

By Senator Latvala

311-168B-02

1 A bill to be entitled

2 An act relating to governmental reorganization;

3 creating s. 17.001, F.S.; establishing the

4 Office of the Chief Financial Officer; creating

5 s. 20.121, F.S.; creating the Department of

6 Financial Services; providing for the divisions

7 of the department; specifying division

8 directors who shall act as agency head for

9 purposes of ch. 120, F.S.; establishing the

10 manner of their appointment and confirmation;

11 transferring the Bureau of Deferred

12 Compensation from the Department of Insurance

13 to the Department of Management Services;

14 transferring the Division of Workers'

15 Compensation from the Department of Labor and

16 Employment Security to the Department of

17 Financial Services; providing that this act

18 shall not affect the validity of certain

19 judicial and administrative actions;

20 transferring the Department of Banking and

21 Finance and the Department of Insurance to the

22 Department of Financial Services; repealing s.

23 20.12, F.S.; abolishing the Department of

24 Banking and Finance; repealing s. 20.13, F.S.;

25 abolishing the Department of Insurance;

26 redesignating the Insurance Commissioner's

27 Regulatory Trust Fund the Insurance Regulatory

28 Trust Fund; redesignating the Department of

29 Banking and Finance Regulatory Trust Fund the

30 Banking and Finance Regulatory Trust Fund;

31 repealing s. 20.171(5)(b), F.S., relating to

1 the Division of Workers' Compensation in the
2 Department of Labor and Employment Security;
3 amending and transferring ss. 18.01, 18.02,
4 18.021, 18.05, 18.06, 18.10, 18.101, 18.103,
5 18.104, 18.125, 18.15, 18.17, 18.20, 18.23,
6 18.24, F.S., and amending ss. 11.12, 11.13,
7 11.147, 11.151, 11.40, 11.42, 13.05, 14.055,
8 14.057, 14.058, 14.202, 14.203, 14.24, 15.09,
9 16.10, 17.011, 17.02, 17.03, 17.031, 17.04,
10 17.0401, 17.041, 17.0415, 17.05, 17.06, 17.075,
11 17.076, 17.08, 17.09, 17.10, 17.11, 17.12,
12 17.13, 17.14, 17.16, 17.17, 17.20, 17.21,
13 17.22, 17.25, 17.26, 17.27, 17.28, 17.29,
14 17.30, 17.32, 17.325, 17.41, 17.43, 20.04,
15 20.055, 20.195, 20.425, 20.435, 24.105, 24.111,
16 24.112, 24.120, 25.241, 26.39, 27.08, 27.10,
17 27.11, 27.12, 27.13, 27.34, 27.3455, 27.703,
18 27.710, 27.711, 28.235, 28.24, 30.52, 40.30,
19 40.31, 40.33, 40.34, 40.35, 43.16, 43.19,
20 48.151, 55.03, 57.091, 68.083, 68.084, 68.087,
21 68.092, 77.0305, 92.39, 99.097, 101.151,
22 103.091, 107.11, 110.1127, 110.113, 110.114,
23 110.116, 110.1227, 110.1228, 110.123, 110.125,
24 110.181, 110.2037, 110.205, 112.061, 112.08,
25 112.191, 112.215, 112.3144, 112.3145, 112.3189,
26 112.31895, 112.3215, 112.63, 114.03, 116.03,
27 116.04, 116.05, 116.06, 116.14, 120.52, 120.80,
28 121.0312, 121.055, 121.061, 121.133, 121.4501,
29 125.0104, 129.201, 131.05, 137.09, 145.141,
30 154.02, 154.03, 154.05, 154.06, 154.209,
31 154.314, 163.01, 163.05, 163.055, 163.3167,

1 175.101, 175.121, 175.151, 185.08, 185.10,
2 185.13, 189.4035, 189.412, 189.427, 190.007,
3 191.006, 192.091, 192.102, 193.092, 195.101,
4 198.29, 199.232, 203.01, 206.46, 210.16,
5 210.20, 210.50, 211.06, 211.32, 212.08, 212.12,
6 212.20, 213.053, 213.054, 213.255, 213.67,
7 213.75, 215.02, 215.03, 215.04, 215.05, 215.11,
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9 215.29, 215.31, 215.32, 215.3206, 215.3208,
10 215.321, 215.322, 215.34, 215.35, 215.405,
11 215.42, 215.422, 215.44, 215.50, 215.551,
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17 216.221, 216.235, 216.237, 216.251, 216.271,
18 216.275, 216.292, 216.301, 217.07, 218.06,
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27 253.02, 253.025, 255.03, 255.052, 255.258,
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29 259.041, 265.53, 265.55, 267.075, 272.18,
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5 440.385, 440.44, 440.4416, 440.49, 440.50,
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21 550.1645, 552.081, 552.161, 552.21, 552.26,
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13 721.26, 723.006, 732.107, 733.816, 744.534,
14 766.105, 766.1115, 766.314, 766.315, 768.28,
15 790.001, 790.1612, 791.01, 791.015, 817.16,
16 817.234, 839.06, 849.086, 849.33, 860.154,
17 860.157, 896.102, 903.101, 903.27, 925.037,
18 932.7055, 932.707, 938.27, 939.13, 943.031,
19 943.032, 944.516, 946.33, 946.509, 946.510,
20 946.517, 946.522, 946.525, 947.12, 950.002,
21 957.04, 985.406, 985.409, F.S., to conform;
22 repealing s. 18.03, F.S., relating to the
23 residence and office of the Treasurer, s.
24 18.07, F.S., relating to records of warrants
25 and state funds and securities, s. 18.08, F.S.,
26 relating to the duty of the Treasurer to turn
27 over warrants paid to the Comptroller, s.
28 18.09, F.S., relating to a report to the
29 Legislature, s. 18.091, F.S., relating to
30 employees for legislative sessions; s. 18.22,
31 F.S., relating to rules, s. 657.067, F.S.,

1 relating to conversion of credit unions from
2 federal to state charter; providing effective
3 dates.

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

6
7 Section 1. Section 17.001, Florida Statutes, is
8 created to read:

9 17.001 Financial Officer.--As provided in s. 4(c),
10 Art. IV of the State Constitution, the Chief Financial Officer
11 is the chief fiscal officer of the state and is responsible
12 for settling and approving accounts against the state and
13 keeping all state funds and securities.

14 Section 2. Section 20.121, Florida Statutes, is
15 created to read:

16 20.121 Department of Financial Services.--There is
17 created a Department of Financial Services.

18 (1) The head of the Department of Financial Services
19 is the Chief Financial Officer.

20 (2) The Department of Financial Services shall consist
21 of the following divisions:

22 (a) Division of Treasury.

23 (b) Division of Consumer Services.

24 (c) Division of Insurer Services. Division
25 responsibilities, as provided in the Florida Insurance Code,
26 include issuing certificates of authority to insurers,
27 regulatory oversight of insurer insolvency, approving policy
28 forms and rates, performing market conduct examinations, and
29 enforcing statutes related to insurers.

30 (d) Division of Financial Institutions, which shall
31 consist of the following bureaus:

- 1 1. Bureau of Banking; and
2 2. Bureau of Credit Unions.

3
4 Division responsibilities include licensure, examination, and
5 regulation of state-chartered financial institutions, as
6 provided in chapters 655, 657, 658, 660, 663, 665, and 667.

- 7 (e) Division of Risk Management.
8 (f) Division of State Fire Marshal.
9 (g) Division of Insurance Fraud.
10 (h) Division of Rehabilitation and Liquidation.
11 (i) Division of Securities and Finance. Division
12 responsibilities include enforcing chapter 517, the Florida
13 Securities and Investor Protection Act; chapter 494, relating
14 to mortgage brokerage and mortgage lending; chapter 516, the
15 Consumer Finance Act; chapter 520, relating to retail
16 installment sales; those sections in chapter 559 relating to
17 collection agencies; chapter 560, the Money Transmitters'
18 Code; those portions of chapter 497 related to the
19 department's responsibilities with respect to cemeteries and
20 preneed services; and certifying and reviewing certified
21 capital companies, as provided in s. 288.99.

- 22 (j) Division of Information Systems.
23 (k) Division of Legal Services.
24 (l) Division of Financial Investigations.
25 (m) Division of Accounting and Auditing.
26 (n) Division of Insurance Agent and Agency Services.
27 (o) Division of Administration.
28 (p) The Division of Workers' Compensation.
29 (3) The Division of Financial Institutions, the
30 Division of Securities and Finance, and the Division of
31 Insurer Services shall each be headed by a "director." The

1 directors of these divisions shall act as agency head for
2 purposes of chapter 120, and shall be responsible for final
3 agency action with regard to the implementation and
4 enforcement of statutes and rules under the regulatory
5 authority delegated to their divisions. The Director of the
6 Division of Financial Institutions, the Director of the
7 Division of Securities and Finance, and the Director of the
8 Division of Insurer Services shall each be appointed by the
9 Chief Financial Officer, subject to confirmation by the
10 trustees of the State Board of Administration, and shall serve
11 at the pleasure of the trustees of the State Board of
12 Administration.

13 (4) The Division of Financial Investigations shall
14 function as a criminal justice agency within the meaning of s.
15 943.045(10)(e).

16 Section 3. The Bureau of Deferred Compensation of the
17 Division of Treasury is transferred by a type two transfer, as
18 defined in section 20.06(2), Florida Statutes, from the
19 Department of Insurance to the Department of Management
20 Services.

21 Section 4. The Division of Workers' Compensation of
22 the Department of Labor and Employment Security is transferred
23 by a type two transfer, as defined in section 20.06(2),
24 Florida Statutes, to the Department of Financial Services.

25 Section 5. This act shall not affect the validity of
26 any judicial or administrative action involving the Department
27 of Banking and Finance or the Department of Insurance pending
28 on January 7, 2003, and the Department of Financial Services
29 shall be substituted as a party in interest in any such
30 action. However, if the action involves the constitutional
31

1 functions of the Comptroller or Treasurer, the Chief Financial
2 Officer shall instead be substituted as a party in interest.

3 Section 6. The Department of Banking and Finance and
4 the Department of Insurance are transferred by a type two
5 transfer, as defined in section 20.06, Florida Statutes, to
6 the Department of Financial Services.

7 Section 7. Sections 20.12 and 20.13 and paragraph (b)
8 of subsection (5) of section 20.171, Florida Statutes, are
9 repealed.

10 Section 8. Section 11.12, Florida Statutes, is amended
11 to read:

12 11.12 Salary, subsistence, and mileage of members and
13 employees; expenses authorized by resolution; appropriation;
14 preaudit ~~by Comptroller.--~~

15 (1) The Chief Financial Officer ~~Treasurer~~ is
16 authorized to pay the salary, subsistence, and mileage of the
17 members of the Legislature, ~~as the same shall be authorized~~
18 ~~from time to time by law, upon receipt of a warrant therefor~~
19 ~~of the Comptroller for the stated amount.~~ The Chief Financial
20 Officer ~~Treasurer~~ is authorized to pay the compensation of
21 employees of the Legislature, together with reimbursement for
22 their authorized travel as provided in s. 112.061, and such
23 expense of the Legislature as shall be authorized by law, a
24 concurrent resolution, a resolution of either house, or rules
25 adopted by the respective houses, provided the total amount
26 appropriated to the legislative branch shall not be altered,
27 upon receipt of such warrant therefor. The number, duties, and
28 compensation of the employees of the respective houses and of
29 their committees shall be determined as provided by the rules
30 of the respective house or in this chapter. Each legislator
31 may designate no more than two employees to attend sessions of

1 the Legislature, and those employees who change their places
2 of residence in order to attend the session shall be paid
3 subsistence at a rate to be established by the President of
4 the Senate for Senate employees and the Speaker of the House
5 of Representatives for House employees. Such employees, in
6 addition to subsistence, shall be paid transportation expenses
7 in accordance with s. 112.061(7) and (8) for actual
8 transportation between their homes and the seat of government
9 in order to attend the legislative session and return home, as
10 well as for two round trips during the course of any regular
11 session of the Legislature.

12 (2) All vouchers covering legislative expenses shall
13 be preaudited by the Chief Financial Officer ~~Comptroller~~, and,
14 if found to be correct, state warrants shall be issued
15 therefor.

16 Section 9. Paragraph (c) of subsection (5) of section
17 11.13, Florida Statutes, is amended to read:

18 11.13 Compensation of members.--

19 (5)

20 (c) The Office of Legislative Services shall submit on
21 forms prescribed by the Chief Financial Officer ~~Comptroller~~
22 requested allotments of appropriations for the fiscal year. It
23 shall be the duty of the Chief Financial Officer ~~Comptroller~~
24 to release the funds and authorize the expenditures for the
25 legislative branch to be made from the appropriations on the
26 basis of the requested allotments. However, the aggregate of
27 such allotments shall not exceed the total appropriations
28 available for the fiscal year.

29 Section 10. Subsection (4) of section 11.147, Florida
30 Statutes, is amended to read:

31 11.147 Office of Legislative Services.--

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

5 Section 11. Section 11.151, Florida Statutes, is
6 amended to read:

7 11.151 Annual legislative appropriation to contingency
8 fund for use of Senate President and House Speaker.--There is
9 established a legislative contingency fund consisting of
10 \$10,000 for the President of the Senate and \$10,000 for the
11 Speaker of the House of Representatives, which amounts shall
12 be set aside annually from moneys appropriated for legislative
13 expense. These funds shall be disbursed by the Chief
14 Financial Officer ~~Comptroller~~ upon receipt of vouchers
15 authorized by the President of the Senate or the Speaker of
16 the House of Representatives. Such ~~said~~ funds may be expended
17 at the unrestricted discretion of the President of the Senate
18 or the Speaker of the House of Representatives in carrying out
19 their official duties during the entire period between the
20 date of their election as such officers at the organizational
21 meeting held pursuant to s. 3(a), Art. III of the State
22 Constitution and the next general election.

23 Section 12. Subsection (5) of section 11.40, Florida
24 Statutes, is amended to read:

25 11.40 Legislative Auditing Committee.--

26 (5) Following notification by the Auditor General, the
27 Department of Financial Services ~~Banking and Finance~~, or the
28 Division of Bond Finance of the State Board of Administration
29 of the failure of a local governmental entity, district school
30 board, charter school, or charter technical career center to
31 comply with the applicable provisions within s. 11.45(5)-(7),

1 s. 218.32(1), or s. 218.38, the Legislative Auditing Committee
2 may schedule a hearing. If a hearing is scheduled, the
3 committee shall determine if the entity should be subject to
4 further state action. If the committee determines that the
5 entity should be subject to further state action, the
6 committee shall:

7 (a) In the case of a local governmental entity or
8 district school board, request the Department of Revenue and
9 the Department of Financial Services ~~Banking and Finance~~ to
10 withhold any funds not pledged for bond debt service
11 satisfaction which are payable to such entity until the entity
12 complies with the law. The committee, in its request, shall
13 specify the date such action shall begin, and the request must
14 be received by the Department of Revenue and the Department of
15 Financial Services ~~Banking and Finance~~ 30 days before the date
16 of the distribution mandated by law. The Department of Revenue
17 and the Department of Financial Services ~~may Banking and~~
18 ~~Finance are authorized to~~ implement the provisions of this
19 paragraph.

20 (b) In the case of a special district, notify the
21 Department of Community Affairs that the special district has
22 failed to comply with the law. Upon receipt of notification,
23 the Department of Community Affairs shall proceed pursuant to
24 the provisions specified in ss. 189.421 and 189.422.

25 (c) In the case of a charter school or charter
26 technical career center, notify the appropriate sponsoring
27 entity, which may terminate the charter pursuant to ss.
28 228.056 and 228.505.

29 Section 13. Paragraph (b) of subsection (6) of section
30 11.42, Florida Statutes, is amended to read:

31 11.42 The Auditor General.--

1 (6)

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

6 Section 14. Subsection (1) of section 13.05, Florida
7 Statutes, is amended to read:

8 13.05 Governor's Committee on Interstate
9 Cooperation.--

10 (1) There is ~~hereby~~ established a committee of
11 administrative officials of this state to be officially known
12 as the Governor's Committee on Interstate Cooperation, and to
13 consist of six ~~seven~~ members. Its members shall be the
14 Governor, Secretary of State, Attorney General, Chief
15 Financial Officer ~~Comptroller~~, ~~Treasurer~~, Commissioner of
16 Education, and Commissioner of Agriculture. Any member of the
17 Governor's committee may designate an alternate to serve in
18 the member's place upon any occasion; such alternate shall be
19 an administrative official or employee of the state.

20 Section 15. Section 14.055, Florida Statutes, is
21 amended to read:

22 14.055 Succession to office of Governor.--Upon vacancy
23 in the office of Governor, the Lieutenant Governor shall
24 become Governor. Upon vacancy in the office of Governor and
25 in the office of Lieutenant Governor, the ~~Secretary of State~~
26 ~~shall become Governor; or if the office of Secretary of State~~
27 ~~be vacant, then the~~ Attorney General shall become Governor; or
28 if the office of Attorney General be vacant, then the Chief
29 Financial Officer ~~Comptroller~~ shall become Governor; ~~or if the~~
30 ~~office of Comptroller be vacant, then the Treasurer shall~~
31 ~~become Governor; or if the office of Treasurer be vacant, then~~

1 ~~the Commissioner of Education shall become Governor~~ or if the
2 office of Chief Financial Officer ~~Commissioner of Education~~ be
3 vacant, then the Commissioner of Agriculture shall become
4 Governor. A successor under this section shall serve for the
5 remainder of the term and shall receive all the rights,
6 privileges and emoluments of the Governor. In case a vacancy
7 shall occur in the office of Governor and provision is not
8 made herein for filling such vacancy, then the Speaker of the
9 House and the President of the Senate shall convene the
10 Legislature by joint proclamation within 15 days for the
11 purpose of choosing a person to serve as Governor for the
12 remainder of the term. A successor shall be elected by a
13 majority vote in a joint session of both houses.

14 Section 16. Subsection (1) of section 14.057, Florida
15 Statutes, is amended to read:

16 14.057 Governor-elect; establishment of operating
17 fund.--

18 (1) There is established an operating fund for the use
19 of the Governor-elect during the period dating from the
20 certification of his or her election by the Elections
21 Canvassing Commission to his or her inauguration as Governor.
22 The Governor-elect during this period may allocate the fund to
23 travel, expenses, his or her salary, and the salaries of the
24 Governor-elect's staff as he or she determines. Such staff may
25 include, but not be limited to, a chief administrative
26 assistant, a legal adviser, a fiscal expert, and a public
27 relations and information adviser. The salary of the
28 Governor-elect and each member of the Governor-elect's staff
29 during this period shall be determined by the Governor-elect,
30 except that the total expenditures chargeable to the state
31 under this section, including salaries, shall not exceed the

1 amount appropriated to the operating fund. The Executive
2 Office of the Governor shall supply to the Governor-elect
3 suitable forms to provide for the expenditure of the fund and
4 suitable forms to provide for the reporting of all
5 expenditures therefrom. The Chief Financial Officer
6 ~~Comptroller~~ shall release moneys from this fund upon the
7 request of the Governor-elect properly filed.

8 Section 17. Section 14.058, Florida Statutes, is
9 amended to read:

10 14.058 Inauguration expense fund.--There is
11 established an inauguration expense fund for the use of the
12 Governor-elect in planning and conducting the inauguration
13 ceremonies. The Governor-elect shall appoint an inauguration
14 coordinator and such staff as necessary to plan and conduct
15 the inauguration. Salaries for the inauguration coordinator
16 and the inauguration coordinator's staff shall be determined
17 by the Governor-elect and shall be paid from the inauguration
18 expense fund. The Executive Office of the Governor shall
19 supply to the inauguration coordinator suitable forms to
20 provide for the expenditure of the fund and suitable forms to
21 provide for the reporting of all expenditures therefrom. The
22 Chief Financial Officer ~~Comptroller~~ shall release moneys from
23 this fund upon the request of the inauguration coordinator
24 properly filed.

25 Section 18. Section 14.202, Florida Statutes, is
26 amended to read:

27 14.202 Administration Commission.--There is created as
28 part of the Executive Office of the Governor an Administration
29 Commission composed of the Governor and Cabinet. The Governor
30 is chair of the commission. The Governor or Chief Financial
31 Officer ~~Comptroller~~ may call a meeting of the commission

1 promptly each time the need therefor arises. Unless otherwise
2 provided herein, affirmative action by the commission shall
3 require the approval of the Governor and at least two ~~three~~
4 other members of the commission. The commission shall adopt
5 rules pursuant to ss. 120.536(1) and 120.54 to implement
6 provisions of law conferring duties upon it.

7 Section 19. Paragraph (f) of subsection (3) of section
8 14.203, Florida Statutes, is 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 ~~Comptroller, the Treasurer,~~ the
2 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 20. Subsection (1) of section 14.24, Florida
8 Statutes, is amended to read:

9 14.24 Florida Commission on the Status of Women.--

10 (1) There is established in the Office of the Attorney
11 General the Florida Commission on the Status of Women,
12 consisting of 20 ~~22~~ members. The Speaker of the House of
13 Representatives, the President of the Senate, the Attorney
14 General, and the Governor shall each appoint three members and
15 the Chief Financial Officer, ~~Insurance Commissioner, the~~
16 ~~Comptroller,~~ the Secretary of State, the Commissioner of
17 Agriculture, and the Commissioner of Education shall each
18 appoint two members, for a term of 4 years, ~~except that of the~~
19 ~~initial appointments, one-half shall be for a 2-year term and~~
20 ~~one-half shall be for a 4-year term.~~ On January 7, 2003, the
21 term of office of each member appointed by the Insurance
22 Commissioner and the Comptroller expires; and the Chief
23 Financial Officer shall reappoint one of the members who was
24 serving on January 6, 2003, and who was appointed by the
25 Insurance Commissioner and one of such members who was
26 appointed by the Comptroller. If possible, the reappointments
27 shall be made so that the terms of the Chief Financial
28 Officer's appointees remain staggered, but if both
29 reappointees were serving terms of the same length, the
30 reappointment shall be made so that the staggering of terms is
31 maintained. The members appointed shall include persons who

1 represent rural and urban interests and the ethnic and
2 cultural diversity of the state's population. No member shall
3 serve more than 8 consecutive years on the commission. A
4 vacancy shall be filled for the remainder of the unexpired
5 term in the same manner as the original appointment.

6 Section 21. Subsection (3) of section 15.09, Florida
7 Statutes, is amended to read:

8 15.09 Fees.--

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

13 Section 22. Section 16.10, Florida Statutes, is
14 amended to read:

15 16.10 Receipt of Supreme Court reports for
16 office.--The Clerk of the Supreme Court shall deliver to the
17 Attorney General a copy of each volume, or part of volume, of
18 the decisions of the Supreme Court, which may be in the care
19 or custody of said clerk, and which the Attorney General's
20 office may be without, and take the Attorney General's receipt
21 for the same. The Attorney General shall keep the same in her
22 or his office at the capitol, and each retiring Attorney
23 General shall take the receipt of her or his successor for the
24 same and file such receipt in the Chief Financial Officer's
25 ~~Treasurer's~~ office; provided that this shall not authorize the
26 taking away of any book belonging to the Supreme Court
27 library, kept for the use of said court.

28 Section 23. Section 17.011, Florida Statutes, is
29 amended to read:

30 17.011 Assistant Chief Financial Officer
31 ~~comptroller~~.--The Chief Financial Officer ~~Comptroller~~ of the

1 state may appoint an assistant ~~comptroller~~ to hold office
2 during the pleasure of the Chief Financial Officer
3 ~~Comptroller~~.

4 Section 24. Section 17.02, Florida Statutes, is
5 amended to read:

6 17.02 Place of residence and office.--The Chief
7 Financial Officer ~~Comptroller~~ shall reside at the seat of
8 government of this state, and shall hold office in a room in
9 the capitol. Such office must be open every day, holidays and
10 public festivals excepted, from 8 a.m. to 5 p.m. Monday
11 through Friday of every week.

12 Section 25. Section 17.03, Florida Statutes, is
13 amended to read:

14 17.03 To audit claims against the state.--

15 (1) The Chief Financial Officer ~~Comptroller~~ of this
16 state, using generally accepted auditing procedures for
17 testing or sampling, shall examine, audit, and settle all
18 accounts, claims, and demands, whatsoever, against the state,
19 arising under any law or resolution of the Legislature, and
20 issue a warrant ~~to the Treasurer~~ directing the payment
21 ~~Treasurer to pay~~ out of the State Treasury such amount as he
22 or she allows ~~shall be allowed by the Comptroller~~ thereon.

23 (2) The Chief Financial Officer ~~Comptroller~~ may
24 establish dollar thresholds applicable to each invoice amount
25 and other criteria for testing or sampling invoices on a
26 preaudit and postaudit basis. The Chief Financial Officer
27 ~~Comptroller~~ may revise such thresholds and other criteria for
28 an agency or the unit of any agency as he or she deems
29 appropriate.

30 (3) The Chief Financial Officer ~~Comptroller~~ may adopt
31 and disseminate to the agencies procedural and documentation

1 standards for payment requests and may provide training and
2 technical assistance to the agencies for these standards.

3 (4) The Chief Financial Officer ~~Comptroller~~ shall have
4 the legal duty of delivering all state warrants and shall be
5 charged with the official responsibility of the protection and
6 security of the state warrants while in his or her custody.
7 The Chief Financial Officer ~~Comptroller~~ may delegate this
8 authority to other state agencies or officers.

9 Section 26. Section 17.031, Florida Statutes, is
10 amended to read:

11 17.031 Security of Chief Financial Officer's
12 ~~Comptroller's~~ office.--The Chief Financial Officer may
13 ~~Comptroller is authorized to~~ engage the full-time services of
14 two law enforcement officers, with power of arrest, to prevent
15 all acts of a criminal nature directed at the property in the
16 custody or control of the Chief Financial Officer ~~Comptroller~~.
17 While so assigned, such ~~said~~ officers shall be under the
18 direction and supervision of the Chief Financial Officer
19 ~~Comptroller~~, and their salaries and expenses shall be paid
20 from the general fund of the office of Chief Financial Officer
21 ~~Comptroller~~.

22 Section 27. Section 17.04, Florida Statutes, is
23 amended to read:

24 17.04 To audit and adjust accounts of officers and
25 those indebted to the state.--The Chief Financial Officer
26 ~~Department of Banking and Finance of this state~~, using
27 generally accepted auditing procedures for testing or
28 sampling, shall examine, audit, adjust, and settle the
29 accounts of all the officers of this state, and any other
30 person in anywise entrusted with, or who may have received any
31 property, funds, or moneys of this state, or who may be in

1 | anywise indebted or accountable to this state for any
2 | property, funds, or moneys, and require such officer or
3 | persons to render full accounts thereof, and to yield up such
4 | property or funds according to law, or pay such moneys into
5 | the treasury of this state, or to such officer or agent of the
6 | state as may be appointed to receive the same, and on failure
7 | so to do, to cause to be instituted and prosecuted
8 | proceedings, criminal or civil, at law or in equity, against
9 | such persons, according to law. The Division of Financial
10 | Investigations may conduct investigations within or outside of
11 | this state as it deems necessary to aid in the enforcement of
12 | this section. If during an investigation the division has
13 | reason to believe that any criminal statute of this state has
14 | or may have been violated, the division shall refer any
15 | records tending to show such violation to state or federal law
16 | enforcement or prosecutorial agencies and shall provide
17 | investigative assistance to those agencies as required.

18 | Section 28. Section 17.0401, Florida Statutes, is
19 | amended to read:

20 | 17.0401 Confidentiality of information relating to
21 | financial investigations.--Except as otherwise provided by
22 | this section, information relative to an investigation
23 | conducted by the Division of Financial Investigations pursuant
24 | to s. 17.04, including any consumer complaint, is confidential
25 | and exempt from the provisions of s. 119.07(1) and s. 24(a),
26 | Art. I of the State Constitution until the investigation is
27 | completed or ceases to be active. Any information relating to
28 | an investigation conducted by the division pursuant to s.
29 | 17.04 shall remain confidential and exempt from the provisions
30 | of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
31 | after the division's investigation is completed or ceases to

1 be active if the division submits the information to any law
2 enforcement or prosecutorial agency for further investigation.
3 Such information shall remain confidential and exempt from the
4 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
5 Constitution until that agency's investigation is completed or
6 ceases to be active. For purposes of this section, an
7 investigation shall be considered "active" so long as the
8 division or any law enforcement or prosecutorial agency is
9 proceeding with reasonable dispatch and has a reasonable good
10 faith belief that the investigation may lead to the filing of
11 an administrative, civil, or criminal proceeding. This
12 section shall not be construed to prohibit disclosure of
13 information that ~~which~~ is required by law to be filed with the
14 Department of Financial Services ~~Banking and Finance~~ and that
15 ~~which~~, but for the investigation, would otherwise be subject
16 to public disclosure. Nothing in this section shall be
17 construed to prohibit the division from providing information
18 to any law enforcement or prosecutorial agency. Any law
19 enforcement or prosecutorial agency receiving confidential
20 information from the division in connection with its official
21 duties shall maintain the confidentiality of the information
22 as provided for in this section.

23 Section 29. Subsections (1), (4), and (5) of section
24 17.041, Florida Statutes, are amended to read:

25 17.041 County and district accounts and claims.--

26 (1) It shall be the duty of the Chief Financial
27 Officer ~~Department of Banking and Finance of this state~~ to
28 adjust and settle, or cause to be adjusted and settled, all
29 accounts and claims heretofore or hereafter reported to it by
30 the Auditor General, the appropriate county or district
31 official, or any person against all county and district

1 officers and employees, and against all other persons
2 entrusted with, or who may have received, any property, funds,
3 or moneys of a county or district or who may be in anywise
4 indebted to or accountable to a county or district for any
5 property, funds, moneys, or other thing of value, and to
6 require such officer, employee, or person to render full
7 accounts thereof and to yield up such property, funds, moneys,
8 or other thing of value according to law to the officer or
9 authority entitled by law to receive the same.

10 (4) Should it appear to the Chief Financial Officer
11 ~~department~~ that any criminal statute of this state has or may
12 have been violated by such defaulting officer, employee, or
13 person, such information, evidence, documents, and other
14 things tending to show such a violation, whether in the hands
15 of the Chief Financial Officer ~~Comptroller~~, the Auditor
16 General, the county, or the district, shall be forthwith
17 turned over to the proper state attorney for inspection,
18 study, and such action as may be deemed proper, or the same
19 may be brought to the attention of the proper grand jury.

20 (5) No such account or claim, after it has been
21 certified to the Chief Financial Officer ~~department~~, may be
22 settled for less than the amount due according to law without
23 the written consent of the Chief Financial Officer ~~department~~,
24 and any attempt to make settlement in violation of this
25 subsection shall be deemed null and void. A county or
26 district board desiring to make such a settlement shall
27 incorporate the proposed settlement into a resolution, stating
28 that the proposed settlement is contingent upon the Chief
29 Financial Officer's ~~Comptroller's~~ approval, and shall submit
30 two copies of the resolution to the Chief Financial Officer
31 ~~department~~. The Chief Financial Officer ~~department~~ shall

1 return one copy with his or her ~~the Comptroller's~~ action
2 endorsed thereon.

3 Section 30. Section 17.0415, Florida Statutes, is
4 amended to read:

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

21 Section 31. Section 17.05, Florida Statutes, is
22 amended to read:

23 17.05 Subpoenas; sworn statements; enforcement
24 proceedings.--

25 (1) The Chief Financial Officer ~~Comptroller~~ may demand
26 and require full answers on oath from any and every person,
27 party or privy to any account, claim, or demand against or by
28 the state, such as it may be the Chief Financial Officer's
29 ~~Comptroller's~~ official duty to examine into, and which answers
30 the Chief Financial Officer ~~Comptroller~~ may require to be in
31 writing and to be sworn to before the Chief Financial Officer

1 ~~Comptroller~~ or the department or before any judicial officer
2 or clerk of any court of the state so as to enable the Chief
3 Financial Officer ~~Comptroller~~ to determine the justice or
4 legality of such account, claim, or demand.

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

8 (a) Issue subpoenas, administer oaths, and examine
9 witnesses.

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

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

25 (4) In the event of noncompliance with a subpoena
26 issued pursuant to this section, the Chief Financial Officer
27 ~~Comptroller~~ or the department may petition the circuit court
28 of the county in which the person subpoenaed resides or has
29 his or her principal place of business for an order requiring
30 the subpoenaed person to appear and testify and to produce
31 books, records, and documents as specified in the subpoena.

1 The court may grant legal, equitable, or injunctive relief,
2 including, but not limited to, issuance of a writ of ne exeat
3 or the restraint by injunction or appointment of a receiver of
4 any transfer, pledge, assignment, or other disposition of such
5 person's assets or any concealment, alteration, destruction,
6 or other disposition of subpoenaed books, records, or
7 documents, as the court deems appropriate, until such person
8 has fully complied with such subpoena and the Chief Financial
9 Officer ~~Comptroller~~ or the department has completed the audit,
10 examination, or investigation. The Chief Financial Officer
11 ~~Comptroller~~ or the department is entitled to the summary
12 procedure provided in s. 51.011, and the court shall advance
13 the cause on its calendar. Costs incurred by the Chief
14 Financial Officer ~~Comptroller~~ or the department to obtain an
15 order granting, in whole or in part, such petition for
16 enforcement of a subpoena shall be charged against the
17 subpoenaed person, and failure to comply with such order shall
18 be a contempt of court.

19 Section 32. Section 17.06, Florida Statutes, is
20 amended to read:

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

29 Section 33. Subsection (1) of section 17.075, Florida
30 Statutes, is amended to read:

31

1 17.075 Form of state warrants and other payment
2 orders; rules.--

3 (1) The Chief Financial Officer ~~may Department of~~
4 ~~Banking and Finance is authorized to~~ establish the form or
5 forms of state warrants which are to be drawn by it and of
6 other orders for payment or disbursement of moneys out of the
7 State Treasury and to change the form thereof from time to
8 time as the Chief Financial Officer ~~department~~ may consider
9 necessary or appropriate. Such orders for payment may be in
10 any form, but, regardless of form, each order shall be subject
11 to the accounting and recordkeeping requirements applicable to
12 state warrants.

13 Section 34. Paragraph (b) of subsection (1) and
14 subsections (3) and (7) of section 17.076, Florida Statutes,
15 are amended to read:

16 17.076 Direct deposit of funds.--

17 (1) As used in this section:

18 (b) "Department" means the Department of Financial
19 Services ~~Banking and Finance~~.

20 (3) The department may contract with an authorized
21 financial institution for the services necessary to operate
22 the program. In order to implement the provisions of this
23 section, the Chief Financial Officer ~~Comptroller~~ is authorized
24 to deposit with that financial institution the funds payable
25 to the beneficiaries, in lump sum, by Chief Financial
26 Officer's ~~Comptroller's~~ warrant to make the authorized direct
27 deposits.

28 (7) To cover the department's actual costs for
29 processing the direct deposit of funds other than salary or
30 retirement benefits, the department may charge the beneficiary
31 of the direct deposit a reasonable fee. The department may

1 collect the fee by direct receipt from the beneficiary or by
2 subtracting the amount of the fee from the funds due the
3 beneficiary. Such fees collected by the department shall be
4 deposited into the Department of Financial Services ~~Banking~~
5 ~~and Finance~~ Administrative Trust Fund.

6 Section 35. Section 17.08, Florida Statutes, is
7 amended to read:

8 17.08 Accounts, etc., on which warrants drawn, to be
9 filed.--All accounts, vouchers, and evidence, upon which
10 warrants have heretofore been, or shall hereafter be, drawn
11 upon the treasury by the Chief Financial Officer ~~Comptroller~~
12 shall be filed and deposited in the office of Chief Financial
13 Officer ~~Comptroller~~ or the office of the Chief Financial
14 Officer's ~~Comptroller's~~ designee, in accordance with
15 requirements established by the Secretary of State.

16 Section 36. Section 17.09, Florida Statutes, is
17 amended to read:

18 17.09 Application for warrants for salaries.--All
19 public officers who are entitled to salaries in this state,
20 shall make their application for warrants in writing, stating
21 for what terms and the amount they claim, which written
22 application shall be filed by the Chief Financial Officer
23 ~~Comptroller~~ as vouchers for the warrants issued thereupon.

24 Section 37. Section 17.10, Florida Statutes, is
25 amended to read:

26 17.10 Record of warrants and of state funds and
27 securities issued.--The Chief Financial Officer ~~Comptroller~~
28 shall cause to be entered in the warrant register a record of
29 the warrants issued during the previous month, and shall make
30 such entry in the record so required to be kept as shall show
31 the number of each warrant issued, in whose favor drawn, and

1 the date it was issued. He or she shall account for all state
2 funds and securities.

3 Section 38. Section 17.11, Florida Statutes, is
4 amended to read:

5 17.11 To report disbursements made.--

6 (1) The Chief Financial Officer ~~Comptroller~~ shall make
7 in all his or her future annual reports an exhibit stated from
8 the record of disbursements made during the fiscal year, and
9 the several heads of expenditures under which such
10 disbursements were made.

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

26 Section 39. Section 17.12, Florida Statutes, is
27 amended to read:

28 17.12 Authorized to issue warrants to tax collector or
29 sheriff for payment.--Whenever it shall appear to the
30 satisfaction of the Chief Financial Officer ~~Comptroller~~ of
31 ~~this state~~ from examination of the books of his or her office

1 that the tax collector or the sheriff for any county in this
2 state has paid into the State Treasury, through mistake or
3 otherwise, a larger or greater sum than is actually due from
4 such said collector or sheriff, then the Chief Financial
5 Officer ~~Comptroller~~ may issue a warrant to such said collector
6 or sheriff for the sum so found to be overpaid.

7 Section 40. Section 17.13, Florida Statutes, is
8 amended to read:

9 17.13 To duplicate warrants lost or destroyed.--

10 (1) The Chief Financial Officer ~~Comptroller~~ is
11 required to duplicate any Chief Financial Officer's
12 ~~Comptroller's~~ warrants that may have been lost or destroyed,
13 or may hereafter be lost or destroyed, upon the owner thereof
14 or the owner's agent or attorney presenting the Chief
15 Financial Officer ~~Comptroller~~ the statement, under oath,
16 reciting the number, date, and amount of any warrant or the
17 best and most definite description in his or her knowledge and
18 the circumstances of its loss; if the Chief Financial Officer
19 ~~Comptroller~~ deems it necessary, the owner or the owner's agent
20 or attorney shall file in the office of the Chief Financial
21 Officer ~~Comptroller~~ a surety bond, or a bond with securities,
22 to be approved by one of the judges of the circuit court or
23 one of the justices of the Supreme Court, in a penalty of not
24 less than twice the amount of any warrants so duplicated,
25 conditioned to indemnify the state and any innocent holders
26 thereof from any damages that may accrue from such
27 duplication.

28 (2) The Chief Financial Officer ~~Comptroller~~ is
29 required to duplicate any Chief Financial Officer's
30 ~~Comptroller's~~ warrant that may have been lost or destroyed, or
31 may hereafter be lost or destroyed, when sent to any payee via

1 any state agency when such warrant is lost or destroyed prior
2 to being received by the payee and provided the director of
3 the state agency to whom the warrant was sent presents to the
4 Chief Financial Officer ~~Comptroller~~ a statement, under oath,
5 reciting the number, date, and amount of the warrant lost or
6 destroyed, the circumstances surrounding the loss or
7 destruction of such warrant, and any additional information
8 that the Chief Financial Officer ~~Comptroller~~ shall request in
9 regard to such warrant.

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

14 Section 41. Section 17.14, Florida Statutes, is
15 amended to read:

16 17.14 To prescribe forms.--The Chief Financial Officer
17 ~~Department of Banking and Finance~~ may prescribe the forms of
18 all papers, vouchers, reports and returns and the manner of
19 keeping the accounts and papers to be used by the officers of
20 this state or other persons having accounts, claims, or
21 demands against the state or entrusted with the collection of
22 any of the revenue thereof or any demand due the same, which
23 form shall be pursued by such officer or other persons.

24 Section 42. Section 17.16, Florida Statutes, is
25 amended to read:

26 17.16 Seal.--The ~~seal of~~ office of the Chief Financial
27 Officer ~~Comptroller of the state~~ shall have a ~~be the same as~~
28 ~~the seal heretofore used for that purpose.~~

29 Section 43. Section 17.17, Florida Statutes, is
30 amended to read:

31

1 17.17 Examination by Governor and report.--The office
2 of Chief Financial Officer ~~Comptroller of the state~~, and the
3 books, files, documents, records, and papers shall always be
4 subject to the examination of the Governor of this state, or
5 any person the Governor may authorize to examine the same; and
6 on the first day of January of each and every year, or oftener
7 if called for by the Governor, the Chief Financial Officer
8 ~~Comptroller~~ shall make a full report of all his or her
9 official acts and proceedings for the last fiscal year to the
10 Governor, to be laid before the Legislature with the
11 Governor's message, and shall make such further report as the
12 constitution may require.

13 Section 44. Subsection (1) of section 17.20, Florida
14 Statutes, is amended to read:

15 17.20 Assignment of claims for collection.--

16 (1) The Department of Financial Services ~~Banking and~~
17 ~~Finance~~ shall charge the state attorneys with the collection
18 of all claims that are placed in their hands for collection of
19 money or property for the state or any county or special
20 district, or that it otherwise requires them to collect. The
21 charges are evidence of indebtedness of a state attorney
22 against whom any charge is made for the full amount of the
23 claim, until the charges have been collected and paid into the
24 treasury of the state or of the county or special district or
25 the legal remedies of the state have been exhausted, or until
26 the state attorney demonstrates to the department that the
27 failure to collect the charges is not due to negligence and
28 the department has made a proper entry of satisfaction of the
29 charge against the state attorney.

30 Section 45. Section 17.21, Florida Statutes, is
31 amended to read:

1 17.21 Not to allow any claim of state attorney against
2 state until report made.--The Chief Financial Officer
3 ~~Comptroller~~ shall not audit or allow any claim which any state
4 attorney may have against the state for services who shall
5 fail to make any report which by law the state attorney is
6 required to make to the Chief Financial Officer ~~Comptroller~~ of
7 claims of the state which it is his or her duty to collect.

8 Section 46. Section 17.22, Florida Statutes, is
9 amended to read:

10 17.22 Notice to Department of Legal Affairs.--Whenever
11 the Department of Financial Services ~~Banking and Finance~~
12 forwards any bond or account or claim for suit to any state
13 attorney, it shall advise the Department of Legal Affairs of
14 the fact, giving it the amount of the claim and other
15 necessary particulars for its full information upon the
16 subject.

17 Section 47. Section 17.25, Florida Statutes, is
18 amended to read:

19 17.25 May certify copies.--The Chief Financial Officer
20 ~~Comptroller of this state~~ may certify, under his or her seal
21 of office, copies of any record, paper, or document, by law
22 placed in the Chief Financial Officer's ~~Comptroller's~~ custody,
23 keeping, and care; and such certified copy shall have the same
24 force and effect as evidence as the original would have.

25 Section 48. Subsections (1) and (3) of section 17.26,
26 Florida Statutes, are amended to read:

27 17.26 Cancellation of state warrants not presented
28 within 1 year.--

29 (1) If any state warrant issued by the Comptroller or
30 the Chief Financial Officer against any fund in the State
31 Treasury is not presented for payment within 1 year after the

1 last day of the month in which it was originally issued, the
2 Chief Financial Officer ~~Comptroller~~ may cancel the warrant and
3 credit the amount of the warrant to the fund upon which it is
4 drawn. If the warrant so canceled was issued against a fund
5 that is no longer operative, the amount of the warrant shall
6 be credited to the General Revenue Fund. The Chief Financial
7 Officer ~~Treasurer~~ shall not honor any state warrant after it
8 has been canceled.

9 (3) When a warrant canceled under subsection (1)
10 represents funds that are in whole or in part derived from
11 federal contributions and disposition of the funds under
12 chapter 717 would cause a loss of the federal contributions,
13 the Governor shall certify to the Chief Financial Officer
14 ~~Comptroller~~ that funds represented by such warrants are for
15 that reason exempt from treatment as unclaimed property.
16 Obligations represented by warrants are unenforceable after 1
17 year from the last day of the month in which the warrant was
18 originally issued. An action may not be commenced thereafter
19 on the obligation unless authorized by the federal program
20 from which the original warrant was funded and unless payment
21 of the obligation is authorized to be made from the current
22 federal funding. When a payee or person entitled to a warrant
23 subject to this paragraph requests payment, and payment from
24 current federal funding is authorized by the federal program
25 from which the original warrant was funded, the Chief
26 Financial Officer ~~Comptroller~~ may, upon investigation, issue a
27 new warrant to be paid out of the proper fund in the State
28 Treasury, provided the payee or other person executes under
29 oath the statement required by s. 17.13 or surrenders the
30 canceled warrant.

31

1 Section 49. Subsections (1), (2), and (3) of section
2 17.27, Florida Statutes, are amended to read:

3 17.27 Microfilming and destroying records and
4 correspondence.--

5 (1) The Department of Financial Services ~~Banking and~~
6 ~~Finance~~ may destroy general correspondence files and also any
7 other records which the department may deem no longer
8 necessary to preserve in accordance with retention schedules
9 and destruction notices established under rules of the
10 Division of Library and Information Services, records and
11 information management program, of the Department of State.
12 Such schedules and notices relating to financial records of
13 the department shall be subject to the approval of the Auditor
14 General.

15 (2) The Department of Financial Services ~~Banking and~~
16 ~~Finance~~ may photograph, microphotograph, or reproduce on film
17 such documents and records as it may select, in such manner
18 that each page will be exposed in exact conformity with the
19 original.

20 (3) The Department of Financial Services ~~Banking and~~
21 ~~Finance~~ may destroy any of such ~~said~~ documents after they have
22 been photographed and filed in accordance with the provisions
23 of subsection (1).

24 Section 50. Section 17.28, Florida Statutes, is
25 amended to read:

26 17.28 Chief Financial Officer ~~Comptroller~~ may
27 authorize biweekly salary payments.--The Chief Financial
28 Officer ~~Comptroller~~ is authorized and may permit biweekly
29 salary payments to personnel upon written request by a
30 specific state agency. The Chief Financial Officer ~~Comptroller~~

31

1 shall adopt ~~promulgate~~ reasonable rules ~~and regulations~~ to
2 carry out the intent of this section.

3 Section 51. Section 17.29, Florida Statutes, is
4 amended to read:

5 17.29 Authority to prescribe rules.--The Chief
6 Financial Officer ~~Comptroller~~ has authority to adopt rules
7 pursuant to ss. 120.54 and 120.536(1) to implement ss.
8 17.51-17.66 and duties assigned by statute or the State
9 Constitution. Such rules may include, but are not limited to,
10 the following:

11 (1) Procedures or policies relating to the processing
12 of payments from salaries, other personal services, or any
13 other applicable appropriation.

14 (2) Procedures for processing interagency and
15 intraagency payments which do not require the issuance of a
16 state warrant.

17 Section 52. Section 17.30, Florida Statutes, is
18 amended to read:

19 17.30 Dissemination of information.--The Chief
20 Financial Officer ~~Comptroller~~ may disseminate, in any form or
21 manner he or she considers appropriate, information regarding
22 the Chief Financial Officer's ~~Comptroller's~~ official duties.

23 Section 53. Section 17.32, Florida Statutes, is
24 amended to read:

25 17.32 Annual report of trust funds; duties of Chief
26 Financial Officer ~~Comptroller~~.--

27 (1) On February 1 of each year, the Chief Financial
28 Officer ~~Comptroller~~ shall present to the President of the
29 Senate and the Speaker of the House of Representatives a
30 report listing all trust funds as defined in s. 215.32. The
31

1 report shall contain the following data elements for each fund
2 for the preceding fiscal year:

- 3 (a) The fund code.
- 4 (b) The title.
- 5 (c) The fund type according to generally accepted
6 accounting principles.
- 7 (d) The statutory authority.
- 8 (e) The beginning cash balance.
- 9 (f) Direct revenues.
- 10 (g) Nonoperating revenues.
- 11 (h) Operating disbursements.
- 12 (i) Nonoperating disbursements.
- 13 (j) The ending cash balance.
- 14 (k) The department and budget entity in which the fund
15 is located.

16 (2) The report shall separately list all funds that
17 received no revenues other than interest earnings or transfers
18 from the General Revenue Fund or from other trust funds during
19 the preceding fiscal year.

20 (3) The report shall separately list all funds that
21 had unencumbered balances in excess of \$2 million in each of
22 the 2 preceding fiscal years.

23 Section 54. Section 17.325, Florida Statutes, is
24 amended to read:

25 17.325 Governmental efficiency hotline; duties of
26 Chief Financial Officer ~~Comptroller~~.--

27 (1) ~~By September 1, 1992,~~ The Chief Financial Officer
28 ~~Comptroller~~ shall establish and operate a statewide toll-free
29 telephone hotline to receive information or suggestions from
30 the citizens of this state on how to improve the operation of
31 government, increase governmental efficiency, and eliminate

1 waste in government. The Chief Financial Officer ~~Comptroller~~
2 shall report each month to the Appropriations Committee of the
3 House of Representatives and of the Senate the information or
4 suggestions received through the hotline and the evaluations
5 and determinations made by the affected agency, as provided in
6 subsection (3), with respect to such information or
7 suggestions.

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

20 (3) Each telephone call on the hotline shall be
21 received by the office of the Chief Financial Officer
22 ~~Comptroller~~, and the office of the Chief Financial Officer
23 ~~Comptroller~~ shall conduct an evaluation to determine if it is
24 appropriate for the telephone call to be processed as a "Get
25 Lean" telephone call. If it is determined that the telephone
26 call should be processed as a "Get Lean" telephone call, a
27 record of each suggestion or item of information received
28 shall be entered into a log kept by the Chief Financial
29 Officer ~~Comptroller~~. A caller on the hotline may remain
30 anonymous, and, if the caller provides his or her name, the
31 name shall be confidential. If a caller discloses that he or

1 she is a state employee, the Chief Financial Officer
2 ~~Comptroller~~, in addition to maintaining a record as required
3 by this section, may refer any information or suggestion from
4 the caller to an existing state awards program administered by
5 the affected agency. The affected agency shall conduct a
6 preliminary evaluation of the efficacy of any suggestion or
7 item of information received through the hotline and shall
8 provide the Chief Financial Officer ~~Comptroller~~ with a
9 preliminary determination of the amount of revenues the state
10 might save by implementing the suggestion or making use of the
11 information.

12 (4) Any person who provides any information through
13 the hotline shall be immune from liability for any use of such
14 information and shall not be subject to any retaliation by any
15 employee of the state for providing such information or making
16 such suggestion.

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

20 Section 55. Section 17.41, Florida Statutes, is
21 amended to read:

22 17.41 Department of Financial Services ~~Banking and~~
23 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.--

24 (1) The Department of Financial Services ~~Banking and~~
25 ~~Finance~~ Tobacco Settlement Clearing Trust Fund is created
26 within that department.

27 (2) Funds to be credited to the Tobacco Settlement
28 Clearing Trust Fund shall consist of payments received by the
29 state from settlement of State of Florida v. American Tobacco
30 Co., No. 95-1466AH (Fla. 15th Cir. Ct. 1996). Moneys received
31

1 from the settlement and deposited into the trust fund are
2 exempt from the service charges imposed under s. 215.20.

3 (3)(a) Subject to approval of the Legislature, all or
4 any portion of the state's right, title, and interest in and
5 to the tobacco settlement agreement may be sold to the Tobacco
6 Settlement Financing Corporation created pursuant to s.
7 215.56005. Any such sale shall be a true sale and not a
8 borrowing.

9 (b) Any moneys received by the state pursuant to any
10 residual interest retained in the tobacco settlement agreement
11 or the payments to be made under the tobacco settlement
12 agreement shall be deposited into the Tobacco Settlement
13 Clearing Trust Fund.

14 (4) Net proceeds of the sale of the tobacco settlement
15 agreement received by the state shall be immediately deposited
16 into the Lawton Chiles Endowment Fund, created in s. 215.5601,
17 without deposit to the Tobacco Settlement Clearing Trust Fund.

18 (5) The department shall disburse funds, by
19 nonoperating transfer, from the Tobacco Settlement Clearing
20 Trust Fund to the tobacco settlement trust funds of the
21 various agencies in amounts equal to the annual appropriations
22 made from those agencies' trust funds in the General
23 Appropriations Act.

24 (6) Pursuant to the provisions of s. 19(f)(3), Art.
25 III of the State Constitution, the Tobacco Settlement Clearing
26 Trust Fund is exempt from the termination provisions of s.
27 19(f)(2), Art. III of the State Constitution.

28 Section 56. Section 17.43, Florida Statutes, is
29 amended to read:

30 17.43 Chief Financial Officer's ~~Comptroller's~~ Federal
31 Equitable Sharing Trust Fund.--

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

10 (2) Notwithstanding the provisions of s. 216.301 and
11 pursuant to s. 216.351, any balance in the trust fund at the
12 end of any fiscal year shall remain in the trust fund at the
13 end of the year and shall be available for carrying out the
14 purposes of the trust fund.

15 Section 57. Section 18.01, Florida Statutes, is
16 transferred, renumbered as section 17.51, Florida Statutes,
17 and amended to read:

18 17.51 ~~18.01~~ Oath and certificate of Chief Financial
19 Officer ~~Treasurer~~.--The Chief Financial Officer ~~Treasurer~~
20 shall, within 10 days before he or she enters upon the duties
21 of office, take and subscribe an oath or affirmation
22 faithfully to discharge the duties of office, which oath or
23 affirmation must be deposited with the Department of State.
24 The Chief Financial Officer ~~Treasurer~~ shall also file with the
25 Department of State a certificate ~~from the Comptroller~~
26 attesting that the retiring Treasurer or Chief Financial
27 Officer has turned over vouchers for all payments made as
28 required by law, and that the Chief Financial Officer's
29 ~~Treasurer's~~ account has been truly credited with the same, and
30 that he or she has filed receipts from his or her successor
31 for all vouchers paid since the end of last quarter, and for

1 balance of cash, and for all bonds and other securities held
2 by the Treasurer or Chief Financial Officer as such, and a
3 certificate from each board of which he or she is made by law
4 ex officio treasurer, that he or she has satisfactorily
5 accounted to such board as its treasurer.

6 Section 58. Section 18.02, Florida Statutes, is
7 transferred, renumbered as section 17.52, Florida Statutes,
8 and amended to read:

9 17.52 ~~18.02~~ Moneys paid on warrants.--The Chief
10 Financial Officer ~~Treasurer~~ shall pay all warrants on the
11 treasury drawn by the Comptroller and other orders by the
12 Comptroller for the disbursement of state funds by electronic
13 means or by means of a magnetic tape or any other transfer
14 medium which were drawn or otherwise issued before January 7,
15 2003. No moneys shall be paid out of the treasury except on
16 such warrants or other orders of the Comptroller or Chief
17 Financial Officer.

18 Section 59. Section 18.021, Florida Statutes, is
19 transferred, renumbered as section 17.53, Florida Statutes,
20 and amended to read:

21 17.53 ~~18.021~~ Chief Financial Officer ~~Treasurer~~ to
22 operate personal check-cashing service.--

23 (1) The Chief Financial Officer ~~Treasurer~~ is
24 authorized to operate a personal check-cashing service or a
25 remote financial service unit at the capitol for the benefit
26 of state employees or other responsible persons who properly
27 identify themselves.

28 (2) If a personal check is dishonored or a state
29 warrant is forged and the Chief Financial Officer ~~Treasurer~~
30 has made diligent but unsuccessful effort to collect and has
31 forwarded the returned check for prosecution by the

1 appropriate state attorney, then he or she may include such
2 amount in his or her budget request to be considered during
3 the next legislative session.

4 Section 60. Section 18.05, Florida Statutes, is
5 transferred, renumbered as section 17.54, Florida Statutes,
6 and amended to read:

7 17.54 ~~18.05~~ Annual report to Governor.--The Chief
8 Financial Officer ~~Treasurer~~ shall make a report in detail to
9 the Governor, with a copy to the President of the Senate and
10 the Speaker of the House of Representatives as soon after the
11 1st day of July of each year as it is practicable to prepare
12 same of the transactions of his or her office for the
13 preceding fiscal year, embracing a statement of the receipts
14 and payments on account of each of the several funds of which
15 he or she has the care and custody.

16 Section 61. Section 18.06, Florida Statutes, is
17 transferred, renumbered as section 17.55, Florida Statutes,
18 and amended to read:

19 17.55 ~~18.06~~ Examination by and monthly statements to
20 the Governor.--The office of the Chief Financial Officer
21 ~~Treasurer of this state~~, and the books, files, documents,
22 records, and papers thereof, shall always be subject to the
23 examination of the Governor of the state, or any person he or
24 she may authorize to examine same. The Chief Financial Officer
25 ~~Treasurer~~ shall exhibit to the Governor monthly a trial
26 balance sheet from his or her books and a statement of all the
27 credits, moneys, or effects on hand on the day for which such
28 ~~said~~ trial balance sheet is made, and such ~~said~~ statement
29 accompanying such ~~said~~ trial balance sheet shall particularly
30 describe the exact character of funds, credits, and
31 securities, and shall state in detail the amount which he or

1 she may have representing cash, including any not yet entered
2 upon the books of his or her office, and such statement shall
3 be certified and signed by the Chief Financial Officer
4 ~~Treasurer~~ officially.

5 Section 62. Section 18.10, Florida Statutes, is
6 transferred, renumbered as section 17.57, Florida Statutes,
7 and amended to read:

8 17.57 ~~18.10~~ Deposits and investments of state money.--

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

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

31 (a) Direct United States Treasury obligations.

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

1 the obligations shall be rated in any one of the two highest
2 classifications.

3 (j) Obligations of the Student Loan Marketing
4 Association.

5 (k) Obligations of the Resolution Funding Corporation.

6 (l) Asset-backed or mortgage-backed securities of the
7 highest credit quality.

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

14 (n) Commingled no-load investment funds or no-load
15 mutual funds in which all securities held by the funds are
16 authorized in this subsection.

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

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

25 (q) Derivatives of investment instruments authorized
26 in paragraphs (a)-(m).

27 (r) Covered put and call options on investment
28 instruments authorized in this subsection for the purpose of
29 hedging transactions by investment managers to mitigate risk
30 or to facilitate portfolio management.

31

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

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

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

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

25
26 These investments may be in varying maturities and may be in
27 book-entry form. Investments made pursuant to this subsection
28 may be under repurchase agreement. The Chief Financial Officer
29 ~~may~~ ~~Treasurer~~ ~~is authorized to~~ hire registered investment
30 advisers and other consultants to assist in investment
31 management and to pay fees directly from investment earnings.

1 Investment securities, proprietary investment services related
2 to contracts, performance evaluation services,
3 investment-related equipment or software used directly to
4 assist investment trading or investment accounting operations
5 including bond calculators, telerates, Bloombergs, special
6 program calculators, intercom systems, and software used in
7 accounting, communications, and trading, and advisory and
8 consulting contracts made under this section are exempt from
9 the provisions of chapter 287.

10 (3) In the event the financial institutions in the
11 state do not make sufficient loan funds available for a
12 residential conservation program pursuant to any plan approved
13 by the Florida Public Service Commission under the Florida
14 Energy Efficiency and Conservation Act, the board may
15 authorize the investment of state funds, except retirement
16 trust funds, in such a loan program at rates not less than
17 prevailing United States Treasury bill rates. However, prior
18 to investment of such funds, the Florida Public Service
19 Commission shall develop a plan which must be approved by the
20 Legislature before implementation.

21 (4) All earnings on any investments made pursuant to
22 this section shall be credited to the General Revenue Fund,
23 except that earnings attributable to moneys made available
24 pursuant to s. 17.61(3)~~s. 18.125(3)~~ shall be credited pro
25 rata to the funds from which such moneys were made available.

26 (5) The fact that a municipal officer or a state
27 officer, including an officer of any municipal or state
28 agency, board, bureau, commission, institution, or department,
29 is a stockholder or an officer or director of a bank or
30 savings and loan association will not bar such bank or savings
31 and loan association from being a depository of funds coming

1 under the jurisdiction of any such municipal officer or state
2 officer if it shall appear in the records of the municipal or
3 state office that the governing body of such municipality or
4 state agency has investigated and determined that such
5 municipal or state officer is not favoring such banks or
6 savings and loan associations over other qualified banks or
7 savings and loan associations.

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

20 Section 63. Section 18.101, Florida Statutes, is
21 transferred, renumbered as section 17.58, Florida Statutes,
22 and amended to read:

23 17.58 ~~18.101~~ Deposits of public money outside the
24 State Treasury; revolving funds.--

25 (1) All moneys collected by state agencies, boards,
26 bureaus, commissions, institutions, and departments shall,
27 except as otherwise provided by law, be deposited in the State
28 Treasury. However, when the volume and complexity of
29 collections so justify, the Chief Financial Officer ~~Treasurer~~
30 may give written approval for such moneys to be deposited in
31 clearing accounts outside the State Treasury in qualified

1 public depositories pursuant to chapter 280. Such deposits
2 shall only be made in depositories designated by the Chief
3 Financial Officer ~~Treasurer~~. No money may be maintained in
4 such clearing accounts for a period longer than approved by
5 the Chief Financial Officer ~~Treasurer~~ or 40 days, whichever is
6 shorter, prior to its being transmitted to the Chief Financial
7 Officer ~~Treasurer~~ or to an account designated by him or her,
8 distributed to a statutorily authorized account outside the
9 State Treasury, refunded, or transmitted to the Department of
10 Revenue. All depositories so designated shall pledge
11 sufficient collateral to be security for such funds as
12 provided in chapter 280.

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

21 (3) Notwithstanding the foregoing provisions, clearing
22 and revolving accounts may be established outside the state
23 when necessary to facilitate the authorized operations of any
24 agency, board, bureau, commission, institution, or department.
25 Any of such accounts established in the United States shall be
26 subject to the collateral security requirements of chapter
27 280. Accounts established outside the United States may be
28 exempted from the requirements of chapter 280 as provided in
29 chapter 280; but before any unsecured account is established,
30 the agency requesting or maintaining the account shall
31 recommend a financial institution to the Chief Financial

1 ~~Officer Treasurer~~ for designation to hold the account and
2 shall submit evidence of the financial condition, size,
3 reputation, and relative prominence of the institution from
4 which the Chief Financial Officer ~~Treasurer~~ can reasonably
5 conclude that the institution is financially sound before
6 designating it to hold the account.

7 (4) Each department shall furnish a statement to the
8 Chief Financial Officer ~~Treasurer~~, on or before the 20th of
9 the month following the end of each calendar quarter, listing
10 each clearing account and revolving fund within that
11 department's jurisdiction. Such statement shall report, as of
12 the last day of the calendar quarter, the cash balance in each
13 revolving fund and that portion of the cash balance in each
14 clearing account that will eventually be deposited to the
15 State Treasury as provided by law. The Chief Financial Officer
16 ~~Treasurer~~ shall show the sum total of state funds in clearing
17 accounts and revolving funds, as most recently reported to the
18 Chief Financial Officer ~~Treasurer~~ by various departments, in
19 his or her monthly statement to the Governor, pursuant to s.
20 17.55 ~~s. 18.06~~.

21 Section 64. Section 18.103, Florida Statutes, is
22 transferred, renumbered as section 17.59, Florida Statutes,
23 and amended to read:

24 17.59 ~~18.103~~ Safekeeping services of ~~Treasurer~~.--

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

30 (2) The Chief Financial Officer ~~Treasurer~~ may, in his
31 or her discretion, establish a fee for processing, servicing,

1 and safekeeping deposits and other documents or articles of
2 value held in the Chief Financial Officer's ~~Treasurer's~~ vaults
3 as requested by the various entities or as provided for by
4 law. Such fee shall be equivalent to the fee charged by
5 financial institutions for processing, servicing, and
6 safekeeping the same types of deposits and other documents or
7 articles of value.

8 (3) The Chief Financial Officer ~~Treasurer~~ shall
9 collect in advance, and persons so served shall pay to the
10 Chief Financial Officer ~~Treasurer~~ in advance, the
11 miscellaneous charges as follows:

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

14 (b) For each certificate of the Chief Financial
15 Officer ~~Treasurer~~, certified or under the Chief Financial
16 Officer's ~~Treasurer's~~ seal, authenticating any document or
17 other instrument.....\$5.00.

18 (4) All fees collected for the services described in
19 this section shall be deposited in the Chief Financial
20 Officer's ~~Treasurer's~~ Administrative and Investment Trust
21 Fund.

22 Section 65. Section 18.104, Florida Statutes, is
23 transferred, renumbered as section 17.60, Florida Statutes,
24 and amended to read:

25 17.60 ~~18.104~~ Treasury Cash Deposit Trust Fund.--

26 (1) There is ~~hereby~~ created in the State Treasury the
27 Treasury Cash Deposit Trust Fund. Cash deposits made pursuant
28 to s. 17.59 ~~s. 18.103~~ shall be deposited into this fund.

29 (2) Interest earned on cash deposited into this fund
30 shall be prorated and paid to the depositing entities.

31

1 Section 66. Section 18.125, Florida Statutes, is
2 transferred, renumbered as section 17.61, Florida Statutes,
3 and amended to read:

4 17.61 ~~18.125~~ Chief Financial Officer ~~Treasurer~~; powers
5 and duties in the investment of certain funds.--

6 (1) The Chief Financial Officer ~~Treasurer~~, acting with
7 the approval of a majority of the State Board of
8 Administration, shall invest all general revenue funds and all
9 the trust funds and all agency funds of each state agency, and
10 of the judicial branch, as defined in s. 216.011, and may,
11 upon request, invest funds of any statutorily created board,
12 association, or entity, except for the funds required to be
13 invested pursuant to ss. 215.44-215.53, by the procedure and
14 in the authorized securities prescribed in s. 17.57 ~~s. 18.10~~;
15 for this purpose, the Chief Financial Officer ~~may Treasurer~~
16 ~~shall be authorized to~~ open and maintain one or more demand
17 and safekeeping accounts in any bank or savings association
18 for the investment and reinvestment and the purchase, sale,
19 and exchange of funds and securities in the accounts. Funds
20 in such accounts used solely for investments and reinvestments
21 shall be considered investment funds and not funds on deposit,
22 and such funds shall be exempt from the provisions of chapter
23 280. In addition, the securities or investments purchased or
24 held under the provisions of this section and s. 17.57 ~~s.~~
25 ~~18.10~~ may be loaned to securities dealers and banks and may be
26 registered by the Chief Financial Officer ~~Treasurer~~ in the
27 name of a third-party nominee in order to facilitate such
28 loans, provided the loan is collateralized by cash or United
29 States government securities having a market value of at least
30 100 percent of the market value of the securities loaned. The
31 Chief Financial Officer ~~Treasurer~~ shall keep a separate

1 account, designated by name and number, of each fund.
2 Individual transactions and totals of all investments, or the
3 share belonging to each fund, shall be recorded in the
4 accounts.

5 (2) By and with the consent and approval of any
6 constitutional board, the judicial branch, or agency now
7 having the constitutional power to make investments and in
8 accordance with this section, the Chief Financial Officer may
9 ~~Treasurer shall have the power to~~ make purchases, sales,
10 exchanges, investments, and reinvestments for and on behalf of
11 any such board.

12 (3)(a) It is the duty of each state agency, and of the
13 judicial branch, now or hereafter charged with the
14 administration of the funds referred to in subsection (1) to
15 make such moneys available for investment as fully as is
16 consistent with the cash requirements of the particular fund
17 and to authorize investment of such moneys by the Chief
18 Financial Officer ~~Treasurer~~.

19 (b) Monthly, and more often as circumstances require,
20 such agency or judicial branch shall notify the Chief
21 Financial Officer ~~Treasurer~~ of the amount available for
22 investment; and the moneys shall be invested by the Chief
23 Financial Officer ~~Treasurer~~. Such notification shall include
24 the name and number of the fund for which the investments are
25 to be made and the life of the investment if the principal sum
26 is to be required for meeting obligations. This subsection,
27 however, shall not be construed to make available for
28 investment any funds other than those referred to in
29 subsection (1).

30
31

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

4 (b) The Chief Financial Officer ~~Treasurer~~ shall make
5 an annual assessment of 0.12 percent against the average daily
6 balance of those moneys made available pursuant to this
7 section and 0.2 percent against the average daily balance of
8 those funds requiring investment in a separate account. The
9 proceeds of this assessment shall be deposited in the Chief
10 Financial Officer's ~~Treasurer's~~ Administrative and Investment
11 Trust Fund.

12 (c) The moneys so received and deposited in the fund
13 shall be used by the Chief Financial Officer ~~Treasurer~~ to
14 defray the expense of his or her office in the discharge of
15 the administrative and investment powers and duties prescribed
16 by this section and this chapter, including the maintaining of
17 an office and necessary supplies therefor, essential equipment
18 and other materials, salaries and expenses of required
19 personnel, and all other legitimate expenses relating to the
20 administrative and investment powers and duties imposed upon
21 and charged to the Chief Financial Officer ~~Treasurer~~ under
22 this section and this chapter. The unencumbered balance in the
23 trust fund at the close of each quarter shall not exceed
24 \$750,000. Any funds in excess of this amount shall be
25 transferred unallocated to the General Revenue Fund. However,
26 fees received from deferred compensation participants pursuant
27 to s. 112.215 shall not be transferred to the General Revenue
28 Fund and shall be used to operate the deferred compensation
29 program.

30 (5) The transfer of the powers, duties, and
31 responsibilities of existing state agencies and of the

1 judicial branch made by this section to the Chief Financial
2 Officer ~~Treasurer~~ shall include only the particular powers,
3 duties, and responsibilities hereby transferred, and all other
4 existing powers shall in no way be affected by this section.

5 Section 67. Section 18.15, Florida Statutes, is
6 transferred, renumbered as section 17.62, Florida Statutes,
7 and amended to read:

8 17.62 ~~18.15~~ Interest on state moneys deposited; when
9 paid.--Interest on state moneys deposited in qualified public
10 depositories under s. 17.57 ~~s. 18.10~~ shall be payable to the
11 Chief Financial Officer ~~Treasurer~~ quarterly or semiannually.

12 Section 68. Section 18.17, Florida Statutes, is
13 transferred, renumbered as section 17.63, Florida Statutes,
14 and amended to read:

15 17.63 ~~18.17~~ Chief Financial Officer ~~Treasurer~~ not to
16 issue evidences of indebtedness.--It is not lawful for the
17 Chief Financial Officer ~~Treasurer~~ of this state to issue any
18 treasury certificates, or any other evidences of indebtedness,
19 for any purpose whatever, and the Chief Financial Officer
20 ~~Treasurer~~ is prohibited from issuing the same.

21 Section 69. Section 18.20, Florida Statutes, is
22 transferred, renumbered as section 17.64, Florida Statutes,
23 and amended to read:

24 17.64 ~~18.20~~ Chief Financial Officer ~~Treasurer~~ to make
25 reproductions of certain warrants, records, and documents.--

26 ~~(1) All vouchers or checks heretofore or hereafter~~
27 ~~drawn by appropriate court officials of the several counties~~
28 ~~of the state against money deposited with the Treasurer under~~
29 ~~the provisions of s. 43.17, and paid by the Treasurer, may be~~
30 ~~photographed, microphotographed, or reproduced on film by the~~
31 ~~Treasurer. Such photographic film shall be durable material~~

1 ~~and the device used to so reproduce such warrants, vouchers,~~
2 ~~or checks shall be one which accurately reproduces the~~
3 ~~originals thereof in all detail; and such photographs,~~
4 ~~microphotographs, or reproductions on film shall be placed in~~
5 ~~conveniently accessible and identified files and shall be~~
6 ~~preserved by the Treasurer as a part of the permanent records~~
7 ~~of office. When any such warrants, vouchers, or checks have~~
8 ~~been so photographed, microphotographed, or reproduced on~~
9 ~~film, and the photographs, microphotographs, or reproductions~~
10 ~~on film thereof have been placed in files as a part of the~~
11 ~~permanent records of the office of the Treasurer as aforesaid,~~
12 ~~the Treasurer is authorized to return such warrants, vouchers,~~
13 ~~or checks to the offices of the respective county officials~~
14 ~~who drew the same and such warrants, vouchers, or checks shall~~
15 ~~be retained and preserved in such offices to which returned as~~
16 ~~a part of the permanent records of such offices.~~

17 ~~(1)(2)~~ Such photographs, microphotographs, or
18 reproductions on film of such ~~said~~ warrants, vouchers, or
19 checks shall be deemed to be original records for all
20 purposes; and any copy or reproduction thereof made from such
21 original film, duly certified by the Chief Financial Officer
22 ~~Treasurer~~ as a true and correct copy or reproduction made from
23 such film, shall be deemed to be a transcript, exemplification
24 or certified copy of the original warrant, voucher, or check
25 such copy represents, and shall in all cases and in all courts
26 and places be admitted and received in evidence with the like
27 force and effect as the original thereof might be.

28 ~~(2)(3)~~ The Chief Financial Officer ~~Treasurer~~ is also
29 ~~hereby~~ authorized to photograph, microphotograph, or reproduce
30 on film, all records and documents of such ~~said~~ office, as the
31 Chief Financial Officer ~~Treasurer~~ may, in his or her

1 discretion, selects ~~select~~; and the Chief Financial Officer
2 ~~said Treasurer~~ is hereby authorized to destroy any such of the
3 ~~said~~ documents or records after they have been photographed
4 and filed and after audit of the Chief Financial Officer's
5 ~~Treasurer's~~ office has been completed for the period embracing
6 the dates of such ~~said~~ documents and records.

7 (3)~~(4)~~ Photographs or microphotographs in the form of
8 film or prints of any records made in compliance with the
9 provisions of this section shall have the same force and
10 effect as the originals thereof would have, and shall be
11 treated as originals for the purpose of their admissibility in
12 evidence. Duly certified or authenticated reproductions of
13 such photographs or microphotographs shall be admitted in
14 evidence equally with the original photographs or
15 microphotographs.

16 Section 70. Section 18.23, Florida Statutes, is
17 transferred, renumbered as section 17.65, Florida Statutes,
18 and amended to read:

19 17.65 ~~18.23~~ Chief Financial Officer ~~Treasurer~~ to
20 prescribe forms.--The Chief Financial Officer ~~Treasurer~~ may
21 prescribe the forms, and the manner of keeping the same, for
22 all receipts, credit advices, abstracts, reports, and other
23 papers furnished the Chief Financial Officer ~~Treasurer~~ by the
24 officers of this state or other persons or entities as a
25 result of their having, or depositing, state moneys.

26 Section 71. Section 18.24, Florida Statutes, is
27 transferred, renumbered as section 17.66, Florida Statutes,
28 and amended to read:

29 17.66 ~~18.24~~ Securities in book-entry form.--Any
30 security which:

31

1 (1)(a) Is eligible to be held in book-entry form on
2 the books of the Federal Reserve Book-Entry System; or

3 (b) Is eligible for deposit in a depository trust
4 clearing system established to hold and transfer securities by
5 computerized book-entry systems; and which

6 (2)(a) Is held in the name of the Chief Financial
7 Officer, in the name of the State Treasurer, or in the name of
8 the State Insurance Commissioner; or

9 (b) Is pledged to the Chief Financial Officer, to the
10 State Treasurer, or to the State Insurance Commissioner;

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

15 Section 72. Subsection (3) of section 20.04, Florida
16 Statutes, is amended to read:

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

19 (3) For their internal structure, all departments,
20 except for the Department of Financial Services ~~Banking and~~
21 ~~Finance~~, the Department of Children and Family Services, the
22 Department of Corrections, the Department of Management
23 Services, the Department of Revenue, and the Department of
24 Transportation, must adhere to the following 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 73. Paragraph (h) of subsection (5) of section
5 20.055, Florida Statutes, is amended to read:

6 20.055 Agency inspectors general.--

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

22 (h) The inspector general shall develop long-term and
23 annual audit plans based on the findings of periodic risk
24 assessments. The plan, where appropriate, should include
25 postaudit samplings of payments and accounts. The plan shall
26 show the individual audits to be conducted during each year
27 and related resources to be devoted to the respective audits.
28 The Chief Financial Officer ~~Comptroller~~, to assist in
29 fulfilling the responsibilities for examining, auditing, and
30 settling accounts, claims, and demands pursuant to s.
31 17.03(1), and examining, auditing, adjusting, and settling

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

7 Section 74. Section 20.195, Florida Statutes, is
8 amended to read:

9 20.195 Department of Children and Family Services
10 Tobacco Settlement Trust Fund.--

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

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

24 Section 75. Section 20.425, Florida Statutes, is
25 amended to read:

26 20.425 Agency for Health Care Administration Tobacco
27 Settlement Trust Fund.--

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

1 Financial Services ~~Banking and Finance~~ Tobacco Settlement
2 Clearing Trust Fund in amounts equal to the annual
3 appropriations made from this trust fund.

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

10 Section 76. Paragraph (g) of subsection (1) of section
11 20.435, Florida Statutes, is amended to read:

12 20.435 Department of Health; trust funds.--

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

15 (g) Department of Health Tobacco Settlement Trust
16 Fund.

17 1. Funds to be credited to the trust fund shall
18 consist of funds disbursed, by nonoperating transfer, from the
19 Department of Financial Services ~~Banking and Finance~~ Tobacco
20 Settlement Clearing Trust Fund in amounts equal to the annual
21 appropriations made from this trust fund.

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

28 Section 77. Subsection (4) of section 24.105, Florida
29 Statutes, is amended to read:

30 24.105 Powers and duties of department.--The
31 department shall:

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

11 Section 78. Subsection (5) of section 24.111, Florida
12 Statutes, is amended to read:

13 24.111 Vendors; disclosure and contract
14 requirements.--

15 (5) Each vendor in a major procurement in excess of
16 \$25,000, and any other vendor if the department deems it
17 necessary to protect the state's financial interest, shall, at
18 the time of executing the contract with the department, post
19 an appropriate bond with the department in an amount
20 determined by the department to be adequate to protect the
21 state's interests, but not higher than the full amount
22 estimated to be paid annually to the vendor under the
23 contract. In lieu of the bond, a vendor may, to assure the
24 faithful performance of its obligations, file with the
25 department an irrevocable letter of credit acceptable to the
26 department in an amount determined by the department to be
27 adequate to protect the state's interests or deposit and
28 maintain with the Chief Financial Officer ~~Treasurer~~ securities
29 that are interest bearing or accruing and that, with the
30 exception of those specified in paragraphs (a) and (b), are
31 rated in one of the four highest classifications by an

1 established nationally recognized investment rating service.
2 Securities eligible under this subsection shall be limited to:

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

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

10 (c) General obligation bonds and notes of any
11 political subdivision of the state.

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

14

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

21 Section 79. Paragraph (b) of subsection (9) of section
22 24.112, Florida Statutes, is amended to read:

23 24.112 Retailers of lottery tickets.--

24 (9)

25 (b) In lieu of such bond, the department may purchase
26 blanket bonds covering all or selected retailers or may allow
27 a retailer to deposit and maintain with the Chief Financial
28 Officer ~~Treasurer~~ securities that are interest bearing or
29 accruing and that, with the exception of those specified in
30 subparagraphs 1. and 2., are rated in one of the four highest
31 classifications by an established nationally recognized

1 investment rating service. Securities eligible under this
2 paragraph shall be limited to:

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

7 2. United States bonds, notes, and bills for which the
8 full faith and credit of the government of the United States
9 is pledged for the payment of principal and interest.

10 3. General obligation bonds and notes of any political
11 subdivision of the state.

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

14

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

18 Section 80. Subsections (3) and (4) of section 24.120,
19 Florida Statutes, are amended to read:

20 24.120 Financial matters; Administrative Trust Fund;
21 interagency cooperation.--

22 (3) Any action required by law to be taken by the
23 Chief Financial Officer ~~State Treasurer or the Comptroller~~
24 shall be taken within 2 business days after the department's
25 request therefor. If the request for such action is not
26 approved or rejected within such period, the request shall be
27 deemed to be approved. The department shall reimburse the
28 Chief Financial Officer ~~State Treasurer or the Comptroller~~ for
29 any additional costs involved in providing the level of
30 service required by this subsection.

31

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

8 Section 81. Subsection (5) of section 25.241, Florida
9 Statutes, is amended to read:

10 25.241 Clerk of Supreme Court; compensation;
11 assistants; filing fees, etc.--

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

18 Section 82. Section 26.39, Florida Statutes, is
19 amended to read:

20 26.39 Penalty for nonattendance of judge.--Whenever
21 such default shall occur, the clerk of the court (unless such
22 judge shall file his or her reasons for such default as
23 hereinbefore provided) shall certify the fact, under his or
24 her official signature and seal, to the Chief Financial
25 Officer ~~Comptroller~~ of the state, who shall deduct from the
26 warrants ~~on the Treasurer~~, thereafter to be issued in favor of
27 the judge making such default, the sum of \$100 as aforesaid
28 for every such default.

29 Section 83. Section 27.08, Florida Statutes, is
30 amended to read:

31

1 27.08 State claims; surrender of papers to
2 successor.--Upon the qualification of the successor of any
3 state attorney, the state attorney going out of office shall
4 deliver to his or her successor a statement of all cases for
5 the collection of money in favor of the state under his or her
6 control and the papers connected with the same, and take his
7 or her receipt for the same, which receipt, when filed with
8 the Department of Financial Services ~~Banking and Finance~~,
9 shall release such state attorney from any further liability
10 to the state upon the claims receipted for; and the state
11 attorney receiving the claims shall be liable in all respects
12 for the same, as provided against state attorneys in s. 17.20.

13 Section 84. Section 27.10, Florida Statutes, is
14 amended to read:

15 27.10 Obligation as to claims; how discharged.--The
16 charges mentioned in s. 17.20 shall be evidence of
17 indebtedness on the part of any state attorney against whom
18 any charge is made for the full amount of such claim to the
19 state until the same shall be collected and paid into the
20 treasury or sued to insolvency, which fact of insolvency shall
21 be certified by the circuit judge of his or her circuit,
22 unless the said state attorney makes ~~shall make~~ it fully
23 appear to the Department of Financial Services ~~Banking and~~
24 ~~Finance~~ that the failure to collect the same did not result
25 from his or her neglect.

26 Section 85. Section 27.11, Florida Statutes, is
27 amended to read:

28 27.11 Report upon claims committed to state
29 attorney.--The state attorney shall make a report to the Chief
30 Financial Officer ~~Comptroller~~ on the first Monday in January
31 and July in each and every year of the condition of all claims

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

10 Section 86. Subsection (1) of section 27.12, Florida
11 Statutes, is amended to read:

12 27.12 Power to compromise.--

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

20 Section 87. Section 27.13, Florida Statutes, is
21 amended to read:

22 27.13 Completion of compromise.--The state attorney
23 shall, on agreeing to any compromise or settlement, report the
24 same to the Department of Financial Services ~~Banking and~~
25 ~~Finance~~ for its approval; and, on its approving such
26 compromise or settlement, the ~~said~~ state attorney, on a
27 compliance with the terms of such compromise or settlement
28 shall give a receipt to the collector of revenue, sheriff or
29 other officer, or the sureties on their bonds, or to the legal
30 representatives, which receipt shall be a discharge from all
31 judgments, claims or demands of the state against such

1 collector of revenue or other officer, or the sureties on
2 their bonds.

3 Section 88. Subsection (4) of section 27.34, Florida
4 Statutes, is amended to read:

5 27.34 Salaries and other related costs of state
6 attorneys' offices; limitations.--

7 (4) Notwithstanding s. 27.25, the Chief Financial
8 Officer ~~Insurance Commissioner~~ may contract with the state
9 attorney of any judicial circuit of the state for the
10 prosecution of criminal violations of the Workers'
11 Compensation Law and related crimes and may contribute funds
12 for such purposes. Such contracts may provide for the
13 training, salary, and expenses of one or more assistant state
14 attorneys used in the prosecution of such crimes.

15 Section 89. Section 27.3455, Florida Statutes, is
16 amended to read:

17 27.3455 Annual statement of certain revenues and
18 expenditures.--

19 (1) Each county shall submit annually to the Chief
20 Financial Officer ~~Comptroller~~ a statement of revenues and
21 expenditures as set forth in this section in the form and
22 manner prescribed by the Chief Financial Officer ~~Comptroller~~
23 in consultation with the Legislative Committee on
24 Intergovernmental Relations, provided that such statement
25 identify total county expenditures on:

26 (a) Medical examiner services.

27 (b) County victim witness programs.

28 (c) Each of the services outlined in ss. 27.34(2) and
29 27.54(3).

30 (d) Appellate filing fees in criminal cases in which
31 an indigent defendant appeals a judgment of a county or

1 circuit court to a district court of appeal or the Florida
2 Supreme Court.

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

7
8 Such statement also shall identify the revenues provided by s.
9 938.05(1) that were used to meet or reimburse the county for
10 such expenditures.

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

20 (b) If Should the Chief Financial Officer determines
21 ~~Comptroller determine~~ that additional auditing procedures are
22 appropriate because:

23 1. The county failed to submit timely its annual
24 statement;

25 2. Discrepancies were noted by the independent
26 certified public accountant; or

27 3. The county failed to file before March 31 of each
28 year the certified public accountant statement of compliance,
29 the Chief Financial Officer may ~~Comptroller is hereby~~
30 ~~authorized to~~ send his or her personnel or to contract for
31 services to bring the county into compliance. The costs

1 incurred by the Chief Financial Officer ~~Comptroller~~ shall be
2 paid promptly by the county upon certification by the Chief
3 Financial Officer ~~Comptroller~~.

4 (c) Where the Chief Financial Officer ~~Comptroller~~
5 elects to utilize the services of an independent contractor,
6 such certification by the Chief Financial Officer ~~Comptroller~~
7 may require the county to make direct payment to a contractor.
8 Any funds owed by a county in such matters shall be recovered
9 pursuant to s. 17.04 or s. 17.041.

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

12 (a) Reimbursement to the county for actual county
13 expenditures incurred in providing the state attorney and
14 public defender the services outlined in ss. 27.34(2) and
15 27.54(3), with the exception of office space, utilities, and
16 custodial services.

17 (b) At the close of the local government fiscal year,
18 funds remaining on deposit in the special trust fund of the
19 county after reimbursements have been made pursuant to
20 paragraph (a) shall be reimbursed to the county for actual
21 county expenditures made in support of the operations and
22 services of medical examiners, including the costs associated
23 with the investigation of state prison inmate deaths. Special
24 county trust fund revenues used to reimburse the county for
25 medical examiner expenditures in any year shall not exceed \$1
26 per county resident.

27 (c) At the close of the local government fiscal year,
28 counties establishing or having in existence a comprehensive
29 victim-witness program which meets the standards set by the
30 Crime Victims' Services Office shall be eligible to receive 50
31 percent matching moneys from the balance remaining in the

1 special trust fund after reimbursements have been made
2 pursuant to paragraphs (a) and (b). Special trust fund moneys
3 used in any year to supplement such programs shall not exceed
4 25 cents per county resident.

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 90. Subsection (2) of section 27.703, Florida
5 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 91. Subsection (4) of section 27.710, Florida
13 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 92. Subsections (3), (4), (5), (6), (7), and
2 (13) of section 27.711, Florida Statutes, are amended to read:

3 27.711 Terms and conditions of appointment of
4 attorneys as counsel in postconviction capital collateral
5 proceedings.--

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

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

30 (a) Regardless of the stage of postconviction capital
31 collateral proceedings, the attorney is entitled to \$100 per

1 hour, up to a maximum of \$2,500, after accepting appointment
2 and filing a notice of appearance.

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

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

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

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

28 (f) The attorney is entitled to \$100 per hour, up to a
29 maximum of \$4,000, after the appeal of the trial court's
30 denial of the capital defendant's motion for postconviction
31

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

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

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

15
16 The hours billed by a contracting attorney under this
17 subsection may include time devoted to representation of the
18 defendant by another attorney who is qualified under s. 27.710
19 and who has been designated by the contracting attorney to
20 assist him or her.

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

28 (6) An attorney who represents a capital defendant is
29 entitled to a maximum of \$15,000 for miscellaneous expenses,
30 such as the costs of preparing transcripts, compensating
31 expert witnesses, and copying documents. Upon approval by the

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

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

13 (13) Prior to the filing of a motion for order
14 approving payment of attorney's fees, costs, or related
15 expenses, the assigned counsel shall deliver a copy of his
16 intended billing, together with supporting affidavits and all
17 other necessary documentation, to the Chief Financial
18 Officer's ~~Comptroller's~~ named contract manager. The contract
19 manager shall have 10 business days from receipt to review the
20 billings, affidavit, and documentation for completeness and
21 compliance with contractual and statutory requirements. If the
22 contract manager objects to any portion of the proposed
23 billing, the objection and reasons therefor shall be
24 communicated to the assigned counsel. The assigned counsel may
25 thereafter file his or her motion for order approving payment
26 of attorney's fees, costs, or related expenses together with
27 supporting affidavits and all other necessary documentation.
28 The motion must specify whether the Chief Financial Officer's
29 ~~Comptroller's~~ contract manager objects to any portion of the
30 billing or the sufficiency of documentation and, if so, the
31 reason therefor. A copy of the motion and attachments shall be

1 served on the Chief Financial Officer's ~~Comptroller's~~ contract
2 manager, who shall have standing to file pleadings and appear
3 before the court to contest any motion for order approving
4 payment. The fact that the Chief Financial Officer's
5 ~~Comptroller's~~ contract manager has not objected to any portion
6 of the billing or to the sufficiency of the documentation is
7 not binding on the court, which retains primary authority and
8 responsibility for determining the reasonableness of all
9 billings for fees, costs, and related expenses, subject to
10 statutory limitations.

11 Section 93. Section 28.235, Florida Statutes, is
12 amended to read:

13 28.235 Advance payments by clerk of circuit
14 court.--The clerk of the circuit court is authorized to make
15 advance payments on behalf of the county for goods and
16 services, including, but not limited to, maintenance
17 agreements and subscriptions, pursuant to rules or procedures
18 adopted by the Chief Financial Officer ~~Comptroller~~ for advance
19 payments of invoices submitted to agencies of the state.

20 Section 94. Subsections (7) and (23) of section 28.24,
21 Florida Statutes, are amended to read:

22 28.24 Service charges by clerk of the circuit
23 court.--The clerk of the circuit court shall make the
24 following charges for services rendered by the clerk's office
25 in recording documents and instruments and in performing the
26 duties enumerated. However, in those counties where the
27 clerk's office operates as a fiscal unit of the county
28 pursuant to s. 145.022(1), the clerk shall not charge the
29 county for such services.

30
31

Charges

1
2 (7) For making and reporting payrolls of jurors to
3 Chief Financial Officer State Comptroller, per page, per copy
45.00

5 (23) For paying of witnesses and making and reporting
6 payroll to Chief Financial Officer State Comptroller, per
7 copy, per page.....5.00

8 Section 95. Section 30.52, Florida Statutes, is
9 amended to read:

10 30.52 Handling of public funds.--The sheriff shall
11 keep public funds in his or her custody, either in his or her
12 office in an amount not in excess of the burglary, theft, and
13 robbery insurance provided, the cost of which is hereby
14 authorized as an expense of the office, or in a depository in
15 an amount not in excess of the security provided pursuant to
16 s. 658.60 and the regulations of the Department of Financial
17 Services Banking and Finance. The title of the depository
18 accounts shall include the word "sheriff" and the name of the
19 county, and withdrawals from the accounts shall be made by
20 checks signed by the duly qualified and acting sheriff of the
21 county, or his or her designated deputy or agent.

22 Section 96. Section 40.30, Florida Statutes, is
23 amended to read:

24 40.30 Requisition endorsed by State Courts
25 Administrator or designee.--Upon receipt of such estimate and
26 the requisition from the clerk of the court, the State Courts
27 Administrator or designee shall endorse the amount that he or
28 she may deem necessary for the pay of jurors and witnesses
29 during the quarterly fiscal period and shall submit a request
30 for payment to the Chief Financial Officer Comptroller.

31

1 Section 97. Section 40.31, Florida Statutes, is
2 amended to read:

3 40.31 State Courts Administrator may apportion
4 appropriation.--If the State Courts Administrator shall have
5 reason to believe that the amount appropriated by the
6 Legislature is insufficient to meet the expenses of jurors and
7 witnesses during the remaining part of the state fiscal year,
8 he or she may apportion the money in the treasury for that
9 purpose among the several counties, basing such apportionment
10 upon the amount expended for the payment of jurors and
11 witnesses in each county during the prior fiscal year. In such
12 case, each county shall be paid by warrant, issued by the
13 Chief Financial Officer ~~Comptroller~~, only the amount so
14 apportioned to each county, and, when the amount so
15 apportioned is insufficient to pay in full all the jurors and
16 witnesses during a quarterly fiscal period, the clerk of the
17 court shall apportion the money received pro rata among the
18 jurors and witnesses entitled to pay and shall give to each
19 juror or witness a certificate of the amount of compensation
20 still due, which certificate shall be held by the State Courts
21 Administrator as other demands against the state.

22 Section 98. Section 40.33, Florida Statutes, is
23 amended to read:

24 40.33 Deficiency.--If the compensation of jurors and
25 witnesses during a quarterly fiscal period exceeds the amount
26 estimated by the clerk of the court and therefore is
27 insufficient to pay in full the jurors and witnesses, the
28 clerk of the court shall make a further requisition upon the
29 State Courts Administrator for the amount necessary to pay
30 such default, and the amount required shall be transmitted to
31 the clerk of the court by warrant issued by the Chief

1 Financial Officer ~~Comptroller~~ in the same manner as the
2 original requisition or order.

3 Section 99. Subsection (2) of section 40.34, Florida
4 Statutes, is amended to read:

5 40.34 Clerks to make triplicate payroll.--

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

8 Section 100. Section 40.35, Florida Statutes, is
9 amended to read:

10 40.35 Accounting and payment to the State Courts
11 Administrator.--

12 (1) The clerk of the court shall, within 2 weeks after
13 the last day of the quarterly fiscal period, render to the
14 State Courts Administrator a full statement of accounts for
15 moneys received and disbursed under the provisions of this
16 chapter and refund to the State Courts Administrator any
17 balance in the clerk's hands. If upon audit the State Courts
18 Administrator shall determine a balance due the clerk of the
19 court, the State Courts Administrator shall submit a request
20 for payment to the Chief Financial Officer ~~Comptroller~~.

21 (2) If a clerk of the court fails to account for and
22 pay over promptly the balance of all moneys paid him or her,
23 the sureties, if any, on a clerk's official bond are liable
24 and responsible for same; and the State Courts Administrator
25 shall report to the Governor and the Chief Financial Officer
26 ~~Comptroller~~ any failure on the part of the clerk of the court
27 to report and faithfully account for any such moneys.

28 Section 101. Paragraph (b) of subsection (5) of
29 section 43.16, Florida Statutes, is amended to read:

30 43.16 Justice Administrative Commission; membership,
31 powers and duties.--

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

3 (b) Each state attorney and public defender and the
4 Judicial Qualifications Commission shall continue to prepare
5 necessary budgets, vouchers which represent valid claims for
6 reimbursement by the state for authorized expenses, and other
7 things incidental to the proper administrative operation of
8 the office, such as revenue transmittals to the Chief
9 Financial Officer ~~treasurer~~, automated systems plans, etc.,
10 but will forward same to the commission for recording and
11 submission to the proper state officer. However, when
12 requested by a state attorney or a public defender or the
13 Judicial Qualifications Commission, the commission will either
14 assist in the preparation of budget requests, voucher
15 schedules, and other forms and reports or accomplish the
16 entire project involved.

17 Section 102. Subsections (1), (3), and (4) of section
18 43.19, Florida Statutes, are amended to read:

19 43.19 Money paid into court; unclaimed funds.--

20 (1) In every case in which the right to withdraw money
21 deposited as hereinbefore provided has been adjudicated or is
22 not in dispute and the money has remained so deposited for 5
23 years or more unclaimed by the person, firm, or corporation
24 entitled thereto, on or before December 1 of each year the
25 judge, or one of the judges, of the court shall direct that
26 the money be deposited with the Chief Financial Officer
27 ~~Treasurer~~ to the credit of the State School Fund, to become a
28 part of that fund, subject to the right of the person, firm,
29 or corporation entitled thereto to receive the money as
30 provided in subsection (3).

31

1 (3) Any person, firm or corporation entitled to any of
2 the money may obtain an order directing the payment of the
3 money to the claimant on written petition to the court from
4 which the money was deposited or its successor, and written
5 notice to the state attorney of the circuit wherein the court
6 is situate, whether or not the court is a circuit court, and
7 proof of right thereto, and the money deposited shall
8 constitute and be a permanent appropriation for payments by
9 the Chief Financial Officer ~~Treasurer~~ of the state in
10 obedience of such orders.

11 (4) All interest and income that accrue from the money
12 while on deposit with the Chief Financial Officer ~~Treasurer~~ to
13 the credit of the State School Fund belong to that fund.

14 Section 103. Subsections (3) and (4) of section
15 48.151, Florida Statutes, are amended to read:

16 48.151 Service on statutory agents for certain
17 persons.--

18 (3) The Chief Financial Officer ~~Insurance Commissioner~~
19 ~~and Treasurer~~ or his or her assistant or deputy or another
20 person in charge of the office is the agent for service of
21 process on all insurers applying for authority to transact
22 insurance in this state, all licensed nonresident insurance
23 agents, all nonresident disability insurance agents licensed
24 by the Department of Financial Services ~~Insurance~~ pursuant to
25 s. 626.835, any unauthorized insurer under s. 626.906 or s.
26 626.937, domestic reciprocal insurers, fraternal benefit
27 societies under chapter 632, automobile inspection and
28 warranty associations, ambulance service associations, and
29 persons required to file statements under s. 628.461.

30 (4) The Chief Financial Officer ~~Comptroller~~ is the
31 agent for service of process for any issuer as defined in s.

1 517.021, or any dealer, investment adviser, or associated
2 person registered with the Department of Financial Services
3 ~~Banking and Finance~~, for any violation of any provision of
4 chapter 517.

5 Section 104. Subsection (1) of section 55.03, Florida
6 Statutes, is amended to read:

7 55.03 Judgments; rate of interest, generally.--

8 (1) On December 1 of each year ~~beginning December 1,~~
9 ~~1994,~~ the Chief Financial Officer ~~Comptroller of the State of~~
10 ~~Florida~~ shall set the rate of interest that shall be payable
11 on judgments or decrees for the year beginning January 1 by
12 averaging the discount rate of the Federal Reserve Bank of New
13 York for the preceding year, then adding 500 basis points to
14 the averaged federal discount rate. The Chief Financial
15 Officer ~~Comptroller~~ shall inform the clerk of the courts and
16 chief judge for each judicial circuit of the rate that has
17 been established for the upcoming year. The ~~initial interest~~
18 ~~rate established by the Comptroller shall take effect on~~
19 ~~January 1, 1995,~~ and the interest rate established by the
20 Chief Financial Officer ~~Comptroller~~ ~~in subsequent years~~ shall
21 take effect on January 1 of each following year. Judgments
22 obtained on or after January 1, 1995, shall use the previous
23 statutory rate for time periods before January 1, 1995, for
24 which interest is due and shall apply the rate set by the
25 Chief Financial Officer ~~Comptroller~~ for time periods after
26 January 1, 1995, for which interest is due. Nothing contained
27 herein shall affect a rate of interest established by written
28 contract or obligation.

29 Section 105. Section 57.091, Florida Statutes, is
30 amended to read:

31

1 57.091 Costs; refunded to counties in certain
2 proceedings relating to state prisoners.--All lawful fees,
3 costs, and expenses hereafter adjudged against, and paid by,
4 any county in all competency proceedings and all criminal
5 prosecutions against state prisoners imprisoned in a state
6 correctional institution, and in all habeas corpus cases
7 brought to test the legality of the imprisonment of state
8 prisoners of such correctional institutions, shall be refunded
9 to the county paying the sum from the General Revenue Fund in
10 the State Treasury in the manner and to the extent herein
11 provided, to wit: between the 1st and 15th of the month next
12 succeeding the month in which the fees, costs, and expenses
13 have been allowed and paid by the county, the clerk of the
14 court shall make requisition on the Department of Corrections
15 for the fees, costs, and expenses so allowed and paid during
16 the preceding month, giving the style of the cases in which
17 fees, costs, and expenses were incurred and the amount and
18 items of cost in each case; providing a certified copy of the
19 judgment adjudging the fees, costs, and expenses against the
20 county and showing that the amount represented thereby has
21 been approved by the presiding judge, paid by the county, and
22 verified by the clerk; and attaching a certified copy of the
23 bill as approved and allowed by the board of county
24 commissioners of the county. If the Department of Corrections
25 finds the bills legal and adjudged against and paid by the
26 county, the department shall submit a request to the Chief
27 Financial Officer ~~Comptroller~~ to draw a warrant in the amount
28 thereof, or in the amount the department finds legal and
29 adjudged against and paid by the county, in favor of the
30 county paying the fees, costs, and expenses, which shall be
31

1 paid by the Chief Financial Officer ~~State Treasurer~~ from the
2 general revenue funds of the state.

3 Section 106. Subsections (1), (3), and (4) of section
4 68.083, Florida Statutes, are amended to read:

5 68.083 Civil actions for false claims.--

6 (1) The department may diligently investigate a
7 violation under s. 68.082. If the department finds that a
8 person has violated or is violating s. 68.082, the department
9 may bring a civil action under the Florida False Claims Act
10 against the person. The Department of Financial Services
11 ~~Banking and Finance~~ may bring a civil action under this
12 section if the action arises from an investigation by that
13 department and the Department of Legal Affairs has not filed
14 an action under this act.

15 (3) The complaint shall be identified on its face as a
16 qui tam action and shall be filed in the circuit court of the
17 Second Judicial Circuit, in and for Leon County. Immediately
18 upon the filing of the complaint, a copy of the complaint and
19 written disclosure of substantially all material evidence and
20 information the person possesses shall be served on the
21 Attorney General, as head of the department, and on the Chief
22 Financial Officer ~~Comptroller~~, as head of the Department of
23 Financial Services ~~Banking and Finance~~, by registered mail,
24 return receipt requested. The department, or the Department of
25 Financial Services ~~Banking and Finance~~ under the circumstances
26 specified in subsection (4), may elect to intervene and
27 proceed with the action, on behalf of the state, within 90
28 days after it receives both the complaint and the material
29 evidence and information.

30 (4) If a person brings an action under subsection (2)
31 and the action is based upon the facts underlying a pending

1 investigation by the Department of Financial Services ~~Banking~~
2 ~~and Finance~~, the Department of Financial Services ~~Banking and~~
3 ~~Finance~~, instead of the department, may take over the action
4 on behalf of the state. In order to take over the action, the
5 Department of Financial Services ~~Banking and Finance~~ must give
6 the department written notification within 20 days after the
7 action is filed that the Department of Financial Services
8 ~~Banking and Finance~~ is conducting an investigation of the
9 facts of the action and that the Department of Financial
10 Services ~~Banking and Finance~~, instead of the department, will
11 take over the action filed under subsection (2). If the
12 Department of Financial Services ~~Banking and Finance~~ takes
13 over the action under this subsection, the word "department"
14 as used in this act means the Department of Financial Services
15 ~~Banking and Finance~~, and that department, for purposes of that
16 action, shall have all rights and standing granted the
17 department under this act.

18 Section 107. Subsections (3) and (6) of section
19 68.084, Florida Statutes, are amended to read:

20 68.084 Rights of the parties in civil actions.--

21 (3) If the department elects not to proceed with the
22 action, the person who initiated the action has the right to
23 conduct the action. If the Attorney General, as head of the
24 department, or the Chief Financial Officer ~~Comptroller~~, as
25 head of the Department of Financial Services ~~Banking and~~
26 ~~Finance~~, so requests, it shall be served, at the requesting
27 department's expense, with copies of all pleadings and motions
28 filed in the action and copies of all deposition transcripts.
29 When a person proceeds with the action, the court, without
30 limiting the rights of the person initiating the action, may
31 nevertheless permit the department to intervene and take over

1 the action on behalf of the state at a later date upon showing
2 of good cause.

3 (6) The Department of Financial Services ~~Banking and~~
4 ~~Finance~~, or the department, may intervene on its own behalf as
5 a matter of right.

6 Section 108. Subsection (3) of section 68.087, Florida
7 Statutes, is amended to read:

8 68.087 Exemptions to civil actions.--

9 (3) No court shall have jurisdiction over an action
10 brought under this act based upon the public disclosure of
11 allegations or transactions in a criminal, civil, or
12 administrative hearing; in a legislative, administrative,
13 inspector general, or Auditor General, Chief Financial Officer
14 ~~Comptroller~~, or Department of Financial Services ~~Banking and~~
15 ~~Finance~~ report, hearing, audit, or investigation; or from the
16 news media, unless the action is brought by the department, or
17 unless the person bringing the action is an original source of
18 the information. For purposes of this subsection, the term
19 "original source" means an individual who has direct and
20 independent knowledge of the information on which the
21 allegations are based and has voluntarily provided the
22 information to the department before filing an action under
23 this act based on the information.

24 Section 109. Section 68.092, Florida Statutes, is
25 amended to read:

26 68.092 Deposit of recovered moneys.--All moneys
27 recovered by the Chief Financial Officer ~~Comptroller~~, as head
28 of the Department of Financial Services ~~Banking and Finance~~,
29 under s. 68.086(1) in any civil action for violation of the
30 Florida False Claims Act shall be deposited in the

31

1 Administrative Trust Fund of the Department of Financial
2 Services ~~Banking and Finance~~.

3 Section 110. Section 77.0305, Florida Statutes, is
4 amended to read:

5 77.0305 Continuing writ of garnishment against salary
6 or wages.--Notwithstanding any other provision of this
7 chapter, if salary or wages are to be garnished to satisfy a
8 judgment, the court shall issue a continuing writ of
9 garnishment to the judgment debtor's employer which provides
10 for the periodic payment of a portion of the salary or wages
11 of the judgment debtor as the salary or wages become due until
12 the judgment is satisfied or until otherwise provided by court
13 order. A debtor's status as an employee of the state or its
14 agencies or political subdivisions does not preclude a
15 judgment creditor's right to garnish the debtor's wages. For
16 the purposes of this section, the state includes the judicial
17 branch and the legislative branch as defined in s. 216.011.
18 The state, for itself and for its agencies and subdivisions,
19 waives sovereign immunity for the express and limited purpose
20 necessary to carry out this section. The court shall allow
21 the judgment debtor's employer to collect up to \$5 against the
22 salary or wages of the judgment debtor to reimburse the
23 employer for administrative costs for the first deduction from
24 the judgment debtor's salary or wages and up to \$2 for each
25 deduction thereafter. The funds collected by the state under
26 this section must be deposited in the Department of Financial
27 Services ~~Banking and Finance~~ Administrative Trust Fund for
28 purposes of carrying out this section.

29 Section 111. Section 92.39, Florida Statutes, is
30 amended to read:

31

1 92.39 Evidence of individual's claim against the state
2 in suits between them.--In suits between the state and
3 individuals, no claim for a credit shall be allowed upon
4 trial, but such as shall appear to have been presented to the
5 Chief Financial Officer ~~Comptroller~~ for his or her ~~the~~
6 ~~Comptroller's~~ examination, and by him or her disallowed in
7 whole or in part, unless it shall be proved to the
8 satisfaction of the court that the defendant is, at the time
9 of the trial, in possession of vouchers not before in the
10 defendant's power to procure, and that the defendant was
11 prevented from exhibiting a claim for such credit at the Chief
12 Financial Officer's ~~Comptroller's~~ office by unavoidable
13 accident.

14 Section 112. Subsection (4) of section 99.097, Florida
15 Statutes, is amended to read:

16 99.097 Verification of signatures on petitions.--

17 (4) The supervisor shall be paid in advance the sum of
18 10 cents for each signature checked or the actual cost of
19 checking such signature, whichever is less, by the candidate
20 or, in the case of a petition to have an issue placed on the
21 ballot, by the person or organization submitting the petition.
22 However, if a candidate, person, or organization seeking to
23 have an issue placed upon the ballot cannot pay such charges
24 without imposing an undue burden on personal resources or upon
25 the resources otherwise available to such candidate, person,
26 or organization, such candidate, person, or organization
27 shall, upon written certification of such inability given
28 under oath to the supervisor, be entitled to have the
29 signatures verified at no charge. In the event a candidate,
30 person, or organization submitting a petition to have an issue
31 placed upon the ballot is entitled to have the signatures

1 verified at no charge, the supervisor of elections of each
2 county in which the signatures are verified at no charge shall
3 submit the total number of such signatures checked in the
4 county to the Chief Financial Officer ~~Comptroller~~ no later
5 than December 1 of the general election year, and the Chief
6 Financial Officer ~~Comptroller~~ shall cause such supervisor of
7 elections to be reimbursed from the General Revenue Fund in an
8 amount equal to 10 cents for each name checked or the actual
9 cost of checking such signatures, whichever is less. In no
10 event shall such reimbursement of costs be deemed or applied
11 as extra compensation for the supervisor. Petitions shall be
12 retained by the supervisors for a period of 1 year following
13 the election for which the petitions were circulated.

14 Section 113. Paragraph (a) of subsection (2) of
15 section 101.151, Florida Statutes, is amended to read:

16 101.151 Specifications for ballots.--

17 (2)(a) The ballot shall have headings under which
18 shall appear the names of the offices and names of duly
19 nominated candidates for the respective offices in the
20 following order: the heading "President and Vice President"
21 and thereunder the names of the candidates for President and
22 Vice President of the United States nominated by the political
23 party that received the highest vote for Governor in the last
24 general election of the Governor in this state. Then shall
25 appear the names of other candidates for President and Vice
26 President of the United States who have been properly
27 nominated. Votes cast for write-in candidates for President
28 and Vice President shall be counted as votes cast for the
29 presidential electors supporting such candidates. Then shall
30 follow the heading "Congressional" and thereunder the offices
31 of United States Senator and Representative in Congress; then

1 the heading "State" and thereunder the offices of Governor and
2 Lieutenant Governor, Secretary of State, Attorney General,
3 Chief Financial Officer ~~Comptroller, Treasurer~~, Commissioner
4 of Education, Commissioner of Agriculture, state attorney, and
5 public defender, together with the names of the candidates for
6 each office and the title of the office which they seek; then
7 the heading "Legislative" and thereunder the offices of state
8 senator and state representative; then the heading "County"
9 and thereunder clerk of the circuit court, clerk of the county
10 court (when authorized by law), sheriff, property appraiser,
11 tax collector, district superintendent of schools, and
12 supervisor of elections. Thereafter follows: members of the
13 board of county commissioners, and such other county and
14 district offices as are involved in the general election, in
15 the order fixed by the Department of State, followed, in the
16 year of their election, by "Party Offices," and thereunder the
17 offices of state and county party executive committee members.
18 In addition to the names printed on the ballot, a blank space
19 shall be provided under each heading for an office for which a
20 write-in candidate has qualified. With respect to write-in
21 candidates, if two or more candidates are seeking election to
22 one office, only one blank space shall be provided.

23 Section 114. Subsection (6) of section 103.091,
24 Florida Statutes, is amended to read:

25 103.091 Political parties.--

26 (6)(a)~~1~~. In addition to the members provided for in
27 subsection (1), each county executive committee shall include
28 all members of the Legislature who are residents of the county
29 and members of their respective political party and who shall
30 be known as at-large committeemen and committeewomen.

31

1 **(b)2.** Each state executive committee shall include, as
2 at-large committeemen and committeewomen, all members of the
3 United States Congress representing the State of Florida who
4 are members of the political party, all statewide elected
5 officials who are members of the party, and the President of
6 the Senate or the Minority Leader in the Senate, and the
7 Speaker of the House of Representatives or the Minority Leader
8 in the House of Representatives, whichever is a member of the
9 political party, and 20 members of the Legislature who are
10 members of the political party. Ten of the legislators shall
11 be appointed with the concurrence of the state chair of the
12 respective party, as follows: five to be appointed by the
13 President of the Senate; five by the Minority Leader in the
14 Senate; five by the Speaker of the House of Representatives;
15 and five by the Minority Leader in the House.

16 **(c)3.** When a political party allows any member of the
17 state executive committee to have more than one vote per
18 person, other than by proxy, in a matter coming before the
19 state executive committee, the 20 members of the Legislature
20 appointed under subparagraph 2. shall not be appointed to the
21 state executive committee and the following elected officials
22 who are members of that political party shall be appointed and
23 shall have the following votes:

24 **1.a.** Governor: a number equal to 15 percent of votes
25 cast by state executive committeemen and committeewomen;

26 **2.b.** Lieutenant Governor: a number equal to 5 percent
27 of the votes cast by state executive committeemen and
28 committeewomen;

29 **3.c.** Each member of the United States Senate
30 representing the state: a number equal to 10 percent of the
31 votes cast by state executive committeemen and committeewomen;

1 ~~4.d.~~ Secretary of State: a number equal to 5 percent
2 of the votes cast by state executive committeemen and
3 committeewomen;
4 ~~5.e.~~ Attorney General: a number equal to 5 percent of
5 the votes cast by state executive committeemen and
6 committeewomen;
7 ~~6.f.~~ Comptroller: a number equal to 5 percent of the
8 votes cast by state executive committeemen and committeewomen;
9 ~~7.g.~~ Treasurer: a number equal to 5 percent of the
10 votes cast by state executive committeemen and committeewomen;
11 ~~8.h.~~ Commissioner of Agriculture: a number equal to 5
12 percent of the votes cast by state executive committeemen and
13 committeewomen;
14 ~~9.i.~~ Commissioner of Education: a number equal to 5
15 percent of the votes cast by state executive committeemen and
16 committeewomen;
17 ~~10.j.~~ President of the Senate: a number equal to 10
18 percent of the votes cast by state executive committeemen and
19 committeewomen;
20 ~~11.k.~~ Minority leader of the Senate: a number equal
21 to 10 percent of the votes cast by state executive
22 committeemen and committeewomen;
23 ~~12.l.~~ Speaker of the House of Representatives: a
24 number equal to 10 percent of the votes cast by state
25 executive committeemen and committeewomen;
26 ~~13.m.~~ Minority leader of the House of Representatives:
27 a number equal to 10 percent of the votes cast by state
28 executive committeemen and committeewomen; and
29 ~~14.n.~~ Each member of the United States House of
30 Representatives representing the state: a number equal to 1
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1 percent of the votes cast by state executive committeemen and
2 committeewomen.

3 (d)1.4.a. The governing body of each state executive
4 committee as defined by party rule shall include as at-large
5 committeemen and committeewomen all statewide elected
6 officials who are members of such political party; up to four
7 members of the United States Congress representing the state
8 who are members of such political party and who shall be
9 appointed by the state chair on the basis of geographic
10 representation; the permanent presiding officer selected by
11 the members of each house of the Legislature who are members
12 of such political party; and the minority leader selected by
13 the members of each house of the Legislature who are members
14 of such political party.

15 2.b. All members of the governing body shall have one
16 vote per person.

17 Section 115. Section 107.11, Florida Statutes, is
18 amended to read:

19 107.11 Appropriation for expenses.--For the purpose of
20 defraying the expenses of preparing for, conducting, holding
21 and declaring the result of the election provided for by this
22 chapter and also for the purpose of defraying the expenses
23 allowed by this chapter for the holding of sessions of the
24 convention as herein provided, to be audited by the Chief
25 Financial Officer ~~Comptroller~~, there is appropriated out of
26 the General Revenue Fund of the State of Florida a sufficient
27 sum of money for the payment of all amounts necessary to be
28 expended under the terms of this chapter, which sums of money
29 shall be disbursed by the State of Florida pursuant to
30 warrants drawn by the Chief Financial Officer ~~Comptroller~~ upon
31 ~~the Treasurer~~ for the payment of same.

1 Section 116. Paragraph (a) of subsection (2) of
2 section 110.1127, Florida Statutes, is amended to read:

3 110.1127 Employee security checks.--

4 (2)(a) All positions within the Division of Treasury
5 of the Department of Financial Services ~~Insurance~~ are deemed
6 to be positions of special trust or responsibility, and a
7 person may be disqualified for employment in any such position
8 by reason of:

9 1. The conviction or prior conviction of a crime which
10 is reasonably related to the nature of the position sought or
11 held by the individual; or

12 2. The entering of a plea of nolo contendere or, when
13 a jury verdict of guilty is rendered but adjudication of guilt
14 is withheld, with respect to a crime which is reasonably
15 related to the nature of the position sought or held by the
16 individual.

17 Section 117. Subsection (1) of section 110.113,
18 Florida Statutes, is amended to read:

19 110.113 Pay periods for state officers and employees;
20 salary payments by direct deposit.--

21 (1) The normal pay period for salaries of state
22 officers and employees shall be 1 month. The Department of
23 Financial Services ~~Banking and Finance~~ shall issue either
24 monthly or biweekly salary payments by state warrants or by
25 direct deposit pursuant to s. 17.076 or make semimonthly
26 salary payments by direct deposit pursuant to s. 17.076, as
27 requested by the head of each state agency and approved by the
28 Executive Office of the Governor and the Department of
29 Financial Services ~~Banking and Finance~~.

30 Section 118. Subsection (1) of section 110.114,
31 Florida Statutes, is amended to read:

1 110.114 Employee wage deductions.--

2 (1) The state or any of its departments, bureaus,
3 commissions, and officers are authorized and permitted, with
4 the concurrence of the Department of Financial Services
5 ~~Banking and Finance~~, to make deductions from the salary or
6 wage of any employee or employees in such amount as shall be
7 authorized and requested by such employee or employees and for
8 such purpose as shall be authorized and requested by such
9 employee or employees and shall pay such sums so deducted as
10 directed by such employee or employees. The concurrence of
11 the Department of Financial Services ~~Banking and Finance~~ shall
12 not be required for the deduction of a certified bargaining
13 agent's membership dues deductions pursuant to s. 447.303 or
14 any deductions authorized by a collective bargaining
15 agreement.

16 Section 119. Section 110.116, Florida Statutes, is
17 amended to read:

18 110.116 Personnel information system; payroll
19 procedures.--The Department of Management Services shall
20 establish and maintain, in coordination with the payroll
21 system of the Department of Financial Services ~~Banking and~~
22 ~~Finance~~, a complete personnel information system for all
23 authorized and established positions in the state service,
24 with the exception of employees of the Legislature. The
25 specifications shall be developed in conjunction with the
26 payroll system of the Department of Financial Services ~~Banking~~
27 ~~and Finance~~ and in coordination with the Auditor General. The
28 Department of Financial Services ~~Banking and Finance~~ shall
29 determine that the position occupied by each employee has been
30 authorized and established in accordance with the provisions
31 of s. 216.251. The Department of Management Services shall

1 develop and maintain a position numbering system that will
2 identify each established position, and such information shall
3 be a part of the payroll system of the Department of Financial
4 Services ~~Banking and Finance~~. With the exception of employees
5 of the Legislature, this system shall include all career
6 service positions and those positions exempted from career
7 service provisions, notwithstanding the funding source of the
8 salary payments, and information regarding persons receiving
9 payments from other sources. Necessary revisions shall be made
10 in the personnel and payroll procedures of the state to avoid
11 duplication insofar as is feasible. A list shall be organized
12 by budget entity to show the employees or vacant positions
13 within each budget entity. This list shall be available to
14 the Speaker of the House of Representatives and the President
15 of the Senate upon request.

16 Section 120. Paragraph (a) of subsection (3) and
17 paragraph (b) of subsection (6) of section 110.1227, Florida
18 Statutes, are amended to read:

19 110.1227 Florida Employee Long-Term-Care Plan Act.--

20 (3) The Department of Management Services and the
21 department shall, in consultation with public employers and
22 employees and representatives from unions and associations
23 representing state, university, local government, and other
24 public employees, establish and supervise the implementation
25 and administration of a self-funded or fully insured
26 long-term-care plan entitled "Florida Employee Long-Term-Care
27 Plan."

28 (a) The Department of Management Services and the
29 department shall, in consultation with the Department of
30 Financial Services ~~Insurance~~, contract for actuarial,

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1 professional-administrator, and other services for the Florida
2 Employee Long-Term-Care Plan.

3 (6) A Florida Employee Long-Term-Care Plan Board of
4 Directors is created, composed of nine members who shall serve
5 2-year terms, to be appointed after May 1, 1999, as follows:

6 (b) The Chief Financial Officer ~~Insurance Commissioner~~
7 shall appoint an actuary.

8 Section 121. Paragraph (f) of subsection (5) of
9 section 110.1228, Florida Statutes, is amended to read:

10 110.1228 Participation by small counties, small
11 municipalities, and district school boards located in small
12 counties.--

13 (5) If the department determines that a small county,
14 small municipality, or district school board is eligible to
15 enroll, the small county, small municipality, or district
16 school board must agree to the following terms and conditions:

17 (f) If a small county, small municipality, or district
18 school board employer fails to make the payments required by
19 this section to fully reimburse the state, the Department of
20 Revenue or the Department of Financial Services ~~Banking and~~
21 ~~Finance~~ shall, upon the request of the Department of
22 Management Services, deduct the amount owed by the employer
23 from any funds not pledged to bond debt service satisfaction
24 that are to be distributed by it to the small county, small
25 municipality, or district school board. The amounts so
26 deducted shall be transferred to the Department of Management
27 Services for further distribution to the trust funds in
28 accordance with this chapter.

29 Section 122. Paragraph (f) of subsection (4) and
30 paragraphs (b) and (c) of subsection (5) of section 110.123,
31 Florida Statutes, are amended to read:

1 110.123 State group insurance program.--

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

4 (f) Pursuant to the request of each state officer,
5 full-time or part-time state employee, or retiree
6 participating in the state group insurance program, and upon
7 certification of the employing agency approved by the
8 department, the Chief Financial Officer ~~Comptroller~~ shall
9 deduct from the salary or retirement warrant payable to each
10 participant the amount so certified and shall handle such
11 deductions in accordance with rules established by the
12 department.

13 (5) DEPARTMENT POWERS AND DUTIES.--The department is
14 responsible for the administration of the state group
15 insurance program. The department shall initiate and
16 supervise the program as established by this section and shall
17 adopt such rules as are necessary to perform its
18 responsibilities. To implement this program, the department
19 shall, with prior approval by the Legislature:

20 (b) Prepare, in cooperation with the Department of
21 Financial Services Insurance, the specifications necessary to
22 implement the program.

23 (c) Contract on a competitive proposal basis with an
24 insurance carrier or carriers, or professional administrator,
25 determined by the Department of Financial Services Insurance
26 to be fully qualified, financially sound, and capable of
27 meeting all servicing requirements. Alternatively, the
28 department may self-insure any plan or plans contained in the
29 state group insurance program subject to approval based on
30 actuarial soundness by the Department of Financial Services
31 ~~Insurance~~. The department may contract with an insurance

1 company or professional administrator qualified and approved
2 by the Department of Financial Services ~~Insurance~~ to
3 administer such plan. Before entering into any contract, the
4 department shall advertise for competitive proposals, and such
5 contract shall be let upon the consideration of the benefits
6 provided in relationship to the cost of such benefits. In
7 determining which entity to contract with, the department
8 shall, at a minimum, consider: the entity's previous
9 experience and expertise in administering group insurance
10 programs of the type it proposes to administer; the entity's
11 ability to specifically perform its contractual obligations in
12 this state and other governmental jurisdictions; the entity's
13 anticipated administrative costs and claims experience; the
14 entity's capability to adequately provide service coverage and
15 sufficient number of experienced and qualified personnel in
16 the areas of claims processing, recordkeeping, and
17 underwriting, as determined by the department; the entity's
18 accessibility to state employees and providers; the financial
19 solvency of the entity, using accepted business sector
20 measures of financial performance. The department may contract
21 for medical services which will improve the health or reduce
22 medical costs for employees who participate in the state group
23 insurance plan.

24
25 Final decisions concerning enrollment, the existence of
26 coverage, or covered benefits under the state group insurance
27 program shall not be delegated or deemed to have been
28 delegated by the department.

29 Section 123. Section 110.125, Florida Statutes, is
30 amended to read:

31

1 110.125 Administrative costs.--The administrative
2 expenses and costs of operating the personnel program
3 established by this chapter shall be paid by the various
4 agencies of the state government, and each such agency shall
5 include in its budget estimates its pro rata share of such
6 cost as determined by the Department of Management Services.
7 To establish an equitable division of the costs, the amount to
8 be paid by each agency shall be determined in such proportion
9 as the service rendered to each agency bears to the total
10 service rendered under the provisions of this chapter. The
11 amounts paid to the Department of Management Services which
12 are attributable to positions within the Senior Management
13 Service and the Selected Professional Service shall be used
14 for the administration of such services, training activities
15 for positions within those services, and the development and
16 implementation of a database of pertinent historical
17 information on exempt positions. Should any state agency
18 become more than 90 days delinquent in payment of this
19 obligation, the department shall certify to the Chief
20 Financial Officer ~~Comptroller~~ the amount due and the Chief
21 Financial Officer ~~Comptroller~~ shall transfer the amount due to
22 the department from any debtor agency funds available.

23 Section 124. Paragraph (a) of subsection (1) of
24 section 110.181, Florida Statutes, is amended to read:

25 110.181 Florida State Employees' Charitable
26 Campaign.--

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

28 (a) The Department of Management Services shall
29 establish and maintain, in coordination with the payroll
30 system of the Department of Financial Services ~~Banking and~~
31 ~~Finance~~, an annual Florida State Employees' Charitable

1 Campaign. Except as provided in subsection (5), this annual
2 fundraising drive is the only authorized charitable
3 fundraising drive directed toward state employees within work
4 areas during work hours, and for which the state will provide
5 payroll deduction.

6 Section 125. Subsection (1) of section 110.2037,
7 Florida Statutes, is amended to read:

8 110.2037 Alternative benefits; tax-sheltered annual
9 leave and sick leave payments and special compensation
10 payments.--

11 (1) The Department of Management Services has
12 authority to adopt tax-sheltered plans under s. 401(a) of the
13 Internal Revenue Code for state employees who are eligible for
14 payment for accumulated leave. The department, upon adoption
15 of the plans, shall contract for a private vendor or vendors
16 to administer the plans. These plans shall be limited to state
17 employees who are over age 55 and who are: eligible for
18 accumulated leave and special compensation payments and
19 separating from employment with 10 years of service in
20 accordance with the Internal Revenue Code, or who are
21 participating in the Deferred Retirement Option Program on or
22 after July 1, 2001. The plans must provide benefits in a
23 manner that minimizes the tax liability of the state and
24 participants. The plans must be funded by employer
25 contributions of payments for accumulated leave or special
26 compensation payments, or both, as specified by the
27 department. The plans must have received all necessary federal
28 and state approval as required by law, must not adversely
29 impact the qualified status of the Florida Retirement System
30 defined benefit or defined contribution plans or the pretax
31 benefits program, and must comply with the provisions of s.

1 112.65. Adoption of any plan is contingent on: the department
2 receiving appropriate favorable rulings from the Internal
3 Revenue Service; the department negotiating under the
4 provisions of chapter 447, where applicable; and the Chief
5 Financial Officer ~~Comptroller~~ making appropriate changes to
6 the state payroll system. The department's request for
7 proposals by vendors for such plans may require that the
8 vendors provide market-risk or volatility ratings from
9 recognized rating agencies for each of their investment
10 products. The department shall provide for a system of
11 continuous quality assurance oversight to ensure that the
12 program objectives are achieved and that the program is
13 prudently managed.

14 Section 126. Subsection (6) of section 110.205,
15 Florida Statutes, is amended to read:

16 110.205 Career service; exemptions.--

17 (6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY
18 PROGRAM, DEPARTMENT OF FINANCIAL SERVICES ~~INSURANCE~~.--In
19 addition to those positions exempted from this part, there is
20 hereby exempted from the Career Service System the chief
21 inspector of the boiler inspection program of the Department
22 of Financial Services ~~Insurance~~. The salary range of this
23 position shall be established by the Department of Management
24 Services in accordance with the classification and pay plan
25 established for the Selected Exempt Service.

26 Section 127. Paragraph (b) of subsection (5),
27 paragraph (b) of subsection (7), paragraph (b) of subsection
28 (8), and subsections (9), (11), and (13) of section 112.061,
29 Florida Statutes, are amended to read:

30 112.061 Per diem and travel expenses of public
31 officers, employees, and authorized persons.--

1 (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For
2 purposes of reimbursement and methods of calculating
3 fractional days of travel, the following principles are
4 prescribed:

5 (b) A traveler shall not be reimbursed on a per diem
6 basis for Class C travel, but shall receive subsistence as
7 provided in this section, which allowance for meals shall be
8 based on the following schedule:

9 1. Breakfast--When travel begins before 6 a.m. and
10 extends beyond 8 a.m.

11 2. Lunch--When travel begins before 12 noon and
12 extends beyond 2 p.m.

13 3. Dinner--When travel begins before 6 p.m. and
14 extends beyond 8 p.m., or when travel occurs during nighttime
15 hours due to special assignment.

16
17 No allowance shall be made for meals when travel is confined
18 to the city or town of the official headquarters or immediate
19 vicinity; except assignments of official business outside the
20 traveler's regular place of employment if travel expenses are
21 approved. The Chief Financial Officer ~~Comptroller~~ shall
22 establish a schedule for processing Class C travel subsistence
23 payments at least on a monthly basis.

24 (7) TRANSPORTATION.--

25 (b) The Department of Financial Services ~~Banking and~~
26 ~~Finance~~ may provide any form it deems necessary to cover
27 travel requests for traveling on official business and when
28 paid by the state.

29 (8) OTHER EXPENSES.--

30 (b) Other expenses which are not specifically
31 authorized by this section may be approved by the Department

1 of Financial Services ~~Banking and Finance~~ pursuant to rules
2 adopted by it. Expenses approved pursuant to this paragraph
3 shall be reported by the Department of Financial Services
4 ~~Banking and Finance~~ to the Auditor General annually.

5 (9) RULES AND REGULATIONS.--

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

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

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

31

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

22 (b) Voucher forms.--

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

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

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

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

1 to the Chief Financial Officer ~~Comptroller~~ for the direct
2 payment of travel expenses. The provisions of this subsection
3 shall not be deemed to apply to any legislator or to any
4 employee of the Legislature.

5 Section 128. Subsections (2), (5), and (6) of section
6 112.08, 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 Financial Services ~~Insurance~~
24 or otherwise fails or refuses to provide the contracted-for
25 coverage or coverages, the local government may purchase
26 insurance, enter into risk management programs, or contract
27 with third-party administrators and may make such acquisitions
28 by advertising for competitive bids or by direct negotiations
29 and contract. The local governmental unit may undertake
30 simultaneous negotiations with those companies which have
31 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 Financial Services
7 ~~insurance~~; and each shall contract with an insurance company
8 or professional administrator qualified and approved by the
9 Department of Financial Services ~~insurance~~ to administer such
10 a plan.

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

30 1. The adequacy of contribution rates in meeting the
31 level of benefits provided and the changes, if any, needed in

1 the contribution rates to achieve or preserve a level of
2 funding deemed adequate to enable payment of the benefit
3 amounts provided under the plan and a valuation of present
4 assets, based on statement value, and prospective assets and
5 liabilities of the plan and the extent of any unfunded accrued
6 liabilities.

7 2. A plan to amortize any unfunded liabilities and a
8 description of actions taken to reduce unfunded liabilities.

9 3. A description and explanation of actuarial
10 assumptions.

11 4. A schedule illustrating the amortization of any
12 unfunded liabilities.

13 5. A comparative review illustrating the level of
14 funds available to the plan from rates, investment income, and
15 other sources realized over the period covered by the report
16 with the assumptions used.

17 6. A statement by the actuary that the report is
18 complete and accurate and that in the actuary's opinion the
19 techniques and assumptions used are reasonable and meet the
20 requirements and intent of this subsection.

21 7. Other factors or statements as required by the
22 Department of Insurance in order to determine the actuarial
23 soundness of the plan.

24

25 All assumptions used in the report shall be based on
26 recognized actuarial principles acceptable to the Department
27 of Financial Services Insurance. The Department of Financial
28 Services Insurance shall review the report and shall notify
29 the administrator of the plan and each entity participating in
30 the plan, as identified by the administrator, of any actuarial
31 deficiencies. Each local governmental unit is responsible for

1 payment of valid claims of its employees that are not paid
2 within 60 days after receipt by the plan administrator or
3 consortium.

4 (c) Every local governmental unit is authorized to
5 expend funds for preemployment physical examinations and
6 postemployment physical examinations.

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

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

21 Section 129. Paragraph (h) of subsection (2) of
22 section 112.191, Florida Statutes, is 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 Financial Services ~~Insurance~~ is directed to
27 adopt ~~promulgate~~ rules as are necessary to implement the
28 provisions of this section.

29 Section 130. Subsection (4), paragraph (a) of
30 subsection (6), paragraphs (a), (d), (f), and (h) of
31 subsection (8), paragraph (b) of subsection (10), and

1 subsections (11) and (12) of section 112.215, Florida
2 Statutes, are amended to read:

3 112.215 Government employees; deferred compensation
4 program.--

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

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

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

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

7 (d) In accordance with such approved plan, and upon
8 contract or agreement with an eligible employee, deferrals of
9 compensation may be accomplished by payroll deductions made by
10 the appropriate officer or officers of the state, with such
11 funds being thereafter held and administered in accordance
12 with the plan.

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

27 (8)(a) There is ~~hereby~~ created a Deferred Compensation
28 Advisory Council composed of six ~~seven~~ members.

29 1. One member shall be appointed by the Speaker of the
30 House of Representatives and the President of the Senate
31 jointly and shall be an employee of the legislative branch.

1 2. One member shall be appointed by the Chief Justice
2 of the Supreme Court and shall be an employee of the judicial
3 branch.

4 3. One member shall be appointed by the chair of the
5 Public Employees Relations Commission and shall be a nonexempt
6 public employee.

7 4. The remaining four members shall be employed by the
8 executive branch and shall be appointed as follows:

9 a. One member shall be appointed by the Chancellor of
10 the State University System and shall be an employee of the
11 university system.

12 b. One member shall be appointed by the Chief
13 Financial Officer ~~Treasurer~~ and shall be an employee of the
14 Chief Financial Officer ~~Treasurer~~.

15 c. One member shall be appointed by the Governor and
16 shall be an employee of the executive branch.

17 ~~d. One member shall be appointed by the Comptroller~~
18 ~~and shall be an employee of the Comptroller.~~

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

27 (f) The council shall make a report of each meeting to
28 the Chief Financial Officer ~~Treasurer~~, which shall show the
29 names of the members present and shall include a record of its
30 discussions, recommendations, and actions taken. The Chief
31 Financial Officer ~~Treasurer~~ shall keep the records of the

1 proceedings of each meeting on file and shall make the records
2 available to any interested person or group.

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

18 (10)

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

26 a. All amounts of compensation deferred thereunder;

27 b. All property and rights purchased with such
28 amounts; and

29 c. All income attributable to such amounts, property,
30 or rights.

31

1 2. Notwithstanding the mandates of 26 U.S.C. s.
2 457(b)(6), all of the assets specified in subparagraph 1.
3 shall be held in trust for the exclusive benefit of
4 participants and their beneficiaries as mandated by 26 U.S.C.
5 s. 457(g)(1).

6 (11) With respect to any funds held pursuant to a
7 deferred compensation plan, any plan provider which is a bank
8 or savings association and which provides time deposit
9 accounts and certificates of deposit as an investment product
10 to the plan participants may, with the approval of the State
11 Board of Administration for providers in the state plan, or
12 with the approval of the appropriate official or body
13 designated under subsection (5) for a plan of a county,
14 municipality, other political subdivision, or constitutional
15 county officer, be exempt from the provisions of chapter 280
16 requiring it to be a qualified public depository, provided:

17 (a) The bank or savings association shall, to the
18 extent that the time deposit accounts or certificates of
19 deposit are not insured by the Federal Deposit Insurance
20 Corporation or the Federal Savings and Loan Insurance
21 Corporation, pledge collateral with the Chief Financial
22 Officer ~~Treasurer~~ for all state funds held by it under a
23 deferred compensation plan, or with such other appropriate
24 official for all public funds held by it under a deferred
25 compensation plan of a county, municipality, other political
26 subdivision, or constitutional county officer, in an amount
27 which equals at least 150 percent of all uninsured deferred
28 compensation funds then held.

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

1
2 The Chief Financial Officer ~~Treasurer~~ shall have all the
3 applicable powers provided in ss. 280.04, 280.05, and 280.08
4 relating to the sale or other disposition of the pledged
5 collateral.

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

9 Section 131. Paragraph (h) of subsection (4) of
10 section 112.3144, Florida Statutes, is amended to read:

11 112.3144 Full and public disclosure of financial
12 interests.--

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

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

27 Section 132. Paragraph (i) of subsection (6) of
28 section 112.3145, Florida Statutes, is amended to read:

29 112.3145 Disclosure of financial interests and clients
30 represented before agencies.--

31

1 (6) Forms for compliance with the disclosure
2 requirements of this section and a current list of persons
3 subject to disclosure shall be created by the commission and
4 provided to each supervisor of elections. The commission and
5 each supervisor of elections shall give notice of disclosure
6 deadlines and delinquencies and distribute forms in the
7 following manner:

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

17 Section 133. Paragraph (c) of subsection (9) of
18 section 112.3189, Florida Statutes, is amended to read:

19 112.3189 Investigative procedures upon receipt of
20 whistle-blower information from certain state employees.--

21 (9)

22 (c) The Chief Inspector General shall transmit any
23 final report under this section, any comments provided by the
24 complainant, and any appropriate comments or recommendations
25 by the Chief Inspector General to the Governor, to the Joint
26 Legislative Auditing Committee, to the investigating agency,
27 and to the Chief Financial Officer ~~Comptroller~~.

28 Section 134. Paragraph (e) of subsection (3) of
29 section 112.31895, Florida Statutes, is amended to read:

30 112.31895 Investigative procedures in response to
31 prohibited personnel actions.--

1 (3) CORRECTIVE ACTION AND TERMINATION OF
2 INVESTIGATION.--

3 (e)1. The Florida Commission on Human Relations may
4 request an agency or circuit court to order a stay, on such
5 terms as the court requires, of any personnel action for 45
6 days if the Florida Commission on Human Relations determines
7 that reasonable grounds exist to believe that a prohibited
8 personnel action has occurred, is occurring, or is to be
9 taken. The Florida Commission on Human Relations may request
10 that such stay be extended for appropriate periods of time.

11 2. If, in connection with any investigation, the
12 Florida Commission on Human Relations determines that
13 reasonable grounds exist to believe that a prohibited action
14 has occurred, is occurring, or is to be taken which requires
15 corrective action, the Florida Commission on Human Relations
16 shall report the determination together with any findings or
17 recommendations to the agency head and may report that
18 determination and those findings and recommendations to the
19 Governor and the Chief Financial Officer ~~Comptroller~~. The
20 Florida Commission on Human Relations may include in the
21 report recommendations for corrective action to be taken.

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

28 4. If the Florida Commission on Human Relations finds,
29 in consultation with the individual subject to the prohibited
30 action, that the agency has implemented the corrective action,
31 the commission shall file such finding with the agency head,

1 together with any written comments that the individual
2 provides, and terminate the investigation.

3 Section 135. Paragraph (f) of subsection (5) of
4 section 112.3215, Florida Statutes, is amended to read:

5 112.3215 Lobbyists before the executive branch or the
6 Constitution Revision Commission; registration and reporting;
7 investigation by commission.--

8 (5)

9 (f) The commission shall provide by rule a procedure
10 by which a lobbyist who fails to timely file a report shall be
11 notified and assessed fines. The rule shall provide for the
12 following:

13 1. Upon determining that the report is late, the
14 person designated to review the timeliness of reports shall
15 immediately notify the lobbyist as to the failure to timely
16 file the report and that a fine is being assessed for each
17 late day. The fine shall be \$50 per day per report for each
18 late day up to a maximum of \$5,000 per late report.

19 2. Upon receipt of the report, the person designated
20 to review the timeliness of reports shall determine the amount
21 of the fine due based upon the earliest of the following:

22 a. When a report is actually received by the lobbyist
23 registration and reporting office.

