent of the institution to perform the education
9 study, research study, or other project in accordance with the
10 purposes, objectives, and duties of the foundation. In those
11 instances where no university or college within the state, or
12 qualified full-time faculty member of a university or college
13 within the state with the consent of the institution, submits
14 an acceptable proposal, a qualified person or persons may be
15 selected in accordance with law to perform the education
16 study, research study, or other project in accordance with the
17 purposes, objectives, and duties of the foundation.

18 (3)~~(6)~~(a) The director of the Division of Real Estate
19 of the department, hereinafter referred to as the "director,"
20 or her or his designated representative shall submit to the
21 commission ~~advisory committee~~, in advance of each fiscal year,
22 a budget for expenditures of all funds provided for the
23 foundation in a form that is related to the proposed schedule
24 of activities for the review and approval of the commission
25 ~~advisory committee~~.

26 (b) The director shall submit to the commission
27 ~~advisory committee~~ all proposals received for its review and
28 approval in developing an educational and research agenda at
29 the beginning of each fiscal year and shall continuously
30 inform the commission ~~advisory committee~~ of changes in its
31 substance and scheduling.

1 ~~(4)(7)~~ The commission ~~advisory committee~~ shall have
2 the power and authority to adopt all rules necessary to
3 administer this section.

4 ~~(5)(8)~~ ~~Neither~~ The foundation may not ~~nor the~~
5 ~~committee shall be permitted to~~ fund or offer educational
6 courses designed to qualify persons for licensure or the
7 renewal of licenses pursuant to this chapter.

8 ~~(6)(9)~~ ~~Neither~~ The foundation may not ~~nor the~~
9 ~~committee shall~~ expend any funds for the purpose of employing
10 staff.

11 ~~(7)(10)~~ The Treasurer shall invest \$3 million from the
12 portion of the Professional Regulation Trust Fund credited to
13 the real estate profession, under the same limitations as
14 applied to investments of other state funds, and the income
15 earned thereon shall be available to the foundation to fund
16 the activities and projects authorized under this section.
17 However, any balance of such interest in excess of \$1 million
18 shall revert to the portion of the Professional Regulation
19 Trust Fund credited to the real estate profession. In the
20 event the foundation is abolished, the funds in the trust fund
21 shall revert to such portion of the Professional Regulation
22 Trust Fund.

23 Section 51. Subsection (12) of section 477.013,
24 Florida Statutes, is amended to read:

25 477.013 Definitions.--As used in this chapter:

26 (12) "Body wrapping" means a treatment program that
27 uses herbal wraps for the purposes of ~~weight loss and of~~
28 cleansing and beautifying the skin of the body, but does not
29 include:
30
31

1 (a) The application of oils, lotions, or other fluids
2 to the body, except fluids contained in presoaked materials
3 used in the wraps; or

4 (b) Manipulation of the body's superficial tissue,
5 other than that arising from compression emanating from the
6 wrap materials.

7 Section 52. Paragraph (d) is added to subsection (1)
8 of section 477.0132, Florida Statutes, to read:

9 477.0132 Hair braiding, hair wrapping, and body
10 wrapping registration.--

11 (1)

12 (d) Only the board may review, evaluate, and approve a
13 course required of an applicant for registration under this
14 subsection in the occupation or practice of hair braiding,
15 hair wrapping, or body wrapping. A provider of such a course
16 is not required to hold a license under chapter 246.

17 Section 53. Section 477.019, Florida Statutes, is
18 amended to read:

19 477.019 Cosmetologists; qualifications; licensure;
20 supervised practice; license renewal; endorsement; continuing
21 education.--

22 (1) A person desiring to be licensed as a
23 cosmetologist shall apply to the department for licensure.

