

1 A bill to be entitled
2 An act relating to aquaculture; amending s.
3 190.003, F.S.; including the owner of a
4 long-term ground lease from a governmental
5 entity within the definition of "landowner";
6 giving the board of trustees authority for
7 taking final agency action on leasing; amending
8 s. 190.005, F.S.; providing that the
9 establishment of a community development
10 district must include the consent of all
11 landowners whose lands are to be included in
12 the district; amending s. 190.012, F.S.;
13 authorizing community development districts to
14 fund certain environmental costs under certain
15 circumstances; amending s. 190.021, F.S.;
16 providing that certain ground leases shall not
17 be subject to a lien or encumbrance for
18 described taxes; amending s. 253.002, F.S.;
19 providing duties of the Department of
20 Agriculture and Consumer Services with respect
21 to certain state lands; amending s. 253.01,
22 F.S.; providing for disposition of fees for
23 aquaculture leases; amending s. 253.67, F.S.;
24 revising definitions; amending s. 253.71, F.S.;
25 revising aquaculture lease contract fee and
26 performance requirements; amending s. 253.72,
27 F.S.; providing requirements for the marking of
28 leased areas; amending s. 253.75, F.S.;
29 requiring the Board of Trustees of the Internal
30 Improvement Trust Fund to request comments by
31 the Fish and Wildlife Conservation Commission

1 regarding certain submerged land leases;
2 amending s. 270.22, F.S.; conforming
3 disposition of rental fees for aquaculture
4 leases; amending s. 328.76, F.S.; providing for
5 use of certain commercial vessel registration
6 fees for aquaculture law enforcement and
7 quality control programs; amending s. 370.06,
8 F.S.; deleting authority of the Department of
9 Agriculture and Consumer Services to issue
10 certain special activity licenses under ch.
11 370, F.S.; clarifying requirements relating to
12 the educational seminar for applicants for an
13 Apalachicola Bay oyster harvesting license;
14 amending s. 370.07, F.S.; providing for the
15 distribution of funds from the Florida
16 Saltwater Products Promotion Trust Fund;
17 providing for transfer of responsibilities
18 relating to the Apalachicola Bay oyster
19 surcharge from the Department of Environmental
20 Protection to the Department of Agriculture and
21 Consumer Services; amending s. 370.13, F.S.;
22 providing for a depredation endorsement on a
23 saltwater products license; amending s. 370.16,
24 F.S.; revising regulation of noncultured
25 shellfish harvesting; providing for protection
26 of shellfish and aquaculture products;
27 repealing s. 370.16(1), (2), (3), (4), (5),
28 (6), (7), (8), (9), (10), (11), (13), (16),
29 (17), (19), (22), (24), (25), (26), and (27),
30 F.S., relating to regulation and enforcement of
31 oyster and shellfish leases by the Department

1 of Environmental Protection, protection and
2 development of oyster and shellfish resources,
3 and regulation of processing for commercial
4 use; amending ss. 370.161 and 372.071, F.S.;
5 correcting cross references; amending s.
6 372.6673, F.S.; requiring certain transfer of
7 funds from the alligator management program for
8 products marketing and education; amending s.
9 372.6674, F.S.; requiring certain transfer of
10 funds from the alligator management program for
11 products marketing and education; amending s.
12 373.046, F.S.; revising regulatory
13 responsibility under pt. IV of ch. 373, F.S.,
14 for aquacultural activities; amending ss.
15 403.814, 409.2598, and 500.03, F.S.; correcting
16 cross references; amending ss. 570.18 and
17 570.29, F.S.; conforming provisions relating to
18 organization of the Department of Agriculture
19 and Consumer Services; creating s. 570.61,
20 F.S.; providing powers and duties of the
21 Division of Aquaculture of the Department of
22 Agriculture and Consumer Services; creating s.
23 570.62, F.S.; providing for appointment and
24 duties of a division director; amending s.
25 597.003, F.S.; requiring a portion of profits
26 from aquaculture contracts to be set aside for
27 funding certain aquaculture projects; amending
28 s. 370.26, F.S.; transferring certain
29 responsibilities relating to aquaculture
30 development from the Department of
31 Environmental Protection to the Department of

1 Agriculture and Consumer Services; amending s.
2 597.004, F.S.; revising provisions relating to
3 aquaculture certificates of registration;
4 amending s. 597.0041, F.S.; providing an
5 administrative fine; providing penalties;
6 amending s. 597.005, F.S.; requiring review of
7 aquaculture legislative budget requests by the
8 Aquaculture Review Council; amending s.
9 597.006, F.S.; revising membership of the
10 Aquaculture Interagency Coordinating Council;
11 creating s. 597.010, F.S.; providing for
12 regulation and enforcement of shellfish leases
13 by the Department of Agriculture and Consumer
14 Services; providing for continuation of leases
15 previously issued under ch. 370, F.S.;
16 providing for rental fees, fee adjustments,
17 late fees, and forfeiture for nonpayment of
18 fees; providing a lease surcharge for certain
19 purposes; providing for rules; providing
20 cultivation requirements for leased lands;
21 restricting the inheriting or transfer of
22 leases; requiring a deposit for investigations
23 relating to petitions for cancellation of
24 leases to natural reefs; providing for
25 inclusion of natural reefs in leased areas
26 under certain circumstances; restricting leases
27 available in Franklin County; providing
28 prohibitions; providing for shellfish
29 protection and development; providing for
30 special activity licenses for harvest or
31 cultivation of oysters, clams, mussels, and

1 crabs; providing for uncultured shellfish
2 harvesting seasons in Apalachicola Bay;
3 restricting harvest of shellfish by mechanical
4 means; providing a penalty; providing for
5 enhancement of oyster and clam industries by
6 the counties; prohibiting dredging of dead
7 shells; providing for cooperation with the
8 United States Fish and Wildlife Service;
9 providing requirements for vessels harvesting,
10 gathering, or transporting oysters or clams for
11 commercial purposes; providing a definition;
12 renumbering and amending s. 370.071, F.S.;
13 providing that regulation of shellfish
14 processors includes processors processing
15 scallops; providing for a fee for licensure or
16 certification of processing facilities;
17 authorizing an administrative fine for
18 violation of rules relating to regulation of
19 shellfish processors; providing intent
20 language; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (13) of section 190.003, Florida
25 Statutes, is amended to read:

26 190.003 Definitions.--As used in this chapter, the
27 term:

28 (13) "Landowner" means the owner of a freehold estate
29 as appears by the deed record, including a trustee, a private
30 corporation, and an owner of a condominium unit; it does not
31 include a reversioner, remainderman, mortgagee, or any

1 governmental entity, who shall not be counted and need not be
2 notified of proceedings under this act. "Landowner" also means
3 the owner of a ground lease from a governmental entity, which
4 leasehold interest has a remaining term, excluding all renewal
5 options, in excess of 50 years.

6 Section 2. Paragraph (a) of subsection (1) of section
7 190.005, Florida Statutes, is amended to read:

8 190.005 Establishment of district.--

9 (1) The exclusive and uniform method for the
10 establishment of a community development district with a size
11 of 1,000 acres or more shall be pursuant to a rule, adopted
12 under chapter 120 by the Florida Land and Water Adjudicatory
13 Commission, granting a petition for the establishment of a
14 community development district.

15 (a) A petition for the establishment of a community
16 development district shall be filed by the petitioner with the
17 Florida Land and Water Adjudicatory Commission. The petition
18 shall contain:

19 1. A metes and bounds description of the external
20 boundaries of the district. Any real property within the
21 external boundaries of the district which is to be excluded
22 from the district shall be specifically described, and the
23 last known address of all owners of such real property shall
24 be listed. The petition shall also address the impact of the
25 proposed district on any real property within the external
26 boundaries of the district which is to be excluded from the
27 district.

28 2. The written consent to the establishment of the
29 district by all landowners whose ~~the owner or owners of 100~~
30 ~~percent of the~~ real property is to be included in the district
31 or documentation demonstrating that the petitioner has control

1 by deed, trust agreement, contract, or option of 100 percent
2 of the real property to be included in the district and, in
3 the case where real property to be included in the district is
4 owned by a governmental entity and subject to a ground lease
5 as described in s. 190.003(13), the written consent by such
6 governmental entity.

7 3. A designation of five persons to be the initial
8 members of the board of supervisors, who shall serve in that
9 office until replaced by elected members as provided in s.
10 190.006.

11 4. The proposed name of the district.

12 5. A map of the proposed district showing current
13 major trunk water mains and sewer interceptors and outfalls if
14 in existence.

15 6. Based upon available data, the proposed timetable
16 for construction of the district services and the estimated
17 cost of constructing the proposed services. These estimates
18 shall be submitted in good faith but shall not be binding and
19 may be subject to change.

20 7. A designation of the future general distribution,
21 location, and extent of public and private uses of land
22 proposed for the area within the district by the future land
23 use plan element of the effective local government
24 comprehensive plan of which all mandatory elements have been
25 adopted by the applicable general-purpose local government in
26 compliance with the Local Government Comprehensive Planning
27 and Land Development Regulation Act.

28 8. A statement of estimated regulatory costs in
29 accordance with the requirements of s. 120.541.

30 Section 3. Subsection (1) of section 190.012, Florida
31 Statutes, is amended to read:

1 190.012 Special powers; public improvements and
2 community facilities.--The district shall have, and the board
3 may exercise, subject to the regulatory jurisdiction and
4 permitting authority of all applicable governmental bodies,
5 agencies, and special districts having authority with respect
6 to any area included therein, any or all of the following
7 special powers relating to public improvements and community
8 facilities authorized by this act:

9 (1) To finance, fund, plan, establish, acquire,
10 construct or reconstruct, enlarge or extend, equip, operate,
11 and maintain systems, facilities, and basic infrastructures
12 for the following:

13 (a) Water management and control for the lands within
14 the district and to connect some or any of such facilities
15 with roads and bridges.

16 (b) Water supply, sewer, and wastewater management,
17 reclamation, and reuse or any combination thereof, and to
18 construct and operate connecting intercepting or outlet sewers
19 and sewer mains and pipes and water mains, conduits, or
20 pipelines in, along, and under any street, alley, highway, or
21 other public place or ways, and to dispose of any effluent,
22 residue, or other byproducts of such system or sewer system.

23 (c) Bridges or culverts that may be needed across any
24 drain, ditch, canal, floodway, holding basin, excavation,
25 public highway, tract, grade, fill, or cut and roadways over
26 levees and embankments, and to construct any and all of such
27 works and improvements across, through, or over any public
28 right-of-way, highway, grade, fill, or cut.

29 (d)1. District roads equal to or exceeding the
30 specifications of the county in which such district roads are
31 located, and street lights.

1 2. Buses, trolleys, transit shelters, ridesharing
2 facilities and services, parking improvements, and related
3 signage.

4 (e) Investigation and remediation costs associated
5 with the cleanup of actual or perceived environmental
6 contamination within the district under the supervision or
7 direction of a competent governmental authority unless the
8 covered costs benefit any person who is a landowner within the
9 district and who caused or contributed to the contamination.

10 ~~(f)(e)~~ Conservation areas, mitigation areas, and
11 wildlife habitat, including the maintenance of any plant or
12 animal species, and any related interest in real or personal
13 property.

