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Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Hafner offered the following:

Amendment (with title amendment)

On page 92, between lines 19 and 20, of the bill

insert:

Section 38. Section 216.348, Florida Statutes, is created to read:

216.348 Fixed capital outlay grants and aids appropriations to certain nonprofit entities.--If a bill appropriating a fixed capital outlay grants and aids appropriation requires compliance with this section, the following conditions shall apply, except to the extent that such bill modifies these conditions:

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

(a) "Administering agency" means the governmental agency or entity which is charged by the bill appropriating the fixed capital outlay grants and aids appropriation to a grantee with administering that appropriation.

(b) "Grant" means a fixed capital outlay grants and aids appropriation to a nonprofit entity other than a

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1 governmental entity.

2 (c) "Grantee" means a nonprofit entity, other than a
3 governmental entity, to which the Legislature has appropriated
4 over \$50,000 pursuant to a fixed capital outlay grants and
5 aids appropriation.

6 (2) Prior to the receipt of any grant money from the
7 administering agency, a grantee must provide the administering
8 agency with an affidavit by an officer or director of the
9 grantee certifying under oath that the grantee is a nonprofit
10 entity and must execute a written agreement with the
11 administering agency, in a form approved by the administering
12 agency, pursuant to subsection (3).

13 (3)(a) If the grantee is acquiring real property with
14 the grant, or if the grantee owns the real property upon which
15 an improvement is being constructed, renovated, altered,
16 modified, or maintained with the grant, the grantee must
17 execute, deliver, and record in the county in which the
18 subject property is located an agreement that:

19 1. States a correct legal description of the real
20 property.

21 2. Sets forth with specificity the buildings,
22 appurtenances, fixtures, fixed equipment, structures,
23 improvements, renovations, and personalty to be purchased
24 pursuant to the grant.

25 3. During the term of the agreement, prohibits the
26 grantee from selling, transferring, mortgaging, or assigning
27 the grantee's interest in the real property, unless the
28 administering agency approves the sale, transfer, mortgage, or
29 assignment; and, in the case of sale, transfer, or assignment,
30 the purchaser, transferor, or assignee must fully assume, in
31 writing, all of the terms and conditions of the agreement

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1 required by this subsection. The administering agency, at its
2 discretion, may agree to subordination to a mortgage.

3 (b) If the grantee is not acquiring real property, or
4 does not own the real property being improved, the agreement
5 shall:

6 1. Specify the leasehold or other real property
7 interest the grantee has in the real property.

8 2. State the name of the owner of the real property.

9 3. Describe the relationship between the owner of the
10 real property and the grantee.

11 4. Set forth with specificity the improvements,
12 renovations, and personalty to be purchased pursuant to the
13 grant.

14 5. During the term of the agreement, prohibit the
15 grantee from selling, transferring, mortgaging, or assigning
16 the grantee's interest in the leasehold, improvements,
17 renovations, or personalty, unless the administering agency
18 approves the sale, transfer, mortgage, or assignment; and, in
19 the case of sale, transfer, or assignment, the purchaser,
20 transferor, or assignee must fully assume, in writing, all of
21 the terms and conditions of the agreement required by this
22 subsection. Additionally, the grantee shall execute and
23 deliver a security instrument, financing statement, or other
24 appropriate document securing the interest of the
25 administering agency in the improvements, renovations, and
26 personalty associated with the grant. The administering
27 agency, in its discretion, may agree to subordination or
28 modification of a security interest.

29 (c) All agreements required by this subsection shall:

30 1. Require the grantee to continue the operation,
31 maintenance, repair, and administration of the property in

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1 accordance with the purposes for which the funds were
2 originally appropriated and for the period of time expressly
3 specified by the bill appropriating the grant. If the bill
4 appropriating the grant does not specify a time period, the
5 administering agency shall determine a reasonable period of
6 time.

7 2. Provide that if the grantee fails, during the term
8 of the agreement, to operate, maintain, repair, and administer
9 the property in accordance with the purposes for which the
10 funds were originally granted, the grantee shall return to the
11 administering agency, no later than upon demand by the
12 administering agency, an amount calculated as follows:

13 a. If the bill appropriating the grant states a
14 specific repayment formula, that formula shall be used;

15 b. If the bill appropriating the grant states a
16 specific period of time but does not specify a repayment
17 formula, the amount to be returned shall be calculated on a
18 pro rata basis for that period of time; or

19 c. If the bill appropriating the grant does not state
20 a specific period of time or formula, the amount to be
21 returned shall be specified by the administering agency, which
22 shall be no less than the full amount of the grant less
23 \$100,000 or 10 percent of the grant, whichever is more, for
24 each full year for which the property was used for such
25 purposes.

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27 The administering agency shall deposit all funds returned by
28 the grantee into the state fund from which the grant was
29 originally made.

30 3. Require that the grantee adopt an accounting
31 system, in compliance with generally accepted accounting

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1 principles, which shall provide for a complete record of the
2 use of the grant money. In addition, the provisions of s.
3 216.3491 shall apply.

4 4. Provide that the grantee shall indemnify, defend,
5 and hold the administering agency harmless from and against
6 any and all claims or demands for damages resulting from
7 personal injury, including death or damage to property,
8 arising out of or relating to the subject property or the use
9 of the grant money. The agreement shall require the grantee to
10 purchase and maintain insurance on behalf of directors,
11 officers, and employees of the grantee against any personal
12 liability or accountability by reason of actions taken while
13 acting within the scope of their authority. The administering
14 agency shall be immune from civil or criminal liability
15 resulting from acts or omissions of the grantee and the
16 grantee's agents, employees, or assigns.

17 5. Require the grantee to return any portion of the
18 grant money received that is not necessary to the purchase of
19 the land, or to the cost of the improvements, renovations, and
20 personalty, for which the grant was awarded.

21 (d) The administering agency may:

22 1. Require that, during any term or period of
23 construction, or until such time as the grant money is fully
24 and properly spent according to the bill appropriating the
25 grant, the grantee obtain a blanket fidelity bond, in the
26 amount of the grant, issued by a company authorized and
27 licensed to do business in this state, which will reimburse
28 the administering agency in the event that anyone handling the
29 grant moneys either misappropriates or absconds with the grant
30 moneys. All employees handling the grant moneys must be
31 covered by the bond.

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1 2. Include any other term or condition the
2 administering agency deems reasonable and necessary for the
3 effective and efficient administration of the grant.

4 3. Modify any condition required by this subsection,
5 provided the administering agency deems that such modification
6 is necessary in order to best effectuate the purpose of the
7 grant and provided the bill appropriating the grant, or
8 applicable law, does not otherwise require.

9 (e) The agreement must provide that the administering
10 agency shall execute a satisfaction of the agreement in
11 recordable form upon full compliance by the grantee with the
12 terms of the agreement.

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 5, line 4, after the semicolon

18

19 insert:

20 creating s. 216.348, F.S.; providing conditions
21 for receipt of certain grants and aids
22 appropriations by certain nonprofit entities;
23 providing definitions; providing for an
24 affidavit of nonprofit status; providing for an
25 agreement between the administering agency and
26 the nonprofit entity; providing minimum
27 requirements for the agreement; providing that
28 the nonprofit entity continue operation of the
29 property for the purposes set forth in the
30 grant; providing for repayment of grant moneys
31 received under certain conditions; providing

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1 for the adoption of an accounting system and
2 providing for audit; providing for liability
3 insurance and exempting the administering
4 agency from liability; providing permissive
5 conditions of the agreement; providing for a
6 satisfaction of the agreement;
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