

By the Committee on Banking and Insurance; and Senators  
Latvala and Geller

311-1753-02

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 Deferred Compensation Program  
12          from the Department of Insurance to the  
13          Department of Management Services; transferring  
14          the Division of Workers' Compensation from the  
15          Department of Labor and Employment Security to  
16          the Department of Financial Services; providing  
17          that this act shall not affect the validity of  
18          certain judicial and administrative actions;  
19          transferring the Department of Banking and  
20          Finance and the Department of Insurance to the  
21          Department of Financial Services; repealing s.  
22          20.12, F.S.; abolishing the Department of  
23          Banking and Finance; providing that existing  
24          agency contracts continue to be binding with  
25          the successor department or agency; repealing  
26          s. 20.13, F.S.; abolishing the Department of  
27          Insurance; redesignating the Insurance  
28          Commissioner's Regulatory Trust Fund the  
29          Insurance Regulatory Trust Fund; redesignating  
30          the Department of Banking and Finance  
31          Regulatory Trust Fund the Banking and Finance

1           Regulatory Trust Fund; repealing s.  
2           20.171(5)(b), F.S., relating to the Division of  
3           Workers' Compensation in the Department of  
4           Labor and Employment Security; amending and  
5           transferring ss. 18.01, 18.02, 18.021, 18.05,  
6           18.06, 18.08, 18.10, 18.101, 18.103, 18.104,  
7           18.125, 18.15, 18.17, 18.20, 18.23, 18.24,  
8           F.S., and amending ss. 11.12, 11.13, 11.147,  
9           11.151, 11.40, 11.42, 13.05, 14.055, 14.057,  
10          14.058, 14.202, 14.203, 14.24, 15.09, 16.10,  
11          17.011, 17.02, 17.03, 17.031, 17.04, 17.0401,  
12          17.041, 17.0415, 17.05, 17.06, 17.075, 17.076,  
13          17.08, 17.09, 17.10, 17.11, 17.12, 17.13,  
14          17.14, 17.16, 17.17, 17.20, 17.21, 17.22,  
15          17.25, 17.26, 17.27, 17.28, 17.29, 17.30,  
16          17.32, 17.325, 17.41, 17.43, 20.04, 20.055,  
17          20.195, 20.425, 20.435, 24.105, 24.111, 24.112,  
18          24.120, 25.241, 26.39, 27.08, 27.10, 27.11,  
19          27.12, 27.13, 27.34, 27.3455, 27.703, 27.710,  
20          27.711, 28.235, 28.24, 30.52, 40.30, 40.31,  
21          40.33, 40.34, 40.35, 43.16, 43.19, 48.151,  
22          55.03, 57.091, 68.083, 68.084, 68.087, 68.092,  
23          77.0305, 92.39, 99.097, 101.151, 103.091,  
24          107.11, 110.1127, 110.113, 110.114, 110.116,  
25          110.1227, 110.1228, 110.123, 110.125, 110.181,  
26          110.2037, 110.205, 112.061, 112.08, 112.191,  
27          112.215, 112.3144, 112.3145, 112.3189,  
28          112.31895, 112.3215, 112.63, 114.03, 116.03,  
29          116.04, 116.05, 116.06, 116.14, 120.52, 120.80,  
30          121.0312, 121.055, 121.061, 121.133, 121.4501,  
31          125.0104, 129.201, 131.05, 137.09, 145.141,

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2 154.314, 163.01, 163.05, 163.055, 163.3167,  
3 175.101, 175.121, 175.151, 185.08, 185.10,  
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5 191.006, 192.091, 192.102, 193.092, 195.101,  
6 198.29, 199.232, 203.01, 206.46, 210.16,  
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12 215.321, 215.322, 215.34, 215.35, 215.405,  
13 215.42, 215.422, 215.44, 215.50, 215.551,  
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23 229.05371, 229.111, 229.781, 231.261, 231.30,  
24 231.545, 233.063, 233.07, 233.15, 233.16,  
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26 237.211, 238.11, 238.15, 238.172, 238.173,  
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29 253.02, 253.025, 255.03, 255.052, 255.258,  
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31 259.041, 265.53, 265.55, 267.075, 272.18,

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12 288.709, 288.712, 288.776, 288.778, 288.99,  
13 289.051, 289.081, 289.121, 292.085, 313.02,  
14 314.02, 316.3025, 316.545, 320.02, 320.081,  
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16 324.171, 326.006, 331.303, 331.309, 331.3101,  
17 331.348, 331.419, 336.022, 337.25, 339.035,  
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23 377.705, 378.035, 378.037, 378.208, 381.765,  
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25 392.69, 393.002, 393.075, 394.482, 400.0238,  
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28 402.33, 403.1835, 403.1837, 403.706, 403.724,  
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31 409.25656, 409.25658, 409.2673, 409.8132,

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9 443.211, 447.12, 450.155, 456.047, 468.392,  
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8 625.53, 625.83, 626.266, 626.2815, 626.322,  
9 626.592, 626.742, 626.7492, 626.8427, 626.8463,  
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13 626.9543, 626.989, 626.9892, 626.9911,  
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16 627.092, 627.096, 627.221, 627.311, 627.351,  
17 627.413, 627.4236, 627.6472, 627.6482,  
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19 627.727, 627.728, 627.736, 627.849, 627.912,  
20 627.9122, 627.919, 627.94074, 627.944, 627.948,  
21 628.461, 628.4615, 629.401, 631.001, 631.221,  
22 631.392, 631.54, 631.57, 631.59, 631.714,  
23 631.72, 631.723, 631.813, 631.814, 631.904,  
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25 633.01, 633.022, 633.025, 633.052, 633.061,  
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29 633.524, 634.011, 634.137, 634.151, 634.161,  
30 634.221, 634.301, 634.313, 634.324, 634.327,  
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1 634.433, 635.011, 635.041, 636.003, 636.043,  
2 636.047, 636.052, 641.185, 641.19, 641.23,  
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4 641.412, 641.454, 641.455, 641.48, 641.49,  
5 641.511, 641.52, 641.55, 641.58, 642.015,  
6 642.0475, 648.25, 648.26, 648.34, 648.355,  
7 648.37, 648.386, 648.442, 650.06, 651.011,  
8 651.015, 651.0235, 651.035, 651.121, 651.125,  
9 655.001, 655.005, 655.057, 655.90, 657.002,  
10 657.253, 658.23, 658.295, 658.2953, 658.83,  
11 660.27, 660.28, 687.13, 687.14, 697.202,  
12 697.205, 697.206, 713.596, 716.02, 716.03,  
13 716.04, 716.05, 716.06, 716.07, 717.101,  
14 717.135, 717.138, 718.501, 719.501, 721.24,  
15 721.26, 723.006, 732.107, 733.816, 744.534,  
16 766.105, 766.1115, 766.314, 766.315, 768.28,  
17 790.001, 790.1612, 791.01, 791.015, 817.16,  
18 817.234, 839.06, 849.086, 849.33, 860.154,  
19 860.157, 896.102, 903.101, 903.27, 925.037,  
20 932.7055, 932.707, 938.27, 939.13, 943.031,  
21 943.032, 944.516, 946.33, 946.509, 946.510,  
22 946.517, 946.522, 946.525, 947.12, 950.002,  
23 957.04, 985.406, 985.409, F.S., to conform;  
24 repealing s. 18.03, F.S., relating to the  
25 residence and office of the Treasurer, s.  
26 18.07, F.S., relating to records of warrants  
27 and state funds and securities, s. 18.09, F.S.,  
28 relating to a report to the Legislature, s.  
29 18.091, F.S., relating to employees for  
30 legislative sessions; s. 18.22, F.S., relating  
31 to rules, s. 657.067, F.S., relating to

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

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 17.001, Florida Statutes, is  
7 created to read:

8 17.001 Financial Officer.--As provided in s. 4(c),  
9 Art. IV of the State Constitution, the Chief Financial Officer  
10 is the chief fiscal officer of the state and is responsible  
11 for settling and approving accounts against the state and  
12 keeping all state funds and securities.

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

15 20.121 Department of Financial Services.--There is  
16 created a Department of Financial Services.

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

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

21 (a) Division of Treasury.

22 (b) Division of Consumer Services.

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

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

31 1. Bureau of Banking; and



1           2. Bureau of Credit Unions.  
2  
3 Division responsibilities include licensure, examination, and  
4 regulation of state-chartered financial institutions, as  
5 provided in chapters 655, 657, 658, 660, 663, 665, and 667.  
6           (e) Division of Risk Management.  
7           (f) Division of State Fire Marshal.  
8           (g) Division of Insurance Fraud.  
9           (h) Division of Rehabilitation and Liquidation.  
10           (i) Division of Securities and Finance. Division  
11 responsibilities include enforcing chapter 517, the Florida  
12 Securities and Investor Protection Act; chapter 494, relating  
13 to mortgage brokerage and mortgage lending; chapter 516, the  
14 Consumer Finance Act; chapter 520, relating to retail  
15 installment sales; those sections in chapter 559 relating to  
16 collection agencies; chapter 560, the Money Transmitters'  
17 Code; those portions of chapter 497 related to the  
18 department's responsibilities with respect to cemeteries and  
19 preneed services; and certifying and reviewing certified  
20 capital companies, as provided in s. 288.99.  
21           (j) Division of Information Systems.  
22           (k) Division of Legal Services.  
23           (l) Division of Financial Investigations.  
24           (m) Division of Accounting and Auditing.  
25           (n) Division of Insurance Agent and Agency Services.  
26           (o) Division of Administration.  
27           (p) The Division of Workers' Compensation.  
28           (3) The Division of Financial Institutions, the  
29 Division of Securities and Finance, and the Division of  
30 Insurer Services shall each be headed by a "director." The  
31 directors of these divisions shall act as agency head for

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

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

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

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

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

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

5           Section 7. Any binding contract or interagency  
6 agreement existing on or before January 7, 2003, between the  
7 Department of Insurance, the Department of Banking and  
8 Finance, or the Department of Labor and Employment Security,  
9 or an entity or agent of such departments, and any other  
10 agency, entity, or person shall continue as a binding contract  
11 or agreement for the remainder of the term of the contract or  
12 agreement with the successor department, agency or entity  
13 responsible for the program, activity, or functions relative  
14 to the contract or agreement.

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

18           Section 9. Section 11.12, Florida Statutes, is amended  
19 to read:

20           11.12 Salary, subsistence, and mileage of members and  
21 employees; expenses authorized by resolution; appropriation;  
22 preaudit ~~by Comptroller.~~--

23           (1) The Chief Financial Officer ~~Treasurer~~ is  
24 authorized to pay the salary, subsistence, and mileage of the  
25 members of the Legislature, as the same shall be authorized  
26 ~~from time to time by law, upon receipt of a warrant therefor~~  
27 ~~of the Comptroller for the stated amount.~~ The Chief Financial  
28 Officer ~~Treasurer~~ is authorized to pay the compensation of  
29 employees of the Legislature, together with reimbursement for  
30 their authorized travel as provided in s. 112.061, and such  
31 expense of the Legislature as shall be authorized by law, a

1 concurrent resolution, a resolution of either house, or rules  
2 adopted by the respective houses, provided the total amount  
3 appropriated to the legislative branch shall not be altered,  
4 upon receipt of such warrant therefor. The number, duties, and  
5 compensation of the employees of the respective houses and of  
6 their committees shall be determined as provided by the rules  
7 of the respective house or in this chapter. Each legislator  
8 may designate no more than two employees to attend sessions of  
9 the Legislature, and those employees who change their places  
10 of residence in order to attend the session shall be paid  
11 subsistence at a rate to be established by the President of  
12 the Senate for Senate employees and the Speaker of the House  
13 of Representatives for House employees. Such employees, in  
14 addition to subsistence, shall be paid transportation expenses  
15 in accordance with s. 112.061(7) and (8) for actual  
16 transportation between their homes and the seat of government  
17 in order to attend the legislative session and return home, as  
18 well as for two round trips during the course of any regular  
19 session of the Legislature.

20 (2) All vouchers covering legislative expenses shall  
21 be preaudited by the Chief Financial Officer ~~Comptroller~~, and,  
22 if found to be correct, state warrants shall be issued  
23 therefor.

24 Section 10. Paragraph (c) of subsection (5) of section  
25 11.13, Florida Statutes, is amended to read:

26 11.13 Compensation of members.--

27 (5)

28 (c) The Office of Legislative Services shall submit on  
29 forms prescribed by the Chief Financial Officer ~~Comptroller~~  
30 requested allotments of appropriations for the fiscal year. It  
31 shall be the duty of the Chief Financial Officer ~~Comptroller~~

1 to release the funds and authorize the expenditures for the  
2 legislative branch to be made from the appropriations on the  
3 basis of the requested allotments. However, the aggregate of  
4 such allotments shall not exceed the total appropriations  
5 available for the fiscal year.

6 Section 11. Subsection (4) of section 11.147, Florida  
7 Statutes, is amended to read:

8 11.147 Office of Legislative Services.--

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

13 Section 12. Section 11.151, Florida Statutes, is  
14 amended to read:

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

31

1           Section 13. Subsection (5) of section 11.40, Florida  
2 Statutes, is amended to read:

3           11.40 Legislative Auditing Committee.--

4           (5) Following notification by the Auditor General, the  
5 Department of Financial Services ~~Banking and Finance~~, or the  
6 Division of Bond Finance of the State Board of Administration  
7 of the failure of a local governmental entity, district school  
8 board, charter school, or charter technical career center to  
9 comply with the applicable provisions within s. 11.45(5)-(7),  
10 s. 218.32(1), or s. 218.38, the Legislative Auditing Committee  
11 may schedule a hearing. If a hearing is scheduled, the  
12 committee shall determine if the entity should be subject to  
13 further state action. If the committee determines that the  
14 entity should be subject to further state action, the  
15 committee shall:

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

29           (b) In the case of a special district, notify the  
30 Department of Community Affairs that the special district has  
31 failed to comply with the law. Upon receipt of notification,

1 the Department of Community Affairs shall proceed pursuant to  
2 the provisions specified in ss. 189.421 and 189.422.

3 (c) In the case of a charter school or charter  
4 technical career center, notify the appropriate sponsoring  
5 entity, which may terminate the charter pursuant to ss.  
6 228.056 and 228.505.

7 Section 14. Paragraph (b) of subsection (6) of section  
8 11.42, Florida Statutes, is amended to read:

9 11.42 The Auditor General.--

10 (6)

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

15 Section 15. Subsection (1) of section 13.05, Florida  
16 Statutes, is amended to read:

17 13.05 Governor's Committee on Interstate  
18 Cooperation.--

19 (1) There is ~~hereby~~ established a committee of  
20 administrative officials of this state to be officially known  
21 as the Governor's Committee on Interstate Cooperation, and to  
22 consist of six ~~seven~~ members. Its members shall be the  
23 Governor, Secretary of State, Attorney General, Chief  
24 Financial Officer ~~Comptroller, Treasurer~~, Commissioner of  
25 Education, and Commissioner of Agriculture. Any member of the  
26 Governor's committee may designate an alternate to serve in  
27 the member's place upon any occasion; such alternate shall be  
28 an administrative official or employee of the state.

29 Section 16. Section 14.055, Florida Statutes, is  
30 amended to read:

31

1           14.055 Succession to office of Governor.--Upon vacancy  
2 in the office of Governor, the Lieutenant Governor shall  
3 become Governor. Upon vacancy in the office of Governor and  
4 in the office of Lieutenant Governor, the ~~Secretary of State~~  
5 ~~shall become Governor; or if the office of Secretary of State~~  
6 ~~be vacant, then the Attorney General shall become Governor; or~~  
7 ~~if the office of Attorney General be vacant, then the Chief~~  
8 ~~Financial Officer ~~Comptroller~~ shall become Governor; or if the~~  
9 ~~office of Comptroller be vacant, then the Treasurer shall~~  
10 ~~become Governor; or if the office of Treasurer be vacant, then~~  
11 ~~the Commissioner of Education shall become Governor; or if the~~  
12 office of Chief Financial Officer ~~Commissioner of Education~~ be  
13 vacant, then the Commissioner of Agriculture shall become  
14 Governor. A successor under this section shall serve for the  
15 remainder of the term and shall receive all the rights,  
16 privileges and emoluments of the Governor. In case a vacancy  
17 shall occur in the office of Governor and provision is not  
18 made herein for filling such vacancy, then the Speaker of the  
19 House and the President of the Senate shall convene the  
20 Legislature by joint proclamation within 15 days for the  
21 purpose of choosing a person to serve as Governor for the  
22 remainder of the term. A successor shall be elected by a  
23 majority vote in a joint session of both houses.

24           Section 17. Subsection (1) of section 14.057, Florida  
25 Statutes, is amended to read:

26           14.057 Governor-elect; establishment of operating  
27 fund.--

28           (1) There is established an operating fund for the use  
29 of the Governor-elect during the period dating from the  
30 certification of his or her election by the Elections  
31 Canvassing Commission to his or her inauguration as Governor.



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

18 Section 18. Section 14.058, Florida Statutes, is  
19 amended to read:

20 14.058 Inauguration expense fund.--There is  
21 established an inauguration expense fund for the use of the  
22 Governor-elect in planning and conducting the inauguration  
23 ceremonies. The Governor-elect shall appoint an inauguration  
24 coordinator and such staff as necessary to plan and conduct  
25 the inauguration. Salaries for the inauguration coordinator  
26 and the inauguration coordinator's staff shall be determined  
27 by the Governor-elect and shall be paid from the inauguration  
28 expense fund. The Executive Office of the Governor shall  
29 supply to the inauguration coordinator suitable forms to  
30 provide for the expenditure of the fund and suitable forms to  
31 provide for the reporting of all expenditures therefrom. The

1 Chief Financial Officer ~~Comptroller~~ shall release moneys from  
2 this fund upon the request of the inauguration coordinator  
3 properly filed.