14 ~~(g)(f)~~ Any other project within or without the
15 boundaries of a district when a local government issued a
16 development order pursuant to s. 380.06 or s. 380.061
17 approving or expressly requiring the construction or funding
18 of the project by the district, or when the project is the
19 subject of an agreement between the district and a
20 governmental entity and is consistent with the local
21 government comprehensive plan of the local government within
22 which the project is to be located.

23 Section 4. Subsection (10) is added to section
24 190.021, Florida Statutes, to read:

25 190.021 Taxes; non-ad valorem assessments.--

26 (10) LAND OWNED BY GOVERNMENTAL ENTITY.--Except as
27 otherwise provided by law, no levy of ad valorem taxes or
28 non-ad valorem assessments under this chapter, chapter 170, or
29 chapter 197, or otherwise, by a board of a district on
30 property of a governmental entity that is subject to a ground
31 lease, as described in s. 190.003(13), shall constitute a lien

1 or encumbrance on the underlying fee interest of such
2 governmental entity.

3 Section 5. Section 253.002, Florida Statutes, is
4 amended to read:

5 253.002 Department of Environmental Protection, ~~and~~
6 water management districts, and Department of Agriculture and
7 Consumer Services; duties with respect to state lands.--

8 (1) The Department of Environmental Protection shall
9 perform all staff duties and functions related to the
10 acquisition, administration, and disposition of state lands,
11 title to which is or will be vested in the Board of Trustees
12 of the Internal Improvement Trust Fund. However, upon the
13 effective date of rules adopted pursuant to s. 373.427, a
14 water management district created under s. 373.069 shall
15 perform the staff duties and functions related to the review
16 of any application for authorization to use board of
17 trustees-owned submerged lands necessary for an activity
18 regulated under part IV of chapter 373 for which the water
19 management district has permitting responsibility as set forth
20 in an operating agreement adopted pursuant to s. 373.046(4);
21 and effective July 1, 2000, the Department of Agriculture and
22 Consumer Services shall perform the staff duties and functions
23 related to the review of applications and compliance with
24 lease conditions for use of board of trustees-owned submerged
25 lands under leases issued pursuant to ss. 253.67-253.75 and s.
26 597.010. Unless expressly prohibited by law, the board of
27 trustees may delegate to the department any statutory duty or
28 obligation relating to the acquisition, administration, or
29 disposition of lands, title to which is or will be vested in
30 the board of trustees. The board of trustees may also delegate
31 to any water management district created under s. 373.069 the

1 authority to take final agency action, without any action on
2 behalf of the board, on applications for authorization to use
3 board of trustees-owned submerged lands for any activity
4 regulated under part IV of chapter 373 for which the water
5 management district has permitting responsibility as set forth
6 in an operating agreement adopted pursuant to s. 373.046(4).
7 This water management district responsibility under this
8 subsection shall be subject to the department's general
9 supervisory authority pursuant to s. 373.026(7). The board of
10 trustees may also delegate to the Department of Agriculture
11 and Consumer Services the authority to take final agency
12 action on behalf of the board on applications to use board of
13 trustees-owned submerged lands for any activity for which that
14 department has responsibility pursuant to ss. 253.67-253.75
15 and s. 597.010. However, the board of trustees shall retain
16 authority to take final agency action on establishing any
17 areas for leasing, new leases, expanding existing lease areas,
18 or changing the type of lease activity in existing leases.
19 Upon issuance of an aquaculture lease or other real property
20 transaction relating to aquaculture, the Department of
21 Agriculture and Consumer Services must send a copy of the
22 document and the accompanying survey to the Department of
23 Environmental Protection.

24 (2) Delegations to the department, or a water
25 management district, or the Department of Agriculture and
26 Consumer Services of authority to take final agency action on
27 applications for authorization to use submerged lands owned by
28 the board of trustees, without any action on behalf of the
29 board of trustees, shall be by rule. Until rules adopted
30 pursuant to this subsection become effective, existing
31 delegations by the board of trustees shall remain in full

1 force and effect. However, the board of trustees is not
 2 limited or prohibited from amending these delegations. ~~By~~
 3 ~~December 31, 1995,~~The board of trustees shall adopt by rule
 4 any delegations of its authority to take final agency action
 5 without action by the board of trustees on applications for
 6 authorization to use board of trustees-owned submerged lands.
 7 Any final agency action, without action by the board of
 8 trustees, taken by the department, or a water management
 9 district, or the Department of Agriculture and Consumer
 10 Services on applications to use board of trustees-owned
 11 submerged lands shall be subject to the provisions of s.
 12 373.4275. Notwithstanding any other provision of this
 13 subsection, the board of trustees, the Department of Legal
 14 Affairs, and the department retain the concurrent authority to
 15 assert or defend title to submerged lands owned by the board
 16 of trustees.

17 Section 6. Paragraph (b) of subsection (1) of section
 18 253.01, Florida Statutes, is amended to read:

19 253.01 Internal Improvement Trust Fund established.--

20 (1)

21 (b) All revenues received from application fees
 22 charged by the Division of State Lands for the use in any
 23 manner, lease, conveyance, or release of any interest in or
 24 for the sale of state lands, except revenues from such fees
 25 charged by the Department of Agriculture and Consumer Services
 26 for aquaculture leases under ~~ss. s-~~253.71(2) and 597.010,
 27 must be deposited into the Internal Improvement Trust Fund.
 28 The fees charged by the division for reproduction of records
 29 relating to state lands must also be placed into the fund.
 30 Revenues received by the Department of Agriculture and
 31 Consumer Services for aquaculture leases under ss. 253.71(2)

1 and 597.010 shall be deposited in the General Inspection Trust
2 Fund of the Department of Agriculture and Consumer Services.

3 Section 7. Section 253.67, Florida Statutes, is
4 amended to read:

5 253.67 Definitions.--As used in ss. 253.67-253.75:

6 (1) "Aquaculture" means the cultivation of aquatic
7 organisms.

8 (2)~~(4)~~ "Board" means the Board of Trustees of the
9 Internal Improvement Trust Fund.

10 (3) "Department" means the Department of Agriculture
11 and Consumer Services ~~Environmental Protection~~.

12 (4)~~(2)~~ "Water column" means the vertical extent of
13 water, including the surface thereof, above a designated area
14 of submerged bottom land.

15 Section 8. Paragraph (a) of subsection (2) and
16 subsection (4) of section 253.71, Florida Statutes, are
17 amended to read:

18 253.71 The lease contract.--When the board has
19 determined that the proposed lease is not incompatible with
20 the public interest and that the applicant has demonstrated
21 his or her capacity to perform the operations upon which the
22 application is based, it may proceed to consummate a lease
23 contract having the following features in addition to others
24 deemed desirable by the board:

25 (2) RENTAL FEES.--

26 (a) The lease contract shall specify such amount of
27 rental per acre of leased bottom as may be agreed to by the
28 parties and shall take the form of fixed rental to be paid
29 throughout the term of the lease. Beginning January 1, 1990,
30 a surcharge of \$5 per acre, or any fraction of an acre, per
31 annum shall be levied upon each lease according to the

1 guidelines set forth in s. 597.010(7)~~370.16(4)(b)~~. Beginning
2 January 1, 2001, the surcharge shall be increased to \$10 per
3 acre, or any fraction of an acre, per annum.

4 (4) PERFORMANCE REQUIREMENTS.--Failure of the lessee
5 to perform effective cultivation shall constitute ground for
6 cancellation of the lease and forfeiture to the state of all
7 the works, improvements, and animal and plant life in and upon
8 the leased land and water column. Effective cultivation shall
9 consist of the grow out of the aquaculture product according
10 to the business plan provided in the lease contract guidelines
11 ~~set forth in s. 370.16(4)(e).~~

12 Section 9. Section 253.72, Florida Statutes, is
13 amended to read:

14 253.72 Marking of leased areas; restrictions on public
15 use.--

16 (1) The board shall require all lessees to stake off
17 and mark the areas under lease according to the conditions of
18 the lease agreement and rules of the board, by appropriate
19 ranges, monuments, stakes, buoys, and fences, so placed as not
20 to interfere unnecessarily with navigation and other
21 traditional uses of the surface. ~~All lessees shall cause the~~
22 ~~area under lease and the names of the lessees to be shown by~~
23 ~~signs appropriately placed pursuant to regulations of the~~
24 ~~board.~~

25 (2) Except to the extent necessary to permit the
26 effective development of the species of animal or plant life
27 being cultivated by the lessee, the public shall be provided
28 with means of reasonable ingress and egress to and from the
29 leased area for traditional water activities such as boating,
30 swimming, and fishing. All limitations upon the use by the
31 public of the areas under lease that are authorized by the

1 terms of the lease shall be clearly posted by the lessee
2 pursuant to rules ~~regulations~~ by the board. Any person
3 willfully violating posted restrictions commits ~~shall be~~
4 ~~guilty of~~ a misdemeanor of the second degree, punishable as
5 provided in s. 775.082 or s. 775.083.

6 (3) To assist in protecting shellfish aquaculture
7 products produced on leases authorized pursuant to this
8 chapter and chapter 597 ~~370~~, harvesting shellfish is
9 prohibited within a distance of 25 feet outside lawfully
10 marked lease boundaries or within setback and access corridors
11 within specifically designated high-density aquaculture lease
12 areas and aquaculture use zones.

13 Section 10. Subsection (1) of section 253.75, Florida
14 Statutes, is amended to read:

15 253.75 Studies and recommendations by the department
16 and the Fish and Wildlife Conservation Commission; designation
17 of recommended traditional and other use zones; supervision of
18 aquaculture operations.--

19 (1) Prior to the granting of any lease under this act,
20 the board shall request comments ~~a recommendation by the~~
21 ~~department, when the application relates to tidal bottoms, and~~
22 ~~by the Fish and Wildlife Conservation Commission, when the~~
23 ~~application relates to bottom land covered by fresh or salt~~
24 ~~water. Such~~ comments ~~recommendations~~ shall be based on such
25 factors as an assessment of the probable effect of the
26 proposed lease ~~leasing arrangement~~ on the ~~lawful rights of~~
27 ~~riparian owners, navigation, commercial and sport fishing, and~~
28 ~~the conservation of fish or other wildlife or other~~ programs
29 under the constitutional or statutory authority of the Fish
30 and Wildlife Conservation Commission ~~natural resources,~~
31 ~~including beaches and shores.~~

1 Section 11. Subsection (2) of section 270.22, Florida
2 Statutes, is amended to read:

3 270.22 Proceeds of state lands to go into Internal
4 Improvement Trust Fund; exception.--

5 (2) Rental fees for aquaculture leases pursuant to s.
6 253.71(2) shall be deposited into the General Inspection Trust
7 Fund of the Department of Agriculture and Consumer Services
8 ~~Marine Resources Conservation Trust Fund of the Department of~~
9 ~~Environmental Protection~~. Such fees generated by
10 shellfish-related aquaculture leases shall be used for
11 shellfish-related aquaculture activities, including research,
12 lease compliance inspections, mapping, and siting.

