

By the Committees on Fiscal Resource; Natural Resources;
Agriculture and Consumer Services; and Senator Laurent

314-2077-00

1 A bill to be entitled
2 An act relating to aquaculture; amending s.
3 253.002, F.S.; providing duties of the
4 Department of Agriculture and Consumer Services
5 with respect to certain state lands; amending
6 s. 253.01, F.S.; providing for disposition of
7 fees for aquaculture leases; amending s.
8 253.67, F.S.; revising definitions; amending s.
9 253.71, F.S.; revising aquaculture lease
10 contract fee and performance requirements;
11 amending s. 253.72, F.S.; providing
12 requirements for the marking of leased areas;
13 amending s. 253.75, F.S.; requiring the Board
14 of Trustees of the Internal Improvement Trust
15 Fund to request comments by the Fish and
16 Wildlife Conservation Commission regarding
17 certain submerged land leases; amending s.
18 270.22, F.S.; conforming disposition of rental
19 fees for aquaculture leases; amending s.
20 328.76, F.S.; providing for use of certain
21 commercial vessel registration fees for
22 aquaculture law enforcement and quality control
23 programs; amending s. 370.06, F.S.; deleting
24 authority of the Department of Agriculture and
25 Consumer Services to issue certain special
26 activity licenses under ch. 370, F.S.;
27 clarifying requirements relating to the
28 educational seminar for applicants for an
29 Apalachicola Bay oyster harvesting license;
30 amending s. 370.07, F.S.; providing for the
31 distribution of funds from the Florida

1 Saltwater Products Promotional Trust Fund;
2 providing for transfer of responsibilities
3 relating to the Apalachicola Bay oyster
4 surcharge from the Department of Environmental
5 Protection to the Department of Agriculture and
6 Consumer Services; amending s. 370.16, F.S.;
7 revising regulation of noncultured shellfish
8 harvesting; providing for protection of
9 shellfish and aquaculture products; repealing
10 s. 370.16(1), (2), (3), (4), (5), (6), (7),
11 (8), (9), (10), (11), (13), (16), (17), (19),
12 (22), (24), (25), (26), and (27), F.S.,
13 relating to regulation and enforcement of
14 oyster and shellfish leases by the Department
15 of Environmental Protection, protection and
16 development of oyster and shellfish resources,
17 and regulation of processing for commercial
18 use; amending ss. 370.161 and 372.071, F.S.;
19 conforming cross-references; amending s.
20 372.6673, F.S.; requiring collection of a
21 marketing assessment fee for alligator products
22 marketing and education; amending s. 372.6674,
23 F.S.; requiring collection of a marketing and
24 assessment fee; amending s. 373.046, F.S.;
25 revising regulatory responsibility under pt. IV
26 of ch. 373, F.S., for aquacultural activities;
27 amending ss. 403.814, 409.2598, and 500.03,
28 F.S.; conforming cross-references; amending ss.
29 570.18 and 570.29, F.S.; conforming provisions
30 relating to organization of the Department of
31 Agriculture and Consumer Services; creating s.

1 570.61, F.S.; providing powers and duties of
2 the Division of Aquaculture of the Department
3 of Agriculture and Consumer Services; creating
4 s. 570.62, F.S.; providing for appointment and
5 duties of a division director; repealing s.
6 370.26(3)-(5), F.S., and amending s. 597.003,
7 F.S.; requiring a portion of profits from
8 aquaculture contracts to be set aside for
9 funding certain aquaculture projects; amending
10 s. 370.26, F.S.; transferring certain
11 responsibilities relating to aquaculture
12 development from the Department of
13 Environmental Protection to the Department of
14 Agriculture and Consumer Services; amending s.
15 597.004, F.S.; revising provisions relating to
16 aquaculture certificates of registration;
17 amending s. 597.0041, F.S.; providing an
18 administrative fine; providing penalties;
19 amending s. 597.005, F.S.; requiring review of
20 aquaculture legislative budget requests by the
21 Aquaculture Review Council; amending s.
22 597.006, F.S.; revising membership of the
23 Aquaculture Interagency Coordinating Council;
24 creating s. 597.010, F.S.; providing for
25 regulation and enforcement of shellfish leases
26 by the Department of Agriculture and Consumer
27 Services; providing for continuation of leases
28 previously issued under ch. 370, F.S.;
29 providing for rental fees, fee adjustments,
30 late fees, and forfeiture for nonpayment of
31 fees; providing a lease surcharge for certain