4 Section 19. Section 14.202, Florida Statutes, is  
5 amended to read:

6 14.202 Administration Commission.--There is created as  
7 part of the Executive Office of the Governor an Administration  
8 Commission composed of the Governor and Cabinet. The Governor  
9 is chair of the commission. The Governor or Chief Financial  
10 Officer ~~Comptroller~~ may call a meeting of the commission  
11 promptly each time the need therefor arises. Unless otherwise  
12 provided herein, affirmative action by the commission shall  
13 require the approval of the Governor and at least two ~~three~~  
14 other members of the commission. The commission shall adopt  
15 rules pursuant to ss. 120.536(1) and 120.54 to implement  
16 provisions of law conferring duties upon it.

17 Section 20. Paragraph (f) of subsection (3) of section  
18 14.203, Florida Statutes, is amended to read:

19 14.203 State Council on Competitive Government.--It is  
20 the policy of this state that all state services be performed  
21 in the most effective and efficient manner in order to provide  
22 the best value to the citizens of the state. The state also  
23 recognizes that competition among service providers may  
24 improve the quality of services provided, and that  
25 competition, innovation, and creativity among service  
26 providers should be encouraged.

27 (3) In performing its duties under this section, the  
28 council may:

29 (f) Require that an identified state service be  
30 submitted to competitive bidding or another process that  
31 creates competition with private sources or other governmental

1 entities. In determining whether an identified state service  
2 should be submitted to competitive bidding, the council shall  
3 consider, at a minimum:

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

6 2. The cost of supervising the work of any private  
7 contractor.

8 3. The total cost to the state agency of such state  
9 agency's performance of a service, including all indirect  
10 costs related to that state agency and costs of such agencies  
11 as the Chief Financial Officer ~~Comptroller, the Treasurer,~~ the  
12 Attorney General, and other such support agencies to the  
13 extent such costs would not be incurred if a contract is  
14 awarded. Costs for the current provision of the service shall  
15 be considered only when such costs would actually be saved if  
16 the contract were awarded to another entity.

17 Section 21. Subsection (1) of section 14.24, Florida  
18 Statutes, is amended to read:

19 14.24 Florida Commission on the Status of Women.--

20 (1) There is established in the Office of the Attorney  
21 General the Florida Commission on the Status of Women,  
22 consisting of 20 ~~22~~ members. The Speaker of the House of  
23 Representatives, the President of the Senate, the Attorney  
24 General, and the Governor shall each appoint three members and  
25 the Chief Financial Officer, ~~Insurance Commissioner, the~~  
26 ~~Comptroller,~~ the Secretary of State, the Commissioner of  
27 Agriculture, and the Commissioner of Education shall each  
28 appoint two members, for a term of 4 years, ~~except that of the~~  
29 ~~initial appointments, one-half shall be for a 2-year term and~~  
30 ~~one-half shall be for a 4-year term.~~ On January 7, 2003, the  
31 term of office of each member appointed by the Insurance

1 Commissioner and the Comptroller expires; and the Chief  
2 Financial Officer shall reappoint one of the members who was  
3 serving on January 6, 2003, and who was appointed by the  
4 Insurance Commissioner and one of such members who was  
5 appointed by the Comptroller. If possible, the reappointments  
6 shall be made so that the terms of the Chief Financial  
7 Officer's appointees remain staggered, but if both  
8 reappointees were serving terms of the same length, the  
9 reappointment shall be made so that the staggering of terms is  
10 maintained.The members appointed shall include persons who  
11 represent rural and urban interests and the ethnic and  
12 cultural diversity of the state's population. No member shall  
13 serve more than 8 consecutive years on the commission. A  
14 vacancy shall be filled for the remainder of the unexpired  
15 term in the same manner as the original appointment.

16 Section 22. Subsection (3) of section 15.09, Florida  
17 Statutes, is amended to read:

18 15.09 Fees.--

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

23 Section 23. Section 16.10, Florida Statutes, is  
24 amended to read:

25 16.10 Receipt of Supreme Court reports for  
26 office.--The Clerk of the Supreme Court shall deliver to the  
27 Attorney General a copy of each volume, or part of volume, of  
28 the decisions of the Supreme Court, which may be in the care  
29 or custody of said clerk, and which the Attorney General's  
30 office may be without, and take the Attorney General's receipt  
31 for the same. The Attorney General shall keep the same in her

1 or his office at the capitol, and each retiring Attorney  
2 General shall take the receipt of her or his successor for the  
3 same and file such receipt in the Chief Financial Officer's  
4 ~~Treasurer's~~ office; provided that this shall not authorize the  
5 taking away of any book belonging to the Supreme Court  
6 library, kept for the use of said court.

7 Section 24. Section 17.011, Florida Statutes, is  
8 amended to read:

9 17.011 Assistant Chief Financial Officer  
10 ~~comptroller~~.--The Chief Financial Officer ~~Comptroller~~ of the  
11 state may appoint an assistant ~~comptroller~~ to hold office  
12 during the pleasure of the Chief Financial Officer  
13 ~~Comptroller~~.

14 Section 25. Section 17.02, Florida Statutes, is  
15 amended to read:

16 17.02 Place of residence and office.--The Chief  
17 Financial Officer ~~Comptroller~~ shall reside at the seat of  
18 government of this state, and shall hold office in a room in  
19 the capitol. Such office must be open every day, holidays and  
20 public festivals excepted, from 8 a.m. to 5 p.m. Monday  
21 through Friday of every week.

22 Section 26. Section 17.03, Florida Statutes, is  
23 amended to read:

24 17.03 To audit claims against the state.--

25 (1) The Chief Financial Officer ~~Comptroller~~ of this  
26 state, using generally accepted auditing procedures for  
27 testing or sampling, shall examine, audit, and settle all  
28 accounts, claims, and demands, whatsoever, against the state,  
29 arising under any law or resolution of the Legislature, and  
30 issue a warrant ~~to the Treasurer~~ directing the payment

31

1 ~~Treasurer to pay~~ out of the State Treasury such amount as he  
2 or she allows ~~shall be allowed by the Comptroller~~ thereon.

3 (2) The Chief Financial Officer ~~Comptroller~~ may  
4 establish dollar thresholds applicable to each invoice amount  
5 and other criteria for testing or sampling invoices on a  
6 preaudit and postaudit basis. The Chief Financial Officer  
7 ~~Comptroller~~ may revise such thresholds and other criteria for  
8 an agency or the unit of any agency as he or she deems  
9 appropriate.

10 (3) The Chief Financial Officer ~~Comptroller~~ may adopt  
11 and disseminate to the agencies procedural and documentation  
12 standards for payment requests and may provide training and  
13 technical assistance to the agencies for these standards.

14 (4) The Chief Financial Officer ~~Comptroller~~ shall have  
15 the legal duty of delivering all state warrants and shall be  
16 charged with the official responsibility of the protection and  
17 security of the state warrants while in his or her custody.  
18 The Chief Financial Officer ~~Comptroller~~ may delegate this  
19 authority to other state agencies or officers.

20 Section 27. Section 17.031, Florida Statutes, is  
21 amended to read:

22 17.031 Security of Chief Financial Officer's  
23 ~~Comptroller's~~ office.--The Chief Financial Officer may  
24 ~~Comptroller is authorized to~~ engage the full-time services of  
25 two law enforcement officers, with power of arrest, to prevent  
26 all acts of a criminal nature directed at the property in the  
27 custody or control of the Chief Financial Officer ~~Comptroller~~.  
28 While so assigned, such ~~said~~ officers shall be under the  
29 direction and supervision of the Chief Financial Officer  
30 ~~Comptroller~~, and their salaries and expenses shall be paid

31

1 from the general fund of the office of Chief Financial Officer  
2 ~~Comptroller~~.

3 Section 28. Section 17.04, Florida Statutes, is  
4 amended to read:

5 17.04 To audit and adjust accounts of officers and  
6 those indebted to the state.--The Chief Financial Officer  
7 ~~Department of Banking and Finance of this state~~, using  
8 generally accepted auditing procedures for testing or  
9 sampling, shall examine, audit, adjust, and settle the  
10 accounts of all the officers of this state, and any other  
11 person in anywise entrusted with, or who may have received any  
12 property, funds, or moneys of this state, or who may be in  
13 anywise indebted or accountable to this state for any  
14 property, funds, or moneys, and require such officer or  
15 persons to render full accounts thereof, and to yield up such  
16 property or funds according to law, or pay such moneys into  
17 the treasury of this state, or to such officer or agent of the  
18 state as may be appointed to receive the same, and on failure  
19 so to do, to cause to be instituted and prosecuted  
20 proceedings, criminal or civil, at law or in equity, against  
21 such persons, according to law. The Division of Financial  
22 Investigations may conduct investigations within or outside of  
23 this state as it deems necessary to aid in the enforcement of  
24 this section. If during an investigation the division has  
25 reason to believe that any criminal statute of this state has  
26 or may have been violated, the division shall refer any  
27 records tending to show such violation to state or federal law  
28 enforcement or prosecutorial agencies and shall provide  
29 investigative assistance to those agencies as required.

30 Section 29. Section 17.0401, Florida Statutes, is  
31 amended to read:

1           17.0401 Confidentiality of information relating to  
2 financial investigations.--Except as otherwise provided by  
3 this section, information relative to an investigation  
4 conducted by the Division of Financial Investigations pursuant  
5 to s. 17.04, including any consumer complaint, is confidential  
6 and exempt from the provisions of s. 119.07(1) and s. 24(a),  
7 Art. I of the State Constitution until the investigation is  
8 completed or ceases to be active. Any information relating to  
9 an investigation conducted by the division pursuant to s.  
10 17.04 shall remain confidential and exempt from the provisions  
11 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
12 after the division's investigation is completed or ceases to  
13 be active if the division submits the information to any law  
14 enforcement or prosecutorial agency for further investigation.  
15 Such information shall remain confidential and exempt from the  
16 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
17 Constitution until that agency's investigation is completed or  
18 ceases to be active. For purposes of this section, an  
19 investigation shall be considered "active" so long as the  
20 division or any law enforcement or prosecutorial agency is  
21 proceeding with reasonable dispatch and has a reasonable good  
22 faith belief that the investigation may lead to the filing of  
23 an administrative, civil, or criminal proceeding. This  
24 section shall not be construed to prohibit disclosure of  
25 information that ~~which~~ is required by law to be filed with the  
26 Department of Financial Services ~~Banking and Finance~~ and that  
27 ~~which~~, but for the investigation, would otherwise be subject  
28 to public disclosure. Nothing in this section shall be  
29 construed to prohibit the division from providing information  
30 to any law enforcement or prosecutorial agency. Any law  
31 enforcement or prosecutorial agency receiving confidential



1 information from the division in connection with its official  
2 duties shall maintain the confidentiality of the information  
3 as provided for in this section.

4 Section 30. Subsections (1), (4), and (5) of section  
5 17.041, Florida Statutes, are amended to read:

6 17.041 County and district accounts and claims.--

7 (1) It shall be the duty of the Chief Financial  
8 Officer ~~Department of Banking and Finance of this state~~ to  
9 adjust and settle, or cause to be adjusted and settled, all  
10 accounts and claims heretofore or hereafter reported to it by  
11 the Auditor General, the appropriate county or district  
12 official, or any person against all county and district  
13 officers and employees, and against all other persons  
14 entrusted with, or who may have received, any property, funds,  
15 or moneys of a county or district or who may be in anywise  
16 indebted to or accountable to a county or district for any  
17 property, funds, moneys, or other thing of value, and to  
18 require such officer, employee, or person to render full  
19 accounts thereof and to yield up such property, funds, moneys,  
20 or other thing of value according to law to the officer or  
21 authority entitled by law to receive the same.

22 (4) Should it appear to the Chief Financial Officer  
23 ~~department~~ that any criminal statute of this state has or may  
24 have been violated by such defaulting officer, employee, or  
25 person, such information, evidence, documents, and other  
26 things tending to show such a violation, whether in the hands  
27 of the Chief Financial Officer ~~Comptroller~~, the Auditor  
28 General, the county, or the district, shall be forthwith  
29 turned over to the proper state attorney for inspection,  
30 study, and such action as may be deemed proper, or the same  
31 may be brought to the attention of the proper grand jury.

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

15           Section 31. Section 17.0415, Florida Statutes, is  
16 amended to read:

17           17.0415 Transfer and assignment of claims.--In order  
18 to facilitate their collection from third parties, the Chief  
19 Financial Officer ~~Comptroller~~ may authorize the assignment of  
20 claims among the state, its agencies, and its subdivisions,  
21 whether arising from criminal, civil, or other judgments in  
22 state or federal court. The state, its agencies, and its  
23 subdivisions, may assign claims under such terms as are  
24 mutually acceptable to the Chief Financial Officer ~~Comptroller~~  
25 and the assignee and assignor. The assigned claim may be  
26 enforced as a setoff to any claim against the state, its  
27 agencies, or its subdivisions, by garnishment or in the same  
28 manner as a judgment in a civil action. Claims against the  
29 state, its agencies, and its subdivisions resulting from the  
30 condemnation of property protected by the provisions of s. 4,  
31

1 Art. X of the State Constitution are not subject to setoff  
2 pursuant to this section.

3 Section 32. Section 17.05, Florida Statutes, is  
4 amended to read:

5 17.05 Subpoenas; sworn statements; enforcement  
6 proceedings.--

7 (1) The Chief Financial Officer ~~Comptroller~~ may demand  
8 and require full answers on oath from any and every person,  
9 party or privy to any account, claim, or demand against or by  
10 the state, such as it may be the Chief Financial Officer's  
11 ~~Comptroller's~~ official duty to examine into, and which answers  
12 the Chief Financial Officer ~~Comptroller~~ may require to be in  
13 writing and to be sworn to before the Chief Financial Officer  
14 ~~Comptroller~~ or the department or before any judicial officer  
15 or clerk of any court of the state so as to enable the Chief  
16 Financial Officer ~~Comptroller~~ to determine the justice or  
17 legality of such account, claim, or demand.

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

21 (a) Issue subpoenas, administer oaths, and examine  
22 witnesses.

23 (b) Require or permit a person to file a statement in  
24 writing, under oath or otherwise as the Chief Financial  
25 Officer ~~Comptroller~~ or his or her designee requires, as to all  
26 the facts and circumstances concerning the matter to be  
27 audited, examined, or investigated.

28 (3) Subpoenas shall be issued by the Chief Financial  
29 Officer ~~Comptroller~~ or his or her designee under seal  
30 commanding such witnesses to appear before the Chief Financial  
31 Officer ~~Comptroller~~ or the Chief Financial Officer's

1 ~~Comptroller's~~ representative or the department at a specified  
2 time and place and to bring books, records, and documents as  
3 specified or to submit books, records, and documents for  
4 inspection. Such subpoenas may be served by an authorized  
5 representative of the Chief Financial Officer ~~Comptroller~~ or  
6 the department.

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

1           Section 33. Section 17.06, Florida Statutes, is  
2 amended to read:

3           17.06 Disallowed items and accounts.--The Chief  
4 Financial Officer ~~Comptroller~~ shall erase from any original  
5 account all items disallowed by him or her; and when the Chief  
6 Financial Officer ~~Comptroller~~ shall reject the whole of any  
7 account he or she shall write across the face of it the word  
8 "disallowed," and the date, and file the same in the Chief  
9 Financial Officer's ~~Comptroller's~~ office or deliver it to the  
10 claimant.

11           Section 34. Subsection (1) of section 17.075, Florida  
12 Statutes, is amended to read:

13           17.075 Form of state warrants and other payment  
14 orders; rules.--

15           (1) The Chief Financial Officer may ~~Department of~~  
16 ~~Banking and Finance is authorized to~~ establish the form or  
17 forms of state warrants which are to be drawn by it and of  
18 other orders for payment or disbursement of moneys out of the  
19 State Treasury and to change the form thereof from time to  
20 time as the Chief Financial Officer ~~department~~ may consider  
21 necessary or appropriate. Such orders for payment may be in  
22 any form, but, regardless of form, each order shall be subject  
23 to the accounting and recordkeeping requirements applicable to  
24 state warrants.

25           Section 35. Paragraph (b) of subsection (1) and  
26 subsections (3) and (7) of section 17.076, Florida Statutes,  
27 are amended to read:

28           17.076 Direct deposit of funds.--

29           (1) As used in this section:

30           (b) "Department" means the Department of Financial  
31 Services ~~Banking and Finance~~.

1           (3) The department may contract with an authorized  
2 financial institution for the services necessary to operate  
3 the program. In order to implement the provisions of this  
4 section, the Chief Financial Officer ~~Comptroller~~ is authorized  
5 to deposit with that financial institution the funds payable  
6 to the beneficiaries, in lump sum, by Chief Financial  
7 Officer's ~~Comptroller's~~ warrant to make the authorized direct  
8 deposits.

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

18           Section 36. Section 17.08, Florida Statutes, is  
19 amended to read:

20           17.08 Accounts, etc., on which warrants drawn, to be  
21 filed.--All accounts, vouchers, and evidence, upon which  
22 warrants have heretofore been, or shall hereafter be, drawn  
23 upon the treasury by the Chief Financial Officer ~~Comptroller~~  
24 shall be filed and deposited in the office of Chief Financial  
25 Officer ~~Comptroller~~ or the office of the Chief Financial  
26 Officer's ~~Comptroller's~~ designee, in accordance with  
27 requirements established by the Secretary of State.