24 (2) An applicant shall be eligible for licensure by
25 examination to practice cosmetology if the applicant:

26 (a) Is at least 16 years of age or has received a high
27 school diploma.†

28 (b) Pays the required application fee, which is not
29 refundable, and the required examination fee, which is
30 refundable if the applicant is determined to not be eligible

31

1 for licensure for any reason other than failure to
2 successfully complete the licensure examination.~~7 and~~

3 (c)1. Is authorized ~~Holds an active valid license~~ to
4 practice cosmetology in another state or country, has been so
5 authorized ~~held the license~~ for at least 1 year, and does not
6 qualify for licensure by endorsement as provided for in
7 subsection(7)(6); or

8 2. Has successfully completed ~~received~~ a minimum of
9 1,200 actual school hours of training and instruction, the
10 minimum curriculum requirements of which are to be as
11 established by rules adopted by the board. The required
12 training and instruction, ~~which~~ shall include, but shall not
13 be limited to, the equivalent of completion of services
14 directly related to the practice of cosmetology. For purposes
15 of qualifying for licensure, all required training and
16 instruction must comply with the minimum curriculum
17 requirements as established by the board and must be completed
18 at or evaluated and certified to the board by ~~at~~ one of the
19 following, unless an applicant submits sufficient proof, as
20 determined by the board, of satisfactory completion of all
21 required training and instruction with his or her application
22 for evaluation by the board:

23 a. A school of cosmetology licensed pursuant to
24 chapter 246.

25 b. A cosmetology program within the public school
26 system of this state.

27 c. The Cosmetology Division of the Florida School for
28 the Deaf and the Blind, provided the training programs comply
29 with the minimum curriculum requirements established by the
30 board ~~division meets the standards of this chapter.~~

31

1 d. A government-operated cosmetology program in this
2 state.

3
4 Certifications and evaluations of training and instruction by
5 each of the schools or programs listed in this paragraph shall
6 be done in accordance with rules adopted by the board.

7 (d) Has successfully completed a licensure examination
8 as established by the board.

9 (3) The board shall establish by rule procedures
10 whereby a person may be determined to be eligible for
11 licensure by examination after a the school or program listed
12 in paragraph (2)(c) has certified may certify that a person
13 has completed is qualified to take the required examination
14 after the completion of a minimum of 1,000 actual school
15 hours. If the person then passes the examination, he or she
16 shall have satisfied the training and instruction this
17 requirement; but if the person fails the examination, he or
18 she shall not be qualified to take the examination again until
19 the completion of the full requirements provided by this
20 section.

21 (4)(3) Upon an applicant receiving a passing grade, as
22 established by board rule, on the examination and paying the
23 initial licensing fee, the department shall issue a license to
24 practice cosmetology.

25 (5)(4) Following the completion of the first licensing
26 examination and pending the results of that examination and
27 issuance of a license to practice cosmetology, graduates of
28 licensed cosmetology schools or cosmetology programs offered
29 in public school systems, which schools or programs are
30 certified by the Department of Education, are eligible to
31 practice cosmetology, provided such graduates practice under

1 the supervision of a licensed cosmetologist in a licensed
2 cosmetology salon. A graduate who fails the first examination
3 may continue to practice under the supervision of a licensed
4 cosmetologist in a licensed cosmetology salon if the graduate
5 applies for the next available examination and until the
6 graduate receives the results of that examination. No graduate
7 may continue to practice under this subsection if the graduate
8 fails the examination twice.

9 ~~(6)(5)~~ Renewal of license registration shall be
10 accomplished pursuant to rules adopted by the board.

11 ~~(7)(6)~~ The board shall adopt rules specifying
12 procedures for the licensure by endorsement of practitioners
13 desiring to be licensed in this state who are authorized to
14 practice cosmetology ~~hold a current active license~~ in another
15 state or country, ~~and~~ who meet personal ~~have met~~
16 qualifications substantially similar to, equivalent to, or
17 greater than the qualifications required of applicants for
18 licensure by examination in this state, and who can
19 demonstrate that they have successfully completed a written
20 licensure examination which is determined by the board to be
21 substantially similar to, equivalent to, or more stringent
22 than the examination required by ~~from~~ this state.