1 purposes; providing for rules; providing
2 cultivation requirements for leased lands;
3 restricting the inheriting or transfer of
4 leases; requiring a deposit for investigations
5 relating to petitions for cancellation of
6 leases to natural reefs; providing for
7 inclusion of natural reefs in leased areas
8 under certain circumstances; restricting leases
9 available in Franklin County; providing
10 prohibitions; providing for shellfish
11 protection and development; providing for
12 special activity licenses for harvest or
13 cultivation of oysters, clams, mussels, and
14 crabs; providing for uncultured shellfish
15 harvesting seasons in Apalachicola Bay;
16 restricting harvest of shellfish by mechanical
17 means; providing a penalty; providing for
18 enhancement of oyster and clam industries by
19 the counties; prohibiting dredging of dead
20 shells; providing for cooperation with the
21 United States Fish and Wildlife Service;
22 providing requirements for vessels harvesting,
23 gathering, or transporting oysters or clams for
24 commercial purposes; providing a definition;
25 renumbering and amending s. 370.071, F.S.;
26 providing that regulation of shellfish
27 processors includes processors processing
28 scallops; providing for a fee for licensure or
29 certification of processing facilities;
30 authorizing an administrative fine for
31 violation of rules relating to regulation of

1 shellfish processors; amending s. 190.003,
2 F.S.; including the owner of a long-term ground
3 lease from a governmental entity within the
4 definition of a "landowner"; amending s.
5 190.005, F.S.; providing that the establishment
6 of a community development district must
7 contain the consent of all landowners whose
8 lands are to be included in the district;
9 amending s. 190.021, F.S.; providing that
10 certain ad valorem taxes and non-ad valorem
11 assessments on property of a governmental
12 entity are not a lien on the entity's
13 underlying fee interest; providing an effective
14 date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 253.002, Florida Statutes, is
19 amended to read:

20 253.002 Department of Environmental Protection, ~~and~~
21 water management districts, and Department of Agriculture and
22 Consumer Services; duties with respect to state lands.--

23 (1) The Department of Environmental Protection shall
24 perform all staff duties and functions related to the
25 acquisition, administration, and disposition of state lands,
26 title to which is or will be vested in the Board of Trustees
27 of the Internal Improvement Trust Fund. However, upon the
28 effective date of rules adopted pursuant to s. 373.427, a
29 water management district created under s. 373.069 shall
30 perform the staff duties and functions related to the review
31 of any application for authorization to use board of

1 trustees-owned submerged lands necessary for an activity
2 regulated under part IV of chapter 373 for which the water
3 management district has permitting responsibility as set forth
4 in an operating agreement adopted pursuant to s. 373.046(4);
5 and effective July 1, 2000, the Department of Agriculture and
6 Consumer Services shall perform the staff duties and functions
7 related to the review of applications and compliance with
8 lease conditions for use of board of trustees-owned submerged
9 lands under leases issued pursuant to ss. 253.67-253.75 and s.
10 597.010. Unless expressly prohibited by law, the board of
11 trustees may delegate to the department any statutory duty or
12 obligation relating to the acquisition, administration, or
13 disposition of lands, title to which is or will be vested in
14 the board of trustees. The board of trustees may also delegate
15 to any water management district created under s. 373.069 the
16 authority to take final agency action, without any action on
17 behalf of the board, on applications for authorization to use
18 board of trustees-owned submerged lands for any activity
19 regulated under part IV of chapter 373 for which the water
20 management district has permitting responsibility as set forth
21 in an operating agreement adopted pursuant to s. 373.046(4).
22 This water management district responsibility under this
23 subsection shall be subject to the department's general
24 supervisory authority pursuant to s. 373.026(7). The board of
25 trustees may also delegate to the Department of Agriculture
26 and Consumer Services the authority to take final agency
27 action on behalf of the board on applications to use board of
28 trustees-owned submerged lands for any activity for which that
29 department has responsibility pursuant to ss. 253.67-253.75
30 and s. 597.010. However, the board of trustees shall retain
31 the authority to take final agency action on establishing any

1 areas for leasing, new leases, expanding existing lease areas,
2 or changing the type of lease activity in existing leases.
3 Upon issuance of an aquaculture lease or other real property
4 transaction relating to aquaculture, the Department of
5 Agriculture and Consumer Services must send a copy of the
6 document and the accompanying survey to the Department of
7 Environmental Protection.

8 (2) Delegations to the department, or a water
9 management district, or the Department of Agriculture and
10 Consumer Services of authority to take final agency action on
11 applications for authorization to use submerged lands owned by
12 the board of trustees, without any action on behalf of the
13 board of trustees, shall be by rule. Until rules adopted
14 pursuant to this subsection become effective, existing
15 delegations by the board of trustees shall remain in full
16 force and effect. However, the board of trustees is not
17 limited or prohibited from amending these delegations. ~~By~~
18 ~~December 31, 1995,~~The board of trustees shall adopt by rule
19 any delegations of its authority to take final agency action
20 without action by the board of trustees on applications for
21 authorization to use board of trustees-owned submerged lands.
22 Any final agency action, without action by the board of
23 trustees, taken by the department, or a water management
24 district, or the Department of Agriculture and Consumer
25 Services on applications to use board of trustees-owned
26 submerged lands shall be subject to the provisions of s.
27 373.4275. Notwithstanding any other provision of this
28 subsection, the board of trustees, the Department of Legal
29 Affairs, and the department retain the concurrent authority to
30 assert or defend title to submerged lands owned by the board
31 of trustees.