13 Section 12. Section 328.76, Florida Statutes, is
14 amended to read:

15 328.76 Marine Resources Conservation Trust Fund;
16 vessel registration funds; appropriation and distribution.--

17 (1) Except as otherwise specified and less any
18 administrative costs, all funds collected from the
19 registration of vessels through the Department of Highway
20 Safety and Motor Vehicles and the tax collectors of the state
21 shall be deposited in the Marine Resources Conservation Trust
22 Fund for recreational channel marking; public launching
23 facilities; law enforcement and quality control programs;
24 aquatic weed control; manatee protection, recovery, rescue,
25 rehabilitation, and release; and marine mammal protection and
26 recovery. The funds collected pursuant to s. 328.72(1) shall
27 be transferred as follows:

28 (a) In each fiscal year, an amount equal to \$1 for
29 each vessel registered in this state shall be transferred to
30 the Save the Manatee Trust Fund for manatee and marine mammal
31

1 research, protection, and recovery in accordance with the
2 provisions of s. 370.12(4)(a).

3 (b) In addition, in each fiscal year, an amount equal
4 to 50 cents for each vessel registered in this state shall be
5 transferred to the Save the Manatee Trust Fund in accordance
6 with the provisions of s. 370.12(4)(b) for use by those
7 facilities approved to rescue, rehabilitate, and release
8 manatees as authorized pursuant to the Fish and Wildlife
9 Service of the United States Department of the Interior.

10 (c) Two dollars from each noncommercial vessel
11 registration fee, except that for class A-1 vessels, shall be
12 transferred to the Invasive Plant Control Trust Fund for
13 aquatic weed research and control.

14 ~~(d) Forty percent of the registration fees from~~
15 ~~commercial vessels shall be used for law enforcement and~~
16 ~~quality control programs.~~

17 (d)~~(e)~~ Forty percent of the registration fees from
18 commercial vessels shall be transferred to the Invasive Plant
19 Control Trust Fund for aquatic plant research and control.

20 (e) Forty percent of the registration fees from
21 commercial vessels shall be transferred by the Department of
22 Highway Safety and Motor Vehicles, on a monthly basis, to the
23 General Inspection Trust Fund of the Department of Agriculture
24 and Consumer Services. These funds shall be used for shellfish
25 and aquaculture law enforcement and quality control programs.

26 (2) All funds collected pursuant to s. 370.06(2) shall
27 be deposited in the Marine Resources Conservation Trust Fund.
28 Such funds shall be used to pay the cost of implementing the
29 saltwater products license program. Additional proceeds from
30 the licensing revenue shall be distributed among the following
31 program functions:

1 (a) No more than 15 percent shall go to marine law
2 enforcement;

3 (b) Twenty-five ~~No more than 25~~ percent shall go to
4 the Florida Saltwater Products Promotion Trust Fund within the
5 Department of Agriculture and Consumer Services, on a monthly
6 basis, for the purpose of providing marketing and extension
7 services including industry information and education; and

8 (c) The remainder shall go to the Fish and Wildlife
9 Conservation Commission, for use in marine research and
10 statistics development, including quota management.

11 Section 13. Paragraph (c) of subsection (4) and
12 paragraph (e) of subsection (5) of section 370.06, Florida
13 Statutes, are amended to read:

14 370.06 Licenses.--

15 (4) SPECIAL ACTIVITY LICENSES.--

16 ~~(c) The Department of Agriculture and Consumer~~
17 ~~Services is authorized to issue special activity licenses, in~~
18 ~~accordance with s. 370.071, to permit the harvest or~~
19 ~~cultivation of oysters, clams, mussels, and crabs when such~~
20 ~~activities relate to quality control, sanitation, public~~
21 ~~health regulations, innovative technologies for aquaculture~~
22 ~~activities, or the protection of shellfish resources provided~~
23 ~~in this chapter.~~

24 (5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.--

25 (e) Each person who applies for an Apalachicola Bay
26 oyster harvesting license shall, before receiving the license
27 for the first time, attend an educational seminar of not more
28 than 16 hours length, developed and conducted jointly by the
29 Department of Environmental Protection's Apalachicola National
30 Estuarine Research Reserve, the Division of Law Enforcement of
31 the Fish and Wildlife Conservation Commission, and the

1 Department of Agriculture and Consumer Services' Apalachicola
2 District Shellfish Environmental Assessment Laboratory. The
3 seminar shall address, among other things, oyster biology,
4 conservation of the Apalachicola Bay, sanitary care of
5 oysters, small business management, and water safety. The
6 seminar shall be offered five times per year, and each person
7 attending shall receive a certificate of participation to
8 present when obtaining an Apalachicola Bay oyster harvesting
9 license. The educational seminar is not required for renewal
10 of an Apalachicola Bay oyster harvesting license.

11 Section 14. Paragraph (j) of subsection (2) and
12 paragraphs (f), (h), (i), and (k) of subsection (3) of section
13 370.07, Florida Statutes, are amended to read:

14 370.07 Wholesale and retail saltwater products
15 dealers; regulation.--

16 (2) LICENSES; AMOUNT, TRUST FUND.--

17 (j) License or privilege taxes, together with any
18 other funds derived from the Federal Government or from any
19 other source, shall be deposited in a Florida Saltwater
20 Products Promotion Trust Fund to be administered by the
21 Department of Agriculture and Consumer Services for the sole
22 purpose of promoting all fish and saltwater products produced
23 in this state, except that 4 percent of the total wholesale
24 and retail saltwater products dealers license fees collected
25 shall be deposited into the Marine Resources Conservation
26 Trust Fund administered by the Fish and Wildlife Conservation
27 Commission for the purpose of processing wholesale and retail
28 saltwater products dealers licenses.

29 (3) APALACHICOLA BAY OYSTER SURCHARGE.--

30 (f) The Department of Revenue shall collect the
31 surcharge for transfer into the General Inspection Trust Fund

1 of the Department of Agriculture and Consumer Services ~~Marine~~
2 ~~Resources Conservation Trust Fund of the Department of~~
3 ~~Environmental Protection.~~

4 (h) Annually, the Department of Agriculture and
5 Consumer Services and the Fish and Wildlife Conservation
6 Commission ~~Environmental Protection~~ shall furnish the
7 Department of Revenue with a current list of wholesale dealers
8 in the state.

9 (i) Collections received by the Department of Revenue
10 from the surcharge shall be transferred quarterly to the
11 General Inspection Trust Fund of the Department of Agriculture
12 and Consumer Services ~~Department of Environmental Protection~~
13 ~~Marine Resources Conservation Trust Fund~~, less the costs of
14 administration.

15 (k) The Department of Agriculture and Consumer
16 Services ~~Environmental Protection~~ shall use or distribute
17 funds generated by this surcharge, less reasonable costs of
18 collection and administration, to fund the following oyster
19 management and restoration programs in Apalachicola Bay:

- 20 1. The relaying and transplanting of live oysters.
- 21 2. Shell planting to construct or rehabilitate oyster
22 bars.
- 23 3. Education programs for licensed oyster harvesters
24 on oyster biology, aquaculture, boating and water safety,
25 sanitation, resource conservation, small business management,
26 and other relevant subjects.
- 27 4. Research directed toward the enhancement of oyster
28 production in the bay and the water management needs of the
29 bay.

30 Section 15. Subsection (8) is added to section 370.13,
31 Florida Statutes, to read:

1 370.13 Stone crab; regulation.--

2 (8) The Fish and Wildlife Conservation Commission
3 shall issue a depredation endorsement on the saltwater
4 products license, which shall entitle the license holder to
5 possess and use up to 75 stone crab traps and up to 75 blue
6 crab traps, notwithstanding any other provisions of law, for
7 the incidental take of destructive or nuisance stone crabs or
8 blue crabs within one mile of aquaculture shellfish beds. Any
9 marine aquaculture producer as defined by s. 370.26 F.S., who
10 raises shellfish may obtain a depredation endorsement by
11 providing an aquaculture registration certificate to the
12 Commission. No stone crabs or blue crabs taken under this
13 provision may be sold or offered for sale.

14 Section 16. Subsections (1) through (11), (13), (16),
15 (17), (19), (22), and (24) through (27) of section 370.16,
16 Florida Statutes, are repealed, and subsections (12), (14),
17 (15), (18), (20), (21), (23), and (28) of said section are
18 amended to read:

19 370.16 Noncultured shellfish harvesting ~~Oysters and~~
20 shellfish; regulation.--

21 (1)(12) PROTECTION OF OYSTER AND CLAM REEFS AND
22 SHELLFISH AQUACULTURE PRODUCTS.--

23 ~~(a) The Department of Environmental Protection shall~~
24 ~~improve, enlarge, and protect the natural oyster and clam~~
25 ~~reefs of this state to the extent it may deem advisable and~~
26 ~~the means at its disposal will permit.~~

27 (a)(b) The Fish and Wildlife Conservation Commission
28 shall, to the same extent, assist in protecting shellfish
29 aquaculture products produced on leased or granted reefs in
30 the hands of lessees or grantees from the state. Harvesting
31 shellfish is prohibited within a distance of 25 feet outside

1 lawfully marked lease boundaries or within setback and access
2 corridors within specifically designated high-density
3 aquaculture lease areas and aquaculture use zones.

4 ~~(b)(c)~~ The department, in cooperation with the
5 commission, shall provide the Legislature with recommendations
6 as needed for the development and the proper protection of the
7 rights of the state and private holders therein with respect
8 to the oyster and clam business.

9 ~~(2)(14)~~ SHELLFISH HARVESTING SEASONS; ~~DAYS~~+SPECIAL
10 PROVISIONS RELATING TO APALACHICOLA BAY.--

11 (a) The Fish and Wildlife Conservation Commission
12 shall by rule set the noncultured ~~consider setting the~~
13 shellfish harvesting seasons in ~~the~~ Apalachicola Bay, as
14 ~~follows~~:

15 1. ~~The open season shall be from October 1 to July 31~~
16 ~~of each year.~~

17 2. ~~The entire bay, including private leased or granted~~
18 ~~grounds, shall be closed to shellfish harvesting from August 1~~
19 ~~to September 30 of each year for the purpose of oyster~~
20 ~~relaying and transplanting and shell planting.~~

21 (b) If the commission changes the harvesting seasons
22 by rule as set forth in this subsection, for 3 years after the
23 new rule takes effect, the commission, in cooperation with the
24 Department of Agriculture and Consumer Services, shall monitor
25 the impacts of the new harvesting schedule on the bay and on
26 local shellfish harvesters to determine whether the new
27 harvesting schedule should be discontinued, retained, or
28 modified. In monitoring the new schedule and in preparing its
29 report, the ~~commission shall consider the~~ following
30 information shall be considered:

31

1 1. Whether the bay benefits ecologically from the new
2 harvesting schedule ~~being closed to shellfish harvesting from~~
3 ~~August 1 to September 30 of each year.~~

4 2. Whether the new harvesting schedule enhances the
5 enforcement of shellfish harvesting laws in the bay.

6 3. Whether the new harvesting schedule enhances
7 natural shellfish production, oyster relay and planting
8 programs, and shell planting programs in the bay.

9 4. Whether the new harvesting schedule has more than a
10 short-term adverse economic impact, if any, on local shellfish
11 harvesters.