23 ~~(8)(7)(a)~~ The board shall prescribe by rule continuing
24 education requirements intended to ensure protection of the
25 public through updated training of licensees and registered
26 specialists, not to exceed 16 hours biennially, as a condition
27 for renewal of a license or registration as a specialist under
28 this chapter. Continuing education courses shall include, but
29 not be limited to, the following subjects as they relate to
30 the practice of cosmetology: human immunodeficiency virus and
31 acquired immune deficiency syndrome; Occupational Safety and

1 Health Administration regulations; workers' compensation
2 issues; state and federal laws and rules as they pertain to
3 cosmetologists, cosmetology, salons, specialists, specialty
4 salons, and booth renters; chemical makeup as it pertains to
5 hair, skin, and nails; and environmental issues. Courses given
6 at cosmetology conferences may be counted toward the number of
7 continuing education hours required if approved by the board.

8 (b) Any person whose occupation or practice is
9 confined solely to hair braiding, hair wrapping, or body
10 wrapping is exempt from the continuing education requirements
11 of this subsection.

12 (c) The board may, by rule, require any licensee in
13 violation of a continuing education requirement to take a
14 refresher course or refresher course and examination in
15 addition to any other penalty. The number of hours for the
16 refresher course may not exceed 48 hours.

17 Section 54. Section 477.0201, Florida Statutes, is
18 amended to read:

19 477.0201 Specialty registration; qualifications;
20 registration renewal; endorsement.--

21 (1) A ~~Any~~ person desiring to be registered is
22 ~~qualified for registration~~ as a specialist in any one or more
23 of the specialty practices within the practice of cosmetology
24 under this chapter shall apply to the department.

25 (2) An applicant shall be eligible for registration as
26 a specialist in one or more of the specialty practices in the
27 practice of cosmetology if the applicant ~~who:~~

28 (a) Is at least 16 years of age or has received a high
29 school diploma.

30 (b) Pays the required application fee, which is not
31 refundable.

1 (c)(b) Has successfully completed all required
2 training and instruction for the specialty practice in which
3 registration is sought, the minimum curriculum requirements of
4 which are to be established by rules adopted by the board. The
5 required training and instruction shall include, but shall not
6 be limited to, the equivalent of completion of specialty
7 services directly related to the practice of the specialty in
8 which registration is sought. For purposes of qualifying for
9 specialty registration, all required training and instruction
10 must comply with the minimum curriculum requirements as
11 established by the board and must be completed at or evaluated
12 by one of the following, unless the applicant submits
13 satisfactory proof, as determined by the board, of successful
14 completion of all required training and instruction with his
15 or her application for evaluation by the board ~~Has received a~~
16 ~~certificate of completion in a specialty pursuant to s.~~
17 ~~477.013(6) from one of the following:~~

18 ~~1. A school licensed pursuant to s. 477.023.~~
19 1.2. A school of cosmetology or a school of the
20 specialty in which registration is sought, licensed pursuant
21 to chapter 246 or the equivalent licensing authority of
22 another state.

23 ~~2.3. A specialty program within the public school~~
24 system of this state.

25 ~~3.4. A specialty division within the Cosmetology~~
26 Division of the Florida School for the Deaf and the Blind,
27 provided the training programs comply with minimum curriculum
28 requirements established by the board.

29 4. A government-operated cosmetology program in this
30 state or a government-operated program in this state in the
31 specialty in which registration is sought.

1
2 Certifications and evaluations of training and instruction by
3 each of the schools or programs listed in this paragraph shall
4 be done in accordance with rules adopted by the board.

5 ~~(2) A person desiring to be registered as a specialist~~
6 ~~shall apply to the department in writing upon forms prepared~~
7 ~~and furnished by the department.~~

8 (3) Upon certification by the board and payment of
9 ~~paying~~ the initial registration fee, the department shall
10 register the applicant to practice in one or more of the
11 specialty practice in which registration is sought ~~practices~~
12 ~~within the practice of cosmetology.~~

13 (4) Renewal of registration shall be accomplished
14 pursuant to rules adopted by the board.