1 Section 2. Paragraph (b) of subsection (1) of section
2 253.01, Florida Statutes, is amended to read:

3 253.01 Internal Improvement Trust Fund established.--
4 (1)

5 (b) All revenues received from application fees
6 charged by the Division of State Lands for the use in any
7 manner, lease, conveyance, or release of any interest in or
8 for the sale of state lands, except revenues from such fees
9 charged by the Department of Agriculture and Consumer Services
10 for aquaculture leases under ss. ~~253.71(2)~~ and 597.010,
11 must be deposited into the Internal Improvement Trust Fund.
12 The fees charged by the division for reproduction of records
13 relating to state lands must also be placed into the fund.
14 Revenues received by the Department of Agriculture and
15 Consumer Services for aquaculture leases under ss. 253.71(2)
16 and 597.010 shall be deposited in the General Inspection Trust
17 Fund of the Department of Agriculture and Consumer Services.

18 Section 3. Section 253.67, Florida Statutes, is
19 amended to read:

20 253.67 Definitions.--As used in ss. 253.67-253.75:

21 (1) "Aquaculture" means the cultivation of aquatic
22 organisms.

23 ~~(2)(4)~~ "Board" means the Board of Trustees of the
24 Internal Improvement Trust Fund.

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

27 ~~(4)(2)~~ "Water column" means the vertical extent of
28 water, including the surface thereof, above a designated area
29 of submerged bottom land.

30
31

1 Section 4. Paragraph (a) of subsection (2) and
2 subsection (4) of section 253.71, Florida Statutes, are
3 amended to read:

4 253.71 The lease contract.--When the board has
5 determined that the proposed lease is not incompatible with
6 the public interest and that the applicant has demonstrated
7 his or her capacity to perform the operations upon which the
8 application is based, it may proceed to consummate a lease
9 contract having the following features in addition to others
10 deemed desirable by the board:

11 (2) RENTAL FEES.--

12 (a) The lease contract shall specify such amount of
13 rental per acre of leased bottom as may be agreed to by the
14 parties and shall take the form of fixed rental to be paid
15 throughout the term of the lease. Beginning January 1, 1990,
16 a surcharge of \$5 per acre, or any fraction of an acre, per
17 annum shall be levied upon each lease according to the
18 guidelines set forth in s. 597.010(7)~~370.16(4)(b)~~. Beginning
19 January 1, 2001, the surcharge shall be increased to \$10 per
20 acre, or any fraction of an acre, per annum.

21 (4) PERFORMANCE REQUIREMENTS.--Failure of the lessee
22 to perform effective cultivation shall constitute ground for
23 cancellation of the lease and forfeiture to the state of all
24 the works, improvements, and animal and plant life in and upon
25 the leased land and water column. Effective cultivation shall
26 consist of the grow out of the aquaculture product according
27 to the business plan provided in the lease contract ~~guidelines~~
28 ~~set forth in s. 370.16(4)(e).~~

29 Section 5. Section 253.72, Florida Statutes, is
30 amended to read:

31

1 253.72 Marking of leased areas; restrictions on public
2 use.--

3 (1) The board shall require all lessees to stake off
4 and mark the areas under lease according to the conditions of
5 the lease agreement and rules of the board, by appropriate
6 ranges, monuments, stakes, buoys, and fences, so placed as not
7 to interfere unnecessarily with navigation and other
8 traditional uses of the surface. ~~All lessees shall cause the~~
9 ~~area under lease and the names of the lessees to be shown by~~
10 ~~signs appropriately placed pursuant to regulations of the~~
11 ~~board.~~

12 (2) Except to the extent necessary to permit the
13 effective development of the species of animal or plant life
14 being cultivated by the lessee, the public shall be provided
15 with means of reasonable ingress and egress to and from the
16 leased area for traditional water activities such as boating,
17 swimming, and fishing. All limitations upon the use by the
18 public of the areas under lease that are authorized by the
19 terms of the lease shall be clearly posted by the lessee
20 pursuant to rules ~~regulations~~ by the board. Any person
21 willfully violating posted restrictions commits ~~shall be~~
22 ~~guilty of~~ a misdemeanor of the second degree, punishable as
23 provided in s. 775.082 or s. 775.083.

24 (3) To assist in protecting shellfish aquaculture
25 products produced on leases authorized pursuant to this
26 chapter and chapter 597 ~~370~~, harvesting shellfish is
27 prohibited within a distance of 25 feet outside lawfully
28 marked lease boundaries or within setback and access corridors
29 within specifically designated high-density aquaculture lease
30 areas and aquaculture use zones.

