

By the Council for Competitive Commerce and Committee on
Banking and Representatives Flanagan, Waters, Brummer and
Alexander

1 A bill to be entitled
2 An act relating to governmental reorganization;
3 amending s. 20.04, F.S.; providing an exception
4 to departmental structure requirements;
5 deleting reference to the Department of Banking
6 and Finance and substituting the Department of
7 Insurance and Financial Services; creating s.
8 20.121, F.S.; creating the Office of Chief
9 Financial Officer; providing duties; providing
10 for a Division of Financial Investigations;
11 authorizing the Chief Financial Officer to
12 process certain warrants created by the
13 Comptroller; creating s. 20.131, F.S.; creating
14 the Department of Insurance and Financial
15 Services; providing for an executive director;
16 providing for departmental structure; creating
17 the Offices of Commissioner of Insurance and
18 Commissioner of Financial Services; providing
19 for subpoenas, sworn statements, and
20 enforcement proceedings; providing rulemaking
21 authority; providing for appointment and
22 specifying qualifications for each
23 commissioner; providing jurisdiction for each
24 commissioner's office; providing jurisdiction
25 of the Governor and Cabinet; authorizing the
26 Department of Insurance and Financial Services
27 to destroy certain records and correspondence
28 under certain circumstances; authorizing the
29 Department of Insurance and Financial Services
30 to photograph, microfilm, or reproduce on film
31 certain records and documents for certain

1 purposes under certain circumstances;
2 authorizing the Department of Insurance and
3 Financial Services to disseminate certain
4 information under certain circumstances;
5 providing for effect of photographed,
6 microfilmed, or reproduced records and
7 documents; transferring certain programs,
8 including employees and equipment, from the
9 Department of Banking and Finance and the
10 Department of Insurance to the Office of Chief
11 Financial Officer, the Department of Insurance
12 and Financial Services, and the Department of
13 Law Enforcement; requiring transferring
14 agencies to prepare and submit inventories of
15 certain property to the executive director of
16 the Department of Insurance and Financial
17 Services by a certain date; transferring
18 certain trust funds from the Department of
19 Banking and Finance and the Department of
20 Insurance to the Office of Chief Financial
21 Officer and the Department of Insurance and
22 Financial Services; specifying that rules of
23 the Department of Banking and Finance and the
24 Department of Insurance become rules of the
25 Department of Insurance and Financial Services;
26 specifying that such rules become rules of the
27 Office of Chief Financial Officer under certain
28 circumstances; specifying that certain rules of
29 the Department of Insurance become rules of the
30 Department of Law Enforcement; providing for
31 preservation of validity of judicial or

1 administrative actions involving such
2 departments; providing for substitution of
3 certain parties in interest in such actions;
4 creating the office of executive director of
5 the Department of Insurance and Financial
6 Services; providing for appointment of the
7 executive director; providing for the executive
8 director to serve as the head of the Office of
9 Transition Management; creating the Office of
10 Transition Management; specifying powers and
11 duties thereof; requiring reports to the
12 Governor and the Legislature; creating s.
13 216.349, F.S.; requiring certain state agencies
14 and the Chief Financial Officer to report trust
15 fund information monthly to the Legislative
16 Budget Commission and the Governor; providing
17 for the form and content of such reports to be
18 determined by the chair and vice chair of the
19 Legislative Budget Commission; amending s.
20 218.36, F.S.; requiring only tax collectors,
21 sheriffs, supervisors of elections, and
22 property appraisers to pay certain moneys into
23 the county general fund; amending s. 624.523,
24 F.S.; providing a transfer from the Insurance
25 Commissioner's Regulatory Trust Fund to the
26 General Revenue Fund; providing legislative
27 intent; amending ss. 11.12, 11.13, 11.147,
28 11.151, 11.40, 11.42, 14.057, 14.058, 14.203,
29 15.09, 16.10, 17.02, 17.03, 17.031, 17.04,
30 17.0401, 17.041, 17.0415, 17.05, 17.06, 17.075,
31 17.076, 17.08, 17.09, 17.10, 17.11, 17.12,

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5 18.091, 18.10, 18.101, 18.103, 18.125, 18.15,
6 18.17, 18.20, 18.23, 18.24, 20.04, 20.055,
7 20.195, 20.425, 20.435, 24.105, 24.111, 24.112,
8 24.120, 25.241, 26.39, 27.08, 27.10, 27.11,
9 27.12, 27.13, 27.3455, 27.703, 27.710, 27.711,
10 28.235, 28.24, 30.52, 40.30, 40.31, 40.33,
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12 57.091, 68.083, 68.084, 68.087, 68.092,
13 77.0305, 92.39, 99.097, 107.11, 110.1127,
14 110.113, 110.114, 110.116, 110.1227, 110.1228,
15 110.123, 110.125, 110.181, 110.2037, 110.205,
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18 112.3215, 112.63, 116.03, 116.04, 116.05,
19 116.06, 116.14, 120.52, 120.80, 121.061,
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24 175.121, 175.151, 185.08, 185.10, 185.13,
25 189.4035, 189.412, 189.427, 190.007, 191.006,
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4 215.58, 215.684, 215.70, 215.91, 215.92,
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6 216.0442, 216.102, 216.141, 216.177, 216.181,
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12 229.05371, 229.111, 229.781, 231.261, 231.30,
13 231.545, 233.063, 233.255, 236.43, 236.601,
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15 238.172, 238.173, 240.135, 240.241, 240.2996,
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4 288.776, 288.778, 288.99, 289.051, 289.081,
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14 376.3079, 376.40, 377.23, 377.2425, 377.705,
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28 626.9511, 626.9541, 626.9543, 626.989,
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3 628.4615, 629.401, 631.001, 631.221, 631.392,
4 631.54, 631.57, 631.59, 631.714, 631.72,
5 631.723, 631.813, 631.814, 631.904, 631.911,
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16 651.125, 655.001, 655.005, 655.057, 655.90,
17 655.949, 657.002, 657.253, 658.23, 658.295,
18 658.2953, 658.83, 660.27, 660.28, 687.13,
19 687.14, 713.596, 716.02, 716.03, 716.04,
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23 717.1243, 717.125, 717.126, 717.127, 717.128,
24 717.129, 717.1301, 717.1311, 717.1315, 717.132,
25 717.133, 717.134, 717.135, 717.138, 718.501,
26 719.501, 721.24, 721.26, 723.006, 732.107,
27 733.816, 744.534, 766.105, 766.1115, 766.314,
28 766.315, 768.28, 790.001, 790.1612, 791.01,
29 817.16, 817.234, 839.06, 849.086, 849.33,
30 860.154, 896.102, 903.101, 903.27, 925.037,
31 932.7055, 932.707, 938.27, 939.13, 943.031,

1 943.032, 944.516, 946.33, 946.509, 946.510,
2 946.517, 946.522, 946.525, 947.12, 950.002,
3 957.04, 985.406, and 985.409, F.S., to conform
4 the Florida Statutes to the amendments to s. 4,
5 Art. IV of the State Constitution to merge the
6 cabinet offices of Treasurer and Comptroller
7 into one Chief Financial Officer and to conform
8 to the merger of the Department of Banking and
9 Finance and the Department of Insurance into
10 one Department of Insurance and Financial
11 Services, effective January 7, 2003; repealing
12 ss. 20.12 and 20.13, F.S., relating to the
13 Department of Banking and Finance and the
14 Department of Insurance, respectively,
15 effective January 7, 2003; repealing ss.
16 17.011, 18.03, 18.08, 215.29, 627.0623,
17 655.019, and 657.067, F.S., relating to the
18 Assistant Comptroller, the Treasurer's
19 residence and office, the Treasurer turning
20 over warrants to the Comptroller,
21 classification of Comptroller's warrants,
22 restrictions on expenditures and solicitations
23 of insurers and affiliates by the Treasurer,
24 limitations on Comptroller's acceptance of
25 campaign contributions, and Comptroller's
26 responsibilities relating to conversions from
27 federal to state charters, respectively;
28 providing duties of the Division of Statutory
29 Revision; transferring funds from the Insurance
30 Commissioner's Regulatory Trust Fund in the
31 Department of Insurance to the Operating Trust

1 Fund in the Department of Law Enforcement;
2 providing appropriations; providing effective
3 dates.

4
5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Effective January 7, 2003, subsection (3)
8 of section 20.04, Florida Statutes, is amended to read:

9 20.04 Structure of executive branch.--The executive
10 branch of state government is structured as follows:

11 (3) For their internal structure, all departments,
12 except for the Department of Insurance and Financial Services
13 ~~Banking and Finance~~, the Department of Children and Family
14 Services, the Department of Corrections, the Department of
15 Management Services, the Department of Revenue, and the
16 Department of Transportation, must adhere to the following
17 standard terms:

18 (a) The principal unit of the department is the
19 "division." Each division is headed by a "director."

20 (b) The principal unit of the division is the
21 "bureau." Each bureau is headed by a "chief."

22 (c) The principal unit of the bureau is the "section."
23 Each section is headed by an "administrator."

24 (d) If further subdivision is necessary, sections may
25 be divided into "subsections," which are headed by
26 "supervisors."

27 Section 2. Section 20.121, Florida Statutes, is
28 created to read:

29 20.121 Office of Chief Financial Officer.--Effective
30 January 7, 2003, there is created the Office of Chief
31 Financial Officer. The head of the office is the Chief

1 Financial Officer. Pursuant to s. 4, Art. IV of the State
2 Constitution, the duties of the Chief Financial Officer are to
3 serve as the chief fiscal officer of the state, to settle and
4 approve accounts against the state, and to keep all state
5 funds and securities. The Chief Financial Officer is also the
6 administrator of the Government Employees Deferred
7 Compensation Plan and is responsible for carrying out laws
8 relating to unclaimed property and security for public
9 deposits. There is created as a subunit within the Office of
10 Chief Financial Officer the Division of Financial
11 Investigations. The Division of Financial Investigations shall
12 function as a criminal justice agency within the meaning of s.
13 943.045(10)(e).

14 Section 3. Effective January 7, 2003, the Chief
15 Financial Officer may process all warrants created by the
16 Comptroller prior to January 7, 2003.

17 Section 4. Section 20.131, Florida Statutes, is
18 created to read:

19 20.131 Department of Insurance and Financial
20 Services.--Effective January 7, 2003, there is created the
21 Department of Insurance and Financial Services. The Governor
22 and Cabinet shall serve as head of the department.

23 (1) EXECUTIVE DIRECTOR.--The executive director of the
24 Department of Insurance and Financial Services is the chief
25 administrator of the department and shall be appointed by the
26 Governor and Cabinet, subject to confirmation by the Senate.
27 The executive director serves at the pleasure of the Governor
28 and Cabinet. The functions of the executive director are
29 limited to personnel, administrative, and budgetary matters,
30 including administrative coordination of issues that affect
31 areas under the Offices of the Commissioner of Insurance and

1 the Commissioner of Financial Services, and coordination of
2 legislative activities.

3 (2) DEPARTMENTAL STRUCTURE.--The Governor and Cabinet,
4 as head of the Department of Insurance and Financial Services,
5 shall adopt rules establishing the organizational structure of
6 the department. It is the intent of the Legislature to provide
7 the Governor and Cabinet with the flexibility to organize the
8 department in any manner they determine appropriate to promote
9 both efficiency and accountability, subject to the following
10 requirements:

11 (a) The major structural unit of the department is the
12 "office." Each office is headed by a "commissioner." The
13 offices are established as follows:

14 1. Office of the Commissioner of Insurance.--The
15 Office of the Commissioner of Insurance is responsible for all
16 activities of the department relating to the regulation of
17 insurance and state government risk management. The head of
18 the office is the Commissioner of Insurance, who is also the
19 State Fire Marshal.

20 2. Office of the Commissioner of Financial
21 Services.--The Office of the Commissioner of Financial
22 Services is responsible for all activities of the department
23 relating to the regulation of banks, credit unions, other
24 financial institutions, finance companies, funeral and
25 cemetery services, and the securities industry. The head of
26 the office is the Commissioner of Financial Services.

27 a. The office shall include a Division of Financial
28 Investigations, which shall be headed by a director who is
29 appointed by and serves at the pleasure of the commissioner.
30 The division shall function as a criminal justice agency for
31 purposes of ss. 943.045-943.08 and shall have a separate

1 budget. The division may conduct investigations within or
2 outside this state as the division deems necessary to aid in
3 the enforcement of this section. If during an investigation
4 the division has reason to believe that any criminal law of
5 this state has or may have been violated, the division shall
6 refer any records tending to show such violation to state or
7 federal law enforcement or prosecutorial agencies and shall
8 provide investigative assistance to those agencies as
9 required.

10 b.(I) The Commissioner of Financial Services may
11 demand and require full answers on oath from any person or
12 party privy to any account, claim, or demand against or by the
13 state, such as it may be the commissioner's official duty to
14 examine, which answers the commissioner may require to be in
15 writing and to be sworn to before the commissioner or the
16 office or before any judicial officer or clerk of any court of
17 the state so as to enable the commissioner to determine the
18 justice or legality of such account, claim, or demand.

19 (II) In exercising authority under this section, the
20 commissioner or his or her designee may:

21 i. Issue subpoenas, administer oaths, and examine
22 witnesses.

23 ii. Require or permit a person to file a statement in
24 writing, under oath or otherwise as the commissioner or his or
25 her designee requires, as to all the facts and circumstances
26 concerning the matter to be audited, examined, or
27 investigated.

28 (III) Subpoenas shall be issued by the commissioner or
29 his or her designee under seal commanding such witnesses to
30 appear before the commissioner, the commissioner's
31 representative, or the office at a specified time and place

1 and to bring books, records, and documents as specified or to
2 submit books, records, and documents for inspection. Such
3 subpoenas may be served by an authorized representative of the
4 commissioner or the office.

5 (IV) In the event of noncompliance with a subpoena
6 issued pursuant to this section, the commissioner or the
7 office may petition the circuit court of the county in which
8 the person subpoenaed resides or has his or her principal
9 place of business for an order requiring the subpoenaed person
10 to appear and testify and to produce books, records, and
11 documents as specified in the subpoena. The court may grant
12 legal, equitable, or injunctive relief, including, but not
13 limited to, issuance of a writ of ne exeat or the restraint by
14 injunction or appointment of a receiver of any transfer,
15 pledge, assignment, or other disposition of such person's
16 assets or any concealment, alteration, destruction, or other
17 disposition of subpoenaed books, records, or documents, as the
18 court deems appropriate, until such person has fully complied
19 with such subpoena and the commissioner or the office has
20 completed the audit, examination, or investigation. The
21 commissioner or the office is entitled to the summary
22 procedure provided in s. 51.011, and the court shall advance
23 the cause on its calendar. Costs incurred by the commissioner
24 or the office to obtain an order granting, in whole or in
25 part, such petition for enforcement of a subpoena shall be
26 charged against the subpoenaed person, and failure to comply
27 with such order shall be a contempt of court.

28 (b) The Governor and Cabinet, as head of the
29 department, are the agency head as defined in s. 120.52(3) for
30 purposes of the exercise of rulemaking authority under ss.
31 120.536-120.565. For purposes of final orders, as defined in

1 s. 120.52(7), relating to any matters other than the exercise
2 of such rulemaking authority, each commissioner is the agency
3 head for all areas within that commissioner's jurisdiction and
4 shall be responsible for, and take final agency action related
5 to, orders within the regulatory authority delegated to that
6 commissioner's office.

7 (3) APPOINTMENT AND QUALIFICATIONS OF
8 COMMISSIONERS.--Each commissioner shall be appointed by, and
9 shall serve at the pleasure of, the executive director.

10 Appointment of a commissioner is subject to the approval of
11 the Governor and Cabinet. The minimum qualifications of the
12 commissioners are as follows:

13 (a) Prior to appointment as commissioner, the
14 Commissioner of Insurance must have had, within the previous
15 10 years, at least 5 years of responsible private sector
16 experience working full-time in an area under the regulatory
17 jurisdiction of the Office of the Commissioner of Insurance or
18 at least 5 years of experience as a senior examiner or other
19 senior employee of a state or federal agency having regulatory
20 responsibility over insurers or insurance agencies.

21 (b) Prior to appointment as commissioner, the
22 Commissioner of Financial Services must have had, within the
23 previous 10 years, at least 5 years of responsible private
24 sector experience working full-time in an area under the
25 regulatory jurisdiction of the Office of the Commissioner of
26 Financial Services or at least 5 years of experience as a
27 senior examiner or other senior employee of a state or federal
28 agency having regulatory responsibility over financial
29 institutions, finance companies, or securities companies.

30 (4) MICROFILMING AND DESTROYING RECORDS AND
31 CORRESPONDENCE.--

1 (a) The Department of Insurance and Financial Services
2 may destroy general correspondence files and any other records
3 which the department deems no longer necessary to preserve in
4 accordance with retention schedules and destruction notices
5 established under rules of the Division of Library and
6 Information Services, records and information management
7 program, of the Department of State. Such schedules and
8 notices relating to financial records of the department shall
9 be subject to the approval of the Auditor General.

10 (b) The Department of Insurance and Financial Services
11 may photograph, microphotograph, or reproduce on film such
12 documents and records as it may select, in such manner that
13 each page will be exposed in exact conformity with the
14 original.

15 (c) The Department of Insurance and Financial Services
16 may destroy any of said documents after they have been
17 photographed and filed in accordance with the provisions of
18 paragraph (a).

19 (d) Photographs or microphotographs in the form of
20 film or prints of any records made in compliance with the
21 provisions of this section shall have the same force and
22 effect as the originals thereof would have, and shall be
23 treated as originals for the purpose of their admissibility in
24 evidence. Duly certified or authenticated reproductions of
25 such photographs or microphotographs shall be admitted in
26 evidence equally with the original photographs or
27 microphotographs.

28 (5) DISSEMINATION OF INFORMATION.--The Department of
29 Insurance and Financial Services may disseminate, in any form
30 or manner determined by the department to be appropriate,
31 information regarding the department's official duties.

1 (6) SEAL.--The Department of Insurance and Financial
2 Services may create and use, exclusively for its purposes, a
3 seal, which shall be copyrighted and or trademarked.

4 Section 5. Transfers.--

5 (1) The following programs, including the incumbent
6 employees in the existing positions of such programs on
7 February 25, 2002, and all property issued and assigned
8 directly to such employees, are hereby transferred by a type
9 two transfer, as defined in s. 20.06(2), Florida Statutes:

10 (a) From the Department of Banking and Finance to the
11 Office of Chief Financial Officer:

12 1. The Comptroller and Cabinet Affairs Program.

13 2. The Financial Accountability for Public Funds
14 Program.

15 (b) From the Department of Insurance to the Office of
16 Chief Financial Officer, the Treasury Program.

17 (c) From the Department of Banking and Finance to the
18 Department of Insurance and Financial Services, the Financial
19 Institutions Regulatory Program.

20 (d) From the Department of Insurance to the Department
21 of Insurance and Financial Services:

22 1. The Office of the Treasurer and Administration
23 Program.

24 2. The State Fire Marshal Program.

25 3. The Risk Management Program.

26 4. The Insurance Regulation and Consumer Protection
27 Program, except the Division of Insurance Fraud is transferred
28 as provided in paragraph (e).

29 (e) From the Department of Insurance to the Department
30 of Law Enforcement, the Division of Insurance Fraud.

31

1 For the purposes of this subsection, employees transferred to
2 the Office of the Chief Financial Officer, to the Department
3 of Insurance and Financial Services, and to the Department of
4 Law Enforcement shall not be considered new employees for the
5 purpose of subjecting such employees to an employee
6 probationary period. Each transferring agency shall prepare an
7 inventory of all property which, on February 25, 2002, had
8 been assigned to each budget entity and shall submit such
9 inventory to the executive director of the Department of
10 Insurance and Financial Services by August 1, 2002.

11 (2) The following trust funds are transferred:

12 (a) From the Department of Banking and Finance to the
13 Office of the Chief Financial Officer:

14 1. Child Support Depository Trust Fund, FLAIR number
15 44-2-080

16 2. Child Support Clearing Trust Fund, FLAIR number
17 44-2-081.

18 3. Collections Internal Revenue Clearing Trust Fund,
19 FLAIR number 44-2-101.

20 4. Consolidated Miscellaneous Deduction Clearing Trust
21 Fund, FLAIR number 44-2-139.

22 5. Consolidated Payment Trust Fund, FLAIR number
23 44-2-140

24 6. Electronic Funds Transfer Clearing Trust Fund,
25 FLAIR number 44-2-188.

26 7. Employee Refund Clearing Trust Fund, FLAIR number
27 44-2-194.

28 8. Federal Tax Levy Clearing Trust Fund, FLAIR number
29 44-2-274.

30 9. Federal Use of State Lands Trust Fund, FLAIR number
31 44-2-307.

- 1 10. Florida Retirement Clearing Trust Fund, FLAIR
2 number 44-2-323.
- 3 11. Hospital Insurance Tax Clearing Trust Fund, FLAIR
4 number 44-2-370.
- 5 12. Miscellaneous Deductions Restoration Trust Fund,
6 FLAIR number 44-2-577.
- 7 13. Prison Industries Trust Fund, FLAIR number
8 44-2-385.
- 9 14. Social Security Clearing Trust Fund, FLAIR number
10 44-2-643.
- 11 15. Tobacco Settlement Clearing Trust Fund, FLAIR
12 number 44-2-123.
- 13 16. Trust Funds Trust Fund, FLAIR number 44-2-732.
- 14 17. Unclaimed Property Trust Fund, FLAIR number
15 44-2-007
- 16 (b) From the Department of Insurance to the Office of
17 Chief Financial Officer:
- 18 1. Government Employees Deferred Compensation Trust
19 Fund, FLAIR number 46-2-155.
- 20 2. State Treasurer Escrow Trust Fund, FLAIR number
21 46-2-622.
- 22 3. Treasurer's Administrative And Investment Trust
23 Fund, FLAIR number 46-2-725.
- 24 4. Treasury Cash Deposit Trust Fund, FLAIR number
25 46-2-720.
- 26 5. Treasurer Investment Trust Fund, FLAIR number
27 46-2-728.
- 28 (c) From the Department of Banking and Finance to the
29 Department of Insurance and Financial Services:
- 30 1. Administrative Trust Fund, FLAIR number 44-2-021,
31 except the moneys in fund account number 44-2-021003 are

- 1 transferred from the Department of Banking and Finance to the
2 Office of Chief Financial Officer.
- 3 2. Anti-Fraud Trust Fund, FLAIR number 44-2-038.
4 3. Comptroller's Federal Equitable Sharing Trust Fund,
5 FLAIR number 44-2-719.
- 6 4. Financial Institutions' Regulatory Trust Fund,
7 FLAIR number 44-2-275.
- 8 5. Mortgage Brokerage Guaranty Trust Fund, FLAIR
9 number 44-2-485.
- 10 6. Preneed Funeral Contract Consumer Protection Trust
11 Fund, FLAIR number 44-2-536.
- 12 7. Regulatory Trust Fund, FLAIR number 44-2-573.
13 8. Securities Guaranty Fund, FLAIR number 44-2-626.
14 9. Working Capital Trust Fund, FLAIR number 44-2-792.
- 15 (d) From the Department of Insurance to the Department
16 of Insurance and Financial Services, except as provided:
- 17 1. Agents and Solicitors County Tax Trust Fund, FLAIR
18 number 46-2-024.
- 19 2. Florida Casualty Insurance Risk Management Trust
20 Fund, FLAIR number 46-2-078.
- 21 3. Insurance Commissioner's Regulatory Trust Fund,
22 FLAIR number 46-2-393, except as provided in 624.523(3).
- 23 4. Rehabilitation Administrative Expense Trust Fund,
24 FLAIR number 46-2-582.
- 25 (3) EFFECTIVE DATE.--This section shall take effect
26 January 7, 2003.
- 27 Section 6. (1) Effective January 7, 2003, the rules
28 of the Department of Banking and Finance and of the Department
29 of Insurance that were in effect on January 6, 2003, shall
30 become rules of the Department of Insurance and Financial
31

1 Services and shall remain in effect until specifically amended
2 or repealed in the manner provided by law.

3 (2) Notwithstanding subsection (1):

4 (a) Any such rules that relate to the constitutional
5 functions of the Comptroller or the Treasurer shall instead
6 become rules of the Office of Chief Financial Officer and
7 shall remain in effect until amended or repealed in the manner
8 provided by law.

9 (b) Any such rules that relate to the functions of the
10 Division of Insurance Fraud of the Department of Insurance
11 shall instead become rules of the Department of Law
12 Enforcement and shall remain in effect until amended or
13 repealed in the manner provided by law.

14 Section 7. (1) This act shall not affect the validity
15 of any judicial or administrative action involving the
16 Department of Banking and Finance or the Department of
17 Insurance pending on January 7, 2003, and the Department of
18 Insurance and Financial Services shall be substituted as a
19 party in interest in any such action.

20 (2) Notwithstanding subsection (1):

21 (a) If the action involves the constitutional
22 functions of the Comptroller or Treasurer, the Office of Chief
23 Financial Officer shall instead be substituted as a party in
24 interest.

25 (b) If the action involves the functions of the
26 Division of Insurance Fraud of the Department of Insurance,
27 the Department of Law Enforcement shall instead be substituted
28 as a party in interest.

29 Section 8. Transitional provisions.--

30 (1) The office of executive director of the Department
31 of Insurance and Financial Services is created effective July

1 1, 2002. By no later than August 1, 2002, the Governor and
2 Cabinet shall appoint a person, subject to confirmation by the
3 Senate, who will serve as the executive director of the
4 department. However, until the creation of the department
5 takes effect on January 7, 2003, that person shall serve as
6 the head of the Office of Transition Management under
7 subsection (2).

8 (2)(a) There is created the Office of Transition
9 Management. The office shall function independently but shall
10 for administrative purposes be treated as an office of the
11 Executive Office of the Governor.

12 (b) The head of the office is the executive director
13 appointed pursuant to subsection (1), who shall serve at the
14 pleasure of the Governor and Cabinet.

15 (c) The office shall manage the transition to the new
16 Department of Insurance and Financial Services and the new
17 Office of Chief Financial Officer. The management duties of
18 the office shall include, but not be limited to:

19 1. Ensuring that, by no later than January 7, 2003,
20 all positions within the Office of the Commissioner of
21 Insurance and the Office of the Commissioner of Financial
22 Services, including all senior management positions, are
23 occupied by qualified persons.

24 2. Providing written recommendations to the
25 Legislature by no later than February 1, 2003, as to statutory
26 changes that are necessary or desirable to facilitate the
27 operations of the department. These recommendations shall
28 include, but not be limited to, detailed legislative
29 recommendations regarding rulemaking procedures for the
30 Department of Insurance and Financial Services, including
31

1 proposals to streamline the rulemaking process and proposals
2 regarding adoption of emergency rules.

3 3. Providing a written report that specifies the
4 placement of those positions that are transferred to the
5 Office of Chief Financial Officer and transferred to the
6 Department of Insurance and Financial Services under this act.
7 The office shall provide the report to the Governor, the
8 President of the Senate, the Speaker of the House of
9 Representatives, and the chair of each fiscal committee or
10 council of the Senate and the House of Representatives.

11 4. Taking action in advance on personnel, purchasing,
12 and administrative matters.

13 5. Submitting to the Governor and Cabinet a proposed
14 organizational plan for the Department of Insurance and
15 Financial Services, which plan the Governor and Cabinet may
16 adopt by rule.

17 6. Providing monthly written transition status reports
18 to the President of the Senate and the Speaker of the House of
19 Representatives.

20 7. Providing such other information as may be
21 requested by members or staff of the Legislature.

22 (d) The Department of Banking and Finance, the
23 Department of Insurance, the Office of the Comptroller, and
24 the Office of the Treasurer shall fully cooperate with the
25 Office of Transition Management and shall promptly provide the
26 office with any requested information.

27 (e) Funding for the Office of Transition Management
28 shall be as provided in the General Appropriations Act.

29 Section 9. Effective July 1, 2002, section 216.349,
30 Florida Statutes, is created to read:

31

1 216.349 Trust fund report--Notwithstanding any
2 provision of law to the contrary, the head of each state
3 agency receiving state appropriations from trust funds shall
4 provide a report each month, through electronic means, to the
5 Comptroller, the chair and the vice chair of the Legislative
6 Budget Commission, and the Governor, on the financial status
7 of all trust funds in the state treasury associated with their
8 agency. Effective January 7, 2003, the reports shall be
9 provided to the Chief Financial Officer in lieu of the
10 Comptroller. The agencies required to submit this report, the
11 form and content of the report, the definition of trust funds
12 to be included in this report, the date of submission, and the
13 electronic means of delivery shall be determined by the chair
14 and vice chair of the Legislative Budget Commission, after
15 consultation with the Comptroller or Chief Financial Officer.

16 Section 10. Effective January 7, 2003, and
17 notwithstanding any provision of law to the contrary, the
18 Chief Financial Officer shall provide a report each month,
19 through electronic means, to the chair and vice chair of the
20 Legislative Budget Commission and the Governor on the
21 financial status of trust funds in the state treasury. The
22 form and content of the report, the definition of trust funds
23 to be included in this report, the date of submission, and the
24 electronic means of delivery shall be determined by the chair
25 and vice chair of the Legislative Budget Commission, after
26 consultation with the Chief Financial Officer.

27 Section 11. Subsection (2) of section 218.36, Florida
28 Statutes, is amended to read:

29 218.36 County officers; record and report of fees and
30 disposition of same.--

31

1 (2) Effective October 1, 2002, on or before the date
2 for filing the annual report, the tax collector, the sheriff,
3 the supervisor of elections, and the property appraiser ~~each~~
4 ~~county officer~~ shall pay into the county general fund all
5 money in excess of the sum to which he or she is entitled
6 under the provisions of chapter 145. Whenever a tax collector
7 has money in excess, he or she shall distribute the excess to
8 each governmental unit in the same proportion as the fees paid
9 by the governmental unit bear to the total fee income of his
10 or her office. Any excess held by a property appraiser shall
11 be divided into parts for each governmental unit which was
12 billed and which paid for the operation of the property
13 appraiser's office in the same proportion as the governmental
14 units were originally billed. Such part shall be an advance
15 on the current year's bill, if any.

16 Section 12. Effective July 1, 2003, subsection (3) is
17 added to section 624.523, Florida Statutes, to read:

18 624.523 Insurance Commissioner's Regulatory Trust
19 Fund.--

20 (3) Each fiscal year, \$10.75 million is hereby
21 transferred, by nonoperating transfers, from the Insurance
22 Commissioner's Regulatory Trust Fund to the General Revenue
23 Fund. It is the intent of the Legislature that this transfer
24 offset the cost to the Florida Department of Law Enforcement
25 to operate the Division of Insurance Fraud transferred from
26 the Department of Insurance.

27 Section 13. Effective January 7, 2003, section 11.12,
28 Florida Statutes, is amended to read:

29 11.12 Salary, subsistence, and mileage of members and
30 employees; expenses authorized by resolution; appropriation;
31 preaudit by Chief Financial Officer ~~Comptroller~~.--

1 (1) The Chief Financial Officer ~~Treasurer~~ is
2 authorized to pay the salary, subsistence, and mileage of the
3 members of the Legislature, as the same shall be authorized
4 from time to time by law, upon creation ~~receipt~~ of a warrant
5 therefor of the Chief Financial Officer ~~Comptroller~~ for the
6 stated amount. The Chief Financial Officer ~~Treasurer~~ is
7 authorized to pay the compensation of employees of the
8 Legislature, together with reimbursement for their authorized
9 travel as provided in s. 112.061, and such expense of the
10 Legislature as shall be authorized by law, a concurrent
11 resolution, a resolution of either house, or rules adopted by
12 the respective houses, provided the total amount appropriated
13 to the legislative branch shall not be altered, upon creation
14 ~~receipt~~ of such warrant therefor. The number, duties, and
15 compensation of the employees of the respective houses and of
16 their committees shall be determined as provided by the rules
17 of the respective house or in this chapter. Each legislator
18 may designate no more than two employees to attend sessions of
19 the Legislature, and those employees who change their places
20 of residence in order to attend the session shall be paid
21 subsistence at a rate to be established by the President of
22 the Senate for Senate employees and the Speaker of the House
23 of Representatives for House employees. Such employees, in
24 addition to subsistence, shall be paid transportation expenses
25 in accordance with s. 112.061(7) and (8) for actual
26 transportation between their homes and the seat of government
27 in order to attend the legislative session and return home, as
28 well as for two round trips during the course of any regular
29 session of the Legislature.

30 (2) All vouchers covering legislative expenses shall
31 be preaudited by the Chief Financial Officer ~~Comptroller~~, and,

1 if found to be correct, state warrants shall be issued
2 therefor.

3 Section 14. Effective January 7, 2003, paragraph (c)
4 of subsection (5) of section 11.13, Florida Statutes, is
5 amended to read:

6 11.13 Compensation of members.--

7 (5)

8 (c) The Office of Legislative Services shall submit on
9 forms prescribed by the Chief Financial Officer ~~Comptroller~~
10 requested allotments of appropriations for the fiscal year.
11 It shall be the duty of the Chief Financial Officer
12 ~~Comptroller~~ to release the funds and authorize the
13 expenditures for the legislative branch to be made from the
14 appropriations on the basis of the requested allotments.
15 However, the aggregate of such allotments shall not exceed the
16 total appropriations available for the fiscal year.

17 Section 15. Effective January 7, 2003, subsection (4)
18 of section 11.147, Florida Statutes, is amended to read:

19 11.147 Office of Legislative Services.--

20 (4) The Office of Legislative Services shall deliver
21 such vouchers covering legislative expenses as required to the
22 Chief Financial Officer ~~Comptroller~~ and, if found to be
23 correct, state warrants shall be issued therefor.

24 Section 16. Effective January 7, 2003, section 11.151,
25 Florida Statutes, is amended to read:

26 11.151 Annual legislative appropriation to contingency
27 fund for use of Senate President and House Speaker.--There is
28 established a legislative contingency fund consisting of
29 \$10,000 for the President of the Senate and \$10,000 for the
30 Speaker of the House of Representatives, which amounts shall
31 be set aside annually from moneys appropriated for legislative

1 expense. These funds shall be disbursed by the Chief
2 Financial Officer ~~Comptroller~~ upon receipt of vouchers
3 authorized by the President of the Senate or the Speaker of
4 the House of Representatives. Said funds may be expended at
5 the unrestricted discretion of the President of the Senate or
6 the Speaker of the House of Representatives in carrying out
7 their official duties during the entire period between the
8 date of their election as such officers at the organizational
9 meeting held pursuant to s. 3(a), Art. III of the State
10 Constitution and the next general election.

11 Section 17. Effective January 7, 2003, subsection (5)
12 of section 11.40, Florida Statutes, is amended to read:

13 11.40 Legislative Auditing Committee.--

14 (5) Following notification by the Auditor General, the
15 Chief Financial Officer ~~Department of Banking and Finance~~, or
16 the Division of Bond Finance of the State Board of
17 Administration of the failure of a local governmental entity,
18 district school board, charter school, or charter technical
19 career center to comply with the applicable provisions within
20 s. 11.45(5)-(7), s. 218.32(1), or s. 218.38, the Legislative
21 Auditing Committee may schedule a hearing. If a hearing is
22 scheduled, the committee shall determine if the entity should
23 be subject to further state action. If the committee
24 determines that the entity should be subject to further state
25 action, the committee shall:

26 (a) In the case of a local governmental entity or
27 district school board, request the Department of Revenue and
28 the Chief Financial Officer ~~Department of Banking and Finance~~
29 to withhold any funds not pledged for bond debt service
30 satisfaction which are payable to such entity until the entity
31 complies with the law. The committee, in its request, shall

1 specify the date such action shall begin, and the request must
2 be received by the Department of Revenue and the Chief
3 Financial Officer ~~Department of Banking and Finance~~ 30 days
4 before the date of the distribution mandated by law. The
5 Department of Revenue and the Chief Financial Officer
6 ~~Department of Banking and Finance~~ are authorized to implement
7 the provisions of this paragraph.

8 (b) In the case of a special district, notify the
9 Department of Community Affairs that the special district has
10 failed to comply with the law. Upon receipt of notification,
11 the Department of Community Affairs shall proceed pursuant to
12 the provisions specified in ss. 189.421 and 189.422.

13 (c) In the case of a charter school or charter
14 technical career center, notify the appropriate sponsoring
15 entity, which may terminate the charter pursuant to ss.
16 228.056 and 228.505.

17 Section 18. Effective January 7, 2003, paragraph (b)
18 of subsection (6) of section 11.42, Florida Statutes, is
19 amended to read:

20 11.42 The Auditor General.--

21 (6)

22 (b) All payrolls and vouchers for the operations of
23 the Auditor General's office shall be submitted to the Chief
24 Financial Officer ~~Comptroller~~ and, if found to be correct,
25 payments shall be issued therefor.

26 Section 19. Effective January 7, 2003, subsection (1)
27 of section 14.057, Florida Statutes, is amended to read:

28 14.057 Governor-elect; establishment of operating
29 fund.--

30 (1) There is established an operating fund for the use
31 of the Governor-elect during the period dating from the

1 certification of his or her election by the Elections
2 Canvassing Commission to his or her inauguration as Governor.
3 The Governor-elect during this period may allocate the fund to
4 travel, expenses, his or her salary, and the salaries of the
5 Governor-elect's staff as he or she determines. Such staff
6 may include, but not be limited to, a chief administrative
7 assistant, a legal adviser, a fiscal expert, and a public
8 relations and information adviser. The salary of the
9 Governor-elect and each member of the Governor-elect's staff
10 during this period shall be determined by the Governor-elect,
11 except that the total expenditures chargeable to the state
12 under this section, including salaries, shall not exceed the
13 amount appropriated to the operating fund. The Executive
14 Office of the Governor shall supply to the Governor-elect
15 suitable forms to provide for the expenditure of the fund and
16 suitable forms to provide for the reporting of all
17 expenditures therefrom. The Chief Financial Officer
18 ~~Comptroller~~ shall release moneys from this fund upon the
19 request of the Governor-elect properly filed.

20 Section 20. Effective January 7, 2003, section 14.058,
21 Florida Statutes, is amended to read:

22 14.058 Inauguration expense fund.--There is
23 established an inauguration expense fund for the use of the
24 Governor-elect in planning and conducting the inauguration
25 ceremonies. The Governor-elect shall appoint an inauguration
26 coordinator and such staff as necessary to plan and conduct
27 the inauguration. Salaries for the inauguration coordinator
28 and the inauguration coordinator's staff shall be determined
29 by the Governor-elect and shall be paid from the inauguration
30 expense fund. The Executive Office of the Governor shall
31 supply to the inauguration coordinator suitable forms to

1 provide for the expenditure of the fund and suitable forms to
2 provide for the reporting of all expenditures therefrom. The
3 Chief Financial Officer ~~Comptroller~~ shall release moneys from
4 this fund upon the request of the inauguration coordinator
5 properly filed.

6 Section 21. Effective January 7, 2003, paragraph (f)
7 of subsection (3) of section 14.203, Florida Statutes, is
8 amended to read:

9 14.203 State Council on Competitive Government.--It is
10 the policy of this state that all state services be performed
11 in the most effective and efficient manner in order to provide
12 the best value to the citizens of the state. The state also
13 recognizes that competition among service providers may
14 improve the quality of services provided, and that
15 competition, innovation, and creativity among service
16 providers should be encouraged.

17 (3) In performing its duties under this section, the
18 council may:

19 (f) Require that an identified state service be
20 submitted to competitive bidding or another process that
21 creates competition with private sources or other governmental
22 entities. In determining whether an identified state service
23 should be submitted to competitive bidding, the council shall
24 consider, at a minimum:

25 1. Any constitutional and legal implications which may
26 arise as a result of such action.

27 2. The cost of supervising the work of any private
28 contractor.

29 3. The total cost to the state agency of such state
30 agency's performance of a service, including all indirect
31 costs related to that state agency and costs of such agencies

1 as the Chief Financial Officer and ~~Comptroller, the Treasurer,~~
2 the Attorney General, and other such support agencies to the
3 extent such costs would not be incurred if a contract is
4 awarded. Costs for the current provision of the service shall
5 be considered only when such costs would actually be saved if
6 the contract were awarded to another entity.

7 Section 22. Effective January 7, 2003, subsection (3)
8 of section 15.09, Florida Statutes, is amended to read:

9 15.09 Fees.--

10 (3) All fees arising from certificates of election or
11 appointment to office and from commissions to officers shall
12 be paid to the Chief Financial Officer ~~Treasurer~~ for deposit
13 in the General Revenue Fund.

14 Section 23. Effective January 7, 2003, section 16.10,
15 Florida Statutes, is amended to read:

16 16.10 Receipt of Supreme Court reports for
17 office.--The Clerk of the Supreme Court shall deliver to the
18 Attorney General a copy of each volume, or part of volume, of
19 the decisions of the Supreme Court, which may be in the care
20 or custody of said clerk, and which the Attorney General's
21 office may be without, and take the Attorney General's receipt
22 for the same. The Attorney General shall keep the same in her
23 or his office at the capitol, and each retiring Attorney
24 General shall take the receipt of her or his successor for the
25 same and file such receipt in the Chief Financial Officer's
26 ~~Treasurer's~~ office; provided that this shall not authorize the
27 taking away of any book belonging to the Supreme Court
28 library, kept for the use of said court.

29 Section 24. Effective January 7, 2003, section 17.02,
30 Florida Statutes, is amended to read:

31

1 17.02 Place of residence and office.--The Chief
2 Financial Officer ~~Comptroller~~ shall reside at the seat of
3 government of this state, and shall hold office in a room in
4 the capitol.

5 Section 25. Effective January 7, 2003, section 17.03,
6 Florida Statutes, is amended to read:

7 17.03 To audit claims against the state.--

8 (1) The Chief Financial Officer ~~Comptroller~~ of this
9 state, using generally accepted auditing procedures for
10 testing or sampling, shall examine, audit, and settle all
11 accounts, claims, and demands, whatsoever, against the state,
12 arising under any law or resolution of the Legislature, and
13 issue a warrant ~~to the Treasurer directing the Treasurer~~ to
14 pay out of the State Treasury such amount as requested ~~shall~~
15 ~~be allowed by the Comptroller thereon.~~

16 (2) The Chief Financial Officer ~~Comptroller~~ may
17 establish dollar thresholds applicable to each invoice amount
18 and other criteria for testing or sampling invoices on a
19 preaudit and postaudit basis. The Chief Financial Officer
20 ~~Comptroller~~ may revise such thresholds and other criteria for
21 an agency or the unit of any agency as he or she deems
22 appropriate.

23 (3) The Chief Financial Officer ~~Comptroller~~ may adopt
24 and disseminate to the agencies procedural and documentation
25 standards for payment requests and may provide training and
26 technical assistance to the agencies for these standards.

27 (4) The Chief Financial Officer ~~Comptroller~~ shall have
28 the legal duty of issuing ~~delivering~~ all state warrants and
29 shall be charged with the official responsibility of the
30 protection and security of the state warrants while in his or
31

1 her custody. The Chief Financial Officer ~~Comptroller~~ may
2 delegate this authority to other state agencies or officers.
3 Section 26. Effective January 7, 2003, section 17.031,
4 Florida Statutes, is amended to read:
5 17.031 Security of Chief Financial Officer's
6 ~~Comptroller's~~ office.--The Chief Financial Officer ~~Comptroller~~
7 is authorized to engage the full-time services of two law
8 enforcement officers, with power of arrest, to prevent all
9 acts of a criminal nature directed at the property in the
10 custody or control of the Chief Financial Officer ~~Comptroller~~.
11 While so assigned, said officers shall be under the direction
12 and supervision of the Chief Financial Officer ~~Comptroller~~,
13 and their salaries and expenses shall be paid from the general
14 fund of the office of Chief Financial Officer ~~Comptroller~~.
15 Section 27. Effective January 7, 2003, section 17.04,
16 Florida Statutes, is amended to read:
17 17.04 To audit and adjust accounts of officers and
18 those indebted to the state.--The Chief Financial Officer
19 ~~Department of Banking and Finance~~ of this state, using
20 generally accepted auditing procedures for testing or
21 sampling, shall examine, audit, adjust, and settle the
22 accounts of all the officers of this state, and any other
23 person in anywise entrusted with, or who may have received any
24 property, funds, or moneys of this state, or who may be in
25 anywise indebted or accountable to this state for any
26 property, funds, or moneys, and require such officer or
27 persons to render full accounts thereof, and to yield up such
28 property or funds according to law, or pay such moneys into
29 the treasury of this state, or to such officer or agent of the
30 state as may be appointed to receive the same, and on failure
31 so to do, to cause to be instituted and prosecuted

1 proceedings, criminal or civil, at law or in equity, against
2 such persons, according to law. The Division of Financial
3 Investigations may conduct investigations within or outside of
4 this state as it deems necessary to aid in the enforcement of
5 this section. If during an investigation the division has
6 reason to believe that any criminal statute of this state has
7 or may have been violated, the division shall refer any
8 records tending to show such violation to state or federal law
9 enforcement or prosecutorial agencies and shall provide
10 investigative assistance to those agencies as required.

11 Section 28. Effective January 7, 2003, section
12 17.0401, Florida Statutes, is amended to read:

13 17.0401 Confidentiality of information relating to
14 financial investigations.--Except as otherwise provided by
15 this section, information relative to an investigation
16 conducted by the Division of Financial Investigations pursuant
17 to s. 17.04, including any consumer complaint, is confidential
18 and exempt from the provisions of s. 119.07(1) and s. 24(a),
19 Art. I of the State Constitution until the investigation is
20 completed or ceases to be active. Any information relating to
21 an investigation conducted by the division pursuant to s.
22 17.04 shall remain confidential and exempt from the provisions
23 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
24 after the division's investigation is completed or ceases to
25 be active if the division submits the information to any law
26 enforcement or prosecutorial agency for further investigation.
27 Such information shall remain confidential and exempt from the
28 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
29 Constitution until that agency's investigation is completed or
30 ceases to be active. For purposes of this section, an
31 investigation shall be considered "active" so long as the

1 division or any law enforcement or prosecutorial agency is
2 proceeding with reasonable dispatch and has a reasonable good
3 faith belief that the investigation may lead to the filing of
4 an administrative, civil, or criminal proceeding. This
5 section shall not be construed to prohibit disclosure of
6 information which is required by law to be filed with the
7 Chief Financial Officer ~~Department of Banking and Finance~~ and
8 which, but for the investigation, would otherwise be subject
9 to public disclosure. Nothing in this section shall be
10 construed to prohibit the division from providing information
11 to any law enforcement or prosecutorial agency. Any law
12 enforcement or prosecutorial agency receiving confidential
13 information from the division in connection with its official
14 duties shall maintain the confidentiality of the information
15 as provided for in this section.

16 Section 29. Effective January 7, 2003, subsections
17 (1)-(6) of section 17.041, Florida Statutes, are amended to
18 read:

19 17.041 County and district accounts and claims.--
20 (1) It shall be the duty of the Chief Financial
21 Officer ~~Department of Banking and Finance~~ of this state to
22 adjust and settle, or cause to be adjusted and settled, all
23 accounts and claims heretofore or hereafter reported to him or
24 her ~~it~~ by the Auditor General, the appropriate county or
25 district official, or any person against all county and
26 district officers and employees, and against all other persons
27 entrusted with, or who may have received, any property, funds,
28 or moneys of a county or district or who may be in anywise
29 indebted to or accountable to a county or district for any
30 property, funds, moneys, or other thing of value, and to
31 require such officer, employee, or person to render full

1 accounts thereof and to yield up such property, funds, moneys,
2 or other thing of value according to law to the officer or
3 authority entitled by law to receive the same.

4 (2) On the failure of such officer, employee, or
5 person to adjust and settle such account, or to yield up such
6 property, funds, moneys, or other thing of value, the Chief
7 Financial Officer ~~department~~ shall direct the attorney for the
8 board of county commissioners, the district school board, or
9 the district, as the case may be, entitled to such account,
10 property, funds, moneys, or other thing of value to represent
11 such county or district in enforcing settlement, payment or
12 delivery of such account, property, funds, moneys, or other
13 thing of value. The Chief Financial Officer ~~department~~ may
14 enforce such settlement, payment, or delivery pursuant to s.
15 17.20.

16 (3) Should the attorney for the county or district
17 aforesaid be disqualified or unable to act, and no other
18 attorney be furnished by the county or district, or should the
19 Chief Financial Officer ~~department~~ otherwise deem it
20 advisable, such account or claim may be certified to the
21 Department of Legal Affairs by the Chief Financial Officer
22 ~~department~~, to be prosecuted by the Department of Legal
23 Affairs at county or district expense, as the case may be,
24 including necessary per diem and travel expense in accordance
25 with s. 112.061, as now or hereafter amended. Such expenses,
26 when approved by the Chief Financial Officer ~~department~~, shall
27 be paid forthwith by such county or district.

28 (4) Should it appear to the Chief Financial Officer
29 ~~department~~ that any criminal statute of this state has or may
30 have been violated by such defaulting officer, employee, or
31 person, such information, evidence, documents, and other

1 things tending to show such a violation, whether in the hands
2 of the Chief Financial Officer ~~Comptroller~~, the Auditor
3 General, the county, or the district, shall be forthwith
4 turned over to the proper state attorney for inspection,
5 study, and such action as may be deemed proper, or the same
6 may be brought to the attention of the proper grand jury.

7 (5) No such account or claim, after it has been
8 certified to the Chief Financial Officer ~~department~~, may be
9 settled for less than the amount due according to law without
10 the written consent of the Chief Financial Officer ~~department~~,
11 and any attempt to make settlement in violation of this
12 subsection shall be deemed null and void. A county or
13 district board desiring to make such a settlement shall
14 incorporate the proposed settlement into a resolution, stating
15 that the proposed settlement is contingent upon the Chief
16 Financial Officer's ~~Comptroller's~~ approval, and shall submit
17 two copies of the resolution to the Chief Financial Officer
18 ~~department~~. The Chief Financial Officer ~~department~~ shall
19 return one copy with the Chief Financial Officer's
20 ~~Comptroller's~~ action endorsed thereon.

21 (6) No settlement of account of any such officer,
22 employee, or person, with the county or district, or any of
23 their officers or agents, made in an amount or manner other
24 than as authorized by law or for other than a lawful county or
25 district purpose, shall be binding upon such county or
26 district unless and until approved by the Chief Financial
27 Officer ~~department~~, or unless more than 4 years shall have
28 elapsed from the date of such settlement.

29 Section 30. Effective January 7, 2003, section
30 17.0415, Florida Statutes, is amended to read:

31

1 17.0415 Transfer and assignment of claims.--In order
2 to facilitate their collection from third parties, the Chief
3 Financial Officer ~~Comptroller~~ may authorize the assignment of
4 claims among the state, its agencies, and its subdivisions,
5 whether arising from criminal, civil, or other judgments in
6 state or federal court. The state, its agencies, and its
7 subdivisions, may assign claims under such terms as are
8 mutually acceptable to the Chief Financial Officer ~~Comptroller~~
9 and the assignee and assignor. The assigned claim may be
10 enforced as a setoff to any claim against the state, its
11 agencies, or its subdivisions, by garnishment or in the same
12 manner as a judgment in a civil action. Claims against the
13 state, its agencies, and its subdivisions resulting from the
14 condemnation of property protected by the provisions of s. 4,
15 Art. X of the State Constitution are not subject to setoff
16 pursuant to this section.

17 Section 31. Effective January 7, 2003, section 17.05,
18 Florida Statutes, is amended to read:

19 17.05 Subpoenas; sworn statements; enforcement
20 proceedings.--

21 (1) The Chief Financial Officer ~~Comptroller~~ may demand
22 and require full answers on oath from any and every person,
23 party or privy to any account, claim, or demand against or by
24 the state, such as it may be the Chief Financial Officer's
25 ~~Comptroller's~~ official duty to examine into, and which answers
26 the Chief Financial Officer ~~Comptroller~~ may require to be in
27 writing and to be sworn to before the Chief Financial Officer
28 or his or her designee ~~Comptroller or the department~~ or before
29 any judicial officer or clerk of any court of the state so as
30 to enable the Chief Financial Officer ~~Comptroller~~ to determine
31 the justice or legality of such account, claim, or demand.

1 (2) In exercising authority under this chapter, the
2 Chief Financial Officer ~~Comptroller~~ or his or her designee
3 may:

4 (a) Issue subpoenas, administer oaths, and examine
5 witnesses.

6 (b) Require or permit a person to file a statement in
7 writing, under oath or otherwise as the Chief Financial
8 Officer ~~Comptroller~~ or his or her designee requires, as to all
9 the facts and circumstances concerning the matter to be
10 audited, examined, or investigated.

11 (3) Subpoenas shall be issued by the Chief Financial
12 Officer ~~Comptroller~~ or his or her designee under seal
13 commanding such witnesses to appear before the Chief Financial
14 Officer ~~Comptroller~~ or the Chief Financial Officer's
15 ~~Comptroller's~~ representative ~~or the department~~ at a specified
16 time and place and to bring books, records, and documents as
17 specified or to submit books, records, and documents for
18 inspection. Such subpoenas may be served by an authorized
19 representative of the Chief Financial Officer ~~Comptroller~~ ~~or~~
20 ~~the department~~.

21 (4) In the event of noncompliance with a subpoena
22 issued pursuant to this section, the Chief Financial Officer
23 ~~Comptroller~~ or his or her designee ~~the department~~ may petition
24 the circuit court of the county in which the person subpoenaed
25 resides or has his or her principal place of business for an
26 order requiring the subpoenaed person to appear and testify
27 and to produce books, records, and documents as specified in
28 the subpoena. The court may grant legal, equitable, or
29 injunctive relief, including, but not limited to, issuance of
30 a writ of ne exeat or the restraint by injunction or
31 appointment of a receiver of any transfer, pledge, assignment,

1 or other disposition of such person's assets or any
2 concealment, alteration, destruction, or other disposition of
3 subpoenaed books, records, or documents, as the court deems
4 appropriate, until such person has fully complied with such
5 subpoena and the Chief Financial Officer ~~Comptroller~~ or his or
6 her designee ~~the department~~ has completed the audit,
7 examination, or investigation. The Chief Financial Officer
8 ~~Comptroller~~ or his or her designee ~~the department~~ is entitled
9 to the summary procedure provided in s. 51.011, and the court
10 shall advance the cause on its calendar. Costs incurred by
11 the Chief Financial Officer ~~Comptroller~~ or his or her designee
12 ~~the department~~ to obtain an order granting, in whole or in
13 part, such petition for enforcement of a subpoena shall be
14 charged against the subpoenaed person, and failure to comply
15 with such order shall be a contempt of court.

16 Section 32. Effective January 7, 2003, section 17.06,
17 Florida Statutes, is amended to read:

18 17.06 Disallowed items and accounts.--The Chief
19 Financial Officer ~~Comptroller~~ shall erase from any original
20 account all items disallowed by him or her; and when the Chief
21 Financial Officer ~~Comptroller~~ shall reject the whole of any
22 account he or she shall write across the face of it the word
23 "disallowed," and the date, and file the same in the Chief
24 Financial Officer's ~~Comptroller's~~ office or deliver it to the
25 claimant.

26 Section 33. Effective January 7, 2003, section 17.075,
27 Florida Statutes, is amended to read:

28 17.075 Form of state warrants and other payment
29 orders; rules.--

30 (1) The Chief Financial Officer ~~Department of Banking~~
31 ~~and Finance~~ is authorized to establish the form or forms of

1 state warrants which are to be drawn by him or her ~~it~~ and of
2 other orders for payment or disbursement of moneys out of the
3 State Treasury and to change the form thereof from time to
4 time as the Chief Financial Officer ~~department~~ may consider
5 necessary or appropriate. Such orders for payment may be in
6 any form, but, regardless of form, each order shall be subject
7 to the accounting and recordkeeping requirements applicable to
8 state warrants.

9 (2) The Chief Financial Officer ~~department~~ shall adopt
10 rules establishing accounting and recordkeeping procedures for
11 all payments made by electronic transfer of funds or by any
12 other means. Such procedures shall be consistent with the
13 statutory requirements applicable to payments by state
14 warrant.

15 Section 34. Effective January 7, 2003, paragraph (b)
16 of subsection (1) and subsection (6) are repealed and
17 subsections (2), (3), (4), (7), and (8) of section 17.076,
18 Florida Statutes, are amended to read:

19 17.076 Direct deposit of funds.--

20 (2) The Chief Financial Officer ~~department~~ shall
21 establish a program for the direct deposit of funds to the
22 account of the beneficiary of such a payment or disbursement
23 in any financial institution equipped for electronic fund
24 transfers, which institution is designated in writing by such
25 beneficiary and has lawful authority to accept such deposits.
26 Direct deposit of funds shall be by any electronic or other
27 transfer medium approved by the Chief Financial Officer
28 ~~department~~ for such purpose.

29 (3) The Chief Financial Officer ~~department~~ may
30 contract with an authorized financial institution for the
31 services necessary to operate the program. In order to

1 implement the provisions of this section, the Chief Financial
2 Officer ~~Comptroller~~ is authorized to deposit with that
3 financial institution the funds payable to the beneficiaries,
4 in lump sum, by Chief Financial Officer's ~~Comptroller's~~
5 warrant to make the authorized direct deposits.

6 (4) The written authorization of a beneficiary shall
7 be filed with the Chief Financial Officer ~~department~~ or his or
8 her ~~its~~ designee. Such authorization shall remain in effect
9 until withdrawn in writing by the beneficiary or dishonored by
10 the designated financial institution.

11 ~~(6)(7)~~ To cover the Chief Financial Officer's
12 ~~department's~~ actual costs for processing the direct deposit of
13 funds other than salary or retirement benefits, the Chief
14 Financial Officer ~~department~~ may charge the beneficiary of the
15 direct deposit a reasonable fee. The Chief Financial Officer
16 ~~department~~ may collect the fee by direct receipt from the
17 beneficiary or by subtracting the amount of the fee from the
18 funds due the beneficiary. Such fees collected by the Chief
19 Financial Officer ~~department~~ shall be deposited into the Chief
20 Financial Officer's ~~Department of Banking and Finance~~
21 Administrative Trust Fund.

22 ~~(7)(8)~~ Effective July 1, 2000, all new recipients of
23 retirement benefits from this state shall be paid by direct
24 deposit of funds. A retiree may request from the Chief
25 Financial Officer ~~department~~ an exemption from the provisions
26 of this subsection when such retiree can demonstrate a
27 hardship. The Chief Financial Officer ~~department~~ may pay
28 retirement benefits by state warrant when deemed
29 administratively necessary.

30 Section 35. Effective January 7, 2003, section 17.08,
31 Florida Statutes, is amended to read:

1 17.08 Accounts, etc., on which warrants drawn, to be
2 filed.--All accounts, vouchers, and evidence, upon which
3 warrants have heretofore been, or shall hereafter be, drawn
4 upon the treasury by the Chief Financial Officer ~~Comptroller~~
5 shall be filed and deposited in the office of Chief Financial
6 Officer ~~Comptroller~~ or the office of the Chief Financial
7 Officer's ~~Comptroller's~~ designee, in accordance with
8 requirements established by the Secretary of State.

9 Section 36. Effective January 7, 2003, section 17.09,
10 Florida Statutes, is amended to read:

11 17.09 Application for warrants for salaries.--All
12 public officers who are entitled to salaries in this state,
13 shall make their application for warrants in writing, stating
14 for what terms and the amount they claim, which written
15 application shall be filed by the Chief Financial Officer
16 ~~Comptroller~~ as vouchers for the warrants issued thereupon.

17 Section 37. Effective January 7, 2003, section 17.10,
18 Florida Statutes, is amended to read:

19 17.10 Record of warrants issued.--The Chief Financial
20 Officer ~~Comptroller~~ shall cause to be entered in the warrant
21 register a record of the warrants issued during the previous
22 month, and shall make such entry in the record so required to
23 be kept as shall show the number of each warrant issued, in
24 whose favor drawn, and the date it was issued.

25 Section 38. Effective January 7, 2003, section 17.11,
26 Florida Statutes, is amended to read:

27 17.11 To report disbursements made.--

28 (1) The Chief Financial Officer ~~Comptroller~~ shall make
29 in all his or her future annual reports an exhibit stated from
30 the record of disbursements made during the fiscal year, and
31

1 the several heads of expenditures under which such
2 disbursements were made.

3 (2) The Chief Financial Officer ~~Comptroller~~ shall also
4 cause to have reported from the Florida Accounting Information
5 Resource Subsystem no less than quarterly the disbursements
6 which agencies made to small businesses, as defined in the
7 Florida Small and Minority Business Assistance Act of 1985; to
8 certified minority business enterprises in the aggregate; and
9 to certified minority business enterprises broken down into
10 categories of minority persons, as well as gender and
11 nationality subgroups. This information shall be made
12 available to the agencies, the Office of Supplier Diversity,
13 the Governor, the President of the Senate, and the Speaker of
14 the House of Representatives. Each agency shall be responsible
15 for the accuracy of information entered into the Florida
16 Accounting Information Resource Subsystem for use in this
17 reporting.

18 Section 39. Effective January 7, 2003, section 17.12,
19 Florida Statutes, is amended to read:

20 17.12 Authorized to issue warrants to tax collector or
21 sheriff for payment.--Whenever it shall appear to the
22 satisfaction of the Chief Financial Officer ~~Comptroller~~ of
23 this state from examination of the books of his or her office
24 that the tax collector or the sheriff for any county in this
25 state has paid into the State Treasury, through mistake or
26 otherwise, a larger or greater sum than is actually due from
27 said collector or sheriff, then the Chief Financial Officer
28 ~~Comptroller~~ may issue a warrant to said collector or sheriff
29 for the sum so found to be overpaid.

30 Section 40. Effective January 7, 2003, section 17.13,
31 Florida Statutes, is amended to read:

1 17.13 To duplicate warrants lost or destroyed.--
2 (1) The Chief Financial Officer ~~Comptroller~~ is
3 required to duplicate any ~~Comptroller's~~ warrants that may have
4 been lost or destroyed, or may hereafter be lost or destroyed,
5 upon the owner thereof or the owner's agent or attorney
6 presenting the Chief Financial Officer ~~Comptroller~~ the
7 statement, under oath, reciting the number, date, and amount
8 of any warrant or the best and most definite description in
9 his or her knowledge and the circumstances of its loss; if the
10 Chief Financial Officer ~~Comptroller~~ deems it necessary, the
11 owner or the owner's agent or attorney shall file in the
12 office of the Chief Financial Officer ~~Comptroller~~ a surety
13 bond, or a bond with securities, to be approved by one of the
14 judges of the circuit court or one of the justices of the
15 Supreme Court, in a penalty of not less than twice the amount
16 of any warrants so duplicated, conditioned to indemnify the
17 state and any innocent holders thereof from any damages that
18 may accrue from such duplication.
19 (2) The Chief Financial Officer ~~Comptroller~~ is
20 required to duplicate any ~~Comptroller's~~ warrant that may have
21 been lost or destroyed, or may hereafter be lost or destroyed,
22 when sent to any payee via any state agency when such warrant
23 is lost or destroyed prior to being received by the payee and
24 provided the director of the state agency to whom the warrant
25 was sent presents to the Chief Financial Officer ~~Comptroller~~ a
26 statement, under oath, reciting the number, date, and amount
27 of the warrant lost or destroyed, the circumstances
28 surrounding the loss or destruction of such warrant, and any
29 additional information that the Chief Financial Officer
30 ~~Comptroller~~ shall request in regard to such warrant.
31

1 (3) Any duplicate Chief Financial Officer's
2 ~~Comptroller's~~ warrant issued in pursuance of the above
3 provisions shall be of the same validity as the original was
4 before its loss.

5 Section 41. Effective January 7, 2003, section 17.14,
6 Florida Statutes, is amended to read:

7 17.14 To prescribe forms.--The Chief Financial Officer
8 ~~Department of Banking and Finance~~ may prescribe the forms of
9 all papers, vouchers, reports and returns and the manner of
10 keeping the accounts and papers to be used by the officers of
11 this state or other persons having accounts, claims, or
12 demands against the state or entrusted with the collection of
13 any of the revenue thereof or any demand due the same, which
14 form shall be pursued by such officer or other persons.

15 Section 42. Effective January 7, 2003, section 17.16,
16 Florida Statutes, is amended to read:

17 17.16 Seal.--The seal of office of the Chief Financial
18 Officer ~~Comptroller~~ of the state shall be the same as the seal
19 heretofore used for the Comptroller ~~that purpose~~.

20 Section 43. Effective January 7, 2003, section 17.17,
21 Florida Statutes, is amended to read:

22 17.17 Examination by Governor and report.--The office
23 of Chief Financial Officer ~~Comptroller~~ of the state, and the
24 books, files, documents, records, and papers shall always be
25 subject to the examination of the Governor of this state, or
26 any person the Governor may authorize to examine the same; and
27 on the first day of January of each and every year, or oftener
28 if called for by the Governor, the Chief Financial Officer
29 ~~Comptroller~~ shall make a full report of all his or her
30 official acts and proceedings for the last fiscal year to the
31 Governor, to be laid before the Legislature with the

1 Governor's message, and shall make such further report as the
2 constitution may require.

3 Section 44. Effective January 7, 2003, section 17.20,
4 Florida Statutes, is amended to read:

5 17.20 Assignment of claims for collection.--

6 (1) The Chief Financial Officer ~~Department of Banking~~
7 ~~and Finance~~ shall charge the state attorneys with the
8 collection of all claims that are placed in their hands for
9 collection of money or property for the state or any county or
10 special district, or that he or she ~~it~~ otherwise requires them
11 to collect. The charges are evidence of indebtedness of a
12 state attorney against whom any charge is made for the full
13 amount of the claim, until the charges have been collected and
14 paid into the treasury of the state or of the county or
15 special district or the legal remedies of the state have been
16 exhausted, or until the state attorney demonstrates to the
17 Chief Financial Officer ~~department~~ that the failure to collect
18 the charges is not due to negligence and the Chief Financial
19 Officer ~~department~~ has made a proper entry of satisfaction of
20 the charge against the state attorney.

21 (2) The Chief Financial Officer ~~department~~ may assign
22 the collection of any claim to a collection agent who is
23 registered and in good standing pursuant to chapter 559, if
24 the Chief Financial Officer ~~department~~ determines the
25 assignation to be cost-effective. The Chief Financial Officer
26 ~~department~~ may pay an agent from any amount collected under
27 the claim a fee that the Chief Financial Officer ~~department~~
28 and the agent have agreed upon; may authorize the agent to
29 deduct the fee from the amount collected; may require the
30 appropriate state agency, county, or special district to pay
31 the agent the fee from any amount collected by the agent on

1 its behalf; or may authorize the agent to add the fee to the
2 amount to be collected.

3 (3) Notwithstanding any other provision of law, in any
4 contract providing for the location or collection of unclaimed
5 property, the Chief Financial Officer ~~department~~ may authorize
6 the contractor to deduct its fees and expenses for services
7 provided under the contract from the unclaimed property that
8 the contractor has recovered or collected under the contract.
9 The Chief Financial Officer ~~department~~ shall annually report
10 to the Governor, President of the Senate, and the Speaker of
11 the House of Representatives the total amount collected or
12 recovered by each contractor during the previous fiscal year
13 and the total fees and expenses deducted by each contractor.

14 Section 45. Effective January 7, 2003, section 17.21,
15 Florida Statutes, is amended to read:

16 17.21 Not to allow any claim of state attorney against
17 state until report made.--The Chief Financial Officer
18 ~~Comptroller~~ shall not audit or allow any claim which any state
19 attorney may have against the state for services who shall
20 fail to make any report which by law the state attorney is
21 required to make to the Chief Financial Officer ~~Comptroller~~ of
22 claims of the state which it is his or her duty to collect.

23 Section 46. Effective January 7, 2003, section 17.22,
24 Florida Statutes, is amended to read:

25 17.22 Notice to Department of Legal Affairs.--Whenever
26 the Chief Financial Officer ~~Department of Banking and Finance~~
27 forwards any bond or account or claim for suit to any state
28 attorney, he or she ~~it~~ shall advise the Department of Legal
29 Affairs of the fact, giving it the amount of the claim and
30 other necessary particulars for its full information upon the
31 subject.

1 Section 47. Effective January 7, 2003, section 17.25,
2 Florida Statutes, is amended to read:

3 17.25 May certify copies.--The Chief Financial Officer
4 ~~Comptroller~~ of this state may certify, under his or her seal
5 of office, copies of any record, paper, or document, by law
6 placed in the Chief Financial Officer's ~~Comptroller's~~ custody,
7 keeping, and care; and such certified copy shall have the same
8 force and effect as evidence as the original would have.

9 Section 48. Effective January 7, 2003, subsections (1)
10 and (3) of section 17.26, Florida Statutes, are amended to
11 read:

12 17.26 Cancellation of state warrants not presented
13 within 1 year.--

14 (1) If any state warrant issued by the Chief Financial
15 Officer ~~Comptroller~~ against any fund in the State Treasury is
16 not presented for payment within 1 year after the last day of
17 the month in which it was originally issued, the Chief
18 Financial Officer ~~Comptroller~~ may cancel the warrant and
19 credit the amount of the warrant to the fund upon which it is
20 drawn. If the warrant so canceled was issued against a fund
21 that is no longer operative, the amount of the warrant shall
22 be credited to the General Revenue Fund. The Chief Financial
23 Officer ~~Treasurer~~ shall not honor any state warrant after it
24 has been canceled.

25 (3) When a warrant canceled under subsection (1)
26 represents funds that are in whole or in part derived from
27 federal contributions and disposition of the funds under
28 chapter 717 would cause a loss of the federal contributions,
29 the Governor shall certify to the Chief Financial Officer
30 ~~Comptroller~~ that funds represented by such warrants are for
31 that reason exempt from treatment as unclaimed property.

1 Obligations represented by warrants are unenforceable after 1
2 year from the last day of the month in which the warrant was
3 originally issued. An action may not be commenced thereafter
4 on the obligation unless authorized by the federal program
5 from which the original warrant was funded and unless payment
6 of the obligation is authorized to be made from the current
7 federal funding. When a payee or person entitled to a warrant
8 subject to this paragraph requests payment, and payment from
9 current federal funding is authorized by the federal program
10 from which the original warrant was funded, the Chief
11 Financial Officer ~~Comptroller~~ may, upon investigation, issue a
12 new warrant to be paid out of the proper fund in the State
13 Treasury, provided the payee or other person executes under
14 oath the statement required by s. 17.13 or surrenders the
15 canceled warrant.

16 Section 49. Effective January 7, 2003, subsections
17 (1), (2), and (3) of section 17.27, Florida Statutes, are
18 amended to read:

19 17.27 Microfilming and destroying records and
20 correspondence.--

21 (1) The Chief Financial Officer ~~Department of Banking~~
22 ~~and Finance~~ may destroy general correspondence files and also
23 any other records which he or she ~~the department~~ may deem no
24 longer necessary to preserve in accordance with retention
25 schedules and destruction notices established under rules of
26 the Division of Library and Information Services, records and
27 information management program, of the Department of State.
28 Such schedules and notices relating to financial records of
29 the Chief Financial Officer ~~department~~ shall be subject to the
30 approval of the Auditor General.

31

1 (2) The Chief Financial Officer ~~Department of Banking~~
2 ~~and Finance~~ may photograph, microphotograph, or reproduce on
3 film such documents and records as he or she ~~it~~ may select, in
4 such manner that each page will be exposed in exact conformity
5 with the original.

6 (3) The Chief Financial Officer ~~Department of Banking~~
7 ~~and Finance~~ may destroy any of said documents after they have
8 been photographed and filed in accordance with the provisions
9 of subsection (1).

10 Section 50. Effective January 7, 2003, section 17.28,
11 Florida Statutes, is amended to read:

12 17.28 ~~Comptroller may authorize~~ Biweekly salary
13 payments.--The Chief Financial Officer ~~Comptroller~~ is
14 authorized and may permit biweekly salary payments to
15 personnel upon written request by a specific state agency.
16 The Chief Financial Officer ~~Comptroller~~ shall promulgate
17 reasonable rules and regulations to carry out the intent of
18 this section.

19 Section 51. Effective January 7, 2003, section 17.29,
20 Florida Statutes, is amended to read:

21 17.29 Authority to prescribe rules.--The Chief
22 Financial Officer ~~Comptroller~~ has authority to adopt rules
23 pursuant to ss. 120.54 and 120.536(1) to implement duties
24 assigned by statute or the State Constitution. Such rules may
25 include, but are not limited to, the following:

26 (1) Procedures or policies relating to the processing
27 of payments from salaries, other personal services, or any
28 other applicable appropriation.

29 (2) Procedures for processing interagency and
30 intraagency payments which do not require the issuance of a
31 state warrant.

1 Section 52. Effective January 7, 2003, section 17.30,
2 Florida Statutes, is amended to read:

3 17.30 Dissemination of information.--The Chief
4 Financial Officer ~~Comptroller~~ may disseminate, in any form or
5 manner he or she considers appropriate, information regarding
6 the Chief Financial Officer's ~~Comptroller's~~ official duties.

7 Section 53. Effective January 7, 2003, subsection (1)
8 of section 17.32, Florida Statutes, is amended to read:

9 17.32 Annual report of trust funds; ~~duties of~~
10 ~~Comptroller~~.--

11 (1) On February 1 of each year, the Chief Financial
12 Officer ~~Comptroller~~ shall present to the President of the
13 Senate and the Speaker of the House of Representatives a
14 report listing all trust funds as defined in s. 215.32. The
15 report shall contain the following data elements for each fund
16 for the preceding fiscal year:

17 (a) The fund code.

18 (b) The title.

19 (c) The fund type according to generally accepted
20 accounting principles.

21 (d) The statutory authority.

22 (e) The beginning cash balance.

23 (f) Direct revenues.

24 (g) Nonoperating revenues.

25 (h) Operating disbursements.

26 (i) Nonoperating disbursements.

27 (j) The ending cash balance.

28 (k) The department and budget entity in which the fund
29 is located.

30

31

1 Section 54. Effective January 7, 2003, subsections
2 (1), (2), (3), and (5) of section 17.325, Florida Statutes,
3 are amended to read:

4 17.325 Governmental efficiency hotline; ~~duties of~~
5 ~~Comptroller~~.--

6 (1) ~~By September 1, 1992,~~The Chief Financial Officer
7 ~~Comptroller~~ shall ~~establish and~~ operate a statewide toll-free
8 telephone hotline to receive information or suggestions from
9 the citizens of this state on how to improve the operation of
10 government, increase governmental efficiency, and eliminate
11 waste in government. The Chief Financial Officer ~~Comptroller~~
12 shall report each month to the Appropriations Committee of the
13 House of Representatives and of the Senate the information or
14 suggestions received through the hotline and the evaluations
15 and determinations made by the affected agency, as provided in
16 subsection (3), with respect to such information or
17 suggestions.

18 (2) The Chief Financial Officer ~~Comptroller~~ shall
19 operate the hotline 24 hours a day. The Chief Financial
20 Officer ~~Comptroller~~ shall advertise the availability of the
21 hotline in newspapers of general circulation in this state and
22 shall provide for the posting of notices in conspicuous places
23 in state agency offices, city halls, county courthouses, and
24 places in which there is exposure to significant numbers of
25 the general public, including, but not limited to, local
26 convenience stores, shopping malls, shopping centers, gasoline
27 stations, or restaurants. The Chief Financial Officer
28 ~~Comptroller~~ shall use the slogan "Tell us where we can 'Get
29 Lean'" for the hotline and in advertisements for the hotline.

30 (3) Each telephone call on the hotline shall be
31 received by the office of the Chief Financial Officer

1 ~~Comptroller~~, and that ~~the~~ office of ~~the Comptroller~~ shall
2 conduct an evaluation to determine if it is appropriate for
3 the telephone call to be processed as a "Get Lean" telephone
4 call. If it is determined that the telephone call should be
5 processed as a "Get Lean" telephone call, a record of each
6 suggestion or item of information received shall be entered
7 into a log kept by the Chief Financial Officer ~~Comptroller~~. A
8 caller on the hotline may remain anonymous, and, if the caller
9 provides his or her name, the name shall be confidential. If
10 a caller discloses that he or she is a state employee, the
11 Chief Financial Officer ~~Comptroller~~, in addition to
12 maintaining a record as required by this section, may refer
13 any information or suggestion from the caller to an existing
14 state awards program administered by the affected agency. The
15 affected agency shall conduct a preliminary evaluation of the
16 efficacy of any suggestion or item of information received
17 through the hotline and shall provide the Chief Financial
18 Officer ~~Comptroller~~ with a preliminary determination of the
19 amount of revenues the state might save by implementing the
20 suggestion or making use of the information.

21 (5) The Chief Financial Officer ~~Comptroller~~ shall
22 adopt any rule necessary to implement the establishment,
23 operation, and advertisement of the hotline.

24 Section 55. Effective January 7, 2003, subsection (1)
25 of section 17.41, Florida Statutes, is amended to read:

26 17.41 Chief Financial Officer's ~~Department of Banking~~
27 ~~and Finance~~ Tobacco Settlement Clearing Trust Fund.--

28 (1) The Chief Financial Officer's ~~Department of~~
29 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund is
30 created within that office ~~department~~.

31

1 Section 56. Effective January 7, 2003, subsection (1)
2 of section 17.43, Florida Statutes, is amended to read:

3 17.43 ~~Comptroller's~~ Federal Equitable Sharing Trust
4 Fund.--

5 (1) The ~~Comptroller's~~ Federal Equitable Sharing Trust
6 Fund is created within the Department of Insurance and
7 Financial Services ~~Department of Banking and Finance~~. The
8 department may deposit into the trust fund receipts and
9 revenues received as a result of federal criminal,
10 administrative, or civil forfeiture proceedings and receipts
11 and revenues received from federal asset-sharing programs. The
12 trust fund is exempt from the service charges imposed by s.
13 215.20.

14 Section 57. Effective January 7, 2003, section 18.01,
15 Florida Statutes, is amended to read:

16 18.01 Oath and certificate of Chief Financial Officer
17 ~~Treasurer~~--The Chief Financial Officer ~~Treasurer~~ shall,
18 within 10 days before he or she enters upon the duties of
19 office, take and subscribe an oath or affirmation faithfully
20 to discharge the duties of office, which oath or affirmation
21 must be deposited with the Department of State. The Chief
22 Financial Officer ~~Treasurer~~ shall also file with the
23 Department of State a certificate ~~from the Comptroller~~
24 attesting that the retiring Chief Financial Officer ~~Treasurer~~
25 has turned over vouchers for all payments made as required by
26 law, and that the Chief Financial Officer's ~~Treasurer's~~
27 account has been truly credited with the same, and that he or
28 she has filed receipts from his or her successor for all
29 vouchers paid since the end of last quarter, and for balance
30 of cash, and for all bonds and other securities held by the
31 Chief Financial Officer ~~Treasurer~~ as such, and a certificate

1 from each board of which he or she is made by law ex officio
2 treasurer, that he or she has satisfactorily accounted to such
3 board as its treasurer.

4 Section 58. Effective January 7, 2003, section 18.02,
5 Florida Statutes, is amended to read:

6 18.02 Moneys paid on warrants.--The Chief Financial
7 Officer ~~Treasurer~~ shall pay all warrants on the treasury drawn
8 by the Chief Financial Officer ~~Comptroller~~ and other orders by
9 the Chief Financial Officer ~~Comptroller~~ for the disbursement
10 of state funds by electronic means or by means of a magnetic
11 tape or any other transfer medium. No moneys shall be paid
12 out of the treasury except on such warrants or other orders of
13 the Chief Financial Officer ~~Comptroller~~.

14 Section 59. Effective January 7, 2003, section 18.021,
15 Florida Statutes, is amended to read:

16 18.021 ~~Treasurer to operate~~ Personal check-cashing
17 service.--

18 (1) The Chief Financial Officer ~~Treasurer~~ is
19 authorized to operate a personal check-cashing service or a
20 remote financial service unit at the capitol for the benefit
21 of state employees or other responsible persons who properly
22 identify themselves.

23 (2) If a personal check is dishonored or a state
24 warrant is forged and the Chief Financial Officer ~~Treasurer~~
25 has made diligent but unsuccessful effort to collect and has
26 forwarded the returned check for prosecution by the
27 appropriate state attorney, then he or she may include such
28 amount in his or her budget request to be considered during
29 the next legislative session.

30 Section 60. Effective January 7, 2003, section 18.05,
31 Florida Statutes, is amended to read:

1 18.05 Annual report to Governor.--The Chief Financial
2 Officer ~~Treasurer~~ shall make a report in detail to the
3 Governor as soon after the 1st day of July of each year as it
4 is practicable to prepare same of the transactions of his or
5 her office for the preceding fiscal year, embracing a
6 statement of the receipts and payments on account of each of
7 the several funds of which he or she has the care and custody.

8 Section 61. Effective January 7, 2003, section 18.06,
9 Florida Statutes, is amended to read:

10 18.06 Examination by and monthly statements to the
11 Governor.--~~The office of the Treasurer of this state, and the~~
12 ~~books, files, documents, records, and papers thereof, shall~~
13 ~~always be subject to the examination of the Governor of the~~
14 ~~state, or any person he or she may authorize to examine same.~~
15 The Chief Financial Officer ~~Treasurer~~ shall exhibit to the
16 Governor monthly a trial balance sheet from his or her books
17 and a statement of all the credits, moneys, or effects on hand
18 on the day for which said trial balance sheet is made, and
19 said statement accompanying said trial balance sheet shall
20 particularly describe the exact character of funds, credits,
21 and securities, and shall state in detail the amount which he
22 or she may have representing cash, including any not yet
23 entered upon the books of his or her office, and such
24 statement shall be certified and signed by the Chief Financial
25 Officer ~~Treasurer~~ officially.

26 Section 62. Effective January 7, 2003, section 18.07,
27 Florida Statutes, is amended to read:

28 18.07 ~~Treasurer to keep~~ Record of warrants and of
29 state funds and securities.--The Chief Financial Officer
30 ~~Treasurer~~ shall keep a record of the warrants or other orders
31

1 ~~paid from the Treasury of the Comptroller which the Treasurer~~
2 ~~pays~~ and shall account for all state funds and securities.

3 Section 63. Effective January 7, 2003, section 18.09,
4 Florida Statutes, is amended to read:

5 18.09 Delivery to Legislature.--The Chief Financial
6 Officer ~~Treasurer~~ shall deliver to the Legislature each year a
7 copy of the annual report described in s. 18.05.

8 Section 64. Effective January 7, 2003, section 18.091,
9 Florida Statutes, is amended to read:

10 18.091 Legislative sessions; additional employees.--

11 (1) Hereafter during any period of time the
12 Legislature of Florida may be in actual session, the Chief
13 Financial Officer ~~Treasurer~~ is empowered to employ additional
14 persons to assist in performing the services required of the
15 Chief Financial Officer ~~Treasurer~~ in connection with s.
16 18.021(1). The salaries to be paid such employees of the Chief
17 Financial Officer ~~Treasurer~~ shall not be in excess of the
18 highest salary paid by the House of Representatives or the
19 state Senate for secretarial services; and the salaries for
20 said employees shall begin with the convening of the
21 Legislature in session and shall continue for not more than 7
22 days after the close of the legislative session; provided,
23 that recesses of the Legislature not in excess of 3 days shall
24 be considered as time during which the Legislature is actually
25 in session.

26 (2) In addition to the regular annual appropriations
27 for the Chief Financial Officer ~~Treasurer~~, there is hereby
28 appropriated for use of the Chief Financial Officer ~~Treasurer~~
29 from the General Revenue Fund, from time to time as necessary,
30 sufficient sums to pay the salaries of the above-described
31 employees of the Chief Financial Officer ~~Treasurer~~.

1 Section 65. Effective January 7, 2003, subsections
2 (1), (2), and (6) of section 18.10, Florida Statutes, are
3 amended to read:

4 18.10 Deposits and investments of state money.--

5 (1) The Chief Financial Officer ~~Treasurer~~, or other
6 parties with the permission of the Chief Financial Officer
7 ~~Treasurer~~, shall deposit the money of the state or any money
8 in the State Treasury in such qualified public depositories of
9 the state as will offer satisfactory collateral security for
10 such deposits, pursuant to chapter 280. It is the duty of the
11 Chief Financial Officer ~~Treasurer~~, consistent with the cash
12 requirements of the state, to keep such money fully invested
13 or deposited as provided herein in order that the state may
14 realize maximum earnings and benefits.

15 (2) The Chief Financial Officer ~~Treasurer~~ shall make
16 funds available to meet the disbursement needs of the state.
17 Funds which are not needed for this purpose shall be placed in
18 qualified public depositories that will pay rates established
19 by the Chief Financial Officer ~~Treasurer~~ at levels not less
20 than the prevailing rate for United States Treasury securities
21 with a corresponding maturity. In the event money is available
22 for interest-bearing time deposits or savings accounts as
23 provided herein and qualified public depositories are
24 unwilling to accept such money and pay thereon the rates
25 established above, then such money which qualified public
26 depositories are unwilling to accept shall be invested in:

27 (a) Direct United States Treasury obligations.

28 (b) Obligations of the Federal Farm Credit Banks.

29 (c) Obligations of the Federal Home Loan Bank and its
30 district banks.

31

- 1 (d) Obligations of the Federal Home Loan Mortgage
2 Corporation, including participation certificates.
- 3 (e) Obligations guaranteed by the Government National
4 Mortgage Association.
- 5 (f) Obligations of the Federal National Mortgage
6 Association.
- 7 (g) Commercial paper of prime quality of the highest
8 letter and numerical rating as provided for by at least one
9 nationally recognized rating service.
- 10 (h) Time drafts or bills of exchange drawn on and
11 accepted by a commercial bank, otherwise known as "bankers
12 acceptances," which are accepted by a member bank of the
13 Federal Reserve System having total deposits of not less than
14 \$400 million or which are accepted by a commercial bank which
15 is not a member of the Federal Reserve System with deposits of
16 not less than \$400 million and which is licensed by a state
17 government or the Federal Government, and whose senior debt
18 issues are rated in one of the two highest rating categories
19 by a nationally recognized rating service and which are held
20 in custody by a domestic bank which is a member of the Federal
21 Reserve System.
- 22 (i) Corporate obligations or corporate master notes of
23 any corporation within the United States, if the long-term
24 obligations of such corporation are rated by at least two
25 nationally recognized rating services in any one of the four
26 highest classifications. However, if such obligations are
27 rated by only one nationally recognized rating service, then
28 the obligations shall be rated in any one of the two highest
29 classifications.
- 30 (j) Obligations of the Student Loan Marketing
31 Association.

1 (k) Obligations of the Resolution Funding Corporation.
2 (l) Asset-backed or mortgage-backed securities of the
3 highest credit quality.

4 (m) Any obligations not previously listed which are
5 guaranteed as to principal and interest by the full faith and
6 credit of the United States Government or are obligations of
7 United States agencies or instrumentalities which are rated in
8 the highest category by a nationally recognized rating
9 service.

10 (n) Commingled no-load investment funds or no-load
11 mutual funds in which all securities held by the funds are
12 authorized in this subsection.

13 (o) Money market mutual funds as defined and regulated
14 by the Securities and Exchange Commission.

15 (p) Obligations of state and local governments rated
16 in any of the four highest classifications by at least two
17 nationally recognized rating services. However, if such
18 obligations are rated by only one nationally recognized rating
19 service, then the obligations shall be rated in any one of the
20 two highest classifications.

21 (q) Derivatives of investment instruments authorized
22 in paragraphs (a)-(m).

23 (r) Covered put and call options on investment
24 instruments authorized in this subsection for the purpose of
25 hedging transactions by investment managers to mitigate risk
26 or to facilitate portfolio management.

27 (s) Negotiable certificates of deposit issued by
28 financial institutions whose long-term debt is rated in one of
29 the three highest categories by at least two nationally
30 recognized rating services, the investment in which shall not
31 be prohibited by any provision of chapter 280.

1 (t) Foreign bonds denominated in United States dollars
2 and registered with the Securities and Exchange Commission for
3 sale in the United States, if the long-term obligations of
4 such issuers are rated by at least two nationally recognized
5 rating services in any one of the four highest
6 classifications. However, if such obligations are rated by
7 only one nationally recognized rating service, the obligations
8 shall be rated in any one of the two highest classifications.

9 (u) Convertible debt obligations of any corporation
10 domiciled within the United States, if the convertible debt
11 issue is rated by at least two nationally recognized rating
12 services in any one of the four highest classifications.
13 However, if such obligations are rated by only one nationally
14 recognized rating service, then the obligations shall be rated
15 in any one of the two highest classifications.

16 (v) Securities not otherwise described in this
17 subsection. However, not more than 3 percent of the funds
18 under the control of the Chief Financial Officer ~~Treasurer~~
19 shall be invested in securities described in this paragraph.

20
21 These investments may be in varying maturities and may be in
22 book-entry form. Investments made pursuant to this subsection
23 may be under repurchase agreement. The Chief Financial Officer
24 ~~Treasurer~~ is authorized to hire registered investment advisers
25 and other consultants to assist in investment management and
26 to pay fees directly from investment earnings. Investment
27 securities, proprietary investment services related to
28 contracts, performance evaluation services, investment-related
29 equipment or software used directly to assist investment
30 trading or investment accounting operations including bond
31 calculators, telerates, Bloomborgs, special program

1 calculators, intercom systems, and software used in
2 accounting, communications, and trading, and advisory and
3 consulting contracts made under this section are exempt from
4 the provisions of chapter 287.

5 (6) The Chief Financial Officer ~~Treasurer~~ is
6 designated the cash management officer for the state and is
7 charged with the coordination and supervision of procedures
8 providing for the efficient handling of financial assets under
9 the control of the State Treasury and each of the various
10 state agencies, and of the judicial branch, as defined in s.
11 216.011. This responsibility shall include the supervision
12 and approval of all banking relationships. Pursuant to this
13 responsibility, the Chief Financial Officer ~~Treasurer~~ is
14 authorized to obtain information from financial institutions
15 regarding depository accounts maintained by any agency or
16 institution of the State of Florida.

17 Section 66. Effective January 7, 2003, section 18.101,
18 Florida Statutes, is amended to read:

19 18.101 Deposits of public money outside the State
20 Treasury; revolving funds.--

21 (1) All moneys collected by state agencies, boards,
22 bureaus, commissions, institutions, and departments shall,
23 except as otherwise provided by law, be deposited in the State
24 Treasury. However, when the volume and complexity of
25 collections so justify, the Chief Financial Officer ~~Treasurer~~
26 may give written approval for such moneys to be deposited in
27 clearing accounts outside the State Treasury in qualified
28 public depositories pursuant to chapter 280. Such deposits
29 shall only be made in depositories designated by the Chief
30 Financial Officer ~~Treasurer~~. No money may be maintained in
31 such clearing accounts for a period longer than approved by

1 the Chief Financial Officer ~~Treasurer~~ or 40 days, whichever is
2 shorter, prior to its being transmitted to the Chief Financial
3 Officer ~~Treasurer~~ or to an account designated by him or her,
4 distributed to a statutorily authorized account outside the
5 State Treasury, refunded, or transmitted to the Department of
6 Revenue. All depositories so designated shall pledge
7 sufficient collateral to be security for such funds as
8 provided in chapter 280.

9 (2) Revolving funds authorized by the Chief Financial
10 Officer ~~Comptroller~~ for all state agencies, boards, bureaus,
11 commissions, institutions, and departments may be deposited by
12 such agencies, boards, bureaus, commissions, institutions, and
13 departments in qualified public depositories designated by the
14 Chief Financial Officer ~~Treasurer~~ for such revolving fund
15 deposits; and the depositories in which such deposits are made
16 shall pledge collateral security as provided in chapter 280.

17 (3) Notwithstanding the foregoing provisions, clearing
18 and revolving accounts may be established outside the state
19 when necessary to facilitate the authorized operations of any
20 agency, board, bureau, commission, institution, or department.
21 Any of such accounts established in the United States shall be
22 subject to the collateral security requirements of chapter
23 280. Accounts established outside the United States may be
24 exempted from the requirements of chapter 280 as provided in
25 chapter 280; but before any unsecured account is established,
26 the agency requesting or maintaining the account shall
27 recommend a financial institution to the Chief Financial
28 Officer ~~Treasurer~~ for designation to hold the account and
29 shall submit evidence of the financial condition, size,
30 reputation, and relative prominence of the institution from
31 which the Chief Financial Officer ~~Treasurer~~ can reasonably

1 conclude that the institution is financially sound before
2 designating it to hold the account.
3 (4) Each department shall furnish a statement to the
4 Chief Financial Officer ~~Treasurer~~, on or before the 20th of
5 the month following the end of each calendar quarter, listing
6 each clearing account and revolving fund within that
7 department's jurisdiction. Such statement shall report, as of
8 the last day of the calendar quarter, the cash balance in each
9 revolving fund and that portion of the cash balance in each
10 clearing account that will eventually be deposited to the
11 State Treasury as provided by law. The Chief Financial
12 Officer ~~Treasurer~~ shall show the sum total of state funds in
13 clearing accounts and revolving funds, as most recently
14 reported to the Chief Financial Officer ~~Treasurer~~ by various
15 departments, in his or her monthly statement to the Governor,
16 pursuant to s. 18.06.

17 Section 67. Effective January 7, 2003, section 18.103,
18 Florida Statutes, is amended to read:

19 18.103 Safekeeping services ~~of Treasurer~~.--

20 (1) The Chief Financial Officer ~~Treasurer~~ may accept
21 for safekeeping purposes, deposits of cash, securities, and
22 other documents or articles of value from any state agency as
23 defined in s. 216.011, or any county, city, or political
24 subdivision thereof, or other public authority.

25 (2) The Chief Financial Officer ~~Treasurer~~ may, in his
26 or her discretion, establish a fee for processing, servicing,
27 and safekeeping deposits and other documents or articles of
28 value held in the Chief Financial Officer's ~~Treasurer's~~ vaults
29 as requested by the various entities or as provided for by
30 law. Such fee shall be equivalent to the fee charged by
31 financial institutions for processing, servicing, and

1 safekeeping the same types of deposits and other documents or
2 articles of value.

3 (3) The Chief Financial Officer ~~Treasurer~~ shall
4 collect in advance, and persons so served shall pay to the
5 Chief Financial Officer ~~Treasurer~~ in advance, the
6 miscellaneous charges as follows:

7 (a) For copies of documents or records on file with
8 the Chief Financial Officer ~~Treasurer~~, per page.....\$.50.

9 (b) For each certificate of the Chief Financial
10 Officer ~~Treasurer~~, certified or under the Chief Financial
11 Officer's ~~Treasurer's~~ seal, authenticating any document or
12 other instrument.....\$.50.

13 (4) All fees collected for the services described in
14 this section shall be deposited in the Chief Financial
15 Officer's ~~Treasurer's~~ Administrative and Investment Trust
16 Fund.

17 Section 68. Effective January 7, 2003, section 18.125,
18 Florida Statutes, is amended to read:

19 18.125 ~~Treasurer's powers and duties in the~~ Investment
20 of certain funds.--

21 (1) The Chief Financial Officer ~~Treasurer~~, acting with
22 the approval of a majority of the State Board of
23 Administration, shall invest all general revenue funds and all
24 the trust funds and all agency funds of each state agency, and
25 of the judicial branch, as defined in s. 216.011, and may,
26 upon request, invest funds of any statutorily created board,
27 association, or entity, except for the funds required to be
28 invested pursuant to ss. 215.44-215.53, by the procedure and
29 in the authorized securities prescribed in s. 18.10; for this
30 purpose, the Chief Financial Officer ~~Treasurer~~ shall be
31 authorized to open and maintain one or more demand and

1 safekeeping accounts in any bank or savings association for
2 the investment and reinvestment and the purchase, sale, and
3 exchange of funds and securities in the accounts. Funds in
4 such accounts used solely for investments and reinvestments
5 shall be considered investment funds and not funds on deposit,
6 and such funds shall be exempt from the provisions of chapter
7 280. In addition, the securities or investments purchased or
8 held under the provisions of this section and s. 18.10 may be
9 loaned to securities dealers and banks and may be registered
10 by the Chief Financial Officer ~~Treasurer~~ in the name of a
11 third-party nominee in order to facilitate such loans,
12 provided the loan is collateralized by cash or United States
13 government securities having a market value of at least 100
14 percent of the market value of the securities loaned. The
15 Chief Financial Officer ~~Treasurer~~ shall keep a separate
16 account, designated by name and number, of each fund.
17 Individual transactions and totals of all investments, or the
18 share belonging to each fund, shall be recorded in the
19 accounts.

20 (2) By and with the consent and approval of any
21 constitutional board, the judicial branch, or agency now
22 having the constitutional power to make investments and in
23 accordance with this section, the Chief Financial Officer
24 ~~Treasurer~~ shall have the power to make purchases, sales,
25 exchanges, investments, and reinvestments for and on behalf of
26 any such board.

27 (3)(a) It is the duty of each state agency, and of the
28 judicial branch, now or hereafter charged with the
29 administration of the funds referred to in subsection (1) to
30 make such moneys available for investment as fully as is
31 consistent with the cash requirements of the particular fund

1 and to authorize investment of such moneys by the Chief
2 Financial Officer ~~Treasurer~~.

3 (b) Monthly, and more often as circumstances require,
4 such agency or judicial branch shall notify the Chief
5 Financial Officer ~~Treasurer~~ of the amount available for
6 investment; and the moneys shall be invested by the Chief
7 Financial Officer ~~Treasurer~~. Such notification shall include
8 the name and number of the fund for which the investments are
9 to be made and the life of the investment if the principal sum
10 is to be required for meeting obligations. This subsection,
11 however, shall not be construed to make available for
12 investment any funds other than those referred to in
13 subsection (1).

14 (4)(a) There is hereby created in the State Treasury
15 the Chief Financial Officer's ~~Treasurer's~~ Administrative and
16 Investment Trust Fund.

17 (b) The Chief Financial Officer ~~Treasurer~~ shall make
18 an annual assessment of 0.12 percent against the average daily
19 balance of those moneys made available pursuant to this
20 section and 0.2 percent against the average daily balance of
21 those funds requiring investment in a separate account. The
22 proceeds of this assessment shall be deposited in the Chief
23 Financial Officer's ~~Treasurer's~~ Administrative and Investment
24 Trust Fund.

25 (c) The moneys so received and deposited in the fund
26 shall be used by the Chief Financial Officer ~~Treasurer~~ to
27 defray the expense of his or her office in the discharge of
28 the administrative and investment powers and duties prescribed
29 by this section and this chapter, including the maintaining of
30 an office and necessary supplies therefor, essential equipment
31 and other materials, salaries and expenses of required

1 personnel, and all other legitimate expenses relating to the
2 administrative and investment powers and duties imposed upon
3 and charged to the Chief Financial Officer ~~Treasurer~~ under
4 this section and this chapter. The unencumbered balance in the
5 trust fund at the close of each quarter shall not exceed
6 \$750,000. Any funds in excess of this amount shall be
7 transferred unallocated to the General Revenue Fund. However,
8 fees received from deferred compensation participants pursuant
9 to s. 112.215 shall not be transferred to the General Revenue
10 Fund and shall be used to operate the deferred compensation
11 program.

12 (5) The transfer of the powers, duties, and
13 responsibilities of existing state agencies and of the
14 judicial branch made by this section to the Chief Financial
15 Officer ~~Treasurer~~ shall include only the particular powers,
16 duties, and responsibilities hereby transferred, and all other
17 existing powers shall in no way be affected by this section.

18 Section 69. Effective January 7, 2003, section 18.15,
19 Florida Statutes, is amended to read:

20 18.15 Interest on state moneys deposited; when
21 paid.--Interest on state moneys deposited in qualified public
22 depositories under s. 18.10 shall be payable to the Chief
23 Financial Officer ~~Treasurer~~ quarterly or semiannually.

24 Section 70. Effective January 7, 2003, section 18.17,
25 Florida Statutes, is amended to read:

26 18.17 Chief Financial Officer ~~Treasurer~~ not to issue
27 evidences of indebtedness.--It is not lawful for the Chief
28 Financial Officer ~~Treasurer~~ of this state to issue any
29 treasury certificates, or any other evidences of indebtedness,
30 for any purpose whatever, and the Chief Financial Officer
31 ~~Treasurer~~ is prohibited from issuing the same.

1 Section 71. Effective January 7, 2003, subsections
2 (1), (2), and (3) of section 18.20, Florida Statutes, are
3 amended to read:

4 18.20 ~~Treasurer to make~~ Reproductions of certain
5 warrants, records, and documents.--

6 (1) All vouchers or checks heretofore or hereafter
7 drawn by appropriate court officials of the several counties
8 of the state against money deposited with the Chief Financial
9 Officer ~~Treasurer~~ under the provisions of s. 43.17, and paid
10 by the Chief Financial Officer ~~Treasurer~~, may be photographed,
11 microphotographed, or reproduced on film by the Chief
12 Financial Officer ~~Treasurer~~. Such photographic film shall be
13 durable material and the device used to so reproduce such
14 warrants, vouchers, or checks shall be one which accurately
15 reproduces the originals thereof in all detail; and such
16 photographs, microphotographs, or reproductions on film shall
17 be placed in conveniently accessible and identified files and
18 shall be preserved by the Chief Financial Officer ~~Treasurer~~ as
19 a part of the permanent records of office. When any such
20 warrants, vouchers, or checks have been so photographed,
21 microphotographed, or reproduced on film, and the photographs,
22 microphotographs, or reproductions on film thereof have been
23 placed in files as a part of the permanent records of the
24 office of the Chief Financial Officer ~~Treasurer~~ as aforesaid,
25 the Chief Financial Officer ~~Treasurer~~ is authorized to return
26 such warrants, vouchers, or checks to the offices of the
27 respective county officials who drew the same and such
28 warrants, vouchers, or checks shall be retained and preserved
29 in such offices to which returned as a part of the permanent
30 records of such offices.

31

1 (2) Such photographs, microphotographs, or
2 reproductions on film of said warrants, vouchers, or checks
3 shall be deemed to be original records for all purposes; and
4 any copy or reproduction thereof made from such original film,
5 duly certified by the Chief Financial Officer ~~Treasurer~~ as a
6 true and correct copy or reproduction made from such film,
7 shall be deemed to be a transcript, exemplification or
8 certified copy of the original warrant, voucher, or check such
9 copy represents, and shall in all cases and in all courts and
10 places be admitted and received in evidence with the like
11 force and effect as the original thereof might be.

12 (3) The Chief Financial Officer ~~Treasurer~~ is also
13 hereby authorized to photograph, microphotograph, or reproduce
14 on film, all records and documents of said office, as the
15 Chief Financial Officer ~~Treasurer~~ may, in his or her
16 discretion, select; and said Chief Financial Officer ~~Treasurer~~
17 is hereby authorized to destroy any of the said documents or
18 records after they have been photographed and filed and after
19 audit of the Chief Financial Officer's ~~Treasurer's~~ office has
20 been completed for the period embracing the dates of said
21 documents and records.

22 Section 72. Effective January 7, 2003, section 18.23,
23 Florida Statutes, is amended to read:

24 18.23 ~~Treasurer to prescribe~~ Forms.--The Chief
25 Financial Officer ~~Treasurer~~ may prescribe the forms, and the
26 manner of keeping the same, for all receipts, credit advices,
27 abstracts, reports, and other papers furnished the Chief
28 Financial Officer ~~Treasurer~~ by the officers of this state or
29 other persons or entities as a result of their having, or
30 depositing, state moneys.

31

1 Section 73. Effective January 7, 2003, subsection (2)
2 of section 18.24, Florida Statutes, is amended to read:

3 18.24 Securities in book-entry form.--Any security
4 which:

5 (2)(a) Is held in the name of the State Treasurer or
6 in the name of the State Insurance Commissioner; ~~or~~

7 (b) Is pledged to the State Treasurer or to the State
8 Insurance Commissioner; or

9 (c) Is pledged to the Chief Financial Officer;

10
11 under any state law for any purpose whatsoever, may be held in
12 book-entry form on the books of the Federal Reserve Book-Entry
13 System or on deposit in a depository trust clearing system.

14 Section 74. Effective January 7, 2003, subsection (3)
15 of section 20.04, Florida Statutes, is amended to read:

16 20.04 Structure of executive branch.--The executive
17 branch of state government is structured as follows:

18 (3) For their internal structure, all departments,
19 except for the Department of Insurance and Financial Services
20 ~~Banking and Finance~~, the Department of Children and Family
21 Services, the Department of Corrections, the Department of
22 Management Services, the Department of Revenue, and the
23 Department of Transportation, must adhere to the following
24 standard terms:

25 (a) The principal unit of the department is the
26 "division." Each division is headed by a "director."

27 (b) The principal unit of the division is the
28 "bureau." Each bureau is headed by a "chief."

29 (c) The principal unit of the bureau is the "section."
30 Each section is headed by an "administrator."

31

1 (d) If further subdivision is necessary, sections may
2 be divided into "subsections," which are headed by
3 "supervisors."

4 Section 75. Effective January 7, 2003, paragraph (h)
5 of subsection (5) of section 20.055, Florida Statutes, is
6 amended to read:

7 20.055 Agency inspectors general.--

8 (5) In carrying out the auditing duties and
9 responsibilities of this act, each inspector general shall
10 review and evaluate internal controls necessary to ensure the
11 fiscal accountability of the state agency. The inspector
12 general shall conduct financial, compliance, electronic data
13 processing, and performance audits of the agency and prepare
14 audit reports of his or her findings. The scope and assignment
15 of the audits shall be determined by the inspector general;
16 however, the agency head may at any time direct the inspector
17 general to perform an audit of a special program, function, or
18 organizational unit. The performance of the audit shall be
19 under the direction of the inspector general, except that if
20 the inspector general does not possess the qualifications
21 specified in subsection (4), the director of auditing shall
22 perform the functions listed in this subsection.

23 (h) The inspector general shall develop long-term and
24 annual audit plans based on the findings of periodic risk
25 assessments. The plan, where appropriate, should include
26 postaudit samplings of payments and accounts. The plan shall
27 show the individual audits to be conducted during each year
28 and related resources to be devoted to the respective audits.
29 The Chief Financial Officer ~~Comptroller~~, to assist in
30 fulfilling the responsibilities for examining, auditing, and
31 settling accounts, claims, and demands pursuant to s.

1 17.03(1), and examining, auditing, adjusting, and settling
2 accounts pursuant to s. 17.04, may utilize audits performed by
3 the inspectors general and internal auditors. For state
4 agencies under the Governor, the audit plans shall be
5 submitted to the Governor's Chief Inspector General. The plan
6 shall be submitted to the agency head for approval. A copy of
7 the approved plan shall be submitted to the Auditor General.

8 Section 76. Effective January 7, 2003, section 20.195,
9 Florida Statutes, is amended to read:

10 20.195 Department of Children and Family Services
11 Tobacco Settlement Trust Fund.--

12 (1) The Department of Children and Family Services
13 Tobacco Settlement Trust Fund is created within that
14 department. Funds to be credited to the trust fund shall
15 consist of funds disbursed, by nonoperating transfer, from the
16 Chief Financial Officer's ~~Department of Banking and Finance~~
17 Tobacco Settlement Clearing Trust Fund in amounts equal to the
18 annual appropriations made from this trust fund.

19 (2) Notwithstanding the provisions of s. 216.301 and
20 pursuant to s. 216.351, any unencumbered balance in the trust
21 fund at the end of any fiscal year and any encumbered balance
22 remaining undisbursed on December 31 of the same calendar year
23 shall revert to the Chief Financial Officer's ~~Department of~~
24 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund.

25 Section 77. Effective January 7, 2003, section 20.425,
26 Florida Statutes, is amended to read:

27 20.425 Agency for Health Care Administration Tobacco
28 Settlement Trust Fund.--

29 (1) The Agency for Health Care Administration Tobacco
30 Settlement Trust Fund is created within the agency. Funds to
31 be credited to the trust fund shall consist of funds

1 disbursed, by nonoperating transfer, from the Chief Financial
2 Officer's Department of Banking and Finance Tobacco Settlement
3 Clearing Trust Fund in amounts equal to the annual
4 appropriations made from this trust fund.

5 (2) Notwithstanding the provisions of s. 216.301 and
6 pursuant to s. 216.351, any unencumbered balance in the trust
7 fund at the end of any fiscal year and any encumbered balance
8 remaining undisbursed on December 31 of the same calendar year
9 shall revert to the Chief Financial Officer's Department of
10 Banking and Finance Tobacco Settlement Clearing Trust Fund.

11 Section 78. Effective January 7, 2003, paragraph (g)
12 of subsection (1) of section 20.435, Florida Statutes, is
13 amended to read:

14 20.435 Department of Health; trust funds.--

15 (1) The following trust funds are hereby created, to
16 be administered by the Department of Health:

17 (g) Department of Health Tobacco Settlement Trust
18 Fund.

19 1. Funds to be credited to the trust fund shall
20 consist of funds disbursed, by nonoperating transfer, from the
21 Chief Financial Officer's Department of Banking and Finance
22 Tobacco Settlement Clearing Trust Fund in amounts equal to the
23 annual appropriations made from this trust fund.

24 2. Notwithstanding the provisions of s. 216.301 and
25 pursuant to s. 216.351, any unencumbered balance in the trust
26 fund at the end of any fiscal year and any encumbered balance
27 remaining undisbursed on December 31 of the same calendar year
28 shall revert to the Chief Financial Officer's Department of
29 Banking and Finance Tobacco Settlement Clearing Trust Fund.

30 Section 79. Effective January 7, 2003, subsection (4)
31 of section 24.105, Florida Statutes, is amended to read:

1 24.105 Powers and duties of department.--The
2 department shall:

3 (4) Submit monthly and annual reports to the Governor,
4 the Chief Financial Officer ~~Treasurer~~, the President of the
5 Senate, and the Speaker of the House of Representatives
6 disclosing the total lottery revenues, prize disbursements,
7 and other expenses of the department during the preceding
8 month. The annual report shall additionally describe the
9 organizational structure of the department, including its
10 hierarchical structure, and shall identify the divisions and
11 bureaus created by the secretary and summarize the
12 departmental functions performed by each.

13 Section 80. Effective January 7, 2003, subsection (5)
14 of section 24.111, Florida Statutes, is amended to read:

15 24.111 Vendors; disclosure and contract
16 requirements.--

17 (5) Each vendor in a major procurement in excess of
18 \$25,000, and any other vendor if the department deems it
19 necessary to protect the state's financial interest, shall, at
20 the time of executing the contract with the department, post
21 an appropriate bond with the department in an amount
22 determined by the department to be adequate to protect the
23 state's interests, but not higher than the full amount
24 estimated to be paid annually to the vendor under the
25 contract. In lieu of the bond, a vendor may, to assure the
26 faithful performance of its obligations, file with the
27 department an irrevocable letter of credit acceptable to the
28 department in an amount determined by the department to be
29 adequate to protect the state's interests or deposit and
30 maintain with the Chief Financial Officer ~~Treasurer~~ securities
31 that are interest bearing or accruing and that, with the

1 exception of those specified in paragraphs (a) and (b), are
2 rated in one of the four highest classifications by an
3 established nationally recognized investment rating service.
4 Securities eligible under this subsection shall be limited to:

5 (a) Certificates of deposit issued by solvent banks or
6 savings associations organized and existing under the laws of
7 this state or under the laws of the United States and having
8 their principal place of business in this state.

9 (b) United States bonds, notes, and bills for which
10 the full faith and credit of the government of the United
11 States is pledged for the payment of principal and interest.

12 (c) General obligation bonds and notes of any
13 political subdivision of the state.

14 (d) Corporate bonds of any corporation that is not an
15 affiliate or subsidiary of the depositor.

16
17 Such securities shall be held in trust and shall have at all
18 times a market value at least equal to an amount determined by
19 the department to be adequate to protect the state's
20 interests, which amount shall not be set higher than the full
21 amount estimated to be paid annually to the vendor under
22 contract.

23 Section 81. Effective January 7, 2003, paragraph (b)
24 of subsection (9) of section 24.112, Florida Statutes, is
25 amended to read:

26 24.112 Retailers of lottery tickets.--

27 (9)

28 (b) In lieu of such bond, the department may purchase
29 blanket bonds covering all or selected retailers or may allow
30 a retailer to deposit and maintain with the Chief Financial
31 Officer ~~Treasurer~~ securities that are interest bearing or

1 accruing and that, with the exception of those specified in
2 subparagraphs 1. and 2., are rated in one of the four highest
3 classifications by an established nationally recognized
4 investment rating service. Securities eligible under this
5 paragraph shall be limited to:

6 1. Certificates of deposit issued by solvent banks or
7 savings associations organized and existing under the laws of
8 this state or under the laws of the United States and having
9 their principal place of business in this state.

10 2. United States bonds, notes, and bills for which the
11 full faith and credit of the government of the United States
12 is pledged for the payment of principal and interest.

13 3. General obligation bonds and notes of any political
14 subdivision of the state.

15 4. Corporate bonds of any corporation that is not an
16 affiliate or subsidiary of the depositor.

17
18 Such securities shall be held in trust and shall have at all
19 times a market value at least equal to an amount required by
20 the department.

21 Section 82. Effective January 7, 2003, subsections (3)
22 and (4) of section 24.120, Florida Statutes, are amended to
23 read:

24 24.120 Financial matters; Administrative Trust Fund;
25 interagency cooperation.--

26 (3) Any action required by law to be taken by the
27 Chief Financial Officer ~~State Treasurer or the Comptroller~~
28 shall be taken within 2 business days after the department's
29 request therefor. If the request for such action is not
30 approved or rejected within such period, the request shall be
31 deemed to be approved. The department shall reimburse the

1 Chief Financial Officer ~~State Treasurer or the Comptroller~~ for
2 any additional costs involved in providing the level of
3 service required by this subsection.

4 (4) The department shall cooperate with the Chief
5 Financial Officer ~~State Treasurer, the Comptroller~~, the
6 Auditor General, and the Office of Program Policy Analysis and
7 Government Accountability by giving employees designated by
8 any of them access to facilities of the department for the
9 purpose of efficient compliance with their respective
10 responsibilities.

11 Section 83. Effective January 7, 2003, subsection (5)
12 of section 25.241, Florida Statutes, is amended to read:

13 25.241 Clerk of Supreme Court; compensation;
14 assistants; filing fees, etc.--

15 (5) The Clerk of the Supreme Court is hereby required
16 to prepare a statement of all fees collected in duplicate each
17 month and remit one copy of said statement, together with all
18 fees collected by him or her, to the Chief Financial Officer
19 ~~State Treasurer~~, who shall place the same to the credit of the
20 General Revenue Fund.

21 Section 84. Effective January 7, 2003, section 26.39,
22 Florida Statutes, is amended to read:

23 26.39 Penalty for nonattendance of judge.--Whenever
24 such default shall occur, the clerk of the court (unless such
25 judge shall file his or her reasons for such default as
26 hereinbefore provided) shall certify the fact, under his or
27 her official signature and seal, to the Chief Financial
28 Officer ~~Comptroller~~ of the state, who shall deduct from the
29 warrants on the Treasury ~~Treasurer~~, thereafter to be issued in
30 favor of the judge making such default, the sum of \$100 as
31 aforesaid for every such default.

1 Section 85. Effective January 7, 2003, section 27.08,
2 Florida Statutes, is amended to read:

3 27.08 State claims; surrender of papers to
4 successor.--Upon the qualification of the successor of any
5 state attorney, the state attorney going out of office shall
6 deliver to his or her successor a statement of all cases for
7 the collection of money in favor of the state under his or her
8 control and the papers connected with the same, and take his
9 or her receipt for the same, which receipt, when filed with
10 the Chief Financial Officer ~~Department of Banking and Finance~~,
11 shall release such state attorney from any further liability
12 to the state upon the claims receipted for; and the state
13 attorney receiving the claims shall be liable in all respects
14 for the same, as provided against state attorneys in s. 17.20.

15 Section 86. Effective January 7, 2003, section 27.10,
16 Florida Statutes, is amended to read:

17 27.10 Obligation as to claims; how discharged.--The
18 charges mentioned in s. 17.20 shall be evidence of
19 indebtedness on the part of any state attorney against whom
20 any charge is made for the full amount of such claim to the
21 state until the same shall be collected and paid into the
22 treasury or sued to insolvency, which fact of insolvency shall
23 be certified by the circuit judge of his or her circuit,
24 unless said state attorney shall make it fully appear to the
25 Chief Financial Officer ~~Department of Banking and Finance~~ that
26 the failure to collect the same did not result from his or her
27 neglect.

28 Section 87. Effective January 7, 2003, section 27.11,
29 Florida Statutes, is amended to read:

30 27.11 Report upon claims committed to state
31 attorney.--The state attorney shall make a report to the Chief

1 Financial Officer ~~Comptroller~~ on the first Monday in January
2 and July in each and every year of the condition of all claims
3 placed in his or her hands or which the state attorney may
4 have been required to prosecute and collect, whether the same
5 is in suit or in judgment, or collected, and the probable
6 solvency or insolvency of claims not collected, and shall at
7 the same time pay over all moneys which he or she may have
8 collected belonging to the state; and the Chief Financial
9 Officer ~~Comptroller~~ shall not audit or allow any claim which
10 any state attorney may have against the state for services
11 until he or she makes the report herein required.

12 Section 88. Effective January 7, 2003, subsection (1)
13 of section 27.12, Florida Statutes, is amended to read:

14 27.12 Power to compromise.--

15 (1) The state attorney may, with the approval of the
16 Chief Financial Officer ~~Department of Banking and Finance~~,
17 compromise and settle all judgments, claims, and demands in
18 favor of the state in his or her circuit against defaulting
19 collectors of revenue, sheriffs and other officers, and the
20 sureties on their bonds, on such terms as the state attorney
21 may deem equitable and proper.

22 Section 89. Effective January 7, 2003, section 27.13,
23 Florida Statutes, is amended to read:

24 27.13 Completion of compromise.--The state attorney
25 shall, on agreeing to any compromise or settlement, report the
26 same to the Chief Financial Officer ~~Department of Banking and~~
27 ~~Finance~~ for his or her ~~its~~ approval; and, on the Chief
28 Financial Officer's ~~its~~ approving such compromise or
29 settlement, the said state attorney, on a compliance with the
30 terms of such compromise or settlement shall give a receipt to
31 the collector of revenue, sheriff or other officer, or the

1 sureties on their bonds, or to the legal representatives,
2 which receipt shall be a discharge from all judgments, claims
3 or demands of the state against such collector of revenue or
4 other officer, or the sureties on their bonds.

5 Section 90. Effective January 7, 2003, subsections (1)
6 and (2), paragraph (d) of subsection (3), and subsections (4)
7 and (5) of section 27.3455, Florida Statutes, are amended to
8 read:

9 27.3455 Annual statement of certain revenues and
10 expenditures.--

11 (1) Each county shall submit annually to the Chief
12 Financial Officer ~~Comptroller~~ a statement of revenues and
13 expenditures as set forth in this section in the form and
14 manner prescribed by the Chief Financial Officer ~~Comptroller~~
15 in consultation with the Legislative Committee on
16 Intergovernmental Relations, provided that such statement
17 identify total county expenditures on:

18 (a) Medical examiner services.

19 (b) County victim witness programs.

20 (c) Each of the services outlined in ss. 27.34(2) and
21 27.54(3).

22 (d) Appellate filing fees in criminal cases in which
23 an indigent defendant appeals a judgment of a county or
24 circuit court to a district court of appeal or the Florida
25 Supreme Court.

26 (e) Other court-related costs of the state attorney
27 and public defender that were paid by the county where such
28 costs were included in a judgment or order rendered by the
29 trial court against the county.

30
31

1 Such statement also shall identify the revenues provided by s.
2 938.05(1) that were used to meet or reimburse the county for
3 such expenditures.

4 (2)(a) Within 6 months of the close of the local
5 government fiscal year, each county shall submit to the Chief
6 Financial Officer ~~Comptroller~~ a statement of compliance from
7 its independent certified public accountant, engaged pursuant
8 to s. 218.39, that the certified statement of expenditures was
9 in accordance with ss. 27.34(2), 27.54(3), and this section.
10 All discrepancies noted by the independent certified public
11 accountant shall be included in the statement furnished by the
12 county to the Chief Financial Officer ~~Comptroller~~.

13 (b) Should the Chief Financial Officer ~~Comptroller~~
14 determine that additional auditing procedures are appropriate
15 because:

16 1. The county failed to submit timely its annual
17 statement;

18 2. Discrepancies were noted by the independent
19 certified public accountant; or

20 3. The county failed to file before March 31 of each
21 year the certified public accountant statement of compliance,
22 the Chief Financial Officer ~~Comptroller~~ is hereby authorized
23 to send his or her personnel or to contract for services to
24 bring the county into compliance. The costs incurred by the
25 Chief Financial Officer ~~Comptroller~~ shall be paid promptly by
26 the county upon certification by the Chief Financial Officer
27 ~~Comptroller~~.

28 (c) Where the Chief Financial Officer ~~Comptroller~~
29 elects to utilize the services of an independent contractor,
30 such certification by the Chief Financial Officer ~~Comptroller~~
31 may require the county to make direct payment to a contractor.

1 Any funds owed by a county in such matters shall be recovered
2 pursuant to s. 17.04 or s. 17.041.

3 (3) The priority for the allocation of funds collected
4 pursuant to s. 938.05(1) shall be as follows:

5 (d) At the close of the local government fiscal year,
6 funds remaining in the special trust fund after reimbursements
7 have been made pursuant to paragraphs (a), (b), and (c) shall
8 be used to reimburse the county for county costs incurred in
9 the provision of office space, utilities, and custodial
10 services to the state attorney and public defender, for county
11 expenditures on appellate filing fees in criminal cases in
12 which an indigent defendant appeals a judgment of a county or
13 circuit court to a district court of appeal or the Florida
14 Supreme Court, and for county expenditures on court-related
15 costs of the state attorney and public defender that were paid
16 by the county, provided that such court-related costs were
17 included in a judgment or order rendered by the trial court
18 against the county. Where a state attorney or a public
19 defender is provided space in a county-owned facility,
20 responsibility for calculating county costs associated with
21 the provision of such office space, utilities, and custodial
22 services is hereby vested in the Chief Financial Officer
23 ~~Comptroller~~ in consultation with the Legislative Committee on
24 Intergovernmental Relations.

25 (4) At the end of the local government fiscal year,
26 all funds remaining on deposit in the special trust fund after
27 all reimbursements have been made as provided for in
28 subsection (3) shall be forwarded to the Chief Financial
29 Officer ~~Treasurer~~ for deposit in the General Revenue Fund of
30 the state.

31

1 (5) The Chief Financial Officer ~~Comptroller~~ shall
2 adopt any rules necessary to implement his or her
3 responsibilities pursuant to this section.

4 Section 91. Effective January 7, 2003, subsection (2)
5 of section 27.703, Florida Statutes, is amended to read:

6 27.703 Conflict of interest and substitute counsel.--

7 (2) Appointed counsel shall be paid from funds
8 appropriated to the Chief Financial Officer ~~Comptroller~~. The
9 hourly rate may not exceed \$100. However, effective July 1,
10 1999, all appointments of private counsel under this section
11 shall be in accordance with ss. 27.710 and 27.711.

12 Section 92. Effective January 7, 2003, subsection (4)
13 of section 27.710, Florida Statutes, is amended to read:

14 27.710 Registry of attorneys applying to represent
15 persons in postconviction capital collateral proceedings;
16 certification of minimum requirements; appointment by trial
17 court.--

18 (4) Each private attorney who is appointed by the
19 court to represent a capital defendant must enter into a
20 contract with the Chief Financial Officer ~~Comptroller~~. If the
21 appointed attorney fails to execute the contract within 30
22 days after the date the contract is mailed to the attorney,
23 the executive director of the Commission on Capital Cases
24 shall notify the trial court. The Chief Financial Officer
25 ~~Comptroller~~ shall develop the form of the contract, function
26 as contract manager, and enforce performance of the terms and
27 conditions of the contract. By signing such contract, the
28 attorney certifies that he or she intends to continue the
29 representation under the terms and conditions set forth in the
30 contract until the sentence is reversed, reduced, or carried
31 out or until released by order of the trial court.

1 Section 93. Effective January 7, 2003, subsections
2 (3), (4), (5), (6), (7), (12), and (13) of section 27.711,
3 Florida Statutes, are amended to read:

4 27.711 Terms and conditions of appointment of
5 attorneys as counsel in postconviction capital collateral
6 proceedings.--

7 (3) An attorney appointed to represent a capital
8 defendant is entitled to payment of the fees set forth in this
9 section only upon full performance by the attorney of the
10 duties specified in this section and approval of payment by
11 the trial court, and the submission of a payment request by
12 the attorney, subject to the availability of sufficient
13 funding specifically appropriated for this purpose. The Chief
14 Financial Officer ~~Comptroller~~ shall notify the executive
15 director and the court if it appears that sufficient funding
16 has not been specifically appropriated for this purpose to pay
17 any fees which may be incurred. The attorney shall maintain
18 appropriate documentation, including a current and detailed
19 hourly accounting of time spent representing the capital
20 defendant. The fee and payment schedule in this section is the
21 exclusive means of compensating a court-appointed attorney who
22 represents a capital defendant. When appropriate, a
23 court-appointed attorney must seek further compensation from
24 the Federal Government, as provided in 18 U.S.C. s. 3006A or
25 other federal law, in habeas corpus litigation in the federal
26 courts.

27 (4) Upon approval by the trial court, an attorney
28 appointed to represent a capital defendant under s. 27.710 is
29 entitled to payment of the following fees by the Chief
30 Financial Officer ~~Comptroller~~:

31

1 (a) Regardless of the stage of postconviction capital
2 collateral proceedings, the attorney is entitled to \$100 per
3 hour, up to a maximum of \$2,500, after accepting appointment
4 and filing a notice of appearance.

5 (b) The attorney is entitled to \$100 per hour, up to a
6 maximum of \$20,000, after timely filing in the trial court the
7 capital defendant's complete original motion for
8 postconviction relief under the Florida Rules of Criminal
9 Procedure. The motion must raise all issues to be addressed by
10 the trial court. However, an attorney is entitled to fees
11 under this paragraph if the court schedules a hearing on a
12 matter that makes the filing of the original motion for
13 postconviction relief unnecessary or if the court otherwise
14 disposes of the case.

15 (c) The attorney is entitled to \$100 per hour, up to a
16 maximum of \$20,000, after the trial court issues a final order
17 granting or denying the capital defendant's motion for
18 postconviction relief.

19 (d) The attorney is entitled to \$100 per hour, up to a
20 maximum of \$20,000, after timely filing in the Supreme Court
21 the capital defendant's brief or briefs that address the trial
22 court's final order granting or denying the capital
23 defendant's motion for postconviction relief and the state
24 petition for writ of habeas corpus.

25 (e) The attorney is entitled to \$100 per hour, up to a
26 maximum of \$10,000, after the trial court issues an order,
27 pursuant to a remand from the Supreme Court, which directs the
28 trial court to hold further proceedings on the capital
29 defendant's motion for postconviction relief.

30 (f) The attorney is entitled to \$100 per hour, up to a
31 maximum of \$4,000, after the appeal of the trial court's

1 denial of the capital defendant's motion for postconviction
2 relief and the capital defendant's state petition for writ of
3 habeas corpus become final in the Supreme Court.

4 (g) At the conclusion of the capital defendant's
5 postconviction capital collateral proceedings in state court,
6 the attorney is entitled to \$100 per hour, up to a maximum of
7 \$2,500, after filing a petition for writ of certiorari in the
8 Supreme Court of the United States.

9 (h) If, at any time, the Supreme Court of the United
10 States accepts for review the capital defendant's collateral
11 challenge of the conviction and sentence of death, the
12 attorney is entitled to \$100 per hour, up to a maximum of
13 \$5,000. This payment shall be full compensation for
14 representing the capital defendant throughout the certiorari
15 proceedings before the United States Supreme Court.

16
17 The hours billed by a contracting attorney under this
18 subsection may include time devoted to representation of the
19 defendant by another attorney who is qualified under s. 27.710
20 and who has been designated by the contracting attorney to
21 assist him or her.

22 (5) An attorney who represents a capital defendant may
23 use the services of one or more investigators to assist in
24 representing a capital defendant. Upon approval by the trial
25 court, the attorney is entitled to payment from the Chief
26 Financial Officer ~~Comptroller~~ of \$40 per hour, up to a maximum
27 of \$15,000, for the purpose of paying for investigative
28 services.

29 (6) An attorney who represents a capital defendant is
30 entitled to a maximum of \$15,000 for miscellaneous expenses,
31 such as the costs of preparing transcripts, compensating

1 expert witnesses, and copying documents. Upon approval by the
2 trial court, the attorney is entitled to payment by the Chief
3 Financial Officer ~~Comptroller~~ of up to \$15,000 for
4 miscellaneous expenses, except that, if the trial court finds
5 that extraordinary circumstances exist, the attorney is
6 entitled to payment in excess of \$15,000.

7 (7) An attorney who is actively representing a capital
8 defendant is entitled to a maximum of \$500 per fiscal year for
9 tuition and expenses for continuing legal education that
10 pertains to the representation of capital defendants. Upon
11 approval by the trial court, the attorney is entitled to
12 payment by the Chief Financial Officer ~~Comptroller~~ for
13 expenses for such tuition and continuing legal education.

14 (12) The court shall monitor the performance of
15 assigned counsel to ensure that the capital defendant is
16 receiving quality representation. The court shall also receive
17 and evaluate allegations that are made regarding the
18 performance of assigned counsel. The Chief Financial Officer
19 ~~Comptroller~~, the Department of Legal Affairs, the executive
20 director, or any interested person may advise the court of any
21 circumstance that could affect the quality of representation,
22 including, but not limited to, false or fraudulent billing,
23 misconduct, failure to meet continuing legal education
24 requirements, solicitation to receive compensation from the
25 capital defendant, or failure to file appropriate motions in a
26 timely manner.

27 (13) Prior to the filing of a motion for order
28 approving payment of attorney's fees, costs, or related
29 expenses, the assigned counsel shall deliver a copy of his
30 intended billing, together with supporting affidavits and all
31 other necessary documentation, to the Chief Financial

1 Officer's ~~Comptroller's~~ named contract manager. The contract
2 manager shall have 10 business days from receipt to review the
3 billings, affidavit, and documentation for completeness and
4 compliance with contractual and statutory requirements. If the
5 contract manager objects to any portion of the proposed
6 billing, the objection and reasons therefor shall be
7 communicated to the assigned counsel. The assigned counsel may
8 thereafter file his or her motion for order approving payment
9 of attorney's fees, costs, or related expenses together with
10 supporting affidavits and all other necessary documentation.
11 The motion must specify whether the Chief Financial Officer's
12 ~~Comptroller's~~ contract manager objects to any portion of the
13 billing or the sufficiency of documentation and, if so, the
14 reason therefor. A copy of the motion and attachments shall be
15 served on the Chief Financial Officer's ~~Comptroller's~~ contract
16 manager, who shall have standing to file pleadings and appear
17 before the court to contest any motion for order approving
18 payment. The fact that the Chief Financial Officer's
19 ~~Comptroller's~~ contract manager has not objected to any portion
20 of the billing or to the sufficiency of the documentation is
21 not binding on the court, which retains primary authority and
22 responsibility for determining the reasonableness of all
23 billings for fees, costs, and related expenses, subject to
24 statutory limitations.

25 Section 94. Effective January 7, 2003, section 28.235,
26 Florida Statutes, is amended to read:

27 28.235 Advance payments by clerk of circuit
28 court.--The clerk of the circuit court is authorized to make
29 advance payments on behalf of the county for goods and
30 services, including, but not limited to, maintenance
31 agreements and subscriptions, pursuant to rules or procedures

1 adopted by the Chief Financial Officer ~~Comptroller~~ for advance
2 payments of invoices submitted to agencies of the state.

3 Section 95. Effective January 7, 2003, subsections (7)
4 and (23) of section 28.24, Florida Statutes, are amended to
5 read:

6 28.24 Service charges by clerk of the circuit
7 court.--The clerk of the circuit court shall make the
8 following charges for services rendered by the clerk's office
9 in recording documents and instruments and in performing the
10 duties enumerated. However, in those counties where the
11 clerk's office operates as a fiscal unit of the county
12 pursuant to s. 145.022(1), the clerk shall not charge the
13 county for such services.

14
15 Charges

16
17 (7) For making and reporting payrolls of jurors to
18 Chief Financial Officer ~~State Comptroller~~, per page, per copy
195.00

20 (23) For paying of witnesses and making and reporting
21 payroll to Chief Financial Officer ~~State Comptroller~~, per
22 copy, per page.....5.00

23 Section 96. Effective January 7, 2003, section 30.52,
24 Florida Statutes, is amended to read:

25 30.52 Handling of public funds.--The sheriff shall
26 keep public funds in his or her custody, either in his or her
27 office in an amount not in excess of the burglary, theft, and
28 robbery insurance provided, the cost of which is hereby
29 authorized as an expense of the office, or in a depository in
30 an amount not in excess of the security provided pursuant to
31 s. 658.60 and the regulations of the Chief Financial Officer

1 ~~Department of Banking and Finance.~~ The title of the
2 depository accounts shall include the word "sheriff" and the
3 name of the county, and withdrawals from the accounts shall be
4 made by checks signed by the duly qualified and acting sheriff
5 of the county, or his or her designated deputy or agent.

6 Section 97. Effective January 7, 2003, section 40.30,
7 Florida Statutes, is amended to read:

8 40.30 Requisition endorsed by State Courts
9 Administrator or designee.--Upon receipt of such estimate and
10 the requisition from the clerk of the court, the State Courts
11 Administrator or designee shall endorse the amount that he or
12 she may deem necessary for the pay of jurors and witnesses
13 during the quarterly fiscal period and shall submit a request
14 for payment to the Chief Financial Officer ~~Comptroller~~.

15 Section 98. Effective January 7, 2003, section 40.31,
16 Florida Statutes, is amended to read:

17 40.31 State Courts Administrator may apportion
18 appropriation.--If the State Courts Administrator shall have
19 reason to believe that the amount appropriated by the
20 Legislature is insufficient to meet the expenses of jurors and
21 witnesses during the remaining part of the state fiscal year,
22 he or she may apportion the money in the treasury for that
23 purpose among the several counties, basing such apportionment
24 upon the amount expended for the payment of jurors and
25 witnesses in each county during the prior fiscal year. In such
26 case, each county shall be paid by warrant, issued by the
27 Chief Financial Officer ~~Comptroller~~, only the amount so
28 apportioned to each county, and, when the amount so
29 apportioned is insufficient to pay in full all the jurors and
30 witnesses during a quarterly fiscal period, the clerk of the
31 court shall apportion the money received pro rata among the

1 jurors and witnesses entitled to pay and shall give to each
2 juror or witness a certificate of the amount of compensation
3 still due, which certificate shall be held by the State Courts
4 Administrator as other demands against the state.

5 Section 99. Effective January 7, 2003, section 40.33,
6 Florida Statutes, is amended to read:

7 40.33 Deficiency.--If the compensation of jurors and
8 witnesses during a quarterly fiscal period exceeds the amount
9 estimated by the clerk of the court and therefore is
10 insufficient to pay in full the jurors and witnesses, the
11 clerk of the court shall make a further requisition upon the
12 State Courts Administrator for the amount necessary to pay
13 such default, and the amount required shall be transmitted to
14 the clerk of the court by warrant issued by the Chief
15 Financial Officer ~~Comptroller~~ in the same manner as the
16 original requisition or order.

17 Section 100. Effective January 7, 2003, subsection (2)
18 of section 40.34, Florida Statutes, is amended to read:

19 40.34 Clerks to make triplicate payroll.--

20 (2) The form of such payroll shall be prescribed by
21 the Chief Financial Officer ~~Comptroller~~.

22 Section 101. Effective January 7, 2003, section 40.35,
23 Florida Statutes, is amended to read:

24 40.35 Accounting and payment to the State Courts
25 Administrator.--

26 (1) The clerk of the court shall, within 2 weeks after
27 the last day of the quarterly fiscal period, render to the
28 State Courts Administrator a full statement of accounts for
29 moneys received and disbursed under the provisions of this
30 chapter and refund to the State Courts Administrator any
31 balance in the clerk's hands. If upon audit the State Courts

1 Administrator shall determine a balance due the clerk of the
2 court, the State Courts Administrator shall submit a request
3 for payment to the Chief Financial Officer ~~Comptroller~~.
4 (2) If a clerk of the court fails to account for and
5 pay over promptly the balance of all moneys paid him or her,
6 the sureties, if any, on a clerk's official bond are liable
7 and responsible for same; and the State Courts Administrator
8 shall report to the Governor and the Chief Financial Officer
9 ~~Comptroller~~ any failure on the part of the clerk of the court
10 to report and faithfully account for any such moneys.

11 Section 102. Effective January 7, 2003, paragraph (b)
12 of subsection (5) of section 43.16, Florida Statutes, is
13 amended to read:

14 43.16 Justice Administrative Commission; membership,
15 powers and duties.--

16 (5) The duties of the commission shall include, but
17 not be limited to, the following:

18 (b) Each state attorney and public defender and the
19 Judicial Qualifications Commission shall continue to prepare
20 necessary budgets, vouchers which represent valid claims for
21 reimbursement by the state for authorized expenses, and other
22 things incidental to the proper administrative operation of
23 the office, such as revenue transmittals to the Chief
24 Financial Officer ~~treasurer~~, automated systems plans, etc.,
25 but will forward same to the commission for recording and
26 submission to the proper state officer. However, when
27 requested by a state attorney or a public defender or the
28 Judicial Qualifications Commission, the commission will either
29 assist in the preparation of budget requests, voucher
30 schedules, and other forms and reports or accomplish the
31 entire project involved.