12 ~~(c) The Fish and Wildlife Conservation Commission by~~
13 ~~rule shall consider restricting harvesting on shellfish grants~~
14 ~~or leases to the same days of the week as harvesting on public~~
15 ~~beds.~~

16 (3)~~(15)~~ REMOVING OYSTERS, CLAMS, OR MUSSELS FROM
17 NATURAL REEFS; LICENSES, ETC., PENALTY.--

18 (a) It is unlawful to use a dredge or any means or
19 implement other than hand tongs in removing oysters from the
20 natural or artificial state reefs. This restriction shall
21 apply to all areas of ~~the~~ Apalachicola Bay for all shellfish
22 harvesting, excluding private grounds leased or granted by the
23 state prior to July 1, 1989, if the lease or grant
24 specifically authorizes the use of implements other than hand
25 tongs for harvesting. Except in ~~the~~ Apalachicola Bay, upon
26 the payment of \$25 annually, for each vessel or boat using a
27 dredge or machinery in the gathering of clams or mussels, a
28 special activity license may be issued by the Fish and
29 Wildlife Conservation Commission pursuant to s. 370.06 for
30 such use to such person.

31

1 ~~(b) Special activity licenses issued to harvest~~
2 ~~shellfish by dredge or other mechanical means from privately~~
3 ~~held shellfish leases or grants in Apalachicola Bay shall~~
4 ~~include, but not be limited to, the following conditions:~~

5 (b)1. The use of any mechanical harvesting device
6 other than ordinary hand tongs for taking shellfish for any
7 purpose from public shellfish beds in Apalachicola Bay shall
8 be unlawful.

9 (c)2. The possession of any mechanical harvesting
10 device on the waters of Apalachicola Bay from 5 p.m. until
11 sunrise shall be unlawful.

12 ~~3. Leaseholders or grantees shall telephonically~~
13 ~~notify the Fish and Wildlife Conservation Commission no less~~
14 ~~than 48 hours prior to each day's use of a dredge or scrape in~~
15 ~~order to arrange for a commission officer to be present on the~~
16 ~~lease or grant area while a dredge or scrape is used on the~~
17 ~~lease or grant. Under no circumstances may a dredge or scrape~~
18 ~~be used without a commission officer present.~~

19 ~~4. Only two dredges or scrapes per lease or grant may~~
20 ~~be possessed or operated at any time.~~

21 (d)5. Each vessel used for the transport or deployment
22 of a dredge or scrape shall prominently display the lease or
23 grant number or numbers, in numerals which are at least 12
24 inches high and 6 inches wide, in such a manner that the lease
25 or grant number or numbers are readily identifiable from both
26 the air and the water. ~~The commission shall apply other~~
27 ~~statutes, rules, or conditions necessary to protect the~~
28 ~~environment and natural resources from improper transport,~~
29 ~~deployment, and operation of a dredge or scrape. Any~~
30 ~~violation of this paragraph or of any other statutes, rules,~~
31 ~~or conditions referenced in the special activity license shall~~

1 ~~be considered a violation of the license and shall result in~~
2 ~~revocation of the license and forfeiture of the bond submitted~~
3 ~~to the commission as a prerequisite to the issuance of this~~
4 ~~license.~~

5 (e)~~(c)~~ Oysters may be harvested from natural or public
6 ~~or private leased or granted~~ grounds by common hand tongs or
7 by hand, by scuba diving, free diving, leaning from vessels,
8 or wading. In the Apalachicola Bay, this provision shall
9 apply to all shellfish.

10
11 The commission shall apply other statutes, rules, or
12 conditions necessary to protect the environment and natural
13 resources from improper transport, deployment, and operation
14 of a dredge or scrape. Any violation of this subsection or of
15 any other statutes, rules, or conditions referenced in the
16 special activity license shall be considered a violation of
17 the license and shall result in revocation of the license and
18 forfeiture of the bond submitted to the commission as a
19 prerequisite to the issuance of this license.

20 (4)~~(18)~~ FALSE RETURNS AS TO OYSTERS OR CLAMS
21 HANDLED.--Each packer, canner, corporation, firm, commission
22 person, or dealer in fish shall, on the first day of each
23 month, make a return under oath to the Fish and Wildlife
24 Conservation Commission, as to the number of oysters, clams,
25 and shellfish purchased, caught, or handled during the
26 preceding month. Whoever is found guilty of making any false
27 affidavit to any such report is guilty of perjury and punished
28 as provided by law, and any person who fails to make such
29 report shall be punished by a fine not exceeding \$500 or by
30 imprisonment in the county jail not exceeding 6 months.

31 (5)~~(20)~~ WATER PATROL FOR COLLECTION OF TAX.--

1 (a) The Fish and Wildlife Conservation Commission may
2 establish and maintain necessary patrols of the salt waters of
3 Florida, with authority to use such force as may be necessary
4 to capture any vessel or person violating the provisions of
5 the laws relating to oysters and clams, and may establish
6 ports of entry at convenient locations where the severance or
7 privilege tax levied on oysters and clams may be collected or
8 paid and may make such rules and regulations as it may deem
9 necessary for the enforcement of such tax.

10 (b) Each person in any way dealing in shellfish
11 harvesting from public reefs or beds shall keep a record, on
12 blanks or forms prescribed by the commission, of all oysters,
13 clams, and shellfish taken, purchased, used, or handled by him
14 or her, with the name of the persons from whom purchased, if
15 purchased, together with the quantity and the date taken or
16 purchased, and shall exhibit this account at all times when
17 requested so to do by the commission or any conservation
18 agent; and he or she shall, on the first day of each month,
19 make a return under oath to the commission as to the number of
20 oysters, clams, and shellfish purchased, caught, or handled
21 during the preceding month. The commission may require
22 detailed returns whenever it deems them necessary.

23 ~~(6)(21)~~ SEIZURE OF VESSELS AND CARGOES VIOLATING
24 OYSTER AND CLAM LAWS, ETC.--Vessels, with their cargoes,
25 violating the provisions of the laws relating to oysters and
26 clams may be seized by anyone duly and lawfully authorized to
27 make arrests under this section or by any sheriff or the
28 sheriff's deputies, and taken into custody, and when not
29 arrested by the sheriff or the sheriff's deputies, delivered
30 to the sheriff of the county in which the seizure is made, and
31 shall be liable to forfeiture, on appropriate proceedings

1 being instituted by the Fish and Wildlife Conservation
2 Commission, before the courts of that county. In such case
3 the cargo shall at once be disposed of by the sheriff, for
4 account of whom it may concern. Should the master or any of
5 the crew of said vessel be found guilty of using dredges or
6 other instruments in fishing oysters on natural reefs contrary
7 to law, or fishing on the natural oyster or clam reefs out of
8 season, or unlawfully taking oysters or clams belonging to a
9 lessee, such vessel shall be declared forfeited by the court,
10 and ordered sold and the proceeds of the sale shall be
11 deposited with the Treasurer to the credit of the General
12 Revenue Fund; any person guilty of such violations shall not
13 be permitted to have any license provided for in this chapter
14 within a period of 1 year from the date of conviction.
15 Pending proceedings such vessel may be released upon the owner
16 furnishing bond, with good and solvent security in double the
17 value of the vessel, conditioned upon its being returned in
18 good condition to the sheriff to abide the judgment of the
19 court.

20 ~~(7)(23)~~ DREDGING OF DEAD SHELLS PROHIBITED.--The
21 dredging of dead shell deposits is prohibited in the state.

22 ~~(8)(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

23 ~~(a)~~ All vessels used for the harvesting, gathering, or
24 transporting of noncultured oysters for commercial use shall
25 be constructed and maintained to prevent contamination or
26 deterioration of oysters. To this end, all such vessels shall
27 be provided with false bottoms and bulkheads fore and aft to
28 prevent oysters from coming in contact with any bilge water.
29 No dogs or other animals shall be allowed at any time on
30 vessels used to harvest or transport oysters. A violation of
31

1 any provision of this subsection shall result in at least the
2 revocation of the violator's license.

3 ~~(b) For the purpose of this subsection, "commercial~~
4 ~~use" shall be a quantity of more than 4 bushels, or more than~~
5 ~~2 gallons, of shucked oysters, per person or per boat, or any~~
6 ~~number or quantity of oysters if the oysters are to be sold.~~

7 Section 17. Subsections (1) and (2) of section
8 370.161, Florida Statutes, are amended to read:

9 370.161 Oyster bottom land grants made pursuant to ch.
10 3293.--

11 (1) All grants previously issued by the several boards
12 of county commissioners under the authority of chapter 3293,
13 1881, Laws of Florida, shall be subject to provisions of s.
14 597.010 ~~370.16~~, relating to the marking of such lands, the
15 payment of rents, the cultivation of such lands and the
16 forfeiture provisions.

17 (2) Any grantee of lands referred to in subsection (1)
18 shall mark such lands and begin cultivation thereof as set
19 forth in s. 597.010 ~~370.16~~, within 90 days after the effective
20 date of this act. The rentals prescribed by s. 597.010 ~~370.16~~,
21 shall be payable immediately upon the effective date of this
22 act and in accordance with the provisions of said section.

23 Section 18. Section 372.071, Florida Statutes, is
24 amended to read:

25 372.071 Powers of arrest by agents of Department of
26 Environmental Protection or Fish and Wildlife Conservation
27 Commission.--Any certified law enforcement officer of the
28 Department of Environmental Protection or the Fish and
29 Wildlife Conservation Commission, upon receiving information,
30 relayed to her or him from any law enforcement officer
31 stationed on the ground, on the water, or in the air, that a

1 driver, operator, or occupant of any vehicle, boat, or airboat
2 has violated any section of chapter 327, chapter 328, chapter
3 370, or this chapter, or s. 597.010 or s. 597.020, may arrest
4 the driver, operator, or occupant for violation of said laws
5 when reasonable and proper identification of the vehicle,
6 boat, or airboat and reasonable and probable grounds to
7 believe that the driver, operator, or occupant has committed
8 or is committing any such offense have been communicated to
9 the arresting officer by the other officer stationed on the
10 ground, on the water, or in the air.

11 Section 19. Subsection (4) of section 372.6673,
12 Florida Statutes, is amended to read:

13 372.6673 Taking and possession of alligators; trapping
14 licenses; fees.--

15 (4) No person shall take any alligator egg occurring
16 in the wild or possess any such egg unless such person has
17 obtained, or is a licensed agent of another person who has
18 obtained, an alligator egg collection permit. The alligator
19 egg collection permit shall be required in addition to the
20 alligator farming license provided in paragraph (2)(d). The
21 commission is authorized to assess a fee for issuance of the
22 alligator egg collection permit of up to \$5 per egg authorized
23 to be taken or possessed pursuant to such permit. Irrespective
24 of whether a fee is assessed, of which \$1 per egg collected
25 and retained, excluding eggs collected on private wetland
26 management areas, shall may be transferred from the alligator
27 management program to the General Inspection Trust Fund, to be
28 administered by the Department of Agriculture and Consumer
29 Services for the purpose of providing marketing and education
30 services with respect to alligator products produced in this
31 state, notwithstanding other provisions in this chapter.

1 Section 20. Subsection (2) of section 372.6674,
2 Florida Statutes, is amended to read:

3 372.6674 Required tagging of alligators and hides;
4 fees; revenues.--The tags provided in this section shall be
5 required in addition to any license required under s.
6 372.6673.