15 (5) The board shall adopt rules specifying procedures
16 for the registration by endorsement of specialty practitioners
17 ~~desiring to be registered in this state~~ who are authorized to
18 practice the specialty in which registration is sought in
19 another state or country and who meet personal qualifications
20 ~~have been registered or licensed and are practicing in states~~
21 ~~which have registering or licensing standards~~ substantially
22 similar to, equivalent to, or more stringent than the
23 qualifications required for applicants for registration in
24 ~~standards of~~ this state.

25 (6) Pending issuance of registration, a person is
26 eligible to practice as a specialist upon submission of a
27 registration application that includes proof of successful
28 completion of the education requirements and payment of the
29 applicable fees required by this chapter, provided such
30 practice is under the supervision of a registered specialist
31 in a licensed specialty or cosmetology salon.

1 Section 55. Section 492.101, Florida Statutes, is
2 amended to read:

3 492.101 Purpose.--It is hereby declared to be the
4 public policy of the state that, in order to safeguard the
5 life, health, property, and public well-being of its citizens,
6 any person practicing or offering to practice geology in this
7 state shall meet the requirements of this chapter ~~the~~
8 ~~Department of Business and Professional Regulation and shall~~
9 ~~be licensed as provided in ss. 492.101-492.1165.~~

10 Section 56. Section 492.102, Florida Statutes, is
11 amended to read:

12 492.102 Definitions.--For the purposes of this chapter
13 ~~ss. 492.101-492.1165~~, unless the context clearly requires
14 otherwise:

15 (1) "Board" means the Board of Professional
16 Geologists.

17 (2) "Department" means the Department of Business and
18 Professional Regulation.

19 (3) "Geology" means the science which includes the
20 treatment of the earth and its origin and history, in general;
21 the investigation of the earth's crust and interior and the
22 solids and fluids, including all surface and underground
23 waters, and gases which compose the earth; the study of the
24 natural agents, forces, and processes which cause changes in
25 the earth; and the utilization of this knowledge of the earth
26 and its solids, fluids, and gases, and their collective
27 properties and processes, for the benefit of humankind.

28 (4) "Geologist" means an individual who, by reason of
29 her or his knowledge of geology, soils, mathematics, and the
30 physical and life sciences, acquired by education and
31

1 practical experience, is capable of practicing the science of
2 geology.

3 (5) "Qualified geologist" means an individual who
4 possesses all the qualifications for licensure under the
5 provisions of this chapter ~~ss. 492.101-492.1165~~, except that
6 such person is not licensed.

7 (6) "Professional geologist" means an individual who
8 is licensed as a geologist under the provisions of this
9 chapter ~~ss. 492.101-492.1165~~.

10 (7) "Practice of professional geology" means the
11 performance of, or offer to perform, geological services,
12 including, but not limited to, consultation, investigation,
13 evaluation, planning, and geologic mapping, but not including
14 mapping as prescribed in chapter 472, relating to geological
15 work, except as specifically exempted by this chapter ~~ss.~~
16 ~~492.101-492.1165~~. Any person who practices any specialty
17 branch of the profession of geology, or who by verbal claim,
18 sign, advertisement, letterhead, card, or any other means
19 represents herself or himself to be a professional geologist,
20 or who through the use of some title implies that she or he is
21 a professional geologist or that she or he is licensed under
22 this chapter ~~ss. 492.101-492.1165~~, or who holds herself or
23 himself out as able to perform or does perform any geological
24 services or work recognized as professional geology, shall be
25 construed to be engaged in the practice of professional
26 geology.

27 Section 57. Section 492.104, Florida Statutes, is
28 amended to read:

29 492.104 Authority to make rules.--The Board of
30 Professional Geologists has authority to adopt rules pursuant
31 to ss. 120.536(1) and 120.54 to implement this chapter ~~ss.~~

1 ~~492.101-492.1165~~. Every licensee shall be governed and
2 controlled by this chapter ~~ss. 492.101-492.1165~~ and the rules
3 adopted by the board. The board is authorized to set, by
4 rule, fees for application, examination, certificate of
5 authorization, late renewal, initial licensure, and license
6 renewal. These fees should not exceed the cost of
7 implementing the application, examination, initial licensure,
8 and license renewal or other administrative process and shall
9 be established as follows:-

10 (1) The application fee shall not exceed \$150 and
11 shall be nonrefundable.