31

1 Section 6. Subsection (1) of section 253.75, Florida
2 Statutes, is amended to read:

3 253.75 Studies and recommendations by the department
4 and the Fish and Wildlife Conservation Commission; designation
5 of recommended traditional and other use zones; supervision of
6 aquaculture operations.--

7 (1) Prior to the granting of any lease under this act,
8 the board shall request comments ~~a recommendation by the~~
9 ~~department, when the application relates to tidal bottoms, and~~
10 ~~by the Fish and Wildlife Conservation Commission, when the~~
11 ~~application relates to bottom land covered by fresh or salt~~
12 ~~water. Such comments ~~recommendations~~ shall be based on such~~
13 ~~factors as an assessment of the probable effect of the~~
14 ~~proposed lease ~~leasing arrangement~~ on the ~~lawful rights of~~~~
15 ~~riparian owners, navigation, commercial and sport fishing, and~~
16 ~~the conservation of fish or other wildlife or other programs~~
17 ~~under the constitutional or statutory authority of the Fish~~
18 ~~and Wildlife Conservation Commission natural resources,~~
19 ~~including beaches and shores.~~

20 Section 7. Subsection (2) of section 270.22, Florida
21 Statutes, is amended to read:

22 270.22 Proceeds of state lands to go into Internal
23 Improvement Trust Fund; exception.--

24 (2) Rental fees for aquaculture leases pursuant to s.
25 253.71(2) shall be deposited into the General Inspection Trust
26 Fund of the Department of Agriculture and Consumer Services
27 ~~Marine Resources Conservation Trust Fund of the Department of~~
28 ~~Environmental Protection.~~ Such fees generated by
29 shellfish-related aquaculture leases shall be used for
30 shellfish-related aquaculture activities, including research,
31 lease compliance inspections, mapping, and siting.

1 Section 8. Section 328.76, Florida Statutes, is
2 amended to read:

3 328.76 Marine Resources Conservation Trust Fund;
4 vessel registration funds; appropriation and distribution.--

5 (1) Except as otherwise specified and less any
6 administrative costs, all funds collected from the
7 registration of vessels through the Department of Highway
8 Safety and Motor Vehicles and the tax collectors of the state
9 shall be deposited in the Marine Resources Conservation Trust
10 Fund for recreational channel marking; public launching
11 facilities; law enforcement and quality control programs;
12 aquatic weed control; manatee protection, recovery, rescue,
13 rehabilitation, and release; and marine mammal protection and
14 recovery. The funds collected pursuant to s. 328.72(1) shall
15 be transferred as follows:

16 (a) In each fiscal year, an amount equal to \$1 for
17 each vessel registered in this state shall be transferred to
18 the Save the Manatee Trust Fund for manatee and marine mammal
19 research, protection, and recovery in accordance with the
20 provisions of s. 370.12(4)(a).

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

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

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

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

7 (e) Forty percent of the registration fees from
8 commercial vessels shall be transferred by the Department of
9 Highway Safety and Motor Vehicles, on a monthly basis, to the
10 General Inspection Trust Fund of the Department of Agriculture
11 and Consumer Services. These funds shall be used for shellfish
12 and aquaculture law enforcement and quality control programs.

13 (2) All funds collected pursuant to s. 370.06(2) shall
14 be deposited in the Marine Resources Conservation Trust Fund.
15 Such funds shall be used to pay the cost of implementing the
16 saltwater products license program. Additional proceeds from
17 the licensing revenue shall be distributed among the following
18 program functions:

19 (a) No more than 15 percent shall go to marine law
20 enforcement;

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

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

29 Section 9. Paragraph (c) of subsection (4) and
30 paragraph (e) of subsection (5) of section 370.06, Florida
31 Statutes, are amended to read:

1 370.06 Licenses.--

2 (4) SPECIAL ACTIVITY LICENSES.--

3 ~~(c) The Department of Agriculture and Consumer~~
4 ~~Services is authorized to issue special activity licenses, in~~
5 ~~accordance with s. 370.071, to permit the harvest or~~
6 ~~cultivation of oysters, clams, mussels, and crabs when such~~
7 ~~activities relate to quality control, sanitation, public~~
8 ~~health regulations, innovative technologies for aquaculture~~
9 ~~activities, or the protection of shellfish resources provided~~
10 ~~in this chapter.~~

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

12 (e) Each person who applies for an Apalachicola Bay
13 oyster harvesting license shall, before receiving the license
14 for the first time, attend an educational seminar of not more
15 than 16 hours length, developed and conducted jointly by the
16 Department of Environmental Protection's Apalachicola National
17 Estuarine Research Reserve, the Division of Law Enforcement of
18 the Fish and Wildlife Conservation Commission, and the
19 Department of Agriculture and Consumer Services' Apalachicola
20 District Shellfish Environmental Assessment Laboratory. The
21 seminar shall address, among other things, oyster biology,
22 conservation of the Apalachicola Bay, sanitary care of
23 oysters, small business management, and water safety. The
24 seminar shall be offered five times per year, and each person
25 attending shall receive a certificate of participation to
26 present when obtaining an Apalachicola Bay oyster harvesting
27 license. The educational seminar is not required for renewal
28 of an Apalachicola Bay oyster harvesting license.