24 b. When the report is postmarked.

25 c. When the certificate of mailing is dated.

26 d. When the receipt from an established courier
27 company is dated.

28 3. Such fine shall be paid within 30 days after the
29 notice of payment due is transmitted by the Lobbyist
30 Registration Office, unless appeal is made to the commission.

31

1 The moneys shall be deposited into the Executive Branch Lobby
2 Registration Trust Fund.

3 4. A fine shall not be assessed against a lobbyist the
4 first time any reports for which the lobbyist is responsible
5 are not timely filed. However, to receive the one-time fine
6 waiver, all reports for which the lobbyist is responsible must
7 be filed within 30 days after the notice that any reports have
8 not been timely filed is transmitted by the Lobbyist
9 Registration Office. A fine shall be assessed for any
10 subsequent late-filed reports.

11 5. Any lobbyist may appeal or dispute a fine, based
12 upon unusual circumstances surrounding the failure to file on
13 the designated due date, and may request and shall be entitled
14 to a hearing before the commission, which shall have the
15 authority to waive the fine in whole or in part for good cause
16 shown. Any such request shall be made within 30 days after
17 the notice of payment due is transmitted by the Lobbyist
18 Registration Office. In such case, the lobbyist shall, within
19 the 30-day period, notify the person designated to review the
20 timeliness of reports in writing of his or her intention to
21 bring the matter before the commission.

22 6. The person designated to review the timeliness of
23 reports shall notify the commission of the failure of a
24 lobbyist to file a report after notice or of the failure of a
25 lobbyist to pay the fine imposed.

26 7. Notwithstanding any provision of chapter 120, any
27 fine imposed under this subsection that is not waived by final
28 order of the commission and that remains unpaid more than 60
29 days after the notice of payment due or more than 60 days
30 after the commission renders a final order on the lobbyist's
31 appeal shall be collected by the Department of Financial

1 Services ~~Banking and Finance~~ as a claim, debt, or other
2 obligation owed to the state, and the department may assign
3 the collection of such fine to a collection agent as provided
4 in s. 17.20.

5 Section 136. Subsection (4) of section 112.63, Florida
6 Statutes, is amended to read:

7 112.63 Actuarial reports and statements of actuarial
8 impact; review.--

9 (4) Upon receipt, pursuant to subsection (2), of an
10 actuarial report, or upon receipt, pursuant to subsection (3),
11 of a statement of actuarial impact, the Department of
12 Management Services shall acknowledge such receipt, but shall
13 only review and comment on each retirement system's or plan's
14 actuarial valuations at least on a triennial basis. If the
15 department finds that the actuarial valuation is not complete,
16 accurate, or based on reasonable assumptions, or if the
17 department does not receive the actuarial report or statement
18 of actuarial impact, the department shall notify the local
19 government and request appropriate adjustment. If, after a
20 reasonable period of time, a satisfactory adjustment is not
21 made, the affected local government or the department may
22 petition for a hearing under the provisions of ss. 120.569 and
23 120.57. If the administrative law judge recommends in favor of
24 the department, the department shall perform an actuarial
25 review or prepare the statement of actuarial impact. The cost
26 to the department of performing such actuarial review or
27 preparing such statement shall be charged to the governmental
28 entity of which the employees are covered by the retirement
29 system or plan. If payment of such costs is not received by
30 the department within 60 days after receipt by the
31 governmental entity of the request for payment, the department

1 shall certify to the Chief Financial Officer ~~Comptroller~~ the
2 amount due, and the Chief Financial Officer ~~Comptroller~~ shall
3 pay such amount to the department from any funds payable to
4 the governmental entity of which the employees are covered by
5 the retirement system or plan. If the administrative law
6 judge recommends in favor of the local retirement system and
7 the department performs an actuarial review, the cost to the
8 department of performing the actuarial review shall be paid by
9 the department.

10 Section 137. Section 114.03, Florida Statutes, is
11 amended to read:

12 114.03 Certain executive officers not to absent
13 themselves from the state.--The ~~Secretary of State, Attorney~~
14 ~~General, Chief Financial Officer ~~Comptroller, Treasurer,~~~~
15 ~~Commissioner of Education,~~ and Commissioner of Agriculture
16 shall reside at the capital, and no member of the Cabinet
17 shall absent himself or herself from the state for a period of
18 60 consecutive days or more without the consent of the
19 Governor and a majority of the Cabinet. If a Cabinet officer
20 should refuse or fail to comply with and observe the
21 requirements of this section, his or her office may be deemed
22 vacant pursuant to paragraph (f) or paragraph (g) of s.
23 114.01(1), as appropriate.

24 Section 138. Section 116.03, Florida Statutes, is
25 amended to read:

26 116.03 Officers to report fees collected.--Each state
27 and county officer who receives all or any part of his or her
28 compensation in fees or commissions, or other remuneration,
29 shall keep a complete report of all fees and commissions, or
30 other remuneration collected, and shall make a report to the
31 Department of Financial Services ~~Banking and Finance~~ of all

1 such fees and commissions, or other remuneration, annually on
2 December 31 of each and every year. Such report shall be made
3 upon forms to be prescribed from time to time by the
4 department, and shall show in detail the source, character and
5 amount of all his or her official expenses and the net amount
6 that the office has paid up to the time of making such report.
7 All officers shall make out, fill in and subscribe and
8 properly forward to the department such reports, and swear to
9 the accuracy and competency of such reports.

10 Section 139. Section 116.04, Florida Statutes, is
11 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 Department of
15 Financial Services ~~Banking and Finance~~ a report of all fees,
16 commissions, or other remuneration collected, as required by
17 law, or if any officer shall knowingly or willfully make false
18 or incomplete reports, or in any report violate any of the
19 provisions of s. 116.03 he or she shall be guilty of a
20 misdemeanor of the first degree, punishable as provided in s.
21 775.082 or s. 775.083.

22 Section 140. Section 116.05, Florida Statutes, is
23 amended to read:

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

1 direct, and the expense of such publication shall be paid by
2 the county commissioners of such county.

3 Section 141. Section 116.06, Florida Statutes, is
4 amended to read:

5 116.06 Summary of reports; certain officers not
6 required to report fees.--A summary of all such reports shall
7 be included by the Department of Financial Services ~~Banking~~
8 ~~and Finance~~ in its annual report to the Governor, except that
9 jurors and notaries public shall not be required to make such
10 reports as provided for in s. 116.03.

11 Section 142. Section 116.14, Florida Statutes, is
12 amended to read:

13 116.14 Receipts required from purchasers of state
14 property.--Upon the sale of any state property by the
15 superintendent and presidents of state institutions as
16 provided by law, they shall take receipt for the same from the
17 purchaser, which receipt shall be forwarded, together with the
18 proceeds of the sale, to the Chief Financial Officer ~~State~~
19 ~~Treasurer~~.

20 Section 143. Paragraph (c) of subsection (15) of
21 section 120.52, Florida Statutes, is amended to read:

22 120.52 Definitions.--As used in this act:

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

31 (c) The preparation or modification of:

- 1 1. Agency budgets.
- 2 2. Statements, memoranda, or instructions to state
3 agencies issued by the Chief Financial Officer ~~Comptroller~~ as
4 chief fiscal officer of the state and relating or pertaining
5 to claims for payment submitted by state agencies to the Chief
6 Financial Officer ~~Comptroller~~.
- 7 3. Contractual provisions reached as a result of
8 collective bargaining.
- 9 4. Memoranda issued by the Executive Office of the
10 Governor relating to information resources management.
- 11 Section 144. Section 120.80, Florida Statutes, is
12 amended to read:
- 13 120.80 Exceptions and special requirements;
14 agencies.--
- 15 (1) DIVISION OF ADMINISTRATIVE
16 HEARINGS.--Notwithstanding s. 120.57(1)(a), a hearing in which
17 the division is a party shall not be conducted by an
18 administrative law judge assigned by the division. An
19 attorney assigned by the Administration Commission shall be
20 the hearing officer.
- 21 (2) DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.--
- 22 (a) Marketing orders under chapter 527, chapter 573,
23 or chapter 601 are not rules.
- 24 (b) Notwithstanding s. 120.57(1)(a), hearings held by
25 the Department of Agriculture and Consumer Services pursuant
26 to chapter 601 need not be conducted by an administrative law
27 judge assigned by the division.
- 28 (3) DEPARTMENT OF FINANCIAL SERVICES ~~BANKING AND~~
29 ~~FINANCE~~.--
- 30
- 31

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

4 1.a. The Department of Financial Services ~~Banking and~~
5 ~~Finance~~ shall have published in the Florida Administrative
6 Weekly notice of the application within 21 days after receipt.

7 b. Within 21 days after publication of notice, any
8 person may request a hearing. Failure to request a hearing
9 within 21 days after notice constitutes a waiver of any right
10 to a hearing. The Department of Financial Services ~~Banking and~~
11 ~~Finance~~ or an applicant may request a hearing at any time
12 prior to the issuance of a final order. Hearings shall be
13 conducted pursuant to ss. 120.569 and 120.57, except that the
14 Department of Financial Services ~~Banking and Finance~~ shall by
15 rule provide for participation by the general public.

16 2. Should a hearing be requested as provided by
17 sub-subparagraph 1.b., the applicant or licensee shall publish
18 at its own cost a notice of the hearing in a newspaper of
19 general circulation in the area affected by the application.
20 The Department of Financial Services ~~Banking and Finance~~ may
21 by rule specify the format and size of the notice.

22 3. Notwithstanding s. 120.60(1), and except as
23 provided in subparagraph 4., every application for license for
24 a new bank, new trust company, new credit union, or new
25 savings and loan association shall be approved or denied
26 within 180 days after receipt of the original application or
27 receipt of the timely requested additional information or
28 correction of errors or omissions. Any application for such a
29 license or for acquisition of such control which is not
30 approved or denied within the 180-day period or within 30 days
31 after conclusion of a public hearing on the application,

1 whichever is later, shall be deemed approved subject to the
2 satisfactory completion of conditions required by statute as a
3 prerequisite to license and approval of insurance of accounts
4 for a new bank, a new savings and loan association, or a new
5 credit union by the appropriate insurer.

6 4. In the case of every application for license to
7 establish a new bank, trust company, or capital stock savings
8 association in which a foreign national proposes to own or
9 control 10 percent or more of any class of voting securities,
10 and in the case of every application by a foreign national for
11 approval to acquire control of a bank, trust company, or
12 capital stock savings association, the Department of Financial
13 Services ~~Banking and Finance~~ shall request that a public
14 hearing be conducted pursuant to ss. 120.569 and 120.57.

15 Notice of such hearing shall be published by the applicant as
16 provided in subparagraph 2. The failure of any such foreign
17 national to appear personally at the hearing shall be grounds
18 for denial of the application. Notwithstanding the provisions
19 of s. 120.60(1) and subparagraph 3., every application
20 involving a foreign national shall be approved or denied
21 within 1 year after receipt of the original application or any
22 timely requested additional information or the correction of
23 any errors or omissions, or within 30 days after the
24 conclusion of the public hearing on the application, whichever
25 is later.

26 (b) In any application for a license or merger
27 pursuant to title XXXVIII which is referred by the agency to
28 the division for hearing, the administrative law judge shall
29 complete and submit to the agency and to all parties a written
30 report consisting of findings of fact and rulings on
31 evidentiary matters. The agency shall allow each party at

1 least 10 days in which to submit written exceptions to the
2 report.

3 (c) Notwithstanding s. 120.60(1), every application
4 for a certificate of authority as required by s. 624.401 shall
5 be approved or denied within 180 days after receipt of the
6 original application. Any application for a certificate of
7 authority which is not approved or denied within the 180-day
8 period, or within 30 days after conclusion of a public hearing
9 held on the application, shall be deemed approved, subject to
10 the satisfactory completion of conditions required by statute
11 as a prerequisite to licensure.

12 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL
13 REGULATION.--

14 (a) Business regulation.--The Division of Pari-mutuel
15 Wagering is exempt from the hearing and notice requirements of
16 ss. 120.569 and 120.57(1)(a), but only for stewards, judges,
17 and boards of judges when the hearing is to be held for the
18 purpose of the imposition of fines or suspensions as provided
19 by rules of the Division of Pari-mutuel Wagering, but not for
20 revocations, and only upon violations of subparagraphs 1.-6.
21 The Division of Pari-mutuel Wagering shall adopt rules
22 establishing alternative procedures, including a hearing upon
23 reasonable notice, for the following violations:

24 1. Horse riding, harness riding, greyhound
25 interference, and jai alai game actions in violation of
26 chapter 550.

27 2. Application and usage of drugs and medication to
28 horses, greyhounds, and jai alai players in violation of
29 chapter 550.

30 3. Maintaining or possessing any device which could be
31 used for the injection or other infusion of a prohibited drug

1 to horses, greyhounds, and jai alai players in violation of
2 chapter 550.

3 4. Suspensions under reciprocity agreements between
4 the Division of Pari-mutuel Wagering and regulatory agencies
5 of other states.

6 5. Assault or other crimes of violence on premises
7 licensed for pari-mutuel wagering.

8 6. Prearranging the outcome of any race or game.

9 (b) Professional regulation.--Notwithstanding s.
10 120.57(1)(a), formal hearings may not be conducted by the
11 Secretary of Business and Professional Regulation or a board
12 or member of a board within the Department of Business and
13 Professional Regulation for matters relating to the regulation
14 of professions, as defined by chapter 455.

15 (5) FLORIDA LAND AND WATER ADJUDICATORY
16 COMMISSION.--Notwithstanding the provisions of s.
17 120.57(1)(a), when the Florida Land and Water Adjudicatory
18 Commission receives a notice of appeal pursuant to s. 380.07,
19 the commission shall notify the division within 60 days after
20 receipt of the notice of appeal if the commission elects to
21 request the assignment of an administrative law judge.

22 (6) DEPARTMENT OF LAW ENFORCEMENT.--Law enforcement
23 policies and procedures of the Department of Law Enforcement
24 which relate to the following are not rules as defined by this
25 chapter:

26 (a) The collection, management, and dissemination of
27 active criminal intelligence information and active criminal
28 investigative information; management of criminal
29 investigations; and management of undercover investigations
30 and the selection, assignment, and fictitious identity of
31 undercover personnel.

1 (b) The recruitment, management, identity, and
2 remuneration of confidential informants or sources.

3 (c) Surveillance techniques, the selection of
4 surveillance personnel, and electronic surveillance, including
5 court-ordered and consensual interceptions of communication
6 conducted pursuant to chapter 934.

7 (d) The safety and release of hostages.

8 (e) The provision of security and protection to public
9 figures.

10 (f) The protection of witnesses.

11 (7) DEPARTMENT OF CHILDREN AND FAMILY
12 SERVICES.--Notwithstanding s. 120.57(1)(a), hearings conducted
13 within the Department of Children and Family Services in the
14 execution of those social and economic programs administered
15 by the former Division of Family Services of the former
16 Department of Health and Rehabilitative Services prior to the
17 reorganization effected by chapter 75-48, Laws of Florida,
18 need not be conducted by an administrative law judge assigned
19 by the division.

20 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

21 (a) Drivers' licenses.--

22 1. Notwithstanding s. 120.57(1)(a), hearings regarding
23 drivers' licensing pursuant to chapter 322 need not be
24 conducted by an administrative law judge assigned by the
25 division.

26 2. Notwithstanding s. 120.60(5), cancellation,
27 suspension, or revocation of a driver's license shall be by
28 personal delivery to the licensee or by first-class mail as
29 provided in s. 322.251.

30 (b) Wrecker operators.--Notwithstanding s.
31 120.57(1)(a), hearings held by the Division of the Florida

1 Highway Patrol of the Department of Highway Safety and Motor
2 Vehicles to deny, suspend, or remove a wrecker operator from
3 participating in the wrecker rotation system established by s.
4 321.051 need not be conducted by an administrative law judge
5 assigned by the division. These hearings shall be held by a
6 hearing officer appointed by the director of the Division of
7 the Florida Highway Patrol.

8 ~~(9) DEPARTMENT OF INSURANCE.--Notwithstanding s.~~
9 ~~120.60(1), every application for a certificate of authority as~~
10 ~~required by s. 624.401 shall be approved or denied within 180~~
11 ~~days after receipt of the original application. Any~~
12 ~~application for a certificate of authority which is not~~
13 ~~approved or denied within the 180-day period, or within 30~~
14 ~~days after conclusion of a public hearing held on the~~
15 ~~application, shall be deemed approved, subject to the~~
16 ~~satisfactory completion of conditions required by statute as a~~
17 ~~prerequisite to licensure.~~

18 (9)~~(10)~~ DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY.--

19 (a) Unemployment compensation.--

20 1. Notwithstanding s. 120.54, the rulemaking
21 provisions of this chapter do not apply to unemployment
22 compensation appeals referees.

23 2. Notwithstanding s. 120.57(1)(a), hearings may be
24 conducted by the Unemployment Appeals Commission in
25 unemployment compensation appeals, unemployment compensation
26 appeals referees, and special deputies pursuant to s. 443.141.

27 (b) Workers' compensation.--Notwithstanding s.
28 120.52(1), a judge of compensation claims, in the adjudication
29 of matters pursuant to chapter 440, shall not be considered an
30 agency or part of an agency for the purposes of this chapter.

31

1 (10)~~(11)~~ NATIONAL GUARD.--Notwithstanding s.
2 120.52(15), the enlistment, organization, administration,
3 equipment, maintenance, training, and discipline of the
4 militia, National Guard, organized militia, and unorganized
5 militia, as provided by s. 2, Art. X of the State
6 Constitution, are not rules as defined by this chapter.

7 (11)~~(12)~~ PUBLIC EMPLOYEES RELATIONS COMMISSION.--

8 (a) Notwithstanding s. 120.57(1)(a), hearings within
9 the jurisdiction of the Public Employees Relations Commission
10 need not be conducted by an administrative law judge assigned
11 by the division.

12 (b) Section 120.60 does not apply to certification of
13 employee organizations pursuant to s. 447.307.

14 (12)~~(13)~~ FLORIDA PUBLIC SERVICE COMMISSION.--

15 (a) Agency statements that relate to cost-recovery
16 clauses, factors, or mechanisms implemented pursuant to
17 chapter 366, relating to public utilities, are exempt from the
18 provisions of s. 120.54(1)(a).

19 (b) Notwithstanding ss. 120.569 and 120.57, a hearing
20 on an objection to proposed action of the Florida Public
21 Service Commission may only address the issues in dispute.
22 Issues in the proposed action which are not in dispute are
23 deemed stipulated.

24 (c) The Florida Public Service Commission is exempt
25 from the time limitations in s. 120.60(1) when issuing a
26 license.

27 (d) Notwithstanding the provisions of this chapter, in
28 implementing the Telecommunications Act of 1996, Pub. L. No.
29 104-104, the Public Service Commission is authorized to employ
30 procedures consistent with that act.

31

1 (e) Notwithstanding the provisions of this chapter, s.
2 350.128, or s. 364.381, appellate jurisdiction for Public
3 Service Commission decisions that implement the
4 Telecommunications Act of 1996, Pub. L. No. 104-104, shall be
5 consistent with the provisions of that act.

6 (f) Notwithstanding any provision of this chapter, all
7 public utilities and companies regulated by the Public Service
8 Commission shall be entitled to proceed under the interim rate
9 provisions of chapter 364 or the procedures for interim rates
10 contained in chapter 74-195, Laws of Florida, or as otherwise
11 provided by law.

12 (13)~~(14)~~ DEPARTMENT OF REVENUE.--

13 (a) Assessments.--An assessment of tax, penalty, or
14 interest by the Department of Revenue is not a final order as
15 defined by this chapter. Assessments by the Department of
16 Revenue shall be deemed final as provided in the statutes and
17 rules governing the assessment and collection of taxes.

18 (b) Taxpayer contest proceedings.--

19 1. In any administrative proceeding brought pursuant
20 to this chapter as authorized by s. 72.011(1), the taxpayer
21 shall be designated the "petitioner" and the Department of
22 Revenue shall be designated the "respondent," except that for
23 actions contesting an assessment or denial of refund under
24 chapter 207, the Department of Highway Safety and Motor
25 Vehicles shall be designated the "respondent," and for actions
26 contesting an assessment or denial of refund under chapters
27 210, 550, 561, 562, 563, 564, and 565, the Department of
28 Business and Professional Regulation shall be designated the
29 "respondent."

30 2. In any such administrative proceeding, the
31 applicable department's burden of proof, except as otherwise

1 specifically provided by general law, shall be limited to a
2 showing that an assessment has been made against the taxpayer
3 and the factual and legal grounds upon which the applicable
4 department made the assessment.

5 3.a. Prior to filing a petition under this chapter,
6 the taxpayer shall pay to the applicable department the amount
7 of taxes, penalties, and accrued interest assessed by that
8 department which are not being contested by the taxpayer.
9 Failure to pay the uncontested amount shall result in the
10 dismissal of the action and imposition of an additional
11 penalty of 25 percent of the amount taxed.

12 b. The requirements of s. 72.011(2) and (3)(a) are
13 jurisdictional for any action under this chapter to contest an
14 assessment or denial of refund by the Department of Revenue,
15 the Department of Highway Safety and Motor Vehicles, or the
16 Department of Business and Professional Regulation.

17 4. Except as provided in s. 220.719, further
18 collection and enforcement of the contested amount of an
19 assessment for nonpayment or underpayment of any tax,
20 interest, or penalty shall be stayed beginning on the date a
21 petition is filed. Upon entry of a final order, an agency may
22 resume collection and enforcement action.

23 5. The prevailing party, in a proceeding under ss.
24 120.569 and 120.57 authorized by s. 72.011(1), may recover all
25 legal costs incurred in such proceeding, including reasonable
26 attorney's fees, if the losing party fails to raise a
27 justiciable issue of law or fact in its petition or response.

28 6. Upon review pursuant to s. 120.68 of final agency
29 action concerning an assessment of tax, penalty, or interest
30 with respect to a tax imposed under chapter 212, or the denial
31 of a refund of any tax imposed under chapter 212, if the court

1 finds that the Department of Revenue improperly rejected or
2 modified a conclusion of law, the court may award reasonable
3 attorney's fees and reasonable costs of the appeal to the
4 prevailing appellant.

5 (c) Proceedings for administrative child support
6 orders.--Notwithstanding the provisions of s. 120.569 or s.
7 120.57 to the contrary, in proceedings for the establishment
8 of administrative support orders pursuant to s. 409.2563,
9 final orders in cases referred by the Department of Revenue to
10 the Division of Administrative Hearings shall be entered by
11 the division's administrative law judge and transmitted to the
12 Department of Revenue for filing and indexing. The Department
13 of Revenue has the right to seek judicial review of a final
14 order entered by an administrative law judge. Administrative
15 support orders rendered pursuant to s. 409.2563 may be
16 enforced pursuant to s. 120.69 or, alternatively, by any
17 method prescribed by law for the enforcement of judicial
18 support orders, except contempt.

19 (14)~~(15)~~ DEPARTMENT OF HEALTH.--Notwithstanding s.
20 120.57(1)(a), formal hearings may not be conducted by the
21 Secretary of Health, the Secretary of Health Care
22 Administration, or a board or member of a board within the
23 Department of Health or the Agency for Health Care
24 Administration for matters relating to the regulation of
25 professions, as defined by chapter 456. Notwithstanding s.
26 120.57(1)(a), hearings conducted within the Department of
27 Health in execution of the Special Supplemental Nutrition
28 Program for Women, Infants, and Children; Child Care Food
29 Program; Children's Medical Services Program; the Brain and
30 Spinal Cord Injury Program; and the exemption from
31 disqualification reviews for certified nurse assistants

1 program need not be conducted by an administrative law judge
2 assigned by the division. The Department of Health may
3 contract with the Department of Children and Family Services
4 for a hearing officer in these matters.

5 (15)~~(16)~~ DEPARTMENT OF ENVIRONMENTAL
6 PROTECTION.--Notwithstanding the provisions of s.
7 120.54(1)(d), the Department of Environmental Protection, in
8 undertaking rulemaking to establish best available control
9 technology, lowest achievable emissions rate, or case-by-case
10 maximum available control technology for purposes of s.
11 403.08725, shall not adopt the lowest regulatory cost
12 alternative if such adoption would prevent the agency from
13 implementing federal requirements.

14 (16)~~(17)~~ FLORIDA BUILDING COMMISSION.--

15 (a) Notwithstanding the provisions of s. 120.542, the
16 Florida Building Commission may not accept a petition for
17 waiver or variance and may not grant any waiver or variance
18 from the requirements of the Florida Building Code.

19 (b) The Florida Building Commission shall adopt within
20 the Florida Building Code criteria and procedures for
21 alternative means of compliance with the code or local
22 amendments thereto, for enforcement by local governments,
23 local enforcement districts, or other entities authorized by
24 law to enforce the Florida Building Code. Appeals from the
25 denial of the use of alternative means shall be heard by the
26 local board, if one exists, and may be appealed to the Florida
27 Building Commission.

28 Section 145. Section 121.0312, Florida Statutes, is
29 amended to read:

30 121.0312 Review; actuarial valuation report;
31 contribution rate determination process.--The Governor, Chief

1 Financial Officer ~~Comptroller~~, and Attorney General ~~Treasurer~~,
2 sitting as the ~~Board of Trustees of the~~ State Board of
3 Administration, shall review the actuarial valuation report
4 prepared in accordance with the provisions of this chapter.
5 The board shall review the process by which Florida Retirement
6 System contribution rates are determined and recommend and
7 submit any comments regarding the process to the Legislature.

8 Section 146. Paragraph (e) of subsection (1) of
9 section 121.055, Florida Statutes, is amended to read:

10 121.055 Senior Management Service Class.--There is
11 hereby established a separate class of membership within the
12 Florida Retirement System to be known as the "Senior
13 Management Service Class," which shall become effective
14 February 1, 1987.

15 (1)

16 (e) Effective January 1, 1991, participation in the
17 Senior Management Service Class shall be compulsory for the
18 number of senior managers who have policymaking authority with
19 the State Board of Administration, as determined by the
20 Governor, Chief Financial Officer ~~Treasurer~~, and Attorney
21 General ~~Comptroller~~ acting as the State Board of
22 Administration, unless such member elects to participate in
23 the Senior Management Service Optional Annuity Program as
24 established in subsection (6) in lieu of participation in the
25 Senior Management Service Class. Such election shall be made
26 in writing and filed with the division and the personnel
27 officer of the State Board of Administration within 90 days
28 after becoming eligible for membership in the Senior
29 Management Service Class.

30 Section 147. Paragraph (a) of subsection (2) of
31 section 121.061, Florida Statutes, is amended to read:

1 121.061 Funding.--

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

13 Section 148. Section 121.133, Florida Statutes, is
14 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 149. Paragraph (b) of subsection (12) of
30 section 121.4501, Florida Statutes, is amended to read:

31

1 121.4501 Public Employee Optional Retirement
2 Program.--

3 (12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND
4 ASSISTANCE.--The Investment Advisory Council and the Public
5 Employee Optional Retirement Program Advisory Committee shall
6 assist the board in implementing and administering the Public
7 Employee Optional Retirement Program.

8 (b)1. The Public Employee Optional Retirement Program
9 Advisory Committee shall be composed of seven members. The
10 President of the Senate shall appoint two members, the Speaker
11 of the House of Representatives shall appoint two members, the
12 Governor shall appoint two members ~~one member~~, the ~~Treasurer~~
13 ~~shall appoint one member~~, and the Chief Financial Officer
14 ~~Comptroller~~ shall appoint one member. On January 7, 2003, the
15 term of office of the member appointed by the Treasurer and of
16 the member appointed by the Comptroller expires; and the Chief
17 Financial Officer shall choose one of those members for
18 reappointment for the remainder of the term.~~The members of~~
19 ~~the advisory committee shall elect a member as chair. The~~
20 ~~appointments shall be made by September 1, 2000, and the~~
21 ~~committee shall meet to organize by October 1, 2000.~~The
22 initial appointments shall be for a term of 24 months. Each
23 appointing authority shall fill any vacancy occurring among
24 its appointees for the remainder of the original term.

25 2. The advisory committee shall make recommendations
26 on the selection of the third-party administrator, the
27 education providers, and the investment products and
28 providers. The committee's recommendations on the third-party
29 administrator must be forwarded to the Trustees of the State
30 Board of Administration by January 1, 2001. The

31

1 recommendations on the education providers must be forwarded
2 to the trustees by April 1, 2001.

3 3. The advisory committee's recommendations and
4 activities shall be guided by the best interests of the
5 employees, considering the interests of employers, and the
6 intent of the Legislature in establishing the Public Employee
7 Optional Retirement Program.

8 4. The staff of the state board and the department
9 shall assist the advisory committee.

10 Section 150. Paragraphs (a) and (b) of subsection (11)
11 of section 125.0104, Florida Statutes, are amended to read:

12 125.0104 Tourist development tax; procedure for
13 levying; authorized uses; referendum; enforcement.--

14 (11) INTEREST PAID ON DISTRIBUTIONS.--

15 (a) Interest shall be paid on undistributed taxes
16 collected and remitted to the Department of Revenue under this
17 section. Such interest shall be included along with the tax
18 proceeds distributed to the counties and shall be paid from
19 moneys transferred from the General Revenue Fund. The
20 department shall calculate the interest for net tax
21 distributions using the average daily rate that was earned by
22 the State Treasury for the preceding calendar quarter and paid
23 to the General Revenue Fund. This rate shall be certified by
24 the Chief Financial Officer ~~Treasurer~~ to the department by the
25 20th day following the close of each quarter.

26 (b) The interest applicable to taxes collected under
27 this section shall be calculated by multiplying the tax
28 amounts to be distributed times the daily rate times the
29 number of days after the third working day following the date
30 the tax is due and payable pursuant to s. 212.11 until the
31 date the department issues a voucher to request the Chief

1 Financial Officer ~~Comptroller~~ to issue the payment warrant.

2 The warrant shall be issued within 7 days after the request.

3 Section 151. Paragraph (b) of subsection (2) of
4 section 129.201, Florida Statutes, is amended to read:

5 129.201 Budget of supervisor of elections; manner and
6 time of preparation and presentation.--

7 (2)

8 (b) To the extent appropriate, the budget shall be
9 further itemized in conformance with the Uniform Accounting
10 System for Local Units of Government in Florida adopted
11 ~~promulgated~~ by rule of the Chief Financial Officer ~~Comptroller~~
12 ~~of the state.~~

13 Section 152. Section 131.05, Florida Statutes, is
14 amended to read:

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

28 Section 153. Section 137.09, Florida Statutes, is
29 amended to read:

30 137.09 Justification and approval of bonds.--Each
31 surety upon every bond of any county officer shall make

1 affidavit that he or she is a resident of the county for which
2 the officer is to be commissioned, and that he or she has
3 sufficient visible property therein unencumbered and not
4 exempt from sale under legal process to make good his or her
5 bond. Every such bond shall be approved by the board of
6 county commissioners and by the Department of Financial
7 Services ~~Banking and Finance~~ when they and it are satisfied in
8 their judgment that the same is legal, sufficient, and proper
9 to be approved.

10 Section 154. Section 145.141, Florida Statutes, is
11 amended to read:

12 145.141 Deficiency to be paid by board of county
13 commissioners.--Should any county officer have insufficient
14 revenue from the income of his or her office, after paying
15 office personnel and expenses, to pay his or her total annual
16 salary, the board of county commissioners shall pay any
17 deficiency in salary from the general revenue fund and notify
18 the Department of Financial Services ~~Banking and Finance~~. The
19 deficiency shall be listed in the comptroller's annual report
20 of county finances and county fee officers.

21 Section 155. Subsections (1) and (2) of section
22 154.02, Florida Statutes, are amended to read:

23 154.02 County Health Department Trust Fund.--

24 (1) To enable counties to provide public health
25 services and maintain public health equipment and facilities,
26 each county in the state with a population exceeding 100,000,
27 according to the last state census, may levy an annual tax not
28 exceeding 0.5 mill; each county in the state with a population
29 exceeding 40,000 and not exceeding 100,000, according to the
30 last state census, may levy an annual tax not exceeding 1
31 mill; and each county in the state with a population not

1 exceeding 40,000, according to the last state census, may levy
2 an annual tax not exceeding 2 mills, on the dollar on all
3 taxable property in such county, the proceeds of which tax, if
4 so contracted with the state, shall be paid to the Chief
5 Financial Officer ~~Treasurer~~. However, the board of county
6 commissioners may elect to pay in 12 equal monthly
7 installments. Such funds in the hands of the Chief Financial
8 Officer ~~Treasurer~~ shall be placed in the county health
9 department trust funds of the county by which such funds were
10 raised, and such funds shall be expended by the Department of
11 Health solely for the purpose of carrying out the intent and
12 object of the public health contract.

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

20 Section 156. Subsection (1) of section 154.03, Florida
21 Statutes, is amended to read:

22 154.03 Cooperation with Department of Health and
23 United States Government.--

24 (1) The county commissioners of any county may agree
25 with the Department of Health upon the expenditure by the
26 department in such county of any funds allotted for that
27 purpose by the department or received by it for such purposes
28 from private contributions or other sources, and such funds
29 shall be paid to the Chief Financial Officer ~~Treasurer~~ and
30 shall form a part of the full-time county health department
31 trust fund of such county; and such funds shall be expended by

1 the department solely for the purposes of this chapter. The
2 department is further authorized to arrange and agree with the
3 United States Government, through its duly authorized
4 officials, for the allocation and expenditure by the United
5 States of funds of the United States in the study of causes of
6 disease and prevention thereof in such full-time county health
7 departments when and where established by the department under
8 this part.

9 Section 157. Section 154.05, Florida Statutes, is
10 amended to read:

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

1 has entered into such agreement. In case such an agreement is
2 entered into between two or more counties, the work
3 contemplated by this chapter shall be done by a single
4 full-time county health department in the counties so
5 cooperating; and the nature, extent, and location of such work
6 shall be under the control and direction of the department.

7 Section 158. Subsection (2) of section 154.06, Florida
8 Statutes, is amended to read:

9 154.06 Fees and services rendered; authority.--

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

27 Section 159. Paragraphs (d) and (e) of subsection (17)
28 of section 154.209, Florida Statutes, are amended to read:

29 154.209 Powers of authority.--The purpose of the
30 authority shall be to assist health facilities in the
31 acquisition, construction, financing, and refinancing of

1 projects in any corporated or unincorporated area within the
2 geographical limits of the local agency. For this purpose,
3 the authority is authorized and empowered:

4 (17) To issue special obligation revenue bonds for the
5 purpose of establishing and maintaining the self-insurance
6 pool and to provide reserve funds in connection therewith,
7 such bonds to be payable from funds available in the pool from
8 time to time or from assessments against participating health
9 facilities for the purpose of providing required contributions
10 to the fund. With respect to the issuance of such bonds or
11 notes the following provisions shall apply:

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

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

30 Section 160. Section 154.314, Florida Statutes, is
31 amended to read:

1 154.314 Certification of the State of Florida.--

2 (1) In the event payment for the costs of services
3 rendered by a participating hospital or a regional referral
4 hospital is not received from the responsible county within 90
5 days of receipt of a statement for services rendered to a
6 qualified indigent who is a certified resident of the county,
7 or if the payment is disputed and said payment is not received
8 from the county determined to be responsible within 60 days of
9 the date of exhaustion of all administrative and legal
10 remedies, the hospital shall certify to the Chief Financial
11 Officer ~~Comptroller~~ the amount owed by the county.

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

24 Section 161. Paragraph (e) of subsection (7) of
25 section 163.01, Florida Statutes, is amended to read:

26 163.01 Florida Interlocal Cooperation Act of 1969.--

27 (7)

28 (e)1. Notwithstanding the provisions of paragraph (c),
29 any separate legal entity, created pursuant to the provisions
30 of this section and controlled by counties or municipalities
31 of this state, the membership of which consists or is to

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

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

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

30 3. Any entity created pursuant to this section or any
31 county or municipality may also issue bond anticipation notes,

1 as provided by s. 215.431, in connection with the
2 authorization, issuance, and sale of such bonds. In addition,
3 the governing body of such legal entity or the governing body
4 of such county or municipality may also authorize bonds to be
5 issued and sold from time to time and may delegate, to such
6 officer, official, or agent of such legal entity as the
7 governing body of such legal entity may select, the power to
8 determine the time; manner of sale, public or private;
9 maturities; rate or rates of interest, which may be fixed or
10 may vary at such time or times and in accordance with a
11 specified formula or method of determination; and other terms
12 and conditions as may be deemed appropriate by the officer,
13 official, or agent so designated by the governing body of such
14 legal entity. However, the amounts and maturities of such
15 bonds and the interest rate or rates of such bonds shall be
16 within the limits prescribed by the governing body of such
17 legal entity and its resolution delegating to such officer,
18 official, or agent the power to authorize the issuance and
19 sale of such bonds. Any series of bonds issued pursuant to
20 this paragraph shall mature no later than 7 years following
21 the date of issuance thereof.

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

1 municipality which is an owner of the entity issuing the bonds
2 or in which a member of the entity is located.

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

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

18 Section 162. Subsections (4), (5), (6), (7), (8), and
19 (9) of section 163.05, Florida Statutes, are amended to read:

20 163.05 Small County Technical Assistance Program.--

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

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

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

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

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

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 163. Subsections (4), (5), (6), (7), (8), and
4 (9) of section 163.055, Florida Statutes, are amended to read:

5 163.055 Local Government Financial Technical
6 Assistance Program.--

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

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

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

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

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

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

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

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

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

31

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 164. Subsection (6) of section 163.3167,
23 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 165. Subsection (1) of section 175.101,
17 Florida Statutes, is amended to read:

18 175.101 State excise tax on property insurance
19 premiums authorized; procedure.--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:

23 (1) Each municipality or special fire control district
24 in this state described and classified in s. 175.041, having a
25 lawfully established firefighters' pension trust fund or
26 municipal fund or special fire control district fund, by
27 whatever name known, providing pension benefits to
28 firefighters as provided under this chapter, may assess and
29 impose on every insurance company, corporation, or other
30 insurer now engaged in or carrying on, or who shall
31 hereinafter engage in or carry on, the business of property

1 insurance as shown by the records of the Department of
2 Financial Services ~~insurance~~ an excise tax in addition to any
3 lawful license or excise tax now levied by each of the
4 municipalities or special fire control districts,
5 respectively, amounting to 1.85 percent of the gross amount of
6 receipts of premiums from policyholders on all premiums
7 collected on property insurance policies covering property
8 within the corporate limits of such municipalities or within
9 the legally defined boundaries of special fire control
10 districts, respectively. Whenever the boundaries of a special
11 fire control district that has lawfully established a
12 firefighters' pension trust fund encompass a portion of the
13 corporate territory of a municipality that has also lawfully
14 established a firefighters' pension trust fund, that portion
15 of the tax receipts attributable to insurance policies
16 covering property situated both within the municipality and
17 the special fire control district shall be given to the fire
18 service provider. The agent shall identify the fire service
19 provider on the property owner's application for insurance.
20 Remaining revenues collected pursuant to this chapter shall be
21 distributed to the municipality or special fire control
22 district according to the location of the insured property.

23 Section 166. Subsection (2) of section 175.121,
24 Florida Statutes, is amended to read:

25 175.121 Department of Revenue and Division of
26 Retirement to keep accounts of deposits; disbursements.--For
27 any municipality or special fire control district having a
28 chapter or local law plan established pursuant to this
29 chapter:

30 (2) The Chief Financial Officer ~~Comptroller~~ shall, on
31 or before July 1 of each year, and at such other times as

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

24 Section 167. Section 175.151, Florida Statutes, is
25 amended to read:

26 175.151 Penalty for failure of insurers to comply with
27 this act.--~~If should~~ any insurance company, corporation or
28 other insurer fails ~~fail~~ to comply with the provisions of this
29 act, on or before March 1 of each year as herein provided, the
30 certificate of authority issued to said insurance company,
31 corporation or other insurer to transact business in this

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

11 Section 168. Subsection (1) of section 185.08, Florida
12 Statutes, is amended to read:

13 185.08 State excise tax on casualty insurance premiums
14 authorized; procedure.--For any municipality, chapter plan,
15 local law municipality, or local law plan under this chapter:

16 (1) Each incorporated municipality in this state
17 described and classified in s. 185.03, as well as each other
18 city or town of this state which on July 31, 1953, had a
19 lawfully established municipal police officers' retirement
20 trust fund or city fund, by whatever name known, providing
21 pension or relief benefits to police officers as provided
22 under this chapter, may assess and impose on every insurance
23 company, corporation, or other insurer now engaged in or
24 carrying on, or who shall hereafter engage in or carry on, the
25 business of casualty insurance as shown by records of the
26 Department of Financial Services Insurance, an excise tax in
27 addition to any lawful license or excise tax now levied by
28 each of the said municipalities, respectively, amounting to
29 .85 percent of the gross amount of receipts of premiums from
30 policyholders on all premiums collected on casualty insurance
31

1 policies covering property within the corporate limits of such
2 municipalities, respectively.

3 Section 169. Subsection (2) of section 185.10, Florida
4 Statutes, is amended to read:

5 185.10 Department of Revenue and Division of
6 Retirement to keep accounts of deposits; disbursements.--For
7 any municipality having a chapter plan or local law plan under
8 this chapter:

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

29 Section 170. Section 185.13, Florida Statutes, is
30 amended to read:

31

1 185.13 Failure of insurer to comply with chapter;
2 penalty.--If ~~Should~~ any insurance company, corporation or
3 other insurer fails ~~fail~~ to comply with the provisions of this
4 chapter, on or before March 1 in each year as herein provided,
5 the certificate of authority issued to said insurance company,
6 corporation or other insurer to transact business in this
7 state may be canceled and revoked by the Department of
8 Financial Services Insurance, and it is unlawful for any such
9 insurance company, corporation or other insurer to transact
10 any business thereafter in this state unless such insurance
11 company, corporation or other insurer shall be granted a new
12 certificate of authority to transact business in this state,
13 in compliance with provisions of law authorizing such
14 certificate of authority to be issued. The division shall be
15 responsible for notifying the Department of Financial Services
16 ~~Insurance~~ regarding any such failure to comply.

17 Section 171. Subsections (2), (3), and (5) of section
18 189.4035, Florida Statutes, are amended to read:

19 189.4035 Preparation of official list of special
20 districts.--

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

1 (3) The Department of Financial Services ~~Banking and~~
2 ~~Finance~~ shall provide the department with a list of dependent
3 special districts reporting pursuant to s. 218.32 for
4 inclusion on the official list of special districts.

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

14 Section 172. Subsection (1) of section 189.412,
15 Florida Statutes, is amended to read:

16 189.412 Special District Information Program; duties
17 and responsibilities.--The Special District Information
18 Program of the Department of Community Affairs is created and
19 has the following special duties:

20 (1) The collection and maintenance of special district
21 compliance status reports from the Auditor General, the
22 Department of Financial Services ~~Banking and Finance~~, the
23 Division of Bond Finance of the State Board of Administration,
24 the Department of Management Services, the Department of
25 Revenue, and the Commission on Ethics for the reporting
26 required in ss. 112.3144, 112.3145, 112.3148, 112.3149,
27 112.63, 200.068, 218.32, 218.34, 218.38, 218.39, and 280.17
28 and chapter 121 and from state agencies administering programs
29 that distribute money to special districts. The special
30 district compliance status reports must consist of a list of
31 special districts used in that state agency and a list of

1 which special districts did not comply with the reporting
2 statutorily required by that agency.

3 Section 173. Section 189.427, Florida Statutes, is
4 amended to read:

5 189.427 Fee schedule; Operating Trust Fund.--The
6 Department of Community Affairs, by rule, shall establish a
7 schedule of fees to pay one-half of the costs incurred by the
8 department in administering this act, except that the fee may
9 not exceed \$175 per district per year. The fees collected
10 under this section shall be deposited in the Operating Trust
11 Fund, which shall be administered by the Department of
12 Community Affairs. Any fee rule must consider factors such as
13 the dependent and independent status of the district and
14 district revenues for the most recent fiscal year as reported
15 to the Department of Financial Services ~~Banking and Finance~~.
16 The department may assess fines of not more than \$25, with an
17 aggregate total not to exceed \$50, as penalties against
18 special districts that fail to remit required fees to the
19 department. It is the intent of the Legislature that general
20 revenue funds will be made available to the department to pay
21 one-half of the cost of administering this act.

22 Section 174. Subsection (3) of section 190.007,
23 Florida Statutes, is amended to read:

24 190.007 Board of supervisors; general duties.--

25 (3) The board is authorized to select as a depository
26 for its funds any qualified public depository as defined in s.
27 280.02 which meets all the requirements of chapter 280 and has
28 been designated by the Chief Financial Officer ~~Treasurer~~ as a
29 qualified public depository, upon such terms and conditions as
30 to the payment of interest by such depository upon the funds
31 so deposited as the board may deem just and reasonable.

1 Section 175. Subsection (16) of section 191.006,
2 Florida Statutes, is amended to read:

3 191.006 General powers.--The district shall have, and
4 the board may exercise by majority vote, the following powers:

5 (16) To select as a depository for its funds any
6 qualified public depository as defined in s. 280.02 which
7 meets all the requirements of chapter 280 and has been
8 designated by the Chief Financial Officer ~~State Treasurer~~ as a
9 qualified public depository, upon such terms and conditions as
10 to the payment of interest upon the funds deposited as the
11 board deems just and reasonable.

12 Section 176. Subsection (4) of section 192.091,
13 Florida Statutes, is amended to read:

14 192.091 Commissions of property appraisers and tax
15 collectors.--

16 (4) The commissions for collecting taxes assessed for
17 or levied by the state shall be audited, and allowed, by the
18 ~~Comptroller~~ and ~~shall be paid by the~~ Chief Financial Officer
19 ~~Treasurer~~ as other ~~Comptroller's~~ warrants are paid; and
20 commissions for collecting the county taxes shall be audited
21 and paid by the boards of county commissioners of the several
22 counties of this state. The commissions for collecting all
23 special school district taxes shall be audited by the school
24 board of each respective district and taken out of the funds
25 of the respective special school district under its control
26 and allowed and paid to the tax collectors for collecting such
27 taxes; and the commissions for collecting all other district
28 taxes, whether special or not, shall be audited and paid by
29 the governing board or commission having charge of the
30 financial obligations of such district. All commissions for
31 collecting special tax district taxes shall be paid at the

1 time and in the manner now, or as may hereafter be, provided
2 for the payment of the commissions for the collection of
3 county taxes. All amounts paid as compensation to any tax
4 collector under the provisions of this or any other law shall
5 be a part of the general income or compensation of such
6 officer for the year in which received, and nothing contained
7 in this section shall be held or construed to affect or
8 increase the maximum salary as now provided by law for any
9 such officer.

10 Section 177. Subsection (3) of section 192.102,
11 Florida Statutes, is amended to read:

12 192.102 Payment of property appraisers' and
13 collectors' commissions.--

14 (3) The Chief Financial Officer ~~Comptroller of the~~
15 ~~state~~ shall issue to each of the county property appraisers
16 and collectors of taxes, on the first Monday of January,
17 April, July, and October, on demand of such county property
18 appraisers and collectors of taxes after approval by the
19 Department of Revenue, and shall pay, his or her warrant,
20 ~~which shall be paid by the Treasurer of the state,~~ for an
21 amount equal to one-fourth of four-fifths of the total amount
22 of commissions received by such county property appraisers and
23 collectors of taxes or their predecessors in office from the
24 state during and for the preceding year, and the balance of
25 the commissions earned by such county property appraiser and
26 collector of taxes, respectively, during each year, over and
27 above the amount of such installment payments herein provided
28 for, shall be payable when a report of errors and double
29 assessments is approved by the county commissioners and a copy
30 thereof filed with the Department of Revenue.

31

1 Section 178. Subsection (1) of section 193.092,
2 Florida Statutes, is amended to read:

3 193.092 Assessment of property for back taxes.--

4 (1) When it shall appear that any ad valorem tax might
5 have been lawfully assessed or collected upon any property in
6 the state, but that such tax was not lawfully assessed or
7 levied, and has not been collected for any year within a
8 period of 3 years next preceding the year in which it is
9 ascertained that such tax has not been assessed, or levied, or
10 collected, then the officers authorized shall make the
11 assessment of taxes upon such property in addition to the
12 assessment of such property for the current year, and shall
13 assess the same separately for such property as may have
14 escaped taxation at and upon the basis of valuation applied to
15 such property for the year or years in which it escaped
16 taxation, noting distinctly the year when such property
17 escaped taxation and such assessment shall have the same force
18 and effect as it would have had if it had been made in the
19 year in which the property shall have escaped taxation, and
20 taxes shall be levied and collected thereon in like manner and
21 together with taxes for the current year in which the
22 assessment is made. But no property shall be assessed for
23 more than 3 years' arrears of taxation, and all property so
24 escaping taxation shall be subject to such taxation to be
25 assessed in whomsoever's hands or possession the same may be
26 found; provided, that the county property appraiser shall not
27 assess any lot or parcel of land certified or sold to the
28 state for any previous years unless such lot or parcel of
29 lands so certified or sold shall be included in the list
30 furnished by the Chief Financial Officer ~~Comptroller~~ to the
31 county property appraiser as provided by law; provided, if

1 real or personal property be assessed for taxes, and because
2 of litigation delay ensues and the assessment be held invalid
3 the taxing authorities, may reassess such property within the
4 time herein provided after the termination of such litigation;
5 provided further, that personal property acquired in good
6 faith by purchase shall not be subject to assessment for taxes
7 for any time prior to the time of such purchase, but the
8 individual or corporation liable for any such assessment shall
9 continue personally liable for same.

10 Section 179. Section 195.101, Florida Statutes, is
11 amended to read:

12 195.101 Withholding of state funds.--

13 (1) The Department of Revenue is hereby directed to
14 determine each year whether the several counties of this state
15 are assessing the real and tangible personal property within
16 their jurisdiction in accordance with law. If the Department
17 of Revenue determines that any county is assessing property at
18 less than that prescribed by law, the Chief Financial Officer
19 ~~Comptroller~~ shall withhold from such county a portion of any
20 state funds to which the county may be entitled equal to the
21 difference of the amount assessed and the amount required to
22 be assessed by law.

23 (2) The Department of Revenue is hereby directed to
24 determine each year whether the several municipalities of this
25 state are assessing the real and tangible personal property
26 within their jurisdiction in accordance with law. If the
27 Department of Revenue determines that any municipality is
28 assessing property at less than that prescribed by law, the
29 Chief Financial Officer ~~Comptroller~~ shall withhold from such
30 municipality a portion of any state funds to which that
31

1 municipality may be entitled equal to the difference of the
2 amount assessed and the amount required to be assessed by law.

3 Section 180. Subsection (1) of section 198.29, Florida
4 Statutes, is amended to read:

5 198.29 Refunds of excess tax paid.--

6 (1) Whenever it appears, upon the examination of any
7 return made under this chapter or upon proof submitted to the
8 department by the personal representative, that an amount of
9 estate tax has been paid in excess of the tax legally due
10 under this chapter, the amount of such overpayment, together
11 with any overpayment of interest thereon shall be refunded to
12 the personal representative and paid by ~~upon the warrant of~~
13 ~~the Chief Financial Officer Comptroller, drawn upon the~~
14 ~~Treasurer who shall honor and pay the same~~; such refund shall
15 be made by the department as a matter of course regardless of
16 whether or not the personal representative has filed a written
17 claim therefor, except that upon request of the department,
18 the personal representative shall file with the department a
19 conformed copy of any written claim for refund of federal
20 estate tax which has theretofore been filed with the United
21 States.

22 Section 181. Paragraph (a) of subsection (7) of
23 section 199.232, Florida Statutes, is amended to read:

24 199.232 Powers of department.--

25 (7)(a) If it appears, upon examination of an
26 intangible tax return made under this chapter or upon proof
27 submitted to the department by the taxpayer, that an amount of
28 intangible personal property tax has been paid in excess of
29 the amount due, the department shall refund the amount of the
30 overpayment to the taxpayer by a warrant of the Chief
31 Financial Officer ~~Comptroller, drawn upon the Treasurer~~. The

1 department shall refund the overpayment without regard to
2 whether the taxpayer has filed a written claim for a refund;
3 however, the department may request that the taxpayer file a
4 statement affirming that the taxpayer made the overpayment.

5 Section 182. Paragraph (a) of subsection (1) of
6 section 203.01, Florida Statutes, is amended to read:

7 203.01 Tax on gross receipts for utility and
8 communications services.--

9 (1)(a)1. Every person that receives payment for any
10 utility service shall report by the last day of each month to
11 the Department of Revenue, under oath of the secretary or some
12 other officer of such person, the total amount of gross
13 receipts derived from business done within this state, or
14 between points within this state, for the preceding month and,
15 at the same time, shall pay into the State Treasury an amount
16 equal to a percentage of such gross receipts at the rate set
17 forth in paragraph (b). Such collections shall be certified
18 by the Chief Financial Officer ~~Comptroller~~ upon the request of
19 the State Board of Education.

20 2. A tax is levied on communications services as
21 defined in s. 202.11(3). Such tax shall be applied to the same
22 services and transactions as are subject to taxation under
23 chapter 202, and to communications services that are subject
24 to the exemption provided in s. 202.125(1). Such tax shall be
25 applied to the sales price of communications services when
26 sold at retail and to the actual cost of operating substitute
27 communications systems, as such terms are defined in s.
28 202.11, shall be due and payable at the same time as the taxes
29 imposed pursuant to chapter 202, and shall be administered and
30 collected pursuant to the provisions of chapter 202.

31

1 Section 183. Subsection (1) of section 206.46, Florida
2 Statutes, is amended to read:

3 206.46 State Transportation Trust Fund.--

4 (1) All moneys in the State Transportation Trust Fund,
5 which is hereby created, shall be used for transportation
6 purposes, as provided by law, under the direction of the
7 Department of Transportation, which department may from time
8 to time make requisition on the Chief Financial Officer
9 ~~Comptroller~~ for such funds. Moneys from such fund shall be
10 drawn by the Chief Financial Officer ~~Comptroller~~ by warrant
11 upon the State Treasury pursuant to vouchers and shall be paid
12 in like manner as other state warrants are paid out of the
13 appropriated fund against which the warrants are drawn. All
14 sums of money necessary to provide for the payment of the
15 warrants by the Chief Financial Officer ~~Comptroller~~ drawn upon
16 such fund are appropriated annually out of the fund for the
17 purpose of making such payments from time to time.

18 Section 184. Subsection (4) of section 210.16, Florida
19 Statutes, is amended to read:

20 210.16 Revocation or suspension of permit.--

21 (4) In lieu of the suspension or revocation of
22 permits, the division may impose civil penalties against
23 holders of permits for violations of this part or rules and
24 regulations relating thereto. No civil penalty so imposed
25 shall exceed \$1,000 for each offense, and all amounts
26 collected shall be deposited with the Chief Financial Officer
27 ~~State Treasurer~~ to the credit of the General Revenue Fund. If
28 the holder of the permit fails to pay the civil penalty, his
29 or her permit shall be suspended for such period of time as
30 the division may specify.

31

1 Section 185. Subsection (2) of section 210.20, Florida
2 Statutes, is amended to read:

3 210.20 Employees and assistants; distribution of
4 funds.--

5 (2) As collections are received by the division from
6 such cigarette taxes, it shall pay the same into a trust fund
7 in the State Treasury designated "Cigarette Tax Collection
8 Trust Fund" which shall be paid and distributed as follows:

9 (a) The division shall from month to month certify to
10 the Chief Financial Officer ~~Comptroller~~ the amount derived
11 from the cigarette tax imposed by s. 210.02, less the service
12 charges provided for in s. 215.20 and less 0.9 percent of the
13 amount derived from the cigarette tax imposed by s. 210.02,
14 which shall be deposited into the Alcoholic Beverage and
15 Tobacco Trust Fund, specifying the amounts to be transferred
16 from the Cigarette Tax Collection Trust Fund and credited on
17 the basis of 2.9 percent of the net collections to the Revenue
18 Sharing Trust Fund for Counties and 29.3 percent of the net
19 collections for the funding of indigent health care to the
20 Public Medical Assistance Trust Fund.

21 (b) Beginning January 1, 1999, and continuing for 10
22 years thereafter, the division shall from month to month
23 certify to the Chief Financial Officer ~~Comptroller~~ the amount
24 derived from the cigarette tax imposed by s. 210.02, less the
25 service charges provided for in s. 215.20 and less 0.9 percent
26 of the amount derived from the cigarette tax imposed by s.
27 210.02 which shall be deposited into the Alcoholic Beverage
28 and Tobacco Trust Fund, specifying an amount equal to 2.59
29 percent of the net collections, and that amount shall be paid
30 to the Board of Directors of the H. Lee Moffitt Cancer Center
31 and Research Institute, established under s. 240.512, by

1 warrant drawn by the Chief Financial Officer ~~Comptroller~~ upon
2 the State Treasury. These funds are hereby appropriated
3 monthly out of the Cigarette Tax Collection Trust Fund, to be
4 used for the purpose of constructing, furnishing, and
5 equipping a cancer research facility at the University of
6 South Florida adjacent to the H. Lee Moffitt Cancer Center and
7 Research Institute. In fiscal years 1999-2000 and thereafter
8 with the exception of fiscal year 2008-2009, the appropriation
9 to the H. Lee Moffitt Cancer Center and Research Institute
10 authorized by this paragraph shall not be less than the amount
11 which would have been paid to the H. Lee Moffitt Cancer Center
12 and Research Institute for fiscal year 1998-1999 had payments
13 been made for the entire fiscal year rather than for a 6-month
14 period thereof.

15 Section 186. Subsection (4) of section 210.50, Florida
16 Statutes, is amended to read:

17 210.50 Revocation or suspension of license.--

18 (4) In lieu of the suspension or revocation of
19 licenses, the division may impose civil penalties against
20 holders of licenses for violations of this part or rules
21 relating thereto. No civil penalty so imposed shall exceed
22 \$1,000 for each offense, and all amounts collected shall be
23 deposited with the Chief Financial Officer ~~State Treasurer~~ to
24 the credit of the General Revenue Fund. If the holder of the
25 license fails to pay the civil penalty, his or her license
26 shall be suspended for such period of time as the division may
27 specify.

28 Section 187. Subsection (1) of section 211.06, Florida
29 Statutes, is amended to read:

30 211.06 Oil and Gas Tax Trust Fund; distribution of tax
31 proceeds.--All taxes, interest, and penalties imposed under

1 this part shall be collected by the department and placed in a
2 special fund designated the "Oil and Gas Tax Trust Fund."

3 (1) There is hereby annually appropriated a sufficient
4 amount from the Oil and Gas Tax Trust Fund for the Chief
5 Financial Officer ~~Comptroller~~ to refund any overpayments that
6 ~~which~~ have been properly approved.

7 Section 188. Paragraph (d) of subsection (1) of
8 section 211.32, Florida Statutes, is amended to read:

9 211.32 Tax on solid minerals; Land Reclamation Trust
10 Fund; refund for restoration and reclamation.--

11 (1)

12 (d) The Chief Financial Officer ~~Comptroller~~ shall,
13 upon written verification of compliance with paragraph (a),
14 paragraph (b), or paragraph (c) by the Department of
15 Environmental Protection, and upon verification of the cost of
16 the restoration and reclamation program or, if paragraph (c)
17 is elected, the fair market value of the land, grant refunds,
18 to be paid from the Land Reclamation Trust Fund, of the taxes
19 paid under this part, in an amount equal to 100 percent of the
20 costs incurred in complying with paragraph (a) or paragraph
21 (b), or 100 percent of the fair market value of the land
22 transferred in complying with paragraph (c), subject to the
23 following limitations:

24 1. A taxpayer shall not be entitled to refunds in
25 excess of the amount of taxes paid by the taxpayer under this
26 part which are deposited in the Land Reclamation Trust Fund.

27 2. A taxpayer shall not be entitled to the payment of
28 a refund for costs incurred in connection with a particular
29 restoration and reclamation program unless and until the
30 taxpayer is accomplishing the program in reasonable compliance
31

1 with the criteria established by the Department of
2 Environmental Protection.

3 Section 189. Paragraph (m) of subsection (5) of
4 section 212.08, Florida Statutes, is amended to read:

5 212.08 Sales, rental, use, consumption, distribution,
6 and storage tax; specified exemptions.--The sale at retail,
7 the rental, the use, the consumption, the distribution, and
8 the storage to be used or consumed in this state of the
9 following are hereby specifically exempt from the tax imposed
10 by this chapter.

11 (5) EXEMPTIONS; ACCOUNT OF USE.--

12 (m) Educational materials purchased by certain child
13 care facilities.--Educational materials, such as glue, paper,
14 paints, crayons, unique craft items, scissors, books, and
15 educational toys, purchased by a child care facility that
16 meets the standards delineated in s. 402.305, is licensed
17 under s. 402.308, holds a current Gold Seal Quality Care
18 designation pursuant to s. 402.281, and provides basic health
19 insurance to all employees are exempt from the taxes imposed
20 by this chapter. For purposes of this paragraph, the term
21 "basic health insurance" shall be defined and promulgated in
22 rules developed jointly by the Department of Children and
23 Family Services, the Agency for Health Care Administration,
24 and the Department of Financial Services ~~Insurance~~.

25 Section 190. Paragraph (c) of subsection (6) of
26 section 212.12, Florida Statutes, is 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 191. Subsection (1) of section 212.20, Florida
25 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 192. Subsections (4) and (6), paragraph (e) of
4 | subsection (7) and subsection (13) of section 213.053, Florida
5 | Statutes, are amended to read:

6 | 213.053 Confidentiality and information sharing.--

7 | (4) Nothing contained in this section shall prevent
8 | the department from publishing statistics so classified as to
9 | prevent the identification of particular accounts, reports,
10 | declarations, or returns or prevent the department from
11 | disclosing to the Chief Financial Officer ~~Comptroller~~ the
12 | names and addresses of those taxpayers who have claimed an
13 | exemption pursuant to s. 199.185(1)(i) or a deduction pursuant
14 | to s. 220.63(5).

15 | (6) Any information received by the Department of
16 | Revenue in connection with the administration of taxes,
17 | including, but not limited to, information contained in
18 | returns, reports, accounts, or declarations filed by persons
19 | subject to tax, shall be made available by the department to
20 | the Auditor General or his or her authorized agent, the
21 | director of the Office of Program Policy Analysis and
22 | Government Accountability or his or her authorized agent, the
23 | Chief Financial Officer ~~Comptroller~~ or his or her authorized
24 | agent, ~~the Insurance Commissioner or his or her authorized~~
25 | ~~agent, the Treasurer or his or her authorized agent,~~ or a
26 | property appraiser or tax collector or their authorized agents
27 | pursuant to s. 195.084(1), in the performance of their
28 | official duties, or to designated employees of the Department
29 | of Education solely for determination of each school
30 | district's price level index pursuant to s. 236.081(2);
31 | however, no information shall be disclosed to the Auditor

1 General or his or her authorized agent, the director of the
2 Office of Program Policy Analysis and Government
3 Accountability or his or her authorized agent, the Chief
4 Financial Officer ~~Comptroller~~ or his or her authorized agent,
5 ~~the Insurance Commissioner or his or her authorized agent, the~~
6 ~~Treasurer or his or her authorized agent,~~ or to a property
7 appraiser or tax collector or their authorized agents, or to
8 designated employees of the Department of Education if such
9 disclosure is prohibited by federal law. The Auditor General
10 or his or her authorized agent, the director of the Office of
11 Program Policy Analysis and Government Accountability or his
12 or her authorized agent, the Chief Financial Officer
13 ~~Comptroller~~ or his or her authorized agent, ~~the Treasurer or~~
14 ~~his or her authorized agent,~~ and the property appraiser or tax
15 collector and their authorized agents, or designated employees
16 of the Department of Education shall be subject to the same
17 requirements of confidentiality and the same penalties for
18 violation of the requirements as the department. For the
19 purpose of this subsection, "designated employees of the
20 Department of Education" means only those employees directly
21 responsible for calculation of price level indices pursuant to
22 s. 236.081(2). It does not include the supervisors of such
23 employees or any other employees or elected officials within
24 the Department of Education.

25 (7) Notwithstanding any other provision of this
26 section, the department may provide:

27 (e) Names, addresses, taxpayer identification numbers,
28 and outstanding tax liabilities to the Department of the
29 Lottery and the Department of Financial Services ~~Banking and~~
30 ~~Finance~~ in the conduct of their official duties.

31

1 (13) Notwithstanding the provisions of s. 896.102(2),
2 the department may allow full access to the information and
3 documents required to be filed with it under s. 896.102(1) to
4 federal, state, and local law enforcement and prosecutorial
5 agencies, and to the Department of Financial Services ~~Banking~~
6 ~~and Finance~~, and any of those agencies may use the information
7 and documents in any civil or criminal investigation and in
8 any court proceedings.

9 Section 193. Section 213.054, Florida Statutes, is
10 amended to read:

11 213.054 Persons claiming tax exemptions or deductions;
12 annual report.--The Department of Revenue shall be responsible
13 for monitoring the utilization of tax exemptions and tax
14 deductions authorized pursuant to chapter 81-179, Laws of
15 Florida. On or before September 1 of each year, the
16 department shall report to the Chief Financial Officer
17 ~~Comptroller~~ the names and addresses of all persons who have
18 claimed an exemption pursuant to s. 199.185(1)(i) or a
19 deduction pursuant to s. 220.63(5).

20 Section 194. Subsection (6) of section 213.255,
21 Florida Statutes, is amended to read:

22 213.255 Interest.--Interest shall be paid on
23 overpayments of taxes, payment of taxes not due, or taxes paid
24 in error, subject to the following conditions:

25 (6) Interest shall be paid until a date determined by
26 the department which shall be no more than 7 days prior to the
27 date of the issuance of the refund warrant by the Chief
28 Financial Officer ~~Comptroller~~.

29 Section 195. Subsection (9) of section 213.67, Florida
30 Statutes, is amended to read:

31 213.67 Garnishment.--

1 (9) The department shall provide notice to the Chief
2 Financial Officer ~~Comptroller~~, in electronic or other form
3 specified by the Chief Financial Officer ~~Comptroller~~, listing
4 the taxpayers for which tax warrants are outstanding. Pursuant
5 to subsection (1), the Chief Financial Officer ~~Comptroller~~
6 shall, upon notice from the department, withhold all payments
7 to any person or business, as defined in s. 212.02, which
8 provides commodities or services to the state, leases real
9 property to the state, or constructs a public building or
10 public work for the state. The department may levy upon the
11 withheld payments in accordance with subsection (3). The
12 provisions of s. 215.422 do not apply from the date the notice
13 is filed with the Chief Financial Officer ~~Comptroller~~ until
14 the date the department notifies the Chief Financial Officer
15 ~~Comptroller~~ of its consent to make payment to the person or 60
16 days after receipt of the department's notice in accordance
17 with subsection (1), whichever occurs earlier.

18 Section 196. Subsection (4) of section 213.75, Florida
19 Statutes, is amended to read:

20 213.75 Application of payments.--

21 (4) Any surplus proceeds remaining after the
22 application of subsection (3) shall, upon application and
23 satisfactory proof thereof, be refunded by the Chief Financial
24 Officer ~~Comptroller~~ to the person or persons legally entitled
25 thereto pursuant to s. 215.26.

26 Section 197. Section 215.02, Florida Statutes, is
27 amended to read:

28 215.02 Manner of paying money into the
29 Treasury.--Whenever any officer of this state or other person
30 desires to pay any money into the Treasury of the state on
31 account of his or her indebtedness to the state, the person

1 shall first go into the Department of Financial Services
2 ~~Banking and Finance~~, and there ascertain from the department's
3 books the amount of his or her indebtedness to the state, and
4 thereupon ~~the department shall give that person a memorandum~~
5 ~~or certificate of the amount of such indebtedness, and on what~~
6 ~~account. Second, the person shall take said certificate with~~
7 ~~him or her to the Department of Insurance and deliver the same~~
8 ~~and pay over to the Chief Financial Officer Insurance~~
9 ~~Commissioner and Treasurer the amount ascertained called for~~
10 ~~in said certificate. Third, The Chief Financial Officer~~
11 ~~Insurance Commissioner and Treasurer shall receive the money,~~
12 ~~make a proper entry thereof, file the certificate of the~~
13 ~~Department of Banking and Finance, and give a certificate to~~
14 ~~the party paying over the money, acknowledging the receipt of~~
15 ~~the money, and on what account; which certificate thus~~
16 ~~received, the party shall return to the Department of Banking~~
17 ~~and Finance, on receipt of which the department shall give the~~
18 ~~party a receipt for the amount, and enter a credit on the~~
19 ~~party's account in his or her books for the amount thus paid~~
20 ~~by him or her to the Insurance Commissioner and Treasurer, and~~
21 ~~file the certificate received from the Insurance Commissioner~~
22 ~~and Treasurer.~~

23 Section 198. Section 215.03, Florida Statutes, is
24 amended to read:

25 215.03 Party to be reimbursed on reversal of judgment
26 for state.--Whenever upon appeal in civil cases, any judgment
27 in favor of the state has been or shall be reversed and set
28 aside, which may have been paid in part by the appellant, the
29 Chief Financial Officer Comptroller shall issue his or her
30 warrant ~~upon the Treasurer~~ to reimburse the appellant for all
31 sums paid in discharge of such judgment and cost, provided the

1 appellant shall adduce satisfactory evidence to the Chief
2 Financial Officer ~~Comptroller~~ of the sums paid as aforesaid.

3 Section 199. Section 215.04, Florida Statutes, is
4 amended to read:

5 215.04 Department of Financial Services ~~Banking and~~
6 ~~Finance~~ to report delinquents.--The Department of Financial
7 Services ~~Banking and Finance~~ shall report to the state
8 attorney of the proper circuit the name of any delinquent
9 officer whose delinquency concerns the department, so soon as
10 such delinquency shall occur; and the state attorney shall
11 proceed forthwith against such delinquent.

12 Section 200. Section 215.05, Florida Statutes, is
13 amended to read:

14 215.05 Department of Financial Services ~~Banking and~~
15 ~~Finance~~ to certify accounts of delinquents.--When any revenue
16 officer or other person accountable for public money shall
17 neglect or refuse to pay into the treasury the sum or balance
18 reported to be due to the state, upon the adjustment of that
19 person's account, the Department of Financial Services ~~Banking~~
20 ~~and Finance~~ shall immediately hand over to the state attorney
21 of the proper circuit the statement of the sum or balance
22 certified under its seal of office, so due; and the state
23 attorney shall institute suit for the recovery of the same,
24 adding to the sum or balance stated to be due on such account
25 the commissions of the delinquent, which shall be forfeited in
26 every instance where suit is commenced and judgment is
27 obtained thereon, and an interest of 8 percent per annum from
28 the time of the delinquent's receiving the money until it
29 shall be paid into the State Treasury.

30 Section 201. Section 215.11, Florida Statutes, is
31 amended to read:

1 215.11 Defaulting officers; Department of Financial
2 Services ~~Banking and Finance~~ to report to clerk.--The
3 Department of Financial Services ~~Banking and Finance~~ shall,
4 within 90 days after the expiration of the term of office of
5 any tax collector, sheriff, clerk of the circuit or county
6 court, treasurer, or any other officer of any county who has
7 the collection, custody, and control of any state funds, who
8 shall be in arrears in his or her accounts with the state,
9 make up and forward to the clerk of the circuit court of such
10 county a statement of his or her accounts with the state.

11 Section 202. Paragraph (cc) of subsection (4) of
12 section 215.20, Florida Statutes, is amended to read:

13 215.20 Certain income and certain trust funds to
14 contribute to the General Revenue Fund.--

15 (4) The income of a revenue nature deposited in the
16 following described trust funds, by whatever name designated,
17 is that from which the deductions authorized by subsection (3)
18 shall be made:

19 (cc) The Insurance ~~Commissioner's~~ Regulatory Trust
20 Fund created by s. 624.523.

21
22 The enumeration of the foregoing moneys or trust funds shall
23 not prohibit the applicability thereto of s. 215.24 should the
24 Governor determine that for the reasons mentioned in s. 215.24
25 the money or trust funds should be exempt herefrom, as it is
26 the purpose of this law to exempt income from its force and
27 effect when, by the operation of this law, federal matching
28 funds or contributions or private grants to any trust fund
29 would be lost to the state.

30 Section 203. Paragraphs (e) and (g) of subsection (1)
31 of section 215.22, Florida Statutes, is amended to read:

1 215.22 Certain income and certain trust funds
2 exempt.--

3 (1) The following income of a revenue nature or the
4 following trust funds shall be exempt from the deduction
5 required by s. 215.20(1):

6 (e) State, agency, or political subdivision
7 investments by the Chief Financial Officer ~~Treasurer~~.

8 (g) Self-insurance programs administered by the Chief
9 Financial Officer ~~Treasurer~~.

10 Section 204. Section 215.23, Florida Statutes, is
11 amended to read:

12 215.23 When contributions to be made.--The deductions
13 required by s. 215.20 shall be paid into the appropriate fund
14 by the Department of Financial Services ~~Banking and Finance~~ or
15 by the Chief Financial Officer ~~State Treasurer~~, as the case
16 may be, for quarterly periods ending March 31, June 30,
17 September 30, and December 31 of each year, and when so paid
18 shall thereupon become a part of that fund to be accounted for
19 and disbursed as provided by law.

20 Section 205. Section 215.24, Florida Statutes, is
21 amended to read:

22 215.24 Exemptions where federal contributions or
23 private grants.--

24 (1) Should any state fund be the recipient of federal
25 contributions or private grants, either by the matching of
26 state funds or by a general donation to state funds, and the
27 payment of moneys into the General Revenue Fund under s.
28 215.20 should cause such fund to lose federal or private
29 assistance, the Governor shall certify to the Department of
30 Financial Services ~~Banking and Finance~~ and to the Chief

31

1 Financial Officer ~~State Treasurer~~ that said income is for that
2 reason exempt from the force and effect of s. 215.20.

3 (2) Should it be determined by the Governor that by
4 reason of payments already made into the General Revenue Fund
5 by any fund under this law, such fund is subject to the loss
6 of federal or private assistance, then the Governor shall
7 certify to the Department of Financial Services ~~Banking and~~
8 ~~Finance~~ and to the Chief Financial Officer ~~State Treasurer~~
9 that the income from such assistance is exempt from the
10 provisions of this law, and the Department of Financial
11 Services ~~Banking and Finance~~ or the Chief Financial Officer
12 ~~State Treasurer~~, as the case may be, shall thereupon refund
13 and pay over to such fund any amount previously paid into the
14 General Revenue Fund from such income.

15 Section 206. Section 215.25, Florida Statutes, is
16 amended to read:

17 215.25 Manner of contributions; rules and
18 regulations.--The Department of Financial Services ~~Banking and~~
19 ~~Finance~~ and the Chief Financial Officer ~~State Treasurer~~ are
20 hereby authorized to ascertain and determine the manner in
21 which the required amounts shall be deducted and paid and to
22 adopt and effectuate such rules and procedure as may be
23 necessary for carrying out the provisions of this law. Such
24 rules and procedure shall be approved by the Executive Office
25 of the Governor.

26 Section 207. Subsections (1), (2), and (5) of section
27 215.26, Florida Statutes, are amended to read:

28 215.26 Repayment of funds paid into State Treasury
29 through error.--

30 (1) The Chief Financial Officer ~~Comptroller of the~~
31 ~~state~~ may refund to the person who paid same, or his or her

1 heirs, personal representatives, or assigns, any moneys paid
2 into the State Treasury which constitute:

3 (a) An overpayment of any tax, license, or account
4 due;

5 (b) A payment where no tax, license, or account is
6 due; and

7 (c) Any payment made into the State Treasury in error;
8

9 and if any such payment has been credited to an appropriation,
10 such appropriation shall at the time of making any such
11 refund, be charged therewith. There are appropriated from the
12 proper respective funds from time to time such sums as may be
13 necessary for such refunds.

14 (2) Application for refunds as provided by this
15 section must be filed with the Chief Financial Officer
16 ~~Comptroller~~, except as otherwise provided in this subsection,
17 within 3 years after the right to the refund has accrued or
18 else the right is barred. Except as provided in chapter 198
19 and s. 220.23, an application for a refund of a tax enumerated
20 in s. 72.011, which tax was paid after September 30, 1994, and
21 before July 1, 1999, must be filed with the Chief Financial
22 Officer ~~Comptroller~~ within 5 years after the date the tax is
23 paid, and within 3 years after the date the tax was paid for
24 taxes paid on or after July 1, 1999. The Chief Financial
25 Officer ~~Comptroller~~ may delegate the authority to accept an
26 application for refund to any state agency, or the judicial
27 branch, vested by law with the responsibility for the
28 collection of any tax, license, or account due. The
29 application for refund must be on a form approved by the Chief
30 Financial Officer ~~Comptroller~~ and must be supplemented with
31 additional proof the Chief Financial Officer ~~Comptroller~~ deems

1 necessary to establish the claim; provided, the claim is not
2 otherwise barred under the laws of this state. Upon receipt of
3 an application for refund, the judicial branch or the state
4 agency to which the funds were paid shall make a determination
5 of the amount due. If an application for refund is denied, in
6 whole or in part, the judicial branch or such state agency
7 shall notify the applicant stating the reasons therefor. Upon
8 approval of an application for refund, the judicial branch or
9 such state agency shall furnish the Chief Financial Officer
10 ~~Comptroller~~ with a properly executed voucher authorizing
11 payment.

12 (5) When a taxpayer has pursued administrative
13 remedies before the Department of Revenue pursuant to s.
14 213.21 and has failed to comply with the time limitations and
15 conditions provided in ss. 72.011 and 120.80(14)(b), a claim
16 of refund under subsection (1) shall be denied by the Chief
17 Financial Officer ~~Comptroller~~. However, the Chief Financial
18 Officer ~~Comptroller~~ may entertain a claim for refund under
19 this subsection when the taxpayer demonstrates that his or her
20 failure to pursue remedies under chapter 72 was not due to
21 neglect or for the purpose of delaying payment of lawfully
22 imposed taxes and can demonstrate reasonable cause for such
23 failure.

24 Section 208. Section 215.29, Florida Statutes, is
25 amended to read:

26 215.29 Classification of Chief Financial Officer's
27 ~~Comptroller's~~ warrants; report.--All disbursements made by the
28 state upon Chief Financial Officer's ~~Comptroller's~~ warrants
29 shall be classified according to officers, offices, bureaus,
30 divisions, boards, commissions, institutions, other agencies
31 and undertakings, or the judicial branch, and shall be further

1 classified according to personal services, contractual
2 services, commodities, current charges, current obligations,
3 capital outlays, debt payments, or investments or such
4 additional classifications as may be prescribed or authorized
5 by law. Such detail classifications shall be printed in the
6 Chief Financial Officer's ~~Comptroller's~~ annual reports.

7 Section 209. Section 215.31, Florida Statutes, is
8 amended to read:

9 215.31 State funds; deposit in State
10 Treasury.--Revenue, including licenses, fees, imposts, or
11 exactions collected or received under the authority of the
12 laws of the state by each and every state official, office,
13 employee, bureau, division, board, commission, institution,
14 agency, or undertaking of the state or the judicial branch
15 shall be promptly deposited in the State Treasury, and
16 immediately credited to the appropriate fund as herein
17 provided, properly accounted for by the Department of
18 Financial Services ~~Banking and Finance~~ as to source and no
19 money shall be paid from the State Treasury except as
20 appropriated and provided by the annual General Appropriations
21 Act, or as otherwise provided by law.

22 Section 210. Section 215.32, Florida Statutes, is
23 amended to read:

24 215.32 State funds; segregation.--

25 (1) All moneys received by the state shall be
26 deposited in the State Treasury unless specifically provided
27 otherwise by law and shall be deposited in and accounted for
28 by the Chief Financial Officer ~~Treasurer~~ and the Department of
29 Financial Services ~~Banking and Finance~~ within the following
30 funds, which funds are hereby created and established:

31 (a) General Revenue Fund.

1 (b) Trust funds.

2 (c) Working Capital Fund.

3 (d) Budget Stabilization Fund.

4 (2) The source and use of each of these funds shall be
5 as follows:

6 (a) The General Revenue Fund shall consist of all
7 moneys received by the state from every source whatsoever,
8 except as provided in paragraphs (b) and (c). Such moneys
9 shall be expended pursuant to General Revenue Fund
10 appropriations acts or transferred as provided in paragraph
11 (c). Annually, at least 5 percent of the estimated increase
12 in General Revenue Fund receipts for the upcoming fiscal year
13 over the current year General Revenue Fund effective
14 appropriations shall be appropriated for state-level capital
15 outlay, including infrastructure improvement and general
16 renovation, maintenance, and repairs.

17 (b)1. The trust funds shall consist of moneys received
18 by the state which under law or under trust agreement are
19 segregated for a purpose authorized by law. The state agency
20 or branch of state government receiving or collecting such
21 moneys shall be responsible for their proper expenditure as
22 provided by law. Upon the request of the state agency or
23 branch of state government responsible for the administration
24 of the trust fund, the Chief Financial Officer ~~Comptroller~~ may
25 establish accounts within the trust fund at a level considered
26 necessary for proper accountability. Once an account is
27 established within a trust fund, the Chief Financial Officer
28 ~~Comptroller~~ may authorize payment from that account only upon
29 determining that there is sufficient cash and releases at the
30 level of the account.

31

1 2. In order to maintain a minimum number of trust
2 funds in the State Treasury, each state agency or the judicial
3 branch may consolidate, if permitted under the terms and
4 conditions of their receipt, the trust funds administered by
5 it; provided, however, the agency or judicial branch employs
6 effectively a uniform system of accounts sufficient to
7 preserve the integrity of such trust funds; and provided,
8 further, that consolidation of trust funds is approved by the
9 Governor or the Chief Justice.

10 3. All such moneys are hereby appropriated to be
11 expended in accordance with the law or trust agreement under
12 which they were received, subject always to the provisions of
13 chapter 216 relating to the appropriation of funds and to the
14 applicable laws relating to the deposit or expenditure of
15 moneys in the State Treasury.

16 4.a. Notwithstanding any provision of law restricting
17 the use of trust funds to specific purposes, unappropriated
18 cash balances from selected trust funds may be authorized by
19 the Legislature for transfer to the Budget Stabilization Fund
20 and Working Capital Fund in the General Appropriations Act.

21 b. This subparagraph does not apply to trust funds
22 required by federal programs or mandates; trust funds
23 established for bond covenants, indentures, or resolutions
24 whose revenues are legally pledged by the state or public body
25 to meet debt service or other financial requirements of any
26 debt obligations of the state or any public body; the State
27 Transportation Trust Fund; the trust fund containing the net
28 annual proceeds from the Florida Education Lotteries; the
29 Florida Retirement System Trust Fund; trust funds under the
30 management of the Board of Regents, where such trust funds are
31 for auxiliary enterprises, self-insurance, and contracts,

1 grants, and donations, as those terms are defined by general
2 law; trust funds that serve as clearing funds or accounts for
3 the Chief Financial Officer ~~Comptroller~~ or state agencies;
4 trust funds that account for assets held by the state in a
5 trustee capacity as an agent or fiduciary for individuals,
6 private organizations, or other governmental units; and other
7 trust funds authorized by the State Constitution.

8 (c)1. The Budget Stabilization Fund shall consist of
9 amounts equal to at least 5 percent of net revenue collections
10 for the General Revenue Fund during the last completed fiscal
11 year. The Budget Stabilization Fund's principal balance shall
12 not exceed an amount equal to 10 percent of the last completed
13 fiscal year's net revenue collections for the General Revenue
14 Fund. As used in this paragraph, the term "last completed
15 fiscal year" means the most recently completed fiscal year
16 prior to the regular legislative session at which the
17 Legislature considers the General Appropriations Act for the
18 year in which the transfer to the Budget Stabilization Fund
19 must be made under this paragraph.

20 2. By September 15 of each year, the Governor shall
21 authorize the Chief Financial Officer ~~Comptroller~~ to transfer,
22 and the Chief Financial Officer ~~Comptroller~~ shall transfer
23 pursuant to appropriations made by law, to the Budget
24 Stabilization Fund the amount of money needed for the balance
25 of that fund to equal the amount specified in subparagraph 1.,
26 less any amounts expended and not restored. The moneys needed
27 for this transfer may be appropriated by the Legislature from
28 any funds.

29 3. Unless otherwise provided in this subparagraph, an
30 expenditure from the Budget Stabilization Fund must be
31 restored pursuant to a restoration schedule that provides for

1 making five equal annual transfers from the General Revenue
2 Fund, beginning in the fiscal year following that in which the
3 expenditure was made. For any Budget Stabilization Fund
4 expenditure, the Legislature may establish by law a different
5 restoration schedule and such change may be made at any time
6 during the restoration period. Moneys are hereby appropriated
7 for transfers pursuant to this subparagraph.

8 4. The Budget Stabilization Fund and the Working
9 Capital Fund may be used as revolving funds for transfers as
10 provided in s. 18.125; however, any interest earned must be
11 deposited in the General Revenue Fund.

12 5. The Chief Financial Officer ~~Comptroller~~ and the
13 Department of Management Services shall transfer funds to
14 water management districts to pay eligible water management
15 district employees for all benefits due under s. 373.6065, as
16 long as funds remain available for the program described under
17 s. 100.152.

18 (d) The Working Capital Fund shall consist of moneys
19 in the General Revenue Fund which are in excess of the amount
20 needed to meet General Revenue Fund appropriations for the
21 current fiscal year. Each year, no later than the publishing
22 date of the annual financial statements for the state by the
23 Chief Financial Officer ~~Comptroller~~ under s. 216.102, funds
24 shall be transferred between the Working Capital Fund and the
25 General Revenue Fund to establish the balance of the Working
26 Capital Fund for that fiscal year at the amount determined
27 pursuant to this paragraph.

28 Section 211. Subsections (2) and (3) of section
29 215.3206, Florida Statutes, are amended to read:

30 215.3206 Trust funds; termination or re-creation.--

31

1 (2) If the trust fund is terminated and not
2 immediately re-created, all cash balances and income of the
3 trust fund shall be deposited into the General Revenue Fund.
4 The agency or Chief Justice shall pay any outstanding debts 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 practices concerning warrants outstanding,
9 assets, and liabilities. No appropriation or budget amendment
10 shall be construed to authorize any encumbrance of funds from
11 a trust fund after the date on which the trust fund is
12 terminated or is judicially determined to be invalid.

13 (3) On or before September 1 of each year, the Chief
14 Financial Officer ~~Comptroller~~ shall submit to the Executive
15 Office of the Governor, the President of the Senate, and the
16 Speaker of the House of Representatives a list of trust funds
17 that are scheduled to terminate within 12 months after that
18 date and also, beginning September 1, 1996, a list of all
19 trust funds that are exempt from automatic termination
20 pursuant to the provisions of s. 19(f)(3), Art. III of the
21 State Constitution, listing revenues of the trust funds by
22 major revenue category for each of the last 4 fiscal years.

23 Section 212. Paragraph (a) of subsection (2) of
24 section 215.3208, Florida Statutes, is amended to read:

25 215.3208 Trust funds; legislative review.--

26 (2)(a) When the Legislature terminates a trust fund,
27 the agency or branch of state government that administers the
28 trust fund shall pay any outstanding debts or obligations of
29 the trust fund as soon as practicable, and the Chief Financial
30 Officer ~~Comptroller~~ shall close out and remove the trust fund
31 from the various state accounting systems, using generally

1 accepted accounting principles concerning assets, liabilities,
2 and warrants outstanding.

3 Section 213. Section 215.321, Florida Statutes, is
4 amended to read:

5 215.321 Regulatory trust fund.--All funds received
6 pursuant to ss. 494.001-494.0077, chapter 497, chapter 516,
7 chapter 520, or part I of chapter 559 shall be deposited into
8 the Banking and Finance Regulatory Trust Fund.

9 Section 214. Subsections (2), (3), and (4) of section
10 215.322, Florida Statutes, are amended to read:

11 215.322 Acceptance of credit cards, charge cards, or
12 debit cards by state agencies, units of local government, and
13 the judicial branch.--

14 (2) A state agency as defined in s. 216.011, or the
15 judicial branch, may accept credit cards, charge cards, or
16 debit cards in payment for goods and services with the prior
17 approval of the Chief Financial Officer ~~Treasurer~~. When the
18 Internet or other related electronic methods are to be used as
19 the collection medium, the State Technology Office shall
20 review and recommend to the Chief Financial Officer ~~Treasurer~~
21 whether to approve the request with regard to the process or
22 procedure to be used.

23 (3) The Chief Financial Officer ~~Treasurer~~ shall adopt
24 rules governing the establishment and acceptance of credit
25 cards, charge cards, or debit cards by state agencies or the
26 judicial branch, including, but not limited to, the following:

27 (a) Utilization of a standardized contract between the
28 financial institution or other appropriate intermediaries and
29 the agency or judicial branch which shall be developed by the
30 Chief Financial Officer ~~Treasurer~~ or approval by the Chief
31 Financial Officer ~~Treasurer~~ of a substitute agreement.

1 (b) Procedures which permit an agency or officer
2 accepting payment by credit card, charge card, or debit card
3 to impose a convenience fee upon the person making the
4 payment. However, the total amount of such convenience fees
5 shall not exceed the total cost to the state agency. A
6 convenience fee is not refundable to the payor.
7 Notwithstanding the foregoing, this section shall not be
8 construed to permit surcharges on any other credit card
9 purchase in violation of s. 501.0117.

10 (c) All service fees payable pursuant to this section
11 when practicable shall be invoiced and paid by state warrant
12 or such other manner that is satisfactory to the Chief
13 Financial Officer ~~Comptroller~~ in accordance with the time
14 periods specified in s. 215.422.

15 (d) Submission of information to the Chief Financial
16 Officer ~~Treasurer~~ concerning the acceptance of credit cards,
17 charge cards, or debit cards by all state agencies or the
18 judicial branch.

19 (e) A methodology for agencies to use when completing
20 the cost-benefit analysis referred to in subsection (1). The
21 methodology must consider all quantifiable cost reductions,
22 other benefits to the agency, and potential impact on general
23 revenue. The methodology must also consider nonquantifiable
24 benefits such as the convenience to individuals and businesses
25 that would benefit from the ability to pay for state goods and
26 services through the use of credit cards, charge cards, and
27 debit cards.

28 (4) The Chief Financial Officer ~~may Treasurer is~~
29 ~~authorized to~~ establish contracts with one or more financial
30 institutions, credit card companies, or other entities which
31 may lawfully provide such services, in a manner consistent

1 with chapter 287, for processing credit card, charge card, or
2 debit card collections for deposit into the State Treasury or
3 another qualified public depository. Any state agency, or the
4 judicial branch, which accepts payment by credit card, charge
5 card, or debit card shall use at least one of the contractors
6 established by the Chief Financial Officer ~~Treasurer~~ unless
7 the state agency or judicial branch obtains authorization from
8 the Chief Financial Officer ~~Treasurer~~ to use another
9 contractor which is more advantageous to such state agency or
10 the judicial branch. Such contracts may authorize a unit of
11 local government to use the services upon the same terms and
12 conditions for deposit of credit card, charge card, or debit
13 card transactions into its qualified public depositories.

14 Section 215. Subsections (1) and (2) of section
15 215.34, Florida Statutes, are amended to read:

16 215.34 State funds; noncollectible items; procedure.--

17 (1) Any check, draft, or other order for the payment
18 of money in payment of any licenses, fees, taxes, commissions,
19 or charges of any sort authorized to be made under the laws of
20 the state and deposited in the State Treasury as provided
21 herein, which may be returned for any reason by the bank or
22 other payor upon which same shall have been drawn shall be
23 forthwith returned by the Chief Financial Officer ~~State~~
24 ~~Treasurer~~ for collection to the state officer, the state
25 agency, or the entity of the judicial branch making the
26 deposit. In such case, the Chief Financial Officer may
27 ~~Treasurer is hereby authorized to~~ issue a debit memorandum
28 charging an account of the agency, officer, or entity of the
29 judicial branch which originally received the payment. The
30 original of the debit memorandum shall state the reason for
31 the return of the check, draft, or other order and shall

1 accompany the item being returned to the officer, agency, or
2 entity of the judicial branch being charged, ~~and a copy of the~~
3 ~~debit memorandum shall be sent to the Comptroller.~~ The
4 officer, agency, or entity of the judicial branch receiving
5 the charged-back item shall prepare a journal transfer which
6 shall debit the charge against the fund or account to which
7 the same shall have been originally credited. Such procedure
8 for handling noncollectible items shall not be construed as
9 paying funds out of the State Treasury without an
10 appropriation, but shall be considered as an administrative
11 procedure for the efficient handling of state records and
12 accounts.

13 (2) Whenever a check, draft, or other order for the
14 payment of money is returned by the Chief Financial Officer
15 ~~State Treasurer~~, or by a qualified public depository as
16 defined in s. 280.02, to a state officer, a state agency, or
17 the judicial branch for collection, the officer, agency, or
18 judicial branch shall add to the amount due a service fee of
19 \$15 or 5 percent of the face amount of the check, draft, or
20 order, whichever is greater. An agency or the judicial branch
21 may adopt a rule which prescribes a lesser maximum service
22 fee, which shall be added to the amount due for the dishonored
23 check, draft, or other order tendered for a particular
24 service, license, tax, fee, or other charge, but in no event
25 shall the fee be less than \$15. The service fee shall be in
26 addition to all other penalties imposed by law, except that
27 when other charges or penalties are imposed by an agency
28 related to a noncollectible item, the amount of the service
29 fee shall not exceed \$150. Proceeds from this fee shall be
30 deposited in the same fund as the collected item. Nothing in
31 this section shall be construed as authorization to deposit

1 moneys outside the State Treasury unless specifically
2 authorized by law.

3 Section 216. Section 215.35, Florida Statutes, is
4 amended to read:

5 215.35 State funds; warrants and their issuance.--All
6 warrants issued by the Chief Financial Officer ~~Comptroller~~
7 shall be numbered in chronological order commencing with
8 number one in each fiscal year and each warrant shall refer to
9 the Chief Financial Officer's ~~Comptroller's~~ voucher by the
10 number thereof, which voucher shall also be numbered as above
11 set forth. Each warrant shall state the name of the payee
12 thereof and the amount allowed, and said warrant shall be
13 stated in words at length. No warrant shall issue until same
14 has been authorized by an appropriation made by law but such
15 warrant need not state or set forth such authorization. The
16 Chief Financial Officer ~~Comptroller~~ shall register and
17 maintain a record of each warrant in his or her office. The
18 record shall show the funds, accounts, purposes, and
19 departments involved in the issuance of each warrant. In
20 those instances where the expenditure of funds of regulatory
21 boards or commissions has been provided for by laws other than
22 the annual appropriations bill, warrants shall be issued upon
23 requisition to the Chief Financial Officer ~~State Comptroller~~
24 by the governing body of such board or commission.

25 Section 217. Section 215.405, Florida Statutes, is
26 amended to read:

27 215.405 State agencies and the judicial branch
28 authorized to collect costs of fingerprinting.--Any state
29 agency, or the judicial branch, exercising regulatory
30 authority and authorized to take fingerprints of persons
31 within or seeking to come within such agency's or the judicial

1 branch's regulatory power may collect from the person or
2 entity on whose behalf the fingerprints were submitted the
3 actual costs of processing such fingerprints including, but
4 not limited to, any charges imposed by the Department of Law
5 Enforcement or any agency or branch of the United States
6 Government. This provision shall constitute express authority
7 for state agencies and the judicial branch to collect the
8 actual costs of processing the fingerprints either prior to or
9 subsequent to the actual processing and shall supersede any
10 other law to the contrary. To administer the provisions of
11 this section, a state agency, or the judicial branch, electing
12 to collect the cost of fingerprinting is empowered to
13 promulgate and adopt rules to establish the amounts and the
14 methods of payment needed to collect such costs. Collections
15 made under these provisions shall be deposited with the Chief
16 Financial Officer ~~Treasurer~~ to an appropriate trust fund
17 account to be designated by the Executive Office of the
18 Governor.

19 Section 218. Section 215.42, Florida Statutes, is
20 amended to read:

21 215.42 Purchases from appropriations, proof of
22 delivery.--The Chief Financial Officer ~~State Comptroller~~ may
23 require proof, as he or she deems necessary, of delivery and
24 receipt of purchases before honoring any voucher for payment
25 from appropriations made in the General Appropriations Act or
26 otherwise provided by law.

27 Section 219. Section 215.422, Florida Statutes, is
28 amended to read:

29 215.422 Warrants, vouchers, and invoices; processing
30 time limits; dispute resolution; agency or judicial branch
31 compliance.--

1 (1) The voucher authorizing payment of an invoice
2 submitted to an agency of the state or the judicial branch,
3 required by law to be filed with the Chief Financial Officer
4 ~~Comptroller~~, shall be filed with the Chief Financial Officer
5 ~~Comptroller~~ not later than 20 days after receipt of the
6 invoice and receipt, inspection, and approval of the goods or
7 services, except that in the case of a bona fide dispute the
8 voucher shall contain a statement of the dispute and authorize
9 payment only in the amount not disputed. The Chief Financial
10 Officer ~~Comptroller~~ may establish dollar thresholds and other
11 criteria for all invoices and may delegate to a state agency
12 or the judicial branch responsibility for maintaining the
13 official vouchers and documents for invoices which do not
14 exceed the thresholds or which meet the established criteria.
15 Such records shall be maintained in accordance with the
16 requirements established by the Secretary of State. The
17 electronic payment request transmission to the Chief Financial
18 Officer ~~Comptroller~~ shall constitute filing of a voucher for
19 payment of invoices for which the Chief Financial Officer
20 ~~Comptroller~~ has delegated to an agency custody of official
21 records. Approval and inspection of goods or services shall
22 take no longer than 5 working days unless the bid
23 specifications, purchase order, or contract specifies
24 otherwise. If a voucher filed within the 20-day period is
25 returned by the Department of Financial Services ~~Banking and~~
26 ~~Finance~~ because of an error, it shall nevertheless be deemed
27 timely filed. The 20-day filing requirement may be waived in
28 whole or in part by the Department of Financial Services
29 ~~Banking and Finance~~ on a showing of exceptional circumstances
30 in accordance with rules and regulations of the department.
31 For the purposes of determining the receipt of invoice date,

1 the agency or the judicial branch is deemed to receive an
2 invoice on the date on which a proper invoice is first
3 received at the place designated by the agency or the judicial
4 branch. The agency or the judicial branch is deemed to
5 receive an invoice on the date of the invoice if the agency or
6 the judicial branch has failed to annotate the invoice with
7 the date of receipt at the time the agency or the judicial
8 branch actually received the invoice or failed at the time the
9 order is placed or contract made to designate a specific
10 location to which the invoice must be delivered.

11 (2) The warrant in payment of an invoice submitted to
12 an agency of the state or the judicial branch shall be issued
13 not later than 10 days after filing of the voucher authorizing
14 payment. However, this requirement may be waived in whole or
15 in part by the Department of Financial Services ~~Banking and~~
16 ~~Finance~~ on a showing of exceptional circumstances in
17 accordance with rules and regulations of the department. If
18 the 10-day period contains fewer than 6 working days, the
19 Department of Financial Services ~~Banking and Finance~~ shall be
20 deemed in compliance with this subsection if the warrant is
21 issued within 6 working days without regard to the actual
22 number of calendar days. For purposes of this section, a
23 payment is deemed to be issued on the first working day that
24 payment is available for delivery or mailing to the vendor.

25 (3)(a) Each agency of the state or the judicial branch
26 which is required by law to file vouchers with the Chief
27 Financial Officer ~~Comptroller~~ shall keep a record of the date
28 of receipt of the invoice; dates of receipt, inspection, and
29 approval of the goods or services; date of filing of the
30 voucher; and date of issuance of the warrant in payment
31 thereof. If the voucher is not filed or the warrant is not

1 issued within the time required, an explanation in writing by
2 the agency head or the Chief Justice shall be submitted to the
3 Department of Financial Services ~~Banking and Finance~~ in a
4 manner prescribed by it. Agencies and the judicial branch
5 shall continue to deliver or mail state payments promptly.

6 (b) If a warrant in payment of an invoice is not
7 issued within 40 days after receipt of the invoice and
8 receipt, inspection, and approval of the goods and services,
9 the agency or judicial branch shall pay to the vendor, in
10 addition to the amount of the invoice, interest at a rate as
11 established pursuant to s. 55.03(1) on the unpaid balance from
12 the expiration of such 40-day period until such time as the
13 warrant is issued to the vendor. Such interest shall be added
14 to the invoice at the time of submission to the Chief
15 Financial Officer ~~Comptroller~~ for payment whenever possible.

16 If addition of the interest penalty is not possible, the
17 agency or judicial branch shall pay the interest penalty
18 payment within 15 days after issuing the warrant. The
19 provisions of this paragraph apply only to undisputed amounts
20 for which payment has been authorized. Disputes shall be
21 resolved in accordance with rules developed and adopted by the
22 Chief Justice for the judicial branch, and rules adopted by
23 the Department of Financial Services ~~Banking and Finance~~ or in
24 a formal administrative proceeding before an administrative
25 law judge of the Division of Administrative Hearings for state
26 agencies, provided that, for the purposes of ss. 120.569 and
27 120.57(1), no party to a dispute involving less than \$1,000 in
28 interest penalties shall be deemed to be substantially
29 affected by the dispute or to have a substantial interest in
30 the decision resolving the dispute. In the case of an error on
31 the part of the vendor, the 40-day period shall begin to run

1 upon receipt by the agency or the judicial branch of a
2 corrected invoice or other remedy of the error. The provisions
3 of this paragraph do not apply when the filing requirement
4 under subsection (1) or subsection (2) has been waived in
5 whole by the Department of Financial Services ~~Banking and~~
6 ~~Finance~~. The various state agencies and the judicial branch
7 shall be responsible for initiating the penalty payments
8 required by this subsection and shall use this subsection as
9 authority to make such payments. The budget request submitted
10 to the Legislature shall specifically disclose the amount of
11 any interest paid by any agency or the judicial branch
12 pursuant to this subsection. The temporary unavailability of
13 funds to make a timely payment due for goods or services does
14 not relieve an agency or the judicial branch from the
15 obligation to pay interest penalties under this section.

16 (c) An agency or the judicial branch may make partial
17 payments to a contractor upon partial delivery of goods or
18 services or upon partial completion of construction when a
19 request for such partial payment is made by the contractor and
20 approved by the agency. Provisions of this section and rules
21 of the Department of Financial Services ~~Banking and Finance~~
22 shall apply to partial payments in the same manner as they
23 apply to full payments.

24 (4) If the terms of the invoice provide a discount for
25 payment in less than 30 days, agencies of the state and the
26 judicial branch shall preferentially process it and use all
27 diligence to obtain the saving by compliance with the invoice
28 terms.

29 (5) All purchasing agreements between a state agency
30 or the judicial branch and a vendor, applicable to this
31 section, shall include a statement of the vendor's rights and

1 the state's responsibilities under this section. The vendor's
2 rights shall include being provided with the telephone number
3 of the vendor ombudsman within the Department of Financial
4 Services ~~Banking and Finance~~, which information shall also be
5 placed on all agency or judicial branch purchase orders.

6 (6) The Department of Financial Services ~~Banking and~~
7 ~~Finance~~ shall monitor each agency's and the judicial branch's
8 compliance with the time limits and interest penalty
9 provisions of this section. The department shall provide a
10 report to an agency or to the judicial branch if the
11 department determines that the agency or the judicial branch
12 has failed to maintain an acceptable rate of compliance with
13 the time limits and interest penalty provisions of this
14 section. The department shall establish criteria for
15 determining acceptable rates of compliance. The report shall
16 also include a list of late vouchers or payments, the amount
17 of interest owed or paid, and any corrective actions
18 recommended. The department shall perform monitoring
19 responsibilities, pursuant to this section, using the
20 Management Services and Purchasing Subsystem or the Florida
21 Accounting Information Resource Subsystem provided in s.
22 215.94. Each agency and the judicial branch shall be
23 responsible for the accuracy of information entered into the
24 Management Services and Purchasing Subsystem and the Florida
25 Accounting Information Resource Subsystem for use in this
26 monitoring.

27 (7) There is created a vendor ombudsman within the
28 Department of Financial Services ~~Banking and Finance~~ who shall
29 be responsible for the following functions:

30 (a) Performing the duties of the department pursuant
31 to subsection (6).

1 (b) Reviewing requests for waivers due to exceptional
2 circumstances.

3 (c) Disseminating information relative to the prompt
4 payment policies of this state and assisting vendors in
5 receiving their payments in a timely manner.

6 (d) Performing such other duties as determined by the
7 department.

8 (8) The Department of Financial Services ~~Banking and~~
9 ~~Finance~~ is authorized and directed to adopt and promulgate
10 rules and regulations to implement this section and for
11 resolution of disputes involving amounts of less than \$1,000
12 in interest penalties for state agencies. No agency or the
13 judicial branch shall adopt any rule or policy that is
14 inconsistent with this section or the Department of Financial
15 Services ~~Banking and Finance's~~ rules or policies.

16 (9) Each agency and the judicial branch shall include
17 in the official position description of every officer or
18 employee who is responsible for the approval or processing of
19 vendors' invoices or distribution of warrants to vendors that
20 the requirements of this section are mandatory.

21 (10) Persistent failure to comply with this section by
22 any agency of the state or the judicial branch shall
23 constitute good cause for discharge of employees duly found
24 responsible, or predominantly responsible, for failure to
25 comply.

26 (11) Travel and other reimbursements to state officers
27 and employees must be the same as payments to vendors under
28 this section, except payment of Class C travel subsistence.
29 Class C travel subsistence shall be paid in accordance with
30 the schedule established by the Chief Financial Officer
31 ~~Comptroller~~ pursuant to s. 112.061(5)(b). This section does

1 not apply to payments made to state agencies, the judicial
2 branch, or the legislative branch.

3 (12) In the event that a state agency or the judicial
4 branch contracts with a third party, uses a revolving fund, or
5 pays from a local bank account to process and pay invoices for
6 goods or services, all requirements for financial obligations
7 and time processing set forth in this section shall be
8 applicable and the state agency or the judicial branch shall
9 be responsible for paying vendors the interest assessed for
10 untimely payment. The state agency or the judicial branch may,
11 through its contract with a third party, require the third
12 party to pay interest from the third party's funds.

13 (13) Notwithstanding the provisions of subsections (3)
14 and (12), in order to alleviate any hardship that may be
15 caused to a health care provider as a result of delay in
16 receiving reimbursement for services, any payment or payments
17 for hospital, medical, or other health care services which are
18 to be reimbursed by a state agency or the judicial branch,
19 either directly or indirectly, shall be made to the health
20 care provider not more than 35 days from the date eligibility
21 for payment of such claim is determined. If payment is not
22 issued to a health care provider within 35 days after the date
23 eligibility for payment of the claim is determined, the state
24 agency or the judicial branch shall pay the health care
25 provider interest at a rate of 1 percent per month calculated
26 on a calendar day basis on the unpaid balance from the
27 expiration of such 35-day period until such time as payment is
28 made to the health care provider, unless a waiver in whole has
29 been granted by the Department of Financial Services ~~Banking~~
30 ~~and Finance~~ pursuant to subsection (1) or subsection (2).

31

1 (14) The Chief Financial Officer ~~Comptroller~~ may adopt
2 rules to authorize advance payments for goods and services,
3 including, but not limited to, maintenance agreements and
4 subscriptions. Such rules shall provide objective criteria
5 for determining when it is in the best interest of the state
6 to make payments in advance and shall also provide for
7 adequate protection to ensure that such goods or services will
8 be provided.

9 (15) Nothing contained in this section shall be
10 construed to be an appropriation. Any interest which becomes
11 due and owing pursuant to this section shall only be payable
12 from the appropriation charged for such goods or services.

13 (16) Notwithstanding the provisions of s. 24.120(3),
14 applicable to warrants issued for payment of invoices
15 submitted by the Department of the Lottery, the Chief
16 Financial Officer ~~Comptroller~~ may, by written agreement with
17 the Department of the Lottery, establish a shorter time
18 requirement than the 10 days provided in subsection (2) for
19 warrants issued for payment. Pursuant to such written
20 agreement, the Department of the Lottery shall reimburse the
21 Chief Financial Officer ~~Comptroller~~ for costs associated with
22 processing invoices under the agreement.

23 Section 220. Subsection (1) of section 215.44, Florida
24 Statutes, is amended to read:

25 215.44 Board of Administration; powers and duties in
26 relation to investment of trust funds.--

27 (1) Except when otherwise specifically provided by the
28 State Constitution and subject to any limitations of the trust
29 agreement relating to a trust fund, the Board of
30 Administration, hereinafter sometimes referred to as "board,"
31 composed of the Governor as chair, the Chief Financial Officer

1 ~~Treasurer~~, and the Attorney General ~~Comptroller~~, shall invest
2 all the funds in the System Trust Fund, as defined in s.
3 121.021(36), and all other funds specifically required by law
4 to be invested by the board pursuant to ss. 215.44-215.53 to
5 the fullest extent that is consistent with the cash
6 requirements, trust agreement, and investment objectives of
7 the fund. Notwithstanding any other law to the contrary, the
8 State Board of Administration may invest any funds of any
9 state agency or any unit of local government pursuant to the
10 terms of a trust agreement with the head of the state agency
11 or the governing body of the unit of local government, which
12 trust agreement shall govern the investment of such funds,
13 provided that the board shall approve the undertaking of such
14 investment before execution of the trust agreement by the
15 State Board of Administration. The funds and the earnings
16 therefrom are exempt from the service charge imposed by s.
17 215.20. As used in this subsection, the term "state agency"
18 has the same meaning as that provided in s. 216.001, and the
19 terms "governing body" and "unit of local government" have the
20 same meaning as that provided in s. 218.403.

21 Section 221. Section 215.50, Florida Statutes, is
22 amended to read:

23 215.50 Custody of securities purchased; income.--
24 (1) All securities purchased or held may, with the
25 approval of the board, be in the custody of the Chief
26 Financial Officer ~~Treasurer~~ or the Chief Financial Officer
27 ~~Treasurer~~ as treasurer ex officio of the board, or be
28 deposited with a bank or trust company to be held in
29 safekeeping by such bank or trust company for the collection
30 of principal and interest or of the proceeds of the sale
31 thereof.

1 (2) It shall be the duty of the board or of the Chief
2 Financial Officer ~~Treasurer~~, as custodian of the securities of
3 the board, to collect the interest or other income on, and the
4 principal of, such securities in their custody as the sums
5 become due and payable and to pay the same, when so collected,
6 into the investment account of the fund to which the
7 investments belong.

8 (3) The Chief Financial Officer ~~Treasurer~~, as
9 custodian of securities owned by the Florida Retirement System
10 Trust Fund and the Florida Survivor Benefit Trust Fund, shall
11 collect the interest, dividends, prepayments, maturities,
12 proceeds from sales, and other income accruing from such
13 assets. As such income is collected by the Chief Financial
14 Officer ~~Treasurer~~, it shall be deposited directly into a
15 commercial bank to the credit of the State Board of
16 Administration. Such bank accounts as may be required for
17 this purpose shall offer satisfactory collateral security as
18 provided by chapter 280. In the event funds so deposited
19 according to the provisions of this section are required for
20 the purpose of paying benefits or other operational needs, the
21 State Board of Administration shall remit to the Florida
22 Retirement System Trust Fund in the State Treasury such
23 amounts as may be requested by the Department of Management
24 Services.

25 (4) Securities that the board selects to use for
26 options operations under s. 215.45 or for lending under s.
27 215.47(16) shall be registered by the Chief Financial Officer
28 ~~Treasurer~~ in the name of a third-party nominee in order to
29 facilitate such operations.

30 Section 222. Section 215.551, Florida Statutes, is
31 amended to read:

1 215.551 Federal Use of State Lands Trust Fund; county
2 distribution.--

3 (1) The Chief Financial Officer ~~Comptroller~~ may make
4 distribution of the Federal Use of State Lands Trust Fund,
5 when so requested by the counties in interest, of such amounts
6 as may be accumulated in that fund.

7 (2) The Chief Financial Officer ~~Comptroller~~ shall
8 ascertain, from the records of the General Land Office or
9 other departments in Washington, D.C., the number of acres of
10 land situated in the several counties in which the
11 Apalachicola, Choctawhatchee, Ocala, and Osceola Forest
12 Reserves are located, the number of acres of land of such
13 forest reserve embraced in each of the counties in each of the
14 reserves, and, also, the amount of money received by the
15 United States Government from each of the reserves,
16 respectively. The Chief Financial Officer ~~Comptroller~~ shall
17 apportion the money on hand to each county in each reserve,
18 respectively and separately; such distribution shall be based
19 upon the number of acres of land embraced in the Apalachicola
20 Forest, Choctawhatchee Forest, Ocala Forest, and Osceola
21 Forest, respectively, in each county and shall be further
22 based upon the amount collected by the United States from each
23 of such forests, so that such distribution, when made, will
24 include for each county the amount due each county, based upon
25 the receipts for the particular forest and the acreage in the
26 particular county in which such forest is located. The Chief
27 Financial Officer ~~Comptroller~~ shall issue two warrants ~~on the~~
28 ~~Treasurer~~ in each case, the sum of which shall be the amount
29 due each of such counties from the fund. One warrant shall be
30 payable to the county for the county general road fund, and
31

1 one warrant, of equal amount, shall be payable to such
2 county's district school board for the district school fund.

3 (3) In the event that actual figures of receipts from
4 different reserves cannot be obtained by counties, so as to
5 fully comply with subsections (1) and (2), the Chief Financial
6 Officer ~~Comptroller~~ may adjust the matter according to the
7 United States statutes, or as may appear to him or her to be
8 just and fair, and with the approval of all counties in
9 interest.

10 (4) The moneys that may be received and credited to
11 the Federal Use of State Lands Trust Fund are appropriated for
12 the payment of the warrants of the Chief Financial Officer
13 ~~Comptroller drawn on the Treasurer~~ in pursuance of this
14 section.

15 Section 223. Section 215.552, Florida Statutes, is
16 amended to read:

17 215.552 Federal Use of State Lands Trust Fund; land
18 within military installations; county distribution.--The Chief
19 Financial Officer ~~Comptroller~~ shall distribute moneys from the
20 Federal Use of State Lands Trust Fund when so requested by the
21 counties so affected. The Chief Financial Officer ~~Comptroller~~
22 shall apportion the money on hand equal to the percentage of
23 land in each county within each military installation, and the
24 amount so apportioned to each county shall be applied by such
25 counties equally divided between the district school fund and
26 the general road fund of such counties.

27 Section 224. Paragraph (c) of subsection (2),
28 paragraph (d) of subsection (4), and paragraphs (a), (b), and
29 (c) of subsection (6) of section 215.555, Florida Statutes,
30 are amended to read:

31 215.555 Florida Hurricane Catastrophe Fund.--

1 (2) DEFINITIONS.--As used in this section:

2 (c) "Covered policy" means any insurance policy
3 covering residential property in this state, including, but
4 not limited to, any homeowner's, mobile home owner's, farm
5 owner's, condominium association, condominium unit owner's,
6 tenant's, or apartment building policy, or any other policy
7 covering a residential structure or its contents issued by any
8 authorized insurer, including any joint underwriting
9 association or similar entity created pursuant to law.
10 Additionally, covered policies include policies covering the
11 peril of wind removed from the Florida Residential Property
12 and Casualty Joint Underwriting Association, created pursuant
13 to s. 627.351(6), or from the Florida Windstorm Underwriting
14 Association, created pursuant to s. 627.351(2), by an
15 authorized insurer under the terms and conditions of an
16 executed assumption agreement between the authorized insurer
17 and either such association. Each assumption agreement between
18 either association and such authorized insurer must be
19 approved by the Florida Department of Financial Services
20 ~~insurance~~ prior to the effective date of the assumption, and
21 the Department of Financial Services ~~insurance~~ must provide
22 written notification to the board within 15 working days after
23 such approval. "Covered policy" does not include any policy
24 that excludes wind coverage or hurricane coverage or any
25 reinsurance agreement and does not include any policy
26 otherwise meeting this definition which is issued by a surplus
27 lines insurer or a reinsurer.

28 (4) REIMBURSEMENT CONTRACTS.--

29 (d)1. For purposes of determining potential liability
30 and to aid in the sound administration of the fund, the
31 contract shall require each insurer to report such insurer's

1 losses from each covered event on an interim basis, as
2 directed by the board. The contract shall require the insurer
3 to report to the board no later than December 31 of each year,
4 and quarterly thereafter, its reimbursable losses from covered
5 events for the year. The contract shall require the board to
6 determine and pay, as soon as practicable after receiving
7 these reports of reimbursable losses, the initial amount of
8 reimbursement due and adjustments to this amount based on
9 later loss information. The adjustments to reimbursement
10 amounts shall require the board to pay, or the insurer to
11 return, amounts reflecting the most recent calculation of
12 losses.

13 2. In determining reimbursements pursuant to this
14 subsection, the contract shall provide that the board shall:

15 a. First reimburse insurers writing covered policies,
16 which insurers are in full compliance with this section and
17 have petitioned the Department of Financial Services Insurance
18 and qualified as limited apportionment companies under s.
19 627.351(2)(b)3. The amount of such reimbursement shall be the
20 lesser of \$10 million or an amount equal to 10 times the
21 insurer's reimbursement premium for the current year. The
22 amount of reimbursement paid under this sub-subparagraph may
23 not exceed the full amount of reimbursement promised in the
24 reimbursement contract. This sub-subparagraph does not apply
25 with respect to any contract year in which the year-end
26 projected cash balance of the fund, exclusive of any bonding
27 capacity of the fund, exceeds \$2 billion. Only one member of
28 any insurer group may receive reimbursement under this
29 sub-subparagraph.

30 b. Next pay to each insurer such insurer's projected
31 payout, which is the amount of reimbursement it is owed, up to

1 an amount equal to the insurer's share of the actual premium
2 paid for that contract year, multiplied by the actual
3 claims-paying capacity available for that contract year;
4 provided, entities created pursuant to s. 627.351 shall be
5 further reimbursed in accordance with sub-subparagraph c.

6 c. Thereafter, establish, based on reimbursable
7 losses, the prorated reimbursement level at the highest level
8 for which any remaining fund balance or bond proceeds are
9 sufficient to reimburse entities created pursuant to s.
10 627.351 for losses exceeding the amounts payable pursuant to
11 sub-subparagraph b. for the current contract year.

12 (6) REVENUE BONDS.--

13 (a) General provisions.--

14 1. Upon the occurrence of a hurricane and a
15 determination that the moneys in the fund are or will be
16 insufficient to pay reimbursement at the levels promised in
17 the reimbursement contracts, the board may take the necessary
18 steps under paragraph (b) or paragraph (c) for the issuance of
19 revenue bonds for the benefit of the fund. The proceeds of
20 such revenue bonds may be used to make reimbursement payments
21 under reimbursement contracts; to refinance or replace
22 previously existing borrowings or financial arrangements; to
23 pay interest on bonds; to fund reserves for the bonds; to pay
24 expenses incident to the issuance or sale of any bond issued
25 under this section, including costs of validating, printing,
26 and delivering the bonds, costs of printing the official
27 statement, costs of publishing notices of sale of the bonds,
28 and related administrative expenses; or for such other
29 purposes related to the financial obligations of the fund as
30 the board may determine. The term of the bonds may not exceed
31 30 years. The board may pledge or authorize the corporation to

1 | pledge all or a portion of all revenues under subsection (5)
2 | and under subparagraph 3. to secure such revenue bonds and the
3 | board may execute such agreements between the board and the
4 | issuer of any revenue bonds and providers of other financing
5 | arrangements under paragraph (7)(b) as the board deems
6 | necessary to evidence, secure, preserve, and protect such
7 | pledge. If reimbursement premiums received under subsection
8 | (5) or earnings on such premiums are used to pay debt service
9 | on revenue bonds, such premiums and earnings shall be used
10 | only after the use of the moneys derived from assessments
11 | under subparagraph 3. The funds, credit, property, or taxing
12 | power of the state or political subdivisions of the state
13 | shall not be pledged for the payment of such bonds. The board
14 | may also enter into agreements under paragraph (b) or
15 | paragraph (c) for the purpose of issuing revenue bonds in the
16 | absence of a hurricane upon a determination that such action
17 | would maximize the ability of the fund to meet future
18 | obligations.

19 | 2. The Legislature finds and declares that the
20 | issuance of bonds under this subsection is for the public
21 | purpose of paying the proceeds of the bonds to insurers,
22 | thereby enabling insurers to pay the claims of policyholders
23 | to assure that policyholders are able to pay the cost of
24 | construction, reconstruction, repair, restoration, and other
25 | costs associated with damage to property of policyholders of
26 | covered policies after the occurrence of a hurricane. Revenue
27 | bonds may not be issued under this subsection until validated
28 | under chapter 75. The validation of at least the first
29 | obligations incurred pursuant to this subsection shall be
30 | appealed to the Supreme Court, to be handled on an expedited
31 | basis.

1 3. If the board determines that the amount of revenue
2 produced under subsection (5) is insufficient to fund the
3 obligations, costs, and expenses of the fund and the
4 corporation, including repayment of revenue bonds, the board
5 shall direct the Department of Financial Services ~~Insurance~~ to
6 levy an emergency assessment on each insurer writing property
7 and casualty business in this state. Pursuant to the emergency
8 assessment, each such insurer shall pay to the corporation by
9 July 1 of each year an amount set by the board not exceeding 2
10 percent of its gross direct written premium for the prior year
11 from all property and casualty business in this state except
12 for workers' compensation, except that, if the Governor has
13 declared a state of emergency under s. 252.36 due to the
14 occurrence of a covered event, the amount of the assessment
15 for the contract year may be increased to an amount not
16 exceeding 4 percent of such premium. Any assessment authority
17 not used for the contract year may be used for a subsequent
18 contract year. If, for a subsequent contract year, the board
19 determines that the amount of revenue produced under
20 subsection (5) is insufficient to fund the obligations, costs,
21 and expenses of the fund and the corporation, including
22 repayment of revenue bonds for that contract year, the board
23 shall direct the Department of Financial Services ~~Insurance~~ to
24 levy an emergency assessment up to an amount not exceeding the
25 amount of unused assessment authority from a previous contract
26 year or years, plus an additional 2 percent if the Governor
27 has declared a state of emergency under s. 252.36 due to the
28 occurrence of a covered event. Any assessment authority not
29 used for the contract year may be used for a subsequent
30 contract year. As used in this subsection, the term "property
31 and casualty business" includes all lines of business

1 identified on Form 2, Exhibit of Premiums and Losses, in the
2 annual statement required by s. 624.424 and any rules adopted
3 under such section, except for those lines identified as
4 accident and health insurance. The annual assessments under
5 this subparagraph shall continue as long as the revenue bonds
6 issued with respect to which the assessment was imposed are
7 outstanding, unless adequate provision has been made for the
8 payment of such bonds pursuant to the documents authorizing
9 issuance of the bonds. An insurer shall not at any time be
10 subject to aggregate annual assessments under this
11 subparagraph of more than 2 percent of premium, except that in
12 the case of a declared emergency, an insurer shall not at any
13 time be subject to aggregate annual assessments under this
14 subparagraph of more than 6 percent of premium; provided, no
15 more than 4 percent may be assessed for any one contract year.
16 Any rate filing or portion of a rate filing reflecting a rate
17 change attributable entirely to the assessment levied under
18 this subparagraph shall be deemed approved when made, subject
19 to the authority of the Department of Financial Services
20 ~~Insurance~~ to require actuarial justification as to the
21 adequacy of any rate at any time. If the rate filing reflects
22 only a rate change attributable to the assessment under this
23 paragraph, the filing may consist of a certification so
24 stating. The assessments otherwise payable to the corporation
25 pursuant to this subparagraph shall be paid instead to the
26 fund unless and until the Department of Financial Services
27 ~~Insurance~~ has received from the corporation and the fund a
28 notice, which shall be conclusive and upon which the
29 Department of Financial Services ~~Insurance~~ may rely without
30 further inquiry, that the corporation has issued bonds and the
31 fund has no agreements in effect with local governments

1 pursuant to paragraph (b). On or after the date of such
2 notice and until such date as the corporation has no bonds
3 outstanding, the fund shall have no right, title, or interest
4 in or to the assessments, except as provided in the fund's
5 agreements with the corporation.

6 (b) Revenue bond issuance through counties or
7 municipalities.--

8 1. If the board elects to enter into agreements with
9 local governments for the issuance of revenue bonds for the
10 benefit of the fund, the board shall enter into such contracts
11 with one or more local governments, including agreements
12 providing for the pledge of revenues, as are necessary to
13 effect such issuance. The governing body of a county or
14 municipality is authorized to issue bonds as defined in s.
15 125.013 or s. 166.101 from time to time to fund an assistance
16 program, in conjunction with the Florida Hurricane Catastrophe
17 Fund, for the purposes set forth in this section or for the
18 purpose of paying the costs of construction, reconstruction,
19 repair, restoration, and other costs associated with damage to
20 properties of policyholders of covered policies due to the
21 occurrence of a hurricane by assuring that policyholders
22 located in this state are able to recover claims under
23 property insurance policies after a covered event.

24 2. In order to avoid needless and indiscriminate
25 proliferation, duplication, and fragmentation of such
26 assistance programs, any local government may provide for the
27 payment of fund reimbursements, regardless of whether or not
28 the losses for which reimbursement is made occurred within or
29 outside of the territorial jurisdiction of the local
30 government.

31

1 3. The state hereby covenants with holders of bonds
2 issued under this paragraph that the state will not repeal or
3 abrogate the power of the board to direct the Department of
4 Financial Services ~~Insurance~~ to levy the assessments and to
5 collect the proceeds of the revenues pledged to the payment of
6 such bonds as long as any such bonds remain outstanding unless
7 adequate provision has been made for the payment of such bonds
8 pursuant to the documents authorizing the issuance of such
9 bonds.

10 4. There shall be no liability on the part of, and no
11 cause of action shall arise against any members or employees
12 of the governing body of a local government for any actions
13 taken by them in the performance of their duties under this
14 paragraph.

15 (c) Florida Hurricane Catastrophe Fund Finance
16 Corporation.--

17 1. In addition to the findings and declarations in
18 subsection (1), the Legislature also finds and declares that:

19 a. The public benefits corporation created under this
20 paragraph will provide a mechanism necessary for the
21 cost-effective and efficient issuance of bonds. This mechanism
22 will eliminate unnecessary costs in the bond issuance process,
23 thereby increasing the amounts available to pay reimbursement
24 for losses to property sustained as a result of hurricane
25 damage.

26 b. The purpose of such bonds is to fund reimbursements
27 through the Florida Hurricane Catastrophe Fund to pay for the
28 costs of construction, reconstruction, repair, restoration,
29 and other costs associated with damage to properties of
30 policyholders of covered policies due to the occurrence of a
31 hurricane.

1 c. The efficacy of the financing mechanism will be
2 enhanced by the corporation's ownership of the assessments, by
3 the insulation of the assessments from possible bankruptcy
4 proceedings, and by covenants of the state with the
5 corporation's bondholders.

6 2.a. There is created a public benefits corporation,
7 which is an instrumentality of the state, to be known as the
8 Florida Hurricane Catastrophe Fund Finance Corporation.

9 b. The corporation shall operate under a five-member
10 board of directors consisting of the Governor or a designee,
11 the Chief Financial Officer ~~Comptroller~~ or a designee, the
12 director of the Division of Insurer Services of the Department
13 of Financial Services ~~Treasurer or a designee~~, the director of
14 the Division of Bond Finance of the State Board of
15 Administration, and the chief operating officer of the Florida
16 Hurricane Catastrophe Fund.

17 c. The corporation has all of the powers of
18 corporations under chapter 607 and under chapter 617, subject
19 only to the provisions of this subsection.

20 d. The corporation may issue bonds and engage in such
21 other financial transactions as are necessary to provide
22 sufficient funds to achieve the purposes of this section.

23 e. The corporation may invest in any of the
24 investments authorized under s. 215.47.

25 f. There shall be no liability on the part of, and no
26 cause of action shall arise against, any board members or
27 employees of the corporation for any actions taken by them in
28 the performance of their duties under this paragraph.

29 3.a. In actions under chapter 75 to validate any bonds
30 issued by the corporation, the notice required by s. 75.06
31 shall be published only in Leon County and in two newspapers

1 of general circulation in the state, and the complaint and
2 order of the court shall be served only on the State Attorney
3 of the Second Judicial Circuit.

4 b. The state hereby covenants with holders of bonds of
5 the corporation that the state will not repeal or abrogate the
6 power of the board to direct the Department of Financial
7 Services ~~Insurance~~ to levy the assessments and to collect the
8 proceeds of the revenues pledged to the payment of such bonds
9 as long as any such bonds remain outstanding unless adequate
10 provision has been made for the payment of such bonds pursuant
11 to the documents authorizing the issuance of such bonds.

12 4. The bonds of the corporation are not a debt of the
13 state or of any political subdivision, and neither the state
14 nor any political subdivision is liable on such bonds. The
15 corporation does not have the power to pledge the credit, the
16 revenues, or the taxing power of the state or of any political
17 subdivision. The credit, revenues, or taxing power of the
18 state or of any political subdivision shall not be deemed to
19 be pledged to the payment of any bonds of the corporation.

20 5.a. The property, revenues, and other assets of the
21 corporation; the transactions and operations of the
22 corporation and the income from such transactions and
23 operations; and all bonds issued under this paragraph and
24 interest on such bonds are exempt from taxation by the state
25 and any political subdivision, including the intangibles tax
26 under chapter 199 and the income tax under chapter 220. This
27 exemption does not apply to any tax imposed by chapter 220 on
28 interest, income, or profits on debt obligations owned by
29 corporations other than the Florida Hurricane Catastrophe Fund
30 Finance Corporation.

31

1 b. All bonds of the corporation shall be and
2 constitute legal investments without limitation for all public
3 bodies of this state; for all banks, trust companies, savings
4 banks, savings associations, savings and loan associations,
5 and investment companies; for all administrators, executors,
6 trustees, and other fiduciaries; for all insurance companies
7 and associations and other persons carrying on an insurance
8 business; and for all other persons who are now or may
9 hereafter be authorized to invest in bonds or other
10 obligations of the state and shall be and constitute eligible
11 securities to be deposited as collateral for the security of
12 any state, county, municipal, or other public funds. This
13 sub-subparagraph shall be considered as additional and
14 supplemental authority and shall not be limited without
15 specific reference to this sub-subparagraph.

16 6. The corporation and its corporate existence shall
17 continue until terminated by law; however, no such law shall
18 take effect as long as the corporation has bonds outstanding
19 unless adequate provision has been made for the payment of
20 such bonds pursuant to the documents authorizing the issuance
21 of such bonds. Upon termination of the existence of the
22 corporation, all of its rights and properties in excess of its
23 obligations shall pass to and be vested in the state.

24 Section 225. Subsection (5) of section 215.559,
25 Florida Statutes, is amended to read:

26 215.559 Hurricane Loss Mitigation Program.--

27 (5) Except for the program set forth in subsection
28 (3), the Department of Community Affairs shall develop the
29 programs set forth in this section in consultation with an
30 advisory council consisting of a representative designated by
31 the Department of Financial Services ~~Insurance~~, a

1 representative designated by the Florida Home Builders
2 Association, a representative designated by the Florida
3 Insurance Council, a representative designated by the
4 Federation of Manufactured Home Owners, a representative
5 designated by the Florida Association of Counties, and a
6 representative designated by the Florida Manufactured Housing
7 Association.

8 Section 226. Paragraph (c) of subsection (1) and
9 paragraph (a) of subsection (3) of section 215.56005, Florida
10 Statutes, are amended to read:

11 215.56005 Tobacco Settlement Financing Corporation.--

12 (1) DEFINITIONS.--As used in this section:

13 (c) "Department" means the Department of Financial
14 Services ~~Banking and Finance~~ or its successor.

15 (3) POWERS OF THE DEPARTMENT.--

16 (a) The department is authorized, on behalf of the
17 state, to do all things necessary or desirable to assist the
18 corporation in the execution of the corporation's
19 responsibilities, including, but not limited to, processing
20 budget amendments against the Department of Financial Services
21 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund,
22 subject to the requirements of s. 216.177, for the costs and
23 expenses of administration of the corporation in an amount not
24 to exceed \$500,000; entering into one or more purchase
25 agreements to sell to the corporation any or all of the
26 state's right, title, and interest in and to the tobacco
27 settlement agreement; executing any administrative agreements
28 with the corporation to fund the administration, operation,
29 and expenses of the corporation from moneys appropriated for
30 such purpose; and executing and delivering any and all other
31 documents and agreements necessary or desirable in connection

1 with the sale of any or all of the state's right, title, and
2 interest in and to the tobacco settlement agreement to the
3 corporation or the issuance of the bonds by the corporation.
4 The department's authority to sell any or all of the state's
5 right, title, and interest in and to the tobacco settlement
6 agreement is subject to approval by the Legislature in a
7 regular, extended, or special session.

8 Section 227. Subsection (3) and paragraph (a) of
9 subsection (5) of section 215.5601, Florida Statutes, are
10 amended to read:

11 215.5601 Lawton Chiles Endowment Fund.--

12 (3) LAWTON CHILES ENDOWMENT FUND; CREATION;
13 PRINCIPAL.--

14 (a) There is created the Lawton Chiles Endowment Fund,
15 to be administered by the State Board of Administration. The
16 endowment shall serve as a clearing trust fund, not subject to
17 termination under s. 19(f), Art. III of the State
18 Constitution. The endowment fund shall be exempt from the
19 service charges imposed by s. 215.20.

20 (b) The endowment shall receive moneys from the sale
21 of the state's right, title, and interest in and to the
22 tobacco settlement agreement as defined in s. 215.56005,
23 including the right to receive payments under such agreement,
24 and from accounts transferred from the Department of Financial
25 Services ~~Banking and Finance~~ Tobacco Settlement Clearing Trust
26 Fund established under s. 17.41. Amounts to be transferred
27 from the Department of Financial Services ~~Banking and Finance~~
28 Tobacco Settlement Clearing Trust Fund to the endowment shall
29 be in the following amounts for the following fiscal years:

- 30 1. For fiscal year 1999-2000, \$1.1 billion;
31 2. For fiscal year 2000-2001, \$200 million;

1 3. For fiscal year 2001-2002, \$200 million;
2 4. For fiscal year 2002-2003, \$200 million; and
3 (c) Amounts to be transferred under subparagraphs
4 (b)2., 3., and 4. may be reduced by an amount equal to the
5 lesser of \$200 million or the amount the endowment receives in
6 that fiscal year from the sale of the state's right, title,
7 and interest in and to the tobacco settlement agreement.
8 (d) For fiscal year 2001-2002, \$150 million of the
9 existing principal in the endowment shall be reserved and
10 accounted for within the endowment, the income from which
11 shall be used solely for the funding for biomedical research
12 activities as provided in s. 215.5602. The income from the
13 remaining principal shall be used solely as the source of
14 funding for health and human services programs for children
15 and elders as provided in subsection (5). The separate account
16 for biomedical research shall be dissolved and the entire
17 principal in the endowment shall be used exclusively for
18 health and human services programs when cures have been found
19 for tobacco-related cancer, heart, and lung disease.
20 (5) AVAILABILITY OF FUNDS; USES.--
21 (a) Funds from the endowment which are available for
22 legislative appropriation shall be transferred by the board to
23 the Department of Financial Services ~~Banking and Finance~~
24 Tobacco Settlement Clearing Trust Fund, created in s. 17.41,
25 and disbursed in accordance with the legislative
26 appropriation.
27 1. Appropriations by the Legislature to the Department
28 of Health from endowment earnings from the principal set aside
29 for biomedical research shall be from a category called the
30 Florida Biomedical Research Program and shall be deposited
31

1 into the Biomedical Research Trust Fund in the Department of
2 Health established in s. 20.435.

3 2. Appropriations by the Legislature to the Department
4 of Children and Family Services, the Department of Health, or
5 the Department of Elderly Affairs for health and human
6 services programs shall be from a category called the Lawton
7 Chiles Endowment Fund Programs and shall be deposited into
8 each department's respective Tobacco Settlement Trust Fund as
9 appropriated.

10 Section 228. Section 215.58, Florida Statutes, is
11 amended to read:

12 215.58 Definitions relating to State Bond Act.--The
13 following words or terms when used in this act shall have the
14 following meanings:

15 (1) "Governor" means ~~shall mean~~ the Governor of the
16 state or any Acting Governor or other person then exercising
17 the duties of the office of Governor.

18 ~~(2) "Treasurer" shall mean the Insurance Commissioner
19 and Treasurer.~~

20 ~~(3) "Comptroller" shall mean the State Comptroller.~~

21 ~~(2)(4)~~ "State" means ~~shall mean~~ the State of Florida.

22 ~~(3)(5)~~ "Division" means ~~shall mean~~ the Division of
23 Bond Finance.

24 ~~(4)(6)~~ "Board" means ~~shall mean~~ the governing board of
25 ~~the said~~ division, which shall be composed of the Governor and
26 Cabinet.

27 ~~(5)(7)~~ "Director" means ~~shall mean~~ the chief
28 administrator of the division, who shall act on behalf of the
29 division when authorized by the board, as provided by this
30 act.

31

1 (6)~~(8)~~ "State agency" means ~~shall mean~~ any board,
2 commission, authority, or other state agency heretofore or
3 hereafter created by the constitution or statutes of the
4 state.

5 (7)~~(9)~~ "Bonds" means ~~shall mean~~ state bonds, or any
6 revenue bonds, certificates or other obligations heretofore or
7 hereafter authorized to be issued by said division or by any
8 state agency.

9 (8)~~(10)~~ "State bonds" means ~~shall mean~~ bonds pledging
10 the full faith and credit of the State of Florida.

11 (9)~~(11)~~ "Legislature" means ~~shall mean~~ the State
12 Legislature.

13 (11)~~(12)~~ "Constitution" means ~~shall mean~~ the existing
14 constitution of the state, or any constitution hereafter
15 adopted by the people of the state, together with all
16 amendments thereof.

17 (11)~~(13)~~ "Original issue discount" means the amount by
18 which the par value of a bond exceeds its public offering
19 price at the time it is originally offered to an investor.

20 (12)~~(14)~~ "Governmental agency" means ~~shall mean~~:

21 (a) The state or any department, commission, agency,
22 or other instrumentality thereof.

23 (b) Any county or municipality or any department,
24 commission, agency, or other instrumentality thereof.

25 (c) Any school board or special district, authority,
26 or governmental entity.

27 Section 229. Subsection (1) of section 215.62, Florida
28 Statutes, is amended to read:

29 215.62 Division of Bond Finance.--

30 (1) There is ~~hereby~~ created a division of the State
31 Board of Administration of the state to be known as the

1 Division of Bond Finance. The Governor shall be the chair of
2 the governing board of the division, the Attorney General
3 ~~Comptroller~~ shall be the secretary of the board, and the Chief
4 Financial Officer ~~Treasurer~~ shall be the treasurer of the
5 board for the purposes of this act. The division shall be a
6 public body corporate for the purposes of this act.

7 Section 230. Subsections (2), (3), (4), (5), and (8)
8 of section 215.684, Florida Statutes, are amended to read:

9 215.684 Limitation on engaging services of securities
10 broker or bond underwriter convicted of fraud.--

11 (2) Upon notification under chapter 517 that a person
12 or firm has been convicted or has pleaded as provided in
13 subsection (1), the Chief Financial Officer ~~Comptroller~~ shall
14 issue a notice of intent to take action to disqualify such
15 person or firm, which notice must 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
31

1 (3) The Chief Financial Officer ~~Comptroller~~ shall
2 decide, based on the following criteria, whether or not to
3 mitigate the duration of the disqualification:

4 (a) The nature and details of the crime;

5 (b) The degree of culpability of the person or firm
6 proposed to be requalified;

7 (c) Prompt or voluntary payment of any damages or
8 penalty as a result of the conviction and disassociation from
9 any other person or firm involved in the crimes of fraud;

10 (d) Cooperation with state or federal investigation or
11 prosecution of the crime of fraud;

12 (e) Prior or future self-policing by the person or
13 firm to prevent crimes of fraud; and

14 (f) Reinstatement or clemency in any jurisdiction in
15 relation to the crime at issue in the proceeding.