1 Section 103. Effective January 7, 2003, subsections
2 (1), (3), and (4) of section 43.19, Florida Statutes, are
3 amended to read:
4 43.19 Money paid into court; unclaimed funds.--
5 (1) In every case in which the right to withdraw money
6 deposited as hereinbefore provided has been adjudicated or is
7 not in dispute and the money has remained so deposited for 5
8 years or more unclaimed by the person, firm, or corporation
9 entitled thereto, on or before December 1 of each year the
10 judge, or one of the judges, of the court shall direct that
11 the money be deposited with the Chief Financial Officer
12 ~~Treasurer~~ to the credit of the State School Fund, to become a
13 part of that fund, subject to the right of the person, firm,
14 or corporation entitled thereto to receive the money as
15 provided in subsection (3).
16 (3) Any person, firm or corporation entitled to any of
17 the money may obtain an order directing the payment of the
18 money to the claimant on written petition to the court from
19 which the money was deposited or its successor, and written
20 notice to the state attorney of the circuit wherein the court
21 is situate, whether or not the court is a circuit court, and
22 proof of right thereto, and the money deposited shall
23 constitute and be a permanent appropriation for payments by
24 the Chief Financial Officer ~~Treasurer~~ of the state in
25 obedience of such orders.
26 (4) All interest and income that accrue from the money
27 while on deposit with the Chief Financial Officer ~~Treasurer~~ to
28 the credit of the State School Fund belong to that fund.
29 Section 104. Effective January 7, 2003, subsections
30 (3) and (4) of section 48.151, Florida Statutes, are amended
31 to read:

1 48.151 Service on statutory agents for certain
2 persons.--

3 (3) The Insurance Commissioner ~~and Treasurer~~ or his or
4 her assistant or deputy or another person in charge of the
5 office is the agent for service of process on all insurers
6 applying for authority to transact insurance in this state,
7 all licensed nonresident insurance agents, all nonresident
8 disability insurance agents licensed by the Department of
9 Insurance and Financial Services pursuant to s. 626.835, any
10 unauthorized insurer under s. 626.906 or s. 626.937, domestic
11 reciprocal insurers, fraternal benefit societies under chapter
12 632, automobile inspection and warranty associations,
13 ambulance service associations, and persons required to file
14 statements under s. 628.461.

15 (4) The Commissioner of Financial Services ~~Comptroller~~
16 is the agent for service of process for any issuer as defined
17 in s. 517.021, or any dealer, investment adviser, or
18 associated person registered with the Department of Insurance
19 and Financial Services ~~Banking and Finance~~, for any violation
20 of any provision of chapter 517.

21 Section 105. Effective January 7, 2003, subsection (1)
22 of section 55.03, Florida Statutes, is amended to read:

23 55.03 Judgments; rate of interest, generally.--

24 (1) On December 1 of each year ~~beginning December 1,~~
25 ~~1994~~, the Chief Financial Officer ~~Comptroller~~ of the State of
26 Florida shall set the rate of interest that shall be payable
27 on judgments or decrees for the year beginning January 1 by
28 averaging the discount rate of the Federal Reserve Bank of New
29 York for the preceding year, then adding 500 basis points to
30 the averaged federal discount rate. The Chief Financial
31 Officer ~~Comptroller~~ shall inform the clerk of the courts and

1 chief judge for each judicial circuit of the rate that has
2 been established for the upcoming year. ~~The initial interest~~
3 ~~rate established by the Comptroller shall take effect on~~
4 ~~January 1, 1995, and~~ The interest rate established by the
5 Chief Financial Officer ~~Comptroller~~ in subsequent years shall
6 take effect on January 1 of each following year. Judgments
7 obtained on or after January 1, 1995, shall use the previous
8 statutory rate for time periods before January 1, 1995, for
9 which interest is due and shall apply the rate set by the
10 Chief Financial Officer ~~Comptroller~~ for time periods after
11 January 1, 1995, for which interest is due. Nothing contained
12 herein shall affect a rate of interest established by written
13 contract or obligation.

14 Section 106. Effective January 7, 2003, section
15 57.091, Florida Statutes, is amended to read:

16 57.091 Costs; refunded to counties in certain
17 proceedings relating to state prisoners.--All lawful fees,
18 costs, and expenses hereafter adjudged against, and paid by,
19 any county in all competency proceedings and all criminal
20 prosecutions against state prisoners imprisoned in a state
21 correctional institution, and in all habeas corpus cases
22 brought to test the legality of the imprisonment of state
23 prisoners of such correctional institutions, shall be refunded
24 to the county paying the sum from the General Revenue Fund in
25 the State Treasury in the manner and to the extent herein
26 provided, to wit: between the 1st and 15th of the month next
27 succeeding the month in which the fees, costs, and expenses
28 have been allowed and paid by the county, the clerk of the
29 court shall make requisition on the Department of Corrections
30 for the fees, costs, and expenses so allowed and paid during
31 the preceding month, giving the style of the cases in which

1 fees, costs, and expenses were incurred and the amount and
2 items of cost in each case; providing a certified copy of the
3 judgment adjudging the fees, costs, and expenses against the
4 county and showing that the amount represented thereby has
5 been approved by the presiding judge, paid by the county, and
6 verified by the clerk; and attaching a certified copy of the
7 bill as approved and allowed by the board of county
8 commissioners of the county. If the Department of Corrections
9 finds the bills legal and adjudged against and paid by the
10 county, the department shall submit a request to the Chief
11 Financial Officer ~~Comptroller~~ to draw a warrant in the amount
12 thereof, or in the amount the department finds legal and
13 adjudged against and paid by the county, in favor of the
14 county paying the fees, costs, and expenses, which shall be
15 paid by the Chief Financial Officer ~~State Treasurer~~ from the
16 general revenue funds of the state.

17 Section 107. Effective January 7, 2003, subsections
18 (1), (3), and (4) of section 68.083, Florida Statutes, are
19 amended to read:

20 68.083 Civil actions for false claims.--

21 (1) The department may diligently investigate a
22 violation under s. 68.082. If the department finds that a
23 person has violated or is violating s. 68.082, the department
24 may bring a civil action under the Florida False Claims Act
25 against the person. The Chief Financial Officer and the
26 Department of Insurance and Financial Services ~~Department of~~
27 ~~Banking and Finance~~ may bring a civil action under this
28 section if the action arises from an investigation by that
29 department and the Department of Legal Affairs has not filed
30 an action under this act.

31

1 (3) The complaint shall be identified on its face as a
2 qui tam action and shall be filed in the circuit court of the
3 Second Judicial Circuit, in and for Leon County. Immediately
4 upon the filing of the complaint, a copy of the complaint and
5 written disclosure of substantially all material evidence and
6 information the person possesses shall be served on the
7 Attorney General, as head of the department, and on the Chief
8 Financial Officer ~~Comptroller, as head of the Department of~~
9 ~~Banking and Finance~~, by registered mail, return receipt
10 requested. The department, or the Chief Financial Officer
11 ~~Department of Banking and Finance~~ under the circumstances
12 specified in subsection (4), may elect to intervene and
13 proceed with the action, on behalf of the state, within 90
14 days after it receives both the complaint and the material
15 evidence and information.

16 (4) If a person brings an action under subsection (2)
17 and the action is based upon the facts underlying a pending
18 investigation by the Chief Financial Officer ~~Department of~~
19 ~~Banking and Finance~~, the Chief Financial Officer ~~Department of~~
20 ~~Banking and Finance~~, instead of the department, may take over
21 the action on behalf of the state. In order to take over the
22 action, the Chief Financial Officer ~~Department of Banking and~~
23 ~~Finance~~ must give the department written notification within
24 20 days after the action is filed that the Chief Financial
25 Officer ~~Department of Banking and Finance~~ is conducting an
26 investigation of the facts of the action and that the Chief
27 Financial Officer ~~Department of Banking and Finance~~, instead
28 of the department, will take over the action filed under
29 subsection (2). If the Chief Financial Officer ~~Department of~~
30 ~~Banking and Finance~~ takes over the action under this
31 subsection, the word "department" as used in this act means

1 the Office of the Chief Financial Officer ~~Department of~~
2 ~~Banking and Finance~~, and that office ~~department~~, for purposes
3 of that action, shall have all rights and standing granted the
4 department under this act.

5 Section 108. Effective January 7, 2003, subsections
6 (3) and (6) of section 68.084, Florida Statutes, are amended
7 to read:

8 68.084 Rights of the parties in civil actions.--

9 (3) If the department elects not to proceed with the
10 action, the person who initiated the action has the right to
11 conduct the action. If the Attorney General, as head of the
12 department, or the Chief Financial Officer ~~Comptroller, as~~
13 ~~head of the Department of Banking and Finance~~, so requests, it
14 shall be served, at the requesting department's expense, with
15 copies of all pleadings and motions filed in the action and
16 copies of all deposition transcripts. When a person proceeds
17 with the action, the court, without limiting the rights of the
18 person initiating the action, may nevertheless permit the
19 department to intervene and take over the action on behalf of
20 the state at a later date upon showing of good cause.

21 (6) The Chief Financial Officer ~~Department of Banking~~
22 ~~and Finance, or the department,~~ may intervene on his or her
23 ~~its~~ own behalf as a matter of right.

24 Section 109. Effective January 7, 2003, subsection (3)
25 of section 68.087, Florida Statutes, is amended to read:

26 68.087 Exemptions to civil actions.--

27 (3) No court shall have jurisdiction over an action
28 brought under this act based upon the public disclosure of
29 allegations or transactions in a criminal, civil, or
30 administrative hearing; in a legislative, administrative,
31 inspector general, or Auditor General, Chief Financial Officer

1 ~~Comptroller, or Department of Banking and Finance~~ report,
2 hearing, audit, or investigation; or from the news media,
3 unless the action is brought by the department, or unless the
4 person bringing the action is an original source of the
5 information. For purposes of this subsection, the term
6 "original source" means an individual who has direct and
7 independent knowledge of the information on which the
8 allegations are based and has voluntarily provided the
9 information to the department before filing an action under
10 this act based on the information.

11 Section 110. Effective January 7, 2003, section
12 68.092, Florida Statutes, is amended to read:

13 68.092 Deposit of recovered moneys.--All moneys
14 recovered by the Chief Financial Officer ~~Comptroller, as head~~
15 ~~of the Department of Banking and Finance,~~ under s. 68.086(1)
16 in any civil action for violation of the Florida False Claims
17 Act shall be deposited in the Administrative Trust Fund of the
18 Chief Financial Officer ~~Department of Banking and Finance.~~

19 Section 111. Effective January 7, 2003, section
20 77.0305, Florida Statutes, is amended to read:

21 77.0305 Continuing writ of garnishment against salary
22 or wages.--Notwithstanding any other provision of this
23 chapter, if salary or wages are to be garnished to satisfy a
24 judgment, the court shall issue a continuing writ of
25 garnishment to the judgment debtor's employer which provides
26 for the periodic payment of a portion of the salary or wages
27 of the judgment debtor as the salary or wages become due until
28 the judgment is satisfied or until otherwise provided by court
29 order. A debtor's status as an employee of the state or its
30 agencies or political subdivisions does not preclude a
31 judgment creditor's right to garnish the debtor's wages. For

1 the purposes of this section, the state includes the judicial
2 branch and the legislative branch as defined in s. 216.011.
3 The state, for itself and for its agencies and subdivisions,
4 waives sovereign immunity for the express and limited purpose
5 necessary to carry out this section. The court shall allow
6 the judgment debtor's employer to collect up to \$5 against the
7 salary or wages of the judgment debtor to reimburse the
8 employer for administrative costs for the first deduction from
9 the judgment debtor's salary or wages and up to \$2 for each
10 deduction thereafter. The funds collected by the state under
11 this section must be deposited in the Chief Financial
12 Officer's ~~Department of Banking and Finance~~ Administrative
13 Trust Fund for purposes of carrying out this section.

14 Section 112. Effective January 7, 2003, section 92.39,
15 Florida Statutes, is amended to read:

16 92.39 Evidence of individual's claim against the state
17 in suits between them.--In suits between the state and
18 individuals, no claim for a credit shall be allowed upon
19 trial, but such as shall appear to have been presented to the
20 Chief Financial Officer ~~Comptroller~~ for the Chief Financial
21 Officer's ~~Comptroller's~~ examination, and by him or her
22 disallowed in whole or in part, unless it shall be proved to
23 the satisfaction of the court that the defendant is, at the
24 time of the trial, in possession of vouchers not before in the
25 defendant's power to procure, and that the defendant was
26 prevented from exhibiting a claim for such credit at the Chief
27 Financial Officer's ~~Comptroller's~~ office by unavoidable
28 accident.

29 Section 113. Effective January 7, 2003, subsection (4)
30 of section 99.097, Florida Statutes, is amended to read:

31 99.097 Verification of signatures on petitions.--

1 (4) The supervisor shall be paid in advance the sum of
2 10 cents for each signature checked or the actual cost of
3 checking such signature, whichever is less, by the candidate
4 or, in the case of a petition to have an issue placed on the
5 ballot, by the person or organization submitting the petition.
6 However, if a candidate, person, or organization seeking to
7 have an issue placed upon the ballot cannot pay such charges
8 without imposing an undue burden on personal resources or upon
9 the resources otherwise available to such candidate, person,
10 or organization, such candidate, person, or organization
11 shall, upon written certification of such inability given
12 under oath to the supervisor, be entitled to have the
13 signatures verified at no charge. In the event a candidate,
14 person, or organization submitting a petition to have an issue
15 placed upon the ballot is entitled to have the signatures
16 verified at no charge, the supervisor of elections of each
17 county in which the signatures are verified at no charge shall
18 submit the total number of such signatures checked in the
19 county to the Chief Financial Officer ~~Comptroller~~ no later
20 than December 1 of the general election year, and the Chief
21 Financial Officer ~~Comptroller~~ shall cause such supervisor of
22 elections to be reimbursed from the General Revenue Fund in an
23 amount equal to 10 cents for each name checked or the actual
24 cost of checking such signatures, whichever is less. In no
25 event shall such reimbursement of costs be deemed or applied
26 as extra compensation for the supervisor. Petitions shall be
27 retained by the supervisors for a period of 1 year following
28 the election for which the petitions were circulated.

29 Section 114. Effective January 7, 2003, section
30 107.11, Florida Statutes, is amended to read:
31

1 107.11 Appropriation for expenses.--For the purpose of
2 defraying the expenses of preparing for, conducting, holding
3 and declaring the result of the election provided for by this
4 chapter and also for the purpose of defraying the expenses
5 allowed by this chapter for the holding of sessions of the
6 convention as herein provided, to be audited by the Chief
7 Financial Officer ~~Comptroller~~, there is appropriated out of
8 the General Revenue Fund of the State of Florida a sufficient
9 sum of money for the payment of all amounts necessary to be
10 expended under the terms of this chapter, which sums of money
11 shall be disbursed by the State of Florida pursuant to
12 warrants drawn by the Chief Financial Officer ~~Comptroller~~ ~~upon~~
13 ~~the Treasurer~~ for the payment of same.

14 Section 115. Effective January 7, 2003, paragraph (a)
15 of subsection (2) of section 110.1127, Florida Statutes, is
16 amended to read:

17 110.1127 Employee security checks.--

18 (2)(a) All positions within the Office of the Chief
19 Financial Officer ~~Division of Treasury of the Department of~~
20 ~~Insurance~~ are deemed to be positions of special trust or
21 responsibility, and a person may be disqualified for
22 employment in any such position by reason of:

23 1. The conviction or prior conviction of a crime which
24 is reasonably related to the nature of the position sought or
25 held by the individual; or

26 2. The entering of a plea of nolo contendere or, when
27 a jury verdict of guilty is rendered but adjudication of guilt
28 is withheld, with respect to a crime which is reasonably
29 related to the nature of the position sought or held by the
30 individual.

31

1 Section 116. Effective January 7, 2003, subsection (1)
2 of section 110.113, Florida Statutes, is amended to read:

3 110.113 Pay periods for state officers and employees;
4 salary payments by direct deposit.--

5 (1) The normal pay period for salaries of state
6 officers and employees shall be 1 month. The Chief Financial
7 Officer ~~Department of Banking and Finance~~ shall issue either
8 monthly or biweekly salary payments by state warrants or by
9 direct deposit pursuant to s. 17.076 or make semimonthly
10 salary payments by direct deposit pursuant to s. 17.076, as
11 requested by the head of each state agency and approved by the
12 Executive Office of the Governor and the Chief Financial
13 Officer ~~Department of Banking and Finance~~.

14 Section 117. Effective January 7, 2003, subsection (1)
15 of section 110.114, Florida Statutes, is amended to read:

16 110.114 Employee wage deductions.--

17 (1) The state or any of its departments, bureaus,
18 commissions, and officers are authorized and permitted, with
19 the concurrence of the Chief Financial Officer ~~Department of~~
20 ~~Banking and Finance~~, to make deductions from the salary or
21 wage of any employee or employees in such amount as shall be
22 authorized and requested by such employee or employees and for
23 such purpose as shall be authorized and requested by such
24 employee or employees and shall pay such sums so deducted as
25 directed by such employee or employees. The concurrence of
26 the Chief Financial Officer ~~Department of Banking and Finance~~
27 shall not be required for the deduction of a certified
28 bargaining agent's membership dues deductions pursuant to s.
29 447.303 or any deductions authorized by a collective
30 bargaining agreement.

31

1 Section 118. Effective January 7, 2003, section
2 110.116, Florida Statutes, is amended to read:
3 110.116 Personnel information system; payroll
4 procedures.--The Department of Management Services shall
5 establish and maintain, in coordination with the payroll
6 system of the Chief Financial Officer ~~Department of Banking~~
7 ~~and Finance~~, a complete personnel information system for all
8 authorized and established positions in the state service,
9 with the exception of employees of the Legislature. The
10 specifications shall be developed in conjunction with the
11 payroll system of the Chief Financial Officer ~~Department of~~
12 ~~Banking and Finance~~ and in coordination with the Auditor
13 General. The Chief Financial Officer ~~Department of Banking~~
14 ~~and Finance~~ shall determine that the position occupied by each
15 employee has been authorized and established in accordance
16 with the provisions of s. 216.251. The Department of
17 Management Services shall develop and maintain a position
18 numbering system that will identify each established position,
19 and such information shall be a part of the payroll system of
20 the Chief Financial Officer ~~Department of Banking and Finance~~.
21 With the exception of employees of the Legislature, this
22 system shall include all career service positions and those
23 positions exempted from career service provisions,
24 notwithstanding the funding source of the salary payments, and
25 information regarding persons receiving payments from other
26 sources. Necessary revisions shall be made in the personnel
27 and payroll procedures of the state to avoid duplication
28 insofar as is feasible. A list shall be organized by budget
29 entity to show the employees or vacant positions within each
30 budget entity. This list shall be available to the Speaker of
31

1 the House of Representatives and the President of the Senate
2 upon request.

3 Section 119. Effective January 7, 2003, paragraph (a)
4 of subsection (3) of section 110.1227, Florida Statutes, is
5 amended to read:

6 110.1227 Florida Employee Long-Term-Care Plan Act.--

7 (3) The Department of Management Services and the
8 department shall, in consultation with public employers and
9 employees and representatives from unions and associations
10 representing state, university, local government, and other
11 public employees, establish and supervise the implementation
12 and administration of a self-funded or fully insured
13 long-term-care plan entitled "Florida Employee Long-Term-Care
14 Plan."

15 (a) The Department of Management Services and the
16 department shall, in consultation with the Department of
17 Insurance and Financial Services, contract for actuarial,
18 professional-administrator, and other services for the Florida
19 Employee Long-Term-Care Plan.

20 Section 120. Effective January 7, 2003, paragraph (f)
21 of subsection (5) of section 110.1228, Florida Statutes, is
22 amended to read:

23 110.1228 Participation by small counties, small
24 municipalities, and district school boards located in small
25 counties.--

26 (5) If the department determines that a small county,
27 small municipality, or district school board is eligible to
28 enroll, the small county, small municipality, or district
29 school board must agree to the following terms and conditions:

30 (f) If a small county, small municipality, or district
31 school board employer fails to make the payments required by

1 this section to fully reimburse the state, the Department of
2 Revenue or the Chief Financial Officer ~~Department of Banking~~
3 ~~and Finance~~ shall, upon the request of the Department of
4 Management Services, deduct the amount owed by the employer
5 from any funds not pledged to bond debt service satisfaction
6 that are to be distributed by it to the small county, small
7 municipality, or district school board. The amounts so
8 deducted shall be transferred to the Department of Management
9 Services for further distribution to the trust funds in
10 accordance with this chapter.

11 Section 121. Effective January 7, 2003, paragraph (f)
12 of subsection (4) and paragraphs (b) and (c) of subsection (5)
13 of section 110.123, Florida Statutes, are amended to read:

14 110.123 State group insurance program.--

15 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;
16 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

17 (f) Pursuant to the request of each state officer,
18 full-time or part-time state employee, or retiree
19 participating in the state group insurance program, and upon
20 certification of the employing agency approved by the
21 department, the Chief Financial Officer ~~Comptroller~~ shall
22 deduct from the salary or retirement warrant payable to each
23 participant the amount so certified and shall handle such
24 deductions in accordance with rules established by the
25 department.

26 (5) DEPARTMENT POWERS AND DUTIES.--The department is
27 responsible for the administration of the state group
28 insurance program. The department shall initiate and
29 supervise the program as established by this section and shall
30 adopt such rules as are necessary to perform its
31

1 responsibilities. To implement this program, the department
2 shall, with prior approval by the Legislature:
3 (b) Prepare, in cooperation with the Department of
4 Insurance and Financial Services, the specifications necessary
5 to implement the program.
6 (c) Contract on a competitive proposal basis with an
7 insurance carrier or carriers, or professional administrator,
8 determined by the Department of Insurance and Financial
9 Services to be fully qualified, financially sound, and capable
10 of meeting all servicing requirements. Alternatively, the
11 department may self-insure any plan or plans contained in the
12 state group insurance program subject to approval based on
13 actuarial soundness by the Department of Insurance and
14 Financial Services. The department may contract with an
15 insurance company or professional administrator qualified and
16 approved by the Department of Insurance and Financial Services
17 to administer such plan. Before entering into any contract,
18 the department shall advertise for competitive proposals, and
19 such contract shall be let upon the consideration of the
20 benefits provided in relationship to the cost of such
21 benefits. In determining which entity to contract with, the
22 department shall, at a minimum, consider: the entity's
23 previous experience and expertise in administering group
24 insurance programs of the type it proposes to administer; the
25 entity's ability to specifically perform its contractual
26 obligations in this state and other governmental
27 jurisdictions; the entity's anticipated administrative costs
28 and claims experience; the entity's capability to adequately
29 provide service coverage and sufficient number of experienced
30 and qualified personnel in the areas of claims processing,
31 recordkeeping, and underwriting, as determined by the

1 department; the entity's accessibility to state employees and
2 providers; the financial solvency of the entity, using
3 accepted business sector measures of financial performance.
4 The department may contract for medical services which will
5 improve the health or reduce medical costs for employees who
6 participate in the state group insurance plan.

7
8 Final decisions concerning enrollment, the existence of
9 coverage, or covered benefits under the state group insurance
10 program shall not be delegated or deemed to have been
11 delegated by the department.

12 Section 122. Effective January 7, 2003, section
13 110.125, Florida Statutes, is amended to read:

14 110.125 Administrative costs.--The administrative
15 expenses and costs of operating the personnel program
16 established by this chapter shall be paid by the various
17 agencies of the state government, and each such agency shall
18 include in its budget estimates its pro rata share of such
19 cost as determined by the Department of Management Services.
20 To establish an equitable division of the costs, the amount to
21 be paid by each agency shall be determined in such proportion
22 as the service rendered to each agency bears to the total
23 service rendered under the provisions of this chapter. The
24 amounts paid to the Department of Management Services which
25 are attributable to positions within the Senior Management
26 Service and the Selected Professional Service shall be used
27 for the administration of such services, training activities
28 for positions within those services, and the development and
29 implementation of a database of pertinent historical
30 information on exempt positions. Should any state agency
31 become more than 90 days delinquent in payment of this

1 obligation, the department shall certify to the Chief
2 Financial Officer ~~Comptroller~~ the amount due and the Chief
3 Financial Officer ~~Comptroller~~ shall transfer the amount due to
4 the department from any debtor agency funds available.

5 Section 123. Effective January 7, 2003, paragraph (a)
6 of subsection (1) of section 110.181, Florida Statutes, is
7 amended to read:

8 110.181 Florida State Employees' Charitable
9 Campaign.--

10 (1) CREATION AND ORGANIZATION OF CAMPAIGN.--

11 (a) The Department of Management Services shall
12 establish and maintain, in coordination with the payroll
13 system of the Chief Financial Officer ~~Department of Banking~~
14 ~~and Finance~~, an annual Florida State Employees' Charitable
15 Campaign. Except as provided in subsection (5), this annual
16 fundraising drive is the only authorized charitable
17 fundraising drive directed toward state employees within work
18 areas during work hours, and for which the state will provide
19 payroll deduction.

20 Section 124. Effective January 7, 2003, subsection (1)
21 of section 110.2037, Florida Statutes, is amended to read:

22 110.2037 Alternative benefits; tax-sheltered annual
23 leave and sick leave payments and special compensation
24 payments.--

25 (1) The Department of Management Services has
26 authority to adopt tax-sheltered plans under s. 401(a) of the
27 Internal Revenue Code for state employees who are eligible for
28 payment for accumulated leave. The department, upon adoption
29 of the plans, shall contract for a private vendor or vendors
30 to administer the plans. These plans shall be limited to state
31 employees who are over age 55 and who are: eligible for

1 accumulated leave and special compensation payments and
2 separating from employment with 10 years of service in
3 accordance with the Internal Revenue Code, or who are
4 participating in the Deferred Retirement Option Program on or
5 after July 1, 2001. The plans must provide benefits in a
6 manner that minimizes the tax liability of the state and
7 participants. The plans must be funded by employer
8 contributions of payments for accumulated leave or special
9 compensation payments, or both, as specified by the
10 department. The plans must have received all necessary federal
11 and state approval as required by law, must not adversely
12 impact the qualified status of the Florida Retirement System
13 defined benefit or defined contribution plans or the pretax
14 benefits program, and must comply with the provisions of s.
15 112.65. Adoption of any plan is contingent on: the department
16 receiving appropriate favorable rulings from the Internal
17 Revenue Service; the department negotiating under the
18 provisions of chapter 447, where applicable; and the Chief
19 Financial Officer ~~Comptroller~~ making appropriate changes to
20 the state payroll system. The department's request for
21 proposals by vendors for such plans may require that the
22 vendors provide market-risk or volatility ratings from
23 recognized rating agencies for each of their investment
24 products. The department shall provide for a system of
25 continuous quality assurance oversight to ensure that the
26 program objectives are achieved and that the program is
27 prudently managed.

28 Section 125. Effective January 7, 2003, subsection (6)
29 of section 110.205, Florida Statutes, is amended to read:

30 110.205 Career service; exemptions.--
31

1 (6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY
2 PROGRAM, DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES.--In
3 addition to those positions exempted from this part, there is
4 hereby exempted from the Career Service System the chief
5 inspector of the boiler inspection program of the Department
6 of Insurance and Financial Services. The salary range of this
7 position shall be established by the Department of Management
8 Services in accordance with the classification and pay plan
9 established for the Selected Exempt Service.

10 Section 126. Effective January 7, 2003, subsection (1)
11 of section 112.0501, Florida Statutes, is amended to read:

12 112.0501 Ratification of certain dual retirements.--

13 (1) Any state employee who was permitted by the Chief
14 Financial Officer ~~Comptroller~~, as administrator of the
15 retirement provisions of s. 112.05 and chapter 122, to retire
16 under the provisions of both such statutes prior to April 23,
17 1969, when the Attorney General ruled that such dual
18 retirements are prohibited by s. 122.10(3), as recodified by
19 the Legislature in 1965, shall receive and enjoy the
20 retirement benefits awarded upon retirement, the provisions of
21 s. 122.10(3) to the contrary notwithstanding.

22 Section 127. Effective January 7, 2003, paragraph (b)
23 of subsection (5), paragraph (b) of subsection (7), paragraph
24 (b) of subsection (8), and subsections (9), (11), and (13) of
25 section 112.061, Florida Statutes, are amended to read:

26 112.061 Per diem and travel expenses of public
27 officers, employees, and authorized persons.--

28 (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For
29 purposes of reimbursement and methods of calculating
30 fractional days of travel, the following principles are
31 prescribed:

1 (b) A traveler shall not be reimbursed on a per diem
2 basis for Class C travel, but shall receive subsistence as
3 provided in this section, which allowance for meals shall be
4 based on the following schedule:
5 1. Breakfast--When travel begins before 6 a.m. and
6 extends beyond 8 a.m.
7 2. Lunch--When travel begins before 12 noon and
8 extends beyond 2 p.m.
9 3. Dinner--When travel begins before 6 p.m. and
10 extends beyond 8 p.m., or when travel occurs during nighttime
11 hours due to special assignment.
12
13 No allowance shall be made for meals when travel is confined
14 to the city or town of the official headquarters or immediate
15 vicinity; except assignments of official business outside the
16 traveler's regular place of employment if travel expenses are
17 approved. The Chief Financial Officer ~~Comptroller~~ shall
18 establish a schedule for processing Class C travel subsistence
19 payments at least on a monthly basis.
20 (7) TRANSPORTATION.--
21 (b) The Chief Financial Officer ~~Department of Banking~~
22 ~~and Finance~~ may provide any form he or she ~~it~~ deems necessary
23 to cover travel requests for traveling on official business
24 and when paid by the state.
25 (8) OTHER EXPENSES.--
26 (b) Other expenses which are not specifically
27 authorized by this section may be approved by the Chief
28 Financial Officer ~~Department of Banking and Finance~~ pursuant
29 to rules adopted by him or her ~~it~~. Expenses approved pursuant
30 to this paragraph shall be reported by the Chief Financial
31

1 ~~Officer~~ ~~Department of Banking and Finance~~ to the Auditor
2 General annually.

3 (9) RULES AND REGULATIONS.--

4 (a) The Chief Financial Officer ~~Department of Banking~~
5 ~~and Finance~~ shall promulgate such rules and regulations,
6 including, but not limited to, the general criteria to be used
7 by a state agency to predetermine justification for attendance
8 by state officers and employees and authorized persons at
9 conventions and conferences, and prescribe such forms as may
10 be necessary to effectuate the purposes of this section. The
11 Chief Financial Officer ~~department~~ may also adopt rules
12 prescribing the proper disposition and use of promotional
13 items and rebates offered by common carriers and other
14 entities in connection with travel at public expense; however,
15 before adopting such rules, the Chief Financial Officer
16 ~~department~~ shall consult with the appropriation committees of
17 the Legislature.

18 (b) Each state agency shall promulgate such additional
19 specific rules and regulations and specific criteria to be
20 used by it to predetermine justification for attendance by
21 state officers and employees and authorized persons at
22 conventions and conferences, not in conflict with the rules
23 and regulations of the Chief Financial Officer ~~Department of~~
24 ~~Banking and Finance~~ or with the general criteria to be used by
25 a state agency to predetermine justification for attendance by
26 state officers and employees and authorized persons at
27 conventions, as may be necessary to effectuate the purposes of
28 this section.

29 (11) TRAVEL AUTHORIZATION AND VOUCHER FORMS.--

30 (a) Authorization forms.--The Chief Financial Officer
31 ~~Department of Banking and Finance~~ shall furnish a uniform

1 travel authorization request form which shall be used by all
2 state officers and employees and authorized persons when
3 requesting approval for the performance of travel to a
4 convention or conference. The form shall include, but not be
5 limited to, provision for the name of each traveler, purpose
6 of travel, period of travel, estimated cost to the state, and
7 a statement of benefits accruing to the state by virtue of
8 such travel. A copy of the program or agenda of the
9 convention or conference, itemizing registration fees and any
10 meals or lodging included in the registration fee, shall be
11 attached to, and filed with, the copy of the travel
12 authorization request form on file with the agency. The form
13 shall be signed by the traveler and by the traveler's
14 supervisor stating that the travel is to be incurred in
15 connection with official business of the state. The head of
16 the agency or his or her designated representative shall not
17 authorize or approve such request in the absence of the
18 appropriate signatures. A copy of the travel authorization
19 form shall be attached to, and become a part of, the support
20 of the agency's copy of the travel voucher.

21 (b) Voucher forms.--

22 1. The Chief Financial Officer ~~Department of Banking~~
23 ~~and Finance~~ shall furnish a uniform travel voucher form which
24 shall be used by all state officers and employees and
25 authorized persons when submitting travel expense statements
26 for approval and payment. No travel expense statement shall
27 be approved for payment by the Chief Financial Officer
28 ~~Comptroller~~ unless made on the form prescribed and furnished
29 by him or her ~~the department~~. The travel voucher form shall
30 provide for, among other things, the purpose of the official
31 travel and a certification or affirmation, to be signed by the

1 traveler, indicating the truth and correctness of the claim in
2 every material matter, that the travel expenses were actually
3 incurred by the traveler as necessary in the performance of
4 official duties, that per diem claimed has been appropriately
5 reduced for any meals or lodging included in the convention or
6 conference registration fees claimed by the traveler, and that
7 the voucher conforms in every respect with the requirements of
8 this section. The original copy of the executed uniform
9 travel authorization request form shall be attached to the
10 uniform travel voucher on file with the respective agency.

11 2. Statements for travel expenses incidental to the
12 rendering of medical services for and on behalf of clients of
13 the Department of Health shall be on forms approved by the
14 Chief Financial Officer ~~Department of Banking and Finance~~.

15 (13) DIRECT PAYMENT OF EXPENSES BY AGENCY.--Whenever
16 an agency requires an employee to incur either Class A or
17 Class B travel on emergency notice to the traveler, such
18 traveler may request the agency to pay his or her expenses for
19 meals and lodging directly to the vendor, and the agency may
20 pay the vendor the actual expenses for meals and lodging
21 during the travel period, limited to an amount not to exceed
22 that authorized pursuant to this section. In emergency
23 situations, the agency head or his or her designee may
24 authorize an increase in the amount paid for a specific meal,
25 provided that the total daily cost of meals does not exceed
26 the total amount authorized for meals each day. The agency
27 head or his or her designee may also grant prior approval for
28 a state agency to make direct payments of travel expenses in
29 other situations that result in cost savings to the state, and
30 such cost savings shall be documented in the voucher submitted
31 to the Chief Financial Officer ~~Comptroller~~ for the direct

1 payment of travel expenses. The provisions of this subsection
2 shall not be deemed to apply to any legislator or to any
3 employee of the Legislature.

4 Section 128. Effective January 7, 2003, paragraphs (a)
5 and (b) of subsection (2) and subsections (5) and (6) of
6 section 112.08, Florida Statutes, are amended to read:

7 112.08 Group insurance for public officers, employees,
8 and certain volunteers; physical examinations.--

9 (2)(a) Every local governmental unit is authorized to
10 provide and pay out of its available funds for all or part of
11 the premium for life, health, accident, hospitalization, legal
12 expense, or annuity insurance, or all or any kinds of such
13 insurance, for the officers and employees of the local
14 governmental unit and for health, accident, hospitalization,
15 and legal expense insurance for the dependents of such
16 officers and employees upon a group insurance plan and, to
17 that end, to enter into contracts with insurance companies or
18 professional administrators to provide such insurance. Before
19 entering any contract for insurance, the local governmental
20 unit shall advertise for competitive bids; and such contract
21 shall be let upon the basis of such bids. If a contracting
22 health insurance provider becomes financially impaired as
23 determined by the Department of Insurance and Financial
24 Services or otherwise fails or refuses to provide the
25 contracted-for coverage or coverages, the local government may
26 purchase insurance, enter into risk management programs, or
27 contract with third-party administrators and may make such
28 acquisitions by advertising for competitive bids or by direct
29 negotiations and contract. The local governmental unit may
30 undertake simultaneous negotiations with those companies which
31 have submitted reasonable and timely bids and are found by the

1 local governmental unit to be fully qualified and capable of
2 meeting all servicing requirements. Each local governmental
3 unit may self-insure any plan for health, accident, and
4 hospitalization coverage or enter into a risk management
5 consortium to provide such coverage, subject to approval based
6 on actuarial soundness by the Department of Insurance and
7 Financial Services; and each shall contract with an insurance
8 company or professional administrator qualified and approved
9 by the Department of Insurance and Financial Services to
10 administer such a plan.

11 (b) In order to obtain approval from the Department of
12 Insurance and Financial Services of any self-insured plan for
13 health, accident, and hospitalization coverage, each local
14 governmental unit or consortium shall submit its plan along
15 with a certification as to the actuarial soundness of the
16 plan, which certification is prepared by an actuary who is a
17 member of the Society of Actuaries or the American Academy of
18 Actuaries. The Department of Insurance and Financial Services
19 shall not approve the plan unless it determines that the plan
20 is designed to provide sufficient revenues to pay current and
21 future liabilities, as determined according to generally
22 accepted actuarial principles. After implementation of an
23 approved plan, each local governmental unit or consortium
24 shall annually submit to the Department of Insurance and
25 Financial Services a report which includes a statement
26 prepared by an actuary who is a member of the Society of
27 Actuaries or the American Academy of Actuaries as to the
28 actuarial soundness of the plan. The report is due 90 days
29 after the close of the fiscal year of the plan. The report
30 shall consist of, but is not limited to:

31

- 1 1. The adequacy of contribution rates in meeting the
2 level of benefits provided and the changes, if any, needed in
3 the contribution rates to achieve or preserve a level of
4 funding deemed adequate to enable payment of the benefit
5 amounts provided under the plan and a valuation of present
6 assets, based on statement value, and prospective assets and
7 liabilities of the plan and the extent of any unfunded accrued
8 liabilities.
- 9 2. A plan to amortize any unfunded liabilities and a
10 description of actions taken to reduce unfunded liabilities.
- 11 3. A description and explanation of actuarial
12 assumptions.
- 13 4. A schedule illustrating the amortization of any
14 unfunded liabilities.
- 15 5. A comparative review illustrating the level of
16 funds available to the plan from rates, investment income, and
17 other sources realized over the period covered by the report
18 with the assumptions used.
- 19 6. A statement by the actuary that the report is
20 complete and accurate and that in the actuary's opinion the
21 techniques and assumptions used are reasonable and meet the
22 requirements and intent of this subsection.
- 23 7. Other factors or statements as required by the
24 Department of Insurance and Financial Services in order to
25 determine the actuarial soundness of the plan.
- 26
- 27 All assumptions used in the report shall be based on
28 recognized actuarial principles acceptable to the Department
29 of Insurance and Financial Services. The Department of
30 Insurance and Financial Services shall review the report and
31 shall notify the administrator of the plan and each entity

1 participating in the plan, as identified by the administrator,
2 of any actuarial deficiencies. Each local governmental unit
3 is responsible for payment of valid claims of its employees
4 that are not paid within 60 days after receipt by the plan
5 administrator or consortium.

6 (5) The Department of Management Services shall
7 initiate and supervise a group insurance program providing
8 death and disability benefits for active members of the
9 Florida Highway Patrol Auxiliary, with coverage beginning July
10 1, 1978, and purchased from state funds appropriated for that
11 purpose. The Department of Management Services, in
12 cooperation with the Department of Insurance and Financial
13 Services, shall prepare specifications necessary to implement
14 the program, and the Department of Management Services shall
15 receive bids and award the contract in accordance with general
16 law.

17 (6) The Department of Insurance and Financial Services
18 is authorized to adopt rules to carry out the provisions of
19 this section as they pertain to its duties.

20 Section 129. Effective January 7, 2003, paragraph (h)
21 of subsection (2) of section 112.191, Florida Statutes, is
22 amended to read:

23 112.191 Firefighters; death benefits.--

24 (2)

25 (h) The Division of the State Fire Marshal within the
26 Department of Insurance and Financial Services is directed to
27 promulgate rules as are necessary to implement the provisions
28 of this section.

29 Section 130. Effective January 7, 2003, paragraphs
30 (a), (b), and (c) of subsection (4), paragraph (a) of
31 subsection (6), paragraphs (d), (f), and (h) of subsection

1 (8), paragraph (b) of subsection (10), and subsections (11)
2 and (12) of section 112.215, Florida Statutes, are amended to
3 read:

4 112.215 Government employees; deferred compensation
5 program.--

6 (4)(a) The Chief Financial Officer ~~Treasurer~~, with the
7 approval of the State Board of Administration, shall establish
8 such plan or plans of deferred compensation for state
9 employees, including all such investment vehicles or products
10 incident thereto, as may be available through, or offered by,
11 qualified companies or persons, and may approve one or more
12 such plans for implementation by and on behalf of the state
13 and its agencies and employees.

14 (b) If the Chief Financial Officer ~~Treasurer~~ deems it
15 advisable, he or she shall have the power, with the approval
16 of the State Board of Administration, to create a trust or
17 other special funds for the segregation of funds or assets
18 resulting from compensation deferred at the request of
19 employees of the state or its agencies and for the
20 administration of such program.

21 (c) The Chief Financial Officer ~~Treasurer~~, with the
22 approval of the State Board of Administration, may delegate
23 responsibility for administration of the plan to a person the
24 Chief Financial Officer ~~Treasurer~~ determines to be qualified,
25 compensate such person, and, directly or through such person
26 or pursuant to a collective bargaining agreement, contract
27 with a private corporation or institution to provide such
28 services as may be part of any such plan or as may be deemed
29 necessary or proper by the Chief Financial Officer ~~Treasurer~~
30 or such person, including, but not limited to, providing
31 consolidated billing, individual and collective recordkeeping

1 and accountings, asset purchase, control, and safekeeping, and
2 direct disbursement of funds to employees or other
3 beneficiaries. The Chief Financial Officer ~~Treasurer~~ may
4 authorize a person, private corporation, or institution to
5 make direct disbursement of funds under the plan to an
6 employee or other beneficiary only upon the order of the Chief
7 Financial Officer ~~Comptroller to the Treasurer~~.

8 (6)(a) No deferred compensation plan of the state
9 shall become effective until approved by the State Board of
10 Administration and the Chief Financial Officer ~~Treasurer~~ is
11 satisfied by opinion from such federal agency or agencies as
12 may be deemed necessary that the compensation deferred
13 thereunder and/or the investment products purchased pursuant
14 to the plan will not be included in the employee's taxable
15 income under federal or state law until it is actually
16 received by such employee under the terms of the plan, and
17 that such compensation will nonetheless be deemed compensation
18 at the time of deferral for the purposes of social security
19 coverage, for the purposes of the state retirement system, and
20 for any other retirement, pension, or benefit program
21 established by law.

22 (8)

23 (d) The council shall meet at the call of its chair,
24 at the request of a majority of its membership, or at the
25 request of the Chief Financial Officer ~~Treasurer~~, but not less
26 than twice a year. The business of the council shall be
27 presented to the council in the form of an agenda. The agenda
28 shall be set by the Chief Financial Officer ~~Treasurer~~ and
29 shall include items of business requested by the council
30 members.

31

1 (f) The council shall make a report of each meeting to
2 the Chief Financial Officer ~~Treasurer~~, which shall show the
3 names of the members present and shall include a record of its
4 discussions, recommendations, and actions taken. The Chief
5 Financial Officer ~~Treasurer~~ shall keep the records of the
6 proceedings of each meeting on file and shall make the records
7 available to any interested person or group.

8 (h) The advisory council shall provide assistance and
9 recommendations to the Chief Financial Officer ~~Treasurer~~
10 relating to the provisions of the plan, the insurance or
11 investment options to be offered under the plan, and any other
12 contracts or appointments deemed necessary by the council and
13 the Chief Financial Officer ~~Treasurer~~ to carry out the
14 provisions of this act. The Chief Financial Officer ~~Treasurer~~
15 shall inform the council of the manner in which each council
16 recommendation is being addressed. The Chief Financial
17 Officer ~~Treasurer~~ shall provide the council, at least
18 annually, a report on the status of the deferred compensation
19 program, including, but not limited to, information on
20 participant enrollment, amount of compensation deferred, total
21 plan assets, product provider performance, and participant
22 satisfaction with the program.

23 (10)

24 (b)1. There is created in the State Treasury the
25 Deferred Compensation Trust Fund, through which the Chief
26 Financial Officer ~~Treasurer~~ as trustee shall hold moneys,
27 pensions, annuities, or other benefits accrued or accruing
28 under and pursuant to 26 U.S.C. s. 457 and the deferred
29 compensation plan provided for therein and adopted by this
30 state; and

31 a. All amounts of compensation deferred thereunder;

1 b. All property and rights purchased with such
2 amounts; and
3 c. All income attributable to such amounts, property,
4 or rights.
5 2. Notwithstanding the mandates of 26 U.S.C. s.
6 457(b)(6), all of the assets specified in subparagraph 1.
7 shall be held in trust for the exclusive benefit of
8 participants and their beneficiaries as mandated by 26 U.S.C.
9 s. 457(g)(1).
10 (11) With respect to any funds held pursuant to a
11 deferred compensation plan, any plan provider which is a bank
12 or savings association and which provides time deposit
13 accounts and certificates of deposit as an investment product
14 to the plan participants may, with the approval of the State
15 Board of Administration for providers in the state plan, or
16 with the approval of the appropriate official or body
17 designated under subsection (5) for a plan of a county,
18 municipality, other political subdivision, or constitutional
19 county officer, be exempt from the provisions of chapter 280
20 requiring it to be a qualified public depository, provided:
21 (a) The bank or savings association shall, to the
22 extent that the time deposit accounts or certificates of
23 deposit are not insured by the Federal Deposit Insurance
24 Corporation or the Federal Savings and Loan Insurance
25 Corporation, pledge collateral with the Chief Financial
26 Officer ~~Treasurer~~ for all state funds held by it under a
27 deferred compensation plan, or with such other appropriate
28 official for all public funds held by it under a deferred
29 compensation plan of a county, municipality, other political
30 subdivision, or constitutional county officer, in an amount
31

1 which equals at least 150 percent of all uninsured deferred
2 compensation funds then held.

3 (b) Said collateral shall be of the kind permitted by
4 s. 280.13 and shall be pledged in the manner provided for by
5 the applicable provisions of chapter 280.

6
7 The Chief Financial Officer ~~Treasurer~~ shall have all the
8 applicable powers provided in ss. 280.04, 280.05, and 280.08
9 relating to the sale or other disposition of the pledged
10 collateral.

11 (12) The Chief Financial Officer ~~Treasurer~~ may adopt
12 any rule necessary to administer and implement this act with
13 respect to deferred compensation plans for state employees.

14 Section 131. Effective January 7, 2003, paragraph (h)
15 of subsection (4) of section 112.3144, Florida Statutes, is
16 amended to read:

17 112.3144 Full and public disclosure of financial
18 interests.--

19 (4) Forms for compliance with the full and public
20 disclosure requirements of s. 8, Art. II of the State
21 Constitution shall be created by the Commission on Ethics. The
22 commission shall give notice of disclosure deadlines and
23 delinquencies and distribute forms in the following manner:

24 (h) Notwithstanding any provision of chapter 120, any
25 fine imposed under this subsection which is not waived by
26 final order of the commission and which remains unpaid more
27 than 60 days after the notice of payment due or more than 60
28 days after the commission renders a final order on the appeal
29 must be submitted to the Chief Financial Officer ~~Department of~~
30 ~~Banking and Finance~~ as a claim, debt, or other obligation owed
31 to the state, and the Chief Financial Officer ~~department~~ shall

1 assign the collection of such fine to a collection agent as
2 provided in s. 17.20.

3 Section 132. Effective January 7, 2003, paragraph (i)
4 of subsection (6) of section 112.3145, Florida Statutes, is
5 amended to read:

6 112.3145 Disclosure of financial interests and clients
7 represented before agencies.--

8 (6) Forms for compliance with the disclosure
9 requirements of this section and a current list of persons
10 subject to disclosure shall be created by the commission and
11 provided to each supervisor of elections. The commission and
12 each supervisor of elections shall give notice of disclosure
13 deadlines and delinquencies and distribute forms in the
14 following manner:

15 (i) Notwithstanding any provision of chapter 120, any
16 fine imposed under this subsection which is not waived by
17 final order of the commission and which remains unpaid more
18 than 60 days after the notice of payment due or more than 60
19 days after the commission renders a final order on the appeal
20 must be submitted to the Chief Financial Officer ~~Department of~~
21 ~~Banking and Finance~~ as a claim, debt, or other obligation owed
22 to the state, and the Chief Financial Officer ~~department~~ shall
23 assign the collection of such a fine to a collection agent as
24 provided in s. 17.20.

25 Section 133. Effective January 7, 2003, paragraph (c)
26 of subsection (9) of section 112.3189, Florida Statutes, is
27 amended to read:

28 112.3189 Investigative procedures upon receipt of
29 whistle-blower information from certain state employees.--

30 (9)

31

1 (c) The Chief Inspector General shall transmit any
2 final report under this section, any comments provided by the
3 complainant, and any appropriate comments or recommendations
4 by the Chief Inspector General to the Governor, to the Joint
5 Legislative Auditing Committee, to the investigating agency,
6 and to the Chief Financial Officer ~~Comptroller~~.

7 Section 134. Effective January 7, 2003, paragraph (e)
8 of subsection (3) of section 112.31895, Florida Statutes, is
9 amended to read:

10 112.31895 Investigative procedures in response to
11 prohibited personnel actions.--

12 (3) CORRECTIVE ACTION AND TERMINATION OF
13 INVESTIGATION.--

14 (e)1. The Florida Commission on Human Relations may
15 request an agency or circuit court to order a stay, on such
16 terms as the court requires, of any personnel action for 45
17 days if the Florida Commission on Human Relations determines
18 that reasonable grounds exist to believe that a prohibited
19 personnel action has occurred, is occurring, or is to be
20 taken. The Florida Commission on Human Relations may request
21 that such stay be extended for appropriate periods of time.

22 2. If, in connection with any investigation, the
23 Florida Commission on Human Relations determines that
24 reasonable grounds exist to believe that a prohibited action
25 has occurred, is occurring, or is to be taken which requires
26 corrective action, the Florida Commission on Human Relations
27 shall report the determination together with any findings or
28 recommendations to the agency head and may report that
29 determination and those findings and recommendations to the
30 Governor and the Chief Financial Officer ~~Comptroller~~. The
31

1 Florida Commission on Human Relations may include in the
2 report recommendations for corrective action to be taken.

3 3. If, after 20 days, the agency does not implement
4 the recommended action, the Florida Commission on Human
5 Relations shall terminate the investigation and notify the
6 complainant of the right to appeal under subsection (4), or
7 may petition the agency for corrective action under this
8 subsection.

9 4. If the Florida Commission on Human Relations finds,
10 in consultation with the individual subject to the prohibited
11 action, that the agency has implemented the corrective action,
12 the commission shall file such finding with the agency head,
13 together with any written comments that the individual
14 provides, and terminate the investigation.

15 Section 135. Effective January 7, 2003, paragraph (f)
16 of subsection (5) of section 112.3215, Florida Statutes, is
17 amended to read:

18 112.3215 Lobbyists before the executive branch or the
19 Constitution Revision Commission; registration and reporting;
20 investigation by commission.--

21 (5)

22 (f) The commission shall provide by rule a procedure
23 by which a lobbyist who fails to timely file a report shall be
24 notified and assessed fines. The rule shall provide for the
25 following:

26 1. Upon determining that the report is late, the
27 person designated to review the timeliness of reports shall
28 immediately notify the lobbyist as to the failure to timely
29 file the report and that a fine is being assessed for each
30 late day. The fine shall be \$50 per day per report for each
31 late day up to a maximum of \$5,000 per late report.

1 2. Upon receipt of the report, the person designated
2 to review the timeliness of reports shall determine the amount
3 of the fine due based upon the earliest of the following:
4 a. When a report is actually received by the lobbyist
5 registration and reporting office.
6 b. When the report is postmarked.
7 c. When the certificate of mailing is dated.
8 d. When the receipt from an established courier
9 company is dated.
10 3. Such fine shall be paid within 30 days after the
11 notice of payment due is transmitted by the Lobbyist
12 Registration Office, unless appeal is made to the commission.
13 The moneys shall be deposited into the Executive Branch Lobby
14 Registration Trust Fund.
15 4. A fine shall not be assessed against a lobbyist the
16 first time any reports for which the lobbyist is responsible
17 are not timely filed. However, to receive the one-time fine
18 waiver, all reports for which the lobbyist is responsible must
19 be filed within 30 days after the notice that any reports have
20 not been timely filed is transmitted by the Lobbyist
21 Registration Office. A fine shall be assessed for any
22 subsequent late-filed reports.
23 5. Any lobbyist may appeal or dispute a fine, based
24 upon unusual circumstances surrounding the failure to file on
25 the designated due date, and may request and shall be entitled
26 to a hearing before the commission, which shall have the
27 authority to waive the fine in whole or in part for good cause
28 shown. Any such request shall be made within 30 days after
29 the notice of payment due is transmitted by the Lobbyist
30 Registration Office. In such case, the lobbyist shall, within
31 the 30-day period, notify the person designated to review the

1 timeliness of reports in writing of his or her intention to
2 bring the matter before the commission.

3 6. The person designated to review the timeliness of
4 reports shall notify the commission of the failure of a
5 lobbyist to file a report after notice or of the failure of a
6 lobbyist to pay the fine imposed.

7 7. Notwithstanding any provision of chapter 120, any
8 fine imposed under this subsection that is not waived by final
9 order of the commission and that remains unpaid more than 60
10 days after the notice of payment due or more than 60 days
11 after the commission renders a final order on the lobbyist's
12 appeal shall be collected by the Chief Financial Officer
13 ~~Department of Banking and Finance~~ as a claim, debt, or other
14 obligation owed to the state, and the Chief Financial Officer
15 ~~department~~ may assign the collection of such fine to a
16 collection agent as provided in s. 17.20.

17 Section 136. Effective January 7, 2003, subsection (4)
18 of section 112.63, Florida Statutes, is amended to read:

19 112.63 Actuarial reports and statements of actuarial
20 impact; review.--

21 (4) Upon receipt, pursuant to subsection (2), of an
22 actuarial report, or upon receipt, pursuant to subsection (3),
23 of a statement of actuarial impact, the Department of
24 Management Services shall acknowledge such receipt, but shall
25 only review and comment on each retirement system's or plan's
26 actuarial valuations at least on a triennial basis. If the
27 department finds that the actuarial valuation is not complete,
28 accurate, or based on reasonable assumptions, or if the
29 department does not receive the actuarial report or statement
30 of actuarial impact, the department shall notify the local
31 government and request appropriate adjustment. If, after a

1 reasonable period of time, a satisfactory adjustment is not
2 made, the affected local government or the department may
3 petition for a hearing under the provisions of ss. 120.569 and
4 120.57. If the administrative law judge recommends in favor of
5 the department, the department shall perform an actuarial
6 review or prepare the statement of actuarial impact. The cost
7 to the department of performing such actuarial review or
8 preparing such statement shall be charged to the governmental
9 entity of which the employees are covered by the retirement
10 system or plan. If payment of such costs is not received by
11 the department within 60 days after receipt by the
12 governmental entity of the request for payment, the department
13 shall certify to the Chief Financial Officer ~~Comptroller~~ the
14 amount due, and the Chief Financial Officer ~~Comptroller~~ shall
15 pay such amount to the department from any funds payable to
16 the governmental entity of which the employees are covered by
17 the retirement system or plan. If the administrative law
18 judge recommends in favor of the local retirement system and
19 the department performs an actuarial review, the cost to the
20 department of performing the actuarial review shall be paid by
21 the department.

22 Section 137. Effective January 7, 2003, section
23 116.03, Florida Statutes, is amended to read:

24 116.03 Officers to report fees collected.--Each state
25 and county officer who receives all or any part of his or her
26 compensation in fees or commissions, or other remuneration,
27 shall keep a complete report of all fees and commissions, or
28 other remuneration collected, and shall make a report to the
29 Chief Financial Officer ~~Department of Banking and Finance~~ of
30 all such fees and commissions, or other remuneration, annually
31 on December 31 of each and every year. Such report shall be

1 made upon forms to be prescribed from time to time by the
2 Chief Financial Officer ~~department~~, and shall show in detail
3 the source, character, and amount of all the state or county
4 officer's ~~his or her~~ official expenses and the net amount that
5 the office has paid up to the time of making such report. All
6 officers shall make out, fill in and subscribe and properly
7 forward to the Chief Financial Officer ~~department~~ such
8 reports, and swear to the accuracy and competency of such
9 reports.

10 Section 138. Effective January 7, 2003, section
11 116.04, Florida Statutes, is amended to read:

12 116.04 Failure of officer to make sworn report of
13 fees.--Any officer who shall fail or refuse to make,
14 subscribe, and swear, or to file with the Chief Financial
15 Officer ~~Department of Banking and Finance~~ a report of all
16 fees, commissions, or other remuneration collected, as
17 required by law, or if any officer shall knowingly or
18 willfully make false or incomplete reports, or in any report
19 violate any of the provisions of s. 116.03 he or she shall be
20 guilty of a misdemeanor of the first degree, punishable as
21 provided in s. 775.082 or s. 775.083.

22 Section 139. Effective January 7, 2003, section
23 116.05, Florida Statutes, is amended to read:

24 116.05 Examination and publication by Chief Financial
25 Officer ~~Department of Banking and Finance~~.--The Chief
26 Financial Officer ~~Department of Banking and Finance~~ shall have
27 examined and verified any of the reports received under s.
28 116.03 whenever in his or her ~~its~~ judgment the same may be
29 necessary, and the Chief Financial Officer ~~department~~ shall
30 cause the matter and things in each of said reports to be
31 published one time in a newspaper published in the county in

1 which such report originated, in such form as the Chief
2 Financial Officer ~~it~~ shall direct, and the expense of such
3 publication shall be paid by the county commissioners of such
4 county.

5 Section 140. Effective January 7, 2003, section
6 116.06, Florida Statutes, is amended to read:

7 116.06 Summary of reports; certain officers not
8 required to report fees.--A summary of all such reports shall
9 be included by the Chief Financial Officer ~~Department of~~
10 ~~Banking and Finance~~ in his or her ~~its~~ annual report to the
11 Governor, except that jurors and notaries public shall not be
12 required to make such reports as provided for in s. 116.03.

13 Section 141. Effective January 7, 2003, section
14 116.14, Florida Statutes, is amended to read:

15 116.14 Receipts required from purchasers of state
16 property.--Upon the sale of any state property by the
17 superintendent and presidents of state institutions as
18 provided by law, they shall take receipt for the same from the
19 purchaser, which receipt shall be forwarded, together with the
20 proceeds of the sale, to the Chief Financial Officer ~~State~~
21 ~~Treasurer~~.

22 Section 142. Effective January 7, 2003, paragraph (c)
23 of subsection (15) of section 120.52, Florida Statutes, is
24 amended to read:

25 120.52 Definitions.--As used in this act:

26 (15) "Rule" means each agency statement of general
27 applicability that implements, interprets, or prescribes law
28 or policy or describes the procedure or practice requirements
29 of an agency and includes any form which imposes any
30 requirement or solicits any information not specifically
31 required by statute or by an existing rule. The term also

1 includes the amendment or repeal of a rule. The term does not
2 include:

3 (c) The preparation or modification of:

4 1. Agency budgets.

5 2. Statements, memoranda, or instructions to state
6 agencies issued by the Chief Financial Officer ~~Comptroller~~ as
7 chief fiscal officer of the state and relating or pertaining
8 to claims for payment submitted by state agencies to the Chief
9 Financial Officer ~~Comptroller~~.

10 3. Contractual provisions reached as a result of
11 collective bargaining.

12 4. Memoranda issued by the Executive Office of the
13 Governor relating to information resources management.

14 Section 143. Effective January 7, 2003, paragraph (a)
15 of subsection (3) and subsection (9) of section 120.80,
16 Florida Statutes, are amended to read:

17 120.80 Exceptions and special requirements;
18 agencies.--

19 (3) OFFICE OF THE COMMISSIONER OF FINANCIAL SERVICES
20 ~~DEPARTMENT OF BANKING AND FINANCE~~.--

21 (a) Notwithstanding s. 120.60(1), in proceedings for
22 the issuance, denial, renewal, or amendment of a license or
23 approval of a merger pursuant to title XXXVIII:

24 1.a. The Department of Insurance and Financial
25 Services ~~Banking and Finance~~ shall have published in the
26 Florida Administrative Weekly notice of the application within
27 21 days after receipt.

28 b. Within 21 days after publication of notice, any
29 person may request a hearing. Failure to request a hearing
30 within 21 days after notice constitutes a waiver of any right
31 to a hearing. The Department of Insurance and Financial

1 Services ~~Banking and Finance~~ or an applicant may request a
2 hearing at any time prior to the issuance of a final order.
3 Hearings shall be conducted pursuant to ss. 120.569 and
4 120.57, except that the Department of Insurance and Financial
5 Services ~~Banking and Finance~~ shall by rule provide for
6 participation by the general public.

7 2. Should a hearing be requested as provided by
8 sub-subparagraph 1.b., the applicant or licensee shall publish
9 at its own cost a notice of the hearing in a newspaper of
10 general circulation in the area affected by the application.
11 The Department of Insurance and Financial Services ~~Banking and~~
12 ~~Finance~~ may by rule specify the format and size of the notice.

13 3. Notwithstanding s. 120.60(1), and except as
14 provided in subparagraph 4., every application for license for
15 a new bank, new trust company, new credit union, or new
16 savings and loan association shall be approved or denied
17 within 180 days after receipt of the original application or
18 receipt of the timely requested additional information or
19 correction of errors or omissions. Any application for such a
20 license or for acquisition of such control which is not
21 approved or denied within the 180-day period or within 30 days
22 after conclusion of a public hearing on the application,
23 whichever is later, shall be deemed approved subject to the
24 satisfactory completion of conditions required by statute as a
25 prerequisite to license and approval of insurance of accounts
26 for a new bank, a new savings and loan association, or a new
27 credit union by the appropriate insurer.

28 4. In the case of every application for license to
29 establish a new bank, trust company, or capital stock savings
30 association in which a foreign national proposes to own or
31 control 10 percent or more of any class of voting securities,

1 and in the case of every application by a foreign national for
2 approval to acquire control of a bank, trust company, or
3 capital stock savings association, the Department of Insurance
4 and Financial Services ~~Banking and Finance~~ shall request that
5 a public hearing be conducted pursuant to ss. 120.569 and
6 120.57. Notice of such hearing shall be published by the
7 applicant as provided in subparagraph 2. The failure of any
8 such foreign national to appear personally at the hearing
9 shall be grounds for denial of the application.

10 Notwithstanding the provisions of s. 120.60(1) and
11 subparagraph 3., every application involving a foreign
12 national shall be approved or denied within 1 year after
13 receipt of the original application or any timely requested
14 additional information or the correction of any errors or
15 omissions, or within 30 days after the conclusion of the
16 public hearing on the application, whichever is later.

17 (9) OFFICE ~~DEPARTMENT~~ OF THE INSURANCE
18 COMMISSIONER.--Notwithstanding s. 120.60(1), every application
19 for a certificate of authority as required by s. 624.401 shall
20 be approved or denied within 180 days after receipt of the
21 original application. Any application for a certificate of
22 authority which is not approved or denied within the 180-day
23 period, or within 30 days after conclusion of a public hearing
24 held on the application, shall be deemed approved, subject to
25 the satisfactory completion of conditions required by statute
26 as a prerequisite to licensure.

27 Section 144. Effective January 7, 2003, paragraph (a)
28 of subsection (2) of section 121.061, Florida Statutes, is
29 amended to read:

30 121.061 Funding.--

31

1 (2)(a) Should any employer other than a state employer
2 fail to make the retirement and social security contributions,
3 both member and employer contributions, required by this
4 chapter, then, upon request by the administrator, the
5 Department of Revenue or the Chief Financial Officer
6 ~~Department of Banking and Finance~~, as the case may be, shall
7 deduct the amount owed by the employer from any funds to be
8 distributed by it to the county, city, special district, or
9 consolidated form of government. The amounts so deducted
10 shall be transferred to the administrator for further
11 distribution to the trust funds in accordance with this
12 chapter.

13 Section 145. Effective January 7, 2003, section
14 121.133, Florida Statutes, is amended to read:

15 121.133 Cancellation of uncashed
16 warrants.--Notwithstanding the provisions of s. 17.26 or s.
17 717.123 to the contrary, ~~effective July 1, 1998~~, if any state
18 warrant issued by the Chief Financial Officer ~~Comptroller~~ for
19 the payment of retirement benefits from the Florida Retirement
20 System Trust Fund, or any other pension trust fund
21 administered by the department, is not presented for payment
22 within 1 year after the last day of the month in which it was
23 originally issued, the Chief Financial Officer ~~Comptroller~~
24 shall cancel the benefit warrant and credit the amount of the
25 warrant to the Florida Retirement System Trust Fund or other
26 pension trust fund administered by the department, as
27 appropriate. The department may provide for issuance of a
28 replacement warrant when deemed appropriate.

29 Section 146. Effective January 7, 2003, subsection (3)
30 of section 122.061, Florida Statutes, is amended to read:

31

1 122.061 Hospital districts and county hospital
2 corporations; officers and employees included.--
3 (3) The rights of any officer or employee who is a
4 member of the State and County Officers and Employees'
5 Retirement System or who is receiving benefits under the
6 provisions of this chapter, by virtue of Attorney General's
7 opinion and Chief Financial Officer's ~~Comptroller's~~ rulings
8 rendered prior to the declaratory decree of the Circuit Court
9 of the Second Judicial Circuit of Florida, March 1957, shall
10 not be impaired or reduced.

11 Section 147. Effective January 7, 2003, paragraph (b)
12 of subsection (4) of section 122.35, Florida Statutes, is
13 amended to read:

14 122.35 Funding.--

15 (4) Effective October 1, 1967, the proceeds of the
16 intangible tax collections of the state remaining after the
17 payment of administrative expenses, commissions which are
18 applicable, and other costs incident to its collection shall
19 be set aside into an account designated as account B of the
20 Intangible Tax Trust Fund, which account shall also receive
21 all of the matching payments for retirement and social
22 security remitted by each officer or board as provided in
23 subsection (1). The amounts received and deposited into
24 account B of the Intangible Tax Trust Fund are appropriated
25 and shall be used for the following purposes and paid out on
26 the priority basis as shown below:

27 (b) After the retirement and social security
28 contributions of all members have been matched as provided in
29 paragraph (a), the balance remaining in account B of the
30 Intangible Tax Trust Fund shall be distributed as follows:

31

1 1. Each county shall receive each fiscal year ending
2 June 30 an allocation in an amount equal to 55 percent of the
3 total net intangible taxes collected and remitted to the
4 Department of Revenue by the tax collector of the county
5 during the prior fiscal year.

6 a. Commencing October 1, 1967, and every October 1
7 thereafter and continuing on the first day of each subsequent
8 month through June 30 of each fiscal year each board of county
9 commissions of the several counties of the state shall receive
10 an allocation from account B of the Intangible Tax Trust Fund.
11 This allocation shall not include the school boards of the
12 several counties of the state. The amount of said monthly
13 allocation shall be equal to the average amount required to be
14 matched by the Intangible Tax Trust Fund for the corresponding
15 months during the 1966-1967 fiscal year as computed by the
16 Chief Financial Officer ~~Comptroller~~, or one-twelfth of the
17 Chief Financial Officer's ~~Comptroller's~~ estimate of the
18 county's allocation, whichever is smaller, and an adjustment
19 to reconcile the monthly allocations with the actual amount to
20 be received pursuant to this subparagraph, shall be made not
21 later than 60 days after the end of the fiscal year.

22 b. Each county, county agency and school board shall
23 pay all matching cost for retirement and social security as
24 required by this act and s. 238.11(1), notwithstanding the
25 provisions of any other law.

26 2. The balance remaining in account B of the
27 Intangible Tax Trust Fund after the retirement and social
28 security contributions have been matched and the allocations
29 to each county have been paid as provided in this act, shall
30 be paid over to the General Revenue Fund of the state.

31

1 Section 148. Effective January 7, 2003, paragraphs (a)
2 and (b) of subsection (11) of section 125.0104, Florida
3 Statutes, are amended to read:

4 125.0104 Tourist development tax; procedure for
5 levying; authorized uses; referendum; enforcement.--

6 (11) INTEREST PAID ON DISTRIBUTIONS.--

7 (a) Interest shall be paid on undistributed taxes
8 collected and remitted to the Department of Revenue under this
9 section. Such interest shall be included along with the tax
10 proceeds distributed to the counties and shall be paid from
11 moneys transferred from the General Revenue Fund. The
12 department shall calculate the interest for net tax
13 distributions using the average daily rate that was earned by
14 the State Treasury for the preceding calendar quarter and paid
15 to the General Revenue Fund. This rate shall be certified by
16 the Chief Financial Officer ~~Treasurer~~ to the department by the
17 20th day following the close of each quarter.

18 (b) The interest applicable to taxes collected under
19 this section shall be calculated by multiplying the tax
20 amounts to be distributed times the daily rate times the
21 number of days after the third working day following the date
22 the tax is due and payable pursuant to s. 212.11 until the
23 date the department issues a voucher to request the Chief
24 Financial Officer ~~Comptroller~~ to issue the payment warrant.
25 The warrant shall be issued within 7 days after the request.

26 Section 149. Effective January 7, 2003, paragraph (b)
27 of subsection (2) of section 129.201, Florida Statutes, is
28 amended to read:

29 129.201 Budget of supervisor of elections; manner and
30 time of preparation and presentation.--

31 (2)

1 (b) To the extent appropriate, the budget shall be
2 further itemized in conformance with the Uniform Accounting
3 System for Local Units of Government in Florida promulgated by
4 rule of the Chief Financial Officer ~~Comptroller~~ of the state.

5 Section 150. Effective January 7, 2003, section
6 131.05, Florida Statutes, is amended to read:

7 131.05 Disposition of proceeds of sale.--In the event
8 refunding bonds are issued under the provisions of this
9 chapter prior to the date of maturity or option date of the
10 obligations proposed to be refunded, the proceeds of said
11 refunding bonds shall be deposited in a bank or trust company
12 within the state, which depository shall give a surety bond,
13 or other such bonds as are authorized by law to be accepted
14 for securing county and city funds, satisfactory to the Chief
15 Financial Officer ~~Department of Banking and Finance~~ for the
16 full amount of money so deposited, and the funds so deposited
17 shall only be withdrawn with the approval of the Chief
18 Financial Officer ~~department~~, for the purpose of paying the
19 obligations to refund which said bonds were issued.

20 Section 151. Effective January 7, 2003, section
21 137.09, Florida Statutes, is amended to read:

22 137.09 Justification and approval of bonds.--Each
23 surety upon every bond of any county officer shall make
24 affidavit that he or she is a resident of the county for which
25 the officer is to be commissioned, and that he or she has
26 sufficient visible property therein unencumbered and not
27 exempt from sale under legal process to make good his or her
28 bond. Every such bond shall be approved by the board of
29 county commissioners and by the Chief Financial Officer
30 ~~Department of Banking and Finance~~ when they and he or she it
31

1 are satisfied in their judgment that the same is legal,
2 sufficient, and proper to be approved.

3 Section 152. Effective January 7, 2003, section
4 145.141, Florida Statutes, is amended to read:

5 145.141 Deficiency to be paid by board of county
6 commissioners.--Should any county officer have insufficient
7 revenue from the income of his or her office, after paying
8 office personnel and expenses, to pay his or her total annual
9 salary, the board of county commissioners shall pay any
10 deficiency in salary from the general revenue fund and notify
11 the Chief Financial Officer ~~Department of Banking and Finance~~.
12 The deficiency shall be listed in the comptroller's annual
13 report of county finances and county fee officers.

14 Section 153. Effective January 7, 2003, subsections
15 (1) and (2) of section 154.02, Florida Statutes, are amended
16 to read:

17 154.02 County Health Department Trust Fund.--

18 (1) To enable counties to provide public health
19 services and maintain public health equipment and facilities,
20 each county in the state with a population exceeding 100,000,
21 according to the last state census, may levy an annual tax not
22 exceeding 0.5 mill; each county in the state with a population
23 exceeding 40,000 and not exceeding 100,000, according to the
24 last state census, may levy an annual tax not exceeding 1
25 mill; and each county in the state with a population not
26 exceeding 40,000, according to the last state census, may levy
27 an annual tax not exceeding 2 mills, on the dollar on all
28 taxable property in such county, the proceeds of which tax, if
29 so contracted with the state, shall be paid to the Chief
30 Financial Officer ~~Treasurer~~. However, the board of county
31 commissioners may elect to pay in 12 equal monthly

1 installments. Such funds in the hands of the Chief Financial
2 Officer ~~Treasurer~~ shall be placed in the county health
3 department trust funds of the county by which such funds were
4 raised, and such funds shall be expended by the Department of
5 Health solely for the purpose of carrying out the intent and
6 object of the public health contract.

7 (2) The Chief Financial Officer ~~Treasurer~~ shall
8 maintain a full-time County Health Department Trust Fund which
9 shall contain all state and local funds to be expended by
10 county health departments. Such funds shall be expended by
11 the Department of Health solely for the purposes of carrying
12 out the intent and purpose of this part. Federal funds may be
13 deposited in the trust fund.

14 Section 154. Effective January 7, 2003, subsection (1)
15 of section 154.03, Florida Statutes, is amended to read:

16 154.03 Cooperation with Department of Health and
17 United States Government.--

18 (1) The county commissioners of any county may agree
19 with the Department of Health upon the expenditure by the
20 department in such county of any funds allotted for that
21 purpose by the department or received by it for such purposes
22 from private contributions or other sources, and such funds
23 shall be paid to the Chief Financial Officer ~~Treasurer~~ and
24 shall form a part of the full-time county health department
25 trust fund of such county; and such funds shall be expended by
26 the department solely for the purposes of this chapter. The
27 department is further authorized to arrange and agree with the
28 United States Government, through its duly authorized
29 officials, for the allocation and expenditure by the United
30 States of funds of the United States in the study of causes of
31 disease and prevention thereof in such full-time county health

1 departments when and where established by the department under
2 this part.

3 Section 155. Effective January 7, 2003, section
4 154.05, Florida Statutes, is amended to read:

5 154.05 Cooperation and agreements between
6 counties.--Two or more counties may combine in the
7 establishment and maintenance of a single full-time county
8 health department for the counties which combine for that
9 purpose; and, pursuant to such combination or agreement, such
10 counties may cooperate with one another and the Department of
11 Health and contribute to a joint fund in carrying out the
12 purpose and intent of this chapter. The duration and nature
13 of such agreement shall be evidenced by resolutions of the
14 boards of county commissioners of such counties and shall be
15 submitted to and approved by the department. In the event of
16 any such agreement, a full-time county health department shall
17 be established and maintained by the department in and for the
18 benefit of the counties which have entered into such an
19 agreement; and, in such case, the funds raised by taxation
20 pursuant to this chapter by each such county shall be paid to
21 the Chief Financial Officer ~~Treasurer~~ for the account of the
22 department and shall be known as the full-time county health
23 department trust fund of the counties so cooperating. Such
24 trust funds shall be used and expended by the department for
25 the purposes specified in this chapter in each county which
26 has entered into such agreement. In case such an agreement is
27 entered into between two or more counties, the work
28 contemplated by this chapter shall be done by a single
29 full-time county health department in the counties so
30 cooperating; and the nature, extent, and location of such work
31 shall be under the control and direction of the department.

1 Section 156. Effective January 7, 2003, subsection (2)
2 of section 154.06, Florida Statutes, is amended to read:

3 154.06 Fees and services rendered; authority.--

4 (2) All funds collected under this section shall be
5 expended solely for the purpose of providing health services
6 and facilities within the county served by the county health
7 department. Fees collected by county health departments
8 pursuant to department rules shall be deposited with the Chief
9 Financial Officer ~~Treasurer~~ and credited to the County Health
10 Department Trust Fund. Fees collected by the county health
11 department for public health services or personal health
12 services shall be allocated to the state and the county based
13 upon the pro rata share of funding for each such service. The
14 board of county commissioners, if it has so contracted, shall
15 provide for the transmittal of funds collected for its pro
16 rata share of personal health services or primary care
17 services rendered under the provisions of this section to the
18 State Treasury for credit to the County Health Department
19 Trust Fund, but in any event the proceeds from such fees may
20 only be used to fund county health department services.

21 Section 157. Effective January 7, 2003, paragraphs (d)
22 and (e) of subsection (17) of section 154.209, Florida
23 Statutes, are amended to read:

24 154.209 Powers of authority.--The purpose of the
25 authority shall be to assist health facilities in the
26 acquisition, construction, financing, and refinancing of
27 projects in any incorporated or unincorporated area within the
28 geographical limits of the local agency. For this purpose,
29 the authority is authorized and empowered:

30 (17) To issue special obligation revenue bonds for the
31 purpose of establishing and maintaining the self-insurance

1 pool and to provide reserve funds in connection therewith,
2 such bonds to be payable from funds available in the pool from
3 time to time or from assessments against participating health
4 facilities for the purpose of providing required contributions
5 to the fund. With respect to the issuance of such bonds or
6 notes the following provisions shall apply:

7 (d) Any self-insurance pool funded pursuant to this
8 section shall maintain excess insurance which provides
9 specific and aggregate limits and a retention level determined
10 in accordance with sound actuarial principles. The Department
11 of Insurance and Financial Services may waive this requirement
12 if the fund demonstrates that its operation is and will be
13 actuarially sound without obtaining excess insurance.

14 (e) Prior to the issuance of any bonds pursuant to
15 this section for the purpose of acquiring liability coverage
16 contracts from the self-insurance pool, the Department of
17 Insurance and Financial Services shall certify that excess
18 liability coverage for the health facility is reasonably
19 unobtainable in the amounts provided by such pool or that the
20 liability coverage obtained through acquiring contracts from
21 the self-insurance pool, after taking into account costs of
22 issuance of bonds and any other administrative fees, is less
23 expensive to the health facility than similar commercial
24 coverage then reasonably available.

25 Section 158. Effective January 7, 2003, section
26 154.314, Florida Statutes, is amended to read:

27 154.314 Certification of the State of Florida.--

28 (1) In the event payment for the costs of services
29 rendered by a participating hospital or a regional referral
30 hospital is not received from the responsible county within 90
31 days of receipt of a statement for services rendered to a

1 qualified indigent who is a certified resident of the county,
2 or if the payment is disputed and said payment is not received
3 from the county determined to be responsible within 60 days of
4 the date of exhaustion of all administrative and legal
5 remedies, the hospital shall certify to the Chief Financial
6 Officer ~~Comptroller~~ the amount owed by the county.

7 (2) The Chief Financial Officer ~~Comptroller~~ shall have
8 no longer than 45 days from the date of receiving the
9 hospital's certified notice to forward the amount delinquent
10 to the appropriate hospital from any funds due to the county
11 under any revenue-sharing or tax-sharing fund established by
12 the state, except as otherwise provided by the State
13 Constitution. The Chief Financial Officer ~~Comptroller~~ shall
14 provide the Governor and the fiscal committees in the House of
15 Representatives and the Senate with a quarterly accounting of
16 the amounts certified by hospitals as owed by counties and the
17 amount paid to hospitals out of any revenue or tax sharing
18 funds due to the county.

19 Section 159. Effective January 7, 2003, paragraph (e)
20 of subsection (7) of section 163.01, Florida Statutes, is
21 amended to read:

22 163.01 Florida Interlocal Cooperation Act of 1969.--

23 (7)

24 (e)1. Notwithstanding the provisions of paragraph (c),
25 any separate legal entity, created pursuant to the provisions
26 of this section and controlled by counties or municipalities
27 of this state, the membership of which consists or is to
28 consist only of public agencies of this state, may, for the
29 purpose of financing acquisition of liability coverage
30 contracts from one or more local government liability pools to
31 provide liability coverage for counties, municipalities, or

1 other public agencies of this state, exercise all powers in
2 connection with the authorization, issuance, and sale of
3 bonds. All of the privileges, benefits, powers, and terms of
4 s. 125.01 relating to counties and s. 166.021 relating to
5 municipalities shall be fully applicable to such entity and
6 such entity shall be considered a unit of local government for
7 all of the privileges, benefits, powers, and terms of part I
8 of chapter 159. Bonds issued by such entity shall be deemed
9 issued on behalf of counties, municipalities, or public
10 agencies which enter into loan agreements with such entity as
11 provided in this paragraph. Proceeds of bonds issued by such
12 entity may be loaned to counties, municipalities, or other
13 public agencies of this state, whether or not such counties,
14 municipalities, or other public agencies are also members of
15 the entity issuing the bonds, and such counties,
16 municipalities, or other public agencies may in turn deposit
17 such loan proceeds with a separate local government liability
18 pool for purposes of acquiring liability coverage contracts.

19 2. Counties or municipalities of this state are
20 authorized pursuant to this section, in addition to the
21 authority provided by s. 125.01, part II of chapter 166, and
22 other applicable law, to issue bonds for the purpose of
23 acquiring liability coverage contracts from a local government
24 liability pool. Any individual county or municipality may, by
25 entering into interlocal agreements with other counties,
26 municipalities, or public agencies of this state, issue bonds
27 on behalf of itself and other counties, municipalities, or
28 other public agencies, for purposes of acquiring a liability
29 coverage contract or contracts from a local government
30 liability pool. Counties, municipalities, or other public
31 agencies are also authorized to enter into loan agreements

1 with any entity created pursuant to subparagraph 1., or with
2 any county or municipality issuing bonds pursuant to this
3 subparagraph, for the purpose of obtaining bond proceeds with
4 which to acquire liability coverage contracts from a local
5 government liability pool. No county, municipality, or other
6 public agency shall at any time have more than one loan
7 agreement outstanding for the purpose of obtaining bond
8 proceeds with which to acquire liability coverage contracts
9 from a local government liability pool. Obligations of any
10 county, municipality, or other public agency of this state
11 pursuant to a loan agreement as described above may be
12 validated as provided in chapter 75. Prior to the issuance of
13 any bonds pursuant to subparagraph 1. or this subparagraph for
14 the purpose of acquiring liability coverage contracts from a
15 local government liability pool, the reciprocal insurer or the
16 manager of any self-insurance program shall demonstrate to the
17 satisfaction of the Department of Insurance and Financial
18 Services that excess liability coverage for counties,
19 municipalities, or other public agencies is reasonably
20 unobtainable in the amounts provided by such pool or that the
21 liability coverage obtained through acquiring contracts from a
22 local government liability pool, after taking into account
23 costs of issuance of bonds and any other administrative fees,
24 is less expensive to counties, municipalities, or special
25 districts than similar commercial coverage then reasonably
26 available.

27 3. Any entity created pursuant to this section or any
28 county or municipality may also issue bond anticipation notes,
29 as provided by s. 215.431, in connection with the
30 authorization, issuance, and sale of such bonds. In addition,
31 the governing body of such legal entity or the governing body

1 of such county or municipality may also authorize bonds to be
2 issued and sold from time to time and may delegate, to such
3 officer, official, or agent of such legal entity as the
4 governing body of such legal entity may select, the power to
5 determine the time; manner of sale, public or private;
6 maturities; rate or rates of interest, which may be fixed or
7 may vary at such time or times and in accordance with a
8 specified formula or method of determination; and other terms
9 and conditions as may be deemed appropriate by the officer,
10 official, or agent so designated by the governing body of such
11 legal entity. However, the amounts and maturities of such
12 bonds and the interest rate or rates of such bonds shall be
13 within the limits prescribed by the governing body of such
14 legal entity and its resolution delegating to such officer,
15 official, or agent the power to authorize the issuance and
16 sale of such bonds. Any series of bonds issued pursuant to
17 this paragraph shall mature no later than 7 years following
18 the date of issuance thereof.

19 4. Bonds issued pursuant to subparagraph 1. may be
20 validated as provided in chapter 75. The complaint in any
21 action to validate such bonds shall be filed only in the
22 Circuit Court for Leon County. The notice required to be
23 published by s. 75.06 shall be published in Leon County and in
24 each county which is an owner of the entity issuing the bonds,
25 or in which a member of the entity is located, and the
26 complaint and order of the circuit court shall be served only
27 on the State Attorney of the Second Judicial Circuit and on
28 the state attorney of each circuit in each county or
29 municipality which is an owner of the entity issuing the bonds
30 or in which a member of the entity is located.

31

1 5. Bonds issued pursuant to subparagraph 2. may be
2 validated as provided in chapter 75. The complaint in any
3 action to validate such bonds shall be filed in the circuit
4 court of the county or municipality which will issue the
5 bonds. The notice required to be published by s. 75.06 shall
6 be published only in the county where the complaint is filed,
7 and the complaint and order of the circuit court shall be
8 served only on the state attorney of the circuit in the county
9 or municipality which will issue the bonds.

10 6. The participation by any county, municipality, or
11 other public agency of this state in a local government
12 liability pool shall not be deemed a waiver of immunity to the
13 extent of liability coverage, nor shall any contract entered
14 regarding such a local government liability pool be required
15 to contain any provision for waiver.

16 Section 160. Effective January 7, 2003, subsections
17 (4), (5), (6), (7), (8), and (9) of section 163.05, Florida
18 Statutes, are amended to read:

19 163.05 Small County Technical Assistance Program.--

20 (4) The Chief Financial Officer ~~Comptroller~~ shall
21 enter into contracts with program providers who shall:

22 (a) Be a public agency or private, nonprofit
23 corporation, association, or entity.

24 (b) Use existing resources, services, and information
25 that are available from state or local agencies, universities,
26 or the private sector.

27 (c) Seek and accept funding from any public or private
28 source.

29 (d) Annually submit information to assist the
30 Legislative Committee on Intergovernmental Relations in
31

1 preparing a performance review that will include an analysis
2 of the effectiveness of the program.

3 (e) Assist small counties in developing alternative
4 revenue sources.

5 (f) Provide assistance to small counties in the areas
6 of financial management, accounting, investing, purchasing,
7 planning and budgeting, debt issuance, public management,
8 management systems, computers and information technology, and
9 public safety management.

10 (g) Provide for an annual independent financial audit
11 of the program.

12 (h) In each county served, conduct a needs assessment
13 upon which the assistance provided for that county will be
14 designed.

15 (5)(a) The Chief Financial Officer ~~Comptroller~~ shall
16 issue a request for proposals to provide assistance to small
17 counties. At the request of the Chief Financial Officer
18 ~~Comptroller~~, the Legislative Committee on Intergovernmental
19 Relations shall assist in the preparation of the request for
20 proposals.

21 (b) The Chief Financial Officer ~~Comptroller~~ shall
22 review each contract proposal submitted.

23 (c) The Legislative Committee on Intergovernmental
24 Relations shall review each contract proposal and submit to
25 the Chief Financial Officer ~~Comptroller~~, in writing, advisory
26 comments and recommendations, citing with specificity the
27 reasons for its recommendations.

28 (d) The Chief Financial Officer ~~Comptroller~~ and the
29 council shall consider the following factors in reviewing
30 contract proposals:

31

- 1 1. The demonstrated capacity of the provider to
2 conduct needs assessments and implement the program as
3 proposed.
- 4 2. The number of small counties to be served under the
5 proposal.
- 6 3. The cost of the program as specified in a proposed
7 budget.
- 8 4. The short-term and long-term benefits of the
9 assistance to small counties.
- 10 5. The form and extent to which existing resources,
11 services, and information that are available from state and
12 local agencies, universities, and the private sector will be
13 used by the provider under the contract.
- 14 (6) A decision of the Chief Financial Officer
15 ~~Comptroller~~ to award a contract under this section is final
16 and shall be in writing with a copy provided to the
17 Legislative Committee on Intergovernmental Relations.
- 18 (7) The Chief Financial Officer ~~Comptroller~~ may enter
19 into contracts and agreements with other state and local
20 agencies and with any person, association, corporation, or
21 entity other than the program providers, for the purpose of
22 administering this section.
- 23 (8) The Chief Financial Officer ~~Comptroller~~ shall
24 provide fiscal oversight to ensure that funds expended for the
25 program are used in accordance with the contracts entered into
26 pursuant to subsection (4).
- 27 (9) The Legislative Committee on Intergovernmental
28 Relations shall annually conduct a performance review of the
29 program. The findings of the review shall be presented in a
30 report submitted to the Governor, the President of the Senate,
31

1 the Speaker of the House of Representatives, and the Chief
2 Financial Officer ~~Comptroller~~ by January 15 of each year.

3 Section 161. Effective January 7, 2003, subsections
4 (4), (5), (6), (7), (8), and (9) of section 163.055, Florida
5 Statutes, are amended to read:

6 163.055 Local Government Financial Technical
7 Assistance Program.--

8 (4) The Chief Financial Officer ~~Comptroller~~ shall
9 enter into contracts with program providers who shall:

10 (a) Be a public agency or private, nonprofit
11 corporation, association, or entity.

12 (b) Use existing resources, services, and information
13 that are available from state or local agencies, universities,
14 or the private sector.

15 (c) Seek and accept funding from any public or private
16 source.

17 (d) Annually submit information to assist the
18 Legislative Committee on Intergovernmental Relations in
19 preparing a performance review that will include an analysis
20 of the effectiveness of the program.

21 (e) Assist municipalities and independent special
22 districts in developing alternative revenue sources.

23 (f) Provide for an annual independent financial audit
24 of the program, if the program receives funding.

25 (g) Provide assistance to municipalities and special
26 districts in the areas of financial management, accounting,
27 investing, budgeting, and debt issuance.

28 (h) Develop a needs assessment to determine where
29 assistance should be targeted, and to establish a priority
30 system to deliver assistance to those jurisdictions most in
31 need through the most economical means available.

1 (i) Provide financial emergency assistance upon
2 direction from the Executive Office of the Governor pursuant
3 to s. 218.503.

4 (5)(a) The Chief Financial Officer ~~Comptroller~~ shall
5 issue a request for proposals to provide assistance to
6 municipalities and special districts. At the request of the
7 Chief Financial Officer ~~Comptroller~~, the Legislative Committee
8 on Intergovernmental Relations shall assist in the preparation
9 of the request for proposals.

10 (b) The Chief Financial Officer ~~Comptroller~~ shall
11 review each contract proposal submitted.

12 (c) The Legislative Committee on Intergovernmental
13 Relations shall review each contract proposal and submit to
14 the Chief Financial Officer ~~Comptroller~~, in writing, advisory
15 comments and recommendations, citing with specificity the
16 reasons for its recommendations.

17 (d) The Chief Financial Officer ~~Comptroller~~ and the
18 Legislative Committee on Intergovernmental Relations shall
19 consider the following factors in reviewing contract
20 proposals:

21 1. The demonstrated capacity of the provider to
22 conduct needs assessments and implement the program as
23 proposed.

24 2. The number of municipalities and special districts
25 to be served under the proposal.

26 3. The cost of the program as specified in a proposed
27 budget.

28 4. The short-term and long-term benefits of the
29 assistance to municipalities and special districts.

30 5. The form and extent to which existing resources,
31 services, and information that are available from state and

1 local agencies, universities, and the private sector will be
2 used by the provider under the contract.

3 (6) A decision of the Chief Financial Officer
4 ~~Comptroller~~ to award a contract under this section is final
5 and shall be in writing with a copy provided to the
6 Legislative Committee on Intergovernmental Relations.

7 (7) The Chief Financial Officer ~~Comptroller~~ may enter
8 into contracts and agreements with other state and local
9 agencies and with any person, association, corporation, or
10 entity other than the program providers, for the purpose of
11 administering this section.

12 (8) The Chief Financial Officer ~~Comptroller~~ shall
13 provide fiscal oversight to ensure that funds expended for the
14 program are used in accordance with the contracts entered into
15 pursuant to subsection (4).

16 (9) The Legislative Committee on Intergovernmental
17 Relations shall annually conduct a performance review of the
18 program. The findings of the review shall be presented in a
19 report submitted to the Governor, the President of the Senate,
20 the Speaker of the House of Representatives, and the Chief
21 Financial Officer ~~Comptroller~~ by January 15 of each year.

22 Section 162. Effective January 7, 2003, subsection (6)
23 of section 163.3167, Florida Statutes, is amended to read:

24 163.3167 Scope of act.--

25 (6) When a regional planning agency is required to
26 prepare or amend a comprehensive plan, or element or portion
27 thereof, pursuant to subsections (3) and (4), the regional
28 planning agency and the local government may agree to a method
29 of compensating the regional planning agency for any
30 verifiable, direct costs incurred. If an agreement is not
31 reached within 6 months after the date the regional planning

1 agency assumes planning responsibilities for the local
2 government pursuant to subsections (3) and (4) or by the time
3 the plan or element, or portion thereof, is completed,
4 whichever is earlier, the regional planning agency shall file
5 invoices for verifiable, direct costs involved with the
6 governing body. Upon the failure of the local government to
7 pay such invoices within 90 days, the regional planning agency
8 may, upon filing proper vouchers with the Chief Financial
9 Officer ~~State Comptroller~~, request payment by the Chief
10 Financial Officer ~~State Comptroller~~ from unencumbered revenue
11 or other tax sharing funds due such local government from the
12 state for work actually performed, and the Chief Financial
13 Officer ~~State Comptroller~~ shall pay such vouchers; however,
14 the amount of such payment shall not exceed 50 percent of such
15 funds due such local government in any one year.

16 Section 163. Effective January 7, 2003, paragraph (a)
17 of subsection (8) of section 175.032, Florida Statutes, is
18 amended to read:

19 175.032 Definitions.--For any municipality, special
20 fire control district, chapter plan, local law municipality,
21 local law special fire control district, or local law plan
22 under this chapter, the following words and phrases have the
23 following meanings:

24 (8)(a) "Firefighter" means any person employed solely
25 by a constituted fire department of any municipality or
26 special fire control district who is certified as a
27 firefighter as a condition of employment in accordance with
28 the provisions of s. 633.35 and whose duty it is to extinguish
29 fires, to protect life, or to protect property. However, for
30 purposes of this chapter only, "firefighter" also includes
31 public safety officers who are responsible for performing both

1 police and fire services, who are certified as police officers
2 or firefighters, and who are certified by their employers to
3 the Department of Insurance and Financial Services ~~Insurance~~
4 ~~Commissioner and Treasurer~~ as participating in this chapter
5 prior to October 1, 1979. Effective October 1, 1979, public
6 safety officers who have not been certified as participating
7 in this chapter shall be considered police officers for
8 retirement purposes and shall be eligible to participate in
9 chapter 185. Any plan may provide that the fire chief shall
10 have an option to participate, or not, in that plan.

11 Section 164. Effective January 7, 2003, subsection (1)
12 of section 175.101, Florida Statutes, is amended to read:

13 175.101 State excise tax on property insurance
14 premiums authorized; procedure.--For any municipality, special
15 fire control district, chapter plan, local law municipality,
16 local law special fire control district, or local law plan
17 under this chapter:

18 (1) Each municipality or special fire control district
19 in this state described and classified in s. 175.041, having a
20 lawfully established firefighters' pension trust fund or
21 municipal fund or special fire control district fund, by
22 whatever name known, providing pension benefits to
23 firefighters as provided under this chapter, may assess and
24 impose on every insurance company, corporation, or other
25 insurer now engaged in or carrying on, or who shall
26 hereinafter engage in or carry on, the business of property
27 insurance as shown by the records of the Department of
28 Insurance and Financial Services an excise tax in addition to
29 any lawful license or excise tax now levied by each of the
30 municipalities or special fire control districts,
31 respectively, amounting to 1.85 percent of the gross amount of

1 receipts of premiums from policyholders on all premiums
2 collected on property insurance policies covering property
3 within the corporate limits of such municipalities or within
4 the legally defined boundaries of special fire control
5 districts, respectively. Whenever the boundaries of a special
6 fire control district that has lawfully established a
7 firefighters' pension trust fund encompass a portion of the
8 corporate territory of a municipality that has also lawfully
9 established a firefighters' pension trust fund, that portion
10 of the tax receipts attributable to insurance policies
11 covering property situated both within the municipality and
12 the special fire control district shall be given to the fire
13 service provider. The agent shall identify the fire service
14 provider on the property owner's application for insurance.
15 Remaining revenues collected pursuant to this chapter shall be
16 distributed to the municipality or special fire control
17 district according to the location of the insured property.

18 Section 165. Effective January 7, 2003, subsection (2)
19 of section 175.121, Florida Statutes, is amended to read:

20 175.121 Department of Revenue and Division of
21 Retirement to keep accounts of deposits; disbursements.--For
22 any municipality or special fire control district having a
23 chapter or local lawplan established pursuant to this
24 chapter:

25 (2) The Chief Financial Officer ~~Comptroller~~ shall, on
26 or before July 1 of each year, and at such other times as
27 authorized by the division, draw his or her warrants on the
28 full net amount of money then on deposit in the Police and
29 Firefighters' Premium Tax Trust Fund pursuant to this chapter,
30 specifying the municipalities and special fire control
31 districts to which the moneys must be paid and the net amount

1 collected for and to be paid to each municipality or special
2 fire control district, respectively, subject to the limitation
3 on disbursement under s. 175.122. The sum payable to each
4 municipality or special fire control district is appropriated
5 annually out of the Police and Firefighters' Premium Tax Trust
6 Fund. The warrants of the Chief Financial Officer ~~Comptroller~~
7 shall be payable to the respective municipalities and special
8 fire control districts entitled to receive them and shall be
9 remitted annually by the division to the respective
10 municipalities and special fire control districts. In lieu
11 thereof, the municipality or special fire control district may
12 provide authorization to the division for the direct payment
13 of the premium tax to the board of trustees. In order for a
14 municipality or special fire control district and its pension
15 fund to participate in the distribution of premium tax moneys
16 under this chapter, all the provisions shall be complied with
17 annually, including state acceptance pursuant to part VII of
18 chapter 112.

19 Section 166. Effective January 7, 2003, section
20 175.151, Florida Statutes, is amended to read:

21 175.151 Penalty for failure of insurers to comply with
22 this act.--Should any insurance company, corporation or other
23 insurer fail to comply with the provisions of this act, on or
24 before March 1 of each year as herein provided, the
25 certificate of authority issued to said insurance company,
26 corporation or other insurer to transact business in this
27 state may be canceled and revoked by the Department of
28 Insurance and Financial Services, and it is unlawful for any
29 such insurance company, corporation, or other insurer to
30 transact business thereafter in this state unless such
31 insurance company, corporation, or other insurer shall be

1 granted a new certificate of authority to transact any
2 business in this state, in compliance with provisions of law
3 authorizing such certificate of authority to be issued. The
4 division is responsible for notifying the Department of
5 Insurance and Financial Services regarding any such failure to
6 comply.

7 Section 167. Effective January 7, 2003, subsection (1)
8 of section 185.08, Florida Statutes, is amended to read:

9 185.08 State excise tax on casualty insurance premiums
10 authorized; procedure.--For any municipality, chapter plan,
11 local law municipality, or local law plan under this chapter:

12 (1) Each incorporated municipality in this state
13 described and classified in s. 185.03, as well as each other
14 city or town of this state which on July 31, 1953, had a
15 lawfully established municipal police officers' retirement
16 trust fund or city fund, by whatever name known, providing
17 pension or relief benefits to police officers as provided
18 under this chapter, may assess and impose on every insurance
19 company, corporation, or other insurer now engaged in or
20 carrying on, or who shall hereafter engage in or carry on, the
21 business of casualty insurance as shown by records of the
22 Department of Insurance and Financial Services, an excise tax
23 in addition to any lawful license or excise tax now levied by
24 each of the said municipalities, respectively, amounting to
25 .85 percent of the gross amount of receipts of premiums from
26 policyholders on all premiums collected on casualty insurance
27 policies covering property within the corporate limits of such
28 municipalities, respectively.

29 Section 168. Effective January 7, 2003, subsection (2)
30 of section 185.10, Florida Statutes, is amended to read:

31

1 185.10 Department of Revenue and Division of
2 Retirement to keep accounts of deposits; disbursements.--For
3 any municipality having a chapter plan or local law plan under
4 this chapter:

5 (2) The Chief Financial Officer ~~Comptroller~~ shall, on
6 or before July 1 of each year, and at such other times as
7 authorized by the division, draw his or her warrants on the
8 full net amount of money then on deposit pursuant to this
9 chapter in the Police and Firefighters' Premium Tax Trust
10 Fund, specifying the municipalities to which the moneys must
11 be paid and the net amount collected for and to be paid to
12 each municipality, respectively. The sum payable to each
13 municipality is appropriated annually out of the Police and
14 Firefighters' Premium Tax Trust Fund. The warrants of the
15 Chief Financial Officer ~~Comptroller~~ shall be payable to the
16 respective municipalities entitled to receive them and shall
17 be remitted annually by the division to the respective
18 municipalities. In lieu thereof, the municipality may provide
19 authorization to the division for the direct payment of the
20 premium tax to the board of trustees. In order for a
21 municipality and its retirement fund to participate in the
22 distribution of premium tax moneys under this chapter, all the
23 provisions shall be complied with annually, including state
24 acceptance pursuant to part VII of chapter 112.

25 Section 169. Effective January 7, 2003, section
26 185.13, Florida Statutes, is amended to read:

27 185.13 Failure of insurer to comply with chapter;
28 penalty.--Should any insurance company, corporation or other
29 insurer fail to comply with the provisions of this chapter, on
30 or before March 1 in each year as herein provided, the
31 certificate of authority issued to said insurance company,

1 corporation or other insurer to transact business in this
2 state may be canceled and revoked by the Department of
3 Insurance and Financial Services, and it is unlawful for any
4 such insurance company, corporation or other insurer to
5 transact any business thereafter in this state unless such
6 insurance company, corporation or other insurer shall be
7 granted a new certificate of authority to transact business in
8 this state, in compliance with provisions of law authorizing
9 such certificate of authority to be issued. The division shall
10 be responsible for notifying the Department of Insurance and
11 Financial Services regarding any such failure to comply.

12 Section 170. Effective January 7, 2003, subsections
13 (2), (3), and (5) of section 189.4035, Florida Statutes, are
14 amended to read:

15 189.4035 Preparation of official list of special
16 districts.--

17 (2) The official list shall be produced by the
18 department after the department has notified each special
19 district that is currently reporting to the department, the
20 Chief Financial Officer ~~Department of Banking and Finance~~
21 pursuant to s. 218.32, or the Auditor General pursuant to s.
22 218.39. Upon notification, each special district shall
23 submit, within 60 days, its determination of its status. The
24 determination submitted by a special district shall be
25 consistent with the status reported in the most recent local
26 government audit of district activities submitted to the
27 Auditor General pursuant to s. 218.39.

28 (3) The Chief Financial Officer ~~Department of Banking~~
29 ~~and Finance~~ shall provide the department with a list of
30 dependent special districts reporting pursuant to s. 218.32
31 for inclusion on the official list of special districts.

1 (5) The official list of special districts shall be
2 distributed by the department on October 1 of each year to the
3 President of the Senate, the Speaker of the House of
4 Representatives, the Auditor General, the Department of
5 Revenue, the Chief Financial Officer ~~Department of Banking and~~
6 ~~Finance~~, the Department of Management Services, the State
7 Board of Administration, counties, municipalities, county
8 property appraisers, tax collectors, and supervisors of
9 elections and to all interested parties who request the list.

10 Section 171. Effective January 7, 2003, subsection (1)
11 of section 189.412, Florida Statutes, is amended to read:

12 189.412 Special District Information Program; duties
13 and responsibilities.--The Special District Information
14 Program of the Department of Community Affairs is created and
15 has the following special duties:

16 (1) The collection and maintenance of special district
17 compliance status reports from the Auditor General, the Chief
18 Financial Officer ~~Department of Banking and Finance~~, the
19 Division of Bond Finance of the State Board of Administration,
20 the Department of Management Services, the Department of
21 Revenue, and the Commission on Ethics for the reporting
22 required in ss. 112.3144, 112.3145, 112.3148, 112.3149,
23 112.63, 200.068, 218.32, 218.34, 218.38, 218.39, and 280.17
24 and chapter 121 and from state agencies administering programs
25 that distribute money to special districts. The special
26 district compliance status reports must consist of a list of
27 special districts used in that state agency and a list of
28 which special districts did not comply with the reporting
29 statutorily required by that agency.

30 Section 172. Effective January 7, 2003, section
31 189.427, Florida Statutes, is amended to read:

1 189.427 Fee schedule; Operating Trust Fund.--The
2 Department of Community Affairs, by rule, shall establish a
3 schedule of fees to pay one-half of the costs incurred by the
4 department in administering this act, except that the fee may
5 not exceed \$175 per district per year. The fees collected
6 under this section shall be deposited in the Operating Trust
7 Fund, which shall be administered by the Department of
8 Community Affairs. Any fee rule must consider factors such as
9 the dependent and independent status of the district and
10 district revenues for the most recent fiscal year as reported
11 to the Chief Financial Officer ~~Department of Banking and~~
12 ~~Finance~~. The department may assess fines of not more than \$25,
13 with an aggregate total not to exceed \$50, as penalties
14 against special districts that fail to remit required fees to
15 the department. It is the intent of the Legislature that
16 general revenue funds will be made available to the department
17 to pay one-half of the cost of administering this act.

18 Section 173. Effective January 7, 2003, subsection (3)
19 of section 190.007, Florida Statutes, is amended to read:

20 190.007 Board of supervisors; general duties.--

21 (3) The board is authorized to select as a depository
22 for its funds any qualified public depository as defined in s.
23 280.02 which meets all the requirements of chapter 280 and has
24 been designated by the Chief Financial Officer ~~Treasurer~~ as a
25 qualified public depository, upon such terms and conditions as
26 to the payment of interest by such depository upon the funds
27 so deposited as the board may deem just and reasonable.

28 Section 174. Effective January 7, 2003, subsection
29 (16) of section 191.006, Florida Statutes, is amended to read:

30 191.006 General powers.--The district shall have, and
31 the board may exercise by majority vote, the following powers:

1 (16) To select as a depository for its funds any
2 qualified public depository as defined in s. 280.02 which
3 meets all the requirements of chapter 280 and has been
4 designated by the Chief Financial Officer ~~State Treasurer~~ as a
5 qualified public depository, upon such terms and conditions as
6 to the payment of interest upon the funds deposited as the
7 board deems just and reasonable.

8 Section 175. Effective January 7, 2003, subsection (4)
9 of section 192.091, Florida Statutes, is amended to read:

10 192.091 Commissions of property appraisers and tax
11 collectors.--

12 (4) The commissions for collecting taxes assessed for
13 or levied by the state shall be audited and allowed by the
14 Chief Financial Officer ~~Comptroller~~ and shall be paid by the
15 Chief Financial Officer ~~Treasurer~~ as other Chief Financial
16 Officer's ~~Comptroller's~~ warrants are paid; and commissions for
17 collecting the county taxes shall be audited and paid by the
18 boards of county commissioners of the several counties of this
19 state. The commissions for collecting all special school
20 district taxes shall be audited by the school board of each
21 respective district and taken out of the funds of the
22 respective special school district under its control and
23 allowed and paid to the tax collectors for collecting such
24 taxes; and the commissions for collecting all other district
25 taxes, whether special or not, shall be audited and paid by
26 the governing board or commission having charge of the
27 financial obligations of such district. All commissions for
28 collecting special tax district taxes shall be paid at the
29 time and in the manner now, or as may hereafter be, provided
30 for the payment of the commissions for the collection of
31 county taxes. All amounts paid as compensation to any tax

1 collector under the provisions of this or any other law shall
2 be a part of the general income or compensation of such
3 officer for the year in which received, and nothing contained
4 in this section shall be held or construed to affect or
5 increase the maximum salary as now provided by law for any
6 such officer.

7 Section 176. Effective January 7, 2003, subsection (3)
8 of section 192.102, Florida Statutes, is amended to read:

9 192.102 Payment of property appraisers' and
10 collectors' commissions.--

11 (3) The Chief Financial Officer ~~Comptroller~~ of the
12 state shall issue to each of the county property appraisers
13 and collectors of taxes, on the first Monday of January,
14 April, July, and October, on demand of such county property
15 appraisers and collectors of taxes after approval by the
16 Department of Revenue, his or her warrant, which shall be paid
17 by the Chief Financial Officer ~~Treasurer~~ of the state, for an
18 amount equal to one-fourth of four-fifths of the total amount
19 of commissions received by such county property appraisers and
20 collectors of taxes or their predecessors in office from the
21 state during and for the preceding year, and the balance of
22 the commissions earned by such county property appraiser and
23 collector of taxes, respectively, during each year, over and
24 above the amount of such installment payments herein provided
25 for, shall be payable when a report of errors and double
26 assessments is approved by the county commissioners and a copy
27 thereof filed with the Department of Revenue.

28 Section 177. Effective January 7, 2003, subsection (1)
29 of section 193.092, Florida Statutes, is amended to read:

30 193.092 Assessment of property for back taxes.--
31

1 (1) When it shall appear that any ad valorem tax might
2 have been lawfully assessed or collected upon any property in
3 the state, but that such tax was not lawfully assessed or
4 levied, and has not been collected for any year within a
5 period of 3 years next preceding the year in which it is
6 ascertained that such tax has not been assessed, or levied, or
7 collected, then the officers authorized shall make the
8 assessment of taxes upon such property in addition to the
9 assessment of such property for the current year, and shall
10 assess the same separately for such property as may have
11 escaped taxation at and upon the basis of valuation applied to
12 such property for the year or years in which it escaped
13 taxation, noting distinctly the year when such property
14 escaped taxation and such assessment shall have the same force
15 and effect as it would have had if it had been made in the
16 year in which the property shall have escaped taxation, and
17 taxes shall be levied and collected thereon in like manner and
18 together with taxes for the current year in which the
19 assessment is made. But no property shall be assessed for
20 more than 3 years' arrears of taxation, and all property so
21 escaping taxation shall be subject to such taxation to be
22 assessed in whomsoever's hands or possession the same may be
23 found; provided, that the county property appraiser shall not
24 assess any lot or parcel of land certified or sold to the
25 state for any previous years unless such lot or parcel of
26 lands so certified or sold shall be included in the list
27 furnished by the Chief Financial Officer ~~Comptroller~~ to the
28 county property appraiser as provided by law; provided, if
29 real or personal property be assessed for taxes, and because
30 of litigation delay ensues and the assessment be held invalid
31 the taxing authorities, may reassess such property within the

1 time herein provided after the termination of such litigation;
2 provided further, that personal property acquired in good
3 faith by purchase shall not be subject to assessment for taxes
4 for any time prior to the time of such purchase, but the
5 individual or corporation liable for any such assessment shall
6 continue personally liable for same.

7 Section 178. Effective January 7, 2003, section
8 195.101, Florida Statutes, is amended to read:

9 195.101 Withholding of state funds.--

10 (1) The Department of Revenue is hereby directed to
11 determine each year whether the several counties of this state
12 are assessing the real and tangible personal property within
13 their jurisdiction in accordance with law. If the Department
14 of Revenue determines that any county is assessing property at
15 less than that prescribed by law, the Chief Financial Officer
16 ~~Comptroller~~ shall withhold from such county a portion of any
17 state funds to which the county may be entitled equal to the
18 difference of the amount assessed and the amount required to
19 be assessed by law.

20 (2) The Department of Revenue is hereby directed to
21 determine each year whether the several municipalities of this
22 state are assessing the real and tangible personal property
23 within their jurisdiction in accordance with law. If the
24 Department of Revenue determines that any municipality is
25 assessing property at less than that prescribed by law, the
26 Chief Financial Officer ~~Comptroller~~ shall withhold from such
27 municipality a portion of any state funds to which that
28 municipality may be entitled equal to the difference of the
29 amount assessed and the amount required to be assessed by law.

30 Section 179. Effective January 7, 2003, subsection (1)
31 of section 198.29, Florida Statutes, is amended to read:

1 198.29 Refunds of excess tax paid.--

2 (1) Whenever it appears, upon the examination of any
3 return made under this chapter or upon proof submitted to the
4 department by the personal representative, that an amount of
5 estate tax has been paid in excess of the tax legally due
6 under this chapter, the amount of such overpayment, together
7 with any overpayment of interest thereon shall be refunded to
8 the personal representative and paid upon the warrant of the
9 Chief Financial Officer ~~Comptroller~~, drawn upon the Treasury
10 ~~Treasurer who shall honor and pay the same~~; such refund shall
11 be made by the department as a matter of course regardless of
12 whether or not the personal representative has filed a written
13 claim therefor, except that upon request of the department,
14 the personal representative shall file with the department a
15 conformed copy of any written claim for refund of federal
16 estate tax which has theretofore been filed with the United
17 States.

18 Section 180. Effective January 7, 2003, paragraph (a)
19 of subsection (7) of section 199.232, Florida Statutes, is
20 amended to read:

21 199.232 Powers of department.--

22 (7)(a) If it appears, upon examination of an
23 intangible tax return made under this chapter or upon proof
24 submitted to the department by the taxpayer, that an amount of
25 intangible personal property tax has been paid in excess of
26 the amount due, the department shall refund the amount of the
27 overpayment to the taxpayer by a warrant of the Chief
28 Financial Officer ~~Comptroller~~, drawn upon the Treasury
29 ~~Treasurer~~. The department shall refund the overpayment without
30 regard to whether the taxpayer has filed a written claim for a
31 refund; however, the department may request that the taxpayer

1 file a statement affirming that the taxpayer made the
2 overpayment.

3 Section 181. Effective January 7, 2003, paragraph (a)
4 of subsection (1) of section 203.01, Florida Statutes, is
5 amended to read:

6 203.01 Tax on gross receipts for utility and
7 communications services.--

8 (1)(a)1. Every person that receives payment for any
9 utility service shall report by the last day of each month to
10 the Department of Revenue, under oath of the secretary or some
11 other officer of such person, the total amount of gross
12 receipts derived from business done within this state, or
13 between points within this state, for the preceding month and,
14 at the same time, shall pay into the State Treasury an amount
15 equal to a percentage of such gross receipts at the rate set
16 forth in paragraph (b). Such collections shall be certified
17 by the Chief Financial Officer ~~Comptroller~~ upon the request of
18 the State Board of Education.

19 2. A tax is levied on communications services as
20 defined in s. 202.11(3). Such tax shall be applied to the same
21 services and transactions as are subject to taxation under
22 chapter 202, and to communications services that are subject
23 to the exemption provided in s. 202.125(1). Such tax shall be
24 applied to the sales price of communications services when
25 sold at retail and to the actual cost of operating substitute
26 communications systems, as such terms are defined in s.
27 202.11, shall be due and payable at the same time as the taxes
28 imposed pursuant to chapter 202, and shall be administered and
29 collected pursuant to the provisions of chapter 202.

30 Section 182. Effective January 7, 2003, subsection (1)
31 of section 206.46, Florida Statutes, is amended to read:

1 206.46 State Transportation Trust Fund.--
2 (1) All moneys in the State Transportation Trust Fund,
3 which is hereby created, shall be used for transportation
4 purposes, as provided by law, under the direction of the
5 Department of Transportation, which department may from time
6 to time make requisition on the Chief Financial Officer
7 ~~Comptroller~~ for such funds. Moneys from such fund shall be
8 drawn by the Chief Financial Officer ~~Comptroller~~ by warrant
9 upon the State Treasury pursuant to vouchers and shall be paid
10 in like manner as other state warrants are paid out of the
11 appropriated fund against which the warrants are drawn. All
12 sums of money necessary to provide for the payment of the
13 warrants by the Chief Financial Officer ~~Comptroller~~ drawn upon
14 such fund are appropriated annually out of the fund for the
15 purpose of making such payments from time to time.

16 Section 183. Effective January 7, 2003, subsection (4)
17 of section 210.16, Florida Statutes, is amended to read:

18 210.16 Revocation or suspension of permit.--

19 (4) In lieu of the suspension or revocation of
20 permits, the division may impose civil penalties against
21 holders of permits for violations of this part or rules and
22 regulations relating thereto. No civil penalty so imposed
23 shall exceed \$1,000 for each offense, and all amounts
24 collected shall be deposited with the Chief Financial Officer
25 ~~State Treasurer~~ to the credit of the General Revenue Fund. If
26 the holder of the permit fails to pay the civil penalty, his
27 or her permit shall be suspended for such period of time as
28 the division may specify.

29 Section 184. Effective January 7, 2003, subsection (2)
30 of section 210.20, Florida Statutes, is amended to read:

31

1 210.20 Employees and assistants; distribution of
2 funds.--

3 (2) As collections are received by the division from
4 such cigarette taxes, it shall pay the same into a trust fund
5 in the State Treasury designated "Cigarette Tax Collection
6 Trust Fund" which shall be paid and distributed as follows:

7 (a) The division shall from month to month certify to
8 the Chief Financial Officer ~~Comptroller~~ the amount derived
9 from the cigarette tax imposed by s. 210.02, less the service
10 charges provided for in s. 215.20 and less 0.9 percent of the
11 amount derived from the cigarette tax imposed by s. 210.02,
12 which shall be deposited into the Alcoholic Beverage and
13 Tobacco Trust Fund, specifying the amounts to be transferred
14 from the Cigarette Tax Collection Trust Fund and credited on
15 the basis of 2.9 percent of the net collections to the Revenue
16 Sharing Trust Fund for Counties and 29.3 percent of the net
17 collections for the funding of indigent health care to the
18 Public Medical Assistance Trust Fund.

19 (b) Beginning January 1, 1999, and continuing for 10
20 years thereafter, the division shall from month to month
21 certify to the Chief Financial Officer ~~Comptroller~~ the amount
22 derived from the cigarette tax imposed by s. 210.02, less the
23 service charges provided for in s. 215.20 and less 0.9 percent
24 of the amount derived from the cigarette tax imposed by s.
25 210.02 which shall be deposited into the Alcoholic Beverage
26 and Tobacco Trust Fund, specifying an amount equal to 2.59
27 percent of the net collections, and that amount shall be paid
28 to the Board of Directors of the H. Lee Moffitt Cancer Center
29 and Research Institute, established under s. 240.512, by
30 warrant drawn by the Chief Financial Officer ~~Comptroller~~ upon
31 the State Treasury. These funds are hereby appropriated

1 monthly out of the Cigarette Tax Collection Trust Fund, to be
2 used for the purpose of constructing, furnishing, and
3 equipping a cancer research facility at the University of
4 South Florida adjacent to the H. Lee Moffitt Cancer Center and
5 Research Institute. In fiscal years 1999-2000 and thereafter
6 with the exception of fiscal year 2008-2009, the appropriation
7 to the H. Lee Moffitt Cancer Center and Research Institute
8 authorized by this paragraph shall not be less than the amount
9 which would have been paid to the H. Lee Moffitt Cancer Center
10 and Research Institute for fiscal year 1998-1999 had payments
11 been made for the entire fiscal year rather than for a 6-month
12 period thereof.

13 Section 185. Effective January 7, 2003, subsection (4)
14 of section 210.50, Florida Statutes, is amended to read:

15 210.50 Revocation or suspension of license.--

16 (4) In lieu of the suspension or revocation of
17 licenses, the division may impose civil penalties against
18 holders of licenses for violations of this part or rules
19 relating thereto. No civil penalty so imposed shall exceed
20 \$1,000 for each offense, and all amounts collected shall be
21 deposited with the Chief Financial Officer ~~State Treasurer~~ to
22 the credit of the General Revenue Fund. If the holder of the
23 license fails to pay the civil penalty, his or her license
24 shall be suspended for such period of time as the division may
25 specify.

26 Section 186. Effective January 7, 2003, subsection (1)
27 of section 211.06, Florida Statutes, is amended to read:

28 211.06 Oil and Gas Tax Trust Fund; distribution of tax
29 proceeds.--All taxes, interest, and penalties imposed under
30 this part shall be collected by the department and placed in a
31 special fund designated the "Oil and Gas Tax Trust Fund."

1 (1) There is hereby annually appropriated a sufficient
2 amount from the Oil and Gas Tax Trust Fund for the Chief
3 Financial Officer ~~Comptroller~~ to refund any overpayments which
4 have been properly approved.

5 Section 187. Effective January 7, 2003, paragraph (d)
6 of subsection (1) of section 211.32, Florida Statutes, is
7 amended to read:

8 211.32 Tax on solid minerals; Land Reclamation Trust
9 Fund; refund for restoration and reclamation.--

10 (1)

11 (d) The Chief Financial Officer ~~Comptroller~~ shall,
12 upon written verification of compliance with paragraph (a),
13 paragraph (b), or paragraph (c) by the Department of
14 Environmental Protection, and upon verification of the cost of
15 the restoration and reclamation program or, if paragraph (c)
16 is elected, the fair market value of the land, grant refunds,
17 to be paid from the Land Reclamation Trust Fund, of the taxes
18 paid under this part, in an amount equal to 100 percent of the
19 costs incurred in complying with paragraph (a) or paragraph
20 (b), or 100 percent of the fair market value of the land
21 transferred in complying with paragraph (c), subject to the
22 following limitations:

23 1. A taxpayer shall not be entitled to refunds in
24 excess of the amount of taxes paid by the taxpayer under this
25 part which are deposited in the Land Reclamation Trust Fund.

26 2. A taxpayer shall not be entitled to the payment of
27 a refund for costs incurred in connection with a particular
28 restoration and reclamation program unless and until the
29 taxpayer is accomplishing the program in reasonable compliance
30 with the criteria established by the Department of
31 Environmental Protection.

1 Section 188. Effective January 7, 2003, paragraph (m)
2 of subsection (5) of section 212.08, Florida Statutes, is
3 amended to read:

4 212.08 Sales, rental, use, consumption, distribution,
5 and storage tax; specified exemptions.--The sale at retail,
6 the rental, the use, the consumption, the distribution, and
7 the storage to be used or consumed in this state of the
8 following are hereby specifically exempt from the tax imposed
9 by this chapter.

10 (5) EXEMPTIONS; ACCOUNT OF USE.--

11 (m) Educational materials purchased by certain child
12 care facilities.--Educational materials, such as glue, paper,
13 paints, crayons, unique craft items, scissors, books, and
14 educational toys, purchased by a child care facility that
15 meets the standards delineated in s. 402.305, is licensed
16 under s. 402.308, holds a current Gold Seal Quality Care
17 designation pursuant to s. 402.281, and provides basic health
18 insurance to all employees are exempt from the taxes imposed
19 by this chapter. For purposes of this paragraph, the term
20 "basic health insurance" shall be defined and promulgated in
21 rules developed jointly by the Department of Children and
22 Family Services, the Agency for Health Care Administration,
23 and the Department of Insurance and Financial Services.

24 Section 189. Effective January 7, 2003, paragraph (c)
25 of subsection (6) of section 212.12, Florida Statutes, is
26 amended to read:

27 212.12 Dealer's credit for collecting tax; penalties
28 for noncompliance; powers of Department of Revenue in dealing
29 with delinquents; brackets applicable to taxable transactions;
30 records required.--

31 (6)

1 (c)1. If the records of a dealer are adequate but
2 voluminous in nature and substance, the department may sample
3 such records, except for fixed assets, and project the audit
4 findings derived therefrom over the entire audit period to
5 determine the proportion that taxable retail sales bear to
6 total retail sales or the proportion that taxable purchases
7 bear to total purchases. In order to conduct such a sample,
8 the department must first make a good faith effort to reach an
9 agreement with the dealer, which agreement provides for the
10 means and methods to be used in the sampling process. In the
11 event that no agreement is reached, the dealer is entitled to
12 a review by the executive director.

13 2. For the purposes of sampling pursuant to
14 subparagraph 1., the department shall project any deficiencies
15 and overpayments derived therefrom over the entire audit
16 period. In determining the dealer's compliance, the department
17 shall reduce any tax deficiency as derived from the sample by
18 the amount of any overpayment derived from the sample. In the
19 event the department determines from the sample results that
20 the dealer has a net tax overpayment, the department shall
21 provide the findings of this overpayment to the Chief
22 Financial Officer ~~Comptroller~~ for repayment of funds paid into
23 the State Treasury through error pursuant to s. 215.26.

24 Section 190. Effective January 7, 2003, subsection (1)
25 of section 212.20, Florida Statutes, is amended to read:

26 212.20 Funds collected, disposition; additional powers
27 of department; operational expense; refund of taxes
28 adjudicated unconstitutionally collected.--

29 (1) The department shall pay over to the Chief
30 Financial Officer ~~Treasurer of the state~~ all funds received
31 and collected by it under the provisions of this chapter, to

1 be credited to the account of the General Revenue Fund of the
2 state.

3 Section 191. Effective January 7, 2003, subsections
4 (4) and (6), paragraph (e) of subsection (7), and subsection
5 (13) of section 213.053, Florida Statutes, are amended to
6 read:

7 213.053 Confidentiality and information sharing.--

8 (4) Nothing contained in this section shall prevent
9 the department from publishing statistics so classified as to
10 prevent the identification of particular accounts, reports,
11 declarations, or returns or prevent the department from
12 disclosing to the Chief Financial Officer ~~Comptroller~~ the
13 names and addresses of those taxpayers who have claimed an
14 exemption pursuant to s. 199.185(1)(i) or a deduction pursuant
15 to s. 220.63(5).

16 (6) Any information received by the Department of
17 Revenue in connection with the administration of taxes,
18 including, but not limited to, information contained in
19 returns, reports, accounts, or declarations filed by persons
20 subject to tax, shall be made available by the department to
21 the Auditor General or his or her authorized agent, the
22 director of the Office of Program Policy Analysis and
23 Government Accountability or his or her authorized agent, the
24 Chief Financial Officer ~~Comptroller~~ or his or her authorized
25 agent, ~~the Insurance Commissioner or his or her authorized~~
26 ~~agent, the Treasurer or his or her authorized agent,~~ or a
27 property appraiser or tax collector or their authorized agents
28 pursuant to s. 195.084(1), in the performance of their
29 official duties, or to designated employees of the Department
30 of Education solely for determination of each school
31 district's price level index pursuant to s. 236.081(2);

1 however, no information shall be disclosed to the Auditor
2 General or his or her authorized agent, the director of the
3 Office of Program Policy Analysis and Government
4 Accountability or his or her authorized agent, the Chief
5 Financial Officer ~~Comptroller~~ or his or her authorized agent,
6 ~~the Insurance Commissioner or his or her authorized agent, the~~
7 ~~Treasurer or his or her authorized agent,~~ or to a property
8 appraiser or tax collector or their authorized agents, or to
9 designated employees of the Department of Education if such
10 disclosure is prohibited by federal law. The Auditor General
11 or his or her authorized agent, the director of the Office of
12 Program Policy Analysis and Government Accountability or his
13 or her authorized agent, the Chief Financial Officer
14 ~~Comptroller~~ or his or her authorized agent, ~~the Treasurer or~~
15 ~~his or her authorized agent,~~ and the property appraiser or tax
16 collector and their authorized agents, or designated employees
17 of the Department of Education shall be subject to the same
18 requirements of confidentiality and the same penalties for
19 violation of the requirements as the department. For the
20 purpose of this subsection, "designated employees of the
21 Department of Education" means only those employees directly
22 responsible for calculation of price level indices pursuant to
23 s. 236.081(2). It does not include the supervisors of such
24 employees or any other employees or elected officials within
25 the Department of Education.

26 (7) Notwithstanding any other provision of this
27 section, the department may provide:

28 (e) Names, addresses, taxpayer identification numbers,
29 and outstanding tax liabilities to the Department of the
30 Lottery and the Chief Financial Officer ~~Department of Banking~~
31 ~~and Finance~~ in the conduct of their official duties.

1
2 Disclosure of information under this subsection shall be
3 pursuant to a written agreement between the executive director
4 and the agency. Such agencies, governmental or
5 nongovernmental, shall be bound by the same requirements of
6 confidentiality as the Department of Revenue. Breach of
7 confidentiality is a misdemeanor of the first degree,
8 punishable as provided by s. 775.082 or s. 775.083.

9 (13) Notwithstanding the provisions of s. 896.102(2),
10 the department may allow full access to the information and
11 documents required to be filed with it under s. 896.102(1) to
12 federal, state, and local law enforcement and prosecutorial
13 agencies, and to the Chief Financial Officer ~~Department of~~
14 ~~Banking and Finance~~, and any of those agencies may use the
15 information and documents in any civil or criminal
16 investigation and in any court proceedings.

17 Section 192. Effective January 7, 2003, section
18 213.054, Florida Statutes, is amended to read:

19 213.054 Persons claiming tax exemptions or deductions;
20 annual report.--The Department of Revenue shall be responsible
21 for monitoring the utilization of tax exemptions and tax
22 deductions authorized pursuant to chapter 81-179, Laws of
23 Florida. On or before September 1 of each year, the
24 department shall report to the Chief Financial Officer
25 ~~Comptroller~~ the names and addresses of all persons who have
26 claimed an exemption pursuant to s. 199.185(1)(i) or a
27 deduction pursuant to s. 220.63(5).

28 Section 193. Effective January 7, 2003, subsection (6)
29 of section 213.255, Florida Statutes, is amended to read:

30
31

1 213.255 Interest.--Interest shall be paid on
2 overpayments of taxes, payment of taxes not due, or taxes paid
3 in error, subject to the following conditions:

4 (6) Interest shall be paid until a date determined by
5 the department which shall be no more than 7 days prior to the
6 date of the issuance of the refund warrant by the Chief
7 Financial Officer ~~Comptroller~~.

8 Section 194. Effective January 7, 2003, subsection (9)
9 of section 213.67, Florida Statutes, is amended to read:

10 213.67 Garnishment.--

11 (9) The department shall provide notice to the Chief
12 Financial Officer ~~Comptroller~~, in electronic or other form
13 specified by the Chief Financial Officer ~~Comptroller~~, listing
14 the taxpayers for which tax warrants are outstanding. Pursuant
15 to subsection (1), the Chief Financial Officer ~~Comptroller~~
16 shall, upon notice from the department, withhold all payments
17 to any person or business, as defined in s. 212.02, which
18 provides commodities or services to the state, leases real
19 property to the state, or constructs a public building or
20 public work for the state. The department may levy upon the
21 withheld payments in accordance with subsection (3). The
22 provisions of s. 215.422 do not apply from the date the notice
23 is filed with the Chief Financial Officer ~~Comptroller~~ until
24 the date the department notifies the Chief Financial Officer
25 ~~Comptroller~~ of its consent to make payment to the person or 60
26 days after receipt of the department's notice in accordance
27 with subsection (1), whichever occurs earlier.

28 Section 195. Effective January 7, 2003, subsection (4)
29 of section 213.75, Florida Statutes, is amended to read:

30 213.75 Application of payments.--

31

1 (4) Any surplus proceeds remaining after the
2 application of subsection (3) shall, upon application and
3 satisfactory proof thereof, be refunded by the Chief Financial
4 Officer ~~Comptroller~~ to the person or persons legally entitled
5 thereto pursuant to s. 215.26.

6 Section 196. Effective January 7, 2003, section
7 215.02, Florida Statutes, is amended to read:

8 215.02 Manner of paying money into the
9 Treasury.--Whenever any officer of this state or other person
10 desires to pay any money into the Treasury of the state on
11 account of his or her indebtedness to the state, the person
12 shall first ~~go into the Department of Banking and Finance, and~~
13 ~~there~~ ascertain from the Chief Financial Officer's
14 ~~department's~~ books the amount of his or her indebtedness to
15 the state, and thereupon the Chief Financial Officer
16 ~~department~~ shall give that person a memorandum or certificate
17 of the amount of such indebtedness, and on what account.
18 Second, the person shall ~~take said certificate with him or her~~
19 ~~to the Department of Insurance and deliver the same and pay~~
20 over to the Chief Financial Officer ~~Insurance Commissioner and~~
21 ~~Treasurer~~ the amount called for in said certificate. Third,
22 the Chief Financial Officer ~~Insurance Commissioner and~~
23 ~~Treasurer~~ shall receive the money, make a proper entry
24 thereof, file the certificate ~~of the Department of Banking and~~
25 ~~Finance~~, and give a receipt ~~certificate~~ to the party paying
26 over the money, acknowledging the receipt of the money, and on
27 what account; ~~which certificate thus received, the party shall~~
28 ~~return to the Department of Banking and Finance, on receipt of~~
29 ~~which the department shall give the party a receipt for the~~
30 ~~amount, and shall~~ enter a credit on the party's account in his
31 or her books for the amount thus paid by him or her ~~to the~~

1 ~~Insurance Commissioner and Treasurer, and file the certificate~~
2 ~~received from the Insurance Commissioner and Treasurer.~~

3 Section 197. Effective January 7, 2003, section
4 215.03, Florida Statutes, is amended to read:

5 215.03 Party to be reimbursed on reversal of judgment
6 for state.--Whenever upon appeal in civil cases, any judgment
7 in favor of the state has been or shall be reversed and set
8 aside, which may have been paid in part by the appellant, the
9 Chief Financial Officer ~~Comptroller~~ shall issue his or her
10 warrant upon the Treasury ~~Treasurer~~ to reimburse the appellant
11 for all sums paid in discharge of such judgment and cost,
12 provided the appellant shall adduce satisfactory evidence to
13 the Chief Financial Officer ~~Comptroller~~ of the sums paid as
14 aforesaid.

15 Section 198. Effective January 7, 2003, section
16 215.04, Florida Statutes, is amended to read:

17 215.04 Chief Financial Officer ~~Department of Banking~~
18 ~~and Finance~~ to report delinquents.--The Chief Financial
19 Officer ~~Department of Banking and Finance~~ shall report to the
20 state attorney of the proper circuit the name of any
21 delinquent officer whose delinquency concerns the Chief
22 Financial Officer ~~department~~, so soon as such delinquency
23 shall occur; and the state attorney shall proceed forthwith
24 against such delinquent.

25 Section 199. Effective January 7, 2003, section
26 215.05, Florida Statutes, is amended to read:

27 215.05 Chief Financial Officer ~~Department of Banking~~
28 ~~and Finance~~ to certify accounts of delinquents.--When any
29 revenue officer or other person accountable for public money
30 shall neglect or refuse to pay into the treasury the sum or
31 balance reported to be due to the state, upon the adjustment

1 of that person's account, the Chief Financial Officer
2 ~~Department of Banking and Finance~~ shall immediately hand over
3 to the state attorney of the proper circuit the statement of
4 the sum or balance certified under the ~~its~~ seal of office, so
5 due; and the state attorney shall institute suit for the
6 recovery of the same, adding to the sum or balance stated to
7 be due on such account the commissions of the delinquent,
8 which shall be forfeited in every instance where suit is
9 commenced and judgment is obtained thereon, and an interest of
10 8 percent per annum from the time of the delinquent's
11 receiving the money until it shall be paid into the State
12 Treasury.

13 Section 200. Effective January 7, 2003, section
14 215.11, Florida Statutes, is amended to read:

15 215.11 Defaulting officers; Chief Financial Officer
16 ~~Department of Banking and Finance~~ to report to clerk.--The
17 Chief Financial Officer ~~Department of Banking and Finance~~
18 shall, within 90 days after the expiration of the term of
19 office of any tax collector, sheriff, clerk of the circuit or
20 county court, treasurer, or any other officer of any county
21 who has the collection, custody, and control of any state
22 funds, who shall be in arrears in his or her accounts with the
23 state, make up and forward to the clerk of the circuit court
24 of such county a statement of his or her accounts with the
25 state.

26 Section 201. Effective January 7, 2003, paragraphs (e)
27 and (g) of subsection (1) of section 215.22, Florida Statutes,
28 are amended to read:

29 215.22 Certain income and certain trust funds
30 exempt.--

31

1 (1) The following income of a revenue nature or the
2 following trust funds shall be exempt from the deduction
3 required by s. 215.20(1):

4 (e) State, agency, or political subdivision
5 investments by the Chief Financial Officer ~~Treasurer~~.

6 (g) Self-insurance programs administered by the
7 Department of Insurance and Financial Services ~~Treasurer~~.

8 Section 202. Effective January 7, 2003, section
9 215.23, Florida Statutes, is amended to read:

10 215.23 When contributions to be made.--The deductions
11 required by s. 215.20 shall be paid into the appropriate fund
12 by the Chief Financial Officer ~~Department of Banking and~~
13 ~~Finance or by the State Treasurer, as the case may be, for~~
14 quarterly periods ending March 31, June 30, September 30, and
15 December 31 of each year, and when so paid shall thereupon
16 become a part of that fund to be accounted for and disbursed
17 as provided by law.

18 Section 203. Effective January 7, 2003, section
19 215.24, Florida Statutes, is amended to read:

20 215.24 Exemptions where federal contributions or
21 private grants.--

22 (1) Should any state fund be the recipient of federal
23 contributions or private grants, either by the matching of
24 state funds or by a general donation to state funds, and the
25 payment of moneys into the General Revenue Fund under s.
26 215.20 should cause such fund to lose federal or private
27 assistance, the Governor shall certify to the Chief Financial
28 Officer ~~Department of Banking and Finance and to the State~~
29 ~~Treasurer~~ that said income is for that reason exempt from the
30 force and effect of s. 215.20.

31

1 (2) Should it be determined by the Governor that by
2 reason of payments already made into the General Revenue Fund
3 by any fund under this law, such fund is subject to the loss
4 of federal or private assistance, then the Governor shall
5 certify to the Chief Financial Officer ~~Department of Banking~~
6 ~~and Finance and to the State Treasurer~~ that the income from
7 such assistance is exempt from the provisions of this law, and
8 the Chief Financial Officer ~~Department of Banking and Finance~~
9 ~~or the State Treasurer, as the case may be,~~ shall thereupon
10 refund and pay over to such fund any amount previously paid
11 into the General Revenue Fund from such income.

12 Section 204. Effective January 7, 2003, section
13 215.25, Florida Statutes, is amended to read:

14 215.25 Manner of contributions; rules and
15 regulations.--The Chief Financial Officer ~~Department of~~
16 ~~Banking and Finance and the State Treasurer~~ is ~~are~~ hereby
17 authorized to ascertain and determine the manner in which the
18 required amounts shall be deducted and paid and to adopt and
19 effectuate such rules and procedure as may be necessary for
20 carrying out the provisions of this law. Such rules and
21 procedure shall be approved by the Executive Office of the
22 Governor.

23 Section 205. Effective January 7, 2003, subsections
24 (1), (2), and (5) of section 215.26, Florida Statutes, are
25 amended to read:

26 215.26 Repayment of funds paid into State Treasury
27 through error.--

28 (1) The Chief Financial Officer ~~Comptroller~~ of the
29 state may refund to the person who paid same, or his or her
30 heirs, personal representatives, or assigns, any moneys paid
31 into the State Treasury which constitute:

1 (a) An overpayment of any tax, license, or account
2 due;
3 (b) A payment where no tax, license, or account is
4 due; and
5 (c) Any payment made into the State Treasury in error;
6
7 and if any such payment has been credited to an appropriation,
8 such appropriation shall at the time of making any such
9 refund, be charged therewith. There are appropriated from the
10 proper respective funds from time to time such sums as may be
11 necessary for such refunds.