28           Section 37. Section 17.09, Florida Statutes, is  
29 amended to read:

30           17.09 Application for warrants for salaries.--All  
31 public officers who are entitled to salaries in this state,

1 shall make their application for warrants in writing, stating  
2 for what terms and the amount they claim, which written  
3 application shall be filed by the Chief Financial Officer  
4 ~~Comptroller~~ as vouchers for the warrants issued thereupon.

5 Section 38. Section 17.10, Florida Statutes, is  
6 amended to read:

7 17.10 Record of warrants and of state funds and  
8 securities issued.--The Chief Financial Officer ~~Comptroller~~  
9 shall cause to be entered in the warrant register a record of  
10 the warrants issued during the previous month, and shall make  
11 such entry in the record so required to be kept as shall show  
12 the number of each warrant issued, in whose favor drawn, and  
13 the date it was issued. He or she shall account for all state  
14 funds and securities.

15 Section 39. Section 17.11, Florida Statutes, is  
16 amended to read:

17 17.11 To report disbursements made.--

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

23 (2) The Chief Financial Officer ~~Comptroller~~ shall also  
24 cause to have reported from the Florida Accounting Information  
25 Resource Subsystem no less than quarterly the disbursements  
26 which agencies made to small businesses, as defined in the  
27 Florida Small and Minority Business Assistance Act of 1985; to  
28 certified minority business enterprises in the aggregate; and  
29 to certified minority business enterprises broken down into  
30 categories of minority persons, as well as gender and  
31 nationality subgroups. This information shall be made

1 available to the agencies, the Office of Supplier Diversity,  
2 the Governor, the President of the Senate, and the Speaker of  
3 the House of Representatives. Each agency shall be responsible  
4 for the accuracy of information entered into the Florida  
5 Accounting Information Resource Subsystem for use in this  
6 reporting.

7 Section 40. Section 17.12, Florida Statutes, is  
8 amended to read:

9 17.12 Authorized to issue warrants to tax collector or  
10 sheriff for payment.--Whenever it shall appear to the  
11 satisfaction of the Chief Financial Officer ~~Comptroller~~ of  
12 ~~this state~~ from examination of the books of his or her office  
13 that the tax collector or the sheriff for any county in this  
14 state has paid into the State Treasury, through mistake or  
15 otherwise, a larger or greater sum than is actually due from  
16 such said collector or sheriff, then the Chief Financial  
17 Officer ~~Comptroller~~ may issue a warrant to such said collector  
18 or sheriff for the sum so found to be overpaid.

19 Section 41. Section 17.13, Florida Statutes, is  
20 amended to read:

21 17.13 To duplicate warrants lost or destroyed.--

22 (1) The Chief Financial Officer ~~Comptroller~~ is  
23 required to duplicate any Chief Financial Officer's  
24 ~~Comptroller's~~ warrants that may have been lost or destroyed,  
25 or may hereafter be lost or destroyed, upon the owner thereof  
26 or the owner's agent or attorney presenting the Chief  
27 Financial Officer ~~Comptroller~~ the statement, under oath,  
28 reciting the number, date, and amount of any warrant or the  
29 best and most definite description in his or her knowledge and  
30 the circumstances of its loss; if the Chief Financial Officer  
31 ~~Comptroller~~ deems it necessary, the owner or the owner's agent



1 or attorney shall file in the office of the Chief Financial  
2 Officer ~~Comptroller~~ a surety bond, or a bond with securities,  
3 to be approved by one of the judges of the circuit court or  
4 one of the justices of the Supreme Court, in a penalty of not  
5 less than twice the amount of any warrants so duplicated,  
6 conditioned to indemnify the state and any innocent holders  
7 thereof from any damages that may accrue from such  
8 duplication.

9 (2) The Chief Financial Officer ~~Comptroller~~ is  
10 required to duplicate any Chief Financial Officer's  
11 ~~Comptroller's~~ warrant that may have been lost or destroyed, or  
12 may hereafter be lost or destroyed, when sent to any payee via  
13 any state agency when such warrant is lost or destroyed prior  
14 to being received by the payee and provided the director of  
15 the state agency to whom the warrant was sent presents to the  
16 Chief Financial Officer ~~Comptroller~~ a statement, under oath,  
17 reciting the number, date, and amount of the warrant lost or  
18 destroyed, the circumstances surrounding the loss or  
19 destruction of such warrant, and any additional information  
20 that the Chief Financial Officer ~~Comptroller~~ shall request in  
21 regard to such warrant.

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

26 Section 42. Section 17.14, Florida Statutes, is  
27 amended to read:

28 17.14 To prescribe forms.--The Chief Financial Officer  
29 ~~Department of Banking and Finance~~ may prescribe the forms of  
30 all papers, vouchers, reports and returns and the manner of  
31 keeping the accounts and papers to be used by the officers of

1 this state or other persons having accounts, claims, or  
2 demands against the state or entrusted with the collection of  
3 any of the revenue thereof or any demand due the same, which  
4 form shall be pursued by such officer or other persons.

5 Section 43. Section 17.16, Florida Statutes, is  
6 amended to read:

7 17.16 Seal.--The ~~seal of~~ office of the Chief Financial  
8 Officer ~~Comptroller of the state~~ shall have a ~~be the same as~~  
9 ~~the seal heretofore used for that purpose.~~

10 Section 44. Section 17.17, Florida Statutes, is  
11 amended to read:

12 17.17 Examination by Governor and report.--The office  
13 of Chief Financial Officer ~~Comptroller of the state~~, and the  
14 books, files, documents, records, and papers shall always be  
15 subject to the examination of the Governor of this state, or  
16 any person the Governor may authorize to examine the same; and  
17 on the first day of January of each and every year, or oftener  
18 if called for by the Governor, the Chief Financial Officer  
19 ~~Comptroller~~ shall make a full report of all his or her  
20 official acts and proceedings for the last fiscal year to the  
21 Governor, to be laid before the Legislature with the  
22 Governor's message, and shall make such further report as the  
23 constitution may require.

24 Section 45. Subsection (1) of section 17.20, Florida  
25 Statutes, is amended to read:

26 17.20 Assignment of claims for collection.--

27 (1) The Department of Financial Services ~~Banking and~~  
28 ~~Finance~~ shall charge the state attorneys with the collection  
29 of all claims that are placed in their hands for collection of  
30 money or property for the state or any county or special  
31 district, or that it otherwise requires them to collect. The

1 charges are evidence of indebtedness of a state attorney  
2 against whom any charge is made for the full amount of the  
3 claim, until the charges have been collected and paid into the  
4 treasury of the state or of the county or special district or  
5 the legal remedies of the state have been exhausted, or until  
6 the state attorney demonstrates to the department that the  
7 failure to collect the charges is not due to negligence and  
8 the department has made a proper entry of satisfaction of the  
9 charge against the state attorney.

10 Section 46. Section 17.21, Florida Statutes, is  
11 amended to read:

12 17.21 Not to allow any claim of state attorney against  
13 state until report made.--The Chief Financial Officer  
14 ~~Comptroller~~ shall not audit or allow any claim which any state  
15 attorney may have against the state for services who shall  
16 fail to make any report which by law the state attorney is  
17 required to make to the Chief Financial Officer ~~Comptroller~~ of  
18 claims of the state which it is his or her duty to collect.

19 Section 47. Section 17.22, Florida Statutes, is  
20 amended to read:

21 17.22 Notice to Department of Legal Affairs.--Whenever  
22 the Department of Financial Services ~~Banking and Finance~~  
23 forwards any bond or account or claim for suit to any state  
24 attorney, it shall advise the Department of Legal Affairs of  
25 the fact, giving it the amount of the claim and other  
26 necessary particulars for its full information upon the  
27 subject.

28 Section 48. Section 17.25, Florida Statutes, is  
29 amended to read:

30 17.25 May certify copies.--The Chief Financial Officer  
31 ~~Comptroller of this state~~ may certify, under his or her seal

1 of office, copies of any record, paper, or document, by law  
2 placed in the Chief Financial Officer's ~~Comptroller's~~ custody,  
3 keeping, and care; and such certified copy shall have the same  
4 force and effect as evidence as the original would have.

5 Section 49. Subsections (1) and (3) of section 17.26,  
6 Florida Statutes, are amended to read:

7 17.26 Cancellation of state warrants not presented  
8 within 1 year.--

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

20 (3) When a warrant canceled under subsection (1)  
21 represents funds that are in whole or in part derived from  
22 federal contributions and disposition of the funds under  
23 chapter 717 would cause a loss of the federal contributions,  
24 the Governor shall certify to the Chief Financial Officer  
25 ~~Comptroller~~ that funds represented by such warrants are for  
26 that reason exempt from treatment as unclaimed property.  
27 Obligations represented by warrants are unenforceable after 1  
28 year from the last day of the month in which the warrant was  
29 originally issued. An action may not be commenced thereafter  
30 on the obligation unless authorized by the federal program  
31 from which the original warrant was funded and unless payment

1 of the obligation is authorized to be made from the current  
2 federal funding. When a payee or person entitled to a warrant  
3 subject to this paragraph requests payment, and payment from  
4 current federal funding is authorized by the federal program  
5 from which the original warrant was funded, the Chief  
6 Financial Officer ~~Comptroller~~ may, upon investigation, issue a  
7 new warrant to be paid out of the proper fund in the State  
8 Treasury, provided the payee or other person executes under  
9 oath the statement required by s. 17.13 or surrenders the  
10 canceled warrant.

11 Section 50. Subsections (1), (2), and (3) of section  
12 17.27, Florida Statutes, are amended to read:

13 17.27 Microfilming and destroying records and  
14 correspondence.--

15 (1) The Department of Financial Services ~~Banking and~~  
16 ~~Finance~~ may destroy general correspondence files and also any  
17 other records which the department may deem no longer  
18 necessary to preserve in accordance with retention schedules  
19 and destruction notices established under rules of the  
20 Division of Library and Information Services, records and  
21 information management program, of the Department of State.  
22 Such schedules and notices relating to financial records of  
23 the department shall be subject to the approval of the Auditor  
24 General.

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

30 (3) The Department of Financial Services ~~Banking and~~  
31 ~~Finance~~ may destroy any of such ~~said~~ documents after they have

1 | been photographed and filed in accordance with the provisions  
2 | of subsection (1).

3 |         Section 51. Section 17.28, Florida Statutes, is  
4 | amended to read:

5 |         17.28 Chief Financial Officer ~~Comptroller~~ may  
6 | authorize biweekly salary payments.--The Chief Financial  
7 | Officer ~~Comptroller~~ is authorized and may permit biweekly  
8 | salary payments to personnel upon written request by a  
9 | specific state agency. The Chief Financial Officer ~~Comptroller~~  
10 | shall adopt ~~promulgate~~ reasonable rules ~~and regulations~~ to  
11 | carry out the intent of this section.

12 |         Section 52. Section 17.29, Florida Statutes, is  
13 | amended to read:

14 |         17.29 Authority to prescribe rules.--The Chief  
15 | Financial Officer may ~~Comptroller~~ ~~has authority to~~ adopt rules  
16 | pursuant to ss. 120.54 and 120.536(1) to implement ss.  
17 | 17.51-17.66 and duties assigned by statute or the State  
18 | Constitution. Such rules may include, but are not limited to,  
19 | the following:

20 |             (1) Procedures or policies relating to the processing  
21 | of payments from salaries, other personal services, or any  
22 | other applicable appropriation.

23 |             (2) Procedures for processing interagency and  
24 | intraagency payments which do not require the issuance of a  
25 | state warrant.

26 |         Section 53. Section 17.30, Florida Statutes, is  
27 | amended to read:

28 |         17.30 Dissemination of information.--The Chief  
29 | Financial Officer ~~Comptroller~~ may disseminate, in any form or  
30 | manner he or she considers appropriate, information regarding  
31 | the Chief Financial Officer's ~~Comptroller's~~ official duties.

1           Section 54. Section 17.32, Florida Statutes, is  
2 amended to read:

3           17.32 Annual report of trust funds; duties of Chief  
4 Financial Officer ~~Comptroller~~.--

5           (1) On February 1 of each year, the Chief Financial  
6 Officer ~~Comptroller~~ shall present to the President of the  
7 Senate and the Speaker of the House of Representatives a  
8 report listing all trust funds as defined in s. 215.32. The  
9 report shall contain the following data elements for each fund  
10 for the preceding fiscal year:

11           (a) The fund code.

12           (b) The title.

13           (c) The fund type according to generally accepted  
14 accounting principles.

15           (d) The statutory authority.

16           (e) The beginning cash balance.

17           (f) Direct revenues.

18           (g) Nonoperating revenues.

19           (h) Operating disbursements.

20           (i) Nonoperating disbursements.

21           (j) The ending cash balance.

22           (k) The department and budget entity in which the fund  
23 is located.

24           (2) The report shall separately list all funds that  
25 received no revenues other than interest earnings or transfers  
26 from the General Revenue Fund or from other trust funds during  
27 the preceding fiscal year.

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

31

1           Section 55. Section 17.325, Florida Statutes, is  
2 amended to read:

3           17.325 Governmental efficiency hotline; duties of  
4 Chief Financial Officer ~~Comptroller~~.--

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

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

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



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

21 (4) Any person who provides any information through  
22 the hotline shall be immune from liability for any use of such  
23 information and shall not be subject to any retaliation by any  
24 employee of the state for providing such information or making  
25 such suggestion.

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

29 Section 56. Section 17.41, Florida Statutes, is  
30 amended to read:

31

1           17.41 Department of Financial Services ~~Banking and~~  
2 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.--

3           (1) The Department of Financial Services ~~Banking and~~  
4 ~~Finance~~ Tobacco Settlement Clearing Trust Fund is created  
5 within that department.

6           (2) Funds to be credited to the Tobacco Settlement  
7 Clearing Trust Fund shall consist of payments received by the  
8 state from settlement of State of Florida v. American Tobacco  
9 Co., No. 95-1466AH (Fla. 15th Cir. Ct. 1996). Moneys received  
10 from the settlement and deposited into the trust fund are  
11 exempt from the service charges imposed under s. 215.20.

12           (3)(a) Subject to approval of the Legislature, all or  
13 any portion of the state's right, title, and interest in and  
14 to the tobacco settlement agreement may be sold to the Tobacco  
15 Settlement Financing Corporation created pursuant to s.  
16 215.56005. Any such sale shall be a true sale and not a  
17 borrowing.

18           (b) Any moneys received by the state pursuant to any  
19 residual interest retained in the tobacco settlement agreement  
20 or the payments to be made under the tobacco settlement  
21 agreement shall be deposited into the Tobacco Settlement  
22 Clearing Trust Fund.

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

27           (5) The department shall disburse funds, by  
28 nonoperating transfer, from the Tobacco Settlement Clearing  
29 Trust Fund to the tobacco settlement trust funds of the  
30 various agencies in amounts equal to the annual appropriations  
31

1 made from those agencies' trust funds in the General  
2 Appropriations Act.

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

7 Section 57. Section 17.43, Florida Statutes, is  
8 amended to read:

9 17.43 Chief Financial Officer's ~~Comptroller's~~ Federal  
10 Equitable Sharing Trust Fund.--

11 (1) The Chief Financial Officer's ~~Comptroller's~~  
12 Federal Equitable Sharing Trust Fund is created within the  
13 Department of Financial Services ~~Banking and Finance~~. The  
14 department may deposit into the trust fund receipts and  
15 revenues received as a result of federal criminal,  
16 administrative, or civil forfeiture proceedings and receipts  
17 and revenues received from federal asset-sharing programs. The  
18 trust fund is exempt from the service charges imposed by s.  
19 215.20.

20 (2) Notwithstanding the provisions of s. 216.301 and  
21 pursuant to s. 216.351, any balance in the trust fund at the  
22 end of any fiscal year shall remain in the trust fund at the  
23 end of the year and shall be available for carrying out the  
24 purposes of the trust fund.

25 Section 58. Section 18.01, Florida Statutes, is  
26 transferred, renumbered as section 17.51, Florida Statutes,  
27 and amended to read:

28 17.51 ~~18.01~~ Oath and certificate of Chief Financial  
29 Officer ~~Treasurer~~.--The Chief Financial Officer ~~Treasurer~~  
30 shall, within 10 days before he or she enters upon the duties  
31 of office, take and subscribe an oath or affirmation

1 faithfully to discharge the duties of office, which oath or  
2 affirmation must be deposited with the Department of State.  
3 The Chief Financial Officer ~~Treasurer~~ shall also file with the  
4 Department of State a certificate ~~from the Comptroller~~  
5 attesting that the retiring Treasurer or Chief Financial  
6 Officer ~~has turned over vouchers for all payments made as~~  
7 ~~required by law, and that the Treasurer's account has been~~  
8 ~~truly credited with the same, and that he or she has filed~~  
9 ~~receipts from his or her successor for all vouchers paid since~~  
10 ~~the end of last quarter, and for balance of cash, and for all~~  
11 ~~bonds and other securities held by the Treasurer or Chief~~  
12 Financial Officer as such, and a certificate from each board  
13 of which he or she is made by law ex officio treasurer, that  
14 he or she has satisfactorily accounted to such board as its  
15 treasurer.

16 Section 59. Section 18.02, Florida Statutes, is  
17 transferred, renumbered as section 17.52, Florida Statutes,  
18 and amended to read:

19 17.52 ~~18.02~~ Moneys paid on warrants.--The Division of  
20 Treasury ~~Treasurer~~ shall pay all warrants on the treasury  
21 drawn by the Chief Financial Officer or Comptroller and other  
22 orders by the Chief Financial Officer or Comptroller for the  
23 disbursement of state funds by electronic means or by means of  
24 a magnetic tape or any other transfer medium. No moneys shall  
25 be paid out of the treasury except on such warrants or other  
26 orders of the Chief Financial Officer or Comptroller.