16 (4) If the Chief Financial Officer ~~Comptroller~~ in his
17 or her sole discretion decides to mitigate the duration of the
18 disqualification based on the foregoing, the duration of
19 disqualification shall be for any period the Chief Financial
20 Officer ~~Comptroller~~ specifies up to 2 years from the date of
21 the person's or firm's conviction or plea. If the Chief
22 Financial Officer ~~Comptroller~~ refuses to mitigate the duration
23 of the disqualification, such person or firm may again file
24 for mitigation no sooner than 9 months after denial by the
25 Chief Financial Officer ~~Comptroller~~.

26 (5) Notwithstanding subsection (4), a firm or person
27 at any time may petition the Chief Financial Officer
28 ~~Comptroller~~ for termination of the disqualification based upon
29 a reversal of the conviction of the firm or person by an
30 appellate court or a pardon.

31

1 (8) Except when otherwise provided by law for crimes
2 of fraud with respect to the transaction of business with any
3 public entity or with an agency or political subdivision of
4 any other state or with the United States, this act
5 constitutes the sole authorization for determining when a
6 person or firm convicted or having pleaded guilty or nolo
7 contendere to the crime of fraud may not be engaged to provide
8 services as a securities broker or bond underwriter with the
9 state. Nothing in this act shall be construed to affect the
10 authority granted the Chief Financial Officer ~~Comptroller~~
11 under chapter 517 to revoke or suspend the license of such
12 securities dealer or bond underwriter.

13 Section 231. Subsection (4) of section 215.70, Florida
14 Statutes, is amended to read:

15 215.70 State Board of Administration to act in case of
16 defaults.--

17 (4) Whenever it becomes necessary for state funds to
18 be appropriated for the payment of principal or interest on
19 bonds which have been issued by the Division of Bond Finance
20 on behalf of any local government or authority and for which
21 the full faith and credit of the state has been pledged, any
22 state shared revenues otherwise earmarked for the local
23 government or authority shall be used by the Chief Financial
24 Officer ~~Comptroller~~ to reimburse the state, until the local
25 government or authority has reimbursed the state in full.

26 Section 232. Subsection (4) of section 215.91, Florida
27 Statutes, is amended to read:

28 215.91 Florida Financial Management Information
29 System; board; council.--

30 (4) The council shall provide ongoing counsel to the
31 board and act to resolve problems among or between the

1 functional owner subsystems. The board, through the
2 coordinating council, shall direct and manage the development,
3 implementation, and operation of the information subsystems
4 that together are the Florida Financial Management Information
5 System. The coordinating council shall approve the
6 information subsystems' designs prior to the development,
7 implementation, and operation of the subsystems and shall
8 approve subsequent proposed design modifications to the
9 information subsystems subject to the guidelines issued by the
10 council. The coordinating council shall ensure that the
11 information subsystems' operations support the exchange of
12 unified and coordinated data between information subsystems.
13 The coordinating council shall establish the common data codes
14 for financial management, and it shall require and ensure the
15 use of common data codes by the information subsystems that
16 together constitute the Florida Financial Management
17 Information System. The Chief Financial Officer ~~Comptroller~~
18 shall adopt a chart of accounts consistent with the common
19 financial management data codes established by the
20 coordinating council. The board, through the coordinating
21 council, shall establish the financial management policies and
22 procedures for the executive branch of state government. The
23 coordinating council shall notify in writing the chairs of the
24 legislative fiscal committees and the Chief Justice of the
25 Supreme Court regarding the adoption of, or modification to, a
26 proposed financial management policy or procedure. The notice
27 shall solicit comments from the chairs of the legislative
28 fiscal committees and the Chief Justice of the Supreme Court
29 at least 14 consecutive days before the final action by the
30 coordinating council.
31

1 Section 233. Subsection (5) of section 215.92, Florida
2 Statutes, is amended to read:

3 215.92 Definitions relating to Florida Financial
4 Management Information System Act.--For the purposes of ss.
5 215.90-215.96:

6 (5) "Design and coordination staff" means the
7 personnel responsible for providing administrative and
8 clerical support to the board, coordinating council, and
9 secretary to the board. The design and coordination staff
10 shall function as the agency clerk for the board and the
11 coordinating council. For administrative purposes, the design
12 and coordination staff are assigned to the Department of
13 Financial Services ~~Banking and Finance~~ but they are
14 functionally assigned to the board.

15 Section 234. Subsection (3) of section 215.93, Florida
16 Statutes, is amended to read:

17 215.93 Florida Financial Management Information
18 System.--

19 (3) The Florida Financial Management Information
20 System shall include financial management data and utilize the
21 chart of accounts approved by the Chief Financial Officer
22 ~~Comptroller~~. Common financial management data shall include,
23 but not be limited to, data codes, titles, and definitions
24 used by one or more of the functional owner subsystems. The
25 Florida Financial Management Information System shall utilize
26 common financial management data codes. The council shall
27 recommend and the board shall adopt policies regarding the
28 approval and publication of the financial management data.
29 The Chief Financial Officer ~~Comptroller~~ shall adopt policies
30 regarding the approval and publication of the chart of
31 accounts. The Chief Financial Officer's ~~Comptroller's~~ chart

1 of accounts shall be consistent with the common financial
2 management data codes established by the coordinating council.
3 Further, all systems not a part of the Florida Financial
4 Management Information System which provide information to the
5 system shall use the common data codes from the Florida
6 Financial Management Information System and the Chief
7 Financial Officer's ~~Comptroller's~~ chart of accounts. Data
8 codes that cannot be supplied by the Florida Financial
9 Management Information System and the Chief Financial
10 Officer's ~~Comptroller's~~ chart of accounts and that are
11 required for use by the information subsystems shall be
12 approved by the board upon recommendation of the coordinating
13 council. However, board approval shall not be required for
14 those data codes specified by the Auditor General under the
15 provisions of s. 215.94(6)(c).

16 Section 235. Subsections (2) and (3) and paragraph (a)
17 of subsection (5) of section 215.94, Florida Statutes, are
18 amended to read:

19 215.94 Designation, duties, and responsibilities of
20 functional owners.--

21 (2) The Department of Financial Services ~~Banking and~~
22 ~~Finance~~ shall be the functional owner of the Florida
23 Accounting Information Resource Subsystem established pursuant
24 to ss. 17.03, 215.86, 216.141, and 216.151 and further
25 developed in accordance with the provisions of ss.

26 215.90-215.96. The subsystem shall include, but shall not be
27 limited to, the following functions:

28 (a) Accounting and reporting so as to provide timely
29 data for producing financial statements for the state in
30 accordance with generally accepted accounting principles.

31 (b) Auditing and settling claims against the state.

1 (3) The Chief Financial Officer ~~Treasurer~~ shall be the
2 functional owner of the Cash Management Subsystem. The Chief
3 Financial Officer ~~Treasurer~~ shall design, implement, and
4 operate the subsystem in accordance with the provisions of ss.
5 215.90-215.96. The subsystem shall include, but shall not be
6 limited to, functions for:

7 (a) Recording and reconciling credits and debits to
8 treasury fund accounts.

9 (b) Monitoring cash levels and activities in state
10 bank accounts.

11 (c) Monitoring short-term investments of idle cash.

12 (d) Administering the provisions of the Federal Cash
13 Management Improvement Act of 1990.

14 (5) The Department of Management Services shall be the
15 functional owner of the Cooperative Personnel Employment
16 Subsystem. The department shall design, implement, and
17 operate the subsystem in accordance with the provisions of ss.
18 110.116 and 215.90-215.96. The subsystem shall include, but
19 shall not be limited to, functions for:

20 (a) Maintenance of employee and position data,
21 including funding sources and percentages and salary lapse.
22 The employee data shall include, but not be limited to,
23 information to meet the payroll system requirements of the
24 Department of Financial Services ~~Banking and Finance~~ and to
25 meet the employee benefit system requirements of the
26 Department of Management Services.

27 Section 236. Subsection (1) of section 215.95, Florida
28 Statutes, is amended to read:

29 215.95 Financial Management Information Board.--

30 (1) There is created, as part of the Administration
31 Commission, the Financial Management Information Board. The

1 board shall be composed of the Governor, the Chief Financial
2 Officer ~~Comptroller~~, and the Attorney General ~~Treasurer~~. The
3 Governor shall be chair of the board. The Governor or the
4 Chief Financial Officer ~~Comptroller~~ may call a meeting of the
5 board at any time the need arises.

6 Section 237. Subsections (1) and (2) of section
7 215.96, Florida Statutes, are amended to read:

8 215.96 Coordinating council and design and
9 coordination staff.--

10 (1) The Chief Financial Officer ~~Comptroller~~, as chief
11 fiscal officer of the state, shall establish a coordinating
12 council to function on a continuing basis. The coordinating
13 council shall review and recommend to the board solutions and
14 policy alternatives to ensure coordination between functional
15 owners of the various information subsystems described in ss.
16 215.90-215.96 to the extent necessary to unify all the
17 subsystems into a financial management information system.

18 (2) The coordinating council shall consist of the
19 Chief Financial Officer ~~Comptroller~~; ~~the Treasurer~~; the
20 secretary of the Department of Management Services; and the
21 Director of Planning and Budgeting, Executive Office of the
22 Governor, or their designees. The Chief Financial Officer
23 ~~Comptroller~~, or his or her designee, shall be chair of the
24 coordinating council, and the design and coordination staff
25 shall provide administrative and clerical support to the
26 council and the board. The design and coordination staff shall
27 maintain the minutes of each meeting and shall make such
28 minutes available to any interested person. The Auditor
29 General, the State Courts Administrator, an executive officer
30 of the Florida Association of State Agency Administrative
31 Services Directors, and an executive officer of the Florida

1 Association of State Budget Officers, or their designees,
2 shall serve without voting rights as ex officio members on the
3 coordinating council. The chair may call meetings of the
4 coordinating council as often as necessary to transact
5 business; however, the coordinating council shall meet at
6 least once a year. Action of the coordinating council shall
7 be by motion, duly made, seconded and passed by a majority of
8 the coordinating council voting in the affirmative for
9 approval of items that are to be recommended for approval to
10 the Financial Management Information Board.

11 Section 238. Section 215.965, Florida Statutes, is
12 amended to read:

13 215.965 Disbursement of state moneys.--Except as
14 provided in s. 17.076, s. 253.025(14), s. 259.041(18), s.
15 717.124(5), s. 732.107(5), or s. 733.816(5), all moneys in the
16 State Treasury shall be disbursed by state warrant, drawn by
17 the Chief Financial Officer ~~Comptroller~~ upon the State
18 Treasury and payable to the ultimate beneficiary. This
19 authorization shall include electronic disbursement.

20 Section 239. Paragraphs (a), (c), (j), (n), (p), and
21 (s) of subsection (2), subsections (3) and (4), paragraphs (a)
22 and (b) of subsection (5), paragraphs (a) and (d) of
23 subsection (6), paragraphs (a) and (c) of subsection (7),
24 paragraphs (e) and (g) of subsection (8), paragraph (e) of
25 subsection (9), and paragraphs (d) and (f) of subsection (10)
26 of section 215.97, Florida Statutes, are amended to read:

27 215.97 Florida Single Audit Act.--

28 (2) Definitions; as used in this section, the term:

29 (a) "Audit threshold" means the amount to use in
30 determining when a state single audit of a nonstate entity
31 shall be conducted in accordance with this section. Each

1 nonstate entity that expends a total amount of state financial
2 assistance equal to or in excess of \$300,000 in any fiscal
3 year of such nonstate entity shall be required to have a state
4 single audit for such fiscal year in accordance with the
5 requirements of this section. Every 2 years the Auditor
6 General, after consulting with the Executive Office of the
7 Governor, the Chief Financial Officer ~~Comptroller~~, and all
8 state agencies that provide state financial assistance to
9 nonstate entities, shall review the amount for requiring
10 audits under this section and may adjust such dollar amount
11 consistent with the purpose of this section.

12 (c) "Catalog of State Financial Assistance" means a
13 comprehensive listing of state projects. The Catalog of State
14 Financial Assistance shall be issued by the Executive Office
15 of the Governor after conferring with the Chief Financial
16 Officer ~~Comptroller~~ and all state agencies that provide state
17 financial assistance to nonstate entities. The Catalog of
18 State Financial Assistance shall include for each listed state
19 project: the responsible state agency; standard state project
20 number identifier; official title; legal authorization; and
21 description of the state project, including objectives,
22 restrictions, application and awarding procedures, and other
23 relevant information determined necessary.

24 (j) "Major state project" means any state project
25 meeting the criteria as stated in the rules of the Executive
26 Office of the Governor. Such criteria shall be established
27 after consultation with the Chief Financial Officer
28 ~~Comptroller~~ and appropriate state agencies that provide state
29 financial assistance and shall consider the amount of state
30 project expenditures or expenses or inherent risks. Each major
31

1 state project shall be audited in accordance with the
2 requirements of this section.

3 (n) "Schedule of State Financial Assistance" means a
4 document prepared in accordance with the rules of the Chief
5 Financial Officer ~~Comptroller~~ and included in each financial
6 reporting package required by this section.

7 (p) "State financial assistance" means financial
8 assistance from state resources, not including federal
9 financial assistance and state matching, provided to nonstate
10 entities to carry out a state project. "State financial
11 assistance" includes all types of state assistance as stated
12 in the rules of the Executive Office of the Governor
13 established in consultation with the Chief Financial Officer
14 ~~Comptroller~~ and appropriate state agencies that provide state
15 financial assistance. It includes state financial assistance
16 provided directly by state awarding agencies or indirectly by
17 recipients of state awards or subrecipients. It does not
18 include procurement contracts used to buy goods or services
19 from vendors. Audits of such procurement contracts with
20 vendors are outside of the scope of this section. Also, audits
21 of contracts to operate state-government-owned and
22 contractor-operated facilities are excluded from the audit
23 requirements of this section.

24 (s) "State Projects Compliance Supplement" means a
25 document issued by the Executive Office of the Governor, in
26 consultation with the Chief Financial Officer ~~Comptroller~~ and
27 all state agencies that provide state financial assistance.
28 The State Projects Compliance Supplement shall identify state
29 projects, the significant compliance requirements, eligibility
30 requirements, matching requirements, suggested audit

31

1 procedures, and other relevant information determined
2 necessary.

3 (3) The Executive Office of the Governor shall:

4 (a) Upon conferring with the Chief Financial Officer
5 ~~Comptroller~~ and all state awarding agencies, adopt rules
6 necessary to provide appropriate guidance to state awarding
7 agencies, recipients and subrecipients, and independent
8 auditors of state financial assistance relating to the
9 requirements of this section, including:

10 1. The types or classes of financial assistance
11 considered to be state financial assistance which would be
12 subject to the requirements of this section. This would
13 include guidance to assist in identifying when the state
14 agency or recipient has contracted with a vendor rather than
15 with a recipient or subrecipient.

16 2. The criteria for identifying a major state project.

17 3. The criteria for selecting state projects for
18 audits based on inherent risk.

19 (b) Be responsible for coordinating the initial
20 preparation and subsequent revisions of the Catalog of State
21 Financial Assistance after consultation with the Chief
22 Financial Officer ~~Comptroller~~ and all state awarding agencies.

23 (c) Be responsible for coordinating the initial
24 preparation and subsequent revisions of the State Projects
25 Compliance Supplement, after consultation with the Chief
26 Financial Officer ~~Comptroller~~ and all state awarding agencies.

27 (4) The Chief Financial Officer ~~Comptroller~~ shall:

28 (a) Make enhancements to the state's accounting system
29 to provide for the:

30
31

1 1. Recording of state financial assistance and federal
2 financial assistance appropriations and expenditures within
3 the state awarding agencies' operating funds.

4 2. Recording of state project number identifiers, as
5 provided in the Catalog of State Financial Assistance, for
6 state financial assistance.

7 3. Establishment and recording of an identification
8 code for each financial transaction, including state agencies'
9 disbursements of state financial assistance and federal
10 financial assistance, as to the corresponding type or
11 organization that is party to the transaction (e.g., other
12 governmental agencies, nonprofit organizations, and for-profit
13 organizations), and disbursements of federal financial
14 assistance, as to whether the party to the transaction is or
15 is not a recipient or subrecipient.

16 (b) Upon conferring with the Executive Office of the
17 Governor and all state awarding agencies, adopt rules
18 necessary to provide appropriate guidance to state awarding
19 agencies, recipients and subrecipients, and independent
20 auditors of state financial assistance relating to the format
21 for the Schedule of State Financial Assistance.

22 (c) Perform any inspections, reviews, investigations,
23 or audits of state financial assistance considered necessary
24 in carrying out the Chief Financial Officer's ~~Comptroller's~~
25 legal responsibilities for state financial assistance or to
26 comply with the requirements of this section.

27 (5) Each state awarding agency shall:

28 (a) Provide to a recipient information needed by the
29 recipient to comply with the requirements of this section,
30 including:

31

1 1. The audit and accountability requirements for state
2 projects as stated in this section and applicable rules of the
3 Executive Office of the Governor, rules of the Chief Financial
4 Officer ~~Comptroller~~, and rules of the Auditor General.

5 2. Information from the Catalog of State Financial
6 Assistance, including the standard state project number
7 identifier; official title; legal authorization; and
8 description of the state project including objectives,
9 restrictions, and other relevant information determined
10 necessary.

11 3. Information from the State Projects Compliance
12 Supplement, including the significant compliance requirements,
13 eligibility requirements, matching requirements, suggested
14 audit procedures, and other relevant information determined
15 necessary.

16 (b) Require the recipient, as a condition of receiving
17 state financial assistance, to allow the state awarding
18 agency, the Chief Financial Officer ~~Comptroller~~, and the
19 Auditor General access to the recipient's records and the
20 recipient's independent auditor's working papers as necessary
21 for complying with the requirements of this section.

22 (6) As a condition of receiving state financial
23 assistance, each recipient that provides state financial
24 assistance to a subrecipient shall:

25 (a) Provide to a subrecipient information needed by
26 the subrecipient to comply with the requirements of this
27 section, including:

28 1. Identification of the state awarding agency.

29 2. The audit and accountability requirements for state
30 projects as stated in this section and applicable rules of the
31

1 Executive Office of the Governor, rules of the Chief Financial
2 Officer Comptroller, and rules of the Auditor General.

3 3. Information from the Catalog of State Financial
4 Assistance, including the standard state project number
5 identifier; official title; legal authorization; and
6 description of the state project, including objectives,
7 restrictions, and other relevant information.

8 4. Information from the State Projects Compliance
9 Supplement including the significant compliance requirements,
10 eligibility requirements, matching requirements, and suggested
11 audit procedures, and other relevant information determined
12 necessary.

13 (d) Require subrecipients, as a condition of receiving
14 state financial assistance, to permit the independent auditor
15 of the recipient, the state awarding agency, the Chief
16 Financial Officer Comptroller, and the Auditor General access
17 to the subrecipient's records and the subrecipient's
18 independent auditor's working papers as necessary to comply
19 with the requirements of this section.

20 (7) Each recipient or subrecipient of state financial
21 assistance shall comply with the following:

22 (a) Each nonstate entity that receives state financial
23 assistance and meets audit threshold requirements, in any
24 fiscal year of the nonstate entity, as stated in the rules of
25 the Auditor General, shall have a state single audit conducted
26 for such fiscal year in accordance with the requirements of
27 this act and with additional requirements established in rules
28 of the Executive Office of the Governor, rules of the Chief
29 Financial Officer Comptroller, and rules of the Auditor
30 General. If only one state project is involved in a nonstate
31 entity's fiscal year, the nonstate entity may elect to have

1 only a state project-specific audit of the state project for
2 that fiscal year.

3 (c) Regardless of the amount of the state financial
4 assistance, the provisions of this section do not exempt a
5 nonstate entity from compliance with provisions of law
6 relating to maintaining records concerning state financial
7 assistance to such nonstate entity or allowing access and
8 examination of those records by the state awarding agency, the
9 Chief Financial Officer ~~Comptroller~~, or the Auditor General.

10 (8) The independent auditor when conducting a state
11 single audit of recipients or subrecipients shall:

12 (e) Report on the results of any audit conducted
13 pursuant to this section in accordance with the rules of the
14 Executive Office of the Governor, rules of the Chief Financial
15 Officer ~~Comptroller~~, and rules of the Auditor General. Audit
16 reports shall include summaries of the auditor's results
17 regarding the nonstate entity's financial statements; Schedule
18 of State Financial Assistance; internal controls; and
19 compliance with laws, rules, and guidelines.

20 (g) Upon notification by the nonstate entity, make
21 available the working papers relating to the audit conducted
22 pursuant to the requirements of this section to the state
23 awarding agency, the Chief Financial Officer ~~Comptroller~~, or
24 the Auditor General for review or copying.

25 (9) The independent auditor, when conducting a state
26 project-specific audit of recipients or subrecipients, shall:

27 (e) Upon notification by the nonstate entity, make
28 available the working papers relating to the audit conducted
29 pursuant to the requirements of this section to the state
30 awarding agency, the Chief Financial Officer ~~Comptroller~~, or
31 the Auditor General for review or copying.

1 (10) The Auditor General shall:

2 (d) Provide technical advice upon request of the Chief
3 Financial Officer ~~Comptroller~~, Executive Office of the
4 Governor, and state agencies relating to financial reporting
5 and audit responsibilities contained in this section.

6 (f) Perform ongoing reviews of a sample of financial
7 reporting packages filed pursuant to the requirements of this
8 section to determine compliance with the reporting
9 requirements of this section and applicable rules of the
10 Executive Office of the Governor, rules of the Chief Financial
11 Officer ~~Comptroller~~, and rules of the Auditor General.

12 Section 240. Paragraph (a) of subsection (2) of
13 section 216.0442, Florida Statutes, is amended to read:

14 216.0442 Truth in bonding; definitions; summary of
15 state debt; statement of proposed financing; truth-in-bonding
16 statement.--

17 (2) When required by statute to support the proposed
18 debt financing of fixed capital outlay projects or operating
19 capital outlay requests or to explain the issuance of a debt
20 or obligation, one or more of the following documents shall be
21 developed:

22 (a) A summary of outstanding state debt as furnished
23 by the Chief Financial Officer ~~Comptroller~~ pursuant to s.
24 216.102.

25 Section 241. Section 216.102, Florida Statutes, is
26 amended to read:

27 216.102 Filing of financial information; handling by
28 Chief Financial Officer ~~Comptroller~~; penalty for
29 noncompliance.--

30 (1) By September 30 of each year, each agency
31 supported by any form of taxation, licenses, fees, imposts, or

1 exactions, the judicial branch, and, for financial reporting
2 purposes, each component unit of the state as determined by
3 the Chief Financial Officer ~~Comptroller~~ shall prepare, using
4 generally accepted accounting principles, and file with the
5 Chief Financial Officer ~~Comptroller~~ the financial and other
6 information necessary for the preparation of annual financial
7 statements for the State of Florida as of June 30. In
8 addition, each such agency and the judicial branch shall
9 prepare financial statements showing the financial position
10 and results of agency or branch operations as of June 30 for
11 internal management purposes.

12 (a) Each state agency and the judicial branch shall
13 record the receipt and disbursement of funds from federal
14 sources in a form and format prescribed by the Chief Financial
15 Officer ~~Comptroller~~. The access to federal funds by the
16 administering agencies or the judicial branch may not be
17 authorized until:

18 1. The deposit has been recorded in the Florida
19 Accounting Information Resource Subsystem using proper,
20 consistent codes that designate deposits as federal funds.

21 2. The deposit and appropriate recording required by
22 this paragraph have been verified by the Office of the Chief
23 Financial Officer ~~Treasurer~~.

24 (b) The Chief Financial Officer ~~Comptroller~~ shall
25 publish a statewide policy detailing the requirements for
26 recording receipt and disbursement of federal funds into the
27 Florida Accounting Information Resource Subsystem and provide
28 technical assistance to the agencies and the judicial branch
29 to implement the policy.

30 (2) Financial information must be contained within the
31 Florida Accounting Information Resource Subsystem. Other

1 information must be submitted in the form and format
2 prescribed by the Chief Financial Officer ~~Comptroller~~.

3 (a) Each component unit shall file financial
4 information and other information necessary for the
5 preparation of annual financial statements with the agency or
6 branch designated by the Chief Financial Officer ~~Comptroller~~
7 by the date specified by the Chief Financial Officer
8 ~~Comptroller~~.

9 (b) The state agency or branch designated by the Chief
10 Financial Officer ~~Comptroller~~ to receive financial information
11 and other information from component units shall include the
12 financial information in the Florida Accounting Information
13 Resource Subsystem and shall include the component units'
14 other information in its submission to the Chief Financial
15 Officer ~~Comptroller~~.

16 (3) The Chief Financial Officer ~~Comptroller~~ shall:

17 (a) Prepare and furnish to the Auditor General annual
18 financial statements for the state on or before December 31 of
19 each year, using generally accepted accounting principles.

20 (b) Prepare and publish a comprehensive annual
21 financial report for the state in accordance with generally
22 accepted accounting principles on or before February 28 of
23 each year.

24 (c) Furnish the Governor, the President of the Senate,
25 and the Speaker of the House of Representatives with a copy of
26 the comprehensive annual financial report prepared pursuant to
27 paragraph (b).

28 (d) Notify each agency and the judicial branch of the
29 data that is required to be recorded to enhance accountability
30 for tracking federal financial assistance.

31

1 (e) Provide reports, as requested, to executive or
2 judicial branch entities, the President of the Senate, the
3 Speaker of the House of Representatives, and the members of
4 the Florida Congressional Delegation, detailing the federal
5 financial assistance received and disbursed by state agencies
6 and the judicial branch.

7 (f) Consult with and elicit comments from the
8 Executive Office of the Governor on changes to the Florida
9 Accounting Information Resource Subsystem which clearly affect
10 the accounting of federal funds, so as to ensure consistency
11 of information entered into the Federal Aid Tracking System by
12 state executive and judicial branch entities. While efforts
13 shall be made to ensure the compatibility of the Florida
14 Accounting Information Resource Subsystem and the Federal Aid
15 Tracking System, any successive systems serving identical or
16 similar functions shall preserve such compatibility.

17
18 The Chief Financial Officer ~~Comptroller~~ may furnish and
19 publish in electronic form the financial statements and the
20 comprehensive annual financial report required under
21 paragraphs (a), (b), and (c).

22 (4) If any agency or the judicial branch fails to
23 comply with subsection (1) or subsection (2), the Chief
24 Financial Officer ~~Comptroller~~ may refuse to honor salary
25 claims for agency or branch fiscal and executive staff until
26 the agency or branch corrects its deficiency.

27 (5) The Chief Financial Officer ~~Comptroller~~ may
28 withhold any funds payable to a component unit that does not
29 comply with subsection (1) or subsection (2) until the
30 component unit corrects its deficiency.

31

1 (6) The Chief Financial Officer ~~Comptroller~~ may adopt
2 rules to administer this section.

3 Section 242. Subsections (1) and (3) of section
4 216.141, Florida Statutes, are amended to read:

5 216.141 Budget system procedures; planning and
6 programming by state agencies.--

7 (1) The Executive Office of the Governor, in
8 consultation with the appropriations committees of the Senate
9 and House of Representatives, and by utilizing the Florida
10 Financial Management Information System management data and
11 the Chief Financial Officer's ~~Comptroller's~~ chart of accounts,
12 shall prescribe a planning and budgeting system, pursuant to
13 s. 215.94(1), to provide for continuous planning and
14 programming and for effective management practices for the
15 efficient operations of all state agencies and the judicial
16 branch. The Legislature may contract with the Executive Office
17 of the Governor to develop the planning and budgeting system
18 and to provide services to the Legislature for the support and
19 use of the legislative appropriations system. The contract
20 shall include the policies and procedures for combining the
21 legislative appropriations system with the planning and
22 budgeting information system established pursuant to s.
23 215.94(1). At a minimum, the contract shall require the use of
24 common data codes. The combined legislative appropriations and
25 planning and budgeting information subsystem shall support the
26 legislative appropriations and legislative oversight functions
27 without data code conversion or modification.

28 (3) The Chief Financial Officer ~~Comptroller~~, as chief
29 fiscal officer, shall use the Florida Accounting Information
30 Resource Subsystem developed pursuant to s. 215.94(2) for
31 account purposes in the performance of and accounting for all

1 of his or her constitutional and statutory duties and
2 responsibilities. However, state agencies and the judicial
3 branch continue to be responsible for maintaining accounting
4 records necessary for effective management of their programs
5 and functions.

6 Section 243. Subsection (1) of section 216.177,
7 Florida Statutes, is amended to read:

8 216.177 Appropriations acts, statement of intent,
9 violation, notice, review and objection procedures.--

10 (1) When an appropriations act is delivered to the
11 Governor after the Legislature has adjourned sine die, as soon
12 as practicable, but no later than the 10th day before the end
13 of the period allowed by law for veto consideration in any
14 year in which an appropriation is made, the chairs of the
15 legislative appropriations committees shall jointly transmit:

16 (a) The official list of General Revenue Fund
17 appropriations determined in consultation with the Executive
18 Office of the Governor to be nonrecurring; and

19 (b) The documents set forth in s. 216.0442(2)(a) and
20 (c),

21
22 to the Executive Office of the Governor, the Chief Financial
23 Officer ~~Comptroller~~, the Auditor General, the director of the
24 Office of Program Policy Analysis and Government
25 Accountability, the Chief Justice of the Supreme Court, and
26 each state agency. A request for additional explanation and
27 direction regarding the legislative intent of the General
28 Appropriations Act during the fiscal year may be made to the
29 chair and vice chair of the Legislative Budget Commission or
30 the President of the Senate and the Speaker of the House of
31 Representatives only by and through the Executive Office of

1 the Governor for state agencies, and by and through the Chief
2 Justice of the Supreme Court for the judicial branch, as is
3 deemed necessary. However, the Chief Financial Officer
4 ~~Comptroller~~ may also request further clarification of
5 legislative intent pursuant to the Chief Financial Officer's
6 ~~Comptroller's~~ responsibilities related to his or her preaudit
7 function of expenditures.

8 Section 244. Subsections (6), (12), and (14) and
9 paragraph (b) of subsection (16) of section 216.181, Florida
10 Statutes, are amended to read:

11 216.181 Approved budgets for operations and fixed
12 capital outlay.--

13 (6)(a) The Executive Office of the Governor or the
14 Chief Justice of the Supreme Court may require the submission
15 of a detailed plan from the agency or entity of the judicial
16 branch affected, consistent with the General Appropriations
17 Act, special appropriations acts, and the statement of intent
18 before transferring and releasing the balance of a lump-sum
19 appropriation. The provisions of this paragraph are subject to
20 the notice and review procedures set forth in s. 216.177.

21 (b) The Executive Office of the Governor and the Chief
22 Justice of the Supreme Court may amend, without approval of
23 the Legislative Budget Commission, state agency and judicial
24 branch entity budgets, respectively, to reflect the
25 transferred funds based on the approved plans for lump-sum
26 appropriations.

27
28 The Executive Office of the Governor shall transmit to each
29 state agency and the Chief Financial Officer ~~Comptroller~~, and
30 the Chief Justice shall transmit to each judicial branch
31

1 component and the Chief Financial Officer ~~Comptroller~~, any
2 approved amendments to the approved operating budgets.

3 (12) There is appropriated nonoperating budget for
4 refunds, payments to the United States Treasury, payments of
5 the service charge to the General Revenue Fund, and transfers
6 of funds specifically required by law. Such authorized budget,
7 together with related releases, shall be transmitted by the
8 state agency or by the judicial branch to the Chief Financial
9 Officer ~~Comptroller~~ for entry in his or her ~~the Comptroller's~~
10 records in the manner and format prescribed by the Executive
11 Office of the Governor in consultation with the Chief
12 Financial Officer ~~Comptroller~~. A copy of such authorized
13 budgets shall be furnished to the Executive Office of the
14 Governor or the Chief Justice, the chairs of the legislative
15 committees responsible for developing the general
16 appropriations acts, and the Auditor General. The Governor may
17 withhold approval of nonoperating investment authority for
18 certain trust funds when deemed in the best interest of the
19 state. The Governor for the executive branch, and the Chief
20 Justice for the judicial branch, may establish nonoperating
21 budgets for transfers, purchase of investments, special
22 expenses, distributions, and any other nonoperating budget
23 categories they deem necessary and in the best interest of the
24 state and consistent with legislative intent and policy. The
25 provisions of this subsection are subject to the notice,
26 review, and objection procedures set forth in s. 216.177. For
27 purposes of this section, the term "nonoperating budgets"
28 means nonoperating disbursement authority for purchase of
29 investments, refunds, payments to the United States Treasury,
30 transfers of funds specifically required by law, distributions
31 of assets held by the state in a trustee capacity as an agent

1 of fiduciary, special expenses, and other nonoperating budget
2 categories as determined necessary by the Executive Office of
3 the Governor, not otherwise appropriated in the General
4 Appropriations Act.

5 (14) The Executive Office of the Governor and the
6 Chief Justice of the Supreme Court shall certify the amounts
7 approved for operations and fixed capital outlay, together
8 with any relevant supplementary materials or information, to
9 the Chief Financial Officer ~~Comptroller~~; and such
10 certification shall be the Chief Financial Officer's
11 ~~Comptroller's~~ guide with reference to the expenditures of each
12 state agency pursuant to s. 216.192.

13 (16)

14 (b) Any agency, or the judicial branch, that has been
15 authorized by the General Appropriations Act or expressly
16 authorized by other law to make advances for program startup
17 or advances for contracted services, in total or periodically,
18 shall limit such disbursements to other governmental entities
19 and not-for-profit corporations. The amount which may be
20 advanced shall not exceed the expected cash needs of the
21 contractor or recipient within the initial 3 months.
22 Thereafter, disbursements shall only be made on a
23 reimbursement basis. Any agreement that provides for
24 advancements may contain a clause that permits the contractor
25 or recipient to temporarily invest the proceeds, provided that
26 any interest income shall either be returned to the agency or
27 be applied against the agency's obligation to pay the contract
28 amount. This paragraph does not constitute lawful authority
29 to make any advance payment not otherwise authorized by laws
30 relating to a particular agency or general laws relating to
31 the expenditure or disbursement of public funds. The Chief

1 Financial Officer ~~Comptroller~~ may, after consultation with the
2 legislative appropriations committees, advance funds beyond a
3 3-month requirement if it is determined to be consistent with
4 the intent of the approved operating budget.

5 Section 245. Section 216.183, Florida Statutes, is
6 amended to read:

7 216.183 Entities using performance-based program
8 budgets; chart of accounts.--State agencies and the judicial
9 branch for which a performance-based program budget has been
10 appropriated shall utilize the chart of accounts used by the
11 Florida Accounting Information Resource Subsystem in the
12 manner described in s. 215.93(3). The chart of accounts for
13 state agencies and the judicial branch for which a
14 performance-based program budget has been appropriated shall
15 be developed and amended, if necessary, in consultation with
16 the Department of Financial Services ~~Banking and Finance~~, the
17 Executive Office of the Governor, and the chairs of the
18 Legislative Budget Commission.

19 Section 246. Subsections (1) and (4) of section
20 216.192, Florida Statutes, are amended to read:

21 216.192 Release of appropriations; revision of
22 budgets.--

23 (1) Unless otherwise provided in the General
24 Appropriations Act, on July 1 of each fiscal year, up to 25
25 percent of the original approved operating budget of each
26 agency and of the judicial branch may be released until such
27 time as annual plans for quarterly releases for all
28 appropriations have been developed, approved, and furnished to
29 the Chief Financial Officer ~~Comptroller~~ by the Executive
30 Office of the Governor for state agencies and by the Chief
31 Justice of the Supreme Court for the judicial branch. The

1 plans, including appropriate plans of releases for fixed
2 capital outlay projects that correspond with each project
3 schedule, shall attempt to maximize the use of trust funds and
4 shall be transmitted to the Chief Financial Officer
5 ~~Comptroller~~ by August 1 of each fiscal year. Such releases
6 shall at no time exceed the total appropriations available to
7 a state agency or to the judicial branch, or the approved
8 budget for such agency or the judicial branch if less. The
9 Chief Financial Officer ~~Comptroller~~ shall enter such releases
10 in his or her records in accordance with the release plans
11 prescribed by the Executive Office of the Governor and the
12 Chief Justice, unless otherwise amended as provided by law.
13 The Executive Office of the Governor and the Chief Justice
14 shall transmit a copy of the approved annual releases to the
15 head of the state agency, the chair and vice chair of the
16 Legislative Budget Commission, and the Auditor General. The
17 Chief Financial Officer ~~Comptroller~~ shall authorize all
18 expenditures to be made from the appropriations on the basis
19 of such releases and in accordance with the approved budget,
20 and not otherwise. Expenditures shall be authorized only in
21 accordance with legislative authorizations. Nothing herein
22 precludes periodic reexamination and revision by the Executive
23 Office of the Governor or by the Chief Justice of the annual
24 plans for release of appropriations and the notifications of
25 the parties of all such revisions.

26 (4) The legislative appropriations committees may
27 advise the Chief Financial Officer ~~Comptroller~~, the Executive
28 Office of the Governor, or the Chief Justice relative to the
29 release of any funds under this section.

30 Section 247. Subsection (1) of section 216.212,
31 Florida Statutes, is amended to read:

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 248. Subsections (8), (9), and (10) of section
29 216.221, Florida Statutes, are amended to read:

30 216.221 Appropriations as maximum appropriations;
31 adjustment of budgets to avoid or eliminate deficits.--

1 (8) The Chief Financial Officer ~~Comptroller~~ also has
2 the duty to ensure that revenues being collected will be
3 sufficient to meet the appropriations and that no deficit
4 occurs in any fund of the state.

5 (9) If, in the opinion of the Chief Financial Officer
6 ~~Comptroller~~, after consultation with the Revenue Estimating
7 Conference, a deficit will occur, he or she ~~the Comptroller~~
8 shall report his or her opinion to the Governor in writing. In
9 the event the Governor does not certify a deficit within 10
10 days after the Chief Financial Officer's ~~Comptroller's~~ report,
11 the Chief Financial Officer ~~Comptroller~~ shall report his or
12 her findings and opinion to the commission and the Chief
13 Justice of the Supreme Court.

14 (10) When advised by the Revenue Estimating
15 Conference, the Chief Financial Officer ~~Comptroller~~, or any
16 agency responsible for a trust fund that a deficit will occur
17 with respect to the appropriations from a specific trust fund
18 in the current fiscal year, the Governor for the executive
19 branch, or the Chief Justice for the judicial branch, shall
20 develop a plan of action to eliminate the deficit. Before
21 implementing the plan of action, the Governor or the Chief
22 Justice must comply with the provisions of s. 216.177(2). In
23 developing the plan of action, the Governor or the Chief
24 Justice shall, to the extent possible, preserve legislative
25 policy and intent, and, absent any specific directions to the
26 contrary in the General Appropriations Act, any reductions in
27 appropriations from the trust fund for the fiscal year shall
28 be prorated among the specific appropriations made from the
29 trust fund for the current fiscal year.

30 Section 249. Paragraph (d) of subsection (4) of
31 section 216.235, Florida Statutes, is amended to read:

1 216.235 Innovation Investment Program; intent;
2 definitions; composition and responsibilities of State
3 Innovation Committee; responsibilities of the Office of
4 Tourism, Trade, and Economic Development and the review board;
5 procedures for innovative project submission, review,
6 evaluation, and approval; criteria to be considered.--

7 (4) There is hereby created the State Innovation
8 Committee, which shall have final approval authority as to
9 which innovative investment projects submitted under this
10 section shall be funded. Such committee shall be comprised of
11 seven members. Appointed members shall serve terms of 1 year
12 and may be reappointed. The committee shall include:

13 (d) The Chief Financial Officer ~~Comptroller~~.

14 Section 250. Section 216.237, Florida Statutes, is
15 amended to read:

16 216.237 Availability of any remaining funds; agency
17 maintenance of accounting records.--Any remaining funds from
18 the General Revenue Fund and trust fund spending authority not
19 awarded to agencies pursuant to s. 216.236 shall be available
20 to agencies for innovative projects which generate a cost
21 savings, increase revenue, or improve service delivery.
22 Innovative projects which generate a cost savings shall
23 receive greater consideration when awarding innovation
24 investment funds. Any trust fund authority granted under this
25 program shall be utilized in a manner consistent with the
26 statutory authority for the use of said trust fund. Any
27 savings realized as a result of implementing the innovative
28 project shall be used by the agency to establish an internal
29 innovations fund. State agencies which are awarded funds for
30 innovative projects shall utilize the chart of accounts used
31 by the Florida Accounting Information Resource Subsystem in

1 the manner described in s. 215.93(3). Such chart of accounts
2 shall be developed and amended in consultation with the
3 Department of Financial Services ~~Banking and Finance~~ and the
4 Executive Office of the Governor to separate and account for
5 the savings that result from the implementation of the
6 innovative projects and to keep track of how the innovative
7 funds are reinvested by the state agency to fund additional
8 innovative projects, which may include, but not be limited to,
9 expenditures for training and information technology
10 resources. Guidelines for the establishment of such internal
11 innovations fund shall be provided by the Department of
12 Management Services. Any agency awarded funds under this
13 section shall maintain detailed accounting records showing all
14 expenses, loan transfers, savings, or other financial actions
15 concerning the project. Any savings realized as a result of
16 implementing the innovative project shall be quantified,
17 validated, and verified by the agency. A final report of the
18 results of the implementation of each innovative project shall
19 be submitted by each participating agency to the Governor's
20 Office of Planning and Budgeting and the legislative
21 appropriations committees by June 30 of the fiscal year in
22 which the funds were received and ensuing fiscal years for the
23 life of the project.

24 Section 251. Paragraph (b) of subsection (2) of
25 section 216.251, Florida Statutes, is amended to read:

26 216.251 Salary appropriations; limitations.--

27 (2)

28 (b) Salary payments shall be made only to employees
29 filling established positions included in the agency's or in
30 the judicial branch's approved budgets and amendments thereto
31 as may be provided by law; provided, however:

1 1. Reclassification of established positions may be
2 accomplished when justified in accordance with the established
3 procedures for reclassifying positions; or

4 2. When the Division of Risk Management of the
5 Department of Financial Services ~~Insurance~~ has determined that
6 an employee is entitled to receive a temporary partial
7 disability benefit or a temporary total disability benefit
8 pursuant to the provisions of s. 440.15 and there is medical
9 certification that the employee cannot perform the duties of
10 the employee's regular position, but the employee can perform
11 some type of work beneficial to the agency, the agency may
12 return the employee to the payroll, at his or her regular rate
13 of pay, to perform such duties as the employee is capable of
14 performing, even if there is not an established position in
15 which the employee can be placed. Nothing in this
16 subparagraph shall abrogate an employee's rights under chapter
17 440 or chapter 447, nor shall it adversely affect the
18 retirement credit of a member of the Florida Retirement System
19 in the membership class he or she was in at the time of, and
20 during, the member's disability.

21 Section 252. Section 216.271, Florida Statutes, is
22 amended to read:

23 216.271 Revolving funds.--

24 (1) No revolving fund may be established or increased
25 in amount pursuant to s. 18.101(2), unless approved by the
26 Chief Financial Officer ~~Comptroller~~. The purpose and uses of a
27 revolving fund may not be changed without the prior approval
28 of the Chief Financial Officer ~~Comptroller~~. As used in this
29 section, the term "revolving fund" means a cash fund
30 maintained within or outside the State Treasury and

31

1 established from an appropriation, to be used by an agency or
2 the judicial branch in making authorized expenditures.

3 (2) When the Chief Financial Officer ~~Comptroller~~
4 approves a revolving or petty cash fund for making refunds or
5 other payments, such fund shall be established from an account
6 within the appropriate fund to be known as "payments for
7 revolving funds from funds not otherwise appropriated."

8 Reimbursements made from revolving or petty cash funds shall
9 be made in strict accordance with the provisions of s.
10 215.26(2). The Chief Financial Officer ~~Comptroller~~ may
11 restrict the types of uses of any revolving fund established
12 pursuant to this section.

13 (3) Vouchers for reimbursement of expenditures from
14 revolving funds established under this section shall be
15 presented in a routine manner to the Chief Financial Officer
16 ~~Comptroller~~ for approval and payment, the proceeds of which
17 shall be returned to the revolving or petty cash fund
18 involved.

19 (4) The revolving or petty cash fund authorized herein
20 shall be properly maintained and accounted for by the agency
21 or by the judicial branch requesting the fund and, upon the
22 expiration of the need therefor, shall be returned in the
23 amount originally established to the appropriate fund for
24 credit to the payments for revolving funds account therein.

25 (5) Reimbursement to the revolving fund for uninsured
26 losses and theft may be made from the fund in which the
27 responsible operating department is budgeted. Such
28 reimbursement shall be submitted consistent with procedures
29 specified by the Chief Financial Officer ~~Comptroller~~.

30 Section 253. Section 216.275, Florida Statutes, is
31 amended to read:

1 216.275 Clearing accounts.--No clearing account may be
2 established outside the State Treasury pursuant to s.
3 18.101(1) unless approved by the Chief Financial Officer
4 ~~Treasurer~~ during the fiscal year. Each agency, or the judicial
5 branch, desiring to maintain a clearing account outside the
6 State Treasury shall submit a written request to do so to the
7 Chief Financial Officer ~~Treasurer~~ in accordance with the
8 format and manner prescribed by the Chief Financial Officer
9 ~~Treasurer~~. The Chief Financial Officer ~~Treasurer~~ shall
10 maintain a listing of all clearing accounts approved during
11 the fiscal year.

12 Section 254. Subsections (2), (3), (6), (8), (9), and
13 (10) of section 216.292, Florida Statutes, are amended to
14 read:

15 216.292 Appropriations nontransferable; exceptions.--
16 (2) A lump sum appropriated for a performance-based
17 program must be distributed by the Governor for state agencies
18 or the Chief Justice for the judicial branch into the
19 traditional expenditure categories in accordance with s.
20 216.181(6)(b). At any time during the year, the agency head
21 or Chief Justice may transfer funds between those categories
22 with no limit on the amount of the transfer. Authorized
23 revisions of the original approved operating budget, together
24 with related changes, if any, must be transmitted by the state
25 agency or by the judicial branch to the Executive Office of
26 the Governor or the Chief Justice, the chair and vice chair of
27 the Legislative Budget Commission, the Office of Program
28 Policy Analysis and Government Accountability, and the Auditor
29 General. Such authorized revisions shall be consistent with
30 the intent of the approved operating budget, shall be
31 consistent with legislative policy and intent, and shall not

1 conflict with specific spending policies specified in the
2 General Appropriations Act. The Executive Office of the
3 Governor shall forward a copy of the revisions within 7
4 working days to the Chief Financial Officer ~~Comptroller~~ for
5 entry in his or her records in the manner and format
6 prescribed by the Executive Office of the Governor in
7 consultation with the Chief Financial Officer ~~Comptroller~~.
8 Such authorized revisions shall be consistent with the intent
9 of the approved operating budget, shall be consistent with
10 legislative policy and intent, and shall not conflict with
11 specific spending policies specified in the General
12 Appropriations Act.

13 (3) The head of each department or the Chief Justice
14 of the Supreme Court, whenever it is deemed necessary by
15 reason of changed conditions, may transfer appropriations
16 funded from identical funding sources, except appropriations
17 for fixed capital outlay, and transfer the amounts included
18 within the total original approved budget and releases as
19 furnished pursuant to ss. 216.181 and 216.192, as follows:

20 (a) Between categories of appropriations within a
21 budget entity, if no category of appropriation is increased or
22 decreased by more than 5 percent of the original approved
23 budget or \$150,000, whichever is greater, by all action taken
24 under this subsection.

25 (b) Additionally, between budget entities within
26 identical categories of appropriations, if no category of
27 appropriation is increased or decreased by more than 5 percent
28 of the original approved budget or \$150,000, whichever is
29 greater, by all action taken under this subsection.

30 (c) Such authorized revisions must be consistent with
31 the intent of the approved operating budget, must be

1 consistent with legislative policy and intent, and must not
2 conflict with specific spending policies specified in the
3 General Appropriations Act.

4
5 Such authorized revisions, together with related changes, if
6 any, in the plan for release of appropriations, shall be
7 transmitted by the state agency or by the judicial branch to
8 the Chief Financial Officer ~~Comptroller~~ for entry in the Chief
9 Financial Officer's ~~Comptroller's~~ records in the manner and
10 format prescribed by the Executive Office of the Governor in
11 consultation with the Chief Financial Officer ~~Comptroller~~. A
12 copy of such revision shall be furnished to the Executive
13 Office of the Governor or the Chief Justice, the chair and
14 vice chair of the Legislative Budget Commission, the Auditor
15 General, and the director of the Office of Program Policy
16 Analysis and Government Accountability.

17 (6) Upon request of a department to, and approval by,
18 the Chief Financial Officer ~~Comptroller~~, funds appropriated
19 may be transferred to accounts established for disbursement
20 purposes upon release of such appropriation. Such transfer
21 may only be made to the same appropriation category and the
22 same funding source from which the funds are transferred.

23 (8)(a) Should any state agency or the judicial branch
24 become more than 90 days delinquent on reimbursements due to
25 the Unemployment Compensation Trust Fund, the Department of
26 Labor and Employment Security shall certify to the Chief
27 Financial Officer ~~Comptroller~~ the amount due; and the Chief
28 Financial Officer ~~Comptroller~~ shall transfer the amount due to
29 the Unemployment Compensation Trust Fund from any funds of the
30 agency available.

31

1 (b) Should any state agency or the judicial branch
2 become more than 90 days delinquent in paying the Division of
3 Risk Management of the Department of Financial Services
4 ~~Insurance~~ for insurance coverage, the Department of Financial
5 Services Insurance may certify to the Chief Financial Officer
6 ~~Comptroller~~ the amount due; and the Chief Financial Officer
7 ~~Comptroller~~ shall transfer the amount due to the Division of
8 Risk Management from any funds of the agency or the judicial
9 branch available.

10 (9) Moneys appropriated in the General Appropriations
11 Act for the purpose of paying for services provided by the
12 state communications system in the Department of Management
13 Services shall be paid by the user agencies, or the judicial
14 branch, within 45 days after the billing date. Billed amounts
15 not paid by the user agencies, or by the judicial branch,
16 shall be transferred by the Chief Financial Officer
17 ~~Comptroller~~ from the user agencies to the Communications
18 Working Capital Trust Fund.

19 (10) The Chief Financial Officer ~~Comptroller~~ shall
20 report all such transfers and the reasons for such transfers
21 to the legislative appropriations committees and the Executive
22 Office of the Governor.

23 Section 255. Paragraph (a) of subsection (1),
24 paragraph (a) of subsection (2), and subsection (3) of section
25 216.301, Florida Statutes, are amended to read:

26 216.301 Appropriations; undisbursed balances.--

27 (1)(a) Any balance of any appropriation, except an
28 appropriation for fixed capital outlay, which is not disbursed
29 but which is expended or contracted to be expended shall, at
30 the end of each fiscal year, be certified by the head of the
31 affected state agency or the judicial or legislative branches,

1 on or before August 1 of each year, to the Executive Office of
2 the Governor, showing in detail the obligees to whom obligated
3 and the amounts of such obligations. On or before September 1
4 of each year, the Executive Office of the Governor shall
5 review and approve or disapprove, consistent with legislative
6 policy and intent, any or all of the items and amounts
7 certified by the head of the affected state agency and shall
8 approve all items and amounts certified by the Chief Justice
9 of the Supreme Court for the judicial branch and by the
10 legislative branch and shall furnish the Chief Financial
11 Officer ~~Comptroller~~, the legislative appropriations
12 committees, and the Auditor General a detailed listing of the
13 items and amounts approved as legal encumbrances against the
14 undisbursed balance of such appropriation. The review shall
15 assure that trust funds have been fully maximized. Any such
16 encumbered balance remaining undisbursed on December 31 of the
17 same calendar year in which such certification was made shall
18 revert to the fund from which appropriated and shall be
19 available for reappropriation by the Legislature. In the
20 event such certification is not made and an obligation is
21 proven to be legal, due, and unpaid, then the obligation shall
22 be paid and charged to the appropriation for the current
23 fiscal year of the state agency or the legislative or judicial
24 branch affected.

25 (2)(a) Any balance of any appropriation for fixed
26 capital outlay not disbursed but expended or contracted or
27 committed to be expended shall, at the end of each fiscal
28 year, be certified by the head of the affected state agency or
29 the legislative or judicial branch, on or before August 1 of
30 each year, to the Executive Office of the Governor, showing in
31 detail the commitment or to whom obligated and the amount of

1 such commitment or obligation. On or before September 1 of
2 each year, the Executive Office of the Governor shall review
3 and approve or disapprove, consistent with legislative policy
4 and intent, any or all of the items and amounts certified by
5 the head of the affected state agency and shall approve all
6 items and amounts certified by the Chief Justice of the
7 Supreme Court and by the legislative branch and shall furnish
8 the Chief Financial Officer ~~Comptroller~~, the legislative
9 appropriations committees, and the Auditor General a detailed
10 listing of the items and amounts approved as legal
11 encumbrances against the undisbursed balances of such
12 appropriations. In the event such certification is not made
13 and the balance of the appropriation has reverted and the
14 obligation is proven to be legal, due, and unpaid, then the
15 same shall be presented to the Legislature for its
16 consideration.

17 (3) Notwithstanding the provisions of subsection (2),
18 the unexpended balance of any appropriation for fixed capital
19 outlay subject to but not under the terms of a binding
20 contract or a general construction contract prior to February
21 1 of the second fiscal year, or the third fiscal year if it is
22 for an educational facility as defined in chapter 235 or a
23 construction project of the Board of Regents, of the
24 appropriation shall revert on February 1 of such year to the
25 fund from which appropriated and shall be available for
26 reappropriation. The Executive Office of the Governor shall,
27 not later than February 20 of each year, furnish the Chief
28 Financial Officer ~~Comptroller~~, the legislative appropriations
29 committees, and the Auditor General a report listing in detail
30 the items and amounts reverting under the authority of this
31

1 subsection, including the fund to which reverted and the
2 agency affected.

3 Section 256. Section 217.07, Florida Statutes, is
4 amended to read:

5 217.07 Transfer of surplus property assets to
6 department.--The Chief Financial Officer ~~State Treasurer~~ is
7 authorized to transfer to the department any funds unexpended
8 in the Surplus Property Revolving Trust Fund account in the
9 State Treasury. This revolving fund shall remain in existence
10 as a separate trust fund as long as the surplus property
11 program exists. Upon termination of the program any remaining
12 funds shall be disposed of as provided by federal law.

13 Section 257. Section 218.06, Florida Statutes, is
14 amended to read:

15 218.06 Transfer of funds by county commissioners with
16 relation to public works grants.--

17 (1) Boards of county commissioners of the several
18 counties of the state, whenever it may be necessary to meet
19 the requirements of the United States Government with
20 reference to obtaining grants of federal funds in connection
21 with the program of the Public Works Administration, may by
22 resolution of such board, transfer and expend such sums of
23 money as may be necessary to obtain said grant, from any fund
24 to such other fund as may be necessary to meet said
25 requirements and carry out the intent and purposes of the said
26 transfer; provided, however, that no such transfer may be made
27 by any county of the state without first having obtained the
28 approval of the Department of Financial Services ~~Banking and~~
29 ~~Finance~~ thereto, and in the counties of the state where there
30 is provision for a budget commission, without first having
31

1 also obtained the approval of said budget commission to said
2 transfer.

3 (2) The Department of Financial Services ~~Banking and~~
4 ~~Finance~~ and the budget commissions of the several counties of
5 the state in which there are provisions for such budget
6 commissions, may approve such transfers whenever in their
7 opinion such transfers are necessary and proper.

8 Section 258. Paragraph (a) of subsection (1) of
9 section 218.23, Florida Statutes, is amended to read:

10 218.23 Revenue sharing with units of local
11 government.--

12 (1) To be eligible to participate in revenue sharing
13 beyond the minimum entitlement in any fiscal year, a unit of
14 local government is required to have:

15 (a) Reported its finances for its most recently
16 completed fiscal year to the Department of Financial Services
17 ~~Banking and Finance~~, pursuant to s. 218.32.

18
19 Additionally, to receive its share of revenue sharing funds, a
20 unit of local government shall certify to the Department of
21 Revenue that the requirements of s. 200.065, if applicable,
22 were met. The certification shall be made annually within 30
23 days of adoption of an ordinance or resolution establishing a
24 final property tax levy or, if no property tax is levied, not
25 later than November 1. The portion of revenue sharing funds
26 which, pursuant to this part, would otherwise be distributed
27 to a unit of local government which has not certified
28 compliance or has otherwise failed to meet the requirements of
29 s. 200.065 shall be deposited in the General Revenue Fund for
30 the 12 months following a determination of noncompliance by
31 the department.

1 Section 259. Subsection (4) of section 218.31, Florida
2 Statutes, is amended to read:

3 218.31 Definitions.--As used in this part, except
4 where the context clearly indicates a different meaning:

5 (4) "Department" means the Department of Financial
6 Services ~~Banking and Finance~~.

7 Section 260. Subsections (1) and (4) of section
8 218.321, Florida Statutes, are amended to read:

9 218.321 Annual financial statements; local
10 governmental entities.--

11 (1) Each local governmental entity shall complete its
12 financial statements for the previous fiscal year in
13 compliance with generally accepted accounting principles and
14 the uniform chart of accounts prescribed by the department ~~of~~
15 ~~Banking and Finance~~.

16 (4) The failure by any local governmental entity to
17 complete its annual financial statements shall, in addition to
18 any other penalties provided by law, authorize the department
19 to employ personnel or send department personnel to such local
20 governmental entity in order to complete such annual financial
21 statements. The expenses related to the completion of the
22 annual financial statements shall be charged to the local
23 governmental entity. Upon failure by the local governmental
24 entity to pay the charge within 15 days after billing, the
25 department shall so certify to the Chief Financial Officer
26 ~~Comptroller~~, who shall forward the amount so certified to the
27 department from any funds due to the local governmental entity
28 under any revenue-sharing or tax-sharing fund established by
29 the state, except as otherwise provided by the State
30 Constitution.

31

1 Section 261. Section 218.325, Florida Statutes, is
2 amended to read:

3 218.325 Uniform chart of accounts and financial
4 reporting for court and justice system costs and revenues.--

5 (1)(a) The Uniform Chart of Accounts Development
6 Committee is hereby created to develop and implement a uniform
7 chart of accounts. The committee shall work with the
8 representatives of the designated end-user groups identified
9 in subsection (3) in order to determine the specific financial
10 data related to the operations of the circuit and county
11 courts and justice-related agencies of the executive branch
12 which must be accounted for and reported. The committee shall
13 then work with the department ~~of Banking and Finance~~ to
14 develop the necessary rules required to implement the uniform
15 chart of accounts. The committee shall include:

16 1. The Chief Financial Officer ~~Comptroller~~ or his or
17 her ~~the Comptroller's~~ designee.

18 2. Three clerks of the circuit court or deputy clerks,
19 appointed by the president of the Florida Association of Court
20 Clerks.

21 3. Three elected county commissioners or county
22 finance staff, appointed by the Florida Association of
23 Counties.

24 4. Three elected sheriffs or their designees,
25 appointed by the president of the Florida Sheriffs
26 Association.

27 (b) The Chief Financial Officer ~~Comptroller~~ or his or
28 her ~~the Comptroller's~~ designee shall serve as chairperson of
29 the committee. The committee shall use the staff of the
30 department ~~of Banking and Finance~~ for staff support and may
31 also appoint technical support staff as designated by the

1 Florida Association of Court Clerks, the Florida Association
2 of Counties, and the Florida Sheriffs Association as needed
3 for technical assistance and support. Members of the
4 committee must be appointed within 30 days after June 18,
5 1995. Within 60 days after the appointment of the membership,
6 the committee shall meet to establish procedures for the
7 conduct of its business.

8 (c) Members of the committee shall serve without
9 compensation.

10 (2) The Uniform Chart of Accounts Development
11 Committee shall make an analysis of the requirements for
12 implementing a detailed, uniform chart of accounts and
13 financial reporting system for court and justice-related
14 agency expenditures and revenues. The Chief Financial Officer
15 ~~Comptroller~~ shall make a report to the Chief Justice of the
16 Florida Supreme Court, the Governor, the Speaker of the House
17 of Representatives, and the President of the Senate on such
18 requirements, including a timetable for implementation and an
19 assessment of fiscal impact, by January 1, 1996. The proposed
20 uniform chart of accounts and financial reporting system must
21 provide that all revenues received and expenditures incurred
22 by county governments, clerks of court, the courts or other
23 judicial entities that are related to the operations of the
24 circuit courts and county courts, and other components of the
25 justice system can be accounted for in sufficient detail to
26 permit reporting for both discrete functions and
27 organizational units.

28 (3) For purposes of this section, the collection of
29 representatives of end-user groups, which shall assist the
30 Uniform Chart of Accounts Development Committee on the process
31 and procedures for implementing new accounting and reporting

1 requirements and provide oversight and guidance for
2 implementing activities, shall be formed by one representative
3 each from the Office of the Governor, the Speaker of the House
4 of Representatives, the President of the Senate, the Office of
5 the Chief Financial Officer ~~Comptroller~~, the Office of the
6 State Courts Administrator, the Florida Prosecuting Attorneys
7 Association, the Florida Public Defenders Association, the
8 Legislative Committee on Intergovernmental Relations, the
9 Information Resource Committee, and The Florida Bar.

10 Section 262. Subsection (3) of section 220.62, Florida
11 Statutes, is amended to read:

12 220.62 Definitions.--For purposes of this part:

13 (3) The term "international banking facility" means a
14 set of asset and liability accounts segregated on the books
15 and records of a banking organization that includes only
16 international banking facility deposits, borrowings, and
17 extensions of credit, as those terms are defined by the
18 Department of Financial Services ~~Banking and Finance~~, taking
19 into account all transactions in which international banking
20 facilities are permitted to engage by regulations of the Board
21 of Governors of the Federal Reserve System, as from time to
22 time amended. When providing such definitions, the Department
23 of Financial Services ~~Banking and Finance~~ shall also consider
24 the public interest, including the need to maintain a sound
25 and competitive banking system, as well as the purpose of this
26 act, which is to create an environment conducive to the
27 conduct of an international banking business in the state.

28 Section 263. Subsection (2) of section 220.723,
29 Florida Statutes, is amended to read:

30 220.723 Overpayments; interest.--

31

1 (2) Interest shall accrue from the date upon which the
2 taxpayer files a written notice advising the department of the
3 overpayment. Interest shall be paid until such date as
4 determined by the department, which shall be no more than 7
5 days prior to the date of the issuance by the Chief Financial
6 Officer ~~Comptroller~~ of the refund warrant.

7 Section 264. Paragraph (g) of subsection (6) of
8 section 228.2001, Florida Statutes, is amended to read:

9 228.2001 Discrimination against students and employees
10 in state system of public education; prohibitions; equality of
11 access; strategies to overcome underrepresentation;
12 remedies.--

13 (6) The functions of the Office of Equal Educational
14 Opportunity of the Department of Education shall include, but
15 not be limited to:

16 (g) Beginning July 1, 1994, reporting to the
17 Commissioner of Education any public community college or
18 school district found to be out of compliance with rules of
19 the State Board of Education adopted as required by paragraph
20 (f) or paragraph (3)(d). To penalize the community college or
21 school district, the commissioner shall:

22 1. Declare the educational agency ineligible for
23 competitive state grants.

24 2. Notwithstanding the provisions of s. 216.192,
25 direct the Chief Financial Officer ~~Comptroller~~ to withhold
26 general revenue funds sufficient to obtain compliance from the
27 educational agency.

28
29 The educational agency shall remain ineligible and the funds
30 shall not be paid until the agency comes into compliance or
31 the commissioner approves a plan for compliance.

1 Section 265. Subsection (4) of section 229.0535,
2 Florida Statutes, is amended to read:

3 229.0535 Authority to enforce school improvement.--It
4 is the intent of the Legislature that all public schools be
5 held accountable for students performing at acceptable levels.
6 A system of school improvement and accountability that
7 assesses student performance by school, identifies schools in
8 which students are not making adequate progress toward state
9 standards, institutes appropriate measures for enforcing
10 improvement, and provides rewards and sanctions based on
11 performance shall be the responsibility of the State Board of
12 Education.

13 (4) The State Board of Education is authorized to
14 require the Department of Education or Chief Financial Officer
15 ~~Comptroller~~ to withhold any transfer of state funds to the
16 school district if, within the timeframe specified in state
17 board action, the school district has failed to comply with
18 the action ordered to improve the district's low-performing
19 schools. Withholding the transfer of funds shall occur only
20 after all other recommended actions for school improvement
21 have failed to improve performance. The State Board of
22 Education may invoke the same penalty to any school board that
23 fails to develop and implement a plan for assistance and
24 intervention for low-performing schools as specified in s.
25 230.23(16)(c).

26 Section 266. Paragraph (b) of subsection (6) of
27 section 229.0537, Florida Statutes, is amended to read:

28 229.0537 Opportunity Scholarship Program.--

29 (6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.--

30 (b) Upon proper documentation reviewed and approved by
31 the Department of Education, the Chief Financial Officer

1 ~~Comptroller~~ shall make opportunity scholarship payments in
2 four equal amounts no later than September 1, November 1,
3 February 1, and April 1 of each academic year in which the
4 opportunity scholarship is in force. The initial payment shall
5 be made after Department of Education verification of
6 admission acceptance, and subsequent payments shall be made
7 upon verification of continued enrollment and attendance at
8 the private school. Payment must be by individual warrant made
9 payable to the student's parent or guardian and mailed by the
10 Department of Education to the private school of the parent's
11 or guardian's choice, and the parent or guardian shall
12 restrictively endorse the warrant to the private school.

13 Section 267. Paragraph (f) of subsection (6) of
14 section 229.05371, Florida Statutes, is amended to read:

15 229.05371 The John M. McKay Scholarships for Students
16 with Disabilities Program.--There is established a program
17 that is separate and distinct from the Opportunity Scholarship
18 Program and is named the John M. McKay Scholarships for
19 Students with Disabilities Program, pursuant to this section.

20 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

21 (f) Upon proper documentation reviewed and approved by
22 the Department of Education, the Chief Financial Officer
23 ~~Comptroller~~ shall make scholarship payments in four equal
24 amounts no later than September 1, November 1, February 1, and
25 April 15 of each academic year in which the scholarship is in
26 force. The initial payment shall be made after Department of
27 Education verification of admission acceptance, and subsequent
28 payments shall be made upon verification of continued
29 enrollment and attendance at the private school. Payment must
30 be by individual warrant made payable to the student's parent
31 and mailed by the Department of Education to the private

1 school of the parent's choice, and the parent shall
2 restrictively endorse the warrant to the private school for
3 deposit into the account of the private school.

4 Section 268. Subsection (2) of section 229.111,
5 Florida Statutes, is amended to read:

6 229.111 Gifts to state public education system or
7 school fund.--

8 (2) The Chief Financial Officer ~~State Treasurer~~ shall
9 be treasurer and custodian of all such gifts and bequests of
10 money, royalty, and other personal property given or
11 bequeathed for the purposes designated herein. He or she
12 shall receive and provide for the proper custody and
13 disbursement of any such funds, in accordance with the
14 provisions of law and regulations of the state board.

15 Section 269. Subsection (2) of section 229.781,
16 Florida Statutes, is amended to read:

17 229.781 Records; preservation; destruction.--

18 (2) After complying with the provisions of s. 257.37,
19 the Department of Education is authorized, in its discretion,
20 to destroy general correspondence which is over 3 years old;
21 records of bills, accounts, vouchers and requisitions which
22 are over 5 years old and copies of which have been filed with
23 the Chief Financial Officer ~~Comptroller~~; and other records,
24 papers and documents over 3 years old which do not serve as
25 part of an agreement or understanding nor have value as
26 permanent records.

27 Section 270. Subsection (9) of section 231.261,
28 Florida Statutes, is amended to read:

29 231.261 Education Practices Commission;
30 organization.--

31

1 (9) The commission shall make such expenditures as may
2 be necessary in exercising its authority and powers and
3 carrying out its duties and responsibilities, including
4 expenditures for personal services, general counsel or access
5 to counsel, and rent at the seat of government and elsewhere;
6 for books of reference, periodicals, furniture, equipment, and
7 supplies; and for printing and binding. The expenditures of
8 the commission shall be subject to the powers and duties of
9 the Department of Financial Services ~~Banking and Finance~~ as
10 provided in s. 17.03.

11 Section 271. Subsection (2) of section 231.30, Florida
12 Statutes, is amended to read:

13 231.30 Certification fees.--

14 (2) The proceeds from the collection of certification
15 fees, fines, penalties, and costs levied pursuant to this
16 chapter shall be remitted by the Department of Education to
17 the Chief Financial Officer ~~Treasurer~~ for deposit into a
18 separate fund to be known as the "Educational Certification
19 and Service Trust Fund" and disbursed for the payment of
20 expenses incurred by the Educational Standards Commission, by
21 the Educational Practices Commission, and in the printing of
22 forms and bulletins and the issuing of certificates, upon
23 vouchers approved by the department.

24 Section 272. Subsection (3) of section 231.545,
25 Florida Statutes, is amended to read:

26 231.545 Education Standards Commission;
27 organization.--

28 (3) Members shall serve for 3-year staggered terms and
29 shall be entitled to reimbursement for expenses of attending
30 meetings of the commission. Reimbursement for such expenses
31 shall be made by the Chief Financial Officer ~~Treasurer~~ from

1 funds appropriated for the Department of Education, ~~on~~
2 ~~warrants drawn by the Comptroller~~ upon requisitions approved
3 by the Department of Education. School districts shall be
4 reimbursed for substitute teachers required to replace
5 commission members, when they are carrying out their official
6 duties, at the rate established by the school district for
7 substitute teachers. The department may reimburse local
8 school districts for substitutes.

9 Section 273. Paragraph (b) of subsection (3) of
10 section 233.063, Florida Statutes, is amended to read:

11 233.063 Instruction in operation of motor vehicles.--

12 (3)

13 (b) For the purpose of financing the Driver Education
14 Program in the secondary schools, there shall be levied an
15 additional 50 cents per year to the driver's license fee
16 required by s. 322.21. The additional fee shall be promptly
17 remitted to the Department of Highway Safety and Motor
18 Vehicles, and the department shall transmit the fee to the
19 Chief Financial Officer ~~Treasurer~~ to be deposited in the
20 General Revenue Fund.

21 Section 274. Paragraph (c) of subsection (2) of
22 section 233.07, Florida Statutes, is amended to read:

23 233.07 State instructional materials committees.--

24 (2)

25 (c) The district school board shall be reimbursed for
26 the actual cost of substitute teachers for each workday that a
27 member of its instructional staff is absent from his or her
28 assigned duties for the purpose of rendering service to the
29 state instructional materials committee. In addition,
30 committee members shall be reimbursed for travel expenses, and
31 per diem shall be paid to each committee member as provided in

1 s. 112.061 for actual service in meetings of committees called
2 by the Commissioner of Education. Payment of such travel
3 expenses shall be made by the Chief Financial Officer
4 ~~Treasurer~~ from the appropriation for the administration of the
5 instructional materials program, ~~on warrants to be drawn by~~
6 ~~the Comptroller~~ upon requisition approved by the commissioner.

7 Section 275. Section 233.15, Florida Statutes, is
8 amended to read:

9 233.15 Deposit by publisher or manufacturer of
10 instructional materials must accompany bid.--The Department of
11 Education shall require each publisher or manufacturer of
12 instructional materials who submits a bid or proposal under
13 the provisions of this chapter to deposit with the department
14 such sum of money or certified check as may be determined by
15 the department, the amount to be not less than \$500 and not
16 more than \$2,500, according to the number of instructional
17 materials covered by the proposal; which deposit shall be
18 forfeited to the state and placed in the General Revenue Fund
19 if the bidder making the deposit shall fail or refuse to
20 execute the contract and bond within 30 days of receipt of
21 such contract in case his or her bid or proposal is accepted.
22 The Commissioner of Education shall, upon determining that the
23 deposit is correct and proper, transmit the deposit to the
24 Chief Financial Officer ~~Treasurer~~, who shall deposit such
25 funds for credit to the Textbook Bid Trust Fund and issue his
26 or her official receipt covering the same.

27 Section 276. Paragraphs (a) and (b) of subsection (5)
28 and subsection (6) of section 233.16, Florida Statutes, are
29 amended to read:

30
31

1 233.16 Powers and duties of the Commissioner of
2 Education and the Department of Education in selecting and
3 adopting instructional materials.--

4 (5) RETURN OF DEPOSITS.--

5 (a) The successful bidder shall be notified by
6 registered mail of the award of contract; and such bidder
7 shall, within 30 days of receipt of the contract, execute the
8 proper contract and post the required bond. When such bond
9 and contract have been executed, the department shall notify
10 the Chief Financial Officer ~~Comptroller~~ and request that a
11 warrant be issued against the Textbook Bid Trust Fund payable
12 to the successful bidder in the amount deposited under the
13 provisions of s. 233.15. The Chief Financial Officer
14 ~~Comptroller~~ shall issue and forward such warrant to the
15 department for distribution to the bidder.

16 (b) At the same time or prior thereto, the department
17 shall inform the Chief Financial Officer ~~Comptroller~~ of the
18 names of the unsuccessful bidders. Upon receipt of such
19 notice, the Chief Financial Officer ~~Comptroller~~ shall issue
20 warrants against the Textbook Bid Trust Fund payable to the
21 unsuccessful bidders in the amounts deposited under the
22 provisions of s. 233.15 and shall forward such warrants to the
23 department for distribution to the unsuccessful bidders.

24 (6) DEPOSITS FORFEITED.--Should any successful bidder
25 fail or refuse to execute contract and bond within 30 days of
26 receipt of the contract, the cash deposit shall be forfeited
27 to the state and placed by the Chief Financial Officer
28 ~~Treasurer~~ in the General Revenue Fund.

29 Section 277. Subsection (3) of section 233.255,
30 Florida Statutes, is amended to read:

31

1 233.255 Production and dissemination of educational
2 materials and products by department.--

3 (3) All proceeds from the sale of such educational
4 materials and products shall be remitted to the Chief
5 Financial Officer ~~Treasurer~~ and shall be kept in a separate
6 fund to be known as the "Educational Media and Technology
7 Trust Fund" and, when properly budgeted as approved by the
8 Legislature and the Executive Office of the Governor, used to
9 pay the cost of producing and disseminating educational
10 materials and products to carry out the intent of this act.

11 Section 278. Subsection (2) of section 236.43, Florida
12 Statutes, is amended to read:

13 236.43 Receiving bids and sale of bonds.--

14 (2) All bonds and refunding bonds issued as provided
15 by law shall be sold to the highest and best bidder at such
16 public sale unless sold at a better price or yield basis
17 within 30 days after failure to receive an acceptable bid at a
18 duly advertised public sale; provided, that at no time shall
19 bonds or refunding bonds be sold or exchanged at less than par
20 value except as specifically authorized by the department; and
21 provided, further, that the school board shall have the right
22 to reject all bids and cause a new notice to be given in like
23 manner inviting other bids for such bonds, or to sell all or
24 any part of such bonds to the state board at a price and yield
25 basis which shall not be less advantageous to the school board
26 than that represented by the highest and best bid received.
27 In the marketing of said bonds the school board shall be
28 entitled to have such assistance as can be rendered by the
29 Governor, the Chief Financial Officer ~~State Treasurer~~, the
30 Commissioner of Education, or any other public state officer
31 or agency. In determining the highest and best bidder for

1 bonds offered for sale, the net interest cost to the school
2 board as shown in standard bond tables shall govern; provided,
3 that the determination of the school board as to the highest
4 and best bidder shall be final.

5 Section 279. Subsection (4) of section 236.601,
6 Florida Statutes, is amended to read:

7 236.601 Board of Administration to act as fiscal agent
8 in issuance and sale of motor vehicle anticipation
9 certificates.--

10 (4) The proceeds of any sale of original bonds or
11 original certificates shall be deposited in the State Treasury
12 to the credit of the particular construction account for which
13 the original bonds or original certificates were issued and
14 shall be under the direct control and supervision of the State
15 Board of Education, and withdrawals from such construction
16 accounts shall be made only upon warrants ~~signed by the~~
17 ~~Comptroller and~~ drawn upon the Chief Financial Officer
18 ~~Treasurer~~. Such warrants shall be issued by the Chief
19 Financial Officer ~~Comptroller~~ only when the vouchers
20 requesting such warrants are accompanied by the certificates
21 of the State Board of Education to the effect that such
22 withdrawals are proper expenditures for the cost of the
23 particular construction account against which the requested
24 warrants are to be drawn.

25 Section 280. Subsection (2) of section 237.121,
26 Florida Statutes, is amended to read:

27 237.121 Penalty.--

28 (2) Each member of any school board voting to incur an
29 indebtedness against the district school funds in excess of
30 the expenditure allowed by law, or in excess of any
31 appropriation as adopted in the original official budget or

1 amendments thereto, or to approve or pay any illegal charge
2 against the said funds, and any chair of a school board or
3 superintendent who shall sign a warrant for payment of any
4 such claim or bill of indebtedness against any of the said
5 funds shall be personally liable for the amount, and shall be
6 guilty of malfeasance in office and subject to removal by the
7 Governor. It shall be the duty of the Auditor General or other
8 state official charged by law with the responsibility for
9 auditing school accounts, upon discovering any such illegal
10 expenditure or expenditures in excess of the appropriations in
11 the budget as officially amended, to certify such fact to the
12 Department of Financial Services ~~Banking and Finance~~, which
13 thereupon shall verify such fact and it shall be the duty of
14 the ~~said~~ Department of Financial Services ~~Banking and Finance~~
15 to advise the Department of Legal Affairs thereof, and it
16 shall be the duty of the ~~said~~ Department of Legal Affairs to
17 cause to be instituted and prosecuted, either through its
18 office or through any state attorney, proceedings at law or in
19 equity against such member or members of a school board or
20 superintendent; provided, that if either of the said officers
21 do not institute proceedings within 90 days after the audit
22 has been certified to them by the Department of Financial
23 Services ~~Banking and Finance~~ then any taxpayer may institute
24 suit in his or her own name in behalf of the district.

25 Section 281. Section 237.181, Florida Statutes, is
26 amended to read:

27 237.181 School funds to be paid to Chief Financial
28 Officer ~~Treasurer~~ or into depository.--

29 (1) Every tax collector, or other person having moneys
30 which by law go to any district school fund shall at least
31 once each month pay the same over to the depository or

1 depositories designated by the school board for such purpose,
2 and shall provide the school board with a duplicate of the
3 deposit slip. Every officer having moneys which by law go to
4 any state school fund, shall pay the same to the Chief
5 Financial Officer ~~Treasurer of the state~~, and he or she ~~the~~
6 ~~Treasurer~~ shall see that these moneys are deposited to the
7 credit of the proper state school fund.

8 (2) The school board shall have the authority to
9 designate that funds due it be placed for investment for its
10 account with the State Board of Administration rather than be
11 deposited, and the school board may direct those persons
12 having moneys due it or due any state school fund to pay out
13 such funds to the State Board of Administration to make
14 authorized investments for its account.

15 Section 282. Paragraph (b) of subsection (6) of
16 section 237.211, Florida Statutes, is amended to read:

17 237.211 School depositories; payments into and
18 withdrawals from depositories.--

19 (6) EXEMPTION FOR SELF-INSURANCE PROGRAMS AND
20 THIRD-PARTY ADMINISTERED EMPLOYEES' FRINGE BENEFIT PROGRAMS.--

21 (b) The school board is authorized to contract with an
22 insurance company or professional administrator who holds a
23 valid certificate of authority issued by the Department of
24 Financial Services ~~Insurance~~ to provide any or all services
25 that a third-party administrator is authorized by law to
26 perform. Pursuant to such contract, the school board may
27 advance or remit money to the administrator to be deposited in
28 a designated special checking account for paying claims
29 against the school board under its self-insurance programs,
30 and remitting premiums to the providers of insured benefits on
31 behalf of the school board and the participants in such

1 programs, and otherwise fulfilling the obligations imposed
2 upon the administrator by law and the contractual agreements
3 between the school board and the administrator. The special
4 checking account shall be maintained in a designated district
5 school depository. The school board may replenish such account
6 as often as necessary upon the presentation by the service
7 organization of documentation for claims or premiums due paid
8 equal to the amount of the requested reimbursement. Such
9 replenishment shall be made by a warrant signed by the chair
10 of the board and countersigned by the superintendent. Such
11 replenishment may be made by electronic, telephonic, or other
12 medium, and each transfer shall be confirmed in writing and
13 signed by the superintendent or his or her designee. The
14 provisions of strict accountability of all funds and an annual
15 audit by an independent certified public accountant as
16 provided in s. 230.23(10)(k) shall apply to this subsection.

17 Section 283. Paragraph (b) of subsection (1) and
18 paragraph (b) or subsection (2) of section 238.11, Florida
19 Statutes, are amended to read:

20 238.11 Collection of contributions.--

21 (1) The collection of contributions shall be as
22 follows:

23 (b) Each employer shall transmit monthly to the
24 Department of Management Services a warrant for the total
25 amount of such deductions. Each employer shall also transmit
26 monthly to the department a warrant for such employer
27 contribution set aside as provided for in paragraph (a) of
28 this subsection. The department, after making records of all
29 such warrants, shall transmit them to the Department of
30 Financial Services ~~Banking and Finance~~ for delivery to the
31

1 Chief Financial Officer ~~Treasurer of the state~~ who shall
2 collect them.

3 (2) The collection of the state contribution shall be
4 made as follows:

5 (b) The Department of Management Services shall
6 certify one-fourth of the amount so ascertained for each year
7 to the Chief Financial Officer ~~Comptroller~~ on or before the
8 last day of July, October, January, and April of each year.
9 The Chief Financial Officer ~~Comptroller~~ shall, on or before
10 the first day of August, November, February, and May of each
11 year, ~~draw his or her warrant or warrants on the Treasurer for~~
12 ~~the respective amounts due the several funds of the retirement~~
13 ~~system. On the receipt of the warrant or warrants of the~~
14 ~~Comptroller, the Treasurer shall~~ immediately transfer to the
15 several funds of the retirement system the amounts due.

16 Section 284. Section 238.15, Florida Statutes, is
17 amended to read:

18 238.15 Exemption of funds from taxation, execution,
19 and assignment.--The pensions, annuities or any other benefits
20 accrued or accruing to any person under the provisions of this
21 chapter and the accumulated contributions and cash securities
22 in the funds created under this chapter are exempted from any
23 state, county or municipal tax of the state, and shall not be
24 subject to execution or attachment or to any legal process
25 whatsoever, and shall be unassignable, except:

26 (1) That any teacher who has retired shall have the
27 right and power to authorize in writing the Department of
28 Management Services to deduct from his or her monthly
29 retirement allowance money for the payment of the premiums on
30 group insurance for hospital, medical and surgical benefits,
31 under a plan or plans for such benefits approved in writing by

1 the Chief Financial Officer ~~Insurance Commissioner and~~
2 ~~Treasurer of the state~~, and upon receipt of such request the
3 department shall make the monthly payments as directed; and

4 (2) As may be otherwise specifically provided for in
5 this chapter.

6 Section 285. Section 238.172, Florida Statutes, is
7 amended to read:

8 238.172 Proof required.--For any person to obtain the
9 allowance as set forth in s. 238.171 the ~~said~~ person shall
10 make such proof of the facts and conditions entitling him or
11 her to the ~~said~~ allowance as shall reasonably be required by
12 the state board, and when such proof has been submitted to the
13 satisfaction of the state board, the Chief Financial Officer
14 ~~State Treasurer~~ shall pay to such person the monthly allowance
15 herein provided for ~~on warrants drawn by the Comptroller~~.

16 Section 286. Section 238.173, Florida Statutes, is
17 amended to read:

18 238.173 Monthly allowance to widows or widowers of
19 pensioners.--When any teacher, drawing pension under s.
20 238.171, shall die leaving surviving a widow or widower to
21 whom such pensioner has been married for a continuous period
22 of at least 10 years immediately prior to his or her death,
23 and from whom no dissolution of marriage is obtained, such
24 widow or widower, upon proof of marriage to and continuation
25 of marriage for the minimum period with, and death of, said
26 pensioner, shall be granted a pension payable from the date of
27 the death of said pensioner, and at the same time and rate as
28 other pensions paid under s. 238.171. The Chief Financial
29 Officer ~~Comptroller~~ is hereby authorized and directed to draw
30 his or her warrants in payment of such pensions so long as
31 such widow or widower shall remain unmarried and continue to

1 be a resident of the state; provided, however, that nothing
2 herein contained shall be so construed as to allow such
3 pension to be paid to any widow or widower where such widow or
4 widower of a deceased pensioner under this section receives a
5 like pension in his or her own right as a retired school
6 teacher.

7 Section 287. Paragraph (b) of subsection (5) and
8 paragraph (f) of subsection (6) of section 240.551, Florida
9 Statutes, are amended to read:

10 240.551 Florida Prepaid College Program.--

11 (5) PROGRAM ADMINISTRATION.--

12 (b) The board shall consist of six ~~seven~~ members to be
13 composed of the Chief Financial Officer ~~Insurance Commissioner~~
14 ~~and Treasurer, the Comptroller,~~ the Chancellor of the Board of
15 Regents, the Executive Director of the State Board of
16 Community Colleges, and three members appointed by the
17 Governor and subject to confirmation by the Senate. Each
18 member appointed by the Governor shall possess knowledge,
19 skill, and experience in the areas of accounting, actuary,
20 risk management, or investment management. Each member of the
21 board not appointed by the Governor may name a designee to
22 serve the board on behalf of the member; however, any designee
23 so named shall meet the qualifications required of
24 gubernatorial appointees to the board. Members appointed by
25 the Governor shall serve terms of 3 years. Any person
26 appointed to fill a vacancy on the board shall be appointed in
27 a like manner and shall serve for only the unexpired term.
28 Any member shall be eligible for reappointment and shall serve
29 until a successor qualifies. Members of the board shall serve
30 without compensation but shall be reimbursed for per diem and
31 travel in accordance with s. 112.061. Each member of the

1 board shall file a full and public disclosure of his or her
2 financial interests pursuant to s. 8, Art. II of the State
3 Constitution and corresponding statute.

4 (6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.--The board
5 shall:

6 (f) Solicit proposals and contract, pursuant to s.
7 287.057, for product providers to develop investment
8 portfolios on behalf of the board to achieve the purposes of
9 this section. Product providers shall be limited to authorized
10 insurers as defined in s. 624.09, banks as defined in s.
11 658.12, associations as defined in s. 665.012, authorized
12 Securities and Exchange Commission investment advisers, and
13 investment companies as defined in the Investment Company Act
14 of 1940. All product providers shall have their principal
15 place of business and corporate charter located and registered
16 in the United States. In addition, each product provider shall
17 agree to meet the obligations of the board to qualified
18 beneficiaries if moneys in the fund fail to offset the
19 obligations of the board as a result of imprudent investing by
20 such provider. Each authorized insurer shall evidence superior
21 performance overall on an acceptable level of surety in
22 meeting its obligations to its policyholders and other
23 contractual obligations. Only qualified public depositories
24 approved by the Chief Financial Officer ~~Insurance Commissioner~~
25 ~~and Treasurer~~ shall be eligible for board consideration. Each
26 investment company shall provide investment plans as specified
27 within the request for proposals. The goals of the board in
28 selecting a product provider company shall be to provide all
29 purchasers with the most secure, well-diversified, and
30 beneficially administered postsecondary education expense plan
31 possible, to allow all qualified firms interested in providing

1 such services equal consideration, and to provide such
2 services to the state at no cost and to the purchasers at the
3 lowest cost possible. Evaluations of proposals submitted
4 pursuant to this paragraph shall include, but not be limited
5 to, the following criteria:

6 1. Fees and other costs charged to purchasers that
7 affect account values or operational costs related to the
8 program.

9 2. Past and current investment performance, including
10 investment and interest rate history, guaranteed minimum rates
11 of interest, consistency of investment performance, and any
12 terms and conditions under which moneys are held.

13 3. Past experience and ability to provide timely and
14 accurate service in the areas of records administration,
15 benefit payments, investment management, and complaint
16 resolution.

17 4. Financial history and current financial strength
18 and capital adequacy to provide products, including operating
19 procedures and other methods of protecting program assets.

20 Section 288. Subsection (2) of section 242.331,
21 Florida Statutes, is amended to read:

22 242.331 Florida School for the Deaf and the Blind;
23 board of trustees.--

24 (2) The board of trustees shall elect a chair
25 annually. The trustees shall be reimbursed for travel expenses
26 as provided in s. 112.061, the accounts of which shall be paid
27 by the Chief Financial Officer ~~Treasurer~~ upon itemized
28 vouchers duly approved by the chair.

29 Section 289. Subsection (2) of section 242.341,
30 Florida Statutes, is amended to read:

31

1 242.341 Florida School for the Deaf and the Blind;
2 board of trustees; management flexibility.--

3 (2) Notwithstanding the provisions of s. 216.181 and
4 pursuant to the provisions of s. 216.351, but subject to any
5 requirements imposed in the General Appropriations Act, no
6 lump-sum plan is required to implement the special categories,
7 program categories, or lump-sum appropriations. Upon release
8 of the special categories, program categories, or lump-sum
9 appropriations to the board of trustees, the Chief Financial
10 Officer ~~Comptroller~~, upon the request of the board of
11 trustees, shall transfer or reallocate funds to or among
12 accounts established for disbursement purposes. The board of
13 trustees shall maintain records to account for the original
14 appropriation.

15 Section 290. Subsection (2) of section 245.13, Florida
16 Statutes, is amended to read:

17 245.13 Fees; authority to accept additional funds;
18 annual audit.--

19 (2) The anatomical board is hereby empowered to
20 receive money from public or private sources in addition to
21 the fees collected from the institution or association to
22 which the bodies are distributed to be used to defray the
23 costs of embalming, handling, shipping, storage, cremation,
24 and other costs relating to the obtaining and use of such
25 bodies as described in this chapter; the anatomical board is
26 empowered to pay the reasonable expenses incurred by any
27 person delivering the bodies as described in this chapter to
28 the anatomical board and is further empowered to enter into
29 contracts and perform such other acts as are necessary to the
30 proper performance of its duties; a complete record of all
31 fees and other financial transactions of said anatomical board

1 shall be kept and audited annually by the Department of
2 Financial Services ~~Banking and Finance~~, and a report of such
3 audit shall be made annually to the University of Florida.

4 Section 291. Subsection (3) of section 250.22, Florida
5 Statutes, is amended to read:

6 250.22 Retirement.--

7 (3) Sufficient money to meet the requirements of this
8 section is hereby appropriated out of any moneys in the State
9 Treasury not otherwise appropriated, and payments under this
10 section will be made to those eligible to receive the same on
11 the first day of each calendar month from the General Revenue
12 Fund by the Chief Financial Officer ~~Comptroller~~ upon
13 prescribed pay vouchers certified to by the Adjutant General
14 of the state.

15 Section 292. Subsections (3), (4), and (5) of section
16 250.24, Florida Statutes, are amended to read:

17 250.24 Pay and expenses; appropriation; procedures.--

18 (3) Notwithstanding the provision of s. 216.271,
19 moneys for pay and allowances of the troops ordered out in
20 active service of the state shall be deposited in a separate
21 revolving fund, which shall be approved by the Chief Financial
22 Officer ~~Comptroller~~ and shall be subject to the provisions of
23 s. 18.101(2). The Department of Military Affairs shall
24 administer the fund. Frequency of payments to such troops
25 shall be at the discretion of the Adjutant General. The
26 Department of Military Affairs shall present to the Chief
27 Financial Officer ~~Comptroller~~ audit documentation of such
28 payments. The Department of Military Affairs shall maintain
29 all employee records relating to payments made pursuant to
30 this subsection and shall furnish to the Chief Financial

31

1 ~~Officer Comptroller~~ the information necessary to update the
2 payroll master record of each employee.

3 (4) The fund balance remaining in this separate
4 revolving fund after a final accounting of all expenditures
5 for pay and allowances of the troops shall be returned for
6 deposit to the State Treasury within 45 days after the
7 termination of active duty of the troops, except that an
8 operating balance in an amount mutually agreed upon by the
9 Chief Financial Officer ~~Comptroller~~ and the Department of
10 Military Affairs shall be retained in the fund.

11 (5) Vouchers for expenditures other than such pay and
12 allowances shall be presented to the Chief Financial Officer
13 ~~Comptroller~~ for approval and payment as prescribed by law.

14 Section 293. Section 250.25, Florida Statutes, is
15 amended to read:

16 250.25 Governor and Chief Financial Officer
17 ~~Comptroller~~ authorized to borrow money.--When there is no
18 state appropriation available for the pay and expenses of
19 troops called out in active service to preserve the peace or
20 in aid of civil authorities, and funds are not immediately
21 available for this purpose, the Governor and Chief Financial
22 Officer ~~Comptroller~~ may borrow money to make such payments, in
23 such sum or sums as may from time to time be required, and any
24 such loans, so obtained, shall be promptly repaid out of the
25 first funds that become available for such use.

26 Section 294. Section 250.26, Florida Statutes, is
27 amended to read:

28 250.26 Transfer of funds.--Where the available funds
29 are not sufficient for the purposes specified in ss. 250.23,
30 250.24, and 250.34, the Governor and Chief Financial Officer
31 ~~Comptroller~~ may transfer from any available fund in the State

1 Treasury, such sum as may be necessary to meet such emergency,
2 and the said moneys, so transferred, shall be repaid to the
3 fund from which transferred when moneys become available for
4 that purpose by legislative appropriation or otherwise.

5 Section 295. Subsection (3) of section 250.34, Florida
6 Statutes, is amended to read:

7 250.34 Injury or death in active service.--

8 (3) After the expiration of 1 year from the date of
9 injury or disability, such individual shall be provided
10 hospitalization, medical services and supplies, and
11 compensation for wages and compensation for disability based
12 on the average weekly wages of such injured individual on pay
13 status in the active service of the state or in his or her
14 civilian occupation or employment, whichever is greater, in
15 amounts provided under chapter 440 [F. S. 1973], as if such
16 individual were covered under the Workers' Compensation Law,
17 except that payments made during the first year after such
18 injury shall not be duplicated after the expiration of that
19 year. The Division of Risk Management of the Department of
20 Financial Services Insurance is responsible for processing all
21 claims for benefits under this subsection.

22 Section 296. Section 252.62, Florida Statutes, is
23 amended to read:

24 252.62 Chief Financial Officer's ~~Comptroller's~~ powers
25 in a state of emergency.--

26 (1) It is the purpose and intent of this section to
27 provide the Chief Financial Officer ~~Comptroller~~, as head of
28 the Department of Financial Services ~~Banking and Finance~~, the
29 authority to make temporary modifications to or suspensions of
30 the financial institutions codes in order to expedite the
31 recovery of communities affected by a disaster or other

1 emergency and in order to encourage financial institutions to
2 meet the credit, deposit, and other financial needs of such
3 communities.

4 (2)(a) When the Governor declares a state of emergency
5 pursuant to s. 252.36, the Chief Financial Officer ~~Comptroller~~
6 may issue:

7 1. One or more general orders applicable to all
8 financial institutions that are subject to the financial
9 institutions codes and that serve any portion of the area of
10 the state under the state of emergency; or

11 2. One or more specific orders to particular financial
12 institutions that are subject to the financial institution
13 codes and that normally derive more than 60 percent of their
14 deposits from persons in the area of the state under the state
15 of emergency,

16
17 which orders may modify or suspend, as to those institutions,
18 all or any part of the financial institutions codes, as
19 defined in s. 655.005, or any applicable rule, consistent with
20 the stated purposes of the financial institutions codes and
21 with maintaining the safety and soundness of the financial
22 institutions system in this state.

23 (b) An order issued by the Chief Financial Officer
24 ~~Comptroller~~ under this section becomes effective upon issuance
25 and continues for 120 days unless it is terminated by the
26 Chief Financial Officer ~~Comptroller~~. The Chief Financial
27 Officer ~~Comptroller~~ may extend an order for one additional
28 period of 120 days if he or she ~~the Comptroller~~ determines
29 that the emergency conditions that gave rise to the
30 ~~Comptroller's~~ initial order still exist. The Legislature, by
31

1 concurrent resolution, may terminate any order issued under
2 this section.

3 (3) The Chief Financial Officer ~~Comptroller~~ shall
4 publish, in the next available publication of the Florida
5 Administrative Weekly, a copy of the text of any order issued
6 under this section, together with a statement describing the
7 modification or suspension and explaining how the modification
8 or suspension will facilitate recovery from the emergency and
9 maintain the safety and soundness of financial institutions in
10 this state.

11 Section 297. Subsection (7) of section 252.87, Florida
12 Statutes, is amended to read:

13 252.87 Supplemental state reporting requirements.--

14 (7) The department shall avoid duplicative reporting
15 requirements by utilizing the reporting requirements of other
16 state agencies that regulate hazardous materials to the extent
17 feasible and shall request the information authorized under
18 EPCRA. With the advice and consent of the State Emergency
19 Response Commission for Hazardous Materials, the department
20 may require by rule that the maximum daily amount entry on the
21 chemical inventory report required under s. 312 of EPCRA
22 provide for reporting in estimated actual amounts. The
23 department may also require by rule an entry for the Federal
24 Employer Identification Number on this report. To the extent
25 feasible, the department shall encourage and accept required
26 information in a form initiated through electronic data
27 interchange and shall describe by rule the format, manner of
28 execution, and method of electronic transmission necessary for
29 using such form. To the extent feasible, the Department of
30 Financial Services ~~Insurance~~, the Department of Agriculture
31 and Consumer Services, the Department of Environmental

1 Protection, the Public Service Commission, the Department of
2 Revenue, the Department of Labor and Employment Security, and
3 other state agencies which regulate hazardous materials shall
4 coordinate with the department in order to avoid duplicative
5 requirements contained in each agency's respective reporting
6 or registration forms. The other state agencies that inspect
7 facilities storing hazardous materials and suppliers and
8 distributors of covered substances shall assist the department
9 in informing the facility owner or operator of the
10 requirements of this part. The department shall provide the
11 other state agencies with the necessary information and
12 materials to inform the owners and operators of the
13 requirements of this part to ensure that the budgets of these
14 agencies are not adversely affected.

15 Section 298. Subsection (1) of section 253.02, Florida
16 Statutes, is amended to read:

17 253.02 Board of trustees; powers and duties.--

18 (1) For the purpose of assuring the proper application
19 of the Internal Improvement Trust Fund and the Land
20 Acquisition Trust Fund for the purposes of this chapter, the
21 land provided for in ss. 253.01 and 253.03, and all the funds
22 arising from the sale thereof, after paying the necessary
23 expense of selection, management, and sale, are irrevocably
24 vested in a board of four ~~seven~~ trustees, to wit: The
25 Governor, ~~the Secretary of State,~~ the Attorney General, the
26 Chief Financial Officer ~~Comptroller, the State Treasurer, the~~
27 ~~Commissioner of Education,~~ and the Commissioner of Agriculture
28 and their successors in office, to hold the same in trust for
29 the uses and purposes provided in this chapter, with the power
30 to sell and transfer said lands to the purchasers and receive
31 payment for the same, and invest the surplus moneys arising

1 therefrom, from time to time, in stocks of the United States,
2 stocks of the several states, or the internal improvement
3 bonds issued under the provisions of law; also, the surplus
4 interest accruing from such investments. Said board of
5 trustees have all the rights, powers, property, claims,
6 remedies, actions, suits, and things whatsoever belonging to
7 them, or appertaining before and at the time of the enactment
8 hereof, and they shall remain subject to and pay, fulfill,
9 perform, and discharge all debts, duties, and obligations of
10 their trust, existing at the time of the enactment hereof or
11 provided in this chapter.

12 Section 299. Subsection (14) of section 253.025,
13 Florida Statutes, is amended to read:

14 253.025 Acquisition of state lands for purposes other
15 than preservation, conservation, and recreation.--

16 (14) Any agency that acquires land on behalf of the
17 board of trustees is authorized to request disbursement of
18 payments for real estate closings in accordance with a written
19 authorization from an ultimate beneficiary to allow a third
20 party authorized by law to receive such payment provided the
21 Chief Financial Officer ~~Comptroller~~ determines that such
22 disbursement is consistent with good business practices and
23 can be completed in a manner minimizing costs and risks to the
24 state.

25 Section 300. Subsection (1) of section 255.03, Florida
26 Statutes, is amended to read:

27 255.03 Proceeds of insurance to be paid into State
28 Treasury; disbursement of funds.--

29 (1) The proceeds from the insurance of any state
30 building or state property covered by insurance which may be
31 destroyed in whole or in part by fire, or other damage, shall

1 be paid into the State Treasury and constitute a fund for the
2 rebuilding or replacing of such property, and the Chief
3 Financial Officer ~~Comptroller~~ may draw his or her warrant ~~on~~
4 ~~the State Treasurer~~ for such amounts, not to exceed the
5 proceeds so paid in, as may be approved by the board or
6 persons having the direct supervision and control of such
7 buildings or property for the purpose of rebuilding or
8 replacing the same.

9 Section 301. Subsections (1) and (2) of section
10 255.052, Florida Statutes, are amended to read:

11 255.052 Substitution of securities for amounts
12 retained on public contracts.--

13 (1) Under any contract made or awarded by the state or
14 any county, city, or political subdivision thereof, or other
15 public authority, the contractor may, from time to time,
16 withdraw the whole or any portion of the amount retained for
17 payments to the contractor pursuant to the terms of the
18 contract, upon depositing with the Chief Financial Officer
19 ~~State Treasurer~~:

20 (a) United States Treasury bonds, United States
21 Treasury notes, United States Treasury certificates of
22 indebtedness, or United States Treasury bills;

23 (b) Bonds or notes of the State of Florida; or

24 (c) Bonds of any political subdivision in the state;

25 or

26 (d) Cash delivered to the State Treasury for the
27 Treasury Cash Deposit Trust Fund; or

28 (e) Certificates of deposit from state or national
29 banks or state or federal savings and loan associations in the
30 state. Certificates of deposit shall possess the eligibility
31 characteristics defined in s. 625.52.

1
2 No amount shall be withdrawn in excess of the market value of
3 the securities listed in paragraphs (a), (b), and (c) at the
4 time of withdrawal or of the par value of such securities,
5 whichever is lower.

6 (2) The Chief Financial Officer ~~Treasurer~~ shall
7 ~~regularly, on a regular basis,~~ collect all interest or income
8 on the obligations so deposited, and shall pay the same, when
9 and as collected, to the contractor who deposited the
10 obligations. If the deposit is in the form of coupon bonds,
11 the Chief Financial Officer ~~Treasurer~~ shall deliver each
12 coupon as it matures to the contractor.

13
14 Nothing in this section shall be construed to require the
15 state or any county, city, or political subdivision thereof,
16 or other public authority, to allow the contractor to withdraw
17 the whole or any portion of the amount retained for payments
18 to the contractor except pursuant to the terms of the
19 contract.

20 Section 302. Subsection (2) of section 255.258,
21 Florida Statutes, is amended to read:

22 255.258 Shared savings financing of energy
23 conservation in state-owned buildings.--

24 (2) Except as noted in subsection (4), state agency
25 shared savings contracts shall be developed in accordance with
26 a model contract to be developed by the department in
27 cooperation with the Attorney General, the Chief Financial
28 Officer ~~Comptroller~~, and the Department of Community Affairs.
29 The model contract shall include the methodology for
30 calculating base line energy costs, a procedure for revising
31 these costs should the state institute additional energy

1 conservation features or building use change, a requirement
2 for a performance bond guaranteeing that the facility will be
3 restored to the original condition in the event of default, a
4 provision for early buy-out, a clause specifying who will be
5 responsible for maintaining the equipment, and a provision
6 allowing the disposal of equipment at the end of the contract.
7 No agency shall substantially alter the provisions described
8 in the model without the permission of the department.

9 Section 303. Subsection (8) of section 255.503,
10 Florida Statutes, is amended to read:

11 255.503 Powers of the Department of Management
12 Services.--The Department of Management Services shall have
13 all the authority necessary to carry out and effectuate the
14 purposes and provisions of this act, including, but not
15 limited to, the authority to:

16 (8) Create and establish funds and accounts for the
17 purpose of debt service reserves, for the matching of the
18 timing and the amount of available funds and debt service
19 charges, for sinking funds, for capital depreciation reserves,
20 for operating reserves, for capitalized interest and moneys
21 not required for immediate disbursement to acquire all or a
22 portion of any facility, and for any other reserves, funds, or
23 accounts reasonably necessary to carry out the provisions of
24 this act and to invest in authorized investments any moneys
25 held in such funds and accounts, provided such investments
26 will be made on behalf of the Department of Management
27 Services by the State Board of Administration or the Chief
28 Financial Officer ~~Treasurer~~, as appropriate.

29 Section 304. Section 255.521, Florida Statutes, is
30 amended to read:

31

1 255.521 Failure of payment.--Should an agency fail to
2 make a timely payment of the pool pledged rentals or charges
3 as required by this act, the Chief Financial Officer
4 ~~Comptroller~~ shall withhold general revenues of the agency in
5 an amount sufficient to pay the rentals and charges due and
6 unpaid from such agency. The Chief Financial Officer
7 ~~Comptroller~~ shall forward such ~~said~~ general revenue amounts to
8 the Department of Management Services in payment of such
9 rents.

10 Section 305. Section 257.22, Florida Statutes, is
11 amended to read:

12 257.22 Division of Library and Information Services;
13 allocation of funds.--Any moneys that may be appropriated for
14 use by a county, a municipality, a special district, or a
15 special tax district for the maintenance of a library or
16 library service shall be administered and allocated by the
17 Division of Library and Information Services in the manner
18 prescribed by law. On or before December 1 of each year, the
19 division shall certify to the Chief Financial Officer
20 ~~Comptroller~~ the amount to be paid to each county,
21 municipality, special district, or special tax district, and
22 the Chief Financial Officer ~~Comptroller~~ shall issue warrants
23 to the respective boards of county commissioners or chief
24 municipal executive authorities for the amount so allocated.

25 Section 306. Subsection (2) of section 258.014,
26 Florida Statutes, is amended to read:

27 258.014 Fees for use of state parks.--

28 (2) Any moneys received in trust by the division by
29 gift, devise, appropriation, or otherwise shall, subject to
30 the terms of such trust, be deposited with the Chief Financial
31 Officer ~~State Treasurer~~ in a fund to be known as the "State

1 Park Trust Fund," and shall be subject to withdrawal upon
2 application of such ~~said~~ division for expenditure or
3 investment in accordance with the terms of the ~~said~~ trust.
4 Unless prohibited by the terms of the trust by which the ~~said~~
5 moneys are derived, all of such moneys may be invested as
6 provided by law.

7 Section 307. Subsection (6) and paragraph (e) of
8 subsection (12) of section 259.032, Florida Statutes, are
9 amended to read:

10 259.032 Conservation and Recreation Lands Trust Fund;
11 purpose.--

12 (6) Moneys in the fund not needed to meet obligations
13 incurred under this section shall be deposited with the Chief
14 Financial Officer ~~Treasurer~~ to the credit of the fund and may
15 be invested in the manner provided by law. Interest received
16 on such investments shall be credited to the Conservation and
17 Recreation Lands Trust Fund.

18 (12)

19 (e) Payment in lieu of taxes pursuant to this
20 subsection shall be made annually to qualifying counties and
21 local governments after certification by the Department of
22 Revenue that the amounts applied for are reasonably
23 appropriate, based on the amount of actual taxes paid on the
24 eligible property, and after the Department of Environmental
25 Protection has provided supporting documents to the Chief
26 Financial Officer ~~Comptroller~~ and has requested that payment
27 be made in accordance with the requirements of this section.

28
29 For the purposes of this subsection, "local government"
30 includes municipalities, the county school board, mosquito
31 control districts, and any other local government entity which

1 levies ad valorem taxes, with the exception of a water
2 management district.

3 Section 308. Subsection (18) of section 259.041,
4 Florida Statutes, is amended to read:

5 259.041 Acquisition of state-owned lands for
6 preservation, conservation, and recreation purposes.--

7 (18) Any agency authorized to acquire lands on behalf
8 of the board of trustees is authorized to request disbursement
9 of payments for real estate closings in accordance with a
10 written authorization from an ultimate beneficiary to allow a
11 third party authorized by law to receive such payment provided
12 the Chief Financial Officer ~~Comptroller~~ determines that such
13 disbursement is consistent with good business practices and
14 can be completed in a manner minimizing costs and risks to the
15 state.

16 Section 309. Subsection (2) of section 265.53, Florida
17 Statutes, is amended to read:

18 265.53 Application for indemnity agreement.--

19 (2) The Department of Financial Services ~~Insurance~~
20 shall determine whether applicants qualify for indemnity
21 coverage under ss. 265.51-265.56. Qualification criteria,
22 which shall be set by rule, shall include factors such as:

23 (a) Physical security of an applicant's exhibition
24 facilities and of the means of transportation of the eligible
25 items from the borrower to the lender.

26 (b) Experience and qualifications of an applicant's
27 director, curator, registrar, or other staff.

28 (c) Eligibility of an applicant's exhibition
29 facilities for commercial insurance coverage of works of art
30 displayed there.

31

1 (d) Availability of proper equipment to protect works
2 of art from damage from extremes of temperature or humidity or
3 exposure to glare, dust, or corrosion.

4
5 The department may consult with such private insurance and art
6 experts as reasonably necessary to carry out the intent of
7 this subsection.

8 Section 310. Subsections (1) and (3) of section
9 265.55, Florida Statutes, are amended to read:

10 265.55 Claims.--

11 (1) The Division of Risk Management of the Department
12 of Financial Services Insurance may prescribe rules providing
13 for prompt adjustment of valid claims for losses which are
14 covered by an indemnity agreement made pursuant to the
15 provisions of ss. 265.51-265.56, including rules providing for
16 the employment of consultants and for the arbitration of
17 issues relating to the dollar value of damages involving less
18 than total loss or destruction of such covered objects.

19 (3) The authorization for payment delineated in
20 subsection (2) shall be forwarded to the Chief Financial
21 Officer Comptroller. The Chief Financial Officer Comptroller
22 shall take appropriate action to execute authorized payment of
23 the claim from the Working Capital Fund, as defined in s.
24 215.32.

25 Section 311. Paragraph (d) of subsection (3) of
26 section 267.075, Florida Statutes, is amended to read:

27 267.075 The Grove Advisory Council; creation;
28 membership; purposes.--

29 (3)

30 (d) Members of the council shall serve without
31 compensation or honorarium but shall be entitled to receive

1 reimbursement for per diem and travel expenses as provided in
2 s. 112.061. All expenses of the council shall be paid from
3 appropriations to be made by the Legislature to the Department
4 of State. All vouchers shall be approved by the Division of
5 Historical Resources before being submitted to the Chief
6 Financial Officer ~~Comptroller~~ for payment.

7 Section 312. Paragraph (c) of subsection (2) of
8 section 272.18, Florida Statutes, is amended to read:

9 272.18 Governor's Mansion Commission.--

10 (2)

11 (c) Members of the commission shall serve without
12 compensation or honorarium but shall be entitled to receive
13 reimbursement for per diem and travel expenses as provided in
14 s. 112.061. All expenses of the commission shall be paid from
15 appropriations to be made by the Legislature to the Department
16 of Management Services for that purpose. The commission shall
17 submit its budgetary requests to the Department of Management
18 Services for approval and inclusion in the legislative budget
19 request of the department. All vouchers shall be approved by
20 the secretary of the Department of Management Services before
21 being submitted to the Chief Financial Officer ~~Comptroller~~ for
22 payment.

23 Section 313. Subsections (9), (11), (17), (18), (19),
24 and (24), paragraph (f) of subsection (26), and subsections
25 (29), (30), and (31) of section 280.02, Florida Statutes, are
26 amended to read:

27 280.02 Definitions.--As used in this chapter, the
28 term:

29 (9) "Custodian" means the Chief Financial Officer
30 ~~Treasurer~~ or any bank, savings association, or trust company
31 that:

1 (a) Is organized and existing under the laws of this
2 state, any other state, or the United States;

3 (b) Has executed all forms required under this chapter
4 or any rule adopted hereunder;

5 (c) Agrees to be subject to the jurisdiction of the
6 courts of this state, or of courts of the United States which
7 are located within this state, for the purpose of any
8 litigation arising out of this chapter; and

9 (d) Has been approved by the Chief Financial Officer
10 ~~Treasurer~~ to act as a custodian.

11 (11) "Effective date of notice of withdrawal or order
12 of discontinuance" pursuant to s. 280.11(3) means that date
13 which is set out as such in any notice of withdrawal or order
14 of discontinuance from the Chief Financial Officer ~~Treasurer~~.

15 (17) "Operating subsidiary" means the qualified public
16 depository's 100-percent owned corporation that has ownership
17 of pledged collateral. The operating subsidiary may have no
18 powers beyond those that its parent qualified public
19 depository may itself exercise. The use of an operating
20 subsidiary is at the discretion of the qualified public
21 depository and must meet the Chief Financial Officer's
22 ~~Treasurer's~~ requirements.

23 (18) "Oversight board" means the qualified public
24 depository oversight board created in s. 280.071 for the
25 purpose of safeguarding the integrity of the public deposits
26 program and preventing the realization of loss assessments
27 through standards, policies, and recommendations for actions
28 to the Chief Financial Officer ~~Treasurer~~.

29 (19) "Pledged collateral" means securities or cash
30 held separately and distinctly by an eligible custodian for
31 the benefit of the Chief Financial Officer ~~Treasurer~~ to be

1 used as security for Florida public deposits. This includes
2 maturity and call proceeds.

3 (24) "Public depositor" means the ~~Treasurer or other~~
4 Chief Financial Officer or designee responsible for handling
5 public deposits.

6 (26) "Qualified public depository" means any bank,
7 savings bank, or savings association that:

8 (f) Has been designated by the Chief Financial Officer
9 ~~Treasurer~~ as a qualified public depository.

10 ~~(29) "Treasurer" means the Treasurer of the State of~~
11 ~~Florida.~~

12 ~~(29)(30)~~ "Chief Financial Officer's ~~Treasurer's~~
13 custody" is a collateral arrangement governed by a contract
14 between a designated Chief Financial Officer's ~~Treasurer's~~
15 custodian and the Chief Financial Officer ~~Treasurer~~. This
16 arrangement requires collateral to be in the Chief Financial
17 Officer's ~~Treasurer's~~ name in order to perfect the security
18 interest.

19 ~~(30)(31)~~ "Triggering events" are events set out in s.
20 280.041 which give the Chief Financial Officer ~~Treasurer~~ the
21 right to:

22 (a) Instruct the custodian to transfer securities
23 pledged, interest payments, and other proceeds of pledged
24 collateral not previously credited to the pledgor.

25 (b) Demand payment under letters of credit.

26 Section 314. Subsections (1), (2), (5), (6), (7), and
27 (9) of section 280.04, Florida Statutes, are amended to read:

28 280.04 Collateral for public deposits; general
29 provisions.--

30 (1) The Chief Financial Officer ~~Treasurer~~ shall
31 determine the collateral requirements and collateral pledging

1 level for each qualified public depository following
2 procedures established by rule. These procedures shall include
3 numerical parameters for 25-percent, 50-percent, 125-percent,
4 and 200-percent pledge levels based on nationally recognized
5 financial rating services information and established
6 financial performance guidelines.

7 (2) A qualified public depository may not accept or
8 retain any public deposit which is required to be secured
9 unless it has deposited with the Chief Financial Officer
10 ~~Treasurer~~ eligible collateral at least equal to the greater
11 of:

12 (a) The average daily balance of public deposits that
13 does not exceed the lesser of its capital account or 20
14 percent of the pool figure multiplied by the depository's
15 collateral-pledging level, plus the greater of:

16 1. One hundred twenty-five percent of the average
17 daily balance of public deposits in excess of capital
18 accounts; or

19 2. One hundred twenty-five percent of the average
20 daily balance of public deposits in excess of 20 percent of
21 the pool figure.

22 (b) Twenty-five percent of the average monthly balance
23 of public deposits.

24 (c) One hundred twenty-five percent of the average
25 daily balance of public deposits if the qualified public
26 depository:

27 1. Has been established for less than 3 years;

28 2. Has experienced material decreases in its capital
29 accounts; or

30 3. Has an overall financial condition that is
31 materially deteriorating.

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 (a) Use a nationally recognized source.

18 (b) Use market price, quality ratings, and pay-down
19 factors as of the close of business on the last banking day in
20 the reported month, or as of a date approved by the Chief
21 Financial Officer ~~Treasurer~~.

22 (c) Report any material decline in value that occurs
23 before the date of mailing the monthly report, required in s.
24 280.16, to the Chief Financial Officer ~~Treasurer~~.

25 (d) Use 100 percent of the maximum amount available
26 under Federal Home Loan Bank letters of credit as market
27 value.

28 (7) A qualified public depository shall pledge,
29 deposit, or issue additional eligible collateral between
30 filing periods of the monthly report required in s. 280.16
31 when notified by the Chief Financial Officer ~~Treasurer~~ that

1 current market value of collateral does not meet required
2 collateral. The pledge, deposit, or issuance of such
3 additional collateral shall be made within 2 business days
4 after the Chief Financial Officer's ~~Treasurer's~~ notification.

5 (9) The Chief Financial Officer ~~Treasurer~~ shall adopt
6 rules for the establishment of collateral requirements,
7 collateral pledging levels, required collateral calculations,
8 and market value and clarifying terms.

9 Section 315. Section 280.041, Florida Statutes, is
10 amended to read:

11 280.041 Collateral arrangements; agreements,
12 provisions, and triggering events.--

13 (1) Eligible collateral listed in s. 280.13 may be
14 pledged, deposited, or issued using the following collateral
15 arrangements as approved by the Chief Financial Officer
16 ~~Treasurer~~ for a qualified public depository or operating
17 subsidiary, if one is used, to meet required collateral:

18 (a) Regular custody arrangement for collateral pledged
19 to the Chief Financial Officer ~~Treasurer~~ pursuant to
20 subsection (2).

21 (b) Federal Reserve Bank custody arrangement for
22 collateral pledged to the Chief Financial Officer ~~Treasurer~~
23 pursuant to subsection (3).

24 (c) Chief Financial Officer's ~~Treasurer's~~ custody
25 arrangement for collateral deposited in the Chief Financial
26 Officer's ~~Treasurer's~~ name pursuant to subsection (4).

27 (d) Federal Home Loan Bank letter of credit
28 arrangement for collateral issued with the Chief Financial
29 Officer ~~Treasurer~~ as beneficiary pursuant to subsection (5).

30 (e) Cash arrangement for collateral held by the Chief
31 Financial Officer ~~Treasurer~~ or a custodian.

1 (2) With the approval of the Chief Financial Officer
2 ~~Treasurer~~, a qualified public depository or operating
3 subsidiary, as pledgor, may deposit eligible collateral with a
4 custodian. A qualified public depository shall not act as its
5 own custodian. Except in the case of using a Federal Reserve
6 Bank as custodian, the following are necessary for the Chief
7 Financial Officer's ~~Treasurer's~~ approval:

8 (a) A completed collateral agreement in a form
9 prescribed by the Chief Financial Officer ~~Treasurer~~ in which
10 the pledgor agrees to the following provisions:

11 1. The pledgor shall own the pledged collateral and
12 acknowledge that the Chief Financial Officer ~~Treasurer~~ has a
13 perfected security interest. The pledged collateral shall be
14 eligible collateral and shall be at least equal to the amount
15 of required collateral.

16 2. The pledgor shall grant to the Chief Financial
17 Officer ~~Treasurer~~ an interest in pledged collateral for the
18 purposes of this section. The pledgor shall not enter into or
19 execute any other agreement related to the pledged collateral
20 that would create an interest in or lien on that collateral in
21 any manner in favor of any third party without the written
22 consent of the Chief Financial Officer ~~Treasurer~~.

23 3. The pledgor shall not grant the custodian any lien
24 that attaches to the collateral in favor of the custodian that
25 is superior or equal to the security interest of the Chief
26 Financial Officer ~~Treasurer~~.

27 4. The pledgor shall agree that the Chief Financial
28 Officer ~~Treasurer~~ may, without notice to or consent by the
29 pledgor, require the custodian to comply with and perform any
30 and all requests and orders directly from the Chief Financial
31 Officer ~~Treasurer~~. These include, but are not limited to,

1 liquidating all collateral and submitting the proceeds
2 directly to the Chief Financial Officer ~~Treasurer~~ in the name
3 of the Chief Financial Officer ~~Treasurer~~ only or transferring
4 all collateral into an account designated solely by the Chief
5 Financial Officer ~~Treasurer~~.

6 5. The pledgor shall acknowledge that the Chief
7 Financial Officer ~~Treasurer~~ may, without notice to or consent
8 by the pledgor, require the custodian to hold principal
9 payments and income for the benefit of the Chief Financial
10 Officer ~~Treasurer~~.

11 6. The pledgor shall initiate collateral transactions
12 on forms prescribed by the Chief Financial Officer ~~Treasurer~~
13 in the following manner:

14 a. A deposit transaction of eligible collateral may be
15 made without prior approval from the Chief Financial Officer
16 ~~Treasurer~~ provided: security types that have restrictions have
17 been approved in advance of the transaction by the Chief
18 Financial Officer ~~Treasurer~~ and simultaneous notification is
19 given to the Chief Financial Officer ~~Treasurer~~; and the
20 custodian has not received notice from the Chief Financial
21 Officer ~~Treasurer~~ prohibiting deposits without 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: security types that have
25 restrictions have been approved in advance of the transaction
26 by the Chief Financial Officer ~~Treasurer~~; the market value of
27 the securities to be substituted is at least equal to the
28 amount withdrawn; simultaneous notification is given to the
29 Chief Financial Officer ~~Treasurer~~; and the custodian has not
30 received notice from the Chief Financial Officer ~~Treasurer~~
31 prohibiting substitution.

1 c. A transfer of collateral between accounts at a
2 custodian requires the Chief Financial Officer's ~~Treasurer's~~
3 prior approval. The collateral shall be released subject to
4 redeposit in the new account with a pledge to the Chief
5 Financial Officer ~~Treasurer~~ intact.

6 d. A transfer of collateral from a custodian to
7 another custodian requires the Chief Financial Officer's
8 ~~Treasurer's~~ prior approval and a valid collateral agreement
9 with the new custodian. The collateral shall be released
10 subject to redeposit at the new custodian with a pledge to the
11 Chief Financial Officer ~~Treasurer~~ intact.

12 e. A withdrawal transaction requires the Chief
13 Financial Officer's ~~Treasurer's~~ prior approval. The market
14 value of eligible collateral remaining after the withdrawal
15 shall be at least equal to the amount of required collateral.
16 A withdrawal transaction shall be executed for any release of
17 collateral including maturity or call proceeds.

18 f. Written notice shall be sent to the Chief Financial
19 Officer ~~Treasurer~~ to remove from the inventory of pledged
20 collateral a pay-down security that has paid out with zero
21 principal remaining.

22 7. If pledged collateral includes definitive
23 (physical) securities in registered form which are in the name
24 of the pledgor or a nominee, the pledgor shall deliver the
25 following documents when requested by the Chief Financial
26 Officer ~~Treasurer~~:

27 a. A separate certified power of attorney in a form
28 prescribed by the Chief Financial Officer ~~Treasurer~~ for each
29 issue of securities.

30 b. Separate bond assignment forms as required by the
31 bond agent or trustee.

1 c. Certified copies of resolutions adopted by the
2 pledgor's governing body authorizing execution of these
3 documents.

4 8. The pledgor shall be responsible for all costs
5 necessary to the functioning of the collateral agreement or
6 associated with confirmation of pledged collateral to the
7 Chief Financial Officer ~~Treasurer~~ and acknowledges that these
8 costs shall not be a charge against the Chief Financial
9 Officer ~~Treasurer~~ or his or her interests in the pledged
10 collateral.

11 9. The pledgor, if notified by the Chief Financial
12 Officer ~~Treasurer~~, shall not be allowed to use a custodian if
13 that custodian fails to complete the collateral agreement,
14 releases pledged collateral without the Chief Financial
15 Officer's ~~Treasurer's~~ approval, fails to properly complete
16 confirmations of pledged collateral, fails to honor a request
17 for examination of definitive pledged collateral and records
18 of book-entry securities, or fails to provide requested
19 documents on definitive securities. The period for disallowing
20 the use of a custodian shall be 1 year.

21 10. The pledgor shall be subject to the jurisdiction
22 of the courts of the State of Florida, or of courts of the
23 United States located within the State of Florida, for the
24 purpose of any litigation arising out of the act.

25 11. The pledgor is responsible and liable to the Chief
26 Financial Officer ~~Treasurer~~ for any action of agents the
27 pledgor uses to execute collateral transactions or submit
28 reports to the Chief Financial Officer ~~Treasurer~~.

29 12. The pledgor shall agree that any information,
30 forms, or reports electronically transmitted to the Chief
31

1 Financial Officer ~~Treasurer~~ shall have the same enforceability
2 as a signed writing.

3 13. The pledgor shall submit proof that authorized
4 individuals executed the collateral agreement on behalf of the
5 pledgor.

6 14. The pledgor shall agree by resolution of the board
7 of directors that collateral agreements entered into for
8 purposes of this section have been formally accepted and
9 constitute official records of the pledgor.

10 15. The pledgor shall be bound by any other provisions
11 found necessary for a perfected security interest in
12 collateral under the Uniform Commercial Code.

13 (b) A completed collateral agreement in a form
14 prescribed by the Chief Financial Officer ~~Treasurer~~ in which
15 the custodian agrees to the following provisions:

16 1. The custodian shall have no responsibility to
17 ascertain whether the pledged securities are at least equal to
18 the amount of required collateral nor whether the pledged
19 securities are eligible collateral.

20 2. The custodian shall hold pledged collateral in a
21 custody account for the Chief Financial Officer ~~Treasurer~~ for
22 purposes of this section. The custodian shall not enter into
23 or execute any other agreement related to the collateral that
24 would create an interest in or lien on that collateral in any
25 manner in favor of any third party without the written consent
26 of the Chief Financial Officer ~~Treasurer~~.

27 3. The custodian shall agree that any lien that
28 attaches to the collateral in favor of the custodian shall not
29 be superior or equal to the security interest of the Chief
30 Financial Officer ~~Treasurer~~.

31

1 4. The custodian shall, without notice to or consent
2 by the pledgor, comply with and perform any and all requests
3 and orders directly from the Chief Financial Officer
4 ~~Treasurer~~. These include, but are not limited to, liquidating
5 all collateral and submitting the proceeds directly to the
6 Chief Financial Officer ~~Treasurer~~ in the name of the Chief
7 Financial Officer ~~Treasurer~~ only or transferring all
8 collateral into an account designated solely by the Chief
9 Financial Officer ~~Treasurer~~.

10 5. The custodian shall consider principal payments on
11 pay-down securities and income paid on pledged collateral as
12 the property of the pledgor and shall pay thereto provided the
13 custodian has not received written notice from the Chief
14 Financial Officer ~~Treasurer~~ to hold such principal payments
15 and income for the benefit of the Chief Financial Officer
16 ~~Treasurer~~.

17 6. The custodian shall process collateral transactions
18 on forms prescribed by the Chief Financial Officer ~~Treasurer~~
19 in the following manner:

20 a. A deposit transaction of eligible collateral may be
21 made without prior approval from the Chief Financial Officer
22 ~~Treasurer~~ unless the custodian has received notice from the
23 Chief Financial Officer ~~Treasurer~~ requiring the Chief
24 Financial Officer's ~~Treasurer's~~ prior approval.

25 b. A substitution transaction of eligible collateral
26 may be made without prior approval from the Chief Financial
27 Officer ~~Treasurer~~ provided the pledgor certifies the market
28 value of the securities to be substituted is at least equal to
29 the market value amount of the securities to be withdrawn and
30 the custodian has not received notice from the Chief Financial
31 Officer ~~Treasurer~~ prohibiting substitution.

1 c. A transfer of collateral between accounts at a
2 custodian requires the Chief Financial Officer's ~~Treasurer's~~
3 prior approval. The collateral shall be released subject to
4 redeposit in the new account with a pledge to the Chief
5 Financial Officer ~~Treasurer~~ intact. Confirmation from the
6 custodian to the Chief Financial Officer ~~Treasurer~~ must be
7 received within 5 business days of the redeposit.

8 d. A transfer of collateral from a custodian to
9 another custodian requires the Chief Financial Officer's
10 ~~Treasurer's~~ prior approval. The collateral shall be released
11 subject to redeposit at the new custodian with a pledge to the
12 Chief Financial Officer ~~Treasurer~~ intact. Confirmation from
13 the new custodian to the Chief Financial Officer ~~Treasurer~~
14 must be received within 5 business days of the redeposit.

15 e. A withdrawal transaction requires the Chief
16 Financial Officer's ~~Treasurer's~~ prior approval. A withdrawal
17 transaction shall be executed for the release of any pledged
18 collateral including maturity or call proceeds.

19 7. If pledged collateral includes definitive
20 (physical) securities in registered form, which are in the
21 name of the custodian or a nominee, the custodian shall
22 deliver the following documents when requested by the Chief
23 Financial 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 custodian's governing body authorizing execution of these
31 documents.

1 8. The custodian shall acknowledge that the pledgor is
2 responsible for all costs necessary to the functioning of the
3 collateral agreement or associated with confirmation of
4 securities pledged to the Chief Financial Officer ~~Treasurer~~
5 and that these costs shall not be a charge against the Chief
6 Financial Officer ~~Treasurer~~ or his or her interests in the
7 pledged collateral.

8 9. The custodian shall agree to provide confirmation
9 of pledged collateral upon request from the Chief Financial
10 Officer ~~Treasurer~~. This confirmation shall be provided within
11 15 working days after the request, in a format prescribed by
12 the Chief Financial Officer ~~Treasurer~~, and shall require no
13 identification other than the pledgor name and location,
14 unless the special identification is provided in the
15 collateral agreement.

16 10. The custodian shall be subject to the jurisdiction
17 of the courts of the State of Florida, or of courts of the
18 United States located within the State of Florida, for the
19 purpose of any litigation arising out of the act.

20 11. The custodian shall be responsible and liable to
21 the Chief Financial Officer ~~Treasurer~~ for any action of agents
22 the custodian uses to hold and service collateral pledged to
23 the Chief Financial Officer ~~Treasurer~~.

24 12. The custodian shall agree that any information,
25 forms, or reports electronically transmitted to the Chief
26 Financial Officer ~~Treasurer~~ shall have the same enforceability
27 as a signed writing.

28 13. The Chief Financial Officer ~~Treasurer~~ shall have
29 the right to examine definitive pledged collateral and records
30 of book-entry securities during the regular business hours of
31

1 the custodian without cost to the Chief Financial Officer
2 ~~Treasurer~~.

3 14. The responsibilities of the custodian for the
4 safekeeping of the pledged collateral shall be limited to the
5 diligence and care usually exercised by a banking or trust
6 institution toward its own property.

7 15. If there is any change in the Uniform Commercial
8 Code, as adopted by law in this state, which affects the
9 requirements for a perfected security interest in collateral,
10 the Chief Financial Officer ~~Treasurer~~ shall notify the
11 custodian of such change. The custodian shall have a period of
12 180 calendar days after such notice to withdraw as custodian
13 if the custodian cannot provide the required custodial
14 services.

15 (3) With the approval of the Chief Financial Officer
16 ~~Treasurer~~, a pledgor may deposit eligible collateral pursuant
17 to an agreement with a Federal Reserve Bank. The Federal
18 Reserve Bank agreement may require terms not consistent with
19 subsection (2) but may not subject the Chief Financial Officer
20 ~~Treasurer~~ to any costs or indemnification requirements.

21 (4) The Chief Financial Officer ~~Treasurer~~ may require
22 deposit or transfer of collateral into a custodial account
23 established in the Chief Financial Officer's ~~Treasurer's~~ name
24 at a designated custodian. This requirement for Chief
25 Financial Officer's ~~Treasurer's~~ custody shall have the
26 following characteristics:

27 (a) One or more triggering events must have occurred.

28 (b) The custodian used must be a Chief Financial
29 Officer's ~~Treasurer's~~ approved custodian that must:

30 1. Meet the definition of custodian.

31

1 2. Not be an affiliate of the qualified public
2 depository.

3 3. Be bound under a distinct Chief Financial Officer's
4 ~~Treasurer's~~ custodial contract.

5 (c) All deposit transactions require the approval of
6 the Chief Financial Officer ~~Treasurer~~.

7 (d) All collateral must be in book-entry form.

8 (e) The qualified public depository shall be
9 responsible for all costs necessary to the functioning of the
10 contract or associated with the confirmation of securities in
11 the name of the Chief Financial Officer ~~Treasurer~~ and
12 acknowledges that these costs shall not be a charge against
13 the Chief Financial Officer ~~Treasurer~~ and may be deducted from
14 the collateral or income earned if unpaid.

15 (5) With the approval of the Chief Financial Officer
16 ~~Treasurer~~, a qualified public depository may use Federal Home
17 Loan Bank letters of credit to meet collateral requirements.
18 A completed agreement that includes the following provisions
19 is necessary for the Chief Financial Officer's ~~Treasurer's~~
20 approval:

21 (a) The letter of credit shall meet the definition of
22 eligible collateral.

23 (b) The qualified public depository shall agree that
24 the Chief Financial Officer ~~Treasurer~~, as beneficiary, may,
25 without notice to or consent by the qualified public
26 depository, demand payment under the letter of credit if any
27 of the triggering events listed in this section occur.

28 (c) The qualified public depository shall agree that
29 funds received by the Chief Financial Officer ~~Treasurer~~ due to
30 the occurrence of one or more triggering events may be
31

1 deposited in the Treasury Cash Deposit Trust Fund for purposes
2 of eligible collateral.

3 (d) The qualified public depository shall arrange for
4 the issue of letters of credit which meet the requirements of
5 s. 280.13 and delivery to the Chief Financial Officer
6 ~~Treasurer~~. All transactions involving letters of credit
7 require the Chief Financial Officer's ~~Treasurer's~~ approval.

8 (e) The qualified public depository shall be
9 responsible for all costs necessary in the use or confirmation
10 of letters of credit issued on behalf of the Chief Financial
11 Officer ~~Treasurer~~ and acknowledges that these costs shall not
12 be a charge against the Chief Financial Officer ~~Treasurer~~.

13 (f) The qualified public depository shall be subject
14 to the jurisdiction of the courts of this state, or of courts
15 of the United States which are located within this state, for
16 the purpose of any litigation arising out of the act.

17 (g) The qualified public depository shall agree that
18 any information, form, or report electronically transmitted to
19 the Chief Financial Officer ~~Treasurer~~ shall have the same
20 enforceability as a signed writing.

21 (h) The qualified public depository shall submit proof
22 that authorized individuals executed the letters of credit
23 agreement on its behalf.

24 (i) The qualified public depository shall agree by
25 resolution of the board of directors that the letters of
26 credit agreements entered into for purposes of this section
27 have been formally accepted and constitute official records of
28 the qualified public depository.

29 (6) The Chief Financial Officer ~~Treasurer~~ may demand
30 payment under a letter of credit or direct a custodian to
31 deposit or transfer collateral and proceeds of securities not

1 previously credited upon the occurrence of one or more
2 triggering events provided that, to the extent not
3 incompatible with the protection of public deposits, as
4 determined in the Chief Financial Officer's ~~Treasurer's~~ sole
5 and absolute discretion, the Chief Financial Officer ~~Treasurer~~
6 shall provide a custodian and the qualified public depository
7 with 48 hours' advance notice before directing such deposit or
8 transfer. These events include:

9 (a) The Chief Financial Officer ~~Treasurer~~ determines
10 that an immediate danger to the public health, safety, or
11 welfare exists.

12 (b) The qualified public depository fails to have
13 adequate procedures and practices for the accurate
14 identification, classification, reporting, and
15 collateralization of public deposits.

16 (c) The custodian fails to provide or allow inspection
17 and verification of documents, reports, records, or other
18 information dealing with the pledged collateral or financial
19 information.

20 (d) The qualified public depository or its operating
21 subsidiary fails to provide or allow inspection and
22 verification of documents, reports, records, or other
23 information dealing with Florida public deposits, pledged
24 collateral, or financial information.

25 (e) The custodian fails to hold income and principal
26 payments made on securities held as collateral or fails to
27 deposit or transfer such payments pursuant to the Chief
28 Financial Officer's ~~Treasurer's~~ instructions.

29 (f) The qualified public depository defaults or
30 becomes insolvent.

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1 (g) The qualified public depository fails to pay an
2 assessment.

3 (h) The qualified public depository fails to pay an
4 administrative penalty.

5 (i) The qualified public depository fails to meet
6 financial condition standards.

7 (j) The qualified public depository charges a
8 withdrawal penalty to public depositors when the qualified
9 public depository is suspended, disqualified, or withdrawn
10 from the public deposits program.

11 (k) The qualified public depository does not provide,
12 as required, the public depositor with annual confirmation
13 information on all open Florida public deposit accounts.

14 (l) The qualified public depository pledges, deposits,
15 or has issued insufficient or unacceptable collateral to meet
16 required collateral within the required time.

17 (m) Collateral, other than a proper substitution, is
18 released without the prior approval of the Chief Financial
19 Officer ~~Treasurer~~.

20 (n) The qualified public depository, custodian,
21 operating subsidiary, or agent violates any provision of the
22 act and the Chief Financial Officer ~~Treasurer~~ determines that
23 such violation may be remedied by a move of collateral.

24 (o) The qualified public depository, custodian,
25 operating subsidiary, or agent fails to timely cooperate in
26 resolving problems by the date established in written
27 communication from the Chief Financial Officer ~~Treasurer~~.

28 (p) The custodian fails to provide sufficient
29 confirmation information.

30 (q) The Federal Home Loan Bank or the qualified public
31 depository gives notification that a letter of credit will not

1 be extended or renewed and other eligible collateral equal to
2 required collateral has not been deposited within 30 days
3 after the notice or 30 days before expiration of the letter of
4 credit.

5 (r) The qualified public depository, if involved in a
6 merger, acquisition, consolidation, or other organizational
7 change, fails to notify the Chief Financial Officer ~~Treasurer~~
8 or ensure that required collateral is properly maintained by
9 the depository holding the Florida public deposits.

10 (s) Events that would bring about an administrative or
11 legal action by the Chief Financial Officer ~~Treasurer~~.

12 (7) The Chief Financial Officer ~~Treasurer~~ shall adopt
13 rules to identify forms and establish procedures for
14 collateral agreements and transactions, furnish confirmation
15 requirements, establish procedures for using an operating
16 subsidiary and agents, and clarify terms.

17 Section 316. Section 280.05, Florida Statutes, is
18 amended to read:

19 280.05 Powers and duties of the Chief Financial
20 Officer ~~Treasurer~~.--In fulfilling the requirements of this
21 act, the Chief Financial Officer ~~Treasurer~~ has the power to
22 take the following actions he or she deems necessary to
23 protect the integrity of the public deposits program:

24 (1) Identify representative qualified public
25 depositories and furnish notification for the qualified public
26 depository oversight board selection pursuant to s. 280.071.

27 (2) Provide data for the qualified public depository
28 oversight board duties pursuant to s. 280.071 regarding:

29 (a) Establishing standards for qualified public
30 depositories and custodians.

31

1 (b) Evaluating requests for exceptions to standards
2 and alternative participation agreements.

3 (c) Reviewing and recommending action for qualified
4 public depository or custodian violations.

5 (3) Review, implement, monitor, evaluate, and modify
6 all or any part of the standards, policies, or recommendations
7 of the qualified public depository oversight board.

8 (4) Perform financial analysis of any qualified public
9 depositories.

10 (5) Require collateral, or increase the
11 collateral-pledging level, of any qualified public depository.

12 (6) Decline to accept, or reduce the reported value
13 of, collateral in order to ensure the pledging or depositing
14 of sufficient marketable collateral and acceptable letters of
15 credit.