12 (2) The examination fee shall not exceed \$250 and
13 shall be refundable if the applicant is found to be ineligible
14 to take the licensure examination.

15 (3) The initial license fee shall not exceed \$100.

16 (4) The biennial renewal fee shall not exceed \$150.

17 (5) The fee for a certificate of authorization shall
18 not exceed \$350 and the fee for renewal of the certificate
19 shall not exceed \$350.

20 (6) The fee for reactivation of an inactive license
21 shall not exceed \$50.

22 (7) The fee for a provisional license shall not exceed
23 \$400.

24 (8) The fee for application, examination, and
25 licensure for a license by endorsement shall be as provided in
26 this section for licenses in general.

27 Section 58. Paragraph (c) of subsection (1) and
28 subsection (3) of section 492.105, Florida Statutes, are
29 amended to read:

30 492.105 Licensure by examination; requirements;
31 fees.--

1 (1) Any person desiring to be licensed as a
2 professional geologist shall apply to the department to take
3 the licensure examination. The written licensure examination
4 shall be designed to test an applicant's qualifications to
5 practice professional geology, and shall include such subjects
6 as will tend to ascertain the applicant's knowledge of the
7 theory and the practice of professional geology and may
8 include such subjects as are taught in curricula of accredited
9 colleges and universities. The department shall examine each
10 applicant who the board certifies:

11 (c) Has not committed any act or offense in any
12 jurisdiction which would constitute the basis for disciplining
13 a professional geologist licensed pursuant to this chapter ~~ss.~~
14 ~~492.101-492.1165~~.

15 (3) The department shall not issue a license to any
16 applicant who is under investigation in any jurisdiction for
17 an offense which would constitute a violation of this chapter
18 ~~ss. 492.101-492.1165~~. Upon completion of the investigation,
19 the disciplinary provisions of s. 492.113 shall apply.

20 Section 59. Section 492.107, Florida Statutes, is
21 amended to read:

22 492.107 Seals.--

23 (1) The board shall prescribe, by rule, a form of
24 seal, including its electronic form, to be used by persons
25 holding valid licenses. All geological papers, reports, and
26 documents prepared or issued by the licensee shall be signed
27 ~~by the licensee~~, dated, and sealed by the licensee who
28 performed or is responsible for the supervision, direction, or
29 control of the work contained in the papers, reports, or
30 documents ~~stamped with said seal~~. Such signature, date, and
31 seal shall be evidence of the authenticity of that to which

1 they are affixed. Geological papers, reports, and documents
 2 prepared or issued by the licensee may be transmitted
 3 electronically provided they have been signed by the licensee,
 4 dated, and electronically sealed. It is unlawful for any
 5 person to ~~sign stamp~~ or seal any document as a professional
 6 geologist unless that person holds a current, active license
 7 as a professional geologist which has not ~~with a seal after~~
 8 ~~that person's license has~~ expired or been revoked or
 9 suspended, unless reinstated or reissued.

10 (2) No licensee registrant shall affix or permit to be
 11 affixed her or his ~~the registrant's~~ seal or name to any
 12 geologic reports, papers, or other documents which depict work
 13 which the licensee registrant is not licensed to perform or
 14 which was not performed by or under the responsible
 15 supervision, direction, or control of the licensee ~~is beyond~~
 16 ~~the registrant's profession or specialty therein.~~

17 Section 60. Subsection (2) of section 492.108, Florida
 18 Statutes, is amended to read:

19 492.108 Licensure by endorsement; requirements;
 20 fees.--

21 (2) The department shall issue a license to practice
 22 professional geology to any applicant who successfully
 23 complies with the requirements of this section. The
 24 department shall not issue a license to any applicant who is
 25 under investigation in any jurisdiction for an offense which
 26 would constitute a violation of this chapter ~~ss.~~

27 ~~492.101-492.1165.~~ Upon completion of the investigation, the
 28 disciplinary provisions of s. 492.113 shall apply.