12 (2) Application for refunds as provided by this
13 section must be filed with the Chief Financial Officer
14 ~~Comptroller~~, except as otherwise provided in this subsection,
15 within 3 years after the right to the refund has accrued or
16 else the right is barred. Except as provided in chapter 198
17 and s. 220.23, an application for a refund of a tax enumerated
18 in s. 72.011, which tax was paid after September 30, 1994, and
19 before July 1, 1999, must be filed with the Chief Financial
20 Officer ~~Comptroller~~ within 5 years after the date the tax is
21 paid, and within 3 years after the date the tax was paid for
22 taxes paid on or after July 1, 1999. The Chief Financial
23 Officer ~~Comptroller~~ may delegate the authority to accept an
24 application for refund to any state agency, or the judicial
25 branch, vested by law with the responsibility for the
26 collection of any tax, license, or account due. The
27 application for refund must be on a form approved by the Chief
28 Financial Officer ~~Comptroller~~ and must be supplemented with
29 additional proof the Chief Financial Officer ~~Comptroller~~ deems
30 necessary to establish the claim; provided, the claim is not
31 otherwise barred under the laws of this state. Upon receipt of

1 an application for refund, the judicial branch or the state
2 agency to which the funds were paid shall make a determination
3 of the amount due. If an application for refund is denied, in
4 whole or in part, the judicial branch or such state agency
5 shall notify the applicant stating the reasons therefor. Upon
6 approval of an application for refund, the judicial branch or
7 such state agency shall furnish the Chief Financial Officer
8 ~~Comptroller~~ with a properly executed voucher authorizing
9 payment.

10 (5) When a taxpayer has pursued administrative
11 remedies before the Department of Revenue pursuant to s.
12 213.21 and has failed to comply with the time limitations and
13 conditions provided in ss. 72.011 and 120.80(14)(b), a claim
14 of refund under subsection (1) shall be denied by the Chief
15 Financial Officer ~~Comptroller~~. However, the Chief Financial
16 Officer ~~Comptroller~~ may entertain a claim for refund under
17 this subsection when the taxpayer demonstrates that his or her
18 failure to pursue remedies under chapter 72 was not due to
19 neglect or for the purpose of delaying payment of lawfully
20 imposed taxes and can demonstrate reasonable cause for such
21 failure.

22 Section 206. Effective January 7, 2003, section
23 215.31, Florida Statutes, is amended to read:

24 215.31 State funds; deposit in State
25 Treasury.--Revenue, including licenses, fees, imposts, or
26 exactions collected or received under the authority of the
27 laws of the state by each and every state official, office,
28 employee, bureau, division, board, commission, institution,
29 agency, or undertaking of the state or the judicial branch
30 shall be promptly deposited in the State Treasury, and
31 immediately credited to the appropriate fund as herein

1 provided, properly accounted for by the Chief Financial
2 Officer ~~Department of Banking and Finance~~ as to source and no
3 money shall be paid from the State Treasury except as
4 appropriated and provided by the annual General Appropriations
5 Act, or as otherwise provided by law.

6 Section 207. Effective January 7, 2003, subsection (1)
7 and paragraphs (b), (c), and (d) of subsection (2) of section
8 215.32, Florida Statutes, are amended to read:

9 215.32 State funds; segregation.--

10 (1) All moneys received by the state shall be
11 deposited in the State Treasury unless specifically provided
12 otherwise by law and shall be deposited in and accounted for
13 by the Chief Financial Officer ~~Treasurer and the Department of~~
14 ~~Banking and Finance~~ within the following funds, which funds
15 are hereby created and established:

16 (a) General Revenue Fund.

17 (b) Trust funds.

18 (c) Working Capital Fund.

19 (d) Budget Stabilization Fund.

20 (2) The source and use of each of these funds shall be
21 as follows:

22 (b)1. The trust funds shall consist of moneys received
23 by the state which under law or under trust agreement are
24 segregated for a purpose authorized by law. The state agency
25 or branch of state government receiving or collecting such
26 moneys shall be responsible for their proper expenditure as
27 provided by law. Upon the request of the state agency or
28 branch of state government responsible for the administration
29 of the trust fund, the Chief Financial Officer ~~Comptroller~~ may
30 establish accounts within the trust fund at a level considered
31 necessary for proper accountability. Once an account is

1 established within a trust fund, the Chief Financial Officer
2 ~~Comptroller~~ may authorize payment from that account only upon
3 determining that there is sufficient cash and releases at the
4 level of the account.

5 2. In order to maintain a minimum number of trust
6 funds in the State Treasury, each state agency or the judicial
7 branch may consolidate, if permitted under the terms and
8 conditions of their receipt, the trust funds administered by
9 it; provided, however, the agency or judicial branch employs
10 effectively a uniform system of accounts sufficient to
11 preserve the integrity of such trust funds; and provided,
12 further, that consolidation of trust funds is approved by the
13 Governor or the Chief Justice.

14 3. All such moneys are hereby appropriated to be
15 expended in accordance with the law or trust agreement under
16 which they were received, subject always to the provisions of
17 chapter 216 relating to the appropriation of funds and to the
18 applicable laws relating to the deposit or expenditure of
19 moneys in the State Treasury.

20 4.a. Notwithstanding any provision of law restricting
21 the use of trust funds to specific purposes, unappropriated
22 cash balances from selected trust funds may be authorized by
23 the Legislature for transfer to the Budget Stabilization Fund
24 and Working Capital Fund in the General Appropriations Act.

25 b. This subparagraph does not apply to trust funds
26 required by federal programs or mandates; trust funds
27 established for bond covenants, indentures, or resolutions
28 whose revenues are legally pledged by the state or public body
29 to meet debt service or other financial requirements of any
30 debt obligations of the state or any public body; the State
31 Transportation Trust Fund; the trust fund containing the net

1 annual proceeds from the Florida Education Lotteries; the
2 Florida Retirement System Trust Fund; trust funds under the
3 management of the Board of Regents, where such trust funds are
4 for auxiliary enterprises, self-insurance, and contracts,
5 grants, and donations, as those terms are defined by general
6 law; trust funds that serve as clearing funds or accounts for
7 the Chief Financial Officer ~~Comptroller~~ or state agencies;
8 trust funds that account for assets held by the state in a
9 trustee capacity as an agent or fiduciary for individuals,
10 private organizations, or other governmental units; and other
11 trust funds authorized by the State Constitution.

12 (c)1. The Budget Stabilization Fund shall consist of
13 amounts equal to at least 5 percent of net revenue collections
14 for the General Revenue Fund during the last completed fiscal
15 year. The Budget Stabilization Fund's principal balance shall
16 not exceed an amount equal to 10 percent of the last completed
17 fiscal year's net revenue collections for the General Revenue
18 Fund. As used in this paragraph, the term "last completed
19 fiscal year" means the most recently completed fiscal year
20 prior to the regular legislative session at which the
21 Legislature considers the General Appropriations Act for the
22 year in which the transfer to the Budget Stabilization Fund
23 must be made under this paragraph.

24 2. By September 15 of each year, the Governor shall
25 authorize the Chief Financial Officer ~~Comptroller~~ to transfer,
26 and the Chief Financial Officer ~~Comptroller~~ shall transfer
27 pursuant to appropriations made by law, to the Budget
28 Stabilization Fund the amount of money needed for the balance
29 of that fund to equal the amount specified in subparagraph 1.,
30 less any amounts expended and not restored. The moneys needed
31

1 for this transfer may be appropriated by the Legislature from
2 any funds.

3 3. Unless otherwise provided in this subparagraph, an
4 expenditure from the Budget Stabilization Fund must be
5 restored pursuant to a restoration schedule that provides for
6 making five equal annual transfers from the General Revenue
7 Fund, beginning in the fiscal year following that in which the
8 expenditure was made. For any Budget Stabilization Fund
9 expenditure, the Legislature may establish by law a different
10 restoration schedule and such change may be made at any time
11 during the restoration period. Moneys are hereby appropriated
12 for transfers pursuant to this subparagraph.

13 4. The Budget Stabilization Fund and the Working
14 Capital Fund may be used as revolving funds for transfers as
15 provided in s. 18.125; however, any interest earned must be
16 deposited in the General Revenue Fund.

17 5. The Chief Financial Officer ~~Comptroller~~ and the
18 Department of Management Services shall transfer funds to
19 water management districts to pay eligible water management
20 district employees for all benefits due under s. 373.6065, as
21 long as funds remain available for the program described under
22 s. 100.152.

23 (d) The Working Capital Fund shall consist of moneys
24 in the General Revenue Fund which are in excess of the amount
25 needed to meet General Revenue Fund appropriations for the
26 current fiscal year. Each year, no later than the publishing
27 date of the annual financial statements for the state by the
28 Chief Financial Officer ~~Comptroller~~ under s. 216.102, funds
29 shall be transferred between the Working Capital Fund and the
30 General Revenue Fund to establish the balance of the Working
31

1 Capital Fund for that fiscal year at the amount determined
2 pursuant to this paragraph.

3 Section 208. Effective January 7, 2003, subsections
4 (2) and (3) of section 215.3206, Florida Statutes, are amended
5 to read:

6 215.3206 Trust funds; termination or re-creation.--

7 (2) If the trust fund is terminated and not
8 immediately re-created, all cash balances and income of the
9 trust fund shall be deposited into the General Revenue Fund.
10 The agency or Chief Justice shall pay any outstanding debts of
11 the trust fund as soon as practicable, and the Chief Financial
12 Officer ~~Comptroller~~ shall close out and remove the trust fund
13 from the various state accounting systems, using generally
14 accepted accounting practices concerning warrants outstanding,
15 assets, and liabilities. No appropriation or budget amendment
16 shall be construed to authorize any encumbrance of funds from
17 a trust fund after the date on which the trust fund is
18 terminated or is judicially determined to be invalid.

19 (3) On or before September 1 of each year, the Chief
20 Financial Officer ~~Comptroller~~ shall submit to the Executive
21 Office of the Governor, the President of the Senate, and the
22 Speaker of the House of Representatives a list of trust funds
23 that are scheduled to terminate within 12 months after that
24 date and also, beginning September 1, 1996, a list of all
25 trust funds that are exempt from automatic termination
26 pursuant to the provisions of s. 19(f)(3), Art. III of the
27 State Constitution, listing revenues of the trust funds by
28 major revenue category for each of the last 4 fiscal years.

29 Section 209. Effective January 7, 2003, paragraph (a)
30 of subsection (2) of section 215.3208, Florida Statutes, is
31 amended to read:

1 215.3208 Trust funds; legislative review.--

2 (2)(a) When the Legislature terminates a trust fund,
3 the agency or branch of state government that administers the
4 trust fund shall pay any outstanding debts or obligations of
5 the trust fund as soon as practicable, and the Chief Financial
6 Officer ~~Comptroller~~ shall close out and remove the trust fund
7 from the various state accounting systems, using generally
8 accepted accounting principles concerning assets, liabilities,
9 and warrants outstanding.

10 Section 210. Effective January 7, 2003, subsections
11 (2), (3), and (4) of section 215.322, Florida Statutes, are
12 amended to read:

13 215.322 Acceptance of credit cards, charge cards, or
14 debit cards by state agencies, units of local government, and
15 the judicial branch.--

16 (2) A state agency as defined in s. 216.011, or the
17 judicial branch, may accept credit cards, charge cards, or
18 debit cards in payment for goods and services with the prior
19 approval of the Chief Financial Officer ~~Treasurer~~. When the
20 Internet or other related electronic methods are to be used as
21 the collection medium, the State Technology Office shall
22 review and recommend to the Chief Financial Officer ~~Treasurer~~
23 whether to approve the request with regard to the process or
24 procedure to be used.

25 (3) The Chief Financial Officer ~~Treasurer~~ shall adopt
26 rules governing the establishment and acceptance of credit
27 cards, charge cards, or debit cards by state agencies or the
28 judicial branch, including, but not limited to, the following:

29 (a) Utilization of a standardized contract between the
30 financial institution or other appropriate intermediaries and
31 the agency or judicial branch which shall be developed by the

1 Chief Financial Officer ~~Treasurer~~ or approval by the Chief
2 Financial Officer ~~Treasurer~~ of a substitute agreement.

3 (b) Procedures which permit an agency or officer
4 accepting payment by credit card, charge card, or debit card
5 to impose a convenience fee upon the person making the
6 payment. However, the total amount of such convenience fees
7 shall not exceed the total cost to the state agency. A
8 convenience fee is not refundable to the payor.

9 Notwithstanding the foregoing, this section shall not be
10 construed to permit surcharges on any other credit card
11 purchase in violation of s. 501.0117.

12 (c) All service fees payable pursuant to this section
13 when practicable shall be invoiced and paid by state warrant
14 or such other manner that is satisfactory to the Chief
15 Financial Officer ~~Comptroller~~ in accordance with the time
16 periods specified in s. 215.422.

17 (d) Submission of information to the Chief Financial
18 Officer ~~Treasurer~~ concerning the acceptance of credit cards,
19 charge cards, or debit cards by all state agencies or the
20 judicial branch.

21 (e) A methodology for agencies to use when completing
22 the cost-benefit analysis referred to in subsection (1). The
23 methodology must consider all quantifiable cost reductions,
24 other benefits to the agency, and potential impact on general
25 revenue. The methodology must also consider nonquantifiable
26 benefits such as the convenience to individuals and businesses
27 that would benefit from the ability to pay for state goods and
28 services through the use of credit cards, charge cards, and
29 debit cards.

30 (4) The Chief Financial Officer ~~Treasurer~~ is
31 authorized to establish contracts with one or more financial

1 institutions, credit card companies, or other entities which
2 may lawfully provide such services, in a manner consistent
3 with chapter 287, for processing credit card, charge card, or
4 debit card collections for deposit into the State Treasury or
5 another qualified public depository. Any state agency, or the
6 judicial branch, which accepts payment by credit card, charge
7 card, or debit card shall use at least one of the contractors
8 established by the Chief Financial Officer ~~Treasurer~~ unless
9 the state agency or judicial branch obtains authorization from
10 the Chief Financial Officer ~~Treasurer~~ to use another
11 contractor which is more advantageous to such state agency or
12 the judicial branch. Such contracts may authorize a unit of
13 local government to use the services upon the same terms and
14 conditions for deposit of credit card, charge card, or debit
15 card transactions into its qualified public depositories.

16 Section 211. Effective January 7, 2003, subsections
17 (1) and (2) of section 215.34, Florida Statutes, are amended
18 to read:

19 215.34 State funds; noncollectible items; procedure.--

20 (1) Any check, draft, or other order for the payment
21 of money in payment of any licenses, fees, taxes, commissions,
22 or charges of any sort authorized to be made under the laws of
23 the state and deposited in the State Treasury as provided
24 herein, which may be returned for any reason by the bank or
25 other payor upon which same shall have been drawn shall be
26 forthwith returned by the Chief Financial Officer ~~State~~
27 ~~Treasurer~~ for collection to the state officer, the state
28 agency, or the entity of the judicial branch making the
29 deposit. In such case, the Chief Financial Officer ~~Treasurer~~
30 is hereby authorized to issue a debit memorandum charging an
31 account of the agency, officer, or entity of the judicial

1 branch which originally received the payment. The original of
2 the debit memorandum shall state the reason for the return of
3 the check, draft, or other order and shall accompany the item
4 being returned to the officer, agency, or entity of the
5 judicial branch being charged, ~~and a copy of the debit~~
6 ~~memorandum shall be sent to the Comptroller.~~ The officer,
7 agency, or entity of the judicial branch receiving the
8 charged-back item shall prepare a journal transfer which shall
9 debit the charge against the fund or account to which the same
10 shall have been originally credited. Such procedure for
11 handling noncollectible items shall not be construed as paying
12 funds out of the State Treasury without an appropriation, but
13 shall be considered as an administrative procedure for the
14 efficient handling of state records and accounts.

15 (2) Whenever a check, draft, or other order for the
16 payment of money is returned by the Chief Financial Officer
17 ~~State Treasurer~~, or by a qualified public depository as
18 defined in s. 280.02, to a state officer, a state agency, or
19 the judicial branch for collection, the officer, agency, or
20 judicial branch shall add to the amount due a service fee of
21 \$15 or 5 percent of the face amount of the check, draft, or
22 order, whichever is greater. An agency or the judicial branch
23 may adopt a rule which prescribes a lesser maximum service
24 fee, which shall be added to the amount due for the dishonored
25 check, draft, or other order tendered for a particular
26 service, license, tax, fee, or other charge, but in no event
27 shall the fee be less than \$15. The service fee shall be in
28 addition to all other penalties imposed by law, except that
29 when other charges or penalties are imposed by an agency
30 related to a noncollectible item, the amount of the service
31 fee shall not exceed \$150. Proceeds from this fee shall be

1 deposited in the same fund as the collected item. Nothing in
2 this section shall be construed as authorization to deposit
3 moneys outside the State Treasury unless specifically
4 authorized by law.

5 Section 212. Effective January 7, 2003, section
6 215.35, Florida Statutes, is amended to read:

7 215.35 State funds; warrants and their issuance.--All
8 warrants issued by the Chief Financial Officer ~~Comptroller~~
9 shall be numbered in chronological order commencing with
10 number one in each fiscal year and each warrant shall refer to
11 the Chief Financial Officer's ~~Comptroller's~~ voucher by the
12 number thereof, which voucher shall also be numbered as above
13 set forth. Each warrant shall state the name of the payee
14 thereof and the amount allowed, and said warrant shall be
15 stated in words at length. No warrant shall issue until same
16 has been authorized by an appropriation made by law but such
17 warrant need not state or set forth such authorization. The
18 Chief Financial Officer ~~Comptroller~~ shall register and
19 maintain a record of each warrant in his or her office. The
20 record shall show the funds, accounts, purposes, and
21 departments involved in the issuance of each warrant. In
22 those instances where the expenditure of funds of regulatory
23 boards or commissions has been provided for by laws other than
24 the annual appropriations bill, warrants shall be issued upon
25 requisition to the Chief Financial Officer ~~State Comptroller~~
26 by the governing body of such board or commission.

27 Section 213. Effective January 7, 2003, section
28 215.405, Florida Statutes, is amended to read:

29 215.405 State agencies and the judicial branch
30 authorized to collect costs of fingerprinting.--Any state
31 agency, or the judicial branch, exercising regulatory

1 authority and authorized to take fingerprints of persons
2 within or seeking to come within such agency's or the judicial
3 branch's regulatory power may collect from the person or
4 entity on whose behalf the fingerprints were submitted the
5 actual costs of processing such fingerprints including, but
6 not limited to, any charges imposed by the Department of Law
7 Enforcement or any agency or branch of the United States
8 Government. This provision shall constitute express authority
9 for state agencies and the judicial branch to collect the
10 actual costs of processing the fingerprints either prior to or
11 subsequent to the actual processing and shall supersede any
12 other law to the contrary. To administer the provisions of
13 this section, a state agency, or the judicial branch, electing
14 to collect the cost of fingerprinting is empowered to
15 promulgate and adopt rules to establish the amounts and the
16 methods of payment needed to collect such costs. Collections
17 made under these provisions shall be deposited with the Chief
18 Financial Officer ~~Treasurer~~ to an appropriate trust fund
19 account to be designated by the Executive Office of the
20 Governor.

21 Section 214. Effective January 7, 2003, section
22 215.42, Florida Statutes, is amended to read:

23 215.42 Purchases from appropriations, proof of
24 delivery.--The Chief Financial Officer ~~State Comptroller~~ may
25 require proof, as he or she deems necessary, of delivery and
26 receipt of purchases before honoring any voucher for payment
27 from appropriations made in the General Appropriations Act or
28 otherwise provided by law.

29 Section 215. Effective January 7, 2003, subsections
30 (1), (2), (3), (5), (6), (7), (8), (11), (13), (14), and (16)
31 of section 215.422, Florida Statutes, are amended to read:

1 215.422 Warrants, vouchers, and invoices; processing
2 time limits; dispute resolution; agency or judicial branch
3 compliance.--
4 (1) The voucher authorizing payment of an invoice
5 submitted to an agency of the state or the judicial branch,
6 required by law to be filed with the Chief Financial Officer
7 ~~Comptroller~~, shall be filed with the Chief Financial Officer
8 ~~Comptroller~~ not later than 20 days after receipt of the
9 invoice and receipt, inspection, and approval of the goods or
10 services, except that in the case of a bona fide dispute the
11 voucher shall contain a statement of the dispute and authorize
12 payment only in the amount not disputed. The Chief Financial
13 Officer ~~Comptroller~~ may establish dollar thresholds and other
14 criteria for all invoices and may delegate to a state agency
15 or the judicial branch responsibility for maintaining the
16 official vouchers and documents for invoices which do not
17 exceed the thresholds or which meet the established criteria.
18 Such records shall be maintained in accordance with the
19 requirements established by the Secretary of State. The
20 electronic payment request transmission to the Chief Financial
21 Officer ~~Comptroller~~ shall constitute filing of a voucher for
22 payment of invoices for which the Chief Financial Officer
23 ~~Comptroller~~ has delegated to an agency custody of official
24 records. Approval and inspection of goods or services shall
25 take no longer than 5 working days unless the bid
26 specifications, purchase order, or contract specifies
27 otherwise. If a voucher filed within the 20-day period is
28 returned by the Chief Financial Officer ~~Department of Banking~~
29 ~~and Finance~~ because of an error, it shall nevertheless be
30 deemed timely filed. The 20-day filing requirement may be
31 waived in whole or in part by the Chief Financial Officer

1 ~~Department of Banking and Finance~~ on a showing of exceptional
2 circumstances in accordance with rules and regulations of the
3 Chief Financial Officer ~~department~~. For the purposes of
4 determining the receipt of invoice date, the agency or the
5 judicial branch is deemed to receive an invoice on the date on
6 which a proper invoice is first received at the place
7 designated by the agency or the judicial branch. The agency
8 or the judicial branch is deemed to receive an invoice on the
9 date of the invoice if the agency or the judicial branch has
10 failed to annotate the invoice with the date of receipt at the
11 time the agency or the judicial branch actually received the
12 invoice or failed at the time the order is placed or contract
13 made to designate a specific location to which the invoice
14 must be delivered.

15 (2) The warrant in payment of an invoice submitted to
16 an agency of the state or the judicial branch shall be issued
17 not later than 10 days after filing of the voucher authorizing
18 payment. However, this requirement may be waived in whole or
19 in part by the Chief Financial Officer ~~Department of Banking~~
20 ~~and Finance~~ on a showing of exceptional circumstances in
21 accordance with rules and regulations of the Chief Financial
22 Officer ~~department~~. If the 10-day period contains fewer than
23 6 working days, the Chief Financial Officer ~~Department of~~
24 ~~Banking and Finance~~ shall be deemed in compliance with this
25 subsection if the warrant is issued within 6 working days
26 without regard to the actual number of calendar days. For
27 purposes of this section, a payment is deemed to be issued on
28 the first working day that payment is available for delivery
29 or mailing to the vendor.

30 (3)(a) Each agency of the state or the judicial branch
31 which is required by law to file vouchers with the Chief

1 Financial Officer ~~Comptroller~~ shall keep a record of the date
2 of receipt of the invoice; dates of receipt, inspection, and
3 approval of the goods or services; date of filing of the
4 voucher; and date of issuance of the warrant in payment
5 thereof. If the voucher is not filed or the warrant is not
6 issued within the time required, an explanation in writing by
7 the agency head or the Chief Justice shall be submitted to the
8 Chief Financial Officer ~~Department of Banking and Finance~~ in a
9 manner prescribed by it. Agencies and the judicial branch
10 shall continue to deliver or mail state payments promptly.

11 (b) If a warrant in payment of an invoice is not
12 issued within 40 days after receipt of the invoice and
13 receipt, inspection, and approval of the goods and services,
14 the agency or judicial branch shall pay to the vendor, in
15 addition to the amount of the invoice, interest at a rate as
16 established pursuant to s. 55.03(1) on the unpaid balance from
17 the expiration of such 40-day period until such time as the
18 warrant is issued to the vendor. Such interest shall be added
19 to the invoice at the time of submission to the Chief
20 Financial Officer ~~Comptroller~~ for payment whenever possible.
21 If addition of the interest penalty is not possible, the
22 agency or judicial branch shall pay the interest penalty
23 payment within 15 days after issuing the warrant. The
24 provisions of this paragraph apply only to undisputed amounts
25 for which payment has been authorized. Disputes shall be
26 resolved in accordance with rules developed and adopted by the
27 Chief Justice for the judicial branch, and rules adopted by
28 the Chief Financial Officer ~~Department of Banking and Finance~~
29 or in a formal administrative proceeding before an
30 administrative law judge of the Division of Administrative
31 Hearings for state agencies, provided that, for the purposes

1 of ss. 120.569 and 120.57(1), no party to a dispute involving
2 less than \$1,000 in interest penalties shall be deemed to be
3 substantially affected by the dispute or to have a substantial
4 interest in the decision resolving the dispute. In the case of
5 an error on the part of the vendor, the 40-day period shall
6 begin to run upon receipt by the agency or the judicial branch
7 of a corrected invoice or other remedy of the error. The
8 provisions of this paragraph do not apply when the filing
9 requirement under subsection (1) or subsection (2) has been
10 waived in whole by the Chief Financial Officer ~~Department of~~
11 ~~Banking and Finance~~. The various state agencies and the
12 judicial branch shall be responsible for initiating the
13 penalty payments required by this subsection and shall use
14 this subsection as authority to make such payments. The budget
15 request submitted to the Legislature shall specifically
16 disclose the amount of any interest paid by any agency or the
17 judicial branch pursuant to this subsection. The temporary
18 unavailability of funds to make a timely payment due for goods
19 or services does not relieve an agency or the judicial branch
20 from the obligation to pay interest penalties under this
21 section.

22 (c) An agency or the judicial branch may make partial
23 payments to a contractor upon partial delivery of goods or
24 services or upon partial completion of construction when a
25 request for such partial payment is made by the contractor and
26 approved by the agency. Provisions of this section and rules
27 of the Chief Financial Officer ~~Department of Banking and~~
28 ~~Finance~~ shall apply to partial payments in the same manner as
29 they apply to full payments.

30 (5) All purchasing agreements between a state agency
31 or the judicial branch and a vendor, applicable to this

1 section, shall include a statement of the vendor's rights and
2 the state's responsibilities under this section. The vendor's
3 rights shall include being provided with the telephone number
4 of the vendor ombudsman within the Chief Financial Officer
5 ~~Department of Banking and Finance~~, which information shall
6 also be placed on all agency or judicial branch purchase
7 orders.

8 (6) The Chief Financial Officer ~~Department of Banking~~
9 ~~and Finance~~ shall monitor each agency's and the judicial
10 branch's compliance with the time limits and interest penalty
11 provisions of this section. The Chief Financial Officer
12 ~~department~~ shall provide a report to an agency or to the
13 judicial branch if the Chief Financial Officer ~~department~~
14 determines that the agency or the judicial branch has failed
15 to maintain an acceptable rate of compliance with the time
16 limits and interest penalty provisions of this section. The
17 Chief Financial Officer ~~department~~ shall establish criteria
18 for determining acceptable rates of compliance. The report
19 shall also include a list of late vouchers or payments, the
20 amount of interest owed or paid, and any corrective actions
21 recommended. The Chief Financial Officer ~~department~~ shall
22 perform monitoring responsibilities, pursuant to this section,
23 using the Management Services and Purchasing Subsystem or the
24 Florida Accounting Information Resource Subsystem provided in
25 s. 215.94. Each agency and the judicial branch shall be
26 responsible for the accuracy of information entered into the
27 Management Services and Purchasing Subsystem and the Florida
28 Accounting Information Resource Subsystem for use in this
29 monitoring.

30 (7) There is created a vendor ombudsman within the
31 Office of the Chief Financial Officer ~~Department of Banking~~

1 ~~and Finance~~ who shall be responsible for the following
2 functions:

3 (a) Performing the duties of the office ~~department~~
4 pursuant to subsection (6).

5 (b) Reviewing requests for waivers due to exceptional
6 circumstances.

7 (c) Disseminating information relative to the prompt
8 payment policies of this state and assisting vendors in
9 receiving their payments in a timely manner.

10 (d) Performing such other duties as determined by the
11 Chief Financial Officer ~~department~~.

12 (8) The Chief Financial Officer ~~Department of Banking~~
13 ~~and Finance~~ is authorized and directed to adopt and promulgate
14 rules and regulations to implement this section and for
15 resolution of disputes involving amounts of less than \$1,000
16 in interest penalties for state agencies. No agency or the
17 judicial branch shall adopt any rule or policy that is
18 inconsistent with this section or the Chief Financial
19 Officer's ~~Department of Banking and Finance's~~ rules or
20 policies.

21 (11) Travel and other reimbursements to state officers
22 and employees must be the same as payments to vendors under
23 this section, except payment of Class C travel subsistence.
24 Class C travel subsistence shall be paid in accordance with
25 the schedule established by the Chief Financial Officer
26 ~~Comptroller~~ pursuant to s. 112.061(5)(b). This section does
27 not apply to payments made to state agencies, the judicial
28 branch, or the legislative branch.

29 (13) Notwithstanding the provisions of subsections (3)
30 and (12), in order to alleviate any hardship that may be
31 caused to a health care provider as a result of delay in

1 receiving reimbursement for services, any payment or payments
2 for hospital, medical, or other health care services which are
3 to be reimbursed by a state agency or the judicial branch,
4 either directly or indirectly, shall be made to the health
5 care provider not more than 35 days from the date eligibility
6 for payment of such claim is determined. If payment is not
7 issued to a health care provider within 35 days after the date
8 eligibility for payment of the claim is determined, the state
9 agency or the judicial branch shall pay the health care
10 provider interest at a rate of 1 percent per month calculated
11 on a calendar day basis on the unpaid balance from the
12 expiration of such 35-day period until such time as payment is
13 made to the health care provider, unless a waiver in whole has
14 been granted by the Chief Financial Officer ~~Department of~~
15 ~~Banking and Finance~~ pursuant to subsection (1) or subsection
16 (2).

17 (14) The Chief Financial Officer ~~Comptroller~~ may adopt
18 rules to authorize advance payments for goods and services,
19 including, but not limited to, maintenance agreements and
20 subscriptions. Such rules shall provide objective criteria
21 for determining when it is in the best interest of the state
22 to make payments in advance and shall also provide for
23 adequate protection to ensure that such goods or services will
24 be provided.

25 (16) Notwithstanding the provisions of s. 24.120(3),
26 applicable to warrants issued for payment of invoices
27 submitted by the Department of the Lottery, the Chief
28 Financial Officer ~~Comptroller~~ may, by written agreement with
29 the Department of the Lottery, establish a shorter time
30 requirement than the 10 days provided in subsection (2) for
31 warrants issued for payment. Pursuant to such written

1 agreement, the Department of the Lottery shall reimburse the
2 Chief Financial Officer ~~Comptroller~~ for costs associated with
3 processing invoices under the agreement.

4 Section 216. Effective January 7, 2003, section
5 215.50, Florida Statutes, is amended to read:

6 215.50 Custody of securities purchased; income.--

7 (1) All securities purchased or held may, with the
8 approval of the board, be in the custody of the Chief
9 Financial Officer ~~Treasurer~~ or the Chief Financial Officer
10 ~~Treasurer~~ as treasurer ex officio of the board, or be
11 deposited with a bank or trust company to be held in
12 safekeeping by such bank or trust company for the collection
13 of principal and interest or of the proceeds of the sale
14 thereof.

15 (2) It shall be the duty of the board or of the Chief
16 Financial Officer ~~Treasurer~~, as custodian of the securities of
17 the board, to collect the interest or other income on, and the
18 principal of, such securities in their custody as the sums
19 become due and payable and to pay the same, when so collected,
20 into the investment account of the fund to which the
21 investments belong.

22 (3) The Chief Financial Officer ~~Treasurer~~, as
23 custodian of securities owned by the Florida Retirement System
24 Trust Fund and the Florida Survivor Benefit Trust Fund, shall
25 collect the interest, dividends, prepayments, maturities,
26 proceeds from sales, and other income accruing from such
27 assets. As such income is collected by the Chief Financial
28 Officer ~~Treasurer~~, it shall be deposited directly into a
29 commercial bank to the credit of the State Board of
30 Administration. Such bank accounts as may be required for
31 this purpose shall offer satisfactory collateral security as

1 provided by chapter 280. In the event funds so deposited
2 according to the provisions of this section are required for
3 the purpose of paying benefits or other operational needs, the
4 State Board of Administration shall remit to the Florida
5 Retirement System Trust Fund in the State Treasury such
6 amounts as may be requested by the Department of Management
7 Services.

8 (4) Securities that the board selects to use for
9 options operations under s. 215.45 or for lending under s.
10 215.47(16) shall be registered by the Chief Financial Officer
11 ~~Treasurer~~ in the name of a third-party nominee in order to
12 facilitate such operations.

13 Section 217. Effective January 7, 2003, section
14 215.551, Florida Statutes, is amended to read:

15 215.551 Federal Use of State Lands Trust Fund; county
16 distribution.--

17 (1) The Chief Financial Officer ~~Comptroller~~ may make
18 distribution of the Federal Use of State Lands Trust Fund,
19 when so requested by the counties in interest, of such amounts
20 as may be accumulated in that fund.

21 (2) The Chief Financial Officer ~~Comptroller~~ shall
22 ascertain, from the records of the General Land Office or
23 other departments in Washington, D.C., the number of acres of
24 land situated in the several counties in which the
25 Apalachicola, Choctawhatchee, Ocala, and Osceola Forest
26 Reserves are located, the number of acres of land of such
27 forest reserve embraced in each of the counties in each of the
28 reserves, and, also, the amount of money received by the
29 United States Government from each of the reserves,
30 respectively. The Chief Financial Officer ~~Comptroller~~ shall
31 apportion the money on hand to each county in each reserve,

1 respectively and separately; such distribution shall be based
2 upon the number of acres of land embraced in the Apalachicola
3 Forest, Choctawhatchee Forest, Ocala Forest, and Osceola
4 Forest, respectively, in each county and shall be further
5 based upon the amount collected by the United States from each
6 of such forests, so that such distribution, when made, will
7 include for each county the amount due each county, based upon
8 the receipts for the particular forest and the acreage in the
9 particular county in which such forest is located. The Chief
10 Financial Officer ~~Comptroller~~ shall issue two warrants on the
11 Treasury ~~Treasurer~~ in each case, the sum of which shall be the
12 amount due each of such counties from the fund. One warrant
13 shall be payable to the county for the county general road
14 fund, and one warrant, of equal amount, shall be payable to
15 such county's district school board for the district school
16 fund.

17 (3) In the event that actual figures of receipts from
18 different reserves cannot be obtained by counties, so as to
19 fully comply with subsections (1) and (2), the Chief Financial
20 Officer ~~Comptroller~~ may adjust the matter according to the
21 United States statutes, or as may appear to him or her to be
22 just and fair, and with the approval of all counties in
23 interest.

24 (4) The moneys that may be received and credited to
25 the Federal Use of State Lands Trust Fund are appropriated for
26 the payment of the warrants of the Chief Financial Officer
27 ~~Comptroller~~ drawn on the Treasury ~~Treasurer~~ in pursuance of
28 this section.

29 Section 218. Effective January 7, 2003, section
30 215.552, Florida Statutes, is amended to read:

31

1 215.552 Federal Use of State Lands Trust Fund; land
2 within military installations; county distribution.--The Chief
3 Financial Officer ~~Comptroller~~ shall distribute moneys from the
4 Federal Use of State Lands Trust Fund when so requested by the
5 counties so affected. The Chief Financial Officer ~~Comptroller~~
6 shall apportion the money on hand equal to the percentage of
7 land in each county within each military installation, and the
8 amount so apportioned to each county shall be applied by such
9 counties equally divided between the district school fund and
10 the general road fund of such counties.

11 Section 219. Effective January 7, 2003, paragraph (c)
12 of subsection (2), paragraph (d) of subsection (4), and
13 paragraphs (a), (b), and (c) of subsection (6) of section
14 215.555, Florida Statutes, are amended to read:

15 215.555 Florida Hurricane Catastrophe Fund.--

16 (2) DEFINITIONS.--As used in this section:

17 (c) "Covered policy" means any insurance policy
18 covering residential property in this state, including, but
19 not limited to, any homeowner's, mobile home owner's, farm
20 owner's, condominium association, condominium unit owner's,
21 tenant's, or apartment building policy, or any other policy
22 covering a residential structure or its contents issued by any
23 authorized insurer, including any joint underwriting
24 association or similar entity created pursuant to law.
25 Additionally, covered policies include policies covering the
26 peril of wind removed from the Florida Residential Property
27 and Casualty Joint Underwriting Association, created pursuant
28 to s. 627.351(6), or from the Florida Windstorm Underwriting
29 Association, created pursuant to s. 627.351(2), by an
30 authorized insurer under the terms and conditions of an
31 executed assumption agreement between the authorized insurer

1 and either such association. Each assumption agreement between
2 either association and such authorized insurer must be
3 approved by the Florida Department of Insurance and Financial
4 Services prior to the effective date of the assumption, and
5 the Department of Insurance and Financial Services must
6 provide written notification to the board within 15 working
7 days after such approval. "Covered policy" does not include
8 any policy that excludes wind coverage or hurricane coverage
9 or any reinsurance agreement and does not include any policy
10 otherwise meeting this definition which is issued by a surplus
11 lines insurer or a reinsurer.

12 (4) REIMBURSEMENT CONTRACTS.--

13 (d)1. For purposes of determining potential liability
14 and to aid in the sound administration of the fund, the
15 contract shall require each insurer to report such insurer's
16 losses from each covered event on an interim basis, as
17 directed by the board. The contract shall require the insurer
18 to report to the board no later than December 31 of each year,
19 and quarterly thereafter, its reimbursable losses from covered
20 events for the year. The contract shall require the board to
21 determine and pay, as soon as practicable after receiving
22 these reports of reimbursable losses, the initial amount of
23 reimbursement due and adjustments to this amount based on
24 later loss information. The adjustments to reimbursement
25 amounts shall require the board to pay, or the insurer to
26 return, amounts reflecting the most recent calculation of
27 losses.

28 2. In determining reimbursements pursuant to this
29 subsection, the contract shall provide that the board shall:

30 a. First reimburse insurers writing covered policies,
31 which insurers are in full compliance with this section and

1 have petitioned the Department of Insurance and Financial
2 Services and qualified as limited apportionment companies
3 under s. 627.351(2)(b)3. The amount of such reimbursement
4 shall be the lesser of \$10 million or an amount equal to 10
5 times the insurer's reimbursement premium for the current
6 year. The amount of reimbursement paid under this
7 sub-subparagraph may not exceed the full amount of
8 reimbursement promised in the reimbursement contract. This
9 sub-subparagraph does not apply with respect to any contract
10 year in which the year-end projected cash balance of the fund,
11 exclusive of any bonding capacity of the fund, exceeds \$2
12 billion. Only one member of any insurer group may receive
13 reimbursement under this sub-subparagraph.

14 b. Next pay to each insurer such insurer's projected
15 payout, which is the amount of reimbursement it is owed, up to
16 an amount equal to the insurer's share of the actual premium
17 paid for that contract year, multiplied by the actual
18 claims-paying capacity available for that contract year;
19 provided, entities created pursuant to s. 627.351 shall be
20 further reimbursed in accordance with sub-subparagraph c.

21 c. Thereafter, establish, based on reimbursable
22 losses, the prorated reimbursement level at the highest level
23 for which any remaining fund balance or bond proceeds are
24 sufficient to reimburse entities created pursuant to s.
25 627.351 for losses exceeding the amounts payable pursuant to
26 sub-subparagraph b. for the current contract year.

27 (6) REVENUE BONDS.--

28 (a) General provisions.--

29 1. Upon the occurrence of a hurricane and a
30 determination that the moneys in the fund are or will be
31 insufficient to pay reimbursement at the levels promised in

1 the reimbursement contracts, the board may take the necessary
2 steps under paragraph (b) or paragraph (c) for the issuance of
3 revenue bonds for the benefit of the fund. The proceeds of
4 such revenue bonds may be used to make reimbursement payments
5 under reimbursement contracts; to refinance or replace
6 previously existing borrowings or financial arrangements; to
7 pay interest on bonds; to fund reserves for the bonds; to pay
8 expenses incident to the issuance or sale of any bond issued
9 under this section, including costs of validating, printing,
10 and delivering the bonds, costs of printing the official
11 statement, costs of publishing notices of sale of the bonds,
12 and related administrative expenses; or for such other
13 purposes related to the financial obligations of the fund as
14 the board may determine. The term of the bonds may not exceed
15 30 years. The board may pledge or authorize the corporation to
16 pledge all or a portion of all revenues under subsection (5)
17 and under subparagraph 3. to secure such revenue bonds and the
18 board may execute such agreements between the board and the
19 issuer of any revenue bonds and providers of other financing
20 arrangements under paragraph (7)(b) as the board deems
21 necessary to evidence, secure, preserve, and protect such
22 pledge. If reimbursement premiums received under subsection
23 (5) or earnings on such premiums are used to pay debt service
24 on revenue bonds, such premiums and earnings shall be used
25 only after the use of the moneys derived from assessments
26 under subparagraph 3. The funds, credit, property, or taxing
27 power of the state or political subdivisions of the state
28 shall not be pledged for the payment of such bonds. The board
29 may also enter into agreements under paragraph (b) or
30 paragraph (c) for the purpose of issuing revenue bonds in the
31 absence of a hurricane upon a determination that such action

1 would maximize the ability of the fund to meet future
2 obligations.

3 2. The Legislature finds and declares that the
4 issuance of bonds under this subsection is for the public
5 purpose of paying the proceeds of the bonds to insurers,
6 thereby enabling insurers to pay the claims of policyholders
7 to assure that policyholders are able to pay the cost of
8 construction, reconstruction, repair, restoration, and other
9 costs associated with damage to property of policyholders of
10 covered policies after the occurrence of a hurricane. Revenue
11 bonds may not be issued under this subsection until validated
12 under chapter 75. The validation of at least the first
13 obligations incurred pursuant to this subsection shall be
14 appealed to the Supreme Court, to be handled on an expedited
15 basis.

16 3. If the board determines that the amount of revenue
17 produced under subsection (5) is insufficient to fund the
18 obligations, costs, and expenses of the fund and the
19 corporation, including repayment of revenue bonds, the board
20 shall direct the Department of Insurance and Financial
21 Services to levy an emergency assessment on each insurer
22 writing property and casualty business in this state. Pursuant
23 to the emergency assessment, each such insurer shall pay to
24 the corporation by July 1 of each year an amount set by the
25 board not exceeding 2 percent of its gross direct written
26 premium for the prior year from all property and casualty
27 business in this state except for workers' compensation,
28 except that, if the Governor has declared a state of emergency
29 under s. 252.36 due to the occurrence of a covered event, the
30 amount of the assessment for the contract year may be
31 increased to an amount not exceeding 4 percent of such

1 premium. Any assessment authority not used for the contract
2 year may be used for a subsequent contract year. If, for a
3 subsequent contract year, the board determines that the amount
4 of revenue produced under subsection (5) is insufficient to
5 fund the obligations, costs, and expenses of the fund and the
6 corporation, including repayment of revenue bonds for that
7 contract year, the board shall direct the Department of
8 Insurance and Financial Services to levy an emergency
9 assessment up to an amount not exceeding the amount of unused
10 assessment authority from a previous contract year or years,
11 plus an additional 2 percent if the Governor has declared a
12 state of emergency under s. 252.36 due to the occurrence of a
13 covered event. Any assessment authority not used for the
14 contract year may be used for a subsequent contract year. As
15 used in this subsection, the term "property and casualty
16 business" includes all lines of business identified on Form 2,
17 Exhibit of Premiums and Losses, in the annual statement
18 required by s. 624.424 and any rules adopted under such
19 section, except for those lines identified as accident and
20 health insurance. The annual assessments under this
21 subparagraph shall continue as long as the revenue bonds
22 issued with respect to which the assessment was imposed are
23 outstanding, unless adequate provision has been made for the
24 payment of such bonds pursuant to the documents authorizing
25 issuance of the bonds. An insurer shall not at any time be
26 subject to aggregate annual assessments under this
27 subparagraph of more than 2 percent of premium, except that in
28 the case of a declared emergency, an insurer shall not at any
29 time be subject to aggregate annual assessments under this
30 subparagraph of more than 6 percent of premium; provided, no
31 more than 4 percent may be assessed for any one contract year.

1 Any rate filing or portion of a rate filing reflecting a rate
2 change attributable entirely to the assessment levied under
3 this subparagraph shall be deemed approved when made, subject
4 to the authority of the Department of Insurance and Financial
5 Services to require actuarial justification as to the adequacy
6 of any rate at any time. If the rate filing reflects only a
7 rate change attributable to the assessment under this
8 paragraph, the filing may consist of a certification so
9 stating. The assessments otherwise payable to the corporation
10 pursuant to this subparagraph shall be paid instead to the
11 fund unless and until the Department of Insurance and
12 Financial Services has received from the corporation and the
13 fund a notice, which shall be conclusive and upon which the
14 Department of Insurance and Financial Services may rely
15 without further inquiry, that the corporation has issued bonds
16 and the fund has no agreements in effect with local
17 governments pursuant to paragraph (b). On or after the date
18 of such notice and until such date as the corporation has no
19 bonds outstanding, the fund shall have no right, title, or
20 interest in or to the assessments, except as provided in the
21 fund's agreements with the corporation.

22 (b) Revenue bond issuance through counties or
23 municipalities.--

24 1. If the board elects to enter into agreements with
25 local governments for the issuance of revenue bonds for the
26 benefit of the fund, the board shall enter into such contracts
27 with one or more local governments, including agreements
28 providing for the pledge of revenues, as are necessary to
29 effect such issuance. The governing body of a county or
30 municipality is authorized to issue bonds as defined in s.
31 125.013 or s. 166.101 from time to time to fund an assistance

1 program, in conjunction with the Florida Hurricane Catastrophe
2 Fund, for the purposes set forth in this section or for the
3 purpose of paying the costs of construction, reconstruction,
4 repair, restoration, and other costs associated with damage to
5 properties of policyholders of covered policies due to the
6 occurrence of a hurricane by assuring that policyholders
7 located in this state are able to recover claims under
8 property insurance policies after a covered event.

9 2. In order to avoid needless and indiscriminate
10 proliferation, duplication, and fragmentation of such
11 assistance programs, any local government may provide for the
12 payment of fund reimbursements, regardless of whether or not
13 the losses for which reimbursement is made occurred within or
14 outside of the territorial jurisdiction of the local
15 government.

16 3. The state hereby covenants with holders of bonds
17 issued under this paragraph that the state will not repeal or
18 abrogate the power of the board to direct the Department of
19 Insurance and Financial Services to levy the assessments and
20 to collect the proceeds of the revenues pledged to the payment
21 of such bonds as long as any such bonds remain outstanding
22 unless adequate provision has been made for the payment of
23 such bonds pursuant to the documents authorizing the issuance
24 of such bonds.

25 4. There shall be no liability on the part of, and no
26 cause of action shall arise against any members or employees
27 of the governing body of a local government for any actions
28 taken by them in the performance of their duties under this
29 paragraph.

30 (c) Florida Hurricane Catastrophe Fund Finance
31 Corporation.--

1 1. In addition to the findings and declarations in
2 subsection (1), the Legislature also finds and declares that:

3 a. The public benefits corporation created under this
4 paragraph will provide a mechanism necessary for the
5 cost-effective and efficient issuance of bonds. This mechanism
6 will eliminate unnecessary costs in the bond issuance process,
7 thereby increasing the amounts available to pay reimbursement
8 for losses to property sustained as a result of hurricane
9 damage.

10 b. The purpose of such bonds is to fund reimbursements
11 through the Florida Hurricane Catastrophe Fund to pay for the
12 costs of construction, reconstruction, repair, restoration,
13 and other costs associated with damage to properties of
14 policyholders of covered policies due to the occurrence of a
15 hurricane.

16 c. The efficacy of the financing mechanism will be
17 enhanced by the corporation's ownership of the assessments, by
18 the insulation of the assessments from possible bankruptcy
19 proceedings, and by covenants of the state with the
20 corporation's bondholders.

21 2.a. There is created a public benefits corporation,
22 which is an instrumentality of the state, to be known as the
23 Florida Hurricane Catastrophe Fund Finance Corporation.

24 b. The corporation shall operate under a five-member
25 board of directors consisting of the Governor or a designee,
26 the Chief Financial Officer ~~Comptroller~~ or a designee, the
27 Attorney General ~~the Treasurer~~ or a designee, the director of
28 the Division of Bond Finance of the State Board of
29 Administration, and the chief operating officer of the Florida
30 Hurricane Catastrophe Fund.

31

1 c. The corporation has all of the powers of
2 corporations under chapter 607 and under chapter 617, subject
3 only to the provisions of this subsection.

4 d. The corporation may issue bonds and engage in such
5 other financial transactions as are necessary to provide
6 sufficient funds to achieve the purposes of this section.

7 e. The corporation may invest in any of the
8 investments authorized under s. 215.47.

9 f. There shall be no liability on the part of, and no
10 cause of action shall arise against, any board members or
11 employees of the corporation for any actions taken by them in
12 the performance of their duties under this paragraph.

13 3.a. In actions under chapter 75 to validate any bonds
14 issued by the corporation, the notice required by s. 75.06
15 shall be published only in Leon County and in two newspapers
16 of general circulation in the state, and the complaint and
17 order of the court shall be served only on the State Attorney
18 of the Second Judicial Circuit.

19 b. The state hereby covenants with holders of bonds of
20 the corporation that the state will not repeal or abrogate the
21 power of the board to direct the Department of Insurance and
22 Financial Services to levy the assessments and to collect the
23 proceeds of the revenues pledged to the payment of such bonds
24 as long as any such bonds remain outstanding unless adequate
25 provision has been made for the payment of such bonds pursuant
26 to the documents authorizing the issuance of such bonds.

27 4. The bonds of the corporation are not a debt of the
28 state or of any political subdivision, and neither the state
29 nor any political subdivision is liable on such bonds. The
30 corporation does not have the power to pledge the credit, the
31 revenues, or the taxing power of the state or of any political

1 subdivision. The credit, revenues, or taxing power of the
2 state or of any political subdivision shall not be deemed to
3 be pledged to the payment of any bonds of the corporation.
4 5.a. The property, revenues, and other assets of the
5 corporation; the transactions and operations of the
6 corporation and the income from such transactions and
7 operations; and all bonds issued under this paragraph and
8 interest on such bonds are exempt from taxation by the state
9 and any political subdivision, including the intangibles tax
10 under chapter 199 and the income tax under chapter 220. This
11 exemption does not apply to any tax imposed by chapter 220 on
12 interest, income, or profits on debt obligations owned by
13 corporations other than the Florida Hurricane Catastrophe Fund
14 Finance Corporation.

15 b. All bonds of the corporation shall be and
16 constitute legal investments without limitation for all public
17 bodies of this state; for all banks, trust companies, savings
18 banks, savings associations, savings and loan associations,
19 and investment companies; for all administrators, executors,
20 trustees, and other fiduciaries; for all insurance companies
21 and associations and other persons carrying on an insurance
22 business; and for all other persons who are now or may
23 hereafter be authorized to invest in bonds or other
24 obligations of the state and shall be and constitute eligible
25 securities to be deposited as collateral for the security of
26 any state, county, municipal, or other public funds. This
27 sub-subparagraph shall be considered as additional and
28 supplemental authority and shall not be limited without
29 specific reference to this sub-subparagraph.

30 6. The corporation and its corporate existence shall
31 continue until terminated by law; however, no such law shall

1 take effect as long as the corporation has bonds outstanding
2 unless adequate provision has been made for the payment of
3 such bonds pursuant to the documents authorizing the issuance
4 of such bonds. Upon termination of the existence of the
5 corporation, all of its rights and properties in excess of its
6 obligations shall pass to and be vested in the state.

7 Section 220. Effective January 7, 2003, subsection (5)
8 of section 215.559, Florida Statutes, is amended to read:

9 215.559 Hurricane Loss Mitigation Program.--

10 (5) Except for the program set forth in subsection
11 (3), the Department of Community Affairs shall develop the
12 programs set forth in this section in consultation with an
13 advisory council consisting of a representative designated by
14 the Department of Insurance and Financial Services, a
15 representative designated by the Florida Home Builders
16 Association, a representative designated by the Florida
17 Insurance Council, a representative designated by the
18 Federation of Manufactured Home Owners, a representative
19 designated by the Florida Association of Counties, and a
20 representative designated by the Florida Manufactured Housing
21 Association.

22 Section 221. Effective January 7, 2003, paragraphs (c)
23 and (d) of subsection (1), paragraphs (b), (d), (e), and (f)
24 of subsection (2), and subsection (3) of section 215.56005,
25 Florida Statutes, are amended to read:

26 215.56005 Tobacco Settlement Financing Corporation.--

27 (1) DEFINITIONS.--As used in this section:

28 ~~(c) "Department" means the Department of Banking and~~
29 ~~Finance or its successor.~~

30 (c)(d) "Purchase agreement" means a contract between
31 the corporation and the State of Florida, acting by and

1 through the Chief Financial Officer department, in which the
2 State of Florida sells to the corporation any or all of the
3 state's right, title, and interest in and to the tobacco
4 settlement agreement, including, but not limited to, the
5 moneys to be received thereunder.

6 (2) CORPORATION CREATION AND AUTHORITY.--

7 (b) The corporation shall be governed by a board of
8 directors consisting of the Governor, the Chief Financial
9 Officer, or his or her designee, Treasurer, the Comptroller,
10 the Attorney General, two directors appointed from the
11 membership of the Senate by the President of the Senate, and
12 two directors appointed from the membership of the House of
13 Representatives by the Speaker of the House of
14 Representatives. ~~On January 7, 2003, the board shall include~~
15 ~~the Chief Financial Officer or the Chief Financial Officer's~~
16 ~~designee, in place of the Treasurer and the Comptroller or~~
17 ~~their designees.~~The executive director of the State Board of
18 Administration shall be the chief executive officer of the
19 corporation and shall direct and supervise the administrative
20 affairs and operation of the corporation. The corporation
21 shall also have such other officers as may be determined by
22 the board of directors.

23 (d) The corporation is authorized to enter into one or
24 more purchase agreements with the Chief Financial Officer
25 ~~department~~ pursuant to which the corporation purchases any or
26 all of the state's right, title, and interest in and to the
27 tobacco settlement agreement and to execute and deliver any
28 other documents necessary or desirable to effectuate such
29 purchase. Sale of all or part of the state's right, title, and
30 interest in and to the tobacco settlement agreement is subject
31 to approval by the Legislature in a regular, extended, or

1 special session. The tobacco settlement agreement moneys
2 received pursuant to the purchase agreements may be used for
3 the costs and expenses of administration of the corporation.
4 (e)1. The corporation may issue bonds payable from and
5 secured by amounts payable to the corporation pursuant to the
6 tobacco settlement agreement. Issuance of bonds by the
7 corporation is subject to approval by the Legislature in a
8 regular, extended, or special session. In addition, the
9 corporation is authorized to issue bonds to refund previously
10 issued bonds and to deposit the proceeds of such bonds as
11 provided in the documents authorizing the issuance of such
12 bonds. The corporation is authorized to do all things
13 necessary or desirable in connection with the issuance of the
14 bonds, including, but not limited to, establishing debt
15 service reserves or other additional security for the bonds,
16 providing for capitalized interest, and executing and
17 delivering any and all documents and agreements. The total
18 principal amount of bonds issued by the corporation shall not
19 exceed \$3 billion. The principal amount of bonds issued in
20 any single fiscal year shall not exceed \$1.5 billion,
21 beginning with the 2000-2001 fiscal year. The limitation on
22 the principal amount of bonds issued by the corporation shall
23 not apply to bonds issued to refund previously issued bonds.
24 No series of bonds issued shall have a true interest cost rate
25 of more than 4 percent over the yield on U.S. Treasury
26 obligations which have a maturity approximately equal to the
27 average life of such series of bonds. Satisfaction of the
28 foregoing interest rate limitation shall be determined on the
29 date such bonds are sold or a definitive agreement to sell
30 such bonds at specified prices or yields is executed and
31 delivered. The corporation may sell bonds through competitive

1 bidding or negotiated contracts, whichever method of sale is
2 determined by the corporation to be in the best interest of
3 the corporation.

4 2. The corporation does not have the power to pledge
5 the credit, the general revenues, or the taxing power of the
6 state or of any political subdivision of the state. The
7 obligations of the Chief Financial Officer ~~department~~ and the
8 corporation under the purchase agreement and under any bonds
9 shall not constitute a general obligation of the state or a
10 pledge of the faith and credit or taxing power of the state.
11 The bonds shall be payable from and secured by payments
12 received under the tobacco settlement agreement, and neither
13 the state nor any of its agencies shall have any liability on
14 such bonds. Such bonds shall not be construed in any manner
15 as an obligation of the state or any agency of the state, the
16 Chief Financial Officer ~~department~~, the State Board of
17 Administration or entities for which the State Board of
18 Administration invests funds, or board members or their
19 respective agencies. The corporation shall not be authorized
20 to expend moneys for payment of debt service on bonds from any
21 source other than revenues received under the tobacco
22 settlement agreement or reserves, funds, or accounts
23 established pursuant to documents authorizing the issuance of
24 such bonds.

25 3. The corporation may validate any bonds issued
26 pursuant to this paragraph and the security for payment for
27 such bonds, as provided in chapter 75. The validation
28 complaint shall be filed only in the circuit court for Leon
29 County. The notice required under s. 75.06 shall be published
30 in Leon County, and the complaint and order of the circuit
31 court shall be served only on the State Attorney for the

1 Second Judicial Circuit. The provisions of ss. 75.04(2) and
2 75.06(2) shall not apply to a validation complaint filed as
3 authorized in this paragraph. The validation of the first
4 bonds issued pursuant to this paragraph may be appealed to the
5 Supreme Court, and such appeal shall be handled on an
6 expedited basis.

7 4. The state hereby covenants with the holders of
8 bonds of the corporation that the state will not limit or
9 alter the authority or the rights under this section vested in
10 the corporation to fulfill the terms of any agreement,
11 including the terms of any purchase agreement, or in any way
12 impair the rights and remedies of such bondholders until at
13 least 1 year and 1 day after which no such bonds remain
14 outstanding unless adequate provision has been made for the
15 payment of such bonds pursuant to the documents authorizing
16 such bonds.

17 5. The corporation shall not take any action which
18 will materially and adversely affect the rights of holders of
19 any bonds issued under this paragraph as long as such bonds
20 are outstanding.

21 6. Until at least 1 year and 1 day after which no
22 bonds of the corporation remain outstanding, the corporation
23 shall not have the authority to file a voluntary petition
24 under chapter 9 of the federal Bankruptcy Code or such
25 corresponding chapter or sections as may be in effect, from
26 time to time, and neither any public officer nor any
27 organization, entity, or other person shall authorize the
28 corporation to be or become a debtor under chapter 9 of the
29 federal Bankruptcy Code or such corresponding chapter or
30 sections as may be in effect, from time to time, during any
31 such period. The state hereby covenants with the holders of

1 bonds of the corporation that the state will not limit or
2 alter the denial of authority to file bankruptcy under this
3 paragraph until at least 1 year and 1 day after which no bonds
4 of the corporation remain outstanding.

5 7. The corporation may contract with the State Board
6 of Administration to serve as trustee with respect to bonds
7 issued by the corporation as provided by this paragraph and to
8 hold, administer, and invest proceeds of such bonds and other
9 funds of the corporation and to perform other services
10 required by the corporation. The State Board of
11 Administration may perform such services and may contract with
12 others to provide all or a part of such services and to
13 recover the costs and expenses of providing such services.

14 (f) Notwithstanding any other provision of law, any
15 pledge of or other security interest in revenues, moneys,
16 accounts, contract rights, general intangibles, or other
17 personal property made or created by the corporation or the
18 Chief Financial Officer ~~department~~ resulting from the
19 authority of this section shall be valid, binding, and
20 perfected from the time such pledge is made or other security
21 interest attaches without any physical delivery of the
22 collateral or further act, and the lien of any such pledge or
23 other security interest shall be valid, binding, and perfected
24 against all parties having claims of any kind in tort,
25 contract, or otherwise against the corporation irrespective of
26 whether such parties have notice of such claims. No
27 instrument by which such a pledge or security interest is
28 created or any financing statement need be recorded or filed.

29 (3) POWERS OF THE CHIEF FINANCIAL OFFICER
30 ~~DEPARTMENT~~.--

31

1 (a) The Chief Financial Officer ~~department~~ is
2 authorized, on behalf of the state, to do all things necessary
3 or desirable to assist the corporation in the execution of the
4 corporation's responsibilities, including, but not limited to,
5 processing budget amendments against the Chief Financial
6 Officer's Department of Banking and Finance Tobacco Settlement
7 Clearing Trust Fund, subject to the requirements of s.
8 216.177, for the costs and expenses of administration of the
9 corporation in an amount not to exceed \$500,000; entering into
10 one or more purchase agreements to sell to the corporation any
11 or all of the state's right, title, and interest in and to the
12 tobacco settlement agreement; executing any administrative
13 agreements with the corporation to fund the administration,
14 operation, and expenses of the corporation from moneys
15 appropriated for such purpose; and executing and delivering
16 any and all other documents and agreements necessary or
17 desirable in connection with the sale of any or all of the
18 state's right, title, and interest in and to the tobacco
19 settlement agreement to the corporation or the issuance of the
20 bonds by the corporation. The Chief Financial Officer's
21 ~~department's~~ authority to sell any or all of the state's
22 right, title, and interest in and to the tobacco settlement
23 agreement is subject to approval by the Legislature in a
24 regular, extended, or special session.

25 (b) The state hereby covenants with the holders of
26 bonds of the corporation that the state will not limit or
27 alter the authority or the rights under this section vested in
28 the Chief Financial Officer ~~department~~ to fulfill the terms of
29 any agreement, including the terms of any purchase agreement,
30 or in any way impair the rights and remedies of such
31 bondholders until at least 1 year and 1 day after which no

1 such bonds remain outstanding unless adequate provision has
2 been made for the payment of such bonds pursuant to the
3 documents authorizing such bonds.

4 (c) The Chief Financial Officer ~~department~~ is
5 authorized, on behalf of the state, to make any covenant,
6 representation, or warranty necessary or desirable in
7 connection with the sale of any or all of the state's right,
8 title, and interest in and to the tobacco settlement agreement
9 to the corporation or the issuance of the bonds by the
10 corporation. Such covenants may specifically include a
11 covenant to take whatever actions are necessary on behalf of
12 the corporation or holders of the bonds issued by the
13 corporation to enforce the provisions of the tobacco
14 settlement agreement, and any rights and remedies thereunder.

15 Section 222. Effective January 7, 2003, paragraph (b)
16 of subsection (3) and paragraph (a) of subsection (5) of
17 section 215.5601, Florida Statutes, are amended to read:

18 215.5601 Lawton Chiles Endowment Fund.--

19 (3) LAWTON CHILES ENDOWMENT FUND; CREATION;
20 PRINCIPAL.--

21 (b) The endowment shall receive moneys from the sale
22 of the state's right, title, and interest in and to the
23 tobacco settlement agreement as defined in s. 215.56005,
24 including the right to receive payments under such agreement,
25 and from accounts transferred from the Chief Financial
26 Officer's ~~Department of Banking and Finance~~ Tobacco Settlement
27 Clearing Trust Fund established under s. 17.41. Amounts to be
28 transferred from the Chief Financial Officer's ~~Department of~~
29 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund to
30 the endowment shall be in the following amounts for the
31 following fiscal years:

1 1. For fiscal year 1999-2000, \$1.1 billion;
2 2. For fiscal year 2000-2001, \$200 million;
3 3. For fiscal year 2001-2002, \$200 million;
4 4. For fiscal year 2002-2003, \$200 million; and
5 (5) AVAILABILITY OF FUNDS; USES.--
6 (a) Funds from the endowment which are available for
7 legislative appropriation shall be transferred by the board to
8 the Chief Financial Officer's ~~Department of Banking and~~
9 ~~Finance~~ Tobacco Settlement Clearing Trust Fund, created in s.
10 17.41, and disbursed in accordance with the legislative
11 appropriation.

12 1. Appropriations by the Legislature to the Department
13 of Health from endowment earnings from the principal set aside
14 for biomedical research shall be from a category called the
15 Florida Biomedical Research Program and shall be deposited
16 into the Biomedical Research Trust Fund in the Department of
17 Health established in s. 20.435.

18 2. Appropriations by the Legislature to the Department
19 of Children and Family Services, the Department of Health, or
20 the Department of Elderly Affairs for health and human
21 services programs shall be from a category called the Lawton
22 Chiles Endowment Fund Programs and shall be deposited into
23 each department's respective Tobacco Settlement Trust Fund as
24 appropriated.

25 Section 223. Effective January 7, 2003, subsections
26 (2) and (3) of section 215.58, Florida Statutes, are amended
27 to read:

28 215.58 Definitions relating to State Bond Act.--The
29 following words or terms when used in this act shall have the
30 following meanings:
31

1 (2) "Chief Financial Officer ~~Treasurer~~" shall mean the
2 Chief Financial Officer of the state ~~Insurance Commissioner~~
3 ~~and Treasurer.~~

4 ~~(3) "Comptroller" shall mean the State Comptroller.~~

5 Section 224. Effective January 7, 2003, subsections
6 (2), (3), (4), (5), and (8) of section 215.684, Florida
7 Statutes, are amended to read:

8 215.684 Limitation on engaging services of securities
9 broker or bond underwriter convicted of fraud.--

10 (2) Upon notification under chapter 517 that a person
11 or firm has been convicted or has pleaded as provided in
12 subsection (1), the Department of Insurance and Financial
13 Services ~~Comptroller~~ shall issue a notice of intent to take
14 action to disqualify such person or firm, which notice must
15 state that:

16 (a) Such person or firm is considered a disqualified
17 securities broker or bond underwriter;

18 (b) A state agency may not enter into a contract with
19 such person or firm as a securities broker or bond underwriter
20 for any new business for a period of 2 years;

21 (c) The substantial rights of such person or firm as a
22 securities broker or bond underwriter are being affected and
23 the person or firm has the rights accorded pursuant to ss.
24 120.569 and 120.57; and

25 (d) Such person or firm may petition to mitigate the
26 duration of his or her disqualification, based on the criteria
27 established in subsection (3) and may request that such
28 mitigation be considered as part of any hearing under ss.
29 120.569 and 120.57.

30 (3) The Department of Insurance and Financial Services
31 ~~Comptroller~~ shall decide, based on the following criteria,

1 whether or not to mitigate the duration of the
2 disqualification:

3 (a) The nature and details of the crime;

4 (b) The degree of culpability of the person or firm
5 proposed to be requalified;

6 (c) Prompt or voluntary payment of any damages or
7 penalty as a result of the conviction and disassociation from
8 any other person or firm involved in the crimes of fraud;

9 (d) Cooperation with state or federal investigation or
10 prosecution of the crime of fraud;

11 (e) Prior or future self-policing by the person or
12 firm to prevent crimes of fraud; and

13 (f) Reinstatement or clemency in any jurisdiction in
14 relation to the crime at issue in the proceeding.

15 (4) If the Department of Insurance and Financial
16 Services Comptroller in its ~~his or her~~ sole discretion decides
17 to mitigate the duration of the disqualification based on the
18 foregoing, the duration of disqualification shall be for any
19 period the department Comptroller specifies up to 2 years from
20 the date of the person's or firm's conviction or plea. If the
21 Department of Insurance and Financial Services Comptroller
22 refuses to mitigate the duration of the disqualification, such
23 person or firm may again file for mitigation no sooner than 9
24 months after denial by the department Comptroller.

25 (5) Notwithstanding subsection (4), a firm or person
26 at any time may petition the Department of Insurance and
27 Financial Services Comptroller for termination of the
28 disqualification based upon a reversal of the conviction of
29 the firm or person by an appellate court or a pardon.

30 (8) Except when otherwise provided by law for crimes
31 of fraud with respect to the transaction of business with any

1 public entity or with an agency or political subdivision of
2 any other state or with the United States, this act
3 constitutes the sole authorization for determining when a
4 person or firm convicted or having pleaded guilty or nolo
5 contendere to the crime of fraud may not be engaged to provide
6 services as a securities broker or bond underwriter with the
7 state. Nothing in this act shall be construed to affect the
8 authority granted the Department of Insurance and Financial
9 Services Comptroller under chapter 517 to revoke or suspend
10 the license of such securities dealer or bond underwriter.

11 Section 225. Effective January 7, 2003, subsection (4)
12 of section 215.70, Florida Statutes, is amended to read:

13 215.70 State Board of Administration to act in case of
14 defaults.--

15 (4) Whenever it becomes necessary for state funds to
16 be appropriated for the payment of principal or interest on
17 bonds which have been issued by the Division of Bond Finance
18 on behalf of any local government or authority and for which
19 the full faith and credit of the state has been pledged, any
20 state shared revenues otherwise earmarked for the local
21 government or authority shall be used by the Chief Financial
22 Officer Comptroller to reimburse the state, until the local
23 government or authority has reimbursed the state in full.

24 Section 226. Effective January 7, 2003, subsection (4)
25 of section 215.91, Florida Statutes, is amended to read:

26 215.91 Florida Financial Management Information
27 System; board; council.--

28 (4) The council shall provide ongoing counsel to the
29 board and act to resolve problems among or between the
30 functional owner subsystems. The board, through the
31 coordinating council, shall direct and manage the development,

1 implementation, and operation of the information subsystems
2 that together are the Florida Financial Management Information
3 System. The coordinating council shall approve the
4 information subsystems' designs prior to the development,
5 implementation, and operation of the subsystems and shall
6 approve subsequent proposed design modifications to the
7 information subsystems subject to the guidelines issued by the
8 council. The coordinating council shall ensure that the
9 information subsystems' operations support the exchange of
10 unified and coordinated data between information subsystems.
11 The coordinating council shall establish the common data codes
12 for financial management, and it shall require and ensure the
13 use of common data codes by the information subsystems that
14 together constitute the Florida Financial Management
15 Information System. The Chief Financial Officer ~~Comptroller~~
16 shall adopt a chart of accounts consistent with the common
17 financial management data codes established by the
18 coordinating council. The board, through the coordinating
19 council, shall establish the financial management policies and
20 procedures for the executive branch of state government. The
21 coordinating council shall notify in writing the chairs of the
22 legislative fiscal committees and the Chief Justice of the
23 Supreme Court regarding the adoption of, or modification to, a
24 proposed financial management policy or procedure. The notice
25 shall solicit comments from the chairs of the legislative
26 fiscal committees and the Chief Justice of the Supreme Court
27 at least 14 consecutive days before the final action by the
28 coordinating council.

29 Section 227. Effective January 7, 2003, subsection (5)
30 of section 215.92, Florida Statutes, is amended to read:
31

1 215.92 Definitions relating to Florida Financial
2 Management Information System Act.--For the purposes of ss.
3 215.90-215.96:
4 (5) "Design and coordination staff" means the
5 personnel responsible for providing administrative and
6 clerical support to the board, coordinating council, and
7 secretary to the board. The design and coordination staff
8 shall function as the agency clerk for the board and the
9 coordinating council. For administrative purposes, the design
10 and coordination staff are assigned to the Chief Financial
11 Officer ~~Department of Banking and Finance~~ but they are
12 functionally assigned to the board.
13 Section 228. Effective January 7, 2003, subsection (3)
14 of section 215.93, Florida Statutes, is amended to read:
15 215.93 Florida Financial Management Information
16 System.--
17 (3) The Florida Financial Management Information
18 System shall include financial management data and utilize the
19 chart of accounts approved by the Chief Financial Officer
20 ~~Comptroller~~. Common financial management data shall include,
21 but not be limited to, data codes, titles, and definitions
22 used by one or more of the functional owner subsystems. The
23 Florida Financial Management Information System shall utilize
24 common financial management data codes. The council shall
25 recommend and the board shall adopt policies regarding the
26 approval and publication of the financial management data.
27 The Chief Financial Officer ~~Comptroller~~ shall adopt policies
28 regarding the approval and publication of the chart of
29 accounts. The Chief Financial Officer's ~~Comptroller's~~ chart
30 of accounts shall be consistent with the common financial
31 management data codes established by the coordinating council.

1 Further, all systems not a part of the Florida Financial
2 Management Information System which provide information to the
3 system shall use the common data codes from the Florida
4 Financial Management Information System and the Chief
5 Financial Officer's ~~Comptroller's~~ chart of accounts. Data
6 codes that cannot be supplied by the Florida Financial
7 Management Information System and the Chief Financial
8 Officer's ~~Comptroller's~~ chart of accounts and that are
9 required for use by the information subsystems shall be
10 approved by the board upon recommendation of the coordinating
11 council. However, board approval shall not be required for
12 those data codes specified by the Auditor General under the
13 provisions of s. 215.94(6)(c).

14 Section 229. Effective January 7, 2003, subsections
15 (2) and (3) and paragraph (a) of subsection (5) of section
16 215.94, Florida Statutes, are amended to read:

17 215.94 Designation, duties, and responsibilities of
18 functional owners.--

19 (2) The Chief Financial Officer ~~Department of Banking~~
20 ~~and Finance~~ shall be the functional owner of the Florida
21 Accounting Information Resource Subsystem established pursuant
22 to ss. 17.03, 215.86, 216.141, and 216.151 and further
23 developed in accordance with the provisions of ss.

24 215.90-215.96. The subsystem shall include, but shall not be
25 limited to, the following functions:

26 (a) Accounting and reporting so as to provide timely
27 data for producing financial statements for the state in
28 accordance with generally accepted accounting principles.

29 (b) Auditing and settling claims against the state.

30 (3) The Chief Financial Officer ~~Treasurer~~ shall be the
31 functional owner of the Cash Management Subsystem. The Chief

1 Financial Officer ~~Treasurer~~ shall design, implement, and
2 operate the subsystem in accordance with the provisions of ss.
3 215.90-215.96. The subsystem shall include, but shall not be
4 limited to, functions for:
5 (a) Recording and reconciling credits and debits to
6 treasury fund accounts.
7 (b) Monitoring cash levels and activities in state
8 bank accounts.
9 (c) Monitoring short-term investments of idle cash.
10 (d) Administering the provisions of the Federal Cash
11 Management Improvement Act of 1990.
12 (5) The Department of Management Services shall be the
13 functional owner of the Cooperative Personnel Employment
14 Subsystem. The department shall design, implement, and
15 operate the subsystem in accordance with the provisions of ss.
16 110.116 and 215.90-215.96. The subsystem shall include, but
17 shall not be limited to, functions for:
18 (a) Maintenance of employee and position data,
19 including funding sources and percentages and salary lapse.
20 The employee data shall include, but not be limited to,
21 information to meet the payroll system requirements of the
22 Chief Financial Officer ~~Department of Banking and Finance~~ and
23 to meet the employee benefit system requirements of the
24 Department of Management Services.
25 Section 230. Effective January 7, 2003, subsections
26 (1) and (2) of section 215.96, Florida Statutes, are amended
27 to read:
28 215.96 Coordinating council and design and
29 coordination staff.--
30 (1) The Chief Financial Officer ~~Comptroller, as chief~~
31 ~~fiscal officer of the state,~~ shall establish a coordinating

1 council to function on a continuing basis. The coordinating
2 council shall review and recommend to the board solutions and
3 policy alternatives to ensure coordination between functional
4 owners of the various information subsystems described in ss.
5 215.90-215.96 to the extent necessary to unify all the
6 subsystems into a financial management information system.
7 (2) The coordinating council shall consist of the
8 Chief Financial Officer ~~Comptroller; the Treasurer;~~ the
9 secretary of the Department of Management Services; and the
10 Director of Planning and Budgeting, Executive Office of the
11 Governor, or their designees. The Chief Financial Officer
12 ~~Comptroller~~, or his or her designee, shall be chair of the
13 coordinating council, and the design and coordination staff
14 shall provide administrative and clerical support to the
15 council and the board. The design and coordination staff shall
16 maintain the minutes of each meeting and shall make such
17 minutes available to any interested person. The Auditor
18 General, the State Courts Administrator, an executive officer
19 of the Florida Association of State Agency Administrative
20 Services Directors, and an executive officer of the Florida
21 Association of State Budget Officers, or their designees,
22 shall serve without voting rights as ex officio members on the
23 coordinating council. The chair may call meetings of the
24 coordinating council as often as necessary to transact
25 business; however, the coordinating council shall meet at
26 least once a year. Action of the coordinating council shall
27 be by motion, duly made, seconded and passed by a majority of
28 the coordinating council voting in the affirmative for
29 approval of items that are to be recommended for approval to
30 the Financial Management Information Board.
31

1 Section 231. Effective January 7, 2003, section
2 215.965, Florida Statutes, is amended to read:

3 215.965 Disbursement of state moneys.--Except as
4 provided in s. 17.076, s. 253.025(14), s. 259.041(18), s.
5 717.124(5), s. 732.107(5), or s. 733.816(5), all moneys in the
6 State Treasury shall be disbursed by state warrant, drawn by
7 the Chief Financial Officer ~~Comptroller~~ upon the State
8 Treasury and payable to the ultimate beneficiary. This
9 authorization shall include electronic disbursement.

10 Section 232. Effective January 7, 2003, paragraphs
11 (a), (c), (j), (n), (p), and (s) of subsection (2),
12 subsections (3) and (4), paragraphs (a) and (b) of subsection
13 (5), paragraphs (a) and (d) of subsection (6), paragraphs (a)
14 and (c) of subsection (7), paragraphs (e) and (g) of
15 subsection (8), paragraph (e) of subsection (9), and
16 paragraphs (d) and (f) of subsection (10) of section 215.97,
17 Florida Statutes, are amended to read:

18 215.97 Florida Single Audit Act.--

19 (2) Definitions; as used in this section, the term:

20 (a) "Audit threshold" means the amount to use in
21 determining when a state single audit of a nonstate entity
22 shall be conducted in accordance with this section. Each
23 nonstate entity that expends a total amount of state financial
24 assistance equal to or in excess of \$300,000 in any fiscal
25 year of such nonstate entity shall be required to have a state
26 single audit for such fiscal year in accordance with the
27 requirements of this section. Every 2 years the Auditor
28 General, after consulting with the Executive Office of the
29 Governor, the Chief Financial Officer ~~Comptroller~~, and all
30 state agencies that provide state financial assistance to
31 nonstate entities, shall review the amount for requiring

1 audits under this section and may adjust such dollar amount
2 consistent with the purpose of this section.

3 (c) "Catalog of State Financial Assistance" means a
4 comprehensive listing of state projects. The Catalog of State
5 Financial Assistance shall be issued by the Executive Office
6 of the Governor after conferring with the Chief Financial
7 Officer ~~Comptroller~~ and all state agencies that provide state
8 financial assistance to nonstate entities. The Catalog of
9 State Financial Assistance shall include for each listed state
10 project: the responsible state agency; standard state project
11 number identifier; official title; legal authorization; and
12 description of the state project, including objectives,
13 restrictions, application and awarding procedures, and other
14 relevant information determined necessary.

15 (j) "Major state project" means any state project
16 meeting the criteria as stated in the rules of the Executive
17 Office of the Governor. Such criteria shall be established
18 after consultation with the Chief Financial Officer
19 ~~Comptroller~~ and appropriate state agencies that provide state
20 financial assistance and shall consider the amount of state
21 project expenditures or expenses or inherent risks. Each major
22 state project shall be audited in accordance with the
23 requirements of this section.

24 (n) "Schedule of State Financial Assistance" means a
25 document prepared in accordance with the rules of the Chief
26 Financial Officer ~~Comptroller~~ and included in each financial
27 reporting package required by this section.

28 (p) "State financial assistance" means financial
29 assistance from state resources, not including federal
30 financial assistance and state matching, provided to nonstate
31 entities to carry out a state project. "State financial

1 assistance" includes all types of state assistance as stated
2 in the rules of the Executive Office of the Governor
3 established in consultation with the Chief Financial Officer
4 ~~Comptroller~~ and appropriate state agencies that provide state
5 financial assistance. It includes state financial assistance
6 provided directly by state awarding agencies or indirectly by
7 recipients of state awards or subrecipients. It does not
8 include procurement contracts used to buy goods or services
9 from vendors. Audits of such procurement contracts with
10 vendors are outside of the scope of this section. Also, audits
11 of contracts to operate state-government-owned and
12 contractor-operated facilities are excluded from the audit
13 requirements of this section.

14 (s) "State Projects Compliance Supplement" means a
15 document issued by the Executive Office of the Governor, in
16 consultation with the Chief Financial Officer ~~Comptroller~~ and
17 all state agencies that provide state financial assistance.
18 The State Projects Compliance Supplement shall identify state
19 projects, the significant compliance requirements, eligibility
20 requirements, matching requirements, suggested audit
21 procedures, and other relevant information determined
22 necessary.

23 (3) The Executive Office of the Governor shall:

24 (a) Upon conferring with the Chief Financial Officer
25 ~~Comptroller~~ and all state awarding agencies, adopt rules
26 necessary to provide appropriate guidance to state awarding
27 agencies, recipients and subrecipients, and independent
28 auditors of state financial assistance relating to the
29 requirements of this section, including:

30 1. The types or classes of financial assistance
31 considered to be state financial assistance which would be

1 subject to the requirements of this section. This would
2 include guidance to assist in identifying when the state
3 agency or recipient has contracted with a vendor rather than
4 with a recipient or subrecipient.

5 2. The criteria for identifying a major state project.
6 3. The criteria for selecting state projects for
7 audits based on inherent risk.

8 (b) Be responsible for coordinating the initial
9 preparation and subsequent revisions of the Catalog of State
10 Financial Assistance after consultation with the Chief
11 Financial Officer ~~Comptroller~~ and all state awarding agencies.

12 (c) Be responsible for coordinating the initial
13 preparation and subsequent revisions of the State Projects
14 Compliance Supplement, after consultation with the Chief
15 Financial Officer ~~Comptroller~~ and all state awarding agencies.

16 (4) The Chief Financial Officer ~~Comptroller~~ shall:
17 (a) Make enhancements to the state's accounting system
18 to provide for the:

19 1. Recording of state financial assistance and federal
20 financial assistance appropriations and expenditures within
21 the state awarding agencies' operating funds.

22 2. Recording of state project number identifiers, as
23 provided in the Catalog of State Financial Assistance, for
24 state financial assistance.

25 3. Establishment and recording of an identification
26 code for each financial transaction, including state agencies'
27 disbursements of state financial assistance and federal
28 financial assistance, as to the corresponding type or
29 organization that is party to the transaction (e.g., other
30 governmental agencies, nonprofit organizations, and for-profit
31 organizations), and disbursements of federal financial

1 assistance, as to whether the party to the transaction is or
2 is not a recipient or subrecipient.

3 (b) Upon conferring with the Executive Office of the
4 Governor and all state awarding agencies, adopt rules
5 necessary to provide appropriate guidance to state awarding
6 agencies, recipients and subrecipients, and independent
7 auditors of state financial assistance relating to the format
8 for the Schedule of State Financial Assistance.

9 (c) Perform any inspections, reviews, investigations,
10 or audits of state financial assistance considered necessary
11 in carrying out the Chief Financial Officer's ~~Comptroller's~~
12 legal responsibilities for state financial assistance or to
13 comply with the requirements of this section.

14 (5) Each state awarding agency shall:

15 (a) Provide to a recipient information needed by the
16 recipient to comply with the requirements of this section,
17 including:

18 1. The audit and accountability requirements for state
19 projects as stated in this section and applicable rules of the
20 Executive Office of the Governor, rules of the Chief Financial
21 Officer ~~Comptroller~~, and rules of the Auditor General.

22 2. Information from the Catalog of State Financial
23 Assistance, including the standard state project number
24 identifier; official title; legal authorization; and
25 description of the state project including objectives,
26 restrictions, and other relevant information determined
27 necessary.

28 3. Information from the State Projects Compliance
29 Supplement, including the significant compliance requirements,
30 eligibility requirements, matching requirements, suggested
31

1 audit procedures, and other relevant information determined
2 necessary.

3 (b) Require the recipient, as a condition of receiving
4 state financial assistance, to allow the state awarding
5 agency, the Chief Financial Officer ~~Comptroller~~, and the
6 Auditor General access to the recipient's records and the
7 recipient's independent auditor's working papers as necessary
8 for complying with the requirements of this section.

9 (6) As a condition of receiving state financial
10 assistance, each recipient that provides state financial
11 assistance to a subrecipient shall:

12 (a) Provide to a subrecipient information needed by
13 the subrecipient to comply with the requirements of this
14 section, including:

- 15 1. Identification of the state awarding agency.
- 16 2. The audit and accountability requirements for state
17 projects as stated in this section and applicable rules of the
18 Executive Office of the Governor, rules of the Chief Financial
19 Officer ~~Comptroller~~, and rules of the Auditor General.
- 20 3. Information from the Catalog of State Financial
21 Assistance, including the standard state project number
22 identifier; official title; legal authorization; and
23 description of the state project, including objectives,
24 restrictions, and other relevant information.
- 25 4. Information from the State Projects Compliance
26 Supplement including the significant compliance requirements,
27 eligibility requirements, matching requirements, and suggested
28 audit procedures, and other relevant information determined
29 necessary.

30 (d) Require subrecipients, as a condition of receiving
31 state financial assistance, to permit the independent auditor

1 of the recipient, the state awarding agency, the Chief
2 Financial Officer ~~Comptroller~~, and the Auditor General access
3 to the subrecipient's records and the subrecipient's
4 independent auditor's working papers as necessary to comply
5 with the requirements of this section.

6 (7) Each recipient or subrecipient of state financial
7 assistance shall comply with the following:

8 (a) Each nonstate entity that receives state financial
9 assistance and meets audit threshold requirements, in any
10 fiscal year of the nonstate entity, as stated in the rules of
11 the Auditor General, shall have a state single audit conducted
12 for such fiscal year in accordance with the requirements of
13 this act and with additional requirements established in rules
14 of the Executive Office of the Governor, rules of the Chief
15 Financial Officer ~~Comptroller~~, and rules of the Auditor
16 General. If only one state project is involved in a nonstate
17 entity's fiscal year, the nonstate entity may elect to have
18 only a state project-specific audit of the state project for
19 that fiscal year.

20 (c) Regardless of the amount of the state financial
21 assistance, the provisions of this section do not exempt a
22 nonstate entity from compliance with provisions of law
23 relating to maintaining records concerning state financial
24 assistance to such nonstate entity or allowing access and
25 examination of those records by the state awarding agency, the
26 Chief Financial Officer ~~Comptroller~~, or the Auditor General.

27 (8) The independent auditor when conducting a state
28 single audit of recipients or subrecipients shall:

29 (e) Report on the results of any audit conducted
30 pursuant to this section in accordance with the rules of the
31 Executive Office of the Governor, rules of the Chief Financial

1 ~~Officer Comptroller~~, and rules of the Auditor General. Audit
2 reports shall include summaries of the auditor's results
3 regarding the nonstate entity's financial statements; Schedule
4 of State Financial Assistance; internal controls; and
5 compliance with laws, rules, and guidelines.

6 (g) Upon notification by the nonstate entity, make
7 available the working papers relating to the audit conducted
8 pursuant to the requirements of this section to the state
9 awarding agency, the Chief Financial Officer ~~Comptroller~~, or
10 the Auditor General for review or copying.

11 (9) The independent auditor, when conducting a state
12 project-specific audit of recipients or subrecipients, shall:

13 (e) Upon notification by the nonstate entity, make
14 available the working papers relating to the audit conducted
15 pursuant to the requirements of this section to the state
16 awarding agency, the Chief Financial Officer ~~Comptroller~~, or
17 the Auditor General for review or copying.

18 (10) The Auditor General shall:

19 (d) Provide technical advice upon request of the Chief
20 Financial Officer ~~Comptroller~~, Executive Office of the
21 Governor, and state agencies relating to financial reporting
22 and audit responsibilities contained in this section.

23 (f) Perform ongoing reviews of a sample of financial
24 reporting packages filed pursuant to the requirements of this
25 section to determine compliance with the reporting
26 requirements of this section and applicable rules of the
27 Executive Office of the Governor, rules of the Chief Financial
28 Officer ~~Comptroller~~, and rules of the Auditor General.

29 Section 233. Effective January 7, 2003, paragraph (a)
30 of subsection (2) of section 216.0442, Florida Statutes, is
31 amended to read:

1 216.0442 Truth in bonding; definitions; summary of
2 state debt; statement of proposed financing; truth-in-bonding
3 statement.--

4 (2) When required by statute to support the proposed
5 debt financing of fixed capital outlay projects or operating
6 capital outlay requests or to explain the issuance of a debt
7 or obligation, one or more of the following documents shall be
8 developed:

9 (a) A summary of outstanding state debt as furnished
10 by the Chief Financial Officer ~~Comptroller~~ pursuant to s.
11 216.102.

12 Section 234. Effective January 7, 2003, section
13 216.102, Florida Statutes, is amended to read:

14 216.102 Filing of financial information; handling by
15 Chief Financial Officer ~~Comptroller~~; penalty for
16 noncompliance.--

17 (1) By September 30 of each year, each agency
18 supported by any form of taxation, licenses, fees, imposts, or
19 exactions, the judicial branch, and, for financial reporting
20 purposes, each component unit of the state as determined by
21 the Chief Financial Officer ~~Comptroller~~ shall prepare, using
22 generally accepted accounting principles, and file with the
23 Chief Financial Officer ~~Comptroller~~ the financial and other
24 information necessary for the preparation of annual financial
25 statements for the State of Florida as of June 30. In
26 addition, each such agency and the judicial branch shall
27 prepare financial statements showing the financial position
28 and results of agency or branch operations as of June 30 for
29 internal management purposes.

30 (a) Each state agency and the judicial branch shall
31 record the receipt and disbursement of funds from federal

1 sources in a form and format prescribed by the Chief Financial
2 Officer ~~Comptroller~~. The access to federal funds by the
3 administering agencies or the judicial branch may not be
4 authorized until:

5 1. The deposit has been recorded in the Florida
6 Accounting Information Resource Subsystem using proper,
7 consistent codes that designate deposits as federal funds.

8 2. The deposit and appropriate recording required by
9 this paragraph have been verified by the Chief Financial
10 Officer ~~Office of the Treasurer~~.

11 (b) The Chief Financial Officer ~~Comptroller~~ shall
12 publish a statewide policy detailing the requirements for
13 recording receipt and disbursement of federal funds into the
14 Florida Accounting Information Resource Subsystem and provide
15 technical assistance to the agencies and the judicial branch
16 to implement the policy.

17 (2) Financial information must be contained within the
18 Florida Accounting Information Resource Subsystem. Other
19 information must be submitted in the form and format
20 prescribed by the Chief Financial Officer ~~Comptroller~~.

21 (a) Each component unit shall file financial
22 information and other information necessary for the
23 preparation of annual financial statements with the agency or
24 branch designated by the Chief Financial Officer ~~Comptroller~~
25 by the date specified by the Chief Financial Officer
26 ~~Comptroller~~.

27 (b) The state agency or branch designated by the Chief
28 Financial Officer ~~Comptroller~~ to receive financial information
29 and other information from component units shall include the
30 financial information in the Florida Accounting Information
31 Resource Subsystem and shall include the component units'

1 other information in its submission to the Chief Financial
2 Officer ~~Comptroller~~.

3 (3) The Chief Financial Officer ~~Comptroller~~ shall:

4 (a) Prepare and furnish to the Auditor General annual
5 financial statements for the state on or before December 31 of
6 each year, using generally accepted accounting principles.

7 (b) Prepare and publish a comprehensive annual
8 financial report for the state in accordance with generally
9 accepted accounting principles on or before February 28 of
10 each year.

11 (c) Furnish the Governor, the President of the Senate,
12 and the Speaker of the House of Representatives with a copy of
13 the comprehensive annual financial report prepared pursuant to
14 paragraph (b).

15 (d) Notify each agency and the judicial branch of the
16 data that is required to be recorded to enhance accountability
17 for tracking federal financial assistance.

18 (e) Provide reports, as requested, to executive or
19 judicial branch entities, the President of the Senate, the
20 Speaker of the House of Representatives, and the members of
21 the Florida Congressional Delegation, detailing the federal
22 financial assistance received and disbursed by state agencies
23 and the judicial branch.

24 (f) Consult with and elicit comments from the
25 Executive Office of the Governor on changes to the Florida
26 Accounting Information Resource Subsystem which clearly affect
27 the accounting of federal funds, so as to ensure consistency
28 of information entered into the Federal Aid Tracking System by
29 state executive and judicial branch entities. While efforts
30 shall be made to ensure the compatibility of the Florida
31 Accounting Information Resource Subsystem and the Federal Aid

1 Tracking System, any successive systems serving identical or
2 similar functions shall preserve such compatibility.

3

4 The Chief Financial Officer ~~Comptroller~~ may furnish and
5 publish in electronic form the financial statements and the
6 comprehensive annual financial report required under
7 paragraphs (a), (b), and (c).

8 (4) If any agency or the judicial branch fails to
9 comply with subsection (1) or subsection (2), the Chief
10 Financial Officer ~~Comptroller~~ may refuse to honor salary
11 claims for agency or branch fiscal and executive staff until
12 the agency or branch corrects its deficiency.

13 (5) The Chief Financial Officer ~~Comptroller~~ may
14 withhold any funds payable to a component unit that does not
15 comply with subsection (1) or subsection (2) until the
16 component unit corrects its deficiency.

17 (6) The Chief Financial Officer ~~Comptroller~~ may adopt
18 rules to administer this section.

19 Section 235. Effective January 7, 2003, subsections
20 (1) and (3) of section 216.141, Florida Statutes, are amended
21 to read:

22 216.141 Budget system procedures; planning and
23 programming by state agencies.--

24 (1) The Executive Office of the Governor, in
25 consultation with the appropriations committees of the Senate
26 and House of Representatives, and by utilizing the Florida
27 Financial Management Information System management data and
28 the Chief Financial Officer's ~~Comptroller's~~ chart of accounts,
29 shall prescribe a planning and budgeting system, pursuant to
30 s. 215.94(1), to provide for continuous planning and
31 programming and for effective management practices for the

1 efficient operations of all state agencies and the judicial
2 branch. The Legislature may contract with the Executive
3 Office of the Governor to develop the planning and budgeting
4 system and to provide services to the Legislature for the
5 support and use of the legislative appropriations system. The
6 contract shall include the policies and procedures for
7 combining the legislative appropriations system with the
8 planning and budgeting information system established pursuant
9 to s. 215.94(1). At a minimum, the contract shall require the
10 use of common data codes. The combined legislative
11 appropriations and planning and budgeting information
12 subsystem shall support the legislative appropriations and
13 legislative oversight functions without data code conversion
14 or modification.

15 (3) The Chief Financial Officer ~~Comptroller~~, as chief
16 fiscal officer, shall use the Florida Accounting Information
17 Resource Subsystem developed pursuant to s. 215.94(2) for
18 account purposes in the performance of and accounting for all
19 of his or her constitutional and statutory duties and
20 responsibilities. However, state agencies and the judicial
21 branch continue to be responsible for maintaining accounting
22 records necessary for effective management of their programs
23 and functions.

24 Section 236. Effective January 7, 2003, subsection (1)
25 of section 216.177, Florida Statutes, is amended to read:

26 216.177 Appropriations acts, statement of intent,
27 violation, notice, review and objection procedures.--

28 (1) When an appropriations act is delivered to the
29 Governor after the Legislature has adjourned sine die, as soon
30 as practicable, but no later than the 10th day before the end
31 of the period allowed by law for veto consideration in any

1 year in which an appropriation is made, the chairs of the
2 legislative appropriations committees shall jointly transmit:

3 (a) The official list of General Revenue Fund
4 appropriations determined in consultation with the Executive
5 Office of the Governor to be nonrecurring; and

6 (b) The documents set forth in s. 216.0442(2)(a) and
7 (c),

8
9 to the Executive Office of the Governor, the Chief Financial
10 Officer ~~Comptroller~~, the Auditor General, the director of the
11 Office of Program Policy Analysis and Government
12 Accountability, the Chief Justice of the Supreme Court, and
13 each state agency. A request for additional explanation and
14 direction regarding the legislative intent of the General
15 Appropriations Act during the fiscal year may be made to the
16 chair and vice chair of the Legislative Budget Commission or
17 the President of the Senate and the Speaker of the House of
18 Representatives only by and through the Executive Office of
19 the Governor for state agencies, and by and through the Chief
20 Justice of the Supreme Court for the judicial branch, as is
21 deemed necessary. However, the Chief Financial Officer
22 ~~Comptroller~~ may also request further clarification of
23 legislative intent pursuant to the Chief Financial Officer's
24 ~~Comptroller's~~ responsibilities related to his or her preaudit
25 function of expenditures.

26 Section 237. Effective January 7, 2003, subsections
27 (6), (12), and (14) and paragraphs (b) and (c) of subsection
28 (16) of section 216.181, Florida Statutes, are amended to
29 read:

30 216.181 Approved budgets for operations and fixed
31 capital outlay.--

1 (6)(a) The Executive Office of the Governor or the
2 Chief Justice of the Supreme Court may require the submission
3 of a detailed plan from the agency or entity of the judicial
4 branch affected, consistent with the General Appropriations
5 Act, special appropriations acts, and the statement of intent
6 before transferring and releasing the balance of a lump-sum
7 appropriation. The provisions of this paragraph are subject to
8 the notice and review procedures set forth in s. 216.177.

9 (b) The Executive Office of the Governor and the Chief
10 Justice of the Supreme Court may amend, without approval of
11 the Legislative Budget Commission, state agency and judicial
12 branch entity budgets, respectively, to reflect the
13 transferred funds based on the approved plans for lump-sum
14 appropriations.

15
16 The Executive Office of the Governor shall transmit to each
17 state agency and the Chief Financial Officer ~~Comptroller~~, and
18 the Chief Justice shall transmit to each judicial branch
19 component and the Chief Financial Officer ~~Comptroller~~, any
20 approved amendments to the approved operating budgets.

21 (12) There is appropriated nonoperating budget for
22 refunds, payments to the United States Treasury, payments of
23 the service charge to the General Revenue Fund, and transfers
24 of funds specifically required by law. Such authorized budget,
25 together with related releases, shall be transmitted by the
26 state agency or by the judicial branch to the Chief Financial
27 Officer ~~Comptroller~~ for entry in the Chief Financial Officer's
28 ~~Comptroller's~~ records in the manner and format prescribed by
29 the Executive Office of the Governor in consultation with the
30 Chief Financial Officer ~~Comptroller~~. A copy of such authorized
31 budgets shall be furnished to the Executive Office of the

1 Governor or the Chief Justice, the chairs of the legislative
2 committees responsible for developing the general
3 appropriations acts, and the Auditor General. The Governor may
4 withhold approval of nonoperating investment authority for
5 certain trust funds when deemed in the best interest of the
6 state. The Governor for the executive branch, and the Chief
7 Justice for the judicial branch, may establish nonoperating
8 budgets for transfers, purchase of investments, special
9 expenses, distributions, and any other nonoperating budget
10 categories they deem necessary and in the best interest of the
11 state and consistent with legislative intent and policy. The
12 provisions of this subsection are subject to the notice,
13 review, and objection procedures set forth in s. 216.177. For
14 purposes of this section, the term "nonoperating budgets"
15 means nonoperating disbursement authority for purchase of
16 investments, refunds, payments to the United States Treasury,
17 transfers of funds specifically required by law, distributions
18 of assets held by the state in a trustee capacity as an agent
19 of fiduciary, special expenses, and other nonoperating budget
20 categories as determined necessary by the Executive Office of
21 the Governor, not otherwise appropriated in the General
22 Appropriations Act.

23 (14) The Executive Office of the Governor and the
24 Chief Justice of the Supreme Court shall certify the amounts
25 approved for operations and fixed capital outlay, together
26 with any relevant supplementary materials or information, to
27 the Chief Financial Officer ~~Comptroller~~; and such
28 certification shall be the Chief Financial Officer's
29 ~~Comptroller's~~ guide with reference to the expenditures of each
30 state agency pursuant to s. 216.192.

31 (16)

1 (b) Any agency, or the judicial branch, that has been
2 authorized by the General Appropriations Act or expressly
3 authorized by other law to make advances for program startup
4 or advances for contracted services, in total or periodically,
5 shall limit such disbursements to other governmental entities
6 and not-for-profit corporations. The amount which may be
7 advanced shall not exceed the expected cash needs of the
8 contractor or recipient within the initial 3 months.
9 Thereafter, disbursements shall only be made on a
10 reimbursement basis. Any agreement that provides for
11 advancements may contain a clause that permits the contractor
12 or recipient to temporarily invest the proceeds, provided that
13 any interest income shall either be returned to the agency or
14 be applied against the agency's obligation to pay the contract
15 amount. This paragraph does not constitute lawful authority
16 to make any advance payment not otherwise authorized by laws
17 relating to a particular agency or general laws relating to
18 the expenditure or disbursement of public funds. The Chief
19 Financial Officer ~~Comptroller~~ may, after consultation with the
20 legislative appropriations committees, advance funds beyond a
21 3-month requirement if it is determined to be consistent with
22 the intent of the approved operating budget.

23 (c) For the 2001-2002 fiscal year only, funds
24 appropriated to the Department of Children and Family Services
25 in Specific Appropriations 302-466 and the Department of
26 Health in Specific Appropriations 503-637 of the 2001-2002
27 General Appropriations Act may be advanced, unless
28 specifically prohibited in such General Appropriations Act,
29 for those contracted services that were approved for
30 advancement by the Chief Financial Officer ~~Comptroller~~ in
31 fiscal year 1993-1994, including those services contracted on

1 a fixed-price or unit-cost basis. This paragraph expires July
2 1, 2002.

3 Section 238. Effective January 7, 2003, section
4 216.183, Florida Statutes, is amended to read:

5 216.183 Entities using performance-based program
6 budgets; chart of accounts.--State agencies and the judicial
7 branch for which a performance-based program budget has been
8 appropriated shall utilize the chart of accounts used by the
9 Florida Accounting Information Resource Subsystem in the
10 manner described in s. 215.93(3). The chart of accounts for
11 state agencies and the judicial branch for which a
12 performance-based program budget has been appropriated shall
13 be developed and amended, if necessary, in consultation with
14 the Chief Financial Officer ~~Department of Banking and Finance~~,
15 the Executive Office of the Governor, and the chairs of the
16 Legislative Budget Commission.

17 Section 239. Effective January 7, 2003, subsections
18 (1) and (4) of section 216.192, Florida Statutes, are amended
19 to read:

20 216.192 Release of appropriations; revision of
21 budgets.--

22 (1) Unless otherwise provided in the General
23 Appropriations Act, on July 1 of each fiscal year, up to 25
24 percent of the original approved operating budget of each
25 agency and of the judicial branch may be released until such
26 time as annual plans for quarterly releases for all
27 appropriations have been developed, approved, and furnished to
28 the Chief Financial Officer ~~Comptroller~~ by the Executive
29 Office of the Governor for state agencies and by the Chief
30 Justice of the Supreme Court for the judicial branch. The
31 plans, including appropriate plans of releases for fixed

1 capital outlay projects that correspond with each project
2 schedule, shall attempt to maximize the use of trust funds and
3 shall be transmitted to the Chief Financial Officer
4 ~~Comptroller~~ by August 1 of each fiscal year. Such releases
5 shall at no time exceed the total appropriations available to
6 a state agency or to the judicial branch, or the approved
7 budget for such agency or the judicial branch if less. The
8 Chief Financial Officer ~~Comptroller~~ shall enter such releases
9 in his or her records in accordance with the release plans
10 prescribed by the Executive Office of the Governor and the
11 Chief Justice, unless otherwise amended as provided by law.
12 The Executive Office of the Governor and the Chief Justice
13 shall transmit a copy of the approved annual releases to the
14 head of the state agency, the chair and vice chair of the
15 Legislative Budget Commission, and the Auditor General. The
16 Chief Financial Officer ~~Comptroller~~ shall authorize all
17 expenditures to be made from the appropriations on the basis
18 of such releases and in accordance with the approved budget,
19 and not otherwise. Expenditures shall be authorized only in
20 accordance with legislative authorizations. Nothing herein
21 precludes periodic reexamination and revision by the Executive
22 Office of the Governor or by the Chief Justice of the annual
23 plans for release of appropriations and the notifications of
24 the parties of all such revisions.

25 (4) The legislative appropriations committees may
26 advise the Chief Financial Officer ~~Comptroller~~, the Executive
27 Office of the Governor, or the Chief Justice relative to the
28 release of any funds under this section.

29 Section 240. Effective January 7, 2003, subsection (1)
30 of section 216.212, Florida Statutes, is amended to read:

31

1 216.212 Budgets for federal funds; restrictions on
2 expenditure of federal funds.--

3 (1) The Executive Office of the Governor and, the
4 Office of the Chief Financial Officer ~~Comptroller, and the~~
5 ~~office of the Treasurer~~ shall develop and implement procedures
6 for accelerating the drawdown of, and minimizing the payment
7 of interest on, federal funds. The Executive Office of the
8 Governor shall establish a clearinghouse for federal programs
9 and activities. The clearinghouse shall develop the capacity
10 to respond to federal grant opportunities and to coordinate
11 the use of federal funds in the state.

12 (a) Every state agency, when making a request or
13 preparing a budget to be submitted to the Federal Government
14 for funds, equipment, material, or services, shall submit such
15 request or budget to the Executive Office of the Governor for
16 review before submitting it to the proper federal authority.
17 However, the Executive Office of the Governor may specifically
18 authorize any agency to submit specific types of grant
19 proposals directly to the Federal Government.

20 (b) Every office or court of the judicial branch, when
21 making a request or preparing a budget to be submitted to the
22 Federal Government for funds, equipment, material, or
23 services, shall submit such request or budget to the Chief
24 Justice of the Supreme Court for approval before submitting it
25 to the proper federal authority. However, the Chief Justice
26 may specifically authorize any court to submit specific types
27 of grant proposals directly to the Federal Government.

28 Section 241. Effective January 7, 2003, subsections
29 (8), (9), and (10) of section 216.221, Florida Statutes, are
30 amended to read:

31

1 216.221 Appropriations as maximum appropriations;
2 adjustment of budgets to avoid or eliminate deficits.--

3 (8) The Chief Financial Officer ~~Comptroller~~ also has
4 the duty to ensure that revenues being collected will be
5 sufficient to meet the appropriations and that no deficit
6 occurs in any fund of the state.

7 (9) If, in the opinion of the Chief Financial Officer
8 ~~Comptroller~~, after consultation with the Revenue Estimating
9 Conference, a deficit will occur, the Chief Financial Officer
10 ~~Comptroller~~ shall report his or her opinion to the Governor in
11 writing. In the event the Governor does not certify a deficit
12 within 10 days after the Chief Financial Officer's
13 ~~Comptroller's~~ report, the Chief Financial Officer ~~Comptroller~~
14 shall report his or her findings and opinion to the commission
15 and the Chief Justice of the Supreme Court.

16 (10) When advised by the Revenue Estimating
17 Conference, the Chief Financial Officer ~~Comptroller~~, or any
18 agency responsible for a trust fund that a deficit will occur
19 with respect to the appropriations from a specific trust fund
20 in the current fiscal year, the Governor for the executive
21 branch, or the Chief Justice for the judicial branch, shall
22 develop a plan of action to eliminate the deficit. Before
23 implementing the plan of action, the Governor or the Chief
24 Justice must comply with the provisions of s. 216.177(2). In
25 developing the plan of action, the Governor or the Chief
26 Justice shall, to the extent possible, preserve legislative
27 policy and intent, and, absent any specific directions to the
28 contrary in the General Appropriations Act, any reductions in
29 appropriations from the trust fund for the fiscal year shall
30 be prorated among the specific appropriations made from the
31 trust fund for the current fiscal year.

1 Section 242. Effective January 7, 2003, paragraph (d)
2 of subsection (4) of section 216.235, Florida Statutes, is
3 amended to read:

4 216.235 Innovation Investment Program; intent;
5 definitions; composition and responsibilities of State
6 Innovation Committee; responsibilities of the Office of
7 Tourism, Trade, and Economic Development and the review board;
8 procedures for innovative project submission, review,
9 evaluation, and approval; criteria to be considered.--

10 (4) There is hereby created the State Innovation
11 Committee, which shall have final approval authority as to
12 which innovative investment projects submitted under this
13 section shall be funded. Such committee shall be comprised of
14 seven members. Appointed members shall serve terms of 1 year
15 and may be reappointed. The committee shall include:

16 (d) The Chief Financial Officer ~~Comptroller~~.

17 Section 243. Effective January 7, 2003, section
18 216.237, Florida Statutes, is amended to read:

19 216.237 Availability of any remaining funds; agency
20 maintenance of accounting records.--Any remaining funds from
21 the General Revenue Fund and trust fund spending authority not
22 awarded to agencies pursuant to s. 216.236 shall be available
23 to agencies for innovative projects which generate a cost
24 savings, increase revenue, or improve service delivery.
25 Innovative projects which generate a cost savings shall
26 receive greater consideration when awarding innovation
27 investment funds. Any trust fund authority granted under this
28 program shall be utilized in a manner consistent with the
29 statutory authority for the use of said trust fund. Any
30 savings realized as a result of implementing the innovative
31 project shall be used by the agency to establish an internal

1 innovations fund. State agencies which are awarded funds for
2 innovative projects shall utilize the chart of accounts used
3 by the Florida Accounting Information Resource Subsystem in
4 the manner described in s. 215.93(3). Such chart of accounts
5 shall be developed and amended in consultation with the Chief
6 Financial Officer ~~Department of Banking and Finance~~ and the
7 Executive Office of the Governor to separate and account for
8 the savings that result from the implementation of the
9 innovative projects and to keep track of how the innovative
10 funds are reinvested by the state agency to fund additional
11 innovative projects, which may include, but not be limited to,
12 expenditures for training and information technology
13 resources. Guidelines for the establishment of such internal
14 innovations fund shall be provided by the Department of
15 Management Services. Any agency awarded funds under this
16 section shall maintain detailed accounting records showing all
17 expenses, loan transfers, savings, or other financial actions
18 concerning the project. Any savings realized as a result of
19 implementing the innovative project shall be quantified,
20 validated, and verified by the agency. A final report of the
21 results of the implementation of each innovative project shall
22 be submitted by each participating agency to the Governor's
23 Office of Planning and Budgeting and the legislative
24 appropriations committees by June 30 of the fiscal year in
25 which the funds were received and ensuing fiscal years for the
26 life of the project.

27 Section 244. Effective January 7, 2003, paragraph (b)
28 of subsection (2) of section 216.251, Florida Statutes, is
29 amended to read:

30 216.251 Salary appropriations; limitations.--
31 (2)

1 (b) Salary payments shall be made only to employees
2 filling established positions included in the agency's or in
3 the judicial branch's approved budgets and amendments thereto
4 as may be provided by law; provided, however:

5 1. Reclassification of established positions may be
6 accomplished when justified in accordance with the established
7 procedures for reclassifying positions; or

8 2. When the Division of Risk Management of the
9 Department of Insurance and Financial Services has determined
10 that an employee is entitled to receive a temporary partial
11 disability benefit or a temporary total disability benefit
12 pursuant to the provisions of s. 440.15 and there is medical
13 certification that the employee cannot perform the duties of
14 the employee's regular position, but the employee can perform
15 some type of work beneficial to the agency, the agency may
16 return the employee to the payroll, at his or her regular rate
17 of pay, to perform such duties as the employee is capable of
18 performing, even if there is not an established position in
19 which the employee can be placed. Nothing in this
20 subparagraph shall abrogate an employee's rights under chapter
21 440 or chapter 447, nor shall it adversely affect the
22 retirement credit of a member of the Florida Retirement System
23 in the membership class he or she was in at the time of, and
24 during, the member's disability.

25 Section 245. Effective January 7, 2003, subsections
26 (1), (2), (3), and (5) of section 216.271, Florida Statutes,
27 are amended to read:

28 216.271 Revolving funds.--

29 (1) No revolving fund may be established or increased
30 in amount pursuant to s. 18.101(2), unless approved by the
31 Chief Financial Officer ~~Comptroller~~. The purpose and uses of

1 a revolving fund may not be changed without the prior approval
2 of the Chief Financial Officer ~~Comptroller~~. As used in this
3 section, the term "revolving fund" means a cash fund
4 maintained within or outside the State Treasury and
5 established from an appropriation, to be used by an agency or
6 the judicial branch in making authorized expenditures.

7 (2) When the Chief Financial Officer ~~Comptroller~~
8 approves a revolving or petty cash fund for making refunds or
9 other payments, such fund shall be established from an account
10 within the appropriate fund to be known as "payments for
11 revolving funds from funds not otherwise appropriated."
12 Reimbursements made from revolving or petty cash funds shall
13 be made in strict accordance with the provisions of s.
14 215.26(2). The Chief Financial Officer ~~Comptroller~~ may
15 restrict the types of uses of any revolving fund established
16 pursuant to this section.

17 (3) Vouchers for reimbursement of expenditures from
18 revolving funds established under this section shall be
19 presented in a routine manner to the Chief Financial Officer
20 ~~Comptroller~~ for approval and payment, the proceeds of which
21 shall be returned to the revolving or petty cash fund
22 involved.

23 (5) Reimbursement to the revolving fund for uninsured
24 losses and theft may be made from the fund in which the
25 responsible operating department is budgeted. Such
26 reimbursement shall be submitted consistent with procedures
27 specified by the Chief Financial Officer ~~Comptroller~~.

28 Section 246. Effective January 7, 2003, section
29 216.275, Florida Statutes, is amended to read:

30 216.275 Clearing accounts.--No clearing account may be
31 established outside the State Treasury pursuant to s.

1 18.101(1) unless approved by the Chief Financial Officer
2 ~~Treasurer~~ during the fiscal year. Each agency, or the judicial
3 branch, desiring to maintain a clearing account outside the
4 State Treasury shall submit a written request to do so to the
5 Chief Financial Officer ~~Treasurer~~ in accordance with the
6 format and manner prescribed by the Chief Financial Officer
7 ~~Treasurer~~. The Chief Financial Officer ~~Treasurer~~ shall
8 maintain a listing of all clearing accounts approved during
9 the fiscal year.

10 Section 247. Effective January 7, 2003, subsections
11 (2), (3), (6), (8), (9), and (10) of section 216.292, Florida
12 Statutes, are amended to read:

13 216.292 Appropriations nontransferable; exceptions.--

14 (2) A lump sum appropriated for a performance-based
15 program must be distributed by the Governor for state agencies
16 or the Chief Justice for the judicial branch into the
17 traditional expenditure categories in accordance with s.
18 216.181(6)(b). At any time during the year, the agency head
19 or Chief Justice may transfer funds between those categories
20 with no limit on the amount of the transfer. Authorized
21 revisions of the original approved operating budget, together
22 with related changes, if any, must be transmitted by the state
23 agency or by the judicial branch to the Executive Office of
24 the Governor or the Chief Justice, the chair and vice chair of
25 the Legislative Budget Commission, the Office of Program
26 Policy Analysis and Government Accountability, and the Auditor
27 General. Such authorized revisions shall be consistent with
28 the intent of the approved operating budget, shall be
29 consistent with legislative policy and intent, and shall not
30 conflict with specific spending policies specified in the
31 General Appropriations Act. The Executive Office of the

1 Governor shall forward a copy of the revisions within 7
2 working days to the Chief Financial Officer ~~Comptroller~~ for
3 entry in his or her records in the manner and format
4 prescribed by the Executive Office of the Governor in
5 consultation with the Chief Financial Officer ~~Comptroller~~.
6 Such authorized revisions shall be consistent with the intent
7 of the approved operating budget, shall be consistent with
8 legislative policy and intent, and shall not conflict with
9 specific spending policies specified in the General
10 Appropriations Act.

11 (3) The head of each department or the Chief Justice
12 of the Supreme Court, whenever it is deemed necessary by
13 reason of changed conditions, may transfer appropriations
14 funded from identical funding sources, except appropriations
15 for fixed capital outlay, and transfer the amounts included
16 within the total original approved budget and releases as
17 furnished pursuant to ss. 216.181 and 216.192, as follows:

18 (a) Between categories of appropriations within a
19 budget entity, if no category of appropriation is increased or
20 decreased by more than 5 percent of the original approved
21 budget or \$150,000, whichever is greater, by all action taken
22 under this subsection.

23 (b) Additionally, between budget entities within
24 identical categories of appropriations, if no category of
25 appropriation is increased or decreased by more than 5 percent
26 of the original approved budget or \$150,000, whichever is
27 greater, by all action taken under this subsection.

28 (c) Such authorized revisions must be consistent with
29 the intent of the approved operating budget, must be
30 consistent with legislative policy and intent, and must not
31

1 conflict with specific spending policies specified in the
2 General Appropriations Act.
3
4 Such authorized revisions, together with related changes, if
5 any, in the plan for release of appropriations, shall be
6 transmitted by the state agency or by the judicial branch to
7 the Chief Financial Officer ~~Comptroller~~ for entry in the Chief
8 Financial Officer's ~~Comptroller's~~ records in the manner and
9 format prescribed by the Executive Office of the Governor in
10 consultation with the Chief Financial Officer ~~Comptroller~~. A
11 copy of such revision shall be furnished to the Executive
12 Office of the Governor or the Chief Justice, the chair and
13 vice chair of the Legislative Budget Commission, the Auditor
14 General, and the director of the Office of Program Policy
15 Analysis and Government Accountability.

16 (6) Upon request of a department to, and approval by,
17 the Chief Financial Officer ~~Comptroller~~, funds appropriated
18 may be transferred to accounts established for disbursement
19 purposes upon release of such appropriation. Such transfer
20 may only be made to the same appropriation category and the
21 same funding source from which the funds are transferred.

22 (8)(a) Should any state agency or the judicial branch
23 become more than 90 days delinquent on reimbursements due to
24 the Unemployment Compensation Trust Fund, the Department of
25 Labor and Employment Security shall certify to the Chief
26 Financial Officer ~~Comptroller~~ the amount due; and the Chief
27 Financial Officer ~~Comptroller~~ shall transfer the amount due to
28 the Unemployment Compensation Trust Fund from any funds of the
29 agency available.

30 (b) Should any state agency or the judicial branch
31 become more than 90 days delinquent in paying the Division of

1 Risk Management of the Department of Insurance and Financial
2 Services for insurance coverage, the Department of Insurance
3 and Financial Services may certify to the Chief Financial
4 Officer ~~Comptroller~~ the amount due; and the Chief Financial
5 Officer ~~Comptroller~~ shall transfer the amount due to the
6 Division of Risk Management from any funds of the agency or
7 the judicial branch available.

8 (9) Moneys appropriated in the General Appropriations
9 Act for the purpose of paying for services provided by the
10 state communications system in the Department of Management
11 Services shall be paid by the user agencies, or the judicial
12 branch, within 45 days after the billing date. Billed amounts
13 not paid by the user agencies, or by the judicial branch,
14 shall be transferred by the Chief Financial Officer
15 ~~Comptroller~~ from the user agencies to the Communications
16 Working Capital Trust Fund.

17 (10) The Chief Financial Officer ~~Comptroller~~ shall
18 report all such transfers and the reasons for such transfers
19 to the legislative appropriations committees and the Executive
20 Office of the Governor.

21 Section 248. Effective January 7, 2003, paragraph (a)
22 of subsection (1), paragraph (a) of subsection (2), and
23 subsection (3) of section 216.301, Florida Statutes, are
24 amended to read:

25 216.301 Appropriations; undisbursed balances.--

26 (1)(a) Any balance of any appropriation, except an
27 appropriation for fixed capital outlay, which is not disbursed
28 but which is expended or contracted to be expended shall, at
29 the end of each fiscal year, be certified by the head of the
30 affected state agency or the judicial or legislative branches,
31 on or before August 1 of each year, to the Executive Office of

1 the Governor, showing in detail the obligees to whom obligated
2 and the amounts of such obligations. On or before September 1
3 of each year, the Executive Office of the Governor shall
4 review and approve or disapprove, consistent with legislative
5 policy and intent, any or all of the items and amounts
6 certified by the head of the affected state agency and shall
7 approve all items and amounts certified by the Chief Justice
8 of the Supreme Court for the judicial branch and by the
9 legislative branch and shall furnish the Chief Financial
10 Officer ~~Comptroller~~, the legislative appropriations
11 committees, and the Auditor General a detailed listing of the
12 items and amounts approved as legal encumbrances against the
13 undisbursed balance of such appropriation. The review shall
14 assure that trust funds have been fully maximized. Any such
15 encumbered balance remaining undisbursed on December 31 of the
16 same calendar year in which such certification was made shall
17 revert to the fund from which appropriated and shall be
18 available for reappropriation by the Legislature. In the
19 event such certification is not made and an obligation is
20 proven to be legal, due, and unpaid, then the obligation shall
21 be paid and charged to the appropriation for the current
22 fiscal year of the state agency or the legislative or judicial
23 branch affected.

24 (2)(a) Any balance of any appropriation for fixed
25 capital outlay not disbursed but expended or contracted or
26 committed to be expended shall, at the end of each fiscal
27 year, be certified by the head of the affected state agency or
28 the legislative or judicial branch, on or before August 1 of
29 each year, to the Executive Office of the Governor, showing in
30 detail the commitment or to whom obligated and the amount of
31 such commitment or obligation. On or before September 1 of

1 each year, the Executive Office of the Governor shall review
2 and approve or disapprove, consistent with legislative policy
3 and intent, any or all of the items and amounts certified by
4 the head of the affected state agency and shall approve all
5 items and amounts certified by the Chief Justice of the
6 Supreme Court and by the legislative branch and shall furnish
7 the Chief Financial Officer ~~Comptroller~~, the legislative
8 appropriations committees, and the Auditor General a detailed
9 listing of the items and amounts approved as legal
10 encumbrances against the undisbursed balances of such
11 appropriations. In the event such certification is not made
12 and the balance of the appropriation has reverted and the
13 obligation is proven to be legal, due, and unpaid, then the
14 same shall be presented to the Legislature for its
15 consideration.

16 (3) Notwithstanding the provisions of subsection (2),
17 the unexpended balance of any appropriation for fixed capital
18 outlay subject to but not under the terms of a binding
19 contract or a general construction contract prior to February
20 1 of the second fiscal year, or the third fiscal year if it is
21 for an educational facility as defined in chapter 235 or a
22 construction project of the Board of Regents, of the
23 appropriation shall revert on February 1 of such year to the
24 fund from which appropriated and shall be available for
25 reappropriation. The Executive Office of the Governor shall,
26 not later than February 20 of each year, furnish the Chief
27 Financial Officer ~~Comptroller~~, the legislative appropriations
28 committees, and the Auditor General a report listing in detail
29 the items and amounts reverting under the authority of this
30 subsection, including the fund to which reverted and the
31 agency affected.

1 Section 249. Effective January 7, 2003, section
2 217.07, Florida Statutes, is amended to read:
3 217.07 Transfer of surplus property assets to
4 department.--The Chief Financial Officer ~~State Treasurer~~ is
5 authorized to transfer to the department any funds unexpended
6 in the Surplus Property Revolving Trust Fund account in the
7 State Treasury. This revolving fund shall remain in existence
8 as a separate trust fund as long as the surplus property
9 program exists. Upon termination of the program any remaining
10 funds shall be disposed of as provided by federal law.

11 Section 250. Effective January 7, 2003, section
12 218.06, Florida Statutes, is amended to read:

13 218.06 Transfer of funds by county commissioners with
14 relation to public works grants.--

15 (1) Boards of county commissioners of the several
16 counties of the state, whenever it may be necessary to meet
17 the requirements of the United States Government with
18 reference to obtaining grants of federal funds in connection
19 with the program of the Public Works Administration, may by
20 resolution of such board, transfer and expend such sums of
21 money as may be necessary to obtain said grant, from any fund
22 to such other fund as may be necessary to meet said
23 requirements and carry out the intent and purposes of the said
24 transfer; provided, however, that no such transfer may be made
25 by any county of the state without first having obtained the
26 approval of the Chief Financial Officer ~~Department of Banking~~
27 ~~and Finance~~ thereto, and in the counties of the state where
28 there is provision for a budget commission, without first
29 having also obtained the approval of said budget commission to
30 said transfer.

31

1 (2) The Chief Financial Officer ~~Department of Banking~~
2 ~~and Finance~~ and the budget commissions of the several counties
3 of the state in which there are provisions for such budget
4 commissions, may approve such transfers whenever in their
5 opinion such transfers are necessary and proper.

6 Section 251. Effective January 7, 2003, paragraph (a)
7 of subsection (1) of section 218.23, Florida Statutes, is
8 amended to read:

9 218.23 Revenue sharing with units of local
10 government.--

11 (1) To be eligible to participate in revenue sharing
12 beyond the minimum entitlement in any fiscal year, a unit of
13 local government is required to have:

14 (a) Reported its finances for its most recently
15 completed fiscal year to the Chief Financial Officer
16 ~~Department of Banking and Finance~~, pursuant to s. 218.32.

17
18 Additionally, to receive its share of revenue sharing funds, a
19 unit of local government shall certify to the Department of
20 Revenue that the requirements of s. 200.065, if applicable,
21 were met. The certification shall be made annually within 30
22 days of adoption of an ordinance or resolution establishing a
23 final property tax levy or, if no property tax is levied, not
24 later than November 1. The portion of revenue sharing funds
25 which, pursuant to this part, would otherwise be distributed
26 to a unit of local government which has not certified
27 compliance or has otherwise failed to meet the requirements of
28 s. 200.065 shall be deposited in the General Revenue Fund for
29 the 12 months following a determination of noncompliance by
30 the department.

31

1 Section 252. Effective January 7, 2003, subsection (4)
2 is repealed, subsections (5) through (18) are renumbered as
3 subsections (4) through (17), respectively, and present
4 subsection (9) of section 218.31, Florida Statutes, is amended
5 to read:

6 218.31 Definitions.--As used in this part, except
7 where the context clearly indicates a different meaning:

8 (8)~~(9)~~ "Verified report" means a report that has
9 received such test or tests by the Chief Financial Officer
10 ~~department~~ so as to accurately and reliably present the data
11 that have been submitted by the local governmental entities
12 for inclusion in the report.

13 Section 253. Effective January 7, 2003, paragraphs
14 (a), (c), (d), (e), and (f) of subsection (1) and subsection
15 (2) of section 218.32, Florida Statutes, are amended to read:

16 218.32 Annual financial reports; local governmental
17 entities.--

18 (1)(a) Each local governmental entity that is
19 determined to be a reporting entity, as defined by generally
20 accepted accounting principles, and each independent special
21 district as defined in s. 189.403, shall submit to the Chief
22 Financial Officer ~~department~~ a copy of its annual financial
23 report for the previous fiscal year in a format prescribed by
24 the Chief Financial Officer ~~department~~. The annual financial
25 report must include a list of each local governmental entity
26 included in the report and each local governmental entity that
27 failed to provide financial information as required by
28 paragraph (b). The chair of the governing body and the chief
29 financial officer of each local governmental entity shall sign
30 the annual financial report submitted pursuant to this
31 subsection attesting to the accuracy of the information

1 included in the report. The county annual financial report
2 must be a single document that covers each county agency.

3 (c) Each regional planning council created under s.
4 186.504, each local government finance commission, board, or
5 council, and each municipal power corporation created as a
6 separate legal or administrative entity by interlocal
7 agreement under s. 163.01(7) shall submit to the Chief
8 Financial Officer ~~department~~ a copy of its audit report and an
9 annual financial report for the previous fiscal year in a
10 format prescribed by the Chief Financial Officer ~~department~~.

11 (d) Each local governmental entity that is required to
12 provide for an audit in accordance with s. 218.39(1) must
13 submit the annual financial report with the audit report. A
14 copy of the audit report and annual financial report must be
15 submitted to the Chief Financial Officer ~~department~~ within 45
16 days after the completion of the audit report but no later
17 than 12 months after the end of the fiscal year.

18 (e) Each local governmental entity that is not
19 required to provide for an audit report in accordance with s.
20 218.39 must submit the annual financial report to the Chief
21 Financial Officer ~~department~~ no later than April 30 of each
22 year. The Chief Financial Officer ~~department~~ shall consult
23 with the Auditor General in the development of the format of
24 annual financial reports submitted pursuant to this paragraph.
25 The format shall include balance sheet information to be
26 utilized by the Auditor General pursuant to s. 11.45(7)(f).
27 The Chief Financial Officer ~~department~~ must forward the
28 financial information contained within these entities' annual
29 financial reports to the Auditor General in electronic form.
30 This paragraph does not apply to housing authorities created
31 under chapter 421.

1 (f) If the Chief Financial Officer ~~department~~ does not
2 receive a completed annual financial report from a local
3 governmental entity within the required period, he or she ~~it~~
4 shall notify the Legislative Auditing Committee of the local
5 governmental entity's failure to comply with the reporting
6 requirements. The committee shall proceed in accordance with
7 s. 11.40(5).

8 (2) The Chief Financial Officer ~~department~~ shall
9 annually by December 1 file a verified report with the
10 Governor, the Legislature, the Auditor General, and the
11 Special District Information Program of the Department of
12 Community Affairs showing the revenues, both locally derived
13 and derived from intergovernmental transfers, and the
14 expenditures of each local governmental entity, regional
15 planning council, local government finance commission, and
16 municipal power corporation that is required to submit an
17 annual financial report. The report must include, but is not
18 limited to:

19 (a) The total revenues and expenditures of each local
20 governmental entity that is a component unit included in the
21 annual financial report of the reporting entity.

22 (b) The amount of outstanding long-term debt by each
23 local governmental entity. For purposes of this paragraph,
24 the term "long-term debt" means any agreement or series of
25 agreements to pay money, which, at inception, contemplate
26 terms of payment exceeding 1 year in duration.

27 Section 254. Effective January 7, 2003, subsections
28 (1) and (4) of section 218.321, Florida Statutes, are amended
29 to read:

30 218.321 Annual financial statements; local
31 governmental entities.--

1 (1) Each local governmental entity shall complete its
2 financial statements for the previous fiscal year in
3 compliance with generally accepted accounting principles and
4 the uniform chart of accounts prescribed by the Chief
5 Financial Officer ~~Department of Banking and Finance~~.

6 (4) The failure by any local governmental entity to
7 complete its annual financial statements shall, in addition to
8 any other penalties provided by law, authorize the Chief
9 Financial Officer ~~department~~ to employ personnel or send
10 ~~department~~ personnel to such local governmental entity in
11 order to complete such annual financial statements. The
12 expenses related to the completion of the annual financial
13 statements shall be charged to the local governmental entity.
14 Upon failure by the local governmental entity to pay the
15 charge within 15 days after billing, the Chief Financial
16 Officer ~~department~~ shall ~~so~~ certify to the Comptroller, who
17 ~~shall forward~~ the amount ~~so certified to the department~~ from
18 any funds due to the local governmental entity under any
19 revenue-sharing or tax-sharing fund established by the state,
20 except as otherwise provided by the State Constitution.

21 Section 255. Effective January 7, 2003, paragraphs (a)
22 and (b) of subsection (1) and subsections (2) and (3) of
23 section 218.325, Florida Statutes, are amended to read:

24 218.325 Uniform chart of accounts and financial
25 reporting for court and justice system costs and revenues.--

26 (1)(a) The Uniform Chart of Accounts Development
27 Committee is hereby created to develop and implement a uniform
28 chart of accounts. The committee shall work with the
29 representatives of the designated end-user groups identified
30 in subsection (3) in order to determine the specific financial
31 data related to the operations of the circuit and county

1 courts and justice-related agencies of the executive branch
2 which must be accounted for and reported. The committee shall
3 then work with the Chief Financial Officer ~~Department of~~
4 ~~Banking and Finance~~ to develop the necessary rules required to
5 implement the uniform chart of accounts. The committee shall
6 include:

- 7 1. The Chief Financial Officer ~~Comptroller~~ or the
8 Chief Financial Officer's ~~Comptroller's~~ designee.
- 9 2. Three clerks of the circuit court or deputy clerks,
10 appointed by the president of the Florida Association of Court
11 Clerks.
- 12 3. Three elected county commissioners or county
13 finance staff, appointed by the Florida Association of
14 Counties.
- 15 4. Three elected sheriffs or their designees,
16 appointed by the president of the Florida Sheriffs
17 Association.

18 (b) The Chief Financial Officer ~~Comptroller~~ or the
19 Chief Financial Officer's ~~Comptroller's~~ designee shall serve
20 as chairperson of the committee. The committee shall use the
21 staff of the Chief Financial Officer's office ~~Department of~~
22 ~~Banking and Finance~~ for staff support and may also appoint
23 technical support staff as designated by the Florida
24 Association of Court Clerks, the Florida Association of
25 Counties, and the Florida Sheriffs Association as needed for
26 technical assistance and support. ~~Members of the committee~~
27 ~~must be appointed within 30 days after June 18, 1995.~~ Within
28 60 days after the appointment of the membership, the committee
29 shall meet to establish procedures for the conduct of its
30 business.
31

1 (2) The Uniform Chart of Accounts Development
2 Committee shall make an analysis of the requirements for
3 implementing a detailed, uniform chart of accounts and
4 financial reporting system for court and justice-related
5 agency expenditures and revenues. ~~The Comptroller shall make a~~
6 ~~report to the Chief Justice of the Florida Supreme Court, the~~
7 ~~Governor, the Speaker of the House of Representatives, and the~~
8 ~~President of the Senate on such requirements, including a~~
9 ~~timetable for implementation and an assessment of fiscal~~
10 ~~impact, by January 1, 1996.~~ The proposed uniform chart of
11 accounts and financial reporting system must provide that all
12 revenues received and expenditures incurred by county
13 governments, clerks of court, the courts or other judicial
14 entities that are related to the operations of the circuit
15 courts and county courts, and other components of the justice
16 system can be accounted for in sufficient detail to permit
17 reporting for both discrete functions and organizational
18 units.

19 (3) For purposes of this section, the collection of
20 representatives of end-user groups, which shall assist the
21 Uniform Chart of Accounts Development Committee on the process
22 and procedures for implementing new accounting and reporting
23 requirements and provide oversight and guidance for
24 implementing activities, shall be formed by one representative
25 each from the Office of the Governor, the Speaker of the House
26 of Representatives, the President of the Senate, the Office of
27 the Chief Financial Officer ~~Comptroller~~, the Office of the
28 State Courts Administrator, the Florida Prosecuting Attorneys
29 Association, the Florida Public Defenders Association, the
30 Legislative Committee on Intergovernmental Relations, the
31 Information Resource Committee, and The Florida Bar.

1 Section 256. Effective January 7, 2003, subsection (2)
2 of section 218.33, Florida Statutes, is amended to read:

3 218.33 Local governmental entities; establishment of
4 uniform fiscal years and accounting practices and
5 procedures.--

6 (2) Each local governmental entity shall follow
7 uniform accounting practices and procedures as promulgated by
8 rule of the Chief Financial Officer ~~department~~ to assure the
9 use of proper accounting and fiscal management by such units.
10 Such rules shall include a uniform classification of accounts.

11 Section 257. Effective January 7, 2003, subsection (3)
12 of section 220.62, Florida Statutes, is amended to read:

13 220.62 Definitions.--For purposes of this part:

14 (3) The term "international banking facility" means a
15 set of asset and liability accounts segregated on the books
16 and records of a banking organization that includes only
17 international banking facility deposits, borrowings, and
18 extensions of credit, as those terms are defined by the
19 Department of Insurance and Financial Services ~~Banking and~~
20 ~~Finance~~, taking into account all transactions in which
21 international banking facilities are permitted to engage by
22 regulations of the Board of Governors of the Federal Reserve
23 System, as from time to time amended. When providing such
24 definitions, the Department of Insurance and Financial
25 Services ~~Banking and Finance~~ shall also consider the public
26 interest, including the need to maintain a sound and
27 competitive banking system, as well as the purpose of this
28 act, which is to create an environment conducive to the
29 conduct of an international banking business in the state.

30 Section 258. Effective January 7, 2003, subsection (2)
31 of section 220.723, Florida Statutes, is amended to read:

1 220.723 Overpayments; interest.--

2 (2) Interest shall accrue from the date upon which the
3 taxpayer files a written notice advising the department of the
4 overpayment. Interest shall be paid until such date as
5 determined by the department, which shall be no more than 7
6 days prior to the date of the issuance by the Chief Financial
7 Officer ~~Comptroller~~ of the refund warrant.

8 Section 259. Effective January 7, 2003, paragraph (g)
9 of subsection (6) of section 228.2001, Florida Statutes, is
10 amended to read:

11 228.2001 Discrimination against students and employees
12 in state system of public education; prohibitions; equality of
13 access; strategies to overcome underrepresentation;
14 remedies.--

15 (6) The functions of the Office of Equal Educational
16 Opportunity of the Department of Education shall include, but
17 not be limited to:

18 (g) Beginning July 1, 1994, reporting to the
19 Commissioner of Education any public community college or
20 school district found to be out of compliance with rules of
21 the State Board of Education adopted as required by paragraph
22 (f) or paragraph (3)(d). To penalize the community college or
23 school district, the commissioner shall:

24 1. Declare the educational agency ineligible for
25 competitive state grants.

26 2. Notwithstanding the provisions of s. 216.192,
27 direct the Chief Financial Officer ~~Comptroller~~ to withhold
28 general revenue funds sufficient to obtain compliance from the
29 educational agency.

30
31

1 The educational agency shall remain ineligible and the funds
2 shall not be paid until the agency comes into compliance or
3 the commissioner approves a plan for compliance.

4 Section 260. Effective January 7, 2003, subsection (4)
5 of section 229.0535, Florida Statutes, is amended to read:

6 229.0535 Authority to enforce school improvement.--It
7 is the intent of the Legislature that all public schools be
8 held accountable for students performing at acceptable levels.
9 A system of school improvement and accountability that
10 assesses student performance by school, identifies schools in
11 which students are not making adequate progress toward state
12 standards, institutes appropriate measures for enforcing
13 improvement, and provides rewards and sanctions based on
14 performance shall be the responsibility of the State Board of
15 Education.

16 (4) The State Board of Education is authorized to
17 require the Department of Education or the Chief Financial
18 Officer ~~Comptroller~~ to withhold any transfer of state funds to
19 the school district if, within the timeframe specified in
20 state board action, the school district has failed to comply
21 with the action ordered to improve the district's
22 low-performing schools. Withholding the transfer of funds
23 shall occur only after all other recommended actions for
24 school improvement have failed to improve performance. The
25 State Board of Education may invoke the same penalty to any
26 school board that fails to develop and implement a plan for
27 assistance and intervention for low-performing schools as
28 specified in s. 230.23(16)(c).