29 Section 10. Paragraph (j) of subsection (2) and
30 paragraphs (f), (h), (i), and (k) of subsection (3) of section
31 370.07, Florida Statutes, are amended to read:

1 370.07 Wholesale and retail saltwater products
2 dealers; regulation.--
3 (2) LICENSES; AMOUNT, TRUST FUND.--
4 (j) License or privilege taxes, together with any
5 other funds derived from the Federal Government or from any
6 other source, shall be deposited in a Florida Saltwater
7 Products Promotion Trust Fund to be administered by the
8 Department of Agriculture and Consumer Services for the sole
9 purpose of promoting all fish and saltwater products produced
10 in this state, except that 4 percent of the total wholesale
11 and retail saltwater products dealer's license fees collected
12 shall be deposited into the Marine Resources Conservation
13 Trust Fund administered by the Fish and Wildlife Conservation
14 Commission for the purpose of processing wholesale and retail
15 saltwater products dealer's licenses.
16 (3) APALACHICOLA BAY OYSTER SURCHARGE.--
17 (f) The Department of Revenue shall collect the
18 surcharge for transfer into the General Inspection Trust Fund
19 of the Department of Agriculture and Consumer Services ~~Marine~~
20 ~~Resources Conservation Trust Fund of the Department of~~
21 ~~Environmental Protection.~~
22 (h) Annually, the Department of Agriculture and
23 Consumer Services and the Fish and Wildlife Conservation
24 Commission ~~Environmental Protection~~ shall furnish the
25 Department of Revenue with a current list of wholesale dealers
26 in the state.
27 (i) Collections received by the Department of Revenue
28 from the surcharge shall be transferred quarterly to the
29 General Inspection Trust Fund of the Department of Agriculture
30 and Consumer Services ~~Department of Environmental Protection~~
31

1 ~~Marine Resources Conservation Trust Fund~~, less the costs of
2 administration.

3 (k) The Department of Agriculture and Consumer
4 Services Environmental Protection shall use or distribute
5 funds generated by this surcharge, less reasonable costs of
6 collection and administration, to fund the following oyster
7 management and restoration programs in Apalachicola Bay:

8 1. The relaying and transplanting of live oysters.

9 2. Shell planting to construct or rehabilitate oyster
10 bars.

11 3. Education programs for licensed oyster harvesters
12 on oyster biology, aquaculture, boating and water safety,
13 sanitation, resource conservation, small business management,
14 and other relevant subjects.

15 4. Research directed toward the enhancement of oyster
16 production in the bay and the water management needs of the
17 bay.

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

23 370.16 Noncultured shellfish harvesting ~~Oysters and~~
24 ~~shellfish; regulation.--~~

25 (1)~~(12)~~ PROTECTION OF OYSTER AND CLAM REEFS AND
26 SHELLFISH AQUACULTURE PRODUCTS.--

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

31

1 (a)(b) The Fish and Wildlife Conservation Commission
2 shall, ~~to the same extent,~~ assist in protecting shellfish
3 aquaculture products produced on leased or granted reefs in
4 the hands of lessees or grantees from the state. Harvesting
5 shellfish is prohibited within a distance of 25 feet outside
6 lawfully marked lease boundaries or within setback and access
7 corridors within specifically designated high-density
8 aquaculture lease areas and aquaculture use zones.

9 (b)(c) The department, in cooperation with the
10 commission, shall provide the Legislature with recommendations
11 as needed for the development and the proper protection of the
12 rights of the state and private holders therein with respect
13 to the oyster and clam business.

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

16 (a) The Fish and Wildlife Conservation Commission
17 shall by rule set the noncultured ~~consider setting the~~
18 shellfish harvesting seasons in ~~the~~ Apalachicola Bay, as
19 ~~follows:~~

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

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

26 (b) If the commission changes the harvesting seasons
27 by rule as set forth in this subsection, for 3 years after the
28 new rule takes effect, the commission, in cooperation with the
29 Department of Agriculture and Consumer Services, shall monitor
30 the impacts of the new harvesting schedule on the bay and on
31 local shellfish harvesters to determine whether the new

1 harvesting schedule should be discontinued, retained, or
2 modified. In monitoring the new schedule and in preparing its
3 report, the ~~commission shall consider the following~~
4 information shall be considered:

5 1. Whether the bay benefits ecologically from the new
6 harvesting schedule being closed to shellfish harvesting from
7 August 1 to September 30 of each year.

8 2. Whether the new harvesting schedule enhances the
9 enforcement of shellfish harvesting laws in the bay.

10 3. Whether the new harvesting schedule enhances
11 natural shellfish production, oyster relay and planting
12 programs, and shell planting programs in the bay.