16 (7) Maintain perpetual inventory of collateral and
17 perform monthly market valuations and quality ratings.

18 (8) Monitor and confirm collateral with custodians and
19 letter of credit issuers.

20 (9) Move collateral into an account established in the
21 Chief Financial Officer's ~~Treasurer's~~ name upon the occurrence
22 of one or more triggering events.

23 (10) Issue notice to a qualified public depository
24 that use of a custodian will be disallowed when the custodian
25 has failed to follow collateral agreement terms.

26 (11) Furnish written notice to custodians of
27 collateral to hold interest and principal payments made on
28 securities held as collateral and to deposit or transfer such
29 payments pursuant to the Chief Financial Officer's ~~Treasurer's~~
30 instructions.

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1 (12) Release collateral held in the Chief Financial
2 Officer's ~~Treasurer's~~ name, subject to sale and transfer of
3 funds directly from the custodian to public depositors of a
4 withdrawing depository.

5 (13) Demand payment under letters of credit for any of
6 the triggering events listed in s. 280.041 and deposit the
7 funds in:

8 (a) The Public Deposits Trust Fund for purposes of
9 paying losses to public depositors.

10 (b) The Chief Financial Officer's ~~Treasurer's~~
11 Administrative and Investment Trust Fund for receiving payment
12 of administrative penalties.

13 (c) The Treasury Cash Deposit Trust Fund for purposes
14 of eligible collateral.

15 (14) Sell securities for the purpose of paying losses
16 to public depositors not covered by deposit insurance.

17 (15) Transfer funds directly from the custodian to
18 public depositors or the receiver in order to facilitate
19 prompt payment of claims.

20 (16) Require the filing of the following reports which
21 the Chief Financial Officer ~~Treasurer~~ shall process as
22 provided:

23 (a) Qualified public depository monthly reports and
24 schedules. The Chief Financial Officer ~~Treasurer~~ shall review
25 the reports of each qualified public depository for material
26 changes in capital accounts or changes in name, address, or
27 type of institution; record the average daily balances of
28 public deposits held; and monitor the collateral-pledging
29 levels and required collateral.

30 (b) Quarterly regulatory reports from qualified public
31 depositories. The Chief Financial Officer ~~Treasurer~~ shall

1 analyze qualified public depositories ranked in the lowest
2 category based on established financial condition criteria.

3 (c) Qualified public depository annual reports and
4 public depositor annual reports. The Chief Financial Officer
5 ~~Treasurer~~ shall compare public deposit information reported by
6 qualified public depositories and public depositors. Such
7 comparison shall be conducted for qualified public
8 depositories which are ranked in the lowest category based on
9 established financial condition criteria of record on
10 September 30. Additional comparison processes may be performed
11 as public deposits program resources permit.

12 (d) Any related documents, reports, records, or other
13 information deemed necessary by the Chief Financial Officer
14 ~~Treasurer~~ in order to ascertain compliance with this chapter.

15 (17) Verify the reports of any qualified public
16 depository relating to public deposits it holds when necessary
17 to protect the integrity of the public deposits program.

18 (18) Confirm public deposits, to the extent possible
19 under current law, when needed.

20 (19) Require at his or her discretion the filing of
21 any information or forms required under this chapter to be by
22 electronic data transmission. Such filings of information or
23 forms shall have the same enforceability as a signed writing.

24 (20) Suspend or disqualify or disqualify after
25 suspension any qualified public depository that has violated
26 any of the provisions of this chapter or of rules adopted
27 hereunder.

28 (a) Any qualified public depository that is suspended
29 or disqualified pursuant to this subsection is subject to the
30 provisions of s. 280.11(2) governing withdrawal from the
31 public deposits program and return of pledged collateral. Any

1 suspension shall not exceed a period of 6 months. Any
2 qualified public depository which has been disqualified may
3 not reapply for qualification until after the expiration of 1
4 year from the date of the final order of disqualification or
5 the final disposition of any appeal taken therefrom.

6 (b) In lieu of suspension or disqualification, impose
7 an administrative penalty upon the qualified public depository
8 as provided in s. 280.054.

9 (c) If the Chief Financial Officer ~~Treasurer~~ has
10 reason to believe that any qualified public depository or any
11 other financial institution holding public deposits is or has
12 been violating any of the provisions of this chapter or of
13 rules adopted hereunder, he or she may issue to the qualified
14 public depository or other financial institution an order to
15 cease and desist from the violation or to correct the
16 condition giving rise to or resulting from the violation. If
17 any qualified public depository or other financial institution
18 violates a cease-and-desist or corrective order, the Chief
19 Financial Officer ~~Treasurer~~ may impose an administrative
20 penalty upon the qualified public depository or other
21 financial institution as provided in s. 280.054 or s. 280.055.
22 In addition to the administrative penalty, the Chief Financial
23 Officer ~~Treasurer~~ may suspend or disqualify any qualified
24 public depository for violation of any order issued pursuant
25 to this paragraph.

26 Section 317. Section 280.051, Florida Statutes, is
27 amended to read:

28 280.051 Grounds for suspension or disqualification of
29 a qualified public depository.--A qualified public depository
30 may be suspended or disqualified or both if the Chief

31

1 Financial Officer ~~Treasurer~~ determines that the qualified
2 public depository has:
3 (1) Violated any of the provisions of this chapter or
4 any rule adopted by the Chief Financial Officer ~~Treasurer~~
5 pursuant to this chapter.
6 (2) Submitted reports containing inaccurate or
7 incomplete information regarding public deposits or collateral
8 for such deposits, capital accounts, or the calculation of
9 required collateral.
10 (3) Failed to maintain required collateral.
11 (4) Grossly misstated the market value of the
12 securities pledged as collateral.
13 (5) Failed to pay any administrative penalty.
14 (6) Failed to furnish the Chief Financial Officer
15 ~~Treasurer~~ with prompt and accurate information, or failed to
16 allow inspection and verification of any information, dealing
17 with public deposits or dealing with the exact status of its
18 capital accounts, or any other financial information that the
19 Chief Financial Officer ~~Treasurer~~ determines necessary to
20 verify compliance with this chapter or any rule adopted
21 pursuant to this chapter.
22 (7) Failed to furnish the Chief Financial Officer
23 ~~Treasurer~~, when the Chief Financial Officer ~~Treasurer~~
24 requested, with a power of attorney or bond power or other
25 bond assignment form required by the bond agent, bond trustee,
26 or other transferor for each issue of registered certificated
27 securities pledged.
28 (8) Failed to furnish any agreement, report, form, or
29 other information required to be filed pursuant to s. 280.16,
30 or when requested by the Chief Financial Officer ~~Treasurer~~.
31

1 (9) Submitted reports signed by an unauthorized
2 individual.

3 (10) Submitted reports without a certified or verified
4 signature, or both, if required by law.

5 (11) Released a security without notice or approval.

6 (12) Failed to execute or have the custodian execute a
7 public depository pledge agreement prior to using a custodian.

8 (13) Failed to give notification as required by s.
9 280.10.

10 Section 318. Section 280.052, Florida Statutes, is
11 amended to read:

12 280.052 Order of suspension or disqualification;
13 procedure.--

14 (1) The suspension or disqualification of a bank or
15 savings association as a qualified public depository must be
16 by order of the Chief Financial Officer ~~Treasurer~~ and must be
17 mailed to the qualified public depository by registered or
18 certified mail.

19 (2) The Chief Financial Officer ~~Treasurer~~ shall
20 notify, by first-class mail, all public depositors that have
21 complied with s. 280.17 of any such disqualification or
22 suspension.

23 (3) The procedures for suspension or disqualification
24 shall be as set forth in chapter 120 and in the rules of the
25 Chief Financial Officer ~~Treasurer~~ adopted pursuant to this
26 section.

27 (4) Whenever the Chief Financial Officer ~~Treasurer~~
28 determines that an immediate danger to the public health,
29 safety, or welfare exists, the Chief Financial Officer
30 ~~Treasurer~~ may take any appropriate action available to her or
31 him under the provisions of chapter 120.

1 Section 319. Paragraphs (a) and (c) of subsection (1)
2 and paragraph (c) of subsection (2) of section 280.053,
3 Florida Statutes, is amended to read:

4 280.053 Period of suspension or disqualification;
5 obligations during period; reinstatement.--

6 (1)(a) The Chief Financial Officer ~~Treasurer~~ may
7 suspend a qualified public depository for any period that is
8 fixed in the order of suspension, not exceeding 6 months. For
9 the purposes of this section and ss. 280.051 and 280.052, the
10 effective date of suspension or disqualification is that date
11 which is set out as such in any order of suspension or
12 disqualification.

13 (c) Upon expiration of the suspension period, the bank
14 or savings association may, by order of the Chief Financial
15 Officer ~~Treasurer~~, be reinstated as a qualified public
16 depository, unless the cause of the suspension has not been
17 corrected or the bank or savings association is otherwise not
18 in compliance with this chapter or any rule adopted pursuant
19 to this chapter.

20 (2)

21 (c) Upon expiration of the disqualification period,
22 the bank or savings association may reapply for qualification
23 as a qualified public depository. If a disqualified bank or
24 savings association is purchased or otherwise acquired by new
25 owners, it may reapply to the Chief Financial Officer
26 ~~Treasurer~~ to be a qualified public depository prior to the
27 expiration date of the disqualification period. Redesignation
28 as a qualified public depository may occur only after the
29 Chief Financial Officer ~~Treasurer~~ has determined that all
30 requirements for holding public deposits under the law have
31 been met.

1 Section 320. Section 280.054, Florida Statutes, is
2 amended to read:

3 280.054 Administrative penalty in lieu of suspension
4 or disqualification.--

5 (1) If the Chief Financial Officer ~~Treasurer~~ finds
6 that one or more grounds exist for the suspension or
7 disqualification of a qualified public depository, the Chief
8 Financial Officer ~~Treasurer~~ may, in lieu of suspension or
9 disqualification, impose an administrative penalty upon the
10 qualified public depository.

11 (a) With respect to any nonwillful violation, such
12 penalty may not exceed \$250 for each violation, exclusive of
13 any restitution found to be due. If a qualified public
14 depository discovers a nonwillful violation, the qualified
15 public depository shall correct the violation; and, if
16 restitution is due, the qualified public depository shall make
17 restitution upon the order of the Chief Financial Officer
18 ~~Treasurer~~ and shall pay interest on such amount at the legal
19 rate from the date of the violation. Each day a violation
20 continues constitutes a separate violation.

21 (b) With respect to any knowing and willful violation
22 of a lawful order or rule, the Chief Financial Officer
23 ~~Treasurer~~ may impose a penalty upon the qualified public
24 depository in an amount not exceeding \$1,000 for each
25 violation. If restitution is due, the qualified public
26 depository shall make restitution upon the order of the Chief
27 Financial Officer ~~Treasurer~~ and shall pay interest on such
28 amount at the legal rate. Each day a violation continues
29 constitutes a separate violation.

30 (2) The failure of a qualified public depository to
31 make restitution when due as required under this section

1 constitutes a willful violation of this chapter. However, if
2 a qualified public depository in good faith is uncertain
3 whether any restitution is due or as to the amount of
4 restitution due, it shall promptly notify the Chief Financial
5 Officer ~~Treasurer~~ of the circumstances. The failure to make
6 restitution pending a determination of whether restitution is
7 due or the amount of restitution due does not constitute a
8 violation of this chapter.

9 (3) A qualified public depository is subject to an
10 administrative penalty in an amount not exceeding the greater
11 of \$1,000 or 10 percent of the amount of withdrawal, not
12 exceeding \$10,000, if the depository fails to provide required
13 collateral using eligible collateral and prescribed collateral
14 agreements or withdraws collateral without the Chief Financial
15 Officer's ~~Treasurer's~~ approval.

16 Section 321. Section 280.055, Florida Statutes, is
17 amended to read:

18 280.055 Cease and desist order; corrective order;
19 administrative penalty.--

20 (1) The Chief Financial Officer ~~Treasurer~~ may issue a
21 cease and desist order and a corrective order upon determining
22 that:

23 (a) A qualified public depository has requested and
24 obtained a release of pledged collateral without approval of
25 the Chief Financial Officer ~~Treasurer~~;

26 (b) A bank, savings association, or other financial
27 institution is holding public deposits without a certificate
28 of qualification issued by the Chief Financial Officer
29 ~~Treasurer~~;

30 (c) A qualified public depository pledges, deposits,
31 or arranges for the issuance of unacceptable collateral;

1 (d) A custodian has released pledged collateral
2 without approval of the Chief Financial Officer ~~Treasurer~~;

3 (e) A qualified public depository or a custodian has
4 not furnished to the Chief Financial Officer ~~Treasurer~~, when
5 the Chief Financial Officer ~~Treasurer~~ requested, a power of
6 attorney or bond power or bond assignment form required by the
7 bond agent or bond trustee for each issue of registered
8 certificated securities pledged and registered in the name, or
9 nominee name, of the qualified public depository or custodian;
10 or

11 (f) A qualified public depository; a bank, savings
12 association, or other financial institution; or a custodian
13 has committed any other violation of this chapter or any rule
14 adopted pursuant to this chapter that the Chief Financial
15 Officer ~~Treasurer~~ determines may be remedied by a cease and
16 desist order or corrective order.

17 (2) Any qualified public depository or other bank,
18 savings association, or financial institution or custodian
19 that violates a cease and desist order or corrective order of
20 the Chief Financial Officer ~~Treasurer~~ is subject to an
21 administrative penalty not exceeding \$1,000 for each violation
22 of the order. Each day the violation of the order continues
23 constitutes a separate violation.

24 Section 322. Subsections (1) and (2) of section
25 280.06, Florida Statutes, are amended to read:

26 280.06 Penalty for violation of law, rule, or order to
27 cease and desist or other lawful order.--

28 (1) The violation of any provision of this chapter, or
29 any order or rule of the Chief Financial Officer ~~Treasurer~~, or
30 any order to cease and desist or other lawful order is a

31

1 misdemeanor of the second degree, punishable as provided in s.
2 775.082 or s. 775.083.

3 (2) It is a felony of the third degree, punishable as
4 provided in s. 775.082 or s. 775.083, to knowingly and
5 willfully give false information on any form made under oath
6 and filed pursuant to this chapter with the intent to mislead
7 the Chief Financial Officer ~~Treasurer~~ in the administration or
8 enforcement of this chapter.

9 Section 323. Section 280.07, Florida Statutes, is
10 amended to read:

11 280.07 Mutual responsibility and contingent
12 liability.--Any bank or savings association that is designated
13 as a qualified public depository and that is not insolvent
14 shall guarantee public depositors against loss caused by the
15 default or insolvency of other qualified public depositories.
16 Each qualified public depository shall execute a form
17 prescribed by the Chief Financial Officer ~~Treasurer~~ for such
18 guarantee which shall be approved by the board of directors
19 and shall become an official record of the institution.

20 Section 324. Subsections (1), (2), (3), and (5),
21 paragraph (e) of subsection (9), paragraphs (b), (c), (d), and
22 (e) of subsection (10), paragraphs (a) and (b) of subsection
23 (11), and subsection (12) of section 280.071, Florida
24 Statutes, are amended to read:

25 280.071 Qualified Public Depository Oversight Board;
26 purpose; identifying representative qualified public
27 depositories; member selection; responsibilities.--A Qualified
28 Public Depository Oversight Board is created comprised of six
29 members and six alternate members who represent the interests
30 of all qualified public depositories in safeguarding the
31

1 integrity of the public deposits program and preventing the
2 realization of loss assessments.

3 (1) On July 31 of each year and as vacancies occur,
4 the Chief Financial Officer ~~Treasurer~~ shall initiate the
5 selection of oversight board representation in the following
6 manner:

7 (a) Categorize eligible qualified public depositories
8 into three groups according to average asset size. Eligible
9 qualified public depositories must be in compliance with all
10 requirements and shall not be suspended, disqualified,
11 withdrawn, or under an alternative participation agreement in
12 the public deposits program.

13 (b) Identify the two qualified public depositories in
14 each of the three groups that have the greatest shares of
15 contingent liability based on the average monthly balances of
16 public deposits reported pursuant to s. 280.16.

17 (c) Send notification to the six qualified public
18 depositories that have been identified.

19 (2) Each of the six representative qualified public
20 depositories shall select a member and alternate member for
21 the oversight board and give the Chief Financial Officer
22 ~~Treasurer~~ written information on the selections within 30
23 calendar days of the Chief Financial Officer's ~~Treasurer's~~
24 notice.

25 (3) If an identified qualified public depository
26 declines to select a member, does not respond within 30
27 calendar days, or becomes ineligible, the Chief Financial
28 Officer ~~Treasurer~~ shall furnish notice to the Florida Bankers
29 Association which shall select a member and alternate member
30 to represent that average asset category within 30 calendar
31 days.

1 (5) The oversight board members and alternate members
2 shall be subject to the Chief Financial Officer's ~~Treasurer's~~
3 approval.

4 (9) The oversight board shall organize, communicate,
5 and conduct meetings as follows:

6 (e) Take no official action in the absence of a
7 quorum.

8 1. A quorum shall consist of the majority of voting
9 members of the oversight board.

10 2. Each member shall have one vote.

11 3. A member shall not vote on issues directly related
12 to the qualified public depository he or she represents.

13 4. The Chief Financial Officer ~~Treasurer~~ or his or her
14 representative shall vote as a member of the oversight board
15 in the absence of a quorum.

16 (10) The oversight board has the power and
17 responsibility to safeguard the integrity of the public
18 deposits program and prevent the realization of loss
19 assessments by:

20 (b) Recommending approval or rejection to the Chief
21 Financial Officer ~~Treasurer~~ for exceptions that do not meet
22 established standards. These requests for exceptions may be:

23 1. Referred by the Chief Financial Officer ~~Treasurer~~;
24 or

25 2. Submitted directly by the qualified public
26 depository seeking exception.

27 (c) Issuing approvals or rejections for alternative
28 participation agreements referred by the Chief Financial
29 Officer ~~Treasurer~~.

30
31

1 (d) Reviewing program violations and recommending that
2 the Chief Financial Officer ~~Treasurer~~ impose penalties and
3 fines or issue corrective actions and administrative orders.

4 (e) Studying public deposit program areas referred by
5 the Chief Financial Officer ~~Treasurer~~.

6 (11) Official actions of the oversight board regarding
7 the establishment of standards, exception and alternate
8 participation agreement decisions, and recommendations
9 concerning violations shall be:

10 (a) Communicated to the Chief Financial Officer
11 ~~Treasurer~~ in writing.

12 (b) Subject to approval of the Chief Financial Officer
13 ~~Treasurer~~.

14 (12) The Chief Financial Officer ~~Treasurer~~ may adopt
15 rules to establish procedures and forms for oversight board
16 member and alternate member selection and oversight board
17 functions.

18 Section 325. Section 280.08, Florida Statutes, is
19 amended to read:

20 280.08 Procedure for payment of losses.--When the
21 Chief Financial Officer ~~Treasurer~~ determines that a default or
22 insolvency has occurred, he or she shall provide notice as
23 required in s. 280.085 and implement the following procedures:

24 (1) The Chief Financial Officer ~~Treasurer~~, in
25 cooperation with the Department of Financial Services ~~Banking~~
26 ~~and Finance~~ or the receiver of the qualified public depository
27 in default, shall ascertain the amount of funds of each public
28 depositor on deposit at such depository and the amount of
29 deposit insurance applicable to such deposits.

30 (2) The potential loss to public depositors shall be
31 calculated by compiling claims received from such depositors.

1 The Chief Financial Officer ~~Treasurer~~ shall validate claims on
2 public deposit accounts which meet the requirements of s.
3 280.17 and are confirmed as provided in subsection (1).

4 (3)(a) The loss to public depositors shall be
5 satisfied, insofar as possible, first through any applicable
6 deposit insurance and then through demanding payment under
7 letters of credit or the sale of collateral pledged or
8 deposited by the defaulting depository. The Chief Financial
9 Officer ~~Treasurer~~ may assess qualified public depositories as
10 provided in paragraph (b) for the total loss if the demand for
11 payment or sale of collateral cannot be accomplished within 7
12 business days.

13 (b) The Chief Financial Officer ~~Treasurer~~ shall
14 provide coverage of any remaining loss by assessment against
15 the other qualified public depositories. The Chief Financial
16 Officer ~~Treasurer~~ shall determine such assessment for each
17 qualified public depository by multiplying the total amount of
18 any remaining loss to all public depositors by a percentage
19 which represents the average monthly balance of public
20 deposits held by each qualified public depository during the
21 previous 12 months divided by the total average monthly
22 balances of public deposits held by all qualified public
23 depositories, excluding the defaulting depository, during the
24 same period. The assessment calculation shall be computed to
25 six decimal places.

26 (4) Each qualified public depository shall pay its
27 assessment to the Chief Financial Officer ~~Treasurer~~ within 7
28 business days after it receives notice of the assessment. If a
29 depository fails to pay its assessment when due, the Chief
30 Financial Officer ~~Treasurer~~ shall satisfy the assessment by
31

1 demanding payment under letters of credit or selling
2 collateral pledged or deposited by that depository.

3 (5) The Chief Financial Officer ~~Treasurer~~ shall
4 distribute the funds to the public depositors of the qualified
5 public depository in default according to their validated
6 claims. The Chief Financial Officer ~~Treasurer~~, at his or her
7 discretion, may make partial payments to public depositors
8 that have experienced a loss of public funds which payments
9 are critical to the immediate operations of the public entity.
10 The public depositor requesting partial payment of a claim
11 shall provide the Chief Financial Officer ~~Treasurer~~ with
12 written documentation justifying the need for partial payment.

13 (6) Public depositors receiving payment under the
14 provisions of this section shall assign to the Chief Financial
15 Officer ~~Treasurer~~ any interest they may have in funds that may
16 subsequently be made available to the qualified public
17 depository in default. If the qualified public depository in
18 default or its receiver provides the funds to the Chief
19 Financial Officer ~~Treasurer~~, the Chief Financial Officer
20 ~~Treasurer~~ shall distribute the funds, plus all accrued
21 interest which has accumulated from the investment of the
22 funds, if any, to the depositories which paid assessments on
23 the same pro rata basis as the assessments were paid.

24 (7) Expenses incurred by the Chief Financial Officer
25 ~~Treasurer~~ in connection with a default or insolvency which are
26 not normally incurred by the Chief Financial Officer ~~Treasurer~~
27 in the administration of this act must be paid out of the
28 amount paid under letters of credit or proceeds from the sale
29 of collateral.

30 Section 326. Subsection (1) of section 280.085,
31 Florida Statutes, is amended to read:

1 280.085 Notice to claimants.--

2 (1) Upon determining the default or insolvency of a
3 qualified public depository, the Chief Financial Officer
4 ~~Treasurer~~ shall notify, by first-class mail, all public
5 depositors that have complied with s. 280.17 of such default
6 or insolvency. The notice shall direct all public depositors
7 having claims or demands against the Public Deposits Trust
8 Fund occasioned by the default or insolvency to file their
9 claims with the Chief Financial Officer ~~Treasurer~~ within 30
10 days after the date of the notice.

11 Section 327. Section 280.09, Florida Statutes, is
12 amended to read:

13 280.09 Public Deposits Trust Fund.--

14 (1) In order to facilitate the administration of this
15 chapter, there is created the Public Deposits Trust Fund,
16 hereafter in this section designated "the fund." The proceeds
17 from the sale of securities or draw on letters of credit held
18 as collateral or from any assessment pursuant to s. 280.08
19 shall be deposited into the fund. Any administrative penalty
20 collected pursuant to this chapter shall be deposited into the
21 Chief Financial Officer's ~~Treasurer's~~ Administrative and
22 Investment Trust Fund.

23 (2) The Chief Financial Officer ~~Treasurer~~ is
24 authorized to pay any losses to public depositors from the
25 fund, and there are hereby appropriated from the fund such
26 sums as may be necessary from time to time to pay the losses.
27 The term "losses," for purposes of this chapter, shall also
28 include losses of interest or other accumulations to the
29 public depositor as a result of penalties for early withdrawal
30 required by Depository Institution Deregulatory Commission
31 Regulations or applicable successor federal laws or

1 regulations because of suspension or disqualification of a
2 qualified public depository by the Chief Financial Officer
3 ~~Treasurer~~ pursuant to s. 280.05 or because of withdrawal from
4 the public deposits program pursuant to s. 280.11. In that
5 event, the Chief Financial Officer ~~Treasurer~~ is authorized to
6 assess against the suspended, disqualified, or withdrawing
7 public depository, in addition to any amount authorized by any
8 other provision of this chapter, an administrative penalty
9 equal to the amount of the early withdrawal penalty and to pay
10 that amount over to the public depositor as reimbursement for
11 such loss. Any money in the fund estimated not to be needed
12 for immediate cash requirements shall be invested pursuant to
13 s. 18.125.

14 Section 328. Paragraphs (d) and (e) of subsection (1)
15 and subsections (2), (3), (4), (5), and (6) of section 280.10,
16 Florida Statutes, are amended to read:

17 280.10 Effect of merger, acquisition, or
18 consolidation; change of name or address.--

19 (1) When a qualified public depository is merged into,
20 acquired by, or consolidated with a bank, savings bank, or
21 savings association that is not a qualified public depository:

22 (d) The resulting institution shall, within 90
23 calendar days after the effective date of the merger,
24 acquisition, or consolidation, deliver to the Chief Financial
25 Officer ~~Treasurer~~:

26 1. Documentation in its name as required for
27 participation in the public deposits program; or

28 2. Written notice of intent to withdraw from the
29 program as provided in s. 280.11 and a proposed effective date
30 of withdrawal which shall be within 180 days after the
31

1 effective date of the acquisition, merger, or consolidation of
2 the former institution.

3 (e) If the resulting institution does not meet
4 qualifications to become a qualified public depository or does
5 not submit required documentation within 90 calendar days
6 after the effective date of the merger, acquisition, or
7 consolidation, the Chief Financial Officer ~~Treasurer~~ shall
8 initiate mandatory withdrawal actions as provided in s. 280.11
9 and shall set an effective date of withdrawal that is within
10 180 days after the effective date of the acquisition, merger,
11 or consolidation of the former institution.

12 (2) When a qualified public depository disposes of any
13 of its Florida public deposits or collateral securing such
14 deposits in a manner not covered by subsection (1), the
15 qualified public depository originally holding the public
16 deposits shall be responsible for:

17 (a) Ensuring the institution receiving such public
18 deposits becomes a qualified public depository and meets
19 collateral requirements with the Chief Financial Officer
20 ~~Treasurer~~ as part of the transaction.

21 (b) Notifying the Chief Financial Officer ~~Treasurer~~
22 within 30 calendar days after the final approval by the
23 appropriate regulator.

24
25 A qualified public depository that fails to meet such
26 responsibilities shall continue to collateralize and report
27 such public deposits until the receiving institution becomes a
28 qualified public depository and collateralizes the deposits or
29 the deposits are returned to the governmental unit.

30 (3) The qualified public depository shall notify the
31 Chief Financial Officer ~~Treasurer~~ of any acquisition or merger

1 within 30 calendar days after the final approval of the
2 acquisition or merger by its appropriate regulator.

3 (4) Collateral subject to a collateral agreement may
4 not be released by the Chief Financial Officer ~~Treasurer~~ or
5 the custodian until the assumed liability is evidenced by the
6 deposit of collateral pursuant to the collateral agreement of
7 the successor entity. The reporting requirement and pledge of
8 collateral will remain in force until the Chief Financial
9 Officer ~~Treasurer~~ determines that the liability no longer
10 exists. The surviving or new qualified public depository
11 shall be responsible and liable for all of the liabilities and
12 obligations of each qualified public depository merged with or
13 acquired by it.

14 (5) Each qualified public depository shall report any
15 change of name and address to the Chief Financial Officer
16 ~~Treasurer~~ on a form provided by the Chief Financial Officer
17 ~~Treasurer~~ regardless of whether the name change is a result of
18 an acquisition, merger, or consolidation. Notification of such
19 change must be made within 30 calendar days after the
20 effective date of the change.

21 (6) The Chief Financial Officer ~~Treasurer~~ shall adopt
22 rules establishing procedures for mergers, acquisitions,
23 consolidations, and changes in name and address, providing
24 forms, and clarifying terms.

25 Section 329. Section 280.11, Florida Statutes, is
26 amended to read:

27 280.11 Withdrawal from public deposits program; return
28 of pledged collateral.--

29 (1) A qualified public depository may withdraw from
30 the public deposits program by giving written notice to the
31 Chief Financial Officer ~~Treasurer~~. The contingent liability,

1 required collateral, and reporting requirements of the
2 depository withdrawing from the program shall continue for a
3 period of 12 months after the effective date of the
4 withdrawal, except that the filing of reports may no longer be
5 required when the average monthly balance of public deposits
6 is equal to zero. Notice of withdrawal shall be mailed or
7 delivered in sufficient time to be received by the Chief
8 Financial Officer ~~Treasurer~~ at least 30 days before the
9 effective date of withdrawal. The Chief Financial Officer
10 ~~Treasurer~~ shall timely publish the withdrawal notice in the
11 Florida Administrative Weekly which shall constitute notice to
12 all depositors. The withdrawing depository shall not receive
13 or retain public deposits after the effective date of the
14 withdrawal until such time as it again becomes a qualified
15 public depository. The Chief Financial Officer ~~Treasurer~~
16 shall, upon request, return to the depository that portion of
17 the collateral pledged that is in excess of the required
18 collateral as reported on the current public depository
19 monthly report. Losses of interest or other accumulations, if
20 any, because of withdrawal under this section shall be
21 assessed and paid as provided in s. 280.09.

22 (2) A qualified public depository which has been
23 disqualified pursuant to s. 280.051 shall not receive or
24 retain public deposits after the effective date of the
25 disqualification. Notice of and procedures for
26 disqualification shall be made in accordance with ss. 280.052
27 and 280.053. The Chief Financial Officer ~~Treasurer~~ shall, upon
28 request, return to the depository that portion of the
29 collateral pledged that is in excess of the required
30 collateral as reported on the current public depository
31 monthly report. Losses of interest or other accumulation, if

1 any, because of disqualification shall be paid as provided in
2 s. 280.09(2).

3 (3) A qualified public depository which is required to
4 withdraw from the public deposits program pursuant to s.
5 280.05(1)(b) shall not receive or retain public deposits after
6 the effective date of withdrawal. The contingent liability,
7 required collateral, and reporting requirements of the
8 withdrawing depository shall continue until the effective date
9 of withdrawal. Notice of withdrawal (order of discontinuance)
10 from the Chief Financial Officer ~~Treasurer~~ shall be mailed to
11 the qualified public depository by registered or certified
12 mail. Penalties incurred because of withdrawal from the public
13 deposits program shall be the responsibility of the
14 withdrawing depository.

15 Section 330. Subsection (2), paragraphs (a), (b), (d),
16 and (f) of subsection (5), and subsections (6), (7), and (8)
17 of section 280.13, Florida Statutes, are amended to read:

18 280.13 Eligible collateral.--

19 (2) In addition to the securities listed in subsection
20 (1), the Chief Financial Officer ~~Treasurer~~ may, in his or her
21 discretion, allow the pledge of the following types of
22 securities. The Chief Financial Officer ~~Treasurer~~ shall, by
23 rule, define any restrictions, specific criteria, or
24 circumstances for which these instruments will be acceptable.

25 (a) Securities of, or other interests in, any open-end
26 management investment company registered under the Investment
27 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended
28 from time to time, provided the portfolio of such investment
29 company is limited to direct obligations of the United States
30 Government and to repurchase agreements fully collateralized
31 by such direct obligations of the United States Government and

1 provided such investment company takes delivery of such
2 collateral either directly or through an authorized custodian.

3 (b) Collateralized Mortgage Obligations.

4 (c) Real Estate Mortgage Investment Conduits.

5 (5) Letters of credit issued by a Federal Home Loan
6 Bank are eligible as collateral under this section provided
7 that:

8 (a) The letter of credit has been delivered to the
9 Chief Financial Officer ~~Treasurer~~ in the standard format
10 approved by the Chief Financial Officer ~~Treasurer~~.

11 (b) The letter of credit meets required conditions of:

12 1. Being irrevocable.

13 2. Being clean and unconditional and containing a
14 statement that it is not subject to any agreement, condition,
15 or qualification outside of the letter of credit and providing
16 that a beneficiary need only present the original letter of
17 credit with any amendments and the demand form to promptly
18 obtain funds, and that no other document need be presented.

19 3. Being issued, presentable, and payable at a Federal
20 Home Loan Bank in United States dollars. Presentation may be
21 made by the beneficiary submitting the original letter of
22 credit, including any amendments, and the demand in writing,
23 by overnight delivery.

24 4. Containing a statement that identifies and defines
25 the Chief Financial Officer ~~Treasurer~~ as beneficiary.

26 5. Containing an issue date and a date of expiration.

27 6. Containing a term of at least 1 year and an
28 evergreen clause that provides at least 60 days written notice
29 to the beneficiary prior to expiration date for nonrenewal.

30 7. Containing a statement that it is subject to and
31 governed by the laws of the State of Florida and that, in the

1 event of any conflict with other laws, the laws of the State
2 of Florida will control.

3 8. Containing a statement that the letter of credit is
4 an obligation of the Federal Home Loan Bank and is in no way
5 contingent upon reimbursement.

6 9. Any other provision found necessary under the
7 Uniform Commercial Code--Letters of Credit.

8 (d) The Federal Home Loan Bank issuing the letter of
9 credit agrees to provide confirmation upon request from the
10 Chief Financial Officer ~~Treasurer~~. Such confirmation shall be
11 provided within 15 working days after the request, in a format
12 prescribed by the Chief Financial Officer ~~Treasurer~~, and shall
13 require no identification other than the qualified public
14 depository's name and location.

15 (f) The qualified public depository, if notified by
16 the Chief Financial Officer ~~Treasurer~~, shall not be allowed to
17 use letters of credit if the Federal Home Loan Bank fails to
18 pay a draw request as provided for in the letters of credit or
19 fails to properly complete a confirmation of such letters of
20 credit.

21 (6) Cash held by the Chief Financial Officer ~~Treasurer~~
22 in the Treasury Cash Deposit Trust Fund or by a custodian is
23 eligible as collateral under this section. Interest earned on
24 cash deposits that is in excess of required collateral shall
25 be paid to the qualified public depository upon request.

26 (7) The Chief Financial Officer ~~Treasurer~~ may
27 disapprove any security or letter of credit that does not meet
28 the requirements of this section or any rule adopted pursuant
29 to this section or any security for which no current market
30 price can be obtained from a nationally recognized source
31

1 deemed acceptable to the Chief Financial Officer ~~Treasurer~~ or
2 cannot be converted to cash.

3 (8) The Chief Financial Officer ~~Treasurer~~ shall adopt
4 rules defining restrictions and special requirements for
5 eligible collateral and clarifying terms.

6 Section 331. Paragraphs (a), (b), (d), and (e) of
7 subsection (1) and subsection (3) of section 280.16, Florida
8 Statutes, are amended to read:

9 280.16 Requirements of qualified public depositories;
10 confidentiality.--

11 (1) In addition to any other requirements specified in
12 this chapter, qualified public depositories shall:

13 (a) Take the following actions for each public deposit
14 account:

15 1. Identify the account as a "Florida public deposit"
16 on the deposit account record with the name of the public
17 depositor or provide a unique code for the account for such
18 designation.

19 2. When the form prescribed by the Chief Financial
20 Officer ~~Treasurer~~ for acknowledgment of receipt of each public
21 deposit account is presented to the qualified public
22 depository by the public depositor opening an account, the
23 qualified public depository shall execute and return the
24 completed form to the public depositor.

25 3. When the acknowledgment of receipt form is
26 presented to the qualified public depository by the public
27 depositor due to a change of account name, account number, or
28 qualified public depository name on an existing public deposit
29 account, the qualified public depository shall execute and
30 return the completed form to the public depositor within 45
31 calendar days after such presentation.

1 4. When the acknowledgment of receipt form is
2 presented to the qualified public depository by the public
3 depositor on an account existing before July 1, 1998, the
4 qualified public depository shall execute and return the
5 completed form to the public depositor within 45 calendar days
6 after such presentation.

7 (b) Within 15 days after the end of each calendar
8 month, or when requested by the Chief Financial Officer
9 ~~Treasurer~~, submit to the Chief Financial Officer ~~Treasurer~~ a
10 written report, under oath, indicating the average daily
11 balance of all public deposits held by it during the reported
12 month, required collateral, a detailed schedule of all
13 securities pledged as collateral, selected financial
14 information, and any other information that the Chief
15 Financial Officer's ~~Treasurer~~ determines necessary to
16 administer this chapter.

17 (d) Submit to the Chief Financial Officer ~~Treasurer~~
18 annually, not later than November 30, a report of all public
19 deposits held for the credit of all public depositors at the
20 close of business on September 30. Such annual report shall
21 consist of public deposit information in a report format
22 prescribed by the Chief Financial Officer ~~Treasurer~~. The
23 manner of required filing may be as a signed writing or
24 electronic data transmission, at the discretion of the
25 Treasurer.

26 (e) Submit to the Chief Financial Officer ~~Treasurer~~
27 not later than the date required to be filed with the federal
28 agency:

29 1. A copy of the quarterly Consolidated Reports of
30 Condition and Income, and any amended reports, required by the
31

1 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if
2 such depository is a bank; or

3 2. A copy of the Thrift Financial Report, and any
4 amended reports, required to be filed with the Office of
5 Thrift Supervision if such depository is a savings and loan
6 association.

7 (3) Any information contained in a report of a
8 qualified public depository required under this chapter or any
9 rule adopted under this chapter, together with any information
10 required of a financial institution that is not a qualified
11 public depository, shall, if made confidential by any law of
12 the United States or of this state, be considered confidential
13 and exempt from the provisions of s. 119.07(1) and not subject
14 to dissemination to anyone other than the Chief Financial
15 Officer ~~Treasurer~~ under the provisions of this chapter;
16 however, it is the responsibility of each qualified public
17 depository and each financial institution from which
18 information is required to inform the Chief Financial Officer
19 ~~Treasurer~~ of information that is confidential and the law
20 providing for the confidentiality of that information, and the
21 Chief Financial Officer ~~Treasurer~~ does not have a duty to
22 inquire into whether information is confidential.

23 Section 332. Paragraphs (b) and (c) of subsection (2),
24 subsections (3), (4), and (6), and paragraph (c) of subsection
25 (7) of section 280.17, Florida Statutes, are amended to read:

26 280.17 Requirements for public depositors; notice to
27 public depositors and governmental units; loss of
28 protection.--In addition to any other requirement specified in
29 this chapter, public depositors shall comply with the
30 following:

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 333. Subsection (2) of section 280.18, Florida
16 | 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 334. Section 280.19, Florida Statutes, is
26 | 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 | Section 335. Paragraph (a) of subsection (2) of
31 | section 282.1095, Florida Statutes, is amended to read:

1 282.1095 State agency law enforcement radio system.--

2 (2)(a) The Joint Task Force on State Agency Law
3 Enforcement Communications shall consist of eight members, as
4 follows:

5 1. A representative of the Division of Alcoholic
6 Beverages and Tobacco of the Department of Business and
7 Professional Regulation who shall be appointed by the
8 secretary of the department.

9 2. A representative of the Division of Florida Highway
10 Patrol of the Department of Highway Safety and Motor Vehicles
11 who shall be appointed by the executive director of the
12 department.

13 3. A representative of the Department of Law
14 Enforcement who shall be appointed by the executive director
15 of the department.

16 4. A representative of the Fish and Wildlife
17 Conservation Commission who shall be appointed by the
18 executive director of the commission.

19 5. A representative of the Division of Law Enforcement
20 of the Department of Environmental Protection who shall be
21 appointed by the secretary of the department.

22 6. A representative of the Department of Corrections
23 who shall be appointed by the secretary of the department.

24 7. A representative of the Division of State Fire
25 Marshal of the Department of Financial Services ~~Insurance~~ who
26 shall be appointed by the State Fire Marshal.

27 8. A representative of the Department of
28 Transportation who shall be appointed by the secretary of the
29 department.

30 Section 336. Subsections (2) and (3) of section
31 284.02, Florida Statutes, are amended to read:

1 284.02 Payment of premiums by each agency; handling of
2 funds; payment of losses and expenses.--

3 (2) All premiums paid into the fund and all moneys
4 received by the fund from investment or any other source
5 pursuant to said program shall be held by the Department of
6 Financial Services Insurance and used for the purpose of
7 paying losses, expenses incurred in adjustment of losses,
8 premiums for reinsurance, and operating expenses.

9 (3) The Department of Financial Services Insurance is
10 authorized to employ a director of the fund and necessary
11 administrative and clerical personnel, actuaries, consultants,
12 and adjusters to maintain, operate, and administer the fund
13 and to underwrite all certificates of insurance issued by the
14 fund. All salaries and expenses of administration and
15 operation shall be paid from the fund.

16 Section 337. Section 284.04, Florida Statutes, is
17 amended to read:

18 284.04 Notice and information required by Department
19 of Financial Services Insurance of all newly erected or
20 acquired state property subject to insurance.--The Department
21 of Management Services and all agencies in charge of state
22 property shall notify the Department of Financial Services
23 ~~Insurance~~ of all newly erected or acquired property subject to
24 coverage as soon as erected or acquired, giving its value,
25 type of construction, location, whether inside or outside of
26 corporate limits, occupancy, and any other information the
27 Department of Financial Services Insurance may require in
28 connection with such property. Such department or agency
29 shall also notify the Department of Financial Services
30 ~~Insurance~~ immediately of any change in value or occupancy of
31 any property covered by the fund. Unless the above data is

1 submitted in writing within a reasonable time following such
2 erection, acquisition, or change, the Department of Financial
3 Services Insurance shall provide insurance coverage to the
4 extent shown by the last notification in writing to the fund
5 or in accordance with the last valuation shown by fund
6 records. In case of disagreement between the Department of
7 Financial Services Insurance and the agency or person in
8 charge of any covered state property as to its true value, the
9 amount of the insurance to be carried thereon, the proper
10 premium rate or rates, or amount of loss settlement, the
11 matter in disagreement shall be determined by the Department
12 of Management Services.

13 Section 338. Section 284.05, Florida Statutes, is
14 amended to read:

15 284.05 Inspection of insured state property.--The
16 Department of Financial Services Insurance shall inspect all
17 permanent buildings insured by the State Risk Management Trust
18 Fund, and whenever conditions are found to exist which, in the
19 opinion of the Department of Financial Services Insurance, are
20 hazardous from the standpoint of destruction by fire or other
21 loss, the Department of Financial Services Insurance may order
22 the same repaired or remedied, and the agency, board, or
23 person in charge of such property is required to have such
24 dangerous conditions immediately repaired or remedied upon
25 written notice from the Department of Financial Services
26 Insurance of such hazardous conditions. Such amounts as may
27 be necessary to comply with such notice or notices shall be
28 paid by the Department of Management Services or by the
29 agency, board, or person in charge of such property out of any
30 moneys appropriated for the maintenance of the respective
31 agency or for the repairs or permanent improvement of such

1 properties or from any incidental or contingent funds they may
2 have on hand. In the event of a disagreement between the
3 Department of Financial Services Insurance and the agency,
4 board, or person having charge of such property as to the
5 necessity of the repairs or remedies ordered, the matter in
6 disagreement shall be determined by the Department of
7 Management Services.

8 Section 339. Section 284.06, Florida Statutes, is
9 amended to read:

10 284.06 Annual report to Governor.--The Department of
11 Financial Services Insurance shall report annually to the
12 Governor the investigations which have been made and the
13 actions which have been taken to decrease the fire hazard of
14 the various insurable properties of the state, together with
15 its recommendations as to further safeguards and improvements.

16 Section 340. Section 284.08, Florida Statutes, is
17 amended to read:

18 284.08 Reinsurance on excess coverage and approval by
19 Department of Management Services.--The Department of
20 Financial Services Insurance shall determine what excess
21 coverage is necessary and may purchase reinsurance thereon
22 upon approval by the Department of Management Services.

23 Section 341. Section 284.14, Florida Statutes, is
24 amended to read:

25 284.14 State Risk Management Trust Fund; leasehold
26 interest.--In the event the state or any department or agency
27 thereof has acquired or hereafter acquires a leasehold
28 interest in any improved real property and by the terms and
29 provisions of said lease it is obligated to insure such
30 premises against loss by fire or other hazard to such
31 premises, it shall insure such premises in the State Risk

1 Management Trust Fund as required by the terms of said lease
2 or as required by the provisions of this chapter. No state
3 agency shall enter into or acquire any such leasehold interest
4 until the coverages required to be maintained by the
5 provisions of the lease are approved in writing by the
6 Department of Financial Services Insurance.

7 Section 342. Section 284.17, Florida Statutes, is
8 amended to read:

9 284.17 Rules.--The Department of Financial Services
10 ~~Insurance~~ has authority to adopt rules pursuant to ss.
11 120.536(1) and 120.54 to implement the provisions of this
12 chapter.

13 Section 343. Section 284.30, Florida Statutes, is
14 amended to read:

15 284.30 State Risk Management Trust Fund; coverages to
16 be provided.--A state self-insurance fund, designated as the
17 "State Risk Management Trust Fund," is created to be set up by
18 the Department of Financial Services Insurance and
19 administered with a program of risk management, which fund is
20 to provide insurance, as authorized by s. 284.33, for workers'
21 compensation, general liability, fleet automotive liability,
22 federal civil rights actions under 42 U.S.C. s. 1983 or
23 similar federal statutes, and court-awarded attorney's fees in
24 other proceedings against the state except for such awards in
25 eminent domain or for inverse condemnation or for awards by
26 the Public Employees Relations Commission. A party to a suit
27 in any court, to be entitled to have his or her attorney's
28 fees paid by the state or any of its agencies, must serve a
29 copy of the pleading claiming the fees on the Department of
30 Financial Services Insurance; and thereafter the department
31 shall be entitled to participate with the agency in the

1 defense of the suit and any appeal thereof with respect to
2 such fees.

3 Section 344. Section 284.31, Florida Statutes, is
4 amended to read:

5 284.31 Scope and types of coverages; separate
6 accounts.--The insurance risk management trust fund shall,
7 unless specifically excluded by the Department of Financial
8 Services Insurance, cover all departments of the State of
9 Florida and their employees, agents, and volunteers and shall
10 provide separate accounts for workers' compensation, general
11 liability, fleet automotive liability, federal civil rights
12 actions under 42 U.S.C. s. 1983 or similar federal statutes,
13 and court-awarded attorney's fees in other proceedings against
14 the state except for such awards in eminent domain or for
15 inverse condemnation or for awards by the Public Employees
16 Relations Commission. Unless specifically excluded by the
17 Department of Financial Services Insurance, the insurance risk
18 management trust fund shall provide fleet automotive liability
19 coverage to motor vehicles titled to the state, or to any
20 department of the state, when such motor vehicles are used by
21 community transportation coordinators performing, under
22 contract to the appropriate department of the state, services
23 for the transportation disadvantaged under part I of chapter
24 427. Such fleet automotive liability coverage shall be primary
25 and shall be subject to the provisions of s. 768.28 and parts
26 II and III of chapter 284, and applicable rules adopted
27 thereunder, and the terms and conditions of the certificate of
28 coverage issued by the Department of Financial Services
29 Insurance.

30 Section 345. Section 284.32, Florida Statutes, is
31 amended to read:

1 284.32 Department of Financial Services ~~Insurance~~ to
2 implement and consolidate.--The Department of Financial
3 Services ~~Insurance~~ is hereby authorized to effect a
4 consolidation and combination of all insurance coverages
5 provided herein into one insurance program in accordance with
6 the provisions of part I of chapter 287.

7 Section 346. Subsection (1) of section 284.33, Florida
8 Statutes, is amended to read:

9 284.33 Purchase of insurance, reinsurance, and
10 services.--

11 (1) The Department of Financial Services ~~Insurance~~ is
12 authorized to provide insurance, specific excess insurance,
13 and aggregate excess insurance through the Department of
14 Management Services, pursuant to the provisions of part I of
15 chapter 287, as necessary to provide insurance coverages
16 authorized by this part, consistent with market availability.
17 However, the Department of Financial Services ~~Insurance~~ may
18 directly purchase annuities by using a structured settlement
19 insurance consulting firm selected by the department to assist
20 in the settlement of claims being handled by the Division of
21 Risk Management. The selection of the structured settlement
22 insurance services consultant shall be made by using
23 competitive sealed proposals. The consulting firm shall act as
24 an agent of record for the department in procuring the best
25 annuity products available to facilitate structured settlement
26 of claims, considering price, insurer financial strength, and
27 the best interests of the state risk management program.
28 Purchase of annuities by the department using a structured
29 settlement method is excepted from competitive sealed bidding
30 or proposal requirements. The Department of Financial Services
31 ~~Insurance~~ is further authorized to purchase such risk

1 management services, including, but not limited to, risk and
2 claims control; safety management; and legal, investigative,
3 and adjustment services, as may be required and pay claims.
4 The department may contract with a service organization for
5 such services and advance money to such service organization
6 for deposit in a special checking account for paying claims
7 made against the state under the provisions of this part. The
8 special checking account shall be maintained in this state in
9 a bank or savings association organized under the laws of this
10 state or of the United States. The department may replenish
11 such account as often as necessary upon the presentation by
12 the service organization of documentation for payments of
13 claims equal to the amount of the requested reimbursement.

14 Section 347. Section 284.34, Florida Statutes, is
15 amended to read:

16 284.34 Professional medical liability of the Board of
17 Regents and nuclear energy liability excluded.--Unless
18 specifically authorized by the Department of Financial
19 Services Insurance, no coverages shall be provided by this
20 fund for professional medical liability insurance for the
21 Board of Regents or the physicians, officers, employees, or
22 agents of the board or for liability related to nuclear energy
23 which is ordinarily subject to the standard nuclear energy
24 liability exclusion of conventional liability insurance
25 policies. This section shall not be construed as affecting
26 the self-insurance programs of the Board of Regents
27 established pursuant to s. 240.213.

28 Section 348. Section 284.35, Florida Statutes, is
29 amended to read:

30 284.35 Administrative personnel; expenses to be paid
31 from fund.--The Department of Financial Services Insurance is

1 ~~hereby~~ authorized, in accordance with current budget and
2 personnel requirements, to employ necessary administrative and
3 clerical personnel and actuarial consultants, as necessary to
4 maintain, operate, and administer the fund. All salaries and
5 expenses of administration and operation shall be paid from
6 the fund.

7 Section 349. Section 284.37, Florida Statutes, is
8 amended to read:

9 284.37 Premium and investment accruals used for fund
10 purposes.--All premiums paid into the fund and all moneys from
11 investments or any other source pursuant to said program shall
12 be held by the Department of Financial Services ~~Insurance~~ and
13 used for the purpose of paying losses, premiums for insurance,
14 risk and claims management services, and operating expenses.

15 Section 350. Section 284.385, Florida Statutes, is
16 amended to read:

17 284.385 Reporting and handling of claims.--All
18 departments covered by the State Risk Management Trust Fund
19 under this part shall immediately report all known or
20 potential claims to the Department of Financial Services
21 ~~Insurance~~ for handling, except employment complaints which
22 have not been filed with the Florida Human Relations
23 Commission, Equal Employment Opportunity Commission, or any
24 similar agency. When deemed necessary, the Department of
25 Financial Services ~~Insurance~~ shall assign or reassign the
26 claim to counsel. The assigned counsel shall report regularly
27 to the Department of Financial Services ~~Insurance~~ or to the
28 covered department on the status of any such claims or
29 litigation as required by the Department of Financial Services
30 ~~Insurance~~. No such claim shall be compromised or settled for
31 monetary compensation without the prior approval of the

1 Department of Financial Services Insurance and prior
2 notification to the covered department. All departments shall
3 cooperate with the Department of Financial Services Insurance
4 in its handling of claims. The Department of Financial
5 Services and Insurance, the Department of Management Services,
6 and the Department of Banking and Finance, with the
7 cooperation of the state attorneys and the clerks of the
8 courts, shall develop a system to coordinate the exchange of
9 information concerning claims for and against the state, its
10 agencies, and its subdivisions, to assist in collection of
11 amounts due to them. The covered department shall have the
12 responsibility for the settlement of any claim for injunctive
13 or affirmative relief under 42 U.S.C. s. 1983 or similar
14 federal or state statutes. The payment of a settlement or
15 judgment for any claim covered and reported under this part
16 shall be made only from the State Risk Management Trust Fund.

17 Section 351. Section 284.39, Florida Statutes, is
18 amended to read:

19 284.39 Adoption Promulgation of rules.--The Department
20 of Financial Services may adopt Insurance is authorized to
21 ~~promulgate rules and regulations~~ for the proper management and
22 maintenance of the fund.

23 Section 352. Subsections (1) and (2) of section
24 284.40, Florida Statutes, are amended to read:

25 284.40 Division of Risk Management.--

26 (1) It shall be the responsibility of the Division of
27 Risk Management of the Department of Financial Services
28 ~~Insurance~~ to administer this part and the provisions of s.
29 287.131.

30 (2) The claim files maintained by the Division of Risk
31 Management shall be confidential, shall be only for the usage

1 by the Department of Financial Services ~~Insurance~~ in
2 fulfilling its duties and responsibilities under this part,
3 and shall be exempt from the provisions of s. 119.07(1).

4 Section 353. Subsection (1) of section 284.41, Florida
5 Statutes, is amended to read:

6 284.41 Transfer of personnel and funds to the Division
7 of Risk Management.--

8 (1) All personnel and funds otherwise allocated to the
9 Department of Financial Services ~~Insurance~~ for this purpose
10 are transferred to the Division of Risk Management.

11 Section 354. Subsection (1) of section 284.42, Florida
12 Statutes, is amended to read:

13 284.42 Reports on state insurance program.--

14 (1) The Department of Financial Services ~~Insurance~~,
15 with the Department of Management Services, shall make an
16 analysis of the state insurance program annually, which shall
17 include:

18 (a) Complete underwriting information as to the nature
19 of the risks accepted for self-insurance and those risks that
20 are transferred to the insurance market.

21 (b) The funds allocated to the Florida Casualty Risk
22 Management Trust Fund and premiums paid for insurance through
23 the market.

24 (c) The method of handling legal matters and the cost
25 allocated.

26 (d) The method and cost of handling inspection and
27 engineering of risks.

28 (e) The cost of risk management service purchased.

29 (f) The cost of managing the State Insurance Program
30 by the Department of Financial Services ~~Insurance~~ and the
31 Department of Management Services.

1 Section 355. Subsections (4) and (7) of section
2 284.44, Florida Statutes, are amended to read:

3 284.44 Salary indemnification costs of state
4 agencies.--

5 (4) For the purpose of administering this section, the
6 Division of Risk Management of the Department of Financial
7 Services ~~insurance~~ shall continue to pay all claims, but shall
8 be periodically reimbursed from funds of state agencies for
9 initial salary indemnification costs for which they are
10 responsible.

11 (7) If a state agency fails to pay casualty increase
12 premiums or salary indemnification reimbursements within 30
13 days after being billed, the Division of Risk Management shall
14 advise the Chief Financial Officer ~~Comptroller~~. After
15 verifying the accuracy of the billing, the Chief Financial
16 Officer ~~Comptroller~~ shall transfer the appropriate amount from
17 any available funds of the delinquent state agency to the
18 State Risk Management Trust Fund.

19 Section 356. Subsection (1) of section 284.50, Florida
20 Statutes, is amended to read:

21 284.50 Loss prevention program; safety coordinators;
22 Interagency Advisory Council on Loss Prevention; employee
23 recognition program.--

24 (1) The head of each department of state government,
25 except the Legislature, shall designate a safety coordinator.
26 Such safety coordinator must be an employee of the department
27 and must hold a position which has responsibilities comparable
28 to those of an employee in the Senior Management System. The
29 Department of Financial Services ~~insurance~~ shall provide
30 appropriate training to the safety coordinators to permit them
31 to effectively perform their duties within their respective

1 departments. Each safety coordinator shall, at the direction
2 of his or her department head:

3 (a) Develop and implement the loss prevention program,
4 a comprehensive departmental safety program which shall
5 include a statement of safety policy and responsibility.

6 (b) Provide for regular and periodic facility and
7 equipment inspections.

8 (c) Investigate job-related employee accidents of his
9 or her department.

10 (d) Establish a program to promote increased safety
11 awareness among employees.

12 Section 357. Subsection (9) and paragraph (c) of
13 subsection (16) of section 287.042, Florida Statutes, are
14 amended to read:

15 287.042 Powers, duties, and functions.--The department
16 shall have the following powers, duties, and functions:

17 (9) To furnish copies of any commodity and contractual
18 service purchasing rules to the Chief Financial Officer
19 ~~Comptroller~~ and all agencies affected thereby. The Chief
20 Financial Officer ~~Comptroller~~ shall not approve any account or
21 direct any payment of any account for the purchase of any
22 commodity or the procurement of any contractual service
23 covered by a purchasing or contractual service rule except as
24 authorized therein. The department shall furnish copies of
25 rules adopted by the department to any county, municipality,
26 or other local public agency requesting them.

27 (16)

28 (c) Agencies that sign such joint agreements are
29 financially obligated for their portion of the agreed-upon
30 funds. If any agency becomes more than 90 days delinquent in
31 paying such funds, the Department of Management Services shall

1 certify to the Chief Financial Officer ~~Comptroller~~ the amount
2 due, and the Chief Financial Officer ~~Comptroller~~ shall
3 transfer the amount due to the Grants and Donations Trust Fund
4 of the department from any of the agency's available funds.
5 The Chief Financial Officer ~~Comptroller~~ shall report all such
6 transfers and the reasons for such transfers to the Executive
7 Office of the Governor and the legislative appropriations
8 committees.

9 Section 358. Paragraph (a) of subsection (4) of
10 section 287.057, Florida Statutes, is amended to read:

11 287.057 Procurement of commodities or contractual
12 services.--

13 (4) When the purchase price of commodities or
14 contractual services exceeds the threshold amount provided in
15 s. 287.017 for CATEGORY TWO, no purchase of commodities or
16 contractual services may be made without receiving competitive
17 sealed bids, competitive sealed proposals, or responses to an
18 invitation to negotiate or a request for a quote unless:

19 (a) The agency head determines in writing that an
20 immediate danger to the public health, safety, or welfare or
21 other substantial loss to the state requires emergency action.
22 After the agency head makes such a written determination, the
23 agency may proceed with the procurement of commodities or
24 contractual services necessitated by the immediate danger,
25 without competition. However, such emergency procurement shall
26 be made with such competition as is practicable under the
27 circumstances. The agency shall furnish copies of the written
28 determination certified under oath and any other documents
29 relating to the emergency action to the department. A copy of
30 the statement shall be furnished to the Chief Financial
31 Officer ~~Comptroller~~ with the voucher authorizing payment. The

1 individual purchase of personal clothing, shelter, or supplies
2 which are needed on an emergency basis to avoid
3 institutionalization or placement in a more restrictive
4 setting is an emergency for the purposes of this paragraph,
5 and the filing with the department of such statement is not
6 required in such circumstances. In the case of the emergency
7 purchase of insurance, the period of coverage of such
8 insurance shall not exceed a period of 30 days, and all such
9 emergency purchases shall be reported to the department.

10 Section 359. Subsections (2) and (5) of section
11 287.058, Florida Statutes, are amended to read:

12 287.058 Contract document.--

13 (2) The written agreement shall be signed by the
14 agency head and the contractor prior to the rendering of any
15 contractual service the value of which is in excess of the
16 threshold amount provided in s. 287.017 for CATEGORY TWO,
17 except in the case of a valid emergency as certified by the
18 agency head. The certification of an emergency shall be
19 prepared within 30 days after the contractor begins rendering
20 the service and shall state the particular facts and
21 circumstances which precluded the execution of the written
22 agreement prior to the rendering of the service. If the
23 agency fails to have the contract signed by the agency head
24 and the contractor prior to rendering the contractual service,
25 and if an emergency does not exist, the agency head shall, no
26 later than 30 days after the contractor begins rendering the
27 service, certify the specific conditions and circumstances to
28 the department as well as describe actions taken to prevent
29 recurrence of such noncompliance. The agency head may delegate
30 the certification only to other senior management agency
31 personnel. A copy of the certification shall be furnished to

1 the Chief Financial Officer ~~Comptroller~~ with the voucher
2 authorizing payment. The department shall report repeated
3 instances of noncompliance by an agency to the Auditor
4 General. Nothing in this subsection shall be deemed to
5 authorize additional compensation prohibited by s. 215.425.
6 The procurement of contractual services shall not be divided
7 so as to avoid the provisions of this section.

8 (5) Unless otherwise provided in the General
9 Appropriations Act or the substantive bill implementing the
10 General Appropriations Act, the Chief Financial Officer
11 ~~Comptroller~~ may waive the requirements of this section for
12 services which are included in s. 287.057(4)(f).

13 Section 360. Subsections (1) and (2) of section
14 287.063, F.S., are amended to read:

15 287.063 Deferred-payment commodity contracts; preaudit
16 review.--

17 (1)(a) When any commodity contract requires deferred
18 payments and the payment of interest, such contract shall be
19 submitted to the Chief Financial Officer ~~Comptroller~~ for the
20 purpose of preaudit review and approval prior to acceptance by
21 the state.

22 (b) Contracts executed pursuant to this subsection may
23 bear interest at a rate not to exceed an average net interest
24 cost rate which shall be computed by adding 150 basis points
25 to the 20 "bond buyer" average yield index published
26 immediately preceding the first day of the calendar month in
27 which the contract is submitted to the Chief Financial Officer
28 ~~Comptroller~~ for preaudit review and approval.

29 (2)(a) No funds appropriated shall be used to acquire
30 equipment through a lease or deferred-payment purchase
31

1 arrangement unless approved by the Chief Financial Officer
2 ~~Comptroller~~ as economically prudent and cost-effective.

3 (b) The Chief Financial Officer ~~Comptroller~~ shall
4 establish, by rule, criteria for approving purchases made
5 under deferred-payment contracts which require the payment of
6 interest. Criteria shall include, but not be limited to, the
7 following provisions:

8 1. No contract shall be approved in which interest
9 exceeds the statutory ceiling contained in this section.

10 However, the interest component of any master equipment
11 financing agreement entered into for the purpose of
12 consolidated financing of a deferred-payment, installment
13 sale, or lease-purchase shall be deemed to comply with the
14 interest rate limitation of this section so long as the
15 interest component of every interagency agreement under such
16 master equipment financing agreement complies with the
17 interest rate limitation of this section.

18 2. No deferred-payment purchase for less than \$30,000
19 shall be approved, unless it can be satisfactorily
20 demonstrated and documented to the Chief Financial Officer
21 ~~Comptroller~~ that failure to make such deferred-payment
22 purchase would adversely affect an agency in the performance
23 of its duties. However, the Chief Financial Officer
24 ~~Comptroller~~ may approve any deferred-payment purchase if the
25 Chief Financial Officer ~~Comptroller~~ determines that such
26 purchase is economically beneficial to the state.

27 3. No agency shall obligate an annualized amount of
28 payments for deferred-payment purchases in excess of current
29 operating capital outlay appropriations, unless specifically
30 authorized by law or unless it can be satisfactorily
31 demonstrated and documented to the Chief Financial Officer

1 ~~Comptroller~~ that failure to make such deferred-payment
2 purchase would adversely affect an agency in the performance
3 of its duties.

4 4. No contract shall be approved which extends payment
5 beyond 5 years, unless it can be satisfactorily demonstrated
6 and documented to the Chief Financial Officer ~~Comptroller~~ that
7 failure to make such deferred-payment purchase would adversely
8 affect an agency in the performance of its duties.

9 (c) The Chief Financial Officer ~~Comptroller~~ shall
10 require written justification based on need, usage, size of
11 the purchase, and financial benefit to the state for
12 deferred-payment purchases made pursuant to this subsection.

13 Section 361. Section 287.064, Florida Statutes, is
14 amended to read:

15 287.064 Consolidated financing of deferred-payment
16 purchases.--

17 (1) The Division of Bond Finance of the State Board of
18 Administration and the Chief Financial Officer ~~Comptroller~~
19 shall plan and coordinate deferred-payment purchases made by
20 or on behalf of the state or its agencies or by or on behalf
21 of state community colleges participating under this section
22 pursuant to s. 240.319(4)(p). The Division of Bond Finance
23 shall negotiate and the Chief Financial Officer ~~Comptroller~~
24 shall execute agreements and contracts to establish master
25 equipment financing agreements for consolidated financing of
26 deferred-payment, installment sale, or lease purchases with a
27 financial institution or a consortium of financial
28 institutions. As used in this act, the term "deferred-payment"
29 includes installment sale and lease-purchase.

30
31

1 (a) The period during which equipment may be acquired
2 under any one master equipment financing agreement shall be
3 limited to not more than 3 years.

4 (b) Repayment of the whole or a part of the funds
5 drawn pursuant to the master equipment financing agreement may
6 continue beyond the period established pursuant to paragraph
7 (a).

8 (c) The interest rate component of any master
9 equipment financing agreement shall be deemed to comply with
10 the interest rate limitation imposed in s. 287.063 so long as
11 the interest rate component of every interagency or community
12 college agreement entered into under such master equipment
13 financing agreement complies with the interest rate limitation
14 imposed in s. 287.063. Such interest rate limitation does not
15 apply when the payment obligation under the master equipment
16 financing agreement is rated by a nationally recognized rating
17 service in any one of the three highest classifications, which
18 rating services and classifications are determined pursuant to
19 rules adopted by the Chief Financial Officer ~~Comptroller~~.

20 (2) Unless specifically exempted by the Chief
21 Financial Officer ~~Comptroller~~, all deferred-payment purchases,
22 including those made by a community college that is
23 participating under this section, shall be acquired by funding
24 through master equipment financing agreements. The Chief
25 Financial Officer ~~Comptroller~~ is authorized to exempt any
26 purchases from consolidated financing when, in his or her
27 judgment, alternative financing would be cost-effective or
28 otherwise beneficial to the state.

29 (3) The Chief Financial Officer ~~Comptroller~~ may
30 require agencies to enter into interagency agreements and may
31 require participating community colleges to enter into

1 systemwide agreements for the purpose of carrying out the
2 provisions of this act.

3 (a) The term of any interagency or systemwide
4 agreement shall expire on June 30 of each fiscal year but
5 shall automatically be renewed annually subject to
6 appropriations and deferred-payment schedules. The period of
7 any interagency or systemwide agreement shall not exceed the
8 useful life of the equipment for which the agreement was made
9 as determined by the Chief Financial Officer ~~Comptroller~~.

10 (b) The interagency or systemwide agreements may
11 include, but are not limited to, equipment costs, terms, and a
12 pro rata share of program and issuance expenses.

13 (4) Each community college may choose to have its
14 purchasing agreements involving administrative and
15 instructional materials consolidated under this section.

16 (5) The Chief Financial Officer ~~Comptroller~~ is
17 authorized to automatically debit each agency's funds and each
18 community college's portion of the Community College Program
19 Fund consistently with the deferred-payment schedules.

20 (6) There is created the Consolidated Payment Trust
21 Fund in the Chief Financial Officer's ~~Comptroller's~~ office for
22 the purpose of implementing the provisions of this act. All
23 funds debited from each agency and each community college may
24 be deposited in the trust fund and shall be used to meet the
25 financial obligations incurred pursuant to this act. Any
26 income from the investment of funds may be used to fund
27 administrative costs associated with this program.

28 (7) The Chief Financial Officer ~~Comptroller~~ may borrow
29 sufficient amounts from trust funds to pay issuance expenses
30 for the purposes of administering this section. Such amounts
31 shall be subject to approval of the Executive Office of the

1 Governor and subject to the notice, review, and objection
2 procedures of s. 216.177. The amounts approved pursuant to
3 this subsection are hereby appropriated for transfer to the
4 Consolidated Payment Trust Fund and appropriated from the
5 Consolidated Payment Trust Fund to pay issuance expenses.
6 Amounts loaned shall be repaid as soon as practicable not to
7 exceed the length of time obligations are issued to establish
8 the master equipment financing agreement.

9 (8) The State Board of Administration and the Chief
10 Financial Officer ~~Comptroller~~, individually, shall adopt rules
11 to implement their respective responsibilities under this
12 section.

13 Section 362. Paragraph (d) of subsection (4) of
14 section 287.09451, Florida Statutes, is amended to read:

15 287.09451 Office of Supplier Diversity; powers,
16 duties, and functions.--

17 (4) The Office of Supplier Diversity shall have the
18 following powers, duties, and functions:

19 (d) To monitor the degree to which agencies procure
20 services, commodities, and construction from minority business
21 enterprises in conjunction with the Department of Financial
22 Services ~~Banking and Finance~~ as specified in s. 17.11.

23 Section 363. Section 287.115, Florida Statutes, is
24 amended to read:

25 287.115 Chief Financial Officer ~~Comptroller~~; annual
26 report.--The Chief Financial Officer ~~Comptroller~~ shall submit
27 to the office of the Auditor General an annual report on those
28 contractual service contracts disallowed by the Chief
29 Financial Officer ~~Comptroller~~, which report shall include, but
30 is not limited to, the name of the user agency, the name of
31 the firm or individual from which the contractual service was

1 to be acquired, a description of the contractual service, the
2 financial terms of the contract, and the reason for rejection.

3 Section 364. Section 287.131, Florida Statutes, is
4 amended to read:

5 287.131 Assistance of Department of Financial Services
6 ~~Insurance~~.--The Department of Financial Services ~~Insurance~~
7 shall provide the Department of Management Services with
8 technical assistance in all matters pertaining to the purchase
9 of insurance for all agencies, and shall make surveys of the
10 insurance needs of the state and all departments thereof,
11 including the benefits, if any, of self-insurance.

12 Section 365. Section 287.175, Florida Statutes, is
13 amended to read:

14 287.175 Penalties.--A violation of this part or a rule
15 adopted hereunder, pursuant to applicable constitutional and
16 statutory procedures, constitutes misuse of public position as
17 defined in s. 112.313(6), and is punishable as provided in s.
18 112.317. The Chief Financial Officer ~~Comptroller~~ shall report
19 incidents of suspected misuse to the Commission on Ethics, and
20 the commission shall investigate possible violations of this
21 part or rules adopted hereunder when reported by the Chief
22 Financial Officer ~~Comptroller~~, notwithstanding the provisions
23 of s. 112.324. Any violation of this part or a rule adopted
24 hereunder shall be presumed to have been committed with
25 wrongful intent, but such presumption is rebuttable. Nothing
26 in this section is intended to deny rights provided to career
27 service employees by s. 110.227.

28 Section 366. Paragraph (f) of subsection (5) of
29 section 288.1045, Florida Statutes, is amended to read:

30 288.1045 Qualified defense contractor tax refund
31 program.--

1 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
2 CONTRACTOR.--

3 (f) Upon approval of the tax refund pursuant to
4 paragraphs (c) and (d), the Chief Financial Officer
5 ~~Comptroller~~ shall issue a warrant for the amount included in
6 the final order. In the event of any appeal of the final
7 order, the Chief Financial Officer ~~Comptroller~~ may not issue a
8 warrant for a refund to the qualified applicant until the
9 conclusion of all appeals of the final order.

10 Section 367. Paragraph (g) of subsection (5) of
11 section 288.106, Florida Statutes, is amended to read:

12 288.106 Tax refund program for qualified target
13 industry businesses.--

14 (5) ANNUAL CLAIM FOR REFUND.--

15 (g) Upon approval of the tax refund under paragraphs
16 (c), (d), and (e), the Chief Financial Officer ~~Comptroller~~
17 shall issue a warrant for the amount specified in the final
18 order. If the final order is appealed, the Chief Financial
19 Officer ~~Comptroller~~ may not issue a warrant for a refund to
20 the qualified target industry business until the conclusion of
21 all appeals of that order.

22 Section 368. Paragraph (d) of subsection (5) of
23 section 288.109, Florida Statutes, is amended to read:

24 288.109 One-Stop Permitting System.--

25 (5) By January 1, 2001, the following state agencies,
26 and the programs within such agencies which require the
27 issuance of licenses, permits, and approvals to businesses,
28 must also be integrated into the One-Stop Permitting System:

29 (d) The Department of Financial Services ~~Insurance~~.

30
31

1 Section 369. Paragraphs (b) and (d) of subsection (1)
2 and subsection (2) of section 288.1253, Florida Statutes, are
3 amended to read:

4 288.1253 Travel and entertainment expenses.--

5 (1) As used in this section:

6 (b) "Entertainment expenses" means the actual,
7 necessary, and reasonable costs of providing hospitality for
8 business clients or guests, which costs are defined and
9 prescribed by rules adopted by the Office of Tourism, Trade,
10 and Economic Development, subject to approval by the Chief
11 Financial Officer ~~Comptroller~~.

12 (d) "Travel expenses" means the actual, necessary, and
13 reasonable costs of transportation, meals, lodging, and
14 incidental expenses normally incurred by a traveler, which
15 costs are defined and prescribed by rules adopted by the
16 Office of Tourism, Trade, and Economic Development, subject to
17 approval by the Chief Financial Officer ~~Comptroller~~.

18 (2) Notwithstanding the provisions of s. 112.061, the
19 Office of Tourism, Trade, and Economic Development shall adopt
20 rules by which it may make expenditures by advancement or
21 reimbursement, or a combination thereof, to:

22 (a) The Governor, the Lieutenant Governor, security
23 staff of the Governor or Lieutenant Governor, the Commissioner
24 of Film and Entertainment, or staff of the Office of Film and
25 Entertainment for travel expenses or entertainment expenses
26 incurred by such individuals solely and exclusively in
27 connection with the performance of the statutory duties of the
28 Office of Film and Entertainment.

29 (b) The Governor, the Lieutenant Governor, security
30 staff of the Governor or Lieutenant Governor, the Commissioner
31 of Film and Entertainment, or staff of the Office of Film and

1 Entertainment for travel expenses or entertainment expenses
2 incurred by such individuals on behalf of guests, business
3 clients, or authorized persons as defined in s. 112.061(2)(e)
4 solely and exclusively in connection with the performance of
5 the statutory duties of the Office of Film and Entertainment.

6 (c) Third-party vendors for the travel or
7 entertainment expenses of guests, business clients, or
8 authorized persons as defined in s. 112.061(2)(e) incurred
9 solely and exclusively while such persons are participating in
10 activities or events carried out by the Office of Film and
11 Entertainment in connection with that office's statutory
12 duties.

13

14 The rules shall be subject to approval by the Chief Financial
15 Officer ~~Comptroller~~ prior to promulgation. The rules shall
16 require the submission of paid receipts, or other proof of
17 expenditure prescribed by the Chief Financial Officer
18 ~~Comptroller~~, with any claim for reimbursement and shall
19 require, as a condition for any advancement of funds, a
20 agreement to submit paid receipts or other proof of
21 expenditure and to refund any unused portion of the
22 advancement within 15 days after the expense is incurred or,
23 if the advancement is made in connection with travel, within
24 10 working days after the traveler's return to headquarters.
25 However, with respect to an advancement of funds made solely
26 for travel expenses, the rules may allow paid receipts or
27 other proof of expenditure to be submitted, and any unused
28 portion of the advancement to be refunded, within 10 working
29 days after the traveler's return to headquarters. Operational
30 or promotional advancements, as defined in s. 288.35(4),

31

1 obtained pursuant to this section shall not be commingled with
2 any other state funds.

3 Section 370. Subsection (10) of section 288.709,
4 Florida Statutes, is amended to read:

5 288.709 Powers of the Florida Black Business
6 Investment Board.--The board shall have all the powers
7 necessary or convenient to carry out and effectuate the
8 purposes and provisions of ss. 9-21, chapter 85-104, Laws of
9 Florida, including, but not limited to, the power to:

10 (10) Invest any funds held in reserves or sinking
11 funds, or any funds not required for immediate disbursement,
12 in such investments as may be authorized for trust funds under
13 s. 215.47; provided, such investments will be made on behalf
14 of the board by the Chief Financial Officer ~~Office of State~~
15 ~~Treasurer~~ or by another trustee appointed for that purpose.

16 Section 371. Paragraph (b) of subsection (4) of
17 section 288.712, Florida Statutes, is amended to read:

18 288.712 Florida guarantor funds.--

19 (4)

20 (b) If the board chooses to establish a loan guaranty
21 program, it shall utilize the Black Business Loan Guaranty
22 Trust Fund in the State Treasury, consisting of moneys
23 deposited or credited to the Black Business Loan Guaranty
24 Trust Fund pursuant to appropriation made by law; any grants,
25 gifts, and contributions received pursuant to ss. 9-21,
26 chapter 85-104, Laws of Florida; all moneys recovered
27 following defaults; and any other moneys obtained by the board
28 for this purpose. The Black Business Loan Guaranty Trust Fund
29 shall be administered by the board in trust for the purposes
30 of this section and shall at no time be part of general public
31 funds under the following procedures:

1 1. The board shall utilize the Black Business Loan
2 Guaranty Program Administrative and Loss Reserve Fund in the
3 State Treasury, consisting of all premiums charged and
4 collected in accordance with this section and any income
5 earned from the moneys in the account. All expenses of the
6 board in carrying out the purposes of this subsection shall be
7 paid from the Black Business Loan Guaranty Program
8 Administrative and Loss Reserve Fund. Any moneys to the
9 credit of the Black Business Loan Guaranty Program
10 Administrative and Loss Reserve Fund in excess of the amount
11 necessary to fund the board's activity shall be held as a loss
12 reserve to pay claims arising from defaults on loans
13 underwritten in accordance with this section.

14 2. Any claims against the state arising from defaults
15 shall be payable initially from the Black Business Loan
16 Guaranty Program Administrative and Loss Reserve Fund and,
17 secondarily, from the Black Business Loan Guaranty Trust Fund.

18 3. The board as loan guarantor may exercise all rights
19 and powers of a company authorized by the Department of
20 Financial Services Insurance to guarantee loans but shall not
21 be subject to any requirements of an insurance company under
22 the Florida Insurance Code, nor to any rules of the Department
23 of Financial Services Insurance; however, the board shall
24 refer to the insurance code and rules thereunder when
25 designing and administering such program. The board shall
26 follow sound actuarial principles when administering this
27 program. The board shall establish a premium for the loan
28 guaranty and such rules as may be necessary to carry out the
29 purposes of this section.

30 4. The board may guarantee no more than 20 percent of
31 the principal of a loan to a black business enterprise.

1 Section 372. Paragraph (a) of subsection (1) of
2 section 288.776, Florida Statutes, is amended to read:

3 288.776 Board of directors; powers and duties.--

4 (1)(a) The corporation shall have a board of directors
5 consisting of 15 members representing all geographic areas of
6 the state. Minority and gender representation must be
7 considered when making appointments to the board. The board
8 membership must include:

9 1. A representative of the following businesses, all
10 of which must be registered to do business in this state: a
11 foreign bank, a state bank, a federal bank, an insurance
12 company involved in covering trade financing risks, and a
13 small or medium-sized exporter.

14 2. The following persons or their designee: the
15 President of Enterprise Florida, Inc., the Chief Financial
16 Officer ~~Comptroller~~, the Secretary of State, a senior official
17 of the United States Department of Commerce, and the chair of
18 the Florida Black Business Investment Board.

19 Section 373. Section 288.778, Florida Statutes, is
20 amended to read:

21 288.778 Department of Financial Services ~~Banking and~~
22 ~~Finance~~.--The Department of Financial Services ~~Banking and~~
23 ~~Finance~~ shall review the corporation's activities once every
24 24 months to determine compliance with this part and other
25 related laws and rules and to evaluate the corporation's
26 operations. The department shall prepare a report based on
27 its review and evaluation with recommendation for any
28 corrective action. The president shall submit to the
29 department regular reports on the corporation's activities.
30 The content and frequency of such reports shall be determined
31 by the department. The department shall charge a fee for

1 conducting the review and evaluation and preparing the related
2 report, which fee shall not be in excess of the examination
3 fee paid by financial institutions chartered or licensed under
4 the financial institutions code of this state.

5 Section 374. Paragraph (e) of subsection (3) and
6 paragraph (b) of subsection (10) of section 288.99, Florida
7 Statutes, are amended to read:

8 288.99 Certified Capital Company Act.--

9 (3) DEFINITIONS.--As used in this section, the term:

10 (e) "Department" means the Department of Financial
11 Services ~~Banking and Finance~~.

12 (10) DECERTIFICATION.--

13 (b) Nothing contained in this subsection shall be
14 construed to limit the Chief Financial Officer's ~~Comptroller's~~
15 authority to conduct audits of certified capital companies as
16 deemed appropriate and necessary.

17 Section 375. Paragraph (c) of subsection (1) of
18 section 289.051, Florida Statutes, is amended to read:

19 289.051 Membership of financial institutions; loans to
20 corporation, limitations.--

21 (1) Any financial institution may request membership
22 in the corporation by making application to the board of
23 directors on such form and in such manner as said board of
24 directors may require, and membership shall become effective
25 upon acceptance of such application by said board. Each
26 member of the corporation shall make loans to the corporation
27 as and when called upon by it to do so, on such terms and
28 other conditions as shall be approved from time to time by the
29 board of directors, subject to the following conditions:

30 (c) The total amount outstanding on loans to the
31 corporation made by any member at any one time, when added to

1 the amount of the investment in the capital stock of the
2 corporation then held by such member, shall not exceed:

3 1. Twenty percent of the total amount then outstanding
4 on loans to the corporation by all members, including, in said
5 total amount outstanding, amounts validly called for loan but
6 not yet loaned.

7 2. The following limit, to be determined as of the
8 time such member becomes a member on the basis of the audited
9 balance sheet of such member at the close of its fiscal year
10 immediately preceding its application for membership, or, in
11 the case of an insurance company, its last annual statement to
12 the Department of Financial Services ~~insurance~~: 2.5 percent of
13 the capital and surplus of commercial banks and trust
14 companies; 0.5 percent of the total outstanding loans made by
15 savings and loan associations and building and loan
16 associations; 2.5 percent of the capital and unassigned
17 surplus of stock insurance companies, except fire insurance
18 companies; 2.5 percent of the unassigned surplus of mutual
19 insurance companies, except fire insurance companies; 0.1
20 percent of the assets of fire insurance companies; and such
21 limits as may be approved by the board of directors of the
22 corporation for other financial institutions.

23 Section 376. Subsection (1) of section 289.081,
24 Florida Statutes, is amended to read:

25 289.081 Amendments to articles of incorporation.--

26 (1) The articles of incorporation may be amended by
27 the votes of the stockholders and the members of the
28 corporation, voting separately by classes, and such amendments
29 shall require approval by the affirmative vote of two-thirds
30 of the votes to which the stockholders shall be entitled and
31 two-thirds of the votes to which the members shall be

1 entitled. No amendment of the articles of incorporation which
2 is inconsistent with the general purposes expressed herein, or
3 which authorizes any additional class of capital stock to be
4 issued, or which eliminates or curtails the right of the
5 Department of Financial Services ~~Banking and Finance~~ to
6 examine the corporation or the obligation of the corporation
7 to make reports as provided in s. 289.121, shall be made. No
8 amendment of the articles of incorporation which increases the
9 obligation of a member to make loans to the corporation, or
10 makes any change in the principal amount, interest rate,
11 maturity date, or in the security or credit position of any
12 outstanding loan of a member to the corporation, or affects a
13 member's right to withdraw from membership as provided herein,
14 or affects a member's voting rights as provided herein, shall
15 be made without the consent of each member affected by such
16 amendment.

17 Section 377. Section 289.121, Florida Statutes, is
18 amended to read:

19 289.121 Periodic examinations; reports.--The
20 corporation shall be examined at least once annually by the
21 Department of Financial Services ~~Banking and Finance~~ and shall
22 make reports of its condition not less than annually to that
23 ~~said~~ department and more frequently upon call of the
24 department, which in turn shall make copies of such reports
25 available to the ~~Department of Insurance and the~~ Governor; and
26 the corporation shall also furnish such other information as
27 may from time to time be required by the Department of
28 Financial Services ~~Banking and Finance~~ and Department of
29 State. The corporation shall pay the actual cost of ~~said~~
30 examinations. The Department of Financial Services ~~Banking~~
31 ~~and Finance~~ shall exercise the same power and authority over

1 corporations organized under this act as is exercised over
2 financial institutions under the provisions of the financial
3 institutions codes, when such codes are not in conflict with
4 this act.

5 Section 378. Section 292.085, Florida Statutes, is
6 amended to read:

7 292.085 Department of Veterans' Affairs Tobacco
8 Settlement Trust Fund.--

9 (1) The Department of Veterans' Affairs Tobacco
10 Settlement Trust Fund is created within that department. Funds
11 to be credited to the trust fund shall consist of funds
12 disbursed, by nonoperating transfer, from the Department of
13 Financial Services ~~Banking and Finance~~ Tobacco Settlement
14 Clearing Trust Fund in amounts equal to the annual
15 appropriations made from this trust fund.

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

22 Section 379. Section 313.02, Florida Statutes, is
23 amended to read:

24 313.02 Bond.--Every harbormaster appointed for any
25 port shall give an approved bond in the sum of \$500, payable
26 to the Governor of the state, for the faithful performance of
27 the harbormaster's duty, such bond to be approved by the
28 county commissioners of the county in which the port is
29 situated, and by the Department of Financial Services ~~Banking
30 and Finance~~, and to be filed with the Department of State.

31

1 Section 380. Section 314.02, Florida Statutes, is
2 amended to read:

3 314.02 Bond.--Each harbormaster so appointed shall
4 enter into a bond in the penal sum of \$2,000, with two or more
5 sureties, payable to the Governor of the state and the
6 Governor's successors in office, conditioned for the faithful
7 discharge of the duties of the harbormaster's office, by the
8 harbormaster and his or her deputies, and for the payment of
9 any damage any person may sustain in consequence of any
10 wrongful act of such officer or deputy under color of the
11 harbormaster's office; such bond to be approved by the county
12 commissioners of the county in which is situated said port and
13 by the Department of Financial Services ~~Banking and Finance~~,
14 and to be filed with the Department of State.

15 Section 381. Paragraph (b) of subsection (5) of
16 section 316.3025, Florida Statutes, is amended to read:

17 316.3025 Penalties.--

18 (5)

19 (b) All penalties imposed and collected under this
20 section by any state agency having jurisdiction shall be paid
21 to the Chief Financial Officer ~~Treasurer~~, who shall credit the
22 total amount collected to the State Transportation Trust Fund
23 for use in repairing and maintaining the roads of this state.

24 Section 382. Subsection (6) of section 316.545,
25 Florida Statutes, is amended to read:

26 316.545 Weight and load unlawful; special fuel and
27 motor fuel tax enforcement; inspection; penalty; review.--

28 (6) Any officer or agent collecting the penalties
29 herein imposed shall give to the owner or driver of the
30 vehicle an official receipt for all penalties collected. Such
31 officers or agents of the state departments shall cooperate

1 with the owners or drivers of motor vehicles so as not to
2 delay unduly the vehicles. All penalties imposed and collected
3 under this section by any state agency having jurisdiction
4 shall be paid to the Chief Financial Officer ~~Treasurer~~, who
5 shall credit the total amount thereof to the State
6 Transportation Trust Fund, which shall be used to repair and
7 maintain the roads of this state and to enforce this section.

8 Section 383. Paragraph (c) of subsection (5) of
9 section 320.02, Florida Statutes, is amended to read:

10 320.02 Registration required; application for
11 registration; forms.--

12 (5)

13 (c) For purposes of providing proof of purchase of
14 required insurance coverage under this subsection, the
15 Department of Financial Services ~~Insurance~~ shall require that
16 uniform proof-of-purchase cards specified by the Department of
17 Highway Safety and Motor Vehicles be furnished by insurers
18 writing motor vehicle liability insurance in this state. Any
19 person altering or counterfeiting such a card or making a
20 false affidavit in order to furnish false proof or to
21 knowingly permit another person to furnish false proof is
22 guilty of a misdemeanor of the first degree, punishable as
23 provided in s. 775.082 or s. 775.083.

24 Section 384. Subsection (5) of section 320.081,
25 Florida Statutes, is amended to read:

26 320.081 Collection and distribution of annual license
27 tax imposed on the following type units.--

28 (5) The department shall keep records showing the
29 total number of stickers issued to each type unit governed by
30 this section, the total amount of license taxes collected, and
31 the county or city wherein each such unit is located and shall

1 from month to month certify to the Chief Financial Officer
2 ~~Comptroller~~ the amount derived from license taxes in each
3 county and each city within the county. Such amount, less the
4 amount of \$1.50 collected on each license, shall be paid to
5 the counties and cities within the counties wherein the unit
6 or units are located as follows: one-half to the district
7 school board and the remainder either to the board of county
8 commissioners, for units which are located within the
9 unincorporated areas of the county, or to any city within such
10 county, for units which are located within its corporate
11 limits. Payment shall be by warrant drawn by the Chief
12 Financial Officer ~~Comptroller~~ upon the treasury, which amount
13 is hereby appropriated monthly out of the License Tax
14 Collection Trust Fund.

15 Section 385. Paragraphs (b) and (c) of subsection (5)
16 of section 320.20, Florida Statutes, are amended to read:

17 320.20 Disposition of license tax moneys.--The revenue
18 derived from the registration of motor vehicles, including any
19 delinquent fees and excluding those revenues collected and
20 distributed under the provisions of s. 320.081, must be
21 distributed monthly, as collected, as follows:

22 (5)

23 (b) The Chief Financial Officer ~~State Comptroller~~ each
24 month shall deposit in the State Transportation Trust Fund an
25 amount, drawn from other funds in the State Treasury which are
26 not immediately needed or are otherwise in excess of the
27 amount necessary to meet the requirements of the State
28 Treasury, which when added to such remaining revenues each
29 month will equal one-twelfth of the amount of the anticipated
30 annual revenues to be deposited in the State Transportation
31 Trust Fund under paragraph (a) as estimated by the most recent

1 revenue estimating conference held pursuant to s. 216.136(3).
2 The transfers required hereunder may be suspended by action of
3 the Legislative Budget Commission in the event of a
4 significant shortfall of state revenues.

5 (c) In any month in which the remaining revenues
6 derived from the registration of motor vehicles exceed
7 one-twelfth of those anticipated annual remaining revenues as
8 determined by the revenue estimating conference, the excess
9 shall be credited to those state funds in the State Treasury
10 from which the amount was originally drawn, up to the amount
11 which was deposited in the State Transportation Trust Fund
12 under paragraph (b). A final adjustment must be made in the
13 last months of a fiscal year so that the total revenue
14 deposited in the State Transportation Trust Fund each year
15 equals the amount derived from the registration of motor
16 vehicles, less the amount distributed under subsection (1).
17 For the purposes of this paragraph and paragraph (b), the term
18 "remaining revenues" means all revenues deposited into the
19 State Transportation Trust Fund under paragraph (a) and
20 subsections (2) and (3). In order that interest earnings
21 continue to accrue to the General Revenue Fund, the Department
22 of Transportation may not invest an amount equal to the
23 cumulative amount of funds deposited in the State
24 Transportation Trust Fund under paragraph (b) less funds
25 credited under this paragraph as computed on a monthly basis.
26 The amounts to be credited under this and the preceding
27 paragraph must be calculated and certified to the Chief
28 Financial Officer ~~Comptroller~~ by the Executive Office of the
29 Governor.

30 Section 386. Subsection (1) of section 320.71, Florida
31 Statutes, is amended to read:

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 Department of Financial Services ~~Banking and Finance~~ to be
14 deposited in the General Revenue Fund of the state, and \$750
15 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 387. Subsection (2) of section 320.781,
20 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 388. Subsection (5) of section 322.21, Florida
7 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 389. Subsection (1) of section 324.032,
18 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 Financial Services Insurance, including
6 claims liabilities in an amount certified as adequate by a
7 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 Financial
21 Services Insurance. All risks self-insured shall remain with
22 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 390. Paragraph (b) of subsection (1) of
26 section 324.171, Florida Statutes, is amended to read:

27 324.171 Self-insurer.--

28 (1) Any person may qualify as a self-insurer by
29 obtaining a certificate of self-insurance from the department
30 which may, in its discretion and upon application of such a
31 person, issue said certificate of self-insurance when such

1 person has satisfied the requirements of this section to
2 qualify as a self-insurer under this section:

3 (b) A person, including any firm, partnership,
4 association, corporation, or other person, other than a
5 natural person, shall:

6 1. Possess a net unencumbered worth of at least
7 \$40,000 for the first motor vehicle and \$20,000 for each
8 additional motor vehicle; or

9 2. Maintain sufficient net worth, as determined
10 annually by the department, pursuant to rules promulgated by
11 the department, with the assistance of the Department of
12 Financial Services Insurance, to be financially responsible
13 for potential losses. The rules shall take into consideration
14 excess insurance carried by the applicant. The department's
15 determination shall be based upon reasonable actuarial
16 principles considering the frequency, severity, and loss
17 development of claims incurred by casualty insurers writing
18 coverage on the type of motor vehicles for which a certificate
19 of self-insurance is desired.

20 Section 391. Paragraph (d) of subsection (2) of
21 section 326.006, Florida Statutes, is amended to read:

22 326.006 Powers and duties of division.--

23 (2) The division has the power to enforce and ensure
24 compliance with the provisions of this chapter and rules
25 adopted under this chapter relating to the sale and ownership
26 of yachts and ships. In performing its duties, the division
27 has the following powers and duties:

28 (d) Notwithstanding any remedies available to a yacht
29 or ship purchaser, if the division has reasonable cause to
30 believe that a violation of any provision of this chapter or
31 rule adopted under this chapter has occurred, the division may

1 institute enforcement proceedings in its own name against any
2 broker or salesperson or any of his or her assignees or
3 agents, or against any unlicensed person or any of his or her
4 assignees or agents, as follows:

5 1. The division may permit a person whose conduct or
6 actions are under investigation to waive formal proceedings
7 and enter into a consent proceeding whereby orders, rules, or
8 letters of censure or warning, whether formal or informal, may
9 be entered against the person.

10 2. The division may issue an order requiring the
11 broker or salesperson or any of his or her assignees or
12 agents, or requiring any unlicensed person or any of his or
13 her assignees or agents, to cease and desist from the unlawful
14 practice and take such affirmative action as in the judgment
15 of the division will carry out the purposes of this chapter.

16 3. The division may bring an action in circuit court
17 on behalf of a class of yacht or ship purchasers for
18 declaratory relief, injunctive relief, or restitution.

19 4. The division may impose a civil penalty against a
20 broker or salesperson or any of his or her assignees or
21 agents, or against an unlicensed person or any of his or her
22 assignees or agents, for any violation of this chapter or a
23 rule adopted under this chapter. A penalty may be imposed for
24 each day of continuing violation, but in no event may the
25 penalty for any offense exceed \$10,000. All amounts collected
26 must be deposited with the Chief Financial Officer ~~Treasurer~~
27 to the credit of the Division of Florida Land Sales,
28 Condominiums, and Mobile Homes Trust Fund. If a broker,
29 salesperson, or unlicensed person working for a broker, fails
30 to pay the civil penalty, the division shall thereupon issue
31 an order suspending the broker's license until such time as

1 the civil penalty is paid or may pursue enforcement of the
2 penalty in a court of competent jurisdiction. The order
3 imposing the civil penalty or the order of suspension may not
4 become effective until 20 days after the date of such order.
5 Any action commenced by the division must be brought in the
6 county in which the division has its executive offices or in
7 the county where the violation occurred.

8 Section 392. Subsections (8) and (24) of section
9 331.303, Florida Statutes, are amended to read:

10 331.303 Definitions.--

11 (8) "Entertainment expenses" means the actual,
12 necessary, and reasonable costs of providing hospitality for
13 business clients or guests, which costs are defined and
14 prescribed by rules adopted by the authority, subject to
15 approval by the Chief Financial Officer ~~Comptroller~~.

16 (24) "Travel expenses" means the actual, necessary,
17 and reasonable costs of transportation, meals, lodging, and
18 incidental expenses normally incurred by a traveler, which
19 costs are defined and prescribed by rules adopted by the
20 authority, subject to approval by the Chief Financial Officer
21 ~~Comptroller~~.

22 Section 393. Subsection (2) of section 331.309,
23 Florida Statutes, is amended to read:

24 331.309 Treasurer; depositories; fiscal agent.--

25 (2) The board is authorized to select as depositories
26 in which the funds of the board and of the authority shall be
27 deposited any qualified public depository as defined in s.
28 280.02, upon such terms and conditions as to the payment of
29 interest by such depository upon the funds so deposited as the
30 board may deem just and reasonable. Funds of the authority may
31 also be deposited with the Florida Commercial Space Financing

1 Corporation created by s. 331.407. The funds of the authority
2 may be kept in or removed from the State Treasury upon written
3 notification from the chair of the board to the Chief
4 Financial Officer ~~State Comptroller~~.

5 Section 394. Subsection (2) of section 331.3101,
6 Florida Statutes, is amended to read:

7 331.3101 Spaceport Florida Authority; travel and
8 entertainment expenses.--

9 (2) The rules shall be subject to approval by the
10 Chief Financial officer ~~Comptroller~~ prior to promulgation.
11 The rules shall require the submission of paid receipts, or
12 other proof prescribed by the Chief Financial Officer
13 ~~Comptroller~~, with any claim for reimbursement, and shall
14 require, as a condition for any advancement, an agreement to
15 submit paid receipts or other proof and to refund any unused
16 portion of the advancement within 15 days after the expense is
17 incurred or, if the advancement is made in connection with
18 travel, within 15 days after completion of the travel.
19 However, with respect to an advancement made solely for travel
20 expenses, the rules may allow paid receipts or other proof to
21 be submitted, and any unused portion of the advancement to be
22 refunded, within 30 days after completion of the travel.

23 Section 395. Section 331.348, Florida Statutes, is
24 amended to read:

25 331.348 Investment of funds.--The board may in its
26 discretion invest funds of the authority through the Chief
27 Financial Officer ~~Treasurer~~ or in:

28 (1) Direct obligations of or obligations guaranteed by
29 the United States or for the payment of the principal and
30 interest of which the faith and credit of the United States is
31 pledged;

1 (2) Bonds or notes issued by any of the following
2 federal agencies: Bank for Cooperatives; federal intermediate
3 credit banks; federal home loan bank system; federal land
4 banks; or the Federal National Mortgage Association (including
5 debentures or participating certificates issued by such
6 association);

7 (3) Public housing bonds issued by public housing
8 authorities and secured by a pledge or annual contributions
9 under an annual contribution contract or contracts with the
10 United States;

11 (4) Bonds or other interest-bearing obligations of any
12 county, district, city, or town located in the state for which
13 the full faith and credit of such political subdivision is
14 pledged;

15 (5) Any investment authorized for insurers by ss.
16 625.306-625.316 and amendments thereto; or

17 (6) Any investment authorized under s. 18.10 and
18 amendments thereto.

19 Section 396. Subsection (3) of section 331.419,
20 Florida Statutes, is amended to read:

21 331.419 Reports and audits.--

22 (3) The ~~Division of Banking of the~~ Department of
23 Financial Services ~~Banking and Finance~~ shall review the
24 corporation's activities once every 24 months to determine
25 compliance with this part and related laws and rules and to
26 evaluate the corporation's operations. The department ~~division~~
27 shall prepare a report based on its review and evaluation with
28 recommendation for any corrective action. The president shall
29 submit to the department ~~division~~ regular reports on the
30 corporation's activities. The content and frequency of such
31 reports shall be determined by the department ~~division~~. The

1 department ~~division~~ may charge a fee for conducting the review
2 and evaluation and preparing the related report, which fee
3 shall not be in excess of the examination fee paid by
4 chartered or licensed financial institutions.

5 Section 397. Subsection (1) of section 336.022,
6 Florida Statutes, is amended to read:

7 336.022 County transportation trust fund; controls and
8 administrative remedies.--

9 (1) Each county shall establish and maintain a
10 transportation trust fund for all transportation-related
11 revenues and expenditures. All funds received by a county for
12 transportation shall be deposited into this fund. No
13 expenditures other than transportation expenditures authorized
14 by law shall be made from such fund. Each county shall use a
15 uniform accounts classification system approved by the Chief
16 Financial Officer ~~Comptroller~~.

17 Section 398. Subsection (9) of section 337.25, Florida
18 Statutes, is amended to read:

19 337.25 Acquisition, lease, and disposal of real and
20 personal property.--

21 (9) The department, with the approval of the Chief
22 Financial Officer ~~State Comptroller~~, is authorized to disburse
23 state funds for real estate closings in a manner consistent
24 with good business practices and in a manner minimizing costs
25 and risks to the state.

26 Section 399. Section 339.035, Florida Statutes, is
27 amended to read:

28 339.035 Expenditures.--All expenditures by the
29 department shall be made upon vouchers issued and certified by
30 the department in such manner as the department may, by rule
31 or internal management memorandum as required by chapter 120,

1 provide and shall be paid by warrants issued by the Chief
2 Financial Officer ~~Comptroller upon the Treasurer.~~

3 Section 400. Section 339.081, Florida Statutes, is
4 amended to read:

5 339.081 Department trust funds.--The Chief Financial
6 Officer ~~Comptroller~~ shall maintain within the State Treasury
7 the following trust funds for the department:

8 (1) The State Transportation Trust Fund, to which
9 shall be credited the proceeds of the gas tax as authorized by
10 chapter 83-3, Laws of Florida, and such other funds which
11 accrue to the department which are not required to be
12 maintained in separate trust funds.

13 (2) Such other funds as may be authorized by bond
14 resolutions or agreements with any other public bodies or
15 agencies.

16 Section 401. Section 344.17, Florida Statutes, is
17 amended to read:

18 344.17 Depositories and investments.--All moneys
19 received by the Chief Financial Officer as treasurer of the
20 State Board of Administration, a body corporate under s. 9,
21 Art. XII of the State Constitution, shall be deposited by the
22 treasurer in a solvent bank or banks, to be approved and
23 accepted for such purposes by the board. In making such
24 deposits, he or she shall follow the method for the deposit of
25 state funds. Each bank receiving any portion of such funds
26 shall be required to deposit with such treasurer satisfactory
27 bonds or treasury certificates of the United States; bonds of
28 the several states; special tax school district bonds; bonds
29 of any municipality eligible to secure state deposits as
30 provided by law; bonds of any county or special road and
31 bridge district of this state entitled to participate under

1 the provisions of s. 16, Art. IX of the State Constitution of
2 1885, as adopted by the 1968 revised constitution, and of s.
3 9, Art. XII of that revision; bonds issued under the
4 provisions of s. 18, Art. XII of the State Constitution of
5 1885, as adopted by s. 9, Art. XII of the 1968 revised
6 constitution; or bonds, notes, or certificates issued by the
7 Florida State Improvement Commission or its successors, the
8 Florida Development Commission and the Division of Bond
9 Finance of the State Board of Administration, which contain a
10 pledge of the 80-percent surplus 2-cent constitutional
11 gasoline tax accruing under s. 16, Art. IX of the State
12 Constitution of 1885, as adopted by the 1968 revised
13 constitution, and under s. 9, Art. XII of that revision, which
14 shall be equal to the amount deposited with such bank. Such
15 security shall be in the possession of such treasurer; or the
16 treasurer is authorized to accept, in lieu of the actual
17 depositing with him or her of such security, trust or
18 safekeeping receipts issued by any Federal Reserve Bank, or
19 member bank thereof, or by any bank incorporated under the
20 laws of the United States; provided the member bank or bank
21 incorporated under the laws of the United States has been
22 previously approved and accepted for such purposes by the
23 State Board of Administration and the trust or safekeeping
24 receipts are in substantially the same form as that which the
25 Chief Financial Officer ~~State Treasurer~~ is authorized to
26 accept in lieu of securities given to cover deposits of state
27 funds.

28 Section 402. Subsections (2) and (9) of section
29 350.06, Florida Statutes, are amended to read:

30 350.06 Place of meeting; expenditures; employment of
31 personnel; records availability and fees.--

1 (2) All sums of money authorized to be paid on account
2 of said commissioners shall be paid out of the State Treasury
3 only on the order of the Chief Financial Officer ~~Comptroller~~.

4 (9) The commission shall keep a book in which all fees
5 collected by it as provided for herein shall be recorded,
6 together with the amount and purpose for which collected.
7 This book shall be a public record. The commission shall
8 prepare a statement of these fees in duplicate each month and
9 remit one copy of the statement, together with all fees
10 collected by it, to the Chief Financial Officer ~~Treasurer~~.

11 All moneys collected pursuant to this section by the
12 commission shall be deposited in the State Treasury to the
13 credit of the Florida Public Service Regulatory Trust Fund.

14 Section 403. Section 354.03, Florida Statutes, is
15 amended to read:

16 354.03 Bond.--Before entering into the performance of
17 his or her duties every such special officer shall enter into
18 a good and sufficient bond payable to the Governor of Florida,
19 and the Governor's successors, in the penal sum of \$5,000,
20 with some surety company authorized to do business in this
21 state as surety thereon, conditioned for the faithful
22 performance of his or her duties, and to pay any and all
23 damage done by any illegal act committed by him or her, to be
24 approved by the Department of Financial Services ~~Banking and~~
25 ~~Finance~~.

26 Section 404. Subsection (1) of section 365.173,
27 Florida Statutes, is amended to read:

28 365.173 Wireless Emergency Telephone System Fund.--

29 (1) All revenues derived from the E911 fee levied on
30 subscribers under s. 365.172 must be paid into the State
31 Treasury on or before the 15th day of each month. Such moneys

1 must be accounted for in a special fund to be designated as
2 the Wireless Emergency Telephone System Fund, a fund created
3 in the State Technology Office and must be invested by the
4 Chief Financial Officer ~~State Treasurer~~ pursuant to s. 18.125.
5 All moneys in such fund are to be expended by the State
6 Technology Office for the purposes provided in this section
7 and s. 365.172. These funds are not subject to s. 215.20.

8 Section 405. Subsection (8) of section 370.06, Florida
9 Statutes, is amended to read:

10 370.06 Licenses.--

11 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise
12 provided by law, all license taxes or fees provided for in
13 this chapter shall be collected by the commission or its duly
14 authorized agents or deputies to be deposited by the Chief
15 Financial Officer ~~Comptroller~~ in the Marine Resources
16 Conservation Trust Fund. The commission may by rule establish
17 a reasonable processing fee for any free license or permit
18 required under this chapter. The commission is authorized to
19 accept payment by credit card for fees, fines, and civil
20 penalties levied pursuant to this chapter.

21 Section 406. Subsection (6) of section 370.16, Florida
22 Statutes, is amended to read:

23 370.16 Noncultured shellfish harvesting.--

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

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

21 Section 407. Paragraph (b) of subsection (5) and
22 subsection (6) of section 370.19, Florida Statutes, are
23 amended to read:

24 370.19 Atlantic States Marine Fisheries Compact;
25 implementing legislation.--

26 (5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.--

27 (b) The Department of Financial Services ~~Banking and~~
28 ~~Finance~~ is hereby authorized and empowered from time to time
29 to examine the accounts and books of the commission, including
30 its receipts, disbursements and such other items referring to
31 its financial standing as such department deems ~~may deem~~

1 proper and to report the results of such examination to the
2 governor of such state.

3 (6) APPROPRIATION FOR EXPENSES OF COMMISSION.--The sum
4 of \$600, annually, or so much thereof as may be necessary, is
5 hereby appropriated out of any moneys in the State Treasury
6 not otherwise appropriated, for the expenses of the commission
7 created by the compact authorized by this law. The moneys
8 hereby appropriated shall be paid out of the State Treasury on
9 the audit and warrant of the Chief Financial Officer
10 ~~Comptroller~~ upon vouchers certified by the chair of the
11 commission in the manner prescribed by law.

12 Section 408. Subsection (5) of section 370.20, Florida
13 Statutes, is amended to read:

14 370.20 Gulf States Marine Fisheries Compact;
15 implementing legislation.--

16 (5) ACCOUNTS TO BE KEPT BY COMMISSION;
17 EXAMINATION.--The commission shall keep accurate accounts of
18 all receipts and disbursements and shall report to the
19 Governor and the Legislature of the State of Florida on or
20 before the 10th day of December in each year, setting forth in
21 detail the transactions conducted by it during the 12 months
22 preceding December 1 of that year and shall make
23 recommendations for any legislative action deemed by it
24 advisable, including amendments to the statutes of the State
25 of Florida which may be necessary to carry out the intent and
26 purposes of the compact between the signatory states.

27 The Department of Financial Services ~~Banking and~~
28 ~~Finance~~ is hereby authorized and empowered from time to time
29 to examine the accounts and books of the commission, including
30 its receipts, disbursements and such other items referring to
31 its financial standing as such department deems ~~may deem~~

1 proper and to report the results of such examination to the
2 governor of such state.

3 Section 409. Subsection (5) of section 373.503,
4 Florida Statutes, is amended to read:

5 373.503 Manner of taxation.--

6 (5) Each water management district created under this
7 chapter which does not receive state shared revenues under
8 part II of chapter 218 shall, before January 1 of each year,
9 certify compliance or noncompliance with s. 200.065 to the
10 Department of Financial Services ~~Banking and Finance~~.
11 Specific grounds for noncompliance shall be stated in the
12 certification. In its annual report required by s. 218.32(2),
13 the Department of Financial Services ~~Banking and Finance~~ shall
14 report to the Governor and the Legislature those water
15 management districts certifying noncompliance or not
16 reporting.

17 Section 410. Paragraph (e) of subsection (10) of
18 section 373.59, Florida Statutes, is amended to read:

19 373.59 Water Management Lands Trust Fund.--

20 (10)

21 (e) Payment in lieu of taxes pursuant to this
22 subsection shall be made annually to qualifying counties and
23 local governments after certification by the Department of
24 Revenue that the amounts applied for are reasonably
25 appropriate, based on the amount of actual taxes paid on the
26 eligible property, and after the water management districts
27 have provided supporting documents to the Chief Financial
28 Officer ~~Comptroller~~ and have requested that payment be made in
29 accordance with the requirements of this section.

30 Section 411. Subsection (2) of section 373.6065,
31 Florida Statutes, is amended to read:

1 373.6065 Adoption benefits for water management
2 district employees.--

3 (2) The Chief Financial Officer ~~Comptroller~~ and the
4 Department of Management Services shall transfer funds to
5 water management districts to pay eligible water management
6 district employees for these child adoption monetary benefits
7 in accordance with s. 215.32(1)(c)5., as long as funds remain
8 available for the program described under s. 110.152.

9 Section 412. Subsection (2) of section 374.983,
10 Florida Statutes, is amended to read:

11 374.983 Governing body.--

12 (2) The present board of commissioners of the district
13 shall continue to hold office until their respective terms
14 shall expire. Thereafter the members of the board shall
15 continue to be appointed by the Governor for a term of 4 years
16 and until their successors shall be duly appointed.
17 Specifically, commencing on January 10, 1997, the Governor
18 shall appoint the commissioners from Broward, Indian River,
19 Martin, St. Johns, and Volusia Counties and on January 10,
20 1999, the Governor shall appoint the commissioners from
21 Brevard, Dade, Duval, Flagler, Palm Beach, and St. Lucie
22 Counties. Each new appointee must be confirmed by the Senate.
23 Whenever a vacancy occurs among the commissioners, the person
24 appointed to fill such vacancy shall hold office for the
25 unexpired portion of the term of the commissioner whose place
26 he or she is selected to fill. Each commissioner under this
27 act before he or she assumes office shall be required to give
28 a good and sufficient surety bond in the sum of \$10,000
29 payable to the Governor and his or her successors in office,
30 conditioned upon the faithful performance of the duties of his
31 or her office, such ~~said~~ bond to be approved by and filed with

1 the Chief Financial Officer ~~Comptroller~~. Any and all premiums
2 upon such ~~said~~ surety bonds shall be paid by the board of
3 commissioners of such ~~said~~ district as a necessary expense of
4 the district.

5 Section 413. Subsection (2) of section 374.986,
6 Florida Statutes, is amended to read:

7 374.986 Taxing authority.--

8 (2) The board may annually assess and levy against the
9 taxable property in the district a tax not to exceed one-tenth
10 mill on the dollar for each year, and the proceeds from such
11 tax shall be used by the district for all expenses of the
12 district including the purchase price of right-of-way and
13 other property. The board shall, on or before the 31st day of
14 July of each year, prepare a tentative annual written budget
15 of the district's expected income and expenditures. In
16 addition, the board shall compute a proposed millage rate to
17 be levied as taxes for that year upon the taxable property in
18 the district for the purposes of said district. The proposed
19 budget shall be submitted to the Department of Environmental
20 Protection for its approval. Prior to adopting a final budget,
21 the district shall comply with the provisions of s. 200.065,
22 relating to the method of fixing millage, and shall fix the
23 final millage rate by resolution of the district and shall
24 also, by resolution, adopt a final budget pursuant to chapter
25 200. Copies of such resolutions executed in the name of the
26 board by its chair, and attested by its secretary, shall be
27 made and delivered to the county officials specified in s.
28 200.065 of each and every county in the district, to the
29 Department of Revenue, and to the Chief Financial Officer
30 ~~Comptroller~~. Thereupon, it shall be the duty of the property
31 assessor of each of said counties to assess, and the tax

1 collector of each of said counties to collect, a tax at the
2 rate fixed by said resolution of the board upon all of the
3 real and personal taxable property in said counties for said
4 year (and such officers shall perform such duty) and said levy
5 shall be included in the warrant of the tax assessors of each
6 of said counties and attached to the assessment roll of taxes
7 for each of said counties. The tax collectors of each of said
8 counties shall collect such taxes so levied by the board in
9 the same manner as other taxes are collected, and shall pay
10 the same within the time and in the manner prescribed by law,
11 to the treasurer of the board. It shall be the duty of the
12 Chief Financial Officer ~~Comptroller~~ to assess and levy on all
13 railroad lines and railroad property and telegraph lines and
14 telegraph property in the district a tax at the rate
15 prescribed by resolution of the board, and to collect the tax
16 thereon in the same manner as he or she is required by law to
17 assess and collect taxes for state and county purposes and to
18 remit the same to the treasurer of the board. All such taxes
19 shall be held by the treasurer of the district for the credit
20 of the district and paid out by him or her as provided herein.
21 The tax assessor and property appraiser of each of said
22 counties shall be entitled to payment as provided for by
23 general laws.

24 Section 414. subsection (3) of section 376.11, Florida
25 Statutes, is amended to read:

26 376.11 Florida Coastal Protection Trust Fund.--

27 (3) Moneys in the fund that are not needed currently
28 to meet the obligations of the department in the exercise of
29 its responsibilities under ss. 376.011-376.21 shall be
30 deposited with the Chief Financial Officer ~~Treasurer~~ to the
31 credit of the fund and may be invested in such manner as is

1 provided for by statute. Interest received on such investment
2 shall be credited to the fund, except as otherwise specified
3 herein.

4 Section 415. Subsection (5) of section 376.123,
5 Florida Statutes, is amended to read:

6 376.123 Claims against the Florida Coastal Protection
7 Trust Fund.--

8 (5) The secretary shall establish the amount to be
9 awarded and shall certify the amount of the award and the name
10 of the claimant to the Chief Financial Officer State
11 ~~Treasurer~~, who shall pay the award from the fund, subject to
12 the provisions of subsection (12). If the claimant agrees
13 with the established amount of award, the settlement shall be
14 binding upon both parties as to all issues and cannot be
15 further attacked, collaterally or by separate action, in the
16 future.

17 Section 416. Subsection (6) of section 376.307,
18 Florida Statutes, is amended to read:

19 376.307 Water Quality Assurance Trust Fund.--

20 (6) Moneys in the fund which are not needed currently
21 to meet the obligations of the department in the exercise of
22 its responsibilities under this section shall be deposited
23 with the Chief Financial Officer ~~Treasurer~~ to the credit of
24 the fund and may be invested in such manner as is provided for
25 by statute. The interest received on such investment shall be
26 credited to the fund. Any provisions of law to the contrary
27 notwithstanding, such interest may be freely transferred
28 between this trust fund and the Inland Protection Trust Fund,
29 in the discretion of the department.

30
31

1 Section 417. Subsection (8) and paragraph (k) of
2 subsection (12) of section 376.3071, Florida Statutes, are
3 amended to read:

4 376.3071 Inland Protection Trust Fund; creation;
5 purposes; funding.--

6 (8) INVESTMENTS; INTEREST.--Moneys in the fund which
7 are not needed currently to meet the obligations of the
8 department in the exercise of its responsibilities under this
9 section and s. 376.3073 shall be deposited with the Chief
10 Financial Officer ~~Treasurer~~ to the credit of the fund and may
11 be invested in such manner as is provided for by statute. The
12 interest received on such investment shall be credited to the
13 fund. Any provisions of law to the contrary notwithstanding,
14 such interest may be freely transferred between this trust
15 fund and the Water Quality Assurance Trust Fund, in the
16 discretion of the department.

17 (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as
18 provided in s. 2(3), chapter 95-2, Laws of Florida, this
19 subsection shall not apply to any site rehabilitation program
20 task initiated after March 29, 1995. Effective August 1, 1996,
21 no further site rehabilitation work on sites eligible for
22 state-funded cleanup from the Inland Protection Trust Fund
23 shall be eligible for reimbursement pursuant to this
24 subsection. The person responsible for conducting site
25 rehabilitation may seek reimbursement for site rehabilitation
26 program task work conducted after March 28, 1995, in
27 accordance with s. 2(2) and (3), chapter 95-2, Laws of
28 Florida, regardless of whether the site rehabilitation program
29 task is completed. A site rehabilitation program task shall
30 be considered to be initiated when actual onsite work or
31 engineering design, pursuant to chapter 62-770, Florida

1 Administrative Code, which is integral to performing a site
2 rehabilitation program task has begun and shall not include
3 contract negotiation and execution, site research, or project
4 planning. All reimbursement applications pursuant to this
5 subsection must be submitted to the department by January 3,
6 1997. The department shall not accept any applications for
7 reimbursement or pay any claims on applications for
8 reimbursement received after that date; provided, however if
9 an application filed on or prior to January 3, 1997, was
10 returned by the department on the grounds of untimely filing,
11 it shall be refiled within 30 days after the effective date of
12 this act in order to be processed.

13 (k) Audits.--

14 1. The department is authorized to perform financial
15 and technical audits in order to certify site restoration
16 costs and ensure compliance with this chapter. The department
17 shall seek recovery of any overpayments based on the findings
18 of these audits. The department must commence any audit within
19 5 years after the date of reimbursement, except in cases where
20 the department alleges specific facts indicating fraud.

21 2. Upon determination by the department that any
22 portion of costs which have been reimbursed are disallowed,
23 the department shall give written notice to the applicant
24 setting forth with specificity the allegations of fact which
25 justify the department's proposed action and ordering
26 repayment of disallowed costs within 60 days of notification
27 of the applicant.

28 3. In the event the applicant does not make payment to
29 the department within 60 days of receipt of such notice, the
30 department shall seek recovery in a court of competent
31 jurisdiction to recover reimbursement overpayments made to the

1 person responsible for conducting site rehabilitation, unless
2 the department finds the amount involved too small or the
3 likelihood of recovery too uncertain.

4 4. In addition to the amount of any overpayment, the
5 applicant shall be liable to the department for interest of 1
6 percent per month or the prime rate, whichever is less, on the
7 amount of overpayment, from the date of overpayment by the
8 department until the applicant satisfies the department's
9 request for repayment pursuant to this paragraph. The
10 calculation of interest shall be tolled during the pendency of
11 any litigation.

12 5. Financial and technical audits frequently are
13 conducted under this section many years after the site
14 rehabilitation activities were performed and the costs
15 examined in the course of the audit were incurred by the
16 person responsible for site rehabilitation. During the
17 intervening span of years, the department's rule requirements
18 and its related guidance and other nonrule policy directives
19 may have changed significantly. The Legislature finds that it
20 may be appropriate for the department to provide relief to
21 persons subject to such requirements in financial and
22 technical audits conducted pursuant to this section.

23 a. The department is authorized to grant variances and
24 waivers from the documentation requirements of subparagraph
25 (e)2. and from the requirements of rules applicable in
26 technical and financial audits conducted under this section.
27 Variances and waivers shall be granted when the person
28 responsible for site rehabilitation demonstrates to the
29 department that application of a financial or technical
30 auditing requirement would create a substantial hardship or
31 would violate principles of fairness. For purposes of this

1 subsection, "substantial hardship" means a demonstrated
2 economic, technological, legal, or other type of hardship to
3 the person requesting the variance or waiver. For purposes of
4 this subsection, "principles of fairness" are violated when
5 the application of a requirement affects a particular person
6 in a manner significantly different from the way it affects
7 other similarly situated persons who are affected by the
8 requirement or when the requirement is being applied
9 retroactively without due notice to the affected parties.

10 b. A person whose reimbursed costs are subject to a
11 financial and technical audit under this section may file a
12 written request to the department for grant of a variance or
13 waiver. The request shall specify:

14 (I) The requirement from which a variance or waiver is
15 requested.

16 (II) The type of action requested.

17 (III) The specific facts which would justify a waiver
18 or variance.

19 (IV) The reason or reasons why the requested variance
20 or waiver would serve the purposes of this section.

21 c. Within 90 days after receipt of a written request
22 for variance or waiver under this subsection, the department
23 shall grant or deny the request. If the request is not granted
24 or denied within 90 days of receipt, the request shall be
25 deemed approved. An order granting or denying the request
26 shall be in writing and shall contain a statement of the
27 relevant facts and reasons supporting the department's action.
28 The department's decision to grant or deny the petition shall
29 be supported by competent substantial evidence and is subject
30 to ss. 120.569 and 120.57. Once adopted, model rules

31

1 promulgated by the Administration Commission under s. 120.542
2 shall govern the processing of requests under this provision.

3 6. The Chief Financial Officer ~~Comptroller~~ may audit
4 the records of persons who receive or who have received
5 payments pursuant to this chapter in order to verify site
6 restoration costs, ensure compliance with this chapter, and
7 verify the accuracy and completeness of audits performed by
8 the department pursuant to this paragraph. The Chief
9 Financial Officer ~~Comptroller~~ may contract with entities or
10 persons to perform audits pursuant to this subparagraph. The
11 Chief Financial Officer ~~Comptroller~~ shall commence any audit
12 within 1 year after the department's completion of an audit
13 conducted pursuant to this paragraph, except in cases where
14 the department or the Chief Financial Officer ~~Comptroller~~
15 alleges specific facts indicating fraud.

16 Section 418. Paragraphs (b) and (c) of subsection (5)
17 of section 376.3072, Florida Statutes, are amended to read:

18 376.3072 Florida Petroleum Liability and Restoration
19 Insurance Program.--

20 (5)

21 (b) The Department of Financial Services ~~Insurance~~
22 shall offer assistance as requested by the department to
23 implement the program.

24 (c) Any insurance company, reinsurance company, or
25 other entity contracted with by the department shall be
26 subject to the same rules and regulations of the Department of
27 Financial Services ~~Insurance~~ applicable to other insurers,
28 reinsurers, and other entities.

29 Section 419. Subsection (2) of section 376.3075,
30 Florida Statutes, is amended to read:

31 376.3075 Inland Protection Financing Corporation.--

1 (2) The corporation shall be governed by a board of
2 directors consisting of the Governor or the Governor's
3 designee, the Chief Financial officer ~~Comptroller~~ or the Chief
4 Financial Officer's ~~Comptroller's~~ designee, ~~the Treasurer or~~
5 ~~the Treasurer's designee~~, the chair of the Florida Black
6 Business Investment Board, and the secretary of the Department
7 of Environmental Protection. The executive director of the
8 State Board of Administration shall be the chief executive
9 officer of the corporation and shall direct and supervise the
10 administrative affairs of the corporation and shall control,
11 direct, and supervise the operation of the corporation. The
12 corporation shall also have such other officers as may be
13 determined by the board of directors.

14 Section 420. Subsection (10) of section 376.3078,
15 Florida Statutes, is amended to read:

16 376.3078 Drycleaning facility restoration; funds;
17 uses; liability; recovery of expenditures.--

18 (10) INSURANCE REQUIREMENTS.--The owner or operator of
19 an operating drycleaning facility or wholesale supply facility
20 shall, by January 1, 1999, have purchased third-party
21 liability insurance for \$1 million of coverage for each
22 operating facility. The owner or operator shall maintain such
23 insurance while operating as a drycleaning facility or
24 wholesale supply facility and provide proof of such insurance
25 to the department upon registration renewal each year
26 thereafter. Such requirement applies only if such insurance
27 becomes available to the owner or operator at a reasonable
28 rate and covers liability for contamination subsequent to the
29 effective date of the policy and prior to the effective date,
30 retroactive to the commencement of operations at the
31 drycleaning facility or wholesale supply facility. Such

1 insurance may be offered in group coverage policies with a
2 minimum coverage of \$1 million for each member of the group
3 per year. For the purposes of this subsection, reasonable rate
4 means the rate developed based on exposure to loss and
5 underwriting and administrative costs as determined by the
6 Department of Financial Services Insurance, in consultation
7 with representatives of the drycleaning industry.

8 Section 421. Paragraphs (b) and (c) of subsection (4)
9 of section 376.3079, Florida Statutes, are amended to read:

10 376.3079 Third-party liability insurance.--

11 (4)

12 (b) The Department of Financial Services Insurance
13 shall offer assistance as requested by the department to
14 implement the program.

15 (c) Any insurance company, reinsurance company, or
16 other entity contracted with by the department shall be
17 subject to the same rules of the Department of Financial
18 Services Insurance applicable to other insurers, reinsurers,
19 and other entities.

20 Section 422. Subsection (6) of section 376.40, Florida
21 Statutes, is amended to read:

22 376.40 Petroleum exploration and production; purposes;
23 funding.--

24 (6) INVESTMENTS; INTEREST.--Moneys in the trust fund
25 which are not needed currently to meet the obligations of the
26 department in the exercise of its responsibilities under this
27 section shall be deposited with the Chief Financial Officer
28 ~~Treasurer~~ to the credit of the trust fund and may be invested
29 as provided by law.

30 Section 423. Section 377.23, Florida Statutes. is
31 amended to read:

1 377.23 Monthly reports to division.--Every producer of
2 oil or gas in the state shall submit to the division, on forms
3 prescribed by the division, a monthly report of the actual
4 production from each and every oil and gas well operated by
5 him or her. Such ~~said~~ producer shall submit a duplicate copy
6 of such ~~said~~ report at the same time to the Department of
7 Financial Services ~~Banking and Finance~~; and such ~~said~~ reports
8 shall be submitted through the medium of the United States
9 mails, and it shall be unlawful for the same to be transmitted
10 or received in any other way.

11 Section 424. Paragraph (a) of subsection (1) of
12 section 377.2425, Florida Statutes, is amended to read:

13 377.2425 Manner of providing security for geophysical
14 exploration, drilling, and production.--

15 (1) Prior to granting a permit to conduct geophysical
16 operations; drilling of exploratory, injection, or production
17 wells; producing oil and gas from a wellhead; or transporting
18 oil and gas through a field-gathering system, the department
19 shall require the applicant or operator to provide surety that
20 these operations will be conducted in a safe and
21 environmentally compatible manner.

22 (a) The applicant for a drilling, production, or
23 injection well permit or a geophysical permit may provide the
24 following types of surety to the department for this purpose:

25 1. A deposit of cash or other securities made payable
26 to the Minerals Trust Fund. Such cash or securities so
27 deposited shall be held at interest by the Chief Financial
28 Officer ~~Comptroller~~ to satisfy safety and environmental
29 performance provisions of this chapter. The interest shall be
30 credited to the Minerals Trust Fund. Such cash or other
31 securities shall be released by the Chief Financial Officer

1 ~~Comptroller~~ upon request of the applicant and certification by
2 the department that all safety and environmental performance
3 provisions established by the department for permitted
4 activities have been fulfilled.

5 2. A bond of a surety company authorized to do
6 business in the state in an amount as provided by rule.

7 3. A surety in the form of an irrevocable letter of
8 credit in an amount as provided by rule guaranteed by an
9 acceptable financial institution.

10 Section 425. Paragraph (c) of subsection (4) of
11 section 377.705, Florida Statutes, is amended to read:

12 377.705 Solar Energy Center; development of solar
13 energy standards.--

14 (4) FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS,
15 REQUIRE DISCLOSURE, SET TESTING FEES.--

16 (c) The center shall be entitled to receive a testing
17 fee sufficient to cover the costs of such testing. All
18 testing fees shall be transmitted by the center to the Chief
19 Financial Officer ~~State Treasurer~~ to be deposited in the Solar
20 Energy Center Testing Trust Fund, which is hereby created in
21 the State Treasury, and disbursed for the payment of expenses
22 incurred in testing solar energy systems.

23 Section 426. Paragraph (a) of subsection (2) of
24 section 378.035, Florida Statutes, is amended to read:

25 378.035 Department responsibilities and duties with
26 respect to Nonmandatory Land Reclamation Trust Fund.--

27 (2)(a) The department shall verify that reclamation
28 activities or portions thereof have been accomplished in
29 accordance with the reclamation contract and shall certify the
30 cost of such reclamation activities to the Chief Financial
31 Officer ~~Comptroller~~ for reimbursement.

1 Section 427. Section 378.037, Florida Statutes, is
2 amended to read:

3 378.037 Chief Financial Officer ~~Comptroller~~;
4 responsibilities and duties with respect to reimbursement of
5 reclamation costs.--

6 (1) The Chief Financial Officer ~~Comptroller~~ shall
7 reimburse approved reclamation costs, less any amount
8 reasonably retained to ensure completion of the approved
9 reclamation program, subject to the following limitations:

10 (a) A landowner shall not be entitled to payments in
11 excess of the funds available in the Nonmandatory Land
12 Reclamation Trust Fund.

13 (b) Cost reimbursement shall not exceed the least of:

14 1. The amount actually expended and reasonably
15 necessary to effect the reclamation consistent with the
16 standards of the approved master reclamation plan;

17 2. The reclamation contract amount; or

18 3. The amount allowed based on prereclamation land
19 form, to include mined-out areas at \$4,000 per reclaimed acre
20 and clay settling areas and other land forms at \$2,500 per
21 reclaimed acre adjusted annually by the appropriate
22 inflationary index for construction.

23 (2) The Chief Financial Officer ~~Comptroller~~ shall
24 adopt rules to implement the payment provisions of the master
25 reclamation plan and this section, including, but not limited
26 to, periodic reimbursements and competitive procurement of
27 services and commodities to the extent practicable, unless a
28 landowner elects to utilize his or her own personnel and
29 equipment. The landowner may select a method of reimbursement
30 from the alternatives adopted by the Chief Financial Officer
31 ~~Comptroller~~.

1 Section 428. Subsection (3) of section 378.208,
2 Florida Statutes, is amended to read:

3 378.208 Financial responsibility.--

4 (3) The amount of financial responsibility shall be
5 established by the secretary and shall not exceed \$4,000 per
6 acre for each reclamation program, adjusted annually by the
7 appropriate inflationary index for construction. The
8 Department of Financial Services ~~Insurance~~ shall be available
9 to assist the secretary in making this determination. In
10 establishing the amount of financial responsibility, the
11 secretary shall consider:

12 (a) The amount and type of reclamation involved.

13 (b) The probable cost of proper reclamation.

14 (c) Inflation rates.

15 (d) Changes in mining operations.

16 Section 429. Subsection (2) of section 381.765,
17 Florida Statutes, is amended to read:

18 381.765 Retention of title to and disposal of
19 equipment.--

20 (2) The department may offer for sale any surplus
21 items acquired in operating the brain and spinal cord injury
22 program when they are no longer necessary or exchange them for
23 necessary items that may be used to greater advantage. When
24 any such surplus equipment is sold or exchanged, a receipt for
25 the equipment shall be taken from the purchaser showing the
26 consideration given for such equipment and forwarded to the
27 Chief Financial Officer ~~Treasurer~~, and any funds received by
28 the brain and spinal cord injury program pursuant to any such
29 transaction shall be deposited in the Brain and Spinal Cord
30 Injury Rehabilitation Trust Fund and shall be available for
31 expenditure for any purpose consistent with this part.

1 Section 430. Subsection (3) of section 381.90, Florida
2 Statutes, is amended to read:

3 381.90 Health Information Systems Council; legislative
4 intent; creation, appointment, duties.--

5 (3) The council shall be composed of the following
6 members or their senior executive-level designees:

7 (a) The secretary of the Department of Health;

8 (b) The secretary of the Department of Business and
9 Professional Regulation;

10 (c) The secretary of the Department of Children and
11 Family Services;

12 (d) The Secretary of Health Care Administration;

13 (e) The secretary of the Department of Corrections;

14 (f) The Attorney General;

15 (g) The executive director of the Correctional Medical
16 Authority;

17 (h) Two members representing county health
18 departments, one from a small county and one from a large
19 county, appointed by the Governor;

20 (i) A representative from the Florida Association of
21 Counties;

22 (j) The Chief Financial Officer ~~State Treasurer and~~
23 ~~Insurance Commissioner~~;

24 (k) A representative from the Florida Healthy Kids
25 Corporation;

26 (l) A representative from a school of public health
27 chosen by the Board of Regents;

28 (m) The Commissioner of Education;

29 (n) The secretary of the Department of Elderly
30 Affairs; and

31

1 (o) The secretary of the Department of Juvenile
2 Justice.

3
4 Representatives of the Federal Government may serve without
5 voting rights.

6 Section 431. Subsection (5) of section 388.201,
7 Florida Statutes, is amended to read:

8 388.201 District budgets; hearing.--

9 (5) County commissioners' mosquito and arthropod
10 control budgets shall be made and adopted as prescribed by
11 subsections (1) and (2); summary figures shall be incorporated
12 into the county budgets as prescribed by the Department of
13 Financial Services ~~Banking and Finance~~.

14 Section 432. Section 388.301, Florida Statutes, is
15 amended to read:

16 388.301 Payment of state funds; supplies and
17 services.--State funds shall be payable quarterly, in
18 accordance with the rules of the department, upon requisition
19 by the department to the Chief Financial Officer ~~Comptroller~~.
20 The department is authorized to furnish insecticides,
21 chemicals, materials, equipment, vehicles, and personnel in
22 lieu of state funds where mass purchasing may save funds for
23 the state, or where it would be more practical and economical
24 to use equipment, supplies, and services between two or more
25 counties or districts.

26 Section 433. Subsection (3) of section 391.025,
27 Florida Statutes, is amended to read:

28 391.025 Applicability and scope.--

29 (3) The Children's Medical Services program shall not
30 be deemed an insurer and is not subject to the licensing
31 requirements of the Florida Insurance Code or the rules of the

1 Department of Financial Services ~~Insurance~~, when providing
2 services to children who receive Medicaid benefits, other
3 Medicaid-eligible children with special health care needs, and
4 children participating in the Florida Kidcare program.

5 Section 434. Subsection (2) of section 391.221,
6 Florida Statutes, is amended to read:

7 391.221 Statewide Children's Medical Services Network
8 Advisory Council.--

9 (2) The council shall be composed of 12 members
10 representing the private health care provider sector, families
11 with children who have special health care needs, the Agency
12 for Health Care Administration, the Department of Financial
13 Services ~~Insurance~~, the Florida Chapter of the American
14 Academy of Pediatrics, an academic health center pediatric
15 program, and the health insurance industry. Members shall be
16 appointed for 4-year, staggered terms. In no case shall an
17 employee of the Department of Health serve as a member or as
18 an ex officio member of the advisory council. A vacancy shall
19 be filled for the remainder of the unexpired term in the same
20 manner as the original appointment. A member may not be
21 appointed to more than two consecutive terms. However, a
22 member may be reappointed after being off the council for at
23 least 2 years.

24 Section 435. Subsection (2) of section 392.69, Florida
25 Statutes, is amended to read:

26 392.69 Appropriation, sinking, and maintenance trust
27 funds; additional powers of the department.--

28 (2) All moneys required to be paid by the several
29 counties and patients for the care and maintenance of patients
30 hospitalized by the department for tuberculosis shall be paid
31 to the department, and the department shall immediately

1 transmit these moneys to the Chief Financial Officer
2 ~~Treasurer~~, who shall deposit the moneys in the Operations and
3 Maintenance Trust Fund, which shall contain all moneys
4 appropriated by the Legislature or received from patients or
5 other third parties and shall be expended for the operation
6 and maintenance of the state-operated tuberculosis hospital.

7 Section 436. Subsection (5) of section 393.002,
8 Florida Statutes, is amended to read:

9 393.002 Transfer of Florida Developmental Disabilities
10 Council as formerly created in this chapter to private
11 nonprofit corporation.--

12 (5) Pursuant to the applicable provisions of chapter
13 284, the Division of Risk Management of the Department of
14 Financial Services ~~Insurance~~ is authorized to insure this
15 nonprofit corporation under the same general terms and
16 conditions as the Florida Developmental Disabilities Council
17 was insured in the Department of Children and Family Services
18 by the division prior to the transfer of its functions
19 authorized by this section.

20 Section 437. Subsection (2) of section 393.075,
21 Florida Statutes, is amended to read:

22 393.075 General liability coverage.--

23 (2) The Division of Risk Management of the Department
24 of Financial Services ~~Insurance~~ shall provide coverage through
25 the Department of Children and Family Services to any person
26 who owns or operates a foster care facility or group home
27 facility solely for the Department of Children and Family
28 Services, who cares for children placed by developmental
29 services staff of the department, and who is licensed pursuant
30 to s. 393.067 to provide such supervision and care in his or
31 her place of residence. The coverage shall be provided from

1 the general liability account of the State Risk Management
2 Trust Fund. The coverage is limited to general liability
3 claims arising from the provision of supervision and care of
4 children in a foster care facility or group home facility
5 pursuant to an agreement with the department and pursuant to
6 guidelines established through policy, rule, or statute.
7 Coverage shall be subject to the limits provided in ss. 284.38
8 and 284.385, and the exclusions set forth therein, together
9 with other exclusions as may be set forth in the certificate
10 of coverage issued by the trust fund. A person covered under
11 the general liability account pursuant to this subsection
12 shall immediately notify the Division of Risk Management of
13 the Department of Financial Services ~~insurance~~ of any
14 potential or actual claim.

15 Section 438. Section 394.482, Florida Statutes, is
16 amended to read:

17 394.482 Payment of financial obligations imposed by
18 compact.--The compact administrator, subject to the approval
19 of the Chief Financial Officer ~~Comptroller~~, may make or
20 arrange for any payments necessary to discharge any financial
21 obligations imposed upon this state by the compact or by any
22 supplementary agreement entered into thereunder.

23 Section 439. Paragraphs (a) and (c) of subsection (4)
24 of section 400.0238, Florida Statutes, are amended to read:

25 400.0238 Punitive damages; limitation.--

26 (4) Notwithstanding any other law to the contrary, the
27 amount of punitive damages awarded pursuant to this section
28 shall be equally divided between the claimant and the Quality
29 of Long-Term Care Facility Improvement Trust Fund, in
30 accordance with the following provisions:

31

1 (a) The clerk of the court shall transmit a copy of
2 the jury verdict to the Chief Financial Officer State
3 ~~Treasurer~~ by certified mail. In the final judgment, the court
4 shall order the percentages of the award, payable as provided
5 herein.

6 (c) The Department of Financial Services ~~Banking and~~
7 ~~Finance~~ shall collect or cause to be collected all payments
8 due the state under this section. Such payments are made to
9 the Chief Financial Officer Comptroller and deposited in the
10 appropriate fund specified in this subsection.

11 Section 440. Subsection (2) of section 400.063,
12 Florida Statutes, is amended to read:

13 400.063 Resident Protection Trust Fund.--

14 (2) The agency is authorized to establish for each
15 facility, subject to intervention by the agency, a separate
16 bank account for the deposit to the credit of the agency of
17 any moneys received from the Resident Protection Trust Fund or
18 any other moneys received for the maintenance and care of
19 residents in the facility, and the agency is authorized to
20 disburse moneys from such account to pay obligations incurred
21 for the purposes of this section. The agency is authorized to
22 requisition moneys from the Resident Protection Trust Fund in
23 advance of an actual need for cash on the basis of an estimate
24 by the agency of moneys to be spent under the authority of
25 this section. Any bank account established under this section
26 need not be approved in advance of its creation as required by
27 s. 18.101, but shall be secured by depository insurance equal
28 to or greater than the balance of such account or by the
29 pledge of collateral security in conformance with criteria
30 established in s. 18.11. The agency shall notify the Chief
31 Financial Officer ~~Treasurer and the Comptroller~~ of any such

1 account so established and shall make a quarterly accounting
2 to the Chief Financial Officer ~~Comptroller~~ for all moneys
3 deposited in such account.