7 (2) The commission may require that an alligator hide
8 validation tag(CITES tag)be affixed to the hide of any
9 alligator taken from the wild and that such hide be possessed,
10 purchased, sold, offered for sale, or transported in
11 accordance with commission rule. The commission is authorized
12 to assess a fee of up to \$30 for each alligator hide
13 validation tag issued. Irrespective of whether a fee is
14 assessed, of which \$5 per validated hide, excluding those
15 validated from public hunt programs and alligator farms, shall
16 may be transferred from the alligator management program to
17 the General Inspection Trust Fund, to be administered by the
18 Department of Agriculture and Consumer Services for the
19 purpose of providing marketing and education services with
20 respect to alligator products produced in this state,
21 notwithstanding other provisions in this chapter.

22 Section 21. Subsection (5) of section 373.046, Florida
23 Statutes, is amended to read:

24 373.046 Interagency agreements.--

25 (5) Notwithstanding the provisions of s. 403.927, when
26 any operating agreement is developed pursuant to subsection
27 (4),⁺

28 (a) the department shall have regulatory
29 responsibility under part IV of this chapter for⁺

30 1. ~~All saltwater aquaculture activities located on~~
31 ~~sovereignty submerged land or in the water column above such~~

1 ~~land and adjacent facilities directly related to the~~
2 ~~aquaculture activity.~~

3 ~~2.~~ aquaculture activities that meet or exceed the
4 thresholds for aquaculture general permits authorized pursuant
5 to ss. 370.26 and 403.814.

6 ~~3. Aquaculture activities within the Northwest Florida~~
7 ~~Water Management District.~~

8 ~~(b) Water management districts shall have regulatory~~
9 ~~responsibility under part IV of this chapter for aquaculture~~
10 ~~activities not retained by the department in paragraph (a).~~

11 ~~(c) Upon agreement by the applicant, the department,~~
12 ~~and the applicable water management district, the department~~
13 ~~and water management district may reassign the regulatory~~
14 ~~responsibilities described in paragraphs (a) and (b), based on~~
15 ~~the specific aquaculture operation, to achieve a more~~
16 ~~efficient and effective permitting process.~~

17 Section 22. Subsection (11) of section 403.814,
18 Florida Statutes, is amended to read:

19 403.814 General permits; delegation.--

20 (11) Upon agreement by the applicant, the department,
21 and the applicable water management district, the department
22 and water management district may reassign the regulatory
23 responsibilities described in s. 373.046(5)(a) and (b), based
24 on the specific aquaculture operation, to achieve a more
25 efficient and effective permitting process.

26 Section 23. Subsection (1) of section 409.2598,
27 Florida Statutes, is amended to read:

28 409.2598 Suspension or denial of new or renewal
29 licenses; registrations; certifications.--

30 (1) The Title IV-D agency may petition the court that
31 entered the support order or the court that is enforcing the

1 support order to deny or suspend the license, registration, or
2 certificate issued under chapter 231, chapter 370, chapter
3 372, chapter 409, part II of chapter 455, ~~or~~ chapter 559, ~~or~~
4 s. 328.42, or s. 597.010 of any obligor with a delinquent
5 child support obligation or who fails, after receiving
6 appropriate notice, to comply with subpoenas, orders to
7 appear, orders to show cause, or similar orders relating to
8 paternity or child support proceedings. However, a petition
9 may not be filed until the Title IV-D agency has exhausted all
10 other available remedies. The purpose of this section is to
11 promote the public policy of the state as established in s.
12 409.2551.

13 Section 24. Paragraph (n) of subsection (1) of section
14 500.03, Florida Statutes, is amended to read:

15 500.03 Definitions of terms; construction;
16 applicability.--

17 (1) For the purpose of this chapter, the term:

18 (n) "Food establishment" means any factory, food
19 outlet, or any other facility manufacturing, processing,
20 packing, holding, or preparing food, or selling food at
21 wholesale or retail. The term does not include any business or
22 activity that is regulated under ~~chapter 370~~, chapter 509, or
23 chapter 601. The term also does not include any establishments
24 that pack fruits and vegetables in their raw or natural
25 states, including those fruits or vegetables that are washed,
26 colored, or otherwise treated in their unpeeled, natural form
27 before they are marketed.

28 Section 25. Section 570.18, Florida Statutes, is
29 amended to read:

30 570.18 Organization of departmental work.--In the
31 assignment of functions to the 12 ~~11~~ divisions of the

1 department created in s. 570.29, the department shall retain
 2 within the Division of Administration, in addition to
 3 executive functions, those powers and duties enumerated in s.
 4 570.30. The department shall organize the work of the other
 5 ~~11~~ ¹¹ divisions in such a way as to secure maximum efficiency
 6 in the conduct of the department. The divisions created in s.
 7 570.29 are solely to make possible the definite placing of
 8 responsibility. The department shall be conducted as a unit
 9 in which every employee, including each division director, is
 10 assigned a definite workload, and there shall exist between
 11 division directors a spirit of cooperative effort to
 12 accomplish the work of the department.

13 Section 26. Subsections (4) through (11) of section
 14 570.29, Florida Statutes, are renumbered as subsections (5)
 15 through (12), respectively, and a new subsection (4) is added
 16 to said section to read:

17 570.29 Departmental divisions.--The department shall
 18 include the following divisions:

19 (4) Aquaculture.

20 Section 27. Section 570.61, Florida Statutes, is
 21 created to read:

22 570.61 Division of Aquaculture; powers and
 23 duties.--The powers and duties of the Division of Aquaculture
 24 shall include, but are not limited to, administering the
 25 aquaculture certification program; enforcing shellfish
 26 sanitation standards; administering the aquaculture and
 27 shellfish lease programs; ensuring that shellfish processing
 28 facilities comply with applicable food safety requirements;
 29 mitigating, creating, and enhancing natural shellfish
 30 harvesting areas; providing education to fishermen and
 31 aquaculturists; promoting aquaculture development; purchasing

1 commodities as necessary to carry out the provisions of this
2 section; receiving and accepting grants, aids, gifts, and
3 donations; providing grants, aids, and other technical
4 assistance; and ensuring the safety of Florida waters.

5 Section 28. Section 570.62, Florida Statutes, is
6 created to read:

7 570.62 Director; duties.--

8 (1) The director of the Division of Aquaculture shall
9 be appointed by the commissioner and shall serve at the
10 commissioner's pleasure.

11 (2) The director shall supervise, direct, and
12 coordinate the activities of the division, exercise such other
13 powers and duties as authorized by the commissioner, and
14 enforce the provisions of chapter 597, the rules adopted
15 thereunder, and any other chapter or rule necessary to carry
16 out the responsibilities of the division.

17 Section 29. Paragraph (f) of subsection (1) of section
18 597.003, Florida Statutes, is amended, and subsections (3),
19 (4), and (5) of section 370.26, Florida Statutes, are
20 renumbered as paragraphs (l) and (k) of said subsection (1)
21 and amended, to read:

22 597.003 Powers and duties of Department of Agriculture
23 and Consumer Services.--

24 (1) The department is hereby designated as the lead
25 agency in encouraging the development of aquaculture in the
26 state and shall have and exercise the following functions,
27 powers, and duties with regard to aquaculture:

28 (f) Submit the list of research and development
29 projects proposed to be funded through the department as
30 identified in the state aquaculture plan, along with the
31 department's legislative budget request to the Governor, the

1 President of the Senate, and the Speaker of the House of
2 Representatives. If funded, these projects shall be contracted
3 for by the Division of Aquaculture and shall require
4 public-private partnerships, when appropriate. The contracts
5 shall require a percentage of the profit generated by the
6 project to be deposited into the General Inspection Trust Fund
7 solely for funding aquaculture projects recommended by the
8 Aquaculture Review Council.

9 ~~(k)(4) The department shall~~ Make available state lands
10 and the water column for the purpose of producing aquaculture
11 products when the aquaculture activity is compatible with
12 state resource management goals, environmental protection, and
13 propriety interest and when such state lands and waters are
14 determined to be suitable for aquaculture development by the
15 Board of Trustees of the Internal Improvement Trust Fund
16 pursuant to s. 253.68; and be responsible for all saltwater
17 aquaculture activities located on sovereignty submerged land
18 or in the water column above such land and adjacent facilities
19 directly related to the aquaculture activity.

20 1.(a) The department shall act in cooperation with
21 other state and local agencies and programs to identify and
22 designate sovereignty lands and waters that would be suitable
23 for aquaculture development.

24 2.(b) The department shall identify and evaluate
25 specific tracts of sovereignty submerged lands and water
26 columns in various areas of the state to determine where such
27 lands and waters are suitable for leasing for aquaculture
28 purposes. Nothing in this subparagraph or subparagraph 1.
29 ~~paragraph or paragraph (a)~~ shall preclude the applicant from
30 applying for sites identified by the applicant.

31

1 3. The department shall provide assistance in
2 developing technologies applicable to aquaculture activities,
3 evaluate practicable production alternatives, and provide
4 agreements to develop innovative culture practices.

5 ~~(1)(3) The Department of Agriculture and Consumer~~
6 ~~Services shall~~ Act as a clearinghouse for aquaculture
7 applications, and act as a liaison between the Fish and
8 Wildlife Conservation Commission, the Division of State Lands,
9 the Department of Environmental Protection district offices,
10 other divisions within the Department of Environmental
11 Protection, and the water management districts. The department
12 ~~of Agriculture and Consumer Services~~ shall be responsible for
13 regulating marine aquaculture producers, except as
14 specifically provided herein.

15 Section 30. Subsections (1), (2), and (4) and
16 paragraph (b) of subsection (5) of section 597.004, Florida
17 Statutes, are amended to read:

18 597.004 Aquaculture certificate of registration.--

19 (1) ~~SHELLFISH~~ CERTIFICATION.--Any person engaging in
20 ~~shellfish~~ aquaculture must be certified by the department.
21 The applicant for a certificate of registration shall submit
22 the following to the department:

23 (a) Applicant's name/title.

24 (b) Company name.

25 (c) Complete mailing address.

26 (d) Legal property description of all aquaculture
27 facilities.

28 (e) Actual physical street address for each
29 aquaculture facility.

30 ~~(f)(e)~~ Description of production facilities.

31 (g)(f) Aquaculture products to be produced.

1 ~~(h)(g)~~ Fifty dollar annual registration fee.
2 ~~(2) NONSHELLFISH CERTIFICATION.--~~
3 ~~(a) Any person engaging in nonshellfish aquaculture,~~
4 ~~except as otherwise provided in this section, must be~~
5 ~~certified by the department. The applicant for a certificate~~
6 ~~of registration for nonshellfish products shall submit the~~
7 ~~following to the department:~~
8 ~~1. The information requested in subsection (1) above.~~
9 (i)2. Documentation that the rules adopted herein have
10 been complied with in accordance with paragraph (2)(a) ~~(b)~~
11 below.
12 (2) RULES.--
13 (a) ~~(b)~~ The department, in consultation with the
14 Department of Environmental Protection, the water management
15 districts, environmental groups, and representatives from the
16 affected farming groups, shall adopt rules to:
17 1. Specify the requirement of best-management
18 practices to be implemented by holders of aquaculture
19 certificates of registration.
20 2. Establish procedures for holders of aquaculture
21 certificates of registration to submit the notice of intent to
22 comply with best-management practices.
23 3. Establish schedules for implementation of
24 best-management practices, and of interim measures that can be
25 taken prior to adoption of best-management practices. Interim
26 measures may include the continuation of regulatory
27 requirements in effect on June 30, 1998.
28 4. Establish a system to assure the implementation of
29 best-management practices, including recordkeeping
30 requirements.
31

1 (b) Rules adopted pursuant to this subsection shall
2 become effective pursuant to the applicable provisions of
3 chapter 120, but must be submitted to the President of the
4 Senate and the Speaker of the House of Representatives for
5 review by the Legislature. The rules shall be referred to the
6 appropriate committees of substance and scheduled for review
7 during the first available regular session following adoption.
8 Except as otherwise provided by operation of law, such rules
9 shall remain in effect until rejected or modified by act of
10 the Legislature.