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

16 ~~(c) The Fish and Wildlife Conservation Commission by~~
17 ~~rule shall consider restricting harvesting on shellfish grants~~
18 ~~or leases to the same days of the week as harvesting on public~~
19 ~~beds.~~

20 (3)(15) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM
21 NATURAL REEFS; LICENSES, ETC., PENALTY.--

22 (a) It is unlawful to use a dredge or any means or
23 implement other than hand tongs in removing oysters from the
24 natural or artificial state reefs. This restriction shall
25 apply to all areas of ~~the~~ Apalachicola Bay for all shellfish
26 harvesting, excluding private grounds leased or granted by the
27 state prior to July 1, 1989, if the lease or grant
28 specifically authorizes the use of implements other than hand
29 tongs for harvesting. Except in ~~the~~ Apalachicola Bay, upon
30 the payment of \$25 annually, for each vessel or boat using a
31 dredge or machinery in the gathering of clams or mussels, a

1 special activity license may be issued by the Fish and
2 Wildlife Conservation Commission pursuant to s. 370.06 for
3 such use to such person.

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

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

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

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

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

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

1 ~~deployment, and operation of a dredge or scrape. Any~~
2 ~~violation of this paragraph or of any other statutes, rules,~~
3 ~~or conditions referenced in the special activity license shall~~
4 ~~be considered a violation of the license and shall result in~~
5 ~~revocation of the license and forfeiture of the bond submitted~~
6 ~~to the commission as a prerequisite to the issuance of this~~
7 ~~license.~~

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

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

23 (4)~~(18)~~ FALSE RETURNS AS TO OYSTERS OR CLAMS
24 HANDLED.--Each packer, canner, corporation, firm, commission
25 person, or dealer in fish shall, on the first day of each
26 month, make a return under oath to the Fish and Wildlife
27 Conservation Commission, as to the number of oysters, clams,
28 and shellfish purchased, caught, or handled during the
29 preceding month. Whoever is found guilty of making any false
30 affidavit to any such report is guilty of perjury and punished
31 as provided by law, and any person who fails to make such

1 report shall be punished by a fine not exceeding \$500 or by
2 imprisonment in the county jail not exceeding 6 months.

3 (5)~~(20)~~ WATER PATROL FOR COLLECTION OF TAX.--

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

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

26 (6)~~(21)~~ SEIZURE OF VESSELS AND CARGOES VIOLATING
27 OYSTER AND CLAM LAWS, ETC.--Vessels, with their cargoes,
28 violating the provisions of the laws relating to oysters and
29 clams may be seized by anyone duly and lawfully authorized to
30 make arrests under this section or by any sheriff or the
31 sheriff's deputies, and taken into custody, and when not

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

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

25 ~~(8)(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

26 ~~(a)~~ All vessels used for the harvesting, gathering, or
27 transporting of noncultured oysters for commercial use shall
28 be constructed and maintained to prevent contamination or
29 deterioration of oysters. To this end, all such vessels shall
30 be provided with false bottoms and bulkheads fore and aft to
31 prevent oysters from coming in contact with any bilge water.

1 No dogs or other animals shall be allowed at any time on
2 vessels used to harvest or transport oysters. A violation of
3 any provision of this subsection shall result in at least the
4 revocation of the violator's license.

5 ~~(b) For the purpose of this subsection, "commercial~~
6 ~~use" shall be a quantity of more than 4 bushels, or more than~~
7 ~~2 gallons, of shucked oysters, per person or per boat, or any~~
8 ~~number or quantity of oysters if the oysters are to be sold.~~

9 Section 12. Subsections (1) and (2) of section
10 370.161, Florida Statutes, are amended to read:

11 370.161 Oyster bottom land grants made pursuant to ch.
12 3293.--

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

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

25 Section 13. Section 372.071, Florida Statutes, is
26 amended to read:

27 372.071 Powers of arrest by agents of Department of
28 Environmental Protection or Fish and Wildlife Conservation
29 Commission.--Any certified law enforcement officer of the
30 Department of Environmental Protection or the Fish and
31 Wildlife Conservation Commission, upon receiving information,

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

13 Section 14. Subsection (4) of section 372.6673,
14 Florida Statutes, is amended to read:

15 372.6673 Taking and possession of alligators; trapping
16 licenses; fees.--

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

1 services with respect to alligator products produced in this
2 state, notwithstanding other provisions in this chapter.

3 Section 15. Subsection (2) of section 372.6674,
4 Florida Statutes, is amended to read:

5 372.6674 Required tagging of alligators and hides;
6 fees; revenues.--The tags provided in this section shall be
7 required in addition to any license required under s.
8 372.6673.