29 Section 261. Effective January 7, 2003, paragraph (b)
30 of subsection (6) of section 229.0537, Florida Statutes, is
31 amended to read:

1 229.0537 Opportunity Scholarship Program.--
2 (6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.--
3 (b) Upon proper documentation reviewed and approved by
4 the Department of Education, the Chief Financial Officer
5 ~~Comptroller~~ shall make opportunity scholarship payments in
6 four equal amounts no later than September 1, November 1,
7 February 1, and April 1 of each academic year in which the
8 opportunity scholarship is in force. The initial payment shall
9 be made after Department of Education verification of
10 admission acceptance, and subsequent payments shall be made
11 upon verification of continued enrollment and attendance at
12 the private school. Payment must be by individual warrant made
13 payable to the student's parent or guardian and mailed by the
14 Department of Education to the private school of the parent's
15 or guardian's choice, and the parent or guardian shall
16 restrictively endorse the warrant to the private school.

17 Section 262. Effective January 7, 2003, paragraph (f)
18 of subsection (6) of section 229.05371, Florida Statutes, is
19 amended to read:

20 229.05371 The John M. McKay Scholarships for Students
21 with Disabilities Program.--There is established a program
22 that is separate and distinct from the Opportunity Scholarship
23 Program and is named the John M. McKay Scholarships for
24 Students with Disabilities Program, pursuant to this section.

25 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

26 (f) Upon proper documentation reviewed and approved by
27 the Department of Education, the Chief Financial Officer
28 ~~Comptroller~~ shall make scholarship payments in four equal
29 amounts no later than September 1, November 1, February 1, and
30 April 15 of each academic year in which the scholarship is in
31 force. The initial payment shall be made after Department of

1 Education verification of admission acceptance, and subsequent
2 payments shall be made upon verification of continued
3 enrollment and attendance at the private school. Payment must
4 be by individual warrant made payable to the student's parent
5 and mailed by the Department of Education to the private
6 school of the parent's choice, and the parent shall
7 restrictively endorse the warrant to the private school for
8 deposit into the account of the private school.

9 Section 263. Effective January 7, 2003, subsection (2)
10 of section 229.111, Florida Statutes, is amended to read:

11 229.111 Gifts to state public education system or
12 school fund.--

13 (2) The Chief Financial Officer ~~State Treasurer~~ shall
14 be treasurer and custodian of all such gifts and bequests of
15 money, royalty, and other personal property given or
16 bequeathed for the purposes designated herein. He or she
17 shall receive and provide for the proper custody and
18 disbursement of any such funds, in accordance with the
19 provisions of law and regulations of the state board.

20 Section 264. Effective January 7, 2003, subsection (2)
21 of section 229.781, Florida Statutes, is amended to read:

22 229.781 Records; preservation; destruction.--

23 (2) After complying with the provisions of s. 257.37,
24 the Department of Education is authorized, in its discretion,
25 to destroy general correspondence which is over 3 years old;
26 records of bills, accounts, vouchers and requisitions which
27 are over 5 years old and copies of which have been filed with
28 the Chief Financial Officer ~~Comptroller~~; and other records,
29 papers and documents over 3 years old which do not serve as
30 part of an agreement or understanding nor have value as
31 permanent records.

1 Section 265. Effective January 7, 2003, subsection (9)
2 of section 231.261, Florida Statutes, is amended to read:

3 231.261 Education Practices Commission;
4 organization.--

5 (9) The commission shall make such expenditures as may
6 be necessary in exercising its authority and powers and
7 carrying out its duties and responsibilities, including
8 expenditures for personal services, general counsel or access
9 to counsel, and rent at the seat of government and elsewhere;
10 for books of reference, periodicals, furniture, equipment, and
11 supplies; and for printing and binding. The expenditures of
12 the commission shall be subject to the powers and duties of
13 the Chief Financial Officer ~~Department of Banking and Finance~~
14 as provided in s. 17.03.

15 Section 266. Effective January 7, 2003, subsection (2)
16 of section 231.30, Florida Statutes, is amended to read:

17 231.30 Certification fees.--

18 (2) The proceeds from the collection of certification
19 fees, fines, penalties, and costs levied pursuant to this
20 chapter shall be remitted by the Department of Education to
21 the Chief Financial Officer ~~Treasurer~~ for deposit into a
22 separate fund to be known as the "Educational Certification
23 and Service Trust Fund" and disbursed for the payment of
24 expenses incurred by the Educational Standards Commission, by
25 the Educational Practices Commission, and in the printing of
26 forms and bulletins and the issuing of certificates, upon
27 vouchers approved by the department.

28 Section 267. Effective January 7, 2003, subsection (3)
29 of section 231.545, Florida Statutes, is amended to read:

30 231.545 Education Standards Commission;
31 organization.--

1 (3) Members shall serve for 3-year staggered terms and
2 shall be entitled to reimbursement for expenses of attending
3 meetings of the commission. Reimbursement for such expenses
4 shall be made by the Chief Financial Officer ~~Treasurer~~ from
5 funds appropriated for the Department of Education, on
6 warrants drawn by the Chief Financial Officer ~~Comptroller~~ upon
7 requisitions approved by the Department of Education. School
8 districts shall be reimbursed for substitute teachers required
9 to replace commission members, when they are carrying out
10 their official duties, at the rate established by the school
11 district for substitute teachers. The department may
12 reimburse local school districts for substitutes.

13 Section 268. Effective January 7, 2003, paragraph (b)
14 of subsection (3) of section 233.063, Florida Statutes, is
15 amended to read:

16 233.063 Instruction in operation of motor vehicles.--

17 (3)

18 (b) For the purpose of financing the Driver Education
19 Program in the secondary schools, there shall be levied an
20 additional 50 cents per year to the driver's license fee
21 required by s. 322.21. The additional fee shall be promptly
22 remitted to the Department of Highway Safety and Motor
23 Vehicles, and the department shall transmit the fee to the
24 Chief Financial Officer ~~Treasurer~~ to be deposited in the
25 General Revenue Fund.

26 Section 269. Effective January 7, 2003, subsection (3)
27 of section 233.255, Florida Statutes, is amended to read:

28 233.255 Production and dissemination of educational
29 materials and products by department.--

30 (3) All proceeds from the sale of such educational
31 materials and products shall be remitted to the Chief

1 Financial Officer ~~Treasurer~~ and shall be kept in a separate
2 fund to be known as the "Educational Media and Technology
3 Trust Fund" and, when properly budgeted as approved by the
4 Legislature and the Executive Office of the Governor, used to
5 pay the cost of producing and disseminating educational
6 materials and products to carry out the intent of this act.

7 Section 270. Effective January 7, 2003, subsection (2)
8 of section 236.43, Florida Statutes, is amended to read:

9 236.43 Receiving bids and sale of bonds.--

10 (2) All bonds and refunding bonds issued as provided
11 by law shall be sold to the highest and best bidder at such
12 public sale unless sold at a better price or yield basis
13 within 30 days after failure to receive an acceptable bid at a
14 duly advertised public sale; provided, that at no time shall
15 bonds or refunding bonds be sold or exchanged at less than par
16 value except as specifically authorized by the department; and
17 provided, further, that the school board shall have the right
18 to reject all bids and cause a new notice to be given in like
19 manner inviting other bids for such bonds, or to sell all or
20 any part of such bonds to the state board at a price and yield
21 basis which shall not be less advantageous to the school board
22 than that represented by the highest and best bid received.
23 In the marketing of said bonds the school board shall be
24 entitled to have such assistance as can be rendered by the
25 Governor, the Chief Financial Officer ~~State Treasurer~~, the
26 Commissioner of Education, or any other public state officer
27 or agency. In determining the highest and best bidder for
28 bonds offered for sale, the net interest cost to the school
29 board as shown in standard bond tables shall govern; provided,
30 that the determination of the school board as to the highest
31 and best bidder shall be final.

1 Section 271. Effective January 7, 2003, subsection (4)
2 of section 236.601, Florida Statutes, is amended to read:

3 236.601 Board of Administration to act as fiscal agent
4 in issuance and sale of motor vehicle anticipation
5 certificates.--

6 (4) The proceeds of any sale of original bonds or
7 original certificates shall be deposited in the State Treasury
8 to the credit of the particular construction account for which
9 the original bonds or original certificates were issued and
10 shall be under the direct control and supervision of the State
11 Board of Education, and withdrawals from such construction
12 accounts shall be made only upon warrants signed by the Chief
13 Financial Officer ~~Comptroller~~ and drawn upon the Treasury
14 ~~Treasurer~~. Such warrants shall be issued by the Chief
15 Financial Officer ~~Comptroller~~ only when the vouchers
16 requesting such warrants are accompanied by the certificates
17 of the State Board of Education to the effect that such
18 withdrawals are proper expenditures for the cost of the
19 particular construction account against which the requested
20 warrants are to be drawn.

21 Section 272. Effective January 7, 2003, subsection (2)
22 of section 237.121, Florida Statutes, is amended to read:

23 237.121 Penalty.--

24 (2) Each member of any school board voting to incur an
25 indebtedness against the district school funds in excess of
26 the expenditure allowed by law, or in excess of any
27 appropriation as adopted in the original official budget or
28 amendments thereto, or to approve or pay any illegal charge
29 against the said funds, and any chair of a school board or
30 superintendent who shall sign a warrant for payment of any
31 such claim or bill of indebtedness against any of the said

1 funds shall be personally liable for the amount, and shall be
2 guilty of malfeasance in office and subject to removal by the
3 Governor. It shall be the duty of the Auditor General or
4 other state official charged by law with the responsibility
5 for auditing school accounts, upon discovering any such
6 illegal expenditure or expenditures in excess of the
7 appropriations in the budget as officially amended, to certify
8 such fact to the Chief Financial Officer ~~Department of Banking~~
9 ~~and Finance~~, who ~~which~~ thereupon shall verify such fact and it
10 shall be the duty of the said Chief Financial Officer
11 ~~Department of Banking and Finance~~ to advise the Department of
12 Legal Affairs thereof, and it shall be the duty of the said
13 Department of Legal Affairs to cause to be instituted and
14 prosecuted, either through its office or through any state
15 attorney, proceedings at law or in equity against such member
16 or members of a school board or superintendent; provided, that
17 if either of the said officers do not institute proceedings
18 within 90 days after the audit has been certified to them by
19 the Chief Financial Officer ~~Department of Banking and Finance~~
20 then any taxpayer may institute suit in his or her own name in
21 behalf of the district.

22 Section 273. Effective January 7, 2003, subsection (1)
23 of section 237.181, Florida Statutes, is amended to read:

24 237.181 School funds to be paid to Chief Financial
25 Officer ~~Treasurer~~ or into depository.--

26 (1) Every tax collector, or other person having moneys
27 which by law go to any district school fund shall at least
28 once each month pay the same over to the depository or
29 depositories designated by the school board for such purpose,
30 and shall provide the school board with a duplicate of the
31 deposit slip. Every officer having moneys which by law go to

1 any state school fund, shall pay the same to the Chief
2 Financial Officer ~~Treasurer~~ of the state, and the Chief
3 Financial Officer ~~Treasurer~~ shall see that these moneys are
4 deposited to the credit of the proper state school fund.

5 Section 274. Effective January 7, 2003, paragraph (b)
6 of subsection (6) of section 237.211, Florida Statutes, is
7 amended to read:

8 237.211 School depositories; payments into and
9 withdrawals from depositories.--

10 (6) EXEMPTION FOR SELF-INSURANCE PROGRAMS AND
11 THIRD-PARTY ADMINISTERED EMPLOYEES' FRINGE BENEFIT PROGRAMS.--

12 (b) The school board is authorized to contract with an
13 insurance company or professional administrator who holds a
14 valid certificate of authority issued by the Department of
15 Insurance and Financial Services to provide any or all
16 services that a third-party administrator is authorized by law
17 to perform. Pursuant to such contract, the school board may
18 advance or remit money to the administrator to be deposited in
19 a designated special checking account for paying claims
20 against the school board under its self-insurance programs,
21 and remitting premiums to the providers of insured benefits on
22 behalf of the school board and the participants in such
23 programs, and otherwise fulfilling the obligations imposed
24 upon the administrator by law and the contractual agreements
25 between the school board and the administrator. The special
26 checking account shall be maintained in a designated district
27 school depository. The school board may replenish such account
28 as often as necessary upon the presentation by the service
29 organization of documentation for claims or premiums due paid
30 equal to the amount of the requested reimbursement. Such
31 replenishment shall be made by a warrant signed by the chair

1 of the board and countersigned by the superintendent. Such
2 replenishment may be made by electronic, telephonic, or other
3 medium, and each transfer shall be confirmed in writing and
4 signed by the superintendent or his or her designee. The
5 provisions of strict accountability of all funds and an annual
6 audit by an independent certified public accountant as
7 provided in s. 230.23(10)(k) shall apply to this subsection.

8 Section 275. Effective January 7, 2003, paragraph (b)
9 of subsection (1) and paragraph (b) of subsection (2) of
10 section 238.11, Florida Statutes, are amended to read:

11 238.11 Collection of contributions.--

12 (1) The collection of contributions shall be as
13 follows:

14 (b) Each employer shall transmit monthly to the
15 Department of Management Services a warrant for the total
16 amount of such deductions. Each employer shall also transmit
17 monthly to the department a warrant for such employer
18 contribution set aside as provided for in paragraph (a) of
19 this subsection. The department, after making records of all
20 such warrants, shall transmit them to the Chief Financial
21 Officer ~~Department of Banking and Finance for delivery to the~~
22 ~~Treasurer of the state~~ who shall collect them.

23 (2) The collection of the state contribution shall be
24 made as follows:

25 (b) The Department of Management Services shall
26 certify one-fourth of the amount so ascertained for each year
27 to the Chief Financial Officer ~~Comptroller~~ on or before the
28 last day of July, October, January, and April of each year.
29 The Chief Financial Officer ~~Comptroller~~ shall, on or before
30 the first day of August, November, February, and May of each
31 year, draw his or her warrant or warrants on the Treasury

1 ~~Treasurer~~ for the respective amounts due the several funds of
2 the retirement system. The Chief Financial Officer ~~On the~~
3 ~~receipt of the warrant or warrants of the Comptroller, the~~
4 ~~Treasurer~~ shall immediately transfer to the several funds of
5 the retirement system the amounts due.

6 Section 276. Effective January 7, 2003, subsection (1)
7 of section 238.15, Florida Statutes, is amended to read:

8 238.15 Exemption of funds from taxation, execution,
9 and assignment.--The pensions, annuities or any other benefits
10 accrued or accruing to any person under the provisions of this
11 chapter and the accumulated contributions and cash securities
12 in the funds created under this chapter are exempted from any
13 state, county or municipal tax of the state, and shall not be
14 subject to execution or attachment or to any legal process
15 whatsoever, and shall be unassignable, except:

16 (1) That any teacher who has retired shall have the
17 right and power to authorize in writing the Department of
18 Management Services to deduct from his or her monthly
19 retirement allowance money for the payment of the premiums on
20 group insurance for hospital, medical and surgical benefits,
21 under a plan or plans for such benefits approved in writing by
22 the Insurance Commissioner ~~and Treasurer of the state~~, and
23 upon receipt of such request the department shall make the
24 monthly payments as directed; and

25 Section 277. Effective January 7, 2003, section
26 238.172, Florida Statutes, is amended to read:

27 238.172 Proof required.--For any person to obtain the
28 allowance as set forth in s. 238.171 the said person shall
29 make such proof of the facts and conditions entitling him or
30 her to the said allowance as shall reasonably be required by
31 the state board, and when such proof has been submitted to the

1 satisfaction of the state board, the Chief Financial Officer
2 ~~State Treasurer~~ shall pay to such person the monthly allowance
3 herein provided for on warrants drawn by the Chief Financial
4 Officer Comptroller.

5 Section 278. Effective January 7, 2003, section
6 238.173, Florida Statutes, is amended to read:

7 238.173 Monthly allowance to widows or widowers of
8 pensioners.--When any teacher, drawing pension under s.
9 238.171, shall die leaving surviving a widow or widower to
10 whom such pensioner has been married for a continuous period
11 of at least 10 years immediately prior to his or her death,
12 and from whom no dissolution of marriage is obtained, such
13 widow or widower, upon proof of marriage to and continuation
14 of marriage for the minimum period with, and death of, said
15 pensioner, shall be granted a pension payable from the date of
16 the death of said pensioner, and at the same time and rate as
17 other pensions paid under s. 238.171. The Chief Financial
18 Officer Comptroller is hereby authorized and directed to draw
19 his or her warrants in payment of such pensions so long as
20 such widow or widower shall remain unmarried and continue to
21 be a resident of the state; provided, however, that nothing
22 herein contained shall be so construed as to allow such
23 pension to be paid to any widow or widower where such widow or
24 widower of a deceased pensioner under this section receives a
25 like pension in his or her own right as a retired school
26 teacher.

27 Section 279. Effective January 7, 2003, section
28 240.135, Florida Statutes, is amended to read:

29 240.135 Funds provided by the United States.--The
30 State Board of Education, through its chair, may sign all
31 vouchers for all moneys coming to the State University System

1 from the United States, or any fund provided by the United
2 States and which shall be paid by it to the state for the
3 benefit of the institutions, and shall deposit the same with
4 the Chief Financial Officer ~~Treasurer~~.

5 Section 280. Effective January 7, 2003, subsection (7)
6 of section 240.241, Florida Statutes, is amended to read:

7 240.241 Divisions of sponsored research at state
8 universities.--

9 (7) Moneys deposited in the permanent sponsored
10 research development fund of a university shall be disbursed
11 in accordance with the terms of the contract, grant, or
12 donation under which they are received. Moneys received for
13 overhead or indirect costs and other moneys not required for
14 the payment of direct costs shall be applied to the cost of
15 operating the division of sponsored research. Any surplus
16 moneys shall be used to support other research or sponsored
17 training programs in any area of the university. Moneys
18 allocated for the payment of salaries from the sponsored
19 research development fund shall be paid out by the Chief
20 Financial Officer ~~Comptroller~~ of the state in the same manner
21 as salaries from other state funds. Transportation and per
22 diem expense allowances shall be the same as those provided by
23 law for state employees in s. 112.061, except that non-State
24 of Florida personnel performing travel under a sponsored
25 research subcontract may be reimbursed for travel expenses in
26 accordance with the provisions of the applicable prime
27 contract or grant and the travel allowances established by the
28 subcontractor, subject to the requirements of subsection (9),
29 or except as provided in subsection (13).

30 Section 281. Effective January 7, 2003, subsection (1)
31 of section 240.2996, Florida Statutes, is amended to read:

1 240.2996 University health services support
2 organization; confidentiality of information.--
3 (1) All meetings of a governing board of a university
4 health services support organization and all university health
5 services support organization records shall be open and
6 available to the public in accordance with s. 286.011 and s.
7 24(b), Art. I of the State Constitution and chapter 119 and s.
8 24(a), Art. I of the State Constitution, respectively, unless
9 made confidential or exempt by law. Records required by the
10 Department of Insurance and Financial Services to discharge
11 its duties shall be made available to the department upon
12 request.

13 Section 282. Effective January 7, 2003, subsection (1)
14 of section 240.3763, Florida Statutes, is amended to read:

15 240.3763 Expenditures for self-insurance services;
16 special account.--

17 (1) The district boards of trustees, singly or
18 collectively, are authorized to contract with an administrator
19 or service company approved by the Department of Insurance and
20 Financial Services pursuant to chapter 626 to provide
21 self-insurance services, including, but not limited to, the
22 evaluation, settlement, and payment of self-insurance claims
23 on behalf of the board or a consortium of boards.

24 Section 283. Effective January 7, 2003, section
25 240.4065, Florida Statutes, is amended to read:

26 240.4065 Critical Teacher Shortage Program.--There is
27 created the Critical Teacher Shortage Program. Funds
28 appropriated by the Legislature for the program shall be
29 deposited in the State Student Financial Assistance Trust
30 Fund. The Chief Financial Officer ~~Comptroller~~ shall authorize
31 expenditures from the trust fund upon receipt of vouchers

1 approved by the Department of Education for the critical
2 teacher shortage programs established in s. 231.621, s.
3 240.4063, or s. 240.4064. The Chief Financial Officer
4 ~~Comptroller~~ shall also authorize expenditures from the trust
5 fund for the "Chappie" James Most Promising Teacher
6 Scholarship Loan Program and the Critical Teacher Shortage
7 Scholarship Loan Program recipients who participated in these
8 programs prior to July 1, 1993, provided that such students
9 continue to meet the renewal eligibility requirements that
10 were in effect at the time that their original awards were
11 made. Students who participated in the "Chappie" James Most
12 Promising Teacher Scholarship Loan Program prior to July 1,
13 1993, shall not have their awards reduced as a result of the
14 addition of new students to the program. All scholarship loan
15 repayments pursuant to s. 240.4063 shall be deposited into the
16 State Student Financial Assistance Trust Fund. Any remaining
17 balance at the end of any fiscal year that has been allocated
18 to the program shall remain in the trust fund and be available
19 for the individual programs in future years.

20 Section 284. Effective January 7, 2003, subsection (5)
21 of section 240.4075, Florida Statutes, is amended to read:

22 240.4075 Nursing Student Loan Forgiveness Program.--

23 (5) There is created the Nursing Student Loan
24 Forgiveness Trust Fund to be administered by the Department of
25 Health pursuant to this section and s. 240.4076 and department
26 rules. The Chief Financial Officer ~~Comptroller~~ shall
27 authorize expenditures from the trust fund upon receipt of
28 vouchers approved by the Department of Health. All moneys
29 collected from the private health care industry and other
30 private sources for the purposes of this section shall be
31 deposited into the Nursing Student Loan Forgiveness Trust

1 Fund. Any balance in the trust fund at the end of any fiscal
2 year shall remain therein and shall be available for carrying
3 out the purposes of this section and s. 240.4076.

4 Section 285. Effective January 7, 2003, subsection (2)
5 of section 240.412, Florida Statutes, is amended to read:

6 240.412 Jose Marti Scholarship Challenge Grant
7 Program.--

8 (2) Funds appropriated by the Legislature for the
9 program shall be deposited in the State Student Financial
10 Assistance Trust Fund. The Chief Financial Officer ~~Comptroller~~
11 shall authorize expenditures from the trust fund upon receipt
12 of vouchers approved by the Department of Education. All
13 moneys collected from private sources for the purposes of this
14 section shall be deposited into the trust fund. Any balance in
15 the trust fund at the end of any fiscal year that has been
16 allocated to the program shall remain therein and shall be
17 available for carrying out the purposes of the program.

18 Section 286. Effective January 7, 2003, subsection (2)
19 of section 240.4125, Florida Statutes, is amended to read:

20 240.4125 Mary McLeod Bethune Scholarship Program.--

21 (2) Funds appropriated by the Legislature for the
22 program shall be deposited in the State Student Financial
23 Assistance Trust Fund. The Chief Financial Officer ~~Comptroller~~
24 shall authorize expenditures from the trust fund upon receipt
25 of vouchers approved by the Department of Education. The
26 Department of Education shall receive all moneys collected
27 from private sources for the purposes of this section and
28 shall deposit such moneys into the trust fund. Notwithstanding
29 the provisions of s. 216.301 and pursuant to s. 216.351, any
30 balance in the trust fund at the end of any fiscal year that
31 has been allocated to the program shall remain in the trust

1 fund and shall be available for carrying out the purposes of
2 the program.

3 Section 287. Effective January 7, 2003, subsection (4)
4 of section 240.413, Florida Statutes, is amended to read:

5 240.413 Seminole and Miccosukee Indian Scholarships.--

6 (4) The amount of the scholarship shall be determined
7 by the Seminole Tribe of Florida or the Miccosukee Tribe of
8 Indians of Florida, for its respective applicants, within the
9 amount of funds appropriated for this purpose. The amount
10 shall be prorated accordingly for part-time students. At the
11 beginning of each semester or quarter, the department shall
12 certify the name of each scholarship holder eligible to
13 receive funds for that registration period to the Chief
14 Financial Officer ~~Comptroller~~, who shall draw a warrant in
15 favor of each scholarship recipient. Each recipient shall be
16 eligible to have the scholarship renewed from year to year,
17 provided all academic and other requirements of the college or
18 university and rules established by the State Board of
19 Education are met.

20 Section 288. Effective January 7, 2003, paragraph (b)
21 of subsection (1) of section 240.414, Florida Statutes, is
22 amended to read:

23 240.414 Latin American and Caribbean Basin Scholarship
24 Program.--

25 (1)

26 (b) Funds appropriated by the Legislature for the
27 program shall be deposited in the State Student Financial
28 Assistance Trust Fund. The Chief Financial Officer ~~Comptroller~~
29 shall authorize expenditures from the trust fund upon receipt
30 of vouchers approved by the Department of Education. Any
31 balance in the trust fund at the end of a fiscal year that has

1 | been allocated to the program shall remain in the trust fund
2 | and be available for carrying out the purposes of the program.

3 | Section 289. Effective January 7, 2003, subsection (2)
4 | of section 240.4145, Florida Statutes, is amended to read:

5 | 240.4145 African and Afro-Caribbean Scholarship
6 | Program.--

7 | (2) The Department of Education shall administer the
8 | program and shall adopt rules that will aid in carrying out
9 | the purposes of this section. The Florida Black Caucus, which
10 | consists of black members of the Florida Senate and the
11 | Florida House of Representatives, shall advise the department
12 | as it develops such rules. The Chief Financial Officer
13 | ~~Comptroller~~ shall authorize an expenditure from the trust fund
14 | for the program upon receipt of a voucher approved by the
15 | department.

16 | Section 290. Effective January 7, 2003, paragraph (f)
17 | of subsection (6) of section 240.551, Florida Statutes, is
18 | amended to read:

19 | 240.551 Florida Prepaid College Program.--

20 | (6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.--The board
21 | shall:

22 | (f) Solicit proposals and contract, pursuant to s.
23 | 287.057, for product providers to develop investment
24 | portfolios on behalf of the board to achieve the purposes of
25 | this section. Product providers shall be limited to authorized
26 | insurers as defined in s. 624.09, banks as defined in s.
27 | 658.12, associations as defined in s. 665.012, authorized
28 | Securities and Exchange Commission investment advisers, and
29 | investment companies as defined in the Investment Company Act
30 | of 1940. All product providers shall have their principal
31 | place of business and corporate charter located and registered

1 in the United States. In addition, each product provider shall
2 agree to meet the obligations of the board to qualified
3 beneficiaries if moneys in the fund fail to offset the
4 obligations of the board as a result of imprudent investing by
5 such provider. Each authorized insurer shall evidence superior
6 performance overall on an acceptable level of surety in
7 meeting its obligations to its policyholders and other
8 contractual obligations. Only qualified public depositories
9 approved by the Chief Financial Officer ~~Insurance Commissioner~~
10 ~~and Treasurer~~ shall be eligible for board consideration. Each
11 investment company shall provide investment plans as specified
12 within the request for proposals. The goals of the board in
13 selecting a product provider company shall be to provide all
14 purchasers with the most secure, well-diversified, and
15 beneficially administered postsecondary education expense plan
16 possible, to allow all qualified firms interested in providing
17 such services equal consideration, and to provide such
18 services to the state at no cost and to the purchasers at the
19 lowest cost possible. Evaluations of proposals submitted
20 pursuant to this paragraph shall include, but not be limited
21 to, the following criteria:

- 22 1. Fees and other costs charged to purchasers that
23 affect account values or operational costs related to the
24 program.
- 25 2. Past and current investment performance, including
26 investment and interest rate history, guaranteed minimum rates
27 of interest, consistency of investment performance, and any
28 terms and conditions under which moneys are held.
- 29 3. Past experience and ability to provide timely and
30 accurate service in the areas of records administration,
31

1 benefit payments, investment management, and complaint
2 resolution.

3 4. Financial history and current financial strength
4 and capital adequacy to provide products, including operating
5 procedures and other methods of protecting program assets.

6 Section 291. Effective January 7, 2003, paragraph (f)
7 of subsection (5) of section 240.553, Florida Statutes, is
8 amended to read:

9 240.553 Florida College Savings Program.--

10 (5) FLORIDA COLLEGE SAVINGS PROGRAM; BOARD
11 DUTIES.--The board shall:

12 (f) Solicit proposals and contract, pursuant to s.
13 287.057, for product providers to develop investment
14 portfolios on behalf of the board to achieve the purposes of
15 this section. Product providers shall be limited to authorized
16 insurers as defined in s. 624.09, banks as defined in s.
17 658.12, associations as defined in s. 665.012, authorized
18 Securities and Exchange Commission investment advisers, and
19 investment companies as defined in the Investment Company Act
20 of 1940. All product providers must have their principal place
21 of business and corporate charter located and registered in
22 the United States. Each product provider must agree to meet
23 the obligations of the program to designated beneficiaries if
24 moneys in the fund fail to offset the obligations of the
25 program as a result of imprudent investing by such provider.
26 Each authorized insurer must evidence superior performance
27 overall on an acceptable level of surety in meeting its
28 obligations to its policyholders and other contractual
29 obligations. Only qualified public depositories approved by
30 the Chief Financial Officer ~~State Insurance Commissioner and~~
31 ~~Treasurer~~ are eligible for consideration. Each investment

1 company must provide investment plans as specified within the
2 request for proposals. In selecting a product provider, the
3 board shall seek to provide all participants with the most
4 secure, well-diversified, and beneficially administered
5 college savings plan possible, to allow all qualified firms
6 interested in providing such services equal consideration, and
7 to provide such services to participants at the lowest cost
8 possible. Evaluations of proposals submitted under this
9 paragraph must include, but need not be limited to, the
10 following criteria:

11 1. Fees and other costs charged to participants which
12 affect account values or operational costs related to the
13 program.

14 2. Past and current investment performance, including
15 investment and interest rate history, guaranteed minimum rates
16 of interest, consistency of investment performance, and any
17 terms and conditions under which moneys are held.

18 3. Past experience and ability to provide timely and
19 accurate service in the areas of benefit payments, investment
20 management, and complaint resolution.

21 4. Financial history and current financial strength
22 and capital adequacy to provide products, including operating
23 procedures and other methods of protecting program assets.

24 Section 292. Effective January 7, 2003, subsection (8)
25 of section 240.606, Florida Statutes, is amended to read:

26 240.606 Florida Work Experience Program.--

27 (8) Funds appropriated by the Legislature for the
28 Florida Work Experience Program shall be deposited in the
29 State Student Financial Assistance Trust Fund. The Chief
30 Financial Officer ~~Comptroller~~ shall authorize expenditures
31 from the trust fund upon receipt of vouchers approved by the

1 Department of Education. Any balance therein at the end of any
2 fiscal year that has been allocated to the program shall
3 remain therein and shall be available for carrying out the
4 purposes of the program.

5 Section 293. Effective January 7, 2003, subsection (2)
6 of section 242.331, Florida Statutes, is amended to read:

7 242.331 Florida School for the Deaf and the Blind;
8 board of trustees.--

9 (2) The board of trustees shall elect a chair
10 annually. The trustees shall be reimbursed for travel expenses
11 as provided in s. 112.061, the accounts of which shall be paid
12 by the Chief Financial Officer ~~Treasurer~~ upon itemized
13 vouchers duly approved by the chair.

14 Section 294. Effective January 7, 2003, subsection (2)
15 of section 242.341, Florida Statutes, is amended to read:

16 242.341 Florida School for the Deaf and the Blind;
17 board of trustees; management flexibility.--

18 (2) Notwithstanding the provisions of s. 216.181 and
19 pursuant to the provisions of s. 216.351, but subject to any
20 requirements imposed in the General Appropriations Act, no
21 lump-sum plan is required to implement the special categories,
22 program categories, or lump-sum appropriations. Upon release
23 of the special categories, program categories, or lump-sum
24 appropriations to the board of trustees, the Chief Financial
25 Officer ~~Comptroller~~, upon the request of the board of
26 trustees, shall transfer or reallocate funds to or among
27 accounts established for disbursement purposes. The board of
28 trustees shall maintain records to account for the original
29 appropriation.

30 Section 295. Effective January 7, 2003, subsection (2)
31 of section 245.13, Florida Statutes, is amended to read:

1 245.13 Fees; authority to accept additional funds;
2 annual audit.--
3 (2) The anatomical board is hereby empowered to
4 receive money from public or private sources in addition to
5 the fees collected from the institution or association to
6 which the bodies are distributed to be used to defray the
7 costs of embalming, handling, shipping, storage, cremation,
8 and other costs relating to the obtaining and use of such
9 bodies as described in this chapter; the anatomical board is
10 empowered to pay the reasonable expenses incurred by any
11 person delivering the bodies as described in this chapter to
12 the anatomical board and is further empowered to enter into
13 contracts and perform such other acts as are necessary to the
14 proper performance of its duties; a complete record of all
15 fees and other financial transactions of said anatomical board
16 shall be kept and audited annually by the Chief Financial
17 Officer ~~Department of Banking and Finance~~, and a report of
18 such audit shall be made annually to the University of
19 Florida.

20 Section 296. Effective January 7, 2003, section
21 246.061, Florida Statutes, is amended to read:

22 246.061 Expenditures.--The Chief Financial Officer
23 ~~Treasurer~~ shall pay out all moneys and funds provided for in
24 ss. 246.011-246.151 upon proper warrant issued by the Chief
25 Financial Officer ~~Comptroller~~, drawn upon vouchers approved by
26 the Department of Education for all lawful purposes necessary
27 to the administration of ss. 246.011-246.151. The board shall
28 make annual reports to the Governor showing in detail amounts
29 received and all expenditures. All fees, donations, or other
30 receipts of money by the board shall be paid into the
31 Institutional Assessment Trust Fund created by s. 246.31, and

1 the funds appropriated for the purposes of ss. 246.011-246.151
2 shall be from the Institutional Assessment Trust Fund and
3 other state fund sources as appropriate, based on an
4 appropriate budget approved by the board and submitted to the
5 Legislature through the Governor in accordance with chapter
6 216. The board shall include in its annual report to the
7 Governor a statement of major activities during the period
8 covered by such report.

9 Section 297. Effective January 7, 2003, subsection (7)
10 of section 246.101, Florida Statutes, is amended to read:

11 246.101 Fees.--

12 (7) All fees shall be submitted through the Department
13 of Education to the Chief Financial Officer ~~Treasurer~~, to be
14 deposited in the Institutional Assessment Trust Fund created
15 by s. 246.31.

16 Section 298. Effective January 7, 2003, section
17 246.211, Florida Statutes, is amended to read:

18 246.211 Expenditures.--The Chief Financial Officer
19 ~~State Treasurer~~ shall pay out all moneys and funds provided
20 for in ss. 246.201-246.231 upon proper warrant issued by the
21 Chief Financial Officer ~~Comptroller~~ drawn upon vouchers
22 approved by the board for all lawful purposes necessary for
23 the administration of ss. 246.201-246.231.

24 Section 299. Effective January 7, 2003, subsection (3)
25 of section 250.22, Florida Statutes, is amended to read:

26 250.22 Retirement.--

27 (3) Sufficient money to meet the requirements of this
28 section is hereby appropriated out of any moneys in the State
29 Treasury not otherwise appropriated, and payments under this
30 section will be made to those eligible to receive the same on
31 the first day of each calendar month from the General Revenue

1 Fund by the Chief Financial Officer ~~Comptroller~~ upon
2 prescribed pay vouchers certified to by the Adjutant General
3 of the state.

4 Section 300. Effective January 7, 2003, subsections
5 (3), (4), and (5) of section 250.24, Florida Statutes, are
6 amended to read:

7 250.24 Pay and expenses; appropriation; procedures.--
8 (3) Notwithstanding the provision of s. 216.271,
9 moneys for pay and allowances of the troops ordered out in
10 active service of the state shall be deposited in a separate
11 revolving fund, which shall be approved by the Chief Financial
12 Officer ~~Comptroller~~ and shall be subject to the provisions of
13 s. 18.101(2). The Department of Military Affairs shall
14 administer the fund. Frequency of payments to such troops
15 shall be at the discretion of the Adjutant General. The
16 Department of Military Affairs shall present to the Chief
17 Financial Officer ~~Comptroller~~ audit documentation of such
18 payments. The Department of Military Affairs shall maintain
19 all employee records relating to payments made pursuant to
20 this subsection and shall furnish to the Chief Financial
21 Officer ~~Comptroller~~ the information necessary to update the
22 payroll master record of each employee.

23 (4) The fund balance remaining in this separate
24 revolving fund after a final accounting of all expenditures
25 for pay and allowances of the troops shall be returned for
26 deposit to the State Treasury within 45 days after the
27 termination of active duty of the troops, except that an
28 operating balance in an amount mutually agreed upon by the
29 Chief Financial Officer ~~Comptroller~~ and the Department of
30 Military Affairs shall be retained in the fund.
31

1 (5) Vouchers for expenditures other than such pay and
2 allowances shall be presented to the Chief Financial Officer
3 ~~Comptroller~~ for approval and payment as prescribed by law.

4 Section 301. Effective January 7, 2003, section
5 250.25, Florida Statutes, is amended to read:

6 250.25 Governor and Chief Financial Officer
7 ~~Comptroller~~ authorized to borrow money.--When there is no
8 state appropriation available for the pay and expenses of
9 troops called out in active service to preserve the peace or
10 in aid of civil authorities, and funds are not immediately
11 available for this purpose, the Governor and Chief Financial
12 Officer ~~Comptroller~~ may borrow money to make such payments, in
13 such sum or sums as may from time to time be required, and any
14 such loans, so obtained, shall be promptly repaid out of the
15 first funds that become available for such use.

16 Section 302. Effective January 7, 2003, section
17 250.26, Florida Statutes, is amended to read:

18 250.26 Transfer of funds.--Where the available funds
19 are not sufficient for the purposes specified in ss. 250.23,
20 250.24, and 250.34, the Governor and Chief Financial Officer
21 ~~Comptroller~~ may transfer from any available fund in the State
22 Treasury, such sum as may be necessary to meet such emergency,
23 and the said moneys, so transferred, shall be repaid to the
24 fund from which transferred when moneys become available for
25 that purpose by legislative appropriation or otherwise.

26 Section 303. Effective January 7, 2003, subsection (3)
27 of section 250.34, Florida Statutes, is amended to read:

28 250.34 Injury or death in active service.--

29 (3) After the expiration of 1 year from the date of
30 injury or disability, such individual shall be provided
31 hospitalization, medical services and supplies, and

1 compensation for wages and compensation for disability based
2 on the average weekly wages of such injured individual on pay
3 status in the active service of the state or in his or her
4 civilian occupation or employment, whichever is greater, in
5 amounts provided under chapter 440 [F. S. 1973], as if such
6 individual were covered under the Workers' Compensation Law,
7 except that payments made during the first year after such
8 injury shall not be duplicated after the expiration of that
9 year. The Division of Risk Management of the Department of
10 Insurance and Financial Services is responsible for processing
11 all claims for benefits under this subsection.

12 Section 304. Effective January 7, 2003, section
13 252.62, Florida Statutes, is amended to read:

14 252.62 Department of Insurance and Financial Services'
15 ~~Comptroller's~~ powers in a state of emergency.--

16 (1) It is the purpose and intent of this section to
17 provide the Department of Insurance and Financial Services
18 ~~Comptroller, as head of the Department of Banking and Finance,~~
19 the authority to make temporary modifications to or
20 suspensions of the financial institutions codes in order to
21 expedite the recovery of communities affected by a disaster or
22 other emergency and in order to encourage financial
23 institutions to meet the credit, deposit, and other financial
24 needs of such communities.

25 (2)(a) When the Governor declares a state of emergency
26 pursuant to s. 252.36, the Department of Insurance and
27 Financial Services ~~Comptroller~~ may issue:

28 1. One or more general orders applicable to all
29 financial institutions that are subject to the financial
30 institutions codes and that serve any portion of the area of
31 the state under the state of emergency; or

1 2. One or more specific orders to particular financial
2 institutions that are subject to the financial institution
3 codes and that normally derive more than 60 percent of their
4 deposits from persons in the area of the state under the state
5 of emergency,
6
7 which orders may modify or suspend, as to those institutions,
8 all or any part of the financial institutions codes, as
9 defined in s. 655.005, or any applicable rule, consistent with
10 the stated purposes of the financial institutions codes and
11 with maintaining the safety and soundness of the financial
12 institutions system in this state.

13 (b) An order issued by the Department of Insurance and
14 Financial Services ~~Comptroller~~ under this section becomes
15 effective upon issuance and continues for 120 days unless it
16 is terminated by the department ~~Comptroller~~. The department
17 ~~Comptroller~~ may extend an order for one additional period of
18 120 days if the department ~~Comptroller~~ determines that the
19 emergency conditions that gave rise to the department's
20 ~~Comptroller's~~ initial order still exist. The Legislature, by
21 concurrent resolution, may terminate any order issued under
22 this section.

23 (3) The Department of Insurance and Financial Services
24 ~~Comptroller~~ shall publish, in the next available publication
25 of the Florida Administrative Weekly, a copy of the text of
26 any order issued under this section, together with a statement
27 describing the modification or suspension and explaining how
28 the modification or suspension will facilitate recovery from
29 the emergency and maintain the safety and soundness of
30 financial institutions in this state.

31

1 Section 305. Effective January 7, 2003, subsection (7)
2 of section 252.87, Florida Statutes, is amended to read:
3 252.87 Supplemental state reporting requirements.--
4 (7) The department shall avoid duplicative reporting
5 requirements by utilizing the reporting requirements of other
6 state agencies that regulate hazardous materials to the extent
7 feasible and shall request the information authorized under
8 EPCRA. With the advice and consent of the State Emergency
9 Response Commission for Hazardous Materials, the department
10 may require by rule that the maximum daily amount entry on the
11 chemical inventory report required under s. 312 of EPCRA
12 provide for reporting in estimated actual amounts. The
13 department may also require by rule an entry for the Federal
14 Employer Identification Number on this report. To the extent
15 feasible, the department shall encourage and accept required
16 information in a form initiated through electronic data
17 interchange and shall describe by rule the format, manner of
18 execution, and method of electronic transmission necessary for
19 using such form. To the extent feasible, the Department of
20 Insurance and Financial Services, the Department of
21 Agriculture and Consumer Services, the Department of
22 Environmental Protection, the Public Service Commission, the
23 Department of Revenue, the Department of Labor and Employment
24 Security, and other state agencies which regulate hazardous
25 materials shall coordinate with the department in order to
26 avoid duplicative requirements contained in each agency's
27 respective reporting or registration forms. The other state
28 agencies that inspect facilities storing hazardous materials
29 and suppliers and distributors of covered substances shall
30 assist the department in informing the facility owner or
31 operator of the requirements of this part. The department

1 shall provide the other state agencies with the necessary
2 information and materials to inform the owners and operators
3 of the requirements of this part to ensure that the budgets of
4 these agencies are not adversely affected.

5 Section 306. Effective January 7, 2003, subsection
6 (14) of section 253.025, Florida Statutes, is amended to read:
7 253.025 Acquisition of state lands for purposes other
8 than preservation, conservation, and recreation.--

9 (14) Any agency that acquires land on behalf of the
10 board of trustees is authorized to request disbursement of
11 payments for real estate closings in accordance with a written
12 authorization from an ultimate beneficiary to allow a third
13 party authorized by law to receive such payment provided the
14 Chief Financial Officer ~~Comptroller~~ determines that such
15 disbursement is consistent with good business practices and
16 can be completed in a manner minimizing costs and risks to the
17 state.

18 Section 307. Effective January 7, 2003, subsection (1)
19 of section 255.03, Florida Statutes, is amended to read:

20 255.03 Proceeds of insurance to be paid into State
21 Treasury; disbursement of funds.--

22 (1) The proceeds from the insurance of any state
23 building or state property covered by insurance which may be
24 destroyed in whole or in part by fire, or other damage, shall
25 be paid into the State Treasury and constitute a fund for the
26 rebuilding or replacing of such property, and the Chief
27 Financial Officer ~~Comptroller~~ may draw his or her warrant on
28 the State Treasury ~~Treasurer~~ for such amounts, not to exceed
29 the proceeds so paid in, as may be approved by the board or
30 persons having the direct supervision and control of such
31

1 buildings or property for the purpose of rebuilding or
2 replacing the same.

3 Section 308. Effective January 7, 2003, subsections
4 (1) and (2) of section 255.052, Florida Statutes, are amended
5 to read:

6 255.052 Substitution of securities for amounts
7 retained on public contracts.--

8 (1) Under any contract made or awarded by the state or
9 any county, city, or political subdivision thereof, or other
10 public authority, the contractor may, from time to time,
11 withdraw the whole or any portion of the amount retained for
12 payments to the contractor pursuant to the terms of the
13 contract, upon depositing with the Chief Financial Officer
14 ~~State Treasurer~~:

15 (a) United States Treasury bonds, United States
16 Treasury notes, United States Treasury certificates of
17 indebtedness, or United States Treasury bills;

18 (b) Bonds or notes of the State of Florida; or

19 (c) Bonds of any political subdivision in the state;
20 or

21 (d) Cash delivered to the State Treasury for the
22 Treasury Cash Deposit Trust Fund; or

23 (e) Certificates of deposit from state or national
24 banks or state or federal savings and loan associations in the
25 state. Certificates of deposit shall possess the eligibility
26 characteristics defined in s. 625.52.

27
28 No amount shall be withdrawn in excess of the market value of
29 the securities listed in paragraphs (a), (b), and (c) at the
30 time of withdrawal or of the par value of such securities,
31 whichever is lower.

1 (2) The Chief Financial Officer ~~Treasurer~~ shall, on a
2 regular basis, collect all interest or income on the
3 obligations so deposited, and shall pay the same, when and as
4 collected, to the contractor who deposited the obligations.
5 If the deposit is in the form of coupon bonds, the Chief
6 Financial Officer ~~Treasurer~~ shall deliver each coupon as it
7 matures to the contractor.

8
9 Nothing in this section shall be construed to require the
10 state or any county, city, or political subdivision thereof,
11 or other public authority, to allow the contractor to withdraw
12 the whole or any portion of the amount retained for payments
13 to the contractor except pursuant to the terms of the
14 contract.

15 Section 309. Effective January 7, 2003, subsection (2)
16 of section 255.258, Florida Statutes, is amended to read:

17 255.258 Shared savings financing of energy
18 conservation in state-owned buildings.--

19 (2) Except as noted in subsection (4), state agency
20 shared savings contracts shall be developed in accordance with
21 a model contract to be developed by the department in
22 cooperation with the Attorney General, the Chief Financial
23 Officer ~~Comptroller~~, and the Department of Community Affairs.
24 The model contract shall include the methodology for
25 calculating base line energy costs, a procedure for revising
26 these costs should the state institute additional energy
27 conservation features or building use change, a requirement
28 for a performance bond guaranteeing that the facility will be
29 restored to the original condition in the event of default, a
30 provision for early buy-out, a clause specifying who will be
31 responsible for maintaining the equipment, and a provision

1 allowing the disposal of equipment at the end of the contract.
2 No agency shall substantially alter the provisions described
3 in the model without the permission of the department.

4 Section 310. Effective January 7, 2003, subsection (8)
5 of section 255.503, Florida Statutes, is amended to read:

6 255.503 Powers of the Department of Management
7 Services.--The Department of Management Services shall have
8 all the authority necessary to carry out and effectuate the
9 purposes and provisions of this act, including, but not
10 limited to, the authority to:

11 (8) Create and establish funds and accounts for the
12 purpose of debt service reserves, for the matching of the
13 timing and the amount of available funds and debt service
14 charges, for sinking funds, for capital depreciation reserves,
15 for operating reserves, for capitalized interest and moneys
16 not required for immediate disbursement to acquire all or a
17 portion of any facility, and for any other reserves, funds, or
18 accounts reasonably necessary to carry out the provisions of
19 this act and to invest in authorized investments any moneys
20 held in such funds and accounts, provided such investments
21 will be made on behalf of the Department of Management
22 Services by the State Board of Administration or the Chief
23 Financial Officer ~~Treasurer~~, as appropriate.

24 Section 311. Effective January 7, 2003, section
25 255.521, Florida Statutes, is amended to read:

26 255.521 Failure of payment.--Should an agency fail to
27 make a timely payment of the pool pledged rentals or charges
28 as required by this act, the Chief Financial Officer
29 ~~Comptroller~~ shall withhold general revenues of the agency in
30 an amount sufficient to pay the rentals and charges due and
31 unpaid from such agency. The Chief Financial Officer

1 ~~Comptroller~~ shall forward said general revenue amounts to the
2 Department of Management Services in payment of such rents.

3 Section 312. Effective January 7, 2003, section
4 257.22, Florida Statutes, is amended to read:

5 257.22 Division of Library and Information Services;
6 allocation of funds.--Any moneys that may be appropriated for
7 use by a county, a municipality, a special district, or a
8 special tax district for the maintenance of a library or
9 library service shall be administered and allocated by the
10 Division of Library and Information Services in the manner
11 prescribed by law. On or before December 1 of each year, the
12 division shall certify to the Chief Financial Officer
13 ~~Comptroller~~ the amount to be paid to each county,
14 municipality, special district, or special tax district, and
15 the Chief Financial Officer ~~Comptroller~~ shall issue warrants
16 to the respective boards of county commissioners or chief
17 municipal executive authorities for the amount so allocated.

18 Section 313. Effective January 7, 2003, subsection (2)
19 of section 258.014, Florida Statutes, is amended to read:

20 258.014 Fees for use of state parks.--

21 (2) Any moneys received in trust by the division by
22 gift, devise, appropriation, or otherwise shall, subject to
23 the terms of such trust, be deposited with the Chief Financial
24 Officer ~~State Treasurer~~ in a fund to be known as the "State
25 Park Trust Fund," and shall be subject to withdrawal upon
26 application of said division for expenditure or investment in
27 accordance with the terms of said trust. Unless prohibited by
28 the terms of the trust by which said moneys are derived, all
29 of such moneys may be invested as provided by law.

30
31

1 Section 314. Effective January 7, 2003, subsection (6)
2 and paragraph (e) of subsection (12) of section 259.032,
3 Florida Statutes, are amended to read:

4 259.032 Conservation and Recreation Lands Trust Fund;
5 purpose.--

6 (6) Moneys in the fund not needed to meet obligations
7 incurred under this section shall be deposited with the Chief
8 Financial Officer ~~Treasurer~~ to the credit of the fund and may
9 be invested in the manner provided by law. Interest received
10 on such investments shall be credited to the Conservation and
11 Recreation Lands Trust Fund.

12 (12)

13 (e) Payment in lieu of taxes pursuant to this
14 subsection shall be made annually to qualifying counties and
15 local governments after certification by the Department of
16 Revenue that the amounts applied for are reasonably
17 appropriate, based on the amount of actual taxes paid on the
18 eligible property, and after the Department of Environmental
19 Protection has provided supporting documents to the Chief
20 Financial Officer ~~Comptroller~~ and has requested that payment
21 be made in accordance with the requirements of this section.

22
23 For the purposes of this subsection, "local government"
24 includes municipalities, the county school board, mosquito
25 control districts, and any other local government entity which
26 levies ad valorem taxes, with the exception of a water
27 management district.

28 Section 315. Effective January 7, 2003, subsection
29 (18) of section 259.041, Florida Statutes, is amended to read:

30 259.041 Acquisition of state-owned lands for
31 preservation, conservation, and recreation purposes.--

1 (18) Any agency authorized to acquire lands on behalf
2 of the board of trustees is authorized to request disbursement
3 of payments for real estate closings in accordance with a
4 written authorization from an ultimate beneficiary to allow a
5 third party authorized by law to receive such payment provided
6 the Chief Financial Officer ~~Comptroller~~ determines that such
7 disbursement is consistent with good business practices and
8 can be completed in a manner minimizing costs and risks to the
9 state.

10 Section 316. Effective January 7, 2003, subsection (2)
11 of section 265.53, Florida Statutes, is amended to read:

12 265.53 Application for indemnity agreement.--

13 (2) The Department of Insurance and Financial Services
14 shall determine whether applicants qualify for indemnity
15 coverage under ss. 265.51-265.56. Qualification criteria,
16 which shall be set by rule, shall include factors such as:

17 (a) Physical security of an applicant's exhibition
18 facilities and of the means of transportation of the eligible
19 items from the borrower to the lender.

20 (b) Experience and qualifications of an applicant's
21 director, curator, registrar, or other staff.

22 (c) Eligibility of an applicant's exhibition
23 facilities for commercial insurance coverage of works of art
24 displayed there.

25 (d) Availability of proper equipment to protect works
26 of art from damage from extremes of temperature or humidity or
27 exposure to glare, dust, or corrosion.

28
29 The department may consult with such private insurance and art
30 experts as reasonably necessary to carry out the intent of
31 this subsection.

1 Section 317. Effective January 7, 2003, subsections
2 (1) and (3) of section 265.55, Florida Statutes, are amended
3 to read:

4 265.55 Claims.--

5 (1) The Division of Risk Management of the Department
6 of Insurance and Financial Services may prescribe rules
7 providing for prompt adjustment of valid claims for losses
8 which are covered by an indemnity agreement made pursuant to
9 the provisions of ss. 265.51-265.56, including rules providing
10 for the employment of consultants and for the arbitration of
11 issues relating to the dollar value of damages involving less
12 than total loss or destruction of such covered objects.

13 (3) The authorization for payment delineated in
14 subsection (2) shall be forwarded to the Chief Financial
15 Officer ~~Comptroller~~. The Chief Financial Officer ~~Comptroller~~
16 shall take appropriate action to execute authorized payment of
17 the claim from the Working Capital Fund, as defined in s.
18 215.32.

19 Section 318. Effective January 7, 2003, paragraph (d)
20 of subsection (3) of section 267.075, Florida Statutes, is
21 amended to read:

22 267.075 The Grove Advisory Council; creation;
23 membership; purposes.--

24 (3)

25 (d) Members of the council shall serve without
26 compensation or honorarium but shall be entitled to receive
27 reimbursement for per diem and travel expenses as provided in
28 s. 112.061. All expenses of the council shall be paid from
29 appropriations to be made by the Legislature to the Department
30 of State. All vouchers shall be approved by the Division of
31

1 Historical Resources before being submitted to the Chief
2 Financial Officer ~~Comptroller~~ for payment.

3 Section 319. Effective January 7, 2003, paragraph (c)
4 of subsection (2) of section 272.18, Florida Statutes, is
5 amended to read:

6 272.18 Governor's Mansion Commission.--

7 (2)

8 (c) Members of the commission shall serve without
9 compensation or honorarium but shall be entitled to receive
10 reimbursement for per diem and travel expenses as provided in
11 s. 112.061. All expenses of the commission shall be paid from
12 appropriations to be made by the Legislature to the Department
13 of Management Services for that purpose. The commission shall
14 submit its budgetary requests to the Department of Management
15 Services for approval and inclusion in the legislative budget
16 request of the department. All vouchers shall be approved by
17 the secretary of the Department of Management Services before
18 being submitted to the Chief Financial Officer ~~Comptroller~~ for
19 payment.

20 Section 320. Effective January 7, 2003, subsections
21 (9), (11), (17), (18), (19), and (24), paragraph (f) of
22 subsection (26), and subsections (29), (30), and (31) of
23 section 280.02, Florida Statutes, are amended to read:

24 280.02 Definitions.--As used in this chapter, the
25 term:

26 (9) "Custodian" means the Chief Financial Officer
27 ~~Treasurer~~ or any bank, savings association, or trust company
28 that:

29 (a) Is organized and existing under the laws of this
30 state, any other state, or the United States;

31

1 (b) Has executed all forms required under this chapter
2 or any rule adopted hereunder;

3 (c) Agrees to be subject to the jurisdiction of the
4 courts of this state, or of courts of the United States which
5 are located within this state, for the purpose of any
6 litigation arising out of this chapter; and

7 (d) Has been approved by the Chief Financial Officer
8 ~~Treasurer~~ to act as a custodian.

9 (11) "Effective date of notice of withdrawal or order
10 of discontinuance" pursuant to s. 280.11(3) means that date
11 which is set out as such in any notice of withdrawal or order
12 of discontinuance from the Chief Financial Officer ~~Treasurer~~.

13 (17) "Operating subsidiary" means the qualified public
14 depository's 100-percent owned corporation that has ownership
15 of pledged collateral. The operating subsidiary may have no
16 powers beyond those that its parent qualified public
17 depository may itself exercise. The use of an operating
18 subsidiary is at the discretion of the qualified public
19 depository and must meet the Chief Financial Officer's
20 ~~Treasurer's~~ requirements.

21 (18) "Oversight board" means the qualified public
22 depository oversight board created in s. 280.071 for the
23 purpose of safeguarding the integrity of the public deposits
24 program and preventing the realization of loss assessments
25 through standards, policies, and recommendations for actions
26 to the Chief Financial Officer ~~Treasurer~~.

27 (19) "Pledged collateral" means securities or cash
28 held separately and distinctly by an eligible custodian for
29 the benefit of the Chief Financial Officer ~~Treasurer~~ to be
30 used as security for Florida public deposits. This includes
31 maturity and call proceeds.

1 (24) "Public depositor" means the ~~Treasurer or other~~
2 Chief Financial Officer or designee responsible for handling
3 public deposits.

4 (26) "Qualified public depository" means any bank,
5 savings bank, or savings association that:

6 (f) Has been designated by the Chief Financial Officer
7 ~~Treasurer~~ as a qualified public depository.

8 (29) "Chief Financial Officer ~~Treasurer~~" means the
9 Chief Financial Officer ~~Treasurer~~ of the State of Florida.

10 (30) "Chief Financial Officer's ~~Treasurer's~~ custody"
11 is a collateral arrangement governed by a contract between a
12 designated Chief Financial Officer's ~~Treasurer's~~ custodian and
13 the Chief Financial Officer ~~Treasurer~~. This arrangement
14 requires collateral to be in the Chief Financial Officer's
15 ~~Treasurer's~~ name in order to perfect the security interest.

16 (31) "Triggering events" are events set out in s.
17 280.041 which give the Chief Financial Officer ~~Treasurer~~ the
18 right to:

19 (a) Instruct the custodian to transfer securities
20 pledged, interest payments, and other proceeds of pledged
21 collateral not previously credited to the pledgor.

22 (b) Demand payment under letters of credit.

23 Section 321. Effective January 7, 2003, subsections
24 (1), (2), and (5), paragraphs (b) and (c) of subsection (6),
25 and subsections (7) and (9) of section 280.04, Florida
26 Statutes, are amended to read:

27 280.04 Collateral for public deposits; general
28 provisions.--

29 (1) The Chief Financial Officer ~~Treasurer~~ shall
30 determine the collateral requirements and collateral pledging
31 level for each qualified public depository following

1 procedures established by rule. These procedures shall include
2 numerical parameters for 25-percent, 50-percent, 125-percent,
3 and 200-percent pledge levels based on nationally recognized
4 financial rating services information and established
5 financial performance guidelines.

6 (2) A qualified public depository may not accept or
7 retain any public deposit which is required to be secured
8 unless it has deposited with the Chief Financial Officer
9 ~~Treasurer~~ eligible collateral at least equal to the greater
10 of:

11 (a) The average daily balance of public deposits that
12 does not exceed the lesser of its capital account or 20
13 percent of the pool figure multiplied by the depository's
14 collateral-pledging level, plus the greater of:

15 1. One hundred twenty-five percent of the average
16 daily balance of public deposits in excess of capital
17 accounts; or

18 2. One hundred twenty-five percent of the average
19 daily balance of public deposits in excess of 20 percent of
20 the pool figure.

21 (b) Twenty-five percent of the average monthly balance
22 of public deposits.

23 (c) One hundred twenty-five percent of the average
24 daily balance of public deposits if the qualified public
25 depository:

26 1. Has been established for less than 3 years;

27 2. Has experienced material decreases in its capital
28 accounts; or

29 3. Has an overall financial condition that is
30 materially deteriorating.

31

- 1 (d) Two hundred percent of an established maximum
2 amount of public deposits that has been mutually agreed upon
3 by and between the Chief Financial Officer ~~Treasurer~~ and the
4 qualified public depository.
- 5 (e) Minimum required collateral of \$100,000.
- 6 (f) An amount as required in special instructions from
7 the Chief Financial Officer ~~Treasurer~~ to protect the integrity
8 of the public deposits program.
- 9 (5) Additional collateral of 20 percent of required
10 collateral is necessary if a valuation date other than the
11 close of business as described below has been approved for the
12 qualified public depository and the required collateral is
13 found to be insufficient based on the Chief Financial
14 Officer's ~~Treasurer's~~ valuation.
- 15 (6) Each qualified public depository shall value its
16 collateral in the following manner; it must:
- 17 (b) Use market price, quality ratings, and pay-down
18 factors as of the close of business on the last banking day in
19 the reported month, or as of a date approved by the Chief
20 Financial Officer ~~Treasurer~~.
- 21 (c) Report any material decline in value that occurs
22 before the date of mailing the monthly report, required in s.
23 280.16, to the Chief Financial Officer ~~Treasurer~~.
- 24 (7) A qualified public depository shall pledge,
25 deposit, or issue additional eligible collateral between
26 filing periods of the monthly report required in s. 280.16
27 when notified by the Chief Financial Officer ~~Treasurer~~ that
28 current market value of collateral does not meet required
29 collateral. The pledge, deposit, or issuance of such
30 additional collateral shall be made within 2 business days
31 after the Chief Financial Officer's ~~Treasurer's~~ notification.

1 (9) The Chief Financial Officer ~~Treasurer~~ shall adopt
2 rules for the establishment of collateral requirements,
3 collateral pledging levels, required collateral calculations,
4 and market value and clarifying terms.

5 Section 322. Effective January 7, 2003, section
6 280.041, Florida Statutes, is amended to read:

7 280.041 Collateral arrangements; agreements,
8 provisions, and triggering events.--

9 (1) Eligible collateral listed in s. 280.13 may be
10 pledged, deposited, or issued using the following collateral
11 arrangements as approved by the Chief Financial Officer
12 ~~Treasurer~~ for a qualified public depository or operating
13 subsidiary, if one is used, to meet required collateral:

14 (a) Regular custody arrangement for collateral pledged
15 to the Chief Financial Officer ~~Treasurer~~ pursuant to
16 subsection (2).

17 (b) Federal Reserve Bank custody arrangement for
18 collateral pledged to the Chief Financial Officer ~~Treasurer~~
19 pursuant to subsection (3).

20 (c) Chief Financial Officer's ~~Treasurer's~~ custody
21 arrangement for collateral deposited in the Chief Financial
22 Officer's ~~Treasurer's~~ name pursuant to subsection (4).

23 (d) Federal Home Loan Bank letter of credit
24 arrangement for collateral issued with the Chief Financial
25 Officer ~~Treasurer~~ as beneficiary pursuant to subsection (5).

26 (e) Cash arrangement for collateral held by the Chief
27 Financial Officer ~~Treasurer~~ or a custodian.

28 (2) With the approval of the Chief Financial Officer
29 ~~Treasurer~~, a qualified public depository or operating
30 subsidiary, as pledgor, may deposit eligible collateral with a
31 custodian. A qualified public depository shall not act as its

1 own custodian. Except in the case of using a Federal Reserve
2 Bank as custodian, the following are necessary for the Chief
3 Financial Officer's ~~Treasurer's~~ approval:

4 (a) A completed collateral agreement in a form
5 prescribed by the Chief Financial Officer ~~Treasurer~~ in which
6 the pledgor agrees to the following provisions:

7 1. The pledgor shall own the pledged collateral and
8 acknowledge that the Chief Financial Officer ~~Treasurer~~ has a
9 perfected security interest. The pledged collateral shall be
10 eligible collateral and shall be at least equal to the amount
11 of required collateral.

12 2. The pledgor shall grant to the Chief Financial
13 Officer ~~Treasurer~~ an interest in pledged collateral for the
14 purposes of this section. The pledgor shall not enter into or
15 execute any other agreement related to the pledged collateral
16 that would create an interest in or lien on that collateral in
17 any manner in favor of any third party without the written
18 consent of the Chief Financial Officer ~~Treasurer~~.

19 3. The pledgor shall not grant the custodian any lien
20 that attaches to the collateral in favor of the custodian that
21 is superior or equal to the security interest of the Chief
22 Financial Officer ~~Treasurer~~.

23 4. The pledgor shall agree that the Chief Financial
24 Officer ~~Treasurer~~ may, without notice to or consent by the
25 pledgor, require the custodian to comply with and perform any
26 and all requests and orders directly from the Chief Financial
27 Officer ~~Treasurer~~. These include, but are not limited to,
28 liquidating all collateral and submitting the proceeds
29 directly to the Chief Financial Officer ~~Treasurer~~ in the name
30 of the Chief Financial Officer ~~Treasurer~~ only or transferring
31

1 all collateral into an account designated solely by the Chief
2 Financial Officer ~~Treasurer~~.

3 5. The pledgor shall acknowledge that the Chief
4 Financial Officer ~~Treasurer~~ may, without notice to or consent
5 by the pledgor, require the custodian to hold principal
6 payments and income for the benefit of the Chief Financial
7 Officer ~~Treasurer~~.

8 6. The pledgor shall initiate collateral transactions
9 on forms prescribed by the Chief Financial Officer ~~Treasurer~~
10 in the following manner:

11 a. A deposit transaction of eligible collateral may be
12 made without prior approval from the Chief Financial Officer
13 ~~Treasurer~~ provided: security types that have restrictions have
14 been approved in advance of the transaction by the Chief
15 Financial Officer ~~Treasurer~~ and simultaneous notification is
16 given to the Chief Financial Officer ~~Treasurer~~; and the
17 custodian has not received notice from the Chief Financial
18 Officer ~~Treasurer~~ prohibiting deposits without prior approval.

19 b. A substitution transaction of eligible collateral
20 may be made without prior approval from the Chief Financial
21 Officer ~~Treasurer~~ provided: security types that have
22 restrictions have been approved in advance of the transaction
23 by the Chief Financial Officer ~~Treasurer~~; the market value of
24 the securities to be substituted is at least equal to the
25 amount withdrawn; simultaneous notification is given to the
26 Chief Financial Officer ~~Treasurer~~; and the custodian has not
27 received notice from the Chief Financial Officer ~~Treasurer~~
28 prohibiting substitution.

29 c. A transfer of collateral between accounts at a
30 custodian requires the Chief Financial Officer's ~~Treasurer's~~
31 prior approval. The collateral shall be released subject to

1 redeposit in the new account with a pledge to the Chief
2 Financial Officer ~~Treasurer~~ intact.

3 d. A transfer of collateral from a custodian to
4 another custodian requires the Chief Financial Officer's
5 ~~Treasurer's~~ prior approval and a valid collateral agreement
6 with the new custodian. The collateral shall be released
7 subject to redeposit at the new custodian with a pledge to the
8 Chief Financial Officer ~~Treasurer~~ intact.

9 e. A withdrawal transaction requires the Chief
10 Financial Officer's ~~Treasurer's~~ prior approval. The market
11 value of eligible collateral remaining after the withdrawal
12 shall be at least equal to the amount of required collateral.
13 A withdrawal transaction shall be executed for any release of
14 collateral including maturity or call proceeds.

15 f. Written notice shall be sent to the Chief Financial
16 Officer ~~Treasurer~~ to remove from the inventory of pledged
17 collateral a pay-down security that has paid out with zero
18 principal remaining.

19 7. If pledged collateral includes definitive
20 (physical) securities in registered form which are in the name
21 of the pledgor or a nominee, the pledgor shall deliver the
22 following documents when requested by the Chief Financial
23 Officer ~~Treasurer~~:

24 a. A separate certified power of attorney in a form
25 prescribed by the Chief Financial Officer ~~Treasurer~~ for each
26 issue of securities.

27 b. Separate bond assignment forms as required by the
28 bond agent or trustee.

29 c. Certified copies of resolutions adopted by the
30 pledgor's governing body authorizing execution of these
31 documents.

1 8. The pledgor shall be responsible for all costs
2 necessary to the functioning of the collateral agreement or
3 associated with confirmation of pledged collateral to the
4 Chief Financial Officer ~~Treasurer~~ and acknowledges that these
5 costs shall not be a charge against the Chief Financial
6 Officer ~~Treasurer~~ or his or her interests in the pledged
7 collateral.

8 9. The pledgor, if notified by the Chief Financial
9 Officer ~~Treasurer~~, shall not be allowed to use a custodian if
10 that custodian fails to complete the collateral agreement,
11 releases pledged collateral without the Chief Financial
12 Officer's ~~Treasurer's~~ approval, fails to properly complete
13 confirmations of pledged collateral, fails to honor a request
14 for examination of definitive pledged collateral and records
15 of book-entry securities, or fails to provide requested
16 documents on definitive securities. The period for disallowing
17 the use of a custodian shall be 1 year.

18 10. The pledgor shall be subject to the jurisdiction
19 of the courts of the State of Florida, or of courts of the
20 United States located within the State of Florida, for the
21 purpose of any litigation arising out of the act.

22 11. The pledgor is responsible and liable to the Chief
23 Financial Officer ~~Treasurer~~ for any action of agents the
24 pledgor uses to execute collateral transactions or submit
25 reports to the Chief Financial Officer ~~Treasurer~~.

26 12. The pledgor shall agree that any information,
27 forms, or reports electronically transmitted to the Chief
28 Financial Officer ~~Treasurer~~ shall have the same enforceability
29 as a signed writing.

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1 13. The pledgor shall submit proof that authorized
2 individuals executed the collateral agreement on behalf of the
3 pledgor.

4 14. The pledgor shall agree by resolution of the board
5 of directors that collateral agreements entered into for
6 purposes of this section have been formally accepted and
7 constitute official records of the pledgor.

8 15. The pledgor shall be bound by any other provisions
9 found necessary for a perfected security interest in
10 collateral under the Uniform Commercial Code.

11 (b) A completed collateral agreement in a form
12 prescribed by the Chief Financial Officer ~~Treasurer~~ in which
13 the custodian agrees to the following provisions:

14 1. The custodian shall have no responsibility to
15 ascertain whether the pledged securities are at least equal to
16 the amount of required collateral nor whether the pledged
17 securities are eligible collateral.

18 2. The custodian shall hold pledged collateral in a
19 custody account for the Chief Financial Officer ~~Treasurer~~ for
20 purposes of this section. The custodian shall not enter into
21 or execute any other agreement related to the collateral that
22 would create an interest in or lien on that collateral in any
23 manner in favor of any third party without the written consent
24 of the Chief Financial Officer ~~Treasurer~~.

25 3. The custodian shall agree that any lien that
26 attaches to the collateral in favor of the custodian shall not
27 be superior or equal to the security interest of the Chief
28 Financial Officer ~~Treasurer~~.

29 4. The custodian shall, without notice to or consent
30 by the pledgor, comply with and perform any and all requests
31 and orders directly from the Chief Financial Officer

1 ~~Treasurer~~. These include, but are not limited to, liquidating
2 all collateral and submitting the proceeds directly to the
3 Chief Financial Officer ~~Treasurer~~ in the name of the Chief
4 Financial Officer ~~Treasurer~~ only or transferring all
5 collateral into an account designated solely by the Chief
6 Financial Officer ~~Treasurer~~.

7 5. The custodian shall consider principal payments on
8 pay-down securities and income paid on pledged collateral as
9 the property of the pledgor and shall pay thereto provided the
10 custodian has not received written notice from the Chief
11 Financial Officer ~~Treasurer~~ to hold such principal payments
12 and income for the benefit of the Chief Financial Officer
13 ~~Treasurer~~.

14 6. The custodian shall process collateral transactions
15 on forms prescribed by the Chief Financial Officer ~~Treasurer~~
16 in the following manner:

17 a. A deposit transaction of eligible collateral may be
18 made without prior approval from the Chief Financial Officer
19 ~~Treasurer~~ unless the custodian has received notice from the
20 Chief Financial Officer ~~Treasurer~~ requiring the Chief
21 Financial Officer's ~~Treasurer's~~ prior approval.

22 b. A substitution transaction of eligible collateral
23 may be made without prior approval from the Chief Financial
24 Officer ~~Treasurer~~ provided the pledgor certifies the market
25 value of the securities to be substituted is at least equal to
26 the market value amount of the securities to be withdrawn and
27 the custodian has not received notice from the Chief Financial
28 Officer ~~Treasurer~~ prohibiting substitution.

29 c. A transfer of collateral between accounts at a
30 custodian requires the Chief Financial Officer's ~~Treasurer's~~
31 prior approval. The collateral shall be released subject to

1 redeposit in the new account with a pledge to the Chief
2 Financial Officer ~~Treasurer~~ intact. Confirmation from the
3 custodian to the Chief Financial Officer ~~Treasurer~~ must be
4 received within 5 business days of the redeposit.

5 d. A transfer of collateral from a custodian to
6 another custodian requires the Chief Financial Officer's
7 ~~Treasurer's~~ prior approval. The collateral shall be released
8 subject to redeposit at the new custodian with a pledge to the
9 Chief Financial Officer ~~Treasurer~~ intact. Confirmation from
10 the new custodian to the Chief Financial Officer ~~Treasurer~~
11 must be received within 5 business days of the redeposit.

12 e. A withdrawal transaction requires the Chief
13 Financial Officer's ~~Treasurer's~~ prior approval. A withdrawal
14 transaction shall be executed for the release of any pledged
15 collateral including maturity or call proceeds.

16 7. If pledged collateral includes definitive
17 (physical) securities in registered form, which are in the
18 name of the custodian or a nominee, the custodian shall
19 deliver the following documents when requested by the Chief
20 Financial Officer ~~Treasurer~~:

21 a. A separate certified power of attorney in a form
22 prescribed by the Chief Financial Officer ~~Treasurer~~ for each
23 issue of securities.

24 b. Separate bond assignment forms as required by the
25 bond agent or trustee.

26 c. Certified copies of resolutions adopted by the
27 custodian's governing body authorizing execution of these
28 documents.

29 8. The custodian shall acknowledge that the pledgor is
30 responsible for all costs necessary to the functioning of the
31 collateral agreement or associated with confirmation of

1 securities pledged to the Chief Financial Officer ~~Treasurer~~
2 and that these costs shall not be a charge against the Chief
3 Financial Officer ~~Treasurer~~ or his or her interests in the
4 pledged collateral.

5 9. The custodian shall agree to provide confirmation
6 of pledged collateral upon request from the Chief Financial
7 Officer ~~Treasurer~~. This confirmation shall be provided within
8 15 working days after the request, in a format prescribed by
9 the Chief Financial Officer ~~Treasurer~~, and shall require no
10 identification other than the pledgor name and location,
11 unless the special identification is provided in the
12 collateral agreement.

13 10. The custodian shall be subject to the jurisdiction
14 of the courts of the State of Florida, or of courts of the
15 United States located within the State of Florida, for the
16 purpose of any litigation arising out of the act.

17 11. The custodian shall be responsible and liable to
18 the Chief Financial Officer ~~Treasurer~~ for any action of agents
19 the custodian uses to hold and service collateral pledged to
20 the Chief Financial Officer ~~Treasurer~~.

21 12. The custodian shall agree that any information,
22 forms, or reports electronically transmitted to the Chief
23 Financial Officer ~~Treasurer~~ shall have the same enforceability
24 as a signed writing.

25 13. The Chief Financial Officer ~~Treasurer~~ shall have
26 the right to examine definitive pledged collateral and records
27 of book-entry securities during the regular business hours of
28 the custodian without cost to the Chief Financial Officer
29 ~~Treasurer~~.

30 14. The responsibilities of the custodian for the
31 safekeeping of the pledged collateral shall be limited to the

1 diligence and care usually exercised by a banking or trust
2 institution toward its own property.

3 15. If there is any change in the Uniform Commercial
4 Code, as adopted by law in this state, which affects the
5 requirements for a perfected security interest in collateral,
6 the Chief Financial Officer ~~Treasurer~~ shall notify the
7 custodian of such change. The custodian shall have a period of
8 180 calendar days after such notice to withdraw as custodian
9 if the custodian cannot provide the required custodial
10 services.

11 (3) With the approval of the Chief Financial Officer
12 ~~Treasurer~~, a pledgor may deposit eligible collateral pursuant
13 to an agreement with a Federal Reserve Bank. The Federal
14 Reserve Bank agreement may require terms not consistent with
15 subsection (2) but may not subject the Chief Financial Officer
16 ~~Treasurer~~ to any costs or indemnification requirements.

17 (4) The Chief Financial Officer ~~Treasurer~~ may require
18 deposit or transfer of collateral into a custodial account
19 established in the Chief Financial Officer's ~~Treasurer's~~ name
20 at a designated custodian. This requirement for Chief
21 Financial Officer's ~~Treasurer's~~ custody shall have the
22 following characteristics:

23 (a) One or more triggering events must have occurred.

24 (b) The custodian used must be a Chief Financial
25 Officer's ~~Treasurer's~~ approved custodian that must:

26 1. Meet the definition of custodian.

27 2. Not be an affiliate of the qualified public
28 depository.

29 3. Be bound under a distinct Chief Financial Officer's
30 ~~Treasurer's~~ custodial contract.

31

1 (c) All deposit transactions require the approval of
2 the Chief Financial Officer ~~Treasurer~~.

3 (d) All collateral must be in book-entry form.

4 (e) The qualified public depository shall be
5 responsible for all costs necessary to the functioning of the
6 contract or associated with the confirmation of securities in
7 the name of the Chief Financial Officer ~~Treasurer~~ and
8 acknowledges that these costs shall not be a charge against
9 the Chief Financial Officer ~~Treasurer~~ and may be deducted from
10 the collateral or income earned if unpaid.

11 (5) With the approval of the Chief Financial Officer
12 ~~Treasurer~~, a qualified public depository may use Federal Home
13 Loan Bank letters of credit to meet collateral requirements.
14 A completed agreement that includes the following provisions
15 is necessary for the Chief Financial Officer's ~~Treasurer's~~
16 approval:

17 (a) The letter of credit shall meet the definition of
18 eligible collateral.

19 (b) The qualified public depository shall agree that
20 the Chief Financial Officer ~~Treasurer~~, as beneficiary, may,
21 without notice to or consent by the qualified public
22 depository, demand payment under the letter of credit if any
23 of the triggering events listed in this section occur.

24 (c) The qualified public depository shall agree that
25 funds received by the Chief Financial Officer ~~Treasurer~~ due to
26 the occurrence of one or more triggering events may be
27 deposited in the Treasury Cash Deposit Trust Fund for purposes
28 of eligible collateral.

29 (d) The qualified public depository shall arrange for
30 the issue of letters of credit which meet the requirements of
31 s. 280.13 and delivery to the Chief Financial Officer

1 ~~Treasurer~~. All transactions involving letters of credit
2 require the Chief Financial Officer's ~~Treasurer's~~ approval.
3 (e) The qualified public depository shall be
4 responsible for all costs necessary in the use or confirmation
5 of letters of credit issued on behalf of the Chief Financial
6 Officer ~~Treasurer~~ and acknowledges that these costs shall not
7 be a charge against the Chief Financial Officer ~~Treasurer~~.
8 (f) The qualified public depository shall be subject
9 to the jurisdiction of the courts of this state, or of courts
10 of the United States which are located within this state, for
11 the purpose of any litigation arising out of the act.
12 (g) The qualified public depository shall agree that
13 any information, form, or report electronically transmitted to
14 the Chief Financial Officer ~~Treasurer~~ shall have the same
15 enforceability as a signed writing.
16 (h) The qualified public depository shall submit proof
17 that authorized individuals executed the letters of credit
18 agreement on its behalf.
19 (i) The qualified public depository shall agree by
20 resolution of the board of directors that the letters of
21 credit agreements entered into for purposes of this section
22 have been formally accepted and constitute official records of
23 the qualified public depository.
24 (6) The Chief Financial Officer ~~Treasurer~~ may demand
25 payment under a letter of credit or direct a custodian to
26 deposit or transfer collateral and proceeds of securities not
27 previously credited upon the occurrence of one or more
28 triggering events provided that, to the extent not
29 incompatible with the protection of public deposits, as
30 determined in the Chief Financial Officer's ~~Treasurer's~~ sole
31 and absolute discretion, the Chief Financial Officer ~~Treasurer~~

- 1 shall provide a custodian and the qualified public depository
2 with 48 hours' advance notice before directing such deposit or
3 transfer. These events include:
- 4 (a) The Chief Financial Officer ~~Treasurer~~ determines
5 that an immediate danger to the public health, safety, or
6 welfare exists.
- 7 (b) The qualified public depository fails to have
8 adequate procedures and practices for the accurate
9 identification, classification, reporting, and
10 collateralization of public deposits.
- 11 (c) The custodian fails to provide or allow inspection
12 and verification of documents, reports, records, or other
13 information dealing with the pledged collateral or financial
14 information.
- 15 (d) The qualified public depository or its operating
16 subsidiary fails to provide or allow inspection and
17 verification of documents, reports, records, or other
18 information dealing with Florida public deposits, pledged
19 collateral, or financial information.
- 20 (e) The custodian fails to hold income and principal
21 payments made on securities held as collateral or fails to
22 deposit or transfer such payments pursuant to the Chief
23 Financial Officer's ~~Treasurer's~~ instructions.
- 24 (f) The qualified public depository defaults or
25 becomes insolvent.
- 26 (g) The qualified public depository fails to pay an
27 assessment.
- 28 (h) The qualified public depository fails to pay an
29 administrative penalty.
- 30 (i) The qualified public depository fails to meet
31 financial condition standards.

1 (j) The qualified public depository charges a
2 withdrawal penalty to public depositors when the qualified
3 public depository is suspended, disqualified, or withdrawn
4 from the public deposits program.

5 (k) The qualified public depository does not provide,
6 as required, the public depositor with annual confirmation
7 information on all open Florida public deposit accounts.

8 (l) The qualified public depository pledges, deposits,
9 or has issued insufficient or unacceptable collateral to meet
10 required collateral within the required time.

11 (m) Collateral, other than a proper substitution, is
12 released without the prior approval of the Chief Financial
13 Officer ~~Treasurer~~.

14 (n) The qualified public depository, custodian,
15 operating subsidiary, or agent violates any provision of the
16 act and the Chief Financial Officer ~~Treasurer~~ determines that
17 such violation may be remedied by a move of collateral.

18 (o) The qualified public depository, custodian,
19 operating subsidiary, or agent fails to timely cooperate in
20 resolving problems by the date established in written
21 communication from the Chief Financial Officer ~~Treasurer~~.

22 (p) The custodian fails to provide sufficient
23 confirmation information.

24 (q) The Federal Home Loan Bank or the qualified public
25 depository gives notification that a letter of credit will not
26 be extended or renewed and other eligible collateral equal to
27 required collateral has not been deposited within 30 days
28 after the notice or 30 days before expiration of the letter of
29 credit.

30 (r) The qualified public depository, if involved in a
31 merger, acquisition, consolidation, or other organizational

1 change, fails to notify the Chief Financial Officer ~~Treasurer~~
2 or ensure that required collateral is properly maintained by
3 the depository holding the Florida public deposits.

4 (s) Events that would bring about an administrative or
5 legal action by the Chief Financial Officer ~~Treasurer~~.

6 (7) The Chief Financial Officer ~~Treasurer~~ shall adopt
7 rules to identify forms and establish procedures for
8 collateral agreements and transactions, furnish confirmation
9 requirements, establish procedures for using an operating
10 subsidiary and agents, and clarify terms.

11 Section 323. Effective January 7, 2003, section
12 280.05, Florida Statutes, is amended to read:

13 280.05 Powers and duties of the Chief Financial
14 Officer ~~Treasurer~~.--In fulfilling the requirements of this
15 act, the Chief Financial Officer ~~Treasurer~~ has the power to
16 take the following actions he or she deems necessary to
17 protect the integrity of the public deposits program:

18 (1) Identify representative qualified public
19 depositories and furnish notification for the qualified public
20 depository oversight board selection pursuant to s. 280.071.

21 (2) Provide data for the qualified public depository
22 oversight board duties pursuant to s. 280.071 regarding:

23 (a) Establishing standards for qualified public
24 depositories and custodians.

25 (b) Evaluating requests for exceptions to standards
26 and alternative participation agreements.

27 (c) Reviewing and recommending action for qualified
28 public depository or custodian violations.

29 (3) Review, implement, monitor, evaluate, and modify
30 all or any part of the standards, policies, or recommendations
31 of the qualified public depository oversight board.

- 1 (4) Perform financial analysis of any qualified public
2 depositories.
- 3 (5) Require collateral, or increase the
4 collateral-pledging level, of any qualified public depository.
- 5 (6) Decline to accept, or reduce the reported value
6 of, collateral in order to ensure the pledging or depositing
7 of sufficient marketable collateral and acceptable letters of
8 credit.
- 9 (7) Maintain perpetual inventory of collateral and
10 perform monthly market valuations and quality ratings.
- 11 (8) Monitor and confirm collateral with custodians and
12 letter of credit issuers.
- 13 (9) Move collateral into an account established in the
14 Chief Financial Officer's ~~Treasurer's~~ name upon the occurrence
15 of one or more triggering events.
- 16 (10) Issue notice to a qualified public depository
17 that use of a custodian will be disallowed when the custodian
18 has failed to follow collateral agreement terms.
- 19 (11) Furnish written notice to custodians of
20 collateral to hold interest and principal payments made on
21 securities held as collateral and to deposit or transfer such
22 payments pursuant to the Chief Financial Officer's ~~Treasurer's~~
23 instructions.
- 24 (12) Release collateral held in the Chief Financial
25 Officer's ~~Treasurer's~~ name, subject to sale and transfer of
26 funds directly from the custodian to public depositors of a
27 withdrawing depository.
- 28 (13) Demand payment under letters of credit for any of
29 the triggering events listed in s. 280.041 and deposit the
30 funds in:
31

1 (a) The Public Deposits Trust Fund for purposes of
2 paying losses to public depositors.

3 (b) The Chief Financial Officer's ~~Treasurer's~~
4 Administrative and Investment Trust Fund for receiving payment
5 of administrative penalties.

6 (c) The Treasury Cash Deposit Trust Fund for purposes
7 of eligible collateral.

8 (14) Sell securities for the purpose of paying losses
9 to public depositors not covered by deposit insurance.

10 (15) Transfer funds directly from the custodian to
11 public depositors or the receiver in order to facilitate
12 prompt payment of claims.

13 (16) Require the filing of the following reports which
14 the Chief Financial Officer ~~Treasurer~~ shall process as
15 provided:

16 (a) Qualified public depository monthly reports and
17 schedules. The Chief Financial Officer ~~Treasurer~~ shall review
18 the reports of each qualified public depository for material
19 changes in capital accounts or changes in name, address, or
20 type of institution; record the average daily balances of
21 public deposits held; and monitor the collateral-pledging
22 levels and required collateral.

23 (b) Quarterly regulatory reports from qualified public
24 depositories. The Chief Financial Officer ~~Treasurer~~ shall
25 analyze qualified public depositories ranked in the lowest
26 category based on established financial condition criteria.

27 (c) Qualified public depository annual reports and
28 public depositor annual reports. The Chief Financial Officer
29 ~~Treasurer~~ shall compare public deposit information reported by
30 qualified public depositories and public depositors. Such
31 comparison shall be conducted for qualified public

1 depositories which are ranked in the lowest category based on
2 established financial condition criteria of record on
3 September 30. Additional comparison processes may be performed
4 as public deposits program resources permit.

5 (d) Any related documents, reports, records, or other
6 information deemed necessary by the Chief Financial Officer
7 ~~Treasurer~~ in order to ascertain compliance with this chapter.

8 (17) Verify the reports of any qualified public
9 depository relating to public deposits it holds when necessary
10 to protect the integrity of the public deposits program.

11 (18) Confirm public deposits, to the extent possible
12 under current law, when needed.

13 (19) Require at his or her discretion the filing of
14 any information or forms required under this chapter to be by
15 electronic data transmission. Such filings of information or
16 forms shall have the same enforceability as a signed writing.

17 (20) Suspend or disqualify or disqualify after
18 suspension any qualified public depository that has violated
19 any of the provisions of this chapter or of rules adopted
20 hereunder.

21 (a) Any qualified public depository that is suspended
22 or disqualified pursuant to this subsection is subject to the
23 provisions of s. 280.11(2) governing withdrawal from the
24 public deposits program and return of pledged collateral. Any
25 suspension shall not exceed a period of 6 months. Any
26 qualified public depository which has been disqualified may
27 not reapply for qualification until after the expiration of 1
28 year from the date of the final order of disqualification or
29 the final disposition of any appeal taken therefrom.

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1 (b) In lieu of suspension or disqualification, impose
2 an administrative penalty upon the qualified public depository
3 as provided in s. 280.054.

4 (c) If the Chief Financial Officer ~~Treasurer~~ has
5 reason to believe that any qualified public depository or any
6 other financial institution holding public deposits is or has
7 been violating any of the provisions of this chapter or of
8 rules adopted hereunder, he or she may issue to the qualified
9 public depository or other financial institution an order to
10 cease and desist from the violation or to correct the
11 condition giving rise to or resulting from the violation. If
12 any qualified public depository or other financial institution
13 violates a cease-and-desist or corrective order, the Chief
14 Financial Officer ~~Treasurer~~ may impose an administrative
15 penalty upon the qualified public depository or other
16 financial institution as provided in s. 280.054 or s. 280.055.
17 In addition to the administrative penalty, the Chief Financial
18 Officer ~~Treasurer~~ may suspend or disqualify any qualified
19 public depository for violation of any order issued pursuant
20 to this paragraph.

21 Section 324. Effective January 7, 2003, section
22 280.051, Florida Statutes, is amended to read:

23 280.051 Grounds for suspension or disqualification of
24 a qualified public depository.--A qualified public depository
25 may be suspended or disqualified or both if the Chief
26 Financial Officer ~~Treasurer~~ determines that the qualified
27 public depository has:

28 (1) Violated any of the provisions of this chapter or
29 any rule adopted by the Chief Financial Officer ~~Treasurer~~
30 pursuant to this chapter.

31

- 1 (2) Submitted reports containing inaccurate or
2 incomplete information regarding public deposits or collateral
3 for such deposits, capital accounts, or the calculation of
4 required collateral.
- 5 (3) Failed to maintain required collateral.
- 6 (4) Grossly misstated the market value of the
7 securities pledged as collateral.
- 8 (5) Failed to pay any administrative penalty.
- 9 (6) Failed to furnish the Chief Financial Officer
10 ~~Treasurer~~ with prompt and accurate information, or failed to
11 allow inspection and verification of any information, dealing
12 with public deposits or dealing with the exact status of its
13 capital accounts, or any other financial information that the
14 Chief Financial Officer ~~Treasurer~~ determines necessary to
15 verify compliance with this chapter or any rule adopted
16 pursuant to this chapter.
- 17 (7) Failed to furnish the Chief Financial Officer
18 ~~Treasurer~~, when the Chief Financial Officer ~~Treasurer~~
19 requested, with a power of attorney or bond power or other
20 bond assignment form required by the bond agent, bond trustee,
21 or other transferor for each issue of registered certificated
22 securities pledged.
- 23 (8) Failed to furnish any agreement, report, form, or
24 other information required to be filed pursuant to s. 280.16,
25 or when requested by the Chief Financial Officer ~~Treasurer~~.
- 26 (9) Submitted reports signed by an unauthorized
27 individual.
- 28 (10) Submitted reports without a certified or verified
29 signature, or both, if required by law.
- 30 (11) Released a security without notice or approval.
31

1 (12) Failed to execute or have the custodian execute a
2 public depository pledge agreement prior to using a custodian.

3 (13) Failed to give notification as required by s.
4 280.10.

5 Section 325. Effective January 7, 2003, section
6 280.052, Florida Statutes, is amended to read:

7 280.052 Order of suspension or disqualification;
8 procedure.--

9 (1) The suspension or disqualification of a bank or
10 savings association as a qualified public depository must be
11 by order of the Chief Financial Officer ~~Treasurer~~ and must be
12 mailed to the qualified public depository by registered or
13 certified mail.

14 (2) The Chief Financial Officer ~~Treasurer~~ shall
15 notify, by first-class mail, all public depositors that have
16 complied with s. 280.17 of any such disqualification or
17 suspension.

18 (3) The procedures for suspension or disqualification
19 shall be as set forth in chapter 120 and in the rules of the
20 Chief Financial Officer ~~Treasurer~~ adopted pursuant to this
21 section.

22 (4) Whenever the Chief Financial Officer ~~Treasurer~~
23 determines that an immediate danger to the public health,
24 safety, or welfare exists, the Chief Financial Officer
25 ~~Treasurer~~ may take any appropriate action available to her or
26 him under the provisions of chapter 120.

27 Section 326. Effective January 7, 2003, paragraphs (a)
28 and (c) of subsection (1) and paragraph (c) of subsection (2)
29 of section 280.053, Florida Statutes, are amended to read:

30 280.053 Period of suspension or disqualification;
31 obligations during period; reinstatement.--

1 (1)(a) The Chief Financial Officer ~~Treasurer~~ may
2 suspend a qualified public depository for any period that is
3 fixed in the order of suspension, not exceeding 6 months. For
4 the purposes of this section and ss. 280.051 and 280.052, the
5 effective date of suspension or disqualification is that date
6 which is set out as such in any order of suspension or
7 disqualification.

8 (c) Upon expiration of the suspension period, the bank
9 or savings association may, by order of the Chief Financial
10 Officer ~~Treasurer~~, be reinstated as a qualified public
11 depository, unless the cause of the suspension has not been
12 corrected or the bank or savings association is otherwise not
13 in compliance with this chapter or any rule adopted pursuant
14 to this chapter.

15 (2)

16 (c) Upon expiration of the disqualification period,
17 the bank or savings association may reapply for qualification
18 as a qualified public depository. If a disqualified bank or
19 savings association is purchased or otherwise acquired by new
20 owners, it may reapply to the Chief Financial Officer
21 ~~Treasurer~~ to be a qualified public depository prior to the
22 expiration date of the disqualification period. Redesignation
23 as a qualified public depository may occur only after the
24 Chief Financial Officer ~~Treasurer~~ has determined that all
25 requirements for holding public deposits under the law have
26 been met.

27 Section 327. Effective January 7, 2003, section
28 280.054, Florida Statutes, is amended to read:

29 280.054 Administrative penalty in lieu of suspension
30 or disqualification.--

31

1 (1) If the Chief Financial Officer ~~Treasurer~~ finds
2 that one or more grounds exist for the suspension or
3 disqualification of a qualified public depository, the Chief
4 Financial Officer ~~Treasurer~~ may, in lieu of suspension or
5 disqualification, impose an administrative penalty upon the
6 qualified public depository.

7 (a) With respect to any nonwillful violation, such
8 penalty may not exceed \$250 for each violation, exclusive of
9 any restitution found to be due. If a qualified public
10 depository discovers a nonwillful violation, the qualified
11 public depository shall correct the violation; and, if
12 restitution is due, the qualified public depository shall make
13 restitution upon the order of the Chief Financial Officer
14 ~~Treasurer~~ and shall pay interest on such amount at the legal
15 rate from the date of the violation. Each day a violation
16 continues constitutes a separate violation.

17 (b) With respect to any knowing and willful violation
18 of a lawful order or rule, the Chief Financial Officer
19 ~~Treasurer~~ may impose a penalty upon the qualified public
20 depository in an amount not exceeding \$1,000 for each
21 violation. If restitution is due, the qualified public
22 depository shall make restitution upon the order of the Chief
23 Financial Officer ~~Treasurer~~ and shall pay interest on such
24 amount at the legal rate. Each day a violation continues
25 constitutes a separate violation.

26 (2) The failure of a qualified public depository to
27 make restitution when due as required under this section
28 constitutes a willful violation of this chapter. However, if
29 a qualified public depository in good faith is uncertain
30 whether any restitution is due or as to the amount of
31 restitution due, it shall promptly notify the Chief Financial

1 ~~Officer~~ Treasurer of the circumstances. The failure to make
2 restitution pending a determination of whether restitution is
3 due or the amount of restitution due does not constitute a
4 violation of this chapter.

5 (3) A qualified public depository is subject to an
6 administrative penalty in an amount not exceeding the greater
7 of \$1,000 or 10 percent of the amount of withdrawal, not
8 exceeding \$10,000, if the depository fails to provide required
9 collateral using eligible collateral and prescribed collateral
10 agreements or withdraws collateral without the Chief Financial
11 Officer's ~~Treasurer's~~ approval.

12 Section 328. Effective January 7, 2003, section
13 280.055, Florida Statutes, is amended to read:

14 280.055 Cease and desist order; corrective order;
15 administrative penalty.--

16 (1) The Chief Financial Officer ~~Treasurer~~ may issue a
17 cease and desist order and a corrective order upon determining
18 that:

19 (a) A qualified public depository has requested and
20 obtained a release of pledged collateral without approval of
21 the Chief Financial Officer ~~Treasurer~~;

22 (b) A bank, savings association, or other financial
23 institution is holding public deposits without a certificate
24 of qualification issued by the Chief Financial Officer
25 ~~Treasurer~~;

26 (c) A qualified public depository pledges, deposits,
27 or arranges for the issuance of unacceptable collateral;

28 (d) A custodian has released pledged collateral
29 without approval of the Chief Financial Officer ~~Treasurer~~;

30 (e) A qualified public depository or a custodian has
31 not furnished to the Chief Financial Officer ~~Treasurer~~, when

1 the Chief Financial Officer ~~Treasurer~~ requested, a power of
2 attorney or bond power or bond assignment form required by the
3 bond agent or bond trustee for each issue of registered
4 certificated securities pledged and registered in the name, or
5 nominee name, of the qualified public depository or custodian;
6 or

7 (f) A qualified public depository; a bank, savings
8 association, or other financial institution; or a custodian
9 has committed any other violation of this chapter or any rule
10 adopted pursuant to this chapter that the Chief Financial
11 Officer ~~Treasurer~~ determines may be remedied by a cease and
12 desist order or corrective order.

13 (2) Any qualified public depository or other bank,
14 savings association, or financial institution or custodian
15 that violates a cease and desist order or corrective order of
16 the Chief Financial Officer ~~Treasurer~~ is subject to an
17 administrative penalty not exceeding \$1,000 for each violation
18 of the order. Each day the violation of the order continues
19 constitutes a separate violation.

20 Section 329. Effective January 7, 2003, subsections
21 (1) and (2) of section 280.06, Florida Statutes, are amended
22 to read:

23 280.06 Penalty for violation of law, rule, or order to
24 cease and desist or other lawful order.--

25 (1) The violation of any provision of this chapter, or
26 any order or rule of the Chief Financial Officer ~~Treasurer~~, or
27 any order to cease and desist or other lawful order is a
28 misdemeanor of the second degree, punishable as provided in s.
29 775.082 or s. 775.083.

30 (2) It is a felony of the third degree, punishable as
31 provided in s. 775.082 or s. 775.083, to knowingly and

1 willfully give false information on any form made under oath
2 and filed pursuant to this chapter with the intent to mislead
3 the Chief Financial Officer ~~Treasurer~~ in the administration or
4 enforcement of this chapter.

5 Section 330. Effective January 7, 2003, section
6 280.07, Florida Statutes, is amended to read:

7 280.07 Mutual responsibility and contingent
8 liability.--Any bank or savings association that is designated
9 as a qualified public depository and that is not insolvent
10 shall guarantee public depositors against loss caused by the
11 default or insolvency of other qualified public depositories.
12 Each qualified public depository shall execute a form
13 prescribed by the Chief Financial Officer ~~Treasurer~~ for such
14 guarantee which shall be approved by the board of directors
15 and shall become an official record of the institution.

16 Section 331. Effective January 7, 2003, subsections
17 (1), (2), (3), and (5), paragraph (e) of subsection (9),
18 paragraphs (b), (c), (d), and (e) of subsection (10),
19 paragraphs (a) and (b) of subsection (11), and subsection (12)
20 of section 280.071, Florida Statutes, are amended to read:

21 280.071 Qualified Public Depository Oversight Board;
22 purpose; identifying representative qualified public
23 depositories; member selection; responsibilities.--A Qualified
24 Public Depository Oversight Board is created comprised of six
25 members and six alternate members who represent the interests
26 of all qualified public depositories in safeguarding the
27 integrity of the public deposits program and preventing the
28 realization of loss assessments.

29 (1) On July 31 of each year and as vacancies occur,
30 the Chief Financial Officer ~~Treasurer~~ shall initiate the

31

1 selection of oversight board representation in the following
2 manner:

3 (a) Categorize eligible qualified public depositories
4 into three groups according to average asset size. Eligible
5 qualified public depositories must be in compliance with all
6 requirements and shall not be suspended, disqualified,
7 withdrawn, or under an alternative participation agreement in
8 the public deposits program.

9 (b) Identify the two qualified public depositories in
10 each of the three groups that have the greatest shares of
11 contingent liability based on the average monthly balances of
12 public deposits reported pursuant to s. 280.16.

13 (c) Send notification to the six qualified public
14 depositories that have been identified.

15 (2) Each of the six representative qualified public
16 depositories shall select a member and alternate member for
17 the oversight board and give the Chief Financial Officer
18 ~~Treasurer~~ written information on the selections within 30
19 calendar days of the Chief Financial Officer's ~~Treasurer's~~
20 notice.

21 (3) If an identified qualified public depository
22 declines to select a member, does not respond within 30
23 calendar days, or becomes ineligible, the Chief Financial
24 Officer ~~Treasurer~~ shall furnish notice to the Florida Bankers
25 Association which shall select a member and alternate member
26 to represent that average asset category within 30 calendar
27 days.

28 (5) The oversight board members and alternate members
29 shall be subject to the Chief Financial Officer's ~~Treasurer's~~
30 approval.

31

1 (9) The oversight board shall organize, communicate,
2 and conduct meetings as follows:

3 (e) Take no official action in the absence of a
4 quorum.

5 1. A quorum shall consist of the majority of voting
6 members of the oversight board.

7 2. Each member shall have one vote.

8 3. A member shall not vote on issues directly related
9 to the qualified public depository he or she represents.

10 4. The Chief Financial Officer ~~Treasurer~~ or his or her
11 representative shall vote as a member of the oversight board
12 in the absence of a quorum.

13 (10) The oversight board has the power and
14 responsibility to safeguard the integrity of the public
15 deposits program and prevent the realization of loss
16 assessments by:

17 (b) Recommending approval or rejection to the Chief
18 Financial Officer ~~Treasurer~~ for exceptions that do not meet
19 established standards. These requests for exceptions may be:

20 1. Referred by the Chief Financial Officer ~~Treasurer~~;
21 or

22 2. Submitted directly by the qualified public
23 depository seeking exception.

24 (c) Issuing approvals or rejections for alternative
25 participation agreements referred by the Chief Financial
26 Officer ~~Treasurer~~.

27 (d) Reviewing program violations and recommending that
28 the Chief Financial Officer ~~Treasurer~~ impose penalties and
29 fines or issue corrective actions and administrative orders.

30 (e) Studying public deposit program areas referred by
31 the Chief Financial Officer ~~Treasurer~~.

1 (11) Official actions of the oversight board regarding
2 the establishment of standards, exception and alternate
3 participation agreement decisions, and recommendations
4 concerning violations shall be:

5 (a) Communicated to the Chief Financial Officer
6 ~~Treasurer~~ in writing.

7 (b) Subject to approval of the Chief Financial Officer
8 ~~Treasurer~~.

9 (12) The Chief Financial Officer ~~Treasurer~~ may adopt
10 rules to establish procedures and forms for oversight board
11 member and alternate member selection and oversight board
12 functions.

13 Section 332. Effective January 7, 2003, section
14 280.08, Florida Statutes, is amended to read:

15 280.08 Procedure for payment of losses.--When the
16 Chief Financial Officer ~~Treasurer~~ determines that a default or
17 insolvency has occurred, he or she shall provide notice as
18 required in s. 280.085 and implement the following procedures:

19 (1) The Chief Financial Officer ~~Treasurer~~, in
20 cooperation with the Department of Insurance and Financial
21 Services ~~Banking and Finance~~ or the receiver of the qualified
22 public depository in default, shall ascertain the amount of
23 funds of each public depositor on deposit at such depository
24 and the amount of deposit insurance applicable to such
25 deposits.

26 (2) The potential loss to public depositors shall be
27 calculated by compiling claims received from such depositors.
28 The Chief Financial Officer ~~Treasurer~~ shall validate claims on
29 public deposit accounts which meet the requirements of s.
30 280.17 and are confirmed as provided in subsection (1).

31

1 (3)(a) The loss to public depositors shall be
2 satisfied, insofar as possible, first through any applicable
3 deposit insurance and then through demanding payment under
4 letters of credit or the sale of collateral pledged or
5 deposited by the defaulting depository. The Chief Financial
6 Officer ~~Treasurer~~ may assess qualified public depositories as
7 provided in paragraph (b) for the total loss if the demand for
8 payment or sale of collateral cannot be accomplished within 7
9 business days.

10 (b) The Chief Financial Officer ~~Treasurer~~ shall
11 provide coverage of any remaining loss by assessment against
12 the other qualified public depositories. The Chief Financial
13 Officer ~~Treasurer~~ shall determine such assessment for each
14 qualified public depository by multiplying the total amount of
15 any remaining loss to all public depositors by a percentage
16 which represents the average monthly balance of public
17 deposits held by each qualified public depository during the
18 previous 12 months divided by the total average monthly
19 balances of public deposits held by all qualified public
20 depositories, excluding the defaulting depository, during the
21 same period. The assessment calculation shall be computed to
22 six decimal places.

23 (4) Each qualified public depository shall pay its
24 assessment to the Chief Financial Officer ~~Treasurer~~ within 7
25 business days after it receives notice of the assessment. If a
26 depository fails to pay its assessment when due, the Chief
27 Financial Officer ~~Treasurer~~ shall satisfy the assessment by
28 demanding payment under letters of credit or selling
29 collateral pledged or deposited by that depository.

30 (5) The Chief Financial Officer ~~Treasurer~~ shall
31 distribute the funds to the public depositors of the qualified

1 public depository in default according to their validated
2 claims. The Chief Financial Officer ~~Treasurer~~, at his or her
3 discretion, may make partial payments to public depositors
4 that have experienced a loss of public funds which payments
5 are critical to the immediate operations of the public entity.
6 The public depositor requesting partial payment of a claim
7 shall provide the Chief Financial Officer ~~Treasurer~~ with
8 written documentation justifying the need for partial payment.

9 (6) Public depositors receiving payment under the
10 provisions of this section shall assign to the Chief Financial
11 Officer ~~Treasurer~~ any interest they may have in funds that may
12 subsequently be made available to the qualified public
13 depository in default. If the qualified public depository in
14 default or its receiver provides the funds to the Chief
15 Financial Officer ~~Treasurer~~, the Chief Financial Officer
16 ~~Treasurer~~ shall distribute the funds, plus all accrued
17 interest which has accumulated from the investment of the
18 funds, if any, to the depositories which paid assessments on
19 the same pro rata basis as the assessments were paid.

20 (7) Expenses incurred by the Chief Financial Officer
21 ~~Treasurer~~ in connection with a default or insolvency which are
22 not normally incurred by the Chief Financial Officer ~~Treasurer~~
23 in the administration of this act must be paid out of the
24 amount paid under letters of credit or proceeds from the sale
25 of collateral.

26 Section 333. Effective January 7, 2003, subsection (1)
27 of section 280.085, Florida Statutes, is amended to read:

28 280.085 Notice to claimants.--

29 (1) Upon determining the default or insolvency of a
30 qualified public depository, the Chief Financial Officer
31 ~~Treasurer~~ shall notify, by first-class mail, all public

1 depositors that have complied with s. 280.17 of such default
2 or insolvency. The notice shall direct all public depositors
3 having claims or demands against the Public Deposits Trust
4 Fund occasioned by the default or insolvency to file their
5 claims with the Chief Financial Officer ~~Treasurer~~ within 30
6 days after the date of the notice.

7 Section 334. Effective January 7, 2003, section
8 280.09, Florida Statutes, is amended to read:

9 280.09 Public Deposits Trust Fund.--

10 (1) In order to facilitate the administration of this
11 chapter, there is created the Public Deposits Trust Fund,
12 hereafter in this section designated "the fund." The proceeds
13 from the sale of securities or draw on letters of credit held
14 as collateral or from any assessment pursuant to s. 280.08
15 shall be deposited into the fund. Any administrative penalty
16 collected pursuant to this chapter shall be deposited into the
17 Chief Financial Officer's ~~Treasurer's~~ Administrative and
18 Investment Trust Fund.

19 (2) The Chief Financial Officer ~~Treasurer~~ is
20 authorized to pay any losses to public depositors from the
21 fund, and there are hereby appropriated from the fund such
22 sums as may be necessary from time to time to pay the losses.
23 The term "losses," for purposes of this chapter, shall also
24 include losses of interest or other accumulations to the
25 public depositor as a result of penalties for early withdrawal
26 required by Depository Institution Deregulatory Commission
27 Regulations or applicable successor federal laws or
28 regulations because of suspension or disqualification of a
29 qualified public depository by the Chief Financial Officer
30 ~~Treasurer~~ pursuant to s. 280.05 or because of withdrawal from
31 the public deposits program pursuant to s. 280.11. In that

1 event, the Chief Financial Officer ~~Treasurer~~ is authorized to
2 assess against the suspended, disqualified, or withdrawing
3 public depository, in addition to any amount authorized by any
4 other provision of this chapter, an administrative penalty
5 equal to the amount of the early withdrawal penalty and to pay
6 that amount over to the public depositor as reimbursement for
7 such loss. Any money in the fund estimated not to be needed
8 for immediate cash requirements shall be invested pursuant to
9 s. 18.125.

10 Section 335. Effective January 7, 2003, paragraphs (d)
11 and (e) of subsection (1) and subsections (2), (3), (4), (5),
12 and (6) of section 280.10, Florida Statutes, are amended to
13 read:

14 280.10 Effect of merger, acquisition, or
15 consolidation; change of name or address.--

16 (1) When a qualified public depository is merged into,
17 acquired by, or consolidated with a bank, savings bank, or
18 savings association that is not a qualified public depository:

19 (d) The resulting institution shall, within 90
20 calendar days after the effective date of the merger,
21 acquisition, or consolidation, deliver to the Chief Financial
22 Officer ~~Treasurer~~:

23 1. Documentation in its name as required for
24 participation in the public deposits program; or

25 2. Written notice of intent to withdraw from the
26 program as provided in s. 280.11 and a proposed effective date
27 of withdrawal which shall be within 180 days after the
28 effective date of the acquisition, merger, or consolidation of
29 the former institution.

30 (e) If the resulting institution does not meet
31 qualifications to become a qualified public depository or does

1 not submit required documentation within 90 calendar days
2 after the effective date of the merger, acquisition, or
3 consolidation, the Chief Financial Officer ~~Treasurer~~ shall
4 initiate mandatory withdrawal actions as provided in s. 280.11
5 and shall set an effective date of withdrawal that is within
6 180 days after the effective date of the acquisition, merger,
7 or consolidation of the former institution.

8 (2) When a qualified public depository disposes of any
9 of its Florida public deposits or collateral securing such
10 deposits in a manner not covered by subsection (1), the
11 qualified public depository originally holding the public
12 deposits shall be responsible for:

13 (a) Ensuring the institution receiving such public
14 deposits becomes a qualified public depository and meets
15 collateral requirements with the Chief Financial Officer
16 ~~Treasurer~~ as part of the transaction.

17 (b) Notifying the Chief Financial Officer ~~Treasurer~~
18 within 30 calendar days after the final approval by the
19 appropriate regulator.

20
21 A qualified public depository that fails to meet such
22 responsibilities shall continue to collateralize and report
23 such public deposits until the receiving institution becomes a
24 qualified public depository and collateralizes the deposits or
25 the deposits are returned to the governmental unit.

26 (3) The qualified public depository shall notify the
27 Chief Financial Officer ~~Treasurer~~ of any acquisition or merger
28 within 30 calendar days after the final approval of the
29 acquisition or merger by its appropriate regulator.

30 (4) Collateral subject to a collateral agreement may
31 not be released by the Chief Financial Officer ~~Treasurer~~ or

1 the custodian until the assumed liability is evidenced by the
2 deposit of collateral pursuant to the collateral agreement of
3 the successor entity. The reporting requirement and pledge of
4 collateral will remain in force until the Chief Financial
5 Officer ~~Treasurer~~ determines that the liability no longer
6 exists. The surviving or new qualified public depository
7 shall be responsible and liable for all of the liabilities and
8 obligations of each qualified public depository merged with or
9 acquired by it.

10 (5) Each qualified public depository shall report any
11 change of name and address to the Chief Financial Officer
12 ~~Treasurer~~ on a form provided by the Chief Financial Officer
13 ~~Treasurer~~ regardless of whether the name change is a result of
14 an acquisition, merger, or consolidation. Notification of such
15 change must be made within 30 calendar days after the
16 effective date of the change.

17 (6) The Chief Financial Officer ~~Treasurer~~ shall adopt
18 rules establishing procedures for mergers, acquisitions,
19 consolidations, and changes in name and address, providing
20 forms, and clarifying terms.

21 Section 336. Effective January 7, 2003, section
22 280.11, Florida Statutes, is amended to read:

23 280.11 Withdrawal from public deposits program; return
24 of pledged collateral.--

25 (1) A qualified public depository may withdraw from
26 the public deposits program by giving written notice to the
27 Chief Financial Officer ~~Treasurer~~. The contingent liability,
28 required collateral, and reporting requirements of the
29 depository withdrawing from the program shall continue for a
30 period of 12 months after the effective date of the
31 withdrawal, except that the filing of reports may no longer be

1 required when the average monthly balance of public deposits
2 is equal to zero. Notice of withdrawal shall be mailed or
3 delivered in sufficient time to be received by the Chief
4 Financial Officer ~~Treasurer~~ at least 30 days before the
5 effective date of withdrawal. The Chief Financial Officer
6 ~~Treasurer~~ shall timely publish the withdrawal notice in the
7 Florida Administrative Weekly which shall constitute notice to
8 all depositors. The withdrawing depository shall not receive
9 or retain public deposits after the effective date of the
10 withdrawal until such time as it again becomes a qualified
11 public depository. The Chief Financial Officer ~~Treasurer~~
12 shall, upon request, return to the depository that portion of
13 the collateral pledged that is in excess of the required
14 collateral as reported on the current public depository
15 monthly report. Losses of interest or other accumulations, if
16 any, because of withdrawal under this section shall be
17 assessed and paid as provided in s. 280.09.

18 (2) A qualified public depository which has been
19 disqualified pursuant to s. 280.051 shall not receive or
20 retain public deposits after the effective date of the
21 disqualification. Notice of and procedures for
22 disqualification shall be made in accordance with ss. 280.052
23 and 280.053. The Chief Financial Officer ~~Treasurer~~ shall, upon
24 request, return to the depository that portion of the
25 collateral pledged that is in excess of the required
26 collateral as reported on the current public depository
27 monthly report. Losses of interest or other accumulation, if
28 any, because of disqualification shall be paid as provided in
29 s. 280.09(2).

30 (3) A qualified public depository which is required to
31 withdraw from the public deposits program pursuant to s.

1 280.05(1)(b) shall not receive or retain public deposits after
2 the effective date of withdrawal. The contingent liability,
3 required collateral, and reporting requirements of the
4 withdrawing depository shall continue until the effective date
5 of withdrawal. Notice of withdrawal (order of discontinuance)
6 from the Chief Financial Officer ~~Treasurer~~ shall be mailed to
7 the qualified public depository by registered or certified
8 mail. Penalties incurred because of withdrawal from the public
9 deposits program shall be the responsibility of the
10 withdrawing depository.

11 Section 337. Effective January 7, 2003, subsection
12 (2), paragraphs (a), (b), (d), and (f) of subsection (5), and
13 subsections (6), (7), and (8) of section 280.13, Florida
14 Statutes, are amended to read:

15 280.13 Eligible collateral.--

16 (2) In addition to the securities listed in subsection
17 (1), the Chief Financial Officer ~~Treasurer~~ may, in his or her
18 discretion, allow the pledge of the following types of
19 securities. The Chief Financial Officer ~~Treasurer~~ shall, by
20 rule, define any restrictions, specific criteria, or
21 circumstances for which these instruments will be acceptable.

22 (a) Securities of, or other interests in, any open-end
23 management investment company registered under the Investment
24 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended
25 from time to time, provided the portfolio of such investment
26 company is limited to direct obligations of the United States
27 Government and to repurchase agreements fully collateralized
28 by such direct obligations of the United States Government and
29 provided such investment company takes delivery of such
30 collateral either directly or through an authorized custodian.

31 (b) Collateralized Mortgage Obligations.

- 1 (c) Real Estate Mortgage Investment Conduits.
- 2 (5) Letters of credit issued by a Federal Home Loan
3 Bank are eligible as collateral under this section provided
4 that:
- 5 (a) The letter of credit has been delivered to the
6 Chief Financial Officer ~~Treasurer~~ in the standard format
7 approved by the Chief Financial Officer ~~Treasurer~~.
- 8 (b) The letter of credit meets required conditions of:
- 9 1. Being irrevocable.
- 10 2. Being clean and unconditional and containing a
11 statement that it is not subject to any agreement, condition,
12 or qualification outside of the letter of credit and providing
13 that a beneficiary need only present the original letter of
14 credit with any amendments and the demand form to promptly
15 obtain funds, and that no other document need be presented.
- 16 3. Being issued, presentable, and payable at a Federal
17 Home Loan Bank in United States dollars. Presentation may be
18 made by the beneficiary submitting the original letter of
19 credit, including any amendments, and the demand in writing,
20 by overnight delivery.
- 21 4. Containing a statement that identifies and defines
22 the Chief Financial Officer ~~Treasurer~~ as beneficiary.
- 23 5. Containing an issue date and a date of expiration.
- 24 6. Containing a term of at least 1 year and an
25 evergreen clause that provides at least 60 days written notice
26 to the beneficiary prior to expiration date for nonrenewal.
- 27 7. Containing a statement that it is subject to and
28 governed by the laws of the State of Florida and that, in the
29 event of any conflict with other laws, the laws of the State
30 of Florida will control.
- 31

1 8. Containing a statement that the letter of credit is
2 an obligation of the Federal Home Loan Bank and is in no way
3 contingent upon reimbursement.

4 9. Any other provision found necessary under the
5 Uniform Commercial Code--Letters of Credit.

6 (d) The Federal Home Loan Bank issuing the letter of
7 credit agrees to provide confirmation upon request from the
8 Chief Financial Officer ~~Treasurer~~. Such confirmation shall be
9 provided within 15 working days after the request, in a format
10 prescribed by the Chief Financial Officer ~~Treasurer~~, and shall
11 require no identification other than the qualified public
12 depository's name and location.

13 (f) The qualified public depository, if notified by
14 the Chief Financial Officer ~~Treasurer~~, shall not be allowed to
15 use letters of credit if the Federal Home Loan Bank fails to
16 pay a draw request as provided for in the letters of credit or
17 fails to properly complete a confirmation of such letters of
18 credit.

19 (6) Cash held by the Chief Financial Officer ~~Treasurer~~
20 in the Treasury Cash Deposit Trust Fund or by a custodian is
21 eligible as collateral under this section. Interest earned on
22 cash deposits that is in excess of required collateral shall
23 be paid to the qualified public depository upon request.

24 (7) The Chief Financial Officer ~~Treasurer~~ may
25 disapprove any security or letter of credit that does not meet
26 the requirements of this section or any rule adopted pursuant
27 to this section or any security for which no current market
28 price can be obtained from a nationally recognized source
29 deemed acceptable to the Chief Financial Officer ~~Treasurer~~ or
30 cannot be converted to cash.

31

1 (8) The Chief Financial Officer ~~Treasurer~~ shall adopt
2 rules defining restrictions and special requirements for
3 eligible collateral and clarifying terms.

4 Section 338. Effective January 7, 2003, paragraphs
5 (a), (b), (d), and (e) of subsection (1) and subsection (3) of
6 section 280.16, Florida Statutes, are amended to read:

7 280.16 Requirements of qualified public depositories;
8 confidentiality.--

9 (1) In addition to any other requirements specified in
10 this chapter, qualified public depositories shall:

11 (a) Take the following actions for each public deposit
12 account:

13 1. Identify the account as a "Florida public deposit"
14 on the deposit account record with the name of the public
15 depositor or provide a unique code for the account for such
16 designation.

17 2. When the form prescribed by the Chief Financial
18 Officer ~~Treasurer~~ for acknowledgment of receipt of each public
19 deposit account is presented to the qualified public
20 depository by the public depositor opening an account, the
21 qualified public depository shall execute and return the
22 completed form to the public depositor.

23 3. When the acknowledgment of receipt form is
24 presented to the qualified public depository by the public
25 depositor due to a change of account name, account number, or
26 qualified public depository name on an existing public deposit
27 account, the qualified public depository shall execute and
28 return the completed form to the public depositor within 45
29 calendar days after such presentation.

30 4. When the acknowledgment of receipt form is
31 presented to the qualified public depository by the public

1 depositor on an account existing before July 1, 1998, the
2 qualified public depository shall execute and return the
3 completed form to the public depositor within 45 calendar days
4 after such presentation.

5 (b) Within 15 days after the end of each calendar
6 month, or when requested by the Chief Financial Officer
7 ~~Treasurer~~, submit to the Chief Financial Officer ~~Treasurer~~ a
8 written report, under oath, indicating the average daily
9 balance of all public deposits held by it during the reported
10 month, required collateral, a detailed schedule of all
11 securities pledged as collateral, selected financial
12 information, and any other information that the Chief
13 Financial Officer ~~Treasurer~~ determines necessary to administer
14 this chapter.

15 (d) Submit to the Chief Financial Officer ~~Treasurer~~
16 annually, not later than November 30, a report of all public
17 deposits held for the credit of all public depositors at the
18 close of business on September 30. Such annual report shall
19 consist of public deposit information in a report format
20 prescribed by the Chief Financial Officer ~~Treasurer~~. The
21 manner of required filing may be as a signed writing or
22 electronic data transmission, at the discretion of the Chief
23 Financial Officer ~~Treasurer~~.

24 (e) Submit to the Chief Financial Officer ~~Treasurer~~
25 not later than the date required to be filed with the federal
26 agency:

27 1. A copy of the quarterly Consolidated Reports of
28 Condition and Income, and any amended reports, required by the
29 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if
30 such depository is a bank; or

31

1 2. A copy of the Thrift Financial Report, and any
2 amended reports, required to be filed with the Office of
3 Thrift Supervision if such depository is a savings and loan
4 association.

5 (3) Any information contained in a report of a
6 qualified public depository required under this chapter or any
7 rule adopted under this chapter, together with any information
8 required of a financial institution that is not a qualified
9 public depository, shall, if made confidential by any law of
10 the United States or of this state, be considered confidential
11 and exempt from the provisions of s. 119.07(1) and not subject
12 to dissemination to anyone other than the Chief Financial
13 Officer ~~Treasurer~~ under the provisions of this chapter;
14 however, it is the responsibility of each qualified public
15 depository and each financial institution from which
16 information is required to inform the Chief Financial Officer
17 ~~Treasurer~~ of information that is confidential and the law
18 providing for the confidentiality of that information, and the
19 Chief Financial Officer ~~Treasurer~~ does not have a duty to
20 inquire into whether information is confidential.

21 Section 339. Effective January 7, 2003, paragraphs (b)
22 and (c) of subsection (2), subsections (3), (4), and (6), and
23 paragraph (c) of subsection (7) of section 280.17, Florida
24 Statutes, are amended to read:

25 280.17 Requirements for public depositors; notice to
26 public depositors and governmental units; loss of
27 protection.--In addition to any other requirement specified in
28 this chapter, public depositors shall comply with the
29 following:
30
31

1 (2) Beginning July 1, 1998, each public depositor
2 shall take the following actions for each public deposit
3 account:
4 (b) Execute a form prescribed by the Chief Financial
5 Officer ~~Treasurer~~ for identification of each public deposit
6 account and obtain acknowledgment of receipt on the form from
7 the qualified public depository at the time of opening the
8 account. Such public deposit identification and acknowledgment
9 form shall be replaced with a current form as required in
10 subsection (3). A public deposit account existing before July
11 1, 1998, must have a form completed before September 30, 1998.
12 (c) Maintain the current public deposit identification
13 and acknowledgment form as a valuable record. Such form is
14 mandatory for filing a claim with the Chief Financial Officer
15 ~~Treasurer~~ upon default or insolvency of a qualified public
16 depository.
17 (3) Each public depositor shall review the Chief
18 Financial Officer's ~~Treasurer's~~ published list of qualified
19 public depositories and ascertain the status of depositories
20 used. A public depositor shall, for status changes of
21 depositories:
22 (a) Execute a replacement public deposit
23 identification and acknowledgment form, as described in
24 subsection (2), for each public deposit account when there is
25 a merger, acquisition, name change, or other event which
26 changes the account name, account number, or name of the
27 qualified public depository.
28 (b) Move and close public deposit accounts when an
29 institution is not included in the authorized list of
30 qualified public depositories or is shown as withdrawing.
31

1 (4) Whenever public deposits are in a qualified public
2 depository that has been declared to be in default or
3 insolvent, each public depositor shall:
4 (a) Notify the Chief Financial Officer ~~Treasurer~~
5 immediately by telecommunication after receiving notice of the
6 default or insolvency from the receiver of the depository with
7 subsequent written confirmation and a copy of the notice.
8 (b) Submit to the Chief Financial Officer ~~Treasurer~~
9 for each public deposit, within 30 days after the date of
10 official notification from the Chief Financial Officer
11 ~~Treasurer~~, the following:
12 1. A claim form and agreement, as prescribed by the
13 Chief Financial Officer ~~Treasurer~~, executed under oath,
14 accompanied by proof of authority to execute the form on
15 behalf of the public depositor.
16 2. A completed public deposit identification and
17 acknowledgment form, as described in subsection (2).
18 3. Evidence of the insurance afforded the deposit
19 pursuant to the Federal Deposit Insurance Act.
20 (6) Each public depositor shall submit, not later than
21 November 30, an annual report to the Chief Financial Officer
22 ~~Treasurer~~ which shall include:
23 (a) The official name, mailing address, and federal
24 employer identification number of the public depositor.
25 (b) Verification that confirmation of public deposit
26 information as of September 30, as described in subsection
27 (5), has been completed.
28 (c) Public deposit information in a report format
29 prescribed by the Chief Financial Officer ~~Treasurer~~. The
30 manner of required filing may be as a signed writing or
31

1 | electronic data transmission, at the discretion of the Chief
2 | Financial Officer ~~Treasurer~~.

3 | (d) Confirmation that a current public deposit
4 | identification and acknowledgment form, as described in
5 | subsection (2), has been completed for each public deposit
6 | account and is in the possession of the public depositor.

7 | (7) Notices relating to the public deposits program
8 | shall be mailed to public depositors and governmental units
9 | from a list developed annually from:

10 | (c) Governmental units established during the year
11 | that filed an annual report as a new governmental unit or
12 | otherwise furnished in writing to the Chief Financial Officer
13 | ~~Treasurer~~ its official name, address, and federal employer
14 | identification number.

15 | Section 340. Effective January 7, 2003, subsection (2)
16 | of section 280.18, Florida Statutes, is amended to read:

17 | 280.18 Protection of public depositors; liability of
18 | the state.--

19 | (2) The liability of the state, the Chief Financial
20 | Officer ~~Treasurer~~, or any state agency, or any employee or
21 | agent of the state, the Chief Financial Officer ~~Treasurer~~, or
22 | a state agency, for any action taken in the performance of
23 | their powers and duties under this chapter shall be limited to
24 | that as a public depositor.

25 | Section 341. Effective January 7, 2003, section
26 | 280.19, Florida Statutes, is amended to read:

27 | 280.19 Rules.--The Chief Financial Officer ~~Treasurer~~
28 | shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
29 | administer the provisions of this chapter.

30 |
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1 Section 342. Effective January 7, 2003, paragraph (a)
2 of subsection (2) of section 282.1095, Florida Statutes, is
3 amended to read:

4 282.1095 State agency law enforcement radio system.--

5 (2)(a) The Joint Task Force on State Agency Law
6 Enforcement Communications shall consist of eight members, as
7 follows:

8 1. A representative of the Division of Alcoholic
9 Beverages and Tobacco of the Department of Business and
10 Professional Regulation who shall be appointed by the
11 secretary of the department.

12 2. A representative of the Division of Florida Highway
13 Patrol of the Department of Highway Safety and Motor Vehicles
14 who shall be appointed by the executive director of the
15 department.

16 3. A representative of the Department of Law
17 Enforcement who shall be appointed by the executive director
18 of the department.

19 4. A representative of the Fish and Wildlife
20 Conservation Commission who shall be appointed by the
21 executive director of the commission.

22 5. A representative of the Division of Law Enforcement
23 of the Department of Environmental Protection who shall be
24 appointed by the secretary of the department.

25 6. A representative of the Department of Corrections
26 who shall be appointed by the secretary of the department.

27 7. A representative of the Division of State Fire
28 Marshal of the Department of Insurance and Financial Services
29 who shall be appointed by the State Fire Marshal.

30
31

1 8. A representative of the Department of
2 Transportation who shall be appointed by the secretary of the
3 department.

4 Section 343. Effective January 7, 2003, subsections
5 (2) and (3) of section 284.02, Florida Statutes, are amended
6 to read:

7 284.02 Payment of premiums by each agency; handling of
8 funds; payment of losses and expenses.--

9 (2) All premiums paid into the fund and all moneys
10 received by the fund from investment or any other source
11 pursuant to said program shall be held by the Department of
12 Insurance and Financial Services and used for the purpose of
13 paying losses, expenses incurred in adjustment of losses,
14 premiums for reinsurance, and operating expenses.

15 (3) The Department of Insurance and Financial Services
16 is authorized to employ a director of the fund and necessary
17 administrative and clerical personnel, actuaries, consultants,
18 and adjusters to maintain, operate, and administer the fund
19 and to underwrite all certificates of insurance issued by the
20 fund. All salaries and expenses of administration and
21 operation shall be paid from the fund.

22 Section 344. Effective January 7, 2003, section
23 284.04, Florida Statutes, is amended to read:

24 284.04 Notice and information required by Department
25 of Insurance and Financial Services of all newly erected or
26 acquired state property subject to insurance.--The Department
27 of Management Services and all agencies in charge of state
28 property shall notify the Department of Insurance and
29 Financial Services of all newly erected or acquired property
30 subject to coverage as soon as erected or acquired, giving its
31 value, type of construction, location, whether inside or

1 outside of corporate limits, occupancy, and any other
2 information the Department of Insurance and Financial Services
3 may require in connection with such property. Such department
4 or agency shall also notify the Department of Insurance and
5 Financial Services immediately of any change in value or
6 occupancy of any property covered by the fund. Unless the
7 above data is submitted in writing within a reasonable time
8 following such erection, acquisition, or change, the
9 Department of Insurance and Financial Services shall provide
10 insurance coverage to the extent shown by the last
11 notification in writing to the fund or in accordance with the
12 last valuation shown by fund records. In case of disagreement
13 between the Department of Insurance and Financial Services and
14 the agency or person in charge of any covered state property
15 as to its true value, the amount of the insurance to be
16 carried thereon, the proper premium rate or rates, or amount
17 of loss settlement, the matter in disagreement shall be
18 determined by the Department of Management Services.

19 Section 345. Effective January 7, 2003, section
20 284.05, Florida Statutes, is amended to read:

21 284.05 Inspection of insured state property.--The
22 Department of Insurance and Financial Services shall inspect
23 all permanent buildings insured by the State Risk Management
24 Trust Fund, and whenever conditions are found to exist which,
25 in the opinion of the Department of Insurance and Financial
26 Services, are hazardous from the standpoint of destruction by
27 fire or other loss, the Department of Insurance and Financial
28 Services may order the same repaired or remedied, and the
29 agency, board, or person in charge of such property is
30 required to have such dangerous conditions immediately
31 repaired or remedied upon written notice from the Department

1 of Insurance and Financial Services of such hazardous
2 conditions. Such amounts as may be necessary to comply with
3 such notice or notices shall be paid by the Department of
4 Management Services or by the agency, board, or person in
5 charge of such property out of any moneys appropriated for the
6 maintenance of the respective agency or for the repairs or
7 permanent improvement of such properties or from any
8 incidental or contingent funds they may have on hand. In the
9 event of a disagreement between the Department of Insurance
10 and Financial Services and the agency, board, or person having
11 charge of such property as to the necessity of the repairs or
12 remedies ordered, the matter in disagreement shall be
13 determined by the Department of Management Services.

14 Section 346. Effective January 7, 2003, section
15 284.06, Florida Statutes, is amended to read:

16 284.06 Annual report to Governor.--The Department of
17 Insurance and Financial Services shall report annually to the
18 Governor the investigations which have been made and the
19 actions which have been taken to decrease the fire hazard of
20 the various insurable properties of the state, together with
21 its recommendations as to further safeguards and improvements.

22 Section 347. Effective January 7, 2003, section
23 284.08, Florida Statutes, is amended to read:

24 284.08 Reinsurance on excess coverage and approval by
25 Department of Management Services.--The Department of
26 Insurance and Financial Services shall determine what excess
27 coverage is necessary and may purchase reinsurance thereon
28 upon approval by the Department of Management Services.

29 Section 348. Effective January 7, 2003, section
30 284.14, Florida Statutes, is amended to read:

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1 284.14 State Risk Management Trust Fund; leasehold
2 interest.--In the event the state or any department or agency
3 thereof has acquired or hereafter acquires a leasehold
4 interest in any improved real property and by the terms and
5 provisions of said lease it is obligated to insure such
6 premises against loss by fire or other hazard to such
7 premises, it shall insure such premises in the State Risk
8 Management Trust Fund as required by the terms of said lease
9 or as required by the provisions of this chapter. No state
10 agency shall enter into or acquire any such leasehold interest
11 until the coverages required to be maintained by the
12 provisions of the lease are approved in writing by the
13 Department of Insurance and Financial Services.

14 Section 349. Effective January 7, 2003, section
15 284.17, Florida Statutes, is amended to read:

16 284.17 Rules.--The Department of Insurance and
17 Financial Services has authority to adopt rules pursuant to
18 ss. 120.536(1) and 120.54 to implement the provisions of this
19 chapter.

20 Section 350. Effective January 7, 2003, section
21 284.30, Florida Statutes, is amended to read:

22 284.30 State Risk Management Trust Fund; coverages to
23 be provided.--A state self-insurance fund, designated as the
24 "State Risk Management Trust Fund," is created to be set up by
25 the Department of Insurance and Financial Services and
26 administered with a program of risk management, which fund is
27 to provide insurance, as authorized by s. 284.33, for workers'
28 compensation, general liability, fleet automotive liability,
29 federal civil rights actions under 42 U.S.C. s. 1983 or
30 similar federal statutes, and court-awarded attorney's fees in
31 other proceedings against the state except for such awards in

1 eminent domain or for inverse condemnation or for awards by
2 the Public Employees Relations Commission. A party to a suit
3 in any court, to be entitled to have his or her attorney's
4 fees paid by the state or any of its agencies, must serve a
5 copy of the pleading claiming the fees on the Department of
6 Insurance and Financial Services; and thereafter the
7 department shall be entitled to participate with the agency in
8 the defense of the suit and any appeal thereof with respect to
9 such fees.

10 Section 351. Effective January 7, 2003, section
11 284.31, Florida Statutes, is amended to read:

12 284.31 Scope and types of coverages; separate
13 accounts.--The insurance risk management trust fund shall,
14 unless specifically excluded by the Department of Insurance
15 and Financial Services, cover all departments of the State of
16 Florida and their employees, agents, and volunteers and shall
17 provide separate accounts for workers' compensation, general
18 liability, fleet automotive liability, federal civil rights
19 actions under 42 U.S.C. s. 1983 or similar federal statutes,
20 and court-awarded attorney's fees in other proceedings against
21 the state except for such awards in eminent domain or for
22 inverse condemnation or for awards by the Public Employees
23 Relations Commission. Unless specifically excluded by the
24 Department of Insurance and Financial Services, the insurance
25 risk management trust fund shall provide fleet automotive
26 liability coverage to motor vehicles titled to the state, or
27 to any department of the state, when such motor vehicles are
28 used by community transportation coordinators performing,
29 under contract to the appropriate department of the state,
30 services for the transportation disadvantaged under part I of
31 chapter 427. Such fleet automotive liability coverage shall be

1 primary and shall be subject to the provisions of s. 768.28
2 and parts II and III of chapter 284, and applicable rules
3 adopted thereunder, and the terms and conditions of the
4 certificate of coverage issued by the Department of Insurance
5 and Financial Services.

6 Section 352. Effective January 7, 2003, section
7 284.32, Florida Statutes, is amended to read:

8 284.32 Department of Insurance and Financial Services
9 to implement and consolidate.--The Department of Insurance and
10 Financial Services is hereby authorized to effect a
11 consolidation and combination of all insurance coverages
12 provided herein into one insurance program in accordance with
13 the provisions of part I of chapter 287.

14 Section 353. Effective January 7, 2003, subsection (1)
15 of section 284.33, Florida Statutes, is amended to read:

16 284.33 Purchase of insurance, reinsurance, and
17 services.--

18 (1) The Department of Insurance and Financial Services
19 is authorized to provide insurance, specific excess insurance,
20 and aggregate excess insurance through the Department of
21 Management Services, pursuant to the provisions of part I of
22 chapter 287, as necessary to provide insurance coverages
23 authorized by this part, consistent with market availability.
24 However, the Department of Insurance and Financial Services
25 may directly purchase annuities by using a structured
26 settlement insurance consulting firm selected by the
27 department to assist in the settlement of claims being handled
28 by the Division of Risk Management. The selection of the
29 structured settlement insurance services consultant shall be
30 made by using competitive sealed proposals. The consulting
31 firm shall act as an agent of record for the department in

1 procuring the best annuity products available to facilitate
2 structured settlement of claims, considering price, insurer
3 financial strength, and the best interests of the state risk
4 management program. Purchase of annuities by the department
5 using a structured settlement method is excepted from
6 competitive sealed bidding or proposal requirements. The
7 Department of Insurance and Financial Services is further
8 authorized to purchase such risk management services,
9 including, but not limited to, risk and claims control; safety
10 management; and legal, investigative, and adjustment services,
11 as may be required and pay claims. The department may contract
12 with a service organization for such services and advance
13 money to such service organization for deposit in a special
14 checking account for paying claims made against the state
15 under the provisions of this part. The special checking
16 account shall be maintained in this state in a bank or savings
17 association organized under the laws of this state or of the
18 United States. The department may replenish such account as
19 often as necessary upon the presentation by the service
20 organization of documentation for payments of claims equal to
21 the amount of the requested reimbursement.