11 (c) Notwithstanding any provision of law, the
12 Department of Environmental Protection is not authorized to
13 institute proceedings against any person certified under this
14 section to recover any costs or damages associated with
15 contamination of groundwater or surface water, or the
16 evaluation, assessment, or remediation of contamination of
17 groundwater or surface water, including sampling, analysis,
18 and restoration of potable water supplies, where the
19 contamination of groundwater or surface water is determined to
20 be the result of aquaculture practices, provided the holder of
21 an aquaculture certificate of registration:

22 1. Provides the department with a notice of intent to
23 implement applicable best-management practices adopted by the
24 department;

25 2. Implements applicable best-management practices as
26 soon as practicable according to rules adopted by the
27 department; and

28 3. Implements practicable interim measures identified
29 and adopted by the department which can be implemented
30 immediately, or according to rules adopted by the department.

31

1 (d) There is a presumption of compliance with state
2 groundwater and surface water standards if the holder of an
3 aquaculture certificate of registration implements
4 best-management practices that have been verified by the
5 Department of Environmental Protection to be effective at
6 representative sites and complies with the following:

7 1. Provides the department with a notice of intent to
8 implement applicable best-management practices adopted by the
9 department;

10 2. Implements applicable best-management practices as
11 soon as practicable according to rules adopted by the
12 department; and

13 3. Implements practicable interim measures identified
14 and adopted by the department which can be implemented
15 immediately, or according to rules adopted by the department.

16 (e) The department shall provide, by December 31,
17 1999, to the President of the Senate and the Speaker of the
18 House of Representatives, a progress report concerning the
19 development, implementation, and effectiveness of
20 best-management practices to prevent contamination of
21 groundwater and surface water.

22 (f) This section does not limit federally delegated
23 regulatory authority.

24 (g) Any aquatic plant producer permitted by the
25 department pursuant to s. 369.25 shall also be subject to the
26 requirements of this section ~~subsection~~.

27 (h) Any alligator producer with an alligator farming
28 license and permit to establish and operate an alligator farm
29 shall be issued an aquaculture certificate of registration
30 pursuant to this section ~~subsection (1) above~~. This chapter
31 does not supersede the authority under chapter 372, ~~chapter~~

1 ~~373, or chapter 403~~ to regulate alligator farms and alligator
2 farmers.

3 (4) IDENTIFICATION OF AQUACULTURE
4 PRODUCTS.--Aquaculture products shall be identified while
5 possessed, processed, transported, or sold as provided in this
6 subsection, ~~except those subject to the rules of the Fish and~~
7 ~~Wildlife Conservation Commission as they relate to alligators~~
8 ~~only.~~

9 (a) Aquaculture products shall be identified by an
10 aquaculture certificate of registration number from harvest to
11 point of sale. Any person who possesses aquaculture products
12 must show, by appropriate receipt, bill of sale, bill of
13 lading, or other such manifest where the product originated.

14 (b) Marine aquaculture products shall be transported
15 in containers that separate such product from wild stocks, and
16 shall be identified by tags or labels that are securely
17 attached and clearly displayed.

18 (c) Each aquaculture registrant who sells food
19 products labeled as "aquaculture or farm raised" must have
20 such products containerized and clearly labeled in accordance
21 with s. 500.11. Label information must include the name,
22 address, and aquaculture certification number. This
23 requirement is designed to segregate the identity of wild and
24 aquaculture products.

25 (5) SALE OF AQUACULTURE PRODUCTS.--

26 (b) Aquaculture shellfish must be sold and handled in
27 accordance with s. 597.020 ~~shellfish handling regulations of~~
28 ~~the Department of Environmental Protection established to~~
29 ~~protect public health.~~

30
31

1 Section 31. Subsection (2) of section 597.0041,
2 Florida Statutes, is amended, and subsection (4) is added to
3 said section, to read:

4 597.0041 Prohibited acts; penalties.--

5 (2)(a) Any person who violates any provision of this
6 chapter or any rule promulgated hereunder is subject to a
7 suspension or revocation of his or her certificate of
8 registration or license under this chapter. The department
9 may, in lieu of, or in addition to the suspension of
10 revocation, impose on the violator an administrative fine in
11 an amount not to exceed \$1,000 per violation per day.

12 (b) Except as provided in subsection (4), any person
13 who violates any provision of this chapter, or rule hereunder,
14 commits a misdemeanor of the first degree, punishable as
15 provided in s. 775.082 or s. 775.083.

16 (4) Any person who violates any provision of s.
17 597.010 or s. 597.020, or any rule adopted under those
18 sections, commits a misdemeanor of the second degree,
19 punishable as provided in s. 775.082 or s. 775.083 for the
20 first offense; and for the second or any subsequent offense
21 within a 12-month period, commits a misdemeanor of the first
22 degree, punishable as provided in s. 775.082 or s. 775.083.

23 Section 32. Paragraph (c) of subsection (3) of section
24 597.005, Florida Statutes, is amended to read:

25 597.005 Aquaculture Review Council.--

26 (3) RESPONSIBILITIES.--The primary responsibilities of
27 the Aquaculture Review Council are to:

28 (c) Submit to the commissioner on an annual basis:

29 1. A prioritized list of research projects to be
30 included in the department's legislative budget request. Each
31 year, the council shall review the aquaculture legislative

1 budget requests submitted to the department and rank them
2 according to the state aquaculture plan.

3 2. Recommendations to be forwarded to the Speaker of
4 the House of Representatives and the President of the Senate
5 on legislation needed to help the aquaculture industry.

6 3. Recommendations on aquaculture projects,
7 activities, research, and regulation and other needs to
8 further the development of the aquaculture industry.

9 Section 33. Subsection (1) of section 597.006, Florida
10 Statutes, is amended to read:

11 597.006 Aquaculture Interagency Coordinating
12 Council.--

13 (1) CREATION.--The Legislature finds and declares that
14 there is a need for interagency coordination with regard to
15 aquaculture by the following agencies: the Department of
16 Agriculture and Consumer Services, the Office of Tourism,
17 Trade, and Economic Development ~~Department of Commerce~~, the
18 Department of Community Affairs, the Department of
19 Environmental Protection, the Department of Labor and
20 Employment Security, the Fish and Wildlife Conservation
21 Commission, the statewide consortium of universities under the
22 Florida Institute of Oceanography, Florida Agricultural and
23 Mechanical University, the Institute of Food and Agricultural
24 Sciences at the University of Florida, and the Florida Sea
25 Grant Program, ~~and each water management district~~. It is
26 therefore the intent of the Legislature to hereby create an
27 Aquaculture Interagency Coordinating Council to act as an
28 advisory body as defined in s. 20.03(9).

29 Section 34. Section 597.010, Florida Statutes, is
30 created to read:

31 597.010 Shellfish regulation; leases.--

1 (1) LEASE, APPLICATION FORM.--When any qualified
2 person desires to lease a part of the bottom, water column, or
3 bed of any of the water of this state for the purpose of
4 growing oysters or clams, as provided for in this section, he
5 or she shall present to the department a written application
6 pursuant to s. 253.69.

7 (2) LANDS TO BE LEASED.--The lands leased shall be as
8 compact as possible, taking into consideration the shape of
9 the body of water and the condition of the bottom as to
10 hardness, or soft mud or sand, or other conditions that would
11 render the bottoms desirable or undesirable for the purpose of
12 oyster or clam cultivation.

13 (3) SURVEYS, PLATS, AND MAPS OF REEFS.--The department
14 shall accept, adopt, and use official reports, surveys, and
15 maps of oyster, clam, or other shellfish grounds made under
16 the direction of any authority of the United States as prima
17 facie evidence of the natural oyster and clam reefs and beds,
18 for the purpose and intent of this chapter. The department may
19 also make surveys of any natural oyster or clam reefs or beds
20 when it deems such surveys necessary and where such surveys
21 are made pursuant to an application for a lease, the cost
22 thereof may be charged to the applicant as a part of the cost
23 of his or her application.

24 (4) EXECUTION OF LEASES; LESSEE TO STAKE OFF
25 BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH
26 REGULATIONS.--When a survey of the lands to be leased has been
27 completed pursuant to s. 253.69 and filed with the department,
28 and the cost thereof paid by the applicant, the department may
29 execute in duplicate a lease of the water bottoms to the
30 applicant. One duplicate, with a plat or map of the water
31 bottoms so leased, shall be delivered to the applicant, and

1 the other, with a plat or map of the bottom so leased, shall
2 be retained by the department and registered in a lease book
3 which shall be kept exclusively for that purpose by the
4 department; thereafter the lessees shall enjoy the exclusive
5 use of the lands and all oysters and clams, shell, and cultch
6 grown or placed thereon shall be the exclusive property of
7 such lessee as long as he or she shall comply with the
8 provisions of this chapter and chapter 253. The department
9 shall require the lessee to stake off and mark the water
10 bottoms leased, by such ranges, monuments, stakes, buoys,
11 etc., so placed and made as not to interfere with the
12 navigation, as it may deem necessary to locate the same to the
13 end that the location and limits of the lands embraced in such
14 lease be easily and accurately found and fixed, and such
15 lessee shall keep the same in good condition during the open
16 and closed oyster or clam season. All leases shall be marked
17 according to the standards set forth in s. 253.72. The
18 department may stipulate in each individual lease contract the
19 types, shape, depth, size, and height of marker or corner
20 posts. Failure on the part of the lessee to comply with the
21 orders of the department to this effect within the time fixed
22 by it, and to keep the markers, etc., in good condition during
23 the open and closed oyster or clam season, shall subject such
24 lessee to a fine not exceeding \$100 for each and every such
25 offense.

26 (5) LEASES IN PERPETUITY; RENT.--

27 (a) All leases issued previously under the provisions
28 of s. 370.16 shall be enforced under the authority of this
29 chapter, notwithstanding any other law to the contrary, and
30 shall continue in perpetuity under such restrictions as stated
31 in the lease agreement. The annual rental fee charged for all

1 leases shall consist of the minimum rate of \$15 per acre, or
2 any fraction of an acre, per year and shall be adjusted on
3 January 1, 1995, and every 5 years thereafter, based on the
4 5-year average change in the Consumer Price Index. Rent shall
5 be paid in advance of January 1 of each year or in the case of
6 a new lease at the time of signing, regardless of who holds
7 the lease.

8 (b) All fees collected under this subsection and
9 subsection (6) shall be deposited in the General Inspection
10 Trust Fund and shall be used for shellfish aquaculture
11 activities.