4 Section 441. Paragraph (c) of subsection (4) of
5 section 400.071, Florida Statutes, is amended to read:

6 400.071 Application for license.--

7 (4) Each applicant for licensure must comply with the
8 following requirements:

9 (c) Proof of compliance with the level 2 background
10 screening requirements of chapter 435 which has been submitted
11 within the previous 5 years in compliance with any other
12 health care or assisted living licensure requirements of this
13 state is acceptable in fulfillment of paragraph (a). Proof of
14 compliance with background screening which has been submitted
15 within the previous 5 years to fulfill the requirements of the
16 Department of Financial Services ~~Insurance~~ pursuant to chapter
17 651 as part of an application for a certificate of authority
18 to operate a continuing care retirement community is
19 acceptable in fulfillment of the Department of Law Enforcement
20 and Federal Bureau of Investigation background check.

21 Section 442. Paragraph (b) of subsection (1) of
22 section 400.4174, Florida Statutes, is amended to read:

23 400.4174 Background screening; exemptions.--

24 (1)

25 (b) Proof of compliance with level 2 screening
26 standards which has been submitted within the previous 5 years
27 to meet any facility or professional licensure requirements of
28 the agency or the Department of Health satisfies the
29 requirements of this subsection, provided that such proof is
30 accompanied, under penalty of perjury, by an affidavit of
31 compliance with the provisions of chapter 435. Proof of

1 compliance with the background screening requirements of the
2 Department of Financial Services ~~Insurance~~ for applicants for
3 a certificate of authority to operate a continuing care
4 retirement community under chapter 651, submitted within the
5 last 5 years, satisfies the Department of Law Enforcement and
6 Federal Bureau of Investigation portions of a level 2
7 background check.

8 Section 443. Paragraphs (a) and (c) of subsection (4)
9 of section 400.4298, Florida Statutes, are amended to read:

10 400.4298 Punitive damages; limitation.--

11 (4) Notwithstanding any other law to the contrary, the
12 amount of punitive damages awarded pursuant to this section
13 shall be equally divided between the claimant and the Quality
14 of Long-Term Care Facility Improvement Trust Fund, in
15 accordance with the following provisions:

16 (a) The clerk of the court shall transmit a copy of
17 the jury verdict to the Chief Financial Officer ~~State~~
18 ~~Treasurer~~ by certified mail. In the final judgment, the court
19 shall order the percentages of the award, payable as provided
20 herein.

21 (c) The Department of Financial Services ~~Banking and~~
22 ~~Finance~~ shall collect or cause to be collected all payments
23 due the state under this section. Such payments are made to
24 the Chief Financial Officer ~~Comptroller~~ and deposited in the
25 appropriate fund specified in this subsection.

26 Section 444. Paragraph (c) of subsection (4) of
27 section 400.471, Florida Statutes, is amended to read:

28 400.471 Application for license; fee; provisional
29 license; temporary permit.--

30 (4) Each applicant for licensure must comply with the
31 following requirements:

1 (c) Proof of compliance with the level 2 background
2 screening requirements of chapter 435 which has been submitted
3 within the previous 5 years in compliance with any other
4 health care or assisted living licensure requirements of this
5 state is acceptable in fulfillment of paragraph (a). Proof of
6 compliance with background screening which has been submitted
7 within the previous 5 years to fulfill the requirements of the
8 Department of Financial Services ~~Insurance~~ pursuant to chapter
9 651 as part of an application for a certificate of authority
10 to operate a continuing care retirement community is
11 acceptable in fulfillment of the Department of Law Enforcement
12 and Federal Bureau of Investigation background check.

13 Section 445. Paragraph (c) of subsection (10) of
14 section 400.962, Florida Statutes, is amended to read:

15 400.962 License required; license application.--
16 (10)

17 (c) Proof of compliance with the level 2 background
18 screening requirements of chapter 435 which has been submitted
19 within the previous 5 years in compliance with any other
20 licensure requirements under this chapter satisfies the
21 requirements of paragraph (a). Proof of compliance with
22 background screening which has been submitted within the
23 previous 5 years to fulfill the requirements of the Department
24 of Financial Services ~~Insurance~~ under chapter 651 as part of
25 an application for a certificate of authority to operate a
26 continuing care retirement community satisfies the
27 requirements for the Department of Law Enforcement and Federal
28 Bureau of Investigation background checks.

29 Section 446. Paragraph (b) of subsection (2) of
30 section 401.245, Florida Statutes, is amended to read:

31 401.245 Emergency Medical Services Advisory Council.--

1 (2)

2 (b) Representation on the Emergency Medical Services
3 Advisory Council shall include: two licensed physicians who
4 are "medical directors" as defined in s. 401.23(15) or whose
5 medical practice is closely related to emergency medical
6 services; two emergency medical service administrators, one of
7 whom is employed by a fire service; two certified paramedics,
8 one of whom is employed by a fire service; two certified
9 emergency medical technicians, one of whom is employed by a
10 fire service; one emergency medical services educator; one
11 emergency nurse; one hospital administrator; one
12 representative of air ambulance services; one representative
13 of a commercial ambulance operator; and two laypersons who are
14 in no way connected with emergency medical services, one of
15 whom is a representative of the elderly. Ex officio members of
16 the advisory council from state agencies shall include, but
17 shall not be limited to, representatives from the Department
18 of Education, the Department of Management Services, the
19 Department of Financial Services ~~Insurance~~, the Department of
20 Highway Safety and Motor Vehicles, the Department of
21 Transportation, and the Department of Community Affairs.

22 Section 447. Paragraph (c) of subsection (2) of
23 section 401.25, Florida Statutes, is amended to read:

24 401.25 Licensure as a basic life support or an
25 advanced life support service.--

26 (2) The department shall issue a license for operation
27 to any applicant who complies with the following requirements:

28 (c) The applicant has furnished evidence of adequate
29 insurance coverage for claims arising out of injury to or
30 death of persons and damage to the property of others
31 resulting from any cause for which the owner of such business

1 or service would be liable. The applicant must provide
2 insurance in such sums and under such terms as required by the
3 department. In lieu of such insurance, the applicant may
4 furnish a certificate of self-insurance evidencing that the
5 applicant has established an adequate self-insurance plan to
6 cover such risks and that the plan has been approved by the
7 Department of Financial Services Insurance.

8 Section 448. Section 402.04, Florida Statutes, is
9 amended to read:

10 402.04 Award of scholarships and stipends;
11 disbursement of funds; administration.--The award of
12 scholarships or stipends provided for herein shall be made by
13 the Department of Children and Family Services, hereinafter
14 referred to as the department. The department shall handle the
15 administration of the scholarship or stipend and the
16 Department of Education shall, for and on behalf of the
17 department, handle the notes issued for the payment of the
18 scholarships or stipends provided for herein and the
19 collection of same. The department shall prescribe
20 regulations governing the payment of scholarships or stipends
21 to the school, college, or university for the benefit of the
22 scholarship or stipend holders. All scholarship awards,
23 expenses and costs of administration shall be paid from moneys
24 appropriated by the Legislature and shall be paid upon
25 vouchers approved by the department and properly certified by
26 the Chief Financial Officer ~~Comptroller~~.

27 Section 449. Paragraph (b) of subsection (1) and
28 subsection (4) of section 402.17, Florida Statutes, are
29 amended to read:

30 402.17 Claims for care and maintenance; trust
31 property.--The Department of Children and Family Services

1 shall protect the financial interest of the state with respect
2 to claims which the state may have for the care and
3 maintenance of clients of the department. The department
4 shall, as trustee, hold in trust and administer money of
5 clients and property designated for the personal benefit of
6 clients. The department shall act as trustee of clients' money
7 and property entrusted to it in accordance with the usual
8 fiduciary standards applicable generally to trustees, and
9 shall act to protect both the short-term and long-term
10 interests of the clients for whose benefit it is holding such
11 money and property.

12 (1) CLAIMS FOR CARE AND MAINTENANCE.--

13 (b) The Department of Children and Family Services may
14 charge off accounts if it certifies that the accounts are
15 uncollectible after diligent efforts have been made to collect
16 them. If the department certifies an account to the
17 Department of Financial Services ~~Banking and Finance~~, setting
18 forth the circumstances upon which it predicates the
19 uncollectibility, and if, pursuant to s. 17.04, the Department
20 of Financial Services ~~Banking and Finance~~ concurs, the account
21 shall be charged off.

22 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the
23 death of any client affected by the provisions of this
24 section, any unclaimed money held in trust by the department
25 or by the Chief Financial Officer ~~Treasurer~~ for him or her
26 shall be applied first to the payment of any unpaid claim of
27 the state against the client, and any balance remaining
28 unclaimed for a period of 1 year shall escheat to the state as
29 unclaimed funds held by fiduciaries.

30 Section 450. Paragraph (a) of subsection (8) of
31 section 402.33, Florida Statutes, is amended to read:

1 402.33 Department authority to charge fees for
2 services provided.--

3 (8)(a) Unpaid fees for services provided by the
4 department to a client constitute a lien on any property owned
5 by the client or the client's responsible party which property
6 is not exempt by s. 4, Art. X of the State Constitution. If
7 fees are not paid within 6 months after they are billed, the
8 department shall charge interest on the unpaid balance at a
9 rate equal to the average rate of interest earned by the State
10 Treasury on state funds deposited in commercial banks as
11 reported by the Chief Financial Officer ~~Treasurer~~ for the
12 previous year. The department is authorized to negotiate and
13 settle any delinquent account, and to charge off any
14 delinquent account even though the claim of the department may
15 be against the client, a responsible party, or a payor of
16 third-party benefits, either directly for the department or as
17 a fiduciary for the client or responsible party.

18 Section 451. Paragraph (a) of subsection (8) of
19 section 403.1835, Florida Statutes, is amended to read:

20 403.1835 Water pollution control financial
21 assistance.--

22 (8)(a) If a local governmental agency becomes
23 delinquent on its loan, the department shall so certify to the
24 Chief Financial Officer ~~Comptroller~~, who shall forward the
25 amount delinquent to the department from any unobligated funds
26 due to the local governmental agency under any revenue-sharing
27 or tax-sharing fund established by the state, except as
28 otherwise provided by the State Constitution. Certification of
29 delinquency shall not limit the department from pursuing other
30 remedies available for default on a loan. The department may
31 impose a penalty for delinquent loan payments in an amount not

1 to exceed an interest rate of 18 percent per annum on the
2 amount due in addition to charging the cost to handle and
3 process the debt. Penalty interest shall accrue on any amount
4 due and payable beginning on the 30th day following the date
5 upon which payment is due.

6 Section 452. Subsection (2) of section 403.1837,
7 Florida Statutes, is amended to read:

8 403.1837 Florida Water Pollution Control Financing
9 Corporation.--

10 (2) The corporation shall be governed by a board of
11 directors consisting of the Governor's Budget Director or the
12 budget director's designee, the Chief Financial Officer
13 ~~Comptroller~~ or the Chief Financial Officer's Comptroller's
14 ~~designee, the Treasurer or the Treasurer's designee,~~and the
15 Secretary of Environmental Protection or the secretary's
16 designee, ~~until January 7, 2003, at which time the board shall~~
17 ~~include the Chief Financial Officer or the Chief Financial~~
18 ~~Officer's designee in place of the Treasurer and Comptroller.~~

19 The executive director of the State Board of Administration
20 shall be the chief executive officer of the corporation; shall
21 direct and supervise the administrative affairs of the
22 corporation; and shall control, direct, and supervise
23 operation of the corporation. The corporation shall have such
24 other officers as may be determined by the board of directors.

25 Section 453. Subsection (21) of section 403.706,
26 Florida Statutes, is amended to read:

27 403.706 Local government solid waste
28 responsibilities.--

29 (21) In addition to any other penalties provided by
30 law, a local government that does not comply with the
31 requirements of subsections (2) and (4) shall not be eligible

1 for grants from the Solid Waste Management Trust Fund, and the
2 department may notify the Chief Financial Officer ~~State~~
3 ~~Treasurer~~ to withhold payment of all or a portion of funds
4 payable to the local government by the department from the
5 General Revenue Fund or by the department from any other state
6 fund, to the extent not pledged to retire bonded indebtedness,
7 unless the local government demonstrates that good faith
8 efforts to meet the requirements of subsections (2) and (4)
9 have been made or that the funds are being or will be used to
10 finance the correction of a pollution control problem that
11 spans jurisdictional boundaries.

12 Section 454. Subsection (3) of section 403.724,
13 Florida Statutes, is amended to read:

14 403.724 Financial responsibility.--

15 (3) The amount of financial responsibility required
16 shall be approved by the department upon each issuance,
17 renewal, or modification of a hazardous waste facility permit.
18 Such factors as inflation rates and changes in operation may
19 be considered when approving financial responsibility for the
20 duration of the permit. The Department of Financial Services
21 ~~Insurance~~ shall be available to assist the department in
22 making this determination. In approving or modifying the
23 amount of financial responsibility, the department shall
24 consider:

25 (a) The amount and type of hazardous waste involved;

26 (b) The probable damage to human health and the
27 environment;

28 (c) The danger and probable damage to private and
29 public property near the facility;

30
31

1 (d) The probable time that the hazardous waste and
2 facility involved will endanger the public health, safety, and
3 welfare or the environment; and

4 (e) The probable costs of properly closing the
5 facility.

6 Section 455. Paragraph (a) of subsection (15) of
7 section 403.8532, Florida Statutes, is amended to read:

8 403.8532 Drinking water state revolving loan fund;
9 use; rules.--

10 (15)(a) If a local governmental agency defaults under
11 the terms of its loan agreement, the department shall so
12 certify to the Chief Financial Officer ~~Comptroller~~, who shall
13 forward the amount delinquent to the department from any
14 unobligated funds due to the local governmental agency under
15 any revenue-sharing or tax-sharing fund established by the
16 state, except as otherwise provided by the State Constitution.
17 Certification of delinquency shall not limit the department
18 from pursuing other remedies available for default on a loan,
19 including accelerating loan repayments, eliminating all or
20 part of the interest rate subsidy on the loan, and court
21 appointment of a receiver to manage the public water system.

22 Section 456. Paragraphs (a), (b), (c), and (e) of
23 subsection (2) of section 404.111, Florida Statutes, are
24 amended to read:

25 404.111 Surety requirements.--

26 (2) In lieu of posting a bond as required under
27 subsection (1), a licensee may:

28 (a) Deposit with the Chief Financial Officer ~~Treasurer~~
29 securities of the type eligible for deposit by insurers under
30 s. 625.52, which securities must have at all times a market
31

1 value of not less than the amount of the bond required under
2 subsection (1).

3 (b) Whenever the market value of the securities
4 deposited with the Chief Financial Officer ~~Treasurer~~ is less
5 than 95 percent of the amount required by the department, the
6 licensee shall deposit additional securities or otherwise
7 increase the deposit to the amount required.

8 (c) The state is responsible for the safekeeping of
9 all securities deposited with the Chief Financial Officer
10 ~~Treasurer~~ under this section. Such securities are not, on
11 account of being in this state, subject to taxation but shall
12 be held exclusively and solely to guarantee the faithful
13 performance by the licensee of its obligations.

14 (e) Such deposit shall be maintained unimpaired so
15 long as the licensee continues in business in this state.
16 Whenever the licensee ceases to do business in this state and
17 furnishes the department satisfactory proof that it has
18 discharged or otherwise adequately provided for all its
19 obligations in this state, the Chief Financial Officer
20 ~~Treasurer~~ shall release the deposit securities to the parties
21 entitled thereto, on the receipt of authorization from the
22 department.

23 Section 457. Paragraph (b) of subsection (2) of
24 section 408.040, Florida Statutes, is amended to read:

25 408.040 Conditions and monitoring.--

26 (2)

27 (b) A certificate of need issued to an applicant
28 holding a provisional certificate of authority under chapter
29 651 shall terminate 1 year after the applicant receives a
30 valid certificate of authority from the Department of
31 Financial Services ~~Insurance~~.

1 Section 458. Paragraph (a) of subsection (8) of
2 section 408.05, Florida Statutes, is amended to read:

3 408.05 State Center for Health Statistics.--

4 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
5 ADVISORY COUNCIL.--

6 (a) There is established in the agency the State
7 Comprehensive Health Information System Advisory Council to
8 assist the center in reviewing the comprehensive health
9 information system and to recommend improvements for such
10 system. The council shall consist of the following members:

11 1. An employee of the Executive Office of the
12 Governor, to be appointed by the Governor.

13 2. An employee of the Department of Financial Services
14 ~~Insurance~~, to be appointed by the Chief Financial Officer
15 ~~Insurance Commissioner~~.

16 3. An employee of the Department of Education, to be
17 appointed by the Commissioner of Education.

18 4. Ten persons, to be appointed by the Secretary of
19 Health Care Administration, representing other state and local
20 agencies, state universities, the Florida Association of
21 Business/Health Coalitions, local health councils,
22 professional health-care-related associations, consumers, and
23 purchasers.

24 Section 459. Subsection (4) of section 408.08, Florida
25 Statutes, is amended to read:

26 408.08 Inspections and audits; violations; penalties;
27 fines; enforcement.--

28 (4) If a health insurer does not comply with the
29 requirements of s. 408.061, the agency shall report a health
30 insurer's failure to comply to the Department of Financial
31 Services ~~Insurance~~, which shall take into account the failure

1 by the health insurer to comply in conjunction with its
2 approval authority under s. 627.410. The agency shall adopt
3 any rules necessary to carry out its responsibilities required
4 by this subsection.

5 Section 460. Paragraph (a) of subsection (4) and
6 subsection (9) of section 408.18, Florida Statutes, are
7 amended to read:

8 408.18 Health Care Community Antitrust Guidance Act;
9 antitrust no-action letter; market-information collection and
10 education.--

11 (4)(a) Members of the health care community who seek
12 antitrust guidance may request a review of their proposed
13 business activity by the Attorney General's office. In
14 conducting its review, the Attorney General's office may seek
15 whatever documentation, data, or other material it deems
16 necessary from the Agency for Health Care Administration, the
17 State Center for Health Statistics, and the Department of
18 Financial Services Insurance.

19 (9) When the member of the health care community
20 seeking the no-action letter is regulated by the Department of
21 Financial Services Insurance, the Department of Financial
22 Services Insurance shall make available to the Attorney
23 General's office, as needed, any information it maintains in
24 its regulatory capacity.

25 Section 461. Subsection (1) of section 408.50, Florida
26 Statutes, is amended to read:

27 408.50 Prospective payment arrangements.--

28 (1) Hospitals as defined in s. 395.002, and health
29 insurers regulated pursuant to parts VI and VII of chapter
30 627, shall establish prospective payment arrangements that
31 provide hospitals with financial incentives to contain costs.

1 Each hospital shall enter into a rate agreement with each
2 health insurer which represents 10 percent or more of the
3 private-pay patients of the hospital to establish a
4 prospective payment arrangement. Hospitals and health insurers
5 regulated pursuant to this section shall report annually the
6 results of each specific prospective payment arrangement
7 adopted by each hospital and health insurer to the board. The
8 agency shall report a health insurer's failure to comply to
9 the Department of Financial Services Insurance, which shall
10 take into account the failure by the health insurer to comply
11 in conjunction with its approval authority under s. 627.410.
12 The agency shall adopt any rules necessary to carry out its
13 responsibilities required by this section.

14 Section 462. Paragraph (b) of subsection (1),
15 subsection (13), and paragraph (b) of subsection (15) of
16 section 408.7056, Florida Statutes, are amended to read:

17 408.7056 Statewide Provider and Subscriber Assistance
18 Program.--

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

20 (b) "Department" means the Department of Financial
21 Services Insurance.

22 (13) Any information which would identify a subscriber
23 or the spouse, relative, or guardian of a subscriber and which
24 is contained in a report obtained by the department ~~of~~
25 ~~Insurance~~ pursuant to this section is confidential and exempt
26 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
27 the State Constitution.

28 (15)

29 (b) Meetings of the panel shall be open to the public
30 unless the provider or subscriber whose grievance will be
31 heard requests a closed meeting or the agency or the

1 department ~~of Insurance~~ determines that information of a
2 sensitive personal nature which discloses the subscriber's
3 medical treatment or history; or information which constitutes
4 a trade secret as defined by s. 812.081; or information
5 relating to internal risk management programs as defined in s.
6 641.55(5)(c), (6), and (8) may be revealed at the panel
7 meeting, in which case that portion of the meeting during
8 which such sensitive personal information, trade secret
9 information, or internal risk management program information
10 is discussed shall be exempt from the provisions of s. 286.011
11 and s. 24(b), Art. I of the State Constitution. All closed
12 meetings shall be recorded by a certified court reporter.

13

14 This subsection is subject to the Open Government Sunset
15 Review Act of 1995 in accordance with s. 119.15, and shall
16 stand repealed on October 2, 2003, unless reviewed and saved
17 from repeal through reenactment by the Legislature.

18 Section 463. Subsection (1) of section 408.902,
19 Florida Statutes, is amended to read:

20 408.902 MedAccess program; creation; program title.--

21 (1) Effective July 1, 1994, there is hereby created
22 the MedAccess program to be administered by the Agency for
23 Health Care Administration. The MedAccess program shall not
24 be subject to the requirements of the Department of Financial
25 Services ~~Insurance~~ or chapter 627. The secretary of the agency
26 shall appoint an administrator of the MedAccess program.

27 Section 464. Paragraph (f) of subsection (5) and
28 paragraph (a) of subsection (14) of section 409.175, Florida
29 Statutes, are amended to read:

30 409.175 Licensure of family foster homes, residential
31 child-caring agencies, and child-placing agencies.--

1 (5)

2 (f) All residential child-caring agencies must meet
3 firesafety standards for such agencies adopted by the Division
4 of State Fire Marshal of the Department of Financial Services
5 ~~insurance~~ and must be inspected annually. At the request of
6 the department, firesafety inspections shall be conducted by
7 the Division of State Fire Marshal or a local fire department
8 official who has been certified by the division as having
9 completed the training requirements for persons inspecting
10 such agencies. Inspection reports shall be furnished to the
11 department within 30 days of a request.

12 (14)(a) The Division of Risk Management of the
13 Department of Financial Services ~~insurance~~ shall provide
14 coverage through the Department of Children and Family
15 Services to any person who owns or operates a family foster
16 home solely for the Department of Children and Family Services
17 and who is licensed to provide family foster home care in her
18 or his place of residence. The coverage shall be provided
19 from the general liability account of the State Risk
20 Management Trust Fund, and the coverage shall be primary. The
21 coverage is limited to general liability claims arising from
22 the provision of family foster home care pursuant to an
23 agreement with the department and pursuant to guidelines
24 established through policy, rule, or statute. Coverage shall
25 be limited as provided in ss. 284.38 and 284.385, and the
26 exclusions set forth therein, together with other exclusions
27 as may be set forth in the certificate of coverage issued by
28 the trust fund, shall apply. A person covered under the
29 general liability account pursuant to this subsection shall
30 immediately notify the Division of Risk Management of the

31

1 Department of Financial Services ~~Insurance~~ of any potential or
2 actual claim.

3 Section 465. Subsection (10) of section 409.25656,
4 Florida Statutes, is amended to read:

5 409.25656 Garnishment.--

6 (10) The department shall provide notice to the Chief
7 Financial Officer ~~Comptroller~~, in electronic or other form
8 specified by the Chief Financial Officer ~~Comptroller~~, listing
9 the obligors for whom warrants are outstanding. Pursuant to
10 subsection (1), the Chief Financial Officer ~~Comptroller~~ shall,
11 upon notice from the department, withhold all payments to any
12 obligor who provides commodities or services to the state,
13 leases real property to the state, or constructs a public
14 building or public work for the state. The department may levy
15 upon the withheld payments in accordance with subsection (3).
16 Section 215.422 does not apply from the date the notice is
17 filed with the Chief Financial Officer ~~Comptroller~~ until the
18 date the department notifies the Chief Financial Officer
19 ~~Comptroller~~ of its consent to make payment to the person or 60
20 days after receipt of the department's notice in accordance
21 with subsection (1), whichever occurs earlier.

22 Section 466. Subsections (1), (2), (3), and (4) of
23 section 409.25658, Florida Statutes, are amended to read:

24 409.25658 Use of unclaimed property for past due
25 support.--

26 (1) In a joint effort to facilitate the collection and
27 payment of past due support, the Department of Revenue, in
28 cooperation with the Department of Financial Services ~~Banking~~
29 ~~and Finance~~, shall identify persons owing support collected
30 through a court who are presumed to have abandoned property
31

1 held by the Department of Financial Services ~~Banking and~~
2 ~~Finance~~.

3 (2) The department shall periodically provide the
4 Department of Financial Services ~~Banking and Finance~~ with an
5 electronic file of support obligors who owe past due support.
6 The Department of Financial Services ~~Banking and Finance~~ shall
7 conduct a data match of the file against all apparent owners
8 of abandoned property under chapter 717 and provide the
9 resulting match list to the department.

10 (3) Upon receipt of the data match list, the
11 department shall provide to the Department of Financial
12 ~~Services Banking and Finance~~ the obligor's last known address.
13 The Department of Financial Services ~~Banking and Finance~~ shall
14 follow the notification procedures under s. 717.118.

15 (4) Prior to paying an obligor's approved claim, the
16 Department of Financial Services ~~Banking and Finance~~ shall
17 notify the department that such claim has been approved. Upon
18 confirmation that the Department of Financial Services ~~Banking~~
19 ~~and Finance~~ has approved the claim, the department shall
20 immediately send a notice by certified mail to the obligor,
21 with a copy to the Department of Financial Services ~~Banking~~
22 ~~and Finance~~, advising the obligor of the department's intent
23 to intercept the approved claim up to the amount of the past
24 due support, and informing the obligor of the obligor's right
25 to request a hearing under chapter 120. The Department of
26 Financial Services ~~Banking and Finance~~ shall retain custody of
27 the property until a final order has been entered and any
28 appeals thereon have been concluded. If the obligor fails to
29 request a hearing, the department shall enter a final order
30 instructing the Department of Financial Services ~~Banking and~~
31 ~~Finance~~ to transfer to the department the property in the

1 amount stated in the final order. Upon such transfer, the
2 Department of Financial Services ~~Banking and Finance~~ shall be
3 released from further liability related to the transferred
4 property.

5 Section 467. Subsections (4) and (7) of section
6 409.2673, Florida Statutes, are amended to read:

7 409.2673 Shared county and state health care program
8 for low-income persons.--

9 (4) The levels of financial participation by counties
10 and the state for this program shall be determined as follows:

11 (a) If on July 1, 1988, a county funded inpatient
12 hospital services for those who would have been eligible for
13 the program, the county shall fund 35 percent of the cost of
14 this program and the state shall provide the remaining 65
15 percent of the funding required for this program. A county
16 participating at this level shall use that portion of its
17 budget that previously would have funded these inpatient
18 hospital services and that, under this program, has been
19 offset by state funding for funding other health programs.

20 (b) If a county has not reached its maximum ad valorem
21 millage rate as authorized by law and certified to the
22 Department of Revenue and the county does not currently fund
23 inpatient hospital services for those who would be eligible
24 for this program, the county:

25 1. Shall provide 35 percent of the cost for this
26 program from within the county's existing budget, and the
27 state shall provide the remaining 65 percent of the funding
28 required for this program; however, under no circumstances
29 will county funding which had been used for funding the county
30 health department under chapter 154 be utilized for funding
31 the county's portion of this program; or

1 2. Shall levy an additional ad valorem millage to fund
2 the county's portion of this program. The state shall provide
3 the remaining portion of program funding if:

4 a. A county levies additional ad valorem millage up to
5 the maximum authorized by law and certified to the Department
6 of Revenue and still does not have sufficient funds to meet
7 its 35 percent of the funding of this program; and

8 b. A county has exhausted all revenue sources which
9 can statutorily be used as possible funding sources for this
10 program.

11 (c) A county will be eligible for 100-percent state
12 funding of this program if:

13 1. On July 1, 1988, the county did not fund inpatient
14 hospital services for those who would have been eligible for
15 this program;

16 2. The county has reached its maximum ad valorem
17 millage as authorized by law and certified to the Department
18 of Revenue; and

19 3. The county has exhausted all revenue sources which
20 can statutorily be used as possible funding sources for this
21 program.

22
23 Reporting forms specifically designed to capture the
24 information necessary to determine the above levels of
25 participation will be developed as part of the joint
26 rulemaking required for the shared county and state program.
27 For purposes of this program, the counties will be required to
28 report necessary information to the Department of Financial
29 Services ~~Banking and Finance~~.

30 (7) A county that participates in the program at any
31 level may not reduce its total per capita expenditures being

1 devoted to health care if any of these funds were previously
2 utilized for the provision of inpatient hospital services to
3 those persons made eligible for the shared county and state
4 program. It is the intent of the Legislature that, as a
5 result of the shared county and state program, local funds
6 which were previously used for the provision of inpatient
7 hospital services to persons made eligible by the program be
8 used by counties for funding other health care programs which,
9 for purposes of this section, are health expenditures as
10 reported annually to the Department of Financial Services
11 ~~Banking and Finance~~ pursuant to s. 218.32, provided that this
12 subsection does not apply to reductions in county funding
13 resulting from the expiration of special sales taxes levied
14 pursuant to chapter 84-373, Laws of Florida.

15 Section 468. Subsection (3) of section 409.8132,
16 Florida Statutes, is amended to read:

17 409.8132 Medikids program component.--

18 (3) INSURANCE LICENSURE NOT REQUIRED.--The Medikids
19 program component shall not be subject to the licensing
20 requirements of the Florida Insurance Code or rules of the
21 Department of Financial Services ~~Insurance~~.

22 Section 469. Section 409.817, Florida Statutes, is
23 amended to read:

24 409.817 Approval of health benefits coverage;
25 financial assistance.--In order for health insurance coverage
26 to qualify for premium assistance payments for an eligible
27 child under ss. 409.810-409.820, the health benefits coverage
28 must:

29 (1) Be certified by the Department of Financial
30 Services ~~Insurance~~ under s. 409.818 as meeting, exceeding, or
31 being actuarially equivalent to the benchmark benefit plan;

- 1 (2) Be guarantee issued;
2 (3) Be community rated;
3 (4) Not impose any preexisting condition exclusion for
4 covered benefits; however, group health insurance plans may
5 permit the imposition of a preexisting condition exclusion,
6 but only insofar as it is permitted under s. 627.6561;
7 (5) Comply with the applicable limitations on premiums
8 and cost-sharing in s. 409.816;
9 (6) Comply with the quality assurance and access
10 standards developed under s. 409.820; and
11 (7) Establish periodic open enrollment periods, which
12 may not occur more frequently than quarterly.

13 Section 470. Paragraph (c) of subsection (2),
14 paragraphs (a) and (f) of subsection (3), and subsections (4)
15 and (6) of section 409.818, Florida Statutes, are amended to
16 read:

17 409.818 Administration.--In order to implement ss.
18 409.810-409.820, the following agencies shall have the
19 following duties:

- 20 (2) The Department of Health shall:
21 (c) Chair a state-level coordinating council to review
22 and make recommendations concerning the implementation and
23 operation of the program. The coordinating council shall
24 include representatives from the department, the Department of
25 Children and Family Services, the agency, the Florida Healthy
26 Kids Corporation, the Department of Financial Services
27 ~~Insurance~~, local government, health insurers, health
28 maintenance organizations, health care providers, families
29 participating in the program, and organizations representing
30 low-income families.

31

1 (3) The Agency for Health Care Administration, under
2 the authority granted in s. 409.914(1), shall:

3 (a) Calculate the premium assistance payment necessary
4 to comply with the premium and cost-sharing limitations
5 specified in s. 409.816. The premium assistance payment for
6 each enrollee in a health insurance plan participating in the
7 Florida Healthy Kids Corporation shall equal the premium
8 approved by the Florida Healthy Kids Corporation and the
9 Department of Financial Services ~~insurance~~ pursuant to ss.
10 627.410 and 641.31, less any enrollee's share of the premium
11 established within the limitations specified in s. 409.816.
12 The premium assistance payment for each enrollee in an
13 employer-sponsored health insurance plan approved under ss.
14 409.810-409.820 shall equal the premium for the plan adjusted
15 for any benchmark benefit plan actuarial equivalent benefit
16 rider approved by the Department of Financial Services
17 ~~insurance~~ pursuant to ss. 627.410 and 641.31, less any
18 enrollee's share of the premium established within the
19 limitations specified in s. 409.816. In calculating the
20 premium assistance payment levels for children with family
21 coverage, the agency shall set the premium assistance payment
22 levels for each child proportionately to the total cost of
23 family coverage.

24 (f) Approve health benefits coverage for participation
25 in the program, following certification by the Department of
26 Financial Services ~~insurance~~ under subsection (4).

27
28 The agency is designated the lead state agency for Title XXI
29 of the Social Security Act for purposes of receipt of federal
30 funds, for reporting purposes, and for ensuring compliance
31 with federal and state regulations and rules.

1 (4) The Department of Financial Services ~~Insurance~~
2 shall certify that health benefits coverage plans that seek to
3 provide services under the Florida Kidcare program, except
4 those offered through the Florida Healthy Kids Corporation or
5 the Children's Medical Services network, meet, exceed, or are
6 actuarially equivalent to the benchmark benefit plan and that
7 health insurance plans will be offered at an approved rate. In
8 determining actuarial equivalence of benefits coverage, the
9 Department of Financial Services ~~Insurance~~ and health
10 insurance plans must comply with the requirements of s. 2103
11 of Title XXI of the Social Security Act. The department shall
12 adopt rules necessary for certifying health benefits coverage
13 plans.

14 (6) The agency, the Department of Health, the
15 Department of Children and Family Services, the Florida
16 Healthy Kids Corporation, and the Department of Financial
17 Services ~~Insurance~~, after consultation with and approval of
18 the Speaker of the House of Representatives and the President
19 of the Senate, are authorized to make program modifications
20 that are necessary to overcome any objections of the United
21 States Department of Health and Human Services to obtain
22 approval of the state's child health insurance plan under
23 Title XXI of the Social Security Act.

24 Section 471. Subsection (20) of section 409.910,
25 Florida Statutes, is amended to read:

26 409.910 Responsibility for payments on behalf of
27 Medicaid-eligible persons when other parties are liable.--

28 (20) Entities providing health insurance as defined in
29 s. 624.603, and health maintenance organizations and prepaid
30 health clinics as defined in chapter 641, shall provide such
31 records and information as are necessary to accomplish the

1 purpose of this section, unless such requirement results in an
2 unreasonable burden.

3 (a) The director of the agency and the Chief Financial
4 Officer ~~Insurance Commissioner~~ shall enter into a cooperative
5 agreement for requesting and obtaining information necessary
6 to effect the purpose and objective of this section.

7 1. The agency shall request only that information
8 necessary to determine whether health insurance as defined
9 pursuant to s. 624.603, or those health services provided
10 pursuant to chapter 641, could be, should be, or have been
11 claimed and paid with respect to items of medical care and
12 services furnished to any person eligible for services under
13 this section.

14 2. All information obtained pursuant to subparagraph
15 1. is confidential and exempt from s. 119.07(1).

16 3. The cooperative agreement or rules adopted under
17 this subsection may include financial arrangements to
18 reimburse the reporting entities for reasonable costs or a
19 portion thereof incurred in furnishing the requested
20 information. Neither the cooperative agreement nor the rules
21 shall require the automation of manual processes to provide
22 the requested information.

23 (b) The agency and the Department of Financial
24 Services ~~Insurance~~ jointly shall adopt rules for the
25 development and administration of the cooperative agreement.
26 The rules shall include the following:

27 1. A method for identifying those entities subject to
28 furnishing information under the cooperative agreement.

29 2. A method for furnishing requested information.
30
31

1 3. Procedures for requesting exemption from the
2 cooperative agreement based on an unreasonable burden to the
3 reporting entity.

4 Section 472. Paragraph (a) of subsection (3),
5 subsections (5), (14), and (17), and paragraph (a) of
6 subsection (35) of section 409.912, Florida Statutes, are
7 amended to read:

8 409.912 Cost-effective purchasing of health care.--The
9 agency shall purchase goods and services for Medicaid
10 recipients in the most cost-effective manner consistent with
11 the delivery of quality medical care. The agency shall
12 maximize the use of prepaid per capita and prepaid aggregate
13 fixed-sum basis services when appropriate and other
14 alternative service delivery and reimbursement methodologies,
15 including competitive bidding pursuant to s. 287.057, designed
16 to facilitate the cost-effective purchase of a case-managed
17 continuum of care. The agency shall also require providers to
18 minimize the exposure of recipients to the need for acute
19 inpatient, custodial, and other institutional care and the
20 inappropriate or unnecessary use of high-cost services. The
21 agency may establish prior authorization requirements for
22 certain populations of Medicaid beneficiaries, certain drug
23 classes, or particular drugs to prevent fraud, abuse, overuse,
24 and possible dangerous drug interactions. The Pharmaceutical
25 and Therapeutics Committee shall make recommendations to the
26 agency on drugs for which prior authorization is required. The
27 agency shall inform the Pharmaceutical and Therapeutics
28 Committee of its decisions regarding drugs subject to prior
29 authorization.

30 (3) The agency may contract with:
31

1 (a) An entity that provides no prepaid health care
2 services other than Medicaid services under contract with the
3 agency and which is owned and operated by a county, county
4 health department, or county-owned and operated hospital to
5 provide health care services on a prepaid or fixed-sum basis
6 to recipients, which entity may provide such prepaid services
7 either directly or through arrangements with other providers.
8 Such prepaid health care services entities must be licensed
9 under parts I and III by January 1, 1998, and until then are
10 exempt from the provisions of part I of chapter 641. An entity
11 recognized under this paragraph which demonstrates to the
12 satisfaction of the Department of Financial Services ~~Insurance~~
13 that it is backed by the full faith and credit of the county
14 in which it is located may be exempted from s. 641.225.

15 (5) The agency may contract on a prepaid or fixed-sum
16 basis with any health insurer that:

17 (a) Pays for health care services provided to enrolled
18 Medicaid recipients in exchange for a premium payment paid by
19 the agency;

20 (b) Assumes the underwriting risk; and

21 (c) Is organized and licensed under applicable
22 provisions of the Florida Insurance Code and is currently in
23 good standing with the Department of Financial Services
24 ~~Insurance~~.

25 (14) An entity contracting on a prepaid or fixed-sum
26 basis shall, in addition to meeting any applicable statutory
27 surplus requirements, also maintain at all times in the form
28 of cash, investments that mature in less than 180 days
29 allowable as admitted assets by the Department of Financial
30 Services ~~Insurance~~, and restricted funds or deposits
31 controlled by the agency or the Department of Financial

1 Services Insurance, a surplus amount equal to one-and-one-half
2 times the entity's monthly Medicaid prepaid revenues. As used
3 in this subsection, the term "surplus" means the entity's
4 total assets minus total liabilities. If an entity's surplus
5 falls below an amount equal to one-and-one-half times the
6 entity's monthly Medicaid prepaid revenues, the agency shall
7 prohibit the entity from engaging in marketing and
8 preenrollment activities, shall cease to process new
9 enrollments, and shall not renew the entity's contract until
10 the required balance is achieved. The requirements of this
11 subsection do not apply:

12 (a) Where a public entity agrees to fund any deficit
13 incurred by the contracting entity; or

14 (b) Where the entity's performance and obligations are
15 guaranteed in writing by a guaranteeing organization which:

16 1. Has been in operation for at least 5 years and has
17 assets in excess of \$50 million; or

18 2. Submits a written guarantee acceptable to the
19 agency which is irrevocable during the term of the contracting
20 entity's contract with the agency and, upon termination of the
21 contract, until the agency receives proof of satisfaction of
22 all outstanding obligations incurred under the contract.

23 (17) When a merger or acquisition of a Medicaid
24 prepaid contractor has been approved by the Department of
25 Financial Services Insurance pursuant to s. 628.4615, the
26 agency shall approve the assignment or transfer of the
27 appropriate Medicaid prepaid contract upon request of the
28 surviving entity of the merger or acquisition if the
29 contractor and the other entity have been in good standing
30 with the agency for the most recent 12-month period, unless
31 the agency determines that the assignment or transfer would be

1 detrimental to the Medicaid recipients or the Medicaid
2 program. To be in good standing, an entity must not have
3 failed accreditation or committed any material violation of
4 the requirements of s. 641.52 and must meet the Medicaid
5 contract requirements. For purposes of this section, a merger
6 or acquisition means a change in controlling interest of an
7 entity, including an asset or stock purchase.

8 (35) The Agency for Health Care Administration is
9 directed to issue a request for proposal or intent to
10 negotiate to implement on a demonstration basis an outpatient
11 specialty services pilot project in a rural and urban county
12 in the state. As used in this subsection, the term
13 "outpatient specialty services" means clinical laboratory,
14 diagnostic imaging, and specified home medical services to
15 include durable medical equipment, prosthetics and orthotics,
16 and infusion therapy.

17 (a) The entity that is awarded the contract to provide
18 Medicaid managed care outpatient specialty services must, at a
19 minimum, meet the following criteria:

20 1. The entity must be licensed by the Department of
21 Financial Services ~~Insurance~~ under part II of chapter 641.

22 2. The entity must be experienced in providing
23 outpatient specialty services.

24 3. The entity must demonstrate to the satisfaction of
25 the agency that it provides high-quality services to its
26 patients.

27 4. The entity must demonstrate that it has in place a
28 complaints and grievance process to assist Medicaid recipients
29 enrolled in the pilot managed care program to resolve
30 complaints and grievances.

31

1 Section 473. Subsections (2) and (3) of section
2 409.9124, Florida Statutes, are amended to read:

3 409.9124 Managed care reimbursement.--

4 (2) The agency shall by rule prescribe those items of
5 financial information which each managed care plan shall
6 report to the agency, in the time periods prescribed by rule.
7 In prescribing items for reporting and definitions of terms,
8 the agency shall consult with the Department of Financial
9 Services ~~Insurance~~ wherever possible.

10 (3) The agency shall quarterly examine the financial
11 condition of each managed care plan, and its performance in
12 serving Medicaid patients, and shall utilize examinations
13 performed by the Department of Financial Services ~~Insurance~~
14 wherever possible.

15 Section 474. Subsections (5) and (6) of section
16 409.915, Florida Statutes, are amended to read:

17 409.915 County contributions to Medicaid.--Although
18 the state is responsible for the full portion of the state
19 share of the matching funds required for the Medicaid program,
20 in order to acquire a certain portion of these funds, the
21 state shall charge the counties for certain items of care and
22 service as provided in this section.

23 (5) The Department of Financial Services ~~Banking and~~
24 ~~Finance~~ shall withhold from the cigarette tax receipts or any
25 other funds to be distributed to the counties the individual
26 county share that has not been remitted within 60 days after
27 billing.

28 (6) In any county in which a special taxing district
29 or authority is located which will benefit from the medical
30 assistance programs covered by this section, the board of
31 county commissioners may divide the county's financial

1 responsibility for this purpose proportionately, and each such
2 district or authority must furnish its share to the board of
3 county commissioners in time for the board to comply with the
4 provisions of subsection (3). Any appeal of the proration made
5 by the board of county commissioners must be made to the
6 Department of Financial Services ~~Banking and Finance~~, which
7 shall then set the proportionate share of each party.

8 Section 475. Paragraph (c) of subsection (7) of
9 section 411.01, Florida Statutes, is amended to read:

10 411.01 Florida Partnership for School Readiness;
11 school readiness coalitions.--

12 (7) PARENTAL CHOICE.--

13 (c) The Office of the Chief Financial Officer
14 ~~Comptroller~~ shall establish an electronic transfer system for
15 the disbursement of funds in accordance with this subsection.
16 School readiness coalitions shall fully implement the
17 electronic funds transfer system within 2 years after plan
18 approval unless a waiver is obtained from the partnership.

19 Section 476. Subsection (2) of section 413.32, Florida
20 Statutes, is amended to read:

21 413.32 Retention of title to and disposal of
22 equipment.--

23 (2) The division is authorized to offer for sale any
24 surplus items acquired in the operation of the program when
25 they are no longer necessary or to exchange them for necessary
26 items which may be used to greater advantage. When any such
27 surplus equipment is sold or exchanged a receipt for same
28 shall be taken from the purchaser showing the consideration
29 given for such equipment and forwarded to the Chief Financial
30 Officer ~~treasurer~~, and any funds received by the division
31 pursuant to any such transactions shall be deposited in the

1 State Treasury in the appropriate federal or state
2 rehabilitation funds and shall be available for expenditure
3 for any purpose consistent with this part.

4 Section 477. Section 414.27, Florida Statutes, is
5 amended to read:

6 414.27 Temporary cash assistance; payment on death.--

7 (1) Upon the death of any person receiving temporary
8 cash assistance through the Department of Children and Family
9 Services, all temporary cash accrued to such person from the
10 date of last payment to the date of death shall be paid to the
11 person who shall have been designated by her or him on a form
12 prescribed by the department and filed with the department
13 during the lifetime of the person making such designation. If
14 no designation is made, or the person so designated is no
15 longer living or cannot be found, then payment shall be made
16 to such person as may be designated by the circuit judge of
17 the county where the recipient of temporary cash assistance
18 resided. Designation by the circuit judge may be made on a
19 form provided by the department or by letter or memorandum to
20 the Chief Financial Officer ~~Comptroller~~. No filing or
21 recording of the designation shall be required, and the
22 circuit judge shall receive no compensation for such service.
23 If a warrant has not been issued and forwarded prior to notice
24 by the department of the recipient's death, upon notice
25 thereof, the department shall promptly requisition the Chief
26 Financial Officer ~~Comptroller~~ to issue a warrant in the amount
27 of the accrued temporary cash assistance payable to the person
28 designated to receive it and shall attach to the requisition
29 the original designation of the deceased recipient, or if
30 none, the designation made by the circuit judge, as well as a
31

1 notice of death. The Chief Financial Officer ~~Comptroller~~ shall
2 issue a warrant in the amount payable.

3 (2) If a warrant has been issued and not cashed by the
4 recipient payee prior to her or his death, such warrant shall
5 be promptly returned to the department, together with notice
6 of the death of the recipient. The original warrant shall be
7 endorsed on the back by an authorized employee of the
8 department. The endorsement must be on a form prescribed by
9 the department and approved by the Chief Financial Officer
10 ~~Comptroller~~ which must contain the name of the deceased
11 recipient, a statement of the recipient's death, and the date
12 thereof and state that it is payable to the order of the
13 designated beneficiary, without recourse. The form shall be
14 signed by the authorized employee or employees of the
15 department, and thereupon such warrant shall be payable to the
16 designated beneficiary as fully and completely as if made
17 payable to her or him when issued. The department shall
18 furnish to the Chief Financial Officer ~~Comptroller~~ each month
19 a list of such deceased recipients, the designated
20 beneficiaries or persons to whom such warrants are endorsed,
21 and a description of such warrants as herein provided. The
22 department shall cause all persons receiving temporary cash
23 assistance to make the designations as soon as conveniently
24 may be, and shall preserve such designations in a safe place
25 for use.

26 Section 478. Subsection (8) of section 414.28, Florida
27 Statutes, is amended to read:

28 414.28 Public assistance payments to constitute debt
29 of recipient.--

30 (8) DISPOSITION OF FUNDS RECOVERED.--All funds
31 collected under this section shall be deposited with the

1 Department of Financial Services ~~Banking and Finance~~ and a
2 report of such deposit made to the department. After payment
3 of costs the sums so collected shall be credited to the
4 department and used by it.

5 Section 479. Section 420.0005, Florida Statutes, is
6 amended to read:

7 420.0005 State Housing Trust Fund; State Housing
8 Fund.--There is hereby established in the State Treasury a
9 separate trust fund to be named the "State Housing Trust
10 Fund." There shall be deposited in the fund all moneys
11 appropriated by the Legislature, or moneys received from any
12 other source, for the purpose of this chapter, and all
13 proceeds derived from the use of such moneys. The fund shall
14 be administered by the Florida Housing Finance Corporation on
15 behalf of the department, as specified in this chapter. Money
16 deposited to the fund and appropriated by the Legislature
17 must, notwithstanding the provisions of chapter 216 or s.
18 420.504(3), be transferred quarterly in advance, to the extent
19 available, or, if not so available, as soon as received into
20 the State Housing Trust Fund, and subject to the provisions of
21 s. 420.5092(6)(a) and (b) by the Chief Financial Officer
22 ~~Comptroller~~ to the corporation upon certification by the
23 Secretary of Community Affairs that the corporation is in
24 compliance with the requirements of s. 420.0006. The
25 certification made by the secretary shall also include the
26 split of funds among programs administered by the corporation
27 and the department as specified in chapter 92-317, Laws of
28 Florida, as amended. Moneys advanced by the Chief Financial
29 Officer ~~Comptroller~~ must be deposited by the corporation into
30 a separate fund established with a qualified public depository
31 meeting the requirements of chapter 280 to be named the "State

1 Housing Fund" and used for the purposes of this chapter.
2 Administrative and personnel costs incurred in implementing
3 this chapter may be paid from the State Housing Fund, but such
4 costs may not exceed 5 percent of the moneys deposited into
5 such fund. To the State Housing Fund shall be credited all
6 loan repayments, penalties, and other fees and charges
7 accruing to such fund under this chapter. It is the intent of
8 this chapter that all loan repayments, penalties, and other
9 fees and charges collected be credited in full to the program
10 account from which the loan originated. Moneys in the State
11 Housing Fund which are not currently needed for the purposes
12 of this chapter shall be invested in such manner as is
13 provided for by statute. The interest received on any such
14 investment shall be credited to the State Housing Fund.

15 Section 480. Section 420.0006, Florida Statutes, is
16 amended to read:

17 420.0006 Authority to contract with corporation;
18 contract requirements; nonperformance.--The secretary of the
19 department shall contract, notwithstanding the provisions of
20 part I of chapter 287, with the Florida Housing Finance
21 Corporation on a multiyear basis to stimulate, provide, and
22 foster affordable housing in the state. The contract must
23 incorporate the performance measures required by s. 420.511
24 and must be consistent with the provisions of the
25 corporation's strategic plan prepared in accordance with s.
26 420.511 and compatible with s. 216.0166. The contract must
27 provide that, in the event the corporation fails to comply
28 with any of the performance measures required by s. 420.511,
29 the secretary shall notify the Governor and shall refer the
30 nonperformance to the department's inspector general for
31 review and determination as to whether such failure is due to

1 forces beyond the corporation's control or whether such
2 failure is due to inadequate management of the corporation's
3 resources. Advances shall continue to be made pursuant to s.
4 420.0005 during the pendency of the review by the department's
5 inspector general. If such failure is due to outside forces,
6 it shall not be deemed a violation of the contract. If such
7 failure is due to inadequate management, the department's
8 inspector general shall provide recommendations regarding
9 solutions. The Governor is authorized to resolve any
10 differences of opinion with respect to performance under the
11 contract and may request that advances continue in the event
12 of a failure under the contract due to inadequate management.
13 The Chief Financial Officer ~~Comptroller~~ shall approve the
14 request absent a finding by the Chief Financial Officer
15 ~~Comptroller~~ that continuing such advances would adversely
16 impact the state; however, in any event the Chief Financial
17 Officer ~~Comptroller~~ shall provide advances sufficient to meet
18 the debt service requirements of the corporation and
19 sufficient to fund contracts committing funds from the State
20 Housing Trust Fund so long as such contracts are in accordance
21 with the laws of this state. The department inspector general
22 shall perform for the corporation the functions set forth in
23 s. 20.055 and report to the secretary of the department. The
24 corporation shall be deemed an agency for the purposes of s.
25 20.055.

26 Section 481. Paragraph (d) of subsection (1) of
27 section 420.101, Florida Statutes, is amended to read:

28 420.101 Housing Development Corporation of Florida;
29 creation, membership, and purposes.--

30 (1) Twenty-five or more persons, a majority of whom
31 shall be residents of this state, who may desire to create a

1 housing development corporation under the provisions of this
2 part for the purpose of promoting and developing housing and
3 advancing the prosperity and economic welfare of the state
4 and, to that end, to exercise the powers and privileges
5 hereinafter provided, may be incorporated by filing in the
6 Department of State, as hereinafter provided, articles of
7 incorporation. The articles of incorporation shall contain:

8 (d) The names and post office addresses of the members
9 of the first board of directors. The first board of directors
10 shall be elected by and from the stockholders of the
11 corporation and shall consist of 21 members. However, four
12 ~~five~~ of such members shall consist of the following persons,
13 who shall be nonvoting members: the secretary of the
14 Department of Community Affairs or her or his designee; the
15 head of the Department of Financial Services ~~Banking and~~
16 ~~Finance~~ or her or his designee; ~~the head of the Department of~~
17 ~~Insurance or her or his designee;~~ one state senator appointed
18 by the President of the Senate; and one representative
19 appointed by the Speaker of the House of Representatives.

20 Section 482. Subsection (1) of section 420.123,
21 Florida Statutes, is amended to read:

22 420.123 Stockholders; loan requirement.--

23 (1) Any financial institution may request membership
24 in the corporation by making application to the board of
25 directors on such form and in such manner as the board of
26 directors may require, and membership shall become effective
27 upon acceptance of the application in the manner designated by
28 the board. Each member stockholder of the corporation shall
29 make loans to the corporation as and when called upon by it to
30 do so on such terms and other conditions as shall be approved
31 from time to time by the board of directors, except that the

1 total amount outstanding on loans to the corporation made by
2 any member at any one time, when added to the amount of the
3 investment in the capital stock of the corporation then held
4 by such member, shall not exceed the following limit, to be
5 determined as of the time such member becomes a member on the
6 basis of the audited balance sheet of such member at the close
7 of its fiscal year immediately preceding its application for
8 membership or, in the case of an insurance company, its last
9 annual statement to the Department of Financial Services
10 ~~Insurance~~: 5 percent of the capital and surplus of commercial
11 banks and trust companies; 5 percent of the total outstanding
12 loans made by savings and loan associations and building and
13 loan associations; 5 percent of the capital and unassigned
14 surplus of stock insurance companies, except fire insurance
15 companies; 5 percent of the unassigned surplus of mutual
16 insurance companies, except fire insurance companies; 0.2
17 percent of the assets of fire insurance companies; and such
18 limits as may be approved by the board of directors of the
19 corporation for other financial institutions.

20 Section 483. Subsection (1) of section 420.131,
21 Florida Statutes, is amended to read:

22 420.131 Articles of incorporation; method of
23 amending.--

24 (1) The articles of incorporation may be amended by
25 the vote of the stockholders of the corporation, and such
26 amendments shall require approval by the affirmative vote of
27 two-thirds of the votes to which the stockholders shall be
28 entitled. However, no amendment of the articles of
29 incorporation which is inconsistent with the general purposes
30 expressed herein or which eliminates or curtails the right of
31 the Department of Financial Services ~~Banking and Finance~~ to

1 examine the corporation or the obligation of the corporation
2 to make reports as provided in s. 420.141(2) shall be made.

3 Section 484. Subsection (2) of section 420.141,
4 Florida Statutes, is amended to read:

5 420.141 Housing Development Corporation of Florida;
6 deposits and examination.--

7 (2) The corporation shall be examined at least once
8 annually by the Department of Financial Services ~~Banking and~~
9 ~~Finance~~ and shall make reports of its condition not less than
10 annually to such said department, and more frequently upon
11 call of the department, which in turn shall make copies of
12 such reports available to the ~~Department of Insurance and the~~
13 Governor; and the corporation shall also furnish such other
14 information as may from time to time be required by the
15 Department of Financial Services ~~Banking and Finance~~ and the
16 Department of State. The Department of Financial Services
17 ~~Banking and Finance~~ shall exercise the same power and
18 authority over the corporation organized pursuant to this part
19 as is exercised over financial institutions under the
20 provisions of the financial institutions codes, when such
21 codes are not in conflict with this chapter.

22 Section 485. Subsection (6) of section 420.5092,
23 Florida Statutes, is amended to read:

24 420.5092 Florida Affordable Housing Guarantee
25 Program.--

26 (6)(a) If the primary revenue sources to be used for
27 repayment of revenue bonds used to establish the guarantee
28 fund are insufficient for such repayment, the annual principal
29 and interest due on each series of revenue bonds shall be
30 payable from funds in the annual debt service reserve. The
31 corporation shall, before June 1 of each year, perform a

1 financial audit to determine whether at the end of the state
2 fiscal year there will be on deposit in the guarantee fund an
3 annual debt service reserve from interest earned pursuant to
4 the investment of the guarantee fund, fees, charges, and
5 reimbursements received from issued affordable housing
6 guarantees and other revenue sources available to the
7 corporation. Based upon the findings in such guarantee fund
8 financial audit, the corporation shall certify to the Chief
9 Financial Officer ~~Comptroller~~ the amount of any projected
10 deficiency in the annual debt service reserve for any series
11 of outstanding bonds as of the end of the state fiscal year
12 and the amount necessary to maintain such annual debt service
13 reserve. Upon receipt of such certification, the Chief
14 Financial Officer ~~Comptroller~~ shall transfer to the annual
15 debt service reserve, from the first available taxes
16 distributed to the State Housing Trust Fund pursuant to s.
17 201.15(9)(a) and (10)(a) during the ensuing state fiscal year,
18 the amount certified as necessary to maintain the annual debt
19 service reserve.

20 (b) If the claims payment obligations under affordable
21 housing guarantees from amounts on deposit in the guarantee
22 fund would cause the claims paying rating assigned to the
23 guarantee fund to be less than the third-highest rating
24 classification of any nationally recognized rating service,
25 which classifications being consistent with s. 215.84(3) and
26 rules adopted thereto by the State Board of Administration,
27 the corporation shall certify to the Chief Financial Officer
28 ~~Comptroller~~ the amount of such claims payment obligations.
29 Upon receipt of such certification, the Chief Financial
30 Officer ~~Comptroller~~ shall transfer to the guarantee fund, from
31 the first available taxes distributed to the State Housing

1 Trust Fund pursuant to s. 201.15(9)(a) and (10)(a) during the
2 ensuing state fiscal year, the amount certified as necessary
3 to meet such obligations, such transfer to be subordinate to
4 any transfer referenced in paragraph (a) and not to exceed 50
5 percent of the amounts distributed to the State Housing Trust
6 Fund pursuant to s. 201.15(9)(a) and (10)(a) during the
7 preceding state fiscal year.

8 Section 486. Section 430.42, Florida Statutes, is
9 amended to read:

10 430.42 Department of Elderly Affairs Tobacco
11 Settlement Trust Fund.--

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

25 Section 487. Subsection (6) of section 430.703,
26 Florida Statutes, is amended to read:

27 430.703 Definitions.--As used in this act, the term:

28 (6) "Managed care organization" means an entity that
29 meets the requirements of the Department of Financial Services
30 ~~Insurance~~ for operation as a health maintenance organization
31 and meets the qualifications for participation as a managed

1 care organization established by the agency and the
2 department.

3 Section 488. Section 440.103, Florida Statutes, is
4 amended to read:

5 440.103 Building permits; identification of minimum
6 premium policy.--Except as otherwise provided in this chapter,
7 every employer shall, as a condition to receiving a building
8 permit, show proof that it has secured compensation for its
9 employees under this chapter as provided in ss. 440.10 and
10 440.38. Such proof of compensation must be evidenced by a
11 certificate of coverage issued by the carrier, a valid
12 exemption certificate approved by the division, or a copy of
13 the employer's authority to self-insure and shall be presented
14 each time the employer applies for a building permit. As
15 provided in s. 627.413(5), each certificate of coverage must
16 show, on its face, whether or not coverage is secured under
17 the minimum premium provisions of rules adopted by rating
18 organizations licensed by the Department of Financial Services
19 ~~Insurance~~. The words "minimum premium policy" or equivalent
20 language shall be typed, printed, stamped, or legibly
21 handwritten.

22 Section 489. Paragraph (a) of subsection (3) of
23 section 440.105, Florida Statutes, is amended to read:

24 440.105 Prohibited activities; reports; penalties;
25 limitations.--

26 (3) Whoever violates any provision of this subsection
27 commits a misdemeanor of the first degree, punishable as
28 provided in s. 775.082 or s. 775.083.

29 (a) It shall be unlawful for any employer to knowingly
30 fail to update applications for coverage as required by s.

31

1 440.381(1) and Department of Financial Services ~~Insurance~~
2 rules, or to post notice of coverage pursuant to s. 440.40.

3 Section 490. Subsection (1) of section 440.1051,
4 Florida Statutes, is amended to read:

5 440.1051 Fraud reports; civil immunity; criminal
6 penalties.--

7 (1) The Bureau of Workers' Compensation Insurance
8 Fraud of the Division of Insurance Fraud of the Department of
9 Financial Services ~~Insurance~~ shall establish a toll-free
10 telephone number to receive reports of workers' compensation
11 fraud committed by an employee, employer, insurance provider,
12 physician, attorney, or other person.

13 Section 491. Subsection (3) of section 440.106,
14 Florida Statutes, is amended to read:

15 440.106 Civil remedies; administrative penalties.--

16 (3) Whenever any group or individual self-insurer,
17 carrier, rating bureau, or agent or other representative of
18 any carrier or rating bureau is determined to have violated s.
19 440.105, the Department of Financial Services ~~Insurance~~ may
20 revoke or suspend the authority or certification of any group
21 or individual self-insurer, carrier, agent, or broker.

22 Section 492. Paragraph (b) of subsection (11) and
23 paragraph (a) of subsection (12) of section 440.13, Florida
24 Statutes, are amended to read:

25 440.13 Medical services and supplies; penalty for
26 violations; limitations.--

27 (11) AUDITS BY DIVISION; JURISDICTION.--

28 (b) The division shall monitor and audit carriers to
29 determine if medical bills are paid in accordance with this
30 section and division rules. Any employer, if self-insured, or
31 carrier found by the division not to be within 90 percent

1 compliance as to the payment of medical bills after July 1,
2 1994, must be assessed a fine not to exceed 1 percent of the
3 prior year's assessment levied against such entity under s.
4 440.51 for every quarter in which the entity fails to attain
5 90-percent compliance. The division shall fine an employer or
6 carrier, pursuant to rules adopted by the division, for each
7 late payment of compensation that is below the minimum
8 90-percent performance standard. Any carrier that is found to
9 be not in compliance in subsequent consecutive quarters must
10 implement a medical-bill review program approved by the
11 division, and the carrier is subject to disciplinary action by
12 the Department of Financial Services ~~Insurance~~.

13 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
14 REIMBURSEMENT ALLOWANCES.--

15 (a) A three-member panel is created, consisting of the
16 Chief Financial Officer ~~Insurance Commissioner~~, or his or her
17 ~~the Insurance Commissioner's~~ designee, and two members to be
18 appointed by the Governor, subject to confirmation by the
19 Senate, one member who, on account of present or previous
20 vocation, employment, or affiliation, shall be classified as a
21 representative of employers, the other member who, on account
22 of previous vocation, employment, or affiliation, shall be
23 classified as a representative of employees. The panel shall
24 determine statewide schedules of maximum reimbursement
25 allowances for medically necessary treatment, care, and
26 attendance provided by physicians, hospitals, ambulatory
27 surgical centers, work-hardening programs, pain programs, and
28 durable medical equipment. The maximum reimbursement
29 allowances for inpatient hospital care shall be based on a
30 schedule of per diem rates, to be approved by the three-member
31 panel no later than March 1, 1994, to be used in conjunction

1 with a precertification manual as determined by the division.
2 All compensable charges for hospital outpatient care shall be
3 reimbursed at 75 percent of usual and customary charges. Until
4 the three-member panel approves a schedule of per diem rates
5 for inpatient hospital care and it becomes effective, all
6 compensable charges for hospital inpatient care must be
7 reimbursed at 75 percent of their usual and customary charges.
8 Annually, the three-member panel shall adopt schedules of
9 maximum reimbursement allowances for physicians, hospital
10 inpatient care, hospital outpatient care, ambulatory surgical
11 centers, work-hardening programs, and pain programs. However,
12 the maximum percentage of increase in the individual
13 reimbursement allowance may not exceed the percentage of
14 increase in the Consumer Price Index for the previous year. An
15 individual physician, hospital, ambulatory surgical center,
16 pain program, or work-hardening program shall be reimbursed
17 either the usual and customary charge for treatment, care, and
18 attendance, the agreed-upon contract price, or the maximum
19 reimbursement allowance in the appropriate schedule, whichever
20 is less.

21 Section 493. Subsections (23) and (24) of section
22 440.134, Florida Statutes, are amended to read:

23 440.134 Workers' compensation managed care
24 arrangement.--

25 (23) The agency shall immediately notify the
26 Department of Financial Services ~~Insurance~~ and the Department
27 of Labor and Employment Security whenever it issues an
28 administrative complaint or an order or otherwise initiates
29 legal proceedings resulting in, or which may result in,
30 suspension or revocation of an insurer's authorization.

31

1 (24) Nothing in this part shall be deemed to authorize
2 any entity to transact any insurance business, assume risk, or
3 otherwise engage in any other type of insurance unless it is
4 authorized as an insurer or a health maintenance organization
5 under a certificate of authority issued by the Department of
6 Financial Services Insurance under the provisions of the
7 Florida Insurance Code.

8 Section 494. Subsections (1), (2), (3), and (5) of
9 section 440.135, Florida Statutes, are amended to read:

10 440.135 Pilot programs for medical and remedial care
11 in workers' compensation.--

12 (1) It is the intent of the Legislature to determine
13 whether the costs of the workers' compensation system can be
14 effectively contained by monitoring more closely the medical,
15 hospital, and remedial care required by s. 440.13, while
16 providing injured workers with more prompt and effective care
17 and earlier restoration of earning capacity without diminution
18 of the quality of such care. It is the further intent of the
19 Legislature to determine whether the total cost to an employer
20 that provides a policy or plan of health insurance and a
21 separate policy or plan of workers' compensation and
22 employer's liability insurance for its employees can be
23 reduced by combining both coverages under a policy or plan
24 that provides 24-hour health insurance coverage as set forth
25 in this section. Therefore, the Legislature authorizes the
26 establishment of one or more pilot programs to be administered
27 by the Department of Financial Services Insurance after
28 consulting with the division. Each pilot program shall
29 terminate 2 years after the first date of operation of the
30 program, unless extended by act of the Legislature. In order
31 to evaluate the feasibility of implementing these pilot

1 programs, the Department of Financial Services ~~Insurance~~ shall
2 consult with the division regarding:

3 (a) Establishing alternate delivery systems using a
4 health maintenance organization model, which includes
5 physician fees, competitive bidding, or capitation models.

6 (b) Controlling and enhancing the selection of
7 providers of medical, hospital, and remedial care and using
8 the peer review and utilization review procedures in s.
9 440.13(1) to control the utilization of care by physicians
10 providing treatment pursuant to s. 440.13(2)(a).

11 (c) Establishing, by agreement, appropriate fees for
12 medical, hospital, and remedial care pursuant to this chapter.

13 (d) Promoting effective and timely utilization of
14 medical, hospital, and remedial care by injured workers.

15 (e) Coordinating the duration of payment of disability
16 benefits with determination made by qualified participating
17 providers of medical, hospital, or remedial care.

18 (f) Initiating one or more pilot programs under which
19 participating employers would provide a 24-hour health
20 insurance policy to their employees under a single insurance
21 policy or self-insured plan. The policy or plan must provide a
22 level of health insurance benefits which meets criteria
23 established by the Department of Financial Services ~~Insurance~~
24 but which provides medical benefits for at least occupational
25 injuries and illnesses comparable to those required by this
26 chapter and which may use deductibles and coinsurance
27 provisions that require the employee to pay a portion of the
28 actual medical care received by the employee, notwithstanding
29 any other provisions of this chapter. The policy or plan may
30 also provide indemnity benefits as specified in s.
31 440.38(1)(e). The employer shall pay the entire premium for

1 the 24-hour health insurance policy or self-insured plan other
2 than the portion of the premium which relates to dependent
3 coverage.

4 (g) Other methods of monitoring reduced costs within
5 the workers' compensation system while maintaining quality
6 care.

7 (2) The Department of Financial Services Insurance,
8 after consulting with the division, may, without a bidding
9 process, negotiate and enter into such contracts as may be
10 necessary or appropriate in its judgment to implement the
11 pilot program.

12 (3) The Department of Financial Services Insurance may
13 also accept grants and moneys from any source and may expend
14 such grants and moneys for the purposes of the program.

15 ~~The Department of Insurance shall make an interim~~
16 ~~report on or before December 1, 1991, and a final report on or~~
17 ~~before the termination date specified in subsection (1) to the~~
18 ~~Speaker of the House of Representatives, the President of the~~
19 ~~Senate, the Minority Leader of the Senate, the Minority Leader~~
20 ~~of the House of Representatives, and the Governor, on the~~
21 ~~activities, findings, and recommendations of the Department of~~
22 ~~Insurance relative to the pilot programs.~~The Department of
23 Financial Services Insurance shall monitor, evaluate, and
24 report the following information regarding physicians,
25 hospitals, and other remedial care providers:

- 26 (a) Cost savings.
27 (b) Effectiveness.
28 (c) Effect on earning capacity and indemnity payments.
29 (d) Complaints from injured workers and providers.
30 (e) Concurrent review of quality of care.
31 (f) Other pertinent matters.

1
2 The information from the pilot programs shall be reported in a
3 format to permit comparisons to other similar data.

4 Section 495. Subsection (10), paragraphs (a) and (e)
5 of subsection (15), and subsection (16) of section 440.20,
6 Florida Statutes, are amended to read:

7 440.20 Time for payment of compensation; penalties for
8 late payment.--

9 (10) Whenever the division deems it advisable, it may
10 require any employer to make a deposit with the Chief
11 Financial Officer ~~Treasurer~~ to secure the prompt and
12 convenient payments of such compensation; and payments
13 therefrom upon any awards shall be made upon order of the
14 division or judge of compensation claims.

15 (15)(a) The division shall examine on an ongoing basis
16 claims files in order to identify questionable claims-handling
17 techniques, questionable patterns or practices of claims, or a
18 pattern of repeated unreasonably controverted claims by
19 employers, carriers, self-insurers, health care providers,
20 health care facilities, training and education providers, or
21 any others providing services to employees pursuant to this
22 chapter and may certify its findings to the Department of
23 Financial Services ~~Insurance~~. Such questionable techniques,
24 patterns, or repeated unreasonably controverted claims as
25 constitute a general business practice of a carrier in the
26 judgment of the division shall be certified in its findings by
27 the division to the Department of Financial Services ~~Insurance~~
28 or such other appropriate licensing agency. Such certification
29 by the division is exempt from the provisions of chapter 120.
30 Upon receipt of any such certification, the Department of
31 Financial Services ~~Insurance~~ shall take appropriate action so

1 as to bring such general business practices to a halt pursuant
2 to s. 440.38(3)(a). The division may initiate investigations
3 of questionable techniques, patterns, practices, or repeated
4 unreasonably controverted claims. The division may by rule
5 establish forms and procedures for corrective action plans and
6 for auditing carriers.

7 (e) The division shall publish annually a report which
8 indicates the promptness of first payment of compensation
9 records of each carrier or self-insurer so as to focus
10 attention on those carriers or self-insurers with poor payment
11 records for the preceding year. A copy of such report shall be
12 certified to the Department of Financial Services ~~Insurance~~
13 which shall take appropriate steps so as to cause such poor
14 carrier payment practices to halt pursuant to s. 440.38(3)(a).
15 In addition, the division shall take appropriate action so as
16 to halt such poor payment practices of self-insurers. "Poor
17 payment practice" means a practice of late payment sufficient
18 to constitute a general business practice.

19 (16) No penalty assessed under this section may be
20 recouped by any carrier or self-insurer in the rate base, the
21 premium, or any rate filing. In the case of carriers, the
22 Department of Financial Services ~~Insurance~~ shall enforce this
23 subsection; and in the case of self-insurers, the division
24 shall enforce this subsection.

25 Section 496. Subsection (2) of section 440.24, Florida
26 Statutes, is amended to read:

27 440.24 Enforcement of compensation orders;
28 penalties.--

29 (2) In any case where the employer is insured and the
30 carrier fails to comply with any compensation order of a judge
31 of compensation claims or court within 10 days after such

1 order becomes final, the division shall notify the Department
2 of Financial Services ~~insurance~~ of such failure, and the
3 Department of Financial Services ~~insurance~~ shall thereupon
4 suspend the license of such carrier to do an insurance
5 business in this state, until such carrier has complied with
6 such order.

7 Section 497. Subsection (1), paragraph (a) of
8 subsection (3), and paragraph (a) of subsection (4) of section
9 440.38, Florida Statutes, are amended to read:

10 440.38 Security for compensation; insurance carriers
11 and self-insurers.--

12 (1) Every employer shall secure the payment of
13 compensation under this chapter:

14 (a) By insuring and keeping insured the payment of
15 such compensation with any stock company or mutual company or
16 association or exchange, authorized to do business in the
17 state;

18 (b) By furnishing satisfactory proof to the division
19 of its financial ability to pay such compensation individually
20 and on behalf of its subsidiary and affiliated companies with
21 employees in this state and receiving an authorization from
22 the division to pay such compensation directly in accordance
23 with the following provisions:

24 1. The division may require an employer to deposit
25 with the division a qualifying security deposit. The division
26 shall determine the type and amount of the qualifying security
27 deposit and shall prescribe conditions for the qualifying
28 security deposit, which shall include authorization for the
29 division to call the qualifying security deposit in the case
30 of default. In addition, the division shall require, as a
31 condition to authorization to self-insure, proof that the

1 employer has provided for competent personnel with whom to
2 deliver benefits and to provide a safe working environment.
3 Further, the division shall require such employer to carry
4 reinsurance at levels that will ensure the actuarial soundness
5 of such employer in accordance with rules promulgated by the
6 division. The division may by rule require that, in the event
7 of an individual self-insurer's insolvency, such qualifying
8 security deposits and reinsurance policies are payable to the
9 Florida Self-Insurers Guaranty Association, Incorporated,
10 created pursuant to s. 440.385. Any employer securing
11 compensation in accordance with the provisions of this
12 paragraph shall be known as a self-insurer and shall be
13 classed as a carrier of her or his own insurance.

14 2. If the employer fails to maintain the foregoing
15 requirements, the division shall revoke the employer's
16 authority to self-insure, unless the employer provides to the
17 division the certified opinion of an independent actuary who
18 is a member of the American Society of Actuaries as to the
19 actuarial present value of the employer's determined and
20 estimated future compensation payments based on cash reserves,
21 using a 4-percent discount rate, and a qualifying security
22 deposit equal to 1.5 times the value so certified. The
23 employer shall thereafter annually provide such a certified
24 opinion until such time as the employer meets the requirements
25 of subparagraph 1. The qualifying security deposit shall be
26 adjusted at the time of each such annual report. Upon the
27 failure of the employer to timely provide such opinion or to
28 timely provide a security deposit in an amount equal to 1.5
29 times the value certified in the latest opinion, the division
30 shall then revoke such employer's authorization to
31 self-insure, and such failure shall be deemed to constitute an

1 immediate serious danger to the public health, safety, or
2 welfare sufficient to justify the summary suspension of the
3 employer's authorization to self-insure pursuant to s. 120.68.
4 3. Upon the suspension or revocation of the employer's
5 authorization to self-insure, the employer shall provide to
6 the division and to the Florida Self-Insurers Guaranty
7 Association, Incorporated, created pursuant to s. 440.385 the
8 certified opinion of an independent actuary who is a member of
9 the American Society of Actuaries of the actuarial present
10 value of the determined and estimated future compensation
11 payments of the employer for claims incurred while the member
12 exercised the privilege of self-insurance, using a discount
13 rate of 4 percent. The employer shall provide such an opinion
14 at 6-month intervals thereafter until such time as the latest
15 opinion shows no remaining value of claims. With each such
16 opinion, the employer shall deposit with the division a
17 qualifying security deposit in an amount equal to the value
18 certified by the actuary. The association has a cause of
19 action against an employer, and against any successor of the
20 employer, who fails to timely provide such opinion or who
21 fails to timely maintain the required security deposit with
22 the division. The association shall recover a judgment in the
23 amount of the actuarial present value of the determined and
24 estimated future compensation payments of the employer for
25 claims incurred while the employer exercised the privilege of
26 self-insurance, together with attorney's fees. For purposes
27 of this section, the successor of an employer means any
28 person, business entity, or group of persons or business
29 entities, which holds or acquires legal or beneficial title to
30 the majority of the assets or the majority of the shares of
31 the employer.

1 4. A qualifying security deposit shall consist, at the
2 option of the employer, of:

3 a. Surety bonds, in a form and containing such terms
4 as prescribed by the division, issued by a corporation surety
5 authorized to transact surety business by the Department of
6 Financial Services Insurance, and whose policyholders' and
7 financial ratings, as reported in A.M. Best's Insurance
8 Reports, Property-Liability, are not less than "A" and "V",
9 respectively.

10 b. Irrevocable letters of credit in favor of the
11 division issued by financial institutions located within this
12 state, the deposits of which are insured through the Federal
13 Deposit Insurance Corporation.

14 5. The qualifying security deposit shall be held by
15 the division exclusively for the benefit of workers'
16 compensation claimants. The security shall not be subject to
17 assignment, execution, attachment, or any legal process
18 whatsoever, except as necessary to guarantee the payment of
19 compensation under this chapter. No surety bond may be
20 terminated, and no letter of credit may be allowed to expire,
21 without 90 days' prior notice to the division and deposit by
22 the self-insuring employer of some other qualifying security
23 deposit of equal value within 10 business days after such
24 notice. Failure to provide such notice or failure to timely
25 provide qualifying replacement security after such notice
26 shall constitute grounds for the division to call or sue upon
27 the surety bond or to exercise its rights under a letter of
28 credit. Current self-insured employers must comply with this
29 section on or before December 31, 2001, or upon the maturity
30 of existing security deposits, whichever occurs later. The
31 division may specify by rule the amount of the qualifying

1 security deposit required prior to authorizing an employer to
2 self-insure and the amount of net worth required for an
3 employer to qualify for authorization to self-insure;

4 (c) By entering into a contract with a public utility
5 under an approved utility-provided self-insurance program as
6 set forth in s. 624.46225 in effect as of July 1, 1983. The
7 division shall adopt rules to implement this paragraph;

8 (d) By entering into an interlocal agreement with
9 other local governmental entities to create a local government
10 pool pursuant to s. 624.4622;

11 (e) In accordance with s. 440.135, an employer, other
12 than a local government unit, may elect coverage under the
13 Workers' Compensation Law and retain the benefit of the
14 exclusiveness of liability provided in s. 440.11 by obtaining
15 a 24-hour health insurance policy from an authorized property
16 and casualty insurance carrier or an authorized life and
17 health insurance carrier, or by participating in a fully or
18 partially self-insured 24-hour health plan that is established
19 or maintained by or for two or more employers, so long as the
20 law of this state is not preempted by the Employee Retirement
21 Income Security Act of 1974, Pub. L. No. 93-406, or any
22 amendment to that law, which policy or plan must provide, for
23 at least occupational injuries and illnesses, medical benefits
24 that are comparable to those required by this chapter. A local
25 government unit, as a single employer, in accordance with s.
26 440.135, may participate in the 24-hour health insurance
27 coverage plan referenced in this paragraph. Disputes and
28 remedies arising under policies issued under this section are
29 governed by the terms and conditions of the policies and under
30 the applicable provisions of the Florida Insurance Code and
31 rules adopted under the insurance code and other applicable

1 laws of this state. The 24-hour health insurance policy may
2 provide for health care by a health maintenance organization
3 or a preferred provider organization. The premium for such
4 24-hour health insurance policy shall be paid entirely by the
5 employer. The 24-hour health insurance policy may use
6 deductibles and coinsurance provisions that require the
7 employee to pay a portion of the actual medical care received
8 by the employee. If an employer obtains a 24-hour health
9 insurance policy or self-insured plan to secure payment of
10 compensation as to medical benefits, the employer must also
11 obtain an insurance policy or policies that provide indemnity
12 benefits as follows:

13 1. If indemnity benefits are provided only for
14 occupational-related disability, such benefits must be
15 comparable to those required by this chapter.

16 2. If indemnity benefits are provided for both
17 occupational-related and nonoccupational-related disability,
18 such benefits must be comparable to those required by this
19 chapter, except that they must be based on 60 percent of the
20 average weekly wages.

21 3. The employer shall provide for each of its
22 employees life insurance with a death benefit of \$100,000.

23 4. Policies providing coverage under this subsection
24 must use prescribed and acceptable underwriting standards,
25 forms, and policies approved by the Department of Financial
26 Services Insurance. If any insurance policy that provides
27 coverage under this section is canceled, terminated, or
28 nonrenewed for any reason, the cancellation, termination, or
29 nonrenewal is ineffective until the self-insured employer or
30 insurance carrier or carriers notify the division and the
31 Department of Financial Services Insurance of the

1 cancellation, termination, or nonrenewal, and until the
2 division has actually received the notification. The division
3 must be notified of replacement coverage under a workers'
4 compensation and employer's liability insurance policy or plan
5 by the employer prior to the effective date of the
6 cancellation, termination, or nonrenewal; or

7 (f) By entering into a contract with an individual
8 self-insurer under an approved individual
9 self-insurer-provided self-insurance program as set forth in
10 s. 624.46225. The division may adopt rules to administer this
11 subsection.

12 (3)(a) The license of any stock company or mutual
13 company or association or exchange authorized to do insurance
14 business in the state shall for good cause, upon
15 recommendation of the division, be suspended or revoked by the
16 Department of Financial Services Insurance. No suspension or
17 revocation shall affect the liability of any carrier already
18 incurred.

19 (4)(a) A carrier of insurance, including the parties
20 to any mutual, reciprocal, or other association, may not write
21 any compensation insurance under this chapter without a permit
22 from the Department of Financial Services Insurance. Such
23 permit shall be given, upon application therefor, to any
24 insurance or mutual or reciprocal insurance association upon
25 the department's being satisfied of the solvency of such
26 corporation or association and its ability to perform all its
27 undertakings. The Department of Financial Services Insurance
28 may revoke any permit so issued for violation of any provision
29 of this chapter.

30 Section 498. Subsections (1) and (3) of section
31 440.381, Florida Statutes, are amended to read:

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 Financial Services Insurance.
6 The Department of Financial Services Insurance shall adopt
7 rules for applications for coverage required by s. 440.38. The
8 rules must provide that an application include information on
9 the employer, the type of business, past and prospective
10 payroll, estimated revenue, previous workers' compensation
11 experience, employee classification, employee names, and any
12 other information necessary to enable a carrier to accurately
13 underwrite the applicant. The rules must include a provision
14 that a carrier or self-insurance fund may require that an
15 employer update an application monthly to reflect any change
16 in the required application information.

17 (3) The Department of Financial Services Insurance and
18 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 499. Subsection (13) of section 440.385,
11 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 500. Subsection (6) of section 440.44, Florida
23 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 Financial
28 Services--Seal" ~~Insurance--Seal~~ and "Division of
29 Administrative Hearings--Seal," respectively.

30 Section 501. Paragraph (d) of subsection (1) of
31 section 440.4416, Florida Statutes, is amended to read:

1 440.4416 Workers' Compensation Oversight Board.--

2 (1) There is created within the Department of Labor
3 and Employment Security the Workers' Compensation Oversight
4 Board. The board shall be composed of the following members,
5 each of whom has knowledge of, or experience with, the
6 workers' compensation system:

7 (d) Additionally, the Chief Financial Officer
8 ~~Insurance Commissioner~~ and the secretary of the Department of
9 Labor and Employment Security shall be nonvoting ex officio
10 members.

11 Section 502. Paragraphs (a), (b), and (d) of
12 subsection (9) of section 440.49, Florida Statutes, are
13 amended to read:

14 440.49 Limitation of liability for subsequent injury
15 through Special Disability Trust Fund.--

16 (9) SPECIAL DISABILITY TRUST FUND.--

17 (a) There is established in the State Treasury a
18 special fund to be known as the "Special Disability Trust
19 Fund," which shall be available only for the purposes stated
20 in this section; and the assets thereof may not at any time be
21 appropriated or diverted to any other use or purpose. The
22 Chief Financial Officer ~~Treasurer~~ shall be the custodian of
23 such fund, and all moneys and securities in such fund shall be
24 held in trust by such Chief Financial Officer ~~Treasurer~~ and
25 shall not be the money or property of the state. The Chief
26 Financial Officer ~~Treasurer~~ is authorized to disburse moneys
27 from such fund only when approved by the division or
28 corporation ~~and upon the order of the Comptroller~~. The Chief
29 Financial Officer ~~Treasurer~~ shall deposit any moneys paid into
30 such fund into such depository banks as the division may
31 designate and is authorized to invest any portion of the fund

1 which, in the opinion of the division, is not needed for
2 current requirements, in the same manner and subject to all
3 the provisions of the law with respect to the deposits of
4 state funds by such Chief Financial Officer ~~Treasurer~~. All
5 interest earned by such portion of the fund as may be invested
6 by the Chief Financial Officer ~~Treasurer~~ shall be collected by
7 her or him and placed to the credit of such fund.

8 (b)1. The Special Disability Trust Fund shall be
9 maintained by annual assessments upon the insurance companies
10 writing compensation insurance in the state, the commercial
11 self-insurers under ss. 624.462 and 624.4621, the assessable
12 mutuals under s. 628.601, and the self-insurers under this
13 chapter, which assessments shall become due and be paid
14 quarterly at the same time and in addition to the assessments
15 provided in s. 440.51. The division shall estimate annually in
16 advance the amount necessary for the administration of this
17 subsection and the maintenance of this fund and shall make
18 such assessment in the manner hereinafter provided.

19 2. The annual assessment shall be calculated to
20 produce during the ensuing fiscal year an amount which, when
21 combined with that part of the balance in the fund on June 30
22 of the current fiscal year which is in excess of \$100,000, is
23 equal to the average of:

24 a. The sum of disbursements from the fund during the
25 immediate past 3 calendar years, and

26 b. Two times the disbursements of the most recent
27 calendar year.

28
29 Such amount shall be prorated among the insurance companies
30 writing compensation insurance in the state and the
31 self-insurers. Provided however, for those carriers that have

1 excluded ceded reinsurance premiums from their assessments on
2 or before January 1, 2000, no assessments on ceded reinsurance
3 premiums shall be paid by those carriers until such time as
4 the division advises each of those carriers of the impact that
5 the inclusion of ceded reinsurance premiums has on their
6 assessment. The division may not recover any past
7 underpayments of assessments levied against any carrier that
8 on or before January 1, 2000, excluded ceded reinsurance
9 premiums from their assessment prior to the point that the
10 division advises of the appropriate assessment that should
11 have been paid.

12 3. The net premiums written by the companies for
13 workers' compensation in this state and the net premium
14 written applicable to the self-insurers in this state are the
15 basis for computing the amount to be assessed as a percentage
16 of net premiums. Such payments shall be made by each carrier
17 and self-insurer to the division for the Special Disability
18 Trust Fund in accordance with such regulations as the division
19 prescribes.

20 4. The Chief Financial Officer ~~Treasurer~~ is authorized
21 to receive and credit to such Special Disability Trust Fund
22 any sum or sums that may at any time be contributed to the
23 state by the United States under any Act of Congress, or
24 otherwise, to which the state may be or become entitled by
25 reason of any payments made out of such fund.

26 (d) The Special Disability Trust Fund shall be
27 supplemented by a \$250 notification fee on each notice of
28 claim filed or refiled after July 1, 1997, and a \$500 fee on
29 each proof of claim filed in accordance with subsection (7).
30 Revenues from the fee shall be deposited into the Special
31 Disability Trust Fund and are exempt from the deduction

1 required by s. 215.20. The fees provided in this paragraph
2 shall not be imposed upon any insurer which is in receivership
3 with the Department of Financial Services ~~Insurance~~.

4 Section 503. Paragraph (a) of subsection (1) and
5 subsections (2) and (3) of section 440.50, Florida Statutes,
6 are amended to read:

7 440.50 Workers' Compensation Administration Trust
8 Fund.--

9 (1)(a) There is established in the State Treasury a
10 special fund to be known as the "Workers' Compensation
11 Administration Trust Fund" for the purpose of providing for
12 the payment of all expenses in respect to the administration
13 of this chapter, including the vocational rehabilitation of
14 injured employees as provided in s. 440.49 and the payments
15 due under s. 440.15(1)(f), the funding of the fixed
16 administrative expenses of the plan, and the funding of the
17 Bureau of Workers' Compensation Fraud within the Department of
18 Financial Services ~~Insurance~~. Such fund shall be administered
19 by the division.

20 (2) The Chief Financial Officer ~~Treasurer~~ is
21 authorized to disburse moneys from such fund only when
22 approved by the division ~~and upon the order of the~~
23 ~~Comptroller~~.

24 (3) The Chief Financial Officer ~~Treasurer~~ shall
25 deposit any moneys paid into such fund into such depository
26 banks as the division may designate and is authorized to
27 invest any portion of the fund which, in the opinion of the
28 division, is not needed for current requirements, in the same
29 manner and subject to all the provisions of the law with
30 respect to the deposit of state funds by such Chief Financial
31 Officer ~~Treasurer~~. All interest earned by such portion of the

1 fund as may be invested by the Chief Financial Officer
2 ~~Treasurer~~ shall be collected by him or her and placed to the
3 credit of such fund.

4 Section 504. Paragraph (a) of subsection (1),
5 subsection (3), paragraph (b) of subsection (6), and
6 subsections (11) and (12) of section 440.51, Florida Statutes,
7 are amended to read:

8 440.51 Expenses of administration.--

9 (1) The division shall estimate annually in advance
10 the amounts necessary for the administration of this chapter,
11 in the following manner.

12 (a) The division shall, by July 1 of each year, notify
13 carriers and self-insurers of the assessment rate, which shall
14 be based on the anticipated expenses of the administration of
15 this chapter for the next calendar year. Such assessment rate
16 shall take effect January 1 of the next calendar year and
17 shall be included in workers' compensation rate filings
18 approved by the Department of Financial Services Insurance
19 which become effective on or after January 1 of the next
20 calendar year. Assessments shall become due and be paid
21 quarterly.

22 (3) If any carrier fails to pay the amounts assessed
23 against him or her under the provisions of this section within
24 60 days from the time such notice is served upon him or her,
25 the Department of Financial Services Insurance upon being
26 advised by the division may suspend or revoke the
27 authorization to insure compensation in accordance with the
28 procedure in s. 440.38(3)(a). The division may permit a
29 carrier to remit any underpayment of assessments for
30 assessments levied after January 1, 2001.

31 (6)

1 (b) The Department of Financial Services ~~Insurance~~ may
2 require from each self-insurer, at such time and in accordance
3 with such regulations as the Department of Financial Services
4 ~~Insurance~~ prescribes, reports in respect to wages paid, the
5 amount of premiums such self-insurer would have to pay if
6 insured, and all payments of compensation made by such
7 self-insurer during each prior period, and may determine the
8 amounts paid by each self-insurer and the amounts paid by all
9 self-insurers during such period. For the purposes of this
10 section, the payroll records of each self-insurer shall be
11 open to annual inspection and audit by the Department of
12 Financial Services ~~Insurance~~ or its authorized representative,
13 during regular business hours; and if any audit of such
14 records of a self-insurer discloses a deficiency in the
15 amounts reported to the Department of Financial Services
16 ~~Insurance~~ or in the amounts paid to the Department of
17 Financial Services ~~Insurance~~ by a self-insurer pursuant to
18 this section, the Department of Financial Services ~~Insurance~~
19 may assess the cost of such audit against the self-insurer.

20 (11) The division shall furnish to any employer or
21 carrier, upon request, its individual experience. The
22 division shall furnish to the Department of Financial Services
23 ~~Insurance~~, upon request, the Florida experience as developed
24 under accident year or calendar year.

25 (12) In addition to any other penalties provided by
26 this law, the failure to submit any report or other
27 information required by this law shall be just cause to
28 suspend the right of a self-insurer to operate as such, or,
29 upon certification by the division to the Department of
30 Financial Services ~~Insurance~~ that a carrier has failed or
31 refused to furnish such reports, shall be just cause for the

1 Department of Financial Services ~~Insurance~~ to suspend or
2 revoke the license of such carrier.

3 Section 505. Section 440.515, Florida Statutes, is
4 amended to read:

5 440.515 Reports from self-insurers;
6 confidentiality.--The Department of Financial Services
7 ~~Insurance~~ shall maintain the reports filed in accordance with
8 s. 440.51(6)(b) as confidential and exempt from the provisions
9 of s. 119.07(1), and such reports shall be released only for
10 bona fide research or educational purposes or after receipt of
11 consent from the employer.

12 Section 506. Subsections (3) and (4) of section
13 440.52, Florida Statutes, are amended to read:

14 440.52 Registration of insurance carriers; notice of
15 cancellation or expiration of policy; suspension or revocation
16 of authority.--

17 (3) If the division finds, after due notice and a
18 hearing at which the insurance carrier is entitled to be heard
19 in person or by counsel and present evidence, that the
20 insurance carrier has repeatedly failed to comply with its
21 obligations under this chapter, the division may request the
22 Department of Financial Services ~~Insurance~~ to suspend or
23 revoke the authorization of such insurance carrier to write
24 workers' compensation insurance under this chapter. Such
25 suspension or revocation shall not affect the liability of any
26 such insurance carrier under policies in force prior to the
27 suspension or revocation.

28 (4) In addition to the penalties prescribed in
29 subsection (3), violation of s. 440.381 by an insurance
30 carrier shall result in the imposition of a fine not to exceed
31 \$1,000 per audit, if the insurance carrier fails to act on

1 said audits by correcting errors in employee classification or
2 accepted applications for coverage where it knew employee
3 classifications were incorrect. Such fines shall be levied by
4 the Department of Financial Services ~~Insurance~~ and deposited
5 into the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

6 Section 507. Paragraph (a) of subsection (5) of
7 section 443.131, Florida Statutes, is amended to read:

8 443.131 Contributions.--

9 (5) FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE
10 AND POLITICAL SUBDIVISIONS OF THE STATE.--Benefits paid to
11 employees of this state or any instrumentality of this state,
12 or to employees of any political subdivision of this state or
13 any instrumentality thereof, based upon service defined in s.
14 443.036(21)(b), shall be financed in accordance with this
15 subsection.

16 (a)1. Unless an election is made as provided in
17 paragraph (c), the state or any political subdivision of the
18 state shall pay into the Unemployment Compensation Trust Fund
19 an amount equivalent to the amount of regular benefits,
20 short-time compensation benefits, and extended benefits paid
21 to individuals, based on wages paid by the state or the
22 political subdivision for service defined in s.
23 443.036(21)(b).

24 2. Should any state agency become more than 120 days
25 delinquent on reimbursements due to the Unemployment
26 Compensation Trust Fund, the division shall certify to the
27 Chief Financial Officer ~~Comptroller~~ the amount due and the
28 Chief Financial Officer ~~Comptroller~~ shall transfer the amount
29 due to the Unemployment Compensation Trust Fund from the funds
30 of such agency that may legally be used for such purpose. In
31 the event any political subdivision of the state or any

1 instrumentality thereof becomes more than 120 days delinquent
2 on reimbursements due to the Unemployment Compensation Trust
3 Fund, then, upon request by the division after a hearing, the
4 Department of Revenue or the Department of Financial Services
5 ~~Banking and Finance~~, as the case may be, shall deduct the
6 amount owed by the political subdivision or instrumentality
7 from any funds to be distributed by it to the county, city,
8 special district, or consolidated form of government for
9 further distribution to the trust fund in accordance with this
10 chapter. Should any employer for whom the city or county tax
11 collector collects taxes fail to make the reimbursements to
12 the Unemployment Compensation Trust Fund required by this
13 chapter, the tax collector after a hearing, at the request of
14 the division and upon receipt of a certificate showing the
15 amount owed by the employer, shall deduct the amount so
16 certified from any taxes collected for the employer and remit
17 same to the Department of Labor and Employment Security for
18 further distribution to the trust fund in accordance with this
19 chapter. This subparagraph does not apply to those amounts due
20 for benefits paid prior to October 1, 1979. This subparagraph
21 does not apply to amounts owed by a political subdivision for
22 benefits erroneously paid where the claimant is required to
23 repay to the division under s. 443.151(6)(a) or (b) any sum as
24 benefits received.

25 Section 508. Subsections (2), (3), and (4) of section
26 443.191, Florida Statutes, are amended to read:

27 443.191 Unemployment Compensation Trust Fund;
28 establishment and control.--

29 (2) The Chief Financial Officer ~~Treasurer~~ is the ex
30 officio treasurer and custodian of the fund and shall
31 administer the fund in accordance with the directions of the

1 division. All payments from the fund must be approved by the
2 division or by a duly authorized agent ~~and must be made by the~~
3 ~~Treasurer upon warrants issued by the Comptroller, except as~~
4 ~~hereinafter provided.~~ The Chief Financial Officer ~~Treasurer~~
5 shall maintain within the fund three separate accounts:

6 (a) A clearing account;

7 (b) An Unemployment Compensation Trust Fund account;

8 and

9 (c) A benefit account.

10
11 All moneys payable to the fund, including moneys received from
12 the United States as reimbursement for extended benefits paid
13 by the division, upon receipt thereof by the division, must be
14 forwarded to the Chief Financial Officer ~~Treasurer~~, who shall
15 immediately deposit them in the clearing account. Refunds
16 payable under s. 443.141 may be paid from the clearing account
17 ~~upon warrants issued by the Comptroller.~~ After clearance, all
18 other moneys in the clearing account must be immediately
19 deposited with the Secretary of the Treasury of the United
20 States to the credit of the account of this state in the
21 Unemployment Compensation Trust Fund established and
22 maintained under s. 904 of the Social Security Act, as
23 amended, any provisions of the law in this state relating to
24 the deposit, administration, release, or disbursement of
25 moneys in the possession or custody of this state to the
26 contrary notwithstanding. The benefit account shall consist
27 of all moneys requisitioned from this state's account in the
28 Unemployment Compensation Trust Fund. Except as otherwise
29 provided, moneys in the clearing and benefit accounts may be
30 deposited by the Chief Financial Officer ~~Treasurer~~, under the
31 direction of the division, in any bank or public depository in

1 | which general funds of the state may be deposited, but no
2 | public deposit insurance charge or premium may be paid out of
3 | the fund. If any warrant issued against the clearing account
4 | or the benefit account is not presented for payment within 1
5 | year after issuance thereof, the Chief Financial Officer
6 | ~~Comptroller~~ must cancel the same and credit without
7 | restriction the amount of such warrant to the account upon
8 | which it is drawn. When the payee or person entitled to any
9 | warrant so canceled requests payment thereof, the Chief
10 | Financial Officer ~~Comptroller~~, upon direction of the division,
11 | must issue a new warrant therefor, to be paid out of the
12 | account against which the canceled warrant had been drawn.

13 | (3) Moneys shall be requisitioned from the state's
14 | account in the Unemployment Compensation Trust Fund solely for
15 | the payment of benefits and extended benefits and in
16 | accordance with rules prescribed by the division, except that
17 | money credited to this state's account pursuant to s. 903 of
18 | the Social Security Act, as amended, shall be used exclusively
19 | as provided in subsection (5). The division, through the
20 | Chief Financial Officer ~~Treasurer~~, shall from time to time
21 | requisition from the Unemployment Compensation Trust Fund such
22 | amounts, not exceeding the amounts standing to this state's
23 | account therein, as it deems necessary for the payment of
24 | benefits and extended benefits for a reasonable future period.
25 | Upon receipt thereof, the Chief Financial Officer ~~Treasurer~~
26 | shall deposit such moneys in the benefit account in the State
27 | Treasury and warrants for the payment of benefits and extended
28 | benefits shall be drawn ~~by the Comptroller~~ upon the order of
29 | the division against such benefit account. All warrants for
30 | benefits and extended benefits shall be payable directly to
31 | the ultimate beneficiary. Expenditures of such moneys in the

1 benefit account and refunds from the clearing account shall
2 not be subject to any provisions of law requiring specific
3 appropriations or other formal release by state officers of
4 money in their custody. All warrants issued for the payment of
5 benefits and refunds shall bear the signature of the Chief
6 Financial Officer ~~Comptroller~~ as above set forth. Any balance
7 of moneys requisitioned from the Unemployment Compensation
8 Trust Fund which remains unclaimed or unpaid in the benefit
9 account after the expiration of the period for which such sums
10 were requisitioned shall either be deducted from estimates
11 for, and may be utilized for the payment of, benefits and
12 extended benefits during succeeding periods, or, in the
13 discretion of the division, shall be redeposited with the
14 Secretary of the Treasury of the United States, to the credit
15 of this state's account in the Unemployment Compensation Trust
16 Fund, as provided in subsection (2).

17 (4) The provisions of subsections (1), (2), and (3),
18 to the extent that they relate to the Unemployment
19 Compensation Trust Fund, shall be operative only so long as
20 such unemployment trust fund continues to exist and so long as
21 the Secretary of the Treasury of the United States continues
22 to maintain for this state a separate book account of all
23 funds deposited therein by this state for benefit purposes,
24 together with this state's proportionate share of the earnings
25 of such Unemployment Compensation Trust Fund, from which no
26 other state is permitted to make withdrawals. If and when
27 such Unemployment Compensation Trust Fund ceases to exist, or
28 such separate book account is no longer maintained, all
29 moneys, properties, or securities therein belonging to the
30 Unemployment Compensation Trust Fund of this state shall be
31 transferred to the treasurer of the Unemployment Compensation

1 Trust Fund, who shall hold, invest, transfer, sell, deposit,
2 and release such moneys, properties, or securities in a manner
3 approved by the division in accordance with the provisions of
4 this chapter; however, such moneys shall be invested in the
5 following readily marketable classes of securities: bonds or
6 other interest-bearing obligations of the United States or of
7 the state. Further, such investment shall at all times be so
8 made that all the assets of the fund shall always be readily
9 convertible into cash when needed for the payment of benefits.
10 The treasurer shall dispose of securities or other properties
11 belonging to the Unemployment Compensation Trust Fund only
12 under the direction of the division.

13 Section 509. Subsections (1) and (2) of section
14 443.211, Florida Statutes, are amended to read:

15 443.211 Employment Security Administration Trust Fund;
16 appropriation; reimbursement.--

17 (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST
18 FUND.--There is created in the State Treasury a special fund
19 to be known as the "Employment Security Administration Trust
20 Fund." All moneys that are deposited into this fund remain
21 continuously available to the division for expenditure in
22 accordance with the provisions of this chapter and do not
23 lapse at any time and may not be transferred to any other
24 fund. All moneys in this fund which are received from the
25 Federal Government or any agency thereof or which are
26 appropriated by this state for the purposes described in ss.
27 443.171 and 443.181, except money received under s.
28 443.191(5)(c), must be expended solely for the purposes and in
29 the amounts found necessary by the authorized cooperating
30 federal agencies for the proper and efficient administration
31 of this chapter. The fund shall consist of all moneys

1 appropriated by this state; all moneys received from the
2 United States or any agency thereof; all moneys received from
3 any other source for such purpose; any moneys received from
4 any agency of the United States or any other state as
5 compensation for services or facilities supplied to such
6 agency; any amounts received pursuant to any surety bond or
7 insurance policy or from other sources for losses sustained by
8 the Employment Security Administration Trust Fund or by reason
9 of damage to equipment or supplies purchased from moneys in
10 such fund; and any proceeds realized from the sale or
11 disposition of any such equipment or supplies which may no
12 longer be necessary for the proper administration of this
13 chapter. Notwithstanding any provision of this section, all
14 money requisitioned and deposited in this fund under s.
15 443.191(5)(c) remains part of the Unemployment Compensation
16 Trust Fund and must be used only in accordance with the
17 conditions specified in s. 443.191(5). All moneys in this
18 fund must be deposited, administered, and disbursed in the
19 same manner and under the same conditions and requirements as
20 is provided by law for other special funds in the State
21 Treasury. Such moneys must be secured by the depositary in
22 which they are held to the same extent and in the same manner
23 as required by the general depositary law of the state, and
24 collateral pledged must be maintained in a separate custody
25 account. All payments from the Employment Security
26 Administration Trust Fund must be approved by the division or
27 by a duly authorized agent and must be made by the Chief
28 Financial Officer ~~Treasurer upon warrants issued by the~~
29 ~~Comptroller~~. Any balances in this fund do not lapse at any
30 time and must remain continuously available to the division
31 for expenditure consistent with this chapter.

1 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST
2 FUND.--There is created in the State Treasury a special fund,
3 to be known as the "Special Employment Security Administration
4 Trust Fund," into which shall be deposited or transferred all
5 interest on contributions, penalties, and fines or fees
6 collected under this chapter. Interest on contributions,
7 penalties, and fines or fees deposited during any calendar
8 quarter in the clearing account in the Unemployment
9 Compensation Trust Fund shall, as soon as practicable after
10 the close of such calendar quarter and upon certification of
11 the division, be transferred to the Special Employment
12 Security Administration Trust Fund. However, there shall be
13 withheld from any such transfer the amount certified by the
14 division to be required under this chapter to pay refunds of
15 interest on contributions, penalties, and fines or fees
16 collected and erroneously deposited into the clearing account
17 in the Unemployment Compensation Trust Fund. Such amounts of
18 interest and penalties so certified for transfer shall be
19 deemed to have been erroneously deposited in the clearing
20 account, and the transfer thereof to the Special Employment
21 Security Administration Trust Fund shall be deemed to be a
22 refund of such erroneous deposits. All moneys in this fund
23 shall be deposited, administered, and disbursed in the same
24 manner and under the same conditions and requirements as are
25 provided by law for other special funds in the State Treasury.
26 These moneys shall not be expended or be available for
27 expenditure in any manner which would permit their
28 substitution for, or permit a corresponding reduction in,
29 federal funds which would, in the absence of these moneys, be
30 available to finance expenditures for the administration of
31 the Unemployment Compensation Law. But nothing in this

1 section shall prevent these moneys from being used as a
2 revolving fund to cover expenditures, necessary and proper
3 under the law, for which federal funds have been duly
4 requested but not yet received, subject to the charging of
5 such expenditures against such funds when received. The
6 moneys in this fund, with the approval of the Executive Office
7 of the Governor, shall be used by the Division of Unemployment
8 Compensation and the Agency for Workforce Innovation for the
9 payment of costs of administration which are found not to have
10 been properly and validly chargeable against funds obtained
11 from federal sources. All moneys in the Special Employment
12 Security Administration Trust Fund shall be continuously
13 available to the division for expenditure in accordance with
14 the provisions of this chapter and shall not lapse at any
15 time. All payments from the Special Employment Security
16 Administration Trust Fund shall be approved by the division or
17 by a duly authorized agent thereof and shall be made by the
18 Chief Financial Officer ~~Treasurer upon warrants issued by the~~
19 ~~Comptroller~~. The moneys in this fund are hereby specifically
20 made available to replace, as contemplated by subsection (3),
21 expenditures from the Employment Security Administration Trust
22 Fund, established by subsection (1), which have been found by
23 the Bureau of Employment Security, or other authorized federal
24 agency or authority, because of any action or contingency, to
25 have been lost or improperly expended. The Chief Financial
26 Officer ~~Treasurer~~ shall be liable on her or his official bond
27 for the faithful performance of her or his duties in
28 connection with the Special Employment Security Administration
29 Trust Fund.

30 Section 510. Section 447.12, Florida Statutes, is
31 amended to read:

1 447.12 Fees for registration.--All fees collected by
2 the department under this part shall be paid to the Chief
3 Financial Officer ~~Treasurer~~ and credited to the General
4 Revenue Fund.

5 Section 511. Subsection (1) of section 450.155,
6 Florida Statutes, is amended to read:

7 450.155 Child Labor Law Trust Fund.--

8 (1) There is created in the State Treasury an account
9 to be known as the Child Labor Law Trust Fund. Subject to such
10 appropriations as the Legislature may make therefor from time
11 to time, disbursements from this account may be made by the
12 division, subject to the approval of the department, in order
13 to carry out the proper responsibilities of administering the
14 Child Labor Law, to protect the working youth of the state,
15 and to provide education about the Child Labor Law to
16 employers, public school employees, the general public, and
17 working youth. The Child Labor Law Trust Fund and the moneys
18 deposited therein shall be under the direct supervision and
19 control of the department, and such moneys may be disbursed by
20 the Chief Financial Officer ~~Treasurer~~ from time to time as
21 determined by the department.

22 Section 512. Paragraph (h) of subsection (2) of
23 section 456.047, Florida Statutes, is amended to read:

24 456.047 Standardized credentialing for health care
25 practitioners.--

26 (2) DEFINITIONS.--As used in this section, the term:

27 (h) "Health care entity" means:

28 1. Any health care facility or other health care
29 organization licensed or certified to provide approved medical
30 and allied health services in this state;

31

1 2. Any entity licensed by the Department of Financial
2 Services Insurance as a prepaid health care plan or health
3 maintenance organization or as an insurer to provide coverage
4 for health care services through a network of providers or
5 similar organization licensed under chapter 627, chapter 636,
6 chapter 641, or chapter 651; or

7 3. Any accredited medical school in this state.

8 Section 513. Subsections (1) and (2) of section
9 468.392, Florida Statutes, are amended to read:

10 468.392 Auctioneer Recovery Fund.--There is created
11 the Auctioneer Recovery Fund as a separate account in the
12 Professional Regulation Trust Fund. The fund shall be
13 administered by the Florida Board of Auctioneers.

14 (1) The Chief Financial Officer ~~Treasurer~~ shall invest
15 the money not currently needed to meet the obligations of the
16 fund in the same manner as other public funds may be invested.
17 Interest that accrues from these investments shall be
18 deposited to the credit of the Auctioneer Recovery Fund and
19 shall be available for the same purposes as other moneys
20 deposited in the Auctioneer Recovery Fund.

21 (2) All payments and disbursements from the Auctioneer
22 Recovery Fund shall be made by the Chief Financial Officer
23 ~~Treasurer~~ upon a voucher signed by the Secretary of Business
24 and Professional Regulation or the secretary's designee.
25 Amounts transferred to the Auctioneer Recovery Fund shall not
26 be subject to any limitation imposed by an appropriation act
27 of the Legislature.

28 Section 514. Subsection (2) of section 473.3065,
29 Florida Statutes, is amended to read:

30 473.3065 Certified Public Accountant Education
31 Minority Assistance Program; advisory council.--

1 (2) All moneys used to provide scholarships under the
2 program shall be funded by a portion of existing license fees,
3 as set by the board, not to exceed \$10 per license. Such
4 moneys shall be deposited into the Professional Regulation
5 Trust Fund in a separate account maintained for that purpose.
6 The department is authorized to spend up to \$100,000 per year
7 for the program from this program account, but may not
8 allocate overhead charges to it. Moneys for scholarships
9 shall be disbursed annually upon recommendation of the
10 advisory council and approval by the board, based on the
11 adopted eligibility criteria and comparative evaluation of all
12 applicants. Funds in the program account may be invested by
13 the Chief Financial Officer ~~Treasurer~~ under the same
14 limitations as apply to investment of other state funds, and
15 all interest earned thereon shall be credited to the program
16 account.

17 Section 515. Subsection (7) of section 475.045,
18 Florida Statutes, is amended to read:

19 475.045 Florida Real Estate Commission Education and
20 Research Foundation.--

21 (7) The Chief Financial Officer ~~Treasurer~~ shall invest
22 \$3 million from the portion of the Professional Regulation
23 Trust Fund credited to the real estate profession, under the
24 same limitations as applied to investments of other state
25 funds, and the income earned thereon shall be available to the
26 foundation to fund the activities and projects authorized
27 under this section. However, any balance of such interest in
28 excess of \$1 million shall revert to the portion of the
29 Professional Regulation Trust Fund credited to the real estate
30 profession. In the event the foundation is abolished, the
31

1 funds in the trust fund shall revert to such portion of the
2 Professional Regulation Trust Fund.

3 Section 516. Subsection (6) of section 475.484,
4 Florida Statutes, is amended to read:

5 475.484 Payment from the fund.--

6 (6) All payments and disbursements from the Real
7 Estate Recovery Fund shall be made by the Chief Financial
8 Officer ~~Treasurer~~ upon a voucher signed by the secretary of
9 the department. Amounts transferred to the Real Estate
10 Recovery Fund shall not be subject to any limitation imposed
11 by an appropriation act of the Legislature.

12 Section 517. Section 475.485, Florida Statutes, is
13 amended to read:

14 475.485 Investment of the fund.--The funds in the Real
15 Estate Recovery Fund may be invested by the Chief Financial
16 Officer ~~Treasurer~~ under the same limitations as apply to
17 investment of other state funds, and the interest earned
18 thereon shall be deposited to the credit of the Real Estate
19 Recovery Fund and shall be available for the same purposes as
20 other moneys deposited in the Real Estate Recovery Fund.

21 Section 518. Section 489.144, Florida Statutes, is
22 amended to read:

23 489.144 Investment of the fund.--The funds in the
24 Construction Industries Recovery Fund may be invested by the
25 Chief Financial Officer ~~Treasurer~~ under the same limitations
26 as apply to the investment of other state funds, and the
27 interest earned thereon shall be deposited to the credit of
28 the Construction Industries Recovery Fund and shall be
29 available for the same purposes as other moneys deposited in
30 the Construction Industries Recovery Fund.

31

1 Section 519. Subsection (6) of section 489.145,
2 Florida Statutes, is amended to read:

3 489.145 Guaranteed energy performance savings
4 contracting.--

5 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
6 Department of Management Services, with the assistance of the
7 Office of the Chief Financial Officer ~~Comptroller~~, may, within
8 available resources, provide technical assistance to state
9 agencies contracting for energy conservation measures and
10 engage in other activities considered appropriate by the
11 department for promoting and facilitating guaranteed energy
12 performance contracting by state agencies. The Office of the
13 Chief Financial Officer ~~Comptroller~~, with the assistance of
14 the Department of Management Services, may, within available
15 resources, develop model contractual and related documents for
16 use by state agencies. Prior to entering into a guaranteed
17 energy performance savings contract, any contract or lease for
18 third-party financing, or any combination of such contracts, a
19 state agency shall submit such proposed contract or lease to
20 the Office of the Chief Financial Officer ~~Comptroller~~ for
21 review and approval.

22 Section 520. Subsection (5) of section 489.533,
23 Florida Statutes, is amended to read:

24 489.533 Disciplinary proceedings.--

25 (5) When the board imposes administrative fines
26 pursuant to subsection (2) resulting from violation of chapter
27 633 or violation of the rules of the State Fire Marshal, 50
28 percent of the fine shall be paid into the Insurance
29 ~~Commissioner's~~ Regulatory Trust Fund to help defray the costs
30 of investigating the violations and obtaining the corrective
31 action. The State Fire Marshal may participate at its

1 discretion, but not as a party, in any proceedings before the
2 board relating to violation of chapter 633 or the rules of the
3 State Fire Marshal, in order to make recommendations as to the
4 appropriate penalty in such case. However, the State Fire
5 Marshal shall not have standing to bring disciplinary
6 proceedings regarding certification.

7 Section 521. Subsection (8) of section 494.001,
8 Florida Statutes, is amended to read:

9 494.001 Definitions.--As used in ss. 494.001-494.0077,
10 the term:

11 (8) "Department" means the Department of Financial
12 Services Banking and Finance.

13 Section 522. Subsection (3) of section 494.0011,
14 Florida Statutes, is amended to read:

15 494.0011 Powers and duties of the department.--

16 (3) All fees, charges, and fines collected by the
17 department pursuant to ss. 494.001-494.0077 shall be deposited
18 in the State Treasury to the credit of the Banking and Finance
19 Regulatory Trust Fund under the department.

20 Section 523. Subsections (1) and (2) of section
21 494.0017, Florida Statutes, are amended to read:

22 494.0017 Mortgage Brokerage Guaranty Fund.--

23 (1) The department shall make transfers from the
24 Banking and Finance Regulatory Trust Fund to the Mortgage
25 Brokerage Guaranty Fund to pay valid claims arising under
26 former ss. 494.042, 494.043, and 494.044, as provided in
27 former s. 494.00171.

28 (2) Any money paid to the Mortgage Brokerage Guaranty
29 Fund in excess of any liability to claimants against the
30 Mortgage Brokerage Guaranty Fund shall be transferred to the
31 Banking and Finance Regulatory Trust Fund.

1 Section 524. Paragraph (a) of subsection (7) of
2 section 494.00421, Florida Statutes, is amended to read:

3 494.00421 Fees earned upon obtaining a bona fide
4 commitment.--Notwithstanding the provisions of ss.
5 494.001-494.0077, any mortgage brokerage business which
6 contracts to receive from a borrower a mortgage brokerage fee
7 upon obtaining a bona fide commitment shall accurately
8 disclose in the mortgage brokerage agreement:

9 (7)(a) The following statement, in no less than
10 12-point boldface type immediately above the signature lines
11 for the borrowers:

12
13 "You are entering into a contract with a mortgage brokerage
14 business to obtain a bona fide mortgage loan commitment under
15 the same terms and conditions as stated hereinabove or in a
16 separate executed good faith estimate form. If the mortgage
17 brokerage business obtains a bona fide commitment under the
18 same terms and conditions, you will be obligated to pay the
19 mortgage brokerage business fees, including, but not limited
20 to, a mortgage brokerage fee, even if you choose not to
21 complete the loan transaction. If the provisions of s.
22 494.00421, Florida Statutes, are not met, the mortgage
23 brokerage fee can only be earned upon the funding of the
24 mortgage loan. The borrower may contact the Department of
25 Financial Services ~~Banking and Finance~~, Tallahassee, Florida,
26 regarding any complaints that the borrower may have against
27 the mortgage broker or the mortgage brokerage business. The
28 telephone number of the department as set by rule of the
29 department is: ...[insert telephone number]...."

30 Section 525. Subsection (16) of section 497.005,
31 Florida Statutes, is amended to read:

1 497.005 Definitions.--As used in this chapter:

2 (16) "Department" means the Department of Financial
3 Services ~~Banking and Finance~~.

4 Section 526. Subsection (1) of section 497.101,
5 Florida Statutes, is amended to read:

6 497.101 Board of Funeral and Cemetery Services;
7 membership; appointment; terms.--

8 (1) The Board of Funeral and Cemetery Services is
9 created within the department ~~of Banking and Finance~~ and shall
10 consist of seven members appointed by the Governor, from
11 nominations made by the Chief Financial Officer ~~Comptroller~~,
12 and confirmed by the Senate. The Chief Financial Officer
13 ~~Comptroller~~ shall nominate three persons for each vacancy on
14 the board, and the Governor shall fill each vacancy on the
15 board by appointing one of the three persons nominated by the
16 Chief Financial Officer ~~Comptroller~~ to fill that vacancy. If
17 the Governor objects to each of the three nominations for a
18 vacancy, she or he shall inform the Chief Financial Officer
19 ~~Comptroller~~ in writing. Upon notification of an objection by
20 the Governor, the Chief Financial Officer ~~Comptroller~~ shall
21 submit three additional nominations for that vacancy until the
22 vacancy is filled.

23 Section 527. Section 497.105, Florida Statutes, is
24 amended to read:

25 497.105 Department ~~of Banking and Finance~~; powers and
26 duties.--The department ~~of Banking and Finance~~ shall:

27 (1) Adopt rules establishing procedures for the
28 renewal of licenses, registrations, and certificates of
29 authority.

30
31

1 (2) Appoint the executive director of the Board of
2 Funeral and Cemetery Services, subject to the approval of the
3 board.

4 (3) With the advice of the board, submit a biennial
5 budget to the Legislature at a time and in the manner provided
6 by law.

7 (4) Develop a training program for persons newly
8 appointed to membership on the board. The program shall
9 familiarize such persons with the substantive and procedural
10 laws and rules which relate to the regulation under this
11 chapter and with the structure of the department.

12 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54
13 to implement the provisions of this chapter conferring duties
14 upon it.

15 (6) Establish by rule procedures by which the
16 department shall use the expert or technical advice of the
17 board, for the purposes of investigation, inspection, audit,
18 evaluation of applications, other duties of the department, or
19 any other areas the department may deem appropriate.

20 (7) Require all proceedings of the board or panels
21 thereof within the department and all formal or informal
22 proceedings conducted by the department, an administrative law
23 judge, or a hearing officer with respect to licensing,
24 registration, certification, or discipline to be
25 electronically recorded in a manner sufficient to ensure the
26 accurate transcription of all matters so recorded.

27 (8) Select only those investigators approved by the
28 board. Such investigators shall report to and work in
29 coordination with the executive director of the board and are
30 responsible for all inspections and investigations other than
31 financial examinations.

1 Section 528. Section 497.107, Florida Statutes, is
2 amended to read:

3 497.107 Headquarters.--The Board of Funeral and
4 Cemetery Services may be contacted through the headquarters of
5 the department ~~of Banking and Finance~~ in the City of
6 Tallahassee.

7 Section 529. Subsection (4) of section 497.109,
8 Florida Statutes, is amended to read:

9 497.109 Board of Funeral and Cemetery Services;
10 membership.--

11 (4) Unless otherwise provided by law, a board member
12 shall be compensated \$50 for each day the member attends an
13 official meeting of the board and for each day the member
14 participates in any other business involving the board. The
15 board shall adopt rules defining the phrase "other business
16 involving the board," but the phrase may not be defined to
17 include telephone conference calls. A board member is
18 entitled to reimbursement for expenses pursuant to s. 112.061,
19 but travel out of state requires the prior approval of the
20 Chief Financial Officer ~~Comptroller~~.

21 Section 530. Section 497.115, Florida Statutes, is
22 amended to read:

23 497.115 Board rules; final agency action;
24 challenges.--

25 (1) The Chief Financial Officer ~~Comptroller~~ shall have
26 standing to challenge any rule or proposed rule of the board
27 pursuant to s. 120.56. In addition to challenges for any
28 invalid exercise of delegated legislative authority, the
29 administrative law judge, upon such a challenge by the Chief
30 Financial Officer ~~Comptroller~~, may declare all or part of a
31 rule or proposed rule invalid if it:

1 (a) Does not protect the public from any significant
2 and discernible harm or damages;

3 (b) Unreasonably restricts competition or the
4 availability of professional services in the state or in a
5 significant part of the state; or

6 (c) Unnecessarily increases the cost of professional
7 services without a corresponding or equivalent public benefit.

8
9 However, there shall not be created a presumption of the
10 existence of any of the conditions cited in this subsection in
11 the event that the rule or proposed rule is challenged.

12 (2) In addition, either the Chief Financial Officer
13 ~~Comptroller~~ or the board shall be a substantially interested
14 party for purposes of s. 120.54(7). The board may, as an
15 adversely affected party, initiate and maintain an action
16 pursuant to s. 120.68 challenging the final agency action.

17 Section 531. Section 497.117, Florida Statutes, is
18 amended to read:

19 497.117 Legal and investigative services.--

20 (1) The Department of Legal Affairs shall provide
21 legal services to the board within the Department of Financial
22 Services ~~Banking and Finance~~, but the primary responsibility
23 of the Department of Legal Affairs shall be to represent the
24 interests of the citizens of the state by vigorously
25 counseling the board with respect to its obligations under the
26 laws of the state. Subject to the prior approval of the
27 Attorney General, the board may retain independent legal
28 counsel to provide legal advice to the board on a specific
29 matter. Fees and costs of such counsel shall be paid from the
30 Banking and Finance Regulatory Trust Fund of the Department of
31 Financial Services ~~Banking and Finance~~.

1 (2) The Department of Financial Services ~~Banking and~~
2 ~~Finance~~ may employ or utilize the legal services of outside
3 counsel and the investigative services of outside personnel.
4 However, no attorney employed or utilized by the department
5 shall prosecute a matter or provide legal services to the
6 board with respect to the same matter.

7 Section 532. Subsections (1), (4), and (8) of section
8 497.131, Florida Statutes, are amended to read:

9 497.131 Disciplinary proceedings.--

10 (1) The department shall cause to be investigated any
11 complaint which is filed before it if the complaint is in
12 writing, signed by the complainant, and legally sufficient. A
13 complaint is legally sufficient if it contains ultimate facts
14 which show that a violation of this chapter, or of any rule
15 promulgated by the department or board has occurred. In order
16 to determine legal sufficiency, the department may require
17 supporting information or documentation. The department may
18 investigate or continue to investigate, and the department and
19 the board may take appropriate final action on, a complaint
20 even though the original complainant withdraws it or otherwise
21 indicates her or his desire not to cause the complaint to be
22 investigated or prosecuted to completion. The department may
23 investigate an anonymous complaint if the complaint is in
24 writing and is legally sufficient, if the alleged violation of
25 law or rules is substantial, and if the department has reason
26 to believe, after preliminary inquiry, that the alleged
27 violations in the complaint are true. The department may
28 investigate a complaint made by a confidential informant if
29 the complaint is legally sufficient, if the alleged violation
30 of law or rule is substantial, and if the department has
31 reason to believe, after preliminary inquiry, that the

1 | allegations of the complainant are true. The department may
2 | initiate an investigation if it has reasonable cause to
3 | believe that a person has violated a state statute, a rule of
4 | the department, or a rule of the board. When an investigation
5 | of any person is undertaken, the department shall promptly
6 | furnish to the person or her or his attorney a copy of the
7 | complaint or document which resulted in the initiation of the
8 | investigation. The person may submit a written response to
9 | the information contained in such complaint or document within
10 | 20 days after service to the person of the complaint or
11 | document. The person's written response shall be considered
12 | by the probable cause panel. This right to respond shall not
13 | prohibit the department from issuing a summary emergency order
14 | if necessary to protect the public. However, if the Chief
15 | Financial Officer ~~Comptroller~~ or her or his designee and the
16 | chair of the board or the chair of its probable cause panel
17 | agree in writing that such notification would be detrimental
18 | to the investigation, the department may withhold
19 | notification. The department may conduct an investigation
20 | without notification to any person if the act under
21 | investigation is a criminal offense.

22 | (4) The determination as to whether probable cause
23 | exists shall be made by majority vote of the probable cause
24 | panel of the board. The board shall provide, by rule, that the
25 | determination of probable cause shall be made by a panel of
26 | its members or by the department. The board may provide, by
27 | rule, for multiple probable cause panels composed of at least
28 | two members. The board may provide, by rule, that one or more
29 | members of the panel or panels may be a former board member.
30 | The length of term or repetition of service of any such former
31 | board member on a probable cause panel may vary according to

1 the direction of the board when authorized by board rule. Any
2 probable cause panel must include one of the board's former or
3 present consumer members, if one is available, willing to
4 serve, and is authorized to do so by the board chair. Any
5 probable cause panel must include a present board member. Any
6 probable cause panel must include a former or present
7 professional board member. However, any former professional
8 board member serving on the probable cause panel must hold an
9 active valid license for that profession. All probable cause
10 proceedings conducted pursuant to the provisions of this
11 section are exempt from the provisions of s. 286.011 and s.
12 24(b), Art. I of the State Constitution. The probable cause
13 panel may make a reasonable request, and upon such request the
14 department shall provide such additional investigative
15 information as is necessary to the determination of probable
16 cause. A request for additional investigative information
17 shall be made within 15 days from the date of receipt by the
18 probable cause panel of the investigative report of the
19 department. The probable cause panel shall make its
20 determination of probable cause within 30 days after receipt
21 by it of the final investigative report of the department. The
22 Chief Financial Officer ~~Comptroller~~ may grant extensions of
23 the 15-day and the 30-day time limits. If the probable cause
24 panel does not find probable cause within the 30-day time
25 limit, as may be extended, or if the probable cause panel
26 finds no probable cause, the department may determine, within
27 10 days after the panel fails to determine probable cause or
28 10 days after the time limit has elapsed, that probable cause
29 exists. If the probable cause panel finds that probable cause
30 exists, it shall direct the department to file a formal
31 complaint against the licensee. The department shall follow

1 the directions of the probable cause panel regarding the
2 filing of a formal complaint. If directed to do so, the
3 department shall file a formal complaint against the subject
4 of the investigation and prosecute that complaint pursuant to
5 the provisions of chapter 120. However, the department may
6 decide not to prosecute the complaint if it finds that
7 probable cause had been improvidently found by the panel. In
8 such cases, the department shall refer the matter to the
9 board. The board may then file a formal complaint and
10 prosecute the complaint pursuant to the provisions of chapter
11 120. The department shall also refer to the board any
12 investigation or disciplinary proceeding not before the
13 Division of Administrative Hearings pursuant to chapter 120 or
14 otherwise completed by the department within 1 year after the
15 filing of a complaint. A probable cause panel or the board may
16 retain independent legal counsel, employ investigators, and
17 continue the investigation as it deems necessary; all costs
18 thereof shall be paid from the department's Banking and
19 Finance Regulatory Trust Fund. All proceedings of the probable
20 cause panel shall be exempt from the provisions of s. 120.525.

21 (8) Any proceeding for the purpose of summary
22 suspension of a license, or for the restriction of a license,
23 of a licensee pursuant to s. 120.60(6) shall be conducted by
24 the Chief Financial Officer ~~Comptroller~~ or her or his
25 designee, who shall issue the final summary order.

26 Section 533. Paragraph (f) of subsection (3) of
27 section 497.201, Florida Statutes, is amended to read:

28 497.201 Cemetery companies; license; application;
29 fee.--
30
31

1 (3) If the board finds that the applicant meets the
2 criteria established in subsection (2), the department shall
3 notify the applicant that a license will be issued when:

4 (f) The applicant has recorded, in the public records
5 of the county in which the land is located, a notice which
6 contains the following language:

7
8 NOTICE

9
10 The property described herein shall not be sold, conveyed,
11 leased, mortgaged, or encumbered without the prior written
12 approval of the Department of Financial Services ~~Banking and~~
13 ~~Finance~~, as provided in the Florida Funeral and Cemetery
14 Services Act.

15
16 Such notice shall be clearly printed in boldfaced type of not
17 less than 10 points and may be included on the face of the
18 deed of conveyance to the licensee or may be contained in a
19 separate recorded instrument which contains a description of
20 the property.

21 Section 534. Paragraph (d) of subsection (3) of
22 section 497.253, Florida Statutes, is amended to read:

23 497.253 Minimum acreage; sale or disposition of
24 cemetery lands.--

25 (3)

26 (d) Any deed, mortgage, or other conveyance by a
27 cemetery company or other owner pursuant to subsections (a)
28 and (c) above must contain a disclosure in the following or
29 substantially similar form:

1 NOTICE: The property described herein was formerly used and
2 dedicated as a cemetery. Conveyance of this property and its
3 use for noncemetery purposes was authorized by the Florida
4 Department of Banking and Finance or the Department of
5 Financial Services by Order No., dated

6 Section 535. Subsection (4) of section 497.313,
7 Florida Statutes, is amended to read:

8 497.313 Other charges.--Other than the fees for the
9 sale of burial rights, burial merchandise, and burial
10 services, no other fee may be directly or indirectly charged,
11 contracted for, or received by a cemetery company as a
12 condition for a customer to use any burial right, burial
13 merchandise, or burial service, except for:

14 (4) Charges for credit life and credit disability
15 insurance, as requested by the purchaser, the premiums for
16 which may not exceed the applicable premiums chargeable in
17 accordance with the rates filed with the Department of
18 Financial Services ~~Insurance~~.

19 Section 536. Section 497.403, Florida Statutes, is
20 amended to read:

21 497.403 Insurance business not authorized.--Nothing in
22 the Florida Insurance Code or this chapter shall be deemed to
23 authorize any preneed funeral merchandise or service contract
24 business or any preneed burial merchandise or service business
25 to transact any insurance business, other than that of preneed
26 funeral merchandise or service insurance or preneed burial
27 merchandise or service insurance, or otherwise to engage in
28 any other type of insurance unless it is authorized under a
29 certificate of authority issued by the Department of Financial
30 Services ~~Insurance~~ under the provisions of the Florida

31

1 Insurance Code. Any insurance business transacted under this
2 section must comply with the provisions of s. 626.785.

3 Section 537. Paragraph (b) of subsections (4), and
4 subsections (9), and (12) of section 497.407, Florida
5 Statutes, are amended to read:

6 497.407 Certificate of authority; annual statement;
7 renewal; transfer.--

8 (4)

9 (b) Any person or entity that is part of a common
10 business enterprise that has a certificate of authority issued
11 pursuant to this section and elects to operate under a name
12 other than that of the common business enterprise shall submit
13 an application on a form adopted by the board to become a
14 branch registrant. Upon the approval of the board that such
15 entity qualifies to sell preneed contracts under this chapter
16 except for the requirements of subparagraph (2)(c)1. and if
17 the certificateholder meets the requirements of such
18 subparagraph, a branch registration shall be issued. Each
19 branch registrant may operate under the certificate of
20 authority of the common business enterprise upon the payment
21 of a fee established by the board not to exceed \$150
22 accompanying the application on April 1 annually. The fee
23 shall be payable to the department's Banking and Finance
24 Regulatory Trust Fund.

25 (9) In addition to any other penalty that may be
26 provided for under this chapter, the board may levy a fine not
27 to exceed \$50 a day for each day the certificateholder fails
28 to file its annual statement, and the board may levy a fine
29 not to exceed \$50 a day for each day the certificateholder
30 fails to file the statement of activities of the trust. Upon
31 notice to the certificateholder by the board that the

1 certificateholder has failed to file the annual statement or
2 the statement of activities of the trust, the
3 certificateholder's authority to sell preneed contracts shall
4 cease while such default continues. The board shall deposit
5 all sums collected under this section to the credit of the
6 department's Banking and Finance Regulatory Trust Fund.

7 (12) Each certificateholder shall pay to the
8 department's Banking and Finance Regulatory Trust Fund an
9 amount established by the board not to exceed \$10 for each
10 preneed contract entered into. This amount must be paid within
11 60 days after the end of each quarter. These funds must be
12 used to defray the cost of the board and the department in
13 administering the provisions of this chapter.

14 Section 538. Subsection (3) of section 497.435,
15 Florida Statutes, is amended to read:

16 497.435 Administrative fine in lieu of revocation or
17 suspension of certificate of authority.--

18 (3) The fine shall be deposited into the department's
19 Banking and Finance Regulatory Trust Fund.

20 Section 539. Section 497.525, Florida Statutes, is
21 amended to read:

22 497.525 Disposition of fees and penalties.--All fees
23 and penalties collected pursuant to this chapter shall be
24 deposited in the Banking and Finance Regulatory Trust Fund of
25 the department.

26 Section 540. Paragraphs (d) and (m) of subsection (1)
27 of section 498.025, Florida Statutes, are amended to read:

28 498.025 Exemptions.--

29 (1) Except as provided in s. 498.022, the provisions
30 of this chapter do not apply to:

31

1 (d) An offer or transfer of securities currently
2 registered with the Department of Financial Services ~~Banking~~
3 ~~and Finance~~ or the United States Securities and Exchange
4 Commission, except when s. 498.023(4) applies.

5 (m) The offer or disposition of an interest in
6 subdivided lands to an accredited investor, as defined by rule
7 of the Florida Department of Financial Services ~~Banking and~~
8 ~~Finance~~ in accordance with Securities and Exchange Commission
9 Regulation 230.501, 17 C.F.R. s. 230.501.

10 Section 541. Subsection (5) of section 498.049,
11 Florida Statutes, is amended to read:

12 498.049 Suspension; revocation; civil penalties.--

13 (5) Each person who materially participates in any
14 offer or disposition of any interest in subdivided lands in
15 violation of this chapter or relevant rules involving fraud,
16 deception, false pretenses, misrepresentation, or false
17 advertising or the disposition, concealment, or diversion of
18 any funds or assets of any person which adversely affects the
19 interests of a purchaser of any interest in subdivided lands,
20 and who directly or indirectly controls a subdivider or is a
21 general partner, officer, director, agent, or employee of a
22 subdivider shall also be liable under this subsection jointly
23 and severally with and to the same extent as the subdivider,
24 unless that person did not know, and in the exercise of
25 reasonable care could not have known, of the existence of the
26 facts creating the alleged liability. Among these persons a
27 right of contribution shall exist, except that a creditor of a
28 subdivider shall not be jointly and severally liable unless
29 the creditor has assumed managerial or fiduciary
30 responsibility in a manner related to the basis for the
31 liability of the subdivider under this subsection. Civil

1 penalties shall be limited to \$10,000 for each offense, and
2 all amounts collected shall be deposited with the Chief
3 Financial Officer ~~Treasurer~~ to the credit of the Division of
4 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.
5 No order requiring the payment of a civil penalty shall become
6 effective until 20 days after the date of the order, unless
7 otherwise agreed in writing by the person on whom the penalty
8 is imposed.

9 Section 542. Section 499.057, Florida Statutes, is
10 amended to read:

11 499.057 Expenses and salaries.--All expenses and
12 salaries shall be paid out of the special fund hereby created
13 in the office of the Chief Financial Officer ~~Treasurer~~, which
14 fund is to be known as the "Florida Drug, Device, and Cosmetic
15 Trust Fund."

16 Section 543. Subsection (4) of section 501.212,
17 Florida Statutes, is amended to read:

18 501.212 Application.--This part does not apply to:

19 (4) Any person or activity regulated under laws
20 administered, ~~by the Department of Insurance~~ or banks and
21 savings and loan associations regulated, ~~by the Department of~~
22 Financial Services ~~Banking and Finance~~ or banks or savings and
23 loan associations regulated by federal agencies.

24 Section 544. Subsection (7) of section 509.215,
25 Florida Statutes, is amended to read:

26 509.215 Firesafety.--

27 (7) The National Fire Protection Association
28 publications referenced in this section are the ones most
29 recently adopted by rule of the Division of State Fire Marshal
30 of the Department of Financial Services ~~Insurance~~.

31

1 Section 545. Paragraph (a) of subsection (2) of
2 section 513.055, Florida Statutes, is amended to read:

3 513.055 Revocation or suspension of permit; fines;
4 procedure.--

5 (2)

6 (a) In lieu of such suspension or revocation of a
7 permit, the department may impose a fine against a permittee
8 for the permittee's failure to comply with the provisions
9 described in paragraph (1)(a) or may place such licensee on
10 probation. No fine so imposed shall exceed \$500 for each
11 offense, and all amounts collected in fines shall be deposited
12 with the Chief Financial Officer ~~Treasurer~~ to the credit of
13 the County Health Department Trust Fund.

14 Section 546. Subsection (3) of section 516.01, Florida
15 Statutes, is amended to read:

16 516.01 Definitions.--As used in this chapter, the
17 term:

18 (3) "Department" means the Department of Financial
19 Services ~~Banking and Finance~~.

20 Section 547. Subsection (2) of section 516.03, Florida
21 Statutes, is amended to read:

22 516.03 Application for license; fees; etc.--

23 (2) FEES.--Fees herein provided for shall be collected
24 by the department and shall be turned into the State Treasury
25 to the credit of the Banking and Finance Regulatory Trust Fund
26 under the department. The department shall have full power to
27 employ such examiners or clerks to assist the department as
28 may from time to time be deemed necessary and fix their
29 compensation. The department may adopt rules to allow
30 electronic submission of any fee required by this section.

31

1 Section 548. Subsection (1) of section 516.35, Florida
2 Statutes, is amended to read:

3 516.35 Credit insurance must comply with credit
4 insurance act.--

5 (1) Tangible property offered as security may be
6 reasonably insured against loss for a reasonable term,
7 considering the circumstances of the loan. If such insurance
8 is sold at standard rates through a person duly licensed by
9 the department ~~of insurance~~ and if the policy is payable to
10 the borrower or any member of her or his family, it shall not
11 be deemed to be a collateral sale, purchase, or agreement even
12 though a customary mortgagee clause is attached or the
13 licensee is a coassured.

14 Section 549. Subsection (7) of section 517.021,
15 Florida Statutes, is amended to read:

16 517.021 Definitions.--When used in this chapter,
17 unless the context otherwise indicates, the following terms
18 have the following respective meanings:

19 (7) "Department" means the Department of Financial
20 Services ~~Banking and Finance~~.