22 Section 354. Effective January 7, 2003, section
23 284.34, Florida Statutes, is amended to read:

24 284.34 Professional medical liability of the Board of
25 Regents and nuclear energy liability excluded.--Unless
26 specifically authorized by the Department of Insurance and
27 Financial Services, no coverages shall be provided by this
28 fund for professional medical liability insurance for the
29 Board of Regents or the physicians, officers, employees, or
30 agents of the board or for liability related to nuclear energy
31 which is ordinarily subject to the standard nuclear energy

1 liability exclusion of conventional liability insurance
2 policies. This section shall not be construed as affecting
3 the self-insurance programs of the Board of Regents
4 established pursuant to s. 240.213.

5 Section 355. Effective January 7, 2003, section
6 284.35, Florida Statutes, is amended to read:

7 284.35 Administrative personnel; expenses to be paid
8 from fund.--The Department of Insurance and Financial Services
9 is hereby authorized, in accordance with current budget and
10 personnel requirements, to employ necessary administrative and
11 clerical personnel and actuarial consultants, as necessary to
12 maintain, operate, and administer the fund. All salaries and
13 expenses of administration and operation shall be paid from
14 the fund.

15 Section 356. Effective January 7, 2003, section
16 284.37, Florida Statutes, is amended to read:

17 284.37 Premium and investment accruals used for fund
18 purposes.--All premiums paid into the fund and all moneys from
19 investments or any other source pursuant to said program shall
20 be held by the Department of Insurance and Financial Services
21 and used for the purpose of paying losses, premiums for
22 insurance, risk and claims management services, and operating
23 expenses.

24 Section 357. Effective January 7, 2003, section
25 284.385, Florida Statutes, is amended to read:

26 284.385 Reporting and handling of claims.--All
27 departments covered by the State Risk Management Trust Fund
28 under this part shall immediately report all known or
29 potential claims to the Department of Insurance and Financial
30 Services for handling, except employment complaints which have
31 not been filed with the Florida Human Relations Commission,

1 Equal Employment Opportunity Commission, or any similar
2 agency. When deemed necessary, the Department of Insurance and
3 Financial Services shall assign or reassign the claim to
4 counsel. The assigned counsel shall report regularly to the
5 Department of Insurance and Financial Services or to the
6 covered department on the status of any such claims or
7 litigation as required by the Department of Insurance and
8 Financial Services. No such claim shall be compromised or
9 settled for monetary compensation without the prior approval
10 of the Department of Insurance and Financial Services and
11 prior notification to the covered department. All departments
12 shall cooperate with the Department of Insurance and Financial
13 Services in its handling of claims. The Department of
14 Insurance and Financial Services, the Department of Management
15 Services, and the Chief Financial Officer ~~Department of~~
16 ~~Banking and Finance~~, with the cooperation of the state
17 attorneys and the clerks of the courts, shall develop a system
18 to coordinate the exchange of information concerning claims
19 for and against the state, its agencies, and its subdivisions,
20 to assist in collection of amounts due to them. The covered
21 department shall have the responsibility for the settlement of
22 any claim for injunctive or affirmative relief under 42 U.S.C.
23 s. 1983 or similar federal or state statutes. The payment of
24 a settlement or judgment for any claim covered and reported
25 under this part shall be made only from the State Risk
26 Management Trust Fund.

27 Section 358. Effective January 7, 2003, section
28 284.39, Florida Statutes, is amended to read:

29 284.39 Promulgation of rules.--The Department of
30 Insurance and Financial Services is authorized to promulgate

31

1 rules and regulations for the proper management and
2 maintenance of the fund.

3 Section 359. Effective January 7, 2003, subsections
4 (1) and (2) of section 284.40, Florida Statutes, are amended
5 to read:

6 284.40 Division of Risk Management.--

7 (1) It shall be the responsibility of the Division of
8 Risk Management of the Department of Insurance and Financial
9 Services to administer this part and the provisions of s.
10 287.131.

11 (2) The claim files maintained by the Division of Risk
12 Management shall be confidential, shall be only for the usage
13 by the Department of Insurance and Financial Services in
14 fulfilling its duties and responsibilities under this part,
15 and shall be exempt from the provisions of s. 119.07(1).

16 Section 360. Effective January 7, 2003, subsection (1)
17 of section 284.41, Florida Statutes, is amended to read:

18 284.41 Transfer of personnel and funds to the Division
19 of Risk Management.--

20 (1) All personnel and funds otherwise allocated to the
21 Department of Insurance and Financial Services for this
22 purpose are transferred to the Division of Risk Management.

23 Section 361. Effective January 7, 2003, subsection (1)
24 of section 284.42, Florida Statutes, is amended to read:

25 284.42 Reports on state insurance program.--

26 (1) The Department of Insurance and Financial
27 Services, with the Department of Management Services, shall
28 make an analysis of the state insurance program annually,
29 which shall include:

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1 (a) Complete underwriting information as to the nature
2 of the risks accepted for self-insurance and those risks that
3 are transferred to the insurance market.

4 (b) The funds allocated to the Florida Casualty Risk
5 Management Trust Fund and premiums paid for insurance through
6 the market.

7 (c) The method of handling legal matters and the cost
8 allocated.

9 (d) The method and cost of handling inspection and
10 engineering of risks.

11 (e) The cost of risk management service purchased.

12 (f) The cost of managing the State Insurance Program
13 by the Department of Insurance and Financial Services and the
14 Department of Management Services.

15 Section 362. Effective January 7, 2003, subsections
16 (4) and (7) of section 284.44, Florida Statutes, are amended
17 to read:

18 284.44 Salary indemnification costs of state
19 agencies.--

20 (4) For the purpose of administering this section, the
21 Division of Risk Management of the Department of Insurance and
22 Financial Services shall continue to pay all claims, but shall
23 be periodically reimbursed from funds of state agencies for
24 initial salary indemnification costs for which they are
25 responsible.

26 (7) If a state agency fails to pay casualty increase
27 premiums or salary indemnification reimbursements within 30
28 days after being billed, the Division of Risk Management shall
29 advise the Chief Financial Officer ~~Comptroller~~. After
30 verifying the accuracy of the billing, the Chief Financial
31 Officer ~~Comptroller~~ shall transfer the appropriate amount from

1 any available funds of the delinquent state agency to the
2 State Risk Management Trust Fund.

3 Section 363. Effective January 7, 2003, subsection (1)
4 of section 284.50, Florida Statutes, is amended to read:

5 284.50 Loss prevention program; safety coordinators;
6 Interagency Advisory Council on Loss Prevention; employee
7 recognition program.--

8 (1) The head of each department of state government,
9 except the Legislature, shall designate a safety coordinator.
10 Such safety coordinator must be an employee of the department
11 and must hold a position which has responsibilities comparable
12 to those of an employee in the Senior Management System. The
13 Department of Insurance and Financial Services shall provide
14 appropriate training to the safety coordinators to permit them
15 to effectively perform their duties within their respective
16 departments. Each safety coordinator shall, at the direction
17 of his or her department head:

18 (a) Develop and implement the loss prevention program,
19 a comprehensive departmental safety program which shall
20 include a statement of safety policy and responsibility.

21 (b) Provide for regular and periodic facility and
22 equipment inspections.

23 (c) Investigate job-related employee accidents of his
24 or her department.

25 (d) Establish a program to promote increased safety
26 awareness among employees.

27 Section 364. Effective January 7, 2003, subsection (9)
28 and paragraph (c) of subsection (16) of section 287.042,
29 Florida Statutes, are amended to read:

30 287.042 Powers, duties, and functions.--The department
31 shall have the following powers, duties, and functions:

1 (9) To furnish copies of any commodity and contractual
2 service purchasing rules to the Chief Financial Officer
3 ~~Comptroller~~ and all agencies affected thereby. The Chief
4 Financial Officer ~~Comptroller~~ shall not approve any account or
5 direct any payment of any account for the purchase of any
6 commodity or the procurement of any contractual service
7 covered by a purchasing or contractual service rule except as
8 authorized therein. The department shall furnish copies of
9 rules adopted by the department to any county, municipality,
10 or other local public agency requesting them.

11 (16)

12 (c) Agencies that sign such joint agreements are
13 financially obligated for their portion of the agreed-upon
14 funds. If any agency becomes more than 90 days delinquent in
15 paying such funds, the Department of Management Services shall
16 certify to the Chief Financial Officer ~~Comptroller~~ the amount
17 due, and the Chief Financial Officer ~~Comptroller~~ shall
18 transfer the amount due to the Grants and Donations Trust Fund
19 of the department from any of the agency's available funds.
20 The Chief Financial Officer ~~Comptroller~~ shall report all such
21 transfers and the reasons for such transfers to the Executive
22 Office of the Governor and the legislative appropriations
23 committees.

24 Section 365. Effective January 7, 2003, paragraph (a)
25 of subsection (4) of section 287.057, Florida Statutes, is
26 amended to read:

27 287.057 Procurement of commodities or contractual
28 services.--

29 (4) When the purchase price of commodities or
30 contractual services exceeds the threshold amount provided in
31 s. 287.017 for CATEGORY TWO, no purchase of commodities or

1 contractual services may be made without receiving competitive
2 sealed bids, competitive sealed proposals, or responses to an
3 invitation to negotiate or a request for a quote unless:
4 (a) The agency head determines in writing that an
5 immediate danger to the public health, safety, or welfare or
6 other substantial loss to the state requires emergency action.
7 After the agency head makes such a written determination, the
8 agency may proceed with the procurement of commodities or
9 contractual services necessitated by the immediate danger,
10 without competition. However, such emergency procurement shall
11 be made with such competition as is practicable under the
12 circumstances. The agency shall furnish copies of the written
13 determination certified under oath and any other documents
14 relating to the emergency action to the department. A copy of
15 the statement shall be furnished to the Chief Financial
16 Officer ~~Comptroller~~ with the voucher authorizing payment. The
17 individual purchase of personal clothing, shelter, or supplies
18 which are needed on an emergency basis to avoid
19 institutionalization or placement in a more restrictive
20 setting is an emergency for the purposes of this paragraph,
21 and the filing with the department of such statement is not
22 required in such circumstances. In the case of the emergency
23 purchase of insurance, the period of coverage of such
24 insurance shall not exceed a period of 30 days, and all such
25 emergency purchases shall be reported to the department.

26 Section 366. Effective January 7, 2003, subsections
27 (2) and (5) of section 287.058, Florida Statutes, are amended
28 to read:

29 287.058 Contract document.--

30 (2) The written agreement shall be signed by the
31 agency head and the contractor prior to the rendering of any

1 contractual service the value of which is in excess of the
2 threshold amount provided in s. 287.017 for CATEGORY TWO,
3 except in the case of a valid emergency as certified by the
4 agency head. The certification of an emergency shall be
5 prepared within 30 days after the contractor begins rendering
6 the service and shall state the particular facts and
7 circumstances which precluded the execution of the written
8 agreement prior to the rendering of the service. If the
9 agency fails to have the contract signed by the agency head
10 and the contractor prior to rendering the contractual service,
11 and if an emergency does not exist, the agency head shall, no
12 later than 30 days after the contractor begins rendering the
13 service, certify the specific conditions and circumstances to
14 the department as well as describe actions taken to prevent
15 recurrence of such noncompliance. The agency head may delegate
16 the certification only to other senior management agency
17 personnel. A copy of the certification shall be furnished to
18 the Chief Financial Officer ~~Comptroller~~ with the voucher
19 authorizing payment. The department shall report repeated
20 instances of noncompliance by an agency to the Auditor
21 General. Nothing in this subsection shall be deemed to
22 authorize additional compensation prohibited by s. 215.425.
23 The procurement of contractual services shall not be divided
24 so as to avoid the provisions of this section.

25 (5) Unless otherwise provided in the General
26 Appropriations Act or the substantive bill implementing the
27 General Appropriations Act, the Chief Financial Officer
28 ~~Comptroller~~ may waive the requirements of this section for
29 services which are included in s. 287.057(4)(f).

30
31

1 Section 367. Effective January 7, 2003, subsections
2 (1) and (2) of section 287.063, Florida Statutes, are amended
3 to read:

4 287.063 Deferred-payment commodity contracts; preaudit
5 review.--

6 (1)(a) When any commodity contract requires deferred
7 payments and the payment of interest, such contract shall be
8 submitted to the Chief Financial Officer ~~Comptroller~~ for the
9 purpose of preaudit review and approval prior to acceptance by
10 the state.

11 (b) Contracts executed pursuant to this subsection may
12 bear interest at a rate not to exceed an average net interest
13 cost rate which shall be computed by adding 150 basis points
14 to the 20 "bond buyer" average yield index published
15 immediately preceding the first day of the calendar month in
16 which the contract is submitted to the Chief Financial Officer
17 ~~Comptroller~~ for preaudit review and approval.

18 (2)(a) No funds appropriated shall be used to acquire
19 equipment through a lease or deferred-payment purchase
20 arrangement unless approved by the Chief Financial Officer
21 ~~Comptroller~~ as economically prudent and cost-effective.

22 (b) The Chief Financial Officer ~~Comptroller~~ shall
23 establish, by rule, criteria for approving purchases made
24 under deferred-payment contracts which require the payment of
25 interest. Criteria shall include, but not be limited to, the
26 following provisions:

27 1. No contract shall be approved in which interest
28 exceeds the statutory ceiling contained in this section.
29 However, the interest component of any master equipment
30 financing agreement entered into for the purpose of
31 consolidated financing of a deferred-payment, installment

1 sale, or lease-purchase shall be deemed to comply with the
2 interest rate limitation of this section so long as the
3 interest component of every interagency agreement under such
4 master equipment financing agreement complies with the
5 interest rate limitation of this section.

6 2. No deferred-payment purchase for less than \$30,000
7 shall be approved, unless it can be satisfactorily
8 demonstrated and documented to the Chief Financial Officer
9 ~~Comptroller~~ that failure to make such deferred-payment
10 purchase would adversely affect an agency in the performance
11 of its duties. However, the Chief Financial Officer
12 ~~Comptroller~~ may approve any deferred-payment purchase if the
13 Chief Financial Officer ~~Comptroller~~ determines that such
14 purchase is economically beneficial to the state.

15 3. No agency shall obligate an annualized amount of
16 payments for deferred-payment purchases in excess of current
17 operating capital outlay appropriations, unless specifically
18 authorized by law or unless it can be satisfactorily
19 demonstrated and documented to the Chief Financial Officer
20 ~~Comptroller~~ that failure to make such deferred-payment
21 purchase would adversely affect an agency in the performance
22 of its duties.

23 4. No contract shall be approved which extends payment
24 beyond 5 years, unless it can be satisfactorily demonstrated
25 and documented to the Chief Financial Officer ~~Comptroller~~ that
26 failure to make such deferred-payment purchase would adversely
27 affect an agency in the performance of its duties.

28 (c) The Chief Financial Officer ~~Comptroller~~ shall
29 require written justification based on need, usage, size of
30 the purchase, and financial benefit to the state for
31 deferred-payment purchases made pursuant to this subsection.

1 Section 368. Effective January 7, 2003, subsections
2 (1), (2), (3), (5), (6), (7), and (8) of section 287.064,
3 Florida Statutes, are amended to read:

4 287.064 Consolidated financing of deferred-payment
5 purchases.--

6 (1) The Division of Bond Finance of the State Board of
7 Administration and the Chief Financial Officer ~~Comptroller~~
8 shall plan and coordinate deferred-payment purchases made by
9 or on behalf of the state or its agencies or by or on behalf
10 of state community colleges participating under this section
11 pursuant to s. 240.319(4)(p). The Division of Bond Finance
12 shall negotiate and the Chief Financial Officer ~~Comptroller~~
13 shall execute agreements and contracts to establish master
14 equipment financing agreements for consolidated financing of
15 deferred-payment, installment sale, or lease purchases with a
16 financial institution or a consortium of financial
17 institutions. As used in this act, the term "deferred-payment"
18 includes installment sale and lease-purchase.

19 (a) The period during which equipment may be acquired
20 under any one master equipment financing agreement shall be
21 limited to not more than 3 years.

22 (b) Repayment of the whole or a part of the funds
23 drawn pursuant to the master equipment financing agreement may
24 continue beyond the period established pursuant to paragraph
25 (a).

26 (c) The interest rate component of any master
27 equipment financing agreement shall be deemed to comply with
28 the interest rate limitation imposed in s. 287.063 so long as
29 the interest rate component of every interagency or community
30 college agreement entered into under such master equipment
31 financing agreement complies with the interest rate limitation

1 imposed in s. 287.063. Such interest rate limitation does not
2 apply when the payment obligation under the master equipment
3 financing agreement is rated by a nationally recognized rating
4 service in any one of the three highest classifications, which
5 rating services and classifications are determined pursuant to
6 rules adopted by the Chief Financial Officer ~~Comptroller~~.

7 (2) Unless specifically exempted by the Chief
8 Financial Officer ~~Comptroller~~, all deferred-payment purchases,
9 including those made by a community college that is
10 participating under this section, shall be acquired by funding
11 through master equipment financing agreements. The Chief
12 Financial Officer ~~Comptroller~~ is authorized to exempt any
13 purchases from consolidated financing when, in his or her
14 judgment, alternative financing would be cost-effective or
15 otherwise beneficial to the state.

16 (3) The Chief Financial Officer ~~Comptroller~~ may
17 require agencies to enter into interagency agreements and may
18 require participating community colleges to enter into
19 systemwide agreements for the purpose of carrying out the
20 provisions of this act.

21 (a) The term of any interagency or systemwide
22 agreement shall expire on June 30 of each fiscal year but
23 shall automatically be renewed annually subject to
24 appropriations and deferred-payment schedules. The period of
25 any interagency or systemwide agreement shall not exceed the
26 useful life of the equipment for which the agreement was made
27 as determined by the Chief Financial Officer ~~Comptroller~~.

28 (b) The interagency or systemwide agreements may
29 include, but are not limited to, equipment costs, terms, and a
30 pro rata share of program and issuance expenses.

31

1 (5) The Chief Financial Officer ~~Comptroller~~ is
2 authorized to automatically debit each agency's funds and each
3 community college's portion of the Community College Program
4 Fund consistently with the deferred-payment schedules.

5 (6) There is created the Consolidated Payment Trust
6 Fund in the Chief Financial Officer's ~~Comptroller's~~ office for
7 the purpose of implementing the provisions of this act. All
8 funds debited from each agency and each community college may
9 be deposited in the trust fund and shall be used to meet the
10 financial obligations incurred pursuant to this act. Any
11 income from the investment of funds may be used to fund
12 administrative costs associated with this program.

13 (7) The Chief Financial Officer ~~Comptroller~~ may borrow
14 sufficient amounts from trust funds to pay issuance expenses
15 for the purposes of administering this section. Such amounts
16 shall be subject to approval of the Executive Office of the
17 Governor and subject to the notice, review, and objection
18 procedures of s. 216.177. The amounts approved pursuant to
19 this subsection are hereby appropriated for transfer to the
20 Consolidated Payment Trust Fund and appropriated from the
21 Consolidated Payment Trust Fund to pay issuance expenses.
22 Amounts loaned shall be repaid as soon as practicable not to
23 exceed the length of time obligations are issued to establish
24 the master equipment financing agreement.

25 (8) The State Board of Administration and the Chief
26 Financial Officer ~~Comptroller~~, individually, shall adopt rules
27 to implement their respective responsibilities under this
28 section.

29 Section 369. Effective January 7, 2003, paragraph (d)
30 of subsection (4) of section 287.09451, Florida Statutes, is
31 amended to read:

1 287.09451 Office of Supplier Diversity; powers,
2 duties, and functions.--
3 (4) The Office of Supplier Diversity shall have the
4 following powers, duties, and functions:
5 (d) To monitor the degree to which agencies procure
6 services, commodities, and construction from minority business
7 enterprises in conjunction with the Chief Financial Officer
8 ~~Department of Banking and Finance~~ as specified in s. 17.11.
9 Section 370. Effective January 7, 2003, section
10 287.115, Florida Statutes, is amended to read:
11 287.115 Chief Financial Officer ~~Comptroller~~; annual
12 report.--The Chief Financial Officer ~~Comptroller~~ shall submit
13 to the office of the Auditor General an annual report on those
14 contractual service contracts disallowed by the Chief
15 Financial Officer ~~Comptroller~~, which report shall include, but
16 is not limited to, the name of the user agency, the name of
17 the firm or individual from which the contractual service was
18 to be acquired, a description of the contractual service, the
19 financial terms of the contract, and the reason for rejection.
20 Section 371. Effective January 7, 2003, section
21 287.131, Florida Statutes, is amended to read:
22 287.131 Assistance of Department of Insurance and
23 Financial Services.--The Department of Insurance and Financial
24 Services shall provide the Department of Management Services
25 with technical assistance in all matters pertaining to the
26 purchase of insurance for all agencies, and shall make surveys
27 of the insurance needs of the state and all departments
28 thereof, including the benefits, if any, of self-insurance.
29 Section 372. Effective January 7, 2003, section
30 287.175, Florida Statutes, is amended to read:
31

1 287.175 Penalties.--A violation of this part or a rule
2 adopted hereunder, pursuant to applicable constitutional and
3 statutory procedures, constitutes misuse of public position as
4 defined in s. 112.313(6), and is punishable as provided in s.
5 112.317. The Chief Financial Officer ~~Comptroller~~ shall report
6 incidents of suspected misuse to the Commission on Ethics, and
7 the commission shall investigate possible violations of this
8 part or rules adopted hereunder when reported by the Chief
9 Financial Officer ~~Comptroller~~, notwithstanding the provisions
10 of s. 112.324. Any violation of this part or a rule adopted
11 hereunder shall be presumed to have been committed with
12 wrongful intent, but such presumption is rebuttable. Nothing
13 in this section is intended to deny rights provided to career
14 service employees by s. 110.227.

15 Section 373. Effective January 7, 2003, paragraph (f)
16 of subsection (5) of section 288.1045, Florida Statutes, is
17 amended to read:

18 288.1045 Qualified defense contractor tax refund
19 program.--

20 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
21 CONTRACTOR.--

22 (f) Upon approval of the tax refund pursuant to
23 paragraphs (c) and (d), the Chief Financial Officer
24 ~~Comptroller~~ shall issue a warrant for the amount included in
25 the final order. In the event of any appeal of the final
26 order, the Chief Financial Officer ~~Comptroller~~ may not issue a
27 warrant for a refund to the qualified applicant until the
28 conclusion of all appeals of the final order.

29 Section 374. Effective January 7, 2003, paragraph (g)
30 of subsection (5) of section 288.106, Florida Statutes, is
31 amended to read:

1 288.106 Tax refund program for qualified target
2 industry businesses.--
3 (5) ANNUAL CLAIM FOR REFUND.--
4 (g) Upon approval of the tax refund under paragraphs
5 (c), (d), and (e), the Chief Financial Officer ~~Comptroller~~
6 shall issue a warrant for the amount specified in the final
7 order. If the final order is appealed, the Chief Financial
8 Officer ~~Comptroller~~ may not issue a warrant for a refund to
9 the qualified target industry business until the conclusion of
10 all appeals of that order.

11 Section 375. Effective January 7, 2003, paragraph (d)
12 of subsection (5) of section 288.109, Florida Statutes, is
13 amended to read:

14 288.109 One-Stop Permitting System.--

15 (5) By January 1, 2001, the following state agencies,
16 and the programs within such agencies which require the
17 issuance of licenses, permits, and approvals to businesses,
18 must also be integrated into the One-Stop Permitting System:

19 (d) The Department of Insurance and Financial
20 Services.

21 Section 376. Effective January 7, 2003, paragraphs (b)
22 and (d) of subsection (1) and subsection (2) of section
23 288.1253, Florida Statutes, are amended to read:

24 288.1253 Travel and entertainment expenses.--

25 (1) As used in this section:

26 (b) "Entertainment expenses" means the actual,
27 necessary, and reasonable costs of providing hospitality for
28 business clients or guests, which costs are defined and
29 prescribed by rules adopted by the Office of Tourism, Trade,
30 and Economic Development, subject to approval by the Chief
31 Financial Officer ~~Comptroller~~.

1 (d) "Travel expenses" means the actual, necessary, and
2 reasonable costs of transportation, meals, lodging, and
3 incidental expenses normally incurred by a traveler, which
4 costs are defined and prescribed by rules adopted by the
5 Office of Tourism, Trade, and Economic Development, subject to
6 approval by the Chief Financial Officer ~~Comptroller~~.

7 (2) Notwithstanding the provisions of s. 112.061, the
8 Office of Tourism, Trade, and Economic Development shall adopt
9 rules by which it may make expenditures by advancement or
10 reimbursement, or a combination thereof, to:

11 (a) The Governor, the Lieutenant Governor, security
12 staff of the Governor or Lieutenant Governor, the Commissioner
13 of Film and Entertainment, or staff of the Office of Film and
14 Entertainment for travel expenses or entertainment expenses
15 incurred by such individuals solely and exclusively in
16 connection with the performance of the statutory duties of the
17 Office of Film and Entertainment.

18 (b) The Governor, the Lieutenant Governor, security
19 staff of the Governor or Lieutenant Governor, the Commissioner
20 of Film and Entertainment, or staff of the Office of Film and
21 Entertainment for travel expenses or entertainment expenses
22 incurred by such individuals on behalf of guests, business
23 clients, or authorized persons as defined in s. 112.061(2)(e)
24 solely and exclusively in connection with the performance of
25 the statutory duties of the Office of Film and Entertainment.

26 (c) Third-party vendors for the travel or
27 entertainment expenses of guests, business clients, or
28 authorized persons as defined in s. 112.061(2)(e) incurred
29 solely and exclusively while such persons are participating in
30 activities or events carried out by the Office of Film and
31

1 Entertainment in connection with that office's statutory
2 duties.
3
4 The rules shall be subject to approval by the Chief Financial
5 Officer ~~Comptroller~~ prior to promulgation. The rules shall
6 require the submission of paid receipts, or other proof of
7 expenditure prescribed by the Chief Financial Officer
8 ~~Comptroller~~, with any claim for reimbursement and shall
9 require, as a condition for any advancement of funds, an
10 agreement to submit paid receipts or other proof of
11 expenditure and to refund any unused portion of the
12 advancement within 15 days after the expense is incurred or,
13 if the advancement is made in connection with travel, within
14 10 working days after the traveler's return to headquarters.
15 However, with respect to an advancement of funds made solely
16 for travel expenses, the rules may allow paid receipts or
17 other proof of expenditure to be submitted, and any unused
18 portion of the advancement to be refunded, within 10 working
19 days after the traveler's return to headquarters. Operational
20 or promotional advancements, as defined in s. 288.35(4),
21 obtained pursuant to this section shall not be commingled with
22 any other state funds.

23 Section 377. Effective January 7, 2003, subsection
24 (10) of section 288.709, Florida Statutes, is amended to read:

25 288.709 Powers of the Florida Black Business
26 Investment Board.--The board shall have all the powers
27 necessary or convenient to carry out and effectuate the
28 purposes and provisions of ss. 9-21, chapter 85-104, Laws of
29 Florida, including, but not limited to, the power to:

30 (10) Invest any funds held in reserves or sinking
31 funds, or any funds not required for immediate disbursement,

1 in such investments as may be authorized for trust funds under
2 s. 215.47; provided, such investments will be made on behalf
3 of the board by the Office of Chief Financial Officer ~~State~~
4 ~~Treasurer~~ or by another trustee appointed for that purpose.

5 Section 378. Effective January 7, 2003, paragraph (b)
6 of subsection (4) of section 288.712, Florida Statutes, is
7 amended to read:

8 288.712 Florida guarantor funds.--

9 (4)

10 (b) If the board chooses to establish a loan guaranty
11 program, it shall utilize the Black Business Loan Guaranty
12 Trust Fund in the State Treasury, consisting of moneys
13 deposited or credited to the Black Business Loan Guaranty
14 Trust Fund pursuant to appropriation made by law; any grants,
15 gifts, and contributions received pursuant to ss. 9-21,
16 chapter 85-104, Laws of Florida; all moneys recovered
17 following defaults; and any other moneys obtained by the board
18 for this purpose. The Black Business Loan Guaranty Trust Fund
19 shall be administered by the board in trust for the purposes
20 of this section and shall at no time be part of general public
21 funds under the following procedures:

22 1. The board shall utilize the Black Business Loan
23 Guaranty Program Administrative and Loss Reserve Fund in the
24 State Treasury, consisting of all premiums charged and
25 collected in accordance with this section and any income
26 earned from the moneys in the account. All expenses of the
27 board in carrying out the purposes of this subsection shall be
28 paid from the Black Business Loan Guaranty Program
29 Administrative and Loss Reserve Fund. Any moneys to the
30 credit of the Black Business Loan Guaranty Program
31 Administrative and Loss Reserve Fund in excess of the amount

1 necessary to fund the board's activity shall be held as a loss
2 reserve to pay claims arising from defaults on loans
3 underwritten in accordance with this section.

4 2. Any claims against the state arising from defaults
5 shall be payable initially from the Black Business Loan
6 Guaranty Program Administrative and Loss Reserve Fund and,
7 secondarily, from the Black Business Loan Guaranty Trust Fund.

8 3. The board as loan guarantor may exercise all rights
9 and powers of a company authorized by the Department of
10 Insurance and Financial Services to guarantee loans but shall
11 not be subject to any requirements of an insurance company
12 under the Florida Insurance Code, nor to any rules of the
13 Department of Insurance and Financial Services; however, the
14 board shall refer to the insurance code and rules thereunder
15 when designing and administering such program. The board
16 shall follow sound actuarial principles when administering
17 this program. The board shall establish a premium for the loan
18 guaranty and such rules as may be necessary to carry out the
19 purposes of this section.

20 4. The board may guarantee no more than 20 percent of
21 the principal of a loan to a black business enterprise.

22 Section 379. Effective January 7, 2003, paragraph (a)
23 of subsection (1) of section 288.776, Florida Statutes, is
24 amended to read:

25 288.776 Board of directors; powers and duties.--

26 (1)(a) The corporation shall have a board of directors
27 consisting of 15 members representing all geographic areas of
28 the state. Minority and gender representation must be
29 considered when making appointments to the board. The board
30 membership must include:

31

1 1. A representative of the following businesses, all
2 of which must be registered to do business in this state: a
3 foreign bank, a state bank, a federal bank, an insurance
4 company involved in covering trade financing risks, and a
5 small or medium-sized exporter.

6 2. The following persons or their designee: the
7 President of Enterprise Florida, Inc., the Commissioner of
8 Financial Services Comptroller, the Secretary of State, a
9 senior official of the United States Department of Commerce,
10 and the chair of the Florida Black Business Investment Board.

11 Section 380. Effective January 7, 2003, section
12 288.778, Florida Statutes, is amended to read:

13 288.778 Department of Insurance and Financial Services
14 ~~Banking and Finance~~.--The Department of Insurance and
15 Financial Services ~~Banking and Finance~~ shall review the
16 corporation's activities once every 24 months to determine
17 compliance with this part and other related laws and rules and
18 to evaluate the corporation's operations. The department
19 shall prepare a report based on its review and evaluation with
20 recommendation for any corrective action. The president shall
21 submit to the department regular reports on the corporation's
22 activities. The content and frequency of such reports shall
23 be determined by the department. The department shall charge
24 a fee for conducting the review and evaluation and preparing
25 the related report, which fee shall not be in excess of the
26 examination fee paid by financial institutions chartered or
27 licensed under the financial institutions code of this state.

28 Section 381. Effective January 7, 2003, paragraph (e)
29 of subsection (3) and paragraph (b) of subsection (10) of
30 section 288.99, Florida Statutes, are amended to read:

31 288.99 Certified Capital Company Act.--

1 (3) DEFINITIONS.--As used in this section, the term:
2 (e) "Department" means the Department of Insurance and
3 Financial Services ~~Banking and Finance~~.

4 (10) DECERTIFICATION.--

5 (b) Nothing contained in this subsection shall be
6 construed to limit the department's ~~Comptroller's~~ authority to
7 conduct audits of certified capital companies as deemed
8 appropriate and necessary.

9 Section 382. Effective January 7, 2003, paragraph (c)
10 of subsection (1) of section 289.051, Florida Statutes, is
11 amended to read:

12 289.051 Membership of financial institutions; loans to
13 corporation, limitations.--

14 (1) Any financial institution may request membership
15 in the corporation by making application to the board of
16 directors on such form and in such manner as said board of
17 directors may require, and membership shall become effective
18 upon acceptance of such application by said board. Each
19 member of the corporation shall make loans to the corporation
20 as and when called upon by it to do so, on such terms and
21 other conditions as shall be approved from time to time by the
22 board of directors, subject to the following conditions:

23 (c) The total amount outstanding on loans to the
24 corporation made by any member at any one time, when added to
25 the amount of the investment in the capital stock of the
26 corporation then held by such member, shall not exceed:

27 1. Twenty percent of the total amount then outstanding
28 on loans to the corporation by all members, including, in said
29 total amount outstanding, amounts validly called for loan but
30 not yet loaned.

31

1 2. The following limit, to be determined as of the
2 time such member becomes a member on the basis of the audited
3 balance sheet of such member at the close of its fiscal year
4 immediately preceding its application for membership, or, in
5 the case of an insurance company, its last annual statement to
6 the Department of Insurance and Financial Services: 2.5
7 percent of the capital and surplus of commercial banks and
8 trust companies; 0.5 percent of the total outstanding loans
9 made by savings and loan associations and building and loan
10 associations; 2.5 percent of the capital and unassigned
11 surplus of stock insurance companies, except fire insurance
12 companies; 2.5 percent of the unassigned surplus of mutual
13 insurance companies, except fire insurance companies; 0.1
14 percent of the assets of fire insurance companies; and such
15 limits as may be approved by the board of directors of the
16 corporation for other financial institutions.

17 Section 383. Effective January 7, 2003, subsection (1)
18 of section 289.081, Florida Statutes, is amended to read:

19 289.081 Amendments to articles of incorporation.--

20 (1) The articles of incorporation may be amended by
21 the votes of the stockholders and the members of the
22 corporation, voting separately by classes, and such amendments
23 shall require approval by the affirmative vote of two-thirds
24 of the votes to which the stockholders shall be entitled and
25 two-thirds of the votes to which the members shall be
26 entitled. No amendment of the articles of incorporation which
27 is inconsistent with the general purposes expressed herein, or
28 which authorizes any additional class of capital stock to be
29 issued, or which eliminates or curtails the right of the
30 Department of Insurance and Financial Services ~~Banking and~~
31 ~~Finance~~ to examine the corporation or the obligation of the

1 corporation to make reports as provided in s. 289.121, shall
2 be made. No amendment of the articles of incorporation which
3 increases the obligation of a member to make loans to the
4 corporation, or makes any change in the principal amount,
5 interest rate, maturity date, or in the security or credit
6 position of any outstanding loan of a member to the
7 corporation, or affects a member's right to withdraw from
8 membership as provided herein, or affects a member's voting
9 rights as provided herein, shall be made without the consent
10 of each member affected by such amendment.

11 Section 384. Effective January 7, 2003, section
12 289.121, Florida Statutes, is amended to read:

13 289.121 Periodic examinations; reports.--The
14 corporation shall be examined at least once annually by the
15 Department of Insurance and Financial Services ~~Banking and~~
16 ~~Finance~~ and shall make reports of its condition not less than
17 annually to said department and more frequently upon call of
18 the department, which in turn shall make copies of such
19 reports available to the ~~Department of Insurance and the~~
20 Governor; and the corporation shall also furnish such other
21 information as may from time to time be required by the
22 Department of Insurance and Financial Services ~~Banking and~~
23 ~~Finance~~ and Department of State. The corporation shall pay
24 the actual cost of said examinations. The Department of
25 Insurance and Financial Services ~~Banking and Finance~~ shall
26 exercise the same power and authority over corporations
27 organized under this act as is exercised over financial
28 institutions under the provisions of the financial
29 institutions codes, when such codes are not in conflict with
30 this act.

31

1 Section 385. Effective January 7, 2003, section
2 292.085, Florida Statutes, is amended to read:

3 292.085 Department of Veterans' Affairs Tobacco
4 Settlement Trust Fund.--

5 (1) The Department of Veterans' Affairs Tobacco
6 Settlement Trust Fund is created within that department. Funds
7 to be credited to the trust fund shall consist of funds
8 disbursed, by nonoperating transfer, from the Chief Financial
9 Officer's ~~Department of Banking and Finance~~ Tobacco Settlement
10 Clearing Trust Fund in amounts equal to the annual
11 appropriations made from this trust fund.

12 (2) Notwithstanding the provisions of s. 216.301 and
13 pursuant to s. 216.351, any unencumbered balance in the trust
14 fund at the end of any fiscal year and any encumbered balance
15 remaining undisbursed on December 31 of the same calendar year
16 shall revert to the Chief Financial Officer's ~~Department of~~
17 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund.

18 Section 386. Effective January 7, 2003, section
19 313.02, Florida Statutes, is amended to read:

20 313.02 Bond.--Every harbormaster appointed for any
21 port shall give an approved bond in the sum of \$500, payable
22 to the Governor of the state, for the faithful performance of
23 the harbormaster's duty, such bond to be approved by the
24 county commissioners of the county in which the port is
25 situated, and by the Chief Financial Officer ~~Department of~~
26 ~~Banking and Finance~~, and to be filed with the Department of
27 State.

28 Section 387. Effective January 7, 2003, section
29 314.02, Florida Statutes, is amended to read:

30 314.02 Bond.--Each harbormaster so appointed shall
31 enter into a bond in the penal sum of \$2,000, with two or more

1 sureties, payable to the Governor of the state and the
2 Governor's successors in office, conditioned for the faithful
3 discharge of the duties of the harbormaster's office, by the
4 harbormaster and his or her deputies, and for the payment of
5 any damage any person may sustain in consequence of any
6 wrongful act of such officer or deputy under color of the
7 harbormaster's office; such bond to be approved by the county
8 commissioners of the county in which is situated said port and
9 by the Chief Financial Officer ~~Department of Banking and~~
10 ~~Finance~~, and to be filed with the Department of State.

11 Section 388. Effective January 7, 2003, paragraph (b)
12 of subsection (5) of section 316.3025, Florida Statutes, is
13 amended to read:

14 316.3025 Penalties.--

15 (5)

16 (b) All penalties imposed and collected under this
17 section by any state agency having jurisdiction shall be paid
18 to the Chief Financial Officer ~~Treasurer~~, who shall credit the
19 total amount collected to the State Transportation Trust Fund
20 for use in repairing and maintaining the roads of this state.

21 Section 389. Effective January 7, 2003, subsection (6)
22 of section 316.545, Florida Statutes, is amended to read:

23 316.545 Weight and load unlawful; special fuel and
24 motor fuel tax enforcement; inspection; penalty; review.--

25 (6) Any officer or agent collecting the penalties
26 herein imposed shall give to the owner or driver of the
27 vehicle an official receipt for all penalties collected. Such
28 officers or agents of the state departments shall cooperate
29 with the owners or drivers of motor vehicles so as not to
30 delay unduly the vehicles. All penalties imposed and collected
31 under this section by any state agency having jurisdiction

1 shall be paid to the Chief Financial Officer ~~Treasurer~~, who
2 shall credit the total amount thereof to the State
3 Transportation Trust Fund, which shall be used to repair and
4 maintain the roads of this state and to enforce this section.

5 Section 390. Effective January 7, 2003, paragraph (c)
6 of subsection (5) of section 320.02, Florida Statutes, is
7 amended to read:

8 320.02 Registration required; application for
9 registration; forms.--

10 (5)

11 (c) For purposes of providing proof of purchase of
12 required insurance coverage under this subsection, the
13 Department of Insurance and Financial Services shall require
14 that uniform proof-of-purchase cards specified by the
15 Department of Highway Safety and Motor Vehicles be furnished
16 by insurers writing motor vehicle liability insurance in this
17 state. Any person altering or counterfeiting such a card or
18 making a false affidavit in order to furnish false proof or to
19 knowingly permit another person to furnish false proof is
20 guilty of a misdemeanor of the first degree, punishable as
21 provided in s. 775.082 or s. 775.083.

22 Section 391. Effective January 7, 2003, subsection (5)
23 of section 320.081, Florida Statutes, is amended to read:

24 320.081 Collection and distribution of annual license
25 tax imposed on the following type units.--

26 (5) The department shall keep records showing the
27 total number of stickers issued to each type unit governed by
28 this section, the total amount of license taxes collected, and
29 the county or city wherein each such unit is located and shall
30 from month to month certify to the Chief Financial Officer
31 ~~Comptroller~~ the amount derived from license taxes in each

1 county and each city within the county. Such amount, less the
2 amount of \$1.50 collected on each license, shall be paid to
3 the counties and cities within the counties wherein the unit
4 or units are located as follows: one-half to the district
5 school board and the remainder either to the board of county
6 commissioners, for units which are located within the
7 unincorporated areas of the county, or to any city within such
8 county, for units which are located within its corporate
9 limits. Payment shall be by warrant drawn by the Chief
10 Financial Officer ~~Comptroller~~ upon the treasury, which amount
11 is hereby appropriated monthly out of the License Tax
12 Collection Trust Fund.

13 Section 392. Effective January 7, 2003, paragraphs (b)
14 and (c) of subsection (5) of section 320.20, Florida Statutes,
15 are amended to read:

16 320.20 Disposition of license tax moneys.--The revenue
17 derived from the registration of motor vehicles, including any
18 delinquent fees and excluding those revenues collected and
19 distributed under the provisions of s. 320.081, must be
20 distributed monthly, as collected, as follows:

21 (5)

22 (b) The Chief Financial Officer ~~State Comptroller~~ each
23 month shall deposit in the State Transportation Trust Fund an
24 amount, drawn from other funds in the State Treasury which are
25 not immediately needed or are otherwise in excess of the
26 amount necessary to meet the requirements of the State
27 Treasury, which when added to such remaining revenues each
28 month will equal one-twelfth of the amount of the anticipated
29 annual revenues to be deposited in the State Transportation
30 Trust Fund under paragraph (a) as estimated by the most recent
31 revenue estimating conference held pursuant to s. 216.136(3).

1 The transfers required hereunder may be suspended by action of
2 the Legislative Budget Commission in the event of a
3 significant shortfall of state revenues.

4 (c) In any month in which the remaining revenues
5 derived from the registration of motor vehicles exceed
6 one-twelfth of those anticipated annual remaining revenues as
7 determined by the revenue estimating conference, the excess
8 shall be credited to those state funds in the State Treasury
9 from which the amount was originally drawn, up to the amount
10 which was deposited in the State Transportation Trust Fund
11 under paragraph (b). A final adjustment must be made in the
12 last months of a fiscal year so that the total revenue
13 deposited in the State Transportation Trust Fund each year
14 equals the amount derived from the registration of motor
15 vehicles, less the amount distributed under subsection (1).
16 For the purposes of this paragraph and paragraph (b), the term
17 "remaining revenues" means all revenues deposited into the
18 State Transportation Trust Fund under paragraph (a) and
19 subsections (2) and (3). In order that interest earnings
20 continue to accrue to the General Revenue Fund, the Department
21 of Transportation may not invest an amount equal to the
22 cumulative amount of funds deposited in the State
23 Transportation Trust Fund under paragraph (b) less funds
24 credited under this paragraph as computed on a monthly basis.
25 The amounts to be credited under this and the preceding
26 paragraph must be calculated and certified to the Chief
27 Financial Officer ~~Comptroller~~ by the Executive Office of the
28 Governor.

29 Section 393. Effective January 7, 2003, subsection (1)
30 of section 320.71, Florida Statutes, is amended to read:

31

1 320.71 Nonresident motor vehicle, mobile home, or
2 recreational vehicle dealer's license.--

3 (1) Any person who is a nonresident of the state, who
4 does not have a dealer's contract from the manufacturer or
5 manufacturer's distributor of motor vehicles, mobile homes, or
6 recreational vehicles authorizing the sale thereof in definite
7 Florida territory, and who sells or engages in the business of
8 selling said vehicles at retail within the state shall
9 register with the Department of Revenue for a sales tax dealer
10 registration number and comply with chapter 212, and pay a
11 license tax of \$2,000 per annum in each county where such
12 sales are made; \$1,250 of said tax shall be transmitted to the
13 Chief Financial Officer ~~Department of Banking and Finance~~ to
14 be deposited in the General Revenue Fund of the state, and
15 \$750 thereof shall be returned to the county. The license tax
16 shall cover the period from January 1 to the following
17 December 31, and no such license shall be issued for any
18 fractional part of a year.

19 Section 394. Effective January 7, 2003, subsection (2)
20 of section 320.781, Florida Statutes, is amended to read:

21 320.781 Mobile Home and Recreational Vehicle
22 Protection Trust Fund.--

23 (2) Beginning October 1, 1990, the department shall
24 charge and collect an additional fee of \$1 for each new mobile
25 home and new recreational vehicle title transaction for which
26 it charges a fee. This additional fee shall be deposited into
27 the trust fund. The Department of Highway Safety and Motor
28 Vehicles shall charge a fee of \$40 per annual dealer and
29 manufacturer license and license renewal, which shall be
30 deposited into the trust fund. The sums deposited in the trust
31 fund shall be used exclusively for carrying out the purposes

1 of this section. These sums may be invested and reinvested by
2 the Chief Financial Officer ~~Treasurer~~ under the same
3 limitations as apply to investment of other state funds, with
4 all interest from these investments deposited to the credit of
5 the trust fund.

6 Section 395. Effective January 7, 2003, subsection (5)
7 of section 322.21, Florida Statutes, is amended to read:

8 322.21 License fees; procedure for handling and
9 collecting fees.--

10 (5) The department shall collect and transmit all fees
11 received by it under this section to the Chief Financial
12 Officer ~~Treasurer~~ to be placed in the General Revenue Fund of
13 the state, and sufficient funds for the necessary expenses of
14 the department shall be included in the appropriations act.
15 The fees shall be used for the maintenance and operation of
16 the department.

17 Section 396. Effective January 7, 2003, subsection (1)
18 of section 324.032, Florida Statutes, is amended to read:

19 324.032 Manner of proving financial responsibility;
20 for-hire passenger transportation vehicles.--

21 (1) Notwithstanding the provisions of s. 324.031, a
22 person who is either the owner or a lessee required to
23 maintain insurance under s. 324.021(9)(b) and who operates at
24 least 300 taxicabs, limousines, jitneys, or any other for-hire
25 passenger transportation vehicles may prove financial
26 responsibility by satisfying the following:

27 (a) Furnishing satisfactory evidence of holding a
28 motor vehicle liability policy as defined in s. 324.031; or

29 (b) Complying with the provisions of s. 324.171, such
30 compliance to be demonstrated by maintaining at its principal
31 place of business an audited financial statement, prepared in

1 accordance with generally accepted accounting principles, and
2 providing to the department a certification issued by a
3 certified public accountant that the applicant's net worth is
4 at least equal to the requirements of s. 324.171 as determined
5 by the Department of Insurance and Financial Services,
6 including claims liabilities in an amount certified as
7 adequate by a Fellow of the Casualty Actuarial Society.

8
9 Upon request by the department, the applicant must provide the
10 department at the applicant's principal place of business in
11 this state access to the applicant's underlying financial
12 information and financial statements that provide the basis of
13 the certified public accountant's certification. The
14 applicant shall reimburse the requesting department for all
15 reasonable costs incurred by it in reviewing the supporting
16 information. The maximum amount of self-insurance permissible
17 under this subsection is \$100,000 and must be stated on a
18 per-occurrence basis, and the applicant shall maintain
19 adequate excess insurance issued by an authorized or eligible
20 insurer licensed or approved by the Department of Insurance
21 and Financial Services. All risks self-insured shall remain
22 with the owner or lessee providing it, and the risks are not
23 transferable to any other person, unless a policy complying
24 with paragraph (a) is obtained.

25 Section 397. Effective January 7, 2003, paragraph (b)
26 of subsection (1) of section 324.171, Florida Statutes, is
27 amended to read:

28 324.171 Self-insurer.--

29 (1) Any person may qualify as a self-insurer by
30 obtaining a certificate of self-insurance from the department
31 which may, in its discretion and upon application of such a

1 person, issue said certificate of self-insurance when such
2 person has satisfied the requirements of this section to
3 qualify as a self-insurer under this section:

4 (b) A person, including any firm, partnership,
5 association, corporation, or other person, other than a
6 natural person, shall:

7 1. Possess a net unencumbered worth of at least
8 \$40,000 for the first motor vehicle and \$20,000 for each
9 additional motor vehicle; or

10 2. Maintain sufficient net worth, as determined
11 annually by the department, pursuant to rules promulgated by
12 the department, with the assistance of the Department of
13 Insurance and Financial Services, to be financially
14 responsible for potential losses. The rules shall take into
15 consideration excess insurance carried by the applicant. The
16 department's determination shall be based upon reasonable
17 actuarial principles considering the frequency, severity, and
18 loss development of claims incurred by casualty insurers
19 writing coverage on the type of motor vehicles for which a
20 certificate of self-insurance is desired.

21 Section 398. Effective January 7, 2003, paragraph (d)
22 of subsection (2) of section 326.006, Florida Statutes, is
23 amended to read:

24 326.006 Powers and duties of division.--

25 (2) The division has the power to enforce and ensure
26 compliance with the provisions of this chapter and rules
27 adopted under this chapter relating to the sale and ownership
28 of yachts and ships. In performing its duties, the division
29 has the following powers and duties:

30 (d) Notwithstanding any remedies available to a yacht
31 or ship purchaser, if the division has reasonable cause to

1 believe that a violation of any provision of this chapter or
2 rule adopted under this chapter has occurred, the division may
3 institute enforcement proceedings in its own name against any
4 broker or salesperson or any of his or her assignees or
5 agents, or against any unlicensed person or any of his or her
6 assignees or agents, as follows:

7 1. The division may permit a person whose conduct or
8 actions are under investigation to waive formal proceedings
9 and enter into a consent proceeding whereby orders, rules, or
10 letters of censure or warning, whether formal or informal, may
11 be entered against the person.

12 2. The division may issue an order requiring the
13 broker or salesperson or any of his or her assignees or
14 agents, or requiring any unlicensed person or any of his or
15 her assignees or agents, to cease and desist from the unlawful
16 practice and take such affirmative action as in the judgment
17 of the division will carry out the purposes of this chapter.

18 3. The division may bring an action in circuit court
19 on behalf of a class of yacht or ship purchasers for
20 declaratory relief, injunctive relief, or restitution.

21 4. The division may impose a civil penalty against a
22 broker or salesperson or any of his or her assignees or
23 agents, or against an unlicensed person or any of his or her
24 assignees or agents, for any violation of this chapter or a
25 rule adopted under this chapter. A penalty may be imposed for
26 each day of continuing violation, but in no event may the
27 penalty for any offense exceed \$10,000. All amounts collected
28 must be deposited with the Chief Financial Officer ~~Treasurer~~
29 to the credit of the Division of Florida Land Sales,
30 Condominiums, and Mobile Homes Trust Fund. If a broker,
31 salesperson, or unlicensed person working for a broker, fails

1 to pay the civil penalty, the division shall thereupon issue
2 an order suspending the broker's license until such time as
3 the civil penalty is paid or may pursue enforcement of the
4 penalty in a court of competent jurisdiction. The order
5 imposing the civil penalty or the order of suspension may not
6 become effective until 20 days after the date of such order.
7 Any action commenced by the division must be brought in the
8 county in which the division has its executive offices or in
9 the county where the violation occurred.

10 Section 399. Effective January 7, 2003, subsections
11 (8) and (24) of section 331.303, Florida Statutes, are amended
12 to read:

13 331.303 Definitions.--

14 (8) "Entertainment expenses" means the actual,
15 necessary, and reasonable costs of providing hospitality for
16 business clients or guests, which costs are defined and
17 prescribed by rules adopted by the authority, subject to
18 approval by the Chief Financial Officer ~~Comptroller~~.

19 (24) "Travel expenses" means the actual, necessary,
20 and reasonable costs of transportation, meals, lodging, and
21 incidental expenses normally incurred by a traveler, which
22 costs are defined and prescribed by rules adopted by the
23 authority, subject to approval by the Chief Financial Officer
24 ~~Comptroller~~.

25 Section 400. Effective January 7, 2003, subsection (2)
26 of section 331.309, Florida Statutes, is amended to read:

27 331.309 Treasurer; depositories; fiscal agent.--

28 (2) The board is authorized to select as depositories
29 in which the funds of the board and of the authority shall be
30 deposited any qualified public depository as defined in s.
31 280.02, upon such terms and conditions as to the payment of

1 interest by such depository upon the funds so deposited as the
2 board may deem just and reasonable. Funds of the authority may
3 also be deposited with the Florida Commercial Space Financing
4 Corporation created by s. 331.407. The funds of the authority
5 may be kept in or removed from the State Treasury upon written
6 notification from the chair of the board to the Chief
7 Financial Officer ~~State Comptroller~~.

8 Section 401. Effective January 7, 2003, subsection (2)
9 of section 331.3101, Florida Statutes, is amended to read:

10 331.3101 Spaceport Florida Authority; travel and
11 entertainment expenses.--

12 (2) The rules shall be subject to approval by the
13 Chief Financial Officer ~~Comptroller~~ prior to promulgation.
14 The rules shall require the submission of paid receipts, or
15 other proof prescribed by the Chief Financial Officer
16 ~~Comptroller~~, with any claim for reimbursement, and shall
17 require, as a condition for any advancement, an agreement to
18 submit paid receipts or other proof and to refund any unused
19 portion of the advancement within 15 days after the expense is
20 incurred or, if the advancement is made in connection with
21 travel, within 15 days after completion of the travel.
22 However, with respect to an advancement made solely for travel
23 expenses, the rules may allow paid receipts or other proof to
24 be submitted, and any unused portion of the advancement to be
25 refunded, within 30 days after completion of the travel.

26 Section 402. Effective January 7, 2003, section
27 331.348, Florida Statutes, is amended to read:

28 331.348 Investment of funds.--The board may in its
29 discretion invest funds of the authority through the Chief
30 Financial Officer ~~Treasurer~~ or in:

31

1 (1) Direct obligations of or obligations guaranteed by
2 the United States or for the payment of the principal and
3 interest of which the faith and credit of the United States is
4 pledged;

5 (2) Bonds or notes issued by any of the following
6 federal agencies: Bank for Cooperatives; federal intermediate
7 credit banks; federal home loan bank system; federal land
8 banks; or the Federal National Mortgage Association (including
9 debentures or participating certificates issued by such
10 association);

11 (3) Public housing bonds issued by public housing
12 authorities and secured by a pledge or annual contributions
13 under an annual contribution contract or contracts with the
14 United States;

15 (4) Bonds or other interest-bearing obligations of any
16 county, district, city, or town located in the state for which
17 the full faith and credit of such political subdivision is
18 pledged;

19 (5) Any investment authorized for insurers by ss.
20 625.306-625.316 and amendments thereto; or

21 (6) Any investment authorized under s. 18.10 and
22 amendments thereto.

23 Section 403. Effective January 7, 2003, subsection (3)
24 of section 331.419, Florida Statutes, is amended to read:

25 331.419 Reports and audits.--

26 (3) The Office ~~Division~~ of Financial Services ~~Banking~~
27 of the Department of Insurance and Financial Services ~~Banking~~
28 ~~and Finance~~ shall review the corporation's activities once
29 every 24 months to determine compliance with this part and
30 related laws and rules and to evaluate the corporation's
31 operations. The office ~~division~~ shall prepare a report based

1 on its review and evaluation with recommendation for any
2 corrective action. The president shall submit to the office
3 ~~division~~ regular reports on the corporation's activities. The
4 content and frequency of such reports shall be determined by
5 the office ~~division~~. The office ~~division~~ may charge a fee for
6 conducting the review and evaluation and preparing the related
7 report, which fee shall not be in excess of the examination
8 fee paid by chartered or licensed financial institutions.

9 Section 404. Effective January 7, 2003, subsection (1)
10 of section 336.022, Florida Statutes, is amended to read:

11 336.022 County transportation trust fund; controls and
12 administrative remedies.--

13 (1) Each county shall establish and maintain a
14 transportation trust fund for all transportation-related
15 revenues and expenditures. All funds received by a county for
16 transportation shall be deposited into this fund. No
17 expenditures other than transportation expenditures authorized
18 by law shall be made from such fund. Each county shall use a
19 uniform accounts classification system approved by the Chief
20 Financial Officer ~~Comptroller~~.

21 Section 405. Effective January 7, 2003, subsection (9)
22 of section 337.25, Florida Statutes, is amended to read:

23 337.25 Acquisition, lease, and disposal of real and
24 personal property.--

25 (9) The department, with the approval of the Chief
26 Financial Officer ~~State Comptroller~~, is authorized to disburse
27 state funds for real estate closings in a manner consistent
28 with good business practices and in a manner minimizing costs
29 and risks to the state.

30 Section 406. Effective January 7, 2003, section
31 339.035, Florida Statutes, is amended to read:

1 339.035 Expenditures.--All expenditures by the
2 department shall be made upon vouchers issued and certified by
3 the department in such manner as the department may, by rule
4 or internal management memorandum as required by chapter 120,
5 provide and shall be paid by warrants issued by the Chief
6 Financial Officer ~~Comptroller~~ upon the Treasury ~~Treasurer~~.

7 Section 407. Effective January 7, 2003, section
8 339.081, Florida Statutes, is amended to read:

9 339.081 Department trust funds.--The Chief Financial
10 Officer ~~Comptroller~~ shall maintain within the State Treasury
11 the following trust funds for the department:

12 (1) The State Transportation Trust Fund, to which
13 shall be credited the proceeds of the gas tax as authorized by
14 chapter 83-3, Laws of Florida, and such other funds which
15 accrue to the department which are not required to be
16 maintained in separate trust funds.

17 (2) Such other funds as may be authorized by bond
18 resolutions or agreements with any other public bodies or
19 agencies.

20 Section 408. Effective January 7, 2003, section
21 344.17, Florida Statutes, is amended to read:

22 344.17 Depositories and investments.--All moneys
23 received by the treasurer of the State Board of
24 Administration, a body corporate under s. 9, Art. XII of the
25 State Constitution, shall be deposited by the treasurer in a
26 solvent bank or banks, to be approved and accepted for such
27 purposes by the board. In making such deposits, he or she
28 shall follow the method for the deposit of state funds. Each
29 bank receiving any portion of such funds shall be required to
30 deposit with such treasurer satisfactory bonds or treasury
31 certificates of the United States; bonds of the several

1 states; special tax school district bonds; bonds of any
2 municipality eligible to secure state deposits as provided by
3 law; bonds of any county or special road and bridge district
4 of this state entitled to participate under the provisions of
5 s. 16, Art. IX of the State Constitution of 1885, as adopted
6 by the 1968 revised constitution, and of s. 9, Art. XII of
7 that revision; bonds issued under the provisions of s. 18,
8 Art. XII of the State Constitution of 1885, as adopted by s.
9 9, Art. XII of the 1968 revised constitution; or bonds, notes,
10 or certificates issued by the Florida State Improvement
11 Commission or its successors, the Florida Development
12 Commission and the Division of Bond Finance of the State Board
13 of Administration, which contain a pledge of the 80-percent
14 surplus 2-cent constitutional gasoline tax accruing under s.
15 16, Art. IX of the State Constitution of 1885, as adopted by
16 the 1968 revised constitution, and under s. 9, Art. XII of
17 that revision, which shall be equal to the amount deposited
18 with such bank. Such security shall be in the possession of
19 such treasurer; or the treasurer is authorized to accept, in
20 lieu of the actual depositing with him or her of such
21 security, trust or safekeeping receipts issued by any Federal
22 Reserve Bank, or member bank thereof, or by any bank
23 incorporated under the laws of the United States; provided the
24 member bank or bank incorporated under the laws of the United
25 States has been previously approved and accepted for such
26 purposes by the State Board of Administration and the trust or
27 safekeeping receipts are in substantially the same form as
28 that which the Chief Financial Officer ~~State Treasurer~~ is
29 authorized to accept in lieu of securities given to cover
30 deposits of state funds.
31

1 Section 409. Effective January 7, 2003, subsections
2 (2) and (9) of section 350.06, Florida Statutes, are amended
3 to read:

4 350.06 Place of meeting; expenditures; employment of
5 personnel; records availability and fees.--

6 (2) All sums of money authorized to be paid on account
7 of said commissioners shall be paid out of the State Treasury
8 only on the order of the Chief Financial Officer ~~Comptroller~~.

9 (9) The commission shall keep a book in which all fees
10 collected by it as provided for herein shall be recorded,
11 together with the amount and purpose for which collected.
12 This book shall be a public record. The commission shall
13 prepare a statement of these fees in duplicate each month and
14 remit one copy of the statement, together with all fees
15 collected by it, to the Chief Financial Officer ~~Treasurer~~.
16 All moneys collected pursuant to this section by the
17 commission shall be deposited in the State Treasury to the
18 credit of the Florida Public Service Regulatory Trust Fund.

19 Section 410. Effective January 7, 2003, section
20 354.03, Florida Statutes, is amended to read:

21 354.03 Bond.--Before entering into the performance of
22 his or her duties every such special officer shall enter into
23 a good and sufficient bond payable to the Governor of Florida,
24 and the Governor's successors, in the penal sum of \$5,000,
25 with some surety company authorized to do business in this
26 state as surety thereon, conditioned for the faithful
27 performance of his or her duties, and to pay any and all
28 damage done by any illegal act committed by him or her, to be
29 approved by the Chief Financial Officer ~~Department of Banking~~
30 ~~and Finance~~.

31

1 Section 411. Effective January 7, 2003, subsection (1)
2 of section 365.173, Florida Statutes, is amended to read:

3 365.173 Wireless Emergency Telephone System Fund.--
4 (1) All revenues derived from the E911 fee levied on
5 subscribers under s. 365.172 must be paid into the State
6 Treasury on or before the 15th day of each month. Such moneys
7 must be accounted for in a special fund to be designated as
8 the Wireless Emergency Telephone System Fund, a fund created
9 in the State Technology Office and must be invested by the
10 Chief Financial Officer ~~State Treasurer~~ pursuant to s. 18.125.
11 All moneys in such fund are to be expended by the State
12 Technology Office for the purposes provided in this section
13 and s. 365.172. These funds are not subject to s. 215.20.

14 Section 412. Effective January 7, 2003, subsection (8)
15 of section 370.06, Florida Statutes, is amended to read:

16 370.06 Licenses.--
17 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise
18 provided by law, all license taxes or fees provided for in
19 this chapter shall be collected by the commission or its duly
20 authorized agents or deputies to be deposited by the Chief
21 Financial Officer ~~Comptroller~~ in the Marine Resources
22 Conservation Trust Fund. The commission may by rule establish
23 a reasonable processing fee for any free license or permit
24 required under this chapter. The commission is authorized to
25 accept payment by credit card for fees, fines, and civil
26 penalties levied pursuant to this chapter.

27 Section 413. Effective January 7, 2003, subsection (6)
28 of section 370.16, Florida Statutes, is amended to read:

29 370.16 Noncultured shellfish harvesting.--
30 (6) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER
31 AND CLAM LAWS, ETC.--Vessels, with their cargoes, violating

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

27 Section 414. Effective January 7, 2003, paragraph (b)
28 of subsection (5) and subsection (6) of section 370.19,
29 Florida Statutes, are amended to read:

30 370.19 Atlantic States Marine Fisheries Compact;
31 implementing legislation.--

1 (5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.--

2 (b) The Chief Financial Officer ~~Department of Banking~~
3 ~~and Finance~~ is hereby authorized and empowered from time to
4 time to examine the accounts and books of the commission,
5 including its receipts, disbursements and such other items
6 referring to its financial standing as the Chief Financial
7 Officer ~~such department~~ may deem proper and to report the
8 results of such examination to the governor of such state.

9 (6) APPROPRIATION FOR EXPENSES OF COMMISSION.--The sum
10 of \$600, annually, or so much thereof as may be necessary, is
11 hereby appropriated out of any moneys in the State Treasury
12 not otherwise appropriated, for the expenses of the commission
13 created by the compact authorized by this law. The moneys
14 hereby appropriated shall be paid out of the State Treasury on
15 the audit and warrant of the Chief Financial Officer
16 ~~Comptroller~~ upon vouchers certified by the chair of the
17 commission in the manner prescribed by law.

18 Section 415. Effective January 7, 2003, subsection (5)
19 of section 370.20, Florida Statutes, is amended to read:

20 370.20 Gulf States Marine Fisheries Compact;
21 implementing legislation.--

22 (5) ACCOUNTS TO BE KEPT BY COMMISSION;
23 EXAMINATION.--The commission shall keep accurate accounts of
24 all receipts and disbursements and shall report to the
25 Governor and the Legislature of the State of Florida on or
26 before the 10th day of December in each year, setting forth in
27 detail the transactions conducted by it during the 12 months
28 preceding December 1 of that year and shall make
29 recommendations for any legislative action deemed by it
30 advisable, including amendments to the statutes of the State
31

1 of Florida which may be necessary to carry out the intent and
2 purposes of the compact between the signatory states.

3 The Chief Financial Officer ~~Department of Banking and~~
4 ~~Finance~~ is hereby authorized and empowered from time to time
5 to examine the accounts and books of the commission, including
6 its receipts, disbursements and such other items referring to
7 its financial standing as such Chief Financial Officer
8 ~~department~~ may deem proper and to report the results of such
9 examination to the governor of such state.

10 Section 416. Effective January 7, 2003, subsection (5)
11 of section 373.503, Florida Statutes, is amended to read:

12 373.503 Manner of taxation.--

13 (5) Each water management district created under this
14 chapter which does not receive state shared revenues under
15 part II of chapter 218 shall, before January 1 of each year,
16 certify compliance or noncompliance with s. 200.065 to the
17 Chief Financial Officer ~~Department of Banking and Finance~~.
18 Specific grounds for noncompliance shall be stated in the
19 certification. In his or her ~~its~~ annual report required by s.
20 218.32(2), the Chief Financial Officer ~~Department of Banking~~
21 ~~and Finance~~ shall report to the Governor and the Legislature
22 those water management districts certifying noncompliance or
23 not reporting.

24 Section 417. Effective January 7, 2003, paragraph (e)
25 of subsection (10) of section 373.59, Florida Statutes, is
26 amended to read:

27 373.59 Water Management Lands Trust Fund.--

28 (10)

29 (e) Payment in lieu of taxes pursuant to this
30 subsection shall be made annually to qualifying counties and
31 local governments after certification by the Department of

1 Revenue that the amounts applied for are reasonably
2 appropriate, based on the amount of actual taxes paid on the
3 eligible property, and after the water management districts
4 have provided supporting documents to the Chief Financial
5 Officer ~~Comptroller~~ and have requested that payment be made in
6 accordance with the requirements of this section.

7 Section 418. Effective January 7, 2003, subsection (2)
8 of section 373.6065, Florida Statutes, is amended to read:

9 373.6065 Adoption benefits for water management
10 district employees.--

11 (2) The Chief Financial Officer ~~Comptroller~~ and the
12 Department of Management Services shall transfer funds to
13 water management districts to pay eligible water management
14 district employees for these child adoption monetary benefits
15 in accordance with s. 215.32(1)(c)5., as long as funds remain
16 available for the program described under s. 110.152.

17 Section 419. Effective January 7, 2003, subsection (2)
18 of section 374.983, Florida Statutes, is amended to read:

19 374.983 Governing body.--

20 (2) The present board of commissioners of the district
21 shall continue to hold office until their respective terms
22 shall expire. Thereafter the members of the board shall
23 continue to be appointed by the Governor for a term of 4 years
24 and until their successors shall be duly appointed.

25 Specifically, commencing on January 10, 1997, the Governor
26 shall appoint the commissioners from Broward, Indian River,
27 Martin, St. Johns, and Volusia Counties and on January 10,
28 1999, the Governor shall appoint the commissioners from
29 Brevard, Dade, Duval, Flagler, Palm Beach, and St. Lucie
30 Counties. Each new appointee must be confirmed by the Senate.
31 Whenever a vacancy occurs among the commissioners, the person

1 appointed to fill such vacancy shall hold office for the
2 unexpired portion of the term of the commissioner whose place
3 he or she is selected to fill. Each commissioner under this
4 act before he or she assumes office shall be required to give
5 a good and sufficient surety bond in the sum of \$10,000
6 payable to the Governor and his or her successors in office,
7 conditioned upon the faithful performance of the duties of his
8 or her office, said bond to be approved by and filed with the
9 Chief Financial Officer ~~Comptroller~~. Any and all premiums upon
10 said surety bonds shall be paid by the board of commissioners
11 of said district as a necessary expense of the district.

12 Section 420. Effective January 7, 2003, subsection (2)
13 of section 374.986, Florida Statutes, is amended to read:

14 374.986 Taxing authority.--

15 (2) The board may annually assess and levy against the
16 taxable property in the district a tax not to exceed one-tenth
17 mill on the dollar for each year, and the proceeds from such
18 tax shall be used by the district for all expenses of the
19 district including the purchase price of right-of-way and
20 other property. The board shall, on or before the 31st day of
21 July of each year, prepare a tentative annual written budget
22 of the district's expected income and expenditures. In
23 addition, the board shall compute a proposed millage rate to
24 be levied as taxes for that year upon the taxable property in
25 the district for the purposes of said district. The proposed
26 budget shall be submitted to the Department of Environmental
27 Protection for its approval. Prior to adopting a final budget,
28 the district shall comply with the provisions of s. 200.065,
29 relating to the method of fixing millage, and shall fix the
30 final millage rate by resolution of the district and shall
31 also, by resolution, adopt a final budget pursuant to chapter

1 200. Copies of such resolutions executed in the name of the
2 board by its chair, and attested by its secretary, shall be
3 made and delivered to the county officials specified in s.
4 200.065 of each and every county in the district, to the
5 Department of Revenue, and to the Chief Financial Officer
6 ~~Comptroller~~. Thereupon, it shall be the duty of the property
7 assessor of each of said counties to assess, and the tax
8 collector of each of said counties to collect, a tax at the
9 rate fixed by said resolution of the board upon all of the
10 real and personal taxable property in said counties for said
11 year (and such officers shall perform such duty) and said levy
12 shall be included in the warrant of the tax assessors of each
13 of said counties and attached to the assessment roll of taxes
14 for each of said counties. The tax collectors of each of said
15 counties shall collect such taxes so levied by the board in
16 the same manner as other taxes are collected, and shall pay
17 the same within the time and in the manner prescribed by law,
18 to the treasurer of the board. It shall be the duty of the
19 Chief Financial Officer ~~Comptroller~~ to assess and levy on all
20 railroad lines and railroad property and telegraph lines and
21 telegraph property in the district a tax at the rate
22 prescribed by resolution of the board, and to collect the tax
23 thereon in the same manner as he or she is required by law to
24 assess and collect taxes for state and county purposes and to
25 remit the same to the treasurer of the board. All such taxes
26 shall be held by the treasurer of the district for the credit
27 of the district and paid out by him or her as provided herein.
28 The tax assessor and property appraiser of each of said
29 counties shall be entitled to payment as provided for by
30 general laws.
31

1 Section 421. Effective January 7, 2003, subsection (3)
2 of section 376.11, Florida Statutes, is amended to read:

3 376.11 Florida Coastal Protection Trust Fund.--

4 (3) Moneys in the fund that are not needed currently
5 to meet the obligations of the department in the exercise of
6 its responsibilities under ss. 376.011-376.21 shall be
7 deposited with the Chief Financial Officer ~~Treasurer~~ to the
8 credit of the fund and may be invested in such manner as is
9 provided for by statute. Interest received on such investment
10 shall be credited to the fund, except as otherwise specified
11 herein.

12 Section 422. Effective January 7, 2003, subsection (5)
13 of section 376.123, Florida Statutes, is amended to read:

14 376.123 Claims against the Florida Coastal Protection
15 Trust Fund.--

16 (5) The secretary shall establish the amount to be
17 awarded and shall certify the amount of the award and the name
18 of the claimant to the Chief Financial Officer ~~State~~
19 ~~Treasurer~~, who shall pay the award from the fund, subject to
20 the provisions of subsection (12). If the claimant agrees
21 with the established amount of award, the settlement shall be
22 binding upon both parties as to all issues and cannot be
23 further attacked, collaterally or by separate action, in the
24 future.

25 Section 423. Effective January 7, 2003, subsection (6)
26 of section 376.307, Florida Statutes, is amended to read:

27 376.307 Water Quality Assurance Trust Fund.--

28 (6) Moneys in the fund which are not needed currently
29 to meet the obligations of the department in the exercise of
30 its responsibilities under this section shall be deposited
31 with the Chief Financial Officer ~~Treasurer~~ to the credit of

1 the fund and may be invested in such manner as is provided for
2 by statute. The interest received on such investment shall be
3 credited to the fund. Any provisions of law to the contrary
4 notwithstanding, such interest may be freely transferred
5 between this trust fund and the Inland Protection Trust Fund,
6 in the discretion of the department.

7 Section 424. Effective January 7, 2003, subsection (8)
8 and paragraph (k) of subsection (12) of section 376.3071,
9 Florida Statutes, are amended to read:

10 376.3071 Inland Protection Trust Fund; creation;
11 purposes; funding.--

12 (8) INVESTMENTS; INTEREST.--Moneys in the fund which
13 are not needed currently to meet the obligations of the
14 department in the exercise of its responsibilities under this
15 section and s. 376.3073 shall be deposited with the Chief
16 Financial Officer ~~Treasurer~~ to the credit of the fund and may
17 be invested in such manner as is provided for by statute. The
18 interest received on such investment shall be credited to the
19 fund. Any provisions of law to the contrary notwithstanding,
20 such interest may be freely transferred between this trust
21 fund and the Water Quality Assurance Trust Fund, in the
22 discretion of the department.

23 (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as
24 provided in s. 2(3), chapter 95-2, Laws of Florida, this
25 subsection shall not apply to any site rehabilitation program
26 task initiated after March 29, 1995. Effective August 1, 1996,
27 no further site rehabilitation work on sites eligible for
28 state-funded cleanup from the Inland Protection Trust Fund
29 shall be eligible for reimbursement pursuant to this
30 subsection. The person responsible for conducting site
31 rehabilitation may seek reimbursement for site rehabilitation

1 program task work conducted after March 28, 1995, in
2 accordance with s. 2(2) and (3), chapter 95-2, Laws of
3 Florida, regardless of whether the site rehabilitation program
4 task is completed. A site rehabilitation program task shall
5 be considered to be initiated when actual onsite work or
6 engineering design, pursuant to chapter 62-770, Florida
7 Administrative Code, which is integral to performing a site
8 rehabilitation program task has begun and shall not include
9 contract negotiation and execution, site research, or project
10 planning. All reimbursement applications pursuant to this
11 subsection must be submitted to the department by January 3,
12 1997. The department shall not accept any applications for
13 reimbursement or pay any claims on applications for
14 reimbursement received after that date; provided, however if
15 an application filed on or prior to January 3, 1997, was
16 returned by the department on the grounds of untimely filing,
17 it shall be refiled within 30 days after the effective date of
18 this act in order to be processed.

19 (k) Audits.--

20 1. The department is authorized to perform financial
21 and technical audits in order to certify site restoration
22 costs and ensure compliance with this chapter. The department
23 shall seek recovery of any overpayments based on the findings
24 of these audits. The department must commence any audit within
25 5 years after the date of reimbursement, except in cases where
26 the department alleges specific facts indicating fraud.

27 2. Upon determination by the department that any
28 portion of costs which have been reimbursed are disallowed,
29 the department shall give written notice to the applicant
30 setting forth with specificity the allegations of fact which
31 justify the department's proposed action and ordering

1 repayment of disallowed costs within 60 days of notification
2 of the applicant.

3 3. In the event the applicant does not make payment to
4 the department within 60 days of receipt of such notice, the
5 department shall seek recovery in a court of competent
6 jurisdiction to recover reimbursement overpayments made to the
7 person responsible for conducting site rehabilitation, unless
8 the department finds the amount involved too small or the
9 likelihood of recovery too uncertain.

10 4. In addition to the amount of any overpayment, the
11 applicant shall be liable to the department for interest of 1
12 percent per month or the prime rate, whichever is less, on the
13 amount of overpayment, from the date of overpayment by the
14 department until the applicant satisfies the department's
15 request for repayment pursuant to this paragraph. The
16 calculation of interest shall be tolled during the pendency of
17 any litigation.

18 5. Financial and technical audits frequently are
19 conducted under this section many years after the site
20 rehabilitation activities were performed and the costs
21 examined in the course of the audit were incurred by the
22 person responsible for site rehabilitation. During the
23 intervening span of years, the department's rule requirements
24 and its related guidance and other nonrule policy directives
25 may have changed significantly. The Legislature finds that it
26 may be appropriate for the department to provide relief to
27 persons subject to such requirements in financial and
28 technical audits conducted pursuant to this section.

29 a. The department is authorized to grant variances and
30 waivers from the documentation requirements of subparagraph
31 (e)2. and from the requirements of rules applicable in

1 technical and financial audits conducted under this section.
2 Variances and waivers shall be granted when the person
3 responsible for site rehabilitation demonstrates to the
4 department that application of a financial or technical
5 auditing requirement would create a substantial hardship or
6 would violate principles of fairness. For purposes of this
7 subsection, "substantial hardship" means a demonstrated
8 economic, technological, legal, or other type of hardship to
9 the person requesting the variance or waiver. For purposes of
10 this subsection, "principles of fairness" are violated when
11 the application of a requirement affects a particular person
12 in a manner significantly different from the way it affects
13 other similarly situated persons who are affected by the
14 requirement or when the requirement is being applied
15 retroactively without due notice to the affected parties.

16 b. A person whose reimbursed costs are subject to a
17 financial and technical audit under this section may file a
18 written request to the department for grant of a variance or
19 waiver. The request shall specify:

20 (I) The requirement from which a variance or waiver is
21 requested.

22 (II) The type of action requested.

23 (III) The specific facts which would justify a waiver
24 or variance.

25 (IV) The reason or reasons why the requested variance
26 or waiver would serve the purposes of this section.

27 c. Within 90 days after receipt of a written request
28 for variance or waiver under this subsection, the department
29 shall grant or deny the request. If the request is not granted
30 or denied within 90 days of receipt, the request shall be
31 deemed approved. An order granting or denying the request

1 shall be in writing and shall contain a statement of the
2 relevant facts and reasons supporting the department's action.
3 The department's decision to grant or deny the petition shall
4 be supported by competent substantial evidence and is subject
5 to ss. 120.569 and 120.57. Once adopted, model rules
6 promulgated by the Administration Commission under s. 120.542
7 shall govern the processing of requests under this provision.

8 6. The Chief Financial Officer ~~Comptroller~~ may audit
9 the records of persons who receive or who have received
10 payments pursuant to this chapter in order to verify site
11 restoration costs, ensure compliance with this chapter, and
12 verify the accuracy and completeness of audits performed by
13 the department pursuant to this paragraph. The Chief
14 Financial Officer ~~Comptroller~~ may contract with entities or
15 persons to perform audits pursuant to this subparagraph. The
16 Chief Financial Officer ~~Comptroller~~ shall commence any audit
17 within 1 year after the department's completion of an audit
18 conducted pursuant to this paragraph, except in cases where
19 the department or the Chief Financial Officer ~~Comptroller~~
20 alleges specific facts indicating fraud.

21 Section 425. Effective January 7, 2003, paragraphs (b)
22 and (c) of subsection (5) of section 376.3072, Florida
23 Statutes, are amended to read:

24 376.3072 Florida Petroleum Liability and Restoration
25 Insurance Program.--

26 (5)

27 (b) The Department of Insurance and Financial Services
28 shall offer assistance as requested by the department to
29 implement the program.

30 (c) Any insurance company, reinsurance company, or
31 other entity contracted with by the department shall be

1 subject to the same rules and regulations of the Department of
2 Insurance and Financial Services applicable to other insurers,
3 reinsurers, and other entities.

4 Section 426. Effective January 7, 2003, subsection (2)
5 of section 376.3075, Florida Statutes, is amended to read:

6 376.3075 Inland Protection Financing Corporation.--

7 (2) The corporation shall be governed by a board of
8 directors consisting of the Governor or the Governor's
9 designee, the Chief Financial Officer ~~Comptroller~~ or the Chief
10 Financial Officer's ~~Comptroller's~~ designee, ~~the Treasurer or~~
11 ~~the Treasurer's designee~~, the chair of the Florida Black
12 Business Investment Board, and the secretary of the Department
13 of Environmental Protection. The executive director of the
14 State Board of Administration shall be the chief executive
15 officer of the corporation and shall direct and supervise the
16 administrative affairs of the corporation and shall control,
17 direct, and supervise the operation of the corporation. The
18 corporation shall also have such other officers as may be
19 determined by the board of directors.

20 Section 427. Effective January 7, 2003, subsection
21 (10) of section 376.3078, Florida Statutes, is amended to
22 read:

23 376.3078 Drycleaning facility restoration; funds;
24 uses; liability; recovery of expenditures.--

25 (10) INSURANCE REQUIREMENTS.--The owner or operator of
26 an operating drycleaning facility or wholesale supply facility
27 shall, by January 1, 1999, have purchased third-party
28 liability insurance for \$1 million of coverage for each
29 operating facility. The owner or operator shall maintain such
30 insurance while operating as a drycleaning facility or
31 wholesale supply facility and provide proof of such insurance

1 to the department upon registration renewal each year
2 thereafter. Such requirement applies only if such insurance
3 becomes available to the owner or operator at a reasonable
4 rate and covers liability for contamination subsequent to the
5 effective date of the policy and prior to the effective date,
6 retroactive to the commencement of operations at the
7 drycleaning facility or wholesale supply facility. Such
8 insurance may be offered in group coverage policies with a
9 minimum coverage of \$1 million for each member of the group
10 per year. For the purposes of this subsection, reasonable rate
11 means the rate developed based on exposure to loss and
12 underwriting and administrative costs as determined by the
13 Department of Insurance and Financial Services, in
14 consultation with representatives of the drycleaning industry.

15 Section 428. Effective January 7, 2003, paragraphs (b)
16 and (c) of subsection (4) of section 376.3079, Florida
17 Statutes, are amended to read:

18 376.3079 Third-party liability insurance.--

19 (4)

20 (b) The Department of Insurance and Financial Services
21 shall offer assistance as requested by the department to
22 implement the program.

23 (c) Any insurance company, reinsurance company, or
24 other entity contracted with by the department shall be
25 subject to the same rules of the Department of Insurance and
26 Financial Services applicable to other insurers, reinsurers,
27 and other entities.

28 Section 429. Effective January 7, 2003, subsection (6)
29 of section 376.40, Florida Statutes, is amended to read:

30 376.40 Petroleum exploration and production; purposes;
31 funding.--

1 (6) INVESTMENTS; INTEREST.--Moneys in the trust fund
2 which are not needed currently to meet the obligations of the
3 department in the exercise of its responsibilities under this
4 section shall be deposited with the Chief Financial Officer
5 ~~Treasurer~~ to the credit of the trust fund and may be invested
6 as provided by law.

7 Section 430. Effective January 7, 2003, section
8 377.23, Florida Statutes, is amended to read:

9 377.23 Monthly reports to division.--Every producer of
10 oil or gas in the state shall submit to the division, on forms
11 prescribed by the division, a monthly report of the actual
12 production from each and every oil and gas well operated by
13 him or her. Said producer shall submit a duplicate copy of
14 said report at the same time to the Chief Financial Officer
15 ~~Department of Banking and Finance~~; and said reports shall be
16 submitted through the medium of the United States mails, and
17 it shall be unlawful for the same to be transmitted or
18 received in any other way.

19 Section 431. Effective January 7, 2003, paragraph (a)
20 of subsection (1) of section 377.2425, Florida Statutes, is
21 amended to read:

22 377.2425 Manner of providing security for geophysical
23 exploration, drilling, and production.--

24 (1) Prior to granting a permit to conduct geophysical
25 operations; drilling of exploratory, injection, or production
26 wells; producing oil and gas from a wellhead; or transporting
27 oil and gas through a field-gathering system, the department
28 shall require the applicant or operator to provide surety that
29 these operations will be conducted in a safe and
30 environmentally compatible manner.

31

1 (a) The applicant for a drilling, production, or
2 injection well permit or a geophysical permit may provide the
3 following types of surety to the department for this purpose:
4 1. A deposit of cash or other securities made payable
5 to the Minerals Trust Fund. Such cash or securities so
6 deposited shall be held at interest by the Chief Financial
7 Officer ~~Comptroller~~ to satisfy safety and environmental
8 performance provisions of this chapter. The interest shall be
9 credited to the Minerals Trust Fund. Such cash or other
10 securities shall be released by the Chief Financial Officer
11 ~~Comptroller~~ upon request of the applicant and certification by
12 the department that all safety and environmental performance
13 provisions established by the department for permitted
14 activities have been fulfilled.

15 2. A bond of a surety company authorized to do
16 business in the state in an amount as provided by rule.

17 3. A surety in the form of an irrevocable letter of
18 credit in an amount as provided by rule guaranteed by an
19 acceptable financial institution.

20 Section 432. Effective January 7, 2003, paragraph (c)
21 of subsection (4) of section 377.705, Florida Statutes, is
22 amended to read:

23 377.705 Solar Energy Center; development of solar
24 energy standards.--

25 (4) FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS,
26 REQUIRE DISCLOSURE, SET TESTING FEES.--

27 (c) The center shall be entitled to receive a testing
28 fee sufficient to cover the costs of such testing. All
29 testing fees shall be transmitted by the center to the Chief
30 Financial Officer ~~State Treasurer~~ to be deposited in the Solar
31 Energy Center Testing Trust Fund, which is hereby created in

1 the State Treasury, and disbursed for the payment of expenses
2 incurred in testing solar energy systems.

3 Section 433. Effective January 7, 2003, paragraph (a)
4 of subsection (2) of section 378.035, Florida Statutes, is
5 amended to read:

6 378.035 Department responsibilities and duties with
7 respect to Nonmandatory Land Reclamation Trust Fund.--

8 (2)(a) The department shall verify that reclamation
9 activities or portions thereof have been accomplished in
10 accordance with the reclamation contract and shall certify the
11 cost of such reclamation activities to the Chief Financial
12 Officer ~~Comptroller~~ for reimbursement.

13 Section 434. Effective January 7, 2003, section
14 378.037, Florida Statutes, is amended to read:

15 378.037 Chief Financial Officer ~~Comptroller~~;
16 responsibilities and duties with respect to reimbursement of
17 reclamation costs.--

18 (1) The Chief Financial Officer ~~Comptroller~~ shall
19 reimburse approved reclamation costs, less any amount
20 reasonably retained to ensure completion of the approved
21 reclamation program, subject to the following limitations:

22 (a) A landowner shall not be entitled to payments in
23 excess of the funds available in the Nonmandatory Land
24 Reclamation Trust Fund.

25 (b) Cost reimbursement shall not exceed the least of:

26 1. The amount actually expended and reasonably
27 necessary to effect the reclamation consistent with the
28 standards of the approved master reclamation plan;

29 2. The reclamation contract amount; or

30 3. The amount allowed based on prereclamation land
31 form, to include mined-out areas at \$4,000 per reclaimed acre

1 and clay settling areas and other land forms at \$2,500 per
2 reclaimed acre adjusted annually by the appropriate
3 inflationary index for construction.

4 (2) The Chief Financial Officer ~~Comptroller~~ shall
5 adopt rules to implement the payment provisions of the master
6 reclamation plan and this section, including, but not limited
7 to, periodic reimbursements and competitive procurement of
8 services and commodities to the extent practicable, unless a
9 landowner elects to utilize his or her own personnel and
10 equipment. The landowner may select a method of reimbursement
11 from the alternatives adopted by the Chief Financial Officer
12 ~~Comptroller~~.

13 Section 435. Effective January 7, 2003, subsection (3)
14 of section 378.208, Florida Statutes, is amended to read:

15 378.208 Financial responsibility.--

16 (3) The amount of financial responsibility shall be
17 established by the secretary and shall not exceed \$4,000 per
18 acre for each reclamation program, adjusted annually by the
19 appropriate inflationary index for construction. The
20 Department of Insurance and Financial Services shall be
21 available to assist the secretary in making this
22 determination. In establishing the amount of financial
23 responsibility, the secretary shall consider:

- 24 (a) The amount and type of reclamation involved.
25 (b) The probable cost of proper reclamation.
26 (c) Inflation rates.
27 (d) Changes in mining operations.

28 Section 436. Effective January 7, 2003, subsection (2)
29 of section 381.765, Florida Statutes, is amended to read:

30 381.765 Retention of title to and disposal of
31 equipment.--

1 (2) The department may offer for sale any surplus
2 items acquired in operating the brain and spinal cord injury
3 program when they are no longer necessary or exchange them for
4 necessary items that may be used to greater advantage. When
5 any such surplus equipment is sold or exchanged, a receipt for
6 the equipment shall be taken from the purchaser showing the
7 consideration given for such equipment and forwarded to the
8 Chief Financial Officer ~~Treasurer~~, and any funds received by
9 the brain and spinal cord injury program pursuant to any such
10 transaction shall be deposited in the Brain and Spinal Cord
11 Injury Rehabilitation Trust Fund and shall be available for
12 expenditure for any purpose consistent with this part.

13 Section 437. Effective January 7, 2003, paragraph (j)
14 of subsection (3) of section 381.90, Florida Statutes, is
15 amended to read:

16 381.90 Health Information Systems Council; legislative
17 intent; creation, appointment, duties.--

18 (3) The council shall be composed of the following
19 members or their senior executive-level designees:

20 (j) The ~~State Treasurer and~~ Insurance Commissioner;
21
22 Representatives of the Federal Government may serve without
23 voting rights.

24 Section 438. Effective January 7, 2003, subsection (5)
25 of section 388.201, Florida Statutes, is amended to read:

26 388.201 District budgets; hearing.--

27 (5) County commissioners' mosquito and arthropod
28 control budgets shall be made and adopted as prescribed by
29 subsections (1) and (2); summary figures shall be incorporated
30 into the county budgets as prescribed by the Chief Financial
31 Officer ~~Department of Banking and Finance~~.

1 Section 439. Effective January 7, 2003, section
2 388.301, Florida Statutes, is amended to read:

3 388.301 Payment of state funds; supplies and
4 services.--State funds shall be payable quarterly, in
5 accordance with the rules of the department, upon requisition
6 by the department to the Chief Financial Officer ~~Comptroller~~.
7 The department is authorized to furnish insecticides,
8 chemicals, materials, equipment, vehicles, and personnel in
9 lieu of state funds where mass purchasing may save funds for
10 the state, or where it would be more practical and economical
11 to use equipment, supplies, and services between two or more
12 counties or districts.

13 Section 440. Effective January 7, 2003, subsection (3)
14 of section 391.025, Florida Statutes, is amended to read:

15 391.025 Applicability and scope.--

16 (3) The Children's Medical Services program shall not
17 be deemed an insurer and is not subject to the licensing
18 requirements of the Florida Insurance Code or the rules of the
19 Department of Insurance and Financial Services, when providing
20 services to children who receive Medicaid benefits, other
21 Medicaid-eligible children with special health care needs, and
22 children participating in the Florida Kidcare program.

23 Section 441. Effective January 7, 2003, subsection (2)
24 of section 391.221, Florida Statutes, is amended to read:

25 391.221 Statewide Children's Medical Services Network
26 Advisory Council.--

27 (2) The council shall be composed of 12 members
28 representing the private health care provider sector, families
29 with children who have special health care needs, the Agency
30 for Health Care Administration, the Department of Insurance
31 and Financial Services, the Florida Chapter of the American

1 Academy of Pediatrics, an academic health center pediatric
2 program, and the health insurance industry. Members shall be
3 appointed for 4-year, staggered terms. In no case shall an
4 employee of the Department of Health serve as a member or as
5 an ex officio member of the advisory council. A vacancy shall
6 be filled for the remainder of the unexpired term in the same
7 manner as the original appointment. A member may not be
8 appointed to more than two consecutive terms. However, a
9 member may be reappointed after being off the council for at
10 least 2 years.

11 Section 442. Effective January 7, 2003, subsection (2)
12 of section 392.69, Florida Statutes, is amended to read:

13 392.69 Appropriation, sinking, and maintenance trust
14 funds; additional powers of the department.--

15 (2) All moneys required to be paid by the several
16 counties and patients for the care and maintenance of patients
17 hospitalized by the department for tuberculosis shall be paid
18 to the department, and the department shall immediately
19 transmit these moneys to the Chief Financial Officer
20 ~~Treasurer~~, who shall deposit the moneys in the Operations and
21 Maintenance Trust Fund, which shall contain all moneys
22 appropriated by the Legislature or received from patients or
23 other third parties and shall be expended for the operation
24 and maintenance of the state-operated tuberculosis hospital.

25 Section 443. Effective January 7, 2003, subsection (5)
26 of section 393.002, Florida Statutes, is amended to read:

27 393.002 Transfer of Florida Developmental Disabilities
28 Council as formerly created in this chapter to private
29 nonprofit corporation.--

30 (5) Pursuant to the applicable provisions of chapter
31 284, the Division of Risk Management of the Department of

1 Insurance and Financial Services is authorized to insure this
2 nonprofit corporation under the same general terms and
3 conditions as the Florida Developmental Disabilities Council
4 was insured in the Department of Children and Family Services
5 by the division prior to the transfer of its functions
6 authorized by this section.

7 Section 444. Effective January 7, 2003, subsection (2)
8 of section 393.075, Florida Statutes, is amended to read:

9 393.075 General liability coverage.--

10 (2) The Division of Risk Management of the Department
11 of Insurance and Financial Services shall provide coverage
12 through the Department of Children and Family Services to any
13 person who owns or operates a foster care facility or group
14 home facility solely for the Department of Children and Family
15 Services, who cares for children placed by developmental
16 services staff of the department, and who is licensed pursuant
17 to s. 393.067 to provide such supervision and care in his or
18 her place of residence. The coverage shall be provided from
19 the general liability account of the State Risk Management
20 Trust Fund. The coverage is limited to general liability
21 claims arising from the provision of supervision and care of
22 children in a foster care facility or group home facility
23 pursuant to an agreement with the department and pursuant to
24 guidelines established through policy, rule, or statute.
25 Coverage shall be subject to the limits provided in ss. 284.38
26 and 284.385, and the exclusions set forth therein, together
27 with other exclusions as may be set forth in the certificate
28 of coverage issued by the trust fund. A person covered under
29 the general liability account pursuant to this subsection
30 shall immediately notify the Division of Risk Management of
31

1 the Department of Insurance and Financial Services of any
2 potential or actual claim.

3 Section 445. Effective January 7, 2003, section
4 394.482, Florida Statutes, is amended to read:

5 394.482 Payment of financial obligations imposed by
6 compact.--The compact administrator, subject to the approval
7 of the Chief Financial Officer ~~Comptroller~~, may make or
8 arrange for any payments necessary to discharge any financial
9 obligations imposed upon this state by the compact or by any
10 supplementary agreement entered into thereunder.

11 Section 446. Effective January 7, 2003, paragraphs (a)
12 and (c) of subsection (4) of section 400.0238, Florida
13 Statutes, are amended to read:

14 400.0238 Punitive damages; limitation.--

15 (4) Notwithstanding any other law to the contrary, the
16 amount of punitive damages awarded pursuant to this section
17 shall be equally divided between the claimant and the Quality
18 of Long-Term Care Facility Improvement Trust Fund, in
19 accordance with the following provisions:

20 (a) The clerk of the court shall transmit a copy of
21 the jury verdict to the Chief Financial Officer ~~State~~
22 ~~Treasurer~~ by certified mail. In the final judgment, the court
23 shall order the percentages of the award, payable as provided
24 herein.

25 (c) The Chief Financial Officer ~~Department of Banking~~
26 ~~and Finance~~ shall collect or cause to be collected all
27 payments due the state under this section. Such payments are
28 made to the Chief Financial Officer ~~Comptroller~~ and deposited
29 in the appropriate fund specified in this subsection.

30 Section 447. Effective January 7, 2003, subsection (2)
31 of section 400.063, Florida Statutes, is amended to read:

1 400.063 Resident Protection Trust Fund.--
2 (2) The agency is authorized to establish for each
3 facility, subject to intervention by the agency, a separate
4 bank account for the deposit to the credit of the agency of
5 any moneys received from the Resident Protection Trust Fund or
6 any other moneys received for the maintenance and care of
7 residents in the facility, and the agency is authorized to
8 disburse moneys from such account to pay obligations incurred
9 for the purposes of this section. The agency is authorized to
10 requisition moneys from the Resident Protection Trust Fund in
11 advance of an actual need for cash on the basis of an estimate
12 by the agency of moneys to be spent under the authority of
13 this section. Any bank account established under this section
14 need not be approved in advance of its creation as required by
15 s. 18.101, but shall be secured by depository insurance equal
16 to or greater than the balance of such account or by the
17 pledge of collateral security in conformance with criteria
18 established in s. 18.11. The agency shall notify the Chief
19 Financial Officer ~~Treasurer and the Comptroller~~ of any such
20 account so established and shall make a quarterly accounting
21 to the Chief Financial Officer ~~Comptroller~~ for all moneys
22 deposited in such account.

23 Section 448. Effective January 7, 2003, paragraph (c)
24 of subsection (4) of section 400.071, Florida Statutes, is
25 amended to read:

26 400.071 Application for license.--

27 (4) Each applicant for licensure must comply with the
28 following requirements:

29 (c) Proof of compliance with the level 2 background
30 screening requirements of chapter 435 which has been submitted
31 within the previous 5 years in compliance with any other

1 health care or assisted living licensure requirements of this
2 state is acceptable in fulfillment of paragraph (a). Proof of
3 compliance with background screening which has been submitted
4 within the previous 5 years to fulfill the requirements of the
5 Department of Insurance and Financial Services pursuant to
6 chapter 651 as part of an application for a certificate of
7 authority to operate a continuing care retirement community is
8 acceptable in fulfillment of the Department of Law Enforcement
9 and Federal Bureau of Investigation background check.

10 Section 449. Effective January 7, 2003, paragraph (b)
11 of subsection (1) of section 400.4174, Florida Statutes, is
12 amended to read:

13 400.4174 Background screening; exemptions.--

14 (1)

15 (b) Proof of compliance with level 2 screening
16 standards which has been submitted within the previous 5 years
17 to meet any facility or professional licensure requirements of
18 the agency or the Department of Health satisfies the
19 requirements of this subsection, provided that such proof is
20 accompanied, under penalty of perjury, by an affidavit of
21 compliance with the provisions of chapter 435. Proof of
22 compliance with the background screening requirements of the
23 Department of Insurance and Financial Services for applicants
24 for a certificate of authority to operate a continuing care
25 retirement community under chapter 651, submitted within the
26 last 5 years, satisfies the Department of Law Enforcement and
27 Federal Bureau of Investigation portions of a level 2
28 background check.

29 Section 450. Effective January 7, 2003, paragraphs (a)
30 and (c) of subsection (4) of section 400.4298, Florida
31 Statutes, are amended to read:

1 400.4298 Punitive damages; limitation.--
2 (4) Notwithstanding any other law to the contrary, the
3 amount of punitive damages awarded pursuant to this section
4 shall be equally divided between the claimant and the Quality
5 of Long-Term Care Facility Improvement Trust Fund, in
6 accordance with the following provisions:
7 (a) The clerk of the court shall transmit a copy of
8 the jury verdict to the Chief Financial Officer State
9 ~~Treasurer~~ by certified mail. In the final judgment, the court
10 shall order the percentages of the award, payable as provided
11 herein.
12 (c) The Chief Financial Officer ~~Department of Banking~~
13 ~~and Finance~~ shall collect or cause to be collected all
14 payments due the state under this section. Such payments are
15 made to the Chief Financial Officer ~~Comptroller~~ and deposited
16 in the appropriate fund specified in this subsection.
17 Section 451. Effective January 7, 2003, paragraph (c)
18 of subsection (4) of section 400.471, Florida Statutes, is
19 amended to read:
20 400.471 Application for license; fee; provisional
21 license; temporary permit.--
22 (4) Each applicant for licensure must comply with the
23 following requirements:
24 (c) Proof of compliance with the level 2 background
25 screening requirements of chapter 435 which has been submitted
26 within the previous 5 years in compliance with any other
27 health care or assisted living licensure requirements of this
28 state is acceptable in fulfillment of paragraph (a). Proof of
29 compliance with background screening which has been submitted
30 within the previous 5 years to fulfill the requirements of the
31 Department of Insurance and Financial Services pursuant to

1 chapter 651 as part of an application for a certificate of
2 authority to operate a continuing care retirement community is
3 acceptable in fulfillment of the Department of Law Enforcement
4 and Federal Bureau of Investigation background check.

5 Section 452. Effective January 7, 2003, paragraph (c)
6 of subsection (10) of section 400.962, Florida Statutes, is
7 amended to read:

8 400.962 License required; license application.--
9 (10)

10 (c) Proof of compliance with the level 2 background
11 screening requirements of chapter 435 which has been submitted
12 within the previous 5 years in compliance with any other
13 licensure requirements under this chapter satisfies the
14 requirements of paragraph (a). Proof of compliance with
15 background screening which has been submitted within the
16 previous 5 years to fulfill the requirements of the Department
17 of Insurance and Financial Services under chapter 651 as part
18 of an application for a certificate of authority to operate a
19 continuing care retirement community satisfies the
20 requirements for the Department of Law Enforcement and Federal
21 Bureau of Investigation background checks.

22 Section 453. Effective January 7, 2003, paragraph (b)
23 of subsection (2) of section 401.245, Florida Statutes, is
24 amended to read:

25 401.245 Emergency Medical Services Advisory Council.--
26 (2)

27 (b) Representation on the Emergency Medical Services
28 Advisory Council shall include: two licensed physicians who
29 are "medical directors" as defined in s. 401.23(15) or whose
30 medical practice is closely related to emergency medical
31 services; two emergency medical service administrators, one of

1 whom is employed by a fire service; two certified paramedics,
2 one of whom is employed by a fire service; two certified
3 emergency medical technicians, one of whom is employed by a
4 fire service; one emergency medical services educator; one
5 emergency nurse; one hospital administrator; one
6 representative of air ambulance services; one representative
7 of a commercial ambulance operator; and two laypersons who are
8 in no way connected with emergency medical services, one of
9 whom is a representative of the elderly. Ex officio members of
10 the advisory council from state agencies shall include, but
11 shall not be limited to, representatives from the Department
12 of Education, the Department of Management Services, the
13 Department of Insurance and Financial Services, the Department
14 of Highway Safety and Motor Vehicles, the Department of
15 Transportation, and the Department of Community Affairs.

16 Section 454. Effective January 7, 2003, paragraph (c)
17 of subsection (2) of section 401.25, Florida Statutes, is
18 amended to read:

19 401.25 Licensure as a basic life support or an
20 advanced life support service.--

21 (2) The department shall issue a license for operation
22 to any applicant who complies with the following requirements:

23 (c) The applicant has furnished evidence of adequate
24 insurance coverage for claims arising out of injury to or
25 death of persons and damage to the property of others
26 resulting from any cause for which the owner of such business
27 or service would be liable. The applicant must provide
28 insurance in such sums and under such terms as required by the
29 department. In lieu of such insurance, the applicant may
30 furnish a certificate of self-insurance evidencing that the
31 applicant has established an adequate self-insurance plan to

1 cover such risks and that the plan has been approved by the
2 Department of Insurance and Financial Services.

3 Section 455. Effective January 7, 2003, section
4 402.04, Florida Statutes, is amended to read:

5 402.04 Award of scholarships and stipends;
6 disbursement of funds; administration.--The award of
7 scholarships or stipends provided for herein shall be made by
8 the Department of Children and Family Services, hereinafter
9 referred to as the department. The department shall handle the
10 administration of the scholarship or stipend and the
11 Department of Education shall, for and on behalf of the
12 department, handle the notes issued for the payment of the
13 scholarships or stipends provided for herein and the
14 collection of same. The department shall prescribe
15 regulations governing the payment of scholarships or stipends
16 to the school, college, or university for the benefit of the
17 scholarship or stipend holders. All scholarship awards,
18 expenses and costs of administration shall be paid from moneys
19 appropriated by the Legislature and shall be paid upon
20 vouchers approved by the department and properly certified by
21 the Chief Financial Officer ~~Comptroller~~.

22 Section 456. Effective January 7, 2003, paragraph (b)
23 of subsection (1) and subsection (4) of section 402.17,
24 Florida Statutes, are amended to read:

25 402.17 Claims for care and maintenance; trust
26 property.--The Department of Children and Family Services
27 shall protect the financial interest of the state with respect
28 to claims which the state may have for the care and
29 maintenance of clients of the department. The department
30 shall, as trustee, hold in trust and administer money of
31 clients and property designated for the personal benefit of

1 clients. The department shall act as trustee of clients' money
2 and property entrusted to it in accordance with the usual
3 fiduciary standards applicable generally to trustees, and
4 shall act to protect both the short-term and long-term
5 interests of the clients for whose benefit it is holding such
6 money and property.

7 (1) CLAIMS FOR CARE AND MAINTENANCE.--

8 (b) The Department of Children and Family Services may
9 charge off accounts if it certifies that the accounts are
10 uncollectible after diligent efforts have been made to collect
11 them. If the department certifies an account to the Chief
12 Financial Officer ~~Department of Banking and Finance~~, setting
13 forth the circumstances upon which it predicates the
14 uncollectibility, and if, pursuant to s. 17.04, the Chief
15 Financial Officer ~~Department of Banking and Finance~~ concurs,
16 the account shall be charged off.

17 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the
18 death of any client affected by the provisions of this
19 section, any unclaimed money held in trust by the department
20 or by the Chief Financial Officer ~~Treasurer~~ for him or her
21 shall be applied first to the payment of any unpaid claim of
22 the state against the client, and any balance remaining
23 unclaimed for a period of 1 year shall escheat to the state as
24 unclaimed funds held by fiduciaries.

25 Section 457. Effective January 7, 2003, paragraph (a)
26 of subsection (8) of section 402.33, Florida Statutes, is
27 amended to read:

28 402.33 Department authority to charge fees for
29 services provided.--

30 (8)(a) Unpaid fees for services provided by the
31 department to a client constitute a lien on any property owned

1 by the client or the client's responsible party which property
2 is not exempt by s. 4, Art. X of the State Constitution. If
3 fees are not paid within 6 months after they are billed, the
4 department shall charge interest on the unpaid balance at a
5 rate equal to the average rate of interest earned by the State
6 Treasury on state funds deposited in commercial banks as
7 reported by the Chief Financial Officer ~~Treasurer~~ for the
8 previous year. The department is authorized to negotiate and
9 settle any delinquent account, and to charge off any
10 delinquent account even though the claim of the department may
11 be against the client, a responsible party, or a payor of
12 third-party benefits, either directly for the department or as
13 a fiduciary for the client or responsible party.

14 Section 458. Effective January 7, 2003, paragraph (a)
15 of subsection (8) of section 403.1835, Florida Statutes, is
16 amended to read:

17 403.1835 Water pollution control financial
18 assistance.--

19 (8)(a) If a local governmental agency becomes
20 delinquent on its loan, the department shall so certify to the
21 Chief Financial Officer ~~Comptroller~~, who shall forward the
22 amount delinquent to the department from any unobligated funds
23 due to the local governmental agency under any revenue-sharing
24 or tax-sharing fund established by the state, except as
25 otherwise provided by the State Constitution. Certification of
26 delinquency shall not limit the department from pursuing other
27 remedies available for default on a loan. The department may
28 impose a penalty for delinquent loan payments in an amount not
29 to exceed an interest rate of 18 percent per annum on the
30 amount due in addition to charging the cost to handle and
31 process the debt. Penalty interest shall accrue on any amount

1 due and payable beginning on the 30th day following the date
2 upon which payment is due.

3 Section 459. Effective January 7, 2003, subsection
4 (21) of section 403.706, Florida Statutes, is amended to read:

5 403.706 Local government solid waste
6 responsibilities.--

7 (21) In addition to any other penalties provided by
8 law, a local government that does not comply with the
9 requirements of subsections (2) and (4) shall not be eligible
10 for grants from the Solid Waste Management Trust Fund, and the
11 department may notify the Chief Financial Officer ~~State~~
12 ~~Treasurer~~ to withhold payment of all or a portion of funds
13 payable to the local government by the department from the
14 General Revenue Fund or by the department from any other state
15 fund, to the extent not pledged to retire bonded indebtedness,
16 unless the local government demonstrates that good faith
17 efforts to meet the requirements of subsections (2) and (4)
18 have been made or that the funds are being or will be used to
19 finance the correction of a pollution control problem that
20 spans jurisdictional boundaries.

21 Section 460. Effective January 7, 2003, subsection (3)
22 of section 403.724, Florida Statutes, is amended to read:

23 403.724 Financial responsibility.--

24 (3) The amount of financial responsibility required
25 shall be approved by the department upon each issuance,
26 renewal, or modification of a hazardous waste facility permit.
27 Such factors as inflation rates and changes in operation may
28 be considered when approving financial responsibility for the
29 duration of the permit. The Department of Insurance and
30 Financial Services shall be available to assist the department
31 in making this determination. In approving or modifying the

- 1 amount of financial responsibility, the department shall
2 consider:
- 3 (a) The amount and type of hazardous waste involved;
 - 4 (b) The probable damage to human health and the
5 environment;
 - 6 (c) The danger and probable damage to private and
7 public property near the facility;
 - 8 (d) The probable time that the hazardous waste and
9 facility involved will endanger the public health, safety, and
10 welfare or the environment; and
 - 11 (e) The probable costs of properly closing the
12 facility.

13 Section 461. Effective January 7, 2003, paragraph (a)
14 of subsection (15) of section 403.8532, Florida Statutes, is
15 amended to read:

16 403.8532 Drinking water state revolving loan fund;
17 use; rules.--

18 (15)(a) If a local governmental agency defaults under
19 the terms of its loan agreement, the department shall so
20 certify to the Chief Financial Officer ~~Comptroller~~, who shall
21 forward the amount delinquent to the department from any
22 unobligated funds due to the local governmental agency under
23 any revenue-sharing or tax-sharing fund established by the
24 state, except as otherwise provided by the State Constitution.
25 Certification of delinquency shall not limit the department
26 from pursuing other remedies available for default on a loan,
27 including accelerating loan repayments, eliminating all or
28 part of the interest rate subsidy on the loan, and court
29 appointment of a receiver to manage the public water system.

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1 Section 462. Effective January 7, 2003, paragraphs
2 (a), (b), (c), and (e) of subsection (2) of section 404.111,
3 Florida Statutes, are amended to read:
4 404.111 Surety requirements.--
5 (2) In lieu of posting a bond as required under
6 subsection (1), a licensee may:
7 (a) Deposit with the Chief Financial Officer ~~Treasurer~~
8 securities of the type eligible for deposit by insurers under
9 s. 625.52, which securities must have at all times a market
10 value of not less than the amount of the bond required under
11 subsection (1).
12 (b) Whenever the market value of the securities
13 deposited with the Chief Financial Officer ~~Treasurer~~ is less
14 than 95 percent of the amount required by the department, the
15 licensee shall deposit additional securities or otherwise
16 increase the deposit to the amount required.
17 (c) The state is responsible for the safekeeping of
18 all securities deposited with the Chief Financial Officer
19 ~~Treasurer~~ under this section. Such securities are not, on
20 account of being in this state, subject to taxation but shall
21 be held exclusively and solely to guarantee the faithful
22 performance by the licensee of its obligations.
23 (e) Such deposit shall be maintained unimpaired so
24 long as the licensee continues in business in this state.
25 Whenever the licensee ceases to do business in this state and
26 furnishes the department satisfactory proof that it has
27 discharged or otherwise adequately provided for all its
28 obligations in this state, the Chief Financial Officer
29 ~~Treasurer~~ shall release the deposit securities to the parties
30 entitled thereto, on the receipt of authorization from the
31 department.

1 Section 463. Effective January 7, 2003, paragraph (b)
2 of subsection (2) of section 408.040, Florida Statutes, is
3 amended to read:

4 408.040 Conditions and monitoring.--

5 (2)

6 (b) A certificate of need issued to an applicant
7 holding a provisional certificate of authority under chapter
8 651 shall terminate 1 year after the applicant receives a
9 valid certificate of authority from the Department of
10 Insurance and Financial Services.

11 Section 464. Effective January 7, 2003, subsection (4)
12 of section 408.08, Florida Statutes, is amended to read:

13 408.08 Inspections and audits; violations; penalties;
14 fines; enforcement.--

15 (4) If a health insurer does not comply with the
16 requirements of s. 408.061, the agency shall report a health
17 insurer's failure to comply to the Department of Insurance and
18 Financial Services, which shall take into account the failure
19 by the health insurer to comply in conjunction with its
20 approval authority under s. 627.410. The agency shall adopt
21 any rules necessary to carry out its responsibilities required
22 by this subsection.

23 Section 465. Effective January 7, 2003, paragraph (a)
24 of subsection (4) and subsection (9) of section 408.18,
25 Florida Statutes, are amended to read:

26 408.18 Health Care Community Antitrust Guidance Act;
27 antitrust no-action letter; market-information collection and
28 education.--

29 (4)(a) Members of the health care community who seek
30 antitrust guidance may request a review of their proposed
31 business activity by the Attorney General's office. In

1 conducting its review, the Attorney General's office may seek
2 whatever documentation, data, or other material it deems
3 necessary from the Agency for Health Care Administration, the
4 State Center for Health Statistics, and the Department of
5 Insurance and Financial Services.

6 (9) When the member of the health care community
7 seeking the no-action letter is regulated by the Department of
8 Insurance and Financial Services, the Department of Insurance
9 and Financial Services shall make available to the Attorney
10 General's office, as needed, any information it maintains in
11 its regulatory capacity.

12 Section 466. Effective January 7, 2003, subsection (1)
13 of section 408.50, Florida Statutes, is amended to read:

14 408.50 Prospective payment arrangements.--

15 (1) Hospitals as defined in s. 395.002, and health
16 insurers regulated pursuant to parts VI and VII of chapter
17 627, shall establish prospective payment arrangements that
18 provide hospitals with financial incentives to contain costs.
19 Each hospital shall enter into a rate agreement with each
20 health insurer which represents 10 percent or more of the
21 private-pay patients of the hospital to establish a
22 prospective payment arrangement. Hospitals and health insurers
23 regulated pursuant to this section shall report annually the
24 results of each specific prospective payment arrangement
25 adopted by each hospital and health insurer to the board. The
26 agency shall report a health insurer's failure to comply to
27 the Department of Insurance and Financial Services, which
28 shall take into account the failure by the health insurer to
29 comply in conjunction with its approval authority under s.
30 627.410. The agency shall adopt any rules necessary to carry
31 out its responsibilities required by this section.

1 Section 467. Effective January 7, 2003, paragraph (b)
2 of subsection (1), subsection (13), and paragraph (b) of
3 subsection (15) of section 408.7056, Florida Statutes, are
4 amended to read:

5 408.7056 Statewide Provider and Subscriber Assistance
6 Program.--

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

8 (b) "Department" means the Department of Insurance and
9 Financial Services.

10 (13) Any information which would identify a subscriber
11 or the spouse, relative, or guardian of a subscriber and which
12 is contained in a report obtained by the Department of
13 Insurance and Financial Services pursuant to this section is
14 confidential and exempt from the provisions of s. 119.07(1)
15 and s. 24(a), Art. I of the State Constitution.

16 (15)

17 (b) Meetings of the panel shall be open to the public
18 unless the provider or subscriber whose grievance will be
19 heard requests a closed meeting or the agency or the
20 Department of Insurance and Financial Services determines that
21 information of a sensitive personal nature which discloses the
22 subscriber's medical treatment or history; or information
23 which constitutes a trade secret as defined by s. 812.081; or
24 information relating to internal risk management programs as
25 defined in s. 641.55(5)(c), (6), and (8) may be revealed at
26 the panel meeting, in which case that portion of the meeting
27 during which such sensitive personal information, trade secret
28 information, or internal risk management program information
29 is discussed shall be exempt from the provisions of s. 286.011
30 and s. 24(b), Art. I of the State Constitution. All closed
31 meetings shall be recorded by a certified court reporter.

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This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 468. Effective January 7, 2003, subsection (1) of section 408.902, Florida Statutes, is amended to read:

408.902 MedAccess program; creation; program title.--

(1) Effective July 1, 1994, there is hereby created the MedAccess program to be administered by the Agency for Health Care Administration. The MedAccess program shall not be subject to the requirements of the Department of Insurance and Financial Services or chapter 627. The secretary of the agency shall appoint an administrator of the MedAccess program.

Section 469. Effective January 7, 2003, paragraph (f) of subsection (5) and paragraph (a) of subsection (14) of section 409.175, Florida Statutes, are amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.--

(5)

(f) All residential child-caring agencies must meet firesafety standards for such agencies adopted by the Division of State Fire Marshal of the Department of Insurance and Financial Services and must be inspected annually. At the request of the department, firesafety inspections shall be conducted by the Division of State Fire Marshal or a local fire department official who has been certified by the division as having completed the training requirements for persons inspecting such agencies. Inspection reports shall be furnished to the department within 30 days of a request.

1 (14)(a) The Division of Risk Management of the
2 Department of Insurance and Financial Services shall provide
3 coverage through the Department of Children and Family
4 Services to any person who owns or operates a family foster
5 home solely for the Department of Children and Family Services
6 and who is licensed to provide family foster home care in her
7 or his place of residence. The coverage shall be provided
8 from the general liability account of the State Risk
9 Management Trust Fund, and the coverage shall be primary. The
10 coverage is limited to general liability claims arising from
11 the provision of family foster home care pursuant to an
12 agreement with the department and pursuant to guidelines
13 established through policy, rule, or statute. Coverage shall
14 be limited as provided in ss. 284.38 and 284.385, and the
15 exclusions set forth therein, together with other exclusions
16 as may be set forth in the certificate of coverage issued by
17 the trust fund, shall apply. A person covered under the
18 general liability account pursuant to this subsection shall
19 immediately notify the Division of Risk Management of the
20 Department of Insurance and Financial Services of any
21 potential or actual claim.

22 Section 470. Effective January 7, 2003, subsection
23 (10) of section 409.25656, Florida Statutes, is amended to
24 read:

25 409.25656 Garnishment.--

26 (10) The department shall provide notice to the Chief
27 Financial Officer ~~Comptroller~~, in electronic or other form
28 specified by the Chief Financial Officer ~~Comptroller~~, listing
29 the obligors for whom warrants are outstanding. Pursuant to
30 subsection (1), the Chief Financial Officer ~~Comptroller~~ shall,
31 upon notice from the department, withhold all payments to any

1 obligor who provides commodities or services to the state,
2 leases real property to the state, or constructs a public
3 building or public work for the state. The department may levy
4 upon the withheld payments in accordance with subsection (3).
5 Section 215.422 does not apply from the date the notice is
6 filed with the Chief Financial Officer ~~Comptroller~~ until the
7 date the department notifies the Chief Financial Officer
8 ~~Comptroller~~ of its consent to make payment to the person or 60
9 days after receipt of the department's notice in accordance
10 with subsection (1), whichever occurs earlier.

11 Section 471. Effective January 7, 2003, subsections
12 (1), (2), (3), and (4) of section 409.25658, Florida Statutes,
13 are amended to read:

14 409.25658 Use of unclaimed property for past due
15 support.--

16 (1) In a joint effort to facilitate the collection and
17 payment of past due support, the Department of Revenue, in
18 cooperation with the Chief Financial Officer ~~Department of~~
19 ~~Banking and Finance~~, shall identify persons owing support
20 collected through a court who are presumed to have abandoned
21 property held by the Chief Financial Officer ~~Department of~~
22 ~~Banking and Finance~~.

23 (2) The department shall periodically provide the
24 Chief Financial Officer ~~Department of Banking and Finance~~ with
25 an electronic file of support obligors who owe past due
26 support. The Chief Financial Officer ~~Department of Banking and~~
27 ~~Finance~~ shall conduct a data match of the file against all
28 apparent owners of abandoned property under chapter 717 and
29 provide the resulting match list to the department.

30 (3) Upon receipt of the data match list, the
31 department shall provide to the Chief Financial Officer

1 ~~Department of Banking and Finance~~ the obligor's last known
2 address. The Chief Financial Officer ~~Department of Banking and~~
3 ~~Finance~~ shall follow the notification procedures under s.
4 717.118.

5 (4) Prior to paying an obligor's approved claim, the
6 Chief Financial Officer ~~Department of Banking and Finance~~
7 shall notify the department that such claim has been approved.
8 Upon confirmation that the Chief Financial Officer ~~Department~~
9 ~~of Banking and Finance~~ has approved the claim, the department
10 shall immediately send a notice by certified mail to the
11 obligor, with a copy to the Chief Financial Officer ~~Department~~
12 ~~of Banking and Finance~~, advising the obligor of the
13 department's intent to intercept the approved claim up to the
14 amount of the past due support, and informing the obligor of
15 the obligor's right to request a hearing under chapter 120.
16 The Chief Financial Officer ~~Department of Banking and Finance~~
17 shall retain custody of the property until a final order has
18 been entered and any appeals thereon have been concluded. If
19 the obligor fails to request a hearing, the department shall
20 enter a final order instructing the Chief Financial Officer
21 ~~Department of Banking and Finance~~ to transfer to the
22 department the property in the amount stated in the final
23 order. Upon such transfer, the Chief Financial Officer
24 ~~Department of Banking and Finance~~ shall be released from
25 further liability related to the transferred property.

26 Section 472. Effective January 7, 2003, subsections
27 (4) and (7) of section 409.2673, Florida Statutes, are amended
28 to read:

29 409.2673 Shared county and state health care program
30 for low-income persons.--

31

1 (4) The levels of financial participation by counties
2 and the state for this program shall be determined as follows:

3 (a) If on July 1, 1988, a county funded inpatient
4 hospital services for those who would have been eligible for
5 the program, the county shall fund 35 percent of the cost of
6 this program and the state shall provide the remaining 65
7 percent of the funding required for this program. A county
8 participating at this level shall use that portion of its
9 budget that previously would have funded these inpatient
10 hospital services and that, under this program, has been
11 offset by state funding for funding other health programs.

12 (b) If a county has not reached its maximum ad valorem
13 millage rate as authorized by law and certified to the
14 Department of Revenue and the county does not currently fund
15 inpatient hospital services for those who would be eligible
16 for this program, the county:

17 1. Shall provide 35 percent of the cost for this
18 program from within the county's existing budget, and the
19 state shall provide the remaining 65 percent of the funding
20 required for this program; however, under no circumstances
21 will county funding which had been used for funding the county
22 health department under chapter 154 be utilized for funding
23 the county's portion of this program; or

24 2. Shall levy an additional ad valorem millage to fund
25 the county's portion of this program. The state shall provide
26 the remaining portion of program funding if:

27 a. A county levies additional ad valorem millage up to
28 the maximum authorized by law and certified to the Department
29 of Revenue and still does not have sufficient funds to meet
30 its 35 percent of the funding of this program; and

31

1 b. A county has exhausted all revenue sources which
2 can statutorily be used as possible funding sources for this
3 program.

4 (c) A county will be eligible for 100-percent state
5 funding of this program if:

6 1. On July 1, 1988, the county did not fund inpatient
7 hospital services for those who would have been eligible for
8 this program;

9 2. The county has reached its maximum ad valorem
10 millage as authorized by law and certified to the Department
11 of Revenue; and

12 3. The county has exhausted all revenue sources which
13 can statutorily be used as possible funding sources for this
14 program.

15
16 Reporting forms specifically designed to capture the
17 information necessary to determine the above levels of
18 participation will be developed as part of the joint
19 rulemaking required for the shared county and state program.
20 For purposes of this program, the counties will be required to
21 report necessary information to the Chief Financial Officer
22 ~~Department of Banking and Finance~~.

23 (7) A county that participates in the program at any
24 level may not reduce its total per capita expenditures being
25 devoted to health care if any of these funds were previously
26 utilized for the provision of inpatient hospital services to
27 those persons made eligible for the shared county and state
28 program. It is the intent of the Legislature that, as a
29 result of the shared county and state program, local funds
30 which were previously used for the provision of inpatient
31 hospital services to persons made eligible by the program be

1 used by counties for funding other health care programs which,
2 for purposes of this section, are health expenditures as
3 reported annually to the Chief Financial Officer ~~Department of~~
4 ~~Banking and Finance~~ pursuant to s. 218.32, provided that this
5 subsection does not apply to reductions in county funding
6 resulting from the expiration of special sales taxes levied
7 pursuant to chapter 84-373, Laws of Florida.

8 Section 473. Effective January 7, 2003, subsection (3)
9 of section 409.8132, Florida Statutes, is amended to read:

10 409.8132 Medikids program component.--

11 (3) INSURANCE LICENSURE NOT REQUIRED.--The Medikids
12 program component shall not be subject to the licensing
13 requirements of the Florida Insurance Code or rules of the
14 Department of Insurance and Financial Services.

15 Section 474. Effective January 7, 2003, subsection (1)
16 of section 409.817, Florida Statutes, is amended to read:

17 409.817 Approval of health benefits coverage;
18 financial assistance.--In order for health insurance coverage
19 to qualify for premium assistance payments for an eligible
20 child under ss. 409.810-409.820, the health benefits coverage
21 must:

22 (1) Be certified by the Department of Insurance and
23 Financial Services under s. 409.818 as meeting, exceeding, or
24 being actuarially equivalent to the benchmark benefit plan;

25 Section 475. Effective January 7, 2003, paragraph (c)
26 of subsection (2), paragraphs (a) and (f) of subsection (3),
27 and subsections (4) and (6) of section 409.818, Florida
28 Statutes, are amended to read:

29 409.818 Administration.--In order to implement ss.
30 409.810-409.820, the following agencies shall have the
31 following duties:

1 (2) The Department of Health shall:
2 (c) Chair a state-level coordinating council to review
3 and make recommendations concerning the implementation and
4 operation of the program. The coordinating council shall
5 include representatives from the department, the Department of
6 Children and Family Services, the agency, the Florida Healthy
7 Kids Corporation, the Department of Insurance and Financial
8 Services, local government, health insurers, health
9 maintenance organizations, health care providers, families
10 participating in the program, and organizations representing
11 low-income families.

12 (3) The Agency for Health Care Administration, under
13 the authority granted in s. 409.914(1), shall:

14 (a) Calculate the premium assistance payment necessary
15 to comply with the premium and cost-sharing limitations
16 specified in s. 409.816. The premium assistance payment for
17 each enrollee in a health insurance plan participating in the
18 Florida Healthy Kids Corporation shall equal the premium
19 approved by the Florida Healthy Kids Corporation and the
20 Department of Insurance and Financial Services pursuant to ss.
21 627.410 and 641.31, less any enrollee's share of the premium
22 established within the limitations specified in s. 409.816.
23 The premium assistance payment for each enrollee in an
24 employer-sponsored health insurance plan approved under ss.
25 409.810-409.820 shall equal the premium for the plan adjusted
26 for any benchmark benefit plan actuarial equivalent benefit
27 rider approved by the Department of Insurance and Financial
28 Services pursuant to ss. 627.410 and 641.31, less any
29 enrollee's share of the premium established within the
30 limitations specified in s. 409.816. In calculating the
31 premium assistance payment levels for children with family

1 coverage, the agency shall set the premium assistance payment
2 levels for each child proportionately to the total cost of
3 family coverage.

4 (f) Approve health benefits coverage for participation
5 in the program, following certification by the Department of
6 Insurance and Financial Services under subsection (4).

7
8 The agency is designated the lead state agency for Title XXI
9 of the Social Security Act for purposes of receipt of federal
10 funds, for reporting purposes, and for ensuring compliance
11 with federal and state regulations and rules.

12 (4) The Department of Insurance and Financial Services
13 shall certify that health benefits coverage plans that seek to
14 provide services under the Florida Kidcare program, except
15 those offered through the Florida Healthy Kids Corporation or
16 the Children's Medical Services network, meet, exceed, or are
17 actuarially equivalent to the benchmark benefit plan and that
18 health insurance plans will be offered at an approved rate. In
19 determining actuarial equivalence of benefits coverage, the
20 Department of Insurance and Financial Services and health
21 insurance plans must comply with the requirements of s. 2103
22 of Title XXI of the Social Security Act. The department shall
23 adopt rules necessary for certifying health benefits coverage
24 plans.

25 (6) The agency, the Department of Health, the
26 Department of Children and Family Services, the Florida
27 Healthy Kids Corporation, and the Department of Insurance and
28 Financial Services, after consultation with and approval of
29 the Speaker of the House of Representatives and the President
30 of the Senate, are authorized to make program modifications
31 that are necessary to overcome any objections of the United

1 States Department of Health and Human Services to obtain
2 approval of the state's child health insurance plan under
3 Title XXI of the Social Security Act.

4 Section 476. Effective January 7, 2003, subsection
5 (20) of section 409.910, Florida Statutes, is amended to read:

6 409.910 Responsibility for payments on behalf of
7 Medicaid-eligible persons when other parties are liable.--

8 (20) Entities providing health insurance as defined in
9 s. 624.603, and health maintenance organizations and prepaid
10 health clinics as defined in chapter 641, shall provide such
11 records and information as are necessary to accomplish the
12 purpose of this section, unless such requirement results in an
13 unreasonable burden.

14 (a) The director of the agency and the Department of
15 Insurance and Financial Services ~~Insurance Commissioner~~ shall
16 enter into a cooperative agreement for requesting and
17 obtaining information necessary to effect the purpose and
18 objective of this section.

19 1. The agency shall request only that information
20 necessary to determine whether health insurance as defined
21 pursuant to s. 624.603, or those health services provided
22 pursuant to chapter 641, could be, should be, or have been
23 claimed and paid with respect to items of medical care and
24 services furnished to any person eligible for services under
25 this section.

26 2. All information obtained pursuant to subparagraph
27 1. is confidential and exempt from s. 119.07(1).

28 3. The cooperative agreement or rules adopted under
29 this subsection may include financial arrangements to
30 reimburse the reporting entities for reasonable costs or a
31 portion thereof incurred in furnishing the requested

1 information. Neither the cooperative agreement nor the rules
2 shall require the automation of manual processes to provide
3 the requested information.

4 (b) The agency and the Department of Insurance and
5 Financial Services jointly shall adopt rules for the
6 development and administration of the cooperative agreement.
7 The rules shall include the following:

8 1. A method for identifying those entities subject to
9 furnishing information under the cooperative agreement.

10 2. A method for furnishing requested information.

11 3. Procedures for requesting exemption from the
12 cooperative agreement based on an unreasonable burden to the
13 reporting entity.

14 Section 477. Effective January 7, 2003, paragraph (a)
15 of subsection (3), paragraph (c) of subsection (5),
16 subsections (14) and (17), and paragraph (a) of subsection
17 (35) of section 409.912, Florida Statutes, are amended to
18 read:

19 409.912 Cost-effective purchasing of health care.--The
20 agency shall purchase goods and services for Medicaid
21 recipients in the most cost-effective manner consistent with
22 the delivery of quality medical care. The agency shall
23 maximize the use of prepaid per capita and prepaid aggregate
24 fixed-sum basis services when appropriate and other
25 alternative service delivery and reimbursement methodologies,
26 including competitive bidding pursuant to s. 287.057, designed
27 to facilitate the cost-effective purchase of a case-managed
28 continuum of care. The agency shall also require providers to
29 minimize the exposure of recipients to the need for acute
30 inpatient, custodial, and other institutional care and the
31 inappropriate or unnecessary use of high-cost services. The

1 agency may establish prior authorization requirements for
2 certain populations of Medicaid beneficiaries, certain drug
3 classes, or particular drugs to prevent fraud, abuse, overuse,
4 and possible dangerous drug interactions. The Pharmaceutical
5 and Therapeutics Committee shall make recommendations to the
6 agency on drugs for which prior authorization is required. The
7 agency shall inform the Pharmaceutical and Therapeutics
8 Committee of its decisions regarding drugs subject to prior
9 authorization.

10 (3) The agency may contract with:

11 (a) An entity that provides no prepaid health care
12 services other than Medicaid services under contract with the
13 agency and which is owned and operated by a county, county
14 health department, or county-owned and operated hospital to
15 provide health care services on a prepaid or fixed-sum basis
16 to recipients, which entity may provide such prepaid services
17 either directly or through arrangements with other providers.
18 Such prepaid health care services entities must be licensed
19 under parts I and III by January 1, 1998, and until then are
20 exempt from the provisions of part I of chapter 641. An entity
21 recognized under this paragraph which demonstrates to the
22 satisfaction of the Department of Insurance and Financial
23 Services that it is backed by the full faith and credit of the
24 county in which it is located may be exempted from s. 641.225.

25 (5) The agency may contract on a prepaid or fixed-sum
26 basis with any health insurer that:

27 (c) Is organized and licensed under applicable
28 provisions of the Florida Insurance Code and is currently in
29 good standing with the Department of Insurance and Financial
30 Services.

31

1 (14) An entity contracting on a prepaid or fixed-sum
2 basis shall, in addition to meeting any applicable statutory
3 surplus requirements, also maintain at all times in the form
4 of cash, investments that mature in less than 180 days
5 allowable as admitted assets by the Department of Insurance
6 and Financial Services, and restricted funds or deposits
7 controlled by the agency or the Department of Insurance and
8 Financial Services, a surplus amount equal to one-and-one-half
9 times the entity's monthly Medicaid prepaid revenues. As used
10 in this subsection, the term "surplus" means the entity's
11 total assets minus total liabilities. If an entity's surplus
12 falls below an amount equal to one-and-one-half times the
13 entity's monthly Medicaid prepaid revenues, the agency shall
14 prohibit the entity from engaging in marketing and
15 preenrollment activities, shall cease to process new
16 enrollments, and shall not renew the entity's contract until
17 the required balance is achieved. The requirements of this
18 subsection do not apply:

19 (a) Where a public entity agrees to fund any deficit
20 incurred by the contracting entity; or

21 (b) Where the entity's performance and obligations are
22 guaranteed in writing by a guaranteeing organization which:

23 1. Has been in operation for at least 5 years and has
24 assets in excess of \$50 million; or

25 2. Submits a written guarantee acceptable to the
26 agency which is irrevocable during the term of the contracting
27 entity's contract with the agency and, upon termination of the
28 contract, until the agency receives proof of satisfaction of
29 all outstanding obligations incurred under the contract.

30 (17) When a merger or acquisition of a Medicaid
31 prepaid contractor has been approved by the Department of

1 Insurance and Financial Services pursuant to s. 628.4615, the
2 agency shall approve the assignment or transfer of the
3 appropriate Medicaid prepaid contract upon request of the
4 surviving entity of the merger or acquisition if the
5 contractor and the other entity have been in good standing
6 with the agency for the most recent 12-month period, unless
7 the agency determines that the assignment or transfer would be
8 detrimental to the Medicaid recipients or the Medicaid
9 program. To be in good standing, an entity must not have
10 failed accreditation or committed any material violation of
11 the requirements of s. 641.52 and must meet the Medicaid
12 contract requirements. For purposes of this section, a merger
13 or acquisition means a change in controlling interest of an
14 entity, including an asset or stock purchase.

15 (35) The Agency for Health Care Administration is
16 directed to issue a request for proposal or intent to
17 negotiate to implement on a demonstration basis an outpatient
18 specialty services pilot project in a rural and urban county
19 in the state. As used in this subsection, the term
20 "outpatient specialty services" means clinical laboratory,
21 diagnostic imaging, and specified home medical services to
22 include durable medical equipment, prosthetics and orthotics,
23 and infusion therapy.

24 (a) The entity that is awarded the contract to provide
25 Medicaid managed care outpatient specialty services must, at a
26 minimum, meet the following criteria:

- 27 1. The entity must be licensed by the Department of
28 Insurance and Financial Services under part II of chapter 641.
- 29 2. The entity must be experienced in providing
30 outpatient specialty services.

31

1 3. The entity must demonstrate to the satisfaction of
2 the agency that it provides high-quality services to its
3 patients.

4 4. The entity must demonstrate that it has in place a
5 complaints and grievance process to assist Medicaid recipients
6 enrolled in the pilot managed care program to resolve
7 complaints and grievances.

8 Section 478. Effective January 7, 2003, subsections
9 (2) and (3) of section 409.9124, Florida Statutes, are amended
10 to read:

11 409.9124 Managed care reimbursement.--

12 (2) The agency shall by rule prescribe those items of
13 financial information which each managed care plan shall
14 report to the agency, in the time periods prescribed by rule.
15 In prescribing items for reporting and definitions of terms,
16 the agency shall consult with the Department of Insurance and
17 Financial Services wherever possible.

18 (3) The agency shall quarterly examine the financial
19 condition of each managed care plan, and its performance in
20 serving Medicaid patients, and shall utilize examinations
21 performed by the Department of Insurance and Financial
22 Services wherever possible.

23 Section 479. Effective January 7, 2003, subsections
24 (5) and (6) of section 409.915, Florida Statutes, are amended
25 to read:

26 409.915 County contributions to Medicaid.--Although
27 the state is responsible for the full portion of the state
28 share of the matching funds required for the Medicaid program,
29 in order to acquire a certain portion of these funds, the
30 state shall charge the counties for certain items of care and
31 service as provided in this section.

1 (5) The Chief Financial Officer ~~Department of Banking~~
2 ~~and Finance~~ shall withhold from the cigarette tax receipts or
3 any other funds to be distributed to the counties the
4 individual county share that has not been remitted within 60
5 days after billing.

6 (6) In any county in which a special taxing district
7 or authority is located which will benefit from the medical
8 assistance programs covered by this section, the board of
9 county commissioners may divide the county's financial
10 responsibility for this purpose proportionately, and each such
11 district or authority must furnish its share to the board of
12 county commissioners in time for the board to comply with the
13 provisions of subsection (3). Any appeal of the proration made
14 by the board of county commissioners must be made to the Chief
15 Financial Officer, who ~~Department of Banking and Finance,~~
16 ~~which~~ shall then set the proportionate share of each party.