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

24 Section 16. Subsection (5) of section 373.046, Florida
25 Statutes, is amended to read:

26 373.046 Interagency agreements.--

27 (5) Notwithstanding the provisions of s. 403.927, when
28 any operating agreement is developed pursuant to subsection
29 (4),⁺

30 ~~(a)~~ the department shall have regulatory
31 responsibility under part IV of this chapter for⁺

1 ~~1. All saltwater aquaculture activities located on~~
2 ~~sovereignty submerged land or in the water column above such~~
3 ~~land and adjacent facilities directly related to the~~
4 ~~aquaculture activity.~~

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

8 ~~3. Aquaculture activities within the Northwest Florida~~
9 ~~Water Management District.~~

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

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

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

21 403.814 General permits; delegation.--

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

28 Section 18. Subsection (1) of section 409.2598,
29 Florida Statutes, is amended to read:

30 409.2598 Suspension or denial of new or renewal
31 licenses; registrations; certifications.--

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

14 Section 19. Paragraph (n) of subsection (1) of section
15 500.03, Florida Statutes, is amended to read:

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

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

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

29 Section 20. Section 570.18, Florida Statutes, is
30 amended to read:

31

1 570.18 Organization of departmental work.--In the
2 assignment of functions to the 12 ~~11~~ divisions of the
3 department created in s. 570.29, the department shall retain
4 within the Division of Administration, in addition to
5 executive functions, those powers and duties enumerated in s.
6 570.30. The department shall organize the work of the other
7 11 ~~10~~ divisions in such a way as to secure maximum efficiency
8 in the conduct of the department. The divisions created in s.
9 570.29 are solely to make possible the definite placing of
10 responsibility. The department shall be conducted as a unit
11 in which every employee, including each division director, is
12 assigned a definite workload, and there shall exist between
13 division directors a spirit of cooperative effort to
14 accomplish the work of the department.

15 Section 21. Present subsections (4) through (11) of
16 section 570.29, Florida Statutes, are renumbered as
17 subsections (5) through (12), respectively, and a new
18 subsection (4) is added to that section to read:

19 570.29 Departmental divisions.--The department shall
20 include the following divisions:

21 (4) Aquaculture.

22 Section 22. Section 570.61, Florida Statutes, is
23 created to read:

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

1 harvesting areas; providing education to fishermen and
2 aquaculturists; promoting aquaculture development; purchasing
3 commodities as necessary to carry out the provisions of this
4 section; receiving and accepting grants, aids, gifts, and
5 donations; providing grants, aids, and other technical
6 assistance; and ensuring the safety of Florida waters.

7 Section 23. Section 570.62, Florida Statutes, is
8 created to read:

9 570.62 Director; duties.--

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

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

19 Section 24. Paragraph (f) of subsection (1) of section
20 597.003, Florida Statutes, is amended, and paragraphs (l) and
21 (k) are added to that subsection 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) Make available state lands and the water column
10 for the purpose of producing aquaculture products when the
11 aquaculture activity is compatible with state resource
12 management goals, environmental protection, and propriety
13 interest and when such state lands and waters are determined
14 to be suitable for aquaculture development by the Board of
15 Trustees of the Internal Improvement Trust Fund pursuant to s.
16 253.68; and be responsible for all saltwater aquaculture
17 activities located on sovereignty submerged land or in the
18 water column above such land and adjacent facilities directly
19 related to the aquaculture activity.

20 1. The department shall act in cooperation with other
21 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. The department shall identify and evaluate specific
25 tracts of sovereignty submerged lands and water columns in
26 various areas of the state to determine where such lands and
27 waters are suitable for leasing for aquaculture purposes.
28 Nothing in this subparagraph or subparagraph 1. shall preclude
29 the applicant from applying for sites identified by the
30 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) Act as a clearinghouse for aquaculture
6 applications, and act as a liaison between the Fish and
7 Wildlife Conservation Commission, the Division of State Lands,
8 the Department of Environmental Protection district offices,
9 other divisions within the Department of Environmental
10 Protection, and the water management districts. The Department
11 of Agriculture and Consumer Services shall be responsible for
12 regulating marine aquaculture producers, except as
13 specifically provided herein.

14 Section 25. Subsections (3), (4), and (5) of section
15 370.26, Florida Statutes, are repealed.

16 Section 26. Subsections (1), (2), and (4) and
17 paragraph (b) of subsection (5) of section 597.004, Florida
18 Statutes, are amended to read:

19 597.004 Aquaculture certificate of registration.--

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

24 (a) Applicant's name/title.

25 (b) Company name.

26 (c) Complete mailing address.

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

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

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

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

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 27. Subsection (2) of section 597.0041,
2 Florida Statutes, is amended, and subsection (4) is added to
3 that 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 28. 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 29. 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 30. 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) CULTIVATION REQUIREMENTS.--

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

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

1 or transplanted to, and relaying or transplanting time periods
2 shall be established in each case by the department.