12 (6) FORFEITURE FOR NONPAYMENT--All leases shall
13 stipulate that failure to timely pay the rent on or before
14 January 1 of each year shall cause the department, at its
15 discretion, to terminate and cancel the lease after the
16 department has given the lessee 30 days' written notice of the
17 nonpayment. If after receiving the notice the lessee chooses
18 to keep the lease, the lessee shall pay the rental fee plus a
19 \$50 late fee within the 30-day period. After the 30-day notice
20 has expired, the department may take possession of the lease
21 and all improvements, assets, clams, and oysters thereon.

22 (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.--A
23 surcharge of \$10 per acre, or any fraction of an acre, per
24 annum shall be levied upon each lease, other than a perpetual
25 lease granted pursuant to chapter 370 prior to 1985, and
26 deposited into the General Inspection Trust Fund. The purpose
27 of the surcharge is to provide a mechanism to have financial
28 resources immediately available for improvement of lease areas
29 and for cleanup and rehabilitation of abandoned or vacated
30 lease sites. The department is authorized to adopt rules
31 necessary to carry out the provisions of this subsection.

1 (a) Moneys in the fund that are not needed currently
2 for cleanup and rehabilitation of abandoned or vacated lease
3 sites shall be deposited with the Treasurer to the credit of
4 the fund and may be invested in such manner as is provided for
5 by statute. Interest received on such investment shall be
6 credited to the fund.

7 (b) Funds within the General Inspection Trust Fund
8 from receipts from the surcharge established in this section
9 shall be disbursed for the following purposes and no others:

10 1. Administrative expenses, personnel expenses, and
11 equipment costs of the department related to the improvement
12 of lease areas, the cleanup and rehabilitation of abandoned or
13 vacated aquaculture lease sites, and the enforcement of
14 provisions of this section.

15 2. All costs involved in the improvement of lease
16 areas and the cleanup and rehabilitation of abandoned or
17 vacated lease sites.

18 3. All costs and damages which are the proximate
19 results of lease abandonment or vacation.

20 4. Reward payments made pursuant to s. 597.0045.

21
22 The department shall recover to the use of the fund from the
23 person or persons abandoning or vacating the lease, jointly
24 and severally, all sums owed or expended from the fund.

25 (8)(a) CULTIVATION REQUIREMENTS.--Effective
26 cultivation shall consist of the growing of the oysters or
27 clams in a density suitable for commercial harvesting over the
28 amount of bottom prescribed by law. This commercial density
29 shall be accomplished by the planting of seed oysters, shell,
30 and cultch of various descriptions. The department may
31 stipulate in each individual lease contract the types, shape,

1 depth, size, and height of cultch materials on lease bottoms
2 according to the individual shape, depth, location, and type
3 of bottom of the proposed lease. Each lessee leasing lands
4 under the provisions of this section or s. 253.71 shall begin,
5 within 1 year after the date of such lease, bona fide
6 cultivation of the same, and shall, by the end of the second
7 year after the commencement of such lease, have placed under
8 cultivation at least one-half of the leased area and shall
9 each year thereafter place in cultivation at least one-fourth
10 of the leased area until the whole, suitable for bedding of
11 oysters or clams, shall have been put in cultivation. The
12 cultivation requirements for perpetuity leases granted
13 pursuant to chapter 370 prior to 1985 under previously
14 existing law shall comply with the conditions stated in the
15 lease agreement, and the lessee or grantee is authorized to
16 plant the leased or granted submerged land in both oysters and
17 clams.

18 (b) These stipulations apply to all leases granted
19 after the effective date of this section. All leases existing
20 prior to the effective date of this section will operate under
21 the law that was in effect when the leases were granted.

22 (c) When evidence is gathered by the department and
23 such evidence conclusively shows a lack of effective
24 cultivation, the department may revoke leases and return the
25 bottoms in question to the public domain.

26 (d) The department has the authority to adopt rules
27 pertaining to the water column over shellfish leases. All
28 cultch materials in place 6 months after the formal adoption
29 and publication of rules establishing standards for cultch
30 materials on shellfish leases that do not comply with such
31 rules may be declared a nuisance by the department. The

1 department has the authority to direct the lessee to remove
2 such cultch in violation of this section. The department may
3 cancel a lease upon the refusal by the lessee violating such
4 rules to remove unlawful cultch materials, and all
5 improvements, cultch, marketable oysters, and shell shall
6 become the property of the state. The department has the
7 authority to retain, dispose of, or remove such materials in
8 the best interest of the state.

9 (9) LEASES TRANSFERABLE, ETC.--The leases in chapters
10 253 and 370 shall be inheritable and transferable, in whole or
11 in part, and shall also be subject to mortgage, pledge, or
12 hypothecation and shall be subject to seizure and sale for
13 debts as any other property, rights, and credits in this
14 state, and this provision shall also apply to all buildings,
15 betterments, and improvements thereon. Leases granted under
16 this section cannot be transferred, by sale or barter, in
17 whole or in part, without the written, express approval of the
18 department, and such a transferee shall pay a \$50 transfer fee
19 before department approval may be given. Leases inherited or
20 transferred will be valid only upon receipt of the transfer
21 fee and approval by the department. The department shall keep
22 proper indexes so that all original leases and all subsequent
23 changes and transfers can be easily and accurately
24 ascertained.

25 (10) CANCELLATION OF LEASES TO NATURAL REEFS OR
26 BEDS.--Any person, within 6 months after the execution of any
27 lease, may file a petition with the department for the purpose
28 of determining whether a natural oyster or clam reef or bed
29 having an area of not less than 100 square yards existed
30 within the leased area on the date of the lease, with
31 sufficient natural or maternal oysters or clams thereon (not

1 including coon oysters) to have constituted a stratum
2 sufficient to have been resorted to by the public generally
3 for the purpose of gathering the same to sell for a
4 livelihood. The petition shall be in writing addressed to the
5 department, verified under oath, stating the location and
6 approximate area of the natural reef or bed and the claim or
7 interest of the petitioner therein and requesting the
8 cancellation of the lease to the natural reef or bed. A
9 petition may not be considered unless it is accompanied by a
10 deposit of \$500 to defray the expense of the department's
11 investigation of the matter. Upon receipt of such petition,
12 the department shall cause an investigation to be made into
13 the truth of the allegations of the petition, and, if found
14 untrue, the \$500 deposit shall be retained by the department
15 to defray the expense of the investigation, but should the
16 allegations of the petition be found true and the leased
17 premises to contain a natural oyster or clam reef or bed, as
18 described in this subsection, the \$500 deposit shall be
19 returned to the petitioner and the costs and expenses of the
20 investigation taxed against the lessee and the lease canceled
21 to the extent of the natural reef or bed and the same shall be
22 marked with buoys and stakes and notices placed thereon
23 showing the same to be a public reef or bed, the cost of the
24 markers and notices to be taxed against the lessee.

25 (11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN
26 LEASE.--

27 (a) When an application for a submerged land lease for
28 cultivating shellfish is filed, and when a resource survey of
29 such lands identifies natural oyster or clam reefs or beds,
30 the department shall determine if such reefs and beds are to
31 be included in the leased area. The department, if it deems it

1 to be in the best interest of the state, may include such
2 natural reefs or beds in a lease. In those cases where a
3 natural area is included in a lease, the department shall fix
4 a reasonable value on the same, to be paid by the applicant
5 for lease of such submerged land. No natural reefs shall be
6 included in any shellfish or aquaculture lease granted in
7 Franklin County.

8 (b) The department shall determine and settle all
9 disputes as to boundaries between lessees. The department
10 shall, in all cases, determine whether a particular submerged
11 land area contains a natural reef or bed or whether it is
12 suitable for raising oysters or clams.

13 (12) FRANKLIN COUNTY LEASES.--On and after the
14 effective date of this section, the only leases available in
15 Franklin County shall be those issued pursuant to ss.
16 253.67-253.75; chapter 370 leases shall no longer be
17 available. The department shall require in the lease agreement
18 such restrictions as it deems necessary to protect the
19 environment, the existing leaseholders, and public fishery.

20 (13) TRESPASS ON LEASED BEDS; PROTECTION OF LEASE
21 AREAS.--

22 (a) Any person who willfully takes oysters, shells,
23 cultch, or clams bedded or planted by a licensee under this
24 chapter, or grantee under the provisions of heretofore
25 existing laws, or riparian owner who may have heretofore
26 planted the same on his or her riparian bottoms, or any
27 oysters or clams deposited by anyone making up a cargo for
28 market, or who willfully carries or attempts to carry away the
29 same without permission of the owner thereof, or who willfully
30 or knowingly removes, breaks off, destroys, or otherwise
31 injures or alters any stakes, bounds, monuments, buoys,

1 notices, or other designations of any natural oyster or clam
2 reefs or beds or private bedding or propagating grounds, or
3 who willfully injures, destroys, or removes any other
4 protection around any oyster or clam reefs or beds, or who
5 willfully moves any bedding ground stakes, buoys, marks, or
6 designations placed by the department, commits a violation of
7 this section.

8 (b) Harvesting shellfish is prohibited within a
9 distance of 25 feet outside lawfully marked lease boundaries
10 or within setback and access corridors within specifically
11 designated high-density aquaculture lease areas and
12 aquaculture use zones.

13 (14) SHELLFISH DEVELOPMENT.--

14 (a) The department shall improve, enlarge, and protect
15 the natural oyster and clam reefs and beds of this state to
16 the extent it may deem advisable and the means at its disposal
17 will permit.

18 (b) The Fish and Wildlife Conservation Commission
19 shall, to the same extent, assist in protecting shellfish
20 aquaculture products produced on leased or granted reefs and
21 beds.

22 (c) The department, in cooperation with the
23 commission, shall provide the Legislature with recommendations
24 as needed for the development and the proper protection of the
25 rights of the state and private holders therein with respect
26 to the oyster and clam business.

27 (15) SPECIAL ACTIVITY LICENSES.--The department is
28 authorized to issue special activity licenses, in accordance
29 with s. 597.020, to permit the harvest or cultivation of
30 oysters, clams, mussels, and crabs.

31

1 (16) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS
2 WITHOUT OBTAINING LEASE.--Any person staking off the water
3 bottoms of this state, or bedding oysters on the bottoms of
4 the waters of this state, without previously leasing same as
5 required by law commits a violation of this section, and shall
6 acquire no rights by reason of such staking off. This
7 provision does not apply to grants heretofore made under the
8 provisions of any heretofore existing laws or to artificial
9 beds made heretofore by a riparian owner or his or her
10 grantees on the owner's riparian bottoms.

11 (17) SHELLFISH HARVESTING SEASONS; SPECIAL PROVISIONS
12 RELATING TO APALACHICOLA BAY.--

13 (a) The Fish and Wildlife Conservation Commission
14 shall by rule set the noncultured shellfish harvesting seasons
15 in Apalachicola Bay.

16 (b) If the commission changes the harvesting seasons
17 by rule as set forth in this subsection, for 3 years after the
18 new rule takes effect, the commission, in cooperation with the
19 department, shall monitor the impacts of the new harvesting
20 schedule on the bay and on local shellfish harvesters to
21 determine whether the new harvesting schedule should be
22 discontinued, retained, or modified. In monitoring the new
23 schedule and in preparing its report, the following
24 information shall be considered:

25 1. Whether the bay benefits ecologically from the new
26 harvesting schedule.