21 Section 550. Subsection (1) of section 517.03, Florida
22 Statutes, is amended to read:

23 517.03 Rulemaking; immunity for acts in conformity
24 with rules.--

25 (1) The department ~~of Banking and Finance~~ shall
26 administer and provide for the enforcement of all the
27 provisions of this chapter. The department has authority to
28 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
29 the provisions of this chapter conferring powers or duties
30 upon it, including, without limitation, adopting rules and
31 forms governing reports. The department shall also have the

1 nonexclusive power to define by rule any term, whether or not
2 used in this chapter, insofar as the definition is not
3 inconsistent with the provisions of this chapter.

4 Section 551. Subsection (13) of section 517.061,
5 Florida Statutes, is amended to read:

6 517.061 Exempt transactions.--The exemption for each
7 transaction listed below is self-executing and does not
8 require any filing with the department prior to claiming such
9 exemption. Any person who claims entitlement to any of the
10 exemptions bears the burden of proving such entitlement in any
11 proceeding brought under this chapter. The registration
12 provisions of s. 517.07 do not apply to any of the following
13 transactions; however, such transactions are subject to the
14 provisions of ss. 517.301, 517.311, and 517.312:

15 (13) An unsolicited purchase or sale of securities on
16 order of, and as the agent for, another by a dealer registered
17 with the department ~~of Banking and Finance~~ pursuant to the
18 provisions of s. 517.12; provided that this exemption applies
19 solely and exclusively to such registered dealers and does not
20 authorize or permit the purchase or sale of securities on
21 order of, and as agent for, another by any person other than a
22 dealer so registered; and provided, further, that such
23 purchase or sale is not directly or indirectly for the benefit
24 of the issuer or an underwriter of such securities or for the
25 direct or indirect promotion of any scheme or enterprise with
26 the intent of violation or evading any provision of this
27 chapter.

28 Section 552. Subsections (2) and (5) of section
29 517.075, Florida Statutes, are amended to read:

30 517.075 Cuba, prospectus disclosure of doing business
31 with, required.--

1 (2) Any disclosure required by subsection (1) must
2 include:

3 (a) The name of such person, affiliate, or government
4 with which the issuer does business and the nature of that
5 business;

6 (b) A statement that the information is accurate as of
7 the date the securities were effective with the United States
8 Securities and Exchange Commission or with the department,
9 whichever date is later; and

10 (c) A statement that current information concerning
11 the issuer's business dealings with the government of Cuba or
12 with any person or affiliate located in Cuba may be obtained
13 from the department ~~of Banking and Finance~~, which statement
14 must include the address and phone number of the department.

15 (5) Each securities offering sold in violation of this
16 section, and each failure of an issuer to timely file the form
17 required by subsection (3), subjects the issuer to a fine of
18 up to \$5,000. Any fine collected under this section shall be
19 deposited into the Anti-Fraud Trust Fund of the department ~~of~~
20 ~~Banking and Finance~~.

21 Section 553. Subsection (2) of section 517.1204,
22 Florida Statutes, is amended to read:

23 517.1204 Investment Fraud Restoration Financing
24 Corporation.--

25 (2) The corporation shall be governed by a board of
26 directors consisting of the Chief Financial Officer or his or
27 her designee ~~assistant comptroller~~, the Secretary of Elderly
28 Affairs or the secretary's designee, and the executive
29 director of the Department of Veterans' Affairs or the
30 executive director's designee. The executive director of the
31 State Board of Administration shall be the chief executive

1 officer of the corporation and shall direct and supervise the
2 administrative affairs of the corporation and shall control,
3 direct, and supervise the operation of the corporation. The
4 corporation shall also have such other officers as may be
5 determined by the board of directors.

6 Section 554. Section 517.1205, Florida Statutes, is
7 amended to read:

8 517.1205 Registration of associated persons specific
9 as to securities dealer, investment adviser, or federal
10 covered adviser identified at time of registration
11 approval.--Inasmuch as this chapter is intended to protect
12 investors in securities offerings and other investment
13 transactions regulated by that chapter, its provisions are to
14 be construed to require full and fair disclosure of all, but
15 only, those matters material to the investor's evaluation of
16 the offering or other transaction. It should, furthermore, be
17 construed to impose the standards provided by law on all those
18 seeking to participate in the state's securities industry
19 through registration as a securities dealer, investment
20 adviser, or associated person. To this end, it is declared to
21 be the intent of the Legislature that the registration of
22 associated persons required by law is specific to the
23 securities dealer, investment adviser, or federal covered
24 adviser identified at the time such registration is approved.
25 Notwithstanding any interpretation of law to the contrary, the
26 historical practice of the department ~~of Banking and Finance~~,
27 reflected in its rules, that requires a new application for
28 registration from a previously registered associated person
29 when that person seeks to be associated with a new securities
30 dealer or investment adviser is hereby ratified and approved
31 as consistent with legislative intent. It is, finally,

1 declared to be the intent of the Legislature that while
2 approval of an application for registration of a securities
3 dealer, investment adviser, associated person, or branch
4 office requires a finding of the applicant's good repute and
5 character, such finding is precluded by a determination that
6 the applicant may be denied registration on grounds provided
7 by law.

8 Section 555. Paragraph (a) of subsection (1) of
9 section 517.131, Florida Statutes, is amended to read:

10 517.131 Securities Guaranty Fund.--

11 (1)(a) The Chief Financial Officer ~~Treasurer~~ shall
12 establish a Securities Guaranty Fund. An amount not exceeding
13 20 percent of all revenues received as assessment fees
14 pursuant to s. 517.12(10) and (11) for dealers and investment
15 advisers or s. 517.1201 for federal covered advisers and an
16 amount not exceeding 10 percent of all revenues received as
17 assessment fees pursuant to s. 517.12(10) and (11) for
18 associated persons shall be allocated to the fund. An
19 additional amount not exceeding 3.5 percent of all revenues
20 received as assessment fees for associated persons pursuant to
21 s. 517.12(10) and (11) shall be allocated to the Securities
22 Guaranty Fund but only after the department determines, by
23 final order, that sufficient funds have been allocated to the
24 fund pursuant to s. 517.1203 to satisfy all valid claims filed
25 in accordance with s. 517.1203(2) and after all amounts
26 payable under any service contract entered into by the
27 department pursuant to s. 517.1204, and all notes, bonds,
28 certificates of indebtedness, other obligations, or evidences
29 of indebtedness secured by such notes, bonds, certificates of
30 indebtedness, or other obligations, have been paid or
31 provision has been made for the payment of such amounts,

1 notes, bonds, certificates of indebtedness, other obligations,
2 or evidences of indebtedness. This assessment fee shall be
3 part of the regular license fee and shall be transferred to or
4 deposited in the Securities Guaranty Fund.

5 Section 556. Subsection (10) of section 517.141,
6 Florida Statutes, is amended to read:

7 517.141 Payment from the fund.--

8 (10) All payments and disbursements made from the
9 Securities Guaranty Fund shall be made by the Chief Financial
10 Officer ~~Treasurer upon a voucher signed by the Comptroller, as~~
11 ~~head of the department, or such agent as she or he may~~
12 ~~designate.~~

13 Section 557. Section 517.151, Florida Statutes, is
14 amended to read:

15 517.151 Investments of the fund.--The funds of the
16 Securities Guaranty Fund shall be invested by the Chief
17 Financial Officer ~~Treasurer~~ under the same limitations as
18 other state funds, and the interest earned thereon shall be
19 deposited to the credit of the fund and available for the same
20 purpose as other moneys deposited in the Securities Guaranty
21 Fund.

22 Section 558. Paragraph (b) of subsection (1) of
23 section 518.115, Florida Statutes, is amended to read:

24 518.115 Power of fiduciary or custodian to deposit
25 securities in a central depository.--

26 (1)

27 (b) A bank or a trust company so depositing securities
28 with a clearing corporation shall be subject to such rules and
29 regulations with respect to the making and maintenance of such
30 deposit as, in the case of state-chartered institutions, the
31 Department of Financial Services ~~Banking and Finance~~ and, in

1 the case of national banking associations, the Comptroller of
2 the Currency may from time to time issue.

3 Section 559. Paragraph (b) of subsection (1) of
4 section 518.116, Florida Statutes, is amended to read:

5 518.116 Power of certain fiduciaries and custodians to
6 deposit United States Government and agency securities with a
7 Federal Reserve bank.--

8 (1)

9 (b) A bank or trust company so depositing securities
10 with a Federal Reserve Bank shall be subject to such rules and
11 regulations with respect to the making and maintenance of such
12 deposits as, in the case of state-chartered institutions, the
13 Department of Financial Services ~~Banking and Finance~~ and, in
14 the case of national banking associations, the Comptroller of
15 the Currency may from time to time issue. The records of such
16 bank or trust company shall at all times show the ownership of
17 the securities held in such account.

18 Section 560. Subsections (1), (3), and (4), paragraphs
19 (b), (c), (d), and (e) of subsection (5), and subsections (6),
20 (7), and (9) of section 519.101, Florida Statutes, are amended
21 to read:

22 519.101 Florida equity exchange feasibility study;
23 structure, operation, and regulation.--

24 (1) There may be created one or more Florida equity
25 exchanges, with one or more offices each, upon a determination
26 by the Chief Financial Officer ~~Comptroller~~ that each such
27 exchange has a reasonable promise of successful operation,
28 will promote economic development, will produce net economic
29 benefits in the state, and will not expose the public to undue
30 risk of financial loss. This determination shall be based on
31 the results of a feasibility study concerning the possible

1 structure, operation, and regulation of each such exchange, to
2 be carried out under the supervision of the Chief Financial
3 Officer ~~Comptroller~~. The Secretary of Commerce shall provide
4 the Chief Financial Officer ~~Comptroller~~ any needed advice on
5 economic development aspects of the feasibility study. Said
6 feasibility study shall evaluate to what extent securities
7 laws may limit the transferability of investments in which any
8 exchange would deal; to what extent companies financed through
9 securities in which the exchange would deal would prefer a
10 stable group of investors; to what extent the particular
11 investment objectives of potential participants in any
12 exchange might be inconsistent with an exchange operation; and
13 the possibility that the frequency of investment opportunities
14 of the type in which an exchange would deal would be too low
15 to economically operate any exchange. The determination of
16 the Chief Financial Officer ~~Comptroller~~ shall constitute a
17 final order as defined in s. 120.52 and shall be subject to
18 the provisions of chapter 120. Nothing in this section,
19 however, shall be construed to require the expenditure of
20 state funds for the purpose of conducting any such feasibility
21 study. For the purposes of this section, the term "exchange"
22 shall apply to any such Florida equity exchange proposed or
23 created under this section.

24 (3) Within 30 days following such determination, a
25 committee shall be appointed to write the constitution and
26 bylaws of the exchange. The Chief Financial Officer
27 ~~Comptroller~~ may provide technical assistance to the committee
28 on the development of the constitution and bylaws of the
29 exchange. The committee shall consist of 15 members, 11
30 members to be appointed by the Governor, 2 members to be
31 appointed by the Speaker of the House of Representatives, and

1 2 members to be appointed by the President of the Senate. The
2 chair shall be elected by a majority of the committee. The
3 committee shall transmit such proposed constitution, bylaws,
4 and other recommendations for the approval of the Chief
5 Financial Officer ~~Comptroller~~ no later than 90 days following
6 the first meeting of the committee. In reviewing the
7 constitution and the bylaws of the exchange, as well as any
8 other recommendations made to the Chief Financial Officer
9 ~~Comptroller~~ by the committee, the Chief Financial Officer
10 ~~Comptroller~~ shall consider whether such constitution, bylaws,
11 and recommendations are reasonably consistent with the public
12 interest and the efficient functioning of the exchange. The
13 Chief Financial Officer ~~Comptroller~~ shall approve the
14 constitution and bylaws of the exchange if he or she finds
15 that they specifically describe the types of business that the
16 exchange will conduct, that such business activities are not
17 inconsistent with state or federal law, that the form of
18 business organization of the exchange complies with statutory
19 requirements, and that the interest of owners or members of
20 the exchange would be adequately protected. The submission of
21 the proposed constitution and bylaws to the Chief Financial
22 Officer ~~Comptroller~~ shall be deemed an application for a
23 license and shall be subject to the provisions of s.
24 120.80(9).

25 (4) The exchange shall have full authority to function
26 60 days after its constitution and bylaws are approved by the
27 Chief Financial Officer ~~Comptroller~~. The initial Board of
28 Governors of the exchange shall consist of the members of the
29 committee who shall serve until the first election pursuant to
30 the constitution and bylaws. If the constitution and bylaws
31 are disapproved by the Chief Financial Officer ~~Comptroller~~,

1 the committee, in consultation with the Chief Financial
2 Officer Comptroller, shall have 60 days from the date of such
3 disapproval within which to submit an acceptable constitution
4 and bylaws.

5 (5) The constitution and bylaws of the exchange shall
6 include provision that:

7 (b) The principal offices of each exchange and the
8 principal offices of its members shall be located within this
9 state for the purpose of conducting the type of business
10 described in subsection (2). Any exchange may have such other
11 offices around the state as it deems necessary from time to
12 time, subject to a determination by the Chief Financial
13 Officer Comptroller that such additional offices will be
14 necessary for the efficient operation of the exchange and will
15 be in the public interest.

16 (c) All members and applicants for membership on the
17 exchange shall submit all financial information reasonably
18 required by the Chief Financial Officer Comptroller.

19 (d) The exchange shall establish or participate in a
20 security fund which shall be capitalized or underwritten in
21 such form and amount as will reasonably protect persons
22 transacting business through the exchange from any harm or
23 loss occasioned by the insolvency of any member of the
24 exchange. The formation of such security fund and the
25 adequacy of the financial security provided thereby shall be
26 subject to the approval of the Department of Financial
27 Services Banking and Finance based upon the types and amounts
28 of transactions effected through the facilities of the
29 exchange.

30 (e) Rules shall be adopted prescribing eligibility for
31 membership and the voting power, duties, and rights to

1 participate in the conduct and management of the affairs of
2 the exchange by the members thereof, such rights and duties to
3 include, without limitation, the manner and form of conducting
4 business, financial stability requirements, dues, membership
5 fees, resolution of dispute mechanisms, and all other matters
6 necessary or appropriate to conduct any business permitted
7 herein; however, such rules shall not impose any limit on the
8 number of members of any such exchange. Any amendments to the
9 constitution and bylaws shall be subject to the approval of
10 the Chief Financial Officer ~~Comptroller~~.

11 (6) If the exchange contemplated by this section is
12 established, the Chief Financial Officer ~~Comptroller~~ shall
13 furnish the chairs of the finance and taxation committees of
14 the Legislature with copies of its constitution and bylaws.
15 Upon receipt of the constitution and bylaws, the Legislature
16 shall consider what tax policy and tax exemptions are needed
17 to facilitate successful operation of the exchange.

18 (7) If the exchange contemplated by this section is
19 finally established, the Chief Financial Officer ~~Comptroller~~
20 shall forthwith adopt rules providing for the reimbursement by
21 the exchange or any member thereof of the actual costs
22 incurred by the Chief Financial Officer ~~Comptroller~~ in
23 connection with the regulation and supervision of the
24 exchange. As used in this section, "actual costs" means all
25 direct and indirect costs and expenses incurred by the Chief
26 Financial Officer ~~Comptroller~~ in connection with the exchange
27 including, without limitation, general administrative costs,
28 travel expenses, salaries, and other benefits given to persons
29 involved in the regulation and supervision of the exchange.
30 The Chief Financial Officer ~~Comptroller~~ shall have the power
31 to make any allocations that are deemed reasonable and

1 necessary and may require the exchange or any members to pay
2 interim assessments related to estimated final assessments.

3 (9) The Chief Financial Officer ~~Comptroller~~ may
4 establish limitations on investments in members of the
5 exchange by any person or company, consistent with the public
6 interest and the efficient functioning of the exchange.

7 Section 561. Subsection (3) of section 520.02, Florida
8 Statutes, is amended to read:

9 520.02 Definitions.--In this act, unless the context
10 or subject matter otherwise requires:

11 (3) "Department" means the Department of Financial
12 Services ~~Banking and Finance~~.

13 Section 562. Subsection (4) of section 520.07, Florida
14 Statutes, is amended to read:

15 520.07 Requirements and prohibitions as to retail
16 installment contracts.--

17 (4) The amount, if any, included for insurance which
18 may be purchased by the holder of the retail installment
19 contract may not exceed the applicable premiums chargeable in
20 accordance with the rates filed with the Department of
21 Financial Services ~~Insurance~~. If dual interest insurance on
22 the motor vehicle is purchased by the holder, it shall, within
23 30 days after execution of the retail installment contract,
24 send or cause to be sent to the buyer a policy or policies or
25 certificate of insurance, written by an insurance company
26 authorized to do business in this state, clearly setting forth
27 the amount of the premium, the kind or kinds of insurance, the
28 coverages, and all the terms, exceptions, limitations,
29 restrictions, and conditions of the contract or contracts of
30 insurance. Nothing in this act shall impair or abrogate the
31 right of a buyer, as defined herein, to procure insurance from

1 an agent and company of his or her own selection as provided
2 by the insurance laws of this state; and nothing contained in
3 this act shall modify, amend, alter, or repeal any of the
4 insurance laws of the state, including any such laws enacted
5 by the 1957 Legislature.

6 Section 563. Subsection (3) of section 520.31, Florida
7 Statutes, is amended to read:

8 520.31 Definitions.--Unless otherwise clearly
9 indicated by the context, the following words when used in
10 this act, for the purposes of this act, shall have the
11 meanings respectively ascribed to them in this section:

12 (3) "Department" means the Department of Financial
13 Services ~~Banking and Finance~~.

14 Section 564. Subsection (8) of section 520.34, is
15 amended to read:

16 520.34 Retail installment contracts.--

17 (8) The seller under any retail installment contract
18 shall, within 30 days after execution of the contract, deliver
19 or mail or cause to be delivered or mailed to the buyer at his
20 or her aforesaid address any policy or policies of insurance
21 the seller has agreed to purchase in connection therewith, or
22 in lieu thereof a certificate or certificates of such
23 insurance. The amount, if any, included for insurance shall
24 not exceed the applicable premiums chargeable in accordance
25 with the rates filed with the Department of Financial Services
26 ~~Insurance~~; if any such insurance is canceled, unearned
27 insurance premium refunds and any unearned finance charges
28 thereon received by the holder shall, at his or her option, be
29 credited to the final maturing installments of the contract or
30 paid to the buyer, except to the extent applied toward the
31 payment for similar insurance protecting the interests of the

1 seller and the holder or either of them. The finance charge
2 on the original transaction shall be separately computed:

3 (a) With the premium for the canceled or adjusted
4 insurance included in the "amount financed"; and

5 (b) With the premium for the canceled insurance or the
6 amount of the premium adjustment excluded from the "amount
7 financed."
8

9 The difference in the finance charge resulting from these
10 computations shall be the portion of the finance charge
11 attributable to the canceled or adjusted insurance, and the
12 unearned portion thereof shall be determined by the use of the
13 rule of 78ths. "Cancellation of insurance" occurs at such
14 time as the seller or holder receives from the insurance
15 carrier the proper refund of unearned insurance premiums.
16 Nothing in this act shall impair or abrogate the right of a
17 buyer to procure insurance from an agent and company of his or
18 her own selection, as provided by the insurance laws of this
19 state; and nothing contained in this act shall modify, alter,
20 or repeal any of the insurance laws of this state.

21 Section 565. Subsection (6) of section 520.61, Florida
22 Statutes, is amended to read:

23 520.61 Definitions.--As used in this act:

24 (6) "Department" means the Department of Financial
25 Services ~~Banking and Finance~~.

26 Section 566. Subsection (3) of section 520.76, Florida
27 Statutes, is amended to read:

28 520.76 Insurance provisions, procurement, rates.--

29 (3) The amount, if any, included for such insurance
30 shall not exceed the applicable premiums chargeable in
31 accordance with rates filed with the Department of Financial

1 Services Insurance. If any such group credit life or other
2 insurance is canceled, the refund for unearned insurance
3 premiums received or receivable by the holder of the home
4 improvement contract or the excess of the amount included in
5 the contract for insurance over the premiums paid or payable
6 by the holder of the contract together with, in either case,
7 the unearned portion of the finance charge or other interest
8 applicable thereto shall be credited to the final maturing
9 installments of the home improvement contract. However, no
10 such credit need be made if the amount would be less than \$1.

11 Section 567. Section 520.998, Florida Statutes, is
12 amended to read:

13 520.998 Regulatory Trust Fund.--All fees, charges, and
14 fines collected by the department pursuant to this chapter
15 shall be deposited in the State Treasury to the credit of the
16 Banking and Finance Regulatory Trust Fund under the
17 department.

18 Section 568. Subsection (7) of section 526.141,
19 Florida Statutes, is amended to read:

20 526.141 Self-service gasoline stations; attendants;
21 regulations.--

22 (7) The Chief Financial Officer Insurance
23 ~~Commissioner~~, under her or his powers, duties, and functions
24 as State Fire Marshal, shall adopt ~~promulgate~~ rules and
25 ~~regulations~~ for the administration and enforcement of this
26 section, except for subsection (5) which shall be administered
27 and enforced by the Department of Agriculture and Consumer
28 Services.

29 Section 569. Subsection (2) of section 537.003,
30 Florida Statutes, is amended to read:

31

1 537.003 Definitions.--As used in this act, unless the
2 context otherwise requires:

3 (2) "Department" means the Department of Financial
4 Services ~~Banking and Finance~~.

5 Section 570. Subsection (10) of section 537.004,
6 Florida Statutes, is amended to read:

7 537.004 License required; license fees.--

8 (10) All moneys collected by the department under this
9 act shall be deposited into the Banking and Finance Regulatory
10 Trust Fund ~~of the Department of Banking and Finance~~.

11 Section 571. Subsection (2) of section 537.011,
12 Florida Statutes, is amended to read:

13 537.011 Title loan charges.--

14 (2) The annual percentage rate that may be charged for
15 a title loan may equal, but not exceed, the annual percentage
16 rate that must be computed and disclosed as required by the
17 federal Truth in Lending Act and Regulation Z of the Board of
18 Governors of the Federal Reserve System. The maximum annual
19 percentage rate of interest that may be charged is 12 times
20 the maximum monthly rate, and the maximum monthly rate must be
21 computed on the basis of one-twelfth of the annual rate for
22 each full month. The department ~~of Banking and Finance~~ shall
23 establish by rule the rate for each day in a fraction of a
24 month when the period for which the charge is computed is more
25 or less than 1 month.

26 Section 572. Subsection (1) of section 548.066,
27 Florida Statutes, is amended to read:

28 548.066 Ticket refunds.--

29 (1) Upon the postponement, substitution of either
30 participant, or cancellation of the main event or the entire
31 program of matches, the promoter shall refund the full

1 purchase price of a ticket to each person presenting a ticket
2 for a refund within 30 days after the scheduled date of the
3 event. Within 10 days after the expiration of the 30-day
4 period, the promoter shall pay all unclaimed ticket receipts
5 to the commission. The commission shall hold the funds for 1
6 year and make refunds during such time to any person
7 presenting a ticket for a refund. Thereafter, the commission
8 shall pay all remaining moneys from the ticket sale to the
9 Chief Financial Officer ~~State Treasurer~~ for deposit into the
10 General Revenue Fund.

11 Section 573. Section 548.077, Florida Statutes, is
12 amended to read:

13 548.077 Florida State Boxing Commission; collection
14 and disposition of moneys.--All fees, fines, forfeitures, and
15 other moneys collected under the provisions of this chapter
16 shall be paid by the commission to the Chief Financial Officer
17 ~~State Treasurer~~ who, after the expenses of the commission are
18 paid, shall deposit them in the Professional Regulation Trust
19 Fund to be used for the administration and operation of the
20 commission and to enforce the laws and rules under its
21 jurisdiction. In the event the unexpended balance of such
22 moneys collected under the provisions of this chapter exceeds
23 \$250,000, any excess of that amount shall be deposited in the
24 General Revenue Fund.

25 Section 574. Subsection (10) of section 550.0251,
26 Florida Statutes, is amended to read:

27 550.0251 The powers and duties of the Division of
28 Pari-mutuel Wagering of the Department of Business and
29 Professional Regulation.--The division shall administer this
30 chapter and regulate the pari-mutuel industry under this
31 chapter and the rules adopted pursuant thereto, and:

1 (10) The division may impose an administrative fine
2 for a violation under this chapter of not more than \$1,000 for
3 each count or separate offense, except as otherwise provided
4 in this chapter, and may suspend or revoke a permit, a
5 pari-mutuel license, or an occupational license for a
6 violation under this chapter. All fines imposed and collected
7 under this subsection must be deposited with the Chief
8 Financial Officer ~~Treasurer~~ to the credit of the General
9 Revenue Fund.

10 Section 575. Paragraph (b) of subsection (9) of
11 section 550.054, Florida Statutes, is amended to read:

12 550.054 Application for permit to conduct pari-mutuel
13 wagering.--

14 (9)

15 (b) The division may revoke or suspend any permit or
16 license issued under this chapter upon the willful violation
17 by the permitholder or licensee of any provision of this
18 chapter or of any rule adopted under this chapter. In lieu of
19 suspending or revoking a permit or license, the division may
20 impose a civil penalty against the permitholder or licensee
21 for a violation of this chapter or any rule adopted by the
22 division. The penalty so imposed may not exceed \$1,000 for
23 each count or separate offense. All penalties imposed and
24 collected must be deposited with the Chief Financial Officer
25 ~~Treasurer~~ to the credit of the General Revenue Fund.

26 Section 576. Paragraph (a) of subsection (1) and
27 subsection (5) of section 550.0951, Florida Statutes, are
28 amended to read:

29 550.0951 Payment of daily license fee and taxes.--

30 (1)(a) DAILY LICENSE FEE.--Each person engaged in the
31 business of conducting race meetings or jai alai games under

1 this chapter, hereinafter referred to as the "permitholder,"
2 "licensee," or "permittee," shall pay to the division, for the
3 use of the division, a daily license fee on each live or
4 simulcast pari-mutuel event of \$100 for each horserace and \$80
5 for each dograce and \$40 for each jai alai game conducted at a
6 racetrack or fronton licensed under this chapter. In addition
7 to the tax exemption specified in s. 550.09514(1) of \$360,000
8 or \$500,000 per greyhound permitholder per state fiscal year,
9 each greyhound permitholder shall receive in the current state
10 fiscal year a tax credit equal to the number of live greyhound
11 races conducted in the previous state fiscal year times the
12 daily license fee specified for each dograce in this
13 subsection applicable for the previous state fiscal year.
14 This tax credit and the exemption in s. 550.09514(1) shall be
15 applicable to any tax imposed by this chapter or the daily
16 license fees imposed by this chapter except during any charity
17 or scholarship performances conducted pursuant to s. 550.0351.
18 Each permitholder shall pay daily license fees not to exceed
19 \$500 per day on any simulcast races or games on which such
20 permitholder accepts wagers regardless of the number of
21 out-of-state events taken or the number of out-of-state
22 locations from which such events are taken. This license fee
23 shall be deposited with the Chief Financial Officer ~~Treasurer~~
24 to the credit of the Pari-mutuel Wagering Trust Fund.

25 (5) PAYMENT AND DISPOSITION OF FEES AND
26 TAXES.--Payment for the admission tax, tax on handle, and the
27 breaks tax imposed by this section shall be paid to the
28 division. The division shall deposit these sums with the Chief
29 Financial Officer ~~Treasurer~~, to the credit of the Pari-mutuel
30 Wagering Trust Fund, hereby established. The permitholder
31 shall remit to the division payment for the daily license fee,

1 the admission tax, the tax on handle, and the breaks tax. Such
2 payments shall be remitted by 3 p.m. Wednesday of each week
3 for taxes imposed and collected for the preceding week ending
4 on Sunday. Permitholders shall file a report under oath by the
5 5th day of each calendar month for all taxes remitted during
6 the preceding calendar month. Such payments shall be
7 accompanied by a report under oath showing the total of all
8 admissions, the pari-mutuel wagering activities for the
9 preceding calendar month, and such other information as may be
10 prescribed by the division.

11 Section 577. Paragraph (a) of subsection (3) of
12 section 550.125, Florida Statutes, is amended to read:

13 550.125 Uniform reporting system; bond requirement.--

14 (3)(a) Each permitholder to which a license is granted
15 under this chapter, at its own cost and expense, must, before
16 the license is delivered, give a bond in the penal sum of
17 \$50,000 payable to the Governor of the state and her or his
18 successors in office, with a surety or sureties to be approved
19 by the division and the Chief Financial Officer ~~Treasurer~~,
20 conditioned to faithfully make the payments to the Chief
21 Financial Officer ~~Treasurer~~ in her or his capacity as
22 treasurer of the division; to keep its books and records and
23 make reports as provided; and to conduct its racing in
24 conformity with this chapter. When the greatest amount of tax
25 owed during any month in the prior state fiscal year, in which
26 a full schedule of live racing was conducted, is less than
27 \$50,000, the division may assess a bond in a sum less than
28 \$50,000. The division may review the bond for adequacy and
29 require adjustments each fiscal year. The division has the
30 authority to adopt rules to implement this paragraph and
31 establish guidelines for such bonds.

1 Section 578. Section 550.135, Florida Statutes, is
2 amended to read:

3 550.135 Division of moneys derived under this
4 law.--All moneys that are deposited with the Chief Financial
5 Officer ~~Treasurer~~ to the credit of the Pari-mutuel Wagering
6 Trust Fund shall be distributed as follows:

7 (1) The daily license fee revenues collected pursuant
8 to s. 550.0951(1) shall be used to fund the operating cost of
9 the division and to provide a proportionate share of the
10 operation of the office of the secretary and the Division of
11 Administration of the Department of Business and Professional
12 Regulation; however, other collections in the Pari-mutuel
13 Wagering Trust Fund may also be used to fund the operation of
14 the division in accordance with authorized appropriations.

15 (2) All unappropriated funds in excess of \$3.5 million
16 in the Pari-mutuel Wagering Trust Fund shall be deposited to
17 the Chief Financial Officer ~~Treasurer~~ to the credit of the
18 General Revenue Fund.

19 Section 579. Subsection (3) of section 550.1645,
20 Florida Statutes, is amended to read:

21 550.1645 Escheat to state of abandoned interest in or
22 contribution to pari-mutuel pools.--

23 (3) All money or other property that has escheated to
24 and become the property of the state as provided herein, and
25 which is held by such licensee authorized to conduct
26 pari-mutuel pools in this state, shall be paid by such
27 licensee to the Chief Financial Officer ~~Treasurer~~ annually
28 within 60 days after the close of the race meeting of the
29 licensee. Such moneys so paid by the licensee to the Chief
30 Financial Officer ~~Treasurer~~ shall be deposited in the State
31 School Fund to be used for the support and maintenance of

1 public free schools as required by s. 6, Art. IX of the State
2 Constitution.

3 Section 580. Subsection (14) of section 552.081,
4 Florida Statutes, is amended to read:

5 552.081 Definitions.--As used in this chapter:

6 (14) "Division" means the Division of State Fire
7 Marshal of the Department of Financial Services ~~Insurance~~.

8 Section 581. Subsection (2) of section 552.161,
9 Florida Statutes, is amended to read:

10 552.161 Administrative fines.--

11 (2) All such fines, monetary penalties, and costs
12 received by the division in connection with this chapter shall
13 be deposited in the Insurance ~~Commissioner's~~ Regulatory Trust
14 Fund.

15 Section 582. Subsection (3) of section 552.21, Florida
16 Statutes, is amended to read:

17 552.21 Confiscation and disposal of explosives.--

18 (3) Costs incurred in the confiscation and disposal of
19 such explosives shall be paid from the Insurance
20 ~~Commissioner's~~ Regulatory Trust Fund.

21 Section 583. Section 552.26, Florida Statutes, is
22 amended to read:

23 552.26 Administration of chapter; personnel; fees to
24 be deposited in Insurance ~~Commissioner's~~ Regulatory Trust
25 Fund.--

26 (1) The division is authorized to employ such persons
27 as it may deem qualified and necessary, and incur such other
28 expenses as may be required, in connection with the
29 administration of this chapter.

30 (2) All fees collected for licenses and permits and
31 competency examination filing fees required by this chapter

1 shall be deposited in the Insurance ~~Commissioner's~~ Regulatory
2 Trust Fund and are hereby appropriated for the use of the
3 division in the administration of this chapter.

4 Section 584. Subsection (4) of section 553.72, Florida
5 Statutes, is amended to read:

6 553.72 Intent.--

7 (4) It is the intent of the Legislature that the
8 Florida Fire Prevention Code and the Life Safety Code of this
9 state be adopted, modified, updated, interpreted, and
10 maintained by the Department of Financial Services ~~Insurance~~
11 in accordance with ss. 120.536(1) and 120.54 and included by
12 reference as sections in the Florida Building Code.

13 Section 585. Paragraph (c) of subsection (1) of
14 section 553.73, Florida Statutes, is amended to read:

15 553.73 Florida Building Code.--

16 (1)

17 (c) The Florida Fire Prevention Code and the Life
18 Safety Code shall be referenced in the Florida Building Code,
19 but shall be adopted, modified, revised, or amended,
20 interpreted, and maintained by the Department of Financial
21 Services ~~Insurance~~ by rule adopted pursuant to ss. 120.536(1)
22 and 120.54. The Florida Building Commission may not adopt a
23 fire prevention or lifesafety code, and nothing in the Florida
24 Building Code shall affect the statutory powers, duties, and
25 responsibilities of any fire official or the Department of
26 Financial Services ~~Insurance~~.

27 Section 586. Paragraph (k) of subsection (1) of
28 section 553.74, Florida Statutes, is amended to read:

29 553.74 Florida Building Commission.--

30 (1) The Florida Building Commission is created and
31 shall be located within the Department of Community Affairs

1 for administrative purposes. Members shall be appointed by the
2 Governor subject to confirmation by the Senate. The commission
3 shall be composed of 23 members, consisting of the following:

4 (k) One member who represents the Department of
5 Financial Services Insurance.

6 Section 587. Subsection (16) of section 553.79,
7 Florida Statutes, is amended to read:

8 553.79 Permits; applications; issuance; inspections.--

9 (16) Notwithstanding any other provision of law, state
10 agencies responsible for the construction, erection,
11 alteration, modification, repair, or demolition of public
12 buildings, or the regulation of public and private buildings,
13 structures, and facilities, shall be subject to enforcement of
14 the Florida Building Code by local jurisdictions. This
15 subsection applies in addition to the jurisdiction and
16 authority of the Department of Financial Services Insurance to
17 inspect state-owned buildings. This subsection does not apply
18 to the jurisdiction and authority of the Department of
19 Agriculture and Consumer Services to inspect amusement rides
20 or the Department of Financial Services Insurance to inspect
21 state-owned buildings and boilers.

22 Section 588. Subsection (6) of section 554.1021,
23 Florida Statutes, is amended to read:

24 554.1021 Definitions.--As used in ss.

25 554.1011-554.115:

26 (6) "Department" means the Department of Financial
27 Services Insurance.

28 Section 589. Subsection (1) of section 554.105,
29 Florida Statutes, is amended to read:

30 554.105 Chief inspector.--

31

1 (1) The Chief Financial Officer ~~Insurance Commissioner~~
2 ~~and Treasurer~~ shall appoint a chief inspector, who shall have
3 not less than 5 years' experience in the construction,
4 installation, inspection, operation, maintenance, or repair of
5 high pressure, high temperature water boilers and who shall
6 hold a commission from the National Board of Boiler and
7 Pressure Vessel Inspectors or a certificate of competency from
8 the department.

9 Section 590. Subsection (3) of section 554.111,
10 Florida Statutes, is amended to read:

11 554.111 Fees.--

12 (3) The chief inspector shall deposit all fees
13 received pursuant to ss. 554.1011-554.115 into the Insurance
14 ~~Commissioner's~~ Regulatory Trust Fund.

15 Section 591. Paragraph (b) of subsection (2) and
16 subsection (3) of section 559.10, Florida Statutes, are
17 amended to read:

18 559.10 Definition; "budget planning."--

19 (2) The term "budget planning" does not include the
20 following:

21 (b) Other activities defined by rule of the Department
22 of Financial Services ~~Banking and Finance~~ as not within the
23 prohibition of this part, provided such rule is adopted after
24 a finding that consumers are adequately protected in the
25 activity and that its prohibition is not required in the
26 public interest.

27 (3) The Department of Financial Services ~~Banking and~~
28 ~~Finance~~ may adopt rules as necessary to implement and enforce
29 this part.

30 Section 592. Subsection (5) of section 559.543,
31 Florida Statutes, is amended to read:

1 559.543 Definitions.--As used in this part:

2 (5) "Department" means the Department of Financial
3 Services ~~Banking and Finance~~.

4 Section 593. Subsection (1) of section 559.545,
5 Florida Statutes, is amended to read:

6 559.545 Registration of commercial collection
7 agencies; procedure.--Any person who wishes to register as a
8 commercial collection agency in compliance with this part
9 shall do so on forms furnished by the department. Any renewal
10 of registration shall be made between October 1 and December
11 31 of each year. In registering or renewing a registration as
12 required by this part, each commercial collection agency shall
13 furnish to the department a registration fee, information, and
14 surety bond, as follows:

15 (1) The registrant shall pay to the department a
16 registration fee of \$500. All amounts collected shall be
17 deposited to the credit of the Banking and Finance Regulatory
18 Trust Fund of the department.

19 Section 594. Subsection (4) of section 559.55, Florida
20 Statutes, is amended to read:

21 559.55 Definitions.--The following terms shall, unless
22 the context otherwise indicates, have the following meanings
23 for the purpose of this part:

24 (4) "Department" means the Department of Financial
25 Services ~~Banking and Finance~~.

26 Section 595. Subsection (1) of section 559.555,
27 Florida Statutes, is amended to read:

28 559.555 Registration of consumer collection agencies;
29 procedure.--Any person required to register as a consumer
30 collection agency shall furnish to the department the
31 registration fee and information as follows:

1 (1) The registrant shall pay to the department a
2 registration fee in the amount of \$200. All amounts collected
3 shall be deposited by the department to the credit of the
4 Banking and Finance Regulatory Trust Fund of the department.

5 Section 596. Subsection (4) of section 559.725,
6 Florida Statutes, is amended to read:

7 559.725 Consumer complaints; administrative duties.--

8 (4) The division shall furnish a form to each
9 complainant whose complaint concerns an alleged violation of
10 s. 559.72 by a consumer collection agency. Such form may be
11 filed with the Department of Financial Services ~~Banking and~~
12 ~~Finance~~. The form shall identify the accused consumer
13 collection agency and provide for the complainant's summary of
14 the nature of the alleged violation and facts which allegedly
15 support the complaint. The form shall include a provision for
16 the complainant to state under oath before a notary public
17 that the allegations therein made are true.

18 Section 597. Subsection (6) of section 559.730,
19 Florida Statutes, is amended to read:

20 559.730 Administrative remedies.--

21 (6) Any administrative fine imposed under this part
22 shall be payable to the department. The department shall
23 maintain an appropriate record and shall deposit such fine
24 into the Banking and Finance Regulatory Trust Fund of the
25 department.

26 Section 598. Subsection (2) of section 559.928,
27 Florida Statutes, is amended to read:

28 559.928 Registration.--

29 (2) Registration fees shall be \$300 per year per
30 registrant. All amounts collected shall be deposited by the
31 Chief Financial Officer ~~Treasurer~~ to the credit of the General

1 Inspection Trust Fund of the Department of Agriculture and
2 Consumer Services pursuant to s. 570.20, for the sole purpose
3 of administration of this part.

4 Section 599. Subsection (1) of section 560.102,
5 Florida Statutes, is amended to read:

6 560.102 Purpose; application.--The purposes of the
7 code are to:

8 (1) Provide general regulatory powers to be exercised
9 by the Department of Financial Services ~~Banking and Finance~~ in
10 relation to the regulation of the money transmitter industry.
11 The code applies to all money transmitters transacting
12 business in this state and to the enforcement of all laws
13 relating to the money transmitter industry.

14 Section 600. Subsection (7) of section 560.103,
15 Florida Statutes, is amended to read:

16 560.103 Definitions.--As used in the code, unless the
17 context otherwise requires:

18 (7) "Department" means the ~~Florida~~ Department of
19 Financial Services ~~Banking and Finance~~.

20 Section 601. Section 560.119, Florida Statutes, is
21 amended to read:

22 560.119 Deposit of fees and assessments.--The
23 application fees, registration renewal fees, late payment
24 penalties, civil penalties, administrative fines, and other
25 fees or penalties provided for in the code shall, in all
26 cases, be paid directly to the department, which shall deposit
27 such proceeds into the Banking and Finance Regulatory Trust
28 Fund. Each year, the Legislature shall appropriate from the
29 trust fund to the department sufficient moneys to pay the
30 department's costs for administration of the code. The Banking
31

1 and Finance Regulatory Trust Fund is subject to the service
2 charge imposed pursuant to chapter 215.

3 Section 602. Section 560.4041, Florida Statutes, is
4 amended to read:

5 560.4041 Database for deferred presentment providers;
6 public-records exemption.--The identifying information
7 contained in the database for deferred presentment providers,
8 which is authorized under s. 560.404, is confidential and
9 exempt from s. 119.07(1), and s. 24(a), Art. I of the State
10 Constitution, except that the identifying information in the
11 database may be accessed by deferred presentment providers to
12 verify whether any deferred presentment transactions are
13 outstanding for a particular person and by the Department of
14 Financial Services ~~Banking and Finance~~ for the purpose of
15 maintaining the database. This section is subject to the Open
16 Government Sunset Review Act of 1995 in accordance with s.
17 119.15, and shall stand repealed October 2, 2006, unless
18 reviewed and saved from repeal through reenactment by the
19 Legislature.

20 Section 603. Subsection (2) of section 560.408,
21 Florida Statutes, is amended to read:

22 560.408 Legislative intent; report.--

23 (2) The Comptroller shall submit a report to the
24 President of the Senate and the Speaker of the House of
25 Representatives on January 1, 2003, and the Chief Financial
26 Officer shall submit such a report on January 1, 2004,
27 containing findings and conclusions concerning the
28 effectiveness of this act in preventing fraud, abuse, and
29 other unlawful activity associated with deferred presentment
30 transactions. The report may contain legislative
31 recommendations addressing the prevention of fraud, abuse, and

1 other unlawful activity associated with deferred presentment
2 transactions. Prior to filing the report, the Comptroller and
3 the Chief Financial Officer shall consult with the Attorney
4 General for the purpose of including any recommendations or
5 concerns expressed by the Attorney General.

6 Section 604. Section 561.051, Florida Statutes, is
7 amended to read:

8 561.051 Reporting requirements of director.--The
9 director of the division shall promptly report and remit to
10 the Chief Financial Officer ~~Treasurer~~ all taxes and fees
11 collected by him or her hereunder ~~and shall send copies of the~~
12 ~~reports to the Comptroller.~~

13 Section 605. Section 562.44, Florida Statutes, is
14 amended to read:

15 562.44 Donation of forfeited beverages or raw
16 materials to state institutions; sale of forfeited
17 beverages.--Any alcoholic beverage or raw materials used for
18 the manufacture of alcoholic beverages that may be seized and
19 forfeited under any of the provisions of the Beverage Law may,
20 with the approval and consent of the Department of Business
21 and Professional Regulation, be donated to any state-operated
22 or charitable institution that may have a legitimate use
23 therefor in the operation of such institution, or the division
24 may sell such beverage so seized and forfeited to any licensed
25 wholesaler in the state, upon the condition that all federal
26 and state taxes that may be due thereon shall be paid, that
27 such sale shall be made only upon submission by said division
28 of a request for bids to at least five wholesale dealers in
29 the state, and that such sale shall be made to the highest and
30 best bidder therefor. However, if no satisfactory bid from a
31 wholesaler is received, the division may then reject all bids

1 and sell such beverage so seized and forfeited to any
2 retailer, licensed in this state to sell such beverage, upon
3 the condition that all federal and state taxes that may be due
4 thereon shall have been paid, that such sale shall be made
5 only upon submission by said division of a request for bids to
6 at least five retail dealers in the state and that such sale
7 shall be to the highest and best bidder therefor. All moneys
8 received from such sales shall be paid by the division to the
9 Chief Financial Officer ~~State Treasurer~~ for the account of the
10 beverage fund and shall be subject to disbursement in
11 accordance with the law relating thereto.

12 Section 606. Section 567.08, Florida Statutes, is
13 amended to read:

14 567.08 Refund of unused portion of state license
15 tax.--When any county votes by an election to discontinue
16 permitting the sale of intoxicating liquors, wines, or beer,
17 prior to the date of expiration of any license issued by the
18 state for the sale of intoxicating liquors, wines, or beer in
19 such county, the fee for the unexpired and unused portion of
20 said license shall be refunded to the licensee by warrant
21 drawn by the Chief Financial Officer, ~~State Comptroller on the~~
22 ~~State Treasurer~~ who shall pay such warrants from any moneys in
23 the State Treasury not otherwise appropriated.

24 Section 607. Subsections (1) and (2) of section
25 569.205, Florida Statutes, are amended to read:

26 569.205 Department of Business and Professional
27 Regulation Tobacco Settlement Trust Fund.--

28 (1) The Department of Business and Professional
29 Regulation Tobacco Settlement Trust Fund is hereby created
30 within that department. Funds to be credited to the trust fund
31 shall consist of funds disbursed, by nonoperating transfer,

1 from the Department of Financial Services ~~Banking and Finance~~
2 Tobacco Settlement Clearing Trust Fund in amounts equal to the
3 annual appropriations made from this trust fund.

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

10 Section 608. Subsection (2) of section 570.13, Florida
11 Statutes, is amended to read:

12 570.13 Salary of commissioner, officers, and
13 employees; expenses.--

14 (2) The reasonable and necessary travel and other
15 expenses of the commissioner, assistant commissioner, counsel,
16 directors, and other officers and employees of the department,
17 while actually engaged in the performance of their duties,
18 outside of the City of Tallahassee, or if any such officer or
19 employee be in charge of or regularly employed at a branch
20 office of the department, the reasonable and necessary travel
21 and other expenses outside the place such branch office is
22 located, shall be paid from the State Treasury after audit by
23 the Chief Financial Officer ~~Comptroller~~ of vouchers approved
24 by the department in the amount provided in s. 112.061.

25 Section 609. Subsection (1) of section 570.195,
26 Florida Statutes, is amended to read:

27 570.195 Tobacco farmers; assistance.--

28 (1) In order to assist Florida tobacco farmers in
29 reducing encumbered debt on stranded investment in equipment,
30 the nonrecurring sum of \$2.5 million is appropriated from the
31 Department of Financial Services ~~Banking and Finance~~ Tobacco

1 Settlement Clearing Trust Fund to the Department of
2 Agriculture and Consumer Services for the purchase at fair
3 market value of equipment associated with agricultural
4 production of tobacco from persons or entities that were using
5 such equipment for production of tobacco between April 1 and
6 October 1, 2000, on land within this state and sign a letter
7 of intent to cease tobacco production upon the development and
8 implementation of an alternative crop that would provide the
9 same net revenue and proportional costs as tobacco. The
10 department may adopt rules that, at a minimum, define and
11 describe the equipment to be purchased under this section,
12 prescribe criteria for identifying persons and entities who
13 are eligible to have such equipment purchased by the
14 department, and prescribe procedures to be followed for
15 equipment purchases. From the funds appropriated by this
16 section, the department is authorized to expend such sums as
17 are reasonable and necessary to administer the program.

18 Section 610. Section 570.20, Florida Statutes, is
19 amended to read:

20 570.20 General Inspection Trust Fund.--All donations
21 and all inspection fees and other funds authorized and
22 received from whatever source in the enforcement of the
23 inspection laws administered by the department shall be paid
24 into the General Inspection Trust Fund of Florida, which is
25 created in the office of the Chief Financial Officer
26 ~~Treasurer~~. All expenses incurred in carrying out the
27 provisions of the inspection laws shall be paid from this fund
28 as other funds are paid from the State Treasury. A percentage
29 of all revenue deposited in this fund, including transfers
30 from any subsidiary accounts, shall be deposited in the
31 General Revenue Fund pursuant to chapter 215, except that

1 funds collected for marketing orders shall pay at the rate of
2 3 percent.

3 Section 611. Subsection (6) of section 574.03, Florida
4 Statutes, is amended to read:

5 574.03 Warehouseman; licenses and fees.--

6 (6) As a prerequisite to the issuance of a license
7 under the provisions of this section, each applicant shall
8 furnish evidence to the Department of Agriculture and Consumer
9 Services that the applicant has in force a standard fire and
10 extended coverage insurance policy for the full market value
11 of the maximum amount of tobacco contained in his or her sales
12 warehouse at any one time during the marketing season for
13 which the license is sought. The insurance policy shall be
14 written by an insurance company of the warehouseman's choice
15 authorized to transact business in this state, and such
16 insurance coverage shall be approved in form by the Department
17 of Financial Services ~~Insurance~~, and a copy of the insurance
18 policy shall be filed with the director of the Division of
19 Marketing and Development of the Department of Agriculture and
20 Consumer Services. The policy shall contain an endorsement
21 requiring notification to the director of the Division of
22 Marketing and Development of the Department of Agriculture and
23 Consumer Services by the insurance company at least 10 days
24 prior to cancellation of their intention to cancel the policy.

25 Section 612. Section 589.06, Florida Statutes, is
26 amended to read:

27 589.06 Warrants for payment of accounts.--Upon the
28 presentation to the Chief Financial Officer ~~Comptroller~~ of any
29 accounts duly approved by the Division of Forestry,
30 accompanied by such itemized vouchers or accounts as shall be
31 required by her or him, the Chief Financial Officer

1 ~~Comptroller~~ shall audit the same and draw a warrant ~~on the~~
2 ~~State Treasurer~~ for the amount for which the account is
3 audited, payable out of funds to the credit of the division.

4 Section 613. Paragraph (a) of subsection (7) of
5 section 597.010, Florida Statutes, is amended to read:

6 597.010 Shellfish regulation; leases.--

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

17 (a) Moneys in the fund that are not needed currently
18 for cleanup and rehabilitation of abandoned or vacated lease
19 sites shall be deposited with the Chief Financial Officer
20 ~~Treasurer~~ to the credit of the fund and may be invested in
21 such manner as is provided for by statute. Interest received
22 on such investment shall be credited to the fund.

23 Section 614. Subsections (9) and (10) of section
24 601.10, Florida Statutes, are amended to read:

25 601.10 Powers of the Department of Citrus.--The
26 Department of Citrus shall have and shall exercise such
27 general and specific powers as are delegated to it by this
28 chapter and other statutes of the state, which powers shall
29 include, but shall not be confined to, the following:

30 (9) When, in the opinion of the Department of Citrus,
31 the tax revenues collected pursuant to this chapter, whether

1 allocated for research, advertising or promotion, reserve
2 funds, advertising incentive plans, or other purposes, are not
3 immediately needed for the purpose for which such funds are
4 provided, the Chief Financial Officer ~~Treasurer~~ is authorized
5 and shall, upon the request and approval of the Department of
6 Citrus, or its general manager if she or he has been given
7 such authority, invest and reinvest the funds designated and
8 for the period of time specified in such request. In the
9 investment of such funds, the Chief Financial Officer
10 ~~Treasurer~~ shall have the powers and be subject to the
11 limitations provided for in s. 18.125.

12 (10) Subject to the concurrence of the Chief Financial
13 Officer ~~Treasurer~~, whenever the department contracts with a
14 foreign entity for performance of services or the purchase of
15 materials, and such contract requires payment in equivalent
16 foreign currency, the department may, for payment of such
17 contract obligation, deposit sufficient state funds in a
18 foreign bank, or purchase foreign currency at the current
19 market rate, up to an amount not in excess of the contract
20 obligation. All payments from these funds must have prior
21 audit approval from the office of the Chief Financial Officer
22 ~~Comptroller~~.

23 Section 615. Paragraph (c) of subsection (8) of
24 section 601.15, Florida Statutes, is amended to read:

25 601.15 Advertising campaign; methods of conducting;
26 excise tax; emergency reserve fund; citrus research.--

27 (8)

28 (c) All obligations, expenses, and costs incurred
29 under the provisions of this section shall be paid out of the
30 Citrus Advertising Fund upon warrant of the Chief Financial
31

1 Officer ~~Comptroller~~ when vouchers thereof, approved by the
2 Department of Citrus, are exhibited.

3 Section 616. Subsection (6) of section 601.28, Florida
4 Statutes, is amended to read:

5 601.28 Inspection fees.--

6 (6) When any portion of the revenues deposited to the
7 Citrus Inspection Trust Fund is not immediately needed for the
8 purpose for which such funds are appropriated, the Chief
9 Financial Officer ~~Treasurer~~ shall invest and reinvest such
10 funds, and the earnings thereon shall be deposited to and made
11 a part of the Citrus Inspection Trust Fund.

12 Section 617. Subsection (2) of section 607.0501,
13 Florida Statutes, is amended to read:

14 607.0501 Registered office and registered agent.--

15 (2) This section does not apply to corporations which
16 are required by law to designate the Chief Financial Officer
17 ~~Insurance Commissioner and Treasurer~~ as their attorney for the
18 service of process, associations subject to the provisions of
19 chapter 665, and banks and trust companies subject to the
20 provisions of the financial institutions codes.

21 Section 618. Section 607.14401, Florida Statutes, is
22 amended to read:

23 607.14401 Deposit with Department of Financial

24 Services ~~Banking and Finance~~.--Assets of a dissolved
25 corporation that should be transferred to a creditor,
26 claimant, or shareholder of the corporation who cannot be
27 found or who is not competent to receive them shall be
28 deposited, within 6 months from the date fixed for the payment
29 of the final liquidating distribution, with the Department of
30 Financial Services ~~Banking and Finance~~, where such assets
31 shall be held as abandoned property. When the creditor,

1 claimant, or shareholder furnishes satisfactory proof of
2 entitlement to the amount or assets deposited, the Department
3 of Financial Services ~~Banking and Finance~~ shall pay the
4 creditor, claimant, or shareholder or his or her
5 representative that amount or those assets.

6 Section 619. Section 609.05, Florida Statutes, is
7 amended to read:

8 609.05 Qualification with Department of Financial
9 Services ~~Banking and Finance~~.--Before any person may offer for
10 sale, barter or sell any unit, share, contract, note, bond,
11 mortgage, oil or mineral lease or other security of an
12 association doing business under what is known as a
13 "declaration of trust" in this state, such person shall
14 procure from the Department of Financial Services ~~Banking and~~
15 ~~Finance~~ a permit to offer for sale and sell such securities,
16 which permit shall be applied for and granted under the same
17 conditions as like permits are applied for and granted to
18 corporations.

19 Section 620. Subsection (2) of section 617.0501,
20 Florida Statutes, is amended to read:

21 617.0501 Registered office and registered agent.--
22 (2) This section does not apply to corporations which
23 are required by law to designate the Chief Financial Officer
24 ~~Insurance Commissioner and Treasurer~~ as their attorney for the
25 service of process.

26 Section 621. Section 617.1440, Florida Statutes, is
27 amended to read:

28 617.1440 Deposit with Department of Financial Services
29 ~~Banking and Finance~~.--Assets of a dissolved corporation that
30 should be transferred to a creditor, claimant, member of the
31 corporation, or other person who cannot be found or who is not

1 competent to receive them shall be deposited, within 6 months
2 after the date fixed for the payment of the final liquidating
3 distribution, with the Department of Financial Services
4 ~~Banking and Finance~~, where such assets shall be held as
5 abandoned property. When the creditor, claimant, member, or
6 other person furnishes satisfactory proof of entitlement to
7 the amount or assets deposited, the Department of Financial
8 Services ~~Banking and Finance~~ shall pay him or her or his or
9 her representative that amount or those assets.

10 Section 622. Section 624.05, Florida Statutes, is
11 amended to read:

12 624.05 "Department" defined.--"Department" means the
13 Department of Financial Services ~~Insurance of this state~~,
14 unless the context otherwise requires.

15 Section 623. Subsection (5) of section 624.155,
16 Florida Statutes, is amended to read:

17 624.155 Civil remedy.--

18 (5) This section shall not be construed to authorize a
19 class action suit against an insurer or a civil action against
20 the department, its employees, or the Chief Financial Officer
21 ~~Insurance Commissioner~~, or to create a cause of action when a
22 health insurer refuses to pay a claim for reimbursement on the
23 ground that the charge for a service was unreasonably high or
24 that the service provided was not medically necessary.

25 Section 624. Subsection (1) of section 624.305,
26 Florida Statutes, is amended to read:

27 624.305 Prohibited interests, rewards.--

28 (1) No employee of the department, including the Chief
29 Financial Officer ~~Insurance Commissioner and Treasurer~~ shall:

30 (a) Be financially interested, directly or indirectly,
31 in any insurer or insurance agency authorized to transact

1 insurance in this state, or in any insurance transaction
2 except as a policyholder or claimant under a policy; or

3 (b) Be given or receive any fee, compensation, loan,
4 gift, or other thing of value in addition to the compensation
5 and expense allowance provided by law, for any service
6 rendered or to be rendered in her or his capacity as a
7 department employee.

8 Section 625. Subsection (6) of section 624.307,
9 Florida Statutes, is amended to read:

10 624.307 General powers; duties.--

11 (6) The department may employ actuaries who shall be
12 at-will employees and who shall serve at the pleasure of the
13 Chief Financial Officer ~~Insurance Commissioner~~. Actuaries
14 employed pursuant to this paragraph shall be members of the
15 Society of Actuaries or the Casualty Actuarial Society and
16 shall be exempt from the Career Service System established
17 under chapter 110. The salaries of the actuaries employed
18 pursuant to this paragraph by the department shall be set in
19 accordance with s. 216.251(2)(a)5. and shall be set at levels
20 which are commensurate with salary levels paid to actuaries by
21 the insurance industry.

22 Section 626. Paragraph (d) of subsection (5) of
23 section 624.310, Florida Statutes, is amended to read:

24 624.310 Enforcement; cease and desist orders; removal
25 of certain persons; fines.--

26 (5) ADMINISTRATIVE FINES; ENFORCEMENT.--

27 (d) Any administrative fine levied by the department
28 under this subsection may be enforced by the department by
29 appropriate proceedings in the circuit court of the county in
30 which the person resides or in which the principal office of a
31 licensee is located, or, in the case of a foreign insurer or

1 person not residing in this state, in Leon County. In any
2 administrative or judicial proceeding arising under this
3 section, a party may elect to correct the violation asserted
4 by the department, and, upon doing so, any fine shall cease to
5 accrue; however, the election to correct the violation does
6 not render any administrative or judicial proceeding moot. All
7 fines collected under this section shall be paid to the
8 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

9 Section 627. Section 624.314, Florida Statutes, is
10 amended to read:

11 624.314 Publications; Insurance ~~Commissioner's~~
12 Regulatory Trust Fund.--The department shall deposit all
13 moneys received from the sale of publications under s. 624.313
14 in the Insurance ~~Commissioner's~~ Regulatory Trust Fund for the
15 purpose of paying costs for the preparation, printing, and
16 delivery to the department of the publications mentioned in s.
17 624.313(2), packaging and mailing costs, and banking,
18 accounting, and incidental expenses connected with the sale
19 and delivery of such publications by the department. All
20 moneys so deposited and all funds hereafter transferred to the
21 Insurance ~~Commissioner's~~ Regulatory Trust Fund are
22 appropriated for the uses and purposes above mentioned.

23 Section 628. Paragraph (b) of subsection (3) of
24 section 624.319, Florida Statutes, is 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 Chief Financial Officer determines ~~Insurance~~
9 ~~Commissioner and Treasurer determine~~ that public inspection of
10 such list could impair the financial solvency, condition, or
11 soundness of such insurers or regulated companies.

12 Section 629. Subsection (2) of section 624.320,
13 Florida Statutes, is amended to read:

14 624.320 Examination expenses.--

15 (2) All moneys collected from insurers for
16 examinations shall be deposited into the Insurance
17 ~~Commissioner's~~ Regulatory Trust Fund, and the department is
18 authorized to make deposits from time to time into such fund
19 from moneys appropriated for the operation of the department.

20 Section 630. Subsection (1) of section 624.321,
21 Florida Statutes, is amended to read:

22 624.321 Witnesses and evidence.--

23 (1) As to any examination, investigation, or hearing
24 being conducted under this code, the Chief Financial Officer
25 ~~Insurance Commissioner and Treasurer~~ or her or his designee:

26 (a) May administer oaths, examine and cross-examine
27 witnesses, receive oral and documentary evidence; and

28 (b) Shall have the power to subpoena witnesses, compel
29 their attendance and testimony, and require by subpoena the
30 production of books, papers, records, files, correspondence,
31 documents, or other evidence which is relevant to the inquiry.

1 Section 631. Subsection (2) of section 624.322,
2 Florida Statutes, is amended to read:

3 624.322 Testimony compelled; immunity from
4 prosecution.--

5 (2) Any such individual may execute, acknowledge, and
6 file in the office of the Department of Financial Services
7 ~~insurance~~ a statement expressly waiving such immunity or
8 privilege in respect to any transaction, matter, or thing
9 specified in such statement; and thereupon the testimony of
10 such individual or such evidence in relation to such
11 transaction, matter, or thing may be received or produced
12 before any judge or justice, court, tribunal, grand jury, or
13 otherwise; and, if so received or produced, such individual
14 shall not be entitled to any immunity or privileges on account
15 of any testimony she or he may so give or evidence so
16 produced.

17 Section 632. Subsection (1) of section 624.33, Florida
18 Statutes, is amended to read:

19 624.33 Jurisdiction regarding health or life
20 coverage.--

21 (1) Notwithstanding any other provision of law, and
22 except as provided in this section, any person or other entity
23 which in this state provides life insurance coverage;
24 annuities; or coverage for medical, surgical, chiropractic,
25 physical therapy, speech-language pathology, audiology,
26 professional mental health, dental, hospital, or optometric
27 expenses, or any other health insurance coverage, whether such
28 coverage is by direct payment, reimbursement, or otherwise,
29 shall, upon request, file with the Department of Financial
30 Services ~~insurance~~ a copy of Internal Revenue Service form
31 5500 and attached schedules as filed with the Internal Revenue

1 Service and the United States Department of Labor, and an
2 annual summary, as required by the Employee Retirement Income
3 Security Act of 1974, 29 U.S.C. ss. 1001 et seq., as amended.

4 Section 633. Subsection (5) of section 624.404,
5 Florida Statutes, is amended to read:

6 624.404 General eligibility of insurers for
7 certificate of authority.--To qualify for and hold authority
8 to transact insurance in this state, an insurer must be
9 otherwise in compliance with this code and with its charter
10 powers and must be an incorporated stock insurer, an
11 incorporated mutual insurer, or a reciprocal insurer, of the
12 same general type as may be formed as a domestic insurer under
13 this code; except that:

14 (5) No insurer shall be authorized to transact
15 insurance in this state which, during the 3 years immediately
16 preceding its application for a certificate of authority, has
17 violated any of the insurance laws of this state and after
18 being informed of such violation has failed to correct the
19 same; except that, if all other requirements are met, the
20 department may nevertheless issue a certificate of authority
21 to such an insurer upon the filing by the insurer of a sworn
22 statement of all such insurance so written in violation of
23 law, and upon payment to the department of a sum of money as
24 additional filing fee equivalent to all premium taxes and
25 other state taxes and fees as would have been payable by the
26 insurer if such insurance had been lawfully written by an
27 authorized insurer under the laws of this state. This fee,
28 when collected, shall be deposited to the credit of the
29 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

30 Section 634. Subsection (9) of section 624.4071,
31 Florida Statutes, is amended to read:

1 624.4071 Special purpose homeowner insurance
2 company.--

3 (9) A certificate of authority to operate a special
4 purpose homeowner insurance company may not be issued after
5 December 31, 1998. After December 31, 1998, a certificate of
6 authority issued pursuant to the requirements of this section
7 continues to be effective and subject to the requirements of
8 this section until surrendered to the Department of Financial
9 Services Insurance. A certificate of authority issued pursuant
10 to this section may not be sold or otherwise transferred
11 without the approval of the department.

12 Section 635. Paragraph (e) of subsection (1) of
13 section 624.4085, Florida Statutes, is 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 Financial
18 Services Insurance.

19 Section 636. Subsections (1) and (2) of section
20 624.40851, Florida Statutes, are amended to read:

21 624.40851 Confidentiality of risk-based capital
22 information.--

23 (1) The initial risk-based capital report made,
24 furnished, or filed with the Department of Financial Services
25 Insurance, any risk-based capital plan, revised risk-based
26 capital plan, adjusted risk-based capital report, and working
27 papers and reports of examination or analysis of an insurer
28 performed pursuant to a plan or corrective order, or
29 regulatory action level, subsequently filed at the request of
30 the department, with respect to any domestic insurer or
31 foreign insurer, and transcripts of hearings conducted

1 pursuant to this section, are confidential and exempt from s.
2 119.07(1) and s. 24(a), Art. I of the State Constitution.

3 (2) Proceedings and hearings conducted pursuant to
4 section 1 of SB 620, section 1 of HB 1943, or section 1 of SB
5 898 relating to the department's actions regarding any
6 insurer's risk-based capital plan, revised risk-based capital
7 plan, risk-based capital report or adjusted risk-based capital
8 report, are exempt from the provisions of s. 286.011 and s.
9 24(b), Art. I of the State Constitution, except as otherwise
10 provided in this section. All portions of such hearings or
11 proceedings shall be recorded by a court reporter. The
12 Department of Financial Services Insurance shall open such
13 proceedings or hearings or provide a copy of the transcript of
14 such hearings or proceedings, or disclose the contents of
15 notices, correspondence, reports, records, or other
16 information to a department, agency, or instrumentality of
17 this or another state or of the United States if the
18 department determines the disclosure is necessary or proper
19 for the enforcement of the laws of the United States or of
20 this or another state.

21 Section 637. Section 624.422, Florida Statutes, is
22 amended to read:

23 624.422 Service of process; appointment of Chief
24 Financial Officer ~~Insurance Commissioner and Treasurer~~ as
25 process agent.--

26 (1) Each licensed insurer, whether domestic, foreign,
27 or alien, shall be deemed to have appointed the Chief
28 Financial Officer ~~Insurance Commissioner and Treasurer~~ and her
29 or his successors in office as its attorney to receive service
30 of all legal process issued against it in any civil action or
31

1 proceeding in this state; and process so served shall be valid
2 and binding upon the insurer.

3 (2) Prior to its authorization to transact insurance
4 in this state, each insurer shall file with the department
5 designation of the name and address of the person to whom
6 process against it served upon the Chief Financial Officer
7 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The
8 insurer may change the designation at any time by a new
9 filing.

10 (3) Service of process upon the Chief Financial
11 Officer ~~Insurance Commissioner and Treasurer~~ as the insurer's
12 attorney pursuant to such an appointment shall be the sole
13 method of service of process upon an authorized domestic,
14 foreign, or alien insurer in this state.

15 Section 638. Section 624.423, Florida Statutes, is
16 amended to read:

17 624.423 Serving process.--

18 (1) Service of process upon the Chief Financial
19 Officer ~~Insurance Commissioner and Treasurer~~ as process agent
20 of the insurer (under s. 624.422) shall be made by serving
21 copies in triplicate of the process upon the Chief Financial
22 Officer ~~Insurance Commissioner and Treasurer~~ or upon her or
23 his assistant, deputy, or other person in charge of her or his
24 office. Upon receiving such service, the Chief Financial
25 Officer ~~Insurance Commissioner and Treasurer~~ shall file one
26 copy in her or his office, return one copy with her or his
27 admission of service, and promptly forward one copy of the
28 process by registered or certified mail to the person last
29 designated by the insurer to receive the same, as provided
30 under s. 624.422(2).

31

1 (2) Where process is served upon the Chief Financial
2 Officer ~~Insurance Commissioner and Treasurer~~ as an insurer's
3 process agent, the insurer shall not be required to answer or
4 plead except within 20 days after the date upon which the
5 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~
6 mailed a copy of the process served upon her or him as
7 required by subsection (1).

8 (3) Process served upon the Chief Financial Officer
9 ~~Insurance Commissioner and Treasurer~~ and copy thereof
10 forwarded as in this section provided shall for all purposes
11 constitute valid and binding service thereof upon the insurer.

12 Section 639. Subsection (6) of section 624.442,
13 Florida Statutes, is amended to read:

14 624.442 Annual reports; actuarial certification;
15 quarterly reports; penalties.--

16 (6) All moneys collected by the department under this
17 section shall be deposited to the credit of the Insurance
18 ~~Commissioner's~~ Regulatory Trust Fund.

19 Section 640. Subsection (2) of section 624.4435,
20 Florida Statutes, is amended to read:

21 624.4435 Assets of insurers; reporting requirements.--

22 (2) Each domestic insurer shall file a report with the
23 Department of Financial Services ~~Insurance~~ disclosing a
24 material acquisition of assets, a material disposition of
25 assets, or a material nonrenewal, cancellation, or revision of
26 a ceded reinsurance agreement, unless the material acquisition
27 or disposition of assets or the material nonrenewal,
28 cancellation, or revision of a ceded reinsurance agreement has
29 been submitted to the department for review, approval, or
30 informational purposes under another section of the Florida
31 Insurance Code or a rule adopted thereunder. A copy of the

1 report and each exhibit or other attachment must be filed by
2 the insurer with the National Association of Insurance
3 Commissioners. The report required in this section is due
4 within 15 days after the end of the calendar month in which
5 the transaction occurs.

6 Section 641. Section 624.484, Florida Statutes, is
7 amended to read:

8 624.484 Registration of agent.--A self-insurance fund
9 shall register with and designate the Chief Financial Officer
10 ~~Insurance Commissioner~~ as its agent solely for the purpose of
11 receiving service of legal documents or process.

12 Section 642. Subsection (1) of section 624.5015,
13 Florida Statutes, is amended to read:

14 624.5015 Advance collection of fees and taxes; title
15 insurers not to pay without reimbursement.--

16 (1) The Department of Financial Services ~~Insurance~~
17 shall collect in advance from the applicant or licensee fees
18 and taxes as provided in s. 624.501.

19 Section 643. Section 624.502, Florida Statutes, is
20 amended to read:

21 624.502 Service of process fee.--In all instances as
22 provided in any section of the insurance code and s. 48.151(3)
23 in which service of process is authorized to be made upon the
24 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~,
25 the plaintiff shall pay to the department a fee of \$15 for
26 such service of process, which fee shall be deposited into the
27 ~~Insurance Commissioner's~~ Regulatory Trust Fund.

28 Section 644. Subsections (1) and (3) of section
29 624.506, Florida Statutes, are amended to read:

30 624.506 County tax; deposit and remittance.--

31

1 (1) The Chief Financial Officer ~~Insurance Commissioner~~
2 ~~and Treasurer~~ shall deposit in the Agents and Solicitors
3 County Tax Trust Fund all moneys accepted as county tax under
4 this part. She or he shall keep a separate account for all
5 moneys so collected for each county and, after deducting
6 therefrom the service charges provided for in s. 215.20, shall
7 remit the balance to the counties.

8 (3) The Chief Financial Officer ~~Comptroller~~ shall
9 annually, as of January 1 following the date of collection,
10 and thereafter at such other times as he or she elects ~~the~~
11 ~~Insurance Commissioner and Treasurer may elect~~, draw her or
12 his warrants on the State Treasury payable to the respective
13 counties entitled to receive the same for the full net amount
14 of such taxes to each county.

15 Section 645. Subsection (5) of section 624.5091,
16 Florida Statutes, is amended to read:

17 624.5091 Retaliatory provision, insurers.--

18 (5) The excess amount of all fees, licenses, and taxes
19 collected by the Department of Revenue under this section over
20 the amount of similar fees, licenses, and taxes provided for
21 in this part, together with all fines, penalties, or other
22 monetary obligations collected under this section and ss.
23 626.711 and 626.743 exclusive of such fees, licenses, and
24 taxes, shall be deposited by the Department of Revenue to the
25 credit of the Insurance ~~Commissioner's~~ Regulatory Trust Fund;
26 provided that such excess amount shall not exceed \$125,000 for
27 1992, and for any subsequent year shall not exceed \$125,000
28 adjusted annually by the lesser of 20 percent or the growth in
29 the total of such excess amount. The remainder of such excess
30 amount shall be deposited into the General Revenue Fund.

31

1 Section 646. Subsection (1) of section 624.5092,
2 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 Financial
7 Services Insurance is authorized to share information with the
8 Department of Revenue as necessary to verify premium tax or
9 other tax liability arising under such taxes and credits which
10 may apply thereto.

11 Section 647. Section 624.516, Florida Statutes, is
12 amended to read:

13 624.516 State Fire Marshal regulatory assessment and
14 surcharge; deposit and use of funds.--

15 (1) The regulatory assessment imposed under s.
16 624.515(1) and the surcharge imposed under s. 624.515(2) shall
17 be deposited by the Department of Revenue, when received and
18 audited, into the Insurance ~~Commissioner's~~ Regulatory Trust
19 Fund.

20 (2) The moneys received and deposited in the funds, as
21 provided in subsection (1), are appropriated for use by the
22 Chief Financial Officer ~~State Treasurer~~ as ex officio State
23 Fire Marshal, hereinafter referred to as "State Fire Marshal,"
24 to defray the expenses of the State Fire Marshal in the
25 discharge of her or his administrative and regulatory powers
26 and duties as prescribed by law, including the maintaining of
27 offices and necessary supplies therefor, essential equipment
28 and other materials, salaries and expenses of required
29 personnel, and all other legitimate expenses relating to the
30 discharge of the administrative and regulatory powers and
31 duties imposed in and charged to her or him under such laws.

1 (3) If, at the end of any fiscal year, a balance of
2 funds remains in the Insurance ~~Commissioner's~~ Regulatory Trust
3 Fund, such balance shall not revert to the general fund of the
4 state, but shall be retained in the Insurance ~~Commissioner's~~
5 Regulatory Trust Fund to be used for the purposes for which
6 the moneys are appropriated as set forth in subsection (2).

7 Section 648. Subsection (1) of section 624.517,
8 Florida Statutes, is amended to read:

9 624.517 State Fire Marshal regulatory assessment;
10 reduction of assessment.--

11 (1) The Department of Financial Services ~~Insurance~~
12 shall ascertain on or before December 1 of each year whether
13 the amounts estimated to be received from the regulatory
14 assessment imposed under s. 624.515 for that calendar year,
15 payable on or before the following March 1, as herein
16 prescribed, shall result in an accumulation of funds in excess
17 of the just requirements for which the assessment is imposed
18 as set forth in s. 624.516; and if it determines that the
19 imposition of the full amount of the assessment would result
20 in such excess, it may reduce the percentage amount of the
21 assessment for that calendar year to such percentage as may be
22 necessary to meet the just requirements for which the
23 assessment is imposed.

24 Section 649. Section 624.519, Florida Statutes, is
25 amended to read:

26 624.519 Nonpayment of premium tax or fire marshal
27 assessment; penalty.--If any insurer fails to pay to the
28 Department of Revenue on or before March 1 in each and every
29 year any premium taxes required of it under s. 624.509 or s.
30 624.510, or any state fire marshal regulatory assessment
31 required of it under s. 624.515 or s. 624.517, the Department

1 of Financial Services Insurance may revoke its certificate of
2 authority.

3 Section 650. Subsection (1) of section 624.521,
4 Florida Statutes, is amended to read:

5 624.521 Deposit of certain tax receipts; refund of
6 improper payments.--

7 (1) The Department of Financial Services Insurance
8 shall promptly deposit in the State Treasury to the credit of
9 the Insurance ~~Commissioner's~~ Regulatory Trust Fund all "state
10 tax" portions of agents' and solicitors' licenses collected
11 under s. 624.501 necessary to fund the Division of Insurance
12 Fraud. The balance of the tax shall be credited to the
13 General Fund. All moneys received by the Department of
14 Financial Services Insurance not in accordance with the
15 provisions of this code or not in the exact amount as
16 specified by the applicable provisions of this code shall be
17 returned to the remitter. The records of the department shall
18 show the date and reason for such return.

19 Section 651. Section 624.523, Florida Statutes, is
20 amended to read:

21 624.523 Insurance ~~Commissioner's~~ Regulatory Trust
22 Fund.--

23 (1) There is created in the State Treasury a trust
24 fund designated "Insurance ~~Commissioner's~~ Regulatory Trust
25 Fund" to which shall be credited all payments received on
26 account of the following items:

27 (a) All fines, monetary penalties, and costs imposed
28 upon persons by the department as authorized by law for
29 violation of the laws of this state.

30 (b) Any sums received for copies of the stenographic
31 record of hearings, as authorized by law.

- 1 (c) All sums received under s. 624.404(5).
2 (d) All sums received under s. 624.5091, as provided
3 in subsection (5) thereof.
4 (e) All payments received on account of items provided
5 for under respective provisions of s. 624.501, as follows:
6 1. Subsection (1) (certificate of authority of
7 insurer).
8 2. Subsection (2) (charter documents of insurer).
9 3. Subsection (3) (annual license tax of insurer).
10 4. Subsection (4) (annual statement of insurer).
11 5. Subsection (5) (application fee for insurance
12 representatives).
13 6. The "appointment fee" portion of any appointment
14 provided for under paragraphs (6)(a) and (b) (insurance
15 representatives, property, marine, casualty and surety
16 insurance, agents, and solicitors).
17 7. Paragraph (6)(c) (nonresident agents).
18 8. Paragraph (6)(d) (service representatives).
19 9. The "appointment fee" portion of any appointment
20 provided for under paragraph (7)(a) (life insurance agents,
21 original appointment, and renewal or continuation of
22 appointment).
23 10. Paragraph (7)(b) (nonresident agent license).
24 11. The "appointment fee" portion of any appointment
25 provided for under paragraph (8)(a) (health insurance agents,
26 agent's appointment, and renewal or continuation fee).
27 12. Paragraph (8)(b) (nonresident agent appointment).
28 13. The "appointment fee" portion of any appointment
29 provided for under subsections (9) and (10) (limited licenses
30 and fraternal benefit society agents).
31 14. Subsection (11) (vending machines).

- 1 15. Subsection (12) (surplus lines agent).
2 16. Subsection (13) (adjusters' appointment).
3 17. Subsection (14) (examination fee).
4 18. Subsection (15) (temporary license and appointment
5 as agent or adjuster).
6 19. Subsection (16) (reissuance, reinstatement, etc.).
7 20. Subsection (17) (additional license continuation
8 fees).
9 21. Subsection (18) (filing application for permit to
10 form insurer).
11 22. Subsection (19) (license fee of rating
12 organization).
13 23. Subsection (20) (miscellaneous services).
14 24. Subsection (21) (insurance agencies).
15 (f) All payments received on account of actuarial and
16 other services in the valuation or computation of the reserves
17 of life insurers pursuant to s. 625.121(2).
18 (g) All sums received under ss. 626.711 and 626.743.
19 (h) Sums received under s. 626.932, as provided in
20 subsection (5) thereof.
21 (i) Sums received under s. 626.938, as provided in
22 subsection (7) thereof.
23 (j) All sums received under s. 627.828.
24 (k) All sums received from motor vehicle service
25 agreement companies under s. 634.221.
26 (l) All sums received under s. 648.27(6) (bail bond
27 agent, limited surety agent or runner, continuation fee), the
28 "appointment fee" portion of any license or permit provided
29 for under s. 648.31, and the application fees provided for
30 under ss. 648.34(3) and 648.37(3).
31 (m) All sums received under s. 651.015.

1 (n) All sums received by the Chief Financial Officer
2 ~~Insurance Commissioner and Treasurer~~ as fees for her or his
3 services as service-of-process agent.

4 (o) All state tax portions of agents' and solicitors'
5 licenses collected under s. 624.501.

6 (2) The moneys so received and deposited in this
7 regulatory trust fund are ~~hereby~~ appropriated for use by the
8 department to defray the expenses of the department in the
9 discharge of its administrative and regulatory powers and
10 duties as prescribed by law.

11 Section 652. Subsection (1) and paragraph (b) of
12 subsection (11) of section 624.610, Florida Statutes, are
13 amended to read:

14 624.610 Reinsurance.--

15 (1) The purpose of this section is to protect the
16 interests of insureds, claimants, ceding insurers, assuming
17 insurers, and the public. It is the intent of the Legislature
18 to ensure adequate regulation of insurers and reinsurers and
19 adequate protection for those to whom they owe obligations.
20 In furtherance of that state interest, the Legislature
21 requires that upon the insolvency of a non-United States
22 insurer or reinsurer which provides security to fund its
23 United States obligations in accordance with this section,
24 such security shall be maintained in the United States and
25 claims shall be filed with and valued by the Chief Financial
26 Officer ~~State Insurance Commissioner~~ with regulatory
27 oversight, and the assets shall be distributed in accordance
28 with the insurance laws of the state in which the trust is
29 domiciled that are applicable to the liquidation of domestic
30 United States insurance companies. The Legislature declares
31 that the matters contained in this section are fundamental to

1 the business of insurance in accordance with 15 U.S.C. ss.
2 1011-1012.

3 (11)

4 (b) The summary statement must be signed and attested
5 to by either the chief executive officer or the chief
6 financial officer of the reporting insurer. In addition to the
7 summary statement, the Chief Financial Officer ~~Insurance~~
8 ~~Commissioner~~ may require the filing of any supporting
9 information relating to the ceding of such risks as she or he
10 deems necessary. If the summary statement prepared by the
11 ceding insurer discloses that the net effect of a reinsurance
12 treaty or treaties (or series of treaties with one or more
13 affiliated reinsurers entered into for the purpose of avoiding
14 the following threshold amount) at any time results in an
15 increase of more than 25 percent to the insurer's surplus as
16 to policyholders, then the insurer shall certify in writing to
17 the department that the relevant reinsurance treaty or
18 treaties comply with the accounting requirements contained in
19 any rule adopted by the department under subsection (14). If
20 such certificate is filed after the summary statement of such
21 reinsurance treaty or treaties, the insurer shall refile the
22 summary statement with the certificate. In any event, the
23 certificate must state that a copy of the certificate was sent
24 to the reinsurer under the reinsurance treaty.

25 Section 653. Subsection (3) of section 624.87, Florida
26 Statutes, is amended to read:

27 624.87 Administrative supervision; expenses.--

28 (3) All moneys collected from insurers for the
29 expenses of administrative supervision shall be deposited into
30 the Insurance ~~Commissioner's~~ Regulatory Trust Fund, and the
31 department is authorized to make deposits from time to time

1 into this fund from moneys appropriated for the operation of
2 the department.

3 Section 654. Paragraph (b) of subsection (4),
4 paragraph (a) of subsection (5), and paragraphs (a) and (c) of
5 subsection (6) of section 624.91, Florida Statutes, are
6 amended to read:

7 624.91 The Florida Healthy Kids Corporation Act.--

8 (4) CORPORATION AUTHORIZATION, DUTIES, POWERS.--

9 (b) The Florida Healthy Kids Corporation shall phase
10 in a program to:

11 1. Organize school children groups to facilitate the
12 provision of comprehensive health insurance coverage to
13 children;

14 2. Arrange for the collection of any family, local
15 contributions, or employer payment or premium, in an amount to
16 be determined by the board of directors, to provide for
17 payment of premiums for comprehensive insurance coverage and
18 for the actual or estimated administrative expenses;

19 3. Establish the administrative and accounting
20 procedures for the operation of the corporation;

21 4. Establish, with consultation from appropriate
22 professional organizations, standards for preventive health
23 services and providers and comprehensive insurance benefits
24 appropriate to children; provided that such standards for
25 rural areas shall not limit primary care providers to
26 board-certified pediatricians;

27 5. Establish eligibility criteria which children must
28 meet in order to participate in the program;

29 6. Establish procedures under which applicants to and
30 participants in the program may have grievances reviewed by an
31

1 impartial body and reported to the board of directors of the
2 corporation;

3 7. Establish participation criteria and, if
4 appropriate, contract with an authorized insurer, health
5 maintenance organization, or insurance administrator to
6 provide administrative services to the corporation;

7 8. Establish enrollment criteria which shall include
8 penalties or waiting periods of not fewer than 60 days for
9 reinstatement of coverage upon voluntary cancellation for
10 nonpayment of family premiums;

11 9. If a space is available, establish a special open
12 enrollment period of 30 days' duration for any child who is
13 enrolled in Medicaid or Medikids if such child loses Medicaid
14 or Medikids eligibility and becomes eligible for the Florida
15 Healthy Kids program;

16 10. Contract with authorized insurers or any provider
17 of health care services, meeting standards established by the
18 corporation, for the provision of comprehensive insurance
19 coverage to participants. Such standards shall include
20 criteria under which the corporation may contract with more
21 than one provider of health care services in program sites.
22 Health plans shall be selected through a competitive bid
23 process. The selection of health plans shall be based
24 primarily on quality criteria established by the board. The
25 health plan selection criteria and scoring system, and the
26 scoring results, shall be available upon request for
27 inspection after the bids have been awarded;

28 11. Develop and implement a plan to publicize the
29 Florida Healthy Kids Corporation, the eligibility requirements
30 of the program, and the procedures for enrollment in the
31

1 program and to maintain public awareness of the corporation
2 and the program;

3 12. Secure staff necessary to properly administer the
4 corporation. Staff costs shall be funded from state and local
5 matching funds and such other private or public funds as
6 become available. The board of directors shall determine the
7 number of staff members necessary to administer the
8 corporation;

9 13. As appropriate, enter into contracts with local
10 school boards or other agencies to provide onsite information,
11 enrollment, and other services necessary to the operation of
12 the corporation;

13 14. Provide a report annually ~~on an annual basis~~ to
14 the Governor, Chief Financial Officer ~~Insurance Commissioner~~,
15 Commissioner of Education, Senate President, Speaker of the
16 House of Representatives, and Minority Leaders of the Senate
17 and the House of Representatives;

18 15. Each fiscal year, establish a maximum number of
19 participants by county, on a statewide basis, who may enroll
20 in the program without the benefit of local matching funds.
21 Thereafter, the corporation may establish local matching
22 requirements for supplemental participation in the program.
23 The corporation may vary local matching requirements and
24 enrollment by county depending on factors which may influence
25 the generation of local match, including, but not limited to,
26 population density, per capita income, existing local tax
27 effort, and other factors. The corporation also may accept
28 in-kind match in lieu of cash for the local match requirement
29 to the extent allowed by Title XXI of the Social Security Act;
30 and
31

1 16. Establish eligibility criteria, premium and
2 cost-sharing requirements, and benefit packages which conform
3 to the provisions of the Florida Kidcare program, as created
4 in ss. 409.810-409.820.

5 (5) BOARD OF DIRECTORS.--

6 (a) The Florida Healthy Kids Corporation shall operate
7 subject to the supervision and approval of a board of
8 directors chaired by the Chief Financial Officer ~~Insurance~~
9 ~~Commissioner~~ or her or his designee, and composed of 12 other
10 members selected for 3-year terms of office as follows:

11 1. One member appointed by the Commissioner of
12 Education from among three persons nominated by the Florida
13 Association of School Administrators;

14 2. One member appointed by the Commissioner of
15 Education from among three persons nominated by the Florida
16 Association of School Boards;

17 3. One member appointed by the Commissioner of
18 Education from the Office of School Health Programs of the
19 Florida Department of Education;

20 4. One member appointed by the Governor from among
21 three members nominated by the Florida Pediatric Society;

22 5. One member, appointed by the Governor, who
23 represents the Children's Medical Services Program;

24 6. One member appointed by the Chief Financial Officer
25 ~~Insurance Commissioner~~ from among three members nominated by
26 the Florida Hospital Association;

27 7. Two members, appointed by the Chief Financial
28 Officer ~~Insurance Commissioner~~, who are representatives of
29 authorized health care insurers or health maintenance
30 organizations;

31

1 8. One member, appointed by the Chief Financial
2 Officer ~~Insurance Commissioner~~, who represents the Institute
3 for Child Health Policy;

4 9. One member, appointed by the Governor, from among
5 three members nominated by the Florida Academy of Family
6 Physicians;

7 10. One member, appointed by the Governor, who
8 represents the Agency for Health Care Administration; and

9 11. The State Health Officer or her or his designee.

10 (6) LICENSING NOT REQUIRED; FISCAL OPERATION.--

11 (a) The corporation shall not be deemed an insurer.
12 The officers, directors, and employees of the corporation
13 shall not be deemed to be agents of an insurer. Neither the
14 corporation nor any officer, director, or employee of the
15 corporation is subject to the licensing requirements of the
16 insurance code or the rules of the Department of Financial
17 Services ~~Insurance~~. However, any marketing representative
18 utilized and compensated by the corporation must be appointed
19 as a representative of the insurers or health services
20 providers with which the corporation contracts.

21 (c) The Department of Financial Services ~~Insurance~~
22 shall supervise any liquidation or dissolution of the
23 corporation and shall have, with respect to such liquidation
24 or dissolution, all power granted to it pursuant to the
25 insurance code.

26 Section 655. Subsection (5) of section 625.161,
27 Florida Statutes, is amended to read:

28 625.161 Valuation of property.--

29 (5) In carrying out its responsibilities under this
30 section, in the event that the department and the insurer do
31 not agree on the value of real or personal property of such

1 insurer, the department may retain the services of a qualified
2 real or personal property appraiser. In the event it is
3 subsequently determined that the insurer has overvalued
4 assets, the department shall be reimbursed for the costs of
5 the services of any such appraiser incurred with respect to
6 its responsibilities under this section regarding an insurer
7 by said insurer and any reimbursement shall be deposited in
8 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

9 Section 656. Section 625.317, Florida Statutes, is
10 amended to read:

11 625.317 Corporate bonds and debentures.--An insurer
12 may invest in bonds, notes, or other interest-bearing or
13 interest-accruing obligations of any solvent corporation
14 organized under the laws of the United States or Canada or
15 under the laws of any state, the District of Columbia, any
16 territory or possession of the United States, or any Province
17 of Canada or in bonds or notes issued by the Florida Windstorm
18 Underwriting Association or a private nonprofit corporation, a
19 private nonprofit unincorporated association, or a nonprofit
20 mutual company organized by that association, all as
21 authorized in s. 627.351(2)(c), or any subsidiary or affiliate
22 thereof authorized by the Department of Insurance or the
23 Department of Financial Services to issue such bonds or notes.

24 Section 657. Paragraph (d) of subsection (3) of
25 section 625.52, Florida Statutes, is amended to read:

26 625.52 Securities eligible for deposit.--

27 (3) To be eligible for deposit under paragraph (1)(h),
28 any certificate of deposit must have the following
29 characteristics:

30 (d) The issuing bank, savings bank, or savings
31 association must agree to the terms and conditions of the

1 Chief Financial Officer ~~State Treasurer~~ regarding the rights
2 to the certificate of deposit and must have executed a written
3 certificate of deposit agreement with the Chief Financial
4 Officer ~~State Treasurer~~. The terms and conditions of such
5 agreement shall include, but need not be limited to:

6 1. Exclusive authorized signature authority for the
7 Chief Financial Officer ~~State Treasurer~~.

8 2. Agreement to pay, without protest, the proceeds of
9 its certificate of deposit to the department within 30
10 business days after presentation.

11 3. Prohibition against levies, setoffs, survivorship,
12 or other conditions that might hinder the department's ability
13 to recover the full face value of a certificate of deposit.

14 4. Instructions regarding interest payments, renewals,
15 taxpayer identification, and early withdrawal penalties.

16 5. Agreement to be subject to the jurisdiction of the
17 courts of this state, or those of the United States which are
18 located in this state, for the purposes of any litigation
19 arising out of this section.

20 6. Such other conditions as the department requires.

21 Section 658. Subsection (2) of section 625.53, Florida
22 Statutes, is amended to read:

23 625.53 Depository.--

24 (2) The department shall hold all such deposits in
25 safekeeping in the vaults located in the offices of the Chief
26 Financial Officer ~~Treasurer~~.

27 Section 659. Section 625.83, Florida Statutes, is
28 amended to read:

29 625.83 Failure to file reporting forms.--Any insurer
30 who knowingly fails to file information, documents, or reports
31 required to be filed under s. 625.75 or any rule thereunder

1 shall forfeit to the state the sum of \$100 for each day such
2 failure to file continues. Such forfeiture shall be payable
3 to the Chief Financial Officer ~~Treasurer~~ to be deposited in
4 the Insurance ~~Commissioner's~~ Regulatory Trust Fund and shall
5 be recoverable in a civil suit in the name of the state. A
6 time for filing may be extended for a reasonable period by the
7 department.

8 Section 660. Section 626.266, Florida Statutes, is
9 amended to read:

10 626.266 Printing of examinations or related materials
11 to preserve examination security.--A contract let for the
12 development, administration, or grading of examinations or
13 related materials by the Department of Financial Services
14 ~~Insurance~~ pursuant to the various agent, customer
15 representative, solicitor, or adjuster licensing and
16 examination provisions of this code may include the printing
17 or furnishing of these examinations or related materials in
18 order to preserve security. Any such contract shall be let as
19 a contract for a contractual service pursuant to s. 287.057.

20 Section 661. Subsections (5) and (6) of section
21 626.2815, Florida Statutes, are amended to read:

22 626.2815 Continuing education required; application;
23 exceptions; requirements; penalties.--

24 (5) The Department of Financial Services ~~Insurance~~
25 shall refuse to renew the appointment of any agent who has not
26 had his or her continuing education requirements certified
27 unless the agent has been granted an extension by the
28 department. The department may not issue a new appointment of
29 the same or similar type, with any insurer, to an agent who
30 was denied a renewal appointment for failure to complete
31

1 continuing education as required until the agent completes his
2 or her continuing education requirement.

3 (6)(a) There is created an 11-member continuing
4 education advisory board to be appointed by the Chief
5 Financial Officer ~~Insurance Commissioner and Treasurer~~.
6 Appointments shall be for terms of 4 years. The purpose of
7 the board is to advise the department in determining standards
8 by which courses may be evaluated and categorized as basic,
9 intermediate, or advanced. The board shall establish such
10 criteria and the department shall implement such criteria by
11 January 1, 1997. The board shall submit recommendations to
12 the department of changes needed in such criteria not less
13 frequently than every 2 years thereafter. The department shall
14 require all approved course providers to submit courses for
15 approval to the department using the criteria. All materials,
16 brochures, and advertisements related to the approved courses
17 must specify the level assigned to the course.

18 (b) The board members shall be appointed as follows:

19 1. Seven members representing agents of which at least
20 one must be a representative from each of the following
21 organizations: the Florida Association of Insurance Agents;
22 the Florida Association of Life Underwriters; the Professional
23 Insurance Agents of Florida, Inc.; the Florida Association of
24 Health Underwriters; the Specialty Agents' Association; the
25 Latin American Agents' Association; and the National
26 Association of Insurance Women. Such board members must
27 possess at least a bachelor's degree or higher from an
28 accredited college or university with major coursework in
29 insurance, risk management, or education or possess the
30 designation of CLU, CPCU, CHFC, CFP, AAI, or CIC. In addition,
31 each member must possess 5 years of classroom instruction

1 experience or 5 years of experience in the development or
2 design of educational programs or 10 years of experience as a
3 licensed resident agent. Each organization may submit to the
4 department a list of recommendations for appointment. If one
5 organization does not submit a list of recommendations, the
6 Chief Financial Officer ~~Insurance Commissioner~~ may select more
7 than one recommended person from a list submitted by other
8 eligible organizations.

9 2. Two members representing insurance companies at
10 least one of whom must represent a Florida Domestic Company
11 and one of whom must represent the Florida Insurance Council.
12 Such board members must be employed within the training
13 department of the insurance company. At least one such member
14 must be a member of the Society of Insurance Trainers and
15 Educators.

16 3. One member representing the general public who is
17 not directly employed in the insurance industry. Such board
18 member must possess a minimum of a bachelor's degree or higher
19 from an accredited college or university with major coursework
20 in insurance, risk management, training, or education.

21 4. One member, appointed by the Chief Financial
22 Officer ~~Insurance Commissioner~~, who represents the department.

23 (c) The members of the board shall serve at the
24 pleasure of the Chief Financial Officer ~~Insurance Commissioner~~
25 ~~and Treasurer~~. Each board member shall be entitled to
26 reimbursement for expenses pursuant to s. 112.061. The board
27 shall designate one member as chair. The board shall meet at
28 the call of the chair or the Chief Financial Officer ~~Insurance~~
29 ~~Commissioner and Treasurer~~.

30 Section 662. Section 626.322, Florida Statutes, is
31 amended to read:

1 626.322 License, appointment; certain military
2 installations.--A natural person, not a resident of this
3 state, may be licensed and appointed to represent an
4 authorized life insurer domiciled in this state or an
5 authorized foreign life insurer which maintains a regional
6 home office in this state, provided such person represents
7 such insurer exclusively at a United States military
8 installation located in a foreign country. The department may,
9 upon request of the applicant and the insurer on application
10 forms furnished by the department and upon payment of fees as
11 prescribed in s. 624.501, issue a license and appointment to
12 such person. The insurer shall certify to the department that
13 the applicant has the necessary training to hold himself or
14 herself out as a life insurance representative, and the
15 insurer shall further certify that it is willing to be bound
16 by the acts of such applicant within the scope of his or her
17 employment. Appointments shall be continued as prescribed in
18 s. 626.381 and upon payment of a fee as prescribed in s.
19 624.501, unless sooner terminated. Such fees received shall
20 be credited to the Insurance ~~Commissioner's~~ Regulatory Trust
21 Fund as provided for in s. 624.523.

22 Section 663. Subsection (1) of section 626.592,
23 Florida Statutes, is amended to read:

24 626.592 Primary agents.--

25 (1) Each person operating an insurance agency and each
26 location of a multiple location agency shall designate a
27 primary agent for each insurance agency location and shall
28 file the name of the person so designated, and the address of
29 the insurance agency location where he or she is primary
30 agent, with the Department of Financial Services Insurance, on
31 a form approved by the department. The designation of the

1 primary agent may be changed at the option of the agency, and
2 any change shall be effective upon notification to the
3 department. Notice of change must be sent to the department
4 within 30 days after such change.

5 Section 664. Section 626.742, Florida Statutes, is
6 amended to read:

7 626.742 Nonresident agents; service of process.--

8 (1) Each licensed nonresident agent shall appoint the
9 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~
10 as his or her attorney to receive service of legal process
11 issued against the agent in this state, upon causes of action
12 arising within this state out of transactions under the
13 agent's license and appointment. Service upon the Chief
14 Financial Officer ~~Insurance Commissioner and Treasurer~~ as
15 attorney shall constitute effective legal service upon the
16 agent.

17 (2) The appointment of the Chief Financial Officer
18 ~~Insurance Commissioner and Treasurer~~ for service of process
19 shall be irrevocable for as long as there could be any cause
20 of action against the agent arising out of his or her
21 insurance transactions in this state.

22 (3) Duplicate copies of such legal process against
23 such agent shall be served upon the Chief Financial Officer
24 ~~Insurance Commissioner and Treasurer~~ by a person competent to
25 serve a summons.

26 (4) Upon receiving such service, the Chief Financial
27 Officer ~~Insurance Commissioner and Treasurer~~ shall forthwith
28 send one of the copies of the process, by registered mail with
29 return receipt requested, to the defendant agent at his or her
30 last address of record with the department.

31

1 (5) The Chief Financial Officer ~~Insurance Commissioner~~
2 ~~and Treasurer~~ shall keep a record of the day and hour of
3 service upon him or her of all such legal process.

4 Section 665. Paragraph (e) of subsection (3) of
5 section 626.7492, Florida Statutes, is amended to read:

6 626.7492 Reinsurance intermediaries.--

7 (3) LICENSURE.--

8 (e) If the applicant for a reinsurance intermediary
9 license is a nonresident, the applicant, as a condition
10 precedent to receiving or holding a license, must designate
11 the Chief Financial Officer ~~Insurance Commissioner~~ as agent
12 for service of process in the manner, and with the same legal
13 effect, provided for by this section for designation of
14 service of process upon unauthorized insurers. Such applicant
15 shall also furnish the department with the name and address of
16 a resident of this state upon whom notices or orders of the
17 department or process affecting the nonresident reinsurance
18 intermediary may be served. The licensee shall promptly
19 notify the department in writing of each change in its
20 designated agent for service of process, and the change shall
21 not become effective until acknowledged by the department.

22 Section 666. Subsection (1) of section 626.8427,
23 Florida Statutes, is amended to read:

24 626.8427 Number of applications for licensure
25 required; exemption; effect of expiration of license.--

26 (1) After a license as a title insurance agent has
27 been issued to a title insurance agent, the agent is not
28 required to file another license application for a similar
29 license, irrespective of the number of insurers to be
30 represented by the agent, unless:

31

1 (a) The agent is specifically ordered by the
2 department to complete a new application; or

3 (b) During any period of 48 months since the filing of
4 the original license application, the agent was not appointed,
5 unless in the case of individuals the failure to be so
6 appointed was due to military service, in which event the
7 period within which a new application is not required may, in
8 the discretion of the Department of Financial Services
9 ~~Insurance~~, be extended for 12 months following the date of
10 discharge from military service if the military service does
11 not exceed 3 years, but in no event shall the period be
12 extended under this clause for a period of more than 6 years
13 from the date of filing the original application.

14 Section 667. Subsection (1) of section 626.8463,
15 Florida Statutes, is amended to read:

16 626.8463 Witnesses and evidence.--

17 (1) As to the subject of any examination,
18 investigation, or hearing being conducted by him or her under
19 s. 624.5015, ss. 626.8417-626.847, or s. 627.791, an examiner
20 appointed by the Department of Financial Services ~~Insurance~~
21 may administer oaths, examine and cross-examine witnesses, and
22 receive oral and documentary evidence and shall have the power
23 to subpoena witnesses, compel their attendance and testimony,
24 and require by subpoena the production of books, papers,
25 records, files, correspondence, documents, or other evidence
26 which the examiner deems relevant to the inquiry.

27 Section 668. Section 626.8467, Florida Statutes, is
28 amended to read:

29 626.8467 Testimony compelled; immunity from
30 prosecution.--

31

1 (1) If a person asks to be excused from attending or
2 testifying or from producing any books, papers, records,
3 contracts, documents, or other evidence in connection with any
4 examination, hearing, or investigation being conducted under
5 s. 624.5015, ss. 626.8417-626.847, or s. 627.791 by the
6 department or its examiner on the ground that the testimony or
7 evidence required of the person may tend to incriminate him or
8 her or subject him or her to a penalty or forfeiture and
9 notwithstanding is directed to give such testimony or produce
10 such evidence, the person must, if so directed by the
11 Department of Financial Services ~~Insurance~~ and the Department
12 of Legal Affairs, nonetheless comply with such direction, but
13 he or she shall not thereafter be prosecuted or subjected to
14 any penalty or forfeiture for or on account of any
15 transaction, matter, or thing concerning which he or she may
16 have so testified or produced evidence, and no testimony so
17 given or evidence produced shall be received against the
18 person upon any criminal action, investigation, or proceeding.
19 However, a person so testifying shall not be exempt from
20 prosecution or punishment for any perjury committed by him or
21 her in such testimony, and the testimony or evidence so given
22 or produced shall be admissible against him or her upon any
23 criminal action, investigation, or proceeding concerning such
24 perjury; and such person shall not be exempt from the refusal,
25 suspension, or revocation of any license or appointment,
26 permission, or authority conferred or to be conferred pursuant
27 to s. 624.5015, ss. 626.8417-626.847, or s. 627.791.

28 (2) Any such person may execute, acknowledge, and file
29 in the office of the Department of Financial Services
30 ~~Insurance~~ a statement expressly waiving such immunity or
31 privilege with respect to any transaction, matter, or thing

1 specified in the statement, and thereupon the testimony of
2 such person or such evidence in relation to such transaction,
3 matter, or thing may be received or produced before any judge
4 or justice, court, tribunal, or grand jury or otherwise and,
5 if so received or produced, such person shall not be entitled
6 to any immunity or privilege on account of any testimony he or
7 she may so give or evidence so produced.

8 Section 669. Section 626.847, Florida Statutes, is
9 amended to read:

10 626.847 Penalty for refusal to testify.--A person who
11 refuses or fails, without lawful cause, to testify relative to
12 the affairs of any title insurer or other person when
13 subpoenaed under s. 626.8463 and requested by the Department
14 of Financial Services Insurance to so testify is guilty of a
15 misdemeanor of the second degree and, upon conviction, is
16 punishable as provided in s. 775.082 or s. 775.083.

17 Section 670. Section 626.8736, Florida Statutes, is
18 amended to read:

19 626.8736 Nonresident independent or public adjusters;
20 service of process.--

21 (1) Each licensed nonresident independent or public
22 adjuster shall appoint the Chief Financial Officer Insurance
23 ~~Commissioner and Treasurer~~ and his or her successors in office
24 as his or her attorney to receive service of legal process
25 issued against the nonresident independent or public adjuster
26 in this state, upon causes of action arising within this state
27 out of transactions under his license and appointment. Service
28 upon the Chief Financial Officer Insurance Commissioner and
29 ~~Treasurer~~ as attorney shall constitute effective legal service
30 upon the nonresident independent or public adjuster.

31

1 (2) The appointment of the Chief Financial Officer
2 ~~Insurance Commissioner and Treasurer~~ for service of process
3 shall be irrevocable for as long as there could be any cause
4 of action against the nonresident independent or public
5 adjuster arising out of his or her insurance transactions in
6 this state.

7 (3) Duplicate copies of legal process against the
8 nonresident independent or public adjuster shall be served
9 upon the Chief Financial Officer ~~Insurance Commissioner and~~
10 ~~Treasurer~~ by a person competent to serve a summons.

11 (4) Upon receiving the service, the Chief Financial
12 ~~Officer Insurance Commissioner and Treasurer~~ shall forthwith
13 send one of the copies of the process, by registered mail with
14 return receipt requested, to the defendant nonresident
15 independent or public adjuster at his or her last address of
16 record with the department.

17 (5) The Chief Financial Officer ~~Insurance Commissioner~~
18 ~~and Treasurer~~ shall keep a record of the day and hour of
19 service upon him or her of all legal process received under
20 this section.

21 Section 671. Section 626.906, Florida Statutes, is
22 amended to read:

23 626.906 Acts constituting Chief Financial Officer
24 ~~Insurance Commissioner and Treasurer~~ as process agent.--Any of
25 the following acts in this state, effected by mail or
26 otherwise, by an unauthorized foreign insurer, alien insurer,
27 or person representing or aiding such an insurer is equivalent
28 to and shall constitute an appointment by such insurer or
29 person representing or aiding such insurer of the Chief
30 Financial Officer ~~Insurance Commissioner and Treasurer~~, and
31 his or her successor or successors in office, to be its true

1 and lawful attorney, upon whom may be served all lawful
2 process in any action, suit, or proceeding instituted by or on
3 behalf of an insured or beneficiary, arising out of any such
4 contract of insurance; and any such act shall be signification
5 of the insurer's or person's agreement that such service of
6 process is of the same legal force and validity as personal
7 service of process in this state upon such insurer or person
8 representing or aiding such insurer:

9 (1) The issuance or delivery of contracts of insurance
10 to residents of this state or to corporations authorized to do
11 business therein;

12 (2) The solicitation of applications for such
13 contracts;

14 (3) The collection of premiums, membership fees,
15 assessments, or other considerations for such contracts; or

16 (4) Any other transaction of insurance.

17 Section 672. Subsection (1) of section 626.907,
18 Florida Statutes, is amended to read:

19 626.907 Service of process; judgment by default.--

20 (1) Service of process upon an insurer or person
21 representing or aiding such insurer pursuant to s. 626.906
22 shall be made by delivering to and leaving with the Chief
23 Financial Officer ~~Insurance Commissioner and Treasurer~~ or some
24 person in apparent charge of his or her office two copies
25 thereof. The Chief Financial Officer ~~Insurance Commissioner~~
26 ~~and Treasurer~~ shall forthwith mail by registered mail one of
27 the copies of such process to the defendant at the defendant's
28 last known principal place of business and shall keep a record
29 of all process so served upon him or her. The service of
30 process is sufficient, provided notice of such service and a
31 copy of the process are sent within 10 days thereafter by

1 registered mail by plaintiff or plaintiff's attorney to the
2 defendant at the defendant's last known principal place of
3 business, and the defendant's receipt, or receipt issued by
4 the post office with which the letter is registered, showing
5 the name of the sender of the letter and the name and address
6 of the person to whom the letter is addressed, and the
7 affidavit of the plaintiff or plaintiff's attorney showing a
8 compliance herewith are filed with the clerk of the court in
9 which the action is pending on or before the date the
10 defendant is required to appear, or within such further time
11 as the court may allow.

12 Section 673. Section 626.912, Florida Statutes, is
13 amended to read:

14 626.912 Exemptions from ss. 626.904-626.911.--The
15 provisions of ss. 626.904-626.911 do not apply to any action,
16 suit, or proceeding against any unauthorized foreign insurer,
17 alien insurer, or person representing or aiding such an
18 insurer arising out of any contract of insurance:

19 (1) Covering reinsurance, wet marine and
20 transportation, commercial aircraft, or railway insurance
21 risks;

22 (2) Against legal liability arising out of the
23 ownership, operation, or maintenance of any property having a
24 permanent situs outside this state;

25 (3) Against loss of or damage to any property having a
26 permanent situs outside this state; or

27 (4) Issued under and in accordance with the Surplus
28 Lines Law, when such insurer or person representing or aiding
29 such insurer enters a general appearance or when such contract
30 of insurance contains a provision designating the Chief
31 Financial Officer ~~Insurance Commissioner and Treasurer~~ and his

1 or her successor or successors in office or designating a
2 Florida resident agent to be the true and lawful attorney of
3 such unauthorized insurer or person representing or aiding
4 such insurer upon whom may be served all lawful process in any
5 action, suit, or proceeding instituted by or on behalf of an
6 insured or person representing or aiding such insurer or
7 beneficiary arising out of any such contract of insurance; and
8 service of process effected on such Chief Financial Officer
9 ~~Insurance Commissioner and Treasurer~~, his or her successor or
10 successors in office, or such resident agent shall be deemed
11 to confer complete jurisdiction over such unauthorized insurer
12 or person representing or aiding such insurer in such action.

13 Section 674. Subsections (5) and (6) of section
14 626.918, Florida Statutes, are amended to read:

15 626.918 Eligible surplus lines insurers.--

16 (5) When it appears that any particular insurance risk
17 which is eligible for export, but on which insurance coverage,
18 in whole or in part, is not procurable from the eligible
19 surplus lines insurers, after a search of eligible surplus
20 lines insurers, then the surplus lines agent may file a
21 supplemental signed statement setting forth such facts and
22 advising the department that such part of the risk as shall be
23 unprocurable, as aforesaid, is being placed with named
24 unauthorized insurers, in the amounts and percentages set
25 forth in the statement. Such named unauthorized insurer
26 shall, however, before accepting any risk in this state,
27 deposit with the department cash or securities acceptable to
28 the department of the market value of \$50,000 for each
29 individual risk, contract, or certificate, which deposit shall
30 be held by the department for the benefit of Florida
31 policyholders only; and the surplus lines agent shall procure

1 from such unauthorized insurer and file with the department a
2 certified copy of its statement of condition as of the close
3 of the last calendar year. If such statement reveals,
4 including both capital and surplus, net assets of at least
5 that amount required for licensure of a domestic insurer, then
6 the surplus lines agent may proceed to consummate such
7 contract of insurance. Whenever any insurance risk, or any
8 part thereof, is placed with an unauthorized insurer, as
9 provided herein, the policy, binder, or cover note shall
10 contain a statement signed by the insured and the agent with
11 the following notation: "The insured is aware that certain
12 insurers participating in this risk have not been approved to
13 transact business in Florida nor have they been declared
14 eligible as surplus lines insurers by the Department of
15 Financial Services ~~Insurance of Florida~~. The placing of such
16 insurance by a duly licensed surplus lines agent in Florida
17 shall not be construed as approval of such insurer by the
18 Department of Financial Services ~~Insurance of Florida~~.
19 Consequently, the insured is aware that the insured has
20 severely limited the assistance available under the insurance
21 laws of Florida. The insured is further aware that he or she
22 may be charged a reasonable per policy fee, as provided in s.
23 626.916(4), Florida Statutes, for each policy certified for
24 export." All other provisions of this code shall apply to such
25 placement the same as if such risks were placed with an
26 eligible surplus lines insurer.

27 (6) When any particular insurance risk subject to
28 subsection (5) is eligible for placement with an unauthorized
29 insurer and not more than 12.5 percent of the risk is so
30 subject, the Department of Financial Services ~~Insurance~~ may,
31 at its discretion, permit the agent to obtain from the insured

1 a signed statement as indicated in subsection (5). All other
2 provisions of this code apply to such placement the same as if
3 such risks were placed with an eligible surplus lines insurer.

4 Section 675. Subsection (5) of section 626.931,
5 Florida Statutes, is amended to read:

6 626.931 Agent affidavit and insurer reporting
7 requirements.--

8 (5) The Chief Financial Officer may ~~Insurance~~
9 ~~Commissioner shall have the authority to~~ waive the filing
10 requirements described in subsections (3) and (4).

11 Section 676. Paragraph (a) of subsection (2) and
12 subsection (5) of section 626.932, Florida Statutes, are
13 amended to read:

14 626.932 Surplus lines tax.--

15 (2)

16 (a) The surplus lines agent shall make payable to the
17 Department of Financial Services ~~Insurance~~ the tax related to
18 each calendar quarter's business as reported to the Florida
19 Surplus Lines Service Office, and remit the tax to the Florida
20 Surplus Lines Service Office at the same time as provided for
21 the filing of the quarterly affidavit, under s. 626.931. The
22 Florida Surplus Lines Service Office shall forward to the
23 department the taxes and any interest collected pursuant to
24 paragraph (b), within 10 days of receipt.

25 (5) The department shall deposit 55 percent of all
26 taxes collected under this section to the credit of the
27 ~~Insurance Commissioner's~~ Regulatory Trust Fund. Forty-five
28 percent of all taxes collected under this section shall be
29 deposited into the General Revenue Fund.

30 Section 677. Section 626.936, Florida Statutes, is
31 amended to read:

1 626.936 Failure to file reports or pay tax or service
2 fee; administrative penalty.--

3 (1) Any licensed surplus lines agent who neglects to
4 file a report or an affidavit in the form and within the time
5 required or provided for in the Surplus Lines Law may be fined
6 up to \$50 per day for each day the neglect continues,
7 beginning the day after the report or affidavit was due until
8 the date the report or affidavit is received. All sums
9 collected under this section shall be deposited into the
10 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

11 (2) Any licensed surplus lines agent who neglects to
12 pay the taxes or service fees as required under the Surplus
13 Lines Law and within the time required may be fined up to \$500
14 per day for each day the failure to pay continues, beginning
15 the day after the tax or service fees were due. The agent
16 shall pay interest on the amount of any delinquent tax due, at
17 the rate of 9 percent per year, compounded annually, beginning
18 the day the amount becomes delinquent. The department shall
19 deposit all sums collected under this section into the
20 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

21 Section 678. Section 626.9361, Florida Statutes, is
22 amended to read:

23 626.9361 Failure to file report; administrative
24 penalty.--Any eligible surplus lines insurer who fails to file
25 a report in the form and within the time required or provided
26 for in the Surplus Lines Law may be fined up to \$500 per day
27 for each day such failure continues, beginning the day after
28 the report was due, until the date the report is received.
29 Failure to file a report may also result in withdrawal of
30 eligibility as a surplus lines insurer in this state. All sums
31 collected by the department under this section shall be

1 deposited into the Insurance ~~Commissioner's~~ Regulatory Trust
2 Fund.

3 Section 679. Subsections (2), (3), and (4) of section
4 626.937, Florida Statutes, are amended to read:

5 626.937 Actions against insurer; service of process.--

6 (2) The unauthorized insurer accepting the risk or
7 issuing the policy shall be deemed thereby to have authorized
8 service of process against it in the manner and to the effect
9 as provided in this section, and to have appointed the Chief
10 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its
11 agent for service of process issuing upon any cause of action
12 arising in this state under any such policy, contract, or
13 insurance.

14 (3) Each unauthorized insurer requesting eligibility
15 pursuant to s. 626.918 shall file with the department its
16 appointment of the Chief Financial Officer ~~Insurance~~
17 ~~Commissioner and Treasurer~~ and his or her successors in
18 office, on a form as furnished by the department, as its
19 attorney to receive service of all legal process issued
20 against it in any civil action or proceeding in this state,
21 and agreeing that process so served shall be valid and binding
22 upon the insurer. The appointment shall be irrevocable, shall
23 bind the insurer and any successor in interest as to the
24 assets or liabilities of the insurer, and shall remain in
25 effect as long as there is outstanding in this state any
26 obligation or liability of the insurer resulting from its
27 insurance transactions therein.

28 (4) At the time of such appointment of the Chief
29 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its
30 process agent, the insurer shall file with the department
31 designation of the name and address of the person to whom

1 process against it served upon the Chief Financial Officer
2 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The
3 insurer may change the designation at any time by a new
4 filing.

5 Section 680. Subsections (3) and (7) of section
6 626.938, Florida Statutes, are amended to read:

7 626.938 Report and tax of independently procured
8 coverages.--

9 (3) For the general support of the government of this
10 state, there is levied upon the obligation, chose in action,
11 or right represented by the premium charged for such insurance
12 a tax at the rate of 5 percent of the gross amount of such
13 premium and a 0.3 percent service fee pursuant to s. 626.9325.
14 The insured shall withhold the amount of the tax and service
15 fee from the amount of premium charged by and otherwise
16 payable to the insurer for such insurance. Within 30 days
17 after the insurance is procured, continued, or renewed, and
18 simultaneously with the filing of the report provided for in
19 subsection (1) with the Florida Surplus Lines Service Office,
20 the insured shall make payable to the Department of Financial
21 Services Insurance ~~Insurance~~ the amount of the tax and make payable to
22 the Florida Surplus Lines Service Office the amount of the
23 service fee. The insured shall remit the tax and the service
24 fee to the Florida Surplus Lines Service Office. The Florida
25 Surplus Lines Service Office shall forward to the department
26 the taxes, and any interest collected pursuant to subsection
27 (5), within 10 days after receipt.

28 (7) The department shall deposit 55 percent of all
29 taxes and interest collected under this section to the credit
30 of the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

31

1 Forty-five percent of all taxes and interest collected under
2 this section shall be deposited into the General Revenue Fund.

3 Section 681. Subsection (2) of section 626.9511,
4 Florida Statutes, is amended to read:

5 626.9511 Definitions.--When used in this part:

6 (2) "Department" means the Department of Financial
7 Services Insurance of this state.

8 Section 682. Paragraph (w) of subsection (1) of
9 section 626.9541, Florida Statutes, is amended to read:

10 626.9541 Unfair methods of competition and unfair or
11 deceptive acts or practices defined.--

12 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
13 DECEPTIVE ACTS.--The following are defined as unfair methods
14 of competition and unfair or deceptive acts or practices:

15 (w) Soliciting or accepting new or renewal insurance
16 risks by insolvent or impaired insurer prohibited; penalty.--

17 1. Whether or not delinquency proceedings as to the
18 insurer have been or are to be initiated, but while such
19 insolvency or impairment exists, no director or officer of an
20 insurer, except with the written permission of the department
21 ~~of Insurance~~, shall authorize or permit the insurer to solicit
22 or accept new or renewal insurance risks in this state after
23 such director or officer knew, or reasonably should have
24 known, that the insurer was insolvent or impaired. "Impaired"
25 includes impairment for capital or surplus, as defined in s.
26 631.011(9) and (10).

27 2. Any such director or officer, upon conviction of a
28 violation of this paragraph, is guilty of a felony of the
29 third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

31

1 Section 683. Paragraph (a) of subsection (3) of
2 section 626.9543, Florida Statutes, is amended to read:

3 626.9543 Holocaust victims.--

4 (3) DEFINITIONS.--For the purpose of this section:

5 (a) "Department" means the Department of Financial
6 Services Insurance.

7 Section 684. Paragraph (e) of subsection (4) and
8 subsection (9) of section 626.989, Florida Statutes, are
9 amended to read:

10 626.989 Investigation by department or Division of
11 Insurance Fraud; compliance; immunity; confidential
12 information; reports to division; division investigator's
13 power of arrest.--

14 (4)

15 (e) The Chief Financial Officer ~~Insurance Commissioner~~
16 and any employee or agent of the department or division, when
17 acting without malice and in the absence of fraud or bad
18 faith, is not subject to civil liability for libel, slander,
19 or any other relevant tort, and no civil cause of action of
20 any nature exists against such person by virtue of the
21 execution of official activities or duties of the department
22 under this section or by virtue of the publication of any
23 report or bulletin related to the official activities or
24 duties of the department or division under this section.

25 (9) In recognition of the complementary roles of
26 investigating instances of workers' compensation fraud and
27 enforcing compliance with the workers' compensation coverage
28 requirements under chapter 440, the Division of Insurance
29 Fraud of the Department of Financial Services Insurance and
30 the Division of Workers' Compensation of the Department of
31 Labor and Employment Security are directed to prepare and

1 submit a joint performance report to the President of the
2 Senate and the Speaker of the House of Representatives by
3 November 1 of each year for each of the next 2 years, and then
4 every 3 years thereafter, describing the results obtained in
5 achieving compliance with the workers' compensation coverage
6 requirements and reducing the incidence of workers'
7 compensation fraud.

8 Section 685. Subsection (1) of section 626.9892,
9 Florida Statutes, is amended to read:

10 626.9892 Anti-Fraud Reward Program; reporting of
11 insurance fraud.--

12 (1) The Anti-Fraud Reward Program is ~~hereby~~
13 established within the department, to be funded from the
14 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

15 Section 686. Subsections (1) and (4) of section
16 626.9911, Florida Statutes, are amended to read:

17 626.9911 Definitions.--As used in this act, the term:

18 (1) "Department" means the Department of Financial
19 Services Insurance.

20 (4) "Viatical settlement broker" means a person who,
21 on behalf of a viator and for a fee, commission, or other
22 valuable consideration, offers or attempts to negotiate
23 viatical settlement contracts between a viator resident in
24 this state and one or more viatical settlement providers.
25 Notwithstanding the manner in which the viatical settlement
26 broker is compensated, a viatical settlement broker is deemed
27 to represent only the viator and owes a fiduciary duty to the
28 viator to act according to the viator's instructions and in
29 the best interest of the viator. The term does not include an
30 attorney, licensed Certified Public Accountant, or investment
31 adviser lawfully registered with the department ~~of Banking and~~

1 ~~Finance~~ under chapter 517, who is retained to represent the
2 viator and whose compensation is paid directly by or at the
3 direction and on behalf of the viator.

4 Section 687. Paragraph (e) of subsection (5) of
5 section 626.9912, Florida Statutes, is 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 Chief Financial Officer
13 ~~Insurance Commissioner and Treasurer~~ as its agent for service
14 of process.

15 Section 688. Paragraph (e) of subsection (7) and
16 subsection (8) of section 626.9916, Florida Statutes, are
17 amended to read:

18 626.9916 Viatical settlement broker license required;
19 application for license.--

20 (7) Upon the filing of a sworn application and the
21 payment of the license fee and all other applicable fees under
22 this act, the department shall investigate each applicant and
23 may issue the applicant a license if the department finds that
24 the applicant:

25 (e) Has designated the Chief Financial Officer
26 ~~Insurance Commissioner and Treasurer~~ as its agent for service
27 of process.

28 (8) An applicant for a nonresident viatical settlement
29 broker license must, in addition to designating the Chief
30 Financial Officer ~~Insurance Commissioner and Treasurer~~ as
31 agent for service of process as required by this section, also

1 furnish the department with the name and address of a resident
2 of this state upon whom notices or orders of the department or
3 process affecting the applicant or licensee may be served.
4 After issuance of the license, the licensee must also notify
5 the department of change of the person to receive such
6 notices, orders, or process; such change is not effective
7 until acknowledged by the department.

8 Section 689. Section 627.0613, Florida Statutes, is
9 amended to read:

10 627.0613 Consumer advocate.--The Chief Financial
11 Officer ~~Insurance Commissioner~~ must appoint a consumer
12 advocate who must represent the general public of the state
13 before the department. The consumer advocate must report
14 directly to the Chief Financial Officer ~~Insurance~~
15 ~~Commissioner~~, but is not otherwise under the authority of the
16 department or of any employee of the department. The consumer
17 advocate has such powers as are necessary to carry out the
18 duties of the office of consumer advocate, including, but not
19 limited to, the powers to:

20 (1) Recommend to the department, by petition, the
21 commencement of any proceeding or action; appear in any
22 proceeding or action before the department; or appear in any
23 proceeding before the Division of Administrative Hearings
24 relating to subject matter under the jurisdiction of the
25 department.

26 (2) Have access to and use of all files, records, and
27 data of the department.

28 (3) Examine rate and form filings submitted to the
29 department, hire consultants as necessary to aid in the review
30 process, and recommend to the department any position deemed
31 by the consumer advocate to be in the public interest.

1 (4) Prepare an annual budget for presentation to the
2 Legislature by the department, which budget must be adequate
3 to carry out the duties of the office of consumer advocate.

4 Section 690. Paragraphs (b) and (c) of subsection (2)
5 of section 627.0628, Florida Statutes, are amended to read:

6 627.0628 Florida Commission on Hurricane Loss
7 Projection Methodology.--

8 (2) COMMISSION CREATED.--

9 (b) The commission shall consist of the following 11
10 members:

11 1. The insurance consumer advocate.

12 2. The Chief Operating Officer of the Florida
13 Hurricane Catastrophe Fund.

14 3. The Executive Director of the Residential Property
15 and Casualty Joint Underwriting Association.

16 4. The Director of the Division of Emergency
17 Management of the Department of Community Affairs.

18 5. The actuary member of the Florida Hurricane
19 Catastrophe Fund Advisory Council.

20 6. Six members appointed by the Chief Financial
21 Officer ~~Insurance Commissioner~~, as follows:

22 a. An employee of the Department of Financial Services
23 ~~Insurance~~ who is an actuary responsible for property insurance
24 rate filings.

25 b. An actuary who is employed full time by a property
26 and casualty insurer which was responsible for at least 1
27 percent of the aggregate statewide direct written premium for
28 homeowner's insurance in the calendar year preceding the
29 member's appointment to the commission.

30
31

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 (c) Members designated under subparagraphs (b)1.-5.
13 shall serve on the commission as long as they maintain the
14 respective offices designated in subparagraphs (b)1.-5.
15 Members appointed by the Chief Financial Officer ~~Insurance~~
16 ~~Commissioner~~ under subparagraph (b)6. shall serve on the
17 commission until the end of the term of office of the Chief
18 Financial officer ~~Insurance Commissioner~~ who appointed them,
19 unless earlier removed by the Chief Financial Officer
20 ~~Insurance Commissioner~~ for cause. Vacancies on the commission
21 shall be filled in the same manner as the original
22 appointment.

23 Section 691. Paragraph (b) of subsection (5) of
24 section 627.0651, Florida Statutes, is amended to read:

25 627.0651 Making and use of rates for motor vehicle
26 insurance.--

27 (5)

28 (b) The department ~~Insurance Commissioner~~ shall have
29 the responsibility to ensure that rates for private passenger
30 vehicle insurance are adequate. To that end, the department
31 shall adopt ~~promulgate~~ rules ~~and regulations~~ establishing

1 standards defining inadequate rates on private passenger
2 vehicle insurance as defined in s. 627.041(8). In the event
3 that the department finds that a rate or rate change is
4 inadequate, the department shall order that a new rate or rate
5 schedule be thereafter filed by the insurer and shall further
6 provide information as to the manner in which noncompliance of
7 the standards may be corrected. When a violation of this
8 provision occurs, the department shall impose an
9 administrative fine pursuant to s. 624.4211.

10 Section 692. Section 627.06535, Florida Statutes, is
11 amended to read:

12 627.06535 Electric vehicles; restrictions on imposing
13 surcharges.--An insurer may not impose a surcharge on the
14 premium for motor vehicle insurance written on an electric
15 vehicle, as defined in s. 320.01, if the surcharge is based on
16 a factor such as new technology, passenger payload,
17 weight-to-horsepower ratio, or types of materials, including
18 composite materials or aluminum, used to manufacture the
19 vehicle, unless the Department of Financial Services ~~Insurance~~
20 determines from actuarial data submitted to it that the
21 surcharge is justified.

22 Section 693. Section 627.0915, Florida Statutes, is
23 amended to read:

24 627.0915 Rate filings; workers' compensation,
25 drug-free workplace, and safe employers.--The Department of
26 Financial Services ~~Insurance~~ shall approve rating plans for
27 workers' compensation insurance that give specific
28 identifiable consideration in the setting of rates to
29 employers that either implement a drug-free workplace program
30 pursuant to rules adopted by the Division of Workers'
31 Compensation of the Department of Labor and Employment

1 Security or implement a safety program pursuant to provisions
2 of the rating plan or implement both a drug-free workplace
3 program and a safety program. The plans must be actuarially
4 sound and must state the savings anticipated to result from
5 such drug-testing and safety programs.

6 Section 694. Section 627.0916, Florida Statutes, is
7 amended to read:

8 627.0916 Agricultural horse farms.--Notwithstanding
9 any other provision of this chapter to the contrary, any
10 rates, rating schedules, or rating manuals for workers'
11 compensation and employer's liability insurance filed with the
12 Department of Financial Services Insurance shall provide for
13 the rates of an agricultural horse farm engaged in breeding or
14 training to be separated into the following three rate
15 classifications and the premium paid shall be applied
16 proportionately according to payroll: breeding activity
17 involving stallions; breeding activity not involving
18 stallions, including but not limited to boarding and foaling;
19 and training.

20 Section 695. Section 627.092, Florida Statutes, is
21 amended to read:

22 627.092 Workers' Compensation Administrator.--There is
23 created within the Division of Insurer Services of the
24 Department of Financial Services Insurance the position of
25 Workers' Compensation Administrator to monitor carrier
26 practices in the field of workers' compensation.

27 Section 696. Subsection (2) of section 627.096,
28 Florida Statutes, is amended to read:

29 627.096 Workers' Compensation Rating Bureau.--

30 (2) The acquisition by the Department of Management
31 Services of data processing software, hardware, and services

1 necessary to carry out the provisions of this act for the
2 Chief Financial Officer's ~~Treasurer's~~ Management Information
3 Center of the Department of Financial Services ~~Insurance~~ shall
4 be exempt from the provisions of part I of chapter 287.

5 Section 697. Subsection (3) of section 627.221,
6 Florida Statutes, is amended to read:

7 627.221 Rating organizations; licensing; fee.--

8 (3) The fee for the license shall be in the amount
9 specified therefor in s. 624.501. This fee, when collected,
10 shall be deposited to the credit of the Insurance
11 ~~Commissioner's~~ Regulatory Trust Fund.

12 Section 698. Paragraph (e) of subsection (3) and
13 paragraph (b) of subsection (4) of section 627.311, Florida
14 Statutes, are amended to read:

15 627.311 Joint underwriters and joint reinsurers.--

16 (3) The department may, after consultation with
17 insurers licensed to write automobile insurance in this state,
18 approve a joint underwriting plan for purposes of equitable
19 apportionment or sharing among insurers of automobile
20 liability insurance and other motor vehicle insurance, as an
21 alternate to the plan required in s. 627.351(1). All insurers
22 authorized to write automobile insurance in this state shall
23 subscribe to the plan and participate therein. The plan shall
24 be subject to continuous review by the department which may at
25 any time disapprove the entire plan or any part thereof if it
26 determines that conditions have changed since prior approval
27 and that in view of the purposes of the plan changes are
28 warranted. Any disapproval by the department shall be subject
29 to the provisions of chapter 120. If adopted, the plan and
30 the association created under the plan:

31

1 (e) Must provide that the joint underwriting
2 association will operate subject to the supervision and
3 approval of a board of governors consisting of 11 individuals,
4 including 1 who will be elected as chair. Five members of the
5 board must be appointed by the Chief Financial Officer
6 ~~Insurance Commissioner~~. Two of those ~~the commissioner's~~
7 appointees must be chosen from the insurance industry. Any
8 board member appointed by the Chief Financial Officer
9 ~~Insurance Commissioner~~ may be removed and replaced by her or
10 him at any time without cause. Six members of the board must
11 be appointed by the participating insurers, two of whom must
12 be from the insurance agents' associations. All board
13 members, including the chair, must be appointed to serve for
14 2-year terms beginning annually on a date designated by the
15 plan.

16 (4)

17 (b) The operation of the plan is subject to the
18 supervision of a 13-member board of governors. The board of
19 governors shall be comprised of:

20 1. Five of the 20 domestic insurers, as defined in s.
21 624.06(1), having the largest voluntary direct premiums
22 written in this state for workers' compensation and employer's
23 liability insurance, which shall be elected by those 20
24 domestic insurers;

25 2. Five of the 20 foreign insurers as defined in s.
26 624.06(2) having the largest voluntary direct premiums written
27 in this state for workers' compensation and employer's
28 liability insurance, which shall be elected by those 20
29 foreign insurers;

30 3. One person, who shall serve as the chair, appointed
31 by the Chief Financial Officer ~~Insurance Commissioner~~;

1 4. One person appointed by the largest property and
2 casualty insurance agents' association in this state; and

3 5. The consumer advocate appointed under s. 627.0613
4 or the consumer advocate's designee.

5
6 Each board member shall serve a 4-year term and may serve
7 consecutive terms. No board member shall be an insurer which
8 provides service to the plan or which has an affiliate which
9 provides services to the plan or which is serviced by a
10 service company or third-party administrator which provides
11 services to the plan or which has an affiliate which provides
12 services to the plan. The minutes, audits, and procedures of
13 the board of governors are subject to chapter 119.

14 Section 699. Paragraph (b) of subsection (2),
15 paragraph (a) of subsection (3), paragraphs (a) and (e) of
16 subsection (5), and paragraph (c) of subsection (6) of section
17 627.351, Florida Statutes, are amended to read:

18 627.351 Insurance risk apportionment plans.--

19 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

20 (b) The department shall require all insurers holding
21 a certificate of authority to transact property insurance on a
22 direct basis in this state, other than joint underwriting
23 associations and other entities formed pursuant to this
24 section, to provide windstorm coverage to applicants from
25 areas determined to be eligible pursuant to paragraph (c) who
26 in good faith are entitled to, but are unable to procure, such
27 coverage through ordinary means; or it shall adopt a
28 reasonable plan or plans for the equitable apportionment or
29 sharing among such insurers of windstorm coverage, which may
30 include formation of an association for this purpose. As used
31 in this subsection, the term "property insurance" means

1 insurance on real or personal property, as defined in s.
2 624.604, including insurance for fire, industrial fire, allied
3 lines, farmowners multiperil, homeowners' multiperil,
4 commercial multiperil, and mobile homes, and including
5 liability coverages on all such insurance, but excluding
6 inland marine as defined in s. 624.607(3) and excluding
7 vehicle insurance as defined in s. 624.605(1)(a) other than
8 insurance on mobile homes used as permanent dwellings. The
9 department shall adopt rules that provide a formula for the
10 recovery and repayment of any deferred assessments.

11 1. For the purpose of this section, properties
12 eligible for such windstorm coverage are defined as dwellings,
13 buildings, and other structures, including mobile homes which
14 are used as dwellings and which are tied down in compliance
15 with mobile home tie-down requirements prescribed by the
16 Department of Highway Safety and Motor Vehicles pursuant to s.
17 320.8325, and the contents of all such properties. An
18 applicant or policyholder is eligible for coverage only if an
19 offer of coverage cannot be obtained by or for the applicant
20 or policyholder from an admitted insurer at approved rates.

21 2.a.(I) All insurers required to be members of such
22 association shall participate in its writings, expenses, and
23 losses. Surplus of the association shall be retained for the
24 payment of claims and shall not be distributed to the member
25 insurers. Such participation by member insurers shall be in
26 the proportion that the net direct premiums of each member
27 insurer written for property insurance in this state during
28 the preceding calendar year bear to the aggregate net direct
29 premiums for property insurance of all member insurers, as
30 reduced by any credits for voluntary writings, in this state
31 during the preceding calendar year. For the purposes of this

1 subsection, the term "net direct premiums" means direct
2 written premiums for property insurance, reduced by premium
3 for liability coverage and for the following if included in
4 allied lines: rain and hail on growing crops; livestock;
5 association direct premiums booked; National Flood Insurance
6 Program direct premiums; and similar deductions specifically
7 authorized by the plan of operation and approved by the
8 department. A member's participation shall begin on the first
9 day of the calendar year following the year in which it is
10 issued a certificate of authority to transact property
11 insurance in the state and shall terminate 1 year after the
12 end of the calendar year during which it no longer holds a
13 certificate of authority to transact property insurance in the
14 state. The commissioner, after review of annual statements,
15 other reports, and any other statistics that the commissioner
16 deems necessary, shall certify to the association the
17 aggregate direct premiums written for property insurance in
18 this state by all member insurers.

19 (II) The plan of operation shall provide for a board
20 of directors consisting of the Insurance Consumer Advocate
21 appointed under s. 627.0613, 1 consumer representative
22 appointed by the Chief Financial Officer Insurance
23 ~~Commissioner~~, 1 consumer representative appointed by the
24 Governor, and 12 additional members appointed as specified in
25 the plan of operation. One of the 12 additional members shall
26 be elected by the domestic companies of this state on the
27 basis of cumulative weighted voting based on the net direct
28 premiums of domestic companies in this state. Nothing in the
29 1997 amendments to this paragraph terminates the existing
30 board or the terms of any members of the board.

31

1 (III) The plan of operation shall provide a formula
2 whereby a company voluntarily providing windstorm coverage in
3 affected areas will be relieved wholly or partially from
4 apportionment of a regular assessment pursuant to
5 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

6 (IV) A company which is a member of a group of
7 companies under common management may elect to have its
8 credits applied on a group basis, and any company or group may
9 elect to have its credits applied to any other company or
10 group.

11 (V) There shall be no credits or relief from
12 apportionment to a company for emergency assessments collected
13 from its policyholders under sub-sub-subparagraph d.(III).

14 (VI) The plan of operation may also provide for the
15 award of credits, for a period not to exceed 3 years, from a
16 regular assessment pursuant to sub-sub-subparagraph d.(I) or
17 sub-sub-subparagraph d.(II) as an incentive for taking
18 policies out of the Residential Property and Casualty Joint
19 Underwriting Association. In order to qualify for the
20 exemption under this sub-sub-subparagraph, the take-out plan
21 must provide that at least 40 percent of the policies removed
22 from the Residential Property and Casualty Joint Underwriting
23 Association cover risks located in Dade, Broward, and Palm
24 Beach Counties or at least 30 percent of the policies so
25 removed cover risks located in Dade, Broward, and Palm Beach
26 Counties and an additional 50 percent of the policies so
27 removed cover risks located in other coastal counties, and
28 must also provide that no more than 15 percent of the policies
29 so removed may exclude windstorm coverage. With the approval
30 of the department, the association may waive these geographic
31 criteria for a take-out plan that removes at least the lesser

1 of 100,000 Residential Property and Casualty Joint
2 Underwriting Association policies or 15 percent of the total
3 number of Residential Property and Casualty Joint Underwriting
4 Association policies, provided the governing board of the
5 Residential Property and Casualty Joint Underwriting
6 Association certifies that the take-out plan will materially
7 reduce the Residential Property and Casualty Joint
8 Underwriting Association's 100-year probable maximum loss from
9 hurricanes. With the approval of the department, the board
10 may extend such credits for an additional year if the insurer
11 guarantees an additional year of renewability for all policies
12 removed from the Residential Property and Casualty Joint
13 Underwriting Association, or for 2 additional years if the
14 insurer guarantees 2 additional years of renewability for all
15 policies removed from the Residential Property and Casualty
16 Joint Underwriting Association.

17 b. Assessments to pay deficits in the association
18 under this subparagraph shall be included as an appropriate
19 factor in the making of rates as provided in s. 627.3512.