29 Section 61. Section 492.111, Florida Statutes, is
 30 amended to read:

31

1 492.111 Practice of professional geology by a firm,
2 corporation, or partnership; certificate of
3 authorization.--The practice of, or offer to practice,
4 professional geology by individual professional geologists
5 licensed under the provisions of this chapter ~~ss.~~
6 ~~492.101-492.1165~~ through a firm, corporation, or partnership
7 offering geological services to the public through
8 individually licensed professional geologists as agents,
9 employees, officers, or partners thereof is permitted subject
10 to the provisions of this chapter ~~ss. 492.101-492.1165~~,
11 provided that:

12 (1) At all times that it offers geological services to
13 the public, the firm, corporation, or partnership has on file
14 with the department the name and license number of one or more
15 individuals who hold a current, active license as a
16 professional geologist in the state and are serving as a
17 geologist of record for the firm, corporation, or partnership.
18 A geologist of record may be any principal officer or employee
19 of such firm or corporation, or any partner or employee of
20 such partnership, who holds a current, active license as a
21 professional geologist in this state, or any other
22 Florida-licensed professional geologist with whom the firm,
23 corporation, or partnership has entered into a long-term,
24 ongoing relationship, as defined by rule of the board, to
25 serve as one of its geologists of record. It shall be the
26 responsibility of the firm, corporation, or partnership and
27 the geologist of record to notify the department of any
28 changes in the relationship or identity of that geologist of
29 record within 30 days after such change.~~One or more of the~~
30 ~~principal officers, employees, or agents of such firm or~~
31 ~~corporation, or partners, employees, or agents of such~~

1 ~~partnership, who act in its behalf as professional geologists~~
2 ~~in this state are licensed as provided in ss.~~
3 ~~492.101-492.1165.~~

4 (2) The firm, corporation, or partnership has been
5 issued a certificate of authorization by the department as
6 provided in this chapter ~~ss. 492.101-492.1165~~. For purposes
7 of this section, a certificate of authorization shall be
8 required of any firm, corporation, partnership, association,
9 or person practicing under a fictitious name and offering
10 geological services to the public; except that, when an
11 individual is practicing geology in his or her own name, he or
12 she shall not be required to obtain a certificate of
13 authorization under this section. Such certificate of
14 authorization shall be renewed every 2 years.

15 (3) All final geological papers or documents involving
16 the practice of the profession of geology which have been
17 prepared or approved for the use of such firm, corporation, or
18 partnership, for delivery to any person for public record with
19 the state, shall be dated and bear the signature and seal of
20 the professional geologist or professional geologists who
21 prepared or approved them.

22 (4) The fact that a licensed geologist practices
23 through a corporation or partnership shall not relieve the
24 registrant from personal liability for negligence, misconduct,
25 or wrongful acts committed by him or her. Partnership and all
26 partners shall be jointly and severally liable for the
27 negligence, misconduct, or wrongful acts committed by their
28 agents, employees, or partners while acting in a professional
29 capacity. Any officer, agent, or employee of a corporation
30 shall be personally liable and accountable only for negligent
31 acts, wrongful acts, or misconduct committed by him or her or

1 committed by any person under his or her direct supervision
 2 and control, while rendering professional services on behalf
 3 of the corporation. The personal liability of a shareholder
 4 of a corporation, in his or her capacity as shareholder, shall
 5 be no greater than that of a shareholder-employee of a
 6 corporation incorporated under chapter 607. The corporation
 7 shall be liable up to the full value of its property for any
 8 negligent acts, wrongful acts, or misconduct committed by any
 9 of its officers, agents, or employees while they are engaged
 10 on behalf of the corporation in the rendering of professional
 11 services.