27 Section 60. Section 18.021, Florida Statutes, is  
28 transferred, renumbered as section 17.53, Florida Statutes,  
29 and amended to read:

30 17.53 ~~18.021~~ Chief Financial Officer ~~Treasurer~~ to  
31 operate personal check-cashing service.--

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

6           (2) If a personal check is dishonored or a state  
7 warrant is forged and the Chief Financial Officer ~~Treasurer~~  
8 has made diligent but unsuccessful effort to collect and has  
9 forwarded the returned check for prosecution by the  
10 appropriate state attorney, then he or she may include such  
11 amount in his or her budget request to be considered during  
12 the next legislative session.

13           Section 61. Section 18.05, Florida Statutes, is  
14 transferred, renumbered as section 17.54, Florida Statutes,  
15 and amended to read:

16           17.54 ~~18.05~~ Annual report to Governor.--The Chief  
17 Financial Officer ~~Treasurer~~ shall make a report in detail to  
18 the Governor, with a copy to the President of the Senate and  
19 the Speaker of the House of Representatives as soon after the  
20 1st day of July of each year as it is practicable to prepare  
21 same of the transactions of the Division of Treasury ~~his or~~  
22 ~~her office~~ for the preceding fiscal year, embracing a  
23 statement of the receipts and payments on account of each of  
24 the several funds of which he or she has the care and custody.

25           Section 62. Section 18.06, Florida Statutes, is  
26 transferred, renumbered as section 17.55, Florida Statutes,  
27 and amended to read:

28           17.55 ~~18.06~~ Examination by and monthly statements to  
29 the Governor.--The office of the Chief Financial Officer  
30 ~~Treasurer of this state~~, and the books, files, documents,  
31 records, and papers thereof, shall always be subject to the

1 examination of the Governor of the state, or any person he or  
2 she may authorize to examine same. The Chief Financial Officer  
3 ~~Treasurer~~ shall exhibit to the Governor monthly a trial  
4 balance sheet from the Division of Treasury ~~his or her books~~  
5 and a statement of all the credits, moneys, or effects on hand  
6 on the day for which such ~~said~~ trial balance sheet is made,  
7 and such ~~said~~ statement accompanying such ~~said~~ trial balance  
8 sheet shall particularly describe the exact character of  
9 funds, credits, and securities, and shall state in detail the  
10 amount which he or she may have representing cash, including  
11 any not yet entered upon the books of his or her office, and  
12 such statement shall be certified and signed by the Chief  
13 Financial Officer ~~Treasurer~~ officially.

14 Section 63. Section 18.08, Florida Statutes, is  
15 transferred, renumbered as section 17.56, Florida Statutes,  
16 and amended to read:

17 17.56 ~~18.08~~ Division of Treasury ~~Treasurer~~ to turn  
18 over to the Division of Accounting and Auditing ~~Comptroller~~  
19 all warrants paid.--The Division of Treasury ~~Treasurer~~ shall  
20 turn over to the Division of Accounting and Auditing  
21 ~~Comptroller~~, through the data service center, all warrants  
22 drawn by the Chief Financial Officer or the Comptroller and  
23 paid by the Division of Treasury ~~Treasurer~~. The ~~Said~~ warrants  
24 shall be turned over as soon as the Division of Treasury  
25 ~~Treasurer~~ shall have recorded such warrants and charged the  
26 same against the accounts upon which such warrants are drawn.

27 Section 64. Section 18.10, Florida Statutes, is  
28 transferred, renumbered as section 17.57, Florida Statutes,  
29 and amended to read:

30 17.57 ~~18.10~~ Deposits and investments of state money.--  
31

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

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

- 23           (a) Direct United States Treasury obligations.  
24           (b) Obligations of the Federal Farm Credit Banks.  
25           (c) Obligations of the Federal Home Loan Bank and its  
26 district banks.  
27           (d) Obligations of the Federal Home Loan Mortgage  
28 Corporation, including participation certificates.  
29           (e) Obligations guaranteed by the Government National  
30 Mortgage Association.

31

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



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

7           (n) Commingled no-load investment funds or no-load  
8 mutual funds in which all securities held by the funds are  
9 authorized in this subsection.

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

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

18          (q) Derivatives of investment instruments authorized  
19 in paragraphs (a)-(m).

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

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

29          (t) Foreign bonds denominated in United States dollars  
30 and registered with the Securities and Exchange Commission for  
31 sale in the United States, if the long-term obligations of

1 such issuers are rated by at least two nationally recognized  
2 rating services in any one of the four highest  
3 classifications. However, if such obligations are rated by  
4 only one nationally recognized rating service, the obligations  
5 shall be rated in any one of the two highest classifications.

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

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

17  
18 These investments may be in varying maturities and may be in  
19 book-entry form. Investments made pursuant to this subsection  
20 may be under repurchase agreement. The Chief Financial Officer  
21 ~~may Treasurer is authorized to~~ hire registered investment  
22 advisers and other consultants to assist in investment  
23 management and to pay fees directly from investment earnings.  
24 Investment securities, proprietary investment services related  
25 to contracts, performance evaluation services,  
26 investment-related equipment or software used directly to  
27 assist investment trading or investment accounting operations  
28 including bond calculators, telerates, Bloombergs, special  
29 program calculators, intercom systems, and software used in  
30 accounting, communications, and trading, and advisory and  
31

1 consulting contracts made under this section are exempt from  
2 the provisions of chapter 287.

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

14 (4) All earnings on any investments made pursuant to  
15 this section shall be credited to the General Revenue Fund,  
16 except that earnings attributable to moneys made available  
17 pursuant to s. 17.61(3)~~s. 18.125(3)~~ shall be credited pro  
18 rata to the funds from which such moneys were made available.

19 (5) The fact that a municipal officer or a state  
20 officer, including an officer of any municipal or state  
21 agency, board, bureau, commission, institution, or department,  
22 is a stockholder or an officer or director of a bank or  
23 savings and loan association will not bar such bank or savings  
24 and loan association from being a depository of funds coming  
25 under the jurisdiction of any such municipal officer or state  
26 officer if it shall appear in the records of the municipal or  
27 state office that the governing body of such municipality or  
28 state agency has investigated and determined that such  
29 municipal or state officer is not favoring such banks or  
30 savings and loan associations over other qualified banks or  
31 savings and loan associations.

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

13           Section 65. Section 18.101, Florida Statutes, is  
14 transferred, renumbered as section 17.58, Florida Statutes,  
15 and amended to read:

16           17.58 ~~18.101~~ Deposits of public money outside the  
17 State Treasury; revolving funds.--

18           (1) All moneys collected by state agencies, boards,  
19 bureaus, commissions, institutions, and departments shall,  
20 except as otherwise provided by law, be deposited in the State  
21 Treasury. However, when the volume and complexity of  
22 collections so justify, the Chief Financial Officer ~~Treasurer~~  
23 may give written approval for such moneys to be deposited in  
24 clearing accounts outside the State Treasury in qualified  
25 public depositories pursuant to chapter 280. Such deposits  
26 shall only be made in depositories designated by the Chief  
27 Financial Officer ~~Treasurer~~. No money may be maintained in  
28 such clearing accounts for a period longer than approved by  
29 the Chief Financial Officer ~~Treasurer~~ or 40 days, whichever is  
30 shorter, prior to its being transmitted to the Chief Financial  
31 Officer ~~Treasurer~~ or to an account designated by him or her,

1 distributed to a statutorily authorized account outside the  
2 State Treasury, refunded, or transmitted to the Department of  
3 Revenue. All depositories so designated shall pledge  
4 sufficient collateral to be security for such funds as  
5 provided in chapter 280.

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

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

31

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

15           Section 66. Section 18.103, Florida Statutes, is  
16 transferred, renumbered as section 17.59, Florida Statutes,  
17 and amended to read:

18           17.59 ~~18.103~~ Safekeeping services of ~~Treasurer~~.--

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

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

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

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

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

9 (b) For each certificate of the Chief Financial  
10 Officer ~~Treasurer~~, certified or under the Chief Financial  
11 Officer's ~~Treasurer's~~ seal, authenticating any document or  
12 other instrument.....\$5.00.

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

16 Section 67. Section 18.104, Florida Statutes, is  
17 transferred, renumbered as section 17.60, Florida Statutes,  
18 and amended to read:

19 17.60 ~~18.104~~ Treasury Cash Deposit Trust Fund.--

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

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

25 Section 68. Section 18.125, Florida Statutes, is  
26 transferred, renumbered as section 17.61, Florida Statutes,  
27 and amended to read:

28 17.61 ~~18.125~~ Chief Financial Officer ~~Treasurer~~; powers  
29 and duties in the investment of certain funds.--

30 (1) The Chief Financial Officer ~~Treasurer~~, acting with  
31 ~~the approval of a majority of the State Board of~~

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

29 (2) By and with the consent and approval of any  
30 constitutional board, the judicial branch, or agency now  
31 having the constitutional power to make investments and in



1 accordance with this section, the Chief Financial Officer may  
2 ~~Treasurer shall have the power to~~ make purchases, sales,  
3 exchanges, investments, and reinvestments for and on behalf of  
4 any such board.

5 (3)(a) It is the duty of each state agency, and of the  
6 judicial branch, now or hereafter charged with the  
7 administration of the funds referred to in subsection (1) to  
8 make such moneys available for investment as fully as is  
9 consistent with the cash requirements of the particular fund  
10 and to authorize investment of such moneys by the Chief  
11 Financial Officer ~~Treasurer~~.

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

23 (4)(a) There is ~~hereby~~ created in the State Treasury  
24 the Treasury ~~Treasurer's~~ Administrative and Investment Trust  
25 Fund.

26 (b) The Chief Financial Officer ~~Treasurer~~ shall make  
27 an annual assessment of 0.12 percent against the average daily  
28 balance of those moneys made available pursuant to this  
29 section and 0.2 percent against the average daily balance of  
30 those funds requiring investment in a separate account. The  
31

1 proceeds of this assessment shall be deposited in the Treasury  
2 ~~Treasurer's~~ Administrative and Investment Trust Fund.

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

21 (5) The transfer of the powers, duties, and  
22 responsibilities of existing state agencies and of the  
23 judicial branch made by this section to the Chief Financial  
24 Officer ~~Treasurer~~ shall include only the particular powers,  
25 duties, and responsibilities hereby transferred, and all other  
26 existing powers shall in no way be affected by this section.

27 Section 69. Section 18.15, Florida Statutes, is  
28 transferred, renumbered as section 17.62, Florida Statutes,  
29 and amended to read:

30 17.62 ~~18.15~~ Interest on state moneys deposited; when  
31 paid.--Interest on state moneys deposited in qualified public

1 depositories under s. 17.57 ~~s. 18.10~~ shall be payable to the  
2 Chief Financial Officer ~~Treasurer~~ quarterly ~~or semiannually~~.

3 Section 70. Section 18.17, Florida Statutes, is  
4 transferred, renumbered as section 17.63, Florida Statutes,  
5 and amended to read:

6 17.63 ~~18.17~~ Chief Financial Officer ~~Treasurer~~ not to  
7 issue evidences of indebtedness.--It is not lawful for the  
8 Chief Financial Officer ~~Treasurer~~ of this state to issue any  
9 treasury certificates, or any other evidences of indebtedness,  
10 for any purpose whatever, and the Chief Financial Officer  
11 ~~Treasurer~~ is prohibited from issuing the same.

12 Section 71. Section 18.20, Florida Statutes, is  
13 transferred, renumbered as section 17.64, Florida Statutes,  
14 and amended to read:

15 17.64 ~~18.20~~ Chief Financial Officer ~~Treasurer~~ to make  
16 reproductions of certain warrants, records, and documents.--

17 ~~(1) All vouchers or checks heretofore or hereafter~~  
18 ~~drawn by appropriate court officials of the several counties~~  
19 ~~of the state against money deposited with the Treasurer under~~  
20 ~~the provisions of s. 43.17, and paid by the Treasurer, may be~~  
21 ~~photographed, microphotographed, or reproduced on film by the~~  
22 ~~Treasurer. Such photographic film shall be durable material~~  
23 ~~and the device used to so reproduce such warrants, vouchers,~~  
24 ~~or checks shall be one which accurately reproduces the~~  
25 ~~originals thereof in all detail; and such photographs,~~  
26 ~~microphotographs, or reproductions on film shall be placed in~~  
27 ~~conveniently accessible and identified files and shall be~~  
28 ~~preserved by the Treasurer as a part of the permanent records~~  
29 ~~of office. When any such warrants, vouchers, or checks have~~  
30 ~~been so photographed, microphotographed, or reproduced on~~  
31 ~~film, and the photographs, microphotographs, or reproductions~~

1 ~~on film thereof have been placed in files as a part of the~~  
2 ~~permanent records of the office of the Treasurer as aforesaid,~~  
3 ~~the Treasurer is authorized to return such warrants, vouchers,~~  
4 ~~or checks to the offices of the respective county officials~~  
5 ~~who drew the same and such warrants, vouchers, or checks shall~~  
6 ~~be retained and preserved in such offices to which returned as~~  
7 ~~a part of the permanent records of such offices.~~

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

19       (2)(3) The Chief Financial Officer ~~Treasurer~~ is also  
20 ~~hereby~~ authorized to photograph, microphotograph, or reproduce  
21 on film, all records and documents of such ~~said~~ office, as the  
22 Chief Financial Officer ~~Treasurer may~~, in his or her  
23 discretion, selects ~~select~~; and the Chief Financial Officer  
24 ~~said Treasurer~~ is ~~hereby~~ authorized to destroy any such ~~of the~~  
25 ~~said~~ documents or records after they have been photographed  
26 and filed and after audit of the Chief Financial Officer's  
27 ~~Treasurer's~~ office has been completed for the period embracing  
28 the dates of such ~~said~~ documents and records.

29       (3)(4) Photographs or microphotographs in the form of  
30 film or prints of any records made in compliance with the  
31 provisions of this section shall have the same force and

1 effect as the originals thereof would have, and shall be  
2 treated as originals for the purpose of their admissibility in  
3 evidence. Duly certified or authenticated reproductions of  
4 such photographs or microphotographs shall be admitted in  
5 evidence equally with the original photographs or  
6 microphotographs.

7 Section 72. Section 18.23, Florida Statutes, is  
8 transferred, renumbered as section 17.65, Florida Statutes,  
9 and amended to read:

10 17.65 ~~18.23~~ Chief Financial Officer ~~Treasurer~~ to  
11 prescribe forms.--The Chief Financial Officer ~~Treasurer~~ may  
12 prescribe the forms, and the manner of keeping the same, for  
13 all receipts, credit advices, abstracts, reports, and other  
14 papers furnished the Chief Financial Officer ~~Treasurer~~ by the  
15 officers of this state or other persons or entities as a  
16 result of their having, or depositing, state moneys.

17 Section 73. Section 18.24, Florida Statutes, is  
18 transferred, renumbered as section 17.66, Florida Statutes,  
19 and amended to read:

20 17.66 ~~18.24~~ Securities in book-entry form.--Any  
21 security which:

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

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

27 (2)(a) Is held in the name of the Chief Financial  
28 Officer, in the name of the State Treasurer, or in the name of  
29 the State Insurance Commissioner; or

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

1  
2 under any state law for any purpose whatsoever, may be held in  
3 book-entry form on the books of the Federal Reserve Book-Entry  
4 System or on deposit in a depository trust clearing system.

5 Section 74. Subsection (3) of section 20.04, Florida  
6 Statutes, is amended to read:

7 20.04 Structure of executive branch.--The executive  
8 branch of state government is structured as follows:

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

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

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

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

21 (d) If further subdivision is necessary, sections may  
22 be divided into "subsections," which are headed by  
23 "supervisors."

24 Section 75. Paragraph (h) of subsection (5) of section  
25 20.055, Florida Statutes, is amended to read:

26 20.055 Agency inspectors general.--

27 (5) In carrying out the auditing duties and  
28 responsibilities of this act, each inspector general shall  
29 review and evaluate internal controls necessary to ensure the  
30 fiscal accountability of the state agency. The inspector  
31 general shall conduct financial, compliance, electronic data

1 processing, and performance audits of the agency and prepare  
2 audit reports of his or her findings. The scope and assignment  
3 of the audits shall be determined by the inspector general;  
4 however, the agency head may at any time direct the inspector  
5 general to perform an audit of a special program, function, or  
6 organizational unit. The performance of the audit shall be  
7 under the direction of the inspector general, except that if  
8 the inspector general does not possess the qualifications  
9 specified in subsection (4), the director of auditing shall  
10 perform the functions listed in this subsection.

11 (h) The inspector general shall develop long-term and  
12 annual audit plans based on the findings of periodic risk  
13 assessments. The plan, where appropriate, should include  
14 postaudit samplings of payments and accounts. The plan shall  
15 show the individual audits to be conducted during each year  
16 and related resources to be devoted to the respective audits.  
17 The Chief Financial Officer ~~Comptroller~~, to assist in  
18 fulfilling the responsibilities for examining, auditing, and  
19 settling accounts, claims, and demands pursuant to s.  
20 17.03(1), and examining, auditing, adjusting, and settling  
21 accounts pursuant to s. 17.04, may utilize audits performed by  
22 the inspectors general and internal auditors. For state  
23 agencies under the Governor, the audit plans shall be  
24 submitted to the Governor's Chief Inspector General. The plan  
25 shall be submitted to the agency head for approval. A copy of  
26 the approved plan shall be submitted to the Auditor General.