20 c. The Legislature finds that the potential for
21 unlimited deficit assessments under this subparagraph may
22 induce insurers to attempt to reduce their writings in the
23 voluntary market, and that such actions would worsen the
24 availability problems that the association was created to
25 remedy. It is the intent of the Legislature that insurers
26 remain fully responsible for paying regular assessments and
27 collecting emergency assessments for any deficits of the
28 association; however, it is also the intent of the Legislature
29 to provide a means by which assessment liabilities may be
30 amortized over a period of years.

31

1 d.(I) When the deficit incurred in a particular
2 calendar year is 10 percent or less of the aggregate statewide
3 direct written premium for property insurance for the prior
4 calendar year for all member insurers, the association shall
5 levy an assessment on member insurers in an amount equal to
6 the deficit.

7 (II) When the deficit incurred in a particular
8 calendar year exceeds 10 percent of the aggregate statewide
9 direct written premium for property insurance for the prior
10 calendar year for all member insurers, the association shall
11 levy an assessment on member insurers in an amount equal to
12 the greater of 10 percent of the deficit or 10 percent of the
13 aggregate statewide direct written premium for property
14 insurance for the prior calendar year for member insurers. Any
15 remaining deficit shall be recovered through emergency
16 assessments under sub-sub-subparagraph (III).

17 (III) Upon a determination by the board of directors
18 that a deficit exceeds the amount that will be recovered
19 through regular assessments on member insurers, pursuant to
20 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
21 board shall levy, after verification by the department,
22 emergency assessments to be collected by member insurers and
23 by underwriting associations created pursuant to this section
24 which write property insurance, upon issuance or renewal of
25 property insurance policies other than National Flood
26 Insurance policies in the year or years following levy of the
27 regular assessments. The amount of the emergency assessment
28 collected in a particular year shall be a uniform percentage
29 of that year's direct written premium for property insurance
30 for all member insurers and underwriting associations,
31 excluding National Flood Insurance policy premiums, as

1 annually determined by the board and verified by the
2 department. The department shall verify the arithmetic
3 calculations involved in the board's determination within 30
4 days after receipt of the information on which the
5 determination was based. Notwithstanding any other provision
6 of law, each member insurer and each underwriting association
7 created pursuant to this section shall collect emergency
8 assessments from its policyholders without such obligation
9 being affected by any credit, limitation, exemption, or
10 deferment. The emergency assessments so collected shall be
11 transferred directly to the association on a periodic basis as
12 determined by the association. The aggregate amount of
13 emergency assessments levied under this sub-sub-subparagraph
14 in any calendar year may not exceed the greater of 10 percent
15 of the amount needed to cover the original deficit, plus
16 interest, fees, commissions, required reserves, and other
17 costs associated with financing of the original deficit, or 10
18 percent of the aggregate statewide direct written premium for
19 property insurance written by member insurers and underwriting
20 associations for the prior year, plus interest, fees,
21 commissions, required reserves, and other costs associated
22 with financing the original deficit. The board may pledge the
23 proceeds of the emergency assessments under this
24 sub-sub-subparagraph as the source of revenue for bonds, to
25 retire any other debt incurred as a result of the deficit or
26 events giving rise to the deficit, or in any other way that
27 the board determines will efficiently recover the deficit. The
28 emergency assessments under this sub-sub-subparagraph shall
29 continue as long as any bonds issued or other indebtedness
30 incurred with respect to a deficit for which the assessment
31 was imposed remain outstanding, unless adequate provision has

1 | been made for the payment of such bonds or other indebtedness
2 | pursuant to the document governing such bonds or other
3 | indebtedness. Emergency assessments collected under this
4 | sub-sub-subparagraph are not part of an insurer's rates, are
5 | not premium, and are not subject to premium tax, fees, or
6 | commissions; however, failure to pay the emergency assessment
7 | shall be treated as failure to pay premium.

8 | (IV) Each member insurer's share of the total regular
9 | assessments under sub-sub-subparagraph (I) or
10 | sub-sub-subparagraph (II) shall be in the proportion that the
11 | insurer's net direct premium for property insurance in this
12 | state, for the year preceding the assessment bears to the
13 | aggregate statewide net direct premium for property insurance
14 | of all member insurers, as reduced by any credits for
15 | voluntary writings for that year.

16 | (V) If regular deficit assessments are made under
17 | sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
18 | the Residential Property and Casualty Joint Underwriting
19 | Association under sub-subparagraph (6)(b)3.a. or
20 | sub-subparagraph (6)(b)3.b., the association shall levy upon
21 | the association's policyholders, as part of its next rate
22 | filing, or by a separate rate filing solely for this purpose,
23 | a market equalization surcharge in a percentage equal to the
24 | total amount of such regular assessments divided by the
25 | aggregate statewide direct written premium for property
26 | insurance for member insurers for the prior calendar year.
27 | Market equalization surcharges under this sub-sub-subparagraph
28 | are not considered premium and are not subject to commissions,
29 | fees, or premium taxes; however, failure to pay a market
30 | equalization surcharge shall be treated as failure to pay
31 | premium.

1 e. The governing body of any unit of local government,
2 any residents of which are insured under the plan, may issue
3 bonds as defined in s. 125.013 or s. 166.101 to fund an
4 assistance program, in conjunction with the association, for
5 the purpose of defraying deficits of the association. In order
6 to avoid needless and indiscriminate proliferation,
7 duplication, and fragmentation of such assistance programs,
8 any unit of local government, any residents of which are
9 insured by the association, may provide for the payment of
10 losses, regardless of whether or not the losses occurred
11 within or outside of the territorial jurisdiction of the local
12 government. Revenue bonds may not be issued until validated
13 pursuant to chapter 75, unless a state of emergency is
14 declared by executive order or proclamation of the Governor
15 pursuant to s. 252.36 making such findings as are necessary to
16 determine that it is in the best interests of, and necessary
17 for, the protection of the public health, safety, and general
18 welfare of residents of this state and the protection and
19 preservation of the economic stability of insurers operating
20 in this state, and declaring it an essential public purpose to
21 permit certain municipalities or counties to issue bonds as
22 will provide relief to claimants and policyholders of the
23 association and insurers responsible for apportionment of plan
24 losses. Any such unit of local government may enter into such
25 contracts with the association and with any other entity
26 created pursuant to this subsection as are necessary to carry
27 out this paragraph. Any bonds issued under this
28 sub-subparagraph shall be payable from and secured by moneys
29 received by the association from assessments under this
30 subparagraph, and assigned and pledged to or on behalf of the
31 unit of local government for the benefit of the holders of

1 such bonds. The funds, credit, property, and taxing power of
2 the state or of the unit of local government shall not be
3 pledged for the payment of such bonds. If any of the bonds
4 remain unsold 60 days after issuance, the department shall
5 require all insurers subject to assessment to purchase the
6 bonds, which shall be treated as admitted assets; each insurer
7 shall be required to purchase that percentage of the unsold
8 portion of the bond issue that equals the insurer's relative
9 share of assessment liability under this subsection. An
10 insurer shall not be required to purchase the bonds to the
11 extent that the department determines that the purchase would
12 endanger or impair the solvency of the insurer. The authority
13 granted by this sub-subparagraph is additional to any bonding
14 authority granted by subparagraph 6.

15 3. The plan shall also provide that any member with a
16 surplus as to policyholders of \$20 million or less writing 25
17 percent or more of its total countrywide property insurance
18 premiums in this state may petition the department, within the
19 first 90 days of each calendar year, to qualify as a limited
20 apportionment company. The apportionment of such a member
21 company in any calendar year for which it is qualified shall
22 not exceed its gross participation, which shall not be
23 affected by the formula for voluntary writings. In no event
24 shall a limited apportionment company be required to
25 participate in any apportionment of losses pursuant to
26 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
27 in the aggregate which exceeds \$50 million after payment of
28 available plan funds in any calendar year. However, a limited
29 apportionment company shall collect from its policyholders any
30 emergency assessment imposed under sub-sub-subparagraph
31 2.d.(III). The plan shall provide that, if the department

1 determines that any regular assessment will result in an
2 impairment of the surplus of a limited apportionment company,
3 the department may direct that all or part of such assessment
4 be deferred. However, there shall be no limitation or
5 deferment of an emergency assessment to be collected from
6 policyholders under sub-sub-subparagraph 2.d.(III).

7 4. The plan shall provide for the deferment, in whole
8 or in part, of a regular assessment of a member insurer under
9 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
10 but not for an emergency assessment collected from
11 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
12 opinion of the commissioner, payment of such regular
13 assessment would endanger or impair the solvency of the member
14 insurer. In the event a regular assessment against a member
15 insurer is deferred in whole or in part, the amount by which
16 such assessment is deferred may be assessed against the other
17 member insurers in a manner consistent with the basis for
18 assessments set forth in sub-sub-subparagraph 2.d.(I) or
19 sub-sub-subparagraph 2.d.(II).

20 5.a. The plan of operation may include deductibles and
21 rules for classification of risks and rate modifications
22 consistent with the objective of providing and maintaining
23 funds sufficient to pay catastrophe losses.

24 b. The association may require arbitration of a rate
25 filing under s. 627.062(6). It is the intent of the
26 Legislature that the rates for coverage provided by the
27 association be actuarially sound and not competitive with
28 approved rates charged in the admitted voluntary market such
29 that the association functions as a residual market mechanism
30 to provide insurance only when the insurance cannot be
31 procured in the voluntary market. The plan of operation shall

1 provide a mechanism to assure that, beginning no later than
2 January 1, 1999, the rates charged by the association for each
3 line of business are reflective of approved rates in the
4 voluntary market for hurricane coverage for each line of
5 business in the various areas eligible for association
6 coverage.

7 c. The association shall provide for windstorm
8 coverage on residential properties in limits up to \$10 million
9 for commercial lines residential risks and up to \$1 million
10 for personal lines residential risks. If coverage with the
11 association is sought for a residential risk valued in excess
12 of these limits, coverage shall be available to the risk up to
13 the replacement cost or actual cash value of the property, at
14 the option of the insured, if coverage for the risk cannot be
15 located in the authorized market. The association must accept
16 a commercial lines residential risk with limits above \$10
17 million or a personal lines residential risk with limits above
18 \$1 million if coverage is not available in the authorized
19 market. The association may write coverage above the limits
20 specified in this subparagraph with or without facultative or
21 other reinsurance coverage, as the association determines
22 appropriate.

23 d. The plan of operation must provide objective
24 criteria and procedures, approved by the department, to be
25 uniformly applied for all applicants in determining whether an
26 individual risk is so hazardous as to be uninsurable. In
27 making this determination and in establishing the criteria and
28 procedures, the following shall be considered:

29 (I) Whether the likelihood of a loss for the
30 individual risk is substantially higher than for other risks
31 of the same class; and

1 (II) Whether the uncertainty associated with the
2 individual risk is such that an appropriate premium cannot be
3 determined.

4
5 The acceptance or rejection of a risk by the association
6 pursuant to such criteria and procedures must be construed as
7 the private placement of insurance, and the provisions of
8 chapter 120 do not apply.

9 e. The policies issued by the association must provide
10 that if the association obtains an offer from an authorized
11 insurer to cover the risk at its approved rates under either a
12 standard policy including wind coverage or, if consistent with
13 the insurer's underwriting rules as filed with the department,
14 a basic policy including wind coverage, the risk is no longer
15 eligible for coverage through the association. Upon
16 termination of eligibility, the association shall provide
17 written notice to the policyholder and agent of record stating
18 that the association policy must be canceled as of 60 days
19 after the date of the notice because of the offer of coverage
20 from an authorized insurer. Other provisions of the insurance
21 code relating to cancellation and notice of cancellation do
22 not apply to actions under this sub-subparagraph.

23 f. Association policies and applications must include
24 a notice that the association policy could, under this
25 section, be replaced with a policy issued by an authorized
26 insurer that does not provide coverage identical to the
27 coverage provided by the association. The notice shall also
28 specify that acceptance of association coverage creates a
29 conclusive presumption that the applicant or policyholder is
30 aware of this potential.

31

1 6.a. The plan of operation may authorize the formation
2 of a private nonprofit corporation, a private nonprofit
3 unincorporated association, a partnership, a trust, a limited
4 liability company, or a nonprofit mutual company which may be
5 empowered, among other things, to borrow money by issuing
6 bonds or by incurring other indebtedness and to accumulate
7 reserves or funds to be used for the payment of insured
8 catastrophe losses. The plan may authorize all actions
9 necessary to facilitate the issuance of bonds, including the
10 pledging of assessments or other revenues.

11 b. Any entity created under this subsection, or any
12 entity formed for the purposes of this subsection, may sue and
13 be sued, may borrow money; issue bonds, notes, or debt
14 instruments; pledge or sell assessments, market equalization
15 surcharges and other surcharges, rights, premiums, contractual
16 rights, projected recoveries from the Florida Hurricane
17 Catastrophe Fund, other reinsurance recoverables, and other
18 assets as security for such bonds, notes, or debt instruments;
19 enter into any contracts or agreements necessary or proper to
20 accomplish such borrowings; and take other actions necessary
21 to carry out the purposes of this subsection. The association
22 may issue bonds or incur other indebtedness, or have bonds
23 issued on its behalf by a unit of local government pursuant to
24 subparagraph (g)2., in the absence of a hurricane or other
25 weather-related event, upon a determination by the association
26 subject to approval by the department that such action would
27 enable it to efficiently meet the financial obligations of the
28 association and that such financings are reasonably necessary
29 to effectuate the requirements of this subsection. Any such
30 entity may accumulate reserves and retain surpluses as of the
31 end of any association year to provide for the payment of

1 losses incurred by the association during that year or any
2 future year. The association shall incorporate and continue
3 the plan of operation and articles of agreement in effect on
4 the effective date of chapter 76-96, Laws of Florida, to the
5 extent that it is not inconsistent with chapter 76-96, and as
6 subsequently modified consistent with chapter 76-96. The board
7 of directors and officers currently serving shall continue to
8 serve until their successors are duly qualified as provided
9 under the plan. The assets and obligations of the plan in
10 effect immediately prior to the effective date of chapter
11 76-96 shall be construed to be the assets and obligations of
12 the successor plan created herein.

13 c. In recognition of s. 10, Art. I of the State
14 Constitution, prohibiting the impairment of obligations of
15 contracts, it is the intent of the Legislature that no action
16 be taken whose purpose is to impair any bond indenture or
17 financing agreement or any revenue source committed by
18 contract to such bond or other indebtedness issued or incurred
19 by the association or any other entity created under this
20 subsection.

21 7. On such coverage, an agent's remuneration shall be
22 that amount of money payable to the agent by the terms of his
23 or her contract with the company with which the business is
24 placed. However, no commission will be paid on that portion of
25 the premium which is in excess of the standard premium of that
26 company.

27 8. Subject to approval by the department, the
28 association may establish different eligibility requirements
29 and operational procedures for any line or type of coverage
30 for any specified eligible area or portion of an eligible area
31 if the board determines that such changes to the eligibility

1 requirements and operational procedures are justified due to
2 the voluntary market being sufficiently stable and competitive
3 in such area or for such line or type of coverage and that
4 consumers who, in good faith, are unable to obtain insurance
5 through the voluntary market through ordinary methods would
6 continue to have access to coverage from the association. When
7 coverage is sought in connection with a real property
8 transfer, such requirements and procedures shall not provide
9 for an effective date of coverage later than the date of the
10 closing of the transfer as established by the transferor, the
11 transferee, and, if applicable, the lender.

12 9. Notwithstanding any other provision of law:

13 a. The pledge or sale of, the lien upon, and the
14 security interest in any rights, revenues, or other assets of
15 the association created or purported to be created pursuant to
16 any financing documents to secure any bonds or other
17 indebtedness of the association shall be and remain valid and
18 enforceable, notwithstanding the commencement of and during
19 the continuation of, and after, any rehabilitation,
20 insolvency, liquidation, bankruptcy, receivership,
21 conservatorship, reorganization, or similar proceeding against
22 the association under the laws of this state or any other
23 applicable laws.

24 b. No such proceeding shall relieve the association of
25 its obligation, or otherwise affect its ability to perform its
26 obligation, to continue to collect, or levy and collect,
27 assessments, market equalization or other surcharges,
28 projected recoveries from the Florida Hurricane Catastrophe
29 Fund, reinsurance recoverables, or any other rights, revenues,
30 or other assets of the association pledged.

31

1 c. Each such pledge or sale of, lien upon, and
2 security interest in, including the priority of such pledge,
3 lien, or security interest, any such assessments, emergency
4 assessments, market equalization or renewal surcharges,
5 projected recoveries from the Florida Hurricane Catastrophe
6 Fund, reinsurance recoverables, or other rights, revenues, or
7 other assets which are collected, or levied and collected,
8 after the commencement of and during the pendency of or after
9 any such proceeding shall continue unaffected by such
10 proceeding.

11 d. As used in this subsection, the term "financing
12 documents" means any agreement, instrument, or other document
13 now existing or hereafter created evidencing any bonds or
14 other indebtedness of the association or pursuant to which any
15 such bonds or other indebtedness has been or may be issued and
16 pursuant to which any rights, revenues, or other assets of the
17 association are pledged or sold to secure the repayment of
18 such bonds or indebtedness, together with the payment of
19 interest on such bonds or such indebtedness, or the payment of
20 any other obligation of the association related to such bonds
21 or indebtedness.

22 e. Any such pledge or sale of assessments, revenues,
23 contract rights or other rights or assets of the association
24 shall constitute a lien and security interest, or sale, as the
25 case may be, that is immediately effective and attaches to
26 such assessments, revenues, contract, or other rights or
27 assets, whether or not imposed or collected at the time the
28 pledge or sale is made. Any such pledge or sale is effective,
29 valid, binding, and enforceable against the association or
30 other entity making such pledge or sale, and valid and binding
31 against and superior to any competing claims or obligations

1 owed to any other person or entity, including policyholders in
2 this state, asserting rights in any such assessments,
3 revenues, contract, or other rights or assets to the extent
4 set forth in and in accordance with the terms of the pledge or
5 sale contained in the applicable financing documents, whether
6 or not any such person or entity has notice of such pledge or
7 sale and without the need for any physical delivery,
8 recordation, filing, or other action.

9 f. There shall be no liability on the part of, and no
10 cause of action of any nature shall arise against, any member
11 insurer or its agents or employees, agents or employees of the
12 association, members of the board of directors of the
13 association, or the department or its representatives, for any
14 action taken by them in the performance of their duties or
15 responsibilities under this subsection. Such immunity does not
16 apply to actions for breach of any contract or agreement
17 pertaining to insurance, or any willful tort.

18 (3) POLITICAL SUBDIVISION; CASUALTY INSURANCE RISK
19 APPORTIONMENT.--

20 (a) The department shall, after consultation with the
21 casualty insurers licensed in this state, adopt a plan or
22 plans for the equitable apportionment among them of casualty
23 insurance coverage which may be afforded political
24 subdivisions which are in good faith entitled to, but are
25 unable to, procure such coverage through the voluntary market
26 at standard rates or through a statutorily approved plan
27 authorized by the department. The department may adopt a
28 joint underwriting plan which shall provide for one or more
29 designated insurers able and willing to provide policyholder
30 and claims service, including the issuance of insurance
31 policies, to act on behalf of all other insurers required to

1 participate in the joint underwriting plan. Any joint
2 underwriting plan adopted shall provide for the equitable
3 apportionment of any profits realized, or of losses and
4 expenses incurred, among participating insurers. The plan
5 shall include, but shall not be limited to:

6 1. Rules for the classification of risks and rates
7 which reflect the past loss experience and prospective loss
8 experience in different geographic areas.

9 2. A rating plan which reasonably reflects the prior
10 claims experience of the insureds.

11 3. Excess coverage by insurers if the department
12 ~~Insurance Commissioner~~, in its ~~his or her~~ discretion, requires
13 such coverage by insurers participating in the joint
14 underwriting plan.

15 (5) PROPERTY AND CASUALTY INSURANCE RISK
16 APPORTIONMENT.--The department shall adopt by rule a joint
17 underwriting plan to equitably apportion among insurers
18 authorized in this state to write property insurance as
19 defined in s. 624.604 or casualty insurance as defined in s.
20 624.605, the underwriting of one or more classes of property
21 insurance or casualty insurance, except for the types of
22 insurance that are included within property insurance or
23 casualty insurance for which an equitable apportionment plan,
24 assigned risk plan, or joint underwriting plan is authorized
25 under s. 627.311 or subsection (1), subsection (2), subsection
26 (3), subsection (4), or subsection (6) and except for risks
27 eligible for flood insurance written through the federal flood
28 insurance program to persons with risks eligible under
29 subparagraph (a)1. and who are in good faith entitled to, but
30 are unable to, obtain such property or casualty insurance
31 coverage, including excess coverage, through the voluntary

1 market. For purposes of this subsection, an adequate level of
2 coverage means that coverage which is required by state law or
3 by responsible or prudent business practices. The Joint
4 Underwriting Association shall not be required to provide
5 coverage for any type of risk for which there are no insurers
6 providing similar coverage in this state. The department may
7 designate one or more participating insurers who agree to
8 provide policyholder and claims service, including the
9 issuance of policies, on behalf of the participating insurers.

10 (a) The plan shall provide:

11 1. A means of establishing eligibility of a risk for
12 obtaining insurance through the plan, which provides that:

13 a. A risk shall be eligible for such property
14 insurance or casualty insurance as is required by Florida law
15 if the insurance is unavailable in the voluntary market,
16 including the market assistance program and the surplus lines
17 market.

18 b. A commercial risk not eligible under
19 sub-subparagraph a. shall be eligible for property or casualty
20 insurance if:

21 (I) The insurance is unavailable in the voluntary
22 market, including the market assistance plan and the surplus
23 lines market;

24 (II) Failure to secure the insurance would
25 substantially impair the ability of the entity to conduct its
26 affairs; and

27 (III) The risk is not determined by the Risk
28 Underwriting Committee to be uninsurable.

29 c. In the event the Federal Government terminates the
30 Federal Crime Insurance Program established under 44 C.F.R.
31 ss. 80-83, Florida commercial and residential risks previously

1 insured under the federal program shall be eligible under the
2 plan.

3 d.(I) In the event a risk is eligible under this
4 paragraph and in the event the market assistance plan receives
5 a minimum of 100 applications for coverage within a 3-month
6 period, or 200 applications for coverage within a 1-year
7 period or less, for a given class of risk contained in the
8 classification system defined in the plan of operation of the
9 Joint Underwriting Association, and unless the market
10 assistance plan provides a quotation for at least 80 percent
11 of such applicants, such classification shall immediately be
12 eligible for coverage in the Joint Underwriting Association.

13 (II) Any market assistance plan application which is
14 rejected because an individual risk is so hazardous as to be
15 practically uninsurable, considering whether the likelihood of
16 a loss for such a risk is substantially higher than for other
17 risks of the same class due to individual risk
18 characteristics, prior loss experience, unwillingness to
19 cooperate with a prior insurer, physical characteristics and
20 physical location shall not be included in the minimum
21 percentage calculation provided above. In the event that there
22 is any legal or administrative challenge to a determination by
23 the department that the conditions of this subparagraph have
24 been met for eligibility for coverage in the Joint
25 Underwriting Association for a given classification, any
26 eligible risk may obtain coverage during the pendency of any
27 such challenge.

28 e. In order to qualify as a quotation for the purpose
29 of meeting the minimum percentage calculation in this
30 subparagraph, the quoted premium must meet the following
31 criteria:

1 (I) In the case of an admitted carrier, the quoted
2 premium must not exceed the premium available for a given
3 classification currently in use by the Joint Underwriting
4 Association or the premium developed by using the rates and
5 rating plans on file with the department by the quoting
6 insurer, whichever is greater.

7 (II) In the case of an authorized surplus lines
8 insurer, the quoted premium must not exceed the premium
9 available for a given classification currently in use by the
10 Joint Underwriting Association by more than 25 percent, after
11 consideration of any individual risk surcharge or credit.

12 f. Any agent who falsely certifies the unavailability
13 of coverage as provided by sub-subparagraphs a. and b., is
14 subject to the penalties provided in s. 626.611.

15 2. A means for the equitable apportionment of profits
16 or losses and expenses among participating insurers.

17 3. Rules for the classification of risks and rates
18 which reflect the past and prospective loss experience.

19 4. A rating plan which reasonably reflects the prior
20 claims experience of the insureds. Such rating plan shall
21 include at least two levels of rates for risks that have
22 favorable loss experience and risks that have unfavorable loss
23 experience, as established by the plan.

24 5. Reasonable limits to available amounts of
25 insurance. Such limits may not be less than the amounts of
26 insurance required of eligible risks by Florida law.

27 6. Risk management requirements for insurance where
28 such requirements are reasonable and are expected to reduce
29 losses.

30 7. Deductibles as may be necessary to meet the needs
31 of insureds.

1 8. Policy forms which are consistent with the forms in
2 use by the majority of the insurers providing coverage in the
3 voluntary market for the coverage requested by the applicant.

4 9. A means to remove risks from the plan once such
5 risks no longer meet the eligibility requirements of this
6 paragraph. For this purpose, the plan shall include the
7 following requirements: At each 6-month interval after the
8 activation of any class of insureds, the board of governors or
9 its designated committee shall review the number of
10 applications to the market assistance plan for that class. If,
11 based on these latest numbers, at least 90 percent of such
12 applications have been provided a quotation, the Joint
13 Underwriting Association shall cease underwriting new
14 applications for such class within 30 days, and notification
15 of this decision shall be sent to the Chief Financial Officer
16 ~~Insurance Commissioner~~, the major agents' associations, and
17 the board of directors of the market assistance plan. A
18 quotation for the purpose of this subparagraph shall meet the
19 same criteria for a quotation as provided in sub-subparagraph
20 d. All policies which were previously written for that class
21 shall continue in force until their normal expiration date, at
22 which time, subject to the required timely notification of
23 nonrenewal by the Joint Underwriting Association, the insured
24 may then elect to reapply to the Joint Underwriting
25 Association according to the requirements of eligibility. If,
26 upon reapplication, those previously insured Joint
27 Underwriting Association risks meet the eligibility
28 requirements, the Joint Underwriting Association shall provide
29 the coverage requested.

30 10. A means for providing credits to insurers against
31 any deficit assessment levied pursuant to paragraph (c), for

1 risks voluntarily written through the market assistance plan
2 by such insurers.

3 11. That the Joint Underwriting Association shall
4 operate subject to the supervision and approval of a board of
5 governors consisting of 13 individuals appointed by the Chief
6 Financial Officer ~~Insurance Commissioner~~, and shall have an
7 executive or underwriting committee. At least four of the
8 members shall be representatives of insurance trade
9 associations as follows: one member from the American
10 Insurance Association, one member from the Alliance of
11 American Insurers, one member from the National Association of
12 Independent Insurers, and one member from an unaffiliated
13 insurer writing coverage on a national basis. Two
14 representatives shall be from two of the statewide agents'
15 associations. Each board member shall be appointed to serve
16 for 2-year terms beginning on a date designated by the plan
17 and shall serve at the pleasure of the commissioner. Members
18 may be reappointed for subsequent terms.

19 (e) A Risk Underwriting Committee of the Joint
20 Underwriting Association composed of three members experienced
21 in evaluating insurance risks is created to review risks
22 rejected by the voluntary market for which application is made
23 for insurance through the joint underwriting plan. The
24 committee shall consist of a representative of the market
25 assistance plan created under s. 627.3515, a member selected
26 by the insurers participating in the Joint Underwriting
27 Association, and a member named by the Chief Financial Officer
28 ~~Insurance Commissioner~~. The Risk Underwriting Committee shall
29 appoint such advisory committees as are provided for in the
30 plan and are necessary to conduct its functions. The salaries
31 and expenses of the members of the Risk Underwriting Committee

1 and its advisory committees shall be paid by the joint
2 underwriting plan. The plan approved by the department shall
3 establish criteria and procedures for use by the Risk
4 Underwriting Committee for determining whether an individual
5 risk is so hazardous as to be uninsurable. In making this
6 determination and in establishing the criteria and procedures,
7 the following shall be considered:

8 1. Whether the likelihood of a loss for the individual
9 risk is substantially higher than for other risks of the same
10 class; and

11 2. Whether the uncertainty associated with the
12 individual risk is such that an appropriate premium cannot be
13 determined.

14

15 The acceptance or rejection of a risk by the underwriting
16 committee shall be construed as the private placement of
17 insurance, and the provisions of chapter 120 shall not apply.

18 (6) RESIDENTIAL PROPERTY AND CASUALTY JOINT
19 UNDERWRITING ASSOCIATION.--

20 (c) The plan of operation of the association:

21 1. May provide for one or more designated insurers,
22 able and willing to provide policy and claims service, to act
23 on behalf of the association to provide such service. Each
24 licensed agent shall be entitled to indicate the order of
25 preference regarding who will service the business placed by
26 the agent. The association shall adhere to each agent's
27 preferences unless after consideration of other factors in
28 assigning agents, including, but not limited to, servicing
29 capacity and fee arrangements, the association has reason to
30 believe it is in the best interest of the association to make
31 a different assignment.

1 2. Must provide for adoption of residential property
2 and casualty insurance policy forms, which forms must be
3 approved by the department prior to use. The association
4 shall adopt the following policy forms:

5 a. Standard personal lines policy forms including wind
6 coverage, which are multiperil policies providing what is
7 generally considered to be full coverage of a residential
8 property similar to the coverage provided under an HO-2, HO-3,
9 HO-4, or HO-6 policy.

10 b. Standard personal lines policy forms without wind
11 coverage, which are the same as the policies described in
12 sub-subparagraph a. except that they do not include wind
13 coverage.

14 c. Basic personal lines policy forms including wind
15 coverage, which are policies similar to an HO-8 policy or a
16 dwelling fire policy that provide coverage meeting the
17 requirements of the secondary mortgage market, but which
18 coverage is more limited than the coverage under a standard
19 policy.

20 d. Basic personal lines policy forms without wind
21 coverage, which are the same as the policies described in
22 sub-subparagraph c. except that they do not include wind
23 coverage.

24 e. Commercial lines residential policy forms including
25 wind coverage that are generally similar to the basic perils
26 of full coverage obtainable for commercial residential
27 structures in the admitted voluntary market.

28 f. Commercial lines residential policy forms without
29 wind coverage, which are the same as the policies described in
30 sub-subparagraph e. except that they do not include wind
31 coverage.

1 3. May provide that the association may employ or
2 otherwise contract with individuals or other entities to
3 provide administrative or professional services that may be
4 appropriate to effectuate the plan. The association shall
5 have the power to borrow funds, by issuing bonds or by
6 incurring other indebtedness, and shall have other powers
7 reasonably necessary to effectuate the requirements of this
8 subsection. The association may issue bonds or incur other
9 indebtedness, or have bonds issued on its behalf by a unit of
10 local government pursuant to subparagraph (g)2., in the
11 absence of a hurricane or other weather-related event, upon a
12 determination by the association, subject to approval by the
13 department, that such action would enable it to efficiently
14 meet the financial obligations of the association and that
15 such financings are reasonably necessary to effectuate the
16 requirements of this subsection. The association is
17 authorized to take all actions needed to facilitate tax-free
18 status for any such bonds or indebtedness, including formation
19 of trusts or other affiliated entities. The association shall
20 have the authority to pledge assessments, projected recoveries
21 from the Florida Hurricane Catastrophe Fund, other reinsurance
22 recoverables, market equalization and other surcharges, and
23 other funds available to the association as security for bonds
24 or other indebtedness. In recognition of s. 10, Art. I of the
25 State Constitution, prohibiting the impairment of obligations
26 of contracts, it is the intent of the Legislature that no
27 action be taken whose purpose is to impair any bond indenture
28 or financing agreement or any revenue source committed by
29 contract to such bond or other indebtedness.

30 4. Must require that the association operate subject
31 to the supervision and approval of a board of governors

1 consisting of 13 individuals, including 1 who is elected as
2 chair. The board shall consist of:

3 a. The insurance consumer advocate appointed under s.
4 627.0613.

5 b. Five members designated by the insurance industry.

6 c. Five consumer representatives appointed by the
7 Chief Financial Officer ~~Insurance Commissioner~~. Two of the
8 consumer representatives must, at the time of appointment, be
9 holders of policies issued by the association, who are
10 selected with consideration given to reflecting the geographic
11 balance of association policyholders. Two of the consumer
12 members must be individuals who are minority persons as
13 defined in s. 288.703(3). One of the consumer members shall
14 have expertise in the field of mortgage lending.

15 d. Two representatives of the insurance industry
16 appointed by the Chief Financial Officer ~~Insurance~~
17 ~~Commissioner~~. Of the two insurance industry representatives
18 appointed by the Chief Financial Officer ~~Insurance~~
19 ~~Commissioner~~, at least one must be an individual who is a
20 minority person as defined in s. 288.703(3).

21

22 Any board member may be disapproved or removed and replaced by
23 the commissioner at any time for cause. All board members,
24 including the chair, must be appointed to serve for 3-year
25 terms beginning annually on a date designated by the plan.

26 5. Must provide a procedure for determining the
27 eligibility of a risk for coverage, as follows:

28 a. With respect to personal lines residential risks,
29 if the risk is offered coverage from an authorized insurer at
30 the insurer's approved rate under either a standard policy
31 including wind coverage or, if consistent with the insurer's

1 | underwriting rules as filed with the department, a basic
2 | policy including wind coverage, the risk is not eligible for
3 | any policy issued by the association. If the risk accepts an
4 | offer of coverage through the market assistance plan or an
5 | offer of coverage through a mechanism established by the
6 | association before a policy is issued to the risk by the
7 | association or during the first 30 days of coverage by the
8 | association, and the producing agent who submitted the
9 | application to the plan or to the association is not currently
10 | appointed by the insurer, the insurer shall either appoint the
11 | agent to service the risk or, if the insurer places the
12 | coverage through a new agent, require the new agent who then
13 | writes the policy to pay not less than 50 percent of the first
14 | year's commission to the producing agent who submitted the
15 | application to the plan or the association, except that if the
16 | new agent is an employee or exclusive agent of the insurer,
17 | the new agent shall pay a policy fee of \$50 to the producing
18 | agent in lieu of splitting the commission. If the risk is not
19 | able to obtain any such offer, the risk is eligible for either
20 | a standard policy including wind coverage or a basic policy
21 | including wind coverage issued by the association; however, if
22 | the risk could not be insured under a standard policy
23 | including wind coverage regardless of market conditions, the
24 | risk shall be eligible for a basic policy including wind
25 | coverage unless rejected under subparagraph 8. The association
26 | shall determine the type of policy to be provided on the basis
27 | of objective standards specified in the underwriting manual
28 | and based on generally accepted underwriting practices.

29 | b. With respect to commercial lines residential risks,
30 | if the risk is offered coverage under a policy including wind
31 | coverage from an authorized insurer at its approved rate, the

1 risk is not eligible for any policy issued by the association.
2 If the risk accepts an offer of coverage through the market
3 assistance plan or an offer of coverage through a mechanism
4 established by the association before a policy is issued to
5 the risk by the association, and the producing agent who
6 submitted the application to the plan or the association is
7 not currently appointed by the insurer, the insurer shall
8 either appoint the agent to service the risk or, if the
9 insurer places the coverage through a new agent, require the
10 new agent who then writes the policy to pay not less than 50
11 percent of the first year's commission to the producing agent
12 who submitted the application to the plan, except that if the
13 new agent is an employee or exclusive agent of the insurer,
14 the new agent shall pay a policy fee of \$50 to the producing
15 agent in lieu of splitting the commission. If the risk is not
16 able to obtain any such offer, the risk is eligible for a
17 policy including wind coverage issued by the association.

18 c. This subparagraph does not require the association
19 to provide wind coverage or hurricane coverage in any area in
20 which such coverage is available through the Florida Windstorm
21 Underwriting Association.

22 6. Must include rules for classifications of risks and
23 rates therefor.

24 7. Must provide that if premium and investment income
25 attributable to a particular plan year are in excess of
26 projected losses and expenses of the plan attributable to that
27 year, such excess shall be held in surplus. Such surplus shall
28 be available to defray deficits as to future years and shall
29 be used for that purpose prior to assessing member insurers as
30 to any plan year.

31

1 8. Must provide objective criteria and procedures to
2 be uniformly applied for all applicants in determining whether
3 an individual risk is so hazardous as to be uninsurable. In
4 making this determination and in establishing the criteria and
5 procedures, the following shall be considered:

6 a. Whether the likelihood of a loss for the individual
7 risk is substantially higher than for other risks of the same
8 class; and

9 b. Whether the uncertainty associated with the
10 individual risk is such that an appropriate premium cannot be
11 determined.

12
13 The acceptance or rejection of a risk by the association shall
14 be construed as the private placement of insurance, and the
15 provisions of chapter 120 shall not apply.

16 9. Must provide that the association shall make its
17 best efforts to procure catastrophe reinsurance at reasonable
18 rates, as determined by the board of governors.

19 10. Must provide that in the event of regular deficit
20 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
21 (b)3.b., or by the Florida Windstorm Underwriting Association
22 under sub-sub-subparagraph (2)(b)2.d.(I) or
23 sub-sub-subparagraph (2)(b)2.d.(II), the association shall
24 levy upon association policyholders in its next rate filing,
25 or by a separate rate filing solely for this purpose, a market
26 equalization surcharge in a percentage equal to the total
27 amount of such regular assessments divided by the aggregate
28 statewide direct written premium for subject lines of business
29 for member insurers for the prior calendar year. Market
30 equalization surcharges under this subparagraph are not
31 considered premium and are not subject to commissions, fees,

1 or premium taxes; however, failure to pay a market
2 equalization surcharge shall be treated as failure to pay
3 premium.

4 11. The policies issued by the association must
5 provide that, if the association or the market assistance plan
6 obtains an offer from an authorized insurer to cover the risk
7 at its approved rates under either a standard policy including
8 wind coverage or a basic policy including wind coverage, the
9 risk is no longer eligible for coverage through the
10 association. However, if the risk is located in an area in
11 which Florida Windstorm Underwriting Association coverage is
12 available, such an offer of a standard or basic policy
13 terminates eligibility regardless of whether or not the offer
14 includes wind coverage. Upon termination of eligibility, the
15 association shall provide written notice to the policyholder
16 and agent of record stating that the association policy shall
17 be canceled as of 60 days after the date of the notice because
18 of the offer of coverage from an authorized insurer. Other
19 provisions of the insurance code relating to cancellation and
20 notice of cancellation do not apply to actions under this
21 subparagraph.

22 12. Association policies and applications must include
23 a notice that the association policy could, under this section
24 or s. 627.3511, be replaced with a policy issued by an
25 admitted insurer that does not provide coverage identical to
26 the coverage provided by the association. The notice shall
27 also specify that acceptance of association coverage creates a
28 conclusive presumption that the applicant or policyholder is
29 aware of this potential.

30 13. May establish, subject to approval by the
31 department, different eligibility requirements and operational

1 procedures for any line or type of coverage for any specified
2 county or area if the board determines that such changes to
3 the eligibility requirements and operational procedures are
4 justified due to the voluntary market being sufficiently
5 stable and competitive in such area or for such line or type
6 of coverage and that consumers who, in good faith, are unable
7 to obtain insurance through the voluntary market through
8 ordinary methods would continue to have access to coverage
9 from the association. When coverage is sought in connection
10 with a real property transfer, such requirements and
11 procedures shall not provide for an effective date of coverage
12 later than the date of the closing of the transfer as
13 established by the transferor, the transferee, and, if
14 applicable, the lender.

15 Section 700. Subsection (5) of section 627.413,
16 Florida Statutes, is amended to read:

17 627.413 Contents of policies, in general;
18 identification.--

19 (5) Any policy that is a minimum premium policy issued
20 by an insurer pursuant to the minimum premium provisions of
21 rules adopted by rating organizations licensed by the
22 Department of Financial Services Insurance, shall have typed,
23 printed, stamped, or legibly handwritten on the certificate
24 the words "minimum premium policy" or equivalent language.
25 The department may impose an administrative fine pursuant to
26 s. 624.4211 if the department finds any violation of this
27 subsection.

28 Section 701. Paragraph (a) of subsection (3) of
29 section 627.4236, Florida Statutes, is amended to read:

30 627.4236 Coverage for bone marrow transplant
31 procedures.--

1 (3)(a) The Agency for Health Care Administration shall
2 adopt rules specifying the bone marrow transplant procedures
3 that are accepted within the appropriate oncological specialty
4 and are not experimental for purposes of this section. The
5 rules must be based upon recommendations of an advisory panel
6 appointed by the secretary of the agency, composed of:

7 1. One adult oncologist, selected from a list of three
8 names recommended by the Florida Medical Association;

9 2. One pediatric oncologist, selected from a list of
10 three names recommended by the Florida Pediatric Society;

11 3. One representative of the J. Hillis Miller Health
12 Center at the University of Florida;

13 4. One representative of the H. Lee Moffitt Cancer
14 Center and Research Institute, Inc.;

15 5. One consumer representative, selected from a list
16 of three names recommended by the Chief Financial Officer
17 ~~Insurance Commissioner~~;

18 6. One representative of the Health Insurance
19 Association of America;

20 7. Two representatives of health insurers, one of whom
21 represents the insurer with the largest Florida health
22 insurance premium volume and one of whom represents the
23 insurer with the second largest Florida health insurance
24 premium volume; and

25 8. One representative of the insurer with the largest
26 Florida small group health insurance premium volume.

27 Section 702. Paragraph (c) of subsection (14) of
28 section 627.6472, Florida Statutes, is amended to read:

29 627.6472 Exclusive provider organizations.--

30 (14)

31

1 (c) The failure of the insurer to pay the assessment
2 within the time specified in s. 641.58 constitutes grounds for
3 suspension or revocation of the insurer's certificate of
4 authority by the Department of Financial Services Insurance.

5 Section 703. Subsection (11) of section 627.6482,
6 Florida Statutes, is amended to read:

7 627.6482 Definitions.--As used in ss.
8 627.648-627.6498, the term:

9 (11) "Plan" means the comprehensive health insurance
10 plan adopted by the association or by rule of the Department
11 of Financial Services Insurance.

12 Section 704. Paragraph (a) of subsection (2) and
13 paragraph (j) of subsection (4) of section 627.6488, Florida
14 Statutes, are amended to read:

15 627.6488 Florida Comprehensive Health Association.--

16 (2)(a) The association shall operate subject to the
17 supervision and approval of a three-member board of directors.
18 The board of directors shall be appointed by the Chief
19 Financial Officer Insurance Commissioner as follows:

20 1. The chair of the board shall be the Chief Financial
21 Officer Insurance Commissioner or his or her designee.

22 2. One representative of policyholders who is not
23 associated with the medical profession, a hospital, or an
24 insurer.

25 3. One representative of insurers.

26
27 The administrator or his or her affiliate shall not be a
28 member of the board. Any board member appointed by the
29 commissioner may be removed and replaced by him or her at any
30 time without cause.

31 (4) The association shall:

1 (j) Make a report to the Governor, the Chief Financial
2 Officer ~~Insurance Commissioner~~, the President of the Senate,
3 the Speaker of the House of Representatives, and the Minority
4 Leaders of the Senate and House of Representatives, not later
5 than 45 days after the close of each calendar quarter, which
6 includes, for the prior quarter, current data and estimates of
7 net written and earned premiums, the expenses of
8 administration, and the paid and incurred losses. The report
9 shall identify any statutorily mandated program that has not
10 been fully implemented by the board.

11 Section 705. Subsection (20) of section 627.6675,
12 Florida Statutes, is amended to read:

13 627.6675 Conversion on termination of
14 eligibility.--Subject to all of the provisions of this
15 section, a group policy delivered or issued for delivery in
16 this state by an insurer or nonprofit health care services
17 plan that provides, on an expense-incurred basis, hospital,
18 surgical, or major medical expense insurance, or any
19 combination of these coverages, shall provide that an employee
20 or member whose insurance under the group policy has been
21 terminated for any reason, including discontinuance of the
22 group policy in its entirety or with respect to an insured
23 class, and who has been continuously insured under the group
24 policy, and under any group policy providing similar benefits
25 that the terminated group policy replaced, for at least 3
26 months immediately prior to termination, shall be entitled to
27 have issued to him or her by the insurer a policy or
28 certificate of health insurance, referred to in this section
29 as a "converted policy." A group insurer may meet the
30 requirements of this section by contracting with another
31 insurer, authorized in this state, to issue an individual

1 converted policy, which policy has been approved by the
2 department under s. 627.410. An employee or member shall not
3 be entitled to a converted policy if termination of his or her
4 insurance under the group policy occurred because he or she
5 failed to pay any required contribution, or because any
6 discontinued group coverage was replaced by similar group
7 coverage within 31 days after discontinuance.

8 (20) Nothing in this section or in the incorporation
9 of it into insurance policies shall be construed to require
10 insurers to provide benefits equal to those provided in the
11 group policy from which the individual converted; provided,
12 however, that comprehensive benefits are offered which shall
13 be subject to approval by the department ~~insurance~~
14 ~~Commissioner~~.

15 Section 706. Section 627.7012, Florida Statutes, is
16 amended to read:

17 627.7012 Pools of insurance adjusters.--The Department
18 of Financial Services ~~Insurance~~ may, by rule, establish a pool
19 of qualified insurance adjusters. The rules must provide that,
20 if a hurricane occurs or an emergency is declared, the
21 department may assign members of the pool to the affected area
22 and that an insurer may request that a member of the pool
23 adjust claims in the assigned area. The rules may not require
24 that an insurer use those adjusters assigned by the
25 department.

26 Section 707. Subsection (3) of section 627.7015,
27 Florida Statutes, is amended to read:

28 627.7015 Alternative procedure for resolution of
29 disputed property insurance claims.--

30 (3) The costs of mediation shall be reasonable, and
31 the insurer shall bear all of the cost of conducting mediation

1 conferences, except as otherwise provided in this section. If
2 an insured fails to appear at the conference, the conference
3 shall be rescheduled upon the insured's payment of the costs
4 of a rescheduled conference. If the insurer fails to appear at
5 the conference, the insurer shall pay the insured's actual
6 cash expenses incurred in attending the conference if the
7 insurer's failure to attend was not due to a good cause
8 acceptable to the department. An insurer will be deemed to
9 have failed to appear if the insurer's representative lacks
10 authority to settle the full value of the claim. The insurer
11 shall incur an additional fee for a rescheduled conference
12 necessitated by the insurer's failure to appear at a scheduled
13 conference. The fees assessed by the administrator shall
14 include a charge necessary to defray the expenses of the
15 department related to its duties under this section and shall
16 be deposited in the Insurance ~~Commissioner's~~ Regulatory Trust
17 Fund.

18 Section 708. Subsection (1) of section 627.727,
19 Florida Statutes, is amended to read:

20 627.727 Motor vehicle insurance; uninsured and
21 underinsured vehicle coverage; insolvent insurer protection.--

22 (1) No motor vehicle liability insurance policy which
23 provides bodily injury liability coverage shall be delivered
24 or issued for delivery in this state with respect to any
25 specifically insured or identified motor vehicle registered or
26 principally garaged in this state unless uninsured motor
27 vehicle coverage is provided therein or supplemental thereto
28 for the protection of persons insured thereunder who are
29 legally entitled to recover damages from owners or operators
30 of uninsured motor vehicles because of bodily injury,
31 sickness, or disease, including death, resulting therefrom.

1 | However, the coverage required under this section is not
2 | applicable when, or to the extent that, an insured named in
3 | the policy makes a written rejection of the coverage on behalf
4 | of all insureds under the policy. When a motor vehicle is
5 | leased for a period of 1 year or longer and the lessor of such
6 | vehicle, by the terms of the lease contract, provides
7 | liability coverage on the leased vehicle, the lessee of such
8 | vehicle shall have the sole privilege to reject uninsured
9 | motorist coverage or to select lower limits than the bodily
10 | injury liability limits, regardless of whether the lessor is
11 | qualified as a self-insurer pursuant to s. 324.171. Unless an
12 | insured, or lessee having the privilege of rejecting uninsured
13 | motorist coverage, requests such coverage or requests higher
14 | uninsured motorist limits in writing, the coverage or such
15 | higher uninsured motorist limits need not be provided in or
16 | supplemental to any other policy which renews, extends,
17 | changes, supersedes, or replaces an existing policy with the
18 | same bodily injury liability limits when an insured or lessee
19 | had rejected the coverage. When an insured or lessee has
20 | initially selected limits of uninsured motorist coverage lower
21 | than her or his bodily injury liability limits, higher limits
22 | of uninsured motorist coverage need not be provided in or
23 | supplemental to any other policy which renews, extends,
24 | changes, supersedes, or replaces an existing policy with the
25 | same bodily injury liability limits unless an insured requests
26 | higher uninsured motorist coverage in writing. The rejection
27 | or selection of lower limits shall be made on a form approved
28 | by the department ~~Insurance Commissioner~~. The form shall fully
29 | advise the applicant of the nature of the coverage and shall
30 | state that the coverage is equal to bodily injury liability
31 | limits unless lower limits are requested or the coverage is

1 rejected. The heading of the form shall be in 12-point bold
2 type and shall state: "You are electing not to purchase
3 certain valuable coverage which protects you and your family
4 or you are purchasing uninsured motorist limits less than your
5 bodily injury liability limits when you sign this form. Please
6 read carefully." If this form is signed by a named insured, it
7 will be conclusively presumed that there was an informed,
8 knowing rejection of coverage or election of lower limits on
9 behalf of all insureds. The insurer shall notify the named
10 insured at least annually of her or his options as to the
11 coverage required by this section. Such notice shall be part
12 of, and attached to, the notice of premium, shall provide for
13 a means to allow the insured to request such coverage, and
14 shall be given in a manner approved by the department. Receipt
15 of this notice does not constitute an affirmative waiver of
16 the insured's right to uninsured motorist coverage where the
17 insured has not signed a selection or rejection form. The
18 coverage described under this section shall be over and above,
19 but shall not duplicate, the benefits available to an insured
20 under any workers' compensation law, personal injury
21 protection benefits, disability benefits law, or similar law;
22 under any automobile medical expense coverage; under any motor
23 vehicle liability insurance coverage; or from the owner or
24 operator of the uninsured motor vehicle or any other person or
25 organization jointly or severally liable together with such
26 owner or operator for the accident; and such coverage shall
27 cover the difference, if any, between the sum of such benefits
28 and the damages sustained, up to the maximum amount of such
29 coverage provided under this section. The amount of coverage
30 available under this section shall not be reduced by a setoff
31 against any coverage, including liability insurance. Such

1 coverage shall not inure directly or indirectly to the benefit
2 of any workers' compensation or disability benefits carrier or
3 any person or organization qualifying as a self-insurer under
4 any workers' compensation or disability benefits law or
5 similar law.

6 Section 709. Subsections (7) and (9) of section
7 627.728, Florida Statutes, are amended to read:

8 627.728 Cancellations; nonrenewals.--

9 (7) Except in the case of cancellation for nonpayment
10 of premium or nonrenewal of the policy, the notice of
11 cancellation as provided by this section must contain the
12 following words which are to be prominently displayed: "You
13 are permitted by law to appeal this cancellation. An appeal
14 must be filed no later than 20 days before the effective date
15 of cancellation set forth in this notice. Forms for such
16 appeal and the regulations pertaining thereto may be obtained
17 from the offices of the Department of Financial Services
18 ~~Insurance~~. The Department of Financial Services ~~Insurance~~ does
19 not have the authority to extend the effective date of
20 cancellation; therefore you should obtain replacement coverage
21 prior to the effective date of cancellation."

22 (9) The department shall deposit all fees provided for
23 in this section into the Insurance ~~Commissioner's~~ Regulatory
24 Trust Fund.

25 Section 710. Paragraph (c) of subsection (4) and
26 paragraph (a) of subsection (5) of section 627.736, Florida
27 Statutes, are amended to read:

28 627.736 Required personal injury protection benefits;
29 exclusions; priority; claims.--

30 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer
31 under ss. 627.730-627.7405 shall be primary, except that

1 benefits received under any workers' compensation law shall be
2 credited against the benefits provided by subsection (1) and
3 shall be due and payable as loss accrues, upon receipt of
4 reasonable proof of such loss and the amount of expenses and
5 loss incurred which are covered by the policy issued under ss.
6 627.730-627.7405. When the Agency for Health Care
7 Administration provides, pays, or becomes liable for medical
8 assistance under the Medicaid program related to injury,
9 sickness, disease, or death arising out of the ownership,
10 maintenance, or use of a motor vehicle, benefits under ss.
11 627.730-627.7405 shall be subject to the provisions of the
12 Medicaid program.

13 (c) All overdue payments shall bear simple interest at
14 the rate established by the Chief Financial Officer
15 ~~Comptroller~~ under s. 55.03 or the rate established in the
16 insurance contract, whichever is greater, for the year in
17 which the payment became overdue, calculated from the date the
18 insurer was furnished with written notice of the amount of
19 covered loss. Interest shall be due at the time payment of the
20 overdue claim is made.

21 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

22 (a) Any physician, hospital, clinic, or other person
23 or institution lawfully rendering treatment to an injured
24 person for a bodily injury covered by personal injury
25 protection insurance may charge only a reasonable amount for
26 the services and supplies rendered, and the insurer providing
27 such coverage may pay for such charges directly to such person
28 or institution lawfully rendering such treatment, if the
29 insured receiving such treatment or his or her guardian has
30 countersigned the invoice, bill, or claim form approved by the
31 Department of Financial Services ~~Insurance~~ upon which such

1 charges are to be paid for as having actually been rendered,
2 to the best knowledge of the insured or his or her guardian.
3 In no event, however, may such a charge be in excess of the
4 amount the person or institution customarily charges for like
5 services or supplies in cases involving no insurance.

6 Section 711. Section 627.849, Florida Statutes, is
7 amended to read:

8 627.849 Fees.--

9 (1) The department shall collect in advance, and the
10 persons so served shall pay to it in advance, the following
11 fees:

- 12 (a) Annual license fee.....\$250.
- 13 (b) Investigation fee.....100.
- 14 (c) Annual report filing fee.....25.
- 15 (d) Form filing fee.....10.

16 (2) The fees received under this section shall be
17 credited to the Insurance ~~Commissioner's~~ Regulatory Trust
18 Fund.

19 Section 712. Subsections (1) and (5) of section
20 627.912, Florida Statutes, are amended to read:

21 627.912 Professional liability claims and actions;
22 reports by insurers.--

23 (1) Each self-insurer authorized under s. 627.357 and
24 each insurer or joint underwriting association providing
25 professional liability insurance to a practitioner of medicine
26 licensed under chapter 458, to a practitioner of osteopathic
27 medicine licensed under chapter 459, to a podiatric physician
28 licensed under chapter 461, to a dentist licensed under
29 chapter 466, to a hospital licensed under chapter 395, to a
30 crisis stabilization unit licensed under part IV of chapter
31 394, to a health maintenance organization certificated under

1 part I of chapter 641, to clinics included in chapter 390, to
2 an ambulatory surgical center as defined in s. 395.002, or to
3 a member of The Florida Bar shall report in duplicate to the
4 Department of Financial Services ~~insurance~~ any claim or action
5 for damages for personal injuries claimed to have been caused
6 by error, omission, or negligence in the performance of such
7 insured's professional services or based on a claimed
8 performance of professional services without consent, if the
9 claim resulted in:

10 (a) A final judgment in any amount.

11 (b) A settlement in any amount.

12
13 Reports shall be filed with the department and, if the insured
14 party is licensed under chapter 458, chapter 459, chapter 461,
15 or chapter 466, with the Department of Health, no later than
16 30 days following the occurrence of any event listed in
17 paragraph (a) or paragraph (b). The Department of Health shall
18 review each report and determine whether any of the incidents
19 that resulted in the claim potentially involved conduct by the
20 licensee that is subject to disciplinary action, in which case
21 the provisions of s. 456.073 shall apply. The Department of
22 Health, as part of the annual report required by s. 456.026,
23 shall publish annual statistics, without identifying
24 licensees, on the reports it receives, including final action
25 taken on such reports by the Department of Health or the
26 appropriate regulatory board.

27 (5) Any self-insurance program established under s.
28 240.213 shall report in duplicate to the Department of
29 Financial Services ~~insurance~~ any claim or action for damages
30 for personal injuries claimed to have been caused by error,
31 omission, or negligence in the performance of professional

1 services provided by the Board of Regents through an employee
2 or agent of the Board of Regents, including practitioners of
3 medicine licensed under chapter 458, practitioners of
4 osteopathic medicine licensed under chapter 459, podiatric
5 physicians licensed under chapter 461, and dentists licensed
6 under chapter 466, or based on a claimed performance of
7 professional services without consent if the claim resulted in
8 a final judgment in any amount, or a settlement in any amount.
9 The reports required by this subsection shall contain the
10 information required by subsection (3) and the name, address,
11 and specialty of the employee or agent of the Board of Regents
12 whose performance or professional services is alleged in the
13 claim or action to have caused personal injury.

14 Section 713. Subsection (1) of section 627.9122,
15 Florida Statutes, is amended to read:

16 627.9122 Officers' and directors' liability claims;
17 reports by insurers.--

18 (1) Each insurer providing coverage for officers' and
19 directors' liability coverage shall report to the Department
20 of Financial Services ~~Insurance~~ any claim or action for
21 damages claimed to have been caused by error, omission, or
22 negligence in the performance of the officer's or director's
23 services, if the claim resulted in:

24 (a) A final judgment in any amount.

25 (b) A settlement in any amount.

26 (c) A final disposition not resulting in payment on
27 behalf of the insured.

28

29 Reports shall be filed with the department no later than 60
30 days following the occurrence of any event listed in paragraph
31 (a), paragraph (b), or paragraph (c).

1 Section 714. Section 627.919, Florida Statutes, is
2 amended to read:

3 627.919 Maintenance of insurance data.--The department
4 shall maintain data elements required in insurers' annual
5 statements and information reported by insurers pursuant to
6 this part in a computer file which will be available for the
7 generation of reports and calculations on a scheduled or
8 demand basis by the department and Legislature. The
9 acquisition by the department of data processing software,
10 hardware, and services necessary to carry out the provisions
11 of this section by the Chief Financial Officer's ~~Treasurer's~~
12 Management Information Center shall be exempt from the
13 provisions of part I of chapter 287.

14 Section 715. Subsection (1) of section 627.94074,
15 Florida Statutes, is amended to read:

16 627.94074 Standards for benefit triggers.--

17 (1)(a) A long-term care insurance policy shall
18 condition the payment of benefits on a determination of the
19 insured's ability to perform activities of daily living and on
20 cognitive impairment. Eligibility for the payment of benefits
21 shall not be more restrictive than requiring either a
22 deficiency in the ability to perform not more than three of
23 the activities of daily living or the presence of cognitive
24 impairment; or

25 (b) If a policy is a qualified long-term care
26 insurance policy, the policy shall condition the payment of
27 benefits on a determination of the insured's being chronically
28 ill; having a level of disability similar, as provided by rule
29 of the department ~~Insurance Commissioner~~, to the insured's
30 ability to perform activities of daily living; or being
31 cognitively impaired as described in paragraph (6)(b).

1 Eligibility for the payment of benefits shall not be more
2 restrictive than requiring a deficiency in the ability to
3 perform not more than three of the activities of daily living.

4 Section 716. Paragraph (c) of subsection (1) of
5 section 627.944, Florida Statutes, is amended to read:

6 627.944 Risk retention groups not certificated in this
7 state.--Risk retention groups certificated or licensed in
8 states other than this state and seeking to do business as a
9 risk retention group in this state must observe and abide by
10 the laws of this state as follows:

11 (1) NOTICE OF OPERATIONS AND DESIGNATION OF
12 COMMISSIONER AS AGENT.--Before offering insurance in this
13 state, a risk retention group shall submit to the department:

14 (c) A statement of registration which designates the
15 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~
16 or her or his designee as its agent for the purpose of
17 receiving service of legal documents of process.

18 Section 717. Subsection (2) of section 627.948,
19 Florida Statutes, is amended to read:

20 627.948 Notice and registration requirements of
21 purchasing groups.--

22 (2) The purchasing group shall register with and
23 designate the Chief Financial Officer ~~Insurance Commissioner~~
24 ~~and Treasurer~~ or her or his designee as its agent solely for
25 the purpose of receiving service of legal documents or
26 process. This requirement shall not apply in the case of a
27 purchasing group:

28 (a) Which:

29 1. Was domiciled before April 1, 1986.

30 2. Is domiciled on and after October 27, 1986, in any
31 state of the United States.

1 (b) Which:

2 1. Before October 27, 1986, purchased insurance from
3 an insurance carrier licensed in any state; and

4 2. Since October 27, 1986, purchased its insurance
5 from an insurance carrier licensed in any state.

6 (c) Which was a purchasing group under the
7 requirements of the Product Liability Risk Retention Act of
8 1981 before October 27, 1986.

9 (d) Which does not purchase insurance that was not
10 authorized for purposes of an exemption under that act, as in
11 effect before October 27, 1986.

12 Section 718. Subsection (8) of section 628.461,
13 Florida Statutes, is amended to read:

14 628.461 Acquisition of controlling stock.--

15 (8) No vote by the stockholder of record, or by any
16 other person, of any security acquired in contravention of the
17 provisions of this section is valid. Any acquisition of any
18 security contrary to the provisions of this section is void.
19 Upon the petition of the domestic stock insurer or controlling
20 company, the circuit court for the county in which the
21 principal office of such domestic stock insurer is located
22 may, without limiting the generality of its authority, order
23 the issuance or entry of an injunction or other order to
24 enforce the provisions of this section. There shall be a
25 private right of action in favor of the domestic stock insurer
26 or controlling company to enforce the provisions of this
27 section. No demand upon the department that it perform its
28 functions shall be required as a prerequisite to any suit by
29 the domestic stock insurer or controlling company against any
30 other person, and in no case shall the department be deemed a
31 necessary party to any action by such domestic stock insurer

1 or controlling company to enforce the provisions of this
2 section. Any person who makes or proposes an acquisition
3 requiring the filing of a statement pursuant to this section,
4 or who files such a statement, shall be deemed to have thereby
5 designated the Chief Financial Officer ~~Insurance Commissioner~~
6 ~~and Treasurer~~, or his or her assistant or deputy or another
7 person in charge of his or her office, as such person's agent
8 for service of process under this section, and shall thereby
9 be deemed to have submitted himself or herself to the
10 administrative jurisdiction of the department and to the
11 jurisdiction of the circuit court.

12 Section 719. Subsection (9) of section 628.4615,
13 Florida Statutes, is amended to read:

14 628.4615 Specialty insurers; acquisition of
15 controlling stock, ownership interest, assets, or control;
16 merger or consolidation.--

17 (9) No vote by the stockholder of record, or by any
18 other person, of any security acquired in contravention of the
19 provisions of this section is valid. Any acquisition contrary
20 to the provisions of this section is void. Upon the petition
21 of the specialty insurer or the controlling company, the
22 circuit court for the county in which the principal office of
23 the specialty insurer is located may, without limiting the
24 generality of its authority, order the issuance or entry of an
25 injunction or other order to enforce the provisions of this
26 section. There shall be a private right of action in favor of
27 the specialty insurer or controlling company to enforce the
28 provisions of this section. No demand upon the department that
29 it perform its functions shall be required as a prerequisite
30 to any suit by the specialty insurer or controlling company
31 against any other person, and in no case shall the department

1 be deemed a necessary party to any action by the specialty
2 insurer or controlling company to enforce the provisions of
3 this section. Any person who makes or proposes an acquisition
4 requiring the filing of an application pursuant to this
5 section, or who files such an application, shall be deemed to
6 have thereby designated the Chief Financial Officer Insurance
7 ~~Commissioner and Treasurer~~, or his or her assistant or deputy
8 or another person in charge of his or her office, as such
9 person's agent for service of process under this section and
10 shall thereby be deemed to have submitted himself or herself
11 to the administrative jurisdiction of the department and to
12 the jurisdiction of the circuit court.

13 Section 720. Subsection (2), paragraph (a) of
14 subsection (3), and paragraph (b) of subsection (6) of section
15 629.401, Florida Statutes, are amended to read:

16 629.401 Insurance exchange.--

17 (2) The operation of this subsection shall become
18 effective with respect to any exchange only after a
19 determination by the Chief Financial Officer Insurance
20 ~~Commissioner and Treasurer~~ that the exchange may operate in an
21 economic and beneficial manner. A committee shall be appointed
22 to write the constitution and bylaws of the proposed exchange,
23 to make such other recommendations as may be necessary to
24 assure maximum coordination of the operations of the exchange
25 with existing insurance industry operations, and to assure
26 maximum economic benefits to the state from the operations of
27 the exchange. The committee shall consist of 13 members, 6 to
28 be appointed by the Chief Financial Officer Insurance
29 ~~Commissioner and Treasurer~~, 2 each to be appointed by the
30 Speaker of the House of Representatives and the President of
31 the Senate, 1 each to be appointed by the minority leader of

1 the House of Representatives and the minority leader of the
2 Senate, and 1 to be the Insurance Commissioner and Treasurer
3 or his or her designated representative. The chair shall be
4 elected by a majority of the committee. The committee shall
5 transmit such proposed constitution and bylaws and such other
6 recommendations to the Chief Financial Officer Insurance
7 ~~Commissioner and Treasurer~~ and to the Legislature no later
8 than 5 days prior to the adjournment of a regular annual
9 legislative session or no later than 5 days prior to the
10 commencement of any special or organizational legislative
11 session. Subject to the disapproval of the constitution and
12 bylaws by either house of the Legislature by resolution before
13 the end of such legislative session, the exchange shall have
14 full authority to function pursuant to its constitution and
15 bylaws 60 days after the end of the session. The initial board
16 of governors of the exchange shall consist of 14 members, 3
17 appointed by the Chief Financial Officer Insurance
18 ~~Commissioner and Treasurer~~, 3 by the Speaker of the House of
19 Representatives, 3 by the President of the Senate, 1 by the
20 minority leader of the House of Representatives, 1 by the
21 minority leader of the Senate, and 3 by the Governor, to serve
22 until the first election pursuant to the constitution or
23 bylaws.

24 (3) The constitution and bylaws of the exchange shall
25 provide for, but shall not be limited to:

26 (a) The selection of 13 governors, at least 7 of whom
27 shall be appointed by and serve at the pleasure of the Chief
28 Financial Officer Insurance Commissioner. Five of the
29 governors appointed by the Chief Financial Officer Insurance
30 ~~Commissioner~~ shall not be members of the exchange. One of the
31 remaining two governors appointed by the Chief Financial

1 Officer ~~Insurance Commissioner~~ shall be a broker member, and
2 one shall be a representative of an underwriting member. The
3 remainder of the governors shall be elected by the membership
4 of the exchange in accordance with the constitution and
5 bylaws, except that at least five governors shall be elected
6 by the underwriting members of the exchange.

7 (6)

8 (b) In addition to the insurance laws specified in
9 paragraph (a), the department shall regulate the exchange
10 pursuant to the following powers, rights, and duties:

11 1. General examination powers.--The department shall
12 examine the affairs, transactions, accounts, records, and
13 assets of any security fund, exchange, members, and associate
14 brokers as often as it deems advisable. The examination may
15 be conducted by the accredited examiners of the department at
16 the offices of the entity or person being examined. The
17 department shall examine in like manner each prospective
18 member or associate broker applying for membership in an
19 exchange.

20 2. Departmental approval and applications of
21 underwriting members.--No underwriting member shall commence
22 operation without the approval of the department. Before
23 commencing operation, an underwriting member shall provide a
24 written application containing:

25 a. Name, type, and purpose of the underwriting member.

26 b. Name, residence address, business background, and
27 qualifications of each person associated or to be associated
28 in the formation or financing of the underwriting member.

29 c. Full disclosure of the terms of all understandings
30 and agreements existing or proposed among persons so
31 associated relative to the underwriting member, or the

1 formation or financing thereof, accompanied by a copy of each
2 such agreement or understanding.

3 d. Full disclosure of the terms of all understandings
4 and agreements existing or proposed for management or
5 exclusive agency contracts.

6 3. Investigation of underwriting member
7 applications.--In connection with any proposal to establish an
8 underwriting member, the department shall make an
9 investigation of:

10 a. The character, reputation, financial standing, and
11 motives of the organizers, incorporators, or subscribers
12 organizing the proposed underwriting member.

13 b. The character, financial responsibility, insurance
14 experience, and business qualifications of its proposed
15 officers.

16 c. The character, financial responsibility, business
17 experience, and standing of the proposed stockholders and
18 directors, or owners.

19 4. Notice of management changes.--An underwriting
20 member shall promptly give the department written notice of
21 any change among the directors or principal officers of the
22 underwriting member within 30 days after such change. The
23 department shall investigate the new directors or principal
24 officers of the underwriting member. The department's
25 investigation shall include an investigation of the character,
26 financial responsibility, insurance experience, and business
27 qualifications of any new directors or principal officers. As
28 a result of the investigation, the department may require the
29 underwriting member to replace any new directors or principal
30 officers.

31

1 5. Alternate financial statement.--In lieu of any
2 financial examination, the department may accept an audited
3 financial statement.

4 6. Correction and reconstruction of records.--If the
5 department finds any accounts or records to be inadequate, or
6 inadequately kept or posted, it may employ experts to
7 reconstruct, rewrite, post, or balance them at the expense of
8 the person or entity being examined if such person or entity
9 has failed to maintain, complete, or correct such records or
10 accounts after the department has given him or her or it
11 notice and reasonable opportunity to do so.

12 7. Obstruction of examinations.--Any person or entity
13 who or which willfully obstructs the department or its
14 examiner in an examination is guilty of a misdemeanor of the
15 second degree, punishable as provided in s. 775.082 or s.
16 775.083.

17 8. Filing of annual statement.--Each underwriting
18 member shall file with the department a full and true
19 statement of its financial condition, transactions, and
20 affairs. The statement shall be filed on or before March 1 of
21 each year, or within such extension of time as the department
22 for good cause grants, and shall be for the preceding calendar
23 year. The statement shall contain information generally
24 included in insurer financial statements prepared in
25 accordance with generally accepted insurance accounting
26 principles and practices and in a form generally utilized by
27 insurers for financial statements, sworn to by at least two
28 executive officers of the underwriting member. The form of the
29 financial statements shall be the approved form of the
30 National Association of Insurance Commissioners or its
31 successor organization. The department may by rule require

1 each insurer to submit any part of the information contained
2 in the financial statement in a computer-readable form
3 compatible with the department's electronic data processing
4 system. In addition to information furnished in connection
5 with its annual statement, an underwriting member must furnish
6 to the department as soon as reasonably possible such
7 information about its transactions or affairs as the
8 department requests in writing. All information furnished
9 pursuant to the department's request must be verified by the
10 oath of two executive officers of the underwriting member.

11 9. Record maintenance.--Each underwriting member shall
12 have and maintain its principal place of business in this
13 state and shall keep therein complete records of its assets,
14 transactions, and affairs in accordance with such methods and
15 systems as are customary for or suitable to the kind or kinds
16 of insurance transacted.

17 10. Examination of agents.--If the department has
18 reason to believe that any agent, as defined in s. 626.041, s.
19 626.051, s. 626.062, or s. 626.914, has violated or is
20 violating any provision of the insurance law, or upon receipt
21 of a written complaint signed by any interested person
22 indicating that any such violation may exist, the department
23 shall conduct such examination as it deems necessary of the
24 accounts, records, documents, and transactions pertaining to
25 or affecting the insurance affairs of such agent.

26 11. Written reports of department.--The department or
27 its examiner shall make a full and true written report of any
28 examination. The report shall contain only information
29 obtained from examination of the records, accounts, files, and
30 documents of or relative to the person or entity examined or
31 from testimony of individuals under oath, together with

1 relevant conclusions and recommendations of the examiner based
2 thereon. The department shall furnish a copy of the report to
3 the person or entity examined not less than 30 days prior to
4 filing the report in its office. If such person or entity so
5 requests in writing within such 30-day period, the department
6 shall grant a hearing with respect to the report and shall not
7 file the report until after the hearing and after such
8 modifications have been made therein as the department deems
9 proper.

10 12. Admissibility of reports.--The report of an
11 examination when filed shall be admissible in evidence in any
12 action or proceeding brought by the department against the
13 person or entity examined, or against his or her or its
14 officers, employees, or agents. The department or its
15 examiners may at any time testify and offer other proper
16 evidence as to information secured or matters discovered
17 during the course of an examination, whether or not a written
18 report of the examination has been either made, furnished, or
19 filed in the department.

20 13. Publication of reports.--After an examination
21 report has been filed, the department may publish the results
22 of any such examination in one or more newspapers published in
23 this state whenever it deems it to be in the public interest.

24 14. Consideration of examination reports by entity
25 examined.--After the examination report of an underwriting
26 member has been filed, an affidavit shall be filed with the
27 department, not more than 30 days after the report has been
28 filed, on a form furnished by the department and signed by the
29 person or a representative of any entity examined, stating
30 that the report has been read and that the recommendations

31

1 made in the report will be considered within a reasonable
2 time.

3 15. Examination costs.--Each person or entity examined
4 by the department shall pay to the department the expenses
5 incurred in such examination.

6 16. Exchange costs.--An exchange shall reimburse the
7 department for any expenses incurred by it relating to the
8 regulation of the exchange and its members, except as
9 specified in subparagraph 15.

10 17. Powers of examiners.--Any examiner appointed by
11 the department, as to the subject of any examination,
12 investigation, or hearing being conducted by him or her, may
13 administer oaths, examine and cross-examine witnesses, and
14 receive oral and documentary evidence, and shall have the
15 power to subpoena witnesses, compel their attendance and
16 testimony, and require by subpoena the production of books,
17 papers, records, files, correspondence, documents, or other
18 evidence which the examiner deems relevant to the inquiry. If
19 any person refuses to comply with any such subpoena or to
20 testify as to any matter concerning which he or she may be
21 lawfully interrogated, the Circuit Court of Leon County or the
22 circuit court of the county wherein such examination,
23 investigation, or hearing is being conducted, or of the county
24 wherein such person resides, on the department's application
25 may issue an order requiring such person to comply with the
26 subpoena and to testify; and any failure to obey such an order
27 of the court may be punished by the court as a contempt
28 thereof. Subpoenas shall be served, and proof of such service
29 made, in the same manner as if issued by a circuit court.
30 Witness fees and mileage, if claimed, shall be allowed the
31 same as for testimony in a circuit court.

1 18. False testimony.--Any person willfully testifying
2 falsely under oath as to any matter material to any
3 examination, investigation, or hearing shall upon conviction
4 thereof be guilty of perjury and shall be punished
5 accordingly.

6 19. Self-incrimination.--

7 a. If any person asks to be excused from attending or
8 testifying or from producing any books, papers, records,
9 contracts, documents, or other evidence in connection with any
10 examination, hearing, or investigation being conducted by the
11 department or its examiner, on the ground that the testimony
12 or evidence required of the person may tend to incriminate him
13 or her or subject him or her to a penalty or forfeiture, and
14 the person notwithstanding is directed to give such testimony
15 or produce such evidence, he or she shall, if so directed by
16 the department and the Department of Legal Affairs,
17 nonetheless comply with such direction; but the person shall
18 not thereafter be prosecuted or subjected to any penalty or
19 forfeiture for or on account of any transaction, matter, or
20 thing concerning which he or she may have so testified or
21 produced evidence, and no testimony so given or evidence so
22 produced shall be received against him or her upon any
23 criminal action, investigation, or proceeding; except that no
24 such person so testifying shall be exempt from prosecution or
25 punishment for any perjury committed by him or her in such
26 testimony, and the testimony or evidence so given or produced
27 shall be admissible against him or her upon any criminal
28 action, investigation, or proceeding concerning such perjury,
29 nor shall he or she be exempt from the refusal, suspension, or
30 revocation of any license, permission, or authority conferred,
31 or to be conferred, pursuant to the insurance law.

1 b. Any such individual may execute, acknowledge, and
2 file in the office of the department a statement expressly
3 waiving such immunity or privilege in respect to any
4 transaction, matter, or thing specified in such statement, and
5 thereupon the testimony of such individual or such evidence in
6 relation to such transaction, matter, or thing may be received
7 or produced before any judge or justice, court, tribunal,
8 grand jury, or otherwise; and if such testimony or evidence is
9 so received or produced, such individual shall not be entitled
10 to any immunity or privileges on account of any testimony so
11 given or evidence so produced.

12 20. Penalty for failure to testify.--Any person who
13 refuses or fails, without lawful cause, to testify relative to
14 the affairs of any member, associate broker, or other person
15 when subpoenaed and requested by the department to so testify,
16 as provided in subparagraph 17., shall, in addition to the
17 penalty provided in subparagraph 17., be guilty of a
18 misdemeanor of the second degree, punishable as provided in s.
19 775.082 or s. 775.083.

20 21. Name selection.--No underwriting member shall be
21 formed or authorized to transact insurance in this state under
22 a name which is the same as that of any authorized insurer or
23 is so nearly similar thereto as to cause or tend to cause
24 confusion or under a name which would tend to mislead as to
25 the type of organization of the insurer. Before incorporating
26 under or using any name, the underwriting syndicate or
27 proposed underwriting syndicate shall submit its name or
28 proposed name to the department for the approval of the
29 department.

30 22. Capitalization.--An underwriting member approved
31 on or after July 2, 1987, shall provide an initial paid-in

1 capital and surplus of \$3 million and thereafter shall
2 maintain a minimum policyholder surplus of \$2 million in order
3 to be permitted to write insurance. Underwriting members
4 approved prior to July 2, 1987, shall maintain a minimum
5 policyholder surplus of \$1 million. After June 29, 1988,
6 underwriting members approved prior to July 2, 1987, must
7 maintain a minimum policyholder surplus of \$1.5 million to
8 write insurance. After June 29, 1989, underwriting members
9 approved prior to July 2, 1987, must maintain a minimum
10 policyholder surplus of \$1.75 million to write insurance.
11 After December 30, 1989, all underwriting members, regardless
12 of the date they were approved, must maintain a minimum
13 policyholder surplus of \$2 million to write insurance. Except
14 for that portion of the paid-in capital and surplus which
15 shall be maintained in a security fund of an exchange, the
16 paid-in capital and surplus shall be invested by an
17 underwriting member in a manner consistent with ss.
18 625.301-625.340. The portion of the paid-in capital and
19 surplus in any security fund of an exchange shall be invested
20 in a manner limited to investments for life insurance
21 companies under the Florida insurance laws.

22 23. Limitations on coverage written.--

23 a. Limit of risk.--No underwriting member shall expose
24 itself to any loss on any one risk in an amount exceeding 10
25 percent of its surplus to policyholders. Any risk or portion
26 of any risk which shall have been reinsured in an assuming
27 reinsurer authorized or approved to do such business in this
28 state shall be deducted in determining the limitation of risk
29 prescribed in this section.

30 b. Restrictions on premiums written.--If the
31 department has reason to believe that the underwriting

1 member's ratio of actual or projected annual gross written
2 premiums to policyholder surplus exceeds 8 to 1 or the
3 underwriting member's ratio of actual or projected annual net
4 premiums to policyholder surplus exceeds 4 to 1, the
5 department may establish maximum gross or net annual premiums
6 to be written by the underwriting member consistent with
7 maintaining the ratios specified in this sub-subparagraph.

8 (I) Projected annual net or gross premiums shall be
9 based on the actual writings to date for the underwriting
10 member's current calendar year, its writings for the previous
11 calendar year, or both. Ratios shall be computed on an
12 annualized basis.

13 (II) For purposes of this sub-subparagraph, the term
14 "gross written premiums" means direct premiums written and
15 reinsurance assumed.

16 c. Surplus as to policyholders.--For the purpose of
17 determining the limitation on coverage written, surplus as to
18 policyholders shall be deemed to include any voluntary
19 reserves, or any part thereof, which are not required by or
20 pursuant to law and shall be determined from the last sworn
21 statement of such underwriting member with the department, or
22 by the last report or examination filed by the department,
23 whichever is more recent at the time of assumption of such
24 risk.

25 24. Unearned premium reserves.--All unearned premium
26 reserves for business written on the exchange shall be
27 calculated on a monthly or more frequent basis or on such
28 other basis as determined by the department; except that all
29 premiums on any marine or transportation insurance trip risk
30 shall be deemed unearned until the trip is terminated.

31

1 25. Loss reserves.--All underwriting members of an
2 exchange shall maintain loss reserves, including a reserve for
3 incurred but not reported claims. The reserves shall be
4 subject to review by the department, and, if loss experience
5 shows that an underwriting member's loss reserves are
6 inadequate, the department shall require the underwriting
7 member to maintain loss reserves in such additional amount as
8 is needed to make them adequate.

9 26. Distribution of profits.--An underwriting member
10 shall not distribute any profits in the form of cash or other
11 assets to owners except out of that part of its available and
12 accumulated surplus funds which is derived from realized net
13 operating profits on its business and realized capital gains.
14 In any one year such payments to owners shall not exceed 30
15 percent of such surplus as of December 31 of the immediately
16 preceding year, unless otherwise approved by the department.
17 No distribution of profits shall be made that would render an
18 underwriting member either impaired or insolvent.

19 27. Stock dividends.--A stock dividend may be paid by
20 an underwriting member out of any available surplus funds in
21 excess of the aggregate amount of surplus advanced to the
22 underwriting member under subparagraph 29.

23 28. Dividends from earned surplus.--A dividend
24 otherwise lawful may be payable out of an underwriting
25 member's earned surplus even though the total surplus of the
26 underwriting member is then less than the aggregate of its
27 past contributed surplus resulting from issuance of its
28 capital stock at a price in excess of the par value thereof.

29 29. Borrowing of money by underwriting members.--

30 a. An underwriting member may borrow money to defray
31 the expenses of its organization, provide it with surplus

1 funds, or for any purpose of its business, upon a written
2 agreement that such money is required to be repaid only out of
3 the underwriting member's surplus in excess of that stipulated
4 in such agreement. The agreement may provide for interest not
5 exceeding 15 percent simple interest per annum. The interest
6 shall or shall not constitute a liability of the underwriting
7 member as to its funds other than such excess of surplus, as
8 stipulated in the agreement. No commission or promotion
9 expense shall be paid in connection with any such loan. The
10 use of any surplus note and any repayments thereof shall be
11 subject to the approval of the department.

12 b. Money so borrowed, together with any interest
13 thereon if so stipulated in the agreement, shall not form a
14 part of the underwriting member's legal liabilities except as
15 to its surplus in excess of the amount thereof stipulated in
16 the agreement, nor be the basis of any setoff; but until
17 repayment, financial statements filed or published by an
18 underwriting member shall show as a footnote thereto the
19 amount thereof then unpaid, together with any interest thereon
20 accrued but unpaid.

21 30. Liquidation, rehabilitation, and
22 restrictions.--The department, upon a showing that a member or
23 associate broker of an exchange has met one or more of the
24 grounds contained in part I of chapter 631, may restrict sales
25 by type of risk, policy or contract limits, premium levels, or
26 policy or contract provisions; increase surplus or capital
27 requirements of underwriting members; issue cease and desist
28 orders; suspend or restrict a member's or associate broker's
29 right to transact business; place an underwriting member under
30 conservatorship or rehabilitation; or seek an order of
31 liquidation as authorized by part I of chapter 631.

1 31. Prohibited conduct.--The following acts by a
2 member, associate broker, or affiliated person shall
3 constitute prohibited conduct:

4 a. Fraud.

5 b. Fraudulent or dishonest acts committed by a member
6 or associate broker prior to admission to an exchange, if the
7 facts and circumstances were not disclosed to the department
8 upon application to become a member or associate broker.

9 c. Conduct detrimental to the welfare of an exchange.

10 d. Unethical or improper practices or conduct,
11 inconsistent with just and equitable principles of trade as
12 set forth in, but not limited to, ss. 626.951-626.9641 and
13 626.973.

14 e. Failure to use due diligence to ascertain the
15 insurance needs of a client or a principal.

16 f. Misstatements made under oath or upon an
17 application for membership on an exchange.

18 g. Failure to testify or produce documents when
19 requested by the department.

20 h. Willful violation of any law of this state.

21 i. Failure of an officer or principal to testify under
22 oath concerning a member, associate broker, or other person's
23 affairs as they relate to the operation of an exchange.

24 j. Violation of the constitution and bylaws of the
25 exchange.

26 32. Penalties for participating in prohibited
27 conduct.--

28 a. The department may order the suspension of further
29 transaction of business on the exchange of any member or
30 associate broker found to have engaged in prohibited conduct.

31 In addition, any member or associate broker found to have

1 engaged in prohibited conduct may be subject to reprimand,
2 censure, and/or a fine not exceeding \$25,000 imposed by the
3 department.

4 b. Any member which has an affiliated person who is
5 found to have engaged in prohibited conduct shall be subject
6 to involuntary withdrawal or in addition thereto may be
7 subject to suspension, reprimand, censure, and/or a fine not
8 exceeding \$25,000.

9 33. Reduction of penalties.--Any suspension,
10 reprimand, censure, or fine may be remitted or reduced by the
11 department on such terms and conditions as are deemed fair and
12 equitable.

13 34. Other offenses.--Any member or associate broker
14 that is suspended shall be deprived, during the period of
15 suspension, of all rights and privileges of a member or of an
16 associate broker and may be proceeded against by the
17 department for any offense committed either before or after
18 the date of suspension.

19 35. Reinstatement.--Any member or associate broker
20 that is suspended may be reinstated at any time on such terms
21 and conditions as the department may specify.

22 36. Remittance of fines.--Fines imposed under this
23 section shall be remitted to the department and shall be paid
24 into the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

25 37. Failure to pay fines.--When a member or associate
26 broker has failed to pay a fine for 15 days after it becomes
27 payable, such member or associate broker shall be suspended,
28 unless the department has granted an extension of time to pay
29 such fine.

30 38. Changes in ownership or assets.--In the event of a
31 major change in the ownership or a major change in the assets

1 of an underwriting member, the underwriting member shall
2 report such change in writing to the department within 30 days
3 of the effective date thereof. The report shall set forth the
4 details of the change. Any change in ownership or assets of
5 more than 5 percent shall be considered a major change.

6 39. Retaliation.--

7 a. When by or pursuant to the laws of any other state
8 or foreign country any taxes, licenses, or other fees, in the
9 aggregate, and any fines, penalties, deposit requirements, or
10 other material obligations, prohibitions, or restrictions are
11 or would be imposed upon an exchange or upon the agents or
12 representatives of such exchange which are in excess of such
13 taxes, licenses, and other fees, in the aggregate, or which
14 are in excess of such fines, penalties, deposit requirements,
15 or other obligations, prohibitions, or restrictions directly
16 imposed upon similar exchanges or upon the agents or
17 representatives of such exchanges of such other state or
18 country under the statutes of this state, so long as such laws
19 of such other state or country continue in force or are so
20 applied, the same taxes, licenses, and other fees, in the
21 aggregate, or fines, penalties, deposit requirements, or other
22 material obligations, prohibitions, or restrictions of
23 whatever kind shall be imposed by the department upon the
24 exchanges, or upon the agents or representatives of such
25 exchanges, of such other state or country doing business or
26 seeking to do business in this state.

27 b. Any tax, license, or other obligation imposed by
28 any city, county, or other political subdivision or agency of
29 a state, jurisdiction, or foreign country on an exchange, or
30 on the agents or representatives on an exchange, shall be

31

1 deemed to be imposed by such state, jurisdiction, or foreign
2 country within the meaning of sub-subparagraph a.

3 40. Agents.--

4 a. Agents as defined in ss. 626.041, 626.051, 626.062,
5 and 626.914 who are broker members or associate broker members
6 of an exchange shall be allowed only to place on an exchange
7 the same kind or kinds of business that the agent is licensed
8 to place pursuant to Florida law. Direct Florida business as
9 defined in s. 626.916 or s. 626.917 shall be written through a
10 broker member who is a surplus lines agent as defined in s.
11 626.914. The activities of each broker member or associate
12 broker with regard to an exchange shall be subject to all
13 applicable provisions of the insurance laws of this state, and
14 all such activities shall constitute transactions under his or
15 her license as an insurance agent for purposes of the Florida
16 insurance law.

17 b. Premium payments and other requirements.--If an
18 underwriting member has assumed the risk as to a surplus lines
19 coverage and if the premium therefor has been received by the
20 surplus lines agent who placed such insurance, then in all
21 questions thereafter arising under the coverage as between the
22 underwriting member and the insured, the underwriting member
23 shall be deemed to have received the premium due to it for
24 such coverage; and the underwriting member shall be liable to
25 the insured as to losses covered by such insurance, and for
26 unearned premiums which may become payable to the insured upon
27 cancellation of such insurance, whether or not in fact the
28 surplus lines agent is indebted to the underwriting member
29 with respect to such insurance or for any other cause.

30 41. Improperly issued contracts, riders, and
31 endorsements.--

1 a. Any insurance policy, rider, or endorsement issued
2 by an underwriting member and otherwise valid which contains
3 any condition or provision not in compliance with the
4 requirements of this section shall not be thereby rendered
5 invalid, except as provided in s. 627.415, but shall be
6 construed and applied in accordance with such conditions and
7 provisions as would have applied had such policy, rider, or
8 endorsement been in full compliance with this section. In the
9 event an underwriting member issues or delivers any policy for
10 an amount which exceeds any limitations otherwise provided in
11 this section, the underwriting member shall be liable to the
12 insured or his or her beneficiary for the full amount stated
13 in the policy in addition to any other penalties that may be
14 imposed.

15 b. Any insurance contract delivered or issued for
16 delivery in this state governing a subject or subjects of
17 insurance resident, located, or to be performed in this state
18 which, pursuant to the provisions of this section, the
19 underwriting member may not lawfully insure under such a
20 contract shall be cancelable at any time by the underwriting
21 member, any provision of the contract to the contrary
22 notwithstanding; and the underwriting member shall promptly
23 cancel the contract in accordance with the request of the
24 department therefor. No such illegality or cancellation shall
25 be deemed to relieve the underwriting syndicate of any
26 liability incurred by it under the contract while in force or
27 to prohibit the underwriting syndicate from retaining the pro
28 rata earned premium thereon. This provision does not relieve
29 the underwriting syndicate from any penalty otherwise incurred
30 by the underwriting syndicate.

31 42. Satisfaction of judgments.--

1 a. Every judgment or decree for the recovery of money
2 heretofore or hereafter entered in any court of competent
3 jurisdiction against any underwriting member shall be fully
4 satisfied within 60 days from and after the entry thereof or,
5 in the case of an appeal from such judgment or decree, within
6 60 days from and after the affirmance of the judgment or
7 decree by the appellate court.

8 b. If the judgment or decree is not satisfied as
9 required under sub-subparagraph a., and proof of such failure
10 to satisfy is made by filing with the department a certified
11 transcript of the docket of the judgment or the decree
12 together with a certificate by the clerk of the court wherein
13 the judgment or decree remains unsatisfied, in whole or in
14 part, after the time provided in sub-subparagraph a., the
15 department shall forthwith prohibit the underwriting member
16 from transacting business. The department shall not permit
17 such underwriting member to write any new business until the
18 judgment or decree is wholly paid and satisfied and proof
19 thereof is filed with the department under the official
20 certificate of the clerk of the court wherein the judgment was
21 recovered, showing that the judgment or decree is satisfied of
22 record, and until the expenses and fees incurred in the case
23 are also paid by the underwriting syndicate.

24 43. Tender and exchange offers.--No person shall
25 conclude a tender offer or an exchange offer or otherwise
26 acquire 5 percent or more of the outstanding voting securities
27 of an underwriting member or controlling company or purchase 5
28 percent or more of the ownership of an underwriting member or
29 controlling company unless such person has filed with, and
30 obtained the approval of, the department and sent to such
31 underwriting member a statement setting forth:

1 a. The identity of, and background information on,
2 each person by whom, or on whose behalf, the acquisition is to
3 be made; and, if the acquisition is to be made by or on behalf
4 of a corporation, association, or trust, the identity of and
5 background information on each director, officer, trustee, or
6 other natural person performing duties similar to those of a
7 director, officer, or trustee for the corporation,
8 association, or trust.

9 b. The source and amount of the funds or other
10 consideration used, or to be used, in making the acquisition.

11 c. Any plans or proposals which such person may have
12 to liquidate such member, to sell its assets, or to merge or
13 consolidate it.

14 d. The percentage of ownership which such person
15 proposes to acquire and the terms of the offer or exchange, as
16 the case may be.

17 e. Information as to any contracts, arrangements, or
18 understandings with any party with respect to any securities
19 of such member or controlling company, including, but not
20 limited to, information relating to the transfer of any
21 securities, option arrangements, or puts or calls or the
22 giving or withholding of proxies, naming the party with whom
23 such contract, arrangements, or understandings have been
24 entered and giving the details thereof.

25 f. The department may disapprove any acquisition
26 subject to the provisions of this subparagraph by any person
27 or any affiliated person of such person who:

28 (I) Willfully violates this subparagraph;

29 (II) In violation of an order of the department issued
30 pursuant to sub-subparagraph j., fails to divest himself or
31 herself of any stock obtained in violation of this

1 subparagraph, or fails to divest himself or herself of any
2 direct or indirect control of such stock, within 25 days after
3 such order; or

4 (III) In violation of an order issued by the
5 department pursuant to sub-subparagraph j., acquires
6 additional stock of the underwriting member or controlling
7 company, or direct or indirect control of such stock, without
8 complying with this subparagraph.

9 g. The person or persons filing the statement required
10 by this subparagraph have the burden of proof. The department
11 shall approve any such acquisition if it finds, on the basis
12 of the record made during any proceeding or on the basis of
13 the filed statement if no proceeding is conducted, that:

14 (I) Upon completion of the acquisition, the
15 underwriting member will be able to satisfy the requirements
16 for the approval to write the line or lines of insurance for
17 which it is presently approved;

18 (II) The financial condition of the acquiring person
19 or persons will not jeopardize the financial stability of the
20 underwriting member or prejudice the interests of its
21 policyholders or the public;

22 (III) Any plan or proposal which the acquiring person
23 has, or acquiring persons have, made:

24 (A) To liquidate the insurer, sell its assets, or
25 merge or consolidate it with any person, or to make any other
26 major change in its business or corporate structure or
27 management; or

28 (B) To liquidate any controlling company, sell its
29 assets, or merge or consolidate it with any person, or to make
30 any major change in its business or corporate structure or

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1 management which would have an effect upon the underwriting
2 member

3

4 is fair and free of prejudice to the policyholders of the
5 underwriting member or to the public;

6 (IV) The competence, experience, and integrity of
7 those persons who will control directly or indirectly the
8 operation of the underwriting member indicate that the
9 acquisition is in the best interest of the policyholders of
10 the underwriting member and in the public interest;

11 (V) The natural persons for whom background
12 information is required to be furnished pursuant to this
13 subparagraph have such backgrounds as to indicate that it is
14 in the best interests of the policyholders of the underwriting
15 member, and in the public interest, to permit such persons to
16 exercise control over such underwriting member;

17 (VI) The officers and directors to be employed after
18 the acquisition have sufficient insurance experience and
19 ability to assure reasonable promise of successful operation;

20 (VII) The management of the underwriting member after
21 the acquisition will be competent and trustworthy and will
22 possess sufficient managerial experience so as to make the
23 proposed operation of the underwriting member not hazardous to
24 the insurance-buying public;

25 (VIII) The management of the underwriting member after
26 the acquisition will not include any person who has directly
27 or indirectly through ownership, control, reinsurance
28 transactions, or other insurance or business relations
29 unlawfully manipulated the assets, accounts, finances, or
30 books of any insurer or underwriting member or otherwise acted
31 in bad faith with respect thereto;

1 (IX) The acquisition is not likely to be hazardous or
2 prejudicial to the underwriting member's policyholders or the
3 public; and

4 (X) The effect of the acquisition of control would not
5 substantially lessen competition in insurance in this state or
6 would not tend to create a monopoly therein.

7 h. No vote by the stockholder of record, or by any
8 other person, of any security acquired in contravention of the
9 provisions of this subparagraph is valid. Any acquisition of
10 any security contrary to the provisions of this subparagraph
11 is void. Upon the petition of the underwriting member or
12 controlling company, the circuit court for the county in which
13 the principal office of such underwriting member is located
14 may, without limiting the generality of its authority, order
15 the issuance or entry of an injunction or other order to
16 enforce the provisions of this subparagraph. There shall be a
17 private right of action in favor of the underwriting member or
18 controlling company to enforce the provisions of this
19 subparagraph. No demand upon the department that it perform
20 its functions shall be required as a prerequisite to any suit
21 by the underwriting member or controlling company against any
22 other person, and in no case shall the department be deemed a
23 necessary party to any action by such underwriting member or
24 controlling company to enforce the provisions of this
25 subparagraph. Any person who makes or proposes an acquisition
26 requiring the filing of a statement pursuant to this
27 subparagraph, or who files such a statement, shall be deemed
28 to have thereby designated the Chief Financial Officer
29 ~~Insurance Commissioner~~ or his or her assistant or deputy or
30 another person in charge of his or her office, as such
31 person's agent for service of process under this subparagraph

1 and shall thereby be deemed to have submitted himself or
2 herself to the administrative jurisdiction of the department
3 and to the jurisdiction of the circuit court.

4 i. Any approval by the department under this
5 subparagraph does not constitute a recommendation by the
6 department for an acquisition, tender offer, or exchange
7 offer. It is unlawful for a person to represent that the
8 department's approval constitutes a recommendation. A person
9 who violates the provisions of this sub-subparagraph is guilty
10 of a felony of the third degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084. The
12 statute-of-limitations period for the prosecution of an
13 offense committed under this sub-subparagraph is 5 years.

14 j. Upon notification to the department by the
15 underwriting member or a controlling company that any person
16 or any affiliated person of such person has acquired 5 percent
17 or more of the outstanding voting securities of the
18 underwriting member or controlling company without complying
19 with the provisions of this subparagraph, the department shall
20 order that the person and any affiliated person of such person
21 cease acquisition of any further securities of the
22 underwriting member or controlling company; however, the
23 person or any affiliated person of such person may request a
24 proceeding, which proceeding shall be convened within 7 days
25 after the rendering of the order for the sole purpose of
26 determining whether the person, individually or in connection
27 with any affiliated person of such person, has acquired 5
28 percent or more of the outstanding voting securities of an
29 underwriting member or controlling company. Upon the failure
30 of the person or affiliated person to request a hearing within
31 7 days, or upon a determination at a hearing convened pursuant

1 to this sub-subparagraph that the person or affiliated person
2 has acquired voting securities of an underwriting member or
3 controlling company in violation of this subparagraph, the
4 department may order the person and affiliated person to
5 divest themselves of any voting securities so acquired.

6 k.(I) The department shall, if necessary to protect
7 the public interest, suspend or revoke the certificate of
8 authority of any underwriting member or controlling company:

9 (A) The control of which is acquired in violation of
10 this subparagraph;

11 (B) That is controlled, directly or indirectly, by any
12 person or any affiliated person of such person who, in
13 violation of this subparagraph, has obtained control of an
14 underwriting member or controlling company; or

15 (C) That is controlled, directly or indirectly, by any
16 person who, directly or indirectly, controls any other person
17 who, in violation of this subparagraph, acquires control of an
18 underwriting member or controlling company.

19 (II) If any underwriting member is subject to
20 suspension or revocation pursuant to sub-sub-subparagraph (I),
21 the underwriting member shall be deemed to be in such
22 condition, or to be using or to have been subject to such
23 methods or practices in the conduct of its business, as to
24 render its further transaction of insurance presently or
25 prospectively hazardous to its policyholders, creditors, or
26 stockholders or to the public.

27 l.(I) For the purpose of this sub-sub-subparagraph,
28 the term "affiliated person" of another person means:

29 (A) The spouse of such other person;

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1 (B) The parents of such other person and their lineal
2 descendants and the parents of such other person's spouse and
3 their lineal descendants;

4 (C) Any person who directly or indirectly owns or
5 controls, or holds with power to vote, 5 percent or more of
6 the outstanding voting securities of such other person;

7 (D) Any person 5 percent or more of the outstanding
8 voting securities of which are directly or indirectly owned or
9 controlled, or held with power to vote, by such other person;

10 (E) Any person or group of persons who directly or
11 indirectly control, are controlled by, or are under common
12 control with such other person; or any officer, director,
13 partner, copartner, or employee of such other person;

14 (F) If such other person is an investment company, any
15 investment adviser of such company or any member of an
16 advisory board of such company;

17 (G) If such other person is an unincorporated
18 investment company not having a board of directors, the
19 depositor of such company; or

20 (H) Any person who has entered into an agreement,
21 written or unwritten, to act in concert with such other person
22 in acquiring or limiting the disposition of securities of an
23 underwriting member or controlling company.

24 (II) For the purposes of this section, the term
25 "controlling company" means any corporation, trust, or
26 association owning, directly or indirectly, 25 percent or more
27 of the voting securities of one or more underwriting members.

28 m. The department is authorized to adopt, amend, or
29 repeal rules that are necessary to implement the provisions of
30 this subparagraph, pursuant to chapter 120.

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1 44. Background information.--The information as to the
2 background and identity of each person about whom information
3 is required to be furnished pursuant to sub-subparagraph 43.a.
4 shall include, but shall not be limited to:

5 a. Such person's occupations, positions of employment,
6 and offices held during the past 10 years.

7 b. The principal business and address of any business,
8 corporation, or other organization in which each such office
9 was held or in which such occupation or position of employment
10 was carried on.

11 c. Whether, at any time during such 10-year period,
12 such person was convicted of any crime other than a traffic
13 violation.

14 d. Whether, during such 10-year period, such person
15 has been the subject of any proceeding for the revocation of
16 any license and, if so, the nature of such proceeding and the
17 disposition thereof.

18 e. Whether, during such 10-year period, such person
19 has been the subject of any proceeding under the federal
20 Bankruptcy Act or whether, during such 10-year period, any
21 corporation, partnership, firm, trust, or association in which
22 such person was a director, officer, trustee, partner, or
23 other official has been subject to any such proceeding, either
24 during the time in which such person was a director, officer,
25 trustee, partner, or other official, or within 12 months
26 thereafter.

27 f. Whether, during such 10-year period, such person
28 has been enjoined, either temporarily or permanently, by a
29 court of competent jurisdiction from violating any federal or
30 state law regulating the business of insurance, securities, or
31 banking, or from carrying out any particular practice or

1 practices in the course of the business of insurance,
2 securities, or banking, together with details of any such
3 event.

4 45. Security fund.--All underwriting members shall be
5 members of the security fund of any exchange.

6 46. Underwriting member defined.--Whenever the term
7 "underwriting member" is used in this subsection, it shall be
8 construed to mean "underwriting syndicate."

9 47. Offsets.--Any action, requirement, or constraint
10 imposed by the department shall reduce or offset similar
11 actions, requirements, or constraints of any exchange.

12 48. Restriction on member ownership.--

13 a. Investments existing prior to July 2, 1987.--The
14 investment in any member by brokers, agents, and
15 intermediaries transacting business on the exchange, and the
16 investment in any such broker, agent, or intermediary by any
17 member, directly or indirectly, shall in each case be limited
18 in the aggregate to less than 20 percent of the total
19 investment in such member, broker, agent, or intermediary, as
20 the case may be. After December 31, 1987, the aggregate
21 percent of the total investment in such member by any broker,
22 agent, or intermediary and the aggregate percent of the total
23 investment in any such broker, agent, or intermediary by any
24 member, directly or indirectly, shall not exceed 15 percent.
25 After June 30, 1988, such aggregate percent shall not exceed
26 10 percent and after December 31, 1988, such aggregate percent
27 shall not exceed 5 percent.

28 b. Investments arising on or after July 2, 1987.--The
29 investment in any underwriting member by brokers, agents, or
30 intermediaries transacting business on the exchange, and the
31 investment in any such broker, agent, or intermediary by any

1 underwriting member, directly or indirectly, shall in each
2 case be limited in the aggregate to less than 5 percent of the
3 total investment in such underwriting member, broker, agent,
4 or intermediary.

5 49. "Underwriting manager" defined.--"Underwriting
6 manager" as used in this subparagraph includes any person,
7 partnership, corporation, or organization providing any of the
8 following services to underwriting members of the exchange:

9 a. Office management and allied services, including
10 correspondence and secretarial services.

11 b. Accounting services, including bookkeeping and
12 financial report preparation.

13 c. Investment and banking consultations and services.

14 d. Underwriting functions and services including the
15 acceptance, rejection, placement, and marketing of risk.

16 50. Prohibition of underwriting manager
17 investment.--Any direct or indirect investment in any
18 underwriting manager by a broker member or any affiliated
19 person of a broker member or any direct or indirect investment
20 in a broker member by an underwriting manager or any
21 affiliated person of an underwriting manager is prohibited.
22 "Affiliated person" for purposes of this subparagraph is
23 defined in subparagraph 43.

24 51. An underwriting member may not accept reinsurance
25 on an assumed basis from an affiliate or a controlling
26 company, nor may a broker member or management company place
27 reinsurance from an affiliate or controlling company of theirs
28 with an underwriting member. "Affiliate and controlling
29 company" for purposes of this subparagraph is defined in
30 subparagraph 43.

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1 52. Premium defined.--"Premium" is the consideration
2 for insurance, by whatever name called. Any "assessment" or
3 any "membership," "policy," "survey," "inspection," "service"
4 fee or charge or similar fee or charge in consideration for an
5 insurance contract is deemed part of the premium.

6 53. Rules.--The department shall promulgate rules
7 necessary for or as an aid to the effectuation of any
8 provision of this section.

9 Section 721. Subsection (2) of section 631.001,
10 Florida Statutes, is amended to read:

11 631.001 Title, construction, and purpose.--

12 (2) This part may not be interpreted to limit the
13 powers granted the Department of Financial Services ~~Insurance~~
14 by other provisions of law.

15 Section 722. Section 631.221, Florida Statutes, is
16 amended to read:

17 631.221 Deposit of moneys collected.--The moneys
18 collected by the department in a proceeding under this chapter
19 shall be deposited in a qualified public depository as defined
20 in s. 280.02, which depository with regards to such funds
21 shall conform to and be bound by all the provisions of chapter
22 280, or invested with the Chief Financial Officer ~~State~~
23 ~~Treasurer~~ pursuant to chapter 17 ~~18~~. For the purpose of
24 accounting for the assets and transactions of the estate, the
25 receiver shall use such accounting books, records, and systems
26 as the court directs after it hears and considers the
27 recommendations of the receiver.

28 Section 723. Section 631.392, Florida Statutes, is
29 amended to read:

30 631.392 Immunity.--There shall be no liability on the
31 part of, and no cause of action of any nature shall arise

1 against, the Chief Financial Officer ~~Insurance Commissioner~~ or
2 the department or its employees or agents for any action taken
3 by them in the performance of their powers and duties under
4 this chapter.

5 Section 724. Subsection (4) of section 631.54, Florida
6 Statutes, is amended to read:

7 631.54 Definitions.--As used in this part:

8 (4) "Department" means the Department of Financial
9 Services ~~Insurance~~.

10 Section 725. Paragraph (e) of subsection (3) of
11 section 631.57, Florida Statutes, is amended to read:

12 631.57 Powers and duties of the association.--

13 (3)

14 (e)1.

15 a. In addition to assessments otherwise authorized in
16 paragraph (a), as a temporary measure related to insolvencies
17 caused by Hurricane Andrew, and to the extent necessary to
18 secure the funds for the account specified in s. 631.55(2)(c),
19 or to retire indebtedness, including, without limitation, the
20 principal, redemption premium, if any, and interest on, and
21 related costs of issuance of, bonds issued under s.
22 166.111(2), and the funding of any reserves and other payments
23 required under the bond resolution or trust indenture pursuant
24 to which such bonds have been issued, the department, upon
25 certification of the board of directors, shall levy
26 assessments upon insurers holding a certificate of authority
27 as follows:

28 (I) Except as provided in sub-sub-subparagraph (II),
29 the assessments payable under this paragraph by any insurer
30 shall not exceed in any 1 year more than 2 percent of that
31 insurer's direct written premiums, net of refunds, in this

1 state during the preceding calendar year for the kinds of
2 insurance within the account specified in s. 631.55(2)(c).

3 (II) If the amount levied under sub-sub-subparagraph
4 (I) is less than 2 percent of the insurer's direct written
5 premiums, net of refunds, in this state during calendar year
6 1991 for the kinds of insurance within the account specified
7 in s. 631.55(2)(c), in addition to and separate from such
8 assessment, the assessment shall also include the difference
9 between the amount calculated based on calendar year 1991 and
10 the amount determined under sub-sub-subparagraph (I). If this
11 sub-sub-subparagraph is held invalid, the invalidity shall not
12 affect other provisions of this section, and to this end the
13 provisions of this section are declared severable.

14 (III) In addition to any other insurers subject to
15 this subparagraph, this subparagraph also applies to any
16 insurer that held a certificate of authority on August 24,
17 1992. If this sub-sub-subparagraph is held invalid, the
18 invalidity shall not affect other provisions of this section,
19 and to this end the provisions of this section are declared
20 severable.

21 b. Any assessments authorized under this paragraph
22 shall be levied by the department upon insurers referred to in
23 sub-subparagraph a., upon certification as to the need
24 therefor by the board of directors, in 1992 and in each year
25 that bonds issued under s. 166.111(2) are outstanding, in such
26 amounts up to such 2 percent limit as required in order to
27 provide for the full and timely payment of the principal of,
28 redemption premium, if any, and interest on, and related costs
29 of, issuance of bonds issued under s. 166.111(2). The
30 assessments provided for in this paragraph are hereby assigned
31 and pledged to a municipality issuing bonds under s.

1 166.111(2)(b), for the benefit of the holders of such bonds,
2 in order to enable such municipality to provide for the
3 payment of the principal of, redemption premium, if any, and
4 interest on such bonds, the cost of issuance of such bonds,
5 and the funding of any reserves and other payments required
6 under the bond resolution or trust indenture pursuant to which
7 such bonds have been issued, without the necessity of any
8 further action by the association, the department, or any
9 other party. To the extent that bonds are issued under s.
10 166.111(2), the proceeds of assessments levied under this
11 paragraph shall be remitted directly to and administered by
12 the trustee appointed for such bonds.

13 c. Assessments under this paragraph shall be payable
14 in 12 monthly installments with the first installment being
15 due and payable at the end of the month after an assessment is
16 levied, and subsequent installments being due not later than
17 the end of each succeeding month.

18 d. The association shall issue a monthly report on the
19 status of the use of the bond proceeds as related to
20 insolvencies caused by Hurricane Andrew. The report must
21 contain the number of claims paid and the amount of claims
22 paid. The association shall also include an analysis of the
23 revenue generated from the additional assessment levied under
24 this subsection. The report must be sent to the Legislature
25 and the Chief Financial Officer ~~Insurance Commissioner~~
26 monthly.

27 2. In order to assure that insurers paying assessments
28 levied under this paragraph continue to charge rates that are
29 neither inadequate nor excessive, within 90 days after being
30 notified of such assessments, each insurer that is to be
31 assessed pursuant to this paragraph shall make a rate filing

1 for coverage included within the account specified in s.
2 631.55(2)(c) and for which rates are required to be filed
3 under s. 627.062. If the filing reflects a rate change that,
4 as a percentage, is equal to the difference between the rate
5 of such assessment and the rate of the previous year's
6 assessment under this paragraph, the filing shall consist of a
7 certification so stating and shall be deemed approved when
8 made, subject to the department's continuing authority to
9 require actuarial justification as to the adequacy of any rate
10 at any time. Any rate change of a different percentage shall
11 be subject to the standards and procedures of s. 627.062.

12 Section 726. Section 631.59, Florida Statutes, is
13 amended to read:

14 631.59 Duties and powers of Department of Financial
15 Services Insurance.--

16 (1) The department shall:

17 (a) Notify the association of the existence of an
18 insolvent insurer not later than 3 days after it receives
19 notice of the determination of the insolvency; and

20 (b) Upon request of the board of directors, provide
21 the association with a statement of the net direct written
22 premiums of each member insurer.

23 (2) The department may:

24 (a) Require that the association notify the insureds
25 of the insolvent insurer and any other interested parties of
26 the determination of insolvency and of their rights under this
27 part. Such notification shall be by mail at their last known
28 addresses, when available, but if sufficient information for
29 notification by mail is not available, notice by publication
30 in a newspaper of general circulation shall be sufficient.

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1 (b) Suspend or revoke the certificate of authority to
2 transact insurance in this state of any member insurer which
3 fails to pay an assessment when due or fails to comply with
4 the plan of operation. As an alternative, the department may
5 levy a fine on any member insurer which fails to pay an
6 assessment when due. Such fine may not exceed 5 percent of
7 the unpaid assessment per month, except that no fine shall be
8 less than \$100 per month.

9 (c) Revoke the designation of any servicing facility
10 if it finds claims are being handled unsatisfactorily.

11 Section 727. Subsection (5) of section 631.714,
12 Florida Statutes, is amended to read:

13 631.714 Definitions.--As used in this part:

14 (5) "Department" means the Department of Financial
15 Services Insurance.

16 Section 728. Subsection (3) of section 631.72, Florida
17 Statutes, is amended to read:

18 631.72 Premium or income tax credits for assessments
19 paid.--

20 (3) Any sums acquired by refund pursuant to s.
21 631.718(6) from the association which have theretofore been
22 written off by contributing insurers and offset against
23 premium or corporate income taxes as provided in subsection
24 (1) and which are not needed for purposes of this part shall
25 be paid by the insurer to the Department of Revenue for
26 deposit with the Chief Financial Officer ~~Treasurer~~ to the
27 credit of the General Revenue Fund.

28 Section 729. Subsection (3) of section 631.723,
29 Florida Statutes, is amended to read:

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1 631.723 Prevention of insolvencies.--To aid in the
2 detection and prevention of insurer insolvencies or
3 impairments:

4 (3) The board of directors may, upon majority vote,
5 request that the department order an examination of any member
6 insurer which the board in good faith believes may be an
7 impaired or insolvent insurer. Within 30 days of the receipt
8 of such a request, the department shall begin such an
9 examination. The examination may be conducted as a National
10 Association of Insurance Commissioners examination or may be
11 conducted by such persons as the Chief Financial Officer
12 ~~Insurance Commissioner~~ designates. The cost of such
13 examination shall be paid by the association, and the
14 examination report shall be treated in a manner similar to
15 other examination reports pursuant to s. 624.319. In no event
16 may such examination report be released to the board of
17 directors before its release to the public, but this does not
18 preclude the department from complying with s. 631.398(2). The
19 department shall notify the board of directors when the
20 examination is completed. The request for an examination shall
21 be kept on file by the department; such request is
22 confidential and exempt from the provisions of s. 119.07(1)
23 until the examination report is released to the public.

24 Section 730. Section 631.813, Florida Statutes, is
25 amended to read:

26 631.813 Application of part.--This part shall apply to
27 HMO contractual obligations to residents of Florida by HMOs
28 possessing a valid certificate of authority issued by the
29 ~~Florida Department of Insurance~~ Financial Services as provided
30 by part I of chapter 641. The provisions of this part shall
31

1 not apply to persons participating in medical assistance
2 programs under the Medicaid program.

3 Section 731. Subsection (6) of section 631.814,
4 Florida Statutes, is amended to read:

5 631.814 Definitions.--As used in this part:

6 (6) "Department" means the ~~Florida~~ Department of
7 Financial Services Insurance.

8 Section 732. Subsections (2) and (3) of section
9 631.904, Florida Statutes, are amended to read:

10 631.904 Definitions.--As used in this part, the term:

11 (2) "Covered claim" means an unpaid claim, including a
12 claim for return of unearned premiums, which arises out of, is
13 within the coverage of, and is not in excess of the applicable
14 limits of, an insurance policy to which this part applies,
15 which policy was issued by an insurer and which claim is made
16 on behalf of a claimant or insured who was a resident of this
17 state at the time of the injury. The term does not include any
18 amount due any reinsurer, insurer, insurance pool, or
19 underwriting association, as subrogation recoveries or
20 otherwise. Member insurers have no right of subrogation
21 against the insured of any insolvent insurer. This provision
22 shall be applied retroactively to cover claims of an insolvent
23 self-insurance fund resulting from accidents or losses
24 incurred prior to January 1, 1994, regardless of the date the
25 Department of Insurance or the Department of Financial
26 Services filed a petition in circuit court alleging insolvency
27 and the date the court entered an order appointing a receiver.

28 (3) "Department" means the Department of Financial
29 Services Insurance.

30 Section 733. Paragraph (c) of subsection (1) of
31 section 631.911, Florida Statutes, is amended to read:

1 631.911 Creation of the Florida Workers' Compensation
2 Insurance Guaranty Association, Incorporated; merger; effect
3 of merger.--

4 (1)

5 (c) Prior to the effective date of the merger, the
6 Florida Self-Insurance Fund Guaranty Association shall be the
7 entity responsible for the claims of insolvent self-insurance
8 funds resulting from accidents or losses incurred prior to
9 January 1, 1994, regardless of the date the Department of
10 Insurance or the Department of Financial Services filed a
11 petition in circuit court alleging insolvency and the date the
12 court entered an order appointing a receiver.

13 Section 734. Subsection (1) of section 631.912,
14 Florida Statutes, is amended to read:

15 631.912 Board of directors.--

16 (1) The board of directors of the corporation shall
17 consist of 11 persons, 1 of whom is the insurance consumer
18 advocate appointed under s. 627.0613 or designee and 1 of whom
19 is designated by the Chief Financial Officer ~~Insurance~~
20 ~~Commissioner~~. The department shall appoint to the board 6
21 persons selected by private carriers from among the 20
22 workers' compensation insurers with the largest amount of net
23 direct written premium as determined by the department, and 3
24 persons selected by the self-insurance funds. At least two of
25 the private carriers shall be foreign carriers authorized to
26 do business in this state. The board shall elect a chairperson
27 from among its members. The commissioner may remove any board
28 member for cause. Each board member shall serve for a 4-year
29 term and may be reappointed, except that four members of the
30 initial board shall have 2-year terms so as to stagger the
31 periods of service. A vacancy on the board shall be filled for

1 the remaining period of the term in the same manner by which
2 the original appointment was made.

3 Section 735. Subsection (4) of section 631.917,
4 Florida Statutes, is amended to read:

5 631.917 Prevention of insolvencies.--To aid in the
6 detection and prevention of insolvencies or impairments:

7 (4) The board of directors, in its discretion, may
8 request that the department order an examination of any member
9 insurer which the board in good faith believes may be an
10 impaired or insolvent insurer. Within 30 days after receipt of
11 such a request, the department shall begin such an
12 examination. The examination may be conducted as a National
13 Association of Insurance Commissioners examination or may be
14 conducted by such persons as the Chief Financial Officer
15 ~~Insurance Commissioner~~ designates. The cost of such
16 examination shall be paid by the corporation, and the
17 examination report shall be treated in a manner similar to
18 other examination reports pursuant to s. 624.319. In no event
19 may such examination report be released to the board of
20 directors before its release to the public, but this
21 requirement does not preclude the department from complying
22 with s. 631.398(2). The department shall notify the board of
23 directors when the examination is completed. The request for
24 an examination shall be kept on file by the department.

25 Section 736. Section 631.931, Florida Statutes, is
26 amended to read:

27 631.931 Reports and recommendations by board; public
28 records exemption.--Reports and recommendations made by the
29 Board of Directors of the Florida Workers' Compensation
30 Insurance Guaranty Association to the Department of Insurance
31 or the Department of Financial Services under s. 631.917 upon

1 any matter germane to the solvency, liquidation,
2 rehabilitation, or conservation of any member insurer are
3 confidential and exempt from the provisions of s. 119.07(1)
4 and s. 24(a), Art. I of the State Constitution until the
5 termination of a delinquency proceeding.

6 Section 737. Subsection (4) of section 632.628,
7 Florida Statutes, is amended to read:

8 632.628 Reports.--

9 (4) The department shall deposit all fees received
10 under this section to the credit of the Insurance
11 ~~Commissioner's~~ Regulatory Trust Fund.

12 Section 738. Subsection (1) of section 633.01, Florida
13 Statutes, is amended to read:

14 633.01 State Fire Marshal; powers and duties; rules.--

15 (1) The head of the Department of Financial Services
16 ~~is Insurance shall be~~ designated as "State Fire Marshal." The
17 State Fire Marshal has authority to adopt rules pursuant to
18 ss. 120.536(1) and 120.54 to implement the provisions of this
19 chapter conferring powers or duties upon the department. Rules
20 shall be in substantial conformity with generally accepted
21 standards of firesafety; shall take into consideration the
22 direct supervision of children in nonresidential child care
23 facilities; and shall balance and temper the need of the State
24 Fire Marshal to protect all Floridians from fire hazards with
25 the social and economic inconveniences that may be caused or
26 created by the rules. The department shall adopt the Florida
27 Fire Prevention Code and the Life Safety Code.

28 Section 739. Subsection (1) of section 633.022,
29 Florida Statutes, is amended to read:

30 633.022 Uniform firesafety standards.--The Legislature
31 hereby determines that to protect the public health, safety,

1 and welfare it is necessary to provide for firesafety
2 standards governing the construction and utilization of
3 certain buildings and structures. The Legislature further
4 determines that certain buildings or structures, due to their
5 specialized use or to the special characteristics of the
6 person utilizing or occupying these buildings or structures,
7 should be subject to firesafety standards reflecting these
8 special needs as may be appropriate.

9 (1) The Department of Financial Services ~~Insurance~~
10 shall establish uniform firesafety standards that apply to:

11 (a) All new, existing, and proposed state-owned and
12 state-leased buildings.

13 (b) All new, existing, and proposed hospitals, nursing
14 homes, assisted living facilities, adult family-care homes,
15 correctional facilities, public schools, transient public
16 lodging establishments, public food service establishments,
17 elevators, migrant labor camps, mobile home parks, lodging
18 parks, recreational vehicle parks, recreational camps,
19 residential and nonresidential child care facilities,
20 facilities for the developmentally disabled, motion picture
21 and television special effects productions, and self-service
22 gasoline stations, of which standards the State Fire Marshal
23 is the final administrative interpreting authority. With
24 respect to public schools, the department shall utilize
25 firesafety standards that have been adopted by the State Board
26 of Education.

27

28 In the event there is a dispute between the owners of the
29 buildings specified in paragraph (b) and a local authority
30 requiring a more stringent uniform firesafety standard for
31 sprinkler systems, the State Fire Marshal shall be the final

1 administrative interpreting authority and the State Fire
2 Marshal's interpretation regarding the uniform firesafety
3 standards shall be considered final agency action.

4 Section 740. Subsection (4) of section 633.025,
5 Florida Statutes, is amended to read:

6 633.025 Minimum firesafety standards.--

7 (4) Such codes shall be minimum codes and a
8 municipality, county, or special district with firesafety
9 responsibilities may adopt more stringent firesafety
10 standards, subject to the requirements of this subsection.
11 Such county, municipality, or special district may establish
12 alternative requirements to those requirements which are
13 required under the minimum firesafety standards on a
14 case-by-case basis, in order to meet special situations
15 arising from historic, geographic, or unusual conditions, if
16 the alternative requirements result in a level of protection
17 to life, safety, or property equal to or greater than the
18 applicable minimum firesafety standards. For the purpose of
19 this subsection, the term "historic" means that the building
20 or structure is listed on the National Register of Historic
21 Places of the United States Department of the Interior.

22 (a) The local governing body shall determine,
23 following a public hearing which has been advertised in a
24 newspaper of general circulation at least 10 days before the
25 hearing, if there is a need to strengthen the requirements of
26 the minimum firesafety code adopted by such governing body.
27 The determination must be based upon a review of local
28 conditions by the local governing body, which review
29 demonstrates that local conditions justify more stringent
30 requirements than those specified in the minimum firesafety
31 code for the protection of life and property or justify

1 requirements that meet special situations arising from
2 historic, geographic, or unusual conditions.

3 (b) Such additional requirements shall not be
4 discriminatory as to materials, products, or construction
5 techniques of demonstrated capabilities.

6 (c) Paragraphs (a) and (b) apply solely to the local
7 enforcing agency's adoption of requirements more stringent
8 than those specified in the Florida Fire Prevention Code and
9 the Life Safety Code that have the effect of amending building
10 construction standards. Upon request, the enforcing agency
11 shall provide a person making application for a building
12 permit, or any state agency or board with construction-related
13 regulation responsibilities, a listing of all such
14 requirements and codes.

15 (d) A local government which adopts amendments to the
16 minimum firesafety code must provide a procedure by which the
17 validity of such amendments may be challenged by any
18 substantially affected party to test the amendment's
19 compliance with the provisions of this section.

20 1. Unless the local government agrees to stay
21 enforcement of the amendment, or other good cause is shown,
22 the challenging party shall be entitled to a hearing on the
23 challenge within 45 days.

24 2. For purposes of such challenge, the burden of proof
25 shall be on the challenging party, but the amendment shall not
26 be presumed to be valid or invalid.

27
28 This subsection gives local government the authority to
29 establish firesafety codes that exceed the minimum firesafety
30 codes and standards adopted by the State Fire Marshal. The
31 Legislature intends that local government give proper public

1 notice and hold public hearings before adopting more stringent
2 firesafety codes and standards. A substantially affected
3 person may appeal, to the Department of Financial Services
4 ~~insurance~~, the local government's resolution of the challenge,
5 and the department shall determine if the amendment complies
6 with this section. Actions of the department are subject to
7 judicial review pursuant to s. 120.68. The department shall
8 consider reports of the Florida Building Commission, pursuant
9 to part VII of chapter 553, when evaluating building code
10 enforcement.

11 Section 741. Paragraph (a) of subsection (1) of
12 section 633.052, Florida Statutes, is amended to read:

13 633.052 Ordinances relating to firesafety;
14 definitions; penalties.--

15 (1) As used in this section:

16 (a) A "firesafety inspector" is an individual
17 certified by the Division of State Fire Marshal of the
18 Department of Financial Services ~~insurance~~, officially
19 assigned the duties of conducting firesafety inspections of
20 buildings and facilities on a recurring or regular basis,
21 investigating civil infractions relating to firesafety, and
22 issuing citations pursuant to this section on behalf of the
23 state or any county, municipality, or special district with
24 firesafety responsibilities.

25 Section 742. Subsection (7) of section 633.061,
26 Florida Statutes, is amended to read:

27 633.061 License or permit required of organizations
28 and individuals servicing, recharging, repairing, testing,
29 marking, inspecting, installing, or hydrotesting fire
30 extinguishers and preengineered systems.--

31

1 (7) The fees collected for any such licenses and
2 permits and the filing fees for license and permit examination
3 are hereby appropriated for the use of the State Fire Marshal
4 in the administration of this chapter and shall be deposited
5 in the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

6 Section 743. Paragraphs (4) and (7) of section
7 633.081, Florida Statutes, are amended to read:

8 633.081 Inspection of buildings and equipment; orders;
9 firesafety inspection training requirements; certification;
10 disciplinary action.--The State Fire Marshal and her or his
11 agents shall, at any reasonable hour, when the department has
12 reasonable cause to believe that a violation of this chapter
13 or s. 509.215, or a rule promulgated thereunder, or a minimum
14 firesafety code adopted by a local authority, may exist,
15 inspect any and all buildings and structures which are subject
16 to the requirements of this chapter or s. 509.215 and rules
17 promulgated thereunder. The authority to inspect shall extend
18 to all equipment, vehicles, and chemicals which are located
19 within the premises of any such building or structure.

20 (4) A firefighter certified pursuant to s. 633.35 may
21 conduct firesafety inspections, under the supervision of a
22 certified firesafety inspector, while on duty as a member of a
23 fire department company conducting inservice firesafety
24 inspections without being certified as a firesafety inspector,
25 if such firefighter has satisfactorily completed an inservice
26 fire department company inspector training program of at least
27 24 hours' duration as provided by rule of the Department of
28 Financial Services Insurance.

29 (7) The Department of Financial Services Insurance
30 shall provide by rule for the certification of firesafety
31 inspectors.

1 Section 744. Section 633.111, Florida Statutes, is
2 amended to read:

3 633.111 State Fire Marshal to keep records of fires;
4 reports of agents.--The State Fire Marshal shall keep in her
5 or his office a record of all fires occurring in this state
6 upon which she or he had caused an investigation to be made
7 and all facts concerning the same. These records, obtained or
8 prepared by the State Fire Marshal pursuant to her or his
9 investigation, include documents, papers, letters, maps,
10 diagrams, tapes, photographs, films, sound recordings, and
11 evidence. These records are confidential and exempt from the
12 provisions of s. 119.07(1) until the investigation is
13 completed or ceases to be active. For purposes of this
14 section, an investigation is considered "active" while such
15 investigation is being conducted by the department with a
16 reasonable, good faith belief that it may lead to the filing
17 of administrative, civil, or criminal proceedings. An
18 investigation does not cease to be active if the department is
19 proceeding with reasonable dispatch, and there is a good faith
20 belief that action may be initiated by the department or other
21 administrative or law enforcement agency. Further, these
22 documents, papers, letters, maps, diagrams, tapes,
23 photographs, films, sound recordings, and evidence relative to
24 the subject of an investigation shall not be subject to
25 subpoena until the investigation is completed or ceases to be
26 active, unless the State Fire Marshal consents. These records
27 shall be made daily from the reports furnished the State Fire
28 Marshal by her or his agents or others. Whenever the State
29 Fire Marshal releases an investigative report, any person
30 requesting a copy of the report shall pay in advance, and the
31 State Fire Marshal shall collect in advance, notwithstanding

1 the provisions of s. 624.501(20)(a) and (b), a fee of \$10 for
2 the copy of the report, which fee shall be deposited into the
3 Insurance ~~Commissioner's~~ Regulatory Trust Fund. The State Fire
4 Marshal may release the report without charge to any state
5 attorney or to any law enforcement agency or fire department
6 assisting in the investigation.

7 Section 745. Subsection (1) of section 633.161,
8 Florida Statutes, is amended to read:

9 633.161 Cease and desist orders; orders to correct
10 hazardous conditions; orders to vacate; violation;
11 penalties.--

12 (1) If it is determined by the Department of Financial
13 Services ~~Insurance~~ that a violation specified in this
14 subsection exists, the State Fire Marshal or her or his deputy
15 may issue and deliver to the person committing the violation
16 an order to cease and desist from such violation, to correct
17 any hazardous condition, to preclude occupancy of the affected
18 building or structure, or to vacate the premises of the
19 affected building or structure. Such violations are:

20 (a) Except as set forth in paragraph (b), a violation
21 of any provision of this chapter, of any rule adopted pursuant
22 thereto, of any applicable uniform firesafety standard adopted
23 pursuant to s. 633.022 which is not adequately addressed by
24 any alternative requirements adopted on a local level, or of
25 any minimum firesafety standard adopted pursuant to s.
26 394.879.

27 (b) A substantial violation of an applicable minimum
28 firesafety standard adopted pursuant to s. 633.025 which is
29 not reasonably addressed by any alternative requirement
30 imposed at the local level, or an unreasonable interpretation
31 of an applicable minimum firesafety standard, and which

1 violation or interpretation clearly constitutes a danger to
2 lifesafety.

3 (c) A building or structure which is in a dilapidated
4 condition and as a result thereof creates a danger to life,
5 safety, or property.

6 (d) A building or structure which contains explosive
7 matter or flammable liquids or gases constituting a danger to
8 life, safety, or property.

9 Section 746. Subsection (5) of section 633.162,
10 Florida Statutes, is amended to read:

11 633.162 Disciplinary action; fire extinguisher or
12 preengineered systems; grounds for denial, nonrenewal,
13 suspension, or revocation of license or permit.--

14 (5) In addition, the Department of Financial Services
15 ~~Insurance~~ shall not issue a new license or permit if it finds
16 that the circumstance or circumstances for which the license
17 or permit was previously revoked or suspended still exist or
18 are likely to recur.

19 Section 747. Subsections (3) and (5) of section
20 633.30, are amended to read:

21 633.30 Standards for firefighting; definitions.--As
22 used in this chapter:

23 (3) "Department" means the Department of Financial
24 Services Insurance.

25 (5) "Division" means the Division of State Fire
26 Marshal of the department ~~of Insurance~~.

27 Section 748. Subsection (1) of section 633.31, Florida
28 Statutes, is amended to read:

29 633.31 Firefighters Standards and Training Council.--

30 (1) There is created within the department ~~of~~
31 ~~Insurance~~ a Firefighters Standards and Training Council of

1 nine members appointed by the State Fire Marshal. Two members
2 shall be fire chiefs, two members shall be firefighters who
3 are not officers, two members shall be firefighter officers
4 who are not fire chiefs, and one member shall be a director or
5 instructor of a state-certified firefighting training
6 facility. To be eligible for appointment as a fire chief
7 member, firefighter officer member, firefighter member, or a
8 director or instructor of a state-certified firefighting
9 facility, a person shall have had at least 4 years' experience
10 in the firefighting profession. The remaining two members
11 shall not be members of the firefighting profession. Members
12 shall serve only as long as they continue to meet the criteria
13 under which they were appointed, or unless a member has failed
14 to appear at three consecutive and properly noticed meetings
15 unless excused by the chair.

16 Section 749. Section 633.353, Florida Statutes, is
17 amended to read:

18 633.353 Falsification of qualifications.--Any person
19 who willfully and knowingly falsifies the qualifications of a
20 new employee to the Bureau of Fire Standards and Training of
21 the division ~~of State Fire Marshal of the Department of~~
22 ~~Insurance~~ is guilty of a misdemeanor of the second degree,
23 punishable as provided in s. 775.082 or s. 775.083.

24 Section 750. Paragraph (a) of subsection (1) of
25 section 633.382, Florida Statutes, is amended to read:

26 633.382 Firefighters; supplemental compensation.--

27 (1) DEFINITIONS.--As used in this section, the term:

28 (a) "Division" means the Division of State Fire
29 Marshal of the Department of Financial Services Insurance
30 created and existing under the provisions of this chapter.

31

1 Section 751. Section 633.43, Florida Statutes, is
2 amended to read:

3 633.43 Florida State Fire College established.--There
4 is hereby established a state institution to be known as the
5 Florida State Fire College, to be located at or near Ocala,
6 Marion County. The institution shall be operated by the
7 ~~division of State Fire Marshal of the Department of Insurance.~~

8 Section 752. Subsections (1), (2), (3), (7), (8), (9),
9 and (10) of section 633.445, Florida Statutes, are amended to
10 read:

11 633.445 State Fire Marshal Scholarship Grant
12 Program.--

13 (1) All payments, gifts, or grants received pursuant
14 to this section shall be deposited in the State Treasury to
15 the credit of the Insurance ~~Commissioner's~~ Regulatory Trust
16 Fund for the State Fire Marshal Scholarship Grant Program.
17 Such funds shall provide, from grants to the state from moneys
18 raised from public and private sources, scholarships for
19 qualified applicants to the Florida State Fire College as
20 created by s. 633.43.

21 (2) The Chief Financial Officer ~~Comptroller~~ shall
22 authorize expenditures from the Insurance ~~Commissioner's~~
23 Regulatory Trust Fund upon receipt of vouchers approved by the
24 State Fire Marshal. All moneys collected from public and
25 private sources pursuant to this section shall be deposited
26 into the trust fund. Any balance in the trust fund at the end
27 of any fiscal year shall remain therein and shall be available
28 for carrying out the purposes of the fund in the ensuing year.

29 (3) All funds deposited into the Insurance
30 ~~Commissioner's~~ Regulatory Trust Fund shall be invested
31 pursuant to s. 18.125. Interest income accruing to moneys so

1 invested shall increase the total funds available for the
2 purposes for which the trust fund is created.

3 (7) The criteria and procedures for establishing
4 standards of eligibility shall be recommended by the council
5 to the department ~~of Insurance~~. The council shall recommend
6 to the department ~~of Insurance~~ a rating system upon which to
7 base the approval of scholarship grants. However, to be
8 eligible to receive a scholarship pursuant to this section, an
9 applicant must:

10 (a) Be a full-time employee or volunteer of a local
11 municipal, county, regional or district firefighter unit;

12 (b) Have graduated from high school, have earned an
13 equivalency diploma issued by the Department of Education
14 pursuant to s. 229.814, or have earned an equivalency diploma
15 issued by the United States Armed Forces Institute;

16 (c) Be accepted for full-time enrollment, with the
17 intent to maintain such enrollment at the Florida State Fire
18 College;

19 (d) Have the firefighter unit by whom the applicant is
20 employed or for which the applicant is a volunteer, recommend
21 her or him and certify that, because of financial need, the
22 scholarship is necessary for her or him to attend the State
23 Fire College; and

24 (e) Agree that she or he intends to return to duty
25 with the firefighter unit by whom she or he was recommended,
26 or, by agreement with such unit, that she or he will remain in
27 some capacity relating to the firefighting profession for a
28 period of at least 1 year.

29 (8) The department ~~of Insurance~~ may adopt rules to
30 implement this section, including rules detailing the
31 eligibility standards and an approval rating system which are

1 based on financial need, need for additional certified
2 firefighters from the applicant's community, and the
3 applicant's employment record.

4 (9) After selection and approval of an applicant for a
5 grant by the council, payment in the applicant's name for
6 scholarship funds shall be transmitted from the Insurance
7 ~~Commissioner's~~ Regulatory Trust Fund by the Chief Financial
8 Officer Comptroller upon receipt of vouchers authorized by the
9 State Fire Marshal. If a recipient terminates her or his
10 enrollment during the course of her or his curriculum at the
11 State Fire College, unless excused by the council and allowed
12 to resume training at a later time, any unused portion of the
13 scholarship funds shall be refunded to the trust fund. A
14 recipient who terminates her or his enrollment is not liable
15 for any portion of a scholarship.

16 (10) The council may accept payments, gifts, and
17 grants of money from any federal agency, private agency,
18 county, city, town, corporation, partnership, or individual
19 for deposit in the Insurance ~~Commissioner's~~ Regulatory Trust
20 Fund to implement this section and for authorized expenses
21 incurred by the council in performing its duties.

22 Section 753. Subsection (1) of section 633.45, Florida
23 Statutes, is amended to read:

24 633.45 Division of State Fire Marshal; powers,
25 duties.--

26 (1) ~~The division of State Fire Marshal of the~~
27 ~~Department of Insurance~~ shall:

28 (a) Establish uniform minimum standards for the
29 employment and training of firefighters.

30 (b) Establish minimum curriculum requirements for
31 schools operated by or for any employing agency for the

1 specific purpose of training firefighter recruits or
2 firefighters.

3 (c) Approve institutions, instructors, and facilities
4 for school operation by or for any employing agency for the
5 specific purpose of training firefighters and firefighter
6 recruits.

7 (d) Specify, by rule, standards for the approval,
8 denial of approval, probation, and revocation of approval of
9 institutions, instructors, and facilities for training
10 firefighters and firefighter recruits; including a rule that
11 an instructor must complete 40 hours of continuing education
12 every 3 years in order to maintain the approval of the
13 department.

14 (e) Issue certificates of competency to persons who,
15 by reason of experience and completion of basic inservice
16 training, advanced education, or specialized training, are
17 especially qualified for particular aspects or classes of
18 firefighter duties.

19 (f) Establish minimum training qualifications for
20 persons serving as firesafety coordinators for their
21 respective departments of state government and certify all
22 persons who satisfy such qualifications.

23 (g) Establish a uniform lesson plan to be followed by
24 firesafety instructors in the training of state employees in
25 firesafety and emergency evacuation procedures.

26 (h) Have complete jurisdiction over, and complete
27 management and control of, the Florida State Fire College and
28 be invested with full power and authority to make all rules
29 and regulations necessary for the governance of said
30 institution.

31

1 (i) Appoint a superintendent of the Florida State Fire
2 College and such other instructors, experimental helpers, and
3 laborers as may be necessary and remove the same as in its
4 judgment and discretion may be best, fix their compensation,
5 and provide for their payment.

6 (j) Have full management, possession, and control of
7 the lands, buildings, structures, and property belonging to
8 the Florida State Fire College.

9 (k) Provide for the courses of study and curriculum of
10 the Florida State Fire College.

11 (l) Make rules and regulations for the admission of
12 trainees to the Florida State Fire College.

13 (m) Visit and inspect the Florida State Fire College
14 and every department thereof and provide for the proper
15 keeping of accounts and records thereof.