12 (5) The firm, corporation, or partnership desiring a
 13 certificate of authorization shall file with the department an
 14 application therefor, upon a form to be prescribed by the
 15 department, accompanied by the required application fee.

16 (6) The department may refuse to issue a certificate
 17 of authorization if any facts exist which would entitle the
 18 department to suspend or revoke an existing certificate of
 19 authorization or if the department, after giving persons
 20 involved a full and fair hearing, determines that any of the
 21 officers or directors of said firm or corporation, or partners
 22 of said partnership, have violated the provisions of s.
 23 492.113.

24 Section 62. Paragraphs (a), (b), and (g) of subsection
 25 (1) of section 492.112, Florida Statutes, are amended to read:

26 492.112 Prohibitions; penalties.--

27 (1) A person may not knowingly:

28 (a) Practice geology unless the person is licensed
 29 under this chapter ~~ss. 492.101-492.1165~~.

30 (b) Use the name or title "Professional Geologist" or
 31 any other title, designation, words, letters, abbreviations,

1 or device tending to indicate that the person holds an active
2 license as a geologist when the person is not licensed under
3 this chapter ~~ss. 492.101-492.1165~~.

4 (g) Conceal information relative to violations of this
5 chapter ~~ss. 492.101-492.1165~~.

6 Section 63. Paragraph (a) of subsection (1) of section
7 492.113, Florida Statutes, is amended to read:

8 492.113 Disciplinary proceedings.--

9 (1) The following acts constitute grounds for which
10 the disciplinary actions in subsection (3) may be taken:

11 (a) Violation of any provision of s. 492.112 or any
12 other provision of this chapter ~~ss. 492.101-492.1165~~.

13 Section 64. Section 492.116, Florida Statutes, is
14 amended to read:

15 492.116 Exemptions.--The following persons are
16 specifically exempted from this chapter ~~ss. 492.101-492.1165~~,
17 provided, however, that all final geological papers or
18 documents which have been prepared by a person exempt under
19 subsection (1), subsection (2), subsection (3), or subsection
20 (4) for delivery to any person for public record with the
21 state shall be dated and bear the signature and seal of the
22 professional geologist or professional geologists who prepared
23 or approved them:

24 (1) Persons engaged solely in teaching the science of
25 geology.

26 (2) Persons engaged in geological research which does
27 not affect the health, safety, or well-being of the public.

28 (3) Officers and employees of the United States
29 Government, the State of Florida, water management districts,
30 or other local or regional governmental entities practicing
31 solely as such officers or employees.

1 (4) Regular full-time employees of a corporation not
2 engaged in the practice of professional geology as such, who
3 are directly supervised by a person licensed as a professional
4 geologist under this chapter ~~ss. 492.101-492.1165~~.

5 (5) A person employed on a full-time basis as a
6 geologist by an employer engaged in the business of
7 developing, mining, or treating ores, other minerals, and
8 petroleum resources if that person engages in geological
9 practice exclusively for and as an employee of such employer
10 and does not hold herself or himself out and is not held out
11 as available to perform any geological services for persons
12 other than her or his employer.

13 Section 65. Section 492.1165, Florida Statutes, is
14 amended to read:

15 492.1165 Construction of chapter ~~ch. 87-403~~.--Nothing
16 in this chapter ~~ss. 492.101-492.1165 as enacted by chapter~~
17 ~~87-403, Laws of Florida,~~ shall be construed to prevent or
18 prohibit the practice of any profession or trade for which a
19 license is required under any other law of this state, or the
20 practice by registered professional engineers.

21 Section 66. The sum of \$500,000 is hereby appropriated
22 from the Professional Regulation Trust Fund to the Department
23 of Business and Professional Regulation for the purpose of
24 disbursing funds to any private corporation or business entity
25 to offset startup costs incurred in the implementation of s.
26 455.32, Florida Statutes, the Management Privatization Act,
27 pursuant to a contract executed by the department.

28 Section 67. This act shall take effect July 1, 2000.
29
30
31