27 2. Whether the new harvesting schedule enhances the
28 enforcement of shellfish harvesting laws in the bay.

29 3. Whether the new harvesting schedule enhances
30 natural shellfish production, oyster relay and planting
31 programs, and shell planting programs in the bay.

1 4. Whether the new harvesting schedule has more than a
2 short-term adverse economic impact, if any, on local shellfish
3 harvesters.

4 (18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL
5 REEFS; LICENSES, ETC.; PENALTY.--

6 (a) It is unlawful to use a dredge or any means or
7 implement other than hand tongs in removing oysters from the
8 natural or artificial state reefs or beds. This restriction
9 shall apply to all areas of Apalachicola Bay for all shellfish
10 harvesting, excluding private grounds leased or granted by the
11 state prior to July 1, 1989, if the lease or grant
12 specifically authorizes the use of implements other than hand
13 tongs for harvesting. Except in Apalachicola Bay, upon the
14 payment of \$25 annually, for each vessel or boat using a
15 dredge or machinery in the gathering of clams or mussels, a
16 special activity license may be issued by the Fish and
17 Wildlife Conservation Commission pursuant to subsection (15)
18 or s. 370.06 for such use to such person.

19 (b) Approval by the department to harvest shellfish by
20 dredge or other mechanical means from privately held shellfish
21 leases or grants in Apalachicola Bay shall include, but not be
22 limited to, the following conditions:

23 1. The use of any mechanical harvesting device other
24 than ordinary hand tongs for taking shellfish for any purpose
25 from public shellfish beds in Apalachicola Bay shall be
26 unlawful.

27 2. The possession of any mechanical harvesting device
28 on the waters of Apalachicola Bay from 5 p.m. until sunrise
29 shall be unlawful.

30 3. Leaseholders or grantees shall notify the
31 department no less than 48 hours prior to each day's use of a

1 dredge or scrape in order for the department to notify the
2 Fish and Wildlife Conservation Commission that a mechanical
3 harvesting device will be deployed.

4 4. Only two dredges or scrapes per lease or grant may
5 be possessed or operated at any time.

6 5. Each vessel used for the transport or deployment of
7 a dredge or scrape shall prominently display the lease or
8 grant number or numbers, in numerals which are at least 12
9 inches high and 6 inches wide, in such a manner that the lease
10 or grant number or numbers are readily identifiable from both
11 the air and the water.

12
13 Any violation of this paragraph or of any other statutes,
14 rules, or conditions referenced in the lease agreement shall
15 be considered a violation of the license and shall result in
16 revocation of the lease or a denial of use or future use of a
17 mechanical harvesting device.

18 (c) Oysters may be harvested from natural or public or
19 private leased or granted grounds by common hand tongs or by
20 hand, by scuba diving, free diving, leaning from vessels, or
21 wading. In Apalachicola Bay, this provision shall apply to
22 all shellfish.

23 (19) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.--

24 (a) The department shall designate areas for the
25 taking of oysters and clams to be planted on leases, grants,
26 and public areas. Oysters, clams, and mussels may be taken for
27 relaying or transplanting at any time during the year so long
28 as, in the opinion of the department, the public health will
29 not be endangered. The amount of oysters, clams, and mussels
30 to be obtained for relaying or transplanting, the area relayed
31 or transplanted to, and relaying or transplanting time periods

1 shall be established in each case by the department. However,
2 the department shall not allow shellfish to be relayed due to
3 marine biotoxins, except to a department approved depuration
4 plant.

5 (b) Application for a special activity license issued
6 pursuant to subsection (15) for obtaining oysters, clams, or
7 mussels for relaying from closed public shellfish harvesting
8 areas to open areas or certified controlled purification
9 plants or for transplanting sublegal-sized oysters, clams, or
10 mussels must be made to the department. In return, the
11 department may assign an area and a period of time for the
12 oysters, clams, or mussels to be relayed or transplanted to be
13 taken. All relaying and transplanting operations shall take
14 place under the direction of the department.

15 (c) Relayed oysters, clams, or mussels shall not be
16 subsequently harvested for any reason without written
17 permission or public notice from the department.

18 (20) OYSTER AND CLAM REHABILITATION.--The board of
19 county commissioners of the several counties may appropriate
20 and expend such sums as it may deem proper for the purpose of
21 planting or transplanting oysters, clams, oyster shell, clam
22 shell, or cultch or to perform such other acts for the
23 enhancement of the oyster and clam industries of the state,
24 out of any sum in the county treasury not otherwise
25 appropriated.

26 (21) DREDGING OF DEAD SHELLS PROHIBITED.--The dredging
27 of dead shell deposits is prohibited in the state.

28 (22) COOPERATION WITH UNITED STATES FISH AND WILDLIFE
29 SERVICE.--The department shall cooperate with the United
30 States Fish and Wildlife Service, under existing federal laws,
31 rules, and regulations, and is authorized to accept donations,

1 grants, and matching funds from the Federal Government in
2 order to carry out its oyster resource and development
3 responsibilities. The department is further authorized to
4 accept any and all donations including funds, oysters, or
5 oyster shells.

6 (23) OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.--

7 (a) Except for oysters used directly in the half-shell
8 trade, 50 percent of all shells from oysters and clams shucked
9 commercially in the state shall be and remain the property of
10 the department when such shells are needed and required for
11 rehabilitation projects and planting operations, in
12 cooperation with the Fish and Wildlife Conservation
13 Commission, when sufficient resources and facilities exist for
14 handling and planting such shell, and when the collection and
15 handling of such shell is practicable and useful, except that
16 bona fide holders of leases and grants may retain 75 percent
17 of such shell as they produce for aquacultural purposes.
18 Storage, transportation, and planting of shells so retained by
19 lessees and grantees shall be carried out under the conditions
20 of the lease agreement or with the written approval of the
21 department and shall be subject to such reasonable time limits
22 as the department may fix. In the event of an accumulation of
23 an excess of shells, the department is authorized to sell
24 shells only to private growers for use in oyster or clam
25 cultivation on bona fide leases and grants. No profit shall
26 accrue to the department in these transactions, and shells are
27 to be sold for the estimated moneys spent by the department to
28 gather and stockpile the shells. Planting of shells obtained
29 from the department by purchase shall be subject to the
30 conditions set forth in the lease agreement or in the written
31 approval as issued by the department. Any shells not claimed

1 and used by private oyster cultivators 10 years after shells
2 are gathered and stockpiled may be sold at auction to the
3 highest bidder for any private use.

4 (b) Whenever the department determines that it is
5 unfeasible to collect oyster or clam shells, the shells become
6 the property of the producer.

7 (c) Whenever oyster or clam shells are owned by the
8 department and it is not useful or feasible to use them in the
9 rehabilitation projects, and when no leaseholder has exercised
10 his or her option to acquire them, the department may sell
11 such shells for the highest price obtainable. The shells thus
12 sold may be used in any manner and for any purpose at the
13 discretion of the purchaser.

14 (d) Moneys derived from the sale of shell shall be
15 deposited in the General Inspection Trust Fund for shellfish
16 programs.

17 (e) The department may publish notice, in a newspaper
18 servicing the county, of its intention to collect the oyster and
19 clam shells and shall notify, by certified mail, each shucking
20 establishment from which shells are to be collected. The
21 notice shall contain the period of time the department intends
22 to collect the shells in that county and the collection
23 purpose.

24 (24) OYSTER CULTURE.--The department, in cooperation
25 with the Fish and Wildlife Conservation Commission and the
26 Department of Environmental Protection, shall protect all clam
27 beds, oyster beds, shellfish grounds, and oyster reefs from
28 damage or destruction resulting from improper cultivation,
29 propagation, planting, or harvesting and control the pollution
30 of the waters over or surrounding beds, grounds, or reefs, and
31 to this end the Department of Health is authorized and

1 directed to lend its cooperation to the department, to make
2 available its laboratory testing facilities and apparatus.

3 (25) REQUIREMENTS FOR OYSTER OR CLAM VESSELS.--

4 (a) All vessels used for the harvesting, gathering, or
5 transporting of oysters or clams for commercial purposes shall
6 be constructed and maintained to prevent contamination or
7 deterioration of shellfish. To this end, all such vessels
8 shall be provided with false bottoms and bulkheads fore and
9 aft to prevent onboard shellfish from coming in contact with
10 any bilge water. No dogs or other animals shall be allowed at
11 any time on vessels used to harvest or transport shellfish. A
12 violation of any provision of this subsection shall result in
13 at least the revocation of the violator's license.

14 (b) For the purpose of this subsection, "harvesting,
15 gathering, or transporting of oysters or clams for commercial
16 purposes" means to harvest, gather, or transport oysters or
17 clams with the intent to sell and shall apply to a quantity of
18 two or more bags of oysters per vessel or more than one
19 5-gallon bucket of unshucked hard clams per person or more
20 than two 5-gallon buckets of unshucked hard clams per vessel.

21 Section 35. Section 370.071, Florida Statutes, is
22 renumbered as section 597.020, Florida Statutes, and amended
23 to read:

24 597.020 ~~370.071~~ Shellfish processors; regulation.--

25 (1) The department ~~of Agriculture and Consumer~~
26 ~~Services, hereinafter referred to as department,~~is authorized
27 to adopt by rule regulations, specifications, and codes
28 relating to sanitary practices for catching, cultivating,
29 handling, processing, packaging, preserving, canning, smoking,
30 and storing of oysters, clams, mussels, scallops,and crabs.
31 The department is also authorized to license shellfish

1 processors who handle aquaculture facilities used to culture
2 oysters, clams, mussels, scallops, and crabs when such
3 activities relate to quality control, sanitary, and public
4 health practices pursuant to this section and chapter 500 and
5 ~~s. 370.06(4)~~. The department is also authorized to license or
6 certify, for a fee determined by rule, facilities used for
7 processing oysters, clams, mussels, scallops, and crabs, to
8 levy an administrative fine of up to \$1,000 per violation per
9 day or to suspend or revoke such licenses or certificates upon
10 satisfactory evidence of any violation of rules adopted
11 pursuant to this section, and to seize and destroy any
12 adulterated or misbranded shellfish products as defined by
13 rule.

14 (2) A shellfish processing plant certification license
15 is required to operate any facility in which oysters, clams,
16 mussels, scallops, or crabs are processed, including but not
17 limited to: an oyster, clam, ~~or mussel~~, or scallop cannery; a
18 shell stock dealership; an oyster, clam, ~~or mussel~~, or scallop
19 shucking plant; an oyster, clam, ~~or mussel~~, or scallop
20 repacking plant; an oyster, clam, ~~or mussel~~, or scallop
21 controlled purification plant; or a crab or soft-shell crab
22 processing or shedding plant.

23 (3) The department may suspend or revoke any shellfish
24 processing plant certification license upon satisfactory
25 evidence that the licensee has violated any regulation,
26 specification, or code adopted under this section and may
27 seize and destroy any shellfish product which is defined by
28 rule to be an adulterated or misbranded shellfish product.

29 Section 36. Notwithstanding any other legislation
30 passed and either signed by the governor or allowed to become
31 law without signature to the contrary, the Legislature intends

1 that this bill be its full and total intent, regardless of
2 when it is presented to the Secretary of State.

3 Section 37. This act shall take effect July 1, 2000.
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