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

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

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

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

26 (22) COOPERATION WITH UNITED STATES FISH AND WILDLIFE
27 SERVICE.--The department shall cooperate with the United
28 States Fish and Wildlife Service, under existing federal laws,
29 rules, and regulations, and is authorized to accept donations,
30 grants, and matching funds from the Federal Government in
31 order to carry out its oyster resource and development

1 responsibilities. The department is further authorized to
2 accept any and all donations including funds, oysters, or
3 oyster shells.

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

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

31

1 are gathered and stockpiled may be sold at auction to the
2 highest bidder for any private use.

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

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

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

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

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

31

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 31. Section 370.071, Florida Statutes, is
22 transferred, renumbered as section 597.020, Florida Statutes,
23 and amended 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 32. Subsection (13) of section 190.003,
30 Florida Statutes, is amended to read:

31

1 190.003 Definitions.--As used in this chapter, the
2 term:

3 (13) "Landowner" means the owner of a freehold estate
4 as appears by the deed record, including a trustee, a private
5 corporation, and an owner of a condominium unit; it does not
6 include a reversioner, remainderman, mortgagee, or any
7 governmental entity, who shall not be counted and need not be
8 notified of proceedings under this act. Landowner shall also
9 mean the owner of a ground lease from a governmental entity,
10 which leasehold interest has a remaining term, excluding all
11 renewal options, in excess of 50 years.

12 Section 33. Paragraph (a) of subsection (1) of section
13 190.005, Florida Statutes, is amended to read:

14 190.005 Establishment of district.--

15 (1) The exclusive and uniform method for the
16 establishment of a community development district with a size
17 of 1,000 acres or more shall be pursuant to a rule, adopted
18 under chapter 120 by the Florida Land and Water Adjudicatory
19 Commission, granting a petition for the establishment of a
20 community development district.

21 (a) A petition for the establishment of a community
22 development district shall be filed by the petitioner with the
23 Florida Land and Water Adjudicatory Commission. The petition
24 shall contain:

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

1 boundaries of the district which is to be excluded from the
2 district.

3 2. The written consent to the establishment of the
4 district by all landowners whose ~~the owner or owners of 100~~
5 ~~percent of the real property is~~ is to be included in the district
6 or documentation demonstrating that the petitioner has control
7 by deed, trust agreement, contract, or option of 100 percent
8 of the real property to be included in the district, and when
9 real property to be included in the district is owned by a
10 governmental entity and subject to a ground lease as described
11 in s. 190.003(13), the written consent by such governmental
12 entity.

13 3. A designation of five persons to be the initial
14 members of the board of supervisors, who shall serve in that
15 office until replaced by elected members as provided in s.
16 190.006.

17 4. The proposed name of the district.

18 5. A map of the proposed district showing current
19 major trunk water mains and sewer interceptors and outfalls if
20 in existence.

21 6. Based upon available data, the proposed timetable
22 for construction of the district services and the estimated
23 cost of constructing the proposed services. These estimates
24 shall be submitted in good faith but shall not be binding and
25 may be subject to change.

26 7. A designation of the future general distribution,
27 location, and extent of public and private uses of land
28 proposed for the area within the district by the future land
29 use plan element of the effective local government
30 comprehensive plan of which all mandatory elements have been
31 adopted by the applicable general-purpose local government in

1 compliance with the Local Government Comprehensive Planning
2 and Land Development Regulation Act.

3 8. A statement of estimated regulatory costs in
4 accordance with the requirements of s. 120.541.

5 Section 34. Subsection (10) is added to section
6 190.021, Florida Statutes, to read:

7 190.021 Taxes; non-ad valorem assessments.--

8 (10) LAND OWNED BY GOVERNMENTAL ENTITY.--Except as
9 otherwise provided by law, no levy of ad valorem taxes or
10 non-ad valorem assessments under this chapter, or chapter 170,
11 197 or otherwise, by a board of a district on property of a
12 governmental entity that is subject to a ground lease as
13 described in s. 190.003(13), shall constitute a lien or
14 encumbrance on the underlying fee interest of such
15 governmental entity.

16 Section 35. This act shall take effect July 1, 2000.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/CS/SB 806

The Committee Substitute made the following changes to
CS/CS/SB 806:

- 1) Provides for distribution of 4% of the total saltwater products dealers license fees from the Florida Saltwater Products Promotional Trust Fund to the Marine Resources Conservation Trust Fund of the FWCC for the purpose of processing the dealers licenses.
- 2) Provides that irrespective of whether the \$5 per alligator egg permit fee is assessed by the FWCC, \$1 per egg shall be transferred from the alligator management program to the General Inspection TF of the Dept. of Agriculture.
- 3) Provides that irrespective of whether the \$30 per alligator hide validation tag is assessed by the FWCC, \$5 per validation hide shall be transferred from the alligator management program to the General Inspection TF of the Dept. of Agriculture.
- 4) Includes the owner of a long term ground lease from a governmental entity in excess of 50 years within the definition of "landowner" for the purpose of establishment of a community development district.