27 Section 76. Section 20.195, Florida Statutes, is  
28 amended to read:

29 20.195 Department of Children and Family Services  
30 Tobacco Settlement Trust Fund.--

31

1           (1) The Department of Children and Family Services  
2 Tobacco Settlement Trust Fund is created within that  
3 department. Funds to be credited to the trust fund shall  
4 consist of funds disbursed, by nonoperating transfer, from the  
5 Department of Financial Services ~~Banking and Finance~~ Tobacco  
6 Settlement Clearing Trust Fund in amounts equal to the annual  
7 appropriations made from this trust fund.

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

14           Section 77. Section 20.425, Florida Statutes, is  
15 amended to read:

16           20.425 Agency for Health Care Administration Tobacco  
17 Settlement Trust Fund.--

18           (1) The Agency for Health Care Administration Tobacco  
19 Settlement Trust Fund is created within the agency. Funds to  
20 be credited to the trust fund shall consist of funds  
21 disbursed, by nonoperating transfer, from the Department of  
22 Financial Services ~~Banking and Finance~~ Tobacco Settlement  
23 Clearing Trust Fund in amounts equal to the annual  
24 appropriations made from this trust fund.

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

31



1           Section 78. Paragraph (g) of subsection (1) of section  
2 20.435, Florida Statutes, is amended to read:

3           20.435 Department of Health; trust funds.--

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

6           (g) Department of Health Tobacco Settlement Trust  
7 Fund.

8           1. Funds to be credited to the trust fund shall  
9 consist of funds disbursed, by nonoperating transfer, from the  
10 Department of Financial Services ~~Banking and Finance~~ Tobacco  
11 Settlement Clearing Trust Fund in amounts equal to the annual  
12 appropriations made from this trust fund.

13           2. Notwithstanding the provisions of s. 216.301 and  
14 pursuant to s. 216.351, any unencumbered balance in the trust  
15 fund at the end of any fiscal year and any encumbered balance  
16 remaining undisbursed on December 31 of the same calendar year  
17 shall revert to the Department of Financial Services ~~Banking  
18 and Finance~~ Tobacco Settlement Clearing Trust Fund.

19           Section 79. Subsection (4) of section 24.105, Florida  
20 Statutes, is amended to read:

21           24.105 Powers and duties of department.--The  
22 department shall:

23           (4) Submit monthly and annual reports to the Governor,  
24 the Chief Financial Officer ~~Treasurer~~, the President of the  
25 Senate, and the Speaker of the House of Representatives  
26 disclosing the total lottery revenues, prize disbursements,  
27 and other expenses of the department during the preceding  
28 month. The annual report shall additionally describe the  
29 organizational structure of the department, including its  
30 hierarchical structure, and shall identify the divisions and  
31

1 | bureaus created by the secretary and summarize the  
2 | departmental functions performed by each.

3 |         Section 80. Subsection (5) of section 24.111, Florida  
4 | Statutes, is amended to read:

5 |             24.111 Vendors; disclosure and contract  
6 | requirements.--

7 |             (5) Each vendor in a major procurement in excess of  
8 | \$25,000, and any other vendor if the department deems it  
9 | necessary to protect the state's financial interest, shall, at  
10 | the time of executing the contract with the department, post  
11 | an appropriate bond with the department in an amount  
12 | determined by the department to be adequate to protect the  
13 | state's interests, but not higher than the full amount  
14 | estimated to be paid annually to the vendor under the  
15 | contract. In lieu of the bond, a vendor may, to assure the  
16 | faithful performance of its obligations, file with the  
17 | department an irrevocable letter of credit acceptable to the  
18 | department in an amount determined by the department to be  
19 | adequate to protect the state's interests or deposit and  
20 | maintain with the Chief Financial Officer ~~Treasurer~~ securities  
21 | that are interest bearing or accruing and that, with the  
22 | exception of those specified in paragraphs (a) and (b), are  
23 | rated in one of the four highest classifications by an  
24 | established nationally recognized investment rating service.  
25 | Securities eligible under this subsection shall be limited to:

26 |             (a) Certificates of deposit issued by solvent banks or  
27 | savings associations organized and existing under the laws of  
28 | this state or under the laws of the United States and having  
29 | their principal place of business in this state.

30 |  
31 |

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

4 (c) General obligation bonds and notes of any  
5 political subdivision of the state.

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

8  
9 Such securities shall be held in trust and shall have at all  
10 times a market value at least equal to an amount determined by  
11 the department to be adequate to protect the state's  
12 interests, which amount shall not be set higher than the full  
13 amount estimated to be paid annually to the vendor under  
14 contract.

15 Section 81. Paragraph (b) of subsection (9) of section  
16 24.112, Florida Statutes, is amended to read:

17 24.112 Retailers of lottery tickets.--

18 (9)

19 (b) In lieu of such bond, the department may purchase  
20 blanket bonds covering all or selected retailers or may allow  
21 a retailer to deposit and maintain with the Chief Financial  
22 Officer ~~Treasurer~~ securities that are interest bearing or  
23 accruing and that, with the exception of those specified in  
24 subparagraphs 1. and 2., are rated in one of the four highest  
25 classifications by an established nationally recognized  
26 investment rating service. Securities eligible under this  
27 paragraph shall be limited to:

28 1. Certificates of deposit issued by solvent banks or  
29 savings associations organized and existing under the laws of  
30 this state or under the laws of the United States and having  
31 their principal place of business in this state.

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

4           3. General obligation bonds and notes of any political  
5 subdivision of the state.

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

8  
9 Such securities shall be held in trust and shall have at all  
10 times a market value at least equal to an amount required by  
11 the department.

12           Section 82. Subsections (3) and (4) of section 24.120,  
13 Florida Statutes, are amended to read:

14           24.120 Financial matters; Administrative Trust Fund;  
15 interagency cooperation.--

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

25           (4) The department shall cooperate with the Chief  
26 Financial Officer ~~State Treasurer, the Comptroller~~, the  
27 Auditor General, and the Office of Program Policy Analysis and  
28 Government Accountability by giving employees designated by  
29 any of them access to facilities of the department for the  
30 purpose of efficient compliance with their respective  
31 responsibilities.

1           Section 83. Subsection (5) of section 25.241, Florida  
2 Statutes, is amended to read:

3           25.241 Clerk of Supreme Court; compensation;  
4 assistants; filing fees, etc.--

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

11           Section 84. Section 26.39, Florida Statutes, is  
12 amended to read:

13           26.39 Penalty for nonattendance of judge.--Whenever  
14 such default shall occur, the clerk of the court (unless such  
15 judge shall file his or her reasons for such default as  
16 hereinbefore provided) shall certify the fact, under his or  
17 her official signature and seal, to the Chief Financial  
18 Officer ~~Comptroller~~ of the state, who shall deduct from the  
19 warrants ~~on the Treasurer~~, thereafter to be issued in favor of  
20 the judge making such default, the sum of \$100 as aforesaid  
21 for every such default.

22           Section 85. Section 27.08, Florida Statutes, is  
23 amended to read:

24           27.08 State claims; surrender of papers to  
25 successor.--Upon the qualification of the successor of any  
26 state attorney, the state attorney going out of office shall  
27 deliver to his or her successor a statement of all cases for  
28 the collection of money in favor of the state under his or her  
29 control and the papers connected with the same, and take his  
30 or her receipt for the same, which receipt, when filed with  
31 the Department of Financial Services ~~Banking and Finance~~,

1 shall release such state attorney from any further liability  
2 to the state upon the claims receipted for; and the state  
3 attorney receiving the claims shall be liable in all respects  
4 for the same, as provided against state attorneys in s. 17.20.

5 Section 86. Section 27.10, Florida Statutes, is  
6 amended to read:

7 27.10 Obligation as to claims; how discharged.--The  
8 charges mentioned in s. 17.20 shall be evidence of  
9 indebtedness on the part of any state attorney against whom  
10 any charge is made for the full amount of such claim to the  
11 state until the same shall be collected and paid into the  
12 treasury or sued to insolvency, which fact of insolvency shall  
13 be certified by the circuit judge of his or her circuit,  
14 unless the ~~said~~ state attorney makes ~~shall make~~ it fully  
15 appear to the Department of Financial Services ~~Banking and~~  
16 ~~Finance~~ that the failure to collect the same did not result  
17 from his or her neglect.

18 Section 87. Section 27.11, Florida Statutes, is  
19 amended to read:

20 27.11 Report upon claims committed to state  
21 attorney.--The state attorney shall make a report to the Chief  
22 Financial Officer ~~Comptroller~~ on the first Monday in January  
23 and July in each and every year of the condition of all claims  
24 placed in his or her hands or which the state attorney may  
25 have been required to prosecute and collect, whether the same  
26 is in suit or in judgment, or collected, and the probable  
27 solvency or insolvency of claims not collected, and shall at  
28 the same time pay over all moneys which he or she may have  
29 collected belonging to the state; and the Chief Financial  
30 Officer ~~Comptroller~~ shall not audit or allow any claim which  
31

1 any state attorney may have against the state for services  
2 until he or she makes the report herein required.

3 Section 88. Subsection (1) of section 27.12, Florida  
4 Statutes, is amended to read:

5 27.12 Power to compromise.--

6 (1) The state attorney may, with the approval of the  
7 Department of Financial Services ~~Banking and Finance~~,  
8 compromise and settle all judgments, claims, and demands in  
9 favor of the state in his or her circuit against defaulting  
10 collectors of revenue, sheriffs and other officers, and the  
11 sureties on their bonds, on such terms as the state attorney  
12 may deem equitable and proper.

13 Section 89. Section 27.13, Florida Statutes, is  
14 amended to read:

15 27.13 Completion of compromise.--The state attorney  
16 shall, on agreeing to any compromise or settlement, report the  
17 same to the Department of Financial Services ~~Banking and~~  
18 ~~Finance~~ for its approval; and, on its approving such  
19 compromise or settlement, the ~~said~~ state attorney, on a  
20 compliance with the terms of such compromise or settlement  
21 shall give a receipt to the collector of revenue, sheriff or  
22 other officer, or the sureties on their bonds, or to the legal  
23 representatives, which receipt shall be a discharge from all  
24 judgments, claims or demands of the state against such  
25 collector of revenue or other officer, or the sureties on  
26 their bonds.

27 Section 90. Subsection (4) of section 27.34, Florida  
28 Statutes, is amended to read:

29 27.34 Salaries and other related costs of state  
30 attorneys' offices; limitations.--

31

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

9           Section 91. Section 27.3455, Florida Statutes, is  
10 amended to read:

11           27.3455 Annual statement of certain revenues and  
12 expenditures.--

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

20           (a) Medical examiner services.

21           (b) County victim witness programs.

22           (c) Each of the services outlined in ss. 27.34(2) and  
23 27.54(3).

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

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



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

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

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

- 17           1. The county failed to submit timely its annual  
18 statement;
- 19           2. Discrepancies were noted by the independent  
20 certified public accountant; or
- 21           3. The county failed to file before March 31 of each  
22 year the certified public accountant statement of compliance,  
23 the Chief Financial Officer may ~~Comptroller is hereby~~  
24 ~~authorized to~~ send his or her personnel or to contract for  
25 services to bring the county into compliance. The costs  
26 incurred by the Chief Financial Officer ~~Comptroller~~ shall be  
27 paid promptly by the county upon certification by the Chief  
28 Financial Officer ~~Comptroller~~.

29           (c) Where the Chief Financial Officer ~~Comptroller~~  
30 elects to utilize the services of an independent contractor,  
31 such certification by the Chief Financial Officer ~~Comptroller~~

1 may require the county to make direct payment to a contractor.  
2 Any funds owed by a county in such matters shall be recovered  
3 pursuant to s. 17.04 or s. 17.041.

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

6 (a) Reimbursement to the county for actual county  
7 expenditures incurred in providing the state attorney and  
8 public defender the services outlined in ss. 27.34(2) and  
9 27.54(3), with the exception of office space, utilities, and  
10 custodial services.

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

21 (c) At the close of the local government fiscal year,  
22 counties establishing or having in existence a comprehensive  
23 victim-witness program which meets the standards set by the  
24 Crime Victims' Services Office shall be eligible to receive 50  
25 percent matching moneys from the balance remaining in the  
26 special trust fund after reimbursements have been made  
27 pursuant to paragraphs (a) and (b). Special trust fund moneys  
28 used in any year to supplement such programs shall not exceed  
29 25 cents per county resident.

30 (d) At the close of the local government fiscal year,  
31 funds remaining in the special trust fund after reimbursements

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

19 (4) At the end of the local government fiscal year,  
20 all funds remaining on deposit in the special trust fund after  
21 all reimbursements have been made as provided for in  
22 subsection (3) shall be forwarded to the Chief Financial  
23 Officer ~~Treasurer~~ for deposit in the General Revenue Fund of  
24 the state.

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

28 Section 92. Subsection (2) of section 27.703, Florida  
29 Statutes, is amended to read:

30 27.703 Conflict of interest and substitute counsel.--  
31

1           (2) Appointed counsel shall be paid from funds  
2 appropriated to the Chief Financial Officer ~~Comptroller~~. The  
3 hourly rate may not exceed \$100. However, ~~effective July 1,~~  
4 ~~1999~~, all appointments of private counsel under this section  
5 shall be in accordance with ss. 27.710 and 27.711.

6           Section 93. Subsection (4) of section 27.710, Florida  
7 Statutes, is amended to read:

8           27.710 Registry of attorneys applying to represent  
9 persons in postconviction capital collateral proceedings;  
10 certification of minimum requirements; appointment by trial  
11 court.--

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

26           Section 94. Subsections (3), (4), (5), (6), (7), and  
27 (13) of section 27.711, Florida Statutes, are amended to read:

28           27.711 Terms and conditions of appointment of  
29 attorneys as counsel in postconviction capital collateral  
30 proceedings.--

31

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

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

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

29           (b) The attorney is entitled to \$100 per hour, up to a  
30 maximum of \$20,000, after timely filing in the trial court the  
31 capital defendant's complete original motion for

1 postconviction relief under the Florida Rules of Criminal  
2 Procedure. The motion must raise all issues to be addressed by  
3 the trial court. However, an attorney is entitled to fees  
4 under this paragraph if the court schedules a hearing on a  
5 matter that makes the filing of the original motion for  
6 postconviction relief unnecessary or if the court otherwise  
7 disposes of the case.

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

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

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

23 (f) The attorney is entitled to \$100 per hour, up to a  
24 maximum of \$4,000, after the appeal of the trial court's  
25 denial of the capital defendant's motion for postconviction  
26 relief and the capital defendant's state petition for writ of  
27 habeas corpus become final in the Supreme Court.

28 (g) At the conclusion of the capital defendant's  
29 postconviction capital collateral proceedings in state court,  
30 the attorney is entitled to \$100 per hour, up to a maximum of  
31

1 \$2,500, after filing a petition for writ of certiorari in the  
2 Supreme Court of the United States.

3 (h) If, at any time, the Supreme Court of the United  
4 States accepts for review the capital defendant's collateral  
5 challenge of the conviction and sentence of death, the  
6 attorney is entitled to \$100 per hour, up to a maximum of  
7 \$5,000. This payment shall be full compensation for  
8 representing the capital defendant throughout the certiorari  
9 proceedings before the United States Supreme Court.

10  
11 The hours billed by a contracting attorney under this  
12 subsection may include time devoted to representation of the  
13 defendant by another attorney who is qualified under s. 27.710  
14 and who has been designated by the contracting attorney to  
15 assist him or her.

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

23 (6) An attorney who represents a capital defendant is  
24 entitled to a maximum of \$15,000 for miscellaneous expenses,  
25 such as the costs of preparing transcripts, compensating  
26 expert witnesses, and copying documents. Upon approval by the  
27 trial court, the attorney is entitled to payment by the Chief  
28 Financial Officer ~~Comptroller~~ of up to \$15,000 for  
29 miscellaneous expenses, except that, if the trial court finds  
30 that extraordinary circumstances exist, the attorney is  
31 entitled to payment in excess of \$15,000.

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

8           (13) Prior to the filing of a motion for order  
9 approving payment of attorney's fees, costs, or related  
10 expenses, the assigned counsel shall deliver a copy of his  
11 intended billing, together with supporting affidavits and all  
12 other necessary documentation, to the Chief Financial  
13 Officer's ~~Comptroller's~~ named contract manager. The contract  
14 manager shall have 10 business days from receipt to review the  
15 billings, affidavit, and documentation for completeness and  
16 compliance with contractual and statutory requirements. If the  
17 contract manager objects to any portion of the proposed  
18 billing, the objection and reasons therefor shall be  
19 communicated to the assigned counsel. The assigned counsel may  
20 thereafter file his or her motion for order approving payment  
21 of attorney's fees, costs, or related expenses together with  
22 supporting affidavits and all other necessary documentation.  
23 The motion must specify whether the Chief Financial Officer's  
24 ~~Comptroller's~~ contract manager objects to any portion of the  
25 billing or the sufficiency of documentation and, if so, the  
26 reason therefor. A copy of the motion and attachments shall be  
27 served on the Chief Financial Officer's ~~Comptroller's~~ contract  
28 manager, who shall have standing to file pleadings and appear  
29 before the court to contest any motion for order approving  
30 payment. The fact that the Chief Financial Officer's  
31 ~~Comptroller's~~ contract manager has not objected to any portion



1 of the billing or to the sufficiency of the documentation is  
2 not binding on the court, which retains primary authority and  
3 responsibility for determining the reasonableness of all  
4 billings for fees, costs, and related expenses, subject to  
5 statutory limitations.