17 Section 480. Effective January 7, 2003, paragraph (c)
18 of subsection (7) of section 411.01, Florida Statutes, is
19 amended to read:

20 411.01 Florida Partnership for School Readiness;
21 school readiness coalitions.--

22 (7) PARENTAL CHOICE.--

23 (c) The Office of the Chief Financial Officer
24 ~~Comptroller~~ shall establish an electronic transfer system for
25 the disbursement of funds in accordance with this subsection.
26 School readiness coalitions shall fully implement the
27 electronic funds transfer system within 2 years after plan
28 approval unless a waiver is obtained from the partnership.

29 Section 481. Effective January 7, 2003, subsection (2)
30 of section 413.32, Florida Statutes, is amended to read:

31

1 413.32 Retention of title to and disposal of
2 equipment.--

3 (2) The division is authorized to offer for sale any
4 surplus items acquired in the operation of the program when
5 they are no longer necessary or to exchange them for necessary
6 items which may be used to greater advantage. When any such
7 surplus equipment is sold or exchanged a receipt for same
8 shall be taken from the purchaser showing the consideration
9 given for such equipment and forwarded to the Chief Financial
10 Officer ~~treasurer~~, and any funds received by the division
11 pursuant to any such transactions shall be deposited in the
12 State Treasury in the appropriate federal or state
13 rehabilitation funds and shall be available for expenditure
14 for any purpose consistent with this part.

15 Section 482. Effective January 7, 2003, section
16 414.27, Florida Statutes, is amended to read:

17 414.27 Temporary cash assistance; payment on death.--

18 (1) Upon the death of any person receiving temporary
19 cash assistance through the Department of Children and Family
20 Services, all temporary cash accrued to such person from the
21 date of last payment to the date of death shall be paid to the
22 person who shall have been designated by her or him on a form
23 prescribed by the department and filed with the department
24 during the lifetime of the person making such designation. If
25 no designation is made, or the person so designated is no
26 longer living or cannot be found, then payment shall be made
27 to such person as may be designated by the circuit judge of
28 the county where the recipient of temporary cash assistance
29 resided. Designation by the circuit judge may be made on a
30 form provided by the department or by letter or memorandum to
31 the Chief Financial Officer ~~Comptroller~~. No filing or

1 recording of the designation shall be required, and the
2 circuit judge shall receive no compensation for such service.
3 If a warrant has not been issued and forwarded prior to notice
4 by the department of the recipient's death, upon notice
5 thereof, the department shall promptly requisition the Chief
6 Financial Officer ~~Comptroller~~ to issue a warrant in the amount
7 of the accrued temporary cash assistance payable to the person
8 designated to receive it and shall attach to the requisition
9 the original designation of the deceased recipient, or if
10 none, the designation made by the circuit judge, as well as a
11 notice of death. The Chief Financial Officer ~~Comptroller~~ shall
12 issue a warrant in the amount payable.

13 (2) If a warrant has been issued and not cashed by the
14 recipient payee prior to her or his death, such warrant shall
15 be promptly returned to the department, together with notice
16 of the death of the recipient. The original warrant shall be
17 endorsed on the back by an authorized employee of the
18 department. The endorsement must be on a form prescribed by
19 the department and approved by the Chief Financial Officer
20 ~~Comptroller~~ which must contain the name of the deceased
21 recipient, a statement of the recipient's death, and the date
22 thereof and state that it is payable to the order of the
23 designated beneficiary, without recourse. The form shall be
24 signed by the authorized employee or employees of the
25 department, and thereupon such warrant shall be payable to the
26 designated beneficiary as fully and completely as if made
27 payable to her or him when issued. The department shall
28 furnish to the Chief Financial Officer ~~Comptroller~~ each month
29 a list of such deceased recipients, the designated
30 beneficiaries or persons to whom such warrants are endorsed,
31 and a description of such warrants as herein provided. The

1 department shall cause all persons receiving temporary cash
2 assistance to make the designations as soon as conveniently
3 may be, and shall preserve such designations in a safe place
4 for use.

5 Section 483. Effective January 7, 2003, subsection (8)
6 of section 414.28, Florida Statutes, is amended to read:

7 414.28 Public assistance payments to constitute debt
8 of recipient.--

9 (8) DISPOSITION OF FUNDS RECOVERED.--All funds
10 collected under this section shall be deposited with the Chief
11 Financial Officer ~~Department of Banking and Finance~~ and a
12 report of such deposit made to the department. After payment
13 of costs the sums so collected shall be credited to the
14 department and used by it.

15 Section 484. Effective January 7, 2003, section
16 420.0005, Florida Statutes, is amended to read:

17 420.0005 State Housing Trust Fund; State Housing
18 Fund.--There is hereby established in the State Treasury a
19 separate trust fund to be named the "State Housing Trust
20 Fund." There shall be deposited in the fund all moneys
21 appropriated by the Legislature, or moneys received from any
22 other source, for the purpose of this chapter, and all
23 proceeds derived from the use of such moneys. The fund shall
24 be administered by the Florida Housing Finance Corporation on
25 behalf of the department, as specified in this chapter. Money
26 deposited to the fund and appropriated by the Legislature
27 must, notwithstanding the provisions of chapter 216 or s.
28 420.504(3), be transferred quarterly in advance, to the extent
29 available, or, if not so available, as soon as received into
30 the State Housing Trust Fund, and subject to the provisions of
31 s. 420.5092(6)(a) and (b) by the Chief Financial Officer

1 ~~Comptroller~~ to the corporation upon certification by the
2 Secretary of Community Affairs that the corporation is in
3 compliance with the requirements of s. 420.0006. The
4 certification made by the secretary shall also include the
5 split of funds among programs administered by the corporation
6 and the department as specified in chapter 92-317, Laws of
7 Florida, as amended. Moneys advanced by the Chief Financial
8 Officer ~~Comptroller~~ must be deposited by the corporation into
9 a separate fund established with a qualified public depository
10 meeting the requirements of chapter 280 to be named the "State
11 Housing Fund" and used for the purposes of this chapter.
12 Administrative and personnel costs incurred in implementing
13 this chapter may be paid from the State Housing Fund, but such
14 costs may not exceed 5 percent of the moneys deposited into
15 such fund. To the State Housing Fund shall be credited all
16 loan repayments, penalties, and other fees and charges
17 accruing to such fund under this chapter. It is the intent of
18 this chapter that all loan repayments, penalties, and other
19 fees and charges collected be credited in full to the program
20 account from which the loan originated. Moneys in the State
21 Housing Fund which are not currently needed for the purposes
22 of this chapter shall be invested in such manner as is
23 provided for by statute. The interest received on any such
24 investment shall be credited to the State Housing Fund.

25 Section 485. Effective January 7, 2003, section
26 420.0006, Florida Statutes, is amended to read:

27 420.0006 Authority to contract with corporation;
28 contract requirements; nonperformance.--The secretary of the
29 department shall contract, notwithstanding the provisions of
30 part I of chapter 287, with the Florida Housing Finance
31 Corporation on a multiyear basis to stimulate, provide, and

1 foster affordable housing in the state. The contract must
2 incorporate the performance measures required by s. 420.511
3 and must be consistent with the provisions of the
4 corporation's strategic plan prepared in accordance with s.
5 420.511 and compatible with s. 216.0166. The contract must
6 provide that, in the event the corporation fails to comply
7 with any of the performance measures required by s. 420.511,
8 the secretary shall notify the Governor and shall refer the
9 nonperformance to the department's inspector general for
10 review and determination as to whether such failure is due to
11 forces beyond the corporation's control or whether such
12 failure is due to inadequate management of the corporation's
13 resources. Advances shall continue to be made pursuant to s.
14 420.0005 during the pendency of the review by the department's
15 inspector general. If such failure is due to outside forces,
16 it shall not be deemed a violation of the contract. If such
17 failure is due to inadequate management, the department's
18 inspector general shall provide recommendations regarding
19 solutions. The Governor is authorized to resolve any
20 differences of opinion with respect to performance under the
21 contract and may request that advances continue in the event
22 of a failure under the contract due to inadequate management.
23 The Chief Financial Officer ~~Comptroller~~ shall approve the
24 request absent a finding by the Chief Financial Officer
25 ~~Comptroller~~ that continuing such advances would adversely
26 impact the state; however, in any event the Chief Financial
27 Officer ~~Comptroller~~ shall provide advances sufficient to meet
28 the debt service requirements of the corporation and
29 sufficient to fund contracts committing funds from the State
30 Housing Trust Fund so long as such contracts are in accordance
31 with the laws of this state. The department inspector general

1 shall perform for the corporation the functions set forth in
2 s. 20.055 and report to the secretary of the department. The
3 corporation shall be deemed an agency for the purposes of s.
4 20.055.

5 Section 486. Effective January 7, 2003, paragraph (d)
6 of subsection (1) of section 420.101, Florida Statutes, is
7 amended to read:

8 420.101 Housing Development Corporation of Florida;
9 creation, membership, and purposes.--

10 (1) Twenty-five or more persons, a majority of whom
11 shall be residents of this state, who may desire to create a
12 housing development corporation under the provisions of this
13 part for the purpose of promoting and developing housing and
14 advancing the prosperity and economic welfare of the state
15 and, to that end, to exercise the powers and privileges
16 hereinafter provided, may be incorporated by filing in the
17 Department of State, as hereinafter provided, articles of
18 incorporation. The articles of incorporation shall contain:

19 (d) The names and post office addresses of the members
20 of the first board of directors. The first board of directors
21 shall be elected by and from the stockholders of the
22 corporation and shall consist of 21 members. However, five of
23 such members shall consist of the following persons, who shall
24 be nonvoting members: the secretary of the Department of
25 Community Affairs or her or his designee; the Commissioner of
26 Financial Services ~~head of the Department of Banking and~~
27 ~~Finance~~ or her or his designee; the Commissioner ~~head of the~~
28 ~~Department~~ of Insurance or her or his designee; one state
29 senator appointed by the President of the Senate; and one
30 representative appointed by the Speaker of the House of
31 Representatives.

1 Section 487. Effective January 7, 2003, subsection (1)
2 of section 420.123, Florida Statutes, is amended to read:
3 420.123 Stockholders; loan requirement.--
4 (1) Any financial institution may request membership
5 in the corporation by making application to the board of
6 directors on such form and in such manner as the board of
7 directors may require, and membership shall become effective
8 upon acceptance of the application in the manner designated by
9 the board. Each member stockholder of the corporation shall
10 make loans to the corporation as and when called upon by it to
11 do so on such terms and other conditions as shall be approved
12 from time to time by the board of directors, except that the
13 total amount outstanding on loans to the corporation made by
14 any member at any one time, when added to the amount of the
15 investment in the capital stock of the corporation then held
16 by such member, shall not exceed the following limit, to be
17 determined as of the time such member becomes a member on the
18 basis of the audited balance sheet of such member at the close
19 of its fiscal year immediately preceding its application for
20 membership or, in the case of an insurance company, its last
21 annual statement to the Department of Insurance and Financial
22 Services: 5 percent of the capital and surplus of commercial
23 banks and trust companies; 5 percent of the total outstanding
24 loans made by savings and loan associations and building and
25 loan associations; 5 percent of the capital and unassigned
26 surplus of stock insurance companies, except fire insurance
27 companies; 5 percent of the unassigned surplus of mutual
28 insurance companies, except fire insurance companies; 0.2
29 percent of the assets of fire insurance companies; and such
30 limits as may be approved by the board of directors of the
31 corporation for other financial institutions.

1 Section 488. Effective January 7, 2003, subsection (1)
2 of section 420.131, Florida Statutes, is amended to read:

3 420.131 Articles of incorporation; method of
4 amending.--

5 (1) The articles of incorporation may be amended by
6 the vote of the stockholders of the corporation, and such
7 amendments shall require approval by the affirmative vote of
8 two-thirds of the votes to which the stockholders shall be
9 entitled. However, no amendment of the articles of
10 incorporation which is inconsistent with the general purposes
11 expressed herein or which eliminates or curtails the right of
12 the Department of Insurance and Financial Services ~~Banking and~~
13 ~~Finance~~ to examine the corporation or the obligation of the
14 corporation to make reports as provided in s. 420.141(2) shall
15 be made.

16 Section 489. Effective January 7, 2003, subsection (2)
17 of section 420.141, Florida Statutes, is amended to read:

18 420.141 Housing Development Corporation of Florida;
19 deposits and examination.--

20 (2) The corporation shall be examined at least once
21 annually by the Department of Insurance and Financial Services
22 ~~Banking and Finance~~ and shall make reports of its condition
23 not less than annually to said department, and more frequently
24 upon call of the department, which in turn shall make copies
25 of such reports available to the ~~Department of Insurance and~~
26 ~~the~~ Governor; and the corporation shall also furnish such
27 other information as may from time to time be required by the
28 Department of Insurance and Financial Services ~~Banking and~~
29 ~~Finance~~ and the Department of State. The Department of
30 Insurance and Financial Services ~~Banking and Finance~~ shall
31 exercise the same power and authority over the corporation

1 organized pursuant to this part as is exercised over financial
2 institutions under the provisions of the financial
3 institutions codes, when such codes are not in conflict with
4 this chapter.

5 Section 490. Effective January 7, 2003, subsection (6)
6 of section 420.5092, Florida Statutes, is amended to read:

7 420.5092 Florida Affordable Housing Guarantee
8 Program.--

9 (6)(a) If the primary revenue sources to be used for
10 repayment of revenue bonds used to establish the guarantee
11 fund are insufficient for such repayment, the annual principal
12 and interest due on each series of revenue bonds shall be
13 payable from funds in the annual debt service reserve. The
14 corporation shall, before June 1 of each year, perform a
15 financial audit to determine whether at the end of the state
16 fiscal year there will be on deposit in the guarantee fund an
17 annual debt service reserve from interest earned pursuant to
18 the investment of the guarantee fund, fees, charges, and
19 reimbursements received from issued affordable housing
20 guarantees and other revenue sources available to the
21 corporation. Based upon the findings in such guarantee fund
22 financial audit, the corporation shall certify to the Chief
23 Financial Officer ~~Comptroller~~ the amount of any projected
24 deficiency in the annual debt service reserve for any series
25 of outstanding bonds as of the end of the state fiscal year
26 and the amount necessary to maintain such annual debt service
27 reserve. Upon receipt of such certification, the Chief
28 Financial Officer ~~Comptroller~~ shall transfer to the annual
29 debt service reserve, from the first available taxes
30 distributed to the State Housing Trust Fund pursuant to s.
31 201.15(9)(a) and (10)(a) during the ensuing state fiscal year,

1 the amount certified as necessary to maintain the annual debt
2 service reserve.

3 (b) If the claims payment obligations under affordable
4 housing guarantees from amounts on deposit in the guarantee
5 fund would cause the claims paying rating assigned to the
6 guarantee fund to be less than the third-highest rating
7 classification of any nationally recognized rating service,
8 which classifications being consistent with s. 215.84(3) and
9 rules adopted thereto by the State Board of Administration,
10 the corporation shall certify to the Chief Financial Officer
11 ~~Comptroller~~ the amount of such claims payment obligations.
12 Upon receipt of such certification, the Chief Financial
13 Officer ~~Comptroller~~ shall transfer to the guarantee fund, from
14 the first available taxes distributed to the State Housing
15 Trust Fund pursuant to s. 201.15(9)(a) and (10)(a) during the
16 ensuing state fiscal year, the amount certified as necessary
17 to meet such obligations, such transfer to be subordinate to
18 any transfer referenced in paragraph (a) and not to exceed 50
19 percent of the amounts distributed to the State Housing Trust
20 Fund pursuant to s. 201.15(9)(a) and (10)(a) during the
21 preceding state fiscal year.

22 Section 491. Effective January 7, 2003, section
23 430.42, Florida Statutes, is amended to read:

24 430.42 Department of Elderly Affairs Tobacco
25 Settlement Trust Fund.--

26 (1) The Department of Elderly Affairs Tobacco
27 Settlement Trust Fund is created within that department. Funds
28 to be credited to the trust fund shall consist of funds
29 disbursed, by nonoperating transfer, from the Chief Financial
30 Officer's ~~Department of Banking and Finance~~ Tobacco Settlement
31

1 Clearing Trust Fund in amounts equal to the annual
2 appropriations made from this trust fund.

3 (2) Notwithstanding the provisions of s. 216.301 and
4 pursuant to s. 216.351, any unencumbered balance in the trust
5 fund at the end of any fiscal year and any encumbered balance
6 remaining undisbursed on December 31 of the same calendar year
7 shall revert to the Chief Financial Officer's ~~Department of~~
8 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund.

9 Section 492. Effective January 7, 2003, subsection (6)
10 of section 430.703, Florida Statutes, is amended to read:

11 430.703 Definitions.--As used in this act, the term:

12 (6) "Managed care organization" means an entity that
13 meets the requirements of the Department of Insurance and
14 Financial Services for operation as a health maintenance
15 organization and meets the qualifications for participation as
16 a managed care organization established by the agency and the
17 department.

18 Section 493. Effective January 7, 2003, section
19 440.103, Florida Statutes, is amended to read:

20 440.103 Building permits; identification of minimum
21 premium policy.--Except as otherwise provided in this chapter,
22 every employer shall, as a condition to receiving a building
23 permit, show proof that it has secured compensation for its
24 employees under this chapter as provided in ss. 440.10 and
25 440.38. Such proof of compensation must be evidenced by a
26 certificate of coverage issued by the carrier, a valid
27 exemption certificate approved by the division, or a copy of
28 the employer's authority to self-insure and shall be presented
29 each time the employer applies for a building permit. As
30 provided in s. 627.413(5), each certificate of coverage must
31 show, on its face, whether or not coverage is secured under

1 the minimum premium provisions of rules adopted by rating
2 organizations licensed by the Department of Insurance and
3 Financial Services. The words "minimum premium policy" or
4 equivalent language shall be typed, printed, stamped, or
5 legibly handwritten.

6 Section 494. Effective January 7, 2003, paragraph (a)
7 of subsection (3) of section 440.105, Florida Statutes, is
8 amended to read:

9 440.105 Prohibited activities; reports; penalties;
10 limitations.--

11 (3) Whoever violates any provision of this subsection
12 commits a misdemeanor of the first degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 (a) It shall be unlawful for any employer to knowingly
15 fail to update applications for coverage as required by s.
16 440.381(1) and Department of Insurance and Financial Services
17 rules, or to post notice of coverage pursuant to s. 440.40.

18 Section 495. Effective January 7, 2003, subsection (1)
19 of section 440.1051, Florida Statutes, is amended to read:

20 440.1051 Fraud reports; civil immunity; criminal
21 penalties.--

22 (1) The Bureau of Workers' Compensation Insurance
23 Fraud of the Division of Insurance Fraud of the Department of
24 Law Enforcement ~~Insurance~~ shall establish a toll-free
25 telephone number to receive reports of workers' compensation
26 fraud committed by an employee, employer, insurance provider,
27 physician, attorney, or other person.

28 Section 496. Effective January 7, 2003, subsection (3)
29 of section 440.106, Florida Statutes, is amended to read:

30 440.106 Civil remedies; administrative penalties.--

31

1 (3) Whenever any group or individual self-insurer,
2 carrier, rating bureau, or agent or other representative of
3 any carrier or rating bureau is determined to have violated s.
4 440.105, the Department of Insurance and Financial Services
5 may revoke or suspend the authority or certification of any
6 group or individual self-insurer, carrier, agent, or broker.

7 Section 497. Effective January 7, 2003, paragraph (b)
8 of subsection (11) of section 440.13, Florida Statutes, is
9 amended to read:

10 440.13 Medical services and supplies; penalty for
11 violations; limitations.--

12 (11) AUDITS BY DIVISION; JURISDICTION.--

13 (b) The division shall monitor and audit carriers to
14 determine if medical bills are paid in accordance with this
15 section and division rules. Any employer, if self-insured, or
16 carrier found by the division not to be within 90 percent
17 compliance as to the payment of medical bills after July 1,
18 1994, must be assessed a fine not to exceed 1 percent of the
19 prior year's assessment levied against such entity under s.
20 440.51 for every quarter in which the entity fails to attain
21 90-percent compliance. The division shall fine an employer or
22 carrier, pursuant to rules adopted by the division, for each
23 late payment of compensation that is below the minimum
24 90-percent performance standard. Any carrier that is found to
25 be not in compliance in subsequent consecutive quarters must
26 implement a medical-bill review program approved by the
27 division, and the carrier is subject to disciplinary action by
28 the Department of Insurance and Financial Services.

29 Section 498. Effective January 7, 2003, subsections
30 (23) and (24) of section 440.134, Florida Statutes, are
31 amended to read:

1 440.134 Workers' compensation managed care
2 arrangement.--

3 (23) The agency shall immediately notify the
4 Department of Insurance and Financial Services and the
5 Department of Labor and Employment Security whenever it issues
6 an administrative complaint or an order or otherwise initiates
7 legal proceedings resulting in, or which may result in,
8 suspension or revocation of an insurer's authorization.

9 (24) Nothing in this part shall be deemed to authorize
10 any entity to transact any insurance business, assume risk, or
11 otherwise engage in any other type of insurance unless it is
12 authorized as an insurer or a health maintenance organization
13 under a certificate of authority issued by the Department of
14 Insurance and Financial Services under the provisions of the
15 Florida Insurance Code.

16 Section 499. Effective January 7, 2003, subsections
17 (1), (2), (3), and (5) of section 440.135, Florida Statutes,
18 are amended to read:

19 440.135 Pilot programs for medical and remedial care
20 in workers' compensation.--

21 (1) It is the intent of the Legislature to determine
22 whether the costs of the workers' compensation system can be
23 effectively contained by monitoring more closely the medical,
24 hospital, and remedial care required by s. 440.13, while
25 providing injured workers with more prompt and effective care
26 and earlier restoration of earning capacity without diminution
27 of the quality of such care. It is the further intent of the
28 Legislature to determine whether the total cost to an employer
29 that provides a policy or plan of health insurance and a
30 separate policy or plan of workers' compensation and
31 employer's liability insurance for its employees can be

1 reduced by combining both coverages under a policy or plan
2 that provides 24-hour health insurance coverage as set forth
3 in this section. Therefore, the Legislature authorizes the
4 establishment of one or more pilot programs to be administered
5 by the Department of Insurance and Financial Services after
6 consulting with the division. Each pilot program shall
7 terminate 2 years after the first date of operation of the
8 program, unless extended by act of the Legislature. In order
9 to evaluate the feasibility of implementing these pilot
10 programs, the Department of Insurance and Financial Services
11 shall consult with the division regarding:

12 (a) Establishing alternate delivery systems using a
13 health maintenance organization model, which includes
14 physician fees, competitive bidding, or capitation models.

15 (b) Controlling and enhancing the selection of
16 providers of medical, hospital, and remedial care and using
17 the peer review and utilization review procedures in s.
18 440.13(1) to control the utilization of care by physicians
19 providing treatment pursuant to s. 440.13(2)(a).

20 (c) Establishing, by agreement, appropriate fees for
21 medical, hospital, and remedial care pursuant to this chapter.

22 (d) Promoting effective and timely utilization of
23 medical, hospital, and remedial care by injured workers.

24 (e) Coordinating the duration of payment of disability
25 benefits with determination made by qualified participating
26 providers of medical, hospital, or remedial care.

27 (f) Initiating one or more pilot programs under which
28 participating employers would provide a 24-hour health
29 insurance policy to their employees under a single insurance
30 policy or self-insured plan. The policy or plan must provide a
31 level of health insurance benefits which meets criteria

1 established by the Department of Insurance and Financial
2 Services but which provides medical benefits for at least
3 occupational injuries and illnesses comparable to those
4 required by this chapter and which may use deductibles and
5 coinsurance provisions that require the employee to pay a
6 portion of the actual medical care received by the employee,
7 notwithstanding any other provisions of this chapter. The
8 policy or plan may also provide indemnity benefits as
9 specified in s. 440.38(1)(e). The employer shall pay the
10 entire premium for the 24-hour health insurance policy or
11 self-insured plan other than the portion of the premium which
12 relates to dependent coverage.

13 (g) Other methods of monitoring reduced costs within
14 the workers' compensation system while maintaining quality
15 care.

16 (2) The Department of Insurance and Financial
17 Services, after consulting with the division, may, without a
18 bidding process, negotiate and enter into such contracts as
19 may be necessary or appropriate in its judgment to implement
20 the pilot program.

21 (3) The Department of Insurance and Financial Services
22 may also accept grants and moneys from any source and may
23 expend such grants and moneys for the purposes of the program.

24 (5) The Department of Insurance and Financial Services
25 shall make ~~an interim report on or before December 1, 1991,~~
26 ~~and~~ a final report on or before the termination date specified
27 in subsection (1) to the Speaker of the House of
28 Representatives, the President of the Senate, the Minority
29 Leader of the Senate, the Minority Leader of the House of
30 Representatives, and the Governor, on the activities,
31 findings, and recommendations of the Department of Insurance

1 and Financial Services relative to the pilot programs. The
2 Department of Insurance and Financial Services shall monitor,
3 evaluate, and report the following information regarding
4 physicians, hospitals, and other remedial care providers:

- 5 (a) Cost savings.
- 6 (b) Effectiveness.
- 7 (c) Effect on earning capacity and indemnity payments.
- 8 (d) Complaints from injured workers and providers.
- 9 (e) Concurrent review of quality of care.
- 10 (f) Other pertinent matters.

11
12 The information from the pilot programs shall be reported in a
13 format to permit comparisons to other similar data.

14 Section 500. Effective January 7, 2003, subsection
15 (10), paragraphs (a) and (e) of subsection (15), and
16 subsection (16) of section 440.20, Florida Statutes, are
17 amended to read:

18 440.20 Time for payment of compensation; penalties for
19 late payment.--

20 (10) Whenever the division deems it advisable, it may
21 require any employer to make a deposit with the Chief
22 Financial Officer ~~Treasurer~~ to secure the prompt and
23 convenient payments of such compensation; and payments
24 therefrom upon any awards shall be made upon order of the
25 division or judge of compensation claims.

26 (15)(a) The division shall examine on an ongoing basis
27 claims files in order to identify questionable claims-handling
28 techniques, questionable patterns or practices of claims, or a
29 pattern of repeated unreasonably controverted claims by
30 employers, carriers, self-insurers, health care providers,
31 health care facilities, training and education providers, or

1 any others providing services to employees pursuant to this
2 chapter and may certify its findings to the Department of
3 Insurance and Financial Services. Such questionable
4 techniques, patterns, or repeated unreasonably controverted
5 claims as constitute a general business practice of a carrier
6 in the judgment of the division shall be certified in its
7 findings by the division to the Department of Insurance and
8 Financial Services or such other appropriate licensing agency.
9 Such certification by the division is exempt from the
10 provisions of chapter 120. Upon receipt of any such
11 certification, the Department of Insurance and Financial
12 Services shall take appropriate action so as to bring such
13 general business practices to a halt pursuant to s.
14 440.38(3)(a). The division may initiate investigations of
15 questionable techniques, patterns, practices, or repeated
16 unreasonably controverted claims. The division may by rule
17 establish forms and procedures for corrective action plans and
18 for auditing carriers.

19 (e) The division shall publish annually a report which
20 indicates the promptness of first payment of compensation
21 records of each carrier or self-insurer so as to focus
22 attention on those carriers or self-insurers with poor payment
23 records for the preceding year. A copy of such report shall be
24 certified to the Department of Insurance and Financial
25 Services which shall take appropriate steps so as to cause
26 such poor carrier payment practices to halt pursuant to s.
27 440.38(3)(a). In addition, the division shall take appropriate
28 action so as to halt such poor payment practices of
29 self-insurers. "Poor payment practice" means a practice of
30 late payment sufficient to constitute a general business
31 practice.

1 (16) No penalty assessed under this section may be
2 recouped by any carrier or self-insurer in the rate base, the
3 premium, or any rate filing. In the case of carriers, the
4 Department of Insurance and Financial Services shall enforce
5 this subsection; and in the case of self-insurers, the
6 division shall enforce this subsection.

7 Section 501. Effective January 7, 2003, subsection (2)
8 of section 440.24, Florida Statutes, is amended to read:

9 440.24 Enforcement of compensation orders;
10 penalties.--

11 (2) In any case where the employer is insured and the
12 carrier fails to comply with any compensation order of a judge
13 of compensation claims or court within 10 days after such
14 order becomes final, the division shall notify the Department
15 of Insurance and Financial Services of such failure, and the
16 Department of Insurance and Financial Services shall thereupon
17 suspend the license of such carrier to do an insurance
18 business in this state, until such carrier has complied with
19 such order.

20 Section 502. Effective January 7, 2003, paragraphs (b)
21 and (e) of subsection (1), paragraph (a) of subsection (3),
22 and paragraph (a) of subsection (4) of section 440.38, Florida
23 Statutes, are amended to read:

24 440.38 Security for compensation; insurance carriers
25 and self-insurers.--

26 (1) Every employer shall secure the payment of
27 compensation under this chapter:

28 (b) By furnishing satisfactory proof to the division
29 of its financial ability to pay such compensation individually
30 and on behalf of its subsidiary and affiliated companies with
31 employees in this state and receiving an authorization from

1 the division to pay such compensation directly in accordance
2 with the following provisions:

3 1. The division may require an employer to deposit
4 with the division a qualifying security deposit. The division
5 shall determine the type and amount of the qualifying security
6 deposit and shall prescribe conditions for the qualifying
7 security deposit, which shall include authorization for the
8 division to call the qualifying security deposit in the case
9 of default. In addition, the division shall require, as a
10 condition to authorization to self-insure, proof that the
11 employer has provided for competent personnel with whom to
12 deliver benefits and to provide a safe working environment.
13 Further, the division shall require such employer to carry
14 reinsurance at levels that will ensure the actuarial soundness
15 of such employer in accordance with rules promulgated by the
16 division. The division may by rule require that, in the event
17 of an individual self-insurer's insolvency, such qualifying
18 security deposits and reinsurance policies are payable to the
19 Florida Self-Insurers Guaranty Association, Incorporated,
20 created pursuant to s. 440.385. Any employer securing
21 compensation in accordance with the provisions of this
22 paragraph shall be known as a self-insurer and shall be
23 classed as a carrier of her or his own insurance.

24 2. If the employer fails to maintain the foregoing
25 requirements, the division shall revoke the employer's
26 authority to self-insure, unless the employer provides to the
27 division the certified opinion of an independent actuary who
28 is a member of the American Society of Actuaries as to the
29 actuarial present value of the employer's determined and
30 estimated future compensation payments based on cash reserves,
31 using a 4-percent discount rate, and a qualifying security

1 deposit equal to 1.5 times the value so certified. The
2 employer shall thereafter annually provide such a certified
3 opinion until such time as the employer meets the requirements
4 of subparagraph 1. The qualifying security deposit shall be
5 adjusted at the time of each such annual report. Upon the
6 failure of the employer to timely provide such opinion or to
7 timely provide a security deposit in an amount equal to 1.5
8 times the value certified in the latest opinion, the division
9 shall then revoke such employer's authorization to
10 self-insure, and such failure shall be deemed to constitute an
11 immediate serious danger to the public health, safety, or
12 welfare sufficient to justify the summary suspension of the
13 employer's authorization to self-insure pursuant to s. 120.68.

14 3. Upon the suspension or revocation of the employer's
15 authorization to self-insure, the employer shall provide to
16 the division and to the Florida Self-Insurers Guaranty
17 Association, Incorporated, created pursuant to s. 440.385 the
18 certified opinion of an independent actuary who is a member of
19 the American Society of Actuaries of the actuarial present
20 value of the determined and estimated future compensation
21 payments of the employer for claims incurred while the member
22 exercised the privilege of self-insurance, using a discount
23 rate of 4 percent. The employer shall provide such an opinion
24 at 6-month intervals thereafter until such time as the latest
25 opinion shows no remaining value of claims. With each such
26 opinion, the employer shall deposit with the division a
27 qualifying security deposit in an amount equal to the value
28 certified by the actuary. The association has a cause of
29 action against an employer, and against any successor of the
30 employer, who fails to timely provide such opinion or who
31 fails to timely maintain the required security deposit with

1 the division. The association shall recover a judgment in the
2 amount of the actuarial present value of the determined and
3 estimated future compensation payments of the employer for
4 claims incurred while the employer exercised the privilege of
5 self-insurance, together with attorney's fees. For purposes
6 of this section, the successor of an employer means any
7 person, business entity, or group of persons or business
8 entities, which holds or acquires legal or beneficial title to
9 the majority of the assets or the majority of the shares of
10 the employer.

11 4. A qualifying security deposit shall consist, at the
12 option of the employer, of:

13 a. Surety bonds, in a form and containing such terms
14 as prescribed by the division, issued by a corporation surety
15 authorized to transact surety business by the Department of
16 Insurance and Financial Services, and whose policyholders' and
17 financial ratings, as reported in A.M. Best's Insurance
18 Reports, Property-Liability, are not less than "A" and "V",
19 respectively.

20 b. Irrevocable letters of credit in favor of the
21 division issued by financial institutions located within this
22 state, the deposits of which are insured through the Federal
23 Deposit Insurance Corporation.

24 5. The qualifying security deposit shall be held by
25 the division exclusively for the benefit of workers'
26 compensation claimants. The security shall not be subject to
27 assignment, execution, attachment, or any legal process
28 whatsoever, except as necessary to guarantee the payment of
29 compensation under this chapter. No surety bond may be
30 terminated, and no letter of credit may be allowed to expire,
31 without 90 days' prior notice to the division and deposit by

1 the self-insuring employer of some other qualifying security
2 deposit of equal value within 10 business days after such
3 notice. Failure to provide such notice or failure to timely
4 provide qualifying replacement security after such notice
5 shall constitute grounds for the division to call or sue upon
6 the surety bond or to exercise its rights under a letter of
7 credit. Current self-insured employers must comply with this
8 section on or before December 31, 2001, or upon the maturity
9 of existing security deposits, whichever occurs later. The
10 division may specify by rule the amount of the qualifying
11 security deposit required prior to authorizing an employer to
12 self-insure and the amount of net worth required for an
13 employer to qualify for authorization to self-insure;

14 (e) In accordance with s. 440.135, an employer, other
15 than a local government unit, may elect coverage under the
16 Workers' Compensation Law and retain the benefit of the
17 exclusiveness of liability provided in s. 440.11 by obtaining
18 a 24-hour health insurance policy from an authorized property
19 and casualty insurance carrier or an authorized life and
20 health insurance carrier, or by participating in a fully or
21 partially self-insured 24-hour health plan that is established
22 or maintained by or for two or more employers, so long as the
23 law of this state is not preempted by the Employee Retirement
24 Income Security Act of 1974, Pub. L. No. 93-406, or any
25 amendment to that law, which policy or plan must provide, for
26 at least occupational injuries and illnesses, medical benefits
27 that are comparable to those required by this chapter. A local
28 government unit, as a single employer, in accordance with s.
29 440.135, may participate in the 24-hour health insurance
30 coverage plan referenced in this paragraph. Disputes and
31 remedies arising under policies issued under this section are

1 governed by the terms and conditions of the policies and under
2 the applicable provisions of the Florida Insurance Code and
3 rules adopted under the insurance code and other applicable
4 laws of this state. The 24-hour health insurance policy may
5 provide for health care by a health maintenance organization
6 or a preferred provider organization. The premium for such
7 24-hour health insurance policy shall be paid entirely by the
8 employer. The 24-hour health insurance policy may use
9 deductibles and coinsurance provisions that require the
10 employee to pay a portion of the actual medical care received
11 by the employee. If an employer obtains a 24-hour health
12 insurance policy or self-insured plan to secure payment of
13 compensation as to medical benefits, the employer must also
14 obtain an insurance policy or policies that provide indemnity
15 benefits as follows:

16 1. If indemnity benefits are provided only for
17 occupational-related disability, such benefits must be
18 comparable to those required by this chapter.

19 2. If indemnity benefits are provided for both
20 occupational-related and nonoccupational-related disability,
21 such benefits must be comparable to those required by this
22 chapter, except that they must be based on 60 percent of the
23 average weekly wages.

24 3. The employer shall provide for each of its
25 employees life insurance with a death benefit of \$100,000.

26 4. Policies providing coverage under this subsection
27 must use prescribed and acceptable underwriting standards,
28 forms, and policies approved by the Department of Insurance
29 and Financial Services. If any insurance policy that provides
30 coverage under this section is canceled, terminated, or
31 nonrenewed for any reason, the cancellation, termination, or

1 nonrenewal is ineffective until the self-insured employer or
2 insurance carrier or carriers notify the division and the
3 Department of Insurance and Financial Services of the
4 cancellation, termination, or nonrenewal, and until the
5 division has actually received the notification. The division
6 must be notified of replacement coverage under a workers'
7 compensation and employer's liability insurance policy or plan
8 by the employer prior to the effective date of the
9 cancellation, termination, or nonrenewal; or

10 (3)(a) The license of any stock company or mutual
11 company or association or exchange authorized to do insurance
12 business in the state shall for good cause, upon
13 recommendation of the division, be suspended or revoked by the
14 Department of Insurance and Financial Services. No suspension
15 or revocation shall affect the liability of any carrier
16 already incurred.

17 (4)(a) A carrier of insurance, including the parties
18 to any mutual, reciprocal, or other association, may not write
19 any compensation insurance under this chapter without a permit
20 from the Department of Insurance and Financial Services. Such
21 permit shall be given, upon application therefor, to any
22 insurance or mutual or reciprocal insurance association upon
23 the department's being satisfied of the solvency of such
24 corporation or association and its ability to perform all its
25 undertakings. The Department of Insurance and Financial
26 Services may revoke any permit so issued for violation of any
27 provision of this chapter.

28 Section 503. Effective January 7, 2003, subsections
29 (1) and (3) of section 440.381, Florida Statutes, are amended
30 to read:

31

1 440.381 Application for coverage; reporting payroll;
2 payroll audit procedures; penalties.--
3 (1) Applications by an employer to a carrier for
4 coverage required by s. 440.38 must be made on a form
5 prescribed by the Department of Insurance and Financial
6 Services. The Department of Insurance and Financial Services
7 shall adopt rules for applications for coverage required by s.
8 440.38. The rules must provide that an application include
9 information on the employer, the type of business, past and
10 prospective payroll, estimated revenue, previous workers'
11 compensation experience, employee classification, employee
12 names, and any other information necessary to enable a carrier
13 to accurately underwrite the applicant. The rules must include
14 a provision that a carrier or self-insurance fund may require
15 that an employer update an application monthly to reflect any
16 change in the required application information.
17 (3) The Department of Insurance and Financial Services
18 and the Department of Labor and Employment Security shall
19 establish by rule minimum requirements for audits of payroll
20 and classifications in order to ensure that the appropriate
21 premium is charged for workers' compensation coverage. The
22 rules shall ensure that audits performed by both carriers and
23 employers are adequate to provide that all sources of payments
24 to employees, subcontractors, and independent contractors have
25 been reviewed and that the accuracy of classification of
26 employees has been verified. The rules shall provide that
27 employers in all classes other than the construction class be
28 audited not less frequently than biennially and may provide
29 for more frequent audits of employers in specified
30 classifications based on factors such as amount of premium,
31 type of business, loss ratios, or other relevant factors. In

1 no event shall employers in the construction class, generating
2 more than the amount of premium required to be experience
3 rated, be audited less than annually. The annual audits
4 required for construction classes shall consist of physical
5 onsite audits. Payroll verification audit rules must include,
6 but need not be limited to, the use of state and federal
7 reports of employee income, payroll and other accounting
8 records, certificates of insurance maintained by
9 subcontractors, and duties of employees.

10 Section 504. Effective January 7, 2003, subsection
11 (13) of section 440.385, Florida Statutes, is amended to read:

12 440.385 Florida Self-Insurers Guaranty Association,
13 Incorporated.--

14 (13) CORPORATE INCOME TAX CREDIT.--Any sums acquired
15 by a member by refund, dividend, or otherwise from the
16 association shall be payable within 30 days of receipt to the
17 Department of Revenue for deposit with the Chief Financial
18 Officer ~~Treasurer~~ to the credit of the General Revenue Fund.
19 All provisions of chapter 220 relating to penalties and
20 interest on delinquent corporate income tax payments apply to
21 payments due under this subsection.

22 Section 505. Effective January 7, 2003, subsection (6)
23 of section 440.44, Florida Statutes, is amended to read:

24 440.44 Workers' compensation; staff organization.--

25 (6) SEAL.--The division and the judges of compensation
26 claims shall have a seal upon which shall be inscribed the
27 words "State of Florida Department of Insurance and Financial
28 Services--Seal" and "Division of Administrative
29 Hearings--Seal," respectively.

30
31

1 Section 506. Effective January 7, 2003, paragraphs
2 (a), (b), and (d) of subsection (9) of section 440.49, Florida
3 Statutes, are amended to read:

4 440.49 Limitation of liability for subsequent injury
5 through Special Disability Trust Fund.--

6 (9) SPECIAL DISABILITY TRUST FUND.--

7 (a) There is established in the State Treasury a
8 special fund to be known as the "Special Disability Trust
9 Fund," which shall be available only for the purposes stated
10 in this section; and the assets thereof may not at any time be
11 appropriated or diverted to any other use or purpose. The
12 Chief Financial Officer ~~Treasurer~~ shall be the custodian of
13 such fund, and all moneys and securities in such fund shall be
14 held in trust by such Chief Financial Officer ~~Treasurer~~ and
15 shall not be the money or property of the state. The Chief
16 Financial Officer ~~Treasurer~~ is authorized to disburse moneys
17 from such fund only when approved by the division or
18 corporation ~~and upon the order of the Comptroller~~. The Chief
19 Financial Officer ~~Treasurer~~ shall deposit any moneys paid into
20 such fund into such depository banks as the division may
21 designate and is authorized to invest any portion of the fund
22 which, in the opinion of the division, is not needed for
23 current requirements, in the same manner and subject to all
24 the provisions of the law with respect to the deposits of
25 state funds by such Chief Financial Officer ~~Treasurer~~. All
26 interest earned by such portion of the fund as may be invested
27 by the Chief Financial Officer ~~Treasurer~~ shall be collected by
28 her or him and placed to the credit of such fund.

29 (b)1. The Special Disability Trust Fund shall be
30 maintained by annual assessments upon the insurance companies
31 writing compensation insurance in the state, the commercial

1 self-insurers under ss. 624.462 and 624.4621, the assessable
2 mutuals under s. 628.601, and the self-insurers under this
3 chapter, which assessments shall become due and be paid
4 quarterly at the same time and in addition to the assessments
5 provided in s. 440.51. The division shall estimate annually in
6 advance the amount necessary for the administration of this
7 subsection and the maintenance of this fund and shall make
8 such assessment in the manner hereinafter provided.

9 2. The annual assessment shall be calculated to
10 produce during the ensuing fiscal year an amount which, when
11 combined with that part of the balance in the fund on June 30
12 of the current fiscal year which is in excess of \$100,000, is
13 equal to the average of:

14 a. The sum of disbursements from the fund during the
15 immediate past 3 calendar years, and

16 b. Two times the disbursements of the most recent
17 calendar year.

18
19 Such amount shall be prorated among the insurance companies
20 writing compensation insurance in the state and the
21 self-insurers. Provided however, for those carriers that have
22 excluded ceded reinsurance premiums from their assessments on
23 or before January 1, 2000, no assessments on ceded reinsurance
24 premiums shall be paid by those carriers until such time as
25 the division advises each of those carriers of the impact that
26 the inclusion of ceded reinsurance premiums has on their
27 assessment. The division may not recover any past
28 underpayments of assessments levied against any carrier that
29 on or before January 1, 2000, excluded ceded reinsurance
30 premiums from their assessment prior to the point that the
31

1 division advises of the appropriate assessment that should
2 have been paid.

3 3. The net premiums written by the companies for
4 workers' compensation in this state and the net premium
5 written applicable to the self-insurers in this state are the
6 basis for computing the amount to be assessed as a percentage
7 of net premiums. Such payments shall be made by each carrier
8 and self-insurer to the division for the Special Disability
9 Trust Fund in accordance with such regulations as the division
10 prescribes.

11 4. The Chief Financial Officer ~~Treasurer~~ is authorized
12 to receive and credit to such Special Disability Trust Fund
13 any sum or sums that may at any time be contributed to the
14 state by the United States under any Act of Congress, or
15 otherwise, to which the state may be or become entitled by
16 reason of any payments made out of such fund.

17 (d) The Special Disability Trust Fund shall be
18 supplemented by a \$250 notification fee on each notice of
19 claim filed or refiled after July 1, 1997, and a \$500 fee on
20 each proof of claim filed in accordance with subsection (7).
21 Revenues from the fee shall be deposited into the Special
22 Disability Trust Fund and are exempt from the deduction
23 required by s. 215.20. The fees provided in this paragraph
24 shall not be imposed upon any insurer which is in receivership
25 with the Department of Insurance and Financial Services.

26 Section 507. Effective January 7, 2003, paragraph (a)
27 of subsection (1) and subsections (2) and (3) of section
28 440.50, Florida Statutes, are amended to read:

29 440.50 Workers' Compensation Administration Trust
30 Fund.--

31

1 (1)(a) There is established in the State Treasury a
2 special fund to be known as the "Workers' Compensation
3 Administration Trust Fund" for the purpose of providing for
4 the payment of all expenses in respect to the administration
5 of this chapter, including the vocational rehabilitation of
6 injured employees as provided in s. 440.49 and the payments
7 due under s. 440.15(1)(f), the funding of the fixed
8 administrative expenses of the plan, and the funding of the
9 Bureau of Workers' Compensation Fraud within the Division of
10 Insurance Fraud within the Department of Law Enforcement
11 ~~Insurance~~. Such fund shall be administered by the division.

12 (2) The Chief Financial Officer ~~Treasurer~~ is
13 authorized to disburse moneys from such fund only when
14 approved by the division ~~and upon the order of the~~
15 ~~Comptroller~~.

16 (3) The Chief Financial Officer ~~Treasurer~~ shall
17 deposit any moneys paid into such fund into such depository
18 banks as the division may designate and is authorized to
19 invest any portion of the fund which, in the opinion of the
20 division, is not needed for current requirements, in the same
21 manner and subject to all the provisions of the law with
22 respect to the deposit of state funds by such Chief Financial
23 Officer ~~Treasurer~~. All interest earned by such portion of the
24 fund as may be invested by the Chief Financial Officer
25 ~~Treasurer~~ shall be collected by him or her and placed to the
26 credit of such fund.

27 Section 508. Effective January 7, 2003, paragraph (a)
28 of subsection (1), subsection (3), paragraph (b) of subsection
29 (6), and subsections (11) and (12) of section 440.51, Florida
30 Statutes, are amended to read:

31 440.51 Expenses of administration.--

1 (1) The division shall estimate annually in advance
2 the amounts necessary for the administration of this chapter,
3 in the following manner.

4 (a) The division shall, by July 1 of each year, notify
5 carriers and self-insurers of the assessment rate, which shall
6 be based on the anticipated expenses of the administration of
7 this chapter for the next calendar year. Such assessment rate
8 shall take effect January 1 of the next calendar year and
9 shall be included in workers' compensation rate filings
10 approved by the Department of Insurance and Financial Services
11 which become effective on or after January 1 of the next
12 calendar year. Assessments shall become due and be paid
13 quarterly.

14 (3) If any carrier fails to pay the amounts assessed
15 against him or her under the provisions of this section within
16 60 days from the time such notice is served upon him or her,
17 the Department of Insurance and Financial Services upon being
18 advised by the division may suspend or revoke the
19 authorization to insure compensation in accordance with the
20 procedure in s. 440.38(3)(a). The division may permit a
21 carrier to remit any underpayment of assessments for
22 assessments levied after January 1, 2001.

23 (6)

24 (b) The Department of Insurance and Financial Services
25 may require from each self-insurer, at such time and in
26 accordance with such regulations as the Department of
27 Insurance and Financial Services prescribes, reports in
28 respect to wages paid, the amount of premiums such
29 self-insurer would have to pay if insured, and all payments of
30 compensation made by such self-insurer during each prior
31 period, and may determine the amounts paid by each

1 self-insurer and the amounts paid by all self-insurers during
2 such period. For the purposes of this section, the payroll
3 records of each self-insurer shall be open to annual
4 inspection and audit by the Department of Insurance and
5 Financial Services or its authorized representative, during
6 regular business hours; and if any audit of such records of a
7 self-insurer discloses a deficiency in the amounts reported to
8 the Department of Insurance and Financial Services or in the
9 amounts paid to the Department of Insurance and Financial
10 Services by a self-insurer pursuant to this section, the
11 Department of Insurance and Financial Services may assess the
12 cost of such audit against the self-insurer.

13 (11) The division shall furnish to any employer or
14 carrier, upon request, its individual experience. The
15 division shall furnish to the Department of Insurance and
16 Financial Services, upon request, the Florida experience as
17 developed under accident year or calendar year.

18 (12) In addition to any other penalties provided by
19 this law, the failure to submit any report or other
20 information required by this law shall be just cause to
21 suspend the right of a self-insurer to operate as such, or,
22 upon certification by the division to the Department of
23 Insurance and Financial Services that a carrier has failed or
24 refused to furnish such reports, shall be just cause for the
25 Department of Insurance and Financial Services to suspend or
26 revoke the license of such carrier.

27 Section 509. Effective January 7, 2003, section
28 440.515, Florida Statutes, is amended to read:

29 440.515 Reports from self-insurers;
30 confidentiality.--The Department of Insurance and Financial
31 Services shall maintain the reports filed in accordance with

1 s. 440.51(6)(b) as confidential and exempt from the provisions
2 of s. 119.07(1), and such reports shall be released only for
3 bona fide research or educational purposes or after receipt of
4 consent from the employer.

5 Section 510. Effective January 7, 2003, subsections
6 (3) and (4) of section 440.52, Florida Statutes, are amended
7 to read:

8 440.52 Registration of insurance carriers; notice of
9 cancellation or expiration of policy; suspension or revocation
10 of authority.--

11 (3) If the division finds, after due notice and a
12 hearing at which the insurance carrier is entitled to be heard
13 in person or by counsel and present evidence, that the
14 insurance carrier has repeatedly failed to comply with its
15 obligations under this chapter, the division may request the
16 Department of Insurance and Financial Services to suspend or
17 revoke the authorization of such insurance carrier to write
18 workers' compensation insurance under this chapter. Such
19 suspension or revocation shall not affect the liability of any
20 such insurance carrier under policies in force prior to the
21 suspension or revocation.

22 (4) In addition to the penalties prescribed in
23 subsection (3), violation of s. 440.381 by an insurance
24 carrier shall result in the imposition of a fine not to exceed
25 \$1,000 per audit, if the insurance carrier fails to act on
26 said audits by correcting errors in employee classification or
27 accepted applications for coverage where it knew employee
28 classifications were incorrect. Such fines shall be levied by
29 the Department of Insurance and Financial Services and
30 deposited into the Insurance Commissioner's Regulatory Trust
31 Fund.

1 Section 511. Effective January 7, 2003, paragraph (a)
2 of subsection (5) of section 443.131, Florida Statutes, is
3 amended to read:

4 443.131 Contributions.--

5 (5) FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE
6 AND POLITICAL SUBDIVISIONS OF THE STATE.--Benefits paid to
7 employees of this state or any instrumentality of this state,
8 or to employees of any political subdivision of this state or
9 any instrumentality thereof, based upon service defined in s.
10 443.036(21)(b), shall be financed in accordance with this
11 subsection.

12 (a)1. Unless an election is made as provided in
13 paragraph (c), the state or any political subdivision of the
14 state shall pay into the Unemployment Compensation Trust Fund
15 an amount equivalent to the amount of regular benefits,
16 short-time compensation benefits, and extended benefits paid
17 to individuals, based on wages paid by the state or the
18 political subdivision for service defined in s.
19 443.036(21)(b).

20 2. Should any state agency become more than 120 days
21 delinquent on reimbursements due to the Unemployment
22 Compensation Trust Fund, the division shall certify to the
23 Chief Financial Officer ~~Comptroller~~ the amount due and the
24 Chief Financial Officer ~~Comptroller~~ shall transfer the amount
25 due to the Unemployment Compensation Trust Fund from the funds
26 of such agency that may legally be used for such purpose. In
27 the event any political subdivision of the state or any
28 instrumentality thereof becomes more than 120 days delinquent
29 on reimbursements due to the Unemployment Compensation Trust
30 Fund, then, upon request by the division after a hearing, the
31 Department of Revenue or the Chief Financial Officer

1 ~~Department of Banking and Finance~~, as the case may be, shall
2 deduct the amount owed by the political subdivision or
3 instrumentality from any funds to be distributed by it to the
4 county, city, special district, or consolidated form of
5 government for further distribution to the trust fund in
6 accordance with this chapter. Should any employer for whom the
7 city or county tax collector collects taxes fail to make the
8 reimbursements to the Unemployment Compensation Trust Fund
9 required by this chapter, the tax collector after a hearing,
10 at the request of the division and upon receipt of a
11 certificate showing the amount owed by the employer, shall
12 deduct the amount so certified from any taxes collected for
13 the employer and remit same to the Department of Labor and
14 Employment Security for further distribution to the trust fund
15 in accordance with this chapter. This subparagraph does not
16 apply to those amounts due for benefits paid prior to October
17 1, 1979. This subparagraph does not apply to amounts owed by
18 a political subdivision for benefits erroneously paid where
19 the claimant is required to repay to the division under s.
20 443.151(6)(a) or (b) any sum as benefits received.

21 Section 512. Effective January 7, 2003, subsections
22 (2), (3), and (4) of section 443.191, Florida Statutes, are
23 amended to read:

24 443.191 Unemployment Compensation Trust Fund;
25 establishment and control.--

26 (2) The Chief Financial Officer ~~Treasurer~~ is the ex
27 officio treasurer and custodian of the fund and shall
28 administer the fund in accordance with the directions of the
29 division. All payments from the fund must be approved by the
30 division or by a duly authorized agent and must be made by the
31 Chief Financial Officer ~~Treasurer upon warrants issued by the~~

1 ~~Comptroller~~, except as hereinafter provided. The Chief
2 Financial Officer ~~Treasurer~~ shall maintain within the fund
3 three separate accounts:
4 (a) A clearing account;
5 (b) An Unemployment Compensation Trust Fund account;
6 and
7 (c) A benefit account.
8
9 All moneys payable to the fund, including moneys received from
10 the United States as reimbursement for extended benefits paid
11 by the division, upon receipt thereof by the division, must be
12 forwarded to the Chief Financial Officer ~~Treasurer~~, who shall
13 immediately deposit them in the clearing account. Refunds
14 payable under s. 443.141 may be paid from the clearing account
15 upon warrants issued by the Chief Financial Officer
16 ~~Comptroller~~. After clearance, all other moneys in the
17 clearing account must be immediately deposited with the
18 Secretary of the Treasury of the United States to the credit
19 of the account of this state in the Unemployment Compensation
20 Trust Fund established and maintained under s. 904 of the
21 Social Security Act, as amended, any provisions of the law in
22 this state relating to the deposit, administration, release,
23 or disbursement of moneys in the possession or custody of this
24 state to the contrary notwithstanding. The benefit account
25 shall consist of all moneys requisitioned from this state's
26 account in the Unemployment Compensation Trust Fund. Except
27 as otherwise provided, moneys in the clearing and benefit
28 accounts may be deposited by the Chief Financial Officer
29 ~~Treasurer~~, under the direction of the division, in any bank or
30 public depository in which general funds of the state may be
31 deposited, but no public deposit insurance charge or premium

1 may be paid out of the fund. If any warrant issued against
2 the clearing account or the benefit account is not presented
3 for payment within 1 year after issuance thereof, the Chief
4 Financial Officer ~~Comptroller~~ must cancel the same and credit
5 without restriction the amount of such warrant to the account
6 upon which it is drawn. When the payee or person entitled to
7 any warrant so canceled requests payment thereof, the Chief
8 Financial Officer ~~Comptroller~~, upon direction of the division,
9 must issue a new warrant therefor, to be paid out of the
10 account against which the canceled warrant had been drawn.

11 (3) Moneys shall be requisitioned from the state's
12 account in the Unemployment Compensation Trust Fund solely for
13 the payment of benefits and extended benefits and in
14 accordance with rules prescribed by the division, except that
15 money credited to this state's account pursuant to s. 903 of
16 the Social Security Act, as amended, shall be used exclusively
17 as provided in subsection (5). The division, through the
18 Chief Financial Officer ~~Treasurer~~, shall from time to time
19 requisition from the Unemployment Compensation Trust Fund such
20 amounts, not exceeding the amounts standing to this state's
21 account therein, as it deems necessary for the payment of
22 benefits and extended benefits for a reasonable future period.
23 Upon receipt thereof, the Chief Financial Officer ~~Treasurer~~
24 shall deposit such moneys in the benefit account in the State
25 Treasury and warrants for the payment of benefits and extended
26 benefits shall be drawn by the Chief Financial Officer
27 ~~Comptroller~~ upon the order of the division against such
28 benefit account. All warrants for benefits and extended
29 benefits shall be payable directly to the ultimate
30 beneficiary. Expenditures of such moneys in the benefit
31 account and refunds from the clearing account shall not be

1 subject to any provisions of law requiring specific
2 appropriations or other formal release by state officers of
3 money in their custody. All warrants issued for the payment of
4 benefits and refunds shall bear the signature of the Chief
5 Financial Officer ~~Comptroller~~ as above set forth. Any balance
6 of moneys requisitioned from the Unemployment Compensation
7 Trust Fund which remains unclaimed or unpaid in the benefit
8 account after the expiration of the period for which such sums
9 were requisitioned shall either be deducted from estimates
10 for, and may be utilized for the payment of, benefits and
11 extended benefits during succeeding periods, or, in the
12 discretion of the division, shall be redeposited with the
13 Secretary of the Treasury of the United States, to the credit
14 of this state's account in the Unemployment Compensation Trust
15 Fund, as provided in subsection (2).

16 (4) The provisions of subsections (1), (2), and (3),
17 to the extent that they relate to the Unemployment
18 Compensation Trust Fund, shall be operative only so long as
19 such unemployment trust fund continues to exist and so long as
20 the Secretary of the Treasury of the United States continues
21 to maintain for this state a separate book account of all
22 funds deposited therein by this state for benefit purposes,
23 together with this state's proportionate share of the earnings
24 of such Unemployment Compensation Trust Fund, from which no
25 other state is permitted to make withdrawals. If and when
26 such Unemployment Compensation Trust Fund ceases to exist, or
27 such separate book account is no longer maintained, all
28 moneys, properties, or securities therein belonging to the
29 Unemployment Compensation Trust Fund of this state shall be
30 transferred to the Chief Financial Officer ~~Treasurer~~ of the
31 Unemployment Compensation Trust Fund, who shall hold, invest,

1 transfer, sell, deposit, and release such moneys, properties,
2 or securities in a manner approved by the division in
3 accordance with the provisions of this chapter; however, such
4 moneys shall be invested in the following readily marketable
5 classes of securities: bonds or other interest-bearing
6 obligations of the United States or of the state. Further,
7 such investment shall at all times be so made that all the
8 assets of the fund shall always be readily convertible into
9 cash when needed for the payment of benefits. The Chief
10 Financial Officer ~~Treasurer~~ shall dispose of securities or
11 other properties belonging to the Unemployment Compensation
12 Trust Fund only under the direction of the division.

13 Section 513. Effective January 7, 2003, subsections
14 (1) and (2) of section 443.211, Florida Statutes, are amended
15 to read:

16 443.211 Employment Security Administration Trust Fund;
17 appropriation; reimbursement.--

18 (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST
19 FUND.--There is created in the State Treasury a special fund
20 to be known as the "Employment Security Administration Trust
21 Fund." All moneys that are deposited into this fund remain
22 continuously available to the division for expenditure in
23 accordance with the provisions of this chapter and do not
24 lapse at any time and may not be transferred to any other
25 fund. All moneys in this fund which are received from the
26 Federal Government or any agency thereof or which are
27 appropriated by this state for the purposes described in ss.
28 443.171 and 443.181, except money received under s.
29 443.191(5)(c), must be expended solely for the purposes and in
30 the amounts found necessary by the authorized cooperating
31 federal agencies for the proper and efficient administration

1 of this chapter. The fund shall consist of all moneys
2 appropriated by this state; all moneys received from the
3 United States or any agency thereof; all moneys received from
4 any other source for such purpose; any moneys received from
5 any agency of the United States or any other state as
6 compensation for services or facilities supplied to such
7 agency; any amounts received pursuant to any surety bond or
8 insurance policy or from other sources for losses sustained by
9 the Employment Security Administration Trust Fund or by reason
10 of damage to equipment or supplies purchased from moneys in
11 such fund; and any proceeds realized from the sale or
12 disposition of any such equipment or supplies which may no
13 longer be necessary for the proper administration of this
14 chapter. Notwithstanding any provision of this section, all
15 money requisitioned and deposited in this fund under s.
16 443.191(5)(c) remains part of the Unemployment Compensation
17 Trust Fund and must be used only in accordance with the
18 conditions specified in s. 443.191(5). All moneys in this
19 fund must be deposited, administered, and disbursed in the
20 same manner and under the same conditions and requirements as
21 is provided by law for other special funds in the State
22 Treasury. Such moneys must be secured by the depository in
23 which they are held to the same extent and in the same manner
24 as required by the general depository law of the state, and
25 collateral pledged must be maintained in a separate custody
26 account. All payments from the Employment Security
27 Administration Trust Fund must be approved by the division or
28 by a duly authorized agent and must be made by the Chief
29 Financial Officer ~~Treasurer upon warrants issued by the~~
30 ~~Comptroller~~. Any balances in this fund do not lapse at any
31

1 time and must remain continuously available to the division
2 for expenditure consistent with this chapter.

3 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST
4 FUND.--There is created in the State Treasury a special fund,
5 to be known as the "Special Employment Security Administration
6 Trust Fund," into which shall be deposited or transferred all
7 interest on contributions, penalties, and fines or fees
8 collected under this chapter. Interest on contributions,
9 penalties, and fines or fees deposited during any calendar
10 quarter in the clearing account in the Unemployment
11 Compensation Trust Fund shall, as soon as practicable after
12 the close of such calendar quarter and upon certification of
13 the division, be transferred to the Special Employment
14 Security Administration Trust Fund. However, there shall be
15 withheld from any such transfer the amount certified by the
16 division to be required under this chapter to pay refunds of
17 interest on contributions, penalties, and fines or fees
18 collected and erroneously deposited into the clearing account
19 in the Unemployment Compensation Trust Fund. Such amounts of
20 interest and penalties so certified for transfer shall be
21 deemed to have been erroneously deposited in the clearing
22 account, and the transfer thereof to the Special Employment
23 Security Administration Trust Fund shall be deemed to be a
24 refund of such erroneous deposits. All moneys in this fund
25 shall be deposited, administered, and disbursed in the same
26 manner and under the same conditions and requirements as are
27 provided by law for other special funds in the State Treasury.
28 These moneys shall not be expended or be available for
29 expenditure in any manner which would permit their
30 substitution for, or permit a corresponding reduction in,
31 federal funds which would, in the absence of these moneys, be

1 available to finance expenditures for the administration of
2 the Unemployment Compensation Law. But nothing in this
3 section shall prevent these moneys from being used as a
4 revolving fund to cover expenditures, necessary and proper
5 under the law, for which federal funds have been duly
6 requested but not yet received, subject to the charging of
7 such expenditures against such funds when received. The
8 moneys in this fund, with the approval of the Executive Office
9 of the Governor, shall be used by the Division of Unemployment
10 Compensation and the Agency for Workforce Innovation for the
11 payment of costs of administration which are found not to have
12 been properly and validly chargeable against funds obtained
13 from federal sources. All moneys in the Special Employment
14 Security Administration Trust Fund shall be continuously
15 available to the division for expenditure in accordance with
16 the provisions of this chapter and shall not lapse at any
17 time. All payments from the Special Employment Security
18 Administration Trust Fund shall be approved by the division or
19 by a duly authorized agent thereof and shall be made by the
20 Chief Financial Officer ~~Treasurer upon warrants issued by the~~
21 ~~Comptroller~~. The moneys in this fund are hereby specifically
22 made available to replace, as contemplated by subsection (3),
23 expenditures from the Employment Security Administration Trust
24 Fund, established by subsection (1), which have been found by
25 the Bureau of Employment Security, or other authorized federal
26 agency or authority, because of any action or contingency, to
27 have been lost or improperly expended. The Chief Financial
28 Officer ~~Treasurer~~ shall be liable on her or his official bond
29 for the faithful performance of her or his duties in
30 connection with the Special Employment Security Administration
31 Trust Fund.

1 Section 514. Effective January 7, 2003, section
2 447.12, Florida Statutes, is amended to read:

3 447.12 Fees for registration.--All fees collected by
4 the department under this part shall be paid to the Chief
5 Financial Officer ~~Treasurer~~ and credited to the General
6 Revenue Fund.

7 Section 515. Effective January 7, 2003, subsection (1)
8 of section 450.155, Florida Statutes, is amended to read:

9 450.155 Child Labor Law Trust Fund.--

10 (1) There is created in the State Treasury an account
11 to be known as the Child Labor Law Trust Fund. Subject to such
12 appropriations as the Legislature may make therefor from time
13 to time, disbursements from this account may be made by the
14 division, subject to the approval of the department, in order
15 to carry out the proper responsibilities of administering the
16 Child Labor Law, to protect the working youth of the state,
17 and to provide education about the Child Labor Law to
18 employers, public school employees, the general public, and
19 working youth. The Child Labor Law Trust Fund and the moneys
20 deposited therein shall be under the direct supervision and
21 control of the department, and such moneys may be disbursed by
22 the Chief Financial Officer ~~Treasurer~~ from time to time as
23 determined by the department.

24 Section 516. Effective January 7, 2003, paragraph (h)
25 of subsection (2) of section 456.047, Florida Statutes, is
26 amended to read:

27 456.047 Standardized credentialing for health care
28 practitioners.--

29 (2) DEFINITIONS.--As used in this section, the term:

30 (h) "Health care entity" means:
31

1 1. Any health care facility or other health care
2 organization licensed or certified to provide approved medical
3 and allied health services in this state;

4 2. Any entity licensed by the Department of Insurance
5 and Financial Services as a prepaid health care plan or health
6 maintenance organization or as an insurer to provide coverage
7 for health care services through a network of providers or
8 similar organization licensed under chapter 627, chapter 636,
9 chapter 641, or chapter 651; or

10 3. Any accredited medical school in this state.

11 Section 517. Effective January 7, 2003, subsections
12 (1) and (2) of section 468.392, Florida Statutes, are amended
13 to read:

14 468.392 Auctioneer Recovery Fund.--There is created
15 the Auctioneer Recovery Fund as a separate account in the
16 Professional Regulation Trust Fund. The fund shall be
17 administered by the Florida Board of Auctioneers.

18 (1) The Chief Financial Officer ~~Treasurer~~ shall invest
19 the money not currently needed to meet the obligations of the
20 fund in the same manner as other public funds may be invested.
21 Interest that accrues from these investments shall be
22 deposited to the credit of the Auctioneer Recovery Fund and
23 shall be available for the same purposes as other moneys
24 deposited in the Auctioneer Recovery Fund.

25 (2) All payments and disbursements from the Auctioneer
26 Recovery Fund shall be made by the Chief Financial Officer
27 ~~Treasurer~~ upon a voucher signed by the Secretary of Business
28 and Professional Regulation or the secretary's designee.
29 Amounts transferred to the Auctioneer Recovery Fund shall not
30 be subject to any limitation imposed by an appropriation act
31 of the Legislature.

1 Section 518. Effective January 7, 2003, subsection (2)
2 of section 473.3065, Florida Statutes, is amended to read:

3 473.3065 Certified Public Accountant Education
4 Minority Assistance Program; advisory council.--

5 (2) All moneys used to provide scholarships under the
6 program shall be funded by a portion of existing license fees,
7 as set by the board, not to exceed \$10 per license. Such
8 moneys shall be deposited into the Professional Regulation
9 Trust Fund in a separate account maintained for that purpose.
10 The department is authorized to spend up to \$100,000 per year
11 for the program from this program account, but may not
12 allocate overhead charges to it. Moneys for scholarships
13 shall be disbursed annually upon recommendation of the
14 advisory council and approval by the board, based on the
15 adopted eligibility criteria and comparative evaluation of all
16 applicants. Funds in the program account may be invested by
17 the Chief Financial Officer ~~Treasurer~~ under the same
18 limitations as apply to investment of other state funds, and
19 all interest earned thereon shall be credited to the program
20 account.

21 Section 519. Effective January 7, 2003, subsection (7)
22 of section 475.045, Florida Statutes, is amended to read:

23 475.045 Florida Real Estate Commission Education and
24 Research Foundation.--

25 (7) The Chief Financial Officer ~~Treasurer~~ shall invest
26 \$3 million from the portion of the Professional Regulation
27 Trust Fund credited to the real estate profession, under the
28 same limitations as applied to investments of other state
29 funds, and the income earned thereon shall be available to the
30 foundation to fund the activities and projects authorized
31 under this section. However, any balance of such interest in

1 excess of \$1 million shall revert to the portion of the
2 Professional Regulation Trust Fund credited to the real estate
3 profession. In the event the foundation is abolished, the
4 funds in the trust fund shall revert to such portion of the
5 Professional Regulation Trust Fund.

6 Section 520. Effective January 7, 2003, subsection (6)
7 of section 475.484, Florida Statutes, is amended to read:

8 475.484 Payment from the fund.--

9 (6) All payments and disbursements from the Real
10 Estate Recovery Fund shall be made by the Chief Financial
11 Officer ~~Treasurer~~ upon a voucher signed by the secretary of
12 the department. Amounts transferred to the Real Estate
13 Recovery Fund shall not be subject to any limitation imposed
14 by an appropriation act of the Legislature.

15 Section 521. Effective January 7, 2003, section
16 475.485, Florida Statutes, is amended to read:

17 475.485 Investment of the fund.--The funds in the Real
18 Estate Recovery Fund may be invested by the Chief Financial
19 Officer ~~Treasurer~~ under the same limitations as apply to
20 investment of other state funds, and the interest earned
21 thereon shall be deposited to the credit of the Real Estate
22 Recovery Fund and shall be available for the same purposes as
23 other moneys deposited in the Real Estate Recovery Fund.

24 Section 522. Effective January 7, 2003, section
25 489.144, Florida Statutes, is amended to read:

26 489.144 Investment of the fund.--The funds in the
27 Construction Industries Recovery Fund may be invested by the
28 Chief Financial Officer ~~Treasurer~~ under the same limitations
29 as apply to the investment of other state funds, and the
30 interest earned thereon shall be deposited to the credit of
31 the Construction Industries Recovery Fund and shall be

1 available for the same purposes as other moneys deposited in
2 the Construction Industries Recovery Fund.

3 Section 523. Effective January 7, 2003, subsection (6)
4 of section 489.145, Florida Statutes, is amended to read:

5 489.145 Guaranteed energy performance savings
6 contracting.--

7 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
8 Department of Management Services, with the assistance of the
9 Office of the Chief Financial Officer ~~Comptroller~~, may, within
10 available resources, provide technical assistance to state
11 agencies contracting for energy conservation measures and
12 engage in other activities considered appropriate by the
13 department for promoting and facilitating guaranteed energy
14 performance contracting by state agencies. The Office of the
15 Chief Financial Officer ~~Comptroller~~, with the assistance of
16 the Department of Management Services, may, within available
17 resources, develop model contractual and related documents for
18 use by state agencies. Prior to entering into a guaranteed
19 energy performance savings contract, any contract or lease for
20 third-party financing, or any combination of such contracts, a
21 state agency shall submit such proposed contract or lease to
22 the Office of the Chief Financial Officer ~~Comptroller~~ for
23 review and approval.

24 Section 524. Effective January 7, 2003, subsection (8)
25 of section 494.001, Florida Statutes, is amended to read:

26 494.001 Definitions.--As used in ss. 494.001-494.0077,
27 the term:

28 (8) "Department" means the Department of Insurance and
29 Financial Services ~~Banking and Finance~~.

30
31

1 Section 525. Effective January 7, 2003, paragraph (a)
2 of subsection (7) of section 494.00421, Florida Statutes, is
3 amended to read:

4 494.00421 Fees earned upon obtaining a bona fide
5 commitment.--Notwithstanding the provisions of ss.
6 494.001-494.0077, any mortgage brokerage business which
7 contracts to receive from a borrower a mortgage brokerage fee
8 upon obtaining a bona fide commitment shall accurately
9 disclose in the mortgage brokerage agreement:

10 (7)(a) The following statement, in no less than
11 12-point boldface type immediately above the signature lines
12 for the borrowers:

13
14 "You are entering into a contract with a mortgage brokerage
15 business to obtain a bona fide mortgage loan commitment under
16 the same terms and conditions as stated hereinabove or in a
17 separate executed good faith estimate form. If the mortgage
18 brokerage business obtains a bona fide commitment under the
19 same terms and conditions, you will be obligated to pay the
20 mortgage brokerage business fees, including, but not limited
21 to, a mortgage brokerage fee, even if you choose not to
22 complete the loan transaction. If the provisions of s.
23 494.00421, Florida Statutes, are not met, the mortgage
24 brokerage fee can only be earned upon the funding of the
25 mortgage loan. The borrower may contact the Department of
26 Insurance and Financial Services ~~Banking and Finance~~,
27 Tallahassee, Florida, regarding any complaints that the
28 borrower may have against the mortgage broker or the mortgage
29 brokerage business. The telephone number of the department as
30 set by rule of the department is: ...[insert telephone
31 number]...."

1 Section 526. Effective January 7, 2003, subsection
2 (16) of section 497.005, Florida Statutes, is amended to read:

3 497.005 Definitions.--As used in this chapter:

4 (16) "Department" means the Department of Insurance
5 and Financial Services ~~Banking and Finance~~.

6 Section 527. Effective January 7, 2003, subsection (1)
7 of section 497.101, Florida Statutes, is amended to read:

8 497.101 Board of Funeral and Cemetery Services;
9 membership; appointment; terms.--

10 (1) The Board of Funeral and Cemetery Services is
11 created within the Department of Insurance and Financial
12 Services ~~Banking and Finance~~ and shall consist of seven
13 members appointed by the Governor, from nominations made by
14 the Financial Services Commissioner ~~Comptroller~~, and confirmed
15 by the Senate. The Financial Services Commissioner ~~Comptroller~~
16 shall nominate three persons for each vacancy on the board,
17 and the Governor shall fill each vacancy on the board by
18 appointing one of the three persons nominated by the Financial
19 Services Commissioner ~~Comptroller~~ to fill that vacancy. If
20 the Governor objects to each of the three nominations for a
21 vacancy, she or he shall inform the Financial Services
22 Commissioner ~~Comptroller~~ in writing. Upon notification of an
23 objection by the Governor, the Financial Services Commissioner
24 ~~Comptroller~~ shall submit three additional nominations for that
25 vacancy until the vacancy is filled.

26 Section 528. Effective January 7, 2003, section
27 497.105, Florida Statutes, is amended to read:

28 497.105 Department of Insurance and Financial Services
29 ~~Banking and Finance~~; powers and duties.--The Department of
30 Insurance and Financial Services ~~Banking and Finance~~ shall:
31

1 (1) Adopt rules establishing procedures for the
2 renewal of licenses, registrations, and certificates of
3 authority.

4 (2) Appoint the executive director of the Board of
5 Funeral and Cemetery Services, subject to the approval of the
6 board.

7 (3) With the advice of the board, submit a biennial
8 budget to the Legislature at a time and in the manner provided
9 by law.

10 (4) Develop a training program for persons newly
11 appointed to membership on the board. The program shall
12 familiarize such persons with the substantive and procedural
13 laws and rules which relate to the regulation under this
14 chapter and with the structure of the department.

15 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54
16 to implement the provisions of this chapter conferring duties
17 upon it.

18 (6) Establish by rule procedures by which the
19 department shall use the expert or technical advice of the
20 board, for the purposes of investigation, inspection, audit,
21 evaluation of applications, other duties of the department, or
22 any other areas the department may deem appropriate.

23 (7) Require all proceedings of the board or panels
24 thereof within the department and all formal or informal
25 proceedings conducted by the department, an administrative law
26 judge, or a hearing officer with respect to licensing,
27 registration, certification, or discipline to be
28 electronically recorded in a manner sufficient to ensure the
29 accurate transcription of all matters so recorded.

30 (8) Select only those investigators approved by the
31 board. Such investigators shall report to and work in

1 coordination with the executive director of the board and are
2 responsible for all inspections and investigations other than
3 financial examinations.

4 Section 529. Effective January 7, 2003, section
5 497.107, Florida Statutes, is amended to read:

6 497.107 Headquarters.--The Board of Funeral and
7 Cemetery Services may be contacted through the headquarters of
8 the Department of Insurance and Financial Services ~~Banking and~~
9 ~~Finance~~ in the City of Tallahassee.

10 Section 530. Effective January 7, 2003, subsection (4)
11 of section 497.109, Florida Statutes, is amended to read:

12 497.109 Board of Funeral and Cemetery Services;
13 membership.--

14 (4) Unless otherwise provided by law, a board member
15 shall be compensated \$50 for each day the member attends an
16 official meeting of the board and for each day the member
17 participates in any other business involving the board. The
18 board shall adopt rules defining the phrase "other business
19 involving the board," but the phrase may not be defined to
20 include telephone conference calls. A board member is
21 entitled to reimbursement for expenses pursuant to s. 112.061,
22 but travel out of state requires the prior approval of the
23 Department of Insurance and Financial Services ~~Comptroller~~.

24 Section 531. Effective January 7, 2003, section
25 497.115, Florida Statutes, is amended to read:

26 497.115 Board rules; final agency action;
27 challenges.--

28 (1) The Department of Insurance and Financial Services
29 ~~Comptroller~~ shall have standing to challenge any rule or
30 proposed rule of the board pursuant to s. 120.56. In addition
31 to challenges for any invalid exercise of delegated

1 legislative authority, the administrative law judge, upon such
2 a challenge by the Department of Insurance and Financial
3 Services Comptroller, may declare all or part of a rule or
4 proposed rule invalid if it:

5 (a) Does not protect the public from any significant
6 and discernible harm or damages;

7 (b) Unreasonably restricts competition or the
8 availability of professional services in the state or in a
9 significant part of the state; or

10 (c) Unnecessarily increases the cost of professional
11 services without a corresponding or equivalent public benefit.

12
13 However, there shall not be created a presumption of the
14 existence of any of the conditions cited in this subsection in
15 the event that the rule or proposed rule is challenged.

16 (2) In addition, either the Department of Insurance
17 and Financial Services Comptroller or the board shall be a
18 substantially interested party for purposes of s. 120.54(7).
19 The board may, as an adversely affected party, initiate and
20 maintain an action pursuant to s. 120.68 challenging the final
21 agency action.

22 Section 532. Effective January 7, 2003, section
23 497.117, Florida Statutes, is amended to read:

24 497.117 Legal and investigative services.--

25 (1) The Department of Legal Affairs shall provide
26 legal services to the board within the Department of Insurance
27 and Financial Services ~~Banking and Finance~~, but the primary
28 responsibility of the Department of Legal Affairs shall be to
29 represent the interests of the citizens of the state by
30 vigorously counseling the board with respect to its
31 obligations under the laws of the state. Subject to the prior

1 approval of the Attorney General, the board may retain
2 independent legal counsel to provide legal advice to the board
3 on a specific matter. Fees and costs of such counsel shall be
4 paid from the Regulatory Trust Fund of the Department of
5 Insurance and Financial Services ~~Banking and Finance~~.

6 (2) The Department of Insurance and Financial Services
7 ~~Banking and Finance~~ may employ or utilize the legal services
8 of outside counsel and the investigative services of outside
9 personnel. However, no attorney employed or utilized by the
10 department shall prosecute a matter or provide legal services
11 to the board with respect to the same matter.

12 Section 533. Effective January 7, 2003, subsections
13 (1), (4), and (8) of section 497.131, Florida Statutes, are
14 amended to read:

15 497.131 Disciplinary proceedings.--

16 (1) The department shall cause to be investigated any
17 complaint which is filed before it if the complaint is in
18 writing, signed by the complainant, and legally sufficient. A
19 complaint is legally sufficient if it contains ultimate facts
20 which show that a violation of this chapter, or of any rule
21 promulgated by the department or board has occurred. In order
22 to determine legal sufficiency, the department may require
23 supporting information or documentation. The department may
24 investigate or continue to investigate, and the department and
25 the board may take appropriate final action on, a complaint
26 even though the original complainant withdraws it or otherwise
27 indicates her or his desire not to cause the complaint to be
28 investigated or prosecuted to completion. The department may
29 investigate an anonymous complaint if the complaint is in
30 writing and is legally sufficient, if the alleged violation of
31 law or rules is substantial, and if the department has reason

1 to believe, after preliminary inquiry, that the alleged
2 violations in the complaint are true. The department may
3 investigate a complaint made by a confidential informant if
4 the complaint is legally sufficient, if the alleged violation
5 of law or rule is substantial, and if the department has
6 reason to believe, after preliminary inquiry, that the
7 allegations of the complainant are true. The department may
8 initiate an investigation if it has reasonable cause to
9 believe that a person has violated a state statute, a rule of
10 the department, or a rule of the board. When an investigation
11 of any person is undertaken, the department shall promptly
12 furnish to the person or her or his attorney a copy of the
13 complaint or document which resulted in the initiation of the
14 investigation. The person may submit a written response to
15 the information contained in such complaint or document within
16 20 days after service to the person of the complaint or
17 document. The person's written response shall be considered
18 by the probable cause panel. This right to respond shall not
19 prohibit the department from issuing a summary emergency order
20 if necessary to protect the public. However, if the
21 Department of Insurance and Financial Services ~~Comptroller~~ or
22 its ~~her or his~~ designee and the chair of the board or the
23 chair of its probable cause panel agree in writing that such
24 notification would be detrimental to the investigation, the
25 department may withhold notification. The department may
26 conduct an investigation without notification to any person if
27 the act under investigation is a criminal offense.

28 (4) The determination as to whether probable cause
29 exists shall be made by majority vote of the probable cause
30 panel of the board. The board shall provide, by rule, that the
31 determination of probable cause shall be made by a panel of

1 its members or by the department. The board may provide, by
2 rule, for multiple probable cause panels composed of at least
3 two members. The board may provide, by rule, that one or more
4 members of the panel or panels may be a former board member.
5 The length of term or repetition of service of any such former
6 board member on a probable cause panel may vary according to
7 the direction of the board when authorized by board rule. Any
8 probable cause panel must include one of the board's former or
9 present consumer members, if one is available, willing to
10 serve, and is authorized to do so by the board chair. Any
11 probable cause panel must include a present board member. Any
12 probable cause panel must include a former or present
13 professional board member. However, any former professional
14 board member serving on the probable cause panel must hold an
15 active valid license for that profession. All probable cause
16 proceedings conducted pursuant to the provisions of this
17 section are exempt from the provisions of s. 286.011 and s.
18 24(b), Art. I of the State Constitution. The probable cause
19 panel may make a reasonable request, and upon such request the
20 department shall provide such additional investigative
21 information as is necessary to the determination of probable
22 cause. A request for additional investigative information
23 shall be made within 15 days from the date of receipt by the
24 probable cause panel of the investigative report of the
25 department. The probable cause panel shall make its
26 determination of probable cause within 30 days after receipt
27 by it of the final investigative report of the department. The
28 Department of Insurance and Financial Services ~~Comptroller~~ may
29 grant extensions of the 15-day and the 30-day time limits. If
30 the probable cause panel does not find probable cause within
31 the 30-day time limit, as may be extended, or if the probable

1 cause panel finds no probable cause, the department may
2 determine, within 10 days after the panel fails to determine
3 probable cause or 10 days after the time limit has elapsed,
4 that probable cause exists. If the probable cause panel finds
5 that probable cause exists, it shall direct the department to
6 file a formal complaint against the licensee. The department
7 shall follow the directions of the probable cause panel
8 regarding the filing of a formal complaint. If directed to do
9 so, the department shall file a formal complaint against the
10 subject of the investigation and prosecute that complaint
11 pursuant to the provisions of chapter 120. However, the
12 department may decide not to prosecute the complaint if it
13 finds that probable cause had been improvidently found by the
14 panel. In such cases, the department shall refer the matter to
15 the board. The board may then file a formal complaint and
16 prosecute the complaint pursuant to the provisions of chapter
17 120. The department shall also refer to the board any
18 investigation or disciplinary proceeding not before the
19 Division of Administrative Hearings pursuant to chapter 120 or
20 otherwise completed by the department within 1 year after the
21 filing of a complaint. A probable cause panel or the board may
22 retain independent legal counsel, employ investigators, and
23 continue the investigation as it deems necessary; all costs
24 thereof shall be paid from the department's Regulatory Trust
25 Fund. All proceedings of the probable cause panel shall be
26 exempt from the provisions of s. 120.525.

27 (8) Any proceeding for the purpose of summary
28 suspension of a license, or for the restriction of a license,
29 of a licensee pursuant to s. 120.60(6) shall be conducted by
30 the Department of Insurance and Financial Services ~~Comptroller~~
31

1 or its ~~her or his~~ designee, who shall issue the final summary
2 order.

3 Section 534. Effective January 7, 2003, paragraph (f)
4 of subsection (3) of section 497.201, Florida Statutes, is
5 amended to read:

6 497.201 Cemetery companies; license; application;
7 fee.--

8 (3) If the board finds that the applicant meets the
9 criteria established in subsection (2), the department shall
10 notify the applicant that a license will be issued when:

11 (f) The applicant has recorded, in the public records
12 of the county in which the land is located, a notice which
13 contains the following language:

14

15

NOTICE

16

17 The property described herein shall not be sold, conveyed,
18 leased, mortgaged, or encumbered without the prior written
19 approval of the Department of Insurance and Financial Services
20 ~~Banking and Finance~~, as provided in the Florida Funeral and
21 Cemetery Services Act.

22

23 Such notice shall be clearly printed in boldfaced type of not
24 less than 10 points and may be included on the face of the
25 deed of conveyance to the licensee or may be contained in a
26 separate recorded instrument which contains a description of
27 the property.

28 Section 535. Effective January 7, 2003, paragraph (d)
29 of subsection (3) of section 497.253, Florida Statutes, is
30 amended to read:

31

1 497.253 Minimum acreage; sale or disposition of
2 cemetery lands.--

3 (3)

4 (d) Any deed, mortgage, or other conveyance by a
5 cemetery company or other owner pursuant to subsections (a)
6 and (c) above must contain a disclosure in the following or
7 substantially similar form:

8

9 NOTICE: The property described herein was formerly used and
10 dedicated as a cemetery. Conveyance of this property and its
11 use for noncemetery purposes was authorized by the Florida
12 Department of Insurance and Financial Services ~~Banking and~~
13 ~~Finance~~ by Order No., dated

14

15 Section 536. Effective January 7, 2003, subsection (4)
16 of section 497.313, Florida Statutes, is amended to read:

17 497.313 Other charges.--Other than the fees for the
18 sale of burial rights, burial merchandise, and burial
19 services, no other fee may be directly or indirectly charged,
20 contracted for, or received by a cemetery company as a
21 condition for a customer to use any burial right, burial
22 merchandise, or burial service, except for:

23 (4) Charges for credit life and credit disability
24 insurance, as requested by the purchaser, the premiums for
25 which may not exceed the applicable premiums chargeable in
26 accordance with the rates filed with the Department of
27 Insurance and Financial Services.

28 Section 537. Effective January 7, 2003, section
29 497.403, Florida Statutes, is amended to read:

30 497.403 Insurance business not authorized.--Nothing in
31 the Florida Insurance Code or this chapter shall be deemed to

1 authorize any preneed funeral merchandise or service contract
2 business or any preneed burial merchandise or service business
3 to transact any insurance business, other than that of preneed
4 funeral merchandise or service insurance or preneed burial
5 merchandise or service insurance, or otherwise to engage in
6 any other type of insurance unless it is authorized under a
7 certificate of authority issued by the Department of Insurance
8 and Financial Services under the provisions of the Florida
9 Insurance Code. Any insurance business transacted under this
10 section must comply with the provisions of s. 626.785.

11 Section 538. Effective January 7, 2003, paragraphs (d)
12 and (m) of subsection (1) of section 498.025, Florida
13 Statutes, are amended to read:

14 498.025 Exemptions.--

15 (1) Except as provided in s. 498.022, the provisions
16 of this chapter do not apply to:

17 (d) An offer or transfer of securities currently
18 registered with the Department of Insurance and Financial
19 Services ~~Banking and Finance~~ or the United States Securities
20 and Exchange Commission, except when s. 498.023(4) applies.

21 (m) The offer or disposition of an interest in
22 subdivided lands to an accredited investor, as defined by rule
23 of the Florida Department of Insurance and Financial Services
24 ~~Banking and Finance~~ in accordance with Securities and Exchange
25 Commission Regulation 230.501, 17 C.F.R. s. 230.501.

26 Section 539. Effective January 7, 2003, subsection (5)
27 of section 498.049, Florida Statutes, is amended to read:

28 498.049 Suspension; revocation; civil penalties.--

29 (5) Each person who materially participates in any
30 offer or disposition of any interest in subdivided lands in
31 violation of this chapter or relevant rules involving fraud,

1 deception, false pretenses, misrepresentation, or false
2 advertising or the disposition, concealment, or diversion of
3 any funds or assets of any person which adversely affects the
4 interests of a purchaser of any interest in subdivided lands,
5 and who directly or indirectly controls a subdivider or is a
6 general partner, officer, director, agent, or employee of a
7 subdivider shall also be liable under this subsection jointly
8 and severally with and to the same extent as the subdivider,
9 unless that person did not know, and in the exercise of
10 reasonable care could not have known, of the existence of the
11 facts creating the alleged liability. Among these persons a
12 right of contribution shall exist, except that a creditor of a
13 subdivider shall not be jointly and severally liable unless
14 the creditor has assumed managerial or fiduciary
15 responsibility in a manner related to the basis for the
16 liability of the subdivider under this subsection. Civil
17 penalties shall be limited to \$10,000 for each offense, and
18 all amounts collected shall be deposited with the Chief
19 Financial Officer ~~Treasurer~~ to the credit of the Division of
20 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.
21 No order requiring the payment of a civil penalty shall become
22 effective until 20 days after the date of the order, unless
23 otherwise agreed in writing by the person on whom the penalty
24 is imposed.

25 Section 540. Effective January 7, 2003, section
26 499.057, Florida Statutes, is amended to read:

27 499.057 Expenses and salaries.--All expenses and
28 salaries shall be paid out of the special fund hereby created
29 in the office of the Chief Financial Officer ~~Treasurer~~, which
30 fund is to be known as the "Florida Drug, Device, and Cosmetic
31 Trust Fund."

1 Section 541. Effective January 7, 2003, subsection (4)
2 of section 501.212, Florida Statutes, is amended to read:

3 501.212 Application.--This part does not apply to:

4 (4) Any person or activity regulated under laws
5 administered by the Department of Insurance and Financial
6 Services or banks and savings and loan associations regulated
7 by the Department of Insurance and Financial Services ~~Banking~~
8 ~~and Finance~~ or banks or savings and loan associations
9 regulated by federal agencies.

10 Section 542. Effective January 7, 2003, subsection (7)
11 of section 509.215, Florida Statutes, is amended to read:

12 509.215 Firesafety.--

13 (7) The National Fire Protection Association
14 publications referenced in this section are the ones most
15 recently adopted by rule of the Division of State Fire Marshal
16 of the Department of Insurance and Financial Services.

17 Section 543. Effective January 7, 2003, paragraph (a)
18 of subsection (2) of section 513.055, Florida Statutes, is
19 amended to read:

20 513.055 Revocation or suspension of permit; fines;
21 procedure.--

22 (2)

23 (a) In lieu of such suspension or revocation of a
24 permit, the department may impose a fine against a permittee
25 for the permittee's failure to comply with the provisions
26 described in paragraph (1)(a) or may place such licensee on
27 probation. No fine so imposed shall exceed \$500 for each
28 offense, and all amounts collected in fines shall be deposited
29 with the Chief Financial Officer ~~Treasurer~~ to the credit of
30 the County Health Department Trust Fund.

31

1 Section 544. Effective January 7, 2003, subsection (3)
2 of section 516.01, Florida Statutes, is amended to read:

3 516.01 Definitions.--As used in this chapter, the
4 term:

5 (3) "Department" means the Department of Insurance and
6 Financial Services ~~Banking and Finance~~.

7 Section 545. Effective January 7, 2003, subsection (1)
8 of section 516.35, Florida Statutes, is amended to read:

9 516.35 Credit insurance must comply with credit
10 insurance act.--

11 (1) Tangible property offered as security may be
12 reasonably insured against loss for a reasonable term,
13 considering the circumstances of the loan. If such insurance
14 is sold at standard rates through a person duly licensed by
15 the Department of Insurance and Financial Services and if the
16 policy is payable to the borrower or any member of her or his
17 family, it shall not be deemed to be a collateral sale,
18 purchase, or agreement even though a customary mortgagee
19 clause is attached or the licensee is a coassured.

20 Section 546. Effective January 7, 2003, subsection (7)
21 of section 517.021, Florida Statutes, is amended to read:

22 517.021 Definitions.--When used in this chapter,
23 unless the context otherwise indicates, the following terms
24 have the following respective meanings:

25 (7) "Department" means the Department of Insurance and
26 Financial Services ~~Banking and Finance~~.

27 Section 547. Effective January 7, 2003, subsection (1)
28 of section 517.03, Florida Statutes, is amended to read:

29 517.03 Rulemaking; immunity for acts in conformity
30 with rules.--

31

1 (1) The Department of Insurance and Financial Services
2 ~~Banking and Finance~~ shall administer and provide for the
3 enforcement of all the provisions of this chapter. The
4 department has authority to adopt rules pursuant to ss.
5 120.536(1) and 120.54 to implement the provisions of this
6 chapter conferring powers or duties upon it, including,
7 without limitation, adopting rules and forms governing
8 reports. The department shall also have the nonexclusive power
9 to define by rule any term, whether or not used in this
10 chapter, insofar as the definition is not inconsistent with
11 the provisions of this chapter.

12 Section 548. Effective January 7, 2003, subsection
13 (13) of section 517.061, Florida Statutes, is amended to read:

14 517.061 Exempt transactions.--The exemption for each
15 transaction listed below is self-executing and does not
16 require any filing with the department prior to claiming such
17 exemption. Any person who claims entitlement to any of the
18 exemptions bears the burden of proving such entitlement in any
19 proceeding brought under this chapter. The registration
20 provisions of s. 517.07 do not apply to any of the following
21 transactions; however, such transactions are subject to the
22 provisions of ss. 517.301, 517.311, and 517.312:

23 (13) An unsolicited purchase or sale of securities on
24 order of, and as the agent for, another by a dealer registered
25 with the Department of Insurance and Financial Services
26 ~~Banking and Finance~~ pursuant to the provisions of s. 517.12;
27 provided that this exemption applies solely and exclusively to
28 such registered dealers and does not authorize or permit the
29 purchase or sale of securities on order of, and as agent for,
30 another by any person other than a dealer so registered; and
31 provided, further, that such purchase or sale is not directly

1 or indirectly for the benefit of the issuer or an underwriter
2 of such securities or for the direct or indirect promotion of
3 any scheme or enterprise with the intent of violation or
4 evading any provision of this chapter.

5 Section 549. Effective January 7, 2003, paragraph (c)
6 of subsection (2) and subsection (5) of section 517.075,
7 Florida Statutes, are amended to read:

8 517.075 Cuba, prospectus disclosure of doing business
9 with, required.--

10 (2) Any disclosure required by subsection (1) must
11 include:

12 (c) A statement that current information concerning
13 the issuer's business dealings with the government of Cuba or
14 with any person or affiliate located in Cuba may be obtained
15 from the Department of Insurance and Financial Services
16 ~~Banking and Finance~~, which statement must include the address
17 and phone number of the department.

18 (5) Each securities offering sold in violation of this
19 section, and each failure of an issuer to timely file the form
20 required by subsection (3), subjects the issuer to a fine of
21 up to \$5,000. Any fine collected under this section shall be
22 deposited into the Anti-Fraud Trust Fund of the Department of
23 Insurance and Financial Services ~~Banking and Finance~~.

24 Section 550. Effective January 7, 2003, paragraph (a)
25 of subsection (2) of section 517.1203, Florida Statutes, is
26 amended to read:

27 517.1203 Allocation and disbursement of assessment
28 fees.--

29 (2)(a) Notwithstanding the provisions of ss. 517.131
30 and 517.141, moneys allocated to the Securities Guaranty Fund
31 under this section shall be used to pay amounts payable under

1 any service contract entered into by the department pursuant
2 to s. 517.1204, subject to annual appropriation by the
3 Legislature, and to pay investors who have filed claims with
4 the Department of Insurance and Financial Services ~~Banking and~~
5 ~~Finance~~ after October 1, 1996, and on or before December 31,
6 1998, who have:

7 1. Received a final judgment against an associated
8 person of GIC Government Securities, Inc., based upon
9 allegations which would amount to a violation of s. 517.07 or
10 s. 517.301; or

11 2. Demonstrated to the department that the claimant
12 has suffered monetary damages as a result of the acts or
13 actions of GIC Government Securities, Inc., or any associated
14 person thereof, based upon allegations which would amount to a
15 violation of s. 517.07 or s. 517.301.

16 Section 551. Effective January 7, 2003, subsection (2)
17 of section 517.1204, Florida Statutes, is amended to read:

18 517.1204 Investment Fraud Restoration Financing
19 Corporation.--

20 (2) The corporation shall be governed by a board of
21 directors consisting of the Commissioner of Financial Services
22 ~~assistant comptroller~~, the Secretary of Elderly Affairs or the
23 secretary's designee, and the executive director of the
24 Department of Veterans' Affairs or the executive director's
25 designee. The executive director of the State Board of
26 Administration shall be the chief executive officer of the
27 corporation and shall direct and supervise the administrative
28 affairs of the corporation and shall control, direct, and
29 supervise the operation of the corporation. The corporation
30 shall also have such other officers as may be determined by
31 the board of directors.

1 Section 552. Effective January 7, 2003, section
2 517.1205, Florida Statutes, is amended to read:
3 517.1205 Registration of associated persons specific
4 as to securities dealer, investment adviser, or federal
5 covered adviser identified at time of registration
6 approval.--Inasmuch as this chapter is intended to protect
7 investors in securities offerings and other investment
8 transactions regulated by that chapter, its provisions are to
9 be construed to require full and fair disclosure of all, but
10 only, those matters material to the investor's evaluation of
11 the offering or other transaction. It should, furthermore, be
12 construed to impose the standards provided by law on all those
13 seeking to participate in the state's securities industry
14 through registration as a securities dealer, investment
15 adviser, or associated person. To this end, it is declared to
16 be the intent of the Legislature that the registration of
17 associated persons required by law is specific to the
18 securities dealer, investment adviser, or federal covered
19 adviser identified at the time such registration is approved.
20 Notwithstanding any interpretation of law to the contrary, the
21 historical practice of the Department of Insurance and
22 Financial Services ~~Banking and Finance~~, reflected in its
23 rules, that requires a new application for registration from a
24 previously registered associated person when that person seeks
25 to be associated with a new securities dealer or investment
26 adviser is hereby ratified and approved as consistent with
27 legislative intent. It is, finally, declared to be the intent
28 of the Legislature that while approval of an application for
29 registration of a securities dealer, investment adviser,
30 associated person, or branch office requires a finding of the
31 applicant's good repute and character, such finding is

1 precluded by a determination that the applicant may be denied
2 registration on grounds provided by law.

3 Section 553. Effective January 7, 2003, paragraph (a)
4 of subsection (1) of section 517.131, Florida Statutes, is
5 amended to read:

6 517.131 Securities Guaranty Fund.--

7 (1)(a) The Chief Financial Officer ~~Treasurer~~ shall
8 establish a Securities Guaranty Fund. An amount not exceeding
9 20 percent of all revenues received as assessment fees
10 pursuant to s. 517.12(10) and (11) for dealers and investment
11 advisers or s. 517.1201 for federal covered advisers and an
12 amount not exceeding 10 percent of all revenues received as
13 assessment fees pursuant to s. 517.12(10) and (11) for
14 associated persons shall be allocated to the fund. An
15 additional amount not exceeding 3.5 percent of all revenues
16 received as assessment fees for associated persons pursuant to
17 s. 517.12(10) and (11) shall be allocated to the Securities
18 Guaranty Fund but only after the department determines, by
19 final order, that sufficient funds have been allocated to the
20 fund pursuant to s. 517.1203 to satisfy all valid claims filed
21 in accordance with s. 517.1203(2) and after all amounts
22 payable under any service contract entered into by the
23 department pursuant to s. 517.1204, and all notes, bonds,
24 certificates of indebtedness, other obligations, or evidences
25 of indebtedness secured by such notes, bonds, certificates of
26 indebtedness, or other obligations, have been paid or
27 provision has been made for the payment of such amounts,
28 notes, bonds, certificates of indebtedness, other obligations,
29 or evidences of indebtedness. This assessment fee shall be
30 part of the regular license fee and shall be transferred to or
31 deposited in the Securities Guaranty Fund.

1 Section 554. Effective January 7, 2003, subsection
2 (10) of section 517.141, Florida Statutes, is amended to read:

3 517.141 Payment from the fund.--

4 (10) All payments and disbursements made from the
5 Securities Guaranty Fund shall be made by the Chief Financial
6 Officer ~~Treasurer~~ upon a voucher signed by the Commissioner of
7 Financial Services ~~Comptroller, as head of the department,~~ or
8 such agent as she or he may designate.

9 Section 555. Effective January 7, 2003, section
10 517.151, Florida Statutes, is amended to read:

11 517.151 Investments of the fund.--The funds of the
12 Securities Guaranty Fund shall be invested by the Chief
13 Financial Officer ~~Treasurer~~ under the same limitations as
14 other state funds, and the interest earned thereon shall be
15 deposited to the credit of the fund and available for the same
16 purpose as other moneys deposited in the Securities Guaranty
17 Fund.

18 Section 556. Effective January 7, 2003, paragraph (b)
19 of subsection (1) of section 518.115, Florida Statutes, is
20 amended to read:

21 518.115 Power of fiduciary or custodian to deposit
22 securities in a central depository.--

23 (1)

24 (b) A bank or a trust company so depositing securities
25 with a clearing corporation shall be subject to such rules and
26 regulations with respect to the making and maintenance of such
27 deposit as, in the case of state-chartered institutions, the
28 Department of Insurance and Financial Services ~~Banking and~~
29 ~~Finance~~ and, in the case of national banking associations, the
30 Comptroller of the Currency may from time to time issue.

31

1 Section 557. Effective January 7, 2003, paragraph (b)
2 of subsection (1) of section 518.116, Florida Statutes, is
3 amended to read:

4 518.116 Power of certain fiduciaries and custodians to
5 deposit United States Government and agency securities with a
6 Federal Reserve bank.--

7 (1)

8 (b) A bank or trust company so depositing securities
9 with a Federal Reserve Bank shall be subject to such rules and
10 regulations with respect to the making and maintenance of such
11 deposits as, in the case of state-chartered institutions, the
12 Department of Insurance and Financial Services ~~Banking and~~
13 ~~Finance~~ and, in the case of national banking associations, the
14 Comptroller of the Currency may from time to time issue. The
15 records of such bank or trust company shall at all times show
16 the ownership of the securities held in such account.

17 Section 558. Effective January 7, 2003, subsections
18 (1), (3), and (4), paragraphs (b), (c), (d), and (e) of
19 subsection (5), and subsections (6), (7), and (9) of section
20 519.101, Florida Statutes, are amended to read:

21 519.101 Florida equity exchange feasibility study;
22 structure, operation, and regulation.--

23 (1) There may be created one or more Florida equity
24 exchanges, with one or more offices each, upon a determination
25 by the Department of Insurance and Financial Services
26 ~~Comptroller~~ that each such exchange has a reasonable promise
27 of successful operation, will promote economic development,
28 will produce net economic benefits in the state, and will not
29 expose the public to undue risk of financial loss. This
30 determination shall be based on the results of a feasibility
31 study concerning the possible structure, operation, and

1 regulation of each such exchange, to be carried out under the
2 supervision of the Department of Insurance and Financial
3 Services ~~Comptroller~~. The Secretary of Commerce shall provide
4 the Department of Insurance and Financial Services ~~Comptroller~~
5 any needed advice on economic development aspects of the
6 feasibility study. Said feasibility study shall evaluate to
7 what extent securities laws may limit the transferability of
8 investments in which any exchange would deal; to what extent
9 companies financed through securities in which the exchange
10 would deal would prefer a stable group of investors; to what
11 extent the particular investment objectives of potential
12 participants in any exchange might be inconsistent with an
13 exchange operation; and the possibility that the frequency of
14 investment opportunities of the type in which an exchange
15 would deal would be too low to economically operate any
16 exchange. The determination of the Department of Insurance
17 and Financial Services ~~Comptroller~~ shall constitute a final
18 order as defined in s. 120.52 and shall be subject to the
19 provisions of chapter 120. Nothing in this section, however,
20 shall be construed to require the expenditure of state funds
21 for the purpose of conducting any such feasibility study. For
22 the purposes of this section, the term "exchange" shall apply
23 to any such Florida equity exchange proposed or created under
24 this section.

25 (3) Within 30 days following such determination, a
26 committee shall be appointed to write the constitution and
27 bylaws of the exchange. The Department of Insurance and
28 Financial Services ~~Comptroller~~ may provide technical
29 assistance to the committee on the development of the
30 constitution and bylaws of the exchange. The committee shall
31 consist of 15 members, 11 members to be appointed by the

1 Governor, 2 members to be appointed by the Speaker of the
2 House of Representatives, and 2 members to be appointed by the
3 President of the Senate. The chair shall be elected by a
4 majority of the committee. The committee shall transmit such
5 proposed constitution, bylaws, and other recommendations for
6 the approval of the Department of Insurance and Financial
7 Services Comptroller no later than 90 days following the first
8 meeting of the committee. In reviewing the constitution and
9 the bylaws of the exchange, as well as any other
10 recommendations made to the Department of Insurance and
11 Financial Services Comptroller by the committee, the
12 Department of Insurance and Financial Services Comptroller
13 shall consider whether such constitution, bylaws, and
14 recommendations are reasonably consistent with the public
15 interest and the efficient functioning of the exchange. The
16 Department of Insurance and Financial Services Comptroller
17 shall approve the constitution and bylaws of the exchange if
18 it ~~he or she~~ finds that they specifically describe the types
19 of business that the exchange will conduct, that such business
20 activities are not inconsistent with state or federal law,
21 that the form of business organization of the exchange
22 complies with statutory requirements, and that the interest of
23 owners or members of the exchange would be adequately
24 protected. The submission of the proposed constitution and
25 bylaws to the Department of Insurance and Financial Services
26 Comptroller shall be deemed an application for a license and
27 shall be subject to the provisions of s. 120.80(9).

28 (4) The exchange shall have full authority to function
29 60 days after its constitution and bylaws are approved by the
30 Department of Insurance and Financial Services Comptroller.
31 The initial Board of Governors of the exchange shall consist

1 of the members of the committee who shall serve until the
2 first election pursuant to the constitution and bylaws. If
3 the constitution and bylaws are disapproved by the Department
4 of Insurance and Financial Services ~~Comptroller~~, the
5 committee, in consultation with the Department of Insurance
6 and Financial Services ~~Comptroller~~, shall have 60 days from
7 the date of such disapproval within which to submit an
8 acceptable constitution and bylaws.

9 (5) The constitution and bylaws of the exchange shall
10 include provision that:

11 (b) The principal offices of each exchange and the
12 principal offices of its members shall be located within this
13 state for the purpose of conducting the type of business
14 described in subsection (2). Any exchange may have such other
15 offices around the state as it deems necessary from time to
16 time, subject to a determination by the Department of
17 Insurance and Financial Services ~~Comptroller~~ that such
18 additional offices will be necessary for the efficient
19 operation of the exchange and will be in the public interest.

20 (c) All members and applicants for membership on the
21 exchange shall submit all financial information reasonably
22 required by the Department of Insurance and Financial Services
23 ~~Comptroller~~.

24 (d) The exchange shall establish or participate in a
25 security fund which shall be capitalized or underwritten in
26 such form and amount as will reasonably protect persons
27 transacting business through the exchange from any harm or
28 loss occasioned by the insolvency of any member of the
29 exchange. The formation of such security fund and the
30 adequacy of the financial security provided thereby shall be
31 subject to the approval of the Department of Insurance and

1 Financial Services ~~Department of Banking and Finance~~ based
2 upon the types and amounts of transactions effected through
3 the facilities of the exchange.

4 (e) Rules shall be adopted prescribing eligibility for
5 membership and the voting power, duties, and rights to
6 participate in the conduct and management of the affairs of
7 the exchange by the members thereof, such rights and duties to
8 include, without limitation, the manner and form of conducting
9 business, financial stability requirements, dues, membership
10 fees, resolution of dispute mechanisms, and all other matters
11 necessary or appropriate to conduct any business permitted
12 herein; however, such rules shall not impose any limit on the
13 number of members of any such exchange. Any amendments to the
14 constitution and bylaws shall be subject to the approval of
15 the Department of Insurance and Financial Services
16 ~~Comptroller~~.

17 (6) If the exchange contemplated by this section is
18 established, the Department of Insurance and Financial
19 Services ~~Comptroller~~ shall furnish the chairs of the finance
20 and taxation committees of the Legislature with copies of its
21 constitution and bylaws. Upon receipt of the constitution and
22 bylaws, the Legislature shall consider what tax policy and tax
23 exemptions are needed to facilitate successful operation of
24 the exchange.

25 (7) If the exchange contemplated by this section is
26 finally established, the Department of Insurance and Financial
27 Services ~~Comptroller~~ shall forthwith adopt rules providing for
28 the reimbursement by the exchange or any member thereof of the
29 actual costs incurred by the Department of Insurance and
30 Financial Services ~~Comptroller~~ in connection with the
31 regulation and supervision of the exchange. As used in this

1 section, "actual costs" means all direct and indirect costs
2 and expenses incurred by the Department of Insurance and
3 Financial Services ~~Comptroller~~ in connection with the exchange
4 including, without limitation, general administrative costs,
5 travel expenses, salaries, and other benefits given to persons
6 involved in the regulation and supervision of the exchange.
7 The Department of Insurance and Financial Services ~~Comptroller~~
8 shall have the power to make any allocations that are deemed
9 reasonable and necessary and may require the exchange or any
10 members to pay interim assessments related to estimated final
11 assessments.

12 (9) The Department of Insurance and Financial Services
13 ~~Comptroller~~ may establish limitations on investments in
14 members of the exchange by any person or company, consistent
15 with the public interest and the efficient functioning of the
16 exchange.

17 Section 559. Effective January 7, 2003, subsection (3)
18 of section 520.02, Florida Statutes, is amended to read:

19 520.02 Definitions.--In this act, unless the context
20 or subject matter otherwise requires:

21 (3) "Department" means the Department of Insurance and
22 Financial Services ~~Banking and Finance~~.

23 Section 560. Effective January 7, 2003, subsection (4)
24 of section 520.07, Florida Statutes, is amended to read:

25 520.07 Requirements and prohibitions as to retail
26 installment contracts.--

27 (4) The amount, if any, included for insurance which
28 may be purchased by the holder of the retail installment
29 contract may not exceed the applicable premiums chargeable in
30 accordance with the rates filed with the Department of
31 Insurance and Financial Services. If dual interest insurance

1 on the motor vehicle is purchased by the holder, it shall,
2 within 30 days after execution of the retail installment
3 contract, send or cause to be sent to the buyer a policy or
4 policies or certificate of insurance, written by an insurance
5 company authorized to do business in this state, clearly
6 setting forth the amount of the premium, the kind or kinds of
7 insurance, the coverages, and all the terms, exceptions,
8 limitations, restrictions, and conditions of the contract or
9 contracts of insurance. Nothing in this act shall impair or
10 abrogate the right of a buyer, as defined herein, to procure
11 insurance from an agent and company of his or her own
12 selection as provided by the insurance laws of this state; and
13 nothing contained in this act shall modify, amend, alter, or
14 repeal any of the insurance laws of the state, including any
15 such laws enacted by the 1957 Legislature.

16 Section 561. Effective January 7, 2003, subsection (3)
17 of section 520.31, Florida Statutes, is amended to read:

18 520.31 Definitions.--Unless otherwise clearly
19 indicated by the context, the following words when used in
20 this act, for the purposes of this act, shall have the
21 meanings respectively ascribed to them in this section:

22 (3) "Department" means the Department of Insurance and
23 Financial Services ~~Banking and Finance~~.

24 Section 562. Effective January 7, 2003, subsection (8)
25 of section 520.34, Florida Statutes, is amended to read:

26 520.34 Retail installment contracts.--

27 (8) The seller under any retail installment contract
28 shall, within 30 days after execution of the contract, deliver
29 or mail or cause to be delivered or mailed to the buyer at his
30 or her aforesaid address any policy or policies of insurance
31 the seller has agreed to purchase in connection therewith, or

1 in lieu thereof a certificate or certificates of such
2 insurance. The amount, if any, included for insurance shall
3 not exceed the applicable premiums chargeable in accordance
4 with the rates filed with the Department of Insurance and
5 Financial Services; if any such insurance is canceled,
6 unearned insurance premium refunds and any unearned finance
7 charges thereon received by the holder shall, at his or her
8 option, be credited to the final maturing installments of the
9 contract or paid to the buyer, except to the extent applied
10 toward the payment for similar insurance protecting the
11 interests of the seller and the holder or either of them. The
12 finance charge on the original transaction shall be separately
13 computed:

14 (a) With the premium for the canceled or adjusted
15 insurance included in the "amount financed"; and

16 (b) With the premium for the canceled insurance or the
17 amount of the premium adjustment excluded from the "amount
18 financed."
19

20 The difference in the finance charge resulting from these
21 computations shall be the portion of the finance charge
22 attributable to the canceled or adjusted insurance, and the
23 unearned portion thereof shall be determined by the use of the
24 rule of 78ths. "Cancellation of insurance" occurs at such
25 time as the seller or holder receives from the insurance
26 carrier the proper refund of unearned insurance premiums.
27 Nothing in this act shall impair or abrogate the right of a
28 buyer to procure insurance from an agent and company of his or
29 her own selection, as provided by the insurance laws of this
30 state; and nothing contained in this act shall modify, alter,
31 or repeal any of the insurance laws of this state.

1 Section 563. Effective January 7, 2003, subsection (6)
2 of section 520.61, Florida Statutes, is amended to read:

3 520.61 Definitions.--As used in this act:

4 (6) "Department" means the Department of Insurance and
5 Financial Services ~~Banking and Finance~~.

6 Section 564. Effective January 7, 2003, subsection (3)
7 of section 520.76, Florida Statutes, is amended to read:

8 520.76 Insurance provisions, procurement, rates.--

9 (3) The amount, if any, included for such insurance
10 shall not exceed the applicable premiums chargeable in
11 accordance with rates filed with the Department of Insurance
12 and Financial Services. If any such group credit life or
13 other insurance is canceled, the refund for unearned insurance
14 premiums received or receivable by the holder of the home
15 improvement contract or the excess of the amount included in
16 the contract for insurance over the premiums paid or payable
17 by the holder of the contract together with, in either case,
18 the unearned portion of the finance charge or other interest
19 applicable thereto shall be credited to the final maturing
20 installments of the home improvement contract. However, no
21 such credit need be made if the amount would be less than \$1.

22 Section 565. Effective January 7, 2003, subsection (2)
23 of section 537.003, Florida Statutes, is amended to read:

24 537.003 Definitions.--As used in this act, unless the
25 context otherwise requires:

26 (2) "Department" means the Department of Insurance and
27 Financial Services ~~Banking and Finance~~.

28 Section 566. Effective January 7, 2003, subsection
29 (10) of section 537.004, Florida Statutes, is amended to read:

30 537.004 License required; license fees.--

31

1 (10) All moneys collected by the department under this
2 act shall be deposited into the Regulatory Trust Fund of the
3 Department of Insurance and Financial Services ~~Banking and~~
4 ~~Finance~~.

5 Section 567. Effective January 7, 2003, subsection (2)
6 of section 537.011, Florida Statutes, is amended to read:

7 537.011 Title loan charges.--

8 (2) The annual percentage rate that may be charged for
9 a title loan may equal, but not exceed, the annual percentage
10 rate that must be computed and disclosed as required by the
11 federal Truth in Lending Act and Regulation Z of the Board of
12 Governors of the Federal Reserve System. The maximum annual
13 percentage rate of interest that may be charged is 12 times
14 the maximum monthly rate, and the maximum monthly rate must be
15 computed on the basis of one-twelfth of the annual rate for
16 each full month. The Department of Insurance and Financial
17 Services ~~Banking and Finance~~ shall establish by rule the rate
18 for each day in a fraction of a month when the period for
19 which the charge is computed is more or less than 1 month.

20 Section 568. Effective January 7, 2003, subsection (1)
21 of section 548.066, Florida Statutes, is amended to read:

22 548.066 Ticket refunds.--

23 (1) Upon the postponement, substitution of either
24 participant, or cancellation of the main event or the entire
25 program of matches, the promoter shall refund the full
26 purchase price of a ticket to each person presenting a ticket
27 for a refund within 30 days after the scheduled date of the
28 event. Within 10 days after the expiration of the 30-day
29 period, the promoter shall pay all unclaimed ticket receipts
30 to the commission. The commission shall hold the funds for 1
31 year and make refunds during such time to any person

1 presenting a ticket for a refund. Thereafter, the commission
2 shall pay all remaining moneys from the ticket sale to the
3 Chief Financial Officer ~~State Treasurer~~ for deposit into the
4 General Revenue Fund.

5 Section 569. Effective January 7, 2003, section
6 548.077, Florida Statutes, is amended to read:

7 548.077 Florida State Boxing Commission; collection
8 and disposition of moneys.--All fees, fines, forfeitures, and
9 other moneys collected under the provisions of this chapter
10 shall be paid by the commission to the Chief Financial Officer
11 ~~State Treasurer~~ who, after the expenses of the commission are
12 paid, shall deposit them in the Professional Regulation Trust
13 Fund to be used for the administration and operation of the
14 commission and to enforce the laws and rules under its
15 jurisdiction. In the event the unexpended balance of such
16 moneys collected under the provisions of this chapter exceeds
17 \$250,000, any excess of that amount shall be deposited in the
18 General Revenue Fund.

19 Section 570. Effective January 7, 2003, subsection
20 (10) of section 550.0251, Florida Statutes, is amended to
21 read:

22 550.0251 The powers and duties of the Division of
23 Pari-mutuel Wagering of the Department of Business and
24 Professional Regulation.--The division shall administer this
25 chapter and regulate the pari-mutuel industry under this
26 chapter and the rules adopted pursuant thereto, and:

27 (10) The division may impose an administrative fine
28 for a violation under this chapter of not more than \$1,000 for
29 each count or separate offense, except as otherwise provided
30 in this chapter, and may suspend or revoke a permit, a
31 pari-mutuel license, or an occupational license for a

1 violation under this chapter. All fines imposed and collected
2 under this subsection must be deposited with the Chief
3 Financial Officer ~~Treasurer~~ to the credit of the General
4 Revenue Fund.

5 Section 571. Effective January 7, 2003, paragraph (b)
6 of subsection (9) of section 550.054, Florida Statutes, is
7 amended to read:

8 550.054 Application for permit to conduct pari-mutuel
9 wagering.--

10 (9)

11 (b) The division may revoke or suspend any permit or
12 license issued under this chapter upon the willful violation
13 by the permitholder or licensee of any provision of this
14 chapter or of any rule adopted under this chapter. In lieu of
15 suspending or revoking a permit or license, the division may
16 impose a civil penalty against the permitholder or licensee
17 for a violation of this chapter or any rule adopted by the
18 division. The penalty so imposed may not exceed \$1,000 for
19 each count or separate offense. All penalties imposed and
20 collected must be deposited with the Chief Financial Officer
21 ~~Treasurer~~ to the credit of the General Revenue Fund.

22 Section 572. Effective January 7, 2003, paragraph (a)
23 of subsection (1) and subsection (5) of section 550.0951,
24 Florida Statutes, are amended to read:

25 550.0951 Payment of daily license fee and taxes.--

26 (1)(a) DAILY LICENSE FEE.--Each person engaged in the
27 business of conducting race meetings or jai alai games under
28 this chapter, hereinafter referred to as the "permitholder,"
29 "licensee," or "permittee," shall pay to the division, for the
30 use of the division, a daily license fee on each live or
31 simulcast pari-mutuel event of \$100 for each horserace and \$80

1 for each dograce and \$40 for each jai alai game conducted at a
2 racetrack or fronton licensed under this chapter. In addition
3 to the tax exemption specified in s. 550.09514(1) of \$360,000
4 or \$500,000 per greyhound permitholder per state fiscal year,
5 each greyhound permitholder shall receive in the current state
6 fiscal year a tax credit equal to the number of live greyhound
7 races conducted in the previous state fiscal year times the
8 daily license fee specified for each dograce in this
9 subsection applicable for the previous state fiscal year.
10 This tax credit and the exemption in s. 550.09514(1) shall be
11 applicable to any tax imposed by this chapter or the daily
12 license fees imposed by this chapter except during any charity
13 or scholarship performances conducted pursuant to s. 550.0351.
14 Each permitholder shall pay daily license fees not to exceed
15 \$500 per day on any simulcast races or games on which such
16 permitholder accepts wagers regardless of the number of
17 out-of-state events taken or the number of out-of-state
18 locations from which such events are taken. This license fee
19 shall be deposited with the Chief Financial Officer ~~Treasurer~~
20 to the credit of the Pari-mutuel Wagering Trust Fund.

21 (5) PAYMENT AND DISPOSITION OF FEES AND
22 TAXES.--Payment for the admission tax, tax on handle, and the
23 breaks tax imposed by this section shall be paid to the
24 division. The division shall deposit these sums with the Chief
25 Financial Officer ~~Treasurer~~, to the credit of the Pari-mutuel
26 Wagering Trust Fund, hereby established. The permitholder
27 shall remit to the division payment for the daily license fee,
28 the admission tax, the tax on handle, and the breaks tax. Such
29 payments shall be remitted by 3 p.m. Wednesday of each week
30 for taxes imposed and collected for the preceding week ending
31 on Sunday. Permitholders shall file a report under oath by the

1 5th day of each calendar month for all taxes remitted during
2 the preceding calendar month. Such payments shall be
3 accompanied by a report under oath showing the total of all
4 admissions, the pari-mutuel wagering activities for the
5 preceding calendar month, and such other information as may be
6 prescribed by the division.

7 Section 573. Effective January 7, 2003, paragraph (a)
8 of subsection (3) of section 550.125, Florida Statutes, is
9 amended to read:

10 550.125 Uniform reporting system; bond requirement.--

11 (3)(a) Each permitholder to which a license is granted
12 under this chapter, at its own cost and expense, must, before
13 the license is delivered, give a bond in the penal sum of
14 \$50,000 payable to the Governor of the state and her or his
15 successors in office, with a surety or sureties to be approved
16 by the division and the Chief Financial Officer ~~Treasurer~~,
17 conditioned to faithfully make the payments to the Chief
18 Financial Officer ~~Treasurer~~ in her or his capacity as
19 treasurer of the division; to keep its books and records and
20 make reports as provided; and to conduct its racing in
21 conformity with this chapter. When the greatest amount of tax
22 owed during any month in the prior state fiscal year, in which
23 a full schedule of live racing was conducted, is less than
24 \$50,000, the division may assess a bond in a sum less than
25 \$50,000. The division may review the bond for adequacy and
26 require adjustments each fiscal year. The division has the
27 authority to adopt rules to implement this paragraph and
28 establish guidelines for such bonds.

29 Section 574. Effective January 7, 2003, section
30 550.135, Florida Statutes, is amended to read:

31

1 550.135 Division of moneys derived under this
2 law.--All moneys that are deposited with the Chief Financial
3 Officer ~~Treasurer~~ to the credit of the Pari-mutuel Wagering
4 Trust Fund shall be distributed as follows:
5 (1) The daily license fee revenues collected pursuant
6 to s. 550.0951(1) shall be used to fund the operating cost of
7 the division and to provide a proportionate share of the
8 operation of the office of the secretary and the Division of
9 Administration of the Department of Business and Professional
10 Regulation; however, other collections in the Pari-mutuel
11 Wagering Trust Fund may also be used to fund the operation of
12 the division in accordance with authorized appropriations.
13 (2) All unappropriated funds in excess of \$3.5 million
14 in the Pari-mutuel Wagering Trust Fund shall be deposited to
15 the Chief Financial Officer ~~Treasurer~~ to the credit of the
16 General Revenue Fund.
17 Section 575. Effective January 7, 2003, subsection (3)
18 of section 550.1645, Florida Statutes, is amended to read:
19 550.1645 Escheat to state of abandoned interest in or
20 contribution to pari-mutuel pools.--
21 (3) All money or other property that has escheated to
22 and become the property of the state as provided herein, and
23 which is held by such licensee authorized to conduct
24 pari-mutuel pools in this state, shall be paid by such
25 licensee to the Chief Financial Officer ~~Treasurer~~ annually
26 within 60 days after the close of the race meeting of the
27 licensee. Such moneys so paid by the licensee to the Chief
28 Financial Officer ~~Treasurer~~ shall be deposited in the State
29 School Fund to be used for the support and maintenance of
30 public free schools as required by s. 6, Art. IX of the State
31 Constitution.

1 Section 576. Effective January 7, 2003, subsection
2 (14) of section 552.081, Florida Statutes, is amended to read:
3 552.081 Definitions.--As used in this chapter:
4 (14) "Division" means the Division of State Fire
5 Marshal of the Department of Insurance and Financial Services.
6 Section 577. Effective January 7, 2003, subsection (4)
7 of section 553.72, Florida Statutes, is amended to read:
8 553.72 Intent.--
9 (4) It is the intent of the Legislature that the
10 Florida Fire Prevention Code and the Life Safety Code of this
11 state be adopted, modified, updated, interpreted, and
12 maintained by the Department of Insurance and Financial
13 Services in accordance with ss. 120.536(1) and 120.54 and
14 included by reference as sections in the Florida Building
15 Code.
16 Section 578. Effective January 7, 2003, paragraph (c)
17 of subsection (1) of section 553.73, Florida Statutes, is
18 amended to read:
19 553.73 Florida Building Code.--
20 (1)
21 (c) The Florida Fire Prevention Code and the Life
22 Safety Code shall be referenced in the Florida Building Code,
23 but shall be adopted, modified, revised, or amended,
24 interpreted, and maintained by the Department of Insurance and
25 Financial Services by rule adopted pursuant to ss. 120.536(1)
26 and 120.54. The Florida Building Commission may not adopt a
27 fire prevention or lifesafety code, and nothing in the Florida
28 Building Code shall affect the statutory powers, duties, and
29 responsibilities of any fire official or the Department of
30 Insurance and Financial Services.
31

1 Section 579. Effective January 7, 2003, paragraph (k)
2 of subsection (1) of section 553.74, Florida Statutes, is
3 amended to read:

4 553.74 Florida Building Commission.--

5 (1) The Florida Building Commission is created and
6 shall be located within the Department of Community Affairs
7 for administrative purposes. Members shall be appointed by the
8 Governor subject to confirmation by the Senate. The commission
9 shall be composed of 23 members, consisting of the following:

10 (k) One member who represents the Department of
11 Insurance and Financial Services.

12 Section 580. Effective January 7, 2003, subsection
13 (16) of section 553.79, Florida Statutes, is amended to read:

14 553.79 Permits; applications; issuance; inspections.--

15 (16) Notwithstanding any other provision of law, state
16 agencies responsible for the construction, erection,
17 alteration, modification, repair, or demolition of public
18 buildings, or the regulation of public and private buildings,
19 structures, and facilities, shall be subject to enforcement of
20 the Florida Building Code by local jurisdictions. This
21 subsection applies in addition to the jurisdiction and
22 authority of the Department of Insurance and Financial
23 Services to inspect state-owned buildings. This subsection
24 does not apply to the jurisdiction and authority of the
25 Department of Agriculture and Consumer Services to inspect
26 amusement rides or the Department of Insurance and Financial
27 Services to inspect state-owned buildings and boilers.

28 Section 581. Effective January 7, 2003, subsection (6)
29 of section 554.1021, Florida Statutes, is amended to read:

30 554.1021 Definitions.--As used in ss.

31 554.1011-554.115:

1 (6) "Department" means the Department of Insurance and
2 Financial Services.

3 Section 582. Effective January 7, 2003, subsection (1)
4 of section 554.105, Florida Statutes, is amended to read:

5 554.105 Chief inspector.--

6 (1) The Insurance Commissioner ~~and Treasurer~~ shall
7 appoint a chief inspector, who shall have not less than 5
8 years' experience in the construction, installation,
9 inspection, operation, maintenance, or repair of high
10 pressure, high temperature water boilers and who shall hold a
11 commission from the National Board of Boiler and Pressure
12 Vessel Inspectors or a certificate of competency from the
13 department.

14 Section 583. Effective January 7, 2003, paragraph (b)
15 of subsection (2) and subsection (3) of section 559.10,
16 Florida Statutes, are amended to read:

17 559.10 Definition; "budget planning."--

18 (2) The term "budget planning" does not include the
19 following:

20 (b) Other activities defined by rule of the Department
21 of Insurance and Financial Services ~~Banking and Finance~~ as not
22 within the prohibition of this part, provided such rule is
23 adopted after a finding that consumers are adequately
24 protected in the activity and that its prohibition is not
25 required in the public interest.

26 (3) The Department of Insurance and Financial Services
27 ~~Banking and Finance~~ may adopt rules as necessary to implement
28 and enforce this part.

29 Section 584. Effective January 7, 2003, subsection (5)
30 of section 559.543, Florida Statutes, is amended to read:

31 559.543 Definitions.--As used in this part:

1 (5) "Department" means the Department of Insurance and
2 Financial Services ~~Banking and Finance~~.

3 Section 585. Effective January 7, 2003, subsection (4)
4 of section 559.55, Florida Statutes, is amended to read:

5 559.55 Definitions.--The following terms shall, unless
6 the context otherwise indicates, have the following meanings
7 for the purpose of this part:

8 (4) "Department" means the Department of Insurance and
9 Financial Services ~~Banking and Finance~~.

10 Section 586. Effective January 7, 2003, subsection (4)
11 of section 559.725, Florida Statutes, is amended to read:

12 559.725 Consumer complaints; administrative duties.--

13 (4) The division shall furnish a form to each
14 complainant whose complaint concerns an alleged violation of
15 s. 559.72 by a consumer collection agency. Such form may be
16 filed with the Department of Insurance and Financial Services
17 ~~Banking and Finance~~. The form shall identify the accused
18 consumer collection agency and provide for the complainant's
19 summary of the nature of the alleged violation and facts which
20 allegedly support the complaint. The form shall include a
21 provision for the complainant to state under oath before a
22 notary public that the allegations therein made are true.

23 Section 587. Effective January 7, 2003, subsection (2)
24 of section 559.928, Florida Statutes, is amended to read:

25 559.928 Registration.--

26 (2) Registration fees shall be \$300 per year per
27 registrant. All amounts collected shall be deposited by the
28 Chief Financial Officer ~~Treasurer~~ to the credit of the General
29 Inspection Trust Fund of the Department of Agriculture and
30 Consumer Services pursuant to s. 570.20, for the sole purpose
31 of administration of this part.

1 Section 588. Effective January 7, 2003, subsection (1)
2 of section 560.102, Florida Statutes, is amended to read:

3 560.102 Purpose; application.--The purposes of the
4 code are to:

5 (1) Provide general regulatory powers to be exercised
6 by the Department of Insurance and Financial Services ~~Banking~~
7 ~~and Finance~~ in relation to the regulation of the money
8 transmitter industry. The code applies to all money
9 transmitters transacting business in this state and to the
10 enforcement of all laws relating to the money transmitter
11 industry.

12 Section 589. Effective January 7, 2003, subsection (7)
13 of section 560.103, Florida Statutes, is amended to read:

14 560.103 Definitions.--As used in the code, unless the
15 context otherwise requires:

16 (7) "Department" means the Florida Department of
17 Insurance and Financial Services ~~Banking and Finance~~.

18 Section 590. Effective January 7, 2003, section
19 560.4041, Florida Statutes, is amended to read:

20 560.4041 Database for deferred presentment providers;
21 public-records exemption.--The identifying information
22 contained in the database for deferred presentment providers,
23 which is authorized under s. 560.404, is confidential and
24 exempt from s. 119.07(1), and s. 24(a), Art. I of the State
25 Constitution, except that the identifying information in the
26 database may be accessed by deferred presentment providers to
27 verify whether any deferred presentment transactions are
28 outstanding for a particular person and by the Department of
29 Insurance and Financial Services ~~Banking and Finance~~ for the
30 purpose of maintaining the database. This section is subject
31 to the Open Government Sunset Review Act of 1995 in accordance

1 with s. 119.15, and shall stand repealed October 2, 2006,
2 unless reviewed and saved from repeal through reenactment by
3 the Legislature.

4 Section 591. Effective January 7, 2003, subsection (2)
5 of section 560.408, Florida Statutes, is amended to read:

6 560.408 Legislative intent; report.--

7 (2) The Department of Insurance and Financial Services
8 ~~Comptroller~~ shall submit a report to the President of the
9 Senate and the Speaker of the House of Representatives on
10 ~~January 1, 2003, and~~ January 1, 2004, containing findings and
11 conclusions concerning the effectiveness of this act in
12 preventing fraud, abuse, and other unlawful activity
13 associated with deferred presentment transactions. The report
14 may contain legislative recommendations addressing the
15 prevention of fraud, abuse, and other unlawful activity
16 associated with deferred presentment transactions. Prior to
17 filing the report, the Department of Insurance and Financial
18 Services ~~Comptroller~~ shall consult with the Attorney General
19 for the purpose of including any recommendations or concerns
20 expressed by the Attorney General.

21 Section 592. Effective January 7, 2003, section
22 561.051, Florida Statutes, is amended to read:

23 561.051 Reporting requirements of director.--The
24 director of the division shall promptly report and remit to
25 the Chief Financial Officer ~~Treasurer~~ all taxes and fees
26 collected by him or her hereunder ~~and shall send copies of the~~
27 ~~reports to the Comptroller.~~

28 Section 593. Effective January 7, 2003, section
29 562.44, Florida Statutes, is amended to read:

30 562.44 Donation of forfeited beverages or raw
31 materials to state institutions; sale of forfeited

1 beverages.--Any alcoholic beverage or raw materials used for
2 the manufacture of alcoholic beverages that may be seized and
3 forfeited under any of the provisions of the Beverage Law may,
4 with the approval and consent of the Department of Business
5 and Professional Regulation, be donated to any state-operated
6 or charitable institution that may have a legitimate use
7 therefor in the operation of such institution, or the division
8 may sell such beverage so seized and forfeited to any licensed
9 wholesaler in the state, upon the condition that all federal
10 and state taxes that may be due thereon shall be paid, that
11 such sale shall be made only upon submission by said division
12 of a request for bids to at least five wholesale dealers in
13 the state, and that such sale shall be made to the highest and
14 best bidder therefor. However, if no satisfactory bid from a
15 wholesaler is received, the division may then reject all bids
16 and sell such beverage so seized and forfeited to any
17 retailer, licensed in this state to sell such beverage, upon
18 the condition that all federal and state taxes that may be due
19 thereon shall have been paid, that such sale shall be made
20 only upon submission by said division of a request for bids to
21 at least five retail dealers in the state and that such sale
22 shall be to the highest and best bidder therefor. All moneys
23 received from such sales shall be paid by the division to the
24 Chief Financial Officer ~~State Treasurer~~ for the account of the
25 beverage fund and shall be subject to disbursement in
26 accordance with the law relating thereto.

27 Section 594. Effective January 7, 2003, section
28 567.08, Florida Statutes, is amended to read:

29 567.08 Refund of unused portion of state license
30 tax.--When any county votes by an election to discontinue
31 permitting the sale of intoxicating liquors, wines, or beer,

1 prior to the date of expiration of any license issued by the
2 state for the sale of intoxicating liquors, wines, or beer in
3 such county, the fee for the unexpired and unused portion of
4 said license shall be refunded to the licensee by warrant
5 drawn by the Chief Financial Officer ~~State Comptroller~~ on the
6 State Treasury ~~State Treasurer~~ who shall pay such warrants
7 from any moneys in the State Treasury not otherwise
8 appropriated.

9 Section 595. Effective January 7, 2003, subsections
10 (1) and (2) of section 569.205, Florida Statutes, are amended
11 to read:

12 569.205 Department of Business and Professional
13 Regulation Tobacco Settlement Trust Fund.--

14 (1) The Department of Business and Professional
15 Regulation Tobacco Settlement Trust Fund is hereby created
16 within that department. Funds to be credited to the trust fund
17 shall consist of funds disbursed, by nonoperating transfer,
18 from the Chief Financial Officer's ~~Department of Banking and~~
19 ~~Finance~~ Tobacco Settlement Clearing Trust Fund in amounts
20 equal to the annual appropriations made from this trust fund.

21 (2) Notwithstanding the provisions of s. 216.301 and
22 pursuant to s. 216.351, any unencumbered balance in the trust
23 fund at the end of any fiscal year and any encumbered balance
24 remaining undisbursed on December 31 of the same calendar year
25 shall revert to the Chief Financial Officer's ~~Department of~~
26 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund.