16 (n) Make and prepare all necessary budgets of
17 expenditures for the enlargement, proper furnishing,
18 maintenance, support, and conduct of the Florida State Fire
19 College.

20 (o) Select and purchase all property, furniture,
21 fixtures, and paraphernalia necessary for the Florida State
22 Fire College.

23 (p) Build, construct, change, enlarge, repair, and
24 maintain any and all buildings or structures of the Florida
25 State Fire College that may at any time be necessary for said
26 institution and purchase and acquire all lands and property
27 necessary for same, of every nature and description
28 whatsoever.

29 (q) Care for and maintain the Florida State Fire
30 College and do and perform every other matter or thing
31 requisite to the proper management, maintenance, support, and

1 control of said institution, necessary or requisite to carry
2 out fully the purpose of this act and for raising it to, and
3 maintaining it at, the proper efficiency and standard as
4 required in and by the provisions of ss. 633.43-633.49.

5 Section 754. Section 633.46, Florida Statutes, is
6 amended to read:

7 633.46 Fees.--The division may fix and collect
8 admission fees and other fees which it deems necessary to be
9 charged for training given. All fees so collected shall be
10 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust
11 Fund.

12 Section 755. Section 633.461, Florida Statutes, is
13 amended to read:

14 633.461 Insurance ~~Commissioner's~~ Regulatory Trust
15 Fund.--The funds received from the Insurance ~~Commissioner's~~
16 Regulatory Trust Fund shall be used by the staff of the
17 Florida State Fire College to provide all necessary services,
18 training, equipment, and supplies to carry out the college's
19 responsibilities, including, but not limited to, the State
20 Fire Marshal Scholarship Grant Program and the procurement of
21 training films, videotapes, audiovisual equipment, and other
22 useful information on fire, firefighting, and fire prevention,
23 including public fire service information packages.

24 Section 756. Section 633.47, Florida Statutes, is
25 amended to read:

26 633.47 Procedure for making expenditures.--No moneys
27 shall be spent for and on behalf of the Florida State Fire
28 College except upon a written voucher drawn by the division,
29 stating the nature of the expenditures and the person to whom
30 the same shall be made payable, which voucher shall be
31 submitted to the Chief Financial Officer ~~Comptroller~~ and

1 audited for approval by her or him; upon such approval, the
2 Chief Financial Officer ~~Comptroller~~ shall draw a warrant ~~upon~~
3 ~~the Treasurer~~ for the payment thereof, filing the original
4 voucher in her or his office.

5 Section 757. Section 633.50, Florida Statutes, is
6 amended to read:

7 633.50 Division powers and duties; Florida State Fire
8 College.--

9 (1) The division ~~of State Fire Marshal of the~~
10 ~~Department of Insurance~~, in performing its duties related to
11 the Florida State Fire College, specified in ss.
12 633.43-633.49, shall:

13 (a) Enter into agreements with public or private
14 school districts, community colleges, junior colleges, or
15 universities to carry out its duties and responsibilities.

16 (b) Review and approve budget requests for the fire
17 college educational program.

18 (c) Prepare the legislative budget request for the
19 Florida State Fire College education program. The
20 superintendent is responsible for all expenditures pursuant to
21 appropriations.

22 (d) Implement procedures to obtain appropriate
23 entitlement funds from federal and state grants to supplement
24 the annual legislative appropriation. Such funds must be used
25 expressly for the fire college educational programs.

26 (e) Develop a staffing and funding formula for the
27 Florida State Fire College. The formula shall include
28 differential funding levels for various types of programs,
29 shall be based on the number of full-time equivalent students
30 and information obtained from scheduled attendance counts
31 taken the first day of each program, and shall provide the

1 basis for the legislative budget request. As used in this
2 section, a full-time equivalent student is equal to a minimum
3 of 900 hours in a vocational program and 400 hours in a
4 degree-seeking program. The funding formula shall be as
5 prescribed pursuant to s. 236.081, shall include procedures to
6 document daily attendance, and shall require that attendance
7 records be retained for audit purposes.

8 (2) Funds generated by the formula per full-time
9 equivalent student may not exceed the level of state funding
10 per full-time equivalent student generated through the Florida
11 Education Finance Program or the State Community College
12 Program Fund for students enrolled in comparable education
13 programs provided by public school districts and community
14 colleges. Funds appropriated for education and operational
15 costs shall be deposited in the Insurance ~~Commissioner's~~
16 Regulatory Trust Fund to be used solely for purposes specified
17 in s. 633.461 and may not be transferred to any other budget
18 entity for purposes other than education.

19 Section 758. Subsection (2) of section 633.524,
20 Florida Statutes, is amended to read:

21 633.524 Certificate fees; use and deposit of collected
22 funds.--

23 (2) All moneys collected by the State Fire Marshal
24 pursuant to this chapter are ~~hereby~~ appropriated for the use
25 of the State Fire Marshal in the administration of this
26 chapter and shall be deposited in the Insurance ~~Commissioner's~~
27 Regulatory Trust Fund.

28 Section 759. Subsection (4) of section 634.011,
29 Florida Statutes, is amended to read:

30 634.011 Definitions.--As used in this part, the term:
31

1 (4) "Department" means the Department of Financial
2 Services Insurance.

3 Section 760. Subsection (3) of section 634.137,
4 Florida Statutes, is amended to read:

5 634.137 Financial and statistical reporting
6 requirements.--

7 (3) Any service agreement company that does not file
8 an annual statement in the form and within the time provided
9 by this section shall forfeit up to \$100 for each day during
10 which the default continues, and, upon notice by the
11 department, the authority of the company to do business in
12 this state shall cease while the default continues. The
13 department shall deposit all sums collected under this
14 subsection in the Insurance ~~Commissioner's~~ Regulatory Trust
15 Fund.

16 Section 761. Section 634.151, Florida Statutes, is
17 amended to read:

18 634.151 Service of process; appointment of
19 commissioner as process agent.--

20 (1) Each company applying for authority to transact
21 business in this state, whether domestic or foreign, shall
22 file with the department its appointment of the Chief
23 Financial Officer ~~Insurance Commissioner and Treasurer~~ and her
24 or his successors in office, on a form as furnished by the
25 department, as its attorney to receive service of all legal
26 process issued against it in any civil action or proceeding in
27 this state and agreeing that process so served shall be valid
28 and binding upon the company. The appointment shall be
29 irrevocable, shall bind the company and any successor in
30 interest as to the assets or liabilities of the company, and
31 shall remain in effect as long as there is outstanding in this

1 state any obligation or liability of the company resulting
2 from its service agreement transactions therein.

3 (2) At the time of such appointment of the Chief
4 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its
5 process agent the company shall file with the department a
6 designation of the name and address of the person to whom
7 process against it served upon the Chief Financial Officer
8 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The
9 company may change the designation at any time by a new
10 filing.

11 Section 762. Section 634.161, Florida Statutes, is
12 amended to read:

13 634.161 Service of process; method.--

14 (1) Service of process upon the Chief Financial
15 Officer ~~Insurance Commissioner and Treasurer~~ as process agent
16 of the company shall be made by serving copies in triplicate
17 of the process upon the Chief Financial Officer ~~Insurance~~
18 ~~Commissioner and Treasurer~~ or upon her or his assistant,
19 deputy, or other person in charge of her or his office. Upon
20 receiving such service, the Chief Financial Officer ~~Insurance~~
21 ~~Commissioner and Treasurer~~ shall file one copy with the
22 department, return one copy with her or his admission of
23 service, and promptly forward one copy of the process by
24 registered or certified mail to the person last designated by
25 the company to receive the same, as provided under s. 634.151.

26 (2) Process served upon the Chief Financial Officer
27 ~~Insurance Commissioner and Treasurer~~ and copy thereof
28 forwarded as in this section provided shall for all purposes
29 constitute valid and binding service thereof upon the company.

30 Section 763. Section 634.221, Florida Statutes, is
31 amended to read:

1 634.221 Disposition of taxes and fees.--All license
2 taxes, taxes on premiums and assessments, registration fees,
3 and administrative fines and penalties collected under this
4 act from motor vehicle service agreement companies shall be
5 deposited to the credit of the Insurance ~~Commissioner's~~
6 Regulatory Trust Fund.

7 Section 764. Subsection (1) of section 634.301,
8 Florida Statutes, is amended to read:

9 634.301 Definitions.--As used in this part, the term:

10 (1) "Department" means the Department of Financial
11 Services Insurance.

12 Section 765. Subsections (1) and (3) of section
13 634.313, Florida Statutes, are amended to read:

14 634.313 Tax on premiums; annual statement; reports.--

15 (1) In addition to paying the license taxes provided
16 for in this part for home warranty associations and license
17 taxes provided in the insurance code as to insurers, each such
18 association and each such insurer must, annually on or before
19 March 1, file with the department its annual statement, in the
20 form prescribed by the department, showing all premiums
21 received by it in connection with the issuance of warranties
22 in this state during the preceding calendar year and using
23 accounting principles that will enable the department to
24 ascertain whether the reserve required by s. 634.3077 has been
25 maintained. Each annual statement must contain a balance
26 sheet listing all assets and liabilities; a statement of
27 operations and retained earnings; and a schedule used to
28 report all claims statistics. The annual statement must be
29 completed using generally accepted accounting principles
30 except as otherwise provided in this part. Further, each
31 association and each insurer must pay to the Chief Financial

1 Officer ~~Treasurer~~ a tax in an amount equal to 2 percent of the
2 amount of such premiums so received.

3 (3) Any association or insurer neglecting to file the
4 annual statement in the form and within the time provided by
5 this section shall forfeit up to \$100 for each day during
6 which such neglect continues; and, upon notice by the
7 department to that effect, its authority to do business in
8 this state shall cease while such default continues. The
9 department shall deposit all sums collected by it under this
10 section to the credit of the Insurance ~~Commissioner's~~
11 Regulatory Trust Fund.

12 Section 766. Section 634.324, Florida Statutes, is
13 amended to read:

14 634.324 Disposition of taxes and fees.--All license
15 taxes, taxes on premiums, license and appointment fees, and
16 administrative fines and penalties collected under this part
17 from home warranty associations and sales representatives
18 shall be deposited to the credit of the Insurance
19 ~~Commissioner's~~ Regulatory Trust Fund.

20 Section 767. Section 634.327, Florida Statutes, is
21 amended to read:

22 634.327 Applicability to warranty on new home.--This
23 part shall not apply to any program offering a warranty on a
24 new home which is underwritten by an insurer licensed to do
25 business in the state when the insurance policy underwriting
26 such program has been filed with and approved by the
27 department ~~of Insurance~~ as required by law.

28 Section 768. Subsection (4) of section 634.3284,
29 Florida Statutes, is amended to read:

30 634.3284 Civil remedy.--

31

1 (4) This section shall not be construed to authorize a
2 class action suit against a home warranty association or a
3 civil action against the department, its employees, or the
4 Chief Financial Officer ~~Insurance Commissioner~~.

5 Section 769. Subsection (2) of section 634.401,
6 Florida Statutes, is amended to read:

7 634.401 Definitions.--As used in this part, the term:

8 (2) "Department" means the Department of Financial
9 Services ~~Insurance~~.

10 Section 770. Subsection (3) of section 634.415,
11 Florida Statutes, is amended to read:

12 634.415 Tax on premiums; annual statement; reports;
13 quarterly statements.--

14 (3) The department may levy a fine of up to \$100 a day
15 for each day an association neglects to file the annual
16 statement in the form and within the time provided by this
17 part. The amount of the fine shall be established by rules
18 promulgated by the department. The department shall deposit
19 all sums collected by it under this section to the credit of
20 the ~~Insurance Commissioner's~~ Regulatory Trust Fund.

21 Section 771. Subsection (1) of section 634.416,
22 Florida Statutes, is amended to read:

23 634.416 Examination of associations.--

24 (1) Service warranty associations licensed under this
25 part are subject to periodic examination by the department, in
26 the same manner and subject to the same terms and conditions
27 that apply to insurers under part II of chapter 624. However,
28 the rate charged a service warranty association by the
29 department for examination may be adjusted to reflect the
30 amount collected for the Form 10-K filing fee as provided in
31 this section. On or before May 1 of each year, an association

1 may submit to the department the Form 10-K, as filed with the
2 United States Securities and Exchange Commission pursuant to
3 the Securities Exchange Act of 1934, as amended. Upon receipt
4 and review of the most current Form 10-K, the department may
5 waive the examination requirement; if the department
6 determines not to waive the examination, such examination will
7 be limited to that examination necessary to ensure compliance
8 with this part. The Form 10-K shall be accompanied by a
9 filing fee of \$2,000 to be deposited into the Insurance
10 ~~Commissioner's~~ Regulatory Trust Fund.

11 Section 772. Section 634.427, Florida Statutes, is
12 amended to read:

13 634.427 Disposition of taxes and fees.--All license
14 fees, taxes on premiums, registration fees, and administrative
15 fines and penalties collected under this part from service
16 warranty associations and sales representatives shall be
17 deposited to the credit of the Insurance ~~Commissioner's~~
18 Regulatory Trust Fund.

19 Section 773. Subsection (4) of section 634.433,
20 Florida Statutes, is amended to read:

21 634.433 Civil remedy.--

22 (4) This section shall not be construed to authorize a
23 class action suit against a service warranty association or a
24 civil action against the department, its employees, or the
25 Chief Financial Officer ~~Insurance Commissioner~~.

26 Section 774. Subsection (3) of section 635.011,
27 Florida Statutes, is amended to read:

28 635.011 Definitions.--As used in this chapter, the
29 term:

30 (3) "Department" means the Department of Financial
31 Services ~~Insurance of this state~~.

1 Section 775. Subsection (2) of section 635.041,
2 Florida Statutes, is amended to read:

3 635.041 Contingency reserve.--

4 (2) Subject to approval by the insurance department of
5 the insurer's state of domicile and upon 30 days' prior notice
6 to the Department of Financial Services Insurance of this
7 state, the contingency reserve shall be available for loss
8 payments only when the insurer's incurred losses in any one
9 calendar year exceed 35 percent of the corresponding earned
10 premiums.

11 Section 776. Subsections (2) and (3) of section
12 636.003, Florida Statutes, are amended to read:

13 636.003 Definitions.--As used in this act, the term:

14 ~~(2) "Commissioner" means the Commissioner of~~
15 ~~Insurance.~~

16 (2)(3) "Department" means the Department of Financial
17 Services Insurance.

18 Section 777. Subsection (3) of section 636.043,
19 Florida Statutes, is amended to read:

20 636.043 Annual, quarterly, and miscellaneous
21 reports.--

22 (3) Every prepaid limited health service organization
23 which fails to file an annual report or quarterly report in
24 the form and within the time required by this section shall
25 forfeit up to \$500 for each day for the first 10 days during
26 which the neglect continues and shall forfeit up to \$1,000 for
27 each day after the first 10 days during which the neglect
28 continues; and, upon notice by the department to that effect,
29 the organization's authority to enroll new subscribers or to
30 do business in this state ceases while such default continues.
31 The department shall deposit all sums collected by it under

1 this section to the credit of the Insurance ~~Commissioner's~~
2 Regulatory Trust Fund. The department may not collect more
3 than \$50,000 for each report.

4 Section 778. Subsection (2) of section 636.047,
5 Florida Statutes, is amended to read:

6 636.047 Officers' and employees' fidelity bond.--

7 (2) In lieu of the bond specified in subsection (1), a
8 prepaid limited health service organization may deposit with
9 the department cash or securities or other investments of the
10 types set forth in s. 636.042. Such a deposit must be
11 maintained in joint custody with the Chief Financial Officer
12 ~~commissioner~~ in the amount and subject to the same conditions
13 required for a bond under this subsection.

14 Section 779. Section 636.052, Florida Statutes, is
15 amended to read:

16 636.052 Civil remedy.--In any civil action brought to
17 enforce the terms and conditions of a prepaid limited health
18 service organization contract, the prevailing party is
19 entitled to recover reasonable attorney's fees and court
20 costs. This section does not authorize a civil action against
21 the department, its employees, or the Chief Financial Officer
22 ~~commissioner~~ or against the Agency for Health Care
23 Administration, its employees, or the director of that agency.

24 Section 780. Subsection (1) of section 641.185,
25 Florida Statutes, is amended to read:

26 641.185 Health maintenance organization subscriber
27 protections.--

28 (1) With respect to the provisions of this part and
29 part III, the principles expressed in the following statements
30 shall serve as standards to be followed by the Department of
31 Financial Services Insurance ~~Insurance~~ and the Agency for Health Care

1 Administration in exercising their powers and duties, in
2 exercising administrative discretion, in administrative
3 interpretations of the law, in enforcing its provisions, and
4 in adopting rules:

5 (a) A health maintenance organization shall ensure
6 that the health care services provided to its subscribers
7 shall be rendered under reasonable standards of quality of
8 care which are at a minimum consistent with the prevailing
9 standards of medical practice in the community pursuant to ss.
10 641.495(1) and 641.51.

11 (b) A health maintenance organization subscriber
12 should receive quality health care from a broad panel of
13 providers, including referrals, preventive care pursuant to s.
14 641.402(1), emergency screening and services pursuant to ss.
15 641.31(12) and 641.513, and second opinions pursuant to s.
16 641.51.

17 (c) A health maintenance organization subscriber
18 should receive assurance that the health maintenance
19 organization has been independently accredited by a national
20 review organization pursuant to s. 641.512, and is financially
21 secure as determined by the state pursuant to ss. 641.221,
22 641.225, and 641.228.

23 (d) A health maintenance organization subscriber
24 should receive continuity of health care, even after the
25 provider is no longer with the health maintenance organization
26 pursuant to s. 641.51(8).

27 (e) A health maintenance organization subscriber
28 should receive timely, concise information regarding the
29 health maintenance organization's reimbursement to providers
30 and services pursuant to ss. 641.31 and 641.31015.

31

1 (f) A health maintenance organization subscriber
2 should receive the flexibility to transfer to another Florida
3 health maintenance organization, regardless of health status,
4 pursuant to ss. 641.228, 641.3104, 641.3107, 641.3111,
5 641.3921, and 641.3922.

6 (g) A health maintenance organization subscriber
7 should be eligible for coverage without discrimination against
8 individual participants and beneficiaries of group plans based
9 on health status pursuant to s. 641.31073.

10 (h) A health maintenance organization that issues a
11 group health contract must: provide coverage for preexisting
12 conditions pursuant to s. 641.31071; guarantee renewability of
13 coverage pursuant to s. 641.31074; provide notice of
14 cancellation pursuant to s. 641.3108; provide extension of
15 benefits pursuant to s. 641.3111; provide for conversion on
16 termination of eligibility pursuant to s. 641.3921; and
17 provide for conversion contracts and conditions pursuant to s.
18 641.3922.

19 (i) A health maintenance organization subscriber
20 should receive timely and, if necessary, urgent grievances and
21 appeals within the health maintenance organization pursuant to
22 ss. 641.228, 641.31(5), 641.47, and 641.511.

23 (j) A health maintenance organization should receive
24 timely and, if necessary, urgent review by an independent
25 state external review organization for unresolved grievances
26 and appeals pursuant to s. 408.7056.

27 (k) A health maintenance organization subscriber shall
28 be given written notice at least 30 days in advance of a rate
29 change pursuant to s. 641.31(3)(b). In the case of a group
30 member, there may be a contractual agreement with the health
31 maintenance organization to have the employer provide the

1 required notice to the individual members of the group
2 pursuant to s. 641.31(3)(b).

3 (1) A health maintenance organization subscriber shall
4 be given a copy of the applicable health maintenance contract,
5 certificate, or member handbook specifying: all the
6 provisions, disclosure, and limitations required pursuant to
7 s. 641.31(1) and (4); the covered services, including those
8 services, medical conditions, and provider types specified in
9 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and
10 641.513; and where and in what manner services may be obtained
11 pursuant to s. 641.31(4).

12 Section 781. Subsections (6) and (11) of section
13 641.19, Florida Statutes, are amended to read:

14 641.19 Definitions.--As used in this part, the term:

15 (6) "Department" means the Department of Financial
16 Services Insurance.

17 (11) "Guaranteeing organization" is an organization
18 that which is domiciled in the United States; that which has
19 authorized service of process against it; and that which has
20 appointed the Chief Financial Officer Insurance Commissioner
21 ~~and Treasurer~~ as its agent for service of process issuing upon
22 any cause of action arising in this state, based upon any
23 guarantee entered into under this part.

24 Section 782. Subsection (1) of section 641.23, Florida
25 Statutes, is amended to read:

26 641.23 Revocation or cancellation of certificate of
27 authority; suspension of enrollment of new subscribers; terms
28 of suspension.--

29 (1) The maintenance of a valid and current health care
30 provider certificate issued pursuant to part III of this
31 chapter is a condition of the maintenance of a valid and

1 current certificate of authority issued by the department to
2 operate a health maintenance organization. Denial or
3 revocation of a health care provider certificate shall be
4 deemed to be an automatic and immediate cancellation of a
5 health maintenance organization's certificate of authority.
6 At the discretion of the department ~~of Insurance~~, nonrenewal
7 of a health care provider certificate may be deemed to be an
8 automatic and immediate cancellation of a health maintenance
9 organization's certificate of authority if the Agency for
10 Health Care Administration notifies the department ~~of~~
11 ~~Insurance~~, in writing, that the health care provider
12 certificate will not be renewed.

13 Section 783. Subsection (4) of section 641.26, Florida
14 Statutes, is amended to read:

15 641.26 Annual report.--

16 (4) Any health maintenance organization that neglects
17 to file an annual report or quarterly report in the form and
18 within the time required by this section shall forfeit up to
19 \$1,000 for each day for the first 10 days during which the
20 neglect continues and shall forfeit up to \$2,000 for each day
21 after the first 10 days during which the neglect continues;
22 and, upon notice by the department to that effect, the
23 organization's authority to enroll new subscribers or to do
24 business in this state shall cease while such default
25 continues. The department shall deposit all sums collected by
26 it under this section to the credit of the Insurance
27 ~~Commissioner's~~ Regulatory Trust Fund. The department shall not
28 collect more than \$100,000 for each report.

29 Section 784. Section 641.28, Florida Statutes, is
30 amended to read:

31

1 641.28 Civil remedy.--In any civil action brought to
2 enforce the terms and conditions of a health maintenance
3 organization contract, the prevailing party is entitled to
4 recover reasonable attorney's fees and court costs. This
5 section shall not be construed to authorize a civil action
6 against the department, its employees, or the Chief Financial
7 Officer ~~Insurance Commissioner~~ or against the Agency for
8 Health Care Administration, its employees, or the director of
9 the agency.

10 Section 785. Subsection (1) of section 641.39001,
11 Florida Statutes, is amended to read:

12 641.39001 Soliciting or accepting new or renewal
13 health maintenance contracts by insolvent or impaired health
14 maintenance organization prohibited; penalty.--

15 (1) Whether or not delinquency proceedings as to a
16 health maintenance organization have been or are to be
17 initiated, a director or officer of a health maintenance
18 organization, except with the written permission of the
19 department ~~of Insurance~~, may not authorize or permit the
20 health maintenance organization to solicit or accept new or
21 renewal health maintenance contracts or provider contracts in
22 this state after the director or officer knew, or reasonably
23 should have known, that the health maintenance organization
24 was insolvent or impaired. As used in this section, the term
25 "impaired" means that the health maintenance organization does
26 not meet the requirements of s. 641.225.

27 Section 786. Subsections (2) and (3) of section
28 641.402, Florida Statutes, are amended to read:

29 641.402 Definitions.--As used in this part, the term:

30 (2) "Department" means the Department of Financial
31 Services ~~Insurance~~.

1 (3) "Guaranteeing organization" means an organization
2 that which is domiciled in the United States; that which has
3 authorized service of process against it; and that which has
4 appointed the Chief Financial Officer ~~Insurance Commissioner~~
5 ~~and Treasurer~~ as its agent for service of process in
6 connection with any cause of action arising in this state,
7 based upon any guarantee entered into under this part.

8 Section 787. Section 641.403, Florida Statutes, is
9 amended to read:

10 641.403 Rulemaking authority.--The department may ~~of~~
11 ~~Insurance has authority to~~ adopt rules pursuant to ss.
12 120.536(1) and 120.54 to implement the provisions of this
13 part.

14 Section 788. Subsection (2) of section 641.412,
15 Florida Statutes, is amended to read:

16 641.412 Fees.--

17 (2) The fees charged under this section shall be
18 distributed as follows:

19 (a) One-third of the total amount of fees shall be
20 distributed to the Agency for Health Care Administration; and

21 (b) Two-thirds of the total amount of fees shall be
22 distributed to the department ~~of Insurance~~.

23 Section 789. Section 641.454, Florida Statutes, is
24 amended to read:

25 641.454 Civil action to enforce prepaid health clinic
26 contract; attorney's fees; court costs.--In any civil action
27 brought to enforce the terms and conditions of a prepaid
28 health clinic contract, the prevailing party is entitled to
29 recover reasonable attorney's fees and court costs. This
30 section shall not be construed to authorize a civil action
31 against the department, its employees, or the Chief Financial

1 ~~Officer Insurance Commissioner and Treasurer~~ or against the
2 Agency for Health Care Administration, the employees of the
3 Agency for Health Care Administration, or the Secretary of
4 Health Care Administration.

5 Section 790. Section 641.455, Florida Statutes, is
6 amended to read:

7 641.455 Disposition of moneys collected under this
8 part.--Fees, administrative penalties, examination expenses,
9 and other sums collected by the department under this part
10 shall be deposited to the credit of the Insurance
11 ~~Commissioner's~~ Regulatory Trust Fund; however, fees,
12 examination expenses, and other sums collected by, or
13 allocated to, the Agency for Health Care Administration under
14 this part shall be deposited to the credit of the General
15 Revenue Fund.

16 Section 791. Section 641.48, Florida Statutes, is
17 amended to read:

18 641.48 Purpose and application of part.--The purpose
19 of this part is to ensure that health maintenance
20 organizations and prepaid health clinics deliver high-quality
21 health care to their subscribers. To achieve this purpose,
22 this part requires all such organizations to obtain a health
23 care provider certificate from the agency as a condition
24 precedent to obtaining a certificate of authority to do
25 business in Florida from the Department of Financial Services
26 ~~Insurance~~, under part I or part II of this chapter.

27 Section 792. Subsection (2) of section 641.49, Florida
28 Statutes, is amended to read:

29 641.49 Certification of health maintenance
30 organization and prepaid health clinic as health care
31 providers; application procedure.--

1 (2) The Department of Financial Services ~~Insurance~~
2 shall not issue a certificate of authority under part I or
3 part II of this chapter to any applicant which does not
4 possess a valid health care provider certificate issued by the
5 agency under this part.

6 Section 793. Subsection (7), paragraph (a) of
7 subsection (8), and subsection (11) of section 641.511,
8 Florida Statutes, are amended to read:

9 641.511 Subscriber grievance reporting and resolution
10 requirements.--

11 (7) Each organization shall send to the agency a copy
12 of its quarterly grievance reports submitted to the Department
13 of Financial Services ~~Insurance~~ pursuant to s. 408.7056(12).

14 (8) The agency shall investigate all reports of
15 unresolved quality of care grievances received from:

16 (a) Annual and quarterly grievance reports submitted
17 by the organization to the Department of Financial Services
18 ~~Insurance~~.

19 (11) Each organization, as part of its contract with
20 any provider, must require the provider to post a consumer
21 assistance notice prominently displayed in the reception area
22 of the provider and clearly noticeable by all patients. The
23 consumer assistance notice must state the addresses and
24 toll-free telephone numbers of the Agency for Health Care
25 Administration, the Statewide Provider and Subscriber
26 Assistance Program, and the Department of Financial Services
27 ~~Insurance~~. The consumer assistance notice must also clearly
28 state that the address and toll-free telephone number of the
29 organization's grievance department shall be provided upon
30 request. The agency is authorized to promulgate rules to
31 implement this section.

1 Section 794. Section 641.52, Florida Statutes, is
2 amended to read:

3 641.52 Revocation of certificate; suspension of new
4 enrollment; suspension of the health care provider
5 certificate; administrative fine; notice of action to the
6 Department of Financial Services Insurance; penalty for use of
7 unlicensed providers.--

8 (1) The agency may suspend the authority of an
9 organization to enroll new subscribers or revoke the health
10 care provider certificate of any organization, or order
11 compliance within a time certain, if it finds that any of the
12 following conditions exist:

13 (a) The organization is in substantial violation of
14 its contracts.

15 (b) The organization is unable to fulfill its
16 obligations under outstanding contracts entered into with its
17 subscribers.

18 (c) The organization knowingly utilizes a provider who
19 is furnishing or has furnished health care services and who
20 does not have a subsisting license or other authority to
21 practice or furnish health care services in this state.

22 (d) The organization no longer meets the requirements
23 for the certificate as originally issued.

24 (e) The organization has violated any lawful rule or
25 order of the agency or any provision of this part.

26 (f) The organization has refused to be examined or to
27 produce its accounts, records, and files for examination or to
28 perform any other legal obligation as to such examination,
29 when required by the agency.

30 (g) The organization has not, after given reasonable
31 notice, maintained accreditation or received favorable

1 external quality assurance reviews under s. 641.512 or,
2 following an investigation under s. 641.515, has been
3 determined to not materially meet requirements under this
4 part.

5 (2) Revocation of an organization's certificate shall
6 be for a period of 2 years. After 2 years, the organization
7 may apply for a new certificate by compliance with all
8 application requirements applicable to first-time applicants.

9 (3) Suspension of an organization's authority to
10 enroll new subscribers shall be for such period, not to exceed
11 1 year, as is fixed by the agency. The agency shall, in its
12 order suspending the authority of an organization to enroll
13 new subscribers, specify the period during which the
14 suspension is to be in effect and the conditions, if any,
15 which must be met by the organization prior to reinstatement
16 of its authority to enroll new subscribers. The order of
17 suspension is subject to rescission or modification by further
18 order of the agency prior to the expiration of the suspension
19 period. Authority to enroll new subscribers shall not be
20 reinstated unless requested by the organization; however, the
21 agency may not grant reinstatement if it finds that the
22 circumstances for which the suspension of authority to enroll
23 new subscribers occurred still exist or are likely to recur.

24 (4) The agency may suspend the health care provider
25 certificate issued to an organization. The agency shall, in
26 its order suspending the health care provider certificate,
27 specify the period during which the suspension is to be in
28 effect and the conditions, if any, which must be met by the
29 organization for reinstatement. Upon expiration of the
30 suspension period, the organization's certificate
31 automatically reinstates unless the agency finds that the

1 causes of the suspension have not been removed or that the
2 organization is otherwise not in compliance with this part.
3 If the agency makes such a finding, the health care provider
4 certificate shall not be reinstated and is considered to have
5 expired as of the end of the suspension period.

6 (5) If the agency finds that one or more grounds exist
7 for the revocation or suspension of a certificate issued under
8 this part, the agency may, in lieu of such revocation or
9 suspension, impose a fine upon the organization. With respect
10 to any nonwillful violation, the fine may not exceed \$2,500
11 per violation. Such fines may not exceed an aggregate amount
12 of \$25,000 for all nonwillful violations arising out of the
13 same action. With respect to any knowing and willful
14 violation of a lawful order or rule of the agency or a
15 provision of this part, the agency may impose a fine upon the
16 organization in an amount not to exceed \$20,000 for each such
17 violation. Such fines may not exceed an aggregate amount of
18 \$250,000 for all knowing and willful violations arising out of
19 the same action. The agency shall, by January 1, 1997, adopt
20 by rule penalty categories that specify varying ranges of
21 fines for willful violations and for nonwillful violations.

22 (6) The agency shall immediately notify the Department
23 of Financial Services ~~Insurance~~ whenever it issues an
24 administrative complaint or an order or otherwise initiates
25 legal proceedings resulting in or which may result in
26 suspension or revocation of an organization's health care
27 provider certificate or suspension of new enrollment.

28 (7) Any organization that knowingly utilizes the
29 services of a provider who is not licensed or otherwise
30 authorized by law to provide such services is guilty of a
31

1 felony of the third degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

3 Section 795. Subsection (4) of section 641.55, Florida
4 Statutes, is amended to read:

5 641.55 Internal risk management program.--

6 (4) The Agency for Health Care Administration shall
7 adopt rules necessary to carry out the provisions of this
8 section, including rules governing the establishment of
9 required internal risk management programs to meet the needs
10 of individual organizations and each specific organization
11 type governed by this part. The Department of Financial
12 Services Insurance shall assist the agency in preparing these
13 rules. Each internal risk management program shall include the
14 use of incident reports to be filed with the risk manager.
15 The risk manager shall have free access to all organization or
16 provider medical records. The incident reports shall be
17 considered to be a part of the workpapers of the attorney
18 defending the organization in litigation relating thereto and
19 shall be subject to discovery, but not be admissible as
20 evidence in court, nor shall any person filing an incident
21 report be subject to civil suit by virtue of the incident
22 report and the matters it contains. As a part of each
23 internal risk management program, the incident reports shall
24 be utilized to develop categories of incidents which identify
25 problem areas. Once identified, procedures must be adjusted to
26 correct these problem areas.

27
28 The gross data compiled under this section or s. 395.0197
29 shall be furnished by the agency upon request to organizations
30 to be utilized for risk management purposes. The agency shall
31

1 adopt rules necessary to carry out the provisions of this
2 section.

3 Section 796. Subsection (2) of section 641.58, Florida
4 Statutes, is amended to read:

5 641.58 Regulatory assessment; levy and amount; use of
6 funds; tax returns; penalty for failure to pay.--

7 (2) The Department of Financial Services ~~Insurance~~
8 shall determine the amount of gross premiums for the purposes
9 of the regulatory assessment, and then the agency shall
10 determine on or before December 1 of each year the regulatory
11 assessment percentage necessary to be imposed for that
12 calendar year, payable on or before the following April 1, as
13 herein prescribed, to provide the funds appropriated to the
14 agency to carry out the provisions of subsection (4).

15 Section 797. Subsection (1) of section 642.015,
16 Florida Statutes, is amended to read:

17 642.015 Definitions.--As used in ss. 642.011-642.049,
18 the term:

19 (1) "Department" means the Department of Financial
20 Services ~~Insurance~~.

21 Section 798. Subsection (4) of section 642.0475,
22 Florida Statutes, is amended to read:

23 642.0475 Civil remedy.--

24 (4) This section shall not be construed to authorize a
25 class action suit against a legal expense insurance
26 corporation or a civil action against the department, its
27 employees, or the Chief Financial Officer ~~Insurance~~
28 ~~Commissioner~~.

29 Section 799. Subsection (2) of section 648.25, Florida
30 Statutes, is amended to read:

31

1 648.25 Definitions.--The following words when used in
2 this chapter have the meanings respectively ascribed to them
3 in this section:

4 (2) "Department" means the Department of Financial
5 Services Insurance.

6 Section 800. Section 648.26, Florida Statutes, is
7 amended to read:

8 648.26 Department of Financial Services Insurance;
9 administration.--

10 (1) The department shall administer the provisions of
11 this chapter as provided in this chapter.

12 (a) The department has authority to adopt rules
13 pursuant to ss. 120.536(1) and 120.54 to implement the
14 provisions of this chapter conferring powers or duties upon
15 it.

16 (b) The department may employ and discharge such
17 employees, examiners, counsel, and other assistants as shall
18 be deemed necessary, and it shall prescribe their duties;
19 their compensation shall be the same as other state employees
20 receive for similar services.

21 (2) The department shall adopt a seal by which its
22 proceedings are authenticated. Any written instrument
23 purporting to be a copy of any action, proceeding, or finding
24 of fact by the department, or any record of the department
25 authenticated by the seal, shall be accepted by all the courts
26 of this state as prima facie evidence of the contents thereof.

27 (3) The papers, documents, reports, or any other
28 investigatory records of the department are confidential and
29 exempt from the provisions of s. 119.07(1) until such
30 investigation is completed or ceases to be active. For the
31 purpose of this section, an investigation is considered

1 "active" while the investigation is being conducted by the
2 department with a reasonable, good faith belief that it may
3 lead to the filing of administrative, civil, or criminal
4 proceedings. An investigation does not cease to be active if
5 the department is proceeding with reasonable dispatch and
6 there is good faith belief that action may be initiated by the
7 department or other administrative or law enforcement agency.

8 Section 801. Subsection (3) of section 648.34, Florida
9 Statutes, is amended to read:

10 648.34 Bail bond agents; qualifications.--

11 (3) The department may collect a fee necessary to
12 cover the cost of a character and credit report made by an
13 established and reputable independent reporting service. The
14 fee shall be deposited to the credit of the Insurance
15 ~~Commissioner's~~ Regulatory Trust Fund. Any information so
16 furnished is confidential and exempt from the provisions of s.
17 119.07(1).

18 Section 802. Subsection (5) of section 648.355,
19 Florida Statutes, is amended to read:

20 648.355 Temporary limited license as limited surety
21 agent or professional bail bond agent; pending examination.--

22 (5) The department may collect a fee necessary to
23 cover the cost of a character and credit report made by an
24 established and reputable independent reporting service. The
25 fee shall be deposited to the credit of the Insurance
26 ~~Commissioner's~~ Regulatory Trust Fund.

27 Section 803. Subsection (3) of section 648.37, Florida
28 Statutes, is amended to read:

29 648.37 Runners; qualifications.--

30 (3) The department may collect a fee necessary to
31 cover the cost of a character and credit report made by an

1 established and reputable independent reporting service. The
2 fee shall be deposited to the credit of the Insurance
3 ~~Commissioner's~~ Regulatory Trust Fund. Any information so
4 furnished is confidential and exempt from the provisions of s.
5 119.07(1).

6 Section 804. Paragraph (b) of subsection (1) and
7 paragraph (b) of subsection (2) of section 648.386, Florida
8 Statutes, are amended to read:

9 648.386 Qualifications for prelicensing and continuing
10 education schools and instructors.--

11 (1) SCHOOLS AND CURRICULUM FOR PRELICENSING
12 SCHOOLS.--In order to be considered for approval and
13 certification as an approved limited surety agent and
14 professional bail bond agent prelicensing school, such entity
15 must:

16 (b) Submit a prelicensing course curriculum to the
17 Department of Financial Services ~~Insurance~~ for approval.

18 (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION
19 SCHOOLS.--In order to be considered for approval and
20 certification as an approved limited surety agent and
21 professional bail bond agent continuing education school, such
22 entity must:

23 (b) Submit a course curriculum to the Department of
24 Financial Services ~~Insurance~~ for approval.

25 Section 805. Subsection (9) of section 648.442,
26 Florida Statutes, is amended to read:

27 648.442 Collateral security.--

28 (9) An indemnity agreement may not be entered into
29 between a principal and either a surety or any agent of the
30 surety, and an application may not be accepted either by a
31 bail bond agent engaged in the bail bond business or by a

1 surety company for a bail bond in which an indemnity agreement
2 is required between a principal and either a surety or any
3 agent of such surety, unless the indemnity agreement reads as
4 follows: "For good and valuable consideration, the
5 undersigned principal agrees to indemnify and hold harmless
6 the surety company or its agent for all losses not otherwise
7 prohibited by law or by rules of the Department of Financial
8 Services Insurance."

9 Section 806. Subsection (4) of section 650.06, Florida
10 Statutes, is amended to read:

11 650.06 Social Security Contribution Trust Fund.--

12 (4) The Chief Financial Officer ~~Treasurer of the state~~
13 shall be ex officio treasurer and custodian of the Social
14 Security Contribution Trust Fund and shall administer such
15 fund in accordance with the provisions of this chapter and the
16 directions of the state agency. The Chief Financial Officer
17 ~~Treasurer~~ shall pay all warrants drawn ~~by the Comptroller~~ upon
18 the fund in accordance with the provisions of this section and
19 with such regulations as the state agency may prescribe
20 pursuant thereto.

21 Section 807. Subsection (3) of section 651.011,
22 Florida Statutes, is amended to read:

23 651.011 Definitions.--For the purposes of this
24 chapter, the term:

25 (3) "Department" means the Department of Financial
26 Services Insurance ~~of this state~~.

27 Section 808. Subsection (5) of section 651.015,
28 Florida Statutes, is amended to read:

29 651.015 Administration; forms; fees; rules;
30 fines.--The administration of this chapter is vested in the
31 department, which shall:

1 (5) Deposit all fees and fines collected under the
2 provisions of this chapter into the Insurance ~~Commissioner's~~
3 Regulatory Trust Fund.

4 Section 809. Subsection (3) of section 651.0235,
5 Florida Statutes, is amended to read:

6 651.0235 Validity of provisional certificates of
7 authority and certificates of authority.--

8 (3) The department ~~of Insurance~~ shall notify the
9 Agency for Health Care Administration of any facility for
10 which a provisional certificate of authority or certificate of
11 authority is no longer valid.

12 Section 810. Paragraph (b) of subsection (1) of
13 section 651.035, Florida Statutes, is amended to read:

14 651.035 Minimum liquid reserve requirements.--

15 (1)

16 (b) A provider which has outstanding indebtedness
17 which requires what is normally referred to as a "debt service
18 reserve" to be held in escrow pursuant to a trust indenture or
19 mortgage lien on the facility and for which the debt service
20 reserve may only be used to pay principal and interest
21 payments on the debt which the debtor is obligated to pay, and
22 which may include taxes and insurance, may include such debt
23 service reserve in its computation of its minimum liquid
24 reserve to satisfy this subsection, provided that the provider
25 furnishes to the department ~~of Insurance~~ a copy of the
26 agreement under which such debt service is held, together with
27 a statement of the amount being held in escrow for the debt
28 service reserve, certified by the lender or trustee and the
29 provider to be correct. The trustee shall provide the
30 department with any information concerning the debt service
31

1 reserve account upon request of the provider or the
2 department.

3 Section 811. Subsection (1) of section 651.121,
4 Florida Statutes, is amended to read:

5 651.121 Advisory council.--

6 (1) The Continuing Care Advisory Council to the
7 Department of Financial Services ~~Insurance~~ is created to
8 consist of 10 members who are residents of this state
9 appointed by the Governor and geographically representative of
10 this state. Three members shall be administrators of
11 facilities which hold valid certificates of authority under
12 this chapter and shall have been actively engaged in the
13 offering of continuing care agreements in this state for 5
14 years before appointment. The remaining members shall include:

15 (a) A representative of the business community whose
16 expertise is in the area of management.

17 (b) A representative of the financial community who is
18 not a facility owner or administrator.

19 (c) A certified public accountant.

20 (d) An attorney.

21 (e) Three residents who hold continuing care
22 agreements with a facility certified in this state.

23 Section 812. Subsection (4) of section 651.125,
24 Florida Statutes, is amended to read:

25 651.125 Criminal penalties; injunctive relief.--

26 (4) Any action brought by the department against a
27 provider shall not abate by reason of a sale or other transfer
28 of ownership of the facility used to provide care, which
29 provider is a party to the action, except with the express
30 written consent of the Chief Financial Officer ~~Treasurer and~~
31 ~~Insurance Commissioner~~.

1 Section 813. Subsection (1) of section 655.001,
2 Florida Statutes, is amended to read:

3 655.001 Purpose; application.--The purposes of the
4 financial institutions codes are to:

5 (1) Provide general regulatory powers to be exercised
6 by the Department of Financial Services ~~Banking and Finance~~ in
7 relation to the regulation of financial institutions. The
8 financial institutions codes apply to all state-authorized or
9 state-chartered financial institutions and to the enforcement
10 of all laws relating to state-authorized or state-chartered
11 financial institutions.

12 Section 814. Paragraph (e) of subsection (1) of
13 section 655.005, Florida Statutes, is amended to read:

14 655.005 Definitions.--

15 (1) As used in the financial institutions codes,
16 unless the context otherwise requires, the term:

17 (e) "Department" means the Department of Financial
18 Services ~~Banking and Finance~~.

19 Section 815. Paragraph (f) of subsection (3) of
20 section 655.057, Florida Statutes, is amended to read:

21 655.057 Records; limited restrictions upon public
22 access.--

23 (3) The provisions of this section do not prevent or
24 restrict:

25 (f) Furnishing information upon request to the Chief
26 Financial Officer ~~State Treasurer~~ regarding the financial
27 condition of any financial institution that is, or has applied
28 to be, designated as a qualified public depository pursuant to
29 chapter 280.

30
31

1 Any confidential information or records obtained from the
2 department pursuant to this subsection shall be maintained as
3 confidential and exempt from the provisions of s. 119.07(1).

4 Section 816. Paragraph (a) of subsection (1) of
5 section 655.90, Florida Statutes, is amended to read:

6 655.90 Closing during emergencies and other special
7 days.--

8 (1) DEFINITIONS.--As used in this section, the term:

9 (a) "Commissioner" means the officer of this state
10 designated by law as the head of the department of ~~Banking and~~
11 ~~Finance~~ and any other person lawfully exercising such powers,
12 whether as a deputy to such officer, as a director, bureau
13 chief, or financial administrator of or within such
14 department, or otherwise.

15 Section 817. Subsection (7) of section 657.002,
16 Florida Statutes, is amended to read:

17 657.002 Definitions.--As used in this part:

18 (7) "Department" means the Department of Financial
19 Services ~~Banking and Finance~~.

20 Section 818. Subsection (3) of section 657.253,
21 Florida Statutes, is amended to read:

22 657.253 Definitions.--As used in this part:

23 (3) "Department" means the Department of Financial
24 Services ~~Banking and Finance~~.

25 Section 819. Subsection (3) of section 658.23, Florida
26 Statutes, is amended to read:

27 658.23 Submission of articles of incorporation;
28 contents; form; approval; filing; commencement of corporate
29 existence; bylaws.--

30 (3) Within 30 days of receipt of the executed articles
31 of incorporation in the form previously approved, and the

1 required filing fees, the department shall place the following
2 legend upon the articles of incorporation and affix the seal
3 of the Office of the Chief Financial Officer ~~Comptroller of~~
4 ~~Florida~~ thereto. The legend shall in substance read:

5 "Approved by the Department of Financial Services ~~Banking and~~
6 ~~Finance~~ this day of(herein the name and
7 signature of the head of the department)...." Thereafter, the
8 articles of incorporation shall be filed with the Department
9 of State.

10 Section 820. Paragraph (k) of subsection (2) of
11 section 658.295, Florida Statutes, is amended to read:

12 658.295 Interstate banking.--

13 (2) DEFINITIONS.--For purposes of this section, the
14 term:

15 (k) "Department" means the Department of Financial
16 Services ~~Banking and Finance~~.

17 Section 821. Paragraph (e) of subsection (4) of
18 section 658.2953, Florida Statutes, is amended to read:

19 658.2953 Interstate branching.--

20 (4) DEFINITIONS.--As used in this section, unless a
21 different meaning is required by the context:

22 (e) "Department" means the Department of Financial
23 Services ~~Banking and Finance~~.

24 Section 822. Subsection (3) of section 658.83, Florida
25 Statutes, is amended to read:

26 658.83 Liquidator; powers and duties.--

27 (3) Such liquidator shall pay all moneys received to
28 the Chief Financial Officer ~~Treasurer~~ to be held as a special
29 deposit for the use and benefit of the creditors subject to
30 the order of the department and also shall make reports

31

1 quarterly, or when called upon, to the department of all her
2 or his acts and proceedings.

3 Section 823. Section 660.27, Florida Statutes, is
4 amended to read:

5 660.27 Deposit of securities with Chief Financial
6 Officer ~~Treasurer~~.--

7 (1) Before transacting any trust business in this
8 state, every trust company and every state or national bank or
9 state or federal association having trust powers shall give
10 satisfactory security by the deposit or pledge of security of
11 the kind or type provided in this section having at all times
12 a market value in an amount equal to 25 percent of the issued
13 and outstanding capital stock of such trust company, bank, or
14 state or federal stock association or, in the case of a
15 federal mutual association, an equivalent amount determined by
16 the department, or the sum of \$25,000, whichever is greater.
17 However, the value of the security deposited or pledged
18 pursuant to the provisions of this section shall not be
19 required to exceed \$500,000. Any notes, mortgages, bonds, or
20 other securities, other than shares of stock, eligible for
21 investment by a state bank, state association, or state trust
22 company, or eligible for investment by fiduciaries, shall be
23 accepted as satisfactory security for the purposes of this
24 section.

25 (2) The trust company, bank, or association shall
26 provide to the Chief Financial Officer ~~Treasurer~~ the
27 following:

28 (a) Written information which includes full legal
29 name; federal employer identification number; principal place
30 of business; amount of capital stock; and amount of required
31 collateral.

1 (b) The required information listed in paragraph (a)
2 shall be provided annually as of September 30 and shall be due
3 November 15.

4 (3) The Chief Financial Officer ~~Treasurer~~ shall
5 determine whether the security deposited or pledged pursuant
6 to this section, or tendered for such deposit or pledge, is of
7 the kind or type permitted, and has a market value in the
8 amount required, by subsection (1). The security required by
9 this section shall be deposited with or to the credit of, or
10 pledged to, the Chief Financial Officer ~~Treasurer~~ for the
11 account of each state or national bank, state or federal
12 association, or trust company depositing or pledging the same
13 and shall be used, if at all, by the liquidator of such bank,
14 association, or trust company with first priority being given
15 to claims on account of the trust business or fiduciary
16 functions of such bank, association, or trust company or,
17 prior to liquidation, for the payment of any judgment or
18 decree which may be rendered against such bank, association,
19 or trust company in connection with its trust business or its
20 fiduciary functions if such judgment or decree is not
21 otherwise paid by, or out of other assets of, such bank,
22 association, or trust company.

23 (4) Any security of any kind which has been deposited
24 or pledged as provided in this section may at any time, by or
25 upon the direction of such bank, association, or trust company
26 which deposited or pledged such security, be withdrawn and
27 released from such pledge provided that simultaneously
28 therewith satisfactory security as provided in this section,
29 in such amount, if any, as may be necessary in order to comply
30 with the requirements of this section, is substituted for the
31 security so withdrawn and released.

1 (5) With the approval of the Chief Financial Officer
2 ~~Treasurer~~, each trust company, bank, or association as pledgor
3 may deposit eligible collateral with a custodian. This
4 custodian shall not be affiliated or related to the trust
5 company, bank, or association. Collateral must be deposited
6 using the collateral agreements and provisions as set forth in
7 s. 280.041(1) and (2).

8 Section 824. Section 660.28, Florida Statutes, is
9 amended to read:

10 660.28 Exemption from bond and other security as
11 fiduciary.--A trust company or trust department maintaining
12 security with the Chief Financial Officer ~~Treasurer~~ as
13 required by s. 660.27 shall not be required by the state or
14 any of its political subdivisions or by a court of this state
15 to furnish any bond or other security as a condition of, or in
16 connection with, acting in any fiduciary capacity which such
17 trust company or trust department is lawfully permitted to
18 accept or assume.

19 Section 825. Subsection (2) of section 687.13, Florida
20 Statutes, is amended to read:

21 687.13 International transactions.--

22 (2) The provisions of this chapter shall not apply to
23 any international banking facility "deposit," "borrowing," or
24 "extension of credit," as those terms are defined by the
25 Department of Financial Services ~~Banking and Finance~~ pursuant
26 to s. 655.071.

27 Section 826. Subsection (3) of section 687.14, Florida
28 Statutes, is amended to read:

29 687.14 Definitions.--As used in this act, unless the
30 context otherwise requires:

31

1 (3) "Department" means the Department of Financial
2 Services ~~Banking and Finance~~.

3 Section 827. Subsection (2) of section 697.202,
4 Florida Statutes, is amended to read:

5 697.202 Definitions of terms used in ss.
6 697.20-697.206.--As used in ss. 697.20-697.206, the term:

7 (2) "Department" means the Department of Financial
8 Services ~~Insurance~~.

9 Section 828. Section 697.205, Florida Statutes, is
10 amended to read:

11 697.205 Recoveries from the trust fund.--

12 (1)(a) Any person is eligible to seek recovery from
13 the Chief Financial Officer's ~~Treasurer's~~ Administrative and
14 Investment Trust Fund if:

15 1. Such person was the mortgagee of a home equity
16 conversion mortgage which was foreclosed upon termination, and
17 the proceeds from the foreclosure sale were insufficient to
18 repay the full loan amount due;

19 2. Such person has caused to be issued a writ of
20 execution upon a decree rendered pursuant to chapter 702, and
21 the officer executing the writ has made a return showing that
22 no real or personal property of the judgment debtor can be
23 found which is liable to be levied upon in satisfaction of the
24 decree or that the amount realized on the sale of the judgment
25 debtor's property pursuant to such execution was insufficient
26 to satisfy the judgment;

27 3. Such person has made all searches and inquiries
28 which are reasonable to ascertain whether the judgment debtor
29 possesses real or personal property or other assets subject to
30 being sold or applied in satisfaction of the judgment, and
31 such person through her or his search has discovered no

1 property or assets or has discovered property and assets and
2 taken all necessary action and proceedings for the application
3 of such property and assets in satisfaction of the judgment
4 but the amounts thereby realized were insufficient to satisfy
5 the judgment;

6 4. Such person has applied any amounts recovered from
7 the judgment debtor, or from any other source, to the
8 deficiency decree; or

9 5. The mortgage on which recovery is sought was
10 insured pursuant to s. 697.204 prior to July 1, 1993.

11 (b) Any person who meets all of the conditions
12 prescribed in subsection (1) may apply to the department for
13 payment to be made to such person from the Chief Financial
14 Officer's ~~Treasurer's~~ Administrative and Investment Trust Fund
15 in an amount equal to the unsatisfied portion of such person's
16 deficiency decree. Such amount may not exceed the difference
17 between the amount of the proceeds from a foreclosure sale and
18 the loan amount due, including principal and interest.

19 (c) Upon receipt by the mortgagee of the payment from
20 the Chief Financial Officer's ~~Treasurer's~~ Administrative and
21 Investment Trust Fund, the mortgagee shall assign to the
22 department any additional right, title, and interest in the
23 judgment, to the extent of such payment.

24 (2)(a) If a search is made by the mortgagee to
25 determine all of the debtor's real and personal property which
26 may be applied towards payment of the debt and it is
27 determined that foreclosure of the home equity conversion
28 mortgage would not result in recovering any significant
29 additional assets of the debtor which may be used to satisfy
30 the mortgage, the mortgagee may still be able to recover from
31 the fund without having to foreclose, provided that such

1 mortgage was insured pursuant to s. 697.204 prior to July 1,
2 1993.

3 (b) Any person who meets all of the conditions set by
4 rule for recovery under this subsection may apply to the
5 department for payment to be made to such person from the
6 Chief Financial Officer's ~~Treasurer's~~ Administrative and
7 Investment Trust Fund in an amount equal to the maximum
8 recovery as provided herein.

9 Section 829. Section 697.206, Florida Statutes, is
10 amended to read:

11 697.206 Department of Financial Services ~~Insurance~~;
12 powers and duties.--

13 (1) The Department of Financial Services ~~Insurance~~
14 shall have all the powers necessary or appropriate to carry
15 out the purposes and provisions of ss. 697.20-697.206,
16 including the power to:

17 (a) Make contracts and agreements with other agencies
18 of the state, the Federal Government, any other public agency,
19 or any other public person, association, corporation, local
20 government, or other entity in exercising its powers and
21 performing its duties under ss. 697.20-697.206.

22 (b) Seek and accept funding from any public or private
23 source.

24 (2) On or before March 1 of each year, the Department
25 of Financial Services ~~Insurance~~ shall make a report to the
26 Legislature on the activities undertaken pursuant to ss.
27 697.20-697.206.

28 Section 830. Paragraph (c) of subsection (3) of
29 section 713.596, Florida Statutes, is amended to read:

30 713.596 Molder's liens.--

31 (3) SALE.--

1 (c)1. The proceeds of the sale must be paid first to
2 any holder of a security interest perfected in this state. Any
3 excess must be paid to the molder holding the lien created by
4 this section. Any remaining amount is to be paid to the
5 customer, if the customer's address is known, or to the Chief
6 Financial Officer ~~State Treasurer~~ for deposit in the General
7 Revenue Fund if the customer's address is unknown to the
8 molder at the time of the sale.

9 2. A sale may not be made under this section if it
10 would be in violation of any right of a customer under federal
11 patent or copyright law.

12 Section 831. Subsection (4) of section 716.02, Florida
13 Statutes, is amended to read:

14 716.02 Escheat of funds in the possession of federal
15 agencies.--All property within the provisions of subsections
16 (1), (2), (3), (4) and (5), are declared to have escheated, or
17 to escheat, including all principal and interest accruing
18 thereon, and to have become the property of the state.

19 (4) In the event any money is due to any resident of
20 this state as a refund, rebate or tax rebate from the United
21 States Commissioner of Internal Revenue, the United States
22 Treasurer, or other governmental agency or department, which
23 said resident will, or is likely to have her or his rights to
24 apply for and secure such refund or rebate barred by any
25 statute of limitations or, in any event, has failed for a
26 period of 1 year after said resident could have filed a claim
27 for said refund or rebate, the Department of Financial
28 Services ~~Banking and Finance~~ is hereby appointed agent of such
29 resident to demand, file and apply for said refund or rebate,
30 and is hereby appointed to do any act which a natural person
31 could do to recover such ~~said~~ money, and it is hereby declared

1 that when the department files such ~~said~~ application or any
2 other proceeding to secure such ~~said~~ refund or rebate, its
3 agency is coupled with an interest in the money sought and
4 money recovered.

5 Section 832. Section 716.03, Florida Statutes, is
6 amended to read:

7 716.03 Department to institute proceedings to recover
8 escheated property.--When there exists, or may exist,
9 escheated funds or property under this chapter, the Department
10 of Financial Services ~~Banking and Finance~~ shall demand or
11 institute proceedings in the name of the state for an
12 adjudication that an escheat to the state of such funds or
13 property has occurred; and shall take appropriate action to
14 recover such funds or property.

15 Section 833. Section 716.04, Florida Statutes, is
16 amended to read:

17 716.04 Jurisdiction.--Whenever the Department of
18 Financial Services ~~Banking and Finance~~ is of the opinion an
19 escheat has occurred, or shall occur, of any money or other
20 property deposited in the custody of, or under the control of,
21 any court of the United States, in and for any district within
22 the state, or in the custody of any depository, registry or
23 clerk or other officer of such court, or the treasury of the
24 United States, it shall cause to be filed a complaint in the
25 Circuit Court of Leon County, or in any other court of
26 competent jurisdiction, to ascertain if any escheat has
27 occurred, and to cause said court to enter a judgment or
28 decree of escheat in favor of the state, with costs,
29 disbursements, and attorney fee.

30 Section 834. Section 716.05, Florida Statutes, is
31 amended to read:

1 716.05 Money recovered to be paid into State
2 Treasury.--When any funds or property which has escheated
3 within the meaning of this chapter has been recovered by the
4 Department of Financial Services ~~Banking and Finance~~, the
5 department shall first pay all costs incident to the
6 collection and recovery of such funds or property and shall
7 promptly deposit the remaining balance of such funds or
8 property with the Chief Financial Officer ~~Treasurer of the~~
9 ~~state~~, to be distributed in accordance with law.

10 Section 835. Section 716.06, Florida Statutes, is
11 amended to read:

12 716.06 Public records.--All records in the office of
13 the Chief Financial Officer ~~State Treasurer~~ or the Department
14 of Financial Services ~~Banking and Finance~~ relating to federal
15 funds, pursuant to this chapter, shall be public records.

16 Section 836. Section 716.07, Florida Statutes, is
17 amended to read:

18 716.07 Recovery of escheated property by claimant.--

19 (1) Any person who claims any property, funds, or
20 money delivered to the ~~State Treasurer~~ or Chief Financial
21 Officer under this chapter, shall, within 5 years from the
22 date of receipt of such ~~said~~ property, funds, or money, file a
23 verified claim with the Chief Financial Officer ~~State~~
24 ~~Treasurer~~, setting forth the facts upon which such ~~said~~ party
25 claims to be entitled to recover such ~~said~~ money or property.
26 The Chief Financial Officer ~~State Treasurer~~, within 5 days
27 after receipt of such claim, shall submit the ~~said~~ verified
28 claim or a verified copy thereof, to the Department of
29 Financial Services ~~Banking and Finance~~. All claims made for
30 recovery of property, funds, or money, not filed within 5
31 years from the date that such ~~said~~ property, funds, or money

1 is received by the Chief Financial Officer ~~State Treasurer~~,
2 shall be forever barred, and the Chief Financial Officer
3 ~~Treasurer of the state~~ shall be without power to consider or
4 determine any claims so made by any claimant after 5 years
5 from the date that the property, funds, or money was received
6 by the Chief Financial Officer ~~State Treasurer~~.

7 (2) The Chief Financial Officer ~~Comptroller~~ shall
8 approve or disapprove the claim. If the claim is approved,
9 the funds, money, or property of the claimant, less any
10 expenses and costs which shall have been incurred by the state
11 in securing the possession of said property, as provided by
12 this chapter, shall be delivered to the claimant by the Chief
13 Financial Officer ~~State Treasurer~~ upon warrant issued
14 according to law and her or his receipt taken therefor. If
15 the court finds, upon any judicial review, that the claimant
16 is entitled to the property, money, or funds claimed, and
17 shall render judgment in her or his or its favor, declaring
18 that the claimant is entitled to such ~~said~~ property, funds, or
19 money, then upon presentation of said judgment or a certified
20 copy thereof to the Chief Financial Officer ~~State Comptroller~~,
21 the Chief Financial Officer ~~said Comptroller~~ shall draw her or
22 his warrant for the amount of money stated in such ~~said~~
23 judgment, without interest or cost to the state, less any sum
24 paid by the state as costs or expenses in securing possession
25 of such ~~said~~ property, funds, or money. When payment has been
26 made to any claimant, no action thereafter shall be maintained
27 by any other claimant against the state or any officer
28 thereof, for or on account of such ~~said~~ money, property, or
29 funds.

30 Section 837. Subsection (6) of section 717.101,
31 Florida Statutes, is amended to read:

1 717.101 Definitions.--As used in this chapter, unless
2 the context otherwise requires:

3 (6) "Department" means the Department of Financial
4 Services ~~Banking and Finance~~.

5 Section 838. Subsection (1) of section 717.135,
6 Florida Statutes, is amended to read:

7 717.135 Agreement to locate reported property.--

8 (1) All agreements between an owner's representative
9 and an owner for compensation to recover or assist in the
10 recovery of property reported to the department under s.
11 717.117 shall either:

12 (a) Limit the fees for services for each owner
13 contract to \$25 for all contracts relating to unclaimed
14 property with a dollar value below \$250. For all contracts
15 relating to unclaimed property with a dollar value of \$250 and
16 above, fees shall be limited to 15 percent on property held by
17 the department for 24 months or less and 25 percent on
18 property held by the department for more than 24 months. Fees
19 for cash accounts shall be based on the value of the property
20 at the time the agreement for recovery is signed by the
21 apparent owner. Fees for accounts containing securities or
22 other intangible ownership interests, which securities or
23 interests are not converted to cash, shall be based on the
24 purchase price of the security as quoted on a national
25 exchange or other market on which the ownership interest is
26 regularly traded at the time the securities or other ownership
27 interest is remitted to the owner or the owner's
28 representative. Fees for tangible property or safe-deposit box
29 accounts shall be based on the value of the tangible property
30 or contents of the safe-deposit box at the time the ownership

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1 interest is transferred or remitted to the owner or the
2 owner's representative; or

3 (b) Disclose that the property is held by the
4 Department of Financial Services ~~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 839. Section 717.138, Florida Statutes, is
25 amended to read:

26 717.138 Rulemaking authority.--The Department of
27 Financial Services ~~Banking and Finance~~ shall administer and
28 provide for the enforcement of this chapter. The department
29 has authority to adopt rules pursuant to ss. 120.536(1) and
30 120.54 to implement the provisions of this chapter. The

31

1 department may adopt rules to allow for electronic filing of
2 fees, forms, and reports required by this chapter.

3 Section 840. Paragraph (d) of subsection (1) of
4 section 718.501, Florida Statutes, is amended to read:

5 718.501 Powers and duties of Division of Florida Land
6 Sales, Condominiums, and Mobile Homes.--

7 (1) The Division of Florida Land Sales, Condominiums,
8 and Mobile Homes of the Department of Business and
9 Professional Regulation, referred to as the "division" in this
10 part, in addition to other powers and duties prescribed by
11 chapter 498, has the power to enforce and ensure compliance
12 with the provisions of this chapter and rules promulgated
13 pursuant hereto relating to the development, construction,
14 sale, lease, ownership, operation, and management of
15 residential condominium units. In performing its duties, the
16 division has the following powers and duties:

17 (d) Notwithstanding any remedies available to unit
18 owners and associations, if the division has reasonable cause
19 to believe that a violation of any provision of this chapter
20 or rule promulgated pursuant hereto has occurred, the division
21 may institute enforcement proceedings in its own name against
22 any developer, association, officer, or member of the board of
23 administration, or its assignees or agents, as follows:

24 1. The division may permit a person whose conduct or
25 actions may be under investigation to waive formal proceedings
26 and enter into a consent proceeding whereby orders, rules, or
27 letters of censure or warning, whether formal or informal, may
28 be entered against the person.

29 2. The division may issue an order requiring the
30 developer, association, officer, or member of the board of
31 administration, or its assignees or agents, to cease and

1 desist from the unlawful practice and take such affirmative
2 action as in the judgment of the division will carry out the
3 purposes of this chapter. Such affirmative action may include,
4 but is not limited to, an order requiring a developer to pay
5 moneys determined to be owed to a condominium association.

6 3. The division may bring an action in circuit court
7 on behalf of a class of unit owners, lessees, or purchasers
8 for declaratory relief, injunctive relief, or restitution.

9 4. The division may impose a civil penalty against a
10 developer or association, or its assignee or agent, for any
11 violation of this chapter or a rule promulgated pursuant
12 hereto. The division may impose a civil penalty individually
13 against any officer or board member who willfully and
14 knowingly violates a provision of this chapter, a rule adopted
15 pursuant hereto, or a final order of the division. The term
16 "willfully and knowingly" means that the division informed the
17 officer or board member that his or her action or intended
18 action violates this chapter, a rule adopted under this
19 chapter, or a final order of the division and that the officer
20 or board member refused to comply with the requirements of
21 this chapter, a rule adopted under this chapter, or a final
22 order of the division. The division, prior to initiating
23 formal agency action under chapter 120, shall afford the
24 officer or board member an opportunity to voluntarily comply
25 with this chapter, a rule adopted under this chapter, or a
26 final order of the division. An officer or board member who
27 complies within 10 days is not subject to a civil penalty. A
28 penalty may be imposed on the basis of each day of continuing
29 violation, but in no event shall the penalty for any offense
30 exceed \$5,000. By January 1, 1998, the division shall adopt,
31 by rule, penalty guidelines applicable to possible violations

1 or to categories of violations of this chapter or rules
2 adopted by the division. The guidelines must specify a
3 meaningful range of civil penalties for each such violation of
4 the statute and rules and must be based upon the harm caused
5 by the violation, the repetition of the violation, and upon
6 such other factors deemed relevant by the division. For
7 example, the division may consider whether the violations were
8 committed by a developer or owner-controlled association, the
9 size of the association, and other factors. The guidelines
10 must designate the possible mitigating or aggravating
11 circumstances that justify a departure from the range of
12 penalties provided by the rules. It is the legislative intent
13 that minor violations be distinguished from those which
14 endanger the health, safety, or welfare of the condominium
15 residents or other persons and that such guidelines provide
16 reasonable and meaningful notice to the public of likely
17 penalties that may be imposed for proscribed conduct. This
18 subsection does not limit the ability of the division to
19 informally dispose of administrative actions or complaints by
20 stipulation, agreed settlement, or consent order. All amounts
21 collected shall be deposited with the Chief Financial Officer
22 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
23 Condominiums, and Mobile Homes Trust Fund. If a developer
24 fails to pay the civil penalty, the division shall thereupon
25 issue an order directing that such developer cease and desist
26 from further operation until such time as the civil penalty is
27 paid or may pursue enforcement of the penalty in a court of
28 competent jurisdiction. If an association fails to pay the
29 civil penalty, the division shall thereupon pursue enforcement
30 in a court of competent jurisdiction, and the order imposing
31 the civil penalty or the cease and desist order will not

1 become effective until 20 days after the date of such order.
2 Any action commenced by the division shall be brought in the
3 county in which the division has its executive offices or in
4 the county where the violation occurred.

5 Section 841. Paragraph (d) of subsection (1) of
6 section 719.501, Florida Statutes, is amended to read:

7 719.501 Powers and duties of Division of Florida Land
8 Sales, Condominiums, and Mobile Homes.--

9 (1) The Division of Florida Land Sales, Condominiums,
10 and Mobile Homes of the Department of Business and
11 Professional Regulation, referred to as the "division" in this
12 part, in addition to other powers and duties prescribed by
13 chapter 498, has the power to enforce and ensure compliance
14 with the provisions of this chapter and rules promulgated
15 pursuant hereto relating to the development, construction,
16 sale, lease, ownership, operation, and management of
17 residential cooperative units. In performing its duties, the
18 division shall have the following powers and duties:

19 (d) Notwithstanding any remedies available to unit
20 owners and associations, if the division has reasonable cause
21 to believe that a violation of any provision of this chapter
22 or rule promulgated pursuant hereto has occurred, the division
23 may institute enforcement proceedings in its own name against
24 a developer, association, officer, or member of the board, or
25 its assignees or agents, as follows:

26 1. The division may permit a person whose conduct or
27 actions may be under investigation to waive formal proceedings
28 and enter into a consent proceeding whereby orders, rules, or
29 letters of censure or warning, whether formal or informal, may
30 be entered against the person.

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1 2. The division may issue an order requiring the
2 developer, association, officer, or member of the board, or
3 its assignees or agents, to cease and desist from the unlawful
4 practice and take such affirmative action as in the judgment
5 of the division will carry out the purposes of this chapter.
6 Such affirmative action may include, but is not limited to, an
7 order requiring a developer to pay moneys determined to be
8 owed to a condominium association.

9 3. The division may bring an action in circuit court
10 on behalf of a class of unit owners, lessees, or purchasers
11 for declaratory relief, injunctive relief, or restitution.

12 4. The division may impose a civil penalty against a
13 developer or association, or its assignees or agents, for any
14 violation of this chapter or a rule promulgated pursuant
15 hereto. The division may impose a civil penalty individually
16 against any officer or board member who willfully and
17 knowingly violates a provision of this chapter, a rule adopted
18 pursuant to this chapter, or a final order of the division.
19 The term "willfully and knowingly" means that the division
20 informed the officer or board member that his or her action or
21 intended action violates this chapter, a rule adopted under
22 this chapter, or a final order of the division, and that the
23 officer or board member refused to comply with the
24 requirements of this chapter, a rule adopted under this
25 chapter, or a final order of the division. The division, prior
26 to initiating formal agency action under chapter 120, shall
27 afford the officer or board member an opportunity to
28 voluntarily comply with this chapter, a rule adopted under
29 this chapter, or a final order of the division. An officer or
30 board member who complies within 10 days is not subject to a
31 civil penalty. A penalty may be imposed on the basis of each

1 day of continuing violation, but in no event shall the penalty
2 for any offense exceed \$5,000. By January 1, 1998, the
3 division shall adopt, by rule, penalty guidelines applicable
4 to possible violations or to categories of violations of this
5 chapter or rules adopted by the division. The guidelines must
6 specify a meaningful range of civil penalties for each such
7 violation of the statute and rules and must be based upon the
8 harm caused by the violation, the repetition of the violation,
9 and upon such other factors deemed relevant by the division.
10 For example, the division may consider whether the violations
11 were committed by a developer or owner-controlled association,
12 the size of the association, and other factors. The guidelines
13 must designate the possible mitigating or aggravating
14 circumstances that justify a departure from the range of
15 penalties provided by the rules. It is the legislative intent
16 that minor violations be distinguished from those which
17 endanger the health, safety, or welfare of the cooperative
18 residents or other persons and that such guidelines provide
19 reasonable and meaningful notice to the public of likely
20 penalties that may be imposed for proscribed conduct. This
21 subsection does not limit the ability of the division to
22 informally dispose of administrative actions or complaints by
23 stipulation, agreed settlement, or consent order. All amounts
24 collected shall be deposited with the Chief Financial Officer
25 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
26 Condominiums, and Mobile Homes Trust Fund. If a developer
27 fails to pay the civil penalty, the division shall thereupon
28 issue an order directing that such developer cease and desist
29 from further operation until such time as the civil penalty is
30 paid or may pursue enforcement of the penalty in a court of
31 competent jurisdiction. If an association fails to pay the

1 civil penalty, the division shall thereupon pursue enforcement
2 in a court of competent jurisdiction, and the order imposing
3 the civil penalty or the cease and desist order shall not
4 become effective until 20 days after the date of such order.
5 Any action commenced by the division shall be brought in the
6 county in which the division has its executive offices or in
7 the county where the violation occurred.

8 Section 842. Subsection (3) of section 721.24, Florida
9 Statutes, is amended to read:

10 721.24 Firesafety.--

11 (3) The Division of State Fire Marshal of the
12 Department of Financial Services ~~Insurance~~ may prescribe
13 uniform standards for firesafety equipment for timeshare units
14 of timeshare plans for which the construction contracts were
15 let before October 1, 1983. An entire building shall be
16 equipped as outlined, except that the approved sprinkler
17 system may be delayed by the Division of State Fire Marshal
18 until October 1, 1991, on a schedule for complete compliance
19 in accordance with rules adopted by the Division of State Fire
20 Marshal, which schedule shall include a provision for a 1-year
21 extension which may be granted not more than three times for
22 any individual requesting an extension. The entire system
23 must be installed and operational by October 1, 1994. The
24 Division of State Fire Marshal shall not grant an extension
25 for the approved sprinkler system unless a written request for
26 the extension and a construction work schedule is submitted.
27 The Division of State Fire Marshal may grant an extension upon
28 demonstration that compliance with this section by the date
29 required would impose an extreme hardship and a
30 disproportionate financial impact. Any establishment that has
31 been granted an extension by the Division of State Fire

1 Marshal shall post, in a conspicuous place on the premises, a
2 public notice stating that the establishment has not yet
3 installed the approved sprinkler system required by law.

4 Section 843. Paragraph (e) of subsection (5) of
5 section 721.26, Florida Statutes, is amended to read:

6 721.26 Regulation by division.--The division has the
7 power to enforce and ensure compliance with the provisions of
8 this chapter, except for parts III and IV, using the powers
9 provided in this chapter, as well as the powers prescribed in
10 chapters 498, 718, and 719. In performing its duties, the
11 division shall have the following powers and duties:

12 (5) Notwithstanding any remedies available to
13 purchasers, if the division has reasonable cause to believe
14 that a violation of this chapter, or of any division rule or
15 order promulgated or issued pursuant to this chapter, has
16 occurred, the division may institute enforcement proceedings
17 in its own name against any regulated party, as such term is
18 defined in this subsection:

19 (e)1. The division may impose a penalty against any
20 regulated party for a violation of this chapter or any rule
21 adopted thereunder. A penalty may be imposed on the basis of
22 each day of continuing violation, but in no event may the
23 penalty for any offense exceed \$10,000. All accounts
24 collected shall be deposited with the Chief Financial Officer
25 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
26 Condominiums, and Mobile Homes Trust Fund.

27 2.a. If a regulated party fails to pay a penalty, the
28 division shall thereupon issue an order directing that such
29 regulated party cease and desist from further operation until
30 such time as the penalty is paid; or the division may pursue
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1 enforcement of the penalty in a court of competent
2 jurisdiction.

3 b. If an association or managing entity fails to pay a
4 civil penalty, the division may pursue enforcement in a court
5 of competent jurisdiction.

6 Section 844. Paragraph (e) of subsection (5) of
7 section 723.006, Florida Statutes, is amended to read:

8 723.006 Powers and duties of division.--In performing
9 its duties, the division has the following powers and duties:

10 (5) Notwithstanding any remedies available to mobile
11 home owners, mobile home park owners, and homeowners'
12 associations, if the division has reasonable cause to believe
13 that a violation of any provision of this chapter or any rule
14 promulgated pursuant hereto has occurred, the division may
15 institute enforcement proceedings in its own name against a
16 developer, mobile home park owner, or homeowners' association,
17 or its assignee or agent, as follows:

18 (e)1. The division may impose a civil penalty against
19 a mobile home park owner or homeowners' association, or its
20 assignee or agent, for any violation of this chapter, a
21 properly promulgated park rule or regulation, or a rule or
22 regulation promulgated pursuant hereto. A penalty may be
23 imposed on the basis of each separate violation and, if the
24 violation is a continuing one, for each day of continuing
25 violation, but in no event may the penalty for each separate
26 violation or for each day of continuing violation exceed
27 \$5,000. All amounts collected shall be deposited with the
28 Chief Financial Officer ~~Treasurer~~ to the credit of the
29 Division of Florida Land Sales, Condominiums, and Mobile Homes
30 Trust Fund.

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1 2. If a violator fails to pay the civil penalty, the
2 division shall thereupon issue an order directing that such
3 violator cease and desist from further violation until such
4 time as the civil penalty is paid or may pursue enforcement of
5 the penalty in a court of competent jurisdiction. If a
6 homeowners' association fails to pay the civil penalty, the
7 division shall thereupon pursue enforcement in a court of
8 competent jurisdiction, and the order imposing the civil
9 penalty or the cease and desist order shall not become
10 effective until 20 days after the date of such order. Any
11 action commenced by the division shall be brought in the
12 county in which the division has its executive offices or in
13 which the violation occurred.

14 Section 845. Subsections (2) and (3) and paragraph (a)
15 of subsection (5) of section 732.107, Florida Statutes, are
16 amended to read:

17 732.107 Escheat.--

18 (2) Property that escheats shall be sold as provided
19 in the Florida Probate Rules and the proceeds paid to the
20 Chief Financial Officer ~~Treasurer~~ of the state and deposited
21 in the State School Fund.

22 (3) At any time within 10 years after the payment to
23 the Chief Financial Officer ~~Treasurer~~, a person claiming to be
24 entitled to the proceeds may reopen the administration to
25 assert entitlement to the proceeds. If no claim is timely
26 asserted, the state's rights to the proceeds shall become
27 absolute.

28 (5)(a) If a person entitled to the proceeds assigns
29 the rights to receive payment to an attorney,
30 Florida-certified public accountant, or private investigative
31 agency which is duly licensed to do business in this state

1 pursuant to a written agreement with that person, the
2 Department of Financial Services ~~Banking and Finance~~ is
3 authorized to make distribution in accordance with the
4 assignment.

5 Section 846. Subsections (1), (2), and (3) and
6 paragraph (a) of subsection (5) of section 733.816, Florida
7 Statutes, are amended to read:

8 733.816 Disposition of unclaimed property held by
9 personal representatives.--

10 (1) In all cases in which there is unclaimed property
11 in the hands of a personal representative that cannot be
12 distributed or paid because of the inability to find the
13 lawful owner or because no lawful owner is known or because
14 the lawful owner refuses to accept the property after a
15 reasonable attempt to distribute it and after notice to that
16 lawful owner, the court shall order the personal
17 representative to sell the property and deposit the proceeds
18 and cash already in hand, after retaining those amounts
19 provided for in subsection (4), with the clerk and receive a
20 receipt, and the clerk shall deposit the funds in the registry
21 of the court to be disposed of as follows:

22 (a) If the value of the funds is \$500 or less, the
23 clerk shall post a notice for 30 days at the courthouse door
24 giving the amount involved, the name of the personal
25 representative, and the other pertinent information that will
26 put interested persons on notice.

27 (b) If the value of the funds is over \$500, the clerk
28 shall publish the notice once a month for 2 consecutive months
29 in a newspaper of general circulation in the county.

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1 After the expiration of 6 months from the posting or first
2 publication, the clerk shall deposit the funds with the Chief
3 Financial Officer ~~State Treasurer~~ after deducting the clerk's
4 fees and the costs of publication.

5 (2) Upon receipt of the funds, the Chief Financial
6 Officer ~~State Treasurer~~ shall deposit them to the credit of
7 the State School Fund, to become a part of the school fund.
8 All interest and all income that may accrue from the money
9 while so deposited shall belong to the fund. The funds so
10 deposited shall constitute and be a permanent appropriation
11 for payments by the Chief Financial Officer ~~State Treasurer~~ in
12 obedience to court orders entered as provided by subsection
13 (3).

14 (3) Within 10 years from the date of deposit with the
15 Chief Financial Officer ~~State Treasurer~~, on written petition
16 to the court that directed the deposit of the funds and
17 informal notice to the Department of Legal Affairs, and after
18 proof of entitlement, any person entitled to the funds before
19 or after payment to the Chief Financial Officer ~~State~~
20 ~~Treasurer~~ and deposit as provided by subsection (1) may obtain
21 a court order directing the payment of the funds to that
22 person. All funds deposited with the Chief Financial Officer
23 ~~State Treasurer~~ and not claimed within 10 years from the date
24 of deposit shall escheat to the state for the benefit of the
25 State School Fund.

26 (5)(a) If a person entitled to the funds assigns the
27 right to receive payment or part payment to an attorney or
28 private investigative agency which is duly licensed to do
29 business in this state pursuant to a written agreement with
30 that person, the Department of Financial Services ~~Banking and~~
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1 ~~Finance~~ is authorized to make distribution in accordance with
2 the assignment.

3 Section 847. Paragraphs (a), (b), and (c) of
4 subsection (2) of section 744.534, Florida Statutes, are
5 amended to read:

6 744.534 Disposition of unclaimed funds held by
7 guardian.--

8 (2)(a) In those cases in which it is appropriate for
9 the guardianship to terminate pursuant to s. 744.521 and in
10 which property in the hands of a guardian cannot be
11 distributed to the ward or the ward's estate solely because
12 the guardian is unable to locate the ward through diligent
13 search, the court shall order the guardian of the property to
14 sell the property of the ward and deposit the proceeds and
15 cash already on hand after retaining those amounts provided
16 for in paragraph (e) with the clerk of the court exercising
17 jurisdiction over the guardianship and receive a receipt. The
18 clerk shall deposit the funds in the registry of the court, to
19 be disposed of as follows:

20 1. If the value of the funds is \$50 or less, the clerk
21 shall post a notice for 30 days at the courthouse door giving
22 the amount involved, the name of the ward, and other pertinent
23 information that will put interested persons on notice.

24 2. If the value of the funds is over \$50, the clerk
25 shall publish the notice once a month for 2 consecutive months
26 in a newspaper of general circulation in the county.

27 3. After the expiration of 6 months from the posting
28 or first publication, the clerk shall deposit the funds with
29 the Chief Financial Officer ~~State Treasurer~~ after deducting
30 his or her fees and the costs of publication.

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1 (b) Upon receipt of the funds, the Chief Financial
2 Officer ~~State Treasurer~~ shall deposit them to the credit of
3 public guardianship. All interest and all income that may
4 accrue from the money while so deposited shall belong to the
5 fund. The funds so deposited shall constitute and be a
6 permanent appropriation for payments by the Chief Financial
7 Officer ~~State Treasurer~~ in obedience to court orders entered
8 as provided by paragraph (c).

9 (c) Within 10 years from the date of deposit with the
10 Chief Financial Officer ~~State Treasurer~~, on written petition
11 to the court that directed the deposit of the funds and
12 informal notice to the Department of Legal Affairs, and after
13 proof of his or her right to them, any person entitled to the
14 funds, before or after payment to the Chief Financial Officer
15 ~~State Treasurer~~ and deposit as provided for in paragraph (a),
16 may obtain a court order directing the payment of the funds to
17 him or her. All funds deposited with the Chief Financial
18 Officer ~~State Treasurer~~ and not claimed within 10 years from
19 the date of deposit shall escheat to the state for the benefit
20 of public guardianship.

21 Section 848. Paragraphs (b), (c), (d), and (e) of
22 subsection (3) of section 766.105, Florida Statutes, are
23 amended to read:

24 766.105 Florida Patient's Compensation Fund.--

25 (3) THE FUND.--

26 (b) Fund administration and operation.--

27 1. The fund shall operate subject to the supervision
28 and approval of a board of governors consisting of a
29 representative of the insurance industry appointed by the
30 Chief Financial Officer ~~Insurance Commissioner~~, an attorney
31 appointed by The Florida Bar, a representative of physicians

1 appointed by the Florida Medical Association, a representative
2 of physicians' insurance appointed by the Chief Financial
3 Officer Insurance Commissioner, a representative of
4 physicians' self-insurance appointed by the Chief Financial
5 Officer Insurance Commissioner, two representatives of
6 hospitals appointed by the Florida Hospital Association, a
7 representative of hospital insurance appointed by the Chief
8 Financial Officer Insurance Commissioner, a representative of
9 hospital self-insurance appointed by the Chief Financial
10 Officer Insurance Commissioner, a representative of the
11 osteopathic physicians' or podiatric physicians' insurance or
12 self-insurance appointed by the Chief Financial Officer
13 Insurance Commissioner, and a representative of the general
14 public appointed by the Chief Financial Officer Insurance
15 Commissioner. The board of governors shall, during the first
16 meeting after June 30 of each year, choose one of its members
17 to serve as chair of the board and another member to serve as
18 vice chair of the board. The members of the board shall be
19 appointed to serve terms of 4 years, except that the initial
20 appointments of a representative of the general public by the
21 Chief Financial Officer Insurance Commissioner, an attorney by
22 The Florida Bar, a representative of physicians by the Florida
23 Medical Association, and one of the two representatives of the
24 Florida Hospital Association shall be for terms of 3 years;
25 thereafter, such representatives shall be appointed for terms
26 of 4 years. Subsequent to initial appointments for 4-year
27 terms, the representative of the osteopathic physicians' or
28 podiatric physicians' insurance or self-insurance appointed by
29 the Chief Financial Officer Insurance Commissioner and the
30 representative of hospital self-insurance appointed by the
31 Chief Financial Officer Insurance Commissioner shall be

1 appointed for 2-year terms; thereafter, such representatives
2 shall be appointed for terms of 4 years. Each appointed member
3 may designate in writing to the chair an alternate to act in
4 the member's absence or incapacity. A member of the board, or
5 the member's alternate, may be reimbursed from the assets of
6 the fund for expenses incurred by him or her as a member, or
7 alternate member, of the board and for committee work, but he
8 or she may not otherwise be compensated by the fund for his or
9 her service as a board member or alternate.

10 2. There shall be no liability on the part of, and no
11 cause of action of any nature shall arise against, the fund or
12 its agents or employees, professional advisers or consultants,
13 members of the board of governors or their alternates, or the
14 Department of Financial Services ~~Insurance~~ or its
15 representatives for any action taken by them in the
16 performance of their powers and duties pursuant to this
17 section.

18 (c) Powers of the fund.--The fund has the power to:

19 1. Sue and be sued, and appear and defend, in all
20 actions and proceedings in its name to the same extent as a
21 natural person.

22 2. Adopt, change, amend, and repeal a plan of
23 operation, not inconsistent with law, for the regulation and
24 administration of the affairs of the fund. The plan and any
25 changes thereto shall be filed with the Chief Financial
26 Officer ~~Insurance Commissioner~~ and are all subject to his or
27 her approval before implementation by the fund. All fund
28 members, board members, and employees shall comply with the
29 plan of operation.

30
31

1 3. Have and exercise all powers necessary or
2 convenient to effect any or all of the purposes for which the
3 fund is created.

4 4. Enter into such contracts as are necessary or
5 proper to carry out the provisions and purposes of this
6 section.

7 5. Employ or retain such persons as are necessary to
8 perform the administrative and financial transactions and
9 responsibilities of the fund and to perform other necessary or
10 proper functions unless prohibited by law.

11 6. Take such legal action as may be necessary to avoid
12 payment of improper claims.

13 7. Indemnify any employee, agent, member of the board
14 of governors or his or her alternate, or person acting on
15 behalf of the fund in an official capacity, for expenses,
16 including attorney's fees, judgments, fines, and amounts paid
17 in settlement actually and reasonably incurred by him or her
18 in connection with any action, suit, or proceeding, including
19 any appeal thereof, arising out of his or her capacity in
20 acting on behalf of the fund, if he or she acted in good faith
21 and in a manner he or she reasonably believed to be in, or not
22 opposed to, the best interests of the fund and, with respect
23 to any criminal action or proceeding, he or she had reasonable
24 cause to believe his or her conduct was lawful.

25 (d) Fees and assessments.--Each health care provider,
26 as set forth in subsection (2), electing to comply with
27 paragraph (2)(b) for a given fiscal year shall pay the fees
28 and any assessments established under this section relative to
29 such fiscal year, for deposit into the fund. Those entering
30 the fund after the fiscal year has begun shall pay a prorated
31 share of the yearly fees for a prorated membership.

1 Actuarially sound membership fees payable annually,
2 semiannually, or quarterly with appropriate service charges
3 shall be established by the fund before January 1 of each
4 fiscal year, based on the following considerations:

5 1. Past and prospective loss and expense experience in
6 different types of practice and in different geographical
7 areas within the state;

8 2. The prior claims experience of the members covered
9 under the fund; and

10 3. Risk factors for persons who are retired,
11 semiretired, or part-time professionals.

12
13 Such fees shall be based on not more than three geographical
14 areas, not necessarily contiguous, with five categories of
15 practice and with categories which contemplate separate risk
16 ratings for hospitals, for health maintenance organizations,
17 for ambulatory surgical facilities, and for other medical
18 facilities. The fund is authorized to adjust the fees of an
19 individual member to reflect the claims experience of such
20 member. Each fiscal year of the fund shall operate
21 independently of preceding fiscal years. Participants shall
22 only be liable for assessments for claims from years during
23 which they were members of the fund; in cases in which a
24 participant is a member of the fund for less than the total
25 fiscal year, a member shall be subject to assessments for that
26 year on a pro rata basis determined by the percentage of
27 participation for the year. The fund shall submit to the
28 Chief Financial Officer ~~Insurance Commissioner~~ the
29 classifications and membership fees to be charged, and the
30 Chief Financial Officer ~~Insurance Commissioner~~ shall review
31 such fees and shall approve them if they comply with all the

1 requirements of this section and fairly reflect the
2 considerations provided for in this section. If the
3 classifications or membership fees do not comply with this
4 section, the Chief Financial Officer ~~Insurance Commissioner~~
5 shall set classifications or membership fees which do comply
6 and which give due recognition to all considerations provided
7 for in this section. Nothing contained herein shall be
8 construed as imposing liability for payment of any part of a
9 fund deficit on the Joint Underwriting Association authorized
10 by s. 627.351(4) or its member insurers. If the fund
11 determines that the amount of money in an account for a given
12 fiscal year is in excess of or not sufficient to satisfy the
13 claims made against the account, the fund shall certify the
14 amount of the projected excess or insufficiency to the Chief
15 Financial Officer ~~Insurance Commissioner~~ and request the Chief
16 Financial Officer ~~Insurance Commissioner~~ to levy an assessment
17 against or refund to all participants in the fund for that
18 fiscal year, prorated, based on the number of days of
19 participation during the year in question. The Chief Financial
20 Officer ~~Insurance Commissioner~~ shall approve the request of
21 the fund to refund to, or levy any assessment against, the
22 participants, provided the refund or assessment fairly
23 reflects the same considerations and classifications upon
24 which the membership fees were based. The assessment shall be
25 in an amount sufficient to satisfy reserve requirements for
26 known claims, including expenses to satisfy the claims, made
27 against the account for a given fiscal year. In any
28 proceeding to challenge the amount of the refund or
29 assessment, it is to be presumed that the amount of refund or
30 assessment requested by the fund is correct, if the fund
31 demonstrates that it has used reasonable claims handling and

1 reserving procedures. Additional assessments may be certified
2 and levied in accordance with this paragraph as necessary for
3 any fiscal year. If a fund member objects to his or her
4 assessment, he or she shall, as a condition precedent to
5 bringing legal action contesting the assessment, pay the
6 assessment, under protest, to the fund. The fund may borrow
7 money needed for current operations, if necessary to pay
8 claims and related expenses, fees, and costs timely for a
9 given fiscal year, from an account for another fiscal year
10 until such time as sufficient funds have been obtained through
11 the assessment process. Any such money, together with
12 interest at the mean interest rate earned on the investment
13 portfolio of the fund, shall be repaid from the next
14 assessment for the given fiscal year. If any assessments are
15 levied in accordance with this subsection as a result of
16 claims in excess of \$500,000 per occurrence, and such
17 assessments are a result of the liability of certain
18 individuals and entities specified in paragraph (2)(e), only
19 hospitals shall be subject to such assessments. Before
20 approving the request of the fund to charge membership fees,
21 issue refunds, or levy assessments, the Chief Financial
22 Officer ~~Insurance Commissioner~~ shall publish notice of the
23 request in the Florida Administrative Weekly. Pursuant to
24 chapter 120, any party substantially affected may request an
25 appropriate proceeding. Any petition for such a proceeding
26 shall be filed with the Department of Financial Services
27 ~~Insurance~~ within 21 days after the date of publication of the
28 notice in the Florida Administrative Weekly.

29 (e) Fund accounting and audit.--

30 1. Money shall be withdrawn from the fund only upon a
31 voucher as authorized by the board of governors.

1 2. All books, records, and audits of the fund shall be
2 open for reasonable inspection to the general public, except
3 that a claim file in possession of the fund, fund members, and
4 their insurers is confidential and exempt from the provisions
5 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
6 until termination of litigation or settlement of the claim,
7 although medical records and other portions of the claim file
8 may remain confidential and exempt as otherwise provided by
9 law. Any book, record, document, audit, or asset acquired by,
10 prepared for, or paid for by the fund is subject to the
11 authority of the board of governors, which shall be
12 responsible therefor.

13 3. Persons authorized to receive deposits, issue
14 vouchers, or withdraw or otherwise disburse any fund moneys
15 shall post a blanket fidelity bond in an amount reasonably
16 sufficient to protect fund assets. The cost of such bond shall
17 be paid from the fund.

18 4. Annually, the fund shall furnish, upon request,
19 audited financial reports to any fund participant and to the
20 Department of Financial Services Insurance and the Joint
21 Legislative Auditing Committee. The reports shall be prepared
22 in accordance with accepted accounting procedures and shall
23 include income and such other information as may be required
24 by the Department of Financial Services Insurance or the Joint
25 Legislative Auditing Committee.

26 5. Any money held in the fund shall be invested in
27 interest-bearing investments by the board of governors of the
28 fund as administrator. However, in no case may any such money
29 be invested in the stock of any insurer participating in the
30 Joint Underwriting Association authorized by s. 627.351(4) or
31 in the parent company of, or company owning a controlling

1 interest in, such insurer. All income derived from such
2 investments shall be credited to the fund.

3 6. Any health care provider participating in the fund
4 may withdraw from such participation only at the end of a
5 fiscal year; however, such health care provider shall remain
6 subject to any assessment or any refund pertaining to any year
7 in which such member participated in the fund.

8 Section 849. Subsection (7) of section 766.1115,
9 Florida Statutes, is amended to read:

10 766.1115 Health care providers; creation of agency
11 relationship with governmental contractors.--

12 (7) RISK MANAGEMENT REPORT.--The Division of Risk
13 Management of the Department of Financial Services ~~Insurance~~
14 shall annually compile a report of all claims statistics for
15 all entities participating in the risk management program
16 administered by the division, which shall include the number
17 and total of all claims pending and paid, and defense and
18 handling costs associated with all claims brought against
19 contract providers under this section. This report shall be
20 forwarded to the department and included in the annual report
21 submitted to the Legislature pursuant to this section.

22 Section 850. Paragraph (c) of subsection (2),
23 subsection (5), paragraph (a) of subsection (6), subsection
24 (7), and paragraph (c) of subsection (9) of section 766.314,
25 Florida Statutes, are amended to read:

26 766.314 Assessments; plan of operation.--

27 (2) The assessments and appropriations dedicated to
28 the plan shall be administered by the Florida Birth-Related
29 Neurological Injury Compensation Association established in s.
30 766.315, in accordance with the following requirements:

31

1 (c) Amendments to the plan of operation may be made by
2 the directors of the plan, subject to the approval of the
3 Department of Financial Services Insurance.

4 (5)(a) Beginning January 1, 1990, the persons and
5 entities listed in paragraphs (4)(b) and (c), except those
6 persons or entities who are specifically excluded from said
7 provisions, as of the date determined in accordance with the
8 plan of operation, taking into account persons licensed
9 subsequent to the payment of the initial assessment, shall pay
10 an annual assessment in the amount equal to the initial
11 assessments provided in paragraphs (4)(b) and (c). On ~~January~~
12 ~~1, 1991, and on~~ each January 1 ~~thereafter~~, the association
13 shall determine the amount of additional assessments necessary
14 pursuant to subsection (7), in the manner required by the plan
15 of operation, subject to any increase determined to be
16 necessary by the Department of Financial Services Insurance
17 pursuant to paragraph (7)(b). On July 1, 1991, and on each
18 July 1 thereafter, the persons and entities listed in
19 paragraphs (4)(b) and (c), except those persons or entities
20 who are specifically excluded from said provisions, shall pay
21 the additional assessments which were determined on January 1.
22 Beginning January 1, 1990, the entities listed in paragraph
23 (4)(a), including those licensed on or after October 1, 1988,
24 shall pay an annual assessment of \$50 per infant delivered
25 during the prior calendar year. The additional assessments
26 which were determined on January 1, 1991, pursuant to the
27 provisions of subsection (7) shall not be due and payable by
28 the entities listed in paragraph (4)(a) until July 1.

29 (b) If the assessments collected pursuant to
30 subsection (4) and the appropriation of funds provided by s.
31 76, chapter 88-1, Laws of Florida, as amended by s. 41,

1 chapter 88-277, Laws of Florida, to the plan from the
2 Insurance ~~Commissioner's~~ Regulatory Trust Fund are
3 insufficient to maintain the plan on an actuarially sound
4 basis, there is hereby appropriated for transfer to the
5 association from the Insurance ~~Commissioner's~~ Regulatory Trust
6 Fund an additional amount of up to \$20 million.

7 (c)1. Taking into account the assessments collected
8 pursuant to subsection (4) and appropriations from the
9 Insurance ~~Commissioner's~~ Regulatory Trust Fund, if required to
10 maintain the plan on an actuarially sound basis, the
11 Department of Financial Services Insurance shall require each
12 entity licensed to issue casualty insurance as defined in s.
13 624.605(1)(b), (k), and (q) to pay into the association an
14 annual assessment in an amount determined by the department
15 pursuant to paragraph (7)(a), in the manner required by the
16 plan of operation.

17 2. All annual assessments shall be made on the basis
18 of net direct premiums written for the business activity which
19 forms the basis for each such entity's inclusion as a funding
20 source for the plan in the state during the prior year ending
21 December 31, as reported to the Department of Financial
22 Services Insurance, and shall be in the proportion that the
23 net direct premiums written by each carrier on account of the
24 business activity forming the basis for its inclusion in the
25 plan bears to the aggregate net direct premiums for all such
26 business activity written in this state by all such entities.

27 3. No entity listed in this paragraph shall be
28 individually liable for an annual assessment in excess of 0.25
29 percent of that entity's net direct premiums written.

30 4. Casualty insurance carriers shall be entitled to
31 recover their initial and annual assessments through a

1 surcharge on future policies, a rate increase applicable
2 prospectively, or a combination of the two.

3 (6)(a) The association shall make all assessments
4 required by this section, except initial assessments of
5 physicians licensed on or after October 1, 1988, which
6 assessments will be made by the Department of Business and
7 Professional Regulation, and except assessments of casualty
8 insurers pursuant to subparagraph (5)(c)1., which assessments
9 will be made by the Department of Financial Services
10 ~~Insurance~~. Beginning October 1, 1989, for any physician
11 licensed between October 1 and December 31 of any year, the
12 Department of Business and Professional Regulation shall make
13 the initial assessment plus the assessment for the following
14 calendar year. The Department of Business and Professional
15 Regulation shall provide the association, with such frequency
16 as determined to be necessary, a listing, in a
17 computer-readable form, of the names and addresses of all
18 physicians licensed under chapter 458 or chapter 459.

19 (7)(a) The Department of Insurance shall undertake an
20 actuarial investigation of the requirements of the plan based
21 on the plan's experience in the first year of operation and
22 any additional relevant information, including without
23 limitation the assets and liabilities of the plan. Pursuant to
24 such investigation, the Department of Insurance shall
25 establish the rate of contribution of the entities listed in
26 paragraph (5)(c) for the tax year beginning January 1, 1990.
27 Following the initial valuation, the Department of Financial
28 Services ~~Insurance~~ shall cause an actuarial valuation to be
29 made of the assets and liabilities of the plan no less
30 frequently than biennially. Pursuant to the results of such
31 valuations, the Department of Financial Services ~~Insurance~~

1 shall prepare a statement as to the contribution rate
2 applicable to the entities listed in paragraph (5)(c).
3 However, at no time shall the rate be greater than 0.25
4 percent of net direct premiums written.

5 (b) If the Department of Financial Services Insurance
6 finds that the plan cannot be maintained on an actuarially
7 sound basis based on the assessments and appropriations listed
8 in subsections (4) and (5), the department shall increase the
9 assessments specified in subsection (4) on a proportional
10 basis as needed.

11 (9)

12 (c) In the event the total of all current estimates
13 equals 80 percent of the funds on hand and the funds that will
14 become available to the association within the next 12 months
15 from all sources described in subsections (4) and (5) and
16 paragraph (7)(a), the association shall not accept any new
17 claims without express authority from the Legislature. Nothing
18 herein shall preclude the association from accepting any claim
19 if the injury occurred 18 months or more prior to the
20 effective date of this suspension. Within 30 days of the
21 effective date of this suspension, the association shall
22 notify the Governor, the Speaker of the House of
23 Representatives, the President of the Senate, the Department
24 of Financial Services Insurance, the Agency for Health Care
25 Administration, the Department of Health, and the Department
26 of Business and Professional Regulation of this suspension.

27 Section 851. Paragraph (c) of subsection (1),
28 subsection (2), and paragraph (d) of subsection (5) of section
29 766.315, Florida Statutes, are amended to read:

30 766.315 Florida Birth-Related Neurological Injury
31 Compensation Association; board of directors.--

1 (1)

2 (c) The directors shall be appointed by the Chief
3 Financial Officer ~~Insurance Commissioner~~ as follows:

- 4 1. One citizen representative.
- 5 2. One representative of participating physicians.
- 6 3. One representative of hospitals.
- 7 4. One representative of casualty insurers.
- 8 5. One representative of physicians other than
9 participating physicians.

10 (2)(a) The Chief Financial Officer ~~Insurance~~
11 ~~Commissioner~~ may select the representative of the
12 participating physicians from a list of at least three names
13 to be recommended by the Florida Obstetric and Gynecologic
14 Society; the representative of hospitals from a list of at
15 least three names to be recommended by the Florida Hospital
16 Association; the representative of casualty insurers from a
17 list of at least three names, one of which is recommended by
18 the American Insurance Association, one by the Alliance of
19 American Insurers, and one by the National Association of
20 Independent Insurers; and the representative of physicians
21 other than participating physicians from a list of three names
22 to be recommended by the Florida Medical Association and a
23 list of three names to be recommended by the Florida
24 Osteopathic Medical Association. In no case shall the Chief
25 Financial Officer ~~Insurance Commissioner~~ be bound to make any
26 appointment from among the nominees of such respective
27 associations.

28 (b) The Chief Financial Officer ~~Insurance Commissioner~~
29 shall promptly notify the appropriate medical association upon
30 the occurrence of any vacancy, and like nominations may be
31 made for the filling of the vacancy.

1 (5)

2 (d) Annually, the association shall furnish audited
3 financial reports to any plan participant upon request, to the
4 Department of Financial Services Insurance, and to the Joint
5 Legislative Auditing Committee. The reports must be prepared
6 in accordance with accepted accounting procedures and must
7 include such information as may be required by the Department
8 of Financial Services Insurance or the Joint Legislative
9 Auditing Committee. At any time determined to be necessary,
10 the Department of Financial Services Insurance or the Joint
11 Legislative Auditing Committee may conduct an audit of the
12 plan.

13 Section 852. Subsection (3), paragraphs (a) and (d) of
14 subsection (6), and subsection (7) of section 768.28, Florida
15 Statutes, are amended to read:

16 768.28 Waiver of sovereign immunity in tort actions;
17 recovery limits; limitation on attorney fees; statute of
18 limitations; exclusions; indemnification; risk management
19 programs.--

20 (3) Except for a municipality and the Spaceport
21 Florida Authority, the affected agency or subdivision may, at
22 its discretion, request the assistance of the Department of
23 Financial Services Insurance in the consideration, adjustment,
24 and settlement of any claim under this act.

25 (6)(a) An action may not be instituted on a claim
26 against the state or one of its agencies or subdivisions
27 unless the claimant presents the claim in writing to the
28 appropriate agency, and also, except as to any claim against a
29 municipality or the Spaceport Florida Authority, presents such
30 claim in writing to the Department of Financial Services
31 Insurance, within 3 years after such claim accrues and the

1 Department of Financial Services Insurance or the appropriate
2 agency denies the claim in writing; except that, if such claim
3 is for contribution pursuant to s. 768.31, it must be so
4 presented within 6 months after the judgment against the
5 tortfeasor seeking contribution has become final by lapse of
6 time for appeal or after appellate review or, if there is no
7 such judgment, within 6 months after the tortfeasor seeking
8 contribution has either discharged the common liability by
9 payment or agreed, while the action is pending against her or
10 him, to discharge the common liability.

11 (d) For purposes of this section, complete, accurate,
12 and timely compliance with the requirements of paragraph (c)
13 shall occur prior to settlement payment, close of discovery or
14 commencement of trial, whichever is sooner; provided the
15 ability to plead setoff is not precluded by the delay. This
16 setoff shall apply only against that part of the settlement or
17 judgment payable to the claimant, minus claimant's reasonable
18 attorney's fees and costs. Incomplete or inaccurate
19 disclosure of unpaid adjudicated claims due the state, its
20 agency, officer, or subdivision, may be excused by the court
21 upon a showing by the preponderance of the evidence of the
22 claimant's lack of knowledge of an adjudicated claim and
23 reasonable inquiry by, or on behalf of, the claimant to obtain
24 the information from public records. Unless the appropriate
25 agency had actual notice of the information required to be
26 disclosed by paragraph (c) in time to assert a setoff, an
27 unexcused failure to disclose shall, upon hearing and order of
28 court, cause the claimant to be liable for double the original
29 undisclosed judgment and, upon further motion, the court shall
30 enter judgment for the agency in that amount. The failure of
31 the Department of Financial Services Insurance or the

1 appropriate agency to make final disposition of a claim within
2 6 months after it is filed shall be deemed a final denial of
3 the claim for purposes of this section. For purposes of this
4 subsection, in medical malpractice actions, the failure of the
5 Department of Financial Services Insurance or the appropriate
6 agency to make final disposition of a claim within 90 days
7 after it is filed shall be deemed a final denial of the claim.
8 The provisions of this subsection do not apply to such claims
9 as may be asserted by counterclaim pursuant to s. 768.14.

10 (7) In actions brought pursuant to this section,
11 process shall be served upon the head of the agency concerned
12 and also, except as to a defendant municipality or the
13 Spaceport Florida Authority, upon the Department of Financial
14 Services Insurance; and the department or the agency concerned
15 shall have 30 days within which to plead thereto.

16 Section 853. Subsection (5) of section 790.001,
17 Florida Statutes, is amended to read:

18 790.001 Definitions.--As used in this chapter, except
19 where the context otherwise requires:

20 (5) "Explosive" means any chemical compound or mixture
21 that has the property of yielding readily to combustion or
22 oxidation upon application of heat, flame, or shock, including
23 but not limited to dynamite, nitroglycerin, trinitrotoluene,
24 or ammonium nitrate when combined with other ingredients to
25 form an explosive mixture, blasting caps, and detonators; but
26 not including:

27 (a) Shotgun shells, cartridges, or ammunition for
28 firearms;

29 (b) Fireworks as defined in s. 791.01;

30
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1 (c) Smokeless propellant powder or small arms
2 ammunition primers, if possessed, purchased, sold,
3 transported, or used in compliance with s. 552.241;

4 (d) Black powder in quantities not to exceed that
5 authorized by chapter 552, or by any rules adopted ~~or~~
6 ~~regulations promulgated~~ thereunder by the Department of
7 Financial Services Insurance, when used for, or intended to be
8 used for, the manufacture of target and sporting ammunition or
9 for use in muzzle-loading flint or percussion weapons.

10
11 The exclusions contained in paragraphs (a)-(d) do not apply to
12 the term "explosive" as used in the definition of "firearm" in
13 subsection (6).

14 Section 854. Section 790.1612, Florida Statutes, is
15 amended to read:

16 790.1612 Authorization for governmental manufacture,
17 possession, and use of destructive devices.--The governing
18 body of any municipality or county and the Division of State
19 Fire Marshal of the Department of Financial Services Insurance
20 have the power to authorize the manufacture, possession, and
21 use of destructive devices as defined in s. 790.001(4).

22 Section 855. Subsection (2) of section 791.01, Florida
23 Statutes, is amended to read:

24 791.01 Definitions.--As used in this chapter, the
25 term:

26 (2) "Division" means the Division of the State Fire
27 Marshal of the Department of Financial Services Insurance.

28 Section 856. Paragraph (b) of subsection (3) of
29 section 791.015, Florida Statutes, is amended to read:

30 791.015 Registration of manufacturers, distributors,
31 wholesalers, and retailers of sparklers.--

1 (3) FEES.--

2 (b) Revenue from registration fee payments shall be
3 deposited in the Insurance Commissioner's Regulatory Trust
4 Fund for the purposes of implementing the registration and
5 testing provisions of this chapter.

6 Section 857. Section 817.16, Florida Statutes, is
7 amended to read:

8 817.16 False reports, etc., by officers of banks,
9 trust companies, etc., ~~under supervision of Department of~~
10 ~~Banking and Finance~~ with intent to defraud.--Any officer,
11 director, agent or clerk of any bank, trust company, building
12 and loan association, small loan licensee, credit union, or
13 other similar corporation under the supervision of the
14 Department of Financial Services or formerly the Department of
15 Banking and Finance, who willfully and knowingly subscribes or
16 exhibits any false paper with intent to deceive any person
17 authorized to examine as to the records of such bank, trust
18 company, building and loan association, small loan licensee,
19 credit union, or other corporation under the supervision of
20 the Department of Financial Services or formerly the
21 Department of Banking and Finance, or willfully and knowingly
22 subscribes to or makes any false reports to the Department of
23 Financial Services or subscribed to or made any such false
24 report to the Department of Banking and Finance or causes to
25 be published any false report, shall be guilty of a felony of
26 the third degree, punishable as provided s. 775.082 or s.
27 775.083.

28 Section 858. Paragraph (b) of subsection (1) and
29 subsection (10) of section 817.234, Florida Statutes, are
30 amended to read:

31 817.234 False and fraudulent insurance claims.--

1 (1)

2 (b) All claims and application forms shall contain a
3 statement that is approved by the Department of Financial
4 Services which ~~insurance that~~ clearly states in substance the
5 following: "Any person who knowingly and with intent to
6 injure, defraud, or deceive any insurer files a statement of
7 claim or an application containing any false, incomplete, or
8 misleading information is guilty of a felony of the third
9 degree." This paragraph shall not apply to reinsurance
10 contracts, reinsurance agreements, or reinsurance claims
11 transactions.

12 (10) As used in this section, the term "insurer" means
13 any insurer, health maintenance organization, self-insurer,
14 self-insurance fund, or other similar entity or person
15 regulated under chapter 440 or chapter 641 or by the
16 Department of Financial Services ~~Insurance~~ under the Florida
17 Insurance Code.

18 Section 859. Section 839.06, Florida Statutes, is
19 amended to read:

20 839.06 Collectors not to deal in warrants, etc.;
21 removal.--No tax collector of any county shall, either
22 directly or indirectly, purchase or receive in exchange any
23 Chief Financial Officer's ~~Comptroller's~~ warrants, county
24 orders, jurors' certificates or school district orders for a
25 less amount than expressed on the face of such orders or
26 demand, and any such person so offending shall, for each
27 offense, be deemed guilty of a misdemeanor of the first
28 degree, punishable as provided in s. 775.083, and be removed
29 from office.

30
31

1 Section 860. Paragraph (d) of subsection (5) and
2 paragraph (c) of subsection (13) of section 849.086, Florida
3 Statutes, are amended to read:

4 849.086 Cardrooms authorized.--

5 (5) LICENSE REQUIRED; APPLICATION; FEES.--No person
6 may operate a cardroom in this state unless such person holds
7 a valid cardroom license issued pursuant to this section.

8 (d) The annual cardroom license fee shall be \$1,000
9 for the first table and \$500 for each additional table to be
10 operated at the cardroom. This license fee shall be deposited
11 by the division with the Chief Financial Officer ~~Treasurer~~ to
12 the credit of the Pari-mutuel Wagering Trust Fund.

13 (13) TAXES AND OTHER PAYMENTS.--

14 (c) Payment of the admission tax and gross receipts
15 tax imposed by this section shall be paid to the division. The
16 division shall deposit these sums with the Chief Financial
17 Officer ~~Treasurer~~, one-half being credited to the Pari-mutuel
18 Wagering Trust Fund and one-half being credited to the General
19 Revenue Fund. The cardroom licensee shall remit to the
20 division payment for the admission tax, the gross receipts
21 tax, and the licensee fees. Such payments shall be remitted
22 to the division on the fifth day of each calendar month for
23 taxes and fees imposed for the preceding month's cardroom
24 activities. Licensees shall file a report under oath by the
25 fifth day of each calendar month for all taxes remitted during
26 the preceding calendar month. Such report shall, under oath,
27 indicate the total of all admissions, the cardroom activities
28 for the preceding calendar month, and such other information
29 as may be prescribed by the division.

30 Section 861. Section 849.33, Florida Statutes, is
31 amended to read:

1 849.33 Judgment and collection of money;
2 execution.--Any judgment recovered in such a suit shall
3 adjudge separately the amounts recovered for the use of the
4 state, and the plaintiff shall not have execution therefor,
5 and such amounts shall not be paid to the plaintiff, but shall
6 be payable to the state attorney, who shall promptly transmit
7 the sums collected by him or her to the Chief Financial
8 Officer ~~State Treasurer~~. The state attorney shall diligently
9 seek the collection of such amounts and may cause a separate
10 execution to issue for the collection thereof.

11 Section 862. Subsection (1) of section 860.154,
12 Florida Statutes, is amended to read:

13 860.154 Florida Motor Vehicle Theft Prevention
14 Authority.--

15 (1) There is ~~hereby~~ established within the Department
16 of Legal Affairs the Florida Motor Vehicle Theft Prevention
17 Authority, which shall exercise its powers, duties, and
18 responsibilities independently of the department. The
19 purposes, powers, and duties of the authority shall be vested
20 in and exercised by a board of directors. There shall be nine
21 members of the board, consisting of the Chief Financial
22 Officer ~~commissioner of the Department of Insurance~~ or his or
23 her ~~the commissioner's~~ designee; the executive director of the
24 Department of Highway Safety and Motor Vehicles; the executive
25 director of the Department of Law Enforcement; six additional
26 members, each of whom shall be appointed by the Attorney
27 General: a state attorney or city or county executive, a chief
28 executive law enforcement official, a sheriff, one
29 representative of companies authorized to sell motor vehicle
30 insurance, one representative of insurers authorized to write
31 motor vehicle insurance in this state, and one representative

1 of purchasers of motor vehicle insurance in this state who is
2 not employed by or connected with the business of insurance.

3 Section 863. Subsection (7) of section 860.157,
4 Florida Statutes, is amended to read:

5 860.157 Powers and duties of the authority.--The
6 authority shall have the following powers, duties, and
7 responsibilities:

8 (7) To report annually, on or before January 1, to the
9 Governor, Attorney General, Chief Financial Officer ~~Insurance~~
10 ~~Commissioner~~, President of the Senate, Speaker of the House of
11 Representatives, Minority Leader of the House of
12 Representatives, Minority Leader of the Senate, and
13 appropriate committee chairs in the House of Representatives
14 and the Senate, and, upon request, to members of the general
15 public on the authority's activities in the preceding year.

16 Section 864. Subsections (1) and (2) of section
17 896.102, Florida Statutes, are amended to read:

18 896.102 Currency more than \$10,000 received in trade
19 or business; report required; noncompliance penalties.--

20 (1) All persons engaged in a trade or business, except
21 for those financial institutions that report to the Chief
22 Financial Officer ~~Comptroller~~ pursuant to s. 655.50, who
23 receive more than \$10,000 in currency, including foreign
24 currency, in one transaction, or who receive this amount
25 through two or more related transactions, must complete and
26 file with the Department of Revenue the information required
27 pursuant to 26 U.S.C. s. 6050I., concerning returns relating
28 to currency received in trade or business. Any person who
29 willfully fails to comply with the reporting requirements of
30 this subsection is guilty of a misdemeanor of the first
31 degree, punishable as provided in s. 775.082, or by a fine not

1 exceeding \$250,000 or twice the value of the amount of the
2 currency transaction involved, whichever is greater, or by
3 both such imprisonment and fine. For a second or subsequent
4 conviction of a violation of the provisions of this
5 subsection, the maximum fine that may be imposed is \$500,000
6 or quintuple the value of the amount of the currency
7 transaction involved, whichever is greater.

8 (2) The Department of Revenue shall enforce compliance
9 with the provisions of subsection (1) and is to be the
10 custodian of all information and documents filed pursuant to
11 subsection (1). Such information and documents are
12 confidential and exempt from the provisions of s. 119.07(1)
13 and s. 24(a), Art. I of the State Constitution; however, the
14 department must provide any report filed under this section,
15 or information contained therein, to federal, state, and local
16 law enforcement and prosecutorial agencies and to the
17 Department of Financial Services ~~Banking and Finance~~, and the
18 information is subject to disclosure pursuant to subpoena as
19 provided in s. 213.053(8).

20 Section 865. Section 903.101, Florida Statutes, is
21 amended to read:

22 903.101 Sureties; licensed persons; to have equal
23 access.--Subject to rules adopted ~~regulations promulgated~~ by
24 the Department of Financial Services ~~Insurance~~, every surety
25 who meets the requirements of ss. 903.05, 903.06, 903.08, and
26 903.09, and every person who is currently licensed by the
27 Department of Financial Services ~~Insurance~~ and registered as
28 required by s. 648.42 shall have equal access to the jails of
29 this state for the purpose of making bonds.

30 Section 866. Subsection (1) of section 903.27, Florida
31 Statutes, is amended to read:

1 903.27 Forfeiture to judgment.--
2 (1) If the forfeiture is not paid or discharged by
3 order of a court of competent jurisdiction within 60 days and
4 the bond is secured other than by money and bonds authorized
5 in s. 903.16, the clerk of the circuit court for the county
6 where the order was made shall enter a judgment against the
7 surety for the amount of the penalty and issue execution.
8 Within 10 days, the clerk shall furnish the Department of
9 Financial Services ~~Insurance~~ with a certified copy of the
10 judgment docket and shall furnish the surety company at its
11 home office a copy of the judgment, which shall include the
12 power of attorney number of the bond and the name of the
13 executing agent. If the judgment is not paid within 35 days,
14 the clerk shall furnish the Department of Financial Services
15 ~~Insurance~~ and the sheriff of the county in which the bond was
16 executed, or the official responsible for operation of the
17 county jail, if other than the sheriff, two copies of the
18 judgment and a certificate stating that the judgment remains
19 unsatisfied. When and if the judgment is properly paid or an
20 order to vacate the judgment has been entered by a court of
21 competent jurisdiction, the clerk shall immediately notify the
22 sheriff, or the official responsible for the operation of the
23 county jail, if other than the sheriff, and the Department of
24 Financial Services ~~Insurance~~, if the department had been
25 previously notified of nonpayment, of such payment or order to
26 vacate the judgment. The clerk shall also immediately prepare
27 and record in the public records a satisfaction of the
28 judgment or record the order to vacate judgment. If the
29 defendant is returned to the county of jurisdiction of the
30 court, whenever a motion to set aside the judgment is filed,
31

1 the operation of this section is tolled until the court makes
2 a disposition of the motion.

3 Section 867. Paragraphs (a) and (b) of subsection (5)
4 of section 925.037, Florida Statutes, are amended to read:

5 925.037 Reimbursement of counties for fees paid to
6 appointed counsel; circuit conflict committees.--

7 (5)(a) The clerk of the circuit court in each county
8 shall submit to the Justice Administrative Commission a
9 statement of conflict counsel fees at least annually. Such
10 statement shall identify total expenditures incurred by the
11 county on fees of counsel appointed by the court pursuant to
12 this section where such fees are taxed against the county by
13 judgment of the court. On the basis of such statement of
14 expenditures, the Justice Administrative Commission shall pay
15 state conflict case appropriations to the county. The
16 statement of conflict counsel fees shall be on a form
17 prescribed by the Justice Administrative Commission in
18 consultation with the Legislative Committee on
19 Intergovernmental Relations and the Chief Financial Officer
20 ~~Comptroller~~. Such form also shall provide for the separate
21 reporting of total expenditures made by the county on attorney
22 fees in cases in which other counsel were appointed by the
23 court where the public defender was unable to accept the case
24 as a result of a stated lack of resources. To facilitate such
25 expenditure identification and reporting, the public defender,
26 within 7 days of the appointment of such counsel by the court,
27 shall report to the clerk of circuit court case-related
28 information sufficient to permit the clerk to identify
29 separately county expenditures on fees of such counsel. No
30 county shall be required to submit any additional information
31 to the commission on an annual or other basis in order to

1 document or otherwise verify the expenditure information
2 provided on the statement of conflict counsel fees form,
3 except as provided in paragraph (c).

4 (b) Before September 30 of each year, the clerk of the
5 circuit court in each county shall submit to the Justice
6 Administrative Commission a report of conflict counsel
7 expenses and costs for the previous local government fiscal
8 year. Such report shall identify expenditures incurred by the
9 county on expenses and costs of counsel appointed by the court
10 pursuant to this section where such expenses and costs are
11 taxed against the county by judgment of the court. Such report
12 of expenditures shall be on a form prescribed by the
13 commission in consultation with the Legislative Committee on
14 Intergovernmental Relations and the Chief Financial Officer
15 ~~Comptroller~~, provided that such form shall at a minimum
16 separately identify total county expenditures for witness fees
17 and expenses, court reporter fees and costs, and defense
18 counsel travel and per diem. Such form also shall provide for
19 the separate reporting of total county expenditures on
20 attorney expenses and costs in cases in which other counsel
21 were appointed by the court where the public defender was
22 unable to accept the case as a result of a stated lack of
23 resources. To facilitate such expenditure identification and
24 reporting, the public defender, within 7 days of the
25 appointment of such counsel by the court, shall report to the
26 clerk of the circuit court case-related information sufficient
27 to permit the clerk to identify separately county expenditures
28 on expenses and costs of such counsel. No county shall be
29 required to submit any additional information to the Justice
30 Administrative Commission on an annual or other basis in order
31 to document or otherwise verify the expenditure information

1 provided on the report of conflict counsel expenses and costs
2 form, except as provided in paragraph (c).

3 Section 868. Paragraph (b) of subsection (8) of
4 section 932.7055, Florida Statutes, is amended to read:

5 932.7055 Disposition of liens and forfeited
6 property.--

7 (8)

8 (b) The Department of Law Enforcement shall submit an
9 annual report to the criminal justice committees of the House
10 of Representatives and of the Senate compiling the information
11 and data related in the semiannual reports submitted by the
12 law enforcement agencies. The annual report shall also
13 contain a list of law enforcement agencies which have failed
14 to meet the reporting requirements and a summary of any action
15 which has been taken against the noncomplying agency by the
16 Office of the Chief Financial Officer ~~Comptroller~~.

17 Section 869. Section 932.707, Florida Statutes, is
18 amended to read:

19 932.707 Penalty for noncompliance with reporting
20 requirements.--Any seizing agency which fails to comply with
21 the reporting requirements as described in s. 932.7055(8)(a),
22 is subject to a civil fine of \$5,000 payable to the General
23 Revenue Fund. However, such agency will not be subject to the
24 fine if, within 60 days of receipt of written notification
25 from the Department of Law Enforcement of the noncompliance
26 with the reporting requirements of the Florida Contraband
27 Forfeiture Act, the agency substantially complies with said
28 requirements. The Department of Law Enforcement shall submit
29 any substantial noncompliance to the Office of the Chief
30 Financial Officer ~~Comptroller~~, which shall be responsible for
31 the enforcement of this section.

1 Section 870. Subsection (1) of section 938.27, Florida
2 Statutes, is amended to read:

3 938.27 Judgment for costs on conviction.--

4 (1) In all criminal cases the costs of prosecution,
5 including investigative costs incurred by law enforcement
6 agencies, by fire departments for arson investigations, and by
7 investigations of the Division of Financial Investigations of
8 the Department of Financial Services ~~Banking and Finance~~, if
9 requested and documented by such agencies, shall be included
10 and entered in the judgment rendered against the convicted
11 person.

12 Section 871. Section 939.13, Florida Statutes, is
13 amended to read:

14 939.13 Power of Chief Financial Officer

15 ~~Comptroller~~--The Chief Financial Officer ~~Comptroller~~ may
16 audit and approve or disapprove any claim or any item thereof
17 against the state for costs, fees or expenses of criminal
18 cases prosecuted in the name of the state, and for which the
19 state is liable, if the Chief Financial Officer ~~Comptroller~~ is
20 satisfied that the same is legal, just, necessary and correct
21 or otherwise, and may prescribe forms and methods for the
22 same. The Chief Financial Officer ~~Comptroller~~ shall not
23 dispense with any of the requirements of law relative to the
24 auditing and payment of such accounts, but may prescribe
25 additional requirements.

26 Section 872. Paragraph (h) of subsection (1) of
27 section 943.031, Florida Statutes, is amended to read:

28 943.031 Florida Violent Crime and Drug Control
29 Council.--The Legislature finds that there is a need to
30 develop and implement a statewide strategy to address violent
31 criminal activity and drug control efforts by state and local

1 law enforcement agencies, including investigations of illicit
2 money laundering. In recognition of this need, the Florida
3 Violent Crime and Drug Control Council is created within the
4 department. The council shall serve in an advisory capacity to
5 the department.

6 (1) MEMBERSHIP.--The council shall consist of 14
7 members, as follows:

8 (h) The Chief Financial Officer ~~Comptroller~~, or a
9 designate.

10

11 The Governor, when making appointments under this subsection,
12 must take into consideration representation by geography,
13 population, ethnicity, and other relevant factors to ensure
14 that the membership of the council is representative of the
15 state at large. Designates appearing on behalf of a council
16 member who is unable to attend a meeting of the council are
17 empowered to vote on issues before the council to the same
18 extent the designating council member is so empowered.

19 Section 873. Subsection (2) of section 943.032,
20 Florida Statutes, is amended to read:

21 943.032 Financial Crime Analysis Center and Financial
22 Transaction Database.--

23 (2) The department shall compile information and data
24 available from financial transaction reports required to be
25 submitted by state or federal law that are provided to the
26 Department of Financial Services ~~Banking and Finance~~, to the
27 Department of Revenue, or to which the department otherwise
28 has access. Information and data so received shall be utilized
29 by the department in the Financial Transaction Database. The
30 department shall implement a system utilizing the database
31 that allows data review and processing to reveal patterns,

1 trends, and correlations that are indicative of money
2 laundering or other financial transactions indicative of
3 criminal activity. The department shall, in consultation with
4 the Department of Financial Services ~~Banking and Finance~~ and
5 the Department of Revenue, establish the methods and
6 parameters by which information and data received by the
7 Department of Financial Services ~~Banking and Finance~~ or the
8 Department of Revenue are transferred to the department for
9 inclusion in the database. Information developed in or
10 through the use of the database shall be made available to law
11 enforcement agencies and prosecutors in this state in a manner
12 defined by the department and as allowed by state or federal
13 law or regulation. All information contained in the database
14 shall be considered "active criminal intelligence" or "active
15 criminal investigative information" as defined in s. 119.011.

16 Section 874. Subsections (3) and (4) of section
17 944.516, Florida Statutes, are amended to read:

18 944.516 Money or other property received for personal
19 use or benefit of inmate; deposit; disposition of unclaimed
20 trust funds.--The Department of Corrections shall protect the
21 financial interest of the state with respect to claims which
22 the state may have against inmates in state institutions under
23 its supervision and control and shall administer money and
24 other property received for the personal benefit of such
25 inmates. In carrying out the provisions of this section, the
26 department may delegate any of its enumerated powers and
27 duties affecting inmates of an institution to the warden or
28 regional director who shall personally, or through designated
29 employees of his or her personal staff under his or her direct
30 supervision, exercise such powers or perform such duties.

31

1 (3) Moneys received by the department in payment of
2 claims of the state against inmates shall be transmitted to
3 the Chief Financial Officer ~~Treasurer~~ for deposit into the
4 General Revenue Fund.

5 (4) Upon the death of any inmate in an institution
6 affected by the provisions of this section, any unclaimed
7 money held for the inmate in trust by the department or by the
8 Chief Financial Officer ~~Treasurer~~ shall be applied first to
9 the payment of any unpaid state claim against the inmate, and
10 any balance remaining unclaimed for a period of 1 year shall
11 escheat to the state as unclaimed funds held by fiduciaries.

12 Section 875. Section 946.33, Florida Statutes, is
13 amended to read:

14 946.33 Disbursements from fund.--The funds in the
15 Correctional Work Program Trust Fund shall be deposited in the
16 State Treasury and paid out only on warrants drawn by the
17 Chief Financial Officer ~~Comptroller~~, duly approved by the
18 Department of Corrections. The department shall maintain all
19 necessary records and accounts relative to such funds.

20 Section 876. Subsection (2) of section 946.509,
21 Florida Statutes, is amended to read:

22 946.509 Insurance of property leased or acquired by
23 the corporation.--

24 (2) Coverage under the State Risk Management Trust
25 Fund of property leased to or otherwise acquired by the
26 corporation shall be secured and maintained through the
27 existing policy and account of the Department of Corrections
28 with the Division of Risk Management of the Department of
29 Financial Services ~~Insurance~~. All matters, including premium
30 calculations, assessments and payments, retrospective premium
31 adjustments, reporting requirements, and other requirements,

1 concerning coverage of such property under the State Risk
2 Management Trust Fund shall be conducted as if all such
3 property were owned solely by the department. Except as
4 required by chapter 284, if the corporation finds that it is
5 more economical to do so, the corporation may secure private
6 insurance coverage on all or a portion of the activities of or
7 properties used by the corporation. If coverage through the
8 State Risk Management Trust Fund is not secured, the
9 corporation must present documentation of insurance coverage
10 to the Division of Risk Management equal to the coverage that
11 could otherwise be provided by the State Risk Management Trust
12 Fund.

13 Section 877. Section 946.510, Florida Statutes, is
14 amended to read:

15 946.510 Insurance by Division of Risk
16 Management.--Pursuant to the applicable provisions of chapter
17 284, the Division of Risk Management of the Department of
18 Financial Services ~~Insurance~~ is authorized to insure the
19 corporation under the same general terms and conditions as the
20 Department of Corrections was insured by the division prior to
21 the corporation leasing the correctional work programs as
22 authorized by this chapter.

23 Section 878. Section 946.517, Florida Statutes, is
24 amended to read:

25 946.517 Corporation records.--Corporation records are
26 public records; however, proprietary confidential business
27 information shall be confidential and exempt from the
28 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
29 Constitution. However, the Legislature, the Chief Financial
30 Officer ~~Comptroller~~, and the Governor, pursuant to their
31 oversight and auditing functions, shall have access to all

1 proprietary confidential business information upon request and
2 without subpoena and shall retain the confidentiality of
3 information so received. "Proprietary confidential business
4 information" means information regardless of form or
5 characteristics, that is owned or controlled by the
6 corporation; is intended to be and is treated by the
7 corporation as private and the disclosure of the information
8 would cause harm to the corporation's business operations; has
9 not been disclosed unless disclosed pursuant to a statutory
10 provision, an order of a court or administrative body, a
11 legislative proceeding pursuant to s. 5, Art. III of the State
12 Constitution, or a private agreement that provides that the
13 information may be released to the public; and, which is
14 information regarding:

15 (1) Internal auditing controls and reports of internal
16 auditors.

17 (2) Matters reasonably encompassed in privileged
18 attorney-client communications.

19 (3) Security measures, systems, or procedures.

20 (4) Information concerning bids or other contractual
21 data, banking records, and credit agreements, the disclosure
22 of which would impair the efforts of the corporation to
23 contract for goods or services on favorable terms.

24 (5) Information relating to private contractual data,
25 the disclosure of which would impair the competitive interest
26 of the provider of the information.

27 (6) Corporate officer, employee personnel, or inmate
28 worker information unrelated to compensation, duties,
29 qualifications, or responsibilities.

30 Section 879. Subsections (1) and (2) of section
31 946.522, Florida Statutes, are amended to read:

1 946.522 Prison Industries Trust Fund.--

2 (1) The Prison Industries Trust Fund is created, to be
3 administered by the Department of Financial Services ~~Banking~~
4 ~~and Finance~~. The trust fund shall consist of moneys authorized
5 to be deducted pursuant to 18 U.S.C. s. 1761(c) and the
6 applicable federal guidelines, to be appropriated by the
7 Legislature, and moneys deposited by the corporation
8 authorized under this part to manage and operate correctional
9 work programs. The appropriated funds shall be used by the
10 corporation for purposes of construction or renovation of its
11 facilities or for the expansion or establishment of
12 correctional work programs as described in this part or for
13 prison industries enhancement (PIE) programs as authorized
14 under s. 946.523.

15 (2) The funds must be deposited in the State Treasury
16 and may be paid out only on warrants drawn by the Chief
17 Financial Officer ~~Comptroller~~ upon receipt of a corporate
18 resolution that has been duly authorized by the board of
19 directors of the corporation authorized under this part to
20 manage and operate correctional work programs. The corporation
21 shall maintain all necessary records and accounts relative to
22 such funds.

23 Section 880. Paragraph (f) of subsection (3) of
24 section 946.525, Florida Statutes, is amended to read:

25 946.525 Participation by the corporation in the state
26 group health insurance and prescription drug programs.--

27 (3) If the Department of Management Services
28 determines that the corporation is eligible to enroll, the
29 corporation must agree to the following terms and conditions:

30 (f) If the corporation fails to make the payments
31 required by this section to fully reimburse the state, the

1 Department of Revenue or the Department of Financial Services
2 ~~Banking and Finance~~ shall, upon the request of the Department
3 of Management Services, deduct the amount owed by the employer
4 from any funds to be distributed by it to the corporation. The
5 amounts so deducted shall be transferred to the Department of
6 Management Services for further distribution to the trust
7 funds in accordance with this chapter.

8 Section 881. Subsection (1) of section 947.12, Florida
9 Statutes, is amended to read:

10 947.12 Members, employees, expenses.--

11 (1) The members of the commission and its employees
12 shall be reimbursed for travel expenses as provided in s.
13 112.061. All bills for expenses shall be properly receipted,
14 audited, and approved and forwarded to the Chief Financial
15 Officer ~~Comptroller~~ and shall be paid in a manner and form as
16 the bills for the expenses of the several departments of the
17 state government are paid. All expenses, including salaries
18 and other compensation, shall be paid from the General Revenue
19 Fund and within the appropriation as fixed therefor by the
20 Legislature. Such expenses shall be paid by the Chief
21 Financial Officer ~~Treasurer~~ upon proper warrants ~~issued by the~~
22 ~~Comptroller of the state~~, drawn upon vouchers and requisitions
23 approved by the commission, ~~and signed by the Comptroller.~~

24 Section 882. Subsection (8) of section 950.002,
25 Florida Statutes, is amended to read:

26 950.002 County work camps.--

27 (8) Pursuant to the applicable provisions of chapter
28 284, the Division of Risk Management of the Department of
29 Financial Services ~~Insurance~~ is authorized to insure any
30 county work camp facility established pursuant to this act
31 under the same general terms and conditions as the Department

1 of Corrections is insured by the division for any of its
2 comparable work camps.

3 Section 883. Paragraph (b) of subsection (1) of
4 section 957.04, Florida Statutes, is amended to read:

5 957.04 Contract requirements.--

6 (1) A contract entered into under this chapter for the
7 operation of private correctional facilities shall maximize
8 the cost savings of such facilities and shall:

9 (b) Indemnify the state and the department, including
10 their officials and agents, against any and all liability,
11 including, but not limited to, civil rights liability. Proof
12 of satisfactory insurance is required in an amount to be
13 determined by the commission, following consultation with the
14 Division of Risk Management of the Department of Financial
15 Services Insurance. Not less than 30 days prior to the
16 release of each request for proposals by the commission, the
17 commission shall request the written recommendation of the
18 division regarding indemnification of the state and the
19 department under this paragraph. Within 15 days after such
20 request, the division shall provide a written recommendation
21 to the commission regarding the amount and manner of such
22 indemnification. The commission shall adopt the division's
23 recommendation unless, based on substantial competent
24 evidence, the commission determines a different amount and
25 manner of indemnification is sufficient.

26 Section 884. Paragraph (a) of subsection (6) and
27 subsection (8) of section 985.406, Florida Statutes, are
28 amended to read:

29 985.406 Juvenile justice training academies
30 established; Juvenile Justice Standards and Training

31

1 Commission created; Juvenile Justice Training Trust Fund
2 created.--

3 (6) SCHOLARSHIPS AND STIPENDS.--

4 (a) By rule, the commission shall establish criteria
5 to award scholarships or stipends to qualified juvenile
6 justice personnel who are residents of the state who want to
7 pursue a bachelor's or associate in arts degree in juvenile
8 justice or a related field. The department shall handle the
9 administration of the scholarship or stipend. The Department
10 of Education shall handle the notes issued for the payment of
11 the scholarships or stipends. All scholarship and stipend
12 awards shall be paid from the Juvenile Justice Training Trust
13 Fund upon vouchers approved by the Department of Education and
14 properly certified by the Chief Financial Officer ~~Comptroller~~.
15 Prior to the award of a scholarship or stipend, the juvenile
16 justice employee must agree in writing to practice her or his
17 profession in juvenile justice or a related field for 1 month
18 for each month of grant or to repay the full amount of the
19 scholarship or stipend together with interest at the rate of 5
20 percent per annum over a period not to exceed 10 years.
21 Repayment shall be made payable to the state for deposit into
22 the Juvenile Justice Training Trust Fund.

23 (8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE
24 RISK MANAGEMENT TRUST FUND.--Pursuant to s. 284.30, the
25 Division of Risk Management of the Department of Financial
26 Services ~~Insurance~~ is authorized to insure a private agency,
27 individual, or corporation operating a state-owned training
28 school under a contract to carry out the purposes and
29 responsibilities of any program of the department. The
30 coverage authorized herein shall be under the same general

31

1 terms and conditions as the department is insured for its
2 responsibilities under chapter 284.

3 Section 885. Section 985.409, Florida Statutes, is
4 amended to read:

5 985.409 Participation of certain programs in the State
6 Risk Management Trust Fund.--Pursuant to s. 284.30, the
7 Division of Risk Management of the Department of Financial
8 Services ~~Insurance~~ is authorized to insure a private agency,
9 individual, or corporation operating a state-owned training
10 school under a contract to carry out the purposes and
11 responsibilities of any program of the department. The
12 coverage authorized herein shall be under the same general
13 terms and conditions as the department is insured for its
14 responsibilities under chapter 284.

15 Section 886. Sections 18.03, 18.07, 18.08, 18.09,
16 18.091, 18.22, and 657.067, Florida Statutes, are repealed.

17 Section 887. Except as otherwise expressly provided in
18 this act, this act shall take effect January 7, 2003.

19

20 *****

21 SENATE SUMMARY

22 Establishes the office of Chief Financial Officer.
23 Creates the Department of Financial Services and
24 subdivisions of that department and transfers to it the
25 Department of Banking and Finance and the Department of
26 Insurance. Provides for the appointment, powers, and
27 duties of the directors of the Division of Financial
28 Institutions, the Division of Securities, and the
29 Division of Insurer Services. Redesignates the regulatory
30 trust funds of the respective departments.

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