6 Section 95. Section 28.235, Florida Statutes, is  
7 amended to read:

8 28.235 Advance payments by clerk of circuit  
9 court.--The clerk of the circuit court is authorized to make  
10 advance payments on behalf of the county for goods and  
11 services, including, but not limited to, maintenance  
12 agreements and subscriptions, pursuant to rules or procedures  
13 adopted by the Chief Financial Officer ~~Comptroller~~ for advance  
14 payments of invoices submitted to agencies of the state.

15 Section 96. Subsections (7) and (23) of section 28.24,  
16 Florida Statutes, are amended to read:

17 28.24 Service charges by clerk of the circuit  
18 court.--The clerk of the circuit court shall make the  
19 following charges for services rendered by the clerk's office  
20 in recording documents and instruments and in performing the  
21 duties enumerated. However, in those counties where the  
22 clerk's office operates as a fiscal unit of the county  
23 pursuant to s. 145.022(1), the clerk shall not charge the  
24 county for such services.

25  
26 Charges

27  
28 (7) For making and reporting payrolls of jurors to  
29 Chief Financial Officer ~~State Comptroller~~, per page, per copy  
30 .....5.00  
31

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

4           Section 97. Section 30.52, Florida Statutes, is  
5 amended to read:

6           30.52 Handling of public funds.--The sheriff shall  
7 keep public funds in his or her custody, either in his or her  
8 office in an amount not in excess of the burglary, theft, and  
9 robbery insurance provided, the cost of which is hereby  
10 authorized as an expense of the office, or in a depository in  
11 an amount not in excess of the security provided pursuant to  
12 s. 658.60 and the regulations of the Department of Financial  
13 Services ~~Banking and Finance~~. The title of the depository  
14 accounts shall include the word "sheriff" and the name of the  
15 county, and withdrawals from the accounts shall be made by  
16 checks signed by the duly qualified and acting sheriff of the  
17 county, or his or her designated deputy or agent.

18           Section 98. Section 40.30, Florida Statutes, is  
19 amended to read:

20           40.30 Requisition endorsed by State Courts  
21 Administrator or designee.--Upon receipt of such estimate and  
22 the requisition from the clerk of the court, the State Courts  
23 Administrator or designee shall endorse the amount that he or  
24 she may deem necessary for the pay of jurors and witnesses  
25 during the quarterly fiscal period and shall submit a request  
26 for payment to the Chief Financial Officer ~~Comptroller~~.

27           Section 99. Section 40.31, Florida Statutes, is  
28 amended to read:

29           40.31 State Courts Administrator may apportion  
30 appropriation.--If the State Courts Administrator shall have  
31 reason to believe that the amount appropriated by the

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

17 Section 100. Section 40.33, Florida Statutes, is  
18 amended to read:

19 40.33 Deficiency.--If the compensation of jurors and  
20 witnesses during a quarterly fiscal period exceeds the amount  
21 estimated by the clerk of the court and therefore is  
22 insufficient to pay in full the jurors and witnesses, the  
23 clerk of the court shall make a further requisition upon the  
24 State Courts Administrator for the amount necessary to pay  
25 such default, and the amount required shall be transmitted to  
26 the clerk of the court by warrant issued by the Chief  
27 Financial Officer ~~Comptroller~~ in the same manner as the  
28 original requisition or order.

29 Section 101. Subsection (2) of section 40.34, Florida  
30 Statutes, is amended to read:

31 40.34 Clerks to make triplicate payroll.--

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

3           Section 102. Section 40.35, Florida Statutes, is  
4 amended to read:

5           40.35 Accounting and payment to the State Courts  
6 Administrator.--

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

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

23           Section 103. Paragraph (b) of subsection (5) of  
24 section 43.16, Florida Statutes, is amended to read:

25           43.16 Justice Administrative Commission; membership,  
26 powers and duties.--

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

29           (b) Each state attorney and public defender and the  
30 Judicial Qualifications Commission shall continue to prepare  
31 necessary budgets, vouchers which represent valid claims for

1 reimbursement by the state for authorized expenses, and other  
2 things incidental to the proper administrative operation of  
3 the office, such as revenue transmittals to the Chief  
4 Financial Officer ~~treasurer~~, automated systems plans, etc.,  
5 but will forward same to the commission for recording and  
6 submission to the proper state officer. However, when  
7 requested by a state attorney or a public defender or the  
8 Judicial Qualifications Commission, the commission will either  
9 assist in the preparation of budget requests, voucher  
10 schedules, and other forms and reports or accomplish the  
11 entire project involved.

12 Section 104. Subsections (1), (3), and (4) of section  
13 43.19, Florida Statutes, are amended to read:

14 43.19 Money paid into court; unclaimed funds.--

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

26 (3) Any person, firm or corporation entitled to any of  
27 the money may obtain an order directing the payment of the  
28 money to the claimant on written petition to the court from  
29 which the money was deposited or its successor, and written  
30 notice to the state attorney of the circuit wherein the court  
31 is situate, whether or not the court is a circuit court, and

1 proof of right thereto, and the money deposited shall  
2 constitute and be a permanent appropriation for payments by  
3 the Chief Financial Officer ~~Treasurer~~ of the state in  
4 obedience of such orders.

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

8 Section 105. Subsections (3) and (4) of section  
9 48.151, Florida Statutes, are amended to read:

10 48.151 Service on statutory agents for certain  
11 persons.--

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

24 (4) The Chief Financial Officer ~~Comptroller~~ is the  
25 agent for service of process for any issuer as defined in s.  
26 517.021, or any dealer, investment adviser, or associated  
27 person registered with the Department of Financial Services  
28 ~~Banking and Finance~~, for any violation of any provision of  
29 chapter 517.

30 Section 106. Subsection (1) of section 55.03, Florida  
31 Statutes, is amended to read:

1           55.03 Judgments; rate of interest, generally.--  
2           (1) On December 1 of each year ~~beginning December 1,~~  
3 ~~1994,~~ the Chief Financial Officer ~~Comptroller of the State of~~  
4 ~~Florida~~ shall set the rate of interest that shall be payable  
5 on judgments or decrees for the year beginning January 1 by  
6 averaging the discount rate of the Federal Reserve Bank of New  
7 York for the preceding year, then adding 500 basis points to  
8 the averaged federal discount rate. The Chief Financial  
9 Officer ~~Comptroller~~ shall inform the clerk of the courts and  
10 chief judge for each judicial circuit of the rate that has  
11 been established for the upcoming year. The ~~initial interest~~  
12 ~~rate established by the Comptroller shall take effect on~~  
13 ~~January 1, 1995, and the~~ interest rate established by the  
14 Chief Financial Officer ~~Comptroller in subsequent years~~ shall  
15 take effect on January 1 of each following year. Judgments  
16 obtained on or after January 1, 1995, shall use the previous  
17 statutory rate for time periods before January 1, 1995, for  
18 which interest is due and shall apply the rate set by the  
19 Chief Financial Officer ~~Comptroller~~ for time periods after  
20 January 1, 1995, for which interest is due. Nothing contained  
21 herein shall affect a rate of interest established by written  
22 contract or obligation.

23           Section 107. Section 57.091, Florida Statutes, is  
24 amended to read:

25           57.091 Costs; refunded to counties in certain  
26 proceedings relating to state prisoners.--All lawful fees,  
27 costs, and expenses hereafter adjudged against, and paid by,  
28 any county in all competency proceedings and all criminal  
29 prosecutions against state prisoners imprisoned in a state  
30 correctional institution, and in all habeas corpus cases  
31 brought to test the legality of the imprisonment of state

1 prisoners of such correctional institutions, shall be refunded  
2 to the county paying the sum from the General Revenue Fund in  
3 the State Treasury in the manner and to the extent herein  
4 provided, to wit: between the 1st and 15th of the month next  
5 succeeding the month in which the fees, costs, and expenses  
6 have been allowed and paid by the county, the clerk of the  
7 court shall make requisition on the Department of Corrections  
8 for the fees, costs, and expenses so allowed and paid during  
9 the preceding month, giving the style of the cases in which  
10 fees, costs, and expenses were incurred and the amount and  
11 items of cost in each case; providing a certified copy of the  
12 judgment adjudging the fees, costs, and expenses against the  
13 county and showing that the amount represented thereby has  
14 been approved by the presiding judge, paid by the county, and  
15 verified by the clerk; and attaching a certified copy of the  
16 bill as approved and allowed by the board of county  
17 commissioners of the county. If the Department of Corrections  
18 finds the bills legal and adjudged against and paid by the  
19 county, the department shall submit a request to the Chief  
20 Financial Officer ~~Comptroller~~ to draw a warrant in the amount  
21 thereof, or in the amount the department finds legal and  
22 adjudged against and paid by the county, in favor of the  
23 county paying the fees, costs, and expenses, which shall be  
24 paid by the Chief Financial Officer ~~State Treasurer~~ from the  
25 general revenue funds of the state.

26 Section 108. Subsections (1), (3), and (4) of section  
27 68.083, Florida Statutes, are amended to read:

28 68.083 Civil actions for false claims.--

29 (1) The department may diligently investigate a  
30 violation under s. 68.082. If the department finds that a  
31 person has violated or is violating s. 68.082, the department



1 may bring a civil action under the Florida False Claims Act  
2 against the person. The Department of Financial Services  
3 ~~Banking and Finance~~ may bring a civil action under this  
4 section if the action arises from an investigation by that  
5 department and the Department of Legal Affairs has not filed  
6 an action under this act.

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

22 (4) If a person brings an action under subsection (2)  
23 and the action is based upon the facts underlying a pending  
24 investigation by the Department of Financial Services ~~Banking~~  
25 ~~and Finance~~, the Department of Financial Services ~~Banking and~~  
26 ~~Finance~~, instead of the department, may take over the action  
27 on behalf of the state. In order to take over the action, the  
28 Department of Financial Services ~~Banking and Finance~~ must give  
29 the department written notification within 20 days after the  
30 action is filed that the Department of Financial Services  
31 ~~Banking and Finance~~ is conducting an investigation of the

1 facts of the action and that the Department of Financial  
2 Services ~~Banking and Finance~~, instead of the department, will  
3 take over the action filed under subsection (2). If the  
4 Department of Financial Services ~~Banking and Finance~~ takes  
5 over the action under this subsection, the word "department"  
6 as used in this act means the Department of Financial Services  
7 ~~Banking and Finance~~, and that department, for purposes of that  
8 action, shall have all rights and standing granted the  
9 department under this act.

10 Section 109. Subsections (3) and (6) of section  
11 68.084, Florida Statutes, are amended to read:

12 68.084 Rights of the parties in civil actions.--

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

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

29 Section 110. Subsection (3) of section 68.087, Florida  
30 Statutes, is amended to read:

31 68.087 Exemptions to civil actions.--

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

16           Section 111. Section 68.092, Florida Statutes, is  
17 amended to read:

18           68.092 Deposit of recovered moneys.--All moneys  
19 recovered by the Chief Financial Officer ~~Comptroller~~, as head  
20 of the Department of Financial Services ~~Banking and Finance~~,  
21 under s. 68.086(1) in any civil action for violation of the  
22 Florida False Claims Act shall be deposited in the  
23 Administrative Trust Fund of the Department of Financial  
24 Services ~~Banking and Finance~~.

25           Section 112. Section 77.0305, Florida Statutes, is  
26 amended to read:

27           77.0305 Continuing writ of garnishment against salary  
28 or wages.--Notwithstanding any other provision of this  
29 chapter, if salary or wages are to be garnished to satisfy a  
30 judgment, the court shall issue a continuing writ of  
31 garnishment to the judgment debtor's employer which provides

1 for the periodic payment of a portion of the salary or wages  
2 of the judgment debtor as the salary or wages become due until  
3 the judgment is satisfied or until otherwise provided by court  
4 order. A debtor's status as an employee of the state or its  
5 agencies or political subdivisions does not preclude a  
6 judgment creditor's right to garnish the debtor's wages. For  
7 the purposes of this section, the state includes the judicial  
8 branch and the legislative branch as defined in s. 216.011.  
9 The state, for itself and for its agencies and subdivisions,  
10 waives sovereign immunity for the express and limited purpose  
11 necessary to carry out this section. The court shall allow  
12 the judgment debtor's employer to collect up to \$5 against the  
13 salary or wages of the judgment debtor to reimburse the  
14 employer for administrative costs for the first deduction from  
15 the judgment debtor's salary or wages and up to \$2 for each  
16 deduction thereafter. The funds collected by the state under  
17 this section must be deposited in the Department of Financial  
18 Services ~~Banking and Finance~~ Administrative Trust Fund for  
19 purposes of carrying out this section.

20 Section 113. Section 92.39, Florida Statutes, is  
21 amended to read:

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

1 prevented from exhibiting a claim for such credit at the Chief  
2 Financial Officer's ~~Comptroller's~~ office by unavoidable  
3 accident.

4 Section 114. Subsection (4) of section 99.097, Florida  
5 Statutes, is amended to read:

6 99.097 Verification of signatures on petitions.--

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

1 as extra compensation for the supervisor. Petitions shall be  
2 retained by the supervisors for a period of 1 year following  
3 the election for which the petitions were circulated.

4 Section 115. Paragraph (a) of subsection (2) of  
5 section 101.151, Florida Statutes, is amended to read:

6 101.151 Specifications for ballots.--

7 (2)(a) The ballot shall have headings under which  
8 shall appear the names of the offices and names of duly  
9 nominated candidates for the respective offices in the  
10 following order: the heading "President and Vice President"  
11 and thereunder the names of the candidates for President and  
12 Vice President of the United States nominated by the political  
13 party that received the highest vote for Governor in the last  
14 general election of the Governor in this state. Then shall  
15 appear the names of other candidates for President and Vice  
16 President of the United States who have been properly  
17 nominated. Votes cast for write-in candidates for President  
18 and Vice President shall be counted as votes cast for the  
19 presidential electors supporting such candidates. Then shall  
20 follow the heading "Congressional" and thereunder the offices  
21 of United States Senator and Representative in Congress; then  
22 the heading "State" and thereunder the offices of Governor and  
23 Lieutenant Governor, Secretary of State, Attorney General,  
24 Chief Financial Officer ~~Comptroller, Treasurer~~, Commissioner  
25 of Education, Commissioner of Agriculture, state attorney, and  
26 public defender, together with the names of the candidates for  
27 each office and the title of the office which they seek; then  
28 the heading "Legislative" and thereunder the offices of state  
29 senator and state representative; then the heading "County"  
30 and thereunder clerk of the circuit court, clerk of the county  
31 court (when authorized by law), sheriff, property appraiser,

1 tax collector, district superintendent of schools, and  
2 supervisor of elections. Thereafter follows: members of the  
3 board of county commissioners, and such other county and  
4 district offices as are involved in the general election, in  
5 the order fixed by the Department of State, followed, in the  
6 year of their election, by "Party Offices," and thereunder the  
7 offices of state and county party executive committee members.  
8 In addition to the names printed on the ballot, a blank space  
9 shall be provided under each heading for an office for which a  
10 write-in candidate has qualified. With respect to write-in  
11 candidates, if two or more candidates are seeking election to  
12 one office, only one blank space shall be provided.

13 Section 116. Subsection (6) of section 103.091,  
14 Florida Statutes, is amended to read:

15 103.091 Political parties.--

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

21 (b)2. Each state executive committee shall include, as  
22 at-large committeemen and committeewomen, all members of the  
23 United States Congress representing the State of Florida who  
24 are members of the political party, all statewide elected  
25 officials who are members of the party, and the President of  
26 the Senate or the Minority Leader in the Senate, and the  
27 Speaker of the House of Representatives or the Minority Leader  
28 in the House of Representatives, whichever is a member of the  
29 political party, and 20 members of the Legislature who are  
30 members of the political party. Ten of the legislators shall  
31 be appointed with the concurrence of the state chair of the

1 respective party, as follows: five to be appointed by the  
2 President of the Senate; five by the Minority Leader in the  
3 Senate; five by the Speaker of the House of Representatives;  
4 and five by the Minority Leader in the House.

5 ~~(c)3.~~ When a political party allows any member of the  
6 state executive committee to have more than one vote per  
7 person, other than by proxy, in a matter coming before the  
8 state executive committee, the 20 members of the Legislature  
9 appointed under paragraph (b)~~subparagraph 2.~~ shall not be  
10 appointed to the state executive committee and the following  
11 elected officials who are members of that political party  
12 shall be appointed and shall have the following votes:

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

15 2.b. Lieutenant Governor: a number equal to 5 percent  
16 of the votes cast by state executive committeemen and  
17 committeewomen;

18 3.c. Each member of the United States Senate  
19 representing the state: a number equal to 10 percent of the  
20 votes cast by state executive committeemen and committeewomen;

21 4.d. Secretary of State: a number equal to 5 percent  
22 of the votes cast by state executive committeemen and  
23 committeewomen;

24 5.e. Attorney General: a number equal to 5 percent of  
25 the votes cast by state executive committeemen and  
26 committeewomen;

27 6.f. Comptroller: a number equal to 5 percent of the  
28 votes cast by state executive committeemen and committeewomen;

29 7.g. Treasurer: a number equal to 5 percent of the  
30 votes cast by state executive committeemen and committeewomen;

31



1           ~~8.h.~~ Commissioner of Agriculture: a number equal to 5  
2 percent of the votes cast by state executive committeemen and  
3 committeewomen;

4           ~~9.i.~~ Commissioner of Education: a number equal to 5  
5 percent of the votes cast by state executive committeemen and  
6 committeewomen;

7           ~~10.j.~~ President of the Senate: a number equal to 10  
8 percent of the votes cast by state executive committeemen and  
9 committeewomen;

10           ~~11.k.~~ Minority leader of the Senate: a number equal  
11 to 10 percent of the votes cast by state executive  
12 committeemen and committeewomen;

13           ~~12.l.~~ Speaker of the House of Representatives: a  
14 number equal to 10 percent of the votes cast by state  
15 executive committeemen and committeewomen;

16           ~~13.m.~~ Minority leader of the House of Representatives:  
17 a number equal to 10 percent of the votes cast by state  
18 executive committeemen and committeewomen; and

19           ~~14.n.~~ Each member of the United States House of  
20 Representatives representing the state: a number equal to 1  
21 percent of the votes cast by state executive committeemen and  
22 committeewomen.