27 Section 596. Effective January 7, 2003, subsection (1)
28 of section 569.215, Florida Statutes, is amended to read:

29 569.215 Confidential records relating to tobacco
30 settlement agreement.--

31

1 (1) Proprietary confidential business information
2 received by the Governor, the Attorney General, or outside
3 counsel representing the State of Florida in negotiations for
4 settlement payments pursuant to the settlement agreement, as
5 amended, in the case of State of Florida et al. v. American
6 Tobacco Company et al., No. 95-1466AH, in the Circuit Court of
7 the Fifteenth Judicial Circuit, in and for Palm Beach County,
8 or received by the Chief Financial Officer ~~Comptroller~~ or the
9 Auditor General for any purpose relating to verifying
10 settlement payments made pursuant to the settlement agreement
11 is confidential and exempt from the provisions of s. 119.07(1)
12 and s. 24(a) of Art. I of the State Constitution. Any state or
13 federal agency that is authorized to have access to such
14 documents by any provision of law shall be granted such access
15 in furtherance of such agency's statutory duties,
16 notwithstanding the provisions of this section. Proprietary
17 confidential business information received under this section
18 shall not retain its confidential and exempt status if that
19 information is made public, including publicizing such
20 information in a Securities and Exchange Commission filing, an
21 annual financial statement, or other document or means. This
22 exemption is subject to the Open Government Sunset Review Act
23 of 1995 in accordance with s. 119.15, and shall stand repealed
24 on October 2, 2006, unless reviewed and saved from repeal
25 through reenactment by the Legislature.

26 Section 597. Effective January 7, 2003, subsection (2)
27 of section 570.13, Florida Statutes, is amended to read:

28 570.13 Salary of commissioner, officers, and
29 employees; expenses.--

30 (2) The reasonable and necessary travel and other
31 expenses of the commissioner, assistant commissioner, counsel,

1 directors, and other officers and employees of the department,
2 while actually engaged in the performance of their duties,
3 outside of the City of Tallahassee, or if any such officer or
4 employee be in charge of or regularly employed at a branch
5 office of the department, the reasonable and necessary travel
6 and other expenses outside the place such branch office is
7 located, shall be paid from the State Treasury after audit by
8 the Chief Financial Officer ~~Comptroller~~ of vouchers approved
9 by the department in the amount provided in s. 112.061.

10 Section 598. Effective January 7, 2003, subsection (1)
11 of section 570.195, Florida Statutes, is amended to read:

12 570.195 Tobacco farmers; assistance.--

13 (1) In order to assist Florida tobacco farmers in
14 reducing encumbered debt on stranded investment in equipment,
15 the nonrecurring sum of \$2.5 million is appropriated from the
16 Chief Financial Officer's ~~Department of Banking and Finance~~
17 Tobacco Settlement Clearing Trust Fund to the Department of
18 Agriculture and Consumer Services for the purchase at fair
19 market value of equipment associated with agricultural
20 production of tobacco from persons or entities that were using
21 such equipment for production of tobacco between April 1 and
22 October 1, 2000, on land within this state and sign a letter
23 of intent to cease tobacco production upon the development and
24 implementation of an alternative crop that would provide the
25 same net revenue and proportional costs as tobacco. The
26 department may adopt rules that, at a minimum, define and
27 describe the equipment to be purchased under this section,
28 prescribe criteria for identifying persons and entities who
29 are eligible to have such equipment purchased by the
30 department, and prescribe procedures to be followed for
31 equipment purchases. From the funds appropriated by this

1 section, the department is authorized to expend such sums as
2 are reasonable and necessary to administer the program.

3 Section 599. Effective January 7, 2003, section
4 570.20, Florida Statutes, is amended to read:

5 570.20 General Inspection Trust Fund.--All donations
6 and all inspection fees and other funds authorized and
7 received from whatever source in the enforcement of the
8 inspection laws administered by the department shall be paid
9 into the General Inspection Trust Fund of Florida, which is
10 created in the office of the Chief Financial Officer
11 ~~Treasurer~~. All expenses incurred in carrying out the
12 provisions of the inspection laws shall be paid from this fund
13 as other funds are paid from the State Treasury. A percentage
14 of all revenue deposited in this fund, including transfers
15 from any subsidiary accounts, shall be deposited in the
16 General Revenue Fund pursuant to chapter 215, except that
17 funds collected for marketing orders shall pay at the rate of
18 3 percent.

19 Section 600. Effective January 7, 2003, subsection (6)
20 of section 574.03, Florida Statutes, is amended to read:

21 574.03 Warehouseman; licenses and fees.--

22 (6) As a prerequisite to the issuance of a license
23 under the provisions of this section, each applicant shall
24 furnish evidence to the Department of Agriculture and Consumer
25 Services that the applicant has in force a standard fire and
26 extended coverage insurance policy for the full market value
27 of the maximum amount of tobacco contained in his or her sales
28 warehouse at any one time during the marketing season for
29 which the license is sought. The insurance policy shall be
30 written by an insurance company of the warehouseman's choice
31 authorized to transact business in this state, and such

1 insurance coverage shall be approved in form by the Department
2 of Insurance and Financial Services, and a copy of the
3 insurance policy shall be filed with the director of the
4 Division of Marketing and Development of the Department of
5 Agriculture and Consumer Services. The policy shall contain an
6 endorsement requiring notification to the director of the
7 Division of Marketing and Development of the Department of
8 Agriculture and Consumer Services by the insurance company at
9 least 10 days prior to cancellation of their intention to
10 cancel the policy.

11 Section 601. Effective January 7, 2003, section
12 589.06, Florida Statutes, is amended to read:

13 589.06 Warrants for payment of accounts.--Upon the
14 presentation to the Chief Financial Officer ~~Comptroller~~ of any
15 accounts duly approved by the Division of Forestry,
16 accompanied by such itemized vouchers or accounts as shall be
17 required by her or him, the Chief Financial Officer
18 ~~Comptroller~~ shall audit the same and draw a warrant on the
19 State Treasury ~~Treasurer~~ for the amount for which the account
20 is audited, payable out of funds to the credit of the
21 division.

22 Section 602. Effective January 7, 2003, paragraph (a)
23 of subsection (7) of section 597.010, Florida Statutes, is
24 amended to read:

25 597.010 Shellfish regulation; leases.--

26 (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.--A
27 surcharge of \$10 per acre, or any fraction of an acre, per
28 annum shall be levied upon each lease, other than a perpetual
29 lease granted pursuant to chapter 370 prior to 1985, and
30 deposited into the General Inspection Trust Fund. The purpose
31 of the surcharge is to provide a mechanism to have financial

1 resources immediately available for improvement of lease areas
2 and for cleanup and rehabilitation of abandoned or vacated
3 lease sites. The department is authorized to adopt rules
4 necessary to carry out the provisions of this subsection.

5 (a) Moneys in the fund that are not needed currently
6 for cleanup and rehabilitation of abandoned or vacated lease
7 sites shall be deposited with the Chief Financial Officer
8 ~~Treasurer~~ to the credit of the fund and may be invested in
9 such manner as is provided for by statute. Interest received
10 on such investment shall be credited to the fund.

11
12 The department shall recover to the use of the fund from the
13 person or persons abandoning or vacating the lease, jointly
14 and severally, all sums owed or expended from the fund.

15 Section 603. Effective January 7, 2003, subsections
16 (9) and (10) of section 601.10, Florida Statutes, are amended
17 to read:

18 601.10 Powers of the Department of Citrus.--The
19 Department of Citrus shall have and shall exercise such
20 general and specific powers as are delegated to it by this
21 chapter and other statutes of the state, which powers shall
22 include, but shall not be confined to, the following:

23 (9) When, in the opinion of the Department of Citrus,
24 the tax revenues collected pursuant to this chapter, whether
25 allocated for research, advertising or promotion, reserve
26 funds, advertising incentive plans, or other purposes, are not
27 immediately needed for the purpose for which such funds are
28 provided, the Chief Financial Officer ~~Treasurer~~ is authorized
29 and shall, upon the request and approval of the Department of
30 Citrus, or its general manager if she or he has been given
31 such authority, invest and reinvest the funds designated and

1 for the period of time specified in such request. In the
2 investment of such funds, the Chief Financial Officer
3 ~~Treasurer~~ shall have the powers and be subject to the
4 limitations provided for in s. 18.125.

5 (10) Subject to the concurrence of the Chief Financial
6 Officer ~~Treasurer~~, whenever the department contracts with a
7 foreign entity for performance of services or the purchase of
8 materials, and such contract requires payment in equivalent
9 foreign currency, the department may, for payment of such
10 contract obligation, deposit sufficient state funds in a
11 foreign bank, or purchase foreign currency at the current
12 market rate, up to an amount not in excess of the contract
13 obligation. All payments from these funds must have prior
14 audit approval from the Office of the Chief Financial Officer
15 ~~Comptroller~~.

16 Section 604. Effective January 7, 2003, paragraph (c)
17 of subsection (8) of section 601.15, Florida Statutes, is
18 amended to read:

19 601.15 Advertising campaign; methods of conducting;
20 excise tax; emergency reserve fund; citrus research.--

21 (8)

22 (c) All obligations, expenses, and costs incurred
23 under the provisions of this section shall be paid out of the
24 Citrus Advertising Fund upon warrant of the Chief Financial
25 Officer ~~Comptroller~~ when vouchers thereof, approved by the
26 Department of Citrus, are exhibited.

27 Section 605. Effective January 7, 2003, subsection (6)
28 of section 601.28, Florida Statutes, is amended to read:

29 601.28 Inspection fees.--

30 (6) When any portion of the revenues deposited to the
31 Citrus Inspection Trust Fund is not immediately needed for the

1 purpose for which such funds are appropriated, the Chief
2 Financial Officer ~~Treasurer~~ shall invest and reinvest such
3 funds, and the earnings thereon shall be deposited to and made
4 a part of the Citrus Inspection Trust Fund.

5 Section 606. Effective January 7, 2003, subsection (2)
6 of section 607.0501, Florida Statutes, is amended to read:

7 607.0501 Registered office and registered agent.--

8 (2) This section does not apply to corporations which
9 are required by law to designate the Insurance Commissioner
10 ~~and Treasurer~~ as their attorney for the service of process,
11 associations subject to the provisions of chapter 665, and
12 banks and trust companies subject to the provisions of the
13 financial institutions codes.

14 Section 607. Effective January 7, 2003, section
15 607.14401, Florida Statutes, is amended to read:

16 607.14401 Deposit with Chief Financial Officer
17 ~~Department of Banking and Finance~~.--Assets of a dissolved
18 corporation that should be transferred to a creditor,
19 claimant, or shareholder of the corporation who cannot be
20 found or who is not competent to receive them shall be
21 deposited, within 6 months from the date fixed for the payment
22 of the final liquidating distribution, with the Chief
23 Financial Officer ~~Department of Banking and Finance~~, where
24 such assets shall be held as abandoned property. When the
25 creditor, claimant, or shareholder furnishes satisfactory
26 proof of entitlement to the amount or assets deposited, the
27 Chief Financial Officer ~~Department of Banking and Finance~~
28 shall pay the creditor, claimant, or shareholder or his or her
29 representative that amount or those assets.

30 Section 608. Effective January 7, 2003, section
31 609.05, Florida Statutes, is amended to read:

1 609.05 Qualification with Department of Insurance and
2 Financial Services ~~Banking and Finance~~.--Before any person may
3 offer for sale, barter or sell any unit, share, contract,
4 note, bond, mortgage, oil or mineral lease or other security
5 of an association doing business under what is known as a
6 "declaration of trust" in this state, such person shall
7 procure from the Department of Insurance and Financial
8 Services ~~Banking and Finance~~ a permit to offer for sale and
9 sell such securities, which permit shall be applied for and
10 granted under the same conditions as like permits are applied
11 for and granted to corporations.

12 Section 609. Effective January 7, 2003, subsection (2)
13 of section 617.0501, Florida Statutes, is amended to read:

14 617.0501 Registered office and registered agent.--

15 (2) This section does not apply to corporations which
16 are required by law to designate the Insurance Commissioner
17 ~~and Treasurer~~ as their attorney for the service of process.

18 Section 610. Effective January 7, 2003, section
19 617.1440, Florida Statutes, is amended to read:

20 617.1440 Deposit with Chief Financial Officer
21 ~~Department of Banking and Finance~~.--Assets of a dissolved
22 corporation that should be transferred to a creditor,
23 claimant, member of the corporation, or other person who
24 cannot be found or who is not competent to receive them shall
25 be deposited, within 6 months after the date fixed for the
26 payment of the final liquidating distribution, with the Chief
27 Financial Officer ~~Department of Banking and Finance~~, where
28 such assets shall be held as abandoned property. When the
29 creditor, claimant, member, or other person furnishes
30 satisfactory proof of entitlement to the amount or assets
31 deposited, the Chief Financial Officer ~~Department of Banking~~

1 ~~and Finance~~ shall pay him or her or his or her representative
2 that amount or those assets.

3 Section 611. Effective January 7, 2003, section
4 624.05, Florida Statutes, is amended to read:

5 624.05 "Department" defined.--"Department" means the
6 Department of Insurance and Financial Services of this state,
7 unless the context otherwise requires.

8 Section 612. Effective January 7, 2003, subsection (1)
9 of section 624.305, Florida Statutes, is amended to read:

10 624.305 Prohibited interests, rewards.--

11 (1) No employee of the department, including the
12 Insurance Commissioner ~~and Treasurer~~ shall:

13 (a) Be financially interested, directly or indirectly,
14 in any insurer or insurance agency authorized to transact
15 insurance in this state, or in any insurance transaction
16 except as a policyholder or claimant under a policy; or

17 (b) Be given or receive any fee, compensation, loan,
18 gift, or other thing of value in addition to the compensation
19 and expense allowance provided by law, for any service
20 rendered or to be rendered in her or his capacity as a
21 department employee.

22 Section 613. Effective January 7, 2003, paragraph (b)
23 of subsection (3) of section 624.319, Florida Statutes, is
24 amended to read:

25 624.319 Examination and investigation reports.--

26 (3)

27 (b) Lists of insurers or regulated companies are
28 confidential and exempt from the provisions of s. 119.07(1)
29 if:

30
31

1 1. The financial solvency, condition, or soundness of
2 such insurers or regulated companies is being monitored by the
3 department;

4 2. The list is prepared to internally coordinate
5 regulation by the department of the financial solvency,
6 condition, or soundness of the insurers or regulated
7 companies; and

8 3. The Insurance Commissioner ~~and Treasurer~~ determine
9 that public inspection of such list could impair the financial
10 solvency, condition, or soundness of such insurers or
11 regulated companies.

12 Section 614. Effective January 7, 2003, subsection (1)
13 of section 624.321, Florida Statutes, is amended to read:

14 624.321 Witnesses and evidence.--

15 (1) As to any examination, investigation, or hearing
16 being conducted under this code, the Insurance Commissioner
17 ~~and Treasurer~~ or her or his designee:

18 (a) May administer oaths, examine and cross-examine
19 witnesses, receive oral and documentary evidence; and

20 (b) Shall have the power to subpoena witnesses, compel
21 their attendance and testimony, and require by subpoena the
22 production of books, papers, records, files, correspondence,
23 documents, or other evidence which is relevant to the inquiry.

24 Section 615. Effective January 7, 2003, subsection (2)
25 of section 624.322, Florida Statutes, is amended to read:

26 624.322 Testimony compelled; immunity from
27 prosecution.--

28 (2) Any such individual may execute, acknowledge, and
29 file in the office of the Department of Insurance and
30 Financial Services a statement expressly waiving such immunity
31 or privilege in respect to any transaction, matter, or thing

1 specified in such statement; and thereupon the testimony of
2 such individual or such evidence in relation to such
3 transaction, matter, or thing may be received or produced
4 before any judge or justice, court, tribunal, grand jury, or
5 otherwise; and, if so received or produced, such individual
6 shall not be entitled to any immunity or privileges on account
7 of any testimony she or he may so give or evidence so
8 produced.

9 Section 616. Effective January 7, 2003, subsection (1)
10 of section 624.33, Florida Statutes, is amended to read:

11 624.33 Jurisdiction regarding health or life
12 coverage.--

13 (1) Notwithstanding any other provision of law, and
14 except as provided in this section, any person or other entity
15 which in this state provides life insurance coverage;
16 annuities; or coverage for medical, surgical, chiropractic,
17 physical therapy, speech-language pathology, audiology,
18 professional mental health, dental, hospital, or optometric
19 expenses, or any other health insurance coverage, whether such
20 coverage is by direct payment, reimbursement, or otherwise,
21 shall, upon request, file with the Department of Insurance and
22 Financial Services a copy of Internal Revenue Service form
23 5500 and attached schedules as filed with the Internal Revenue
24 Service and the United States Department of Labor, and an
25 annual summary, as required by the Employee Retirement Income
26 Security Act of 1974, 29 U.S.C. ss. 1001 et seq., as amended.

27 Section 617. Effective January 7, 2003, subsection (9)
28 of section 624.4071, Florida Statutes, is amended to read:

29 624.4071 Special purpose homeowner insurance
30 company.--

31

1 (9) A certificate of authority to operate a special
2 purpose homeowner insurance company may not be issued after
3 December 31, 1998. After December 31, 1998, a certificate of
4 authority issued pursuant to the requirements of this section
5 continues to be effective and subject to the requirements of
6 this section until surrendered to the Department of Insurance
7 and Financial Services. A certificate of authority issued
8 pursuant to this section may not be sold or otherwise
9 transferred without the approval of the department.

10 Section 618. Effective January 7, 2003, paragraph (e)
11 of subsection (1), paragraph (b) of subsection (2), and
12 subsection (9) of section 624.4085, Florida Statutes, are
13 amended to read:

14 624.4085 Risk-based capital requirements for
15 insurers.--

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

17 (e) "Department" means the Department of Insurance and
18 Financial Services.

19 (2)

20 (b) The comparison of an insurer's total adjusted
21 capital to any of its risk-based capital levels is a
22 regulatory tool that may indicate the need for possible
23 corrective action with respect to the insurer, and may not be
24 used as a means to rank insurers generally. Therefore, except
25 as otherwise required under this section, the making,
26 publishing, disseminating, circulating, or placing before the
27 public, or causing, directly or indirectly, to be made,
28 published, disseminated, circulated, or placed before the
29 public, in a newspaper, magazine, or other publication, or in
30 the form of a notice, circular, pamphlet, letter, or poster,
31 or over any radio or television station, or in any other way,

1 an advertisement, announcement, or statement containing an
2 assertion, representation, or statement with regard to the
3 risk-based capital levels of any insurer, or of any component
4 derived in the calculation, by any insurer, agent, broker, or
5 other person engaged in any manner in the insurance business
6 would be misleading and is therefore prohibited; however, if
7 any materially false statement with respect to the comparison
8 regarding an insurer's total adjusted capital to its
9 risk-based capital levels (or any of them) or an inappropriate
10 comparison of any other amount to the insurer's risk-based
11 capital levels is published in any written publication and the
12 insurer is able to demonstrate to the department ~~commissioner~~
13 with substantial proof the falsity or inappropriateness of the
14 statement, the insurer may publish in a written publication an
15 announcement the sole purpose of which is to rebut the
16 materially false statement.

17 (9) There shall be no liability on the part of, and no
18 cause of action shall arise against, ~~the commissioner,~~ the
19 department, or its employees or agents for any action taken by
20 them in the performance of their powers and duties under this
21 section.

22 Section 619. Effective January 7, 2003, subsections
23 (1) and (2) of section 624.40851, Florida Statutes, are
24 amended to read:

25 624.40851 Confidentiality of risk-based capital
26 information.--

27 (1) The initial risk-based capital report made,
28 furnished, or filed with the Department of Insurance and
29 Financial Services, any risk-based capital plan, revised
30 risk-based capital plan, adjusted risk-based capital report,
31 and working papers and reports of examination or analysis of

1 an insurer performed pursuant to a plan or corrective order,
2 or regulatory action level, subsequently filed at the request
3 of the department, with respect to any domestic insurer or
4 foreign insurer, and transcripts of hearings conducted
5 pursuant to this section, are confidential and exempt from s.
6 119.07(1) and s. 24(a), Art. I of the State Constitution.

7 (2) Proceedings and hearings conducted pursuant to
8 section 1 of SB 620, section 1 of HB 1943, or section 1 of SB
9 898 relating to the department's actions regarding any
10 insurer's risk-based capital plan, revised risk-based capital
11 plan, risk-based capital report or adjusted risk-based capital
12 report, are exempt from the provisions of s. 286.011 and s.
13 24(b), Art. I of the State Constitution, except as otherwise
14 provided in this section. All portions of such hearings or
15 proceedings shall be recorded by a court reporter. The
16 Department of Insurance and Financial Services shall open such
17 proceedings or hearings or provide a copy of the transcript of
18 such hearings or proceedings, or disclose the contents of
19 notices, correspondence, reports, records, or other
20 information to a department, agency, or instrumentality of
21 this or another state or of the United States if the
22 department determines the disclosure is necessary or proper
23 for the enforcement of the laws of the United States or of
24 this or another state.

25 Section 620. Effective January 7, 2003, section
26 624.422, Florida Statutes, is amended to read:

27 624.422 Service of process; appointment of Insurance
28 Commissioner ~~and Treasurer~~ as process agent.--

29 (1) Each licensed insurer, whether domestic, foreign,
30 or alien, shall be deemed to have appointed the Insurance
31 Commissioner ~~and Treasurer~~ and her or his successors in office

1 as its attorney to receive service of all legal process issued
2 against it in any civil action or proceeding in this state;
3 and process so served shall be valid and binding upon the
4 insurer.

5 (2) Prior to its authorization to transact insurance
6 in this state, each insurer shall file with the department
7 designation of the name and address of the person to whom
8 process against it served upon the Insurance Commissioner ~~and~~
9 ~~Treasurer~~ is to be forwarded. The insurer may change the
10 designation at any time by a new filing.

11 (3) Service of process upon the Insurance Commissioner
12 ~~and Treasurer~~ as the insurer's attorney pursuant to such an
13 appointment shall be the sole method of service of process
14 upon an authorized domestic, foreign, or alien insurer in this
15 state.

16 Section 621. Effective January 7, 2003, section
17 624.423, Florida Statutes, is amended to read:

18 624.423 Serving process.--

19 (1) Service of process upon the Insurance Commissioner
20 ~~and Treasurer~~ as process agent of the insurer (under s.
21 624.422) shall be made by serving copies in triplicate of the
22 process upon the Insurance Commissioner ~~and Treasurer~~ or upon
23 her or his assistant, deputy, or other person in charge of her
24 or his office. Upon receiving such service, the Insurance
25 Commissioner ~~and Treasurer~~ shall file one copy in her or his
26 office, return one copy with her or his admission of service,
27 and promptly forward one copy of the process by registered or
28 certified mail to the person last designated by the insurer to
29 receive the same, as provided under s. 624.422(2).

30 (2) Where process is served upon the Insurance
31 Commissioner ~~and Treasurer~~ as an insurer's process agent, the

1 insurer shall not be required to answer or plead except within
2 20 days after the date upon which the Insurance Commissioner
3 ~~and Treasurer~~ mailed a copy of the process served upon her or
4 him as required by subsection (1).

5 (3) Process served upon the Insurance Commissioner ~~and~~
6 ~~Treasurer~~ and copy thereof forwarded as in this section
7 provided shall for all purposes constitute valid and binding
8 service thereof upon the insurer.

9 Section 622. Effective January 7, 2003, subsection (2)
10 of section 624.4435, Florida Statutes, is amended to read:

11 624.4435 Assets of insurers; reporting requirements.--

12 (2) Each domestic insurer shall file a report with the
13 Department of Insurance and Financial Services disclosing a
14 material acquisition of assets, a material disposition of
15 assets, or a material nonrenewal, cancellation, or revision of
16 a ceded reinsurance agreement, unless the material acquisition
17 or disposition of assets or the material nonrenewal,
18 cancellation, or revision of a ceded reinsurance agreement has
19 been submitted to the department for review, approval, or
20 informational purposes under another section of the Florida
21 Insurance Code or a rule adopted thereunder. A copy of the
22 report and each exhibit or other attachment must be filed by
23 the insurer with the National Association of Insurance
24 Commissioners. The report required in this section is due
25 within 15 days after the end of the calendar month in which
26 the transaction occurs.

27 Section 623. Effective January 7, 2003, subsection (1)
28 of section 624.5015, Florida Statutes, is amended to read:

29 624.5015 Advance collection of fees and taxes; title
30 insurers not to pay without reimbursement.--

31

1 (1) The Department of Insurance and Financial Services
2 shall collect in advance from the applicant or licensee fees
3 and taxes as provided in s. 624.501.

4 Section 624. Effective January 7, 2003, section
5 624.502, Florida Statutes, is amended to read:

6 624.502 Service of process fee.--In all instances as
7 provided in any section of the insurance code and s. 48.151(3)
8 in which service of process is authorized to be made upon the
9 Insurance Commissioner ~~and Treasurer~~, the plaintiff shall pay
10 to the department a fee of \$15 for such service of process,
11 which fee shall be deposited into the Insurance Commissioner's
12 Regulatory Trust Fund.

13 Section 625. Effective January 7, 2003, subsections
14 (1) and (3) of section 624.506, Florida Statutes, are amended
15 to read:

16 624.506 County tax; deposit and remittance.--

17 (1) The Insurance Commissioner ~~and Treasurer~~ shall
18 deposit in the Agents and Solicitors County Tax Trust Fund all
19 moneys accepted as county tax under this part. She or he shall
20 keep a separate account for all moneys so collected for each
21 county and, after deducting therefrom the service charges
22 provided for in s. 215.20, shall remit the balance to the
23 counties.

24 (3) The Chief Financial Officer ~~Comptroller~~ shall
25 annually, as of January 1 following the date of collection,
26 and thereafter at such other times as the Insurance
27 Commissioner ~~and Treasurer~~ may elect, draw her or his warrants
28 on the State Treasury payable to the respective counties
29 entitled to receive the same for the full net amount of such
30 taxes to each county.

31

1 Section 626. Effective January 7, 2003, subsection (1)
2 of section 624.5092, Florida Statutes, is amended to read:

3 624.5092 Administration of taxes; payments.--

4 (1) The Department of Revenue shall administer, audit,
5 and enforce the assessment and collection of those taxes to
6 which this section is applicable. The Department of Insurance
7 and Financial Services is authorized to share information with
8 the Department of Revenue as necessary to verify premium tax
9 or other tax liability arising under such taxes and credits
10 which may apply thereto.

11 Section 627. Effective January 7, 2003, subsection (1)
12 of section 624.517, Florida Statutes, is amended to read:

13 624.517 State Fire Marshal regulatory assessment;
14 reduction of assessment.--

15 (1) The Department of Insurance and Financial Services
16 shall ascertain on or before December 1 of each year whether
17 the amounts estimated to be received from the regulatory
18 assessment imposed under s. 624.515 for that calendar year,
19 payable on or before the following March 1, as herein
20 prescribed, shall result in an accumulation of funds in excess
21 of the just requirements for which the assessment is imposed
22 as set forth in s. 624.516; and if it determines that the
23 imposition of the full amount of the assessment would result
24 in such excess, it may reduce the percentage amount of the
25 assessment for that calendar year to such percentage as may be
26 necessary to meet the just requirements for which the
27 assessment is imposed.

28 Section 628. Effective January 7, 2003, section
29 624.519, Florida Statutes, is amended to read:

30 624.519 Nonpayment of premium tax or fire marshal
31 assessment; penalty.--If any insurer fails to pay to the

1 Department of Revenue on or before March 1 in each and every
2 year any premium taxes required of it under s. 624.509 or s.
3 624.510, or any state fire marshal regulatory assessment
4 required of it under s. 624.515 or s. 624.517, the Department
5 of Insurance and Financial Services may revoke its certificate
6 of authority.

7 Section 629. Effective January 7, 2003, subsection (1)
8 of section 624.521, Florida Statutes, is amended to read:

9 624.521 Deposit of certain tax receipts; refund of
10 improper payments.--

11 (1) The Department of Insurance and Financial Services
12 shall promptly deposit in the State Treasury to the credit of
13 the Insurance Commissioner's Regulatory Trust Fund all "state
14 tax" portions of agents' and solicitors' licenses collected
15 under s. 624.501 necessary to fund the Division of Insurance
16 Fraud. The balance of the tax shall be credited to the
17 General Fund. All moneys received by the Department of
18 Insurance and Financial Services not in accordance with the
19 provisions of this code or not in the exact amount as
20 specified by the applicable provisions of this code shall be
21 returned to the remitter. The records of the department shall
22 show the date and reason for such return.

23 Section 630. Effective January 7, 2003, section
24 625.317, Florida Statutes, is amended to read:

25 625.317 Corporate bonds and debentures.--An insurer
26 may invest in bonds, notes, or other interest-bearing or
27 interest-accruing obligations of any solvent corporation
28 organized under the laws of the United States or Canada or
29 under the laws of any state, the District of Columbia, any
30 territory or possession of the United States, or any Province
31 of Canada or in bonds or notes issued by the Florida Windstorm

1 Underwriting Association or a private nonprofit corporation, a
2 private nonprofit unincorporated association, or a nonprofit
3 mutual company organized by that association, all as
4 authorized in s. 627.351(2)(c), or any subsidiary or affiliate
5 thereof authorized by the Department of Insurance and
6 Financial Services to issue such bonds or notes.

7 Section 631. Effective January 7, 2003, paragraph (d)
8 of subsection (3) of section 625.52, Florida Statutes, is
9 amended to read:

10 625.52 Securities eligible for deposit.--

11 (3) To be eligible for deposit under paragraph (1)(h),
12 any certificate of deposit must have the following
13 characteristics:

14 (d) The issuing bank, savings bank, or savings
15 association must agree to the terms and conditions of the
16 Chief Financial Officer ~~State Treasurer~~ regarding the rights
17 to the certificate of deposit and must have executed a written
18 certificate of deposit agreement with the Chief Financial
19 Officer ~~State Treasurer~~. The terms and conditions of such
20 agreement shall include, but need not be limited to:

21 1. Exclusive authorized signature authority for the
22 Chief Financial Officer ~~State Treasurer~~.

23 2. Agreement to pay, without protest, the proceeds of
24 its certificate of deposit to the department within 30
25 business days after presentation.

26 3. Prohibition against levies, setoffs, survivorship,
27 or other conditions that might hinder the department's ability
28 to recover the full face value of a certificate of deposit.

29 4. Instructions regarding interest payments, renewals,
30 taxpayer identification, and early withdrawal penalties.

31

1 5. Agreement to be subject to the jurisdiction of the
2 courts of this state, or those of the United States which are
3 located in this state, for the purposes of any litigation
4 arising out of this section.

5 6. Such other conditions as the department requires.

6 Section 632. Effective January 7, 2003, subsection (2)
7 of section 625.53, Florida Statutes, is amended to read:

8 625.53 Depository.--

9 (2) The department shall hold all such deposits in
10 safekeeping in the vaults located in the offices of the
11 department ~~Treasurer~~.

12 Section 633. Effective January 7, 2003, section
13 625.83, Florida Statutes, is amended to read:

14 625.83 Failure to file reporting forms.--Any insurer
15 who knowingly fails to file information, documents, or reports
16 required to be filed under s. 625.75 or any rule thereunder
17 shall forfeit to the state the sum of \$100 for each day such
18 failure to file continues. Such forfeiture shall be payable
19 to the Chief Financial Officer ~~Treasurer~~ to be deposited in
20 the Insurance Commissioner's Regulatory Trust Fund and shall
21 be recoverable in a civil suit in the name of the state. A
22 time for filing may be extended for a reasonable period by the
23 department.

24 Section 634. Effective January 7, 2003, section
25 626.266, Florida Statutes, is amended to read:

26 626.266 Printing of examinations or related materials
27 to preserve examination security.--A contract let for the
28 development, administration, or grading of examinations or
29 related materials by the Department of Insurance and Financial
30 Services pursuant to the various agent, customer
31 representative, solicitor, or adjuster licensing and

1 examination provisions of this code may include the printing
2 or furnishing of these examinations or related materials in
3 order to preserve security. Any such contract shall be let as
4 a contract for a contractual service pursuant to s. 287.057.

5 Section 635. Effective January 7, 2003, subsection (5)
6 and paragraphs (a) and (c) of subsection (6) of section
7 626.2815, Florida Statutes, are amended to read:

8 626.2815 Continuing education required; application;
9 exceptions; requirements; penalties.--

10 (5) The Department of Insurance and Financial Services
11 shall refuse to renew the appointment of any agent who has not
12 had his or her continuing education requirements certified
13 unless the agent has been granted an extension by the
14 department. The department may not issue a new appointment of
15 the same or similar type, with any insurer, to an agent who
16 was denied a renewal appointment for failure to complete
17 continuing education as required until the agent completes his
18 or her continuing education requirement.

19 (6)(a) There is created an 11-member continuing
20 education advisory board to be appointed by the Insurance
21 Commissioner ~~and Treasurer~~. Appointments shall be for terms of
22 4 years. The purpose of the board is to advise the department
23 in determining standards by which courses may be evaluated and
24 categorized as basic, intermediate, or advanced. The board
25 shall establish such criteria and the department shall
26 implement such criteria by January 1, 1997. The board shall
27 submit recommendations to the department of changes needed in
28 such criteria not less frequently than every 2 years
29 thereafter. The department shall require all approved course
30 providers to submit courses for approval to the department
31 using the criteria. All materials, brochures, and

1 advertisements related to the approved courses must specify
2 the level assigned to the course.

3 (c) The members of the board shall serve at the
4 pleasure of the Insurance Commissioner ~~and Treasurer~~. Each
5 board member shall be entitled to reimbursement for expenses
6 pursuant to s. 112.061. The board shall designate one member
7 as chair. The board shall meet at the call of the chair or
8 the Insurance Commissioner ~~and Treasurer~~.

9 Section 636. Effective January 7, 2003, subsection (1)
10 of section 626.592, Florida Statutes, is amended to read:

11 626.592 Primary agents.--

12 (1) Each person operating an insurance agency and each
13 location of a multiple location agency shall designate a
14 primary agent for each insurance agency location and shall
15 file the name of the person so designated, and the address of
16 the insurance agency location where he or she is primary
17 agent, with the Department of Insurance and Financial
18 Services, on a form approved by the department. The
19 designation of the primary agent may be changed at the option
20 of the agency, and any change shall be effective upon
21 notification to the department. Notice of change must be sent
22 to the department within 30 days after such change.

23 Section 637. Effective January 7, 2003, section
24 626.742, Florida Statutes, is amended to read:

25 626.742 Nonresident agents; service of process.--

26 (1) Each licensed nonresident agent shall appoint the
27 Insurance Commissioner ~~and Treasurer~~ as his or her attorney to
28 receive service of legal process issued against the agent in
29 this state, upon causes of action arising within this state
30 out of transactions under the agent's license and appointment.
31 Service upon the Insurance Commissioner ~~and Treasurer~~ as

1 attorney shall constitute effective legal service upon the
2 agent.

3 (2) The appointment of the Insurance Commissioner ~~and~~
4 ~~Treasurer~~ for service of process shall be irrevocable for as
5 long as there could be any cause of action against the agent
6 arising out of his or her insurance transactions in this
7 state.

8 (3) Duplicate copies of such legal process against
9 such agent shall be served upon the Insurance Commissioner ~~and~~
10 ~~Treasurer~~ by a person competent to serve a summons.

11 (4) Upon receiving such service, the Insurance
12 Commissioner ~~and Treasurer~~ shall forthwith send one of the
13 copies of the process, by registered mail with return receipt
14 requested, to the defendant agent at his or her last address
15 of record with the department.

16 (5) The Insurance Commissioner ~~and Treasurer~~ shall
17 keep a record of the day and hour of service upon him or her
18 of all such legal process.

19 Section 638. Effective January 7, 2003, paragraph (b)
20 of subsection (1) of section 626.8427, Florida Statutes, is
21 amended to read:

22 626.8427 Number of applications for licensure
23 required; exemption; effect of expiration of license.--

24 (1) After a license as a title insurance agent has
25 been issued to a title insurance agent, the agent is not
26 required to file another license application for a similar
27 license, irrespective of the number of insurers to be
28 represented by the agent, unless:

29 (b) During any period of 48 months since the filing of
30 the original license application, the agent was not appointed,
31 unless in the case of individuals the failure to be so

1 appointed was due to military service, in which event the
2 period within which a new application is not required may, in
3 the discretion of the Department of Insurance and Financial
4 Services, be extended for 12 months following the date of
5 discharge from military service if the military service does
6 not exceed 3 years, but in no event shall the period be
7 extended under this clause for a period of more than 6 years
8 from the date of filing the original application.

9 Section 639. Effective January 7, 2003, subsection (1)
10 of section 626.8463, Florida Statutes, is amended to read:

11 626.8463 Witnesses and evidence.--

12 (1) As to the subject of any examination,
13 investigation, or hearing being conducted by him or her under
14 s. 624.5015, ss. 626.8417-626.847, or s. 627.791, an examiner
15 appointed by the Department of Insurance and Financial
16 Services may administer oaths, examine and cross-examine
17 witnesses, and receive oral and documentary evidence and shall
18 have the power to subpoena witnesses, compel their attendance
19 and testimony, and require by subpoena the production of
20 books, papers, records, files, correspondence, documents, or
21 other evidence which the examiner deems relevant to the
22 inquiry.

23 Section 640. Effective January 7, 2003, section
24 626.8467, Florida Statutes, is amended to read:

25 626.8467 Testimony compelled; immunity from
26 prosecution.--

27 (1) If a person asks to be excused from attending or
28 testifying or from producing any books, papers, records,
29 contracts, documents, or other evidence in connection with any
30 examination, hearing, or investigation being conducted under
31 s. 624.5015, ss. 626.8417-626.847, or s. 627.791 by the

1 department or its examiner on the ground that the testimony or
2 evidence required of the person may tend to incriminate him or
3 her or subject him or her to a penalty or forfeiture and
4 notwithstanding is directed to give such testimony or produce
5 such evidence, the person must, if so directed by the
6 Department of Insurance and Financial Services and the
7 Department of Legal Affairs, nonetheless comply with such
8 direction, but he or she shall not thereafter be prosecuted or
9 subjected to any penalty or forfeiture for or on account of
10 any transaction, matter, or thing concerning which he or she
11 may have so testified or produced evidence, and no testimony
12 so given or evidence produced shall be received against the
13 person upon any criminal action, investigation, or proceeding.
14 However, a person so testifying shall not be exempt from
15 prosecution or punishment for any perjury committed by him or
16 her in such testimony, and the testimony or evidence so given
17 or produced shall be admissible against him or her upon any
18 criminal action, investigation, or proceeding concerning such
19 perjury; and such person shall not be exempt from the refusal,
20 suspension, or revocation of any license or appointment,
21 permission, or authority conferred or to be conferred pursuant
22 to s. 624.5015, ss. 626.8417-626.847, or s. 627.791.

23 (2) Any such person may execute, acknowledge, and file
24 in the office of the Department of Insurance and Financial
25 Services a statement expressly waiving such immunity or
26 privilege with respect to any transaction, matter, or thing
27 specified in the statement, and thereupon the testimony of
28 such person or such evidence in relation to such transaction,
29 matter, or thing may be received or produced before any judge
30 or justice, court, tribunal, or grand jury or otherwise and,
31 if so received or produced, such person shall not be entitled

1 to any immunity or privilege on account of any testimony he or
2 she may so give or evidence so produced.

3 Section 641. Effective January 7, 2003, section
4 626.847, Florida Statutes, is amended to read:

5 626.847 Penalty for refusal to testify.--A person who
6 refuses or fails, without lawful cause, to testify relative to
7 the affairs of any title insurer or other person when
8 subpoenaed under s. 626.8463 and requested by the Department
9 of Insurance and Financial Services to so testify is guilty of
10 a misdemeanor of the second degree and, upon conviction, is
11 punishable as provided in s. 775.082 or s. 775.083.

12 Section 642. Effective January 7, 2003, section
13 626.8736, Florida Statutes, is amended to read:

14 626.8736 Nonresident independent or public adjusters;
15 service of process.--

16 (1) Each licensed nonresident independent or public
17 adjuster shall appoint the Insurance Commissioner ~~and~~
18 ~~Treasurer~~ and his or her successors in office as his or her
19 attorney to receive service of legal process issued against
20 the nonresident independent or public adjuster in this state,
21 upon causes of action arising within this state out of
22 transactions under his license and appointment. Service upon
23 the Insurance Commissioner ~~and Treasurer~~ as attorney shall
24 constitute effective legal service upon the nonresident
25 independent or public adjuster.

26 (2) The appointment of the Insurance Commissioner ~~and~~
27 ~~Treasurer~~ for service of process shall be irrevocable for as
28 long as there could be any cause of action against the
29 nonresident independent or public adjuster arising out of his
30 or her insurance transactions in this state.

31

1 (3) Duplicate copies of legal process against the
2 nonresident independent or public adjuster shall be served
3 upon the Insurance Commissioner ~~and Treasurer~~ by a person
4 competent to serve a summons.

5 (4) Upon receiving the service, the Insurance
6 Commissioner ~~and Treasurer~~ shall forthwith send one of the
7 copies of the process, by registered mail with return receipt
8 requested, to the defendant nonresident independent or public
9 adjuster at his or her last address of record with the
10 department.

11 (5) The Insurance Commissioner ~~and Treasurer~~ shall
12 keep a record of the day and hour of service upon him or her
13 of all legal process received under this section.

14 Section 643. Effective January 7, 2003, section
15 626.906, Florida Statutes, is amended to read:

16 626.906 Acts constituting Insurance Commissioner ~~and~~
17 ~~Treasurer~~ as process agent.--Any of the following acts in this
18 state, effected by mail or otherwise, by an unauthorized
19 foreign insurer, alien insurer, or person representing or
20 aiding such an insurer is equivalent to and shall constitute
21 an appointment by such insurer or person representing or
22 aiding such insurer of the Insurance Commissioner ~~and~~
23 ~~Treasurer~~, and his or her successor or successors in office,
24 to be its true and lawful attorney, upon whom may be served
25 all lawful process in any action, suit, or proceeding
26 instituted by or on behalf of an insured or beneficiary,
27 arising out of any such contract of insurance; and any such
28 act shall be signification of the insurer's or person's
29 agreement that such service of process is of the same legal
30 force and validity as personal service of process in this
31

1 state upon such insurer or person representing or aiding such
2 insurer:

3 (1) The issuance or delivery of contracts of insurance
4 to residents of this state or to corporations authorized to do
5 business therein;

6 (2) The solicitation of applications for such
7 contracts;

8 (3) The collection of premiums, membership fees,
9 assessments, or other considerations for such contracts; or

10 (4) Any other transaction of insurance.

11 Section 644. Effective January 7, 2003, subsection (1)
12 of section 626.907, Florida Statutes, is amended to read:

13 626.907 Service of process; judgment by default.--

14 (1) Service of process upon an insurer or person
15 representing or aiding such insurer pursuant to s. 626.906
16 shall be made by delivering to and leaving with the Insurance
17 Commissioner ~~and Treasurer~~ or some person in apparent charge
18 of his or her office two copies thereof. The Insurance
19 Commissioner ~~and Treasurer~~ shall forthwith mail by registered
20 mail one of the copies of such process to the defendant at the
21 defendant's last known principal place of business and shall
22 keep a record of all process so served upon him or her. The
23 service of process is sufficient, provided notice of such
24 service and a copy of the process are sent within 10 days
25 thereafter by registered mail by plaintiff or plaintiff's
26 attorney to the defendant at the defendant's last known
27 principal place of business, and the defendant's receipt, or
28 receipt issued by the post office with which the letter is
29 registered, showing the name of the sender of the letter and
30 the name and address of the person to whom the letter is
31 addressed, and the affidavit of the plaintiff or plaintiff's

1 attorney showing a compliance herewith are filed with the
2 clerk of the court in which the action is pending on or before
3 the date the defendant is required to appear, or within such
4 further time as the court may allow.

5 Section 645. Effective January 7, 2003, subsection (4)
6 of section 626.912, Florida Statutes, is amended to read:

7 626.912 Exemptions from ss. 626.904-626.911.--The
8 provisions of ss. 626.904-626.911 do not apply to any action,
9 suit, or proceeding against any unauthorized foreign insurer,
10 alien insurer, or person representing or aiding such an
11 insurer arising out of any contract of insurance:

12 (4) Issued under and in accordance with the Surplus
13 Lines Law, when such insurer or person representing or aiding
14 such insurer enters a general appearance or when such contract
15 of insurance contains a provision designating the Insurance
16 Commissioner ~~and Treasurer~~ and his or her successor or
17 successors in office or designating a Florida resident agent
18 to be the true and lawful attorney of such unauthorized
19 insurer or person representing or aiding such insurer upon
20 whom may be served all lawful process in any action, suit, or
21 proceeding instituted by or on behalf of an insured or person
22 representing or aiding such insurer or beneficiary arising out
23 of any such contract of insurance; and service of process
24 effected on such Insurance Commissioner ~~and Treasurer~~, his or
25 her successor or successors in office, or such resident agent
26 shall be deemed to confer complete jurisdiction over such
27 unauthorized insurer or person representing or aiding such
28 insurer in such action.

29 Section 646. Effective January 7, 2003, subsections
30 (5) and (6) of section 626.918, Florida Statutes, are amended
31 to read:

1 626.918 Eligible surplus lines insurers.--
2 (5) When it appears that any particular insurance risk
3 which is eligible for export, but on which insurance coverage,
4 in whole or in part, is not procurable from the eligible
5 surplus lines insurers, after a search of eligible surplus
6 lines insurers, then the surplus lines agent may file a
7 supplemental signed statement setting forth such facts and
8 advising the department that such part of the risk as shall be
9 unprocurable, as aforesaid, is being placed with named
10 unauthorized insurers, in the amounts and percentages set
11 forth in the statement. Such named unauthorized insurer
12 shall, however, before accepting any risk in this state,
13 deposit with the department cash or securities acceptable to
14 the department of the market value of \$50,000 for each
15 individual risk, contract, or certificate, which deposit shall
16 be held by the department for the benefit of Florida
17 policyholders only; and the surplus lines agent shall procure
18 from such unauthorized insurer and file with the department a
19 certified copy of its statement of condition as of the close
20 of the last calendar year. If such statement reveals,
21 including both capital and surplus, net assets of at least
22 that amount required for licensure of a domestic insurer, then
23 the surplus lines agent may proceed to consummate such
24 contract of insurance. Whenever any insurance risk, or any
25 part thereof, is placed with an unauthorized insurer, as
26 provided herein, the policy, binder, or cover note shall
27 contain a statement signed by the insured and the agent with
28 the following notation: "The insured is aware that certain
29 insurers participating in this risk have not been approved to
30 transact business in Florida nor have they been declared
31 eligible as surplus lines insurers by the Department of

1 Insurance and Financial Services of Florida. The placing of
2 such insurance by a duly licensed surplus lines agent in
3 Florida shall not be construed as approval of such insurer by
4 the Department of Insurance and Financial Services of Florida.
5 Consequently, the insured is aware that the insured has
6 severely limited the assistance available under the insurance
7 laws of Florida. The insured is further aware that he or she
8 may be charged a reasonable per policy fee, as provided in s.
9 626.916(4), Florida Statutes, for each policy certified for
10 export." All other provisions of this code shall apply to such
11 placement the same as if such risks were placed with an
12 eligible surplus lines insurer.

13 (6) When any particular insurance risk subject to
14 subsection (5) is eligible for placement with an unauthorized
15 insurer and not more than 12.5 percent of the risk is so
16 subject, the Department of Insurance and Financial Services
17 may, at its discretion, permit the agent to obtain from the
18 insured a signed statement as indicated in subsection (5).
19 All other provisions of this code apply to such placement the
20 same as if such risks were placed with an eligible surplus
21 lines insurer.

22 Section 647. Effective January 7, 2003, subsection (5)
23 of section 626.931, Florida Statutes, is amended to read:

24 626.931 Agent affidavit and insurer reporting
25 requirements.--

26 (5) The Department of Insurance and Financial Services
27 ~~Insurance Commissioner~~ shall have the authority to waive the
28 filing requirements described in subsections (3) and (4).

29 Section 648. Effective January 7, 2003, paragraph (a)
30 of subsection (2) of section 626.932, Florida Statutes, is
31 amended to read:

1 626.932 Surplus lines tax.--

2 (2)

3 (a) The surplus lines agent shall make payable to the
4 Department of Insurance and Financial Services the tax related
5 to each calendar quarter's business as reported to the Florida
6 Surplus Lines Service Office, and remit the tax to the Florida
7 Surplus Lines Service Office at the same time as provided for
8 the filing of the quarterly affidavit, under s. 626.931. The
9 Florida Surplus Lines Service Office shall forward to the
10 department the taxes and any interest collected pursuant to
11 paragraph (b), within 10 days of receipt.

12 Section 649. Effective January 7, 2003, subsections
13 (2), (3), and (4) of section 626.937, Florida Statutes, are
14 amended to read:

15 626.937 Actions against insurer; service of process.--

16 (2) The unauthorized insurer accepting the risk or
17 issuing the policy shall be deemed thereby to have authorized
18 service of process against it in the manner and to the effect
19 as provided in this section, and to have appointed the
20 Insurance Commissioner ~~and Treasurer~~ as its agent for service
21 of process issuing upon any cause of action arising in this
22 state under any such policy, contract, or insurance.

23 (3) Each unauthorized insurer requesting eligibility
24 pursuant to s. 626.918 shall file with the department its
25 appointment of the Insurance Commissioner ~~and Treasurer~~ and
26 his or her successors in office, on a form as furnished by the
27 department, as its attorney to receive service of all legal
28 process issued against it in any civil action or proceeding in
29 this state, and agreeing that process so served shall be valid
30 and binding upon the insurer. The appointment shall be
31 irrevocable, shall bind the insurer and any successor in

1 interest as to the assets or liabilities of the insurer, and
2 shall remain in effect as long as there is outstanding in this
3 state any obligation or liability of the insurer resulting
4 from its insurance transactions therein.

5 (4) At the time of such appointment of the Insurance
6 Commissioner ~~and Treasurer~~ as its process agent, the insurer
7 shall file with the department designation of the name and
8 address of the person to whom process against it served upon
9 the Insurance Commissioner ~~and Treasurer~~ is to be forwarded.
10 The insurer may change the designation at any time by a new
11 filing.

12 Section 650. Effective January 7, 2003, subsection (3)
13 of section 626.938, Florida Statutes, is amended to read:

14 626.938 Report and tax of independently procured
15 coverages.--

16 (3) For the general support of the government of this
17 state, there is levied upon the obligation, chose in action,
18 or right represented by the premium charged for such insurance
19 a tax at the rate of 5 percent of the gross amount of such
20 premium and a 0.3 percent service fee pursuant to s. 626.9325.
21 The insured shall withhold the amount of the tax and service
22 fee from the amount of premium charged by and otherwise
23 payable to the insurer for such insurance. Within 30 days
24 after the insurance is procured, continued, or renewed, and
25 simultaneously with the filing of the report provided for in
26 subsection (1) with the Florida Surplus Lines Service Office,
27 the insured shall make payable to the Department of Insurance
28 and Financial Services the amount of the tax and make payable
29 to the Florida Surplus Lines Service Office the amount of the
30 service fee. The insured shall remit the tax and the service
31 fee to the Florida Surplus Lines Service Office. The Florida

1 Surplus Lines Service Office shall forward to the department
2 the taxes, and any interest collected pursuant to subsection
3 (5), within 10 days after receipt.

4 Section 651. Effective January 7, 2003, subsection (2)
5 of section 626.9511, Florida Statutes, is amended to read:

6 626.9511 Definitions.--When used in this part:

7 (2) "Department" means the Department of Insurance and
8 Financial Services of this state.

9 Section 652. Effective January 7, 2003, paragraph (w)
10 of subsection (1) of section 626.9541, Florida Statutes, is
11 amended to read:

12 626.9541 Unfair methods of competition and unfair or
13 deceptive acts or practices defined.--

14 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
15 DECEPTIVE ACTS.--The following are defined as unfair methods
16 of competition and unfair or deceptive acts or practices:

17 (w) Soliciting or accepting new or renewal insurance
18 risks by insolvent or impaired insurer prohibited; penalty.--

19 1. Whether or not delinquency proceedings as to the
20 insurer have been or are to be initiated, but while such
21 insolvency or impairment exists, no director or officer of an
22 insurer, except with the written permission of the Department
23 of Insurance and Financial Services, shall authorize or permit
24 the insurer to solicit or accept new or renewal insurance
25 risks in this state after such director or officer knew, or
26 reasonably should have known, that the insurer was insolvent
27 or impaired. "Impaired" includes impairment for capital or
28 surplus, as defined in s. 631.011(9) and (10).

29 2. Any such director or officer, upon conviction of a
30 violation of this paragraph, is guilty of a felony of the

31

1 third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 Section 653. Effective January 7, 2003, paragraph (a)
4 of subsection (3) of section 626.9543, Florida Statutes, is
5 amended to read:

6 626.9543 Holocaust victims.--

7 (3) DEFINITIONS.--For the purpose of this section:

8 (a) "Department" means the Department of Insurance and
9 Financial Services.

10 Section 654. Effective January 7, 2003, paragraph (e)
11 of subsection (4) and subsection (9) of section 626.989,
12 Florida Statutes, are amended to read:

13 626.989 Investigation by department or Division of
14 Insurance Fraud of the Department of Law Enforcement;
15 compliance; immunity; confidential information; reports to
16 division; division investigator's power of arrest.--

17 (4)

18 (e) The Insurance Commissioner and any employee or
19 agent of the department or of the Division of Insurance Fraud
20 of the Department of Law Enforcement, when acting without
21 malice and in the absence of fraud or bad faith, is not
22 subject to civil liability for libel, slander, or any other
23 relevant tort, and no civil cause of action of any nature
24 exists against such person by virtue of the execution of
25 official activities or duties of the department under this
26 section or by virtue of the publication of any report or
27 bulletin related to the official activities or duties of the
28 department or division under this section.

29 (9) In recognition of the complementary roles of
30 investigating instances of workers' compensation fraud and
31 enforcing compliance with the workers' compensation coverage

1 requirements under chapter 440, the Division of Insurance
2 Fraud of the Department of Law Enforcement Insurance and the
3 Division of Workers' Compensation of the Department of Labor
4 and Employment Security are directed to prepare and submit a
5 joint performance report to the President of the Senate and
6 the Speaker of the House of Representatives by November 1 of
7 each year for each of the next 2 years, and then every 3 years
8 thereafter, describing the results obtained in achieving
9 compliance with the workers' compensation coverage
10 requirements and reducing the incidence of workers'
11 compensation fraud.

12 Section 655. Effective January 7, 2003, subsections
13 (1) and (4) of section 626.9911, Florida Statutes, are amended
14 to read:

15 626.9911 Definitions.--As used in this act, the term:

16 (1) "Department" means the Department of Insurance and
17 Financial Services.

18 (4) "Viatical settlement broker" means a person who,
19 on behalf of a viator and for a fee, commission, or other
20 valuable consideration, offers or attempts to negotiate
21 viatical settlement contracts between a viator resident in
22 this state and one or more viatical settlement providers.
23 Notwithstanding the manner in which the viatical settlement
24 broker is compensated, a viatical settlement broker is deemed
25 to represent only the viator and owes a fiduciary duty to the
26 viator to act according to the viator's instructions and in
27 the best interest of the viator. The term does not include an
28 attorney, licensed Certified Public Accountant, or investment
29 adviser lawfully registered with the Department of Insurance
30 and Financial Services ~~Banking and Finance~~ under chapter 517,
31 who is retained to represent the viator and whose compensation

1 is paid directly by or at the direction and on behalf of the
2 viator.

3 Section 656. Effective January 7, 2003, paragraph (e)
4 of subsection (5) of section 626.9912, Florida Statutes, is
5 amended to read:

6 626.9912 Viatical settlement provider license
7 required; application for license.--

8 (5) Upon the filing of a sworn application and the
9 payment of the license fee, the department shall investigate
10 each applicant and may issue the applicant a license if the
11 department finds that the applicant:

12 (e) Has designated the Insurance Commissioner ~~and~~
13 ~~Treasurer~~ as its agent for service of process.

14 Section 657. Effective January 7, 2003, paragraph (e)
15 of subsection (7) and subsection (8) of section 626.9916,
16 Florida Statutes, are amended to read:

17 626.9916 Viatical settlement broker license required;
18 application for license.--

19 (7) Upon the filing of a sworn application and the
20 payment of the license fee and all other applicable fees under
21 this act, the department shall investigate each applicant and
22 may issue the applicant a license if the department finds that
23 the applicant:

24 (e) Has designated the Insurance Commissioner ~~and~~
25 ~~Treasurer~~ as its agent for service of process.

26 (8) An applicant for a nonresident viatical settlement
27 broker license must, in addition to designating the Insurance
28 Commissioner ~~and Treasurer~~ as agent for service of process as
29 required by this section, also furnish the department with the
30 name and address of a resident of this state upon whom notices
31 or orders of the department or process affecting the applicant

1 or licensee may be served. After issuance of the license, the
2 licensee must also notify the department of change of the
3 person to receive such notices, orders, or process; such
4 change is not effective until acknowledged by the department.

5 Section 658. Effective January 7, 2003, paragraph (b)
6 of subsection (2) of section 627.0628, Florida Statutes, is
7 amended to read:

8 627.0628 Florida Commission on Hurricane Loss
9 Projection Methodology.--

10 (2) COMMISSION CREATED.--

11 (b) The commission shall consist of the following 11
12 members:

13 1. The insurance consumer advocate.

14 2. The Chief Operating Officer of the Florida
15 Hurricane Catastrophe Fund.

16 3. The Executive Director of the Residential Property
17 and Casualty Joint Underwriting Association.

18 4. The Director of the Division of Emergency
19 Management of the Department of Community Affairs.

20 5. The actuary member of the Florida Hurricane
21 Catastrophe Fund Advisory Council.

22 6. Six members appointed by the Insurance
23 Commissioner, as follows:

24 a. An employee of the Department of Insurance and
25 Financial Services who is an actuary responsible for property
26 insurance rate filings.

27 b. An actuary who is employed full time by a property
28 and casualty insurer which was responsible for at least 1
29 percent of the aggregate statewide direct written premium for
30 homeowner's insurance in the calendar year preceding the
31 member's appointment to the commission.

1 c. An expert in insurance finance who is a full time
2 member of the faculty of the State University System and who
3 has a background in actuarial science.

4 d. An expert in statistics who is a full time member
5 of the faculty of the State University System and who has a
6 background in insurance.

7 e. An expert in computer system design who is a full
8 time member of the faculty of the State University System.

9 f. An expert in meteorology who is a full time member
10 of the faculty of the State University System and who
11 specializes in hurricanes.

12 Section 659. Effective January 7, 2003, paragraph (b)
13 of subsection (5) of section 627.0651, Florida Statutes, is
14 amended to read:

15 627.0651 Making and use of rates for motor vehicle
16 insurance.--

17 (5)

18 (b) The Department of Insurance and Financial Services
19 ~~Insurance Commissioner~~ shall have the responsibility to ensure
20 that rates for private passenger vehicle insurance are
21 adequate. To that end, the department shall promulgate rules
22 and regulations establishing standards defining inadequate
23 rates on private passenger vehicle insurance as defined in s.
24 627.041(8). In the event that the department finds that a
25 rate or rate change is inadequate, the department shall order
26 that a new rate or rate schedule be thereafter filed by the
27 insurer and shall further provide information as to the manner
28 in which noncompliance of the standards may be corrected.
29 When a violation of this provision occurs, the department
30 shall impose an administrative fine pursuant to s. 624.4211.

31

1 Section 660. Effective January 7, 2003, section
2 627.06535, Florida Statutes, is amended to read:
3 627.06535 Electric vehicles; restrictions on imposing
4 surcharges.--An insurer may not impose a surcharge on the
5 premium for motor vehicle insurance written on an electric
6 vehicle, as defined in s. 320.01, if the surcharge is based on
7 a factor such as new technology, passenger payload,
8 weight-to-horsepower ratio, or types of materials, including
9 composite materials or aluminum, used to manufacture the
10 vehicle, unless the Department of Insurance and Financial
11 Services determines from actuarial data submitted to it that
12 the surcharge is justified.

13 Section 661. Effective January 7, 2003, section
14 627.0915, Florida Statutes, is amended to read:
15 627.0915 Rate filings; workers' compensation,
16 drug-free workplace, and safe employers.--The Department of
17 Insurance and Financial Services shall approve rating plans
18 for workers' compensation insurance that give specific
19 identifiable consideration in the setting of rates to
20 employers that either implement a drug-free workplace program
21 pursuant to rules adopted by the Division of Workers'
22 Compensation of the Department of Labor and Employment
23 Security or implement a safety program pursuant to provisions
24 of the rating plan or implement both a drug-free workplace
25 program and a safety program. The plans must be actuarially
26 sound and must state the savings anticipated to result from
27 such drug-testing and safety programs.

28 Section 662. Effective January 7, 2003, section
29 627.0916, Florida Statutes, is amended to read:
30 627.0916 Agricultural horse farms.--Notwithstanding
31 any other provision of this chapter to the contrary, any

1 rates, rating schedules, or rating manuals for workers'
2 compensation and employer's liability insurance filed with the
3 Department of Insurance and Financial Services shall provide
4 for the rates of an agricultural horse farm engaged in
5 breeding or training to be separated into the following three
6 rate classifications and the premium paid shall be applied
7 proportionately according to payroll: breeding activity
8 involving stallions; breeding activity not involving
9 stallions, including but not limited to boarding and foaling;
10 and training.

11 Section 663. Effective January 7, 2003, section
12 627.092, Florida Statutes, is amended to read:

13 627.092 Workers' Compensation Administrator.--There is
14 created within the Division of Insurer Services of the
15 Department of Insurance and Financial Services the position of
16 Workers' Compensation Administrator to monitor carrier
17 practices in the field of workers' compensation.

18 Section 664. Effective January 7, 2003, subsection (2)
19 of section 627.096, Florida Statutes, is amended to read:

20 627.096 Workers' Compensation Rating Bureau.--

21 (2) The acquisition by the Department of Management
22 Services of data processing software, hardware, and services
23 necessary to carry out the provisions of this act for the
24 ~~Treasurer's~~ Management Information Center of the Department of
25 Insurance and Financial Services shall be exempt from the
26 provisions of part I of chapter 287.

27 Section 665. Effective January 7, 2003, subsection (5)
28 of section 627.413, Florida Statutes, is amended to read:

29 627.413 Contents of policies, in general;
30 identification.--

31

1 (5) Any policy that is a minimum premium policy issued
2 by an insurer pursuant to the minimum premium provisions of
3 rules adopted by rating organizations licensed by the
4 Department of Insurance and Financial Services, shall have
5 typed, printed, stamped, or legibly handwritten on the
6 certificate the words "minimum premium policy" or equivalent
7 language. The department may impose an administrative fine
8 pursuant to s. 624.4211 if the department finds any violation
9 of this subsection.

10 Section 666. Effective January 7, 2003, paragraph (c)
11 of subsection (14) of section 627.6472, Florida Statutes, is
12 amended to read:

13 627.6472 Exclusive provider organizations.--

14 (14)

15 (c) The failure of the insurer to pay the assessment
16 within the time specified in s. 641.58 constitutes grounds for
17 suspension or revocation of the insurer's certificate of
18 authority by the Department of Insurance and Financial
19 Services.

20 Section 667. Effective January 7, 2003, subsection
21 (11) of section 627.6482, Florida Statutes, is amended to
22 read:

23 627.6482 Definitions.--As used in ss.

24 627.648-627.6498, the term:

25 (11) "Plan" means the comprehensive health insurance
26 plan adopted by the association or by rule of the Department
27 of Insurance and Financial Services.

28 Section 668. Effective January 7, 2003, section
29 627.7012, Florida Statutes, is amended to read:

30 627.7012 Pools of insurance adjusters.--The Department
31 of Insurance and Financial Services may, by rule, establish a

1 pool of qualified insurance adjusters. The rules must provide
2 that, if a hurricane occurs or an emergency is declared, the
3 department may assign members of the pool to the affected area
4 and that an insurer may request that a member of the pool
5 adjust claims in the assigned area. The rules may not require
6 that an insurer use those adjusters assigned by the
7 department.

8 Section 669. Effective January 7, 2003, subsection (7)
9 of section 627.728, Florida Statutes, is amended to read:

10 627.728 Cancellations; nonrenewals.--

11 (7) Except in the case of cancellation for nonpayment
12 of premium or nonrenewal of the policy, the notice of
13 cancellation as provided by this section must contain the
14 following words which are to be prominently displayed: "You
15 are permitted by law to appeal this cancellation. An appeal
16 must be filed no later than 20 days before the effective date
17 of cancellation set forth in this notice. Forms for such
18 appeal and the regulations pertaining thereto may be obtained
19 from the offices of the Department of Insurance and Financial
20 Services. The Department of Insurance and Financial Services
21 does not have the authority to extend the effective date of
22 cancellation; therefore you should obtain replacement coverage
23 prior to the effective date of cancellation."

24 Section 670. Effective January 7, 2003, paragraph (c)
25 of subsection (4) and paragraph (a) of subsection (5) of
26 section 627.736, Florida Statutes, are amended to read:

27 627.736 Required personal injury protection benefits;
28 exclusions; priority; claims.--

29 (4) ~~BENEFITS; WHEN DUE.~~--Benefits due from an insurer
30 under ss. 627.730-627.7405 shall be primary, except that
31 benefits received under any workers' compensation law shall be

1 credited against the benefits provided by subsection (1) and
2 shall be due and payable as loss accrues, upon receipt of
3 reasonable proof of such loss and the amount of expenses and
4 loss incurred which are covered by the policy issued under ss.
5 627.730-627.7405. When the Agency for Health Care
6 Administration provides, pays, or becomes liable for medical
7 assistance under the Medicaid program related to injury,
8 sickness, disease, or death arising out of the ownership,
9 maintenance, or use of a motor vehicle, benefits under ss.
10 627.730-627.7405 shall be subject to the provisions of the
11 Medicaid program.

12 (c) All overdue payments shall bear simple interest at
13 the rate established by the Chief Financial Officer
14 ~~Comptroller~~ under s. 55.03 or the rate established in the
15 insurance contract, whichever is greater, for the year in
16 which the payment became overdue, calculated from the date the
17 insurer was furnished with written notice of the amount of
18 covered loss. Interest shall be due at the time payment of the
19 overdue claim is made.

20 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

21 (a) Any physician, hospital, clinic, or other person
22 or institution lawfully rendering treatment to an injured
23 person for a bodily injury covered by personal injury
24 protection insurance may charge only a reasonable amount for
25 the services and supplies rendered, and the insurer providing
26 such coverage may pay for such charges directly to such person
27 or institution lawfully rendering such treatment, if the
28 insured receiving such treatment or his or her guardian has
29 countersigned the invoice, bill, or claim form approved by the
30 Department of Insurance and Financial Services upon which such
31 charges are to be paid for as having actually been rendered,

1 to the best knowledge of the insured or his or her guardian.
2 In no event, however, may such a charge be in excess of the
3 amount the person or institution customarily charges for like
4 services or supplies in cases involving no insurance.

5 Section 671. Effective January 7, 2003, subsections
6 (1) and (5) of section 627.912, Florida Statutes, are amended
7 to read:

8 627.912 Professional liability claims and actions;
9 reports by insurers.--

10 (1) Each self-insurer authorized under s. 627.357 and
11 each insurer or joint underwriting association providing
12 professional liability insurance to a practitioner of medicine
13 licensed under chapter 458, to a practitioner of osteopathic
14 medicine licensed under chapter 459, to a podiatric physician
15 licensed under chapter 461, to a dentist licensed under
16 chapter 466, to a hospital licensed under chapter 395, to a
17 crisis stabilization unit licensed under part IV of chapter
18 394, to a health maintenance organization certificated under
19 part I of chapter 641, to clinics included in chapter 390, to
20 an ambulatory surgical center as defined in s. 395.002, or to
21 a member of The Florida Bar shall report in duplicate to the
22 Department of Insurance and Financial Services any claim or
23 action for damages for personal injuries claimed to have been
24 caused by error, omission, or negligence in the performance of
25 such insured's professional services or based on a claimed
26 performance of professional services without consent, if the
27 claim resulted in:

28 (a) A final judgment in any amount.

29 (b) A settlement in any amount.

30
31

1 Reports shall be filed with the department and, if the insured
2 party is licensed under chapter 458, chapter 459, chapter 461,
3 or chapter 466, with the Department of Health, no later than
4 30 days following the occurrence of any event listed in
5 paragraph (a) or paragraph (b). The Department of Health shall
6 review each report and determine whether any of the incidents
7 that resulted in the claim potentially involved conduct by the
8 licensee that is subject to disciplinary action, in which case
9 the provisions of s. 456.073 shall apply. The Department of
10 Health, as part of the annual report required by s. 456.026,
11 shall publish annual statistics, without identifying
12 licensees, on the reports it receives, including final action
13 taken on such reports by the Department of Health or the
14 appropriate regulatory board.

15 (5) Any self-insurance program established under s.
16 240.213 shall report in duplicate to the Department of
17 Insurance and Financial Services any claim or action for
18 damages for personal injuries claimed to have been caused by
19 error, omission, or negligence in the performance of
20 professional services provided by the Board of Regents through
21 an employee or agent of the Board of Regents, including
22 practitioners of medicine licensed under chapter 458,
23 practitioners of osteopathic medicine licensed under chapter
24 459, podiatric physicians licensed under chapter 461, and
25 dentists licensed under chapter 466, or based on a claimed
26 performance of professional services without consent if the
27 claim resulted in a final judgment in any amount, or a
28 settlement in any amount. The reports required by this
29 subsection shall contain the information required by
30 subsection (3) and the name, address, and specialty of the
31 employee or agent of the Board of Regents whose performance or

1 professional services is alleged in the claim or action to
2 have caused personal injury.

3 Section 672. Effective January 7, 2003, subsection (1)
4 of section 627.9122, Florida Statutes, is amended to read:

5 627.9122 Officers' and directors' liability claims;
6 reports by insurers.--

7 (1) Each insurer providing coverage for officers' and
8 directors' liability coverage shall report to the Department
9 of Insurance and Financial Services any claim or action for
10 damages claimed to have been caused by error, omission, or
11 negligence in the performance of the officer's or director's
12 services, if the claim resulted in:

13 (a) A final judgment in any amount.

14 (b) A settlement in any amount.

15 (c) A final disposition not resulting in payment on
16 behalf of the insured.

17

18 Reports shall be filed with the department no later than 60
19 days following the occurrence of any event listed in paragraph
20 (a), paragraph (b), or paragraph (c).

21 Section 673. Effective January 7, 2003, section
22 627.919, Florida Statutes, is amended to read:

23 627.919 Maintenance of insurance data.--The department
24 shall maintain data elements required in insurers' annual
25 statements and information reported by insurers pursuant to
26 this part in a computer file which will be available for the
27 generation of reports and calculations on a scheduled or
28 demand basis by the department and Legislature. The
29 acquisition by the department of data processing software,
30 hardware, and services necessary to carry out the provisions
31 of this section by the ~~Treasurer's~~ Management Information

1 Center shall be exempt from the provisions of part I of
2 chapter 287.

3 Section 674. Effective January 7, 2003, paragraph (b)
4 of subsection (1) of section 627.94074, Florida Statutes, is
5 amended to read:

6 627.94074 Standards for benefit triggers.--

7 (1)

8 (b) If a policy is a qualified long-term care
9 insurance policy, the policy shall condition the payment of
10 benefits on a determination of the insured's being chronically
11 ill; having a level of disability similar, as provided by rule
12 of the Department of Insurance and Financial Services
13 ~~Insurance Commissioner~~, to the insured's ability to perform
14 activities of daily living; or being cognitively impaired as
15 described in paragraph (6)(b). Eligibility for the payment of
16 benefits shall not be more restrictive than requiring a
17 deficiency in the ability to perform not more than three of
18 the activities of daily living.

19 Section 675. Effective January 7, 2003, paragraph (c)
20 of subsection (1) of section 627.944, Florida Statutes, is
21 amended to read:

22 627.944 Risk retention groups not certificated in this
23 state.--Risk retention groups certificated or licensed in
24 states other than this state and seeking to do business as a
25 risk retention group in this state must observe and abide by
26 the laws of this state as follows:

27 (1) NOTICE OF OPERATIONS AND DESIGNATION OF
28 COMMISSIONER AS AGENT.--Before offering insurance in this
29 state, a risk retention group shall submit to the department:

30 (c) A statement of registration which designates the
31 Insurance Commissioner ~~and Treasurer~~ or her or his designee as

1 its agent for the purpose of receiving service of legal
2 documents of process.

3 Section 676. Effective January 7, 2003, subsection (2)
4 of section 627.948, Florida Statutes, is amended to read:

5 627.948 Notice and registration requirements of
6 purchasing groups.--

7 (2) The purchasing group shall register with and
8 designate the Insurance Commissioner ~~and Treasurer~~ or her or
9 his designee as its agent solely for the purpose of receiving
10 service of legal documents or process. This requirement shall
11 not apply in the case of a purchasing group:

12 (a) Which:

13 1. Was domiciled before April 1, 1986.

14 2. Is domiciled on and after October 27, 1986, in any
15 state of the United States.

16 (b) Which:

17 1. Before October 27, 1986, purchased insurance from
18 an insurance carrier licensed in any state; and

19 2. Since October 27, 1986, purchased its insurance
20 from an insurance carrier licensed in any state.

21 (c) Which was a purchasing group under the
22 requirements of the Product Liability Risk Retention Act of
23 1981 before October 27, 1986.

24 (d) Which does not purchase insurance that was not
25 authorized for purposes of an exemption under that act, as in
26 effect before October 27, 1986.

27 Section 677. Effective January 7, 2003, subsection (8)
28 of section 628.461, Florida Statutes, is amended to read:

29 628.461 Acquisition of controlling stock.--

30 (8) No vote by the stockholder of record, or by any
31 other person, of any security acquired in contravention of the

1 provisions of this section is valid. Any acquisition of any
2 security contrary to the provisions of this section is void.
3 Upon the petition of the domestic stock insurer or controlling
4 company, the circuit court for the county in which the
5 principal office of such domestic stock insurer is located
6 may, without limiting the generality of its authority, order
7 the issuance or entry of an injunction or other order to
8 enforce the provisions of this section. There shall be a
9 private right of action in favor of the domestic stock insurer
10 or controlling company to enforce the provisions of this
11 section. No demand upon the department that it perform its
12 functions shall be required as a prerequisite to any suit by
13 the domestic stock insurer or controlling company against any
14 other person, and in no case shall the department be deemed a
15 necessary party to any action by such domestic stock insurer
16 or controlling company to enforce the provisions of this
17 section. Any person who makes or proposes an acquisition
18 requiring the filing of a statement pursuant to this section,
19 or who files such a statement, shall be deemed to have thereby
20 designated the Insurance Commissioner ~~and Treasurer~~, or his or
21 her assistant or deputy or another person in charge of his or
22 her office, as such person's agent for service of process
23 under this section, and shall thereby be deemed to have
24 submitted himself or herself to the administrative
25 jurisdiction of the department and to the jurisdiction of the
26 circuit court.

27 Section 678. Effective January 7, 2003, subsection (9)
28 of section 628.4615, Florida Statutes, is amended to read:

29 628.4615 Specialty insurers; acquisition of
30 controlling stock, ownership interest, assets, or control;
31 merger or consolidation.--

1 (9) No vote by the stockholder of record, or by any
2 other person, of any security acquired in contravention of the
3 provisions of this section is valid. Any acquisition contrary
4 to the provisions of this section is void. Upon the petition
5 of the specialty insurer or the controlling company, the
6 circuit court for the county in which the principal office of
7 the specialty insurer is located may, without limiting the
8 generality of its authority, order the issuance or entry of an
9 injunction or other order to enforce the provisions of this
10 section. There shall be a private right of action in favor of
11 the specialty insurer or controlling company to enforce the
12 provisions of this section. No demand upon the department
13 that it perform its functions shall be required as a
14 prerequisite to any suit by the specialty insurer or
15 controlling company against any other person, and in no case
16 shall the department be deemed a necessary party to any action
17 by the specialty insurer or controlling company to enforce the
18 provisions of this section. Any person who makes or proposes
19 an acquisition requiring the filing of an application pursuant
20 to this section, or who files such an application, shall be
21 deemed to have thereby designated the Insurance Commissioner
22 ~~and Treasurer~~, or his or her assistant or deputy or another
23 person in charge of his or her office, as such person's agent
24 for service of process under this section and shall thereby be
25 deemed to have submitted himself or herself to the
26 administrative jurisdiction of the department and to the
27 jurisdiction of the circuit court.

28 Section 679. Effective January 7, 2003, subsections
29 (1), (2), and (3) of section 629.401, Florida Statutes, are
30 amended to read:

31 29.401 Insurance exchange.--

1 (1) There may be created one or more insurance
2 exchanges, with one or more offices each, subject to such
3 rules as may be promulgated by the Department of Insurance and
4 Financial Services ~~commissioner~~. For the purposes of this
5 section, the term "exchange" applies to any such insurance
6 exchange proposed or created under this section. The purposes
7 of the exchange are:

8 (a) To provide a facility for the underwriting of:

9 1. Reinsurance of all kinds of insurance.

10 2. Direct insurance of all kinds on risks located
11 entirely outside the United States.

12 3. Surplus lines insurance for risks located in this
13 state eligible for export under s. 626.916 or s. 626.917 and
14 placed through a licensed Florida surplus lines agent subject
15 to compliance with the provisions of ss. 626.921, 626.922,
16 626.923, 626.924, 626.929, 626.9295, 626.930, and 626.931.
17 With respect to compliance with s. 626.924, the required
18 legend may refer to any coverage provided for by a security
19 fund established under paragraph (3)(d).

20 4. Surplus lines insurance in any other state subject
21 to the applicable surplus lines laws of such other state for
22 risks located entirely outside of this state.

23 (b) To manage the facility authorized by this section,
24 in accordance with rules promulgated by the Department of
25 Insurance and Financial Services ~~commissioner~~.

26 (c) In no event shall the exchange be considered to be
27 an underwriter or broker with respect to any contract of
28 insurance or reinsurance written by a member of the exchange,
29 and the exchange shall not incur any liability therefor.

30 (2) The operation of this subsection shall become
31 effective with respect to any exchange only after a

1 determination by the Department of Insurance and Financial
2 Services Insurance Commissioner and Treasurer that the
3 exchange may operate in an economic and beneficial manner. A
4 committee shall be appointed to write the constitution and
5 bylaws of the proposed exchange, to make such other
6 recommendations as may be necessary to assure maximum
7 coordination of the operations of the exchange with existing
8 insurance industry operations, and to assure maximum economic
9 benefits to the state from the operations of the exchange. The
10 committee shall consist of 13 members, 6 to be appointed by
11 the Insurance Commissioner ~~and Treasurer~~, 2 each to be
12 appointed by the Speaker of the House of Representatives and
13 the President of the Senate, 1 each to be appointed by the
14 minority leader of the House of Representatives and the
15 minority leader of the Senate, and 1 to be the Insurance
16 Commissioner ~~and Treasurer~~ or his or her designated
17 representative. The chair shall be elected by a majority of
18 the committee. The committee shall transmit such proposed
19 constitution and bylaws and such other recommendations to the
20 Department of Insurance and Financial Services Insurance
21 Commissioner and Treasurer and to the Legislature no later
22 than 5 days prior to the adjournment of a regular annual
23 legislative session or no later than 5 days prior to the
24 commencement of any special or organizational legislative
25 session. Subject to the disapproval of the constitution and
26 bylaws by either house of the Legislature by resolution before
27 the end of such legislative session, the exchange shall have
28 full authority to function pursuant to its constitution and
29 bylaws 60 days after the end of the session. The initial
30 board of governors of the exchange shall consist of 14
31 members, 3 appointed by the Insurance Commissioner ~~and~~

1 ~~Treasurer~~, 3 by the Speaker of the House of Representatives, 3
2 by the President of the Senate, 1 by the minority leader of
3 the House of Representatives, 1 by the minority leader of the
4 Senate, and 3 by the Governor, to serve until the first
5 election pursuant to the constitution or bylaws.

6 (3) The constitution and bylaws of the exchange shall
7 provide for, but shall not be limited to:

8 (a) The selection of 13 governors, at least 7 of whom
9 shall be appointed by and serve at the pleasure of the
10 Insurance Commissioner. Five of the governors appointed by
11 the Insurance Commissioner shall not be members of the
12 exchange. One of the remaining two governors appointed by the
13 Insurance Commissioner shall be a broker member, and one shall
14 be a representative of an underwriting member. The remainder
15 of the governors shall be elected by the membership of the
16 exchange in accordance with the constitution and bylaws,
17 except that at least five governors shall be elected by the
18 underwriting members of the exchange.

19 (b) The location of the principal offices of the
20 exchange and the principal offices of its members to be within
21 this state for the purpose of the transaction of the type of
22 business described in subsection (1). A principal office shall
23 be one where officers and qualified personnel who are engaged
24 in the administration, underwriting, claims, policyholders'
25 service, marketing, accounting, recordkeeping, and all
26 supportive services shall be located.

27 (c) The submission by members and all applicants for
28 membership on the exchange of such financial information as
29 may be required by the Department of Insurance and Financial
30 Services ~~commissioner~~.

31

1 (d)1. The establishment by the exchange of a security
2 fund in such form and amount as approved by the Department of
3 Insurance and Financial Services ~~commissioner~~.

4 2. With respect to contracts of insurance written or
5 renewed on or after July 2, 1987:

6 a. The security fund shall pay that amount of each
7 covered claim which is determined to be payable in accordance
8 with the constitution and bylaws and is in excess of \$100 and
9 less than \$300,000, except that the fund shall not be
10 obligated to a policyholder or claimant in an amount in excess
11 of the obligation of the insolvent underwriting member under
12 the policy from which the claim arises.

13 b. The security fund shall have no obligation and
14 shall make no payment of any obligation arising under any such
15 contract or with respect to any contract of reinsurance
16 written or renewed on or after July 2, 1987, to the extent the
17 payment or payments exceed, either individually or in the
18 aggregate, 10 percent of the insolvent underwriting member's
19 surplus as to policyholders as reflected on the most recent
20 sworn annual statement of the insolvent underwriting member
21 filed with the department prior to issuance of such contract.

22 c. For the purposes of this subparagraph, each
23 reinsurance treaty and each contract of insurance inuring to
24 the benefit of multiple parties shall constitute only one
25 contract, and covered claims include unpaid claims, including
26 claims of unearned premiums, which arise out of and are within
27 the coverage and are not in excess of the applicable limits of
28 an insurance policy issued by an insolvent underwriting member
29 through the facilities of the exchange.

30 (e) The voting power of members who are underwriting
31 syndicates.

1 (f) The voting power and other rights granted under
2 the provisions of the not-for-profit corporation law, chapter
3 617, to participate in the conduct and management of the
4 affairs of the exchange, by brokers, agents, and
5 intermediaries transacting business on the exchange, each of
6 whom shall be considered "members" only under the provisions
7 of such law.

8 (g) The rights and duties of exchange members, which
9 may include, but shall not be limited to, the manner and form
10 of conducting business, financial stability, dues, membership
11 fees, mandatory arbitration, and all other matters necessary
12 or appropriate to conduct any business permitted herein.

13

14 Any amendments to the constitution and bylaws shall be subject
15 to the approval of the Department of Insurance and Financial
16 Services ~~commissioner~~.

17 Section 680. Effective January 7, 2003, subsection (2)
18 of section 631.001, Florida Statutes, is amended to read:

19 631.001 Title, construction, and purpose.--

20 (2) This part may not be interpreted to limit the
21 powers granted the Department of Insurance and Financial
22 Services by other provisions of law.

23 Section 681. Effective January 7, 2003, section
24 631.221, Florida Statutes, is amended to read:

25 631.221 Deposit of moneys collected.--The moneys
26 collected by the department in a proceeding under this chapter
27 shall be deposited in a qualified public depository as defined
28 in s. 280.02, which depository with regards to such funds
29 shall conform to and be bound by all the provisions of chapter
30 280, or invested with the Chief Financial Officer ~~State~~
31 ~~Treasurer~~ pursuant to chapter 18. For the purpose of

1 accounting for the assets and transactions of the estate, the
2 receiver shall use such accounting books, records, and systems
3 as the court directs after it hears and considers the
4 recommendations of the receiver.

5 Section 682. Effective January 7, 2003, section
6 631.392, Florida Statutes, is amended to read:

7 631.392 Immunity.--There shall be no liability on the
8 part of, and no cause of action of any nature shall arise
9 against, the Department of Insurance and Financial Services
10 ~~Insurance Commissioner or the department~~ or its employees or
11 agents for any action taken by them in the performance of
12 their powers and duties under this chapter.

13 Section 683. Effective January 7, 2003, subsection (4)
14 of section 631.54, Florida Statutes, is amended to read:

15 631.54 Definitions.--As used in this part:

16 (4) "Department" means the Department of Insurance and
17 Financial Services.

18 Section 684. Effective January 7, 2003, paragraph (e)
19 of subsection (3) of section 631.57, Florida Statutes, is
20 amended to read:

21 631.57 Powers and duties of the association.--

22 (3)

23 (e)1.

24 a. In addition to assessments otherwise authorized in
25 paragraph (a), as a temporary measure related to insolvencies
26 caused by Hurricane Andrew, and to the extent necessary to
27 secure the funds for the account specified in s. 631.55(2)(c),
28 or to retire indebtedness, including, without limitation, the
29 principal, redemption premium, if any, and interest on, and
30 related costs of issuance of, bonds issued under s.
31 166.111(2), and the funding of any reserves and other payments

1 required under the bond resolution or trust indenture pursuant
2 to which such bonds have been issued, the department, upon
3 certification of the board of directors, shall levy
4 assessments upon insurers holding a certificate of authority
5 as follows:

6 (I) Except as provided in sub-sub-subparagraph (II),
7 the assessments payable under this paragraph by any insurer
8 shall not exceed in any 1 year more than 2 percent of that
9 insurer's direct written premiums, net of refunds, in this
10 state during the preceding calendar year for the kinds of
11 insurance within the account specified in s. 631.55(2)(c).

12 (II) If the amount levied under sub-sub-subparagraph
13 (I) is less than 2 percent of the insurer's direct written
14 premiums, net of refunds, in this state during calendar year
15 1991 for the kinds of insurance within the account specified
16 in s. 631.55(2)(c), in addition to and separate from such
17 assessment, the assessment shall also include the difference
18 between the amount calculated based on calendar year 1991 and
19 the amount determined under sub-sub-subparagraph (I). If this
20 sub-sub-subparagraph is held invalid, the invalidity shall not
21 affect other provisions of this section, and to this end the
22 provisions of this section are declared severable.

23 (III) In addition to any other insurers subject to
24 this subparagraph, this subparagraph also applies to any
25 insurer that held a certificate of authority on August 24,
26 1992. If this sub-sub-subparagraph is held invalid, the
27 invalidity shall not affect other provisions of this section,
28 and to this end the provisions of this section are declared
29 severable.

30 b. Any assessments authorized under this paragraph
31 shall be levied by the department upon insurers referred to in

1 sub-subparagraph a., upon certification as to the need
2 therefor by the board of directors, in 1992 and in each year
3 that bonds issued under s. 166.111(2) are outstanding, in such
4 amounts up to such 2 percent limit as required in order to
5 provide for the full and timely payment of the principal of,
6 redemption premium, if any, and interest on, and related costs
7 of, issuance of bonds issued under s. 166.111(2). The
8 assessments provided for in this paragraph are hereby assigned
9 and pledged to a municipality issuing bonds under s.
10 166.111(2)(b), for the benefit of the holders of such bonds,
11 in order to enable such municipality to provide for the
12 payment of the principal of, redemption premium, if any, and
13 interest on such bonds, the cost of issuance of such bonds,
14 and the funding of any reserves and other payments required
15 under the bond resolution or trust indenture pursuant to which
16 such bonds have been issued, without the necessity of any
17 further action by the association, the department, or any
18 other party. To the extent that bonds are issued under s.
19 166.111(2), the proceeds of assessments levied under this
20 paragraph shall be remitted directly to and administered by
21 the trustee appointed for such bonds.

22 c. Assessments under this paragraph shall be payable
23 in 12 monthly installments with the first installment being
24 due and payable at the end of the month after an assessment is
25 levied, and subsequent installments being due not later than
26 the end of each succeeding month.

27 d. The association shall issue a monthly report on the
28 status of the use of the bond proceeds as related to
29 insolvencies caused by Hurricane Andrew. The report must
30 contain the number of claims paid and the amount of claims
31 paid. The association shall also include an analysis of the

1 revenue generated from the additional assessment levied under
2 this subsection. The report must be sent to the Legislature
3 and the Department of Insurance and Financial Services
4 ~~Insurance Commissioner~~ monthly.

5 2. In order to assure that insurers paying assessments
6 levied under this paragraph continue to charge rates that are
7 neither inadequate nor excessive, within 90 days after being
8 notified of such assessments, each insurer that is to be
9 assessed pursuant to this paragraph shall make a rate filing
10 for coverage included within the account specified in s.
11 631.55(2)(c) and for which rates are required to be filed
12 under s. 627.062. If the filing reflects a rate change that,
13 as a percentage, is equal to the difference between the rate
14 of such assessment and the rate of the previous year's
15 assessment under this paragraph, the filing shall consist of a
16 certification so stating and shall be deemed approved when
17 made, subject to the department's continuing authority to
18 require actuarial justification as to the adequacy of any rate
19 at any time. Any rate change of a different percentage shall
20 be subject to the standards and procedures of s. 627.062.

21 Section 685. Effective January 7, 2003, section
22 631.59, Florida Statutes, is amended to read:

23 631.59 Duties and powers of Department of Insurance
24 and Financial Services.--

25 (1) The department shall:

26 (a) Notify the association of the existence of an
27 insolvent insurer not later than 3 days after it receives
28 notice of the determination of the insolvency; and

29 (b) Upon request of the board of directors, provide
30 the association with a statement of the net direct written
31 premiums of each member insurer.

1 (2) The department may:

2 (a) Require that the association notify the insureds
3 of the insolvent insurer and any other interested parties of
4 the determination of insolvency and of their rights under this
5 part. Such notification shall be by mail at their last known
6 addresses, when available, but if sufficient information for
7 notification by mail is not available, notice by publication
8 in a newspaper of general circulation shall be sufficient.

9 (b) Suspend or revoke the certificate of authority to
10 transact insurance in this state of any member insurer which
11 fails to pay an assessment when due or fails to comply with
12 the plan of operation. As an alternative, the department may
13 levy a fine on any member insurer which fails to pay an
14 assessment when due. Such fine may not exceed 5 percent of
15 the unpaid assessment per month, except that no fine shall be
16 less than \$100 per month.

17 (c) Revoke the designation of any servicing facility
18 if it finds claims are being handled unsatisfactorily.

19 Section 686. Effective January 7, 2003, subsection (5)
20 of section 631.714, Florida Statutes, is amended to read:

21 631.714 Definitions.--As used in this part:

22 (5) "Department" means the Department of Insurance and
23 Financial Services.

24 Section 687. Effective January 7, 2003, subsection (3)
25 of section 631.72, Florida Statutes, is amended to read:

26 631.72 Premium or income tax credits for assessments
27 paid.--

28 (3) Any sums acquired by refund pursuant to s.
29 631.718(6) from the association which have theretofore been
30 written off by contributing insurers and offset against
31 premium or corporate income taxes as provided in subsection

1 (1) and which are not needed for purposes of this part shall
2 be paid by the insurer to the Department of Revenue for
3 deposit with the Chief Financial Officer ~~Treasurer~~ to the
4 credit of the General Revenue Fund.

5 Section 688. Effective January 7, 2003, subsection (3)
6 of section 631.723, Florida Statutes, is amended to read:

7 631.723 Prevention of insolvencies.--To aid in the
8 detection and prevention of insurer insolvencies or
9 impairments:

10 (3) The board of directors may, upon majority vote,
11 request that the department order an examination of any member
12 insurer which the board in good faith believes may be an
13 impaired or insolvent insurer. Within 30 days of the receipt
14 of such a request, the department shall begin such an
15 examination. The examination may be conducted as a National
16 Association of Insurance Commissioners examination or may be
17 conducted by such persons as the Department of Insurance and
18 Financial Services ~~Insurance Commissioner~~ designates. The
19 cost of such examination shall be paid by the association, and
20 the examination report shall be treated in a manner similar to
21 other examination reports pursuant to s. 624.319. In no event
22 may such examination report be released to the board of
23 directors before its release to the public, but this does not
24 preclude the department from complying with s. 631.398(2).
25 The department shall notify the board of directors when the
26 examination is completed. The request for an examination
27 shall be kept on file by the department; such request is
28 confidential and exempt from the provisions of s. 119.07(1)
29 until the examination report is released to the public.

30 Section 689. Effective January 7, 2003, section
31 631.813, Florida Statutes, is amended to read:

1 631.813 Application of part.--This part shall apply to
2 HMO contractual obligations to residents of Florida by HMOs
3 possessing a valid certificate of authority issued by the
4 Florida Department of Insurance and Financial Services as
5 provided by part I of chapter 641. The provisions of this
6 part shall not apply to persons participating in medical
7 assistance programs under the Medicaid program.

8 Section 690. Effective January 7, 2003, subsection (6)
9 of section 631.814, Florida Statutes, is amended to read:

10 631.814 Definitions.--As used in this part:

11 (6) "Department" means the Florida Department of
12 Insurance and Financial Services.

13 Section 691. Effective January 7, 2003, subsections
14 (2) and (3) of section 631.904, Florida Statutes, are amended
15 to read:

16 631.904 Definitions.--As used in this part, the term:

17 (2) "Covered claim" means an unpaid claim, including a
18 claim for return of unearned premiums, which arises out of, is
19 within the coverage of, and is not in excess of the applicable
20 limits of, an insurance policy to which this part applies,
21 which policy was issued by an insurer and which claim is made
22 on behalf of a claimant or insured who was a resident of this
23 state at the time of the injury. The term does not include any
24 amount due any reinsurer, insurer, insurance pool, or
25 underwriting association, as subrogation recoveries or
26 otherwise. Member insurers have no right of subrogation
27 against the insured of any insolvent insurer. This provision
28 shall be applied retroactively to cover claims of an insolvent
29 self-insurance fund resulting from accidents or losses
30 incurred prior to January 1, 1994, regardless of the date the
31 Department of Insurance and Financial Services filed a

1 petition in circuit court alleging insolvency and the date the
2 court entered an order appointing a receiver.

3 (3) "Department" means the Department of Insurance and
4 Financial Services.

5 Section 692. Effective January 7, 2003, paragraphs (b)
6 and (c) of subsection (1) of section 631.911, Florida
7 Statutes, are amended to read:

8 631.911 Creation of the Florida Workers' Compensation
9 Insurance Guaranty Association, Incorporated; merger; effect
10 of merger.--

11 (1)

12 (b) The merger may be effected prior to October 1,
13 1997, if:

14 1. The interim board of directors of the Workers'
15 Compensation Insurance Guaranty Association provides the
16 Department of Insurance and Financial Services with written
17 notice of its intent to effectuate the merger as of a date
18 certain and its functional readiness to initiate operations,
19 such notice setting forth the plan or summary thereof for
20 effecting the merger; and,

21 2. The department, upon review of the plan or summary
22 thereof, determines the Workers' Compensation Insurance
23 Guaranty Association is functionally ready to initiate
24 operations and so certifies to the interim board of directors.

25 (c) Prior to the effective date of the merger, the
26 Florida Self-Insurance Fund Guaranty Association shall be the
27 entity responsible for the claims of insolvent self-insurance
28 funds resulting from accidents or losses incurred prior to
29 January 1, 1994, regardless of the date the Department of
30 Insurance and Financial Services filed a petition in circuit
31

1 court alleging insolvency and the date the court entered an
2 order appointing a receiver.

3 Section 693. Effective January 7, 2003, section
4 631.931, Florida Statutes, is amended to read:

5 631.931 Reports and recommendations by board; public
6 records exemption.--Reports and recommendations made by the
7 Board of Directors of the Florida Workers' Compensation
8 Insurance Guaranty Association to the Department of Insurance
9 and Financial Services under s. 631.917 upon any matter
10 germane to the solvency, liquidation, rehabilitation, or
11 conservation of any member insurer are confidential and exempt
12 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
13 the State Constitution until the termination of a delinquency
14 proceeding.

15 Section 694. Effective January 7, 2003, subsection (1)
16 of section 633.01, Florida Statutes, is amended to read:

17 633.01 State Fire Marshal; powers and duties; rules.--

18 (1) The head of the Department of Insurance and
19 Financial Services shall be designated as "State Fire
20 Marshal." The State Fire Marshal has authority to adopt rules
21 pursuant to ss. 120.536(1) and 120.54 to implement the
22 provisions of this chapter conferring powers or duties upon
23 the department. Rules shall be in substantial conformity with
24 generally accepted standards of firesafety; shall take into
25 consideration the direct supervision of children in
26 nonresidential child care facilities; and shall balance and
27 temper the need of the State Fire Marshal to protect all
28 Floridians from fire hazards with the social and economic
29 inconveniences that may be caused or created by the rules. The
30 department shall adopt the Florida Fire Prevention Code and
31 the Life Safety Code.

1 Section 695. Effective January 7, 2003, subsection (1)
2 of section 633.022, Florida Statutes, is amended to read:
3 633.022 Uniform firesafety standards.--The Legislature
4 hereby determines that to protect the public health, safety,
5 and welfare it is necessary to provide for firesafety
6 standards governing the construction and utilization of
7 certain buildings and structures. The Legislature further
8 determines that certain buildings or structures, due to their
9 specialized use or to the special characteristics of the
10 person utilizing or occupying these buildings or structures,
11 should be subject to firesafety standards reflecting these
12 special needs as may be appropriate.

13 (1) The Department of Insurance and Financial Services
14 shall establish uniform firesafety standards that apply to:

15 (a) All new, existing, and proposed state-owned and
16 state-leased buildings.

17 (b) All new, existing, and proposed hospitals, nursing
18 homes, assisted living facilities, adult family-care homes,
19 correctional facilities, public schools, transient public
20 lodging establishments, public food service establishments,
21 elevators, migrant labor camps, mobile home parks, lodging
22 parks, recreational vehicle parks, recreational camps,
23 residential and nonresidential child care facilities,
24 facilities for the developmentally disabled, motion picture
25 and television special effects productions, and self-service
26 gasoline stations, of which standards the State Fire Marshal
27 is the final administrative interpreting authority. With
28 respect to public schools, the department shall utilize
29 firesafety standards that have been adopted by the State Board
30 of Education.

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1 In the event there is a dispute between the owners of the
2 buildings specified in paragraph (b) and a local authority
3 requiring a more stringent uniform firesafety standard for
4 sprinkler systems, the State Fire Marshal shall be the final
5 administrative interpreting authority and the State Fire
6 Marshal's interpretation regarding the uniform firesafety
7 standards shall be considered final agency action.

8 Section 696. Effective January 7, 2003, subsection (4)
9 of section 633.025, Florida Statutes, is amended to read:

10 633.025 Minimum firesafety standards.--

11 (4) Such codes shall be minimum codes and a
12 municipality, county, or special district with firesafety
13 responsibilities may adopt more stringent firesafety
14 standards, subject to the requirements of this subsection.
15 Such county, municipality, or special district may establish
16 alternative requirements to those requirements which are
17 required under the minimum firesafety standards on a
18 case-by-case basis, in order to meet special situations
19 arising from historic, geographic, or unusual conditions, if
20 the alternative requirements result in a level of protection
21 to life, safety, or property equal to or greater than the
22 applicable minimum firesafety standards. For the purpose of
23 this subsection, the term "historic" means that the building
24 or structure is listed on the National Register of Historic
25 Places of the United States Department of the Interior.

26 (a) The local governing body shall determine,
27 following a public hearing which has been advertised in a
28 newspaper of general circulation at least 10 days before the
29 hearing, if there is a need to strengthen the requirements of
30 the minimum firesafety code adopted by such governing body.
31 The determination must be based upon a review of local

1 conditions by the local governing body, which review
2 demonstrates that local conditions justify more stringent
3 requirements than those specified in the minimum firesafety
4 code for the protection of life and property or justify
5 requirements that meet special situations arising from
6 historic, geographic, or unusual conditions.

7 (b) Such additional requirements shall not be
8 discriminatory as to materials, products, or construction
9 techniques of demonstrated capabilities.

10 (c) Paragraphs (a) and (b) apply solely to the local
11 enforcing agency's adoption of requirements more stringent
12 than those specified in the Florida Fire Prevention Code and
13 the Life Safety Code that have the effect of amending building
14 construction standards. Upon request, the enforcing agency
15 shall provide a person making application for a building
16 permit, or any state agency or board with construction-related
17 regulation responsibilities, a listing of all such
18 requirements and codes.

19 (d) A local government which adopts amendments to the
20 minimum firesafety code must provide a procedure by which the
21 validity of such amendments may be challenged by any
22 substantially affected party to test the amendment's
23 compliance with the provisions of this section.

24 1. Unless the local government agrees to stay
25 enforcement of the amendment, or other good cause is shown,
26 the challenging party shall be entitled to a hearing on the
27 challenge within 45 days.

28 2. For purposes of such challenge, the burden of proof
29 shall be on the challenging party, but the amendment shall not
30 be presumed to be valid or invalid.

31

1 This subsection gives local government the authority to
2 establish firesafety codes that exceed the minimum firesafety
3 codes and standards adopted by the State Fire Marshal. The
4 Legislature intends that local government give proper public
5 notice and hold public hearings before adopting more stringent
6 firesafety codes and standards. A substantially affected
7 person may appeal, to the Department of Insurance and
8 Financial Services, the local government's resolution of the
9 challenge, and the department shall determine if the amendment
10 complies with this section. Actions of the department are
11 subject to judicial review pursuant to s. 120.68. The
12 department shall consider reports of the Florida Building
13 Commission, pursuant to part VII of chapter 553, when
14 evaluating building code enforcement.

15 Section 697. Effective January 7, 2003, paragraph (a)
16 of subsection (1) of section 633.052, Florida Statutes, is
17 amended to read:

18 633.052 Ordinances relating to firesafety;
19 definitions; penalties.--

20 (1) As used in this section:

21 (a) A "firesafety inspector" is an individual
22 certified by the Division of State Fire Marshal of the
23 Department of Insurance and Financial Services, officially
24 assigned the duties of conducting firesafety inspections of
25 buildings and facilities on a recurring or regular basis,
26 investigating civil infractions relating to firesafety, and
27 issuing citations pursuant to this section on behalf of the
28 state or any county, municipality, or special district with
29 firesafety responsibilities.

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1 Section 698. Effective January 7, 2003, subsections
2 (4) and (7) of section 633.081, Florida Statutes, are amended
3 to read:

4 633.081 Inspection of buildings and equipment; orders;
5 firesafety inspection training requirements; certification;
6 disciplinary action.--The State Fire Marshal and her or his
7 agents shall, at any reasonable hour, when the department has
8 reasonable cause to believe that a violation of this chapter
9 or s. 509.215, or a rule promulgated thereunder, or a minimum
10 firesafety code adopted by a local authority, may exist,
11 inspect any and all buildings and structures which are subject
12 to the requirements of this chapter or s. 509.215 and rules
13 promulgated thereunder. The authority to inspect shall extend
14 to all equipment, vehicles, and chemicals which are located
15 within the premises of any such building or structure.

16 (4) A firefighter certified pursuant to s. 633.35 may
17 conduct firesafety inspections, under the supervision of a
18 certified firesafety inspector, while on duty as a member of a
19 fire department company conducting inservice firesafety
20 inspections without being certified as a firesafety inspector,
21 if such firefighter has satisfactorily completed an inservice
22 fire department company inspector training program of at least
23 24 hours' duration as provided by rule of the Department of
24 Insurance and Financial Services.

25 (7) The Department of Insurance and Financial Services
26 shall provide by rule for the certification of firesafety
27 inspectors.

28 Section 699. Effective January 7, 2003, subsection (1)
29 of section 633.161, Florida Statutes, is amended to read:

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1 633.161 Cease and desist orders; orders to correct
2 hazardous conditions; orders to vacate; violation;
3 penalties.--
4 (1) If it is determined by the Department of Insurance
5 and Financial Services that a violation specified in this
6 subsection exists, the State Fire Marshal or her or his deputy
7 may issue and deliver to the person committing the violation
8 an order to cease and desist from such violation, to correct
9 any hazardous condition, to preclude occupancy of the affected
10 building or structure, or to vacate the premises of the
11 affected building or structure. Such violations are:
12 (a) Except as set forth in paragraph (b), a violation
13 of any provision of this chapter, of any rule adopted pursuant
14 thereto, of any applicable uniform firesafety standard adopted
15 pursuant to s. 633.022 which is not adequately addressed by
16 any alternative requirements adopted on a local level, or of
17 any minimum firesafety standard adopted pursuant to s.
18 394.879.
19 (b) A substantial violation of an applicable minimum
20 firesafety standard adopted pursuant to s. 633.025 which is
21 not reasonably addressed by any alternative requirement
22 imposed at the local level, or an unreasonable interpretation
23 of an applicable minimum firesafety standard, and which
24 violation or interpretation clearly constitutes a danger to
25 lifesafety.
26 (c) A building or structure which is in a dilapidated
27 condition and as a result thereof creates a danger to life,
28 safety, or property.
29 (d) A building or structure which contains explosive
30 matter or flammable liquids or gases constituting a danger to
31 life, safety, or property.

1 Section 700. Effective January 7, 2003, subsection (5)
2 of section 633.162, Florida Statutes, is amended to read:

3 633.162 Disciplinary action; fire extinguisher or
4 preengineered systems; grounds for denial, nonrenewal,
5 suspension, or revocation of license or permit.--

6 (5) In addition, the Department of Insurance and
7 Financial Services shall not issue a new license or permit if
8 it finds that the circumstance or circumstances for which the
9 license or permit was previously revoked or suspended still
10 exist or are likely to recur.

11 Section 701. Effective January 7, 2003, subsections
12 (3) and (5) of section 633.30, Florida Statutes, are amended
13 to read:

14 633.30 Standards for firefighting; definitions.--As
15 used in this chapter:

16 (3) "Department" means the Department of Insurance and
17 Financial Services.

18 (5) "Division" means the Division of State Fire
19 Marshal of the Department of Insurance and Financial Services.

20 Section 702. Effective January 7, 2003, subsection (1)
21 of section 633.31, Florida Statutes, is amended to read:

22 633.31 Firefighters Standards and Training Council.--

23 (1) There is created within the Department of
24 Insurance and Financial Services a Firefighters Standards and
25 Training Council of nine members appointed by the State Fire
26 Marshal. Two members shall be fire chiefs, two members shall
27 be firefighters who are not officers, two members shall be
28 firefighter officers who are not fire chiefs, and one member
29 shall be a director or instructor of a state-certified
30 firefighting training facility. To be eligible for appointment
31 as a fire chief member, firefighter officer member,

1 firefighter member, or a director or instructor of a
2 state-certified firefighting facility, a person shall have had
3 at least 4 years' experience in the firefighting profession.
4 The remaining two members shall not be members of the
5 firefighting profession. Members shall serve only as long as
6 they continue to meet the criteria under which they were
7 appointed, or unless a member has failed to appear at three
8 consecutive and properly noticed meetings unless excused by
9 the chair.

10 Section 703. Effective January 7, 2003, section
11 633.353, Florida Statutes, is amended to read:

12 633.353 Falsification of qualifications.--Any person
13 who willfully and knowingly falsifies the qualifications of a
14 new employee to the Bureau of Fire Standards and Training of
15 the Division of State Fire Marshal of the Department of
16 Insurance and Financial Services is guilty of a misdemeanor of
17 the second degree, punishable as provided in s. 775.082 or s.
18 775.083.

19 Section 704. Effective January 7, 2003, paragraph (a)
20 of subsection (1) of section 633.382, Florida Statutes, is
21 amended to read:

22 633.382 Firefighters; supplemental compensation.--

23 (1) DEFINITIONS.--As used in this section, the term:

24 (a) "Division" means the Division of State Fire
25 Marshal of the Department of Insurance and Financial Services
26 created and existing under the provisions of this chapter.

27 Section 705. Effective January 7, 2003, section
28 633.43, Florida Statutes, is amended to read:

29 633.43 Florida State Fire College established.--There
30 is hereby established a state institution to be known as the
31 Florida State Fire College, to be located at or near Ocala,

1 Marion County. The institution shall be operated by the
2 Division of State Fire Marshal of the Department of Insurance
3 and Financial Services.

4 Section 706. Effective January 7, 2003, subsections
5 (2), (7), (8), and (9) of section 633.445, Florida Statutes,
6 are amended to read:

7 633.445 State Fire Marshal Scholarship Grant
8 Program.--

9 (2) The Chief Financial Officer ~~Comptroller~~ shall
10 authorize expenditures from the Insurance Commissioner's
11 Regulatory Trust Fund upon receipt of vouchers approved by the
12 State Fire Marshal. All moneys collected from public and
13 private sources pursuant to this section shall be deposited
14 into the trust fund. Any balance in the trust fund at the end
15 of any fiscal year shall remain therein and shall be available
16 for carrying out the purposes of the fund in the ensuing year.

17 (7) The criteria and procedures for establishing
18 standards of eligibility shall be recommended by the council
19 to the Department of Insurance and Financial Services. The
20 council shall recommend to the Department of Insurance and
21 Financial Services a rating system upon which to base the
22 approval of scholarship grants. However, to be eligible to
23 receive a scholarship pursuant to this section, an applicant
24 must:

25 (a) Be a full-time employee or volunteer of a local
26 municipal, county, regional or district firefighter unit;

27 (b) Have graduated from high school, have earned an
28 equivalency diploma issued by the Department of Education
29 pursuant to s. 229.814, or have earned an equivalency diploma
30 issued by the United States Armed Forces Institute;

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1 (c) Be accepted for full-time enrollment, with the
2 intent to maintain such enrollment at the Florida State Fire
3 College;

4 (d) Have the firefighter unit by whom the applicant is
5 employed or for which the applicant is a volunteer, recommend
6 her or him and certify that, because of financial need, the
7 scholarship is necessary for her or him to attend the State
8 Fire College; and

9 (e) Agree that she or he intends to return to duty
10 with the firefighter unit by whom she or he was recommended,
11 or, by agreement with such unit, that she or he will remain in
12 some capacity relating to the firefighting profession for a
13 period of at least 1 year.

14 (8) The Department of Insurance and Financial Services
15 may adopt rules to implement this section, including rules
16 detailing the eligibility standards and an approval rating
17 system which are based on financial need, need for additional
18 certified firefighters from the applicant's community, and the
19 applicant's employment record.

20 (9) After selection and approval of an applicant for a
21 grant by the council, payment in the applicant's name for
22 scholarship funds shall be transmitted from the Insurance
23 Commissioner's Regulatory Trust Fund by the Chief Financial
24 Officer ~~Comptroller~~ upon receipt of vouchers authorized by the
25 State Fire Marshal. If a recipient terminates her or his
26 enrollment during the course of her or his curriculum at the
27 State Fire College, unless excused by the council and allowed
28 to resume training at a later time, any unused portion of the
29 scholarship funds shall be refunded to the trust fund. A
30 recipient who terminates her or his enrollment is not liable
31 for any portion of a scholarship.

1 Section 707. Effective January 7, 2003, subsection (1)
2 of section 633.45, Florida Statutes, is amended to read:

3 633.45 Division of State Fire Marshal; powers,
4 duties.--

5 (1) The Division of State Fire Marshal of the
6 Department of Insurance and Financial Services shall:

7 (a) Establish uniform minimum standards for the
8 employment and training of firefighters.

9 (b) Establish minimum curriculum requirements for
10 schools operated by or for any employing agency for the
11 specific purpose of training firefighter recruits or
12 firefighters.

13 (c) Approve institutions, instructors, and facilities
14 for school operation by or for any employing agency for the
15 specific purpose of training firefighters and firefighter
16 recruits.

17 (d) Specify, by rule, standards for the approval,
18 denial of approval, probation, and revocation of approval of
19 institutions, instructors, and facilities for training
20 firefighters and firefighter recruits; including a rule that
21 an instructor must complete 40 hours of continuing education
22 every 3 years in order to maintain the approval of the
23 department.

24 (e) Issue certificates of competency to persons who,
25 by reason of experience and completion of basic inservice
26 training, advanced education, or specialized training, are
27 especially qualified for particular aspects or classes of
28 firefighter duties.

29 (f) Establish minimum training qualifications for
30 persons serving as firesafety coordinators for their
31

1 | respective departments of state government and certify all
2 | persons who satisfy such qualifications.

3 | (g) Establish a uniform lesson plan to be followed by
4 | firesafety instructors in the training of state employees in
5 | firesafety and emergency evacuation procedures.

6 | (h) Have complete jurisdiction over, and complete
7 | management and control of, the Florida State Fire College and
8 | be invested with full power and authority to make all rules
9 | and regulations necessary for the governance of said
10 | institution.

11 | (i) Appoint a superintendent of the Florida State Fire
12 | College and such other instructors, experimental helpers, and
13 | laborers as may be necessary and remove the same as in its
14 | judgment and discretion may be best, fix their compensation,
15 | and provide for their payment.

16 | (j) Have full management, possession, and control of
17 | the lands, buildings, structures, and property belonging to
18 | the Florida State Fire College.

19 | (k) Provide for the courses of study and curriculum of
20 | the Florida State Fire College.

21 | (l) Make rules and regulations for the admission of
22 | trainees to the Florida State Fire College.

23 | (m) Visit and inspect the Florida State Fire College
24 | and every department thereof and provide for the proper
25 | keeping of accounts and records thereof.

26 | (n) Make and prepare all necessary budgets of
27 | expenditures for the enlargement, proper furnishing,
28 | maintenance, support, and conduct of the Florida State Fire
29 | College.

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1 (o) Select and purchase all property, furniture,
2 fixtures, and paraphernalia necessary for the Florida State
3 Fire College.

4 (p) Build, construct, change, enlarge, repair, and
5 maintain any and all buildings or structures of the Florida
6 State Fire College that may at any time be necessary for said
7 institution and purchase and acquire all lands and property
8 necessary for same, of every nature and description
9 whatsoever.

10 (q) Care for and maintain the Florida State Fire
11 College and do and perform every other matter or thing
12 requisite to the proper management, maintenance, support, and
13 control of said institution, necessary or requisite to carry
14 out fully the purpose of this act and for raising it to, and
15 maintaining it at, the proper efficiency and standard as
16 required in and by the provisions of ss. 633.43-633.49.

17 Section 708. Effective January 7, 2003, section
18 633.47, Florida Statutes, is amended to read:

19 633.47 Procedure for making expenditures.--No moneys
20 shall be spent for and on behalf of the Florida State Fire
21 College except upon a written voucher drawn by the division,
22 stating the nature of the expenditures and the person to whom
23 the same shall be made payable, which voucher shall be
24 submitted to the Chief Financial Officer ~~Comptroller~~ and
25 audited for approval by her or him; upon such approval, the
26 Chief Financial Officer ~~Comptroller~~ shall draw a warrant upon
27 the Treasury ~~Treasurer~~ for the payment thereof, filing the
28 original voucher in her or his office.

29 Section 709. Effective January 7, 2003, subsection (1)
30 of section 633.50, Florida Statutes, is amended to read:

31

1 633.50 Division powers and duties; Florida State Fire
2 College.--
3 (1) The Division of State Fire Marshal of the
4 Department of Insurance and Financial Services, in performing
5 its duties related to the Florida State Fire College,
6 specified in ss. 633.43-633.49, shall:
7 (a) Enter into agreements with public or private
8 school districts, community colleges, junior colleges, or
9 universities to carry out its duties and responsibilities.
10 (b) Review and approve budget requests for the fire
11 college educational program.
12 (c) Prepare the legislative budget request for the
13 Florida State Fire College education program. The
14 superintendent is responsible for all expenditures pursuant to
15 appropriations.
16 (d) Implement procedures to obtain appropriate
17 entitlement funds from federal and state grants to supplement
18 the annual legislative appropriation. Such funds must be used
19 expressly for the fire college educational programs.
20 (e) Develop a staffing and funding formula for the
21 Florida State Fire College. The formula shall include
22 differential funding levels for various types of programs,
23 shall be based on the number of full-time equivalent students
24 and information obtained from scheduled attendance counts
25 taken the first day of each program, and shall provide the
26 basis for the legislative budget request. As used in this
27 section, a full-time equivalent student is equal to a minimum
28 of 900 hours in a vocational program and 400 hours in a
29 degree-seeking program. The funding formula shall be as
30 prescribed pursuant to s. 236.081, shall include procedures to
31

1 document daily attendance, and shall require that attendance
2 records be retained for audit purposes.

3 Section 710. Effective January 7, 2003, subsection (4)
4 of section 634.011, Florida Statutes, is amended to read:

5 634.011 Definitions.--As used in this part, the term:

6 (4) "Department" means the Department of Insurance and
7 Financial Services.

8 Section 711. Effective January 7, 2003, section
9 634.161, Florida Statutes, is amended to read:

10 634.161 Service of process; method.--

11 (1) Service of process upon the Insurance Commissioner
12 ~~and Treasurer~~ as process agent of the company shall be made by
13 serving copies in triplicate of the process upon the Insurance
14 Commissioner ~~and Treasurer~~ or upon her or his assistant,
15 deputy, or other person in charge of her or his office. Upon
16 receiving such service, the Insurance Commissioner ~~and~~
17 ~~Treasurer~~ shall file one copy with the department, return one
18 copy with her or his admission of service, and promptly
19 forward one copy of the process by registered or certified
20 mail to the person last designated by the company to receive
21 the same, as provided under s. 634.151.

22 (2) Process served upon the Insurance Commissioner ~~and~~
23 ~~Treasurer~~ and copy thereof forwarded as in this section
24 provided shall for all purposes constitute valid and binding
25 service thereof upon the company.

26 Section 712. Effective January 7, 2003, subsection (1)
27 of section 634.301, Florida Statutes, is amended to read:

28 634.301 Definitions.--As used in this part, the term:

29 (1) "Department" means the Department of Insurance and
30 Financial Services.

31

1 Section 713. Effective January 7, 2003, subsection (1)
2 of section 634.313, Florida Statutes, is amended to read:

3 634.313 Tax on premiums; annual statement; reports.--
4 (1) In addition to paying the license taxes provided
5 for in this part for home warranty associations and license
6 taxes provided in the insurance code as to insurers, each such
7 association and each such insurer must, annually on or before
8 March 1, file with the department its annual statement, in the
9 form prescribed by the department, showing all premiums
10 received by it in connection with the issuance of warranties
11 in this state during the preceding calendar year and using
12 accounting principles that will enable the department to
13 ascertain whether the reserve required by s. 634.3077 has been
14 maintained. Each annual statement must contain a balance
15 sheet listing all assets and liabilities; a statement of
16 operations and retained earnings; and a schedule used to
17 report all claims statistics. The annual statement must be
18 completed using generally accepted accounting principles
19 except as otherwise provided in this part. Further, each
20 association and each insurer must pay to the Chief Financial
21 Officer ~~Treasurer~~ a tax in an amount equal to 2 percent of the
22 amount of such premiums so received.

23 Section 714. Effective January 7, 2003, section
24 634.327, Florida Statutes, is amended to read:

25 634.327 Applicability to warranty on new home.--This
26 part shall not apply to any program offering a warranty on a
27 new home which is underwritten by an insurer licensed to do
28 business in the state when the insurance policy underwriting
29 such program has been filed with and approved by the
30 Department of Insurance and Financial Services as required by
31 law.

1 Section 715. Effective January 7, 2003, subsection (2)
2 of section 634.401, Florida Statutes, is amended to read:
3 634.401 Definitions.--As used in this part, the term:
4 (2) "Department" means the Department of Insurance and
5 Financial Services.
6 Section 716. Effective January 7, 2003, subsection (3)
7 of section 635.011, Florida Statutes, is amended to read:
8 635.011 Definitions.--As used in this chapter, the
9 term:
10 (3) "Department" means the Department of Insurance and
11 Financial Services of this state.
12 Section 717. Effective January 7, 2003, subsection (2)
13 of section 635.041, Florida Statutes, is amended to read:
14 635.041 Contingency reserve.--
15 (2) Subject to approval by the insurance department of
16 the insurer's state of domicile and upon 30 days' prior notice
17 to the Department of Insurance and Financial Services of this
18 state, the contingency reserve shall be available for loss
19 payments only when the insurer's incurred losses in any one
20 calendar year exceed 35 percent of the corresponding earned
21 premiums.
22 Section 718. Effective January 7, 2003, subsection (3)
23 of section 636.003, Florida Statutes, is amended to read:
24 636.003 Definitions.--As used in this act, the term:
25 (3) "Department" means the Department of Insurance and
26 Financial Services.
27 Section 719. Effective January 7, 2003, subsection (1)
28 of section 641.185, Florida Statutes, is amended to read:
29 641.185 Health maintenance organization subscriber
30 protections.--
31

1 (1) With respect to the provisions of this part and
2 part III, the principles expressed in the following statements
3 shall serve as standards to be followed by the Department of
4 Insurance and Financial Services and the Agency for Health
5 Care Administration in exercising their powers and duties, in
6 exercising administrative discretion, in administrative
7 interpretations of the law, in enforcing its provisions, and
8 in adopting rules:

9 (a) A health maintenance organization shall ensure
10 that the health care services provided to its subscribers
11 shall be rendered under reasonable standards of quality of
12 care which are at a minimum consistent with the prevailing
13 standards of medical practice in the community pursuant to ss.
14 641.495(1) and 641.51.

15 (b) A health maintenance organization subscriber
16 should receive quality health care from a broad panel of
17 providers, including referrals, preventive care pursuant to s.
18 641.402(1), emergency screening and services pursuant to ss.
19 641.31(12) and 641.513, and second opinions pursuant to s.
20 641.51.

21 (c) A health maintenance organization subscriber
22 should receive assurance that the health maintenance
23 organization has been independently accredited by a national
24 review organization pursuant to s. 641.512, and is financially
25 secure as determined by the state pursuant to ss. 641.221,
26 641.225, and 641.228.

27 (d) A health maintenance organization subscriber
28 should receive continuity of health care, even after the
29 provider is no longer with the health maintenance organization
30 pursuant to s. 641.51(8).

31

- 1 (e) A health maintenance organization subscriber
2 should receive timely, concise information regarding the
3 health maintenance organization's reimbursement to providers
4 and services pursuant to ss. 641.31 and 641.31015.
- 5 (f) A health maintenance organization subscriber
6 should receive the flexibility to transfer to another Florida
7 health maintenance organization, regardless of health status,
8 pursuant to ss. 641.228, 641.3104, 641.3107, 641.3111,
9 641.3921, and 641.3922.
- 10 (g) A health maintenance organization subscriber
11 should be eligible for coverage without discrimination against
12 individual participants and beneficiaries of group plans based
13 on health status pursuant to s. 641.31073.
- 14 (h) A health maintenance organization that issues a
15 group health contract must: provide coverage for preexisting
16 conditions pursuant to s. 641.31071; guarantee renewability of
17 coverage pursuant to s. 641.31074; provide notice of
18 cancellation pursuant to s. 641.3108; provide extension of
19 benefits pursuant to s. 641.3111; provide for conversion on
20 termination of eligibility pursuant to s. 641.3921; and
21 provide for conversion contracts and conditions pursuant to s.
22 641.3922.
- 23 (i) A health maintenance organization subscriber
24 should receive timely and, if necessary, urgent grievances and
25 appeals within the health maintenance organization pursuant to
26 ss. 641.228, 641.31(5), 641.47, and 641.511.
- 27 (j) A health maintenance organization should receive
28 timely and, if necessary, urgent review by an independent
29 state external review organization for unresolved grievances
30 and appeals pursuant to s. 408.7056.
31

1 (k) A health maintenance organization subscriber shall
2 be given written notice at least 30 days in advance of a rate
3 change pursuant to s. 641.31(3)(b). In the case of a group
4 member, there may be a contractual agreement with the health
5 maintenance organization to have the employer provide the
6 required notice to the individual members of the group
7 pursuant to s. 641.31(3)(b).

8 (1) A health maintenance organization subscriber shall
9 be given a copy of the applicable health maintenance contract,
10 certificate, or member handbook specifying: all the
11 provisions, disclosure, and limitations required pursuant to
12 s. 641.31(1) and (4); the covered services, including those
13 services, medical conditions, and provider types specified in
14 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and
15 641.513; and where and in what manner services may be obtained
16 pursuant to s. 641.31(4).

17 Section 720. Effective January 7, 2003, subsections
18 (6) and (11) of section 641.19, Florida Statutes, are amended
19 to read:

20 641.19 Definitions.--As used in this part, the term:

21 (6) "Department" means the Department of Insurance and
22 Financial Services.

23 (11) "Guaranteeing organization" is an organization
24 which is domiciled in the United States; which has authorized
25 service of process against it; and which has appointed the
26 Insurance Commissioner ~~and Treasurer~~ as its agent for service
27 of process issuing upon any cause of action arising in this
28 state, based upon any guarantee entered into under this part.

29 Section 721. Effective January 7, 2003, subsection (1)
30 of section 641.23, Florida Statutes, is amended to read:

31

1 641.23 Revocation or cancellation of certificate of
2 authority; suspension of enrollment of new subscribers; terms
3 of suspension.--
4 (1) The maintenance of a valid and current health care
5 provider certificate issued pursuant to part III of this
6 chapter is a condition of the maintenance of a valid and
7 current certificate of authority issued by the department to
8 operate a health maintenance organization. Denial or
9 revocation of a health care provider certificate shall be
10 deemed to be an automatic and immediate cancellation of a
11 health maintenance organization's certificate of authority.
12 At the discretion of the Department of Insurance and Financial
13 Services, nonrenewal of a health care provider certificate may
14 be deemed to be an automatic and immediate cancellation of a
15 health maintenance organization's certificate of authority if
16 the Agency for Health Care Administration notifies the
17 Department of Insurance and Financial Services, in writing,
18 that the health care provider certificate will not be renewed.
19 Section 722. Effective January 7, 2003, subsection (1)
20 of section 641.39001, Florida Statutes, is amended to read:
21 641.39001 Soliciting or accepting new or renewal
22 health maintenance contracts by insolvent or impaired health
23 maintenance organization prohibited; penalty.--
24 (1) Whether or not delinquency proceedings as to a
25 health maintenance organization have been or are to be
26 initiated, a director or officer of a health maintenance
27 organization, except with the written permission of the
28 Department of Insurance and Financial Services, may not
29 authorize or permit the health maintenance organization to
30 solicit or accept new or renewal health maintenance contracts
31 or provider contracts in this state after the director or

1 officer knew, or reasonably should have known, that the health
2 maintenance organization was insolvent or impaired. As used in
3 this section, the term "impaired" means that the health
4 maintenance organization does not meet the requirements of s.
5 641.225.

6 Section 723. Effective January 7, 2003, subsections
7 (2) and (3) of section 641.402, Florida Statutes, are amended
8 to read:

9 641.402 Definitions.--As used in this part, the term:

10 (2) "Department" means the Department of Insurance and
11 Financial Services.

12 (3) "Guaranteeing organization" means an organization
13 which is domiciled in the United States; which has authorized
14 service of process against it; and which has appointed the
15 Insurance Commissioner ~~and Treasurer~~ as its agent for service
16 of process in connection with any cause of action arising in
17 this state, based upon any guarantee entered into under this
18 part.

19 Section 724. Effective January 7, 2003, section
20 641.403, Florida Statutes, is amended to read:

21 641.403 Rulemaking authority.--The Department of
22 Insurance and Financial Services has authority to adopt rules
23 pursuant to ss. 120.536(1) and 120.54 to implement the
24 provisions of this part.

25 Section 725. Effective January 7, 2003, paragraph (b)
26 of subsection (2) of section 641.412, Florida Statutes, is
27 amended to read:

28 641.412 Fees.--

29 (2) The fees charged under this section shall be
30 distributed as follows:

31

1 (b) Two-thirds of the total amount of fees shall be
2 distributed to the Department of Insurance and Financial
3 Services.

4 Section 726. Effective January 7, 2003, section
5 641.454, Florida Statutes, is amended to read:

6 641.454 Civil action to enforce prepaid health clinic
7 contract; attorney's fees; court costs.--In any civil action
8 brought to enforce the terms and conditions of a prepaid
9 health clinic contract, the prevailing party is entitled to
10 recover reasonable attorney's fees and court costs. This
11 section shall not be construed to authorize a civil action
12 against the department, its employees, or the Insurance
13 Commissioner ~~and Treasurer~~ or against the Agency for Health
14 Care Administration, the employees of the Agency for Health
15 Care Administration, or the Secretary of Health Care
16 Administration.

17 Section 727. Effective January 7, 2003, section
18 641.48, Florida Statutes, is amended to read:

19 641.48 Purpose and application of part.--The purpose
20 of this part is to ensure that health maintenance
21 organizations and prepaid health clinics deliver high-quality
22 health care to their subscribers. To achieve this purpose,
23 this part requires all such organizations to obtain a health
24 care provider certificate from the agency as a condition
25 precedent to obtaining a certificate of authority to do
26 business in Florida from the Department of Insurance and
27 Financial Services, under part I or part II of this chapter.

28 Section 728. Effective January 7, 2003, subsection (2)
29 of section 641.49, Florida Statutes, is amended to read:

30
31

1 641.49 Certification of health maintenance
2 organization and prepaid health clinic as health care
3 providers; application procedure.--

4 (2) The Department of Insurance and Financial Services
5 shall not issue a certificate of authority under part I or
6 part II of this chapter to any applicant which does not
7 possess a valid health care provider certificate issued by the
8 agency under this part.

9 Section 729. Effective January 7, 2003, subsection
10 (7), paragraph (a) of subsection (8), and subsection (11) of
11 section 641.511, Florida Statutes, are amended to read:

12 641.511 Subscriber grievance reporting and resolution
13 requirements.--

14 (7) Each organization shall send to the agency a copy
15 of its quarterly grievance reports submitted to the Department
16 of Insurance and Financial Services pursuant to s.
17 408.7056(12).

18 (8) The agency shall investigate all reports of
19 unresolved quality of care grievances received from:

20 (a) Annual and quarterly grievance reports submitted
21 by the organization to the Department of Insurance and
22 Financial Services.

23 (11) Each organization, as part of its contract with
24 any provider, must require the provider to post a consumer
25 assistance notice prominently displayed in the reception area
26 of the provider and clearly noticeable by all patients. The
27 consumer assistance notice must state the addresses and
28 toll-free telephone numbers of the Agency for Health Care
29 Administration, the Statewide Provider and Subscriber
30 Assistance Program, and the Department of Insurance and
31 Financial Services. The consumer assistance notice must also

1 clearly state that the address and toll-free telephone number
2 of the organization's grievance department shall be provided
3 upon request. The agency is authorized to promulgate rules to
4 implement this section.

5 Section 730. Effective January 7, 2003, subsection (6)
6 of section 641.52, Florida Statutes, is amended to read:

7 641.52 Revocation of certificate; suspension of new
8 enrollment; suspension of the health care provider
9 certificate; administrative fine; notice of action to the
10 Department of Insurance and Financial Services; penalty for
11 use of unlicensed providers.--

12 (6) The agency shall immediately notify the Department
13 of Insurance and Financial Services whenever it issues an
14 administrative complaint or an order or otherwise initiates
15 legal proceedings resulting in or which may result in
16 suspension or revocation of an organization's health care
17 provider certificate or suspension of new enrollment.

18 Section 731. Effective January 7, 2003, subsection (4)
19 of section 641.55, Florida Statutes, is amended to read:

20 641.55 Internal risk management program.--

21 (4) The Agency for Health Care Administration shall
22 adopt rules necessary to carry out the provisions of this
23 section, including rules governing the establishment of
24 required internal risk management programs to meet the needs
25 of individual organizations and each specific organization
26 type governed by this part. The Department of Insurance and
27 Financial Services shall assist the agency in preparing these
28 rules. Each internal risk management program shall include the
29 use of incident reports to be filed with the risk manager.
30 The risk manager shall have free access to all organization or
31 provider medical records. The incident reports shall be

1 considered to be a part of the workpapers of the attorney
2 defending the organization in litigation relating thereto and
3 shall be subject to discovery, but not be admissible as
4 evidence in court, nor shall any person filing an incident
5 report be subject to civil suit by virtue of the incident
6 report and the matters it contains. As a part of each
7 internal risk management program, the incident reports shall
8 be utilized to develop categories of incidents which identify
9 problem areas. Once identified, procedures must be adjusted to
10 correct these problem areas.

11

12 The gross data compiled under this section or s. 395.0197
13 shall be furnished by the agency upon request to organizations
14 to be utilized for risk management purposes. The agency shall
15 adopt rules necessary to carry out the provisions of this
16 section.

17 Section 732. Effective January 7, 2003, subsection (2)
18 of section 641.58, Florida Statutes, is amended to read:

19 641.58 Regulatory assessment; levy and amount; use of
20 funds; tax returns; penalty for failure to pay.--

21 (2) The Department of Insurance and Financial Services
22 shall determine the amount of gross premiums for the purposes
23 of the regulatory assessment, and then the agency shall
24 determine on or before December 1 of each year the regulatory
25 assessment percentage necessary to be imposed for that
26 calendar year, payable on or before the following April 1, as
27 herein prescribed, to provide the funds appropriated to the
28 agency to carry out the provisions of subsection (4).

29 Section 733. Effective January 7, 2003, subsection (1)
30 of section 642.015, Florida Statutes, is amended to read:

31

1 642.015 Definitions.--As used in ss. 642.011-642.049,
2 the term:

3 (1) "Department" means the Department of Insurance and
4 Financial Services.

5 Section 734. Effective January 7, 2003, subsection (2)
6 of section 648.25, Florida Statutes, is amended to read:

7 648.25 Definitions.--The following words when used in
8 this chapter have the meanings respectively ascribed to them
9 in this section:

10 (2) "Department" means the Department of Insurance and
11 Financial Services.

12 Section 735. Effective January 7, 2003, section
13 648.26, Florida Statutes, is amended to read:

14 648.26 Department of Insurance and Financial Services;
15 administration.--

16 (1) The department shall administer the provisions of
17 this chapter as provided in this chapter.

18 (a) The department has authority to adopt rules
19 pursuant to ss. 120.536(1) and 120.54 to implement the
20 provisions of this chapter conferring powers or duties upon
21 it.

22 (b) The department may employ and discharge such
23 employees, examiners, counsel, and other assistants as shall
24 be deemed necessary, and it shall prescribe their duties;
25 their compensation shall be the same as other state employees
26 receive for similar services.

27 (2) The department shall adopt a seal by which its
28 proceedings are authenticated. Any written instrument
29 purporting to be a copy of any action, proceeding, or finding
30 of fact by the department, or any record of the department
31

1 authenticated by the seal, shall be accepted by all the courts
2 of this state as prima facie evidence of the contents thereof.

3 (3) The papers, documents, reports, or any other
4 investigatory records of the department are confidential and
5 exempt from the provisions of s. 119.07(1) until such
6 investigation is completed or ceases to be active. For the
7 purpose of this section, an investigation is considered
8 "active" while the investigation is being conducted by the
9 department with a reasonable, good faith belief that it may
10 lead to the filing of administrative, civil, or criminal
11 proceedings. An investigation does not cease to be active if
12 the department is proceeding with reasonable dispatch and
13 there is good faith belief that action may be initiated by the
14 department or other administrative or law enforcement agency.

15 Section 736. Effective January 7, 2003, paragraph (b)
16 of subsection (1) and paragraph (b) of subsection (2) of
17 section 648.386, Florida Statutes, are amended to read:

18 648.386 Qualifications for prelicensing and continuing
19 education schools and instructors.--

20 (1) SCHOOLS AND CURRICULUM FOR PRELICENSING
21 SCHOOLS.--In order to be considered for approval and
22 certification as an approved limited surety agent and
23 professional bail bond agent prelicensing school, such entity
24 must:

25 (b) Submit a prelicensing course curriculum to the
26 Department of Insurance and Financial Services for approval.

27 (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION
28 SCHOOLS.--In order to be considered for approval and
29 certification as an approved limited surety agent and
30 professional bail bond agent continuing education school, such
31 entity must:

1 (b) Submit a course curriculum to the Department of
2 Insurance and Financial Services for approval.

3 Section 737. Effective January 7, 2003, subsection (9)
4 of section 648.442, Florida Statutes, is amended to read:

5 648.442 Collateral security.--

6 (9) An indemnity agreement may not be entered into
7 between a principal and either a surety or any agent of the
8 surety, and an application may not be accepted either by a
9 bail bond agent engaged in the bail bond business or by a
10 surety company for a bail bond in which an indemnity agreement
11 is required between a principal and either a surety or any
12 agent of such surety, unless the indemnity agreement reads as
13 follows: "For good and valuable consideration, the
14 undersigned principal agrees to indemnify and hold harmless
15 the surety company or its agent for all losses not otherwise
16 prohibited by law or by rules of the Department of Insurance
17 and Financial Services."

18 Section 738. Effective January 7, 2003, subsection (4)
19 of section 650.06, Florida Statutes, is amended to read:

20 650.06 Social Security Contribution Trust Fund.--

21 (4) The Chief Financial Officer ~~Treasurer~~ of the state
22 shall be ex officio treasurer and custodian of the Social
23 Security Contribution Trust Fund and shall administer such
24 fund in accordance with the provisions of this chapter and the
25 directions of the state agency. The Chief Financial Officer
26 ~~Treasurer~~ shall pay all warrants ~~drawn by the Comptroller~~ upon
27 the fund in accordance with the provisions of this section and
28 with such regulations as the state agency may prescribe
29 pursuant thereto.

30 Section 739. Effective January 7, 2003, subsection (3)
31 of section 651.011, Florida Statutes, is amended to read:

1 651.011 Definitions.--For the purposes of this
2 chapter, the term:

3 (3) "Department" means the Department of Insurance and
4 Financial Services of this state.

5 Section 740. Effective January 7, 2003, subsection (3)
6 of section 651.0235, Florida Statutes, is amended to read:

7 651.0235 Validity of provisional certificates of
8 authority and certificates of authority.--

9 (3) The Department of Insurance and Financial Services
10 shall notify the Agency for Health Care Administration of any
11 facility for which a provisional certificate of authority or
12 certificate of authority is no longer valid.