23           ~~(d)1.4.a.~~ The governing body of each state executive  
24 committee as defined by party rule shall include as at-large  
25 committeemen and committeewomen all statewide elected  
26 officials who are members of such political party; up to four  
27 members of the United States Congress representing the state  
28 who are members of such political party and who shall be  
29 appointed by the state chair on the basis of geographic  
30 representation; the permanent presiding officer selected by  
31 the members of each house of the Legislature who are members

1 of such political party; and the minority leader selected by  
2 the members of each house of the Legislature who are members  
3 of such political party.

4 2.b. All members of the governing body shall have one  
5 vote per person.

6 Section 117. Section 107.11, Florida Statutes, is  
7 amended to read:

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

21 Section 118. Paragraph (a) of subsection (2) of  
22 section 110.1127, Florida Statutes, is amended to read:

23 110.1127 Employee security checks.--

24 (2)(a) All positions within the Division of Treasury  
25 of the Department of Financial Services ~~Insurance~~ are deemed  
26 to be positions of special trust or responsibility, and a  
27 person may be disqualified for employment in any such position  
28 by reason of:

29 1. The conviction or prior conviction of a crime which  
30 is reasonably related to the nature of the position sought or  
31 held by the individual; or

1           2. The entering of a plea of nolo contendere or, when  
2 a jury verdict of guilty is rendered but adjudication of guilt  
3 is withheld, with respect to a crime which is reasonably  
4 related to the nature of the position sought or held by the  
5 individual.

6           Section 119. Subsection (1) of section 110.113,  
7 Florida Statutes, is amended to read:

8           110.113 Pay periods for state officers and employees;  
9 salary payments by direct deposit.--

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

19           Section 120. Subsection (1) of section 110.114,  
20 Florida Statutes, is amended to read:

21           110.114 Employee wage deductions.--

22           (1) The state or any of its departments, bureaus,  
23 commissions, and officers are authorized and permitted, with  
24 the concurrence of the Department of Financial Services  
25 ~~Banking and Finance~~, to make deductions from the salary or  
26 wage of any employee or employees in such amount as shall be  
27 authorized and requested by such employee or employees and for  
28 such purpose as shall be authorized and requested by such  
29 employee or employees and shall pay such sums so deducted as  
30 directed by such employee or employees. The concurrence of  
31 the Department of Financial Services ~~Banking and Finance~~ shall

1 not be required for the deduction of a certified bargaining  
2 agent's membership dues deductions pursuant to s. 447.303 or  
3 any deductions authorized by a collective bargaining  
4 agreement.

5 Section 121. Section 110.116, Florida Statutes, is  
6 amended to read:

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

1 by budget entity to show the employees or vacant positions  
2 within each budget entity. This list shall be available to  
3 the Speaker of the House of Representatives and the President  
4 of the Senate upon request.

5 Section 122. Paragraph (a) of subsection (3) and  
6 paragraph (b) of subsection (6) of section 110.1227, Florida  
7 Statutes, are amended to read:

8 110.1227 Florida Employee Long-Term-Care Plan Act.--

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

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

22 (6) A Florida Employee Long-Term-Care Plan Board of  
23 Directors is created, composed of nine members who shall serve  
24 2-year terms, to be appointed after May 1, 1999, as follows:

25 (b) The Chief Financial Officer ~~Insurance Commissioner~~  
26 shall appoint an actuary.

27 Section 123. Paragraph (f) of subsection (5) of  
28 section 110.1228, Florida Statutes, is amended to read:

29 110.1228 Participation by small counties, small  
30 municipalities, and district school boards located in small  
31 counties.--

1           (5) If the department determines that a small county,  
2 small municipality, or district school board is eligible to  
3 enroll, the small county, small municipality, or district  
4 school board must agree to the following terms and conditions:

5           (f) If a small county, small municipality, or district  
6 school board employer fails to make the payments required by  
7 this section to fully reimburse the state, the Department of  
8 Revenue or the Department of Financial Services ~~Banking and~~  
9 ~~Finance~~ shall, upon the request of the Department of  
10 Management Services, deduct the amount owed by the employer  
11 from any funds not pledged to bond debt service satisfaction  
12 that are to be distributed by it to the small county, small  
13 municipality, or district school board. The amounts so  
14 deducted shall be transferred to the Department of Management  
15 Services for further distribution to the trust funds in  
16 accordance with this chapter.

17           Section 124. Paragraph (f) of subsection (4) and  
18 paragraphs (b) and (c) of subsection (5) of section 110.123,  
19 Florida Statutes, are amended to read:

20           110.123 State group insurance program.--

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

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

1           (5) DEPARTMENT POWERS AND DUTIES.--The department is  
2 responsible for the administration of the state group  
3 insurance program. The department shall initiate and  
4 supervise the program as established by this section and shall  
5 adopt such rules as are necessary to perform its  
6 responsibilities. To implement this program, the department  
7 shall, with prior approval by the Legislature:

8           (b) Prepare, in cooperation with the Department of  
9 Financial Services Insurance, the specifications necessary to  
10 implement the program.

11           (c) Contract on a competitive proposal basis with an  
12 insurance carrier or carriers, or professional administrator,  
13 determined by the Department of Financial Services Insurance  
14 to be fully qualified, financially sound, and capable of  
15 meeting all servicing requirements. Alternatively, the  
16 department may self-insure any plan or plans contained in the  
17 state group insurance program subject to approval based on  
18 actuarial soundness by the Department of Financial Services  
19 Insurance. The department may contract with an insurance  
20 company or professional administrator qualified and approved  
21 by the Department of Financial Services Insurance to  
22 administer such plan. Before entering into any contract, the  
23 department shall advertise for competitive proposals, and such  
24 contract shall be let upon the consideration of the benefits  
25 provided in relationship to the cost of such benefits. In  
26 determining which entity to contract with, the department  
27 shall, at a minimum, consider: the entity's previous  
28 experience and expertise in administering group insurance  
29 programs of the type it proposes to administer; the entity's  
30 ability to specifically perform its contractual obligations in  
31 this state and other governmental jurisdictions; the entity's

1 anticipated administrative costs and claims experience; the  
2 entity's capability to adequately provide service coverage and  
3 sufficient number of experienced and qualified personnel in  
4 the areas of claims processing, recordkeeping, and  
5 underwriting, as determined by the department; the entity's  
6 accessibility to state employees and providers; the financial  
7 solvency of the entity, using accepted business sector  
8 measures of financial performance. The department may contract  
9 for medical services which will improve the health or reduce  
10 medical costs for employees who participate in the state group  
11 insurance plan.

12

13 Final decisions concerning enrollment, the existence of  
14 coverage, or covered benefits under the state group insurance  
15 program shall not be delegated or deemed to have been  
16 delegated by the department.

17 Section 125. Section 110.125, Florida Statutes, is  
18 amended to read:

19 110.125 Administrative costs.--The administrative  
20 expenses and costs of operating the personnel program  
21 established by this chapter shall be paid by the various  
22 agencies of the state government, and each such agency shall  
23 include in its budget estimates its pro rata share of such  
24 cost as determined by the Department of Management Services.  
25 To establish an equitable division of the costs, the amount to  
26 be paid by each agency shall be determined in such proportion  
27 as the service rendered to each agency bears to the total  
28 service rendered under the provisions of this chapter. The  
29 amounts paid to the Department of Management Services which  
30 are attributable to positions within the Senior Management  
31 Service and the Selected Professional Service shall be used



1 for the administration of such services, training activities  
2 for positions within those services, and the development and  
3 implementation of a database of pertinent historical  
4 information on exempt positions. Should any state agency  
5 become more than 90 days delinquent in payment of this  
6 obligation, the department shall certify to the Chief  
7 Financial Officer ~~Comptroller~~ the amount due and the Chief  
8 Financial Officer ~~Comptroller~~ shall transfer the amount due to  
9 the department from any debtor agency funds available.

10 Section 126. Paragraph (a) of subsection (1) of  
11 section 110.181, Florida Statutes, is amended to read:

12 110.181 Florida State Employees' Charitable  
13 Campaign.--

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

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

24 Section 127. Subsection (1) of section 110.2037,  
25 Florida Statutes, is amended to read:

26 110.2037 Alternative benefits; tax-sheltered annual  
27 leave and sick leave payments and special compensation  
28 payments.--

29 (1) The Department of Management Services has  
30 authority to adopt tax-sheltered plans under s. 401(a) of the  
31 Internal Revenue Code for state employees who are eligible for

1 payment for accumulated leave. The department, upon adoption  
2 of the plans, shall contract for a private vendor or vendors  
3 to administer the plans. These plans shall be limited to state  
4 employees who are over age 55 and who are: eligible for  
5 accumulated leave and special compensation payments and  
6 separating from employment with 10 years of service in  
7 accordance with the Internal Revenue Code, or who are  
8 participating in the Deferred Retirement Option Program on or  
9 after July 1, 2001. The plans must provide benefits in a  
10 manner that minimizes the tax liability of the state and  
11 participants. The plans must be funded by employer  
12 contributions of payments for accumulated leave or special  
13 compensation payments, or both, as specified by the  
14 department. The plans must have received all necessary federal  
15 and state approval as required by law, must not adversely  
16 impact the qualified status of the Florida Retirement System  
17 defined benefit or defined contribution plans or the pretax  
18 benefits program, and must comply with the provisions of s.  
19 112.65. Adoption of any plan is contingent on: the department  
20 receiving appropriate favorable rulings from the Internal  
21 Revenue Service; the department negotiating under the  
22 provisions of chapter 447, where applicable; and the Chief  
23 Financial Officer ~~Comptroller~~ making appropriate changes to  
24 the state payroll system. The department's request for  
25 proposals by vendors for such plans may require that the  
26 vendors provide market-risk or volatility ratings from  
27 recognized rating agencies for each of their investment  
28 products. The department shall provide for a system of  
29 continuous quality assurance oversight to ensure that the  
30 program objectives are achieved and that the program is  
31 prudently managed.

1           Section 128. Subsection (6) of section 110.205,  
2 Florida Statutes, is amended to read:

3           110.205 Career service; exemptions.--

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

13           Section 129. Paragraph (b) of subsection (5),  
14 paragraph (b) of subsection (7), paragraph (b) of subsection  
15 (8), and subsections (9), (11), and (13) of section 112.061,  
16 Florida Statutes, are amended to read:

17           112.061 Per diem and travel expenses of public  
18 officers, employees, and authorized persons.--

19           (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For  
20 purposes of reimbursement and methods of calculating  
21 fractional days of travel, the following principles are  
22 prescribed:

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

27           1. Breakfast--When travel begins before 6 a.m. and  
28 extends beyond 8 a.m.

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

31

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

4  
5 No allowance shall be made for meals when travel is confined  
6 to the city or town of the official headquarters or immediate  
7 vicinity; except assignments of official business outside the  
8 traveler's regular place of employment if travel expenses are  
9 approved. The Chief Financial Officer ~~Comptroller~~ shall  
10 establish a schedule for processing Class C travel subsistence  
11 payments at least on a monthly basis.

12           (7) TRANSPORTATION.--

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

17           (8) OTHER EXPENSES.--

18           (b) Other expenses which are not specifically  
19 authorized by this section may be approved by the Department  
20 of Financial Services ~~Banking and Finance~~ pursuant to rules  
21 adopted by it. Expenses approved pursuant to this paragraph  
22 shall be reported by the Department of Financial Services  
23 ~~Banking and Finance~~ to the Auditor General annually.

24           (9) RULES AND REGULATIONS.--

25           (a) The Department of Financial Services ~~Banking and~~  
26 ~~Finance~~ shall adopt ~~promulgate~~ such rules ~~and regulations~~,  
27 including, but not limited to, the general criteria to be used  
28 by a state agency to predetermine justification for attendance  
29 by state officers and employees and authorized persons at  
30 conventions and conferences, and prescribe such forms as may  
31 be necessary to effectuate the purposes of this section. The

1 department may also adopt rules prescribing the proper  
2 disposition and use of promotional items and rebates offered  
3 by common carriers and other entities in connection with  
4 travel at public expense; however, before adopting such rules,  
5 the department shall consult with the appropriation committees  
6 of the Legislature.

7 (b) Each state agency shall promulgate such additional  
8 specific rules and regulations and specific criteria to be  
9 used by it to predetermine justification for attendance by  
10 state officers and employees and authorized persons at  
11 conventions and conferences, not in conflict with the rules  
12 ~~and regulations~~ of the Department of Financial Services  
13 ~~Banking and Finance~~ or with the general criteria to be used by  
14 a state agency to predetermine justification for attendance by  
15 state officers and employees and authorized persons at  
16 conventions, as may be necessary to effectuate the purposes of  
17 this section.

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

19 (a) Authorization forms.--The Department of Financial  
20 Services ~~Banking and Finance~~ shall furnish a uniform travel  
21 authorization request form which shall be used by all state  
22 officers and employees and authorized persons when requesting  
23 approval for the performance of travel to a convention or  
24 conference. The form shall include, but not be limited to,  
25 provision for the name of each traveler, purpose of travel,  
26 period of travel, estimated cost to the state, and a statement  
27 of benefits accruing to the state by virtue of such travel. A  
28 copy of the program or agenda of the convention or conference,  
29 itemizing registration fees and any meals or lodging included  
30 in the registration fee, shall be attached to, and filed with,  
31 the copy of the travel authorization request form on file with

1 the agency. The form shall be signed by the traveler and by  
2 the traveler's supervisor stating that the travel is to be  
3 incurred in connection with official business of the state.  
4 The head of the agency or his or her designated representative  
5 shall not authorize or approve such request in the absence of  
6 the appropriate signatures. A copy of the travel authorization  
7 form shall be attached to, and become a part of, the support  
8 of the agency's copy of the travel voucher.

9 (b) Voucher forms.--

10 1. The Department of Financial Services ~~Banking and~~  
11 ~~Finance~~ shall furnish a uniform travel voucher form which  
12 shall be used by all state officers and employees and  
13 authorized persons when submitting travel expense statements  
14 for approval and payment. No travel expense statement shall  
15 be approved for payment by the Chief Financial Officer  
16 ~~Comptroller~~ unless made on the form prescribed and furnished  
17 by the department. The travel voucher form shall provide for,  
18 among other things, the purpose of the official travel and a  
19 certification or affirmation, to be signed by the traveler,  
20 indicating the truth and correctness of the claim in every  
21 material matter, that the travel expenses were actually  
22 incurred by the traveler as necessary in the performance of  
23 official duties, that per diem claimed has been appropriately  
24 reduced for any meals or lodging included in the convention or  
25 conference registration fees claimed by the traveler, and that  
26 the voucher conforms in every respect with the requirements of  
27 this section. The original copy of the executed uniform  
28 travel authorization request form shall be attached to the  
29 uniform travel voucher on file with the respective agency.

30 2. Statements for travel expenses incidental to the  
31 rendering of medical services for and on behalf of clients of

1 the Department of Health shall be on forms approved by the  
2 Department of Financial Services ~~Banking and Finance~~.

3 (13) DIRECT PAYMENT OF EXPENSES BY AGENCY.--Whenever  
4 an agency requires an employee to incur either Class A or  
5 Class B travel on emergency notice to the traveler, such  
6 traveler may request the agency to pay his or her expenses for  
7 meals and lodging directly to the vendor, and the agency may  
8 pay the vendor the actual expenses for meals and lodging  
9 during the travel period, limited to an amount not to exceed  
10 that authorized pursuant to this section. In emergency  
11 situations, the agency head or his or her designee may  
12 authorize an increase in the amount paid for a specific meal,  
13 provided that the total daily cost of meals does not exceed  
14 the total amount authorized for meals each day. The agency  
15 head or his or her designee may also grant prior approval for  
16 a state agency to make direct payments of travel expenses in  
17 other situations that result in cost savings to the state, and  
18 such cost savings shall be documented in the voucher submitted  
19 to the Chief Financial Officer ~~Comptroller~~ for the direct  
20 payment of travel expenses. The provisions of this subsection  
21 shall not be deemed to apply to any legislator or to any  
22 employee of the Legislature.