13 Section 741. Effective January 7, 2003, paragraph (b)
14 of subsection (1) of section 651.035, Florida Statutes, is
15 amended to read:

16 651.035 Minimum liquid reserve requirements.--

17 (1)

18 (b) A provider which has outstanding indebtedness
19 which requires what is normally referred to as a "debt service
20 reserve" to be held in escrow pursuant to a trust indenture or
21 mortgage lien on the facility and for which the debt service
22 reserve may only be used to pay principal and interest
23 payments on the debt which the debtor is obligated to pay, and
24 which may include taxes and insurance, may include such debt
25 service reserve in its computation of its minimum liquid
26 reserve to satisfy this subsection, provided that the provider
27 furnishes to the Department of Insurance and Financial
28 Services a copy of the agreement under which such debt service
29 is held, together with a statement of the amount being held in
30 escrow for the debt service reserve, certified by the lender
31 or trustee and the provider to be correct. The trustee shall

1 provide the department with any information concerning the
2 debt service reserve account upon request of the provider or
3 the department.

4 Section 742. Effective January 7, 2003, subsection (1)
5 of section 651.121, Florida Statutes, is amended to read:

6 651.121 Advisory council.--

7 (1) The Continuing Care Advisory Council to the
8 Department of Insurance and Financial Services is created to
9 consist of 10 members who are residents of this state
10 appointed by the Governor and geographically representative of
11 this state. Three members shall be administrators of
12 facilities which hold valid certificates of authority under
13 this chapter and shall have been actively engaged in the
14 offering of continuing care agreements in this state for 5
15 years before appointment. The remaining members shall
16 include:

17 (a) A representative of the business community whose
18 expertise is in the area of management.

19 (b) A representative of the financial community who is
20 not a facility owner or administrator.

21 (c) A certified public accountant.

22 (d) An attorney.

23 (e) Three residents who hold continuing care
24 agreements with a facility certified in this state.

25 Section 743. Effective January 7, 2003, subsection (4)
26 of section 651.125, Florida Statutes, is amended to read:

27 651.125 Criminal penalties; injunctive relief.--

28 (4) Any action brought by the department against a
29 provider shall not abate by reason of a sale or other transfer
30 of ownership of the facility used to provide care, which
31

1 provider is a party to the action, except with the express
2 written consent of the ~~Treasurer and~~ Insurance Commissioner.

3 Section 744. Effective January 7, 2003, subsection (1)
4 of section 655.001, Florida Statutes, is amended to read:

5 655.001 Purpose; application.--The purposes of the
6 financial institutions codes are to:

7 (1) Provide general regulatory powers to be exercised
8 by the Department of Insurance and Financial Services ~~Banking~~
9 ~~and Finance~~ in relation to the regulation of financial
10 institutions. The financial institutions codes apply to all
11 state-authorized or state-chartered financial institutions and
12 to the enforcement of all laws relating to state-authorized or
13 state-chartered financial institutions.

14 Section 745. Effective January 7, 2003, paragraph (e)
15 of subsection (1) of section 655.005, Florida Statutes, is
16 amended to read:

17 655.005 Definitions.--

18 (1) As used in the financial institutions codes,
19 unless the context otherwise requires, the term:

20 (e) "Department" means the Department of Insurance and
21 Financial Services ~~Banking and Finance~~.

22 Section 746. Effective January 7, 2003, paragraph (f)
23 of subsection (3) of section 655.057, Florida Statutes, is
24 amended to read:

25 655.057 Records; limited restrictions upon public
26 access.--

27 (3) The provisions of this section do not prevent or
28 restrict:

29 (f) Furnishing information upon request to the Chief
30 Financial Officer ~~State Treasurer~~ regarding the financial
31 condition of any financial institution that is, or has applied

1 to be, designated as a qualified public depository pursuant to
2 chapter 280.

3

4 Any confidential information or records obtained from the
5 department pursuant to this subsection shall be maintained as
6 confidential and exempt from the provisions of s. 119.07(1).

7 Section 747. Effective January 7, 2003, paragraph (a)
8 of subsection (1) of section 655.90, Florida Statutes, is
9 amended to read:

10 655.90 Closing during emergencies and other special
11 days.--

12 (1) DEFINITIONS.--As used in this section, the term:

13 (a) "Commissioner" means the officer of this state
14 designated by law as the head of the Office of Financial
15 Services ~~Department of Banking and Finance~~ and any other
16 person lawfully exercising such powers, whether as a deputy to
17 such officer, as a director, bureau chief, or financial
18 administrator of or within such department, or otherwise.

19 Section 748. Effective January 7, 2003, section
20 655.949, Florida Statutes, is amended to read:

21 655.949 Department personnel; qualifications.--Before
22 January 1, 1993, the department shall establish and publish
23 educational, professional, and other appropriate
24 qualifications for each position in the department ~~and the~~
25 ~~Office of the Comptroller~~ authorized to participate in the
26 regulation of financial institutions, including positions with
27 the authority to overrule the actions or decisions of
28 professional examiners or legal staff in their exercise of
29 their duties under the financial institutions codes ~~excepting~~
30 ~~the position of assistant comptroller~~. Such qualifications
31 shall contain at a minimum sufficient experience and expertise

1 in the regulation of financial institutions as to clearly
2 justify the exercise of authority to overrule the actions or
3 decisions of professional examiners or legal staff.
4 Section 749. Effective January 7, 2003, subsection (7)
5 of section 657.002, Florida Statutes, is amended to read:
6 657.002 Definitions.--As used in this part:
7 (7) "Department" means the Department of Insurance and
8 Financial Services ~~Banking and Finance~~.
9 Section 750. Effective January 7, 2003, subsection (3)
10 of section 657.253, Florida Statutes, is amended to read:
11 657.253 Definitions.--As used in this part:
12 (3) "Department" means the Department of Insurance and
13 Financial Services ~~Banking and Finance~~.
14 Section 751. Effective January 7, 2003, subsection (3)
15 of section 658.23, Florida Statutes, is amended to read:
16 658.23 Submission of articles of incorporation;
17 contents; form; approval; filing; commencement of corporate
18 existence; bylaws.--
19 (3) Within 30 days of receipt of the executed articles
20 of incorporation in the form previously approved, and the
21 required filing fees, the department shall place the following
22 legend upon the articles of incorporation and affix the seal
23 of the Office of the Commissioner of Financial Services
24 ~~Comptroller of Florida~~ thereto. The legend shall in substance
25 read: "Approved by the Department of Insurance and Financial
26 Services ~~of Banking and Finance~~ this day of
27 ...(herein the name and signature of the head of the
28 department)...." Thereafter, the articles of incorporation
29 shall be filed with the Department of State.
30
31

1 Section 752. Effective January 7, 2003, paragraph (k)
2 of subsection (2) of section 658.295, Florida Statutes, is
3 amended to read:

4 658.295 Interstate banking.--

5 (2) DEFINITIONS.--For purposes of this section, the
6 term:

7 (k) "Department" means the Department of Insurance and
8 Financial Services ~~Banking and Finance~~.

9 Section 753. Effective January 7, 2003, paragraph (e)
10 of subsection (4) of section 658.2953, Florida Statutes, is
11 amended to read:

12 658.2953 Interstate branching.--

13 (4) DEFINITIONS.--As used in this section, unless a
14 different meaning is required by the context:

15 (e) "Department" means the Department of Insurance and
16 Financial Services ~~Banking and Finance~~.

17 Section 754. Effective January 7, 2003, subsection (3)
18 of section 658.83, Florida Statutes, is amended to read:

19 658.83 Liquidator; powers and duties.--

20 (3) Such liquidator shall pay all moneys received to
21 the Chief Financial Officer ~~Treasurer~~ to be held as a special
22 deposit for the use and benefit of the creditors subject to
23 the order of the department and also shall make reports
24 quarterly, or when called upon, to the department of all her
25 or his acts and proceedings.

26 Section 755. Effective January 7, 2003, subsections
27 (2), (3), and (5) of section 660.27, Florida Statutes, are
28 amended to read:

29 660.27 Deposit of securities with Chief Financial
30 Officer ~~Treasurer~~.--

31

1 (2) The trust company, bank, or association shall
2 provide to the Chief Financial Officer ~~Treasurer~~ the
3 following:

4 (a) Written information which includes full legal
5 name; federal employer identification number; principal place
6 of business; amount of capital stock; and amount of required
7 collateral.

8 (b) The required information listed in paragraph (a)
9 shall be provided annually as of September 30 and shall be due
10 November 15.

11 (3) The Chief Financial Officer ~~Treasurer~~ shall
12 determine whether the security deposited or pledged pursuant
13 to this section, or tendered for such deposit or pledge, is of
14 the kind or type permitted, and has a market value in the
15 amount required, by subsection (1). The security required by
16 this section shall be deposited with or to the credit of, or
17 pledged to, the Chief Financial Officer ~~Treasurer~~ for the
18 account of each state or national bank, state or federal
19 association, or trust company depositing or pledging the same
20 and shall be used, if at all, by the liquidator of such bank,
21 association, or trust company with first priority being given
22 to claims on account of the trust business or fiduciary
23 functions of such bank, association, or trust company or,
24 prior to liquidation, for the payment of any judgment or
25 decree which may be rendered against such bank, association,
26 or trust company in connection with its trust business or its
27 fiduciary functions if such judgment or decree is not
28 otherwise paid by, or out of other assets of, such bank,
29 association, or trust company.

30 (5) With the approval of the Chief Financial Officer
31 ~~Treasurer~~, each trust company, bank, or association as pledgor

1 may deposit eligible collateral with a custodian. This
2 custodian shall not be affiliated or related to the trust
3 company, bank, or association. Collateral must be deposited
4 using the collateral agreements and provisions as set forth in
5 s. 280.041(1) and (2).

6 Section 756. Effective January 7, 2003, section
7 660.28, Florida Statutes, is amended to read:

8 660.28 Exemption from bond and other security as
9 fiduciary.--A trust company or trust department maintaining
10 security with the Chief Financial Officer ~~Treasurer~~ as
11 required by s. 660.27 shall not be required by the state or
12 any of its political subdivisions or by a court of this state
13 to furnish any bond or other security as a condition of, or in
14 connection with, acting in any fiduciary capacity which such
15 trust company or trust department is lawfully permitted to
16 accept or assume.

17 Section 757. Effective January 7, 2003, subsection (2)
18 of section 687.13, Florida Statutes, is amended to read:

19 687.13 International transactions.--

20 (2) The provisions of this chapter shall not apply to
21 any international banking facility "deposit," "borrowing," or
22 "extension of credit," as those terms are defined by the
23 Department of Insurance and Financial Services ~~Banking and~~
24 ~~Finance~~ pursuant to s. 655.071.

25 Section 758. Effective January 7, 2003, subsection (3)
26 of section 687.14, Florida Statutes, is amended to read:

27 687.14 Definitions.--As used in this act, unless the
28 context otherwise requires:

29 (3) "Department" means the Department of Insurance and
30 Financial Services ~~Banking and Finance~~.

31

1 Section 759. Effective January 7, 2003, paragraph (c)
2 of subsection (3) of section 713.596, Florida Statutes, is
3 amended to read:

4 713.596 Molder's liens.--

5 (3) SALE.--

6 (c)1. The proceeds of the sale must be paid first to
7 any holder of a security interest perfected in this state. Any
8 excess must be paid to the molder holding the lien created by
9 this section. Any remaining amount is to be paid to the
10 customer, if the customer's address is known, or to the Chief
11 Financial Officer ~~State Treasurer~~ for deposit in the General
12 Revenue Fund if the customer's address is unknown to the
13 molder at the time of the sale.

14 2. A sale may not be made under this section if it
15 would be in violation of any right of a customer under federal
16 patent or copyright law.

17 Section 760. Effective January 7, 2003, subsection (4)
18 of section 716.02, Florida Statutes, is amended to read:

19 716.02 Escheat of funds in the possession of federal
20 agencies.--All property within the provisions of subsections
21 (1), (2), (3), (4) and (5), are declared to have escheated, or
22 to escheat, including all principal and interest accruing
23 thereon, and to have become the property of the state.

24 (4) In the event any money is due to any resident of
25 this state as a refund, rebate or tax rebate from the United
26 States Commissioner of Internal Revenue, the United States
27 Treasurer, or other governmental agency or department, which
28 said resident will, or is likely to have her or his rights to
29 apply for and secure such refund or rebate barred by any
30 statute of limitations or, in any event, has failed for a
31 period of 1 year after said resident could have filed a claim

1 for said refund or rebate, the Chief Financial Officer
2 ~~Department of Banking and Finance~~ is hereby appointed agent of
3 such resident to demand, file and apply for said refund or
4 rebate, ~~and is hereby appointed to do any act which a natural~~
5 ~~person could do to recover said money,~~and it is hereby
6 declared that when the Chief Financial Officer ~~department~~
7 files said application or any other proceeding to secure said
8 refund or rebate, his or her ~~its~~ agency is coupled with an
9 interest in the money sought and money recovered.

10 Section 761. Effective January 7, 2003, section
11 716.03, Florida Statutes, is amended to read:

12 716.03 Chief Financial Officer ~~Department~~ to institute
13 proceedings to recover escheated property.--When there exists,
14 or may exist, escheated funds or property under this chapter,
15 the Chief Financial Officer ~~Department of Banking and Finance~~
16 shall demand or institute proceedings in the name of the state
17 for an adjudication that an escheat to the state of such funds
18 or property has occurred; and shall take appropriate action to
19 recover such funds or property.

20 Section 762. Effective January 7, 2003, section
21 716.04, Florida Statutes, is amended to read:

22 716.04 Jurisdiction.--Whenever the Chief Financial
23 Officer ~~Department of Banking and Finance~~ is of the opinion an
24 escheat has occurred, or shall occur, of any money or other
25 property deposited in the custody of, or under the control of,
26 any court of the United States, in and for any district within
27 the state, or in the custody of any depository, registry or
28 clerk or other officer of such court, or the treasury of the
29 United States, he or she ~~it~~ shall cause to be filed a
30 complaint in the Circuit Court of Leon County, or in any other
31 court of competent jurisdiction, to ascertain if any escheat

1 has occurred, and to cause said court to enter a judgment or
2 decree of escheat in favor of the state, with costs,
3 disbursements, and attorney fee.

4 Section 763. Effective January 7, 2003, section
5 716.05, Florida Statutes, is amended to read:

6 716.05 Money recovered to be paid into State
7 Treasury.--When any funds or property which has escheated
8 within the meaning of this chapter has been recovered by the
9 Chief Financial Officer ~~Department of Banking and Finance~~, the
10 Chief Financial Officer ~~department~~ shall first pay all costs
11 incident to the collection and recovery of such funds or
12 property and shall promptly deposit the remaining balance of
13 such funds or property with the Treasury ~~Treasurer~~ of the
14 state, to be distributed in accordance with law.

15 Section 764. Effective January 7, 2003, section
16 716.06, Florida Statutes, is amended to read:

17 716.06 Public records.--All records in the Office of
18 the Chief Financial Officer ~~State Treasurer or the Department~~
19 ~~of Banking and Finance~~ relating to federal funds, pursuant to
20 this chapter, shall be public records.

21 Section 765. Effective January 7, 2003, section
22 716.07, Florida Statutes, is amended to read:

23 716.07 Recovery of escheated property by claimant.--

24 (1) Any person who claims any property, funds or money
25 delivered to the Chief Financial Officer ~~State Treasurer~~ under
26 this chapter, shall, within 5 years from the date of receipt
27 of said property, funds or money, file a verified claim with
28 the Chief Financial Officer ~~State Treasurer~~, setting forth the
29 facts upon which said party claims to be entitled to recover
30 said money or property. ~~The State Treasurer, within 5 days~~
31 ~~after receipt of such claim, shall submit said verified claim~~

1 ~~or a verified copy thereof, to the Department of Banking and~~
2 ~~Finance.~~All claims made for recovery of property, funds or
3 money, not filed within 5 years from the date that said
4 property, funds or money is received by the Chief Financial
5 Officer ~~State Treasurer~~, shall be forever barred, and the
6 Chief Financial Officer ~~Treasurer~~ of the state shall be
7 without power to consider or determine any claims so made by
8 any claimant after 5 years from the date that the property,
9 funds or money was received by the Chief Financial Officer
10 ~~State Treasurer~~.

11 (2) The Chief Financial Officer ~~Comptroller~~ shall
12 approve or disapprove the claim. If the claim is approved,
13 the funds, money, or property of the claimant, less any
14 expenses and costs which shall have been incurred by the state
15 in securing the possession of said property, as provided by
16 this chapter, shall be delivered to the claimant by the Chief
17 Financial Officer ~~State Treasurer~~ upon warrant issued
18 according to law and her or his receipt taken therefor. If
19 the court finds, upon any judicial review, that the claimant
20 is entitled to the property, money, or funds claimed, and
21 shall render judgment in her or his or its favor, declaring
22 that the claimant is entitled to said property, funds, or
23 money, then upon presentation of said judgment or a certified
24 copy thereof to the Chief Financial Officer ~~State Comptroller~~,
25 said Chief Financial Officer ~~Comptroller~~ shall draw her or his
26 warrant for the amount of money stated in said judgment,
27 without interest or cost to the state, less any sum paid by
28 the state as costs or expenses in securing possession of said
29 property, funds, or money. When payment has been made to any
30 claimant, no action thereafter shall be maintained by any
31

1 other claimant against the state or any officer thereof, for
2 or on account of said money, property, or funds.

3 Section 766. Effective January 7, 2003, subsection (6)
4 of section 717.101, Florida Statutes, is repealed, and
5 subsection (13) of said section is amended to read:

6 717.101 Definitions.--As used in this chapter, unless
7 the context otherwise requires:

8 (12)~~(13)~~ "Last known address" means a description of
9 the location of the apparent owner sufficient for the purpose
10 of the delivery of mail. For the purposes of identifying,
11 reporting, and remitting property to the Chief Financial
12 Officer ~~department~~ which is presumed to be unclaimed, "last
13 known address" includes any partial description of the
14 location of the apparent owner sufficient to establish the
15 apparent owner was a resident of this state at the time of
16 last contact with the apparent owner or at the time the
17 property became due and payable.

18 Section 767. Effective January 7, 2003, section
19 717.103, Florida Statutes, is amended to read:

20 717.103 General rules for taking custody of intangible
21 unclaimed property.--Unless otherwise provided in this chapter
22 or by other statute of this state, intangible property is
23 subject to the custody of the Chief Financial Officer
24 ~~department~~ as unclaimed property if the conditions leading to
25 a presumption that the property is unclaimed as described in
26 ss. 717.102 and 717.105-717.116 are satisfied and:

27 (1) The last known address, as shown on the records of
28 the holder, of the apparent owner is in this state;

29 (2) The records of the holder do not reflect the
30 identity of the person entitled to the property, and it is
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1 established that the last known address of the person entitled
2 to the property is in this state;
3 (3) The records of the holder do not reflect the last
4 known address of the apparent owner, and it is established
5 that:
6 (a) The last known address of the person entitled to
7 the property is in this state; or
8 (b) The holder is a domiciliary or a government or
9 governmental subdivision or agency of this state and has not
10 previously paid the property to the state of the last known
11 address of the apparent owner or other person entitled to the
12 property;
13 (4) The last known address, as shown on the records of
14 the holder, of the apparent owner or other person entitled to
15 the property is in a state that does not provide by law for
16 the escheat or custodial taking of the property, or its
17 escheat or unclaimed property law is not applicable to the
18 property, and the holder is a domiciliary or a government or
19 governmental subdivision or agency of this state;
20 (5) The last known address, as shown on the records of
21 the holder, of the apparent owner is in a foreign nation and
22 the holder is a domiciliary or a government or governmental
23 subdivision or agency of this state; or
24 (6) The transaction out of which the property arose
25 occurred in this state, and;
26 (a)1. The last known address of the apparent owner or
27 other person entitled to the property is unknown; or
28 2. The last known address of the apparent owner or
29 other person entitled to the property is in a state that does
30 not provide by law for the escheat or custodial taking of the
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1 property, or its escheat or unclaimed property law is not
2 applicable to the property; and

3 (b) The holder is a domiciliary of a state that does
4 not provide by law for the escheat or custodial taking of the
5 property, or its escheat or unclaimed property law is not
6 applicable to the property.

7 Section 768. Effective January 7, 2003, subsections
8 (1) and (3), paragraph (a) of subsection (4), and subsections
9 (5) and (6) of section 717.117, Florida Statutes, are amended
10 to read:

11 717.117 Report of unclaimed property.--

12 (1) Every person holding funds or other property,
13 tangible or intangible, presumed unclaimed and subject to
14 custody as unclaimed property under this chapter shall report
15 to the Chief Financial Officer ~~department~~ on such forms as the
16 Chief Financial Officer ~~department~~ may prescribe by rule. In
17 lieu of forms, the holder may submit the required information
18 via electronic medium as the Chief Financial Officer
19 ~~department~~ may prescribe by rule. The report must include:

20 (a) Except for traveler's checks and money orders, the
21 name, social security number or taxpayer identification
22 number, and date of birth, if known, and last known address,
23 if any, of each person appearing from the records of the
24 holder to be the owner of any property which is presumed
25 unclaimed and which has a value of \$50 or more.

26 (b) For unclaimed funds which have a value of \$50 or
27 more held or owing under any life or endowment insurance
28 policy or annuity contract, the full name, taxpayer
29 identification number or social security number, date of
30 birth, if known, and last known address of the insured or
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1 annuitant and of the beneficiary according to records of the
2 insurance company holding or owing the funds.

3 (c) For all tangible property held in a safe-deposit
4 box or other safekeeping repository, a description of the
5 property and the place where the property is held and may be
6 inspected by the Chief Financial Officer ~~department~~, and any
7 amounts owing to the holder. Contents of a safe-deposit box or
8 other safekeeping repository which consist of documents or
9 writings of a private nature and which have little or no
10 apparent value shall not be presumed unclaimed.

11 (d) The nature and identifying number, if any, or
12 description of the property and the amount appearing from the
13 records to be due. Items of value under \$50 each may be
14 reported in the aggregate.

15 (e) The date the property became payable, demandable,
16 or returnable, and the date of the last transaction with the
17 apparent owner with respect to the property.

18 (f) Any person or business entity holding funds
19 presumed unclaimed and having a total value of \$10 or less may
20 file a zero balance report for that reporting period. The
21 balance brought forward to the new reporting period is zero.

22 (g) Such other information as the Chief Financial
23 Officer ~~department~~ may prescribe by rule as necessary for the
24 administration of this chapter.

25 (h) Credit balances, customer overpayments, security
26 deposits, and refunds having a value of less than \$10 shall
27 not be presumed unclaimed.

28 (3) The report must be filed before May 1 of each
29 year. Such report shall apply to the preceding calendar year.
30 If such report is not filed on or before the applicable filing
31 date, the holder shall pay to the Chief Financial Officer

1 ~~department~~ a penalty of \$10 per day for each day the report is
2 delinquent, but such penalty shall not exceed \$500. As
3 necessary for proper administration of this chapter, the Chief
4 Financial Officer ~~department~~ may waive any penalty due with
5 appropriate justification. On written request by any person
6 required to file a report, the Chief Financial Officer
7 ~~department~~ may postpone the reporting date.

8 (4) Holders of inactive accounts shall use due
9 diligence to locate apparent owners.

10 (a) When an owner's account becomes inactive, the
11 holder shall conduct at least one search for the apparent
12 owner using due diligence. For purposes of this section,
13 except for banks, credit unions, and state or federal savings
14 associations, an account is inactive if 2 years have
15 transpired after the last owner-initiated account activity, if
16 2 years have transpired after the expiration date on the
17 instrument or contract, or if 2 years have transpired since
18 first-class mail has been returned as undeliverable. With
19 respect to banks, credit unions, and state or federal savings
20 associations, an account is inactive if 2 years have
21 transpired after the last owner-initiated account activity and
22 first-class mail has been returned as undeliverable or 2 years
23 after the expiration date on the instrument or contract and
24 first-class mail has been returned as undeliverable.

25 1. Within 180 days after an account becomes inactive,
26 the holder shall conduct a search to locate the apparent owner
27 of the property. The holder may satisfy such requirement by
28 conducting one annual search for the owners of all accounts
29 which have become inactive during the prior year.

30 2. Within 30 days after receiving updated address
31 information, the holder shall provide notice by telephone or

1 first-class mail to the current address notifying the apparent
2 owner that the holder is in possession of property which is
3 presumed unclaimed and may be remitted to the Chief Financial
4 Officer ~~department~~. The notice shall also provide the apparent
5 owner with the address or the telephone number of an office
6 where the apparent owner may claim the property or reestablish
7 the inactive account.

8 (5) Any holder of intangible property may file with
9 the Chief Financial Officer ~~department~~ a petition for
10 determination that the property is unclaimed requesting the
11 Chief Financial Officer ~~department~~ to accept custody of the
12 property. The petition shall state any special circumstances
13 that exist, contain the information required by subsection
14 (2), and show that a diligent search has been made to locate
15 the owner. If the Chief Financial Officer ~~department~~ finds
16 that the proof of diligent search is satisfactory, it shall
17 give notice as provided in s. 717.118 and accept custody of
18 the property.

19 (6) Upon written request by any entity or person
20 required to file a report, stating such entity's or person's
21 justification for such action, the Chief Financial Officer
22 ~~department~~ may place that entity or person in an inactive
23 status as an unclaimed property "holder."

24 Section 769. Effective January 7, 2003, subsections
25 (1), (2), and (3) of section 717.118, Florida Statutes, are
26 amended to read:

27 717.118 Notice and publication of lists of unclaimed
28 property.--

29 (1) It is specifically recognized that the state has
30 an obligation to make an effort to notify owners of unclaimed
31 property in a cost-effective manner. In order to provide all

1 the citizens of this state an effective and efficient program
2 for the recovery of unclaimed property, the Chief Financial
3 Officer ~~department~~ shall use cost-effective means to make at
4 least one active attempt to notify owners of the existence of
5 unclaimed property held by the Chief Financial Officer
6 ~~department~~. Such active attempt to locate apparent owners
7 shall include any attempt by the Chief Financial Officer
8 ~~department~~ to directly contact the owner. Other means of
9 notification, such as publication of the names of owners in
10 the newspaper, on television, on the Internet, or through
11 other promotional efforts and items in which the Chief
12 Financial Officer ~~department~~ does not directly attempt to
13 contact the owner are expressly declared to be passive
14 attempts. Nothing in this subsection precludes other agencies
15 or entities of state government from notifying owners of the
16 existence of unclaimed property or attempting to locate
17 apparent owners of unclaimed property.

18 (2) The following notification requirements shall
19 apply:

20 (a) Notifications that are published or televised may
21 consist of the names of apparent owners of unclaimed property,
22 and information regarding recovery of unclaimed property from
23 the Chief Financial Officer ~~department~~. Such notification may
24 be televised or published in the county in which the last
25 known address of the apparent owner is located or, if the
26 address is unknown, in the county in which the holder has its
27 principal place of business. Published notifications may be in
28 accordance with s. 50.011.

29 (b) Notification provided directly to individual
30 apparent owners shall consist of a description of the property
31

1 and information regarding recovery of unclaimed property from
2 the Chief Financial Officer ~~department~~.

3 (3) The Chief Financial Officer ~~department~~ may publish
4 in the notice any items of more than \$100.

5 Section 770. Effective January 7, 2003, section
6 717.119, Florida Statutes, is amended to read:

7 717.119 Payment or delivery of unclaimed property.--

8 (1) Every person who is required to file a report
9 under s. 717.117 shall simultaneously pay or deliver to the
10 Chief Financial Officer ~~department~~ all unclaimed property
11 required to be reported. Such payment or delivery shall
12 accompany the report as required in this chapter for the
13 preceding calendar year.

14 (2) Payment of unclaimed funds may be made to the
15 Chief Financial Officer ~~department~~ by electronic funds
16 transfer.

17 (3) If the owner establishes the right to receive the
18 unclaimed property to the satisfaction of the holder before
19 the property has been delivered to the Chief Financial Officer
20 ~~department~~ or it appears that for some other reason the
21 presumption that the property is unclaimed is erroneous, the
22 holder need not pay or deliver the property to the Chief
23 Financial Officer ~~department~~. In lieu of delivery, the holder
24 shall file a verified written explanation of the proof of
25 claim or of the error in the presumption that the property was
26 unclaimed.

27 (4) All stock or other intangible ownership interest
28 reported under this chapter on the annual report filing
29 required in s. 717.117 shall be remitted to the Chief
30 Financial Officer ~~department~~ with the report. Upon delivery
31 of the stock or other intangible ownership interest to the

1 Chief Financial Officer ~~department~~, the holder and any
2 transfer agent, registrar, or other person acting for or on
3 behalf of a holder is relieved of all liability of every kind
4 in accordance with the provisions of s. 717.1201 to every
5 person for any losses or damages resulting to the person by
6 the delivery to the Chief Financial Officer ~~department~~ of the
7 stock or other intangible ownership interest.

8 (5) All intangible and tangible property held in a
9 safe-deposit box or any other safekeeping repository reported
10 under s. 717.117 shall not be delivered to the Chief Financial
11 Officer ~~department~~ until 120 days after the report due date.
12 Holders may remit the value of cash and coins found in
13 unclaimed safe-deposit boxes to the Chief Financial Officer
14 ~~department~~ by cashier's check or by electronic funds transfer,
15 unless the cash or coins have a value above face value. The
16 Chief Financial Officer ~~department~~ shall identify by rule
17 those cash and coin items having a numismatic value. Cash and
18 coin items identified as having a numismatic value shall be
19 remitted to the Chief Financial Officer ~~department~~ in their
20 original form.

21 (a) If such property is not paid or delivered to the
22 Chief Financial Officer ~~department~~ on or before the applicable
23 payment or delivery date, the holder shall pay to the Chief
24 Financial Officer ~~department~~ a penalty of \$10 for each
25 safe-deposit box received late, but such penalty shall not
26 exceed \$1,000.

27 (b) The Chief Financial Officer ~~department~~ may waive
28 any penalty due with appropriate justification, as provided by
29 rule.
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31

1 (c) Upon written request by any person required to
2 deliver safe-deposit box contents, the Chief Financial Officer
3 ~~department~~ may postpone the delivery.

4 (6) Any holder may request an extension in writing of
5 up to 60 days for the delivery of property if extenuating
6 circumstances exist for the late delivery of the property.
7 Any such extension the Chief Financial Officer ~~department~~ may
8 grant shall be in writing.

9 Section 771. Effective January 7, 2003, subsections
10 (1), (2), (3), (4), (5), and (7) of section 717.1201, Florida
11 Statutes, are amended to read:

12 717.1201 Custody by state; holder relieved from
13 liability; reimbursement of holder paying claim; reclaiming
14 for owner; defense of holder; payment of safe-deposit box or
15 repository charges.--

16 (1) Upon the payment or delivery of property to the
17 Chief Financial Officer ~~department~~, the state assumes custody
18 and responsibility for the safekeeping of property. Any person
19 who pays or delivers property to the Chief Financial Officer
20 ~~department~~ in good faith is relieved of all liability to the
21 extent of the value of the property paid or delivered for any
22 claim then existing or which thereafter may arise or be made
23 in respect to the property.

24 (2) Any holder who has paid money to the Chief
25 Financial Officer ~~department~~ pursuant to this chapter may make
26 payment to any person appearing to the holder to be entitled
27 to payment and, upon filing proof of payment and proof that
28 the payee was entitled thereto, the Chief Financial Officer
29 ~~department~~ shall forthwith reimburse the holder for the
30 payment without deduction of any fee or other charges. If
31 reimbursement is sought for a payment made on a negotiable

1 instrument, including a traveler's check or money order, the
2 holder must be reimbursed under this subsection upon filing
3 proof that the instrument was duly presented and that payment
4 was made to a person who appeared to the holder to be entitled
5 to payment. The holder shall be reimbursed for payment made
6 under this subsection even if the payment was made to a person
7 whose claim was barred under s. 717.129(1).

8 (3) Any holder who has delivered property, including a
9 certificate of any interest in a business association, other
10 than money to the Chief Financial Officer ~~department~~ pursuant
11 to this chapter may reclaim the property if still in the
12 possession of the Chief Financial Officer ~~department~~, without
13 payment of any fee or other charges, upon filing proof that
14 the owner has claimed the property from the holder.

15 (4) The Chief Financial Officer ~~department~~ may accept
16 an affidavit of the holder stating the facts that entitle the
17 holder to recover money and property under this section as
18 sufficient proof.

19 (5) If the holder pays or delivers property to the
20 Chief Financial Officer ~~department~~ in good faith and
21 thereafter any other person claims the property from the
22 holder paying or delivering, or another state claims the money
23 or property under that state's laws relating to escheat or
24 abandoned or unclaimed property, the Chief Financial Officer
25 ~~department~~, upon written notice of the claim, shall defend the
26 holder against the claim and indemnify the holder against any
27 liability on the claim.

28 (7) Property removed from a safe-deposit box or other
29 safekeeping repository is received by the Chief Financial
30 Officer ~~department~~ subject to the holder's right under this
31 subsection to be reimbursed for the actual cost of the opening

1 and to any valid lien or contract providing for the holder to
2 be reimbursed for unpaid rent or storage charges. The Chief
3 Financial Officer ~~department~~ shall make the reimbursement to
4 the holder out of the proceeds remaining after the deduction
5 of the Chief Financial Officer's ~~department's~~ selling cost.

6 Section 772. Effective January 7, 2003, section
7 717.121, Florida Statutes, is amended to read:

8 717.121 Crediting of dividends, interest, or
9 increments to owner's account.--Whenever property other than
10 money is paid or delivered to the Chief Financial Officer
11 ~~department~~ under this chapter, the owner is entitled to
12 receive from the Chief Financial Officer ~~department~~ any
13 dividends, interest, or other increments realized or accruing
14 on the property at or before liquidation or conversion thereof
15 into money.

16 Section 773. Effective January 7, 2003, section
17 717.122, Florida Statutes, is amended to read:

18 717.122 Public sale of unclaimed property.--

19 (1) Except as provided in subsection (2), the Chief
20 Financial Officer ~~department~~ after the receipt of unclaimed
21 property shall sell it to the highest bidder at public sale
22 wherever in the judgment of the Chief Financial Officer
23 ~~department~~ the most favorable market for the property involved
24 exists. The Chief Financial Officer ~~department~~ may decline
25 the highest bid and reoffer the property for sale if in the
26 judgment of the Chief Financial Officer ~~department~~ the bid is
27 insufficient. The Chief Financial Officer ~~department~~ shall
28 have the discretion to withhold from sale any unclaimed
29 property that the Chief Financial Officer ~~department~~ deems to
30 be of benefit to the people of the state. If in the judgment
31 of the Chief Financial Officer ~~department~~ the probable cost of

1 sale exceeds the value of the property, it need not be offered
2 for sale and may be disposed of as the Chief Financial Officer
3 ~~department~~ determines appropriate. Any sale held under this
4 section must be preceded by a single publication of notice, at
5 least 3 weeks in advance of sale, in a newspaper of general
6 circulation in the county in which the property is to be sold.

7 (2) Securities listed on an established stock exchange
8 must be sold at prices prevailing at the time of sale on the
9 exchange. Other securities may be sold over the counter at
10 prices prevailing at the time of sale or by any other method
11 the Chief Financial Officer ~~department~~ deems advisable. The
12 Chief Financial Officer ~~department~~ may authorize the agent or
13 broker acting on behalf of the Chief Financial Officer
14 ~~department~~ to deduct fees from the proceeds of these sales at
15 a rate agreed upon in advance by the agent or broker and the
16 Chief Financial Officer ~~department~~. The Chief Financial
17 Officer ~~department~~ shall reimburse owners accounts for these
18 brokerage fees from the State School Fund unless the
19 securities are sold at the owner's request.

20 (3) Unless the Chief Financial Officer ~~department~~
21 deems it to be in the public interest to do otherwise, all
22 securities presumed unclaimed and delivered to the Chief
23 Financial Officer ~~department~~ may be sold upon receipt. Any
24 person making a claim pursuant to this chapter is entitled to
25 receive either the securities delivered to the Chief Financial
26 Officer ~~department~~ by the holder, if they still remain in the
27 hands of the Chief Financial Officer ~~department~~, or the
28 proceeds received from sale, less any amounts deducted
29 pursuant to subsection (2), but no person has any claim under
30 this chapter against the state, the holder, any transfer
31 agent, any registrar, or any other person acting for or on

1 behalf of a holder for any appreciation in the value of the
2 property occurring after delivery by the holder to the state.

3 (4) The purchaser of property at any sale conducted by
4 the Chief Financial Officer ~~department~~ pursuant to this
5 chapter is entitled to ownership of the property purchased
6 free from all claims of the owner or previous holder thereof
7 and of all persons claiming through or under them. The Chief
8 Financial Officer ~~department~~ shall execute all documents
9 necessary to complete the transfer of ownership.

10 Section 774. Effective January 7, 2003, section
11 717.123, Florida Statutes, is amended to read:

12 717.123 Deposit of funds.--

13 (1) All funds received under this chapter, including
14 the proceeds from the sale of unclaimed property under s.
15 717.122, shall forthwith be deposited by the Chief Financial
16 Officer ~~department~~ in the Unclaimed Property Trust Fund. The
17 Chief Financial Officer ~~department~~ shall retain, from funds
18 received under this chapter, an amount not exceeding \$8
19 million from which the Chief Financial Officer ~~department~~
20 shall make prompt payment of claims allowed by the Chief
21 Financial Officer ~~department~~ and shall pay the costs incurred
22 by the Chief Financial Officer ~~department~~ in administering and
23 enforcing this chapter. All remaining funds received by the
24 Chief Financial Officer ~~department~~ under this chapter shall be
25 deposited by the Chief Financial Officer ~~department~~ into the
26 State School Fund.

27 (2) The Chief Financial Officer ~~department~~ shall
28 record the name and last known address of each person
29 appearing from the holder's reports to be entitled to the
30 unclaimed property in the total amounts of \$5 or greater; the
31 name and the last known address of each insured person or

1 annuitant; and with respect to each policy or contract listed
2 in the report of an insurance corporation, its number, the
3 name of the corporation, and the amount due.

4 Section 775. Effective January 7, 2003, subsections
5 (1), (2), (3), and (4), paragraphs (a) and (b) of subsection
6 (5), and subsection (6) of section 717.124, Florida Statutes,
7 are amended to read:

8 717.124 Filing of claim with Chief Financial Officer
9 ~~department~~.--

10 (1) Any person, excluding another state, claiming an
11 interest in any property paid or delivered to the Chief
12 Financial Officer ~~department~~ under this chapter may file with
13 the Chief Financial Officer ~~department~~ a claim on a form
14 prescribed by the Chief Financial Officer ~~department~~ and
15 verified by the claimant. The Chief Financial Officer
16 ~~department~~ shall determine each claim within 90 days after it
17 is filed. Such determination shall contain a notice of rights
18 provided by ss. 120.569 and 120.57.

19 (2) A claim for a cashier's check or a stock
20 certificate without the original instrument may require an
21 indemnity bond equal to the value of the claim to be provided
22 prior to issue of the stock or payment of the claim by the
23 Chief Financial Officer ~~department~~.

24 (3) The Chief Financial Officer ~~department~~ may require
25 an affidavit swearing to the authenticity of the claim, lack
26 of documentation, and an agreement to allow the Chief
27 Financial Officer ~~department~~ to provide the name and address
28 of the claimant to subsequent claimants coming forward with
29 substantiated proof to claim the account. This shall apply to
30 claims equal to or less than \$250.

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1 (4) If a claim is determined in favor of the claimant,
2 the Chief Financial Officer ~~department~~ shall deliver or pay
3 over to the claimant the property or the amount the Chief
4 Financial Officer ~~department~~ actually received or the proceeds
5 if it has been sold by the Chief Financial Officer ~~department~~,
6 together with any additional amount required by s. 717.121.

7 (5)(a) If an owner authorizes an attorney,
8 Florida-certified public accountant, or private investigative
9 agency which is duly licensed to do business in this state to
10 claim the unclaimed property on the owner's behalf, the Chief
11 Financial Officer ~~department~~ is authorized to make
12 distribution of the property or money in accordance with such
13 power of attorney.

14 (b)1. Payments of approved claims for unclaimed cash
15 accounts shall be made to the owner after deducting any fees
16 authorized pursuant to a written power of attorney.

17 2. Payments of fees authorized pursuant to a written
18 power of attorney for approved cash claims shall be forwarded
19 to the designated attorney, Florida-certified public
20 accountant, or private investigative agency. Such payments may
21 be made by electronic funds transfer and may be made on such
22 periodic schedule as the Chief Financial Officer ~~department~~
23 may define by rule, provided the payment intervals do not
24 exceed 31 days.

25 3. Payments of approved claims for unclaimed
26 securities and other intangible ownership interests made to an
27 attorney, Florida-certified public accountant, or private
28 investigative agency shall be promptly deposited into a trust
29 or escrow account which is regularly maintained by the
30 attorney, Florida-certified public accountant, or the private
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1 | investigative agency in a financial institution authorized to
2 | accept such deposits and located in this state.

3 | (6) The Chief Financial Officer ~~department~~ shall not
4 | be civilly or criminally liable for any property or funds
5 | distributed pursuant to this section, provided such
6 | distribution is made in good faith.

7 | Section 776. Effective January 7, 2003, section
8 | 717.1241, Florida Statutes, is amended to read:

9 | 717.1241 Conflicting claims.--

10 | (1) When ownership has been established but
11 | conflicting claims have been received by the Chief Financial
12 | Officer ~~department~~, the property shall be remitted to the:

13 | (a) Person submitting the first claim received by the
14 | Chief Financial Officer ~~department~~;

15 | (b) Owner if an owner's claim and an owner's
16 | representative's claim are received by the Chief Financial
17 | Officer ~~department~~ on the same day; or

18 | (c) Owner's representative who has the earliest dated
19 | contract with the owner if claims by two or more owner's
20 | representatives are received by the Chief Financial Officer
21 | ~~department~~ on the same day.

22 | (2) The purpose of this section is solely to provide
23 | guidance to the Chief Financial Officer ~~department~~ regarding
24 | to whom he or she ~~it~~ should remit the unclaimed property and
25 | is not intended to extinguish or affect any private cause of
26 | action that any person may have against another person for
27 | breach of contract or other statutory or common-law remedy.

28 | Section 777. Effective January 7, 2003, section
29 | 717.1242, Florida Statutes, is amended to read:

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31 |

1 717.1242 Restatement of jurisdiction of the circuit
2 court sitting in probate and the Chief Financial Officer
3 ~~department~~.--
4 (1) It is and has been the intent of the Legislature
5 that, pursuant to s. 26.012(2)(b), circuit courts have
6 jurisdiction of proceedings relating to the settlement of the
7 estates of decedents and other jurisdiction usually pertaining
8 to courts of probate. It is and has been the intent of the
9 Legislature that, pursuant to s. 717.124, the Chief Financial
10 Officer ~~department~~ determines the merits of claims for
11 property paid or delivered to the Chief Financial Officer
12 ~~department~~ under this chapter. Consistent with this
13 legislative intent, any estate or heir of an estate seeking to
14 obtain property paid or delivered to the Chief Financial
15 Officer ~~department~~ under this chapter must file a claim with
16 the Chief Financial Officer ~~department~~ as provided in s.
17 717.124.
18 (2) Should any estate or heir of an estate seek to
19 obtain or obtain an order from a circuit court sitting in
20 probate directing the Chief Financial Officer ~~department~~ to
21 pay or deliver to any person property paid or delivered to the
22 Chief Financial Officer ~~department~~ under this chapter, the
23 estate or heir may be ordered to pay the Chief Financial
24 Officer ~~department~~ reasonable costs and attorney's fees in any
25 proceeding brought by the Chief Financial Officer ~~department~~
26 to oppose, appeal, or collaterally attack the order.
27 Section 778. Effective January 7, 2003, subsections
28 (1) and (4) of section 717.1243, Florida Statutes, are amended
29 to read:
30 717.1243 Small estate accounts.--
31

1 (1) A claim for unclaimed property made by a
2 beneficiary, as defined in s. 731.201, of a deceased owner
3 need not be accompanied by an order of a probate court if the
4 claimant files with the Chief Financial Officer ~~department~~ an
5 affidavit, signed by all beneficiaries, stating that all the
6 beneficiaries have amicably agreed among themselves upon a
7 division of the estate and that all funeral expenses, expenses
8 of the last illness, and any other lawful claims have been
9 paid. If the owner died testate, the claim shall be
10 accompanied by a copy of the will.

11 (4) This section only applies if all of the unclaimed
12 property held by the Chief Financial Officer ~~department~~ on
13 behalf of the owner has an aggregate value of \$5,000 or less
14 and no probate proceeding is pending.

15 Section 779. Effective January 7, 2003, section
16 717.125, Florida Statutes, is amended to read:

17 717.125 Claim of another state to recover property;
18 procedure.--

19 (1) At any time after property has been paid or
20 delivered to the Chief Financial Officer ~~department~~ under this
21 chapter, another state may recover the property if:

22 (a) The property was subjected to custody by this
23 state because the records of the holder did not reflect the
24 last known address of the apparent owner when the property was
25 presumed unclaimed under this chapter, and the other state
26 establishes that the last known address of the apparent owner
27 or other person entitled to the property was in that state and
28 under the laws of that state the property escheated to or was
29 subject to a claim of abandonment or being unclaimed by that
30 state;

31

1 (b) The last known address of the apparent owner or
2 other person entitled to the property, as reflected by the
3 records of the holder, is in the other state and under the
4 laws of that state the property has escheated to or become
5 subject to a claim of abandonment by that state;

6 (c) The records of the holder were erroneous in that
7 they did not accurately reflect the actual owner of the
8 property and the last known address of the actual owner is in
9 the other state and under laws of that state the property
10 escheated to or was subject to a claim of abandonment by that
11 state;

12 (d) The property was subject to custody by this state
13 under s. 717.103(6) and under the laws of the state of
14 domicile of the holder the property has escheated to or become
15 subject to a claim of abandonment by that state; or

16 (e) The property is the sum payable on a traveler's
17 check, money order, or other similar instrument that was
18 subjected to custody by this state under s. 717.104, and the
19 instrument was purchased in the other state, and under the
20 laws of that state the property escheated to or became subject
21 to a claim of abandonment by that state.

22 (2) The claim of another state to recover escheated or
23 unclaimed property under this section must be presented in a
24 form prescribed by the Chief Financial Officer ~~department~~, and
25 the Chief Financial Officer ~~department~~ shall determine the
26 claim within 90 days after it is presented. Such
27 determination shall contain a notice of rights provided by ss.
28 120.569 and 120.57.

29 (3) The Chief Financial Officer ~~department~~ shall
30 require a state, prior to recovery of property under this
31

1 section, to indemnify this state and its officers and
2 employees against any liability on a claim for the property.

3 Section 780. Effective January 7, 2003, section
4 717.126, Florida Statutes, is amended to read:

5 717.126 Administrative hearing; burden of proof.--Any
6 person aggrieved by a decision of the Chief Financial Officer
7 ~~department~~ may petition for a hearing as provided in ss.
8 120.569 and 120.57. In any proceeding for determination of a
9 claim to property paid or delivered to the Chief Financial
10 Officer ~~department~~ under this chapter, the burden shall be
11 upon the claimant to establish entitlement to the property by
12 a preponderance of evidence.

13 Section 781. Effective January 7, 2003, section
14 717.127, Florida Statutes, is amended to read:

15 717.127 Election to take payment or delivery.--The
16 Chief Financial Officer ~~department~~ may decline to receive any
17 property reported under this chapter that the Chief Financial
18 Officer ~~department~~ considers to have a value less than the
19 expense of giving notice and of sale. If the Chief Financial
20 Officer ~~department~~ elects not to receive custody of the
21 property, the holder shall be notified within 120 days after
22 filing the report required under s. 717.117 or remitting the
23 property required under s. 717.119.

24 Section 782. Effective January 7, 2003, section
25 717.128, Florida Statutes, is amended to read:

26 717.128 Destruction or disposition of property having
27 insubstantial commercial value; immunity from liability.--If
28 the Chief Financial Officer ~~department~~ after investigation
29 finds that any property delivered under this chapter has
30 insubstantial commercial value, the Chief Financial Officer
31 ~~department~~ may destroy or otherwise dispose of the property.

1 No action or proceeding may be maintained against the state or
2 any officer or against the holder for or on account of any
3 action taken by the Chief Financial Officer ~~department~~
4 pursuant to this section with respect to the property.

5 Section 783. Effective January 7, 2003, section
6 717.129, Florida Statutes, is amended to read:

7 717.129 Periods of limitation.--

8 (1) The expiration before or after July 1, 1987, of
9 any period of time specified by contract, statute, or court
10 order, during which a claim for money or property may be made
11 or during which an action or proceeding may be commenced or
12 enforced to obtain payment of a claim for money or to recover
13 property, does not prevent the money or property from being
14 presumed unclaimed or affect any duty to file a report or to
15 pay or deliver unclaimed property to the Chief Financial
16 Officer ~~department~~ as required by this chapter.

17 (2) No action or proceeding may be commenced by the
18 Chief Financial Officer ~~department~~ with respect to any duty of
19 a holder under this chapter more than 10 years after the duty
20 arose.

21 Section 784. Effective January 7, 2003, subsections
22 (1), (2), (3), (5), and (6) of section 717.1301, Florida
23 Statutes, are amended to read:

24 717.1301 Investigations; examinations; subpoenas.--

25 (1) The Chief Financial Officer ~~department~~ may make
26 investigations and examinations of records within or outside
27 this state as he or she ~~it~~ deems necessary to administer and
28 enforce the provisions of this chapter. In such investigations
29 and examinations the Chief Financial Officer ~~department~~ may
30 administer oaths, examine witnesses, issue subpoenas, and
31 otherwise gather evidence. The Chief Financial Officer

1 ~~department~~ may request any person who has not filed a report
2 under s. 717.117 to file a verified report stating whether or
3 not the person is holding any unclaimed property reportable or
4 deliverable under this chapter.

5 (2) Subpoenas for witnesses whose evidence is deemed
6 material to any investigation or examination under this
7 section may be issued ~~by the department~~ under seal of the
8 Chief Financial Officer department, or by any court of
9 competent jurisdiction, commanding such witnesses to appear
10 before the Chief Financial Officer department at a time and
11 place named and to bring such books, records, and documents as
12 may be specified or to submit such books, records, and
13 documents to inspection. Such subpoenas may be served by an
14 authorized representative of the Chief Financial Officer
15 ~~department~~.

16 (3) If any person shall refuse to testify, produce
17 books, records, and documents, or otherwise refuse to obey a
18 subpoena issued under this section, the Chief Financial
19 Officer department may present his or her ~~its~~ petition to a
20 court of competent jurisdiction in or for the county in which
21 such person resides or has its principal place of business,
22 whereupon the court shall issue its rule nisi requiring such
23 person to obey forthwith the subpoena issued by the Chief
24 Financial Officer department or show cause for failing to obey
25 said subpoena. Unless said person shows sufficient cause for
26 failing to obey the subpoena, the court shall forthwith direct
27 such person to obey the same subject to such punishment as the
28 court may direct including, but not limited to, the restraint,
29 by injunction or by appointment of a receiver, of any
30 transfer, pledge, assignment, or other disposition of such
31 person's assets or any concealment, alteration, destruction,

1 or other disposition of subpoenaed books, records, or
2 documents as the court deems appropriate, until such person
3 has fully complied with such subpoena and the Chief Financial
4 Officer ~~department~~ has completed his or her ~~its~~ investigation
5 or examination. The Chief Financial Officer ~~department~~ is
6 entitled to the summary procedure provided in s. 51.011, and
7 the court shall advance the cause on its calendar. Costs
8 incurred by the Chief Financial Officer ~~department~~ to obtain
9 an order granting, in whole or in part, his or her ~~its~~
10 petition shall be taxed against the subpoenaed person, and
11 failure to comply with such order shall be a contempt of
12 court.

13 (5) The material compiled by the Chief Financial
14 Officer ~~department~~ in an investigation or examination under
15 this chapter is confidential until the investigation or
16 examination is complete. The material compiled by the Chief
17 Financial Officer ~~department~~ in an investigation or
18 examination under this chapter remains confidential after the
19 Chief Financial Officer's ~~department's~~ investigation or
20 examination is complete if the Chief Financial Officer
21 ~~department~~ has submitted the material or any part of it to any
22 law enforcement agency or other administrative agency for
23 further investigation or for the filing of a criminal or civil
24 prosecution and such investigation has not been completed or
25 become inactive.

26 (6) If an investigation or an examination of the
27 records of any person results in the disclosure of property
28 reportable and deliverable under this chapter, the Chief
29 Financial Officer ~~department~~ may assess the cost of
30 investigation or the examination against the holder at the
31 rate of \$100 per day per investigator or examiner.

1 Section 785. Effective January 7, 2003, subsection (1)
2 of section 717.1311, Florida Statutes, is amended to read:

3 717.1311 Retention of records.--

4 (1) Every holder required to file a report under s.
5 717.117 shall maintain a record of the specific type of
6 property, amount, name, and last known address of the owner
7 for 5 years after the property becomes reportable, except to
8 the extent that a shorter time is provided in subsection (2)
9 or by rule of the Chief Financial Officer ~~department~~.

10 Section 786. Effective January 7, 2003, section
11 717.1315, Florida Statutes, is amended to read:

12 717.1315 Retention of records by owner's
13 representative.--

14 (1) Every owner's representative shall keep and use in
15 his or her business such books, accounts, and records of the
16 business conducted under this chapter to enable the Chief
17 Financial Officer ~~department~~ to determine whether such owner's
18 representative is complying with this chapter and the rules
19 adopted by the Chief Financial Officer ~~department~~ under this
20 chapter. Every owner's representative shall preserve such
21 books, accounts, and records, including every agreement
22 between the owner and such owner's representative, for at
23 least 3 years after the date of the initial agreement.

24 (2) An owner's representative, operating at two or
25 more places of business in this state, may maintain the books,
26 accounts, and records of all such offices at any one of such
27 offices, or at any other office maintained by such owner's
28 representative, upon the filing of a written notice with the
29 Chief Financial Officer ~~department~~ designating in the written
30 notice the office at which such records are maintained.

31 However, the owner's representative shall make all books,

1 accounts, and records available at a convenient location in
2 this state upon request of the Chief Financial Officer
3 ~~department~~.

4 Section 787. Effective January 7, 2003, section
5 717.132, Florida Statutes, is amended to read:

6 717.132 Enforcement; cease and desist orders;
7 administrative fines.--

8 (1) The Chief Financial Officer ~~department~~ may bring
9 an action in any court of competent jurisdiction to enforce or
10 administer any provision of this chapter, any rule or order
11 promulgated under this chapter, or any written agreement
12 entered into with the Chief Financial Officer ~~department~~.

13 (2) In addition to any other powers conferred upon it
14 to enforce and administer the provisions of this chapter, the
15 Chief Financial Officer ~~department~~ may issue and serve upon a
16 person an order to cease and desist and to take corrective
17 action whenever the Chief Financial Officer ~~department~~ finds
18 that such person is violating, has violated, or is about to
19 violate any provision of this chapter, any rule or order
20 promulgated under this chapter, or any written agreement
21 entered into with the Chief Financial Officer ~~department~~. Any
22 such order shall contain a notice of rights provided by ss.
23 120.569 and 120.57.

24 (3) In addition to any other powers conferred upon it
25 to enforce and administer the provisions of this chapter, the
26 Chief Financial Officer ~~department~~ may impose and collect an
27 administrative fine against any person found to have violated
28 any provision of this chapter, any rule or order promulgated
29 under this chapter, or any written agreement entered into with
30 the Chief Financial Officer ~~department~~ in an amount not to
31 exceed \$2,000 for each violation. All fines collected under

1 this subsection shall be deposited as received in the
2 Unclaimed Property Trust Fund.

3 Section 788. Effective January 7, 2003, section
4 717.133, Florida Statutes, is amended to read:

5 717.133 Interstate agreements and cooperation; joint
6 and reciprocal actions with other states.--

7 (1) The Chief Financial Officer ~~department~~ may enter
8 into agreements with other states to exchange information
9 needed to enable this or another state to audit or otherwise
10 determine unclaimed property that it or another state may be
11 entitled to subject to a claim of custody. The Chief
12 Financial Officer ~~department~~ may require the reporting of
13 information needed to enable compliance with agreements made
14 pursuant to this section and prescribe the form.

15 (2) The Chief Financial Officer ~~department~~ may join
16 with other states to seek enforcement of this chapter against
17 any person.

18 (3) At the request of another state, the Chief
19 Financial Officer ~~department~~ may bring an action in the name
20 of the other state in any court of competent jurisdiction to
21 enforce the unclaimed property laws of the other state against
22 a holder in this state of property subject to escheat or a
23 claim of abandonment by the other state, if the other state
24 has agreed to pay expenses incurred in bringing the action.

25 (4) The Chief Financial Officer ~~department~~ may request
26 that the attorney general of another state or any other person
27 bring an action in the name of the Chief Financial Officer
28 ~~department~~ in the other state. The Chief Financial Officer
29 ~~department~~ may pay all expenses including attorneys' fees in
30 any action under this subsection.

31

1 (5) As necessary for proper administration of this
2 chapter, the Chief Financial Officer ~~department~~ may enter into
3 contracts for the location or collection of property subject
4 to payment or delivery to the Chief Financial Officer
5 ~~department~~ under this chapter.

6 Section 789. Effective January 7, 2003, subsections
7 (1), (2), and (4) of section 717.134, Florida Statutes, are
8 amended to read:

9 717.134 Penalties and interest.--

10 (1) The Chief Financial Officer ~~department~~ may impose
11 and collect a penalty of \$500 per day up to a maximum of
12 \$5,000 and 25 percent of the value of property not reported
13 until a report is rendered for any person who willfully fails
14 to render any report required under this chapter. Upon a
15 holder's showing of good cause, the Chief Financial Officer
16 ~~department~~ may waive said penalty or any portion thereof. If
17 the holder acted in good faith and without negligence, the
18 Chief Financial Officer ~~department~~ shall waive the penalty
19 provided herein.

20 (2) The Chief Financial Officer ~~department~~ may impose
21 and collect a penalty of \$500 per day up to a maximum of
22 \$5,000 and 25 percent of the value of property not paid or
23 delivered until the property is paid or delivered for any
24 person who willfully refuses to pay or deliver abandoned
25 property to the Chief Financial Officer ~~department~~ as required
26 under this chapter.

27 (4) In addition to any damages, penalties, or fines
28 for which a person may be liable under any other provision of
29 law, any person who fails to report or pay or deliver
30 unclaimed property within the time prescribed by this chapter
31 shall pay to the Chief Financial Officer ~~department~~ interest

1 at the rate of 12 percent per annum on such property, or value
2 thereof, from the date such property shall have been paid or
3 delivered. The Chief Financial Officer ~~department~~ may waive
4 any penalty due under this subsection with appropriate
5 justification.

6 Section 790. Effective January 7, 2003, subsection (1)
7 of section 717.135, Florida Statutes, is amended to read:

8 717.135 Agreement to locate reported property.--

9 (1) All agreements between an owner's representative
10 and an owner for compensation to recover or assist in the
11 recovery of property reported to the Chief Financial Officer
12 ~~department~~ under s. 717.117 shall either:

13 (a) Limit the fees for services for each owner
14 contract to \$25 for all contracts relating to unclaimed
15 property with a dollar value below \$250. For all contracts
16 relating to unclaimed property with a dollar value of \$250 and
17 above, fees shall be limited to 15 percent on property held by
18 the Chief Financial Officer ~~department~~ for 24 months or less
19 and 25 percent on property held by the Chief Financial Officer
20 ~~department~~ for more than 24 months. Fees for cash accounts
21 shall be based on the value of the property at the time the
22 agreement for recovery is signed by the apparent owner. Fees
23 for accounts containing securities or other intangible
24 ownership interests, which securities or interests are not
25 converted to cash, shall be based on the purchase price of the
26 security as quoted on a national exchange or other market on
27 which the ownership interest is regularly traded at the time
28 the securities or other ownership interest is remitted to the
29 owner or the owner's representative. Fees for tangible
30 property or safe-deposit box accounts shall be based on the
31 value of the tangible property or contents of the safe-deposit

1 box at the time the ownership interest is transferred or
2 remitted to the owner or the owner's representative; or
3 (b) Disclose that the property is held by the Chief
4 Financial Officer ~~Department of Banking and Finance~~ pursuant
5 to this chapter, the person or name of the entity that held
6 the property prior to the property becoming unclaimed, the
7 date of the holder's last contact with the owner, if known,
8 and the approximate value of the property, and identify which
9 of the following categories of unclaimed property the owner's
10 representative is seeking to recover:

- 11 1. Cash accounts.
- 12 2. Stale dated checks.
- 13 3. Life insurance or annuity contract assets.
- 14 4. Utility deposits.
- 15 5. Securities or other interests in business
16 associations.
- 17 6. Wages.
- 18 7. Accounts receivable.
- 19 8. Contents of safe-deposit boxes.
- 20

21 However, this section shall not apply to contracts made in
22 connection with guardianship proceedings or the probate of an
23 estate.

24 Section 791. Effective January 7, 2003, section
25 717.138, Florida Statutes, is amended to read:

26 717.138 Rulemaking authority.--The Chief Financial
27 Officer ~~Department of Banking and Finance~~ shall administer and
28 provide for the enforcement of this chapter. The Chief
29 Financial Officer ~~department~~ has authority to adopt rules
30 pursuant to ss. 120.536(1) and 120.54 to implement the
31 provisions of this chapter. The Chief Financial Officer

1 ~~department~~ may adopt rules to allow for electronic filing of
2 fees, forms, and reports required by this chapter.

3 Section 792. Effective January 7, 2003, paragraph (d)
4 of subsection (1) of section 718.501, Florida Statutes, is
5 amended to read:

6 718.501 Powers and duties of Division of Florida Land
7 Sales, Condominiums, and Mobile Homes.--

8 (1) The Division of Florida Land Sales, Condominiums,
9 and Mobile Homes of the Department of Business and
10 Professional Regulation, referred to as the "division" in this
11 part, in addition to other powers and duties prescribed by
12 chapter 498, has the power to enforce and ensure compliance
13 with the provisions of this chapter and rules promulgated
14 pursuant hereto relating to the development, construction,
15 sale, lease, ownership, operation, and management of
16 residential condominium units. In performing its duties, the
17 division has the following powers and duties:

18 (d) Notwithstanding any remedies available to unit
19 owners and associations, if the division has reasonable cause
20 to believe that a violation of any provision of this chapter
21 or rule promulgated pursuant hereto has occurred, the division
22 may institute enforcement proceedings in its own name against
23 any developer, association, officer, or member of the board of
24 administration, or its assignees or agents, as follows:

25 1. The division may permit a person whose conduct or
26 actions may be under investigation to waive formal proceedings
27 and enter into a consent proceeding whereby orders, rules, or
28 letters of censure or warning, whether formal or informal, may
29 be entered against the person.

30 2. The division may issue an order requiring the
31 developer, association, officer, or member of the board of

1 administration, or its assignees or agents, to cease and
2 desist from the unlawful practice and take such affirmative
3 action as in the judgment of the division will carry out the
4 purposes of this chapter. Such affirmative action may include,
5 but is not limited to, an order requiring a developer to pay
6 moneys determined to be owed to a condominium association.

7 3. The division may bring an action in circuit court
8 on behalf of a class of unit owners, lessees, or purchasers
9 for declaratory relief, injunctive relief, or restitution.

10 4. The division may impose a civil penalty against a
11 developer or association, or its assignee or agent, for any
12 violation of this chapter or a rule promulgated pursuant
13 hereto. The division may impose a civil penalty individually
14 against any officer or board member who willfully and
15 knowingly violates a provision of this chapter, a rule adopted
16 pursuant hereto, or a final order of the division. The term
17 "willfully and knowingly" means that the division informed the
18 officer or board member that his or her action or intended
19 action violates this chapter, a rule adopted under this
20 chapter, or a final order of the division and that the officer
21 or board member refused to comply with the requirements of
22 this chapter, a rule adopted under this chapter, or a final
23 order of the division. The division, prior to initiating
24 formal agency action under chapter 120, shall afford the
25 officer or board member an opportunity to voluntarily comply
26 with this chapter, a rule adopted under this chapter, or a
27 final order of the division. An officer or board member who
28 complies within 10 days is not subject to a civil penalty. A
29 penalty may be imposed on the basis of each day of continuing
30 violation, but in no event shall the penalty for any offense
31 exceed \$5,000. By January 1, 1998, the division shall adopt,

1 by rule, penalty guidelines applicable to possible violations
2 or to categories of violations of this chapter or rules
3 adopted by the division. The guidelines must specify a
4 meaningful range of civil penalties for each such violation of
5 the statute and rules and must be based upon the harm caused
6 by the violation, the repetition of the violation, and upon
7 such other factors deemed relevant by the division. For
8 example, the division may consider whether the violations were
9 committed by a developer or owner-controlled association, the
10 size of the association, and other factors. The guidelines
11 must designate the possible mitigating or aggravating
12 circumstances that justify a departure from the range of
13 penalties provided by the rules. It is the legislative intent
14 that minor violations be distinguished from those which
15 endanger the health, safety, or welfare of the condominium
16 residents or other persons and that such guidelines provide
17 reasonable and meaningful notice to the public of likely
18 penalties that may be imposed for proscribed conduct. This
19 subsection does not limit the ability of the division to
20 informally dispose of administrative actions or complaints by
21 stipulation, agreed settlement, or consent order. All amounts
22 collected shall be deposited with the Chief Financial Officer
23 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
24 Condominiums, and Mobile Homes Trust Fund. If a developer
25 fails to pay the civil penalty, the division shall thereupon
26 issue an order directing that such developer cease and desist
27 from further operation until such time as the civil penalty is
28 paid or may pursue enforcement of the penalty in a court of
29 competent jurisdiction. If an association fails to pay the
30 civil penalty, the division shall thereupon pursue enforcement
31 in a court of competent jurisdiction, and the order imposing

1 the civil penalty or the cease and desist order will not
2 become effective until 20 days after the date of such order.
3 Any action commenced by the division shall be brought in the
4 county in which the division has its executive offices or in
5 the county where the violation occurred.

6 Section 793. Effective January 7, 2003, paragraph (d)
7 of subsection (1) of section 719.501, Florida Statutes, is
8 amended to read:

9 719.501 Powers and duties of Division of Florida Land
10 Sales, Condominiums, and Mobile Homes.--

11 (1) The Division of Florida Land Sales, Condominiums,
12 and Mobile Homes of the Department of Business and
13 Professional Regulation, referred to as the "division" in this
14 part, in addition to other powers and duties prescribed by
15 chapter 498, has the power to enforce and ensure compliance
16 with the provisions of this chapter and rules promulgated
17 pursuant hereto relating to the development, construction,
18 sale, lease, ownership, operation, and management of
19 residential cooperative units. In performing its duties, the
20 division shall have the following powers and duties:

21 (d) Notwithstanding any remedies available to unit
22 owners and associations, if the division has reasonable cause
23 to believe that a violation of any provision of this chapter
24 or rule promulgated pursuant hereto has occurred, the division
25 may institute enforcement proceedings in its own name against
26 a developer, association, officer, or member of the board, or
27 its assignees or agents, as follows:

28 1. The division may permit a person whose conduct or
29 actions may be under investigation to waive formal proceedings
30 and enter into a consent proceeding whereby orders, rules, or
31

1 letters of censure or warning, whether formal or informal, may
2 be entered against the person.

3 2. The division may issue an order requiring the
4 developer, association, officer, or member of the board, or
5 its assignees or agents, to cease and desist from the unlawful
6 practice and take such affirmative action as in the judgment
7 of the division will carry out the purposes of this chapter.
8 Such affirmative action may include, but is not limited to, an
9 order requiring a developer to pay moneys determined to be
10 owed to a condominium association.

11 3. The division may bring an action in circuit court
12 on behalf of a class of unit owners, lessees, or purchasers
13 for declaratory relief, injunctive relief, or restitution.

14 4. The division may impose a civil penalty against a
15 developer or association, or its assignees or agents, for any
16 violation of this chapter or a rule promulgated pursuant
17 hereto. The division may impose a civil penalty individually
18 against any officer or board member who willfully and
19 knowingly violates a provision of this chapter, a rule adopted
20 pursuant to this chapter, or a final order of the division.
21 The term "willfully and knowingly" means that the division
22 informed the officer or board member that his or her action or
23 intended action violates this chapter, a rule adopted under
24 this chapter, or a final order of the division, and that the
25 officer or board member refused to comply with the
26 requirements of this chapter, a rule adopted under this
27 chapter, or a final order of the division. The division, prior
28 to initiating formal agency action under chapter 120, shall
29 afford the officer or board member an opportunity to
30 voluntarily comply with this chapter, a rule adopted under
31 this chapter, or a final order of the division. An officer or

1 board member who complies within 10 days is not subject to a
2 civil penalty. A penalty may be imposed on the basis of each
3 day of continuing violation, but in no event shall the penalty
4 for any offense exceed \$5,000. By January 1, 1998, the
5 division shall adopt, by rule, penalty guidelines applicable
6 to possible violations or to categories of violations of this
7 chapter or rules adopted by the division. The guidelines must
8 specify a meaningful range of civil penalties for each such
9 violation of the statute and rules and must be based upon the
10 harm caused by the violation, the repetition of the violation,
11 and upon such other factors deemed relevant by the division.
12 For example, the division may consider whether the violations
13 were committed by a developer or owner-controlled association,
14 the size of the association, and other factors. The guidelines
15 must designate the possible mitigating or aggravating
16 circumstances that justify a departure from the range of
17 penalties provided by the rules. It is the legislative intent
18 that minor violations be distinguished from those which
19 endanger the health, safety, or welfare of the cooperative
20 residents or other persons and that such guidelines provide
21 reasonable and meaningful notice to the public of likely
22 penalties that may be imposed for proscribed conduct. This
23 subsection does not limit the ability of the division to
24 informally dispose of administrative actions or complaints by
25 stipulation, agreed settlement, or consent order. All amounts
26 collected shall be deposited with the Chief Financial Officer
27 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
28 Condominiums, and Mobile Homes Trust Fund. If a developer
29 fails to pay the civil penalty, the division shall thereupon
30 issue an order directing that such developer cease and desist
31 from further operation until such time as the civil penalty is

1 paid or may pursue enforcement of the penalty in a court of
2 competent jurisdiction. If an association fails to pay the
3 civil penalty, the division shall thereupon pursue enforcement
4 in a court of competent jurisdiction, and the order imposing
5 the civil penalty or the cease and desist order shall not
6 become effective until 20 days after the date of such order.
7 Any action commenced by the division shall be brought in the
8 county in which the division has its executive offices or in
9 the county where the violation occurred.

10 Section 794. Effective January 7, 2003, subsection (3)
11 of section 721.24, Florida Statutes, is amended to read:

12 721.24 Firesafety.--

13 (3) The Division of State Fire Marshal of the
14 Department of Insurance and Financial Services may prescribe
15 uniform standards for firesafety equipment for timeshare units
16 of timeshare plans for which the construction contracts were
17 let before October 1, 1983. An entire building shall be
18 equipped as outlined, except that the approved sprinkler
19 system may be delayed by the Division of State Fire Marshal
20 until October 1, 1991, on a schedule for complete compliance
21 in accordance with rules adopted by the Division of State Fire
22 Marshal, which schedule shall include a provision for a 1-year
23 extension which may be granted not more than three times for
24 any individual requesting an extension. The entire system
25 must be installed and operational by October 1, 1994. The
26 Division of State Fire Marshal shall not grant an extension
27 for the approved sprinkler system unless a written request for
28 the extension and a construction work schedule is submitted.
29 The Division of State Fire Marshal may grant an extension upon
30 demonstration that compliance with this section by the date
31 required would impose an extreme hardship and a

1 disproportionate financial impact. Any establishment that has
2 been granted an extension by the Division of State Fire
3 Marshal shall post, in a conspicuous place on the premises, a
4 public notice stating that the establishment has not yet
5 installed the approved sprinkler system required by law.

6 Section 795. Effective January 7, 2003, paragraph (e)
7 of subsection (5) of section 721.26, Florida Statutes, is
8 amended to read:

9 721.26 Regulation by division.--The division has the
10 power to enforce and ensure compliance with the provisions of
11 this chapter, except for parts III and IV, using the powers
12 provided in this chapter, as well as the powers prescribed in
13 chapters 498, 718, and 719. In performing its duties, the
14 division shall have the following powers and duties:

15 (5) Notwithstanding any remedies available to
16 purchasers, if the division has reasonable cause to believe
17 that a violation of this chapter, or of any division rule or
18 order promulgated or issued pursuant to this chapter, has
19 occurred, the division may institute enforcement proceedings
20 in its own name against any regulated party, as such term is
21 defined in this subsection:

22 (e)1. The division may impose a penalty against any
23 regulated party for a violation of this chapter or any rule
24 adopted thereunder. A penalty may be imposed on the basis of
25 each day of continuing violation, but in no event may the
26 penalty for any offense exceed \$10,000. All accounts
27 collected shall be deposited with the Chief Financial Officer
28 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
29 Condominiums, and Mobile Homes Trust Fund.

30 2.a. If a regulated party fails to pay a penalty, the
31 division shall thereupon issue an order directing that such

1 regulated party cease and desist from further operation until
2 such time as the penalty is paid; or the division may pursue
3 enforcement of the penalty in a court of competent
4 jurisdiction.

5 b. If an association or managing entity fails to pay a
6 civil penalty, the division may pursue enforcement in a court
7 of competent jurisdiction.

8 Section 796. Effective January 7, 2003, paragraph (e)
9 of subsection (5) of section 723.006, Florida Statutes, is
10 amended to read:

11 723.006 Powers and duties of division.--In performing
12 its duties, the division has the following powers and duties:

13 (5) Notwithstanding any remedies available to mobile
14 home owners, mobile home park owners, and homeowners'
15 associations, if the division has reasonable cause to believe
16 that a violation of any provision of this chapter or any rule
17 promulgated pursuant hereto has occurred, the division may
18 institute enforcement proceedings in its own name against a
19 developer, mobile home park owner, or homeowners' association,
20 or its assignee or agent, as follows:

21 (e)1. The division may impose a civil penalty against
22 a mobile home park owner or homeowners' association, or its
23 assignee or agent, for any violation of this chapter, a
24 properly promulgated park rule or regulation, or a rule or
25 regulation promulgated pursuant hereto. A penalty may be
26 imposed on the basis of each separate violation and, if the
27 violation is a continuing one, for each day of continuing
28 violation, but in no event may the penalty for each separate
29 violation or for each day of continuing violation exceed
30 \$5,000. All amounts collected shall be deposited with the
31 Chief Financial Officer ~~Treasurer~~ to the credit of the

1 Division of Florida Land Sales, Condominiums, and Mobile Homes
2 Trust Fund.

3 2. If a violator fails to pay the civil penalty, the
4 division shall thereupon issue an order directing that such
5 violator cease and desist from further violation until such
6 time as the civil penalty is paid or may pursue enforcement of
7 the penalty in a court of competent jurisdiction. If a
8 homeowners' association fails to pay the civil penalty, the
9 division shall thereupon pursue enforcement in a court of
10 competent jurisdiction, and the order imposing the civil
11 penalty or the cease and desist order shall not become
12 effective until 20 days after the date of such order. Any
13 action commenced by the division shall be brought in the
14 county in which the division has its executive offices or in
15 which the violation occurred.

16 Section 797. Effective January 7, 2003, subsections
17 (2) and (3) and paragraphs (a) and (d) of subsection (5) of
18 section 732.107, Florida Statutes, are amended to read:

19 732.107 Escheat.--

20 (2) Property that escheats shall be sold as provided
21 in the Florida Probate Rules and the proceeds paid to the
22 Chief Financial Officer ~~Treasurer~~ of the state and deposited
23 in the State School Fund.

24 (3) At any time within 10 years after the payment to
25 the Chief Financial Officer ~~Treasurer~~, a person claiming to be
26 entitled to the proceeds may reopen the administration to
27 assert entitlement to the proceeds. If no claim is timely
28 asserted, the state's rights to the proceeds shall become
29 absolute.

30 (5)(a) If a person entitled to the proceeds assigns
31 the rights to receive payment to an attorney,

1 Florida-certified public accountant, or private investigative
2 agency which is duly licensed to do business in this state
3 pursuant to a written agreement with that person, the Chief
4 Financial Officer ~~Department of Banking and Finance~~ is
5 authorized to make distribution in accordance with the
6 assignment.

7 (d) The Chief Financial Officer ~~department~~ shall not
8 be civilly or criminally liable for any proceeds distributed
9 pursuant to this subsection, provided such distribution is
10 made in good faith.

11 Section 798. Effective January 7, 2003, subsections
12 (1), (2), and (3) and paragraphs (a) and (d) of subsection (5)
13 of section 733.816, Florida Statutes, are amended to read:

14 733.816 Disposition of unclaimed property held by
15 personal representatives.--

16 (1) In all cases in which there is unclaimed property
17 in the hands of a personal representative that cannot be
18 distributed or paid because of the inability to find the
19 lawful owner or because no lawful owner is known or because
20 the lawful owner refuses to accept the property after a
21 reasonable attempt to distribute it and after notice to that
22 lawful owner, the court shall order the personal
23 representative to sell the property and deposit the proceeds
24 and cash already in hand, after retaining those amounts
25 provided for in subsection (4), with the clerk and receive a
26 receipt, and the clerk shall deposit the funds in the registry
27 of the court to be disposed of as follows:

28 (a) If the value of the funds is \$500 or less, the
29 clerk shall post a notice for 30 days at the courthouse door
30 giving the amount involved, the name of the personal
31

1 representative, and the other pertinent information that will
2 put interested persons on notice.

3 (b) If the value of the funds is over \$500, the clerk
4 shall publish the notice once a month for 2 consecutive months
5 in a newspaper of general circulation in the county.
6

7 After the expiration of 6 months from the posting or first
8 publication, the clerk shall deposit the funds with the Chief
9 Financial Officer ~~State Treasurer~~ after deducting the clerk's
10 fees and the costs of publication.

11 (2) Upon receipt of the funds, the Chief Financial
12 Officer ~~State Treasurer~~ shall deposit them to the credit of
13 the State School Fund, to become a part of the school fund.
14 All interest and all income that may accrue from the money
15 while so deposited shall belong to the fund. The funds so
16 deposited shall constitute and be a permanent appropriation
17 for payments by the Chief Financial Officer ~~State Treasurer~~ in
18 obedience to court orders entered as provided by subsection
19 (3).

20 (3) Within 10 years from the date of deposit with the
21 Chief Financial Officer ~~State Treasurer~~, on written petition
22 to the court that directed the deposit of the funds and
23 informal notice to the Department of Legal Affairs, and after
24 proof of entitlement, any person entitled to the funds before
25 or after payment to the Chief Financial Officer ~~State~~
26 ~~Treasurer~~ and deposit as provided by subsection (1) may obtain
27 a court order directing the payment of the funds to that
28 person. All funds deposited with the Chief Financial Officer
29 ~~State Treasurer~~ and not claimed within 10 years from the date
30 of deposit shall escheat to the state for the benefit of the
31 State School Fund.

1 (5)(a) If a person entitled to the funds assigns the
2 right to receive payment or part payment to an attorney or
3 private investigative agency which is duly licensed to do
4 business in this state pursuant to a written agreement with
5 that person, the Chief Financial Officer ~~Department of Banking~~
6 ~~and Finance~~ is authorized to make distribution in accordance
7 with the assignment.

8 (d) The Chief Financial Officer ~~department~~ shall not
9 be civilly or criminally liable for any funds distributed
10 pursuant to this subsection, provided the distribution is made
11 in good faith.

12 Section 799. Effective January 7, 2003, paragraphs
13 (a), (b), and (c) of subsection (2) of section 744.534,
14 Florida Statutes, are amended to read:

15 744.534 Disposition of unclaimed funds held by
16 guardian.--

17 (2)(a) In those cases in which it is appropriate for
18 the guardianship to terminate pursuant to s. 744.521 and in
19 which property in the hands of a guardian cannot be
20 distributed to the ward or the ward's estate solely because
21 the guardian is unable to locate the ward through diligent
22 search, the court shall order the guardian of the property to
23 sell the property of the ward and deposit the proceeds and
24 cash already on hand after retaining those amounts provided
25 for in paragraph (e) with the clerk of the court exercising
26 jurisdiction over the guardianship and receive a receipt. The
27 clerk shall deposit the funds in the registry of the court, to
28 be disposed of as follows:

29 1. If the value of the funds is \$50 or less, the clerk
30 shall post a notice for 30 days at the courthouse door giving
31

1 the amount involved, the name of the ward, and other pertinent
2 information that will put interested persons on notice.

3 2. If the value of the funds is over \$50, the clerk
4 shall publish the notice once a month for 2 consecutive months
5 in a newspaper of general circulation in the county.

6 3. After the expiration of 6 months from the posting
7 or first publication, the clerk shall deposit the funds with
8 the Chief Financial Officer ~~State Treasurer~~ after deducting
9 his or her fees and the costs of publication.

10 (b) Upon receipt of the funds, the Chief Financial
11 Officer ~~State Treasurer~~ shall deposit them to the credit of
12 public guardianship. All interest and all income that may
13 accrue from the money while so deposited shall belong to the
14 fund. The funds so deposited shall constitute and be a
15 permanent appropriation for payments by the Chief Financial
16 Officer ~~State Treasurer~~ in obedience to court orders entered
17 as provided by paragraph (c).

18 (c) Within 10 years from the date of deposit with the
19 Chief Financial Officer ~~State Treasurer~~, on written petition
20 to the court that directed the deposit of the funds and
21 informal notice to the Department of Legal Affairs, and after
22 proof of his or her right to them, any person entitled to the
23 funds, before or after payment to the Chief Financial Officer
24 ~~State Treasurer~~ and deposit as provided for in paragraph (a),
25 may obtain a court order directing the payment of the funds to
26 him or her. All funds deposited with the Chief Financial
27 Officer ~~State Treasurer~~ and not claimed within 10 years from
28 the date of deposit shall escheat to the state for the benefit
29 of public guardianship.

30
31

1 Section 800. Effective January 7, 2003, paragraphs
2 (b), (c), (d), and (e) of subsection (3) of section 766.105,
3 Florida Statutes, are amended to read:

4 766.105 Florida Patient's Compensation Fund.--

5 (3) THE FUND.--

6 (b) Fund administration and operation.--

7 1. The fund shall operate subject to the supervision
8 and approval of a board of governors consisting of a
9 representative of the insurance industry appointed by the
10 Insurance Commissioner, an attorney appointed by The Florida
11 Bar, a representative of physicians appointed by the Florida
12 Medical Association, a representative of physicians' insurance
13 appointed by the Insurance Commissioner, a representative of
14 physicians' self-insurance appointed by the Insurance
15 Commissioner, two representatives of hospitals appointed by
16 the Florida Hospital Association, a representative of hospital
17 insurance appointed by the Insurance Commissioner, a
18 representative of hospital self-insurance appointed by the
19 Insurance Commissioner, a representative of the osteopathic
20 physicians' or podiatric physicians' insurance or
21 self-insurance appointed by the Insurance Commissioner, and a
22 representative of the general public appointed by the
23 Insurance Commissioner. The board of governors shall, during
24 the first meeting after June 30 of each year, choose one of
25 its members to serve as chair of the board and another member
26 to serve as vice chair of the board. The members of the board
27 shall be appointed to serve terms of 4 years, except that the
28 initial appointments of a representative of the general public
29 by the Insurance Commissioner, an attorney by The Florida Bar,
30 a representative of physicians by the Florida Medical
31 Association, and one of the two representatives of the Florida

1 Hospital Association shall be for terms of 3 years;
2 thereafter, such representatives shall be appointed for terms
3 of 4 years. Subsequent to initial appointments for 4-year
4 terms, the representative of the osteopathic physicians' or
5 podiatric physicians' insurance or self-insurance appointed by
6 the Insurance Commissioner and the representative of hospital
7 self-insurance appointed by the Insurance Commissioner shall
8 be appointed for 2-year terms; thereafter, such
9 representatives shall be appointed for terms of 4 years. Each
10 appointed member may designate in writing to the chair an
11 alternate to act in the member's absence or incapacity. A
12 member of the board, or the member's alternate, may be
13 reimbursed from the assets of the fund for expenses incurred
14 by him or her as a member, or alternate member, of the board
15 and for committee work, but he or she may not otherwise be
16 compensated by the fund for his or her service as a board
17 member or alternate.

18 2. There shall be no liability on the part of, and no
19 cause of action of any nature shall arise against, the fund or
20 its agents or employees, professional advisers or consultants,
21 members of the board of governors or their alternates, or the
22 Department of Insurance and Financial Services or its
23 representatives for any action taken by them in the
24 performance of their powers and duties pursuant to this
25 section.

26 (c) Powers of the fund.--The fund has the power to:

27 1. Sue and be sued, and appear and defend, in all
28 actions and proceedings in its name to the same extent as a
29 natural person.

30 2. Adopt, change, amend, and repeal a plan of
31 operation, not inconsistent with law, for the regulation and

1 administration of the affairs of the fund. The plan and any
2 changes thereto shall be filed with the Department of
3 Insurance and Financial Services ~~Insurance Commissioner~~ and
4 are all subject to its ~~his or her~~ approval before
5 implementation by the fund. All fund members, board members,
6 and employees shall comply with the plan of operation.

7 3. Have and exercise all powers necessary or
8 convenient to effect any or all of the purposes for which the
9 fund is created.

10 4. Enter into such contracts as are necessary or
11 proper to carry out the provisions and purposes of this
12 section.

13 5. Employ or retain such persons as are necessary to
14 perform the administrative and financial transactions and
15 responsibilities of the fund and to perform other necessary or
16 proper functions unless prohibited by law.

17 6. Take such legal action as may be necessary to avoid
18 payment of improper claims.

19 7. Indemnify any employee, agent, member of the board
20 of governors or his or her alternate, or person acting on
21 behalf of the fund in an official capacity, for expenses,
22 including attorney's fees, judgments, fines, and amounts paid
23 in settlement actually and reasonably incurred by him or her
24 in connection with any action, suit, or proceeding, including
25 any appeal thereof, arising out of his or her capacity in
26 acting on behalf of the fund, if he or she acted in good faith
27 and in a manner he or she reasonably believed to be in, or not
28 opposed to, the best interests of the fund and, with respect
29 to any criminal action or proceeding, he or she had reasonable
30 cause to believe his or her conduct was lawful.

31

1 (d) Fees and assessments.--Each health care provider,
2 as set forth in subsection (2), electing to comply with
3 paragraph (2)(b) for a given fiscal year shall pay the fees
4 and any assessments established under this section relative to
5 such fiscal year, for deposit into the fund. Those entering
6 the fund after the fiscal year has begun shall pay a prorated
7 share of the yearly fees for a prorated membership.
8 Actuarially sound membership fees payable annually,
9 semiannually, or quarterly with appropriate service charges
10 shall be established by the fund before January 1 of each
11 fiscal year, based on the following considerations:

- 12 1. Past and prospective loss and expense experience in
13 different types of practice and in different geographical
14 areas within the state;
- 15 2. The prior claims experience of the members covered
16 under the fund; and
- 17 3. Risk factors for persons who are retired,
18 semiretired, or part-time professionals.

19
20 Such fees shall be based on not more than three geographical
21 areas, not necessarily contiguous, with five categories of
22 practice and with categories which contemplate separate risk
23 ratings for hospitals, for health maintenance organizations,
24 for ambulatory surgical facilities, and for other medical
25 facilities. The fund is authorized to adjust the fees of an
26 individual member to reflect the claims experience of such
27 member. Each fiscal year of the fund shall operate
28 independently of preceding fiscal years. Participants shall
29 only be liable for assessments for claims from years during
30 which they were members of the fund; in cases in which a
31 participant is a member of the fund for less than the total

1 fiscal year, a member shall be subject to assessments for that
2 year on a pro rata basis determined by the percentage of
3 participation for the year. The fund shall submit to the
4 Department of Insurance and Financial Services ~~Insurance~~
5 ~~Commissioner~~ the classifications and membership fees to be
6 charged, and the Department of Insurance and Financial
7 Services ~~Insurance Commissioner~~ shall review such fees and
8 shall approve them if they comply with all the requirements of
9 this section and fairly reflect the considerations provided
10 for in this section. If the classifications or membership
11 fees do not comply with this section, the Department of
12 Insurance and Financial Services ~~Insurance Commissioner~~ shall
13 set classifications or membership fees which do comply and
14 which give due recognition to all considerations provided for
15 in this section. Nothing contained herein shall be construed
16 as imposing liability for payment of any part of a fund
17 deficit on the Joint Underwriting Association authorized by s.
18 627.351(4) or its member insurers. If the fund determines that
19 the amount of money in an account for a given fiscal year is
20 in excess of or not sufficient to satisfy the claims made
21 against the account, the fund shall certify the amount of the
22 projected excess or insufficiency to the Department of
23 Insurance and Financial Services ~~Insurance Commissioner~~ and
24 request the Department of Insurance and Financial Services
25 ~~Insurance Commissioner~~ to levy an assessment against or refund
26 to all participants in the fund for that fiscal year,
27 prorated, based on the number of days of participation during
28 the year in question. The Department of Insurance and
29 Financial Services ~~Insurance Commissioner~~ shall approve the
30 request of the fund to refund to, or levy any assessment
31 against, the participants, provided the refund or assessment

1 fairly reflects the same considerations and classifications
2 upon which the membership fees were based. The assessment
3 shall be in an amount sufficient to satisfy reserve
4 requirements for known claims, including expenses to satisfy
5 the claims, made against the account for a given fiscal year.
6 In any proceeding to challenge the amount of the refund or
7 assessment, it is to be presumed that the amount of refund or
8 assessment requested by the fund is correct, if the fund
9 demonstrates that it has used reasonable claims handling and
10 reserving procedures. Additional assessments may be certified
11 and levied in accordance with this paragraph as necessary for
12 any fiscal year. If a fund member objects to his or her
13 assessment, he or she shall, as a condition precedent to
14 bringing legal action contesting the assessment, pay the
15 assessment, under protest, to the fund. The fund may borrow
16 money needed for current operations, if necessary to pay
17 claims and related expenses, fees, and costs timely for a
18 given fiscal year, from an account for another fiscal year
19 until such time as sufficient funds have been obtained through
20 the assessment process. Any such money, together with
21 interest at the mean interest rate earned on the investment
22 portfolio of the fund, shall be repaid from the next
23 assessment for the given fiscal year. If any assessments are
24 levied in accordance with this subsection as a result of
25 claims in excess of \$500,000 per occurrence, and such
26 assessments are a result of the liability of certain
27 individuals and entities specified in paragraph (2)(e), only
28 hospitals shall be subject to such assessments. Before
29 approving the request of the fund to charge membership fees,
30 issue refunds, or levy assessments, the Department of
31 Insurance and Financial Services ~~Insurance Commissioner~~ shall

1 publish notice of the request in the Florida Administrative
2 Weekly. Pursuant to chapter 120, any party substantially
3 affected may request an appropriate proceeding. Any petition
4 for such a proceeding shall be filed with the Department of
5 Insurance and Financial Services within 21 days after the date
6 of publication of the notice in the Florida Administrative
7 Weekly.

8 (e) Fund accounting and audit.--

9 1. Money shall be withdrawn from the fund only upon a
10 voucher as authorized by the board of governors.

11 2. All books, records, and audits of the fund shall be
12 open for reasonable inspection to the general public, except
13 that a claim file in possession of the fund, fund members, and
14 their insurers is confidential and exempt from the provisions
15 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
16 until termination of litigation or settlement of the claim,
17 although medical records and other portions of the claim file
18 may remain confidential and exempt as otherwise provided by
19 law. Any book, record, document, audit, or asset acquired by,
20 prepared for, or paid for by the fund is subject to the
21 authority of the board of governors, which shall be
22 responsible therefor.

23 3. Persons authorized to receive deposits, issue
24 vouchers, or withdraw or otherwise disburse any fund moneys
25 shall post a blanket fidelity bond in an amount reasonably
26 sufficient to protect fund assets. The cost of such bond shall
27 be paid from the fund.

28 4. Annually, the fund shall furnish, upon request,
29 audited financial reports to any fund participant and to the
30 Department of Insurance and Financial Services and the Joint
31 Legislative Auditing Committee. The reports shall be prepared

1 in accordance with accepted accounting procedures and shall
2 include income and such other information as may be required
3 by the Department of Insurance and Financial Services or the
4 Joint Legislative Auditing Committee.

5 5. Any money held in the fund shall be invested in
6 interest-bearing investments by the board of governors of the
7 fund as administrator. However, in no case may any such money
8 be invested in the stock of any insurer participating in the
9 Joint Underwriting Association authorized by s. 627.351(4) or
10 in the parent company of, or company owning a controlling
11 interest in, such insurer. All income derived from such
12 investments shall be credited to the fund.

13 6. Any health care provider participating in the fund
14 may withdraw from such participation only at the end of a
15 fiscal year; however, such health care provider shall remain
16 subject to any assessment or any refund pertaining to any year
17 in which such member participated in the fund.

18 Section 801. Effective January 7, 2003, subsection (7)
19 of section 766.1115, Florida Statutes, is amended to read:

20 766.1115 Health care providers; creation of agency
21 relationship with governmental contractors.--

22 (7) RISK MANAGEMENT REPORT.--The Division of Risk
23 Management of the Department of Insurance and Financial
24 Services shall annually compile a report of all claims
25 statistics for all entities participating in the risk
26 management program administered by the division, which shall
27 include the number and total of all claims pending and paid,
28 and defense and handling costs associated with all claims
29 brought against contract providers under this section. This
30 report shall be forwarded to the department and included in
31

1 the annual report submitted to the Legislature pursuant to
2 this section.

3 Section 802. Effective January 7, 2003, subsection
4 (2), paragraphs (a) and (c) of subsection (5), paragraph (a)
5 of subsection (6), subsection (7), and paragraph (c) of
6 subsection (9) of section 766.314, Florida Statutes, are
7 amended to read:

8 766.314 Assessments; plan of operation.--

9 (2) The assessments and appropriations dedicated to
10 the plan shall be administered by the Florida Birth-Related
11 Neurological Injury Compensation Association established in s.
12 766.315, in accordance with the following requirements:

13 (a) On or before July 1, 1988, the directors of the
14 association shall submit to the Department of Insurance and
15 Financial Services for review a plan of operation which shall
16 provide for the efficient administration of the plan and for
17 prompt processing of claims against and awards made on behalf
18 of the plan. The plan of operation shall include provision
19 for:

- 20 1. Establishment of necessary facilities;
- 21 2. Management of the funds collected on behalf of the
22 plan;
- 23 3. Processing of claims against the plan;
- 24 4. Assessment of the persons and entities listed in
25 subsections (4) and (5) to pay awards and expenses, which
26 assessments shall be on an actuarially sound basis subject to
27 the limits set forth in subsections (4) and (5); and
- 28 5. Any other matters necessary for the efficient
29 operation of the birth-related neurological injury
30 compensation plan.

31

1 (b) The plan of operation shall be subject to approval
2 by the Department of Insurance and Financial Services after
3 consultation with representatives of state agencies which
4 collect revenue pursuant to this section and interested
5 individuals and organizations. If the Department of Insurance
6 and Financial Services disapproves all or any part of the plan
7 of operation, the directors shall within 30 days submit for
8 review an appropriate revised plan of operation. If the
9 directors fail to do so, the Department of Insurance and
10 Financial Services shall promulgate a plan of operation. The
11 plan of operation approved or promulgated by the Department of
12 Insurance and Financial Services shall become effective and
13 operational upon order of the Department of Insurance and
14 Financial Services.

15 (c) Amendments to the plan of operation may be made by
16 the directors of the plan, subject to the approval of the
17 Department of Insurance and Financial Services.

18 (5)(a) Beginning January 1, 1990, the persons and
19 entities listed in paragraphs (4)(b) and (c), except those
20 persons or entities who are specifically excluded from said
21 provisions, as of the date determined in accordance with the
22 plan of operation, taking into account persons licensed
23 subsequent to the payment of the initial assessment, shall pay
24 an annual assessment in the amount equal to the initial
25 assessments provided in paragraphs (4)(b) and (c). On January
26 1, 1991, and on each January 1 thereafter, the association
27 shall determine the amount of additional assessments necessary
28 pursuant to subsection (7), in the manner required by the plan
29 of operation, subject to any increase determined to be
30 necessary by the Department of Insurance and Financial
31 Services pursuant to paragraph (7)(b). On July 1, 1991, and

1 on each July 1 thereafter, the persons and entities listed in
2 paragraphs (4)(b) and (c), except those persons or entities
3 who are specifically excluded from said provisions, shall pay
4 the additional assessments which were determined on January 1.
5 Beginning January 1, 1990, the entities listed in paragraph
6 (4)(a), including those licensed on or after October 1, 1988,
7 shall pay an annual assessment of \$50 per infant delivered
8 during the prior calendar year. The additional assessments
9 which were determined on January 1, 1991, pursuant to the
10 provisions of subsection (7) shall not be due and payable by
11 the entities listed in paragraph (4)(a) until July 1.

12 (c)1. Taking into account the assessments collected
13 pursuant to subsection (4) and appropriations from the
14 Insurance Commissioner's Regulatory Trust Fund, if required to
15 maintain the plan on an actuarially sound basis, the
16 Department of Insurance and Financial Services shall require
17 each entity licensed to issue casualty insurance as defined in
18 s. 624.605(1)(b), (k), and (q) to pay into the association an
19 annual assessment in an amount determined by the department
20 pursuant to paragraph (7)(a), in the manner required by the
21 plan of operation.

22 2. All annual assessments shall be made on the basis
23 of net direct premiums written for the business activity which
24 forms the basis for each such entity's inclusion as a funding
25 source for the plan in the state during the prior year ending
26 December 31, as reported to the Department of Insurance and
27 Financial Services, and shall be in the proportion that the
28 net direct premiums written by each carrier on account of the
29 business activity forming the basis for its inclusion in the
30 plan bears to the aggregate net direct premiums for all such
31 business activity written in this state by all such entities.

1 3. No entity listed in this paragraph shall be
2 individually liable for an annual assessment in excess of 0.25
3 percent of that entity's net direct premiums written.

4 4. Casualty insurance carriers shall be entitled to
5 recover their initial and annual assessments through a
6 surcharge on future policies, a rate increase applicable
7 prospectively, or a combination of the two.

8 (6)(a) The association shall make all assessments
9 required by this section, except initial assessments of
10 physicians licensed on or after October 1, 1988, which
11 assessments will be made by the Department of Business and
12 Professional Regulation, and except assessments of casualty
13 insurers pursuant to subparagraph (5)(c)1., which assessments
14 will be made by the Department of Insurance and Financial
15 Services. Beginning October 1, 1989, for any physician
16 licensed between October 1 and December 31 of any year, the
17 Department of Business and Professional Regulation shall make
18 the initial assessment plus the assessment for the following
19 calendar year. The Department of Business and Professional
20 Regulation shall provide the association, with such frequency
21 as determined to be necessary, a listing, in a
22 computer-readable form, of the names and addresses of all
23 physicians licensed under chapter 458 or chapter 459.

24 (7)(a) The Department of Insurance and Financial
25 Services shall undertake an actuarial investigation of the
26 requirements of the plan based on the plan's experience in the
27 first year of operation and any additional relevant
28 information, including without limitation the assets and
29 liabilities of the plan. Pursuant to such investigation, the
30 Department of Insurance and Financial Services shall establish
31 the rate of contribution of the entities listed in paragraph

1 (5)(c) for the tax year beginning January 1, 1990. Following
2 the initial valuation, the Department of Insurance and
3 Financial Services shall cause an actuarial valuation to be
4 made of the assets and liabilities of the plan no less
5 frequently than biennially. Pursuant to the results of such
6 valuations, the Department of Insurance and Financial Services
7 shall prepare a statement as to the contribution rate
8 applicable to the entities listed in paragraph (5)(c).
9 However, at no time shall the rate be greater than 0.25
10 percent of net direct premiums written.

11 (b) If the Department of Insurance and Financial
12 Services finds that the plan cannot be maintained on an
13 actuarially sound basis based on the assessments and
14 appropriations listed in subsections (4) and (5), the
15 department shall increase the assessments specified in
16 subsection (4) on a proportional basis as needed.

17 (9)

18 (c) In the event the total of all current estimates
19 equals 80 percent of the funds on hand and the funds that will
20 become available to the association within the next 12 months
21 from all sources described in subsections (4) and (5) and
22 paragraph (7)(a), the association shall not accept any new
23 claims without express authority from the Legislature. Nothing
24 herein shall preclude the association from accepting any claim
25 if the injury occurred 18 months or more prior to the
26 effective date of this suspension. Within 30 days of the
27 effective date of this suspension, the association shall
28 notify the Governor, the Speaker of the House of
29 Representatives, the President of the Senate, the Department
30 of Insurance and Financial Services, the Agency for Health
31 Care Administration, the Department of Health, and the

1 Department of Business and Professional Regulation of this
2 suspension.

3 Section 803. Effective January 7, 2003, paragraph (d)
4 of subsection (5) of section 766.315, Florida Statutes, is
5 amended to read:

6 766.315 Florida Birth-Related Neurological Injury
7 Compensation Association; board of directors.--

8 (5)

9 (d) Annually, the association shall furnish audited
10 financial reports to any plan participant upon request, to the
11 Department of Insurance and Financial Services, and to the
12 Joint Legislative Auditing Committee. The reports must be
13 prepared in accordance with accepted accounting procedures and
14 must include such information as may be required by the
15 Department of Insurance and Financial Services or the Joint
16 Legislative Auditing Committee. At any time determined to be
17 necessary, the Department of Insurance and Financial Services
18 or the Joint Legislative Auditing Committee may conduct an
19 audit of the plan.

20 Section 804. Effective January 7, 2003, subsection
21 (3), paragraphs (a) and (d) of subsection (6), and subsection
22 (7) of section 768.28, Florida Statutes, are amended to read:

23 768.28 Waiver of sovereign immunity in tort actions;
24 recovery limits; limitation on attorney fees; statute of
25 limitations; exclusions; indemnification; risk management
26 programs.--

27 (3) Except for a municipality and the Spaceport
28 Florida Authority, the affected agency or subdivision may, at
29 its discretion, request the assistance of the Department of
30 Insurance and Financial Services in the consideration,
31 adjustment, and settlement of any claim under this act.

1 (6)(a) An action may not be instituted on a claim
2 against the state or one of its agencies or subdivisions
3 unless the claimant presents the claim in writing to the
4 appropriate agency, and also, except as to any claim against a
5 municipality or the Spaceport Florida Authority, presents such
6 claim in writing to the Department of Insurance and Financial
7 Services, within 3 years after such claim accrues and the
8 Department of Insurance and Financial Services or the
9 appropriate agency denies the claim in writing; except that,
10 if such claim is for contribution pursuant to s. 768.31, it
11 must be so presented within 6 months after the judgment
12 against the tortfeasor seeking contribution has become final
13 by lapse of time for appeal or after appellate review or, if
14 there is no such judgment, within 6 months after the
15 tortfeasor seeking contribution has either discharged the
16 common liability by payment or agreed, while the action is
17 pending against her or him, to discharge the common liability.

18 (d) For purposes of this section, complete, accurate,
19 and timely compliance with the requirements of paragraph (c)
20 shall occur prior to settlement payment, close of discovery or
21 commencement of trial, whichever is sooner; provided the
22 ability to plead setoff is not precluded by the delay. This
23 setoff shall apply only against that part of the settlement or
24 judgment payable to the claimant, minus claimant's reasonable
25 attorney's fees and costs. Incomplete or inaccurate
26 disclosure of unpaid adjudicated claims due the state, its
27 agency, officer, or subdivision, may be excused by the court
28 upon a showing by the preponderance of the evidence of the
29 claimant's lack of knowledge of an adjudicated claim and
30 reasonable inquiry by, or on behalf of, the claimant to obtain
31 the information from public records. Unless the appropriate

1 agency had actual notice of the information required to be
2 disclosed by paragraph (c) in time to assert a setoff, an
3 unexcused failure to disclose shall, upon hearing and order of
4 court, cause the claimant to be liable for double the original
5 undisclosed judgment and, upon further motion, the court shall
6 enter judgment for the agency in that amount. The failure of
7 the Department of Insurance and Financial Services or the
8 appropriate agency to make final disposition of a claim within
9 6 months after it is filed shall be deemed a final denial of
10 the claim for purposes of this section. For purposes of this
11 subsection, in medical malpractice actions, the failure of the
12 Department of Insurance and Financial Services or the
13 appropriate agency to make final disposition of a claim within
14 90 days after it is filed shall be deemed a final denial of
15 the claim. The provisions of this subsection do not apply to
16 such claims as may be asserted by counterclaim pursuant to s.
17 768.14.

18 (7) In actions brought pursuant to this section,
19 process shall be served upon the head of the agency concerned
20 and also, except as to a defendant municipality or the
21 Spaceport Florida Authority, upon the Department of Insurance
22 and Financial Services; and the department or the agency
23 concerned shall have 30 days within which to plead thereto.

24 Section 805. Effective January 7, 2003, paragraph (d)
25 of subsection (5) of section 790.001, Florida Statutes, is
26 amended to read:

27 790.001 Definitions.--As used in this chapter, except
28 where the context otherwise requires:

29 (5) "Explosive" means any chemical compound or mixture
30 that has the property of yielding readily to combustion or
31 oxidation upon application of heat, flame, or shock, including

1 but not limited to dynamite, nitroglycerin, trinitrotoluene,
2 or ammonium nitrate when combined with other ingredients to
3 form an explosive mixture, blasting caps, and detonators; but
4 not including:

5 (d) Black powder in quantities not to exceed that
6 authorized by chapter 552, or by any rules or regulations
7 promulgated thereunder by the Department of Insurance and
8 Financial Services, when used for, or intended to be used for,
9 the manufacture of target and sporting ammunition or for use
10 in muzzle-loading flint or percussion weapons.

11

12 The exclusions contained in paragraphs (a)-(d) do not apply to
13 the term "explosive" as used in the definition of "firearm" in
14 subsection (6).

15 Section 806. Effective January 7, 2003, section
16 790.1612, Florida Statutes, is amended to read:

17 790.1612 Authorization for governmental manufacture,
18 possession, and use of destructive devices.--The governing
19 body of any municipality or county and the Division of State
20 Fire Marshal of the Department of Insurance and Financial
21 Services have the power to authorize the manufacture,
22 possession, and use of destructive devices as defined in s.
23 790.001(4).

24 Section 807. Effective January 7, 2003, subsection (2)
25 of section 791.01, Florida Statutes, is amended to read:

26 791.01 Definitions.--As used in this chapter, the
27 term:

28 (2) "Division" means the Division of the State Fire
29 Marshal of the Department of Insurance and Financial Services.

30 Section 808. Effective January 7, 2003, section
31 817.16, Florida Statutes, is amended to read:

1 817.16 False reports, etc., by officers of banks,
2 trust companies, etc., under supervision of Department of
3 Insurance and Financial Services ~~Banking and Finance~~ with
4 intent to defraud.--Any officer, director, agent or clerk of
5 any bank, trust company, building and loan association, small
6 loan licensee, credit union, or other corporation under the
7 supervision of the Department of Insurance and Financial
8 Services ~~Banking and Finance~~, who willfully and knowingly
9 subscribes or exhibits any false paper with intent to deceive
10 any person authorized to examine as to the records of such
11 bank, trust company, building and loan association, small loan
12 licensee, credit union, or other corporation under the
13 supervision of the Department of Insurance and Financial
14 Services ~~Banking and Finance~~, or willfully and knowingly
15 subscribes to or makes any false reports to the Department of
16 Insurance and Financial Services ~~Banking and Finance~~ or causes
17 to be published any false report, shall be guilty of a felony
18 of the third degree, punishable as provided s. 775.082 or s.
19 775.083.

20 Section 809. Effective January 7, 2003, paragraph (b)
21 of subsection (1) and subsection (10) of section 817.234,
22 Florida Statutes, are amended to read:

23 817.234 False and fraudulent insurance claims.--

24 (1)

25 (b) All claims and application forms shall contain a
26 statement that is approved by the Department of Insurance and
27 Financial Services that clearly states in substance the
28 following: "Any person who knowingly and with intent to
29 injure, defraud, or deceive any insurer files a statement of
30 claim or an application containing any false, incomplete, or
31 misleading information is guilty of a felony of the third

1 degree." This paragraph shall not apply to reinsurance
2 contracts, reinsurance agreements, or reinsurance claims
3 transactions.

4 (10) As used in this section, the term "insurer" means
5 any insurer, health maintenance organization, self-insurer,
6 self-insurance fund, or other similar entity or person
7 regulated under chapter 440 or chapter 641 or by the
8 Department of Insurance and Financial Services under the
9 Florida Insurance Code.

10 Section 810. Effective January 7, 2003, section
11 839.06, Florida Statutes, is amended to read:

12 839.06 Collectors not to deal in warrants, etc.;
13 removal.--No tax collector of any county shall, either
14 directly or indirectly, purchase or receive in exchange any
15 Chief Financial Officer's ~~Comptroller's~~ warrants, county
16 orders, jurors' certificates or school district orders for a
17 less amount than expressed on the face of such orders or
18 demand, and any such person so offending shall, for each
19 offense, be deemed guilty of a misdemeanor of the first
20 degree, punishable as provided in s. 775.083, and be removed
21 from office.

22 Section 811. Effective January 7, 2003, paragraph (d)
23 of subsection (5) and paragraph (c) of subsection (13) of
24 section 849.086, Florida Statutes, are amended to read:

25 849.086 Cardrooms authorized.--

26 (5) LICENSE REQUIRED; APPLICATION; FEES.--No person
27 may operate a cardroom in this state unless such person holds
28 a valid cardroom license issued pursuant to this section.

29 (d) The annual cardroom license fee shall be \$1,000
30 for the first table and \$500 for each additional table to be
31 operated at the cardroom. This license fee shall be deposited

1 by the division with the Chief Financial Officer ~~Treasurer~~ to
2 the credit of the Pari-mutuel Wagering Trust Fund.

3 (13) TAXES AND OTHER PAYMENTS.--

4 (c) Payment of the admission tax and gross receipts
5 tax imposed by this section shall be paid to the division. The
6 division shall deposit these sums with the Chief Financial
7 Officer ~~Treasurer~~, one-half being credited to the Pari-mutuel
8 Wagering Trust Fund and one-half being credited to the General
9 Revenue Fund. The cardroom licensee shall remit to the
10 division payment for the admission tax, the gross receipts
11 tax, and the licensee fees. Such payments shall be remitted
12 to the division on the fifth day of each calendar month for
13 taxes and fees imposed for the preceding month's cardroom
14 activities. Licensees shall file a report under oath by the
15 fifth day of each calendar month for all taxes remitted during
16 the preceding calendar month. Such report shall, under oath,
17 indicate the total of all admissions, the cardroom activities
18 for the preceding calendar month, and such other information
19 as may be prescribed by the division.

20 Section 812. Effective January 7, 2003, section
21 849.33, Florida Statutes, is amended to read:

22 849.33 Judgment and collection of money;
23 execution.--Any judgment recovered in such a suit shall
24 adjudge separately the amounts recovered for the use of the
25 state, and the plaintiff shall not have execution therefor,
26 and such amounts shall not be paid to the plaintiff, but shall
27 be payable to the state attorney, who shall promptly transmit
28 the sums collected by him or her to the Chief Financial
29 Officer ~~State Treasurer~~. The state attorney shall diligently
30 seek the collection of such amounts and may cause a separate
31 execution to issue for the collection thereof.

1 Section 813. Effective January 7, 2003, subsection (1)
2 of section 860.154, Florida Statutes, is amended to read:

3 860.154 Florida Motor Vehicle Theft Prevention
4 Authority.--

5 (1) There is hereby established within the Department
6 of Legal Affairs the Florida Motor Vehicle Theft Prevention
7 Authority, which shall exercise its powers, duties, and
8 responsibilities independently of the department. The
9 purposes, powers, and duties of the authority shall be vested
10 in and exercised by a board of directors. There shall be nine
11 members of the board, consisting of the Commissioner of
12 Insurance ~~commissioner of the Department of Insurance~~ or the
13 commissioner's designee; the executive director of the
14 Department of Highway Safety and Motor Vehicles; the executive
15 director of the Department of Law Enforcement; six additional
16 members, each of whom shall be appointed by the Attorney
17 General: a state attorney or city or county executive, a chief
18 executive law enforcement official, a sheriff, one
19 representative of companies authorized to sell motor vehicle
20 insurance, one representative of insurers authorized to write
21 motor vehicle insurance in this state, and one representative
22 of purchasers of motor vehicle insurance in this state who is
23 not employed by or connected with the business of insurance.

24 Section 814. Effective January 7, 2003, subsections
25 (1) and (2) of section 896.102, Florida Statutes, are amended
26 to read:

27 896.102 Currency more than \$10,000 received in trade
28 or business; report required; noncompliance penalties.--

29 (1) All persons engaged in a trade or business, except
30 for those financial institutions that report to the Department
31 of Insurance and Financial Services ~~Comptroller~~ pursuant to s.

1 655.50, who receive more than \$10,000 in currency, including
2 foreign currency, in one transaction, or who receive this
3 amount through two or more related transactions, must complete
4 and file with the Department of Revenue the information
5 required pursuant to 26 U.S.C. s. 6050I., concerning returns
6 relating to currency received in trade or business. Any person
7 who willfully fails to comply with the reporting requirements
8 of this subsection is guilty of a misdemeanor of the first
9 degree, punishable as provided in s. 775.082, or by a fine not
10 exceeding \$250,000 or twice the value of the amount of the
11 currency transaction involved, whichever is greater, or by
12 both such imprisonment and fine. For a second or subsequent
13 conviction of a violation of the provisions of this
14 subsection, the maximum fine that may be imposed is \$500,000
15 or quintuple the value of the amount of the currency
16 transaction involved, whichever is greater.

17 (2) The Department of Revenue shall enforce compliance
18 with the provisions of subsection (1) and is to be the
19 custodian of all information and documents filed pursuant to
20 subsection (1). Such information and documents are
21 confidential and exempt from the provisions of s. 119.07(1)
22 and s. 24(a), Art. I of the State Constitution; however, the
23 department must provide any report filed under this section,
24 or information contained therein, to federal, state, and local
25 law enforcement and prosecutorial agencies and to the
26 Department of Insurance and Financial Services ~~Banking and~~
27 ~~Finance~~, and the information is subject to disclosure pursuant
28 to subpoena as provided in s. 213.053(8).

29 Section 815. Effective January 7, 2003, section
30 903.101, Florida Statutes, is amended to read:

31

1 903.101 Sureties; licensed persons; to have equal
2 access.--Subject to regulations promulgated by the Department
3 of Insurance and Financial Services, every surety who meets
4 the requirements of ss. 903.05, 903.06, 903.08, and 903.09,
5 and every person who is currently licensed by the Department
6 of Insurance and Financial Services and registered as required
7 by s. 648.42 shall have equal access to the jails of this
8 state for the purpose of making bonds.

9 Section 816. Effective January 7, 2003, subsection (1)
10 of section 903.27, Florida Statutes, is amended to read:

11 903.27 Forfeiture to judgment.--

12 (1) If the forfeiture is not paid or discharged by
13 order of a court of competent jurisdiction within 60 days and
14 the bond is secured other than by money and bonds authorized
15 in s. 903.16, the clerk of the circuit court for the county
16 where the order was made shall enter a judgment against the
17 surety for the amount of the penalty and issue execution.
18 Within 10 days, the clerk shall furnish the Department of
19 Insurance and Financial Services with a certified copy of the
20 judgment docket and shall furnish the surety company at its
21 home office a copy of the judgment, which shall include the
22 power of attorney number of the bond and the name of the
23 executing agent. If the judgment is not paid within 35 days,
24 the clerk shall furnish the Department of Insurance and
25 Financial Services and the sheriff of the county in which the
26 bond was executed, or the official responsible for operation
27 of the county jail, if other than the sheriff, two copies of
28 the judgment and a certificate stating that the judgment
29 remains unsatisfied. When and if the judgment is properly paid
30 or an order to vacate the judgment has been entered by a court
31 of competent jurisdiction, the clerk shall immediately notify

1 the sheriff, or the official responsible for the operation of
2 the county jail, if other than the sheriff, and the Department
3 of Insurance and Financial Services, if the department had
4 been previously notified of nonpayment, of such payment or
5 order to vacate the judgment. The clerk shall also
6 immediately prepare and record in the public records a
7 satisfaction of the judgment or record the order to vacate
8 judgment. If the defendant is returned to the county of
9 jurisdiction of the court, whenever a motion to set aside the
10 judgment is filed, the operation of this section is tolled
11 until the court makes a disposition of the motion.

12 Section 817. Effective January 7, 2003, paragraphs (a)
13 and (b) of subsection (5) of section 925.037, Florida
14 Statutes, are amended to read:

15 925.037 Reimbursement of counties for fees paid to
16 appointed counsel; circuit conflict committees.--

17 (5)(a) The clerk of the circuit court in each county
18 shall submit to the Justice Administrative Commission a
19 statement of conflict counsel fees at least annually. Such
20 statement shall identify total expenditures incurred by the
21 county on fees of counsel appointed by the court pursuant to
22 this section where such fees are taxed against the county by
23 judgment of the court. On the basis of such statement of
24 expenditures, the Justice Administrative Commission shall pay
25 state conflict case appropriations to the county. The
26 statement of conflict counsel fees shall be on a form
27 prescribed by the Justice Administrative Commission in
28 consultation with the Legislative Committee on
29 Intergovernmental Relations and the Chief Financial Officer
30 ~~Comptroller~~. Such form also shall provide for the separate
31 reporting of total expenditures made by the county on attorney

1 fees in cases in which other counsel were appointed by the
2 court where the public defender was unable to accept the case
3 as a result of a stated lack of resources. To facilitate such
4 expenditure identification and reporting, the public defender,
5 within 7 days of the appointment of such counsel by the court,
6 shall report to the clerk of circuit court case-related
7 information sufficient to permit the clerk to identify
8 separately county expenditures on fees of such counsel. No
9 county shall be required to submit any additional information
10 to the commission on an annual or other basis in order to
11 document or otherwise verify the expenditure information
12 provided on the statement of conflict counsel fees form,
13 except as provided in paragraph (c).

14 (b) Before September 30 of each year, the clerk of the
15 circuit court in each county shall submit to the Justice
16 Administrative Commission a report of conflict counsel
17 expenses and costs for the previous local government fiscal
18 year. Such report shall identify expenditures incurred by the
19 county on expenses and costs of counsel appointed by the court
20 pursuant to this section where such expenses and costs are
21 taxed against the county by judgment of the court. Such report
22 of expenditures shall be on a form prescribed by the
23 commission in consultation with the Legislative Committee on
24 Intergovernmental Relations and the Chief Financial Officer
25 ~~Comptroller~~, provided that such form shall at a minimum
26 separately identify total county expenditures for witness fees
27 and expenses, court reporter fees and costs, and defense
28 counsel travel and per diem. Such form also shall provide for
29 the separate reporting of total county expenditures on
30 attorney expenses and costs in cases in which other counsel
31 were appointed by the court where the public defender was

1 unable to accept the case as a result of a stated lack of
2 resources. To facilitate such expenditure identification and
3 reporting, the public defender, within 7 days of the
4 appointment of such counsel by the court, shall report to the
5 clerk of the circuit court case-related information sufficient
6 to permit the clerk to identify separately county expenditures
7 on expenses and costs of such counsel. No county shall be
8 required to submit any additional information to the Justice
9 Administrative Commission on an annual or other basis in order
10 to document or otherwise verify the expenditure information
11 provided on the report of conflict counsel expenses and costs
12 form, except as provided in paragraph (c).

13 Section 818. Effective January 7, 2003, paragraph (b)
14 of subsection (8) of section 932.7055, Florida Statutes, is
15 amended to read:

16 932.7055 Disposition of liens and forfeited
17 property.--

18 (8)

19 (b) The Department of Law Enforcement shall submit an
20 annual report to the criminal justice committees of the House
21 of Representatives and of the Senate compiling the information
22 and data related in the semiannual reports submitted by the
23 law enforcement agencies. The annual report shall also
24 contain a list of law enforcement agencies which have failed
25 to meet the reporting requirements and a summary of any action
26 which has been taken against the noncomplying agency by the
27 Office of the Chief Financial Officer ~~Comptroller~~.

28 Section 819. Effective January 7, 2003, section
29 932.707, Florida Statutes, is amended to read:

30 932.707 Penalty for noncompliance with reporting
31 requirements.--Any seizing agency which fails to comply with

1 the reporting requirements as described in s. 932.7055(8)(a),
2 is subject to a civil fine of \$5,000 payable to the General
3 Revenue Fund. However, such agency will not be subject to the
4 fine if, within 60 days of receipt of written notification
5 from the Department of Law Enforcement of the noncompliance
6 with the reporting requirements of the Florida Contraband
7 Forfeiture Act, the agency substantially complies with said
8 requirements. The Department of Law Enforcement shall submit
9 any substantial noncompliance to the Office of the Chief
10 Financial Officer ~~Comptroller~~, which shall be responsible for
11 the enforcement of this section.

12 Section 820. Effective January 7, 2003, subsection (1)
13 of section 938.27, Florida Statutes, is amended to read:

14 938.27 Judgment for costs on conviction.--

15 (1) In all criminal cases the costs of prosecution,
16 including investigative costs incurred by law enforcement
17 agencies, by fire departments for arson investigations, and by
18 investigations of the Division of Financial Investigations of
19 the Office of the Chief Financial Officer or the Department of
20 Insurance and Financial Services ~~Department of Banking and~~
21 ~~Finance~~, if requested and documented by such agencies, shall
22 be included and entered in the judgment rendered against the
23 convicted person.

24 Section 821. Effective January 7, 2003, section
25 939.13, Florida Statutes, is amended to read:

26 939.13 Power of Chief Financial Officer
27 ~~Comptroller~~.--The Chief Financial Officer ~~Comptroller~~ may
28 audit and approve or disapprove any claim or any item thereof
29 against the state for costs, fees or expenses of criminal
30 cases prosecuted in the name of the state, and for which the
31 state is liable, if the Chief Financial Officer ~~Comptroller~~ is

1 satisfied that the same is legal, just, necessary and correct
2 or otherwise, and may prescribe forms and methods for the
3 same. The Chief Financial Officer ~~Comptroller~~ shall not
4 dispense with any of the requirements of law relative to the
5 auditing and payment of such accounts, but may prescribe
6 additional requirements.

7 Section 822. Effective January 7, 2003, paragraph (h)
8 of subsection (1) of section 943.031, Florida Statutes, is
9 amended to read:

10 943.031 Florida Violent Crime and Drug Control
11 Council.--The Legislature finds that there is a need to
12 develop and implement a statewide strategy to address violent
13 criminal activity and drug control efforts by state and local
14 law enforcement agencies, including investigations of illicit
15 money laundering. In recognition of this need, the Florida
16 Violent Crime and Drug Control Council is created within the
17 department. The council shall serve in an advisory capacity to
18 the department.

19 (1) MEMBERSHIP.--The council shall consist of 14
20 members, as follows:

21 (h) The Chief Financial Officer ~~Comptroller~~, or a
22 designate.

23
24 The Governor, when making appointments under this subsection,
25 must take into consideration representation by geography,
26 population, ethnicity, and other relevant factors to ensure
27 that the membership of the council is representative of the
28 state at large. Designates appearing on behalf of a council
29 member who is unable to attend a meeting of the council are
30 empowered to vote on issues before the council to the same
31 extent the designating council member is so empowered.

1 Section 823. Effective January 7, 2003, subsection (2)
2 of section 943.032, Florida Statutes, is amended to read:

3 943.032 Financial Crime Analysis Center and Financial
4 Transaction Database.--

5 (2) The department shall compile information and data
6 available from financial transaction reports required to be
7 submitted by state or federal law that are provided to the
8 Department of Insurance and Financial Services ~~Banking and~~
9 ~~Finance~~, to the Department of Revenue, or to which the
10 department otherwise has access. Information and data so
11 received shall be utilized by the department in the Financial
12 Transaction Database. The department shall implement a system
13 utilizing the database that allows data review and processing
14 to reveal patterns, trends, and correlations that are
15 indicative of money laundering or other financial transactions
16 indicative of criminal activity. The department shall, in
17 consultation with the Department of Insurance and Financial
18 Services ~~Banking and Finance~~ and the Department of Revenue,
19 establish the methods and parameters by which information and
20 data received by the Department of Insurance and Financial
21 Services ~~Banking and Finance~~ or the Department of Revenue are
22 transferred to the department for inclusion in the database.
23 Information developed in or through the use of the database
24 shall be made available to law enforcement agencies and
25 prosecutors in this state in a manner defined by the
26 department and as allowed by state or federal law or
27 regulation. All information contained in the database shall
28 be considered "active criminal intelligence" or "active
29 criminal investigative information" as defined in s. 119.011.

30
31

1 Section 824. Effective January 7, 2003, subsections
2 (3) and (4) of section 944.516, Florida Statutes, are amended
3 to read:

4 944.516 Money or other property received for personal
5 use or benefit of inmate; deposit; disposition of unclaimed
6 trust funds.--The Department of Corrections shall protect the
7 financial interest of the state with respect to claims which
8 the state may have against inmates in state institutions under
9 its supervision and control and shall administer money and
10 other property received for the personal benefit of such
11 inmates. In carrying out the provisions of this section, the
12 department may delegate any of its enumerated powers and
13 duties affecting inmates of an institution to the warden or
14 regional director who shall personally, or through designated
15 employees of his or her personal staff under his or her direct
16 supervision, exercise such powers or perform such duties.

17 (3) Moneys received by the department in payment of
18 claims of the state against inmates shall be transmitted to
19 the Chief Financial Officer ~~Treasurer~~ for deposit into the
20 General Revenue Fund.

21 (4) Upon the death of any inmate in an institution
22 affected by the provisions of this section, any unclaimed
23 money held for the inmate in trust by the department or by the
24 Chief Financial Officer ~~Treasurer~~ shall be applied first to
25 the payment of any unpaid state claim against the inmate, and
26 any balance remaining unclaimed for a period of 1 year shall
27 escheat to the state as unclaimed funds held by fiduciaries.

28 Section 825. Effective January 7, 2003, section
29 946.33, Florida Statutes, is amended to read:

30 946.33 Disbursements from fund.--The funds in the
31 Correctional Work Program Trust Fund shall be deposited in the

1 State Treasury and paid out only on warrants drawn by the
2 Chief Financial Officer ~~Comptroller~~, duly approved by the
3 Department of Corrections. The department shall maintain all
4 necessary records and accounts relative to such funds.

5 Section 826. Effective January 7, 2003, subsection (2)
6 of section 946.509, Florida Statutes, is amended to read:

7 946.509 Insurance of property leased or acquired by
8 the corporation.--

9 (2) Coverage under the State Risk Management Trust
10 Fund of property leased to or otherwise acquired by the
11 corporation shall be secured and maintained through the
12 existing policy and account of the Department of Corrections
13 with the Division of Risk Management of the Department of
14 Insurance and Financial Services. All matters, including
15 premium calculations, assessments and payments, retrospective
16 premium adjustments, reporting requirements, and other
17 requirements, concerning coverage of such property under the
18 State Risk Management Trust Fund shall be conducted as if all
19 such property were owned solely by the department. Except as
20 required by chapter 284, if the corporation finds that it is
21 more economical to do so, the corporation may secure private
22 insurance coverage on all or a portion of the activities of or
23 properties used by the corporation. If coverage through the
24 State Risk Management Trust Fund is not secured, the
25 corporation must present documentation of insurance coverage
26 to the Division of Risk Management equal to the coverage that
27 could otherwise be provided by the State Risk Management Trust
28 Fund.

29 Section 827. Effective January 7, 2003, section
30 946.510, Florida Statutes, is amended to read:

31

1 946.510 Insurance by Division of Risk
2 Management.--Pursuant to the applicable provisions of chapter
3 284, the Division of Risk Management of the Department of
4 Insurance and Financial Services is authorized to insure the
5 corporation under the same general terms and conditions as the
6 Department of Corrections was insured by the division prior to
7 the corporation leasing the correctional work programs as
8 authorized by this chapter.

9 Section 828. Effective January 7, 2003, section
10 946.517, Florida Statutes, is amended to read:

11 946.517 Corporation records.--Corporation records are
12 public records; however, proprietary confidential business
13 information shall be confidential and exempt from the
14 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution. However, the Legislature, the Chief Financial
16 Officer ~~Comptroller~~, and the Governor, pursuant to their
17 oversight and auditing functions, shall have access to all
18 proprietary confidential business information upon request and
19 without subpoena and shall retain the confidentiality of
20 information so received. "Proprietary confidential business
21 information" means information regardless of form or
22 characteristics, that is owned or controlled by the
23 corporation; is intended to be and is treated by the
24 corporation as private and the disclosure of the information
25 would cause harm to the corporation's business operations; has
26 not been disclosed unless disclosed pursuant to a statutory
27 provision, an order of a court or administrative body, a
28 legislative proceeding pursuant to s. 5, Art. III of the State
29 Constitution, or a private agreement that provides that the
30 information may be released to the public; and, which is
31 information regarding:

- 1 (1) Internal auditing controls and reports of internal
2 auditors.
- 3 (2) Matters reasonably encompassed in privileged
4 attorney-client communications.
- 5 (3) Security measures, systems, or procedures.
- 6 (4) Information concerning bids or other contractual
7 data, banking records, and credit agreements, the disclosure
8 of which would impair the efforts of the corporation to
9 contract for goods or services on favorable terms.
- 10 (5) Information relating to private contractual data,
11 the disclosure of which would impair the competitive interest
12 of the provider of the information.
- 13 (6) Corporate officer, employee personnel, or inmate
14 worker information unrelated to compensation, duties,
15 qualifications, or responsibilities.
- 16 Section 829. Effective January 7, 2003, subsections
17 (1) and (2) of section 946.522, Florida Statutes, are amended
18 to read:
- 19 946.522 Prison Industries Trust Fund.--
- 20 (1) The Prison Industries Trust Fund is created, to be
21 administered by the Chief Financial Officer ~~Department of~~
22 ~~Banking and Finance~~. The trust fund shall consist of moneys
23 authorized to be deducted pursuant to 18 U.S.C. s. 1761(c) and
24 the applicable federal guidelines, to be appropriated by the
25 Legislature, and moneys deposited by the corporation
26 authorized under this part to manage and operate correctional
27 work programs. The appropriated funds shall be used by the
28 corporation for purposes of construction or renovation of its
29 facilities or for the expansion or establishment of
30 correctional work programs as described in this part or for
31

1 prison industries enhancement (PIE) programs as authorized
2 under s. 946.523.
3 (2) The funds must be deposited in the State Treasury
4 and may be paid out only on warrants drawn by the Chief
5 Financial Officer ~~Comptroller~~ upon receipt of a corporate
6 resolution that has been duly authorized by the board of
7 directors of the corporation authorized under this part to
8 manage and operate correctional work programs. The corporation
9 shall maintain all necessary records and accounts relative to
10 such funds.

11 Section 830. Effective January 7, 2003, paragraph (f)
12 of subsection (3) of section 946.525, Florida Statutes, is
13 amended to read:

14 946.525 Participation by the corporation in the state
15 group health insurance and prescription drug programs.--

16 (3) If the Department of Management Services
17 determines that the corporation is eligible to enroll, the
18 corporation must agree to the following terms and conditions:

19 (f) If the corporation fails to make the payments
20 required by this section to fully reimburse the state, the
21 Department of Revenue or the Chief Financial Officer
22 ~~Department of Banking and Finance~~ shall, upon the request of
23 the Department of Management Services, deduct the amount owed
24 by the employer from any funds to be distributed by it to the
25 corporation. The amounts so deducted shall be transferred to
26 the Department of Management Services for further distribution
27 to the trust funds in accordance with this chapter.

28 Section 831. Effective January 7, 2003, subsection (1)
29 of section 947.12, Florida Statutes, is amended to read:

30 947.12 Members, employees, expenses.--

31

1 (1) The members of the commission and its employees
2 shall be reimbursed for travel expenses as provided in s.
3 112.061. All bills for expenses shall be properly receipted,
4 audited, and approved and forwarded to the Chief Financial
5 Officer ~~Comptroller~~ and shall be paid in a manner and form as
6 the bills for the expenses of the several departments of the
7 state government are paid. All expenses, including salaries
8 and other compensation, shall be paid from the General Revenue
9 Fund and within the appropriation as fixed therefor by the
10 Legislature. Such expenses shall be paid by the Chief
11 Financial Officer ~~Treasurer~~ upon proper warrants ~~issued by the~~
12 ~~Comptroller of the state,~~ drawn upon vouchers and requisitions
13 approved by the commission, and signed by the Chief Financial
14 Officer ~~Comptroller~~.

15 Section 832. Effective January 7, 2003, subsection (8)
16 of section 950.002, Florida Statutes, is amended to read:

17 950.002 County work camps.--

18 (8) Pursuant to the applicable provisions of chapter
19 284, the Division of Risk Management of the Department of
20 Insurance and Financial Services is authorized to insure any
21 county work camp facility established pursuant to this act
22 under the same general terms and conditions as the Department
23 of Corrections is insured by the division for any of its
24 comparable work camps.

25 Section 833. Effective January 7, 2003, paragraph (b)
26 of subsection (1) of section 957.04, Florida Statutes, is
27 amended to read:

28 957.04 Contract requirements.--

29 (1) A contract entered into under this chapter for the
30 operation of private correctional facilities shall maximize
31 the cost savings of such facilities and shall:

1 (b) Indemnify the state and the department, including
2 their officials and agents, against any and all liability,
3 including, but not limited to, civil rights liability. Proof
4 of satisfactory insurance is required in an amount to be
5 determined by the commission, following consultation with the
6 Division of Risk Management of the Department of Insurance and
7 Financial Services. Not less than 30 days prior to the
8 release of each request for proposals by the commission, the
9 commission shall request the written recommendation of the
10 division regarding indemnification of the state and the
11 department under this paragraph. Within 15 days after such
12 request, the division shall provide a written recommendation
13 to the commission regarding the amount and manner of such
14 indemnification. The commission shall adopt the division's
15 recommendation unless, based on substantial competent
16 evidence, the commission determines a different amount and
17 manner of indemnification is sufficient.

18 Section 834. Effective January 7, 2003, paragraph (a)
19 of subsection (6) and subsection (8) of section 985.406,
20 Florida Statutes, are amended to read:

21 985.406 Juvenile justice training academies
22 established; Juvenile Justice Standards and Training
23 Commission created; Juvenile Justice Training Trust Fund
24 created.--

25 (6) SCHOLARSHIPS AND STIPENDS.--

26 (a) By rule, the commission shall establish criteria
27 to award scholarships or stipends to qualified juvenile
28 justice personnel who are residents of the state who want to
29 pursue a bachelor's or associate in arts degree in juvenile
30 justice or a related field. The department shall handle the
31 administration of the scholarship or stipend. The Department

1 of Education shall handle the notes issued for the payment of
2 the scholarships or stipends. All scholarship and stipend
3 awards shall be paid from the Juvenile Justice Training Trust
4 Fund upon vouchers approved by the Department of Education and
5 properly certified by the Chief Financial Officer ~~Comptroller~~.
6 Prior to the award of a scholarship or stipend, the juvenile
7 justice employee must agree in writing to practice her or his
8 profession in juvenile justice or a related field for 1 month
9 for each month of grant or to repay the full amount of the
10 scholarship or stipend together with interest at the rate of 5
11 percent per annum over a period not to exceed 10 years.
12 Repayment shall be made payable to the state for deposit into
13 the Juvenile Justice Training Trust Fund.

14 (8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE
15 RISK MANAGEMENT TRUST FUND.--Pursuant to s. 284.30, the
16 Division of Risk Management of the Department of Insurance and
17 Financial Services is authorized to insure a private agency,
18 individual, or corporation operating a state-owned training
19 school under a contract to carry out the purposes and
20 responsibilities of any program of the department. The
21 coverage authorized herein shall be under the same general
22 terms and conditions as the department is insured for its
23 responsibilities under chapter 284.

24 Section 835. Effective January 7, 2003, section
25 985.409, Florida Statutes, is amended to read:

26 985.409 Participation of certain programs in the State
27 Risk Management Trust Fund.--Pursuant to s. 284.30, the
28 Division of Risk Management of the Department of Insurance and
29 Financial Services is authorized to insure a private agency,
30 individual, or corporation operating a state-owned training
31 school under a contract to carry out the purposes and

1 responsibilities of any program of the department. The
2 coverage authorized herein shall be under the same general
3 terms and conditions as the department is insured for its
4 responsibilities under chapter 284.

5 Section 836. Effective January 7, 2003, sections 20.12
6 and 20.13, Florida Statutes, are repealed.

7 Section 837. Effective January 7, 2003, sections
8 17.011, 18.03, 18.08, 215.29, 627.0623, 655.019, and 657.067,
9 Florida Statutes, are repealed.

10 Section 838. References in the Florida Statutes
11 affected by the passage of this act and conformed to reflect
12 the provisions of this act shall be included in the edition of
13 the Florida Statutes prepared by the Division of Statutory
14 Revision for 2003.

15 Section 839. Effective January 7, 2003, \$5,372,514
16 shall be transferred, by nonoperating transfer, from the
17 Insurance Commissioner's Regulatory Trust Fund to the
18 Operating Trust Fund of the Florida Department of Law
19 Enforcement.

20 Section 840. Effective January 7, 2003, \$5,372,514 is
21 hereby appropriated from the Operating Trust Fund of the
22 Florida Department of Law Enforcement for the purpose of
23 operating the Division of Insurance Fraud for the period from
24 January 7, 2003 through June 30, 2003.

25 Section 841. There is hereby appropriated \$227,984
26 from the Grants and Donations Trust Fund in the Executive
27 Office of the Governor and two full-time equivalent (FTE)
28 positions for the purpose of funding the Office of Transition
29 Management within the Executive Office of the Governor. This
30 shall be funded by transfers of \$113,992 from the
31 Administrative Trust Fund of the Department of Banking and

1 Finance and \$113,992 from the Insurance Commissioner's
2 Regulatory Trust Fund of the Department of Insurance to the
3 Grants and Donations Trust Fund in the Executive Office of the
4 Governor. If funding for the Office of Transition Management
5 is provided in the 2002-2003 General Appropriations Act, this
6 appropriation shall not take effect.

7 Section 842. Except as otherwise provided herein, this
8 act shall take effect upon becoming a law.

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