23 Section 130. Subsections (2), (5), and (6) of section  
24 112.08, Florida Statutes, are amended to read:

25 112.08 Group insurance for public officers, employees,  
26 and certain volunteers; physical examinations.--

27 (2)(a) Every local governmental unit is authorized to  
28 provide and pay out of its available funds for all or part of  
29 the premium for life, health, accident, hospitalization, legal  
30 expense, or annuity insurance, or all or any kinds of such  
31 insurance, for the officers and employees of the local

1 governmental unit and for health, accident, hospitalization,  
2 and legal expense insurance for the dependents of such  
3 officers and employees upon a group insurance plan and, to  
4 that end, to enter into contracts with insurance companies or  
5 professional administrators to provide such insurance. Before  
6 entering any contract for insurance, the local governmental  
7 unit shall advertise for competitive bids; and such contract  
8 shall be let upon the basis of such bids. If a contracting  
9 health insurance provider becomes financially impaired as  
10 determined by the Department of Financial Services ~~Insurance~~  
11 or otherwise fails or refuses to provide the contracted-for  
12 coverage or coverages, the local government may purchase  
13 insurance, enter into risk management programs, or contract  
14 with third-party administrators and may make such acquisitions  
15 by advertising for competitive bids or by direct negotiations  
16 and contract. The local governmental unit may undertake  
17 simultaneous negotiations with those companies which have  
18 submitted reasonable and timely bids and are found by the  
19 local governmental unit to be fully qualified and capable of  
20 meeting all servicing requirements. Each local governmental  
21 unit may self-insure any plan for health, accident, and  
22 hospitalization coverage or enter into a risk management  
23 consortium to provide such coverage, subject to approval based  
24 on actuarial soundness by the Department of Financial Services  
25 ~~Insurance~~; and each shall contract with an insurance company  
26 or professional administrator qualified and approved by the  
27 Department of Financial Services ~~Insurance~~ to administer such  
28 a plan.

29 (b) In order to obtain approval from the Department of  
30 Insurance of any self-insured plan for health, accident, and  
31 hospitalization coverage, each local governmental unit or



1 consortium shall submit its plan along with a certification as  
2 to the actuarial soundness of the plan, which certification is  
3 prepared by an actuary who is a member of the Society of  
4 Actuaries or the American Academy of Actuaries. The Department  
5 of Financial Services ~~Insurance~~ shall not approve the plan  
6 unless it determines that the plan is designed to provide  
7 sufficient revenues to pay current and future liabilities, as  
8 determined according to generally accepted actuarial  
9 principles. After implementation of an approved plan, each  
10 local governmental unit or consortium shall annually submit to  
11 the Department of Financial Services ~~Insurance~~ a report which  
12 includes a statement prepared by an actuary who is a member of  
13 the Society of Actuaries or the American Academy of Actuaries  
14 as to the actuarial soundness of the plan. The report is due  
15 90 days after the close of the fiscal year of the plan. The  
16 report shall consist of, but is not limited to:

17         1. The adequacy of contribution rates in meeting the  
18 level of benefits provided and the changes, if any, needed in  
19 the contribution rates to achieve or preserve a level of  
20 funding deemed adequate to enable payment of the benefit  
21 amounts provided under the plan and a valuation of present  
22 assets, based on statement value, and prospective assets and  
23 liabilities of the plan and the extent of any unfunded accrued  
24 liabilities.

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

27         3. A description and explanation of actuarial  
28 assumptions.

29         4. A schedule illustrating the amortization of any  
30 unfunded liabilities.

31

1           5. A comparative review illustrating the level of  
2 funds available to the plan from rates, investment income, and  
3 other sources realized over the period covered by the report  
4 with the assumptions used.

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

9           7. Other factors or statements as required by the  
10 Department of Insurance in order to determine the actuarial  
11 soundness of the plan.

12  
13 All assumptions used in the report shall be based on  
14 recognized actuarial principles acceptable to the Department  
15 of Financial Services Insurance. The Department of Financial  
16 Services Insurance shall review the report and shall notify  
17 the administrator of the plan and each entity participating in  
18 the plan, as identified by the administrator, of any actuarial  
19 deficiencies. Each local governmental unit is responsible for  
20 payment of valid claims of its employees that are not paid  
21 within 60 days after receipt by the plan administrator or  
22 consortium.

23           (c) Every local governmental unit is authorized to  
24 expend funds for preemployment physical examinations and  
25 postemployment physical examinations.

26           (5) The Department of Management Services shall  
27 initiate and supervise a group insurance program providing  
28 death and disability benefits for active members of the  
29 Florida Highway Patrol Auxiliary, with coverage beginning July  
30 1, 1978, and purchased from state funds appropriated for that  
31 purpose. The Department of Management Services, in

1 cooperation with the Department of Financial Services  
2 ~~Insurance~~, shall prepare specifications necessary to implement  
3 the program, and the Department of Management Services shall  
4 receive bids and award the contract in accordance with general  
5 law.

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

9 Section 131. Paragraph (h) of subsection (2) of  
10 section 112.191, Florida Statutes, is amended to read:

11 112.191 Firefighters; death benefits.--

12 (2)

13 (h) The Division of the State Fire Marshal within the  
14 Department of Financial Services ~~Insurance~~ is directed to  
15 adopt ~~promulgate~~ rules as are necessary to implement the  
16 provisions of this section.

17 Section 132. Subsections (2) and (4), paragraph (a) of  
18 subsection (6), paragraphs (a), (d), (f), and (h) of  
19 subsection (8), paragraph (b) of subsection (10), and  
20 subsections (11) and (12) of section 112.215, Florida  
21 Statutes, are amended to read:

22 112.215 Government employees; deferred compensation  
23 program.--

24 (2) For the purposes of this section:7

25 (a) The term "employee" means any person, whether  
26 appointed, elected, or under contract, providing services for  
27 the state; any state agency or county or other political  
28 subdivision of the state; any municipality; or any  
29 constitutional county officer under s. 1(d), Art. VIII of the  
30 State Constitution for which compensation or statutory fees  
31 are paid;7

1           (b) The term "department" means the Department of  
2 Management Services.

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

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

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

1 make direct disbursement of funds under the plan to an  
2 employee or other beneficiary only upon the order of the Chief  
3 Financial Officer ~~Comptroller to the Treasurer~~.

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

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

23 (8)(a) There is ~~hereby~~ created a Deferred Compensation  
24 Advisory Council composed of seven members.

25 1. One member shall be appointed by the Speaker of the  
26 House of Representatives and the President of the Senate  
27 jointly and shall be an employee of the legislative branch.

28 2. One member shall be appointed by the Chief Justice  
29 of the Supreme Court and shall be an employee of the judicial  
30 branch.

31

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

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

6           a. One member shall be appointed by the Chancellor of  
7 the State University System and shall be an employee of the  
8 university system.

9           b. One member shall be appointed by the department  
10 ~~Treasurer~~ and shall be an employee of the department  
11 ~~Treasurer~~.

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

14           d. One member shall be appointed by the Chief  
15 Financial Officer ~~Comptroller~~ and shall be an employee of the  
16 Chief Financial Officer ~~Comptroller~~.

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

24           (f) The council shall make a report of each meeting to  
25 the department Treasurer, which shall show the names of the  
26 members present and shall include a record of its discussions,  
27 recommendations, and actions taken. The department Treasurer  
28 shall keep the records of the proceedings of each meeting on  
29 file and shall make the records available to any interested  
30 person or group.

31

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

15           (10)

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

23           a. All amounts of compensation deferred thereunder;

24           b. All property and rights purchased with such  
25 amounts; and

26           c. All income attributable to such amounts, property,  
27 or rights.

28           2. Notwithstanding the mandates of 26 U.S.C. s.  
29 457(b)(6), all of the assets specified in subparagraph 1.  
30 shall be held in trust for the exclusive benefit of  
31

1 participants and their beneficiaries as mandated by 26 U.S.C.  
2 s. 457(g)(1).

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

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

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

29

30 The Chief Financial Officer ~~Treasurer~~ shall have all the  
31 applicable powers provided in ss. 280.04, 280.05, and 280.08



1 relating to the sale or other disposition of the pledged  
2 collateral.

3 (12) The department ~~Treasurer~~ may adopt any rule  
4 necessary to administer and implement this act with respect to  
5 deferred compensation plans for state employees.

6 Section 133. Paragraph (h) of subsection (4) of  
7 section 112.3144, Florida Statutes, is amended to read:

8 112.3144 Full and public disclosure of financial  
9 interests.--

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

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

24 Section 134. Paragraph (i) of subsection (6) of  
25 section 112.3145, Florida Statutes, is amended to read:

26 112.3145 Disclosure of financial interests and clients  
27 represented before agencies.--

28 (6) Forms for compliance with the disclosure  
29 requirements of this section and a current list of persons  
30 subject to disclosure shall be created by the commission and  
31 provided to each supervisor of elections. The commission and

1 each supervisor of elections shall give notice of disclosure  
2 deadlines and delinquencies and distribute forms in the  
3 following manner:

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

13 Section 135. Paragraph (c) of subsection (9) of  
14 section 112.3189, Florida Statutes, is amended to read:

15 112.3189 Investigative procedures upon receipt of  
16 whistle-blower information from certain state employees.--

17 (9)

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

24 Section 136. Paragraph (e) of subsection (3) of  
25 section 112.31895, Florida Statutes, is amended to read:

26 112.31895 Investigative procedures in response to  
27 prohibited personnel actions.--

28 (3) CORRECTIVE ACTION AND TERMINATION OF  
29 INVESTIGATION.--

30 (e)1. The Florida Commission on Human Relations may  
31 request an agency or circuit court to order a stay, on such

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

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

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

24         4. If the Florida Commission on Human Relations finds,  
25 in consultation with the individual subject to the prohibited  
26 action, that the agency has implemented the corrective action,  
27 the commission shall file such finding with the agency head,  
28 together with any written comments that the individual  
29 provides, and terminate the investigation.

30         Section 137. Paragraph (f) of subsection (5) of  
31 section 112.3215, Florida Statutes, is amended to read:

1           112.3215 Lobbyists before the executive branch or the  
2 Constitution Revision Commission; registration and reporting;  
3 investigation by commission.--

4           (5)

5           (f) The commission shall provide by rule a procedure  
6 by which a lobbyist who fails to timely file a report shall be  
7 notified and assessed fines. The rule shall provide for the  
8 following:

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

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

18           a. When a report is actually received by the lobbyist  
19 registration and reporting office.

20           b. When the report is postmarked.

21           c. When the certificate of mailing is dated.

22           d. When the receipt from an established courier  
23 company is dated.

24           3. Such fine shall be paid within 30 days after the  
25 notice of payment due is transmitted by the Lobbyist  
26 Registration Office, unless appeal is made to the commission.  
27 The moneys shall be deposited into the Executive Branch Lobby  
28 Registration Trust Fund.

29           4. A fine shall not be assessed against a lobbyist the  
30 first time any reports for which the lobbyist is responsible  
31 are not timely filed. However, to receive the one-time fine

1 waiver, all reports for which the lobbyist is responsible must  
2 be filed within 30 days after the notice that any reports have  
3 not been timely filed is transmitted by the Lobbyist  
4 Registration Office. A fine shall be assessed for any  
5 subsequent late-filed reports.

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

17           6. The person designated to review the timeliness of  
18 reports shall notify the commission of the failure of a  
19 lobbyist to file a report after notice or of the failure of a  
20 lobbyist to pay the fine imposed.

21           7. Notwithstanding any provision of chapter 120, any  
22 fine imposed under this subsection that is not waived by final  
23 order of the commission and that remains unpaid more than 60  
24 days after the notice of payment due or more than 60 days  
25 after the commission renders a final order on the lobbyist's  
26 appeal shall be collected by the Department of Financial  
27 Services ~~Banking and Finance~~ as a claim, debt, or other  
28 obligation owed to the state, and the department may assign  
29 the collection of such fine to a collection agent as provided  
30 in s. 17.20.

31

1           Section 138. Subsection (4) of section 112.63, Florida  
2 Statutes, is amended to read:

3           112.63 Actuarial reports and statements of actuarial  
4 impact; review.--

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

1 the retirement system or plan. If the administrative law  
2 judge recommends in favor of the local retirement system and  
3 the department performs an actuarial review, the cost to the  
4 department of performing the actuarial review shall be paid by  
5 the department.

6 Section 139. Section 114.03, Florida Statutes, is  
7 amended to read:

8 114.03 Certain executive officers not to absent  
9 themselves from the state.--The ~~Secretary of State, Attorney~~  
10 ~~General, Chief Financial Officer~~ Comptroller, Treasurer,  
11 ~~Commissioner of Education~~, and Commissioner of Agriculture  
12 shall reside at the capital, and no member of the Cabinet  
13 shall absent himself or herself from the state for a period of  
14 60 consecutive days or more without the consent of the  
15 Governor and a majority of the Cabinet. If a Cabinet officer  
16 should refuse or fail to comply with and observe the  
17 requirements of this section, his or her office may be deemed  
18 vacant pursuant to paragraph (f) or paragraph (g) of s.  
19 114.01(1), as appropriate.

20 Section 140. Section 116.03, Florida Statutes, is  
21 amended to read:

22 116.03 Officers to report fees collected.--Each state  
23 and county officer who receives all or any part of his or her  
24 compensation in fees or commissions, or other remuneration,  
25 shall keep a complete report of all fees and commissions, or  
26 other remuneration collected, and shall make a report to the  
27 Department of Financial Services ~~Banking and Finance~~ of all  
28 such fees and commissions, or other remuneration, annually on  
29 December 31 of each and every year. Such report shall be made  
30 upon forms to be prescribed from time to time by the  
31 department, and shall show in detail the source, character and

1 amount of all his or her official expenses and the net amount  
2 that the office has paid up to the time of making such report.  
3 All officers shall make out, fill in and subscribe and  
4 properly forward to the department such reports, and swear to  
5 the accuracy and competency of such reports.

6 Section 141. Section 116.04, Florida Statutes, is  
7 amended to read:

8 116.04 Failure of officer to make sworn report of  
9 fees.--Any officer who shall fail or refuse to make,  
10 subscribe, and swear, or to file with the Department of  
11 Financial Services ~~Banking and Finance~~ a report of all fees,  
12 commissions, or other remuneration collected, as required by  
13 law, or if any officer shall knowingly or willfully make false  
14 or incomplete reports, or in any report violate any of the  
15 provisions of s. 116.03 he or she shall be guilty of a  
16 misdemeanor of the first degree, punishable as provided in s.  
17 775.082 or s. 775.083.

18 Section 142. Section 116.05, Florida Statutes, is  
19 amended to read:

20 116.05 Examination and publication by Department of  
21 Financial Services ~~Banking and Finance~~.--The Department of  
22 Financial Services ~~Banking and Finance~~ shall have examined and  
23 verified any of the reports received under s. 116.03 whenever  
24 in its judgment the same may be necessary, and the department  
25 shall cause the matter and things in each of said reports to  
26 be published one time in a newspaper published in the county  
27 in which such report originated, in such form as it shall  
28 direct, and the expense of such publication shall be paid by  
29 the county commissioners of such county.

30 Section 143. Section 116.06, Florida Statutes, is  
31 amended to read:



1           116.06 Summary of reports; certain officers not  
2 required to report fees.--A summary of all such reports shall  
3 be included by the Department of Financial Services ~~Banking~~  
4 ~~and Finance~~ in its annual report to the Governor, except that  
5 jurors and notaries public shall not be required to make such  
6 reports as provided for in s. 116.03.

7           Section 144. Section 116.14, Florida Statutes, is  
8 amended to read:

9           116.14 Receipts required from purchasers of state  
10 property.--Upon the sale of any state property by the  
11 superintendent and presidents of state institutions as  
12 provided by law, they shall take receipt for the same from the  
13 purchaser, which receipt shall be forwarded, together with the  
14 proceeds of the sale, to the Chief Financial Officer ~~State~~  
15 ~~Treasurer~~.

16           Section 145. Paragraph (c) of subsection (15) of  
17 section 120.52, Florida Statutes, is amended to read:

18           120.52 Definitions.--As used in this act:

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

27           (c) The preparation or modification of:

- 28           1. Agency budgets.  
29           2. Statements, memoranda, or instructions to state  
30 agencies issued by the Chief Financial Officer or Comptroller  
31 as chief fiscal officer of the state and relating or

1 pertaining to claims for payment submitted by state agencies  
2 to the Chief Financial Officer or Comptroller.

3 3. Contractual provisions reached as a result of  
4 collective bargaining.

5 4. Memoranda issued by the Executive Office of the  
6 Governor relating to information resources management.

7 Section 146. Section 120.80, Florida Statutes, is  
8 amended to read:

9 120.80 Exceptions and special requirements;  
10 agencies.--

11 (1) DIVISION OF ADMINISTRATIVE  
12 HEARINGS.--Notwithstanding s. 120.57(1)(a), a hearing in which  
13 the division is a party shall not be conducted by an  
14 administrative law judge assigned by the division. An  
15 attorney assigned by the Administration Commission shall be  
16 the hearing officer.

17 (2) DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.--

18 (a) Marketing orders under chapter 527, chapter 573,  
19 or chapter 601 are not rules.

20 (b) Notwithstanding s. 120.57(1)(a), hearings held by  
21 the Department of Agriculture and Consumer Services pursuant  
22 to chapter 601 need not be conducted by an administrative law  
23 judge assigned by the division.

24 (3) DEPARTMENT OF FINANCIAL SERVICES ~~BANKING AND~~  
25 ~~FINANCE~~.--

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

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

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

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

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

31

1           4. In the case of every application for license to  
2 establish a new bank, trust company, or capital stock savings  
3 association in which a foreign national proposes to own or  
4 control 10 percent or more of any class of voting securities,  
5 and in the case of every application by a foreign national for  
6 approval to acquire control of a bank, trust company, or  
7 capital stock savings association, the Department of Financial  
8 Services ~~Banking and Finance~~ shall request that a public  
9 hearing be conducted pursuant to ss. 120.569 and 120.57.  
10 Notice of such hearing shall be published by the applicant as  
11 provided in subparagraph 2. The failure of any such foreign  
12 national to appear personally at the hearing shall be grounds  
13 for denial of the application. Notwithstanding the provisions  
14 of s. 120.60(1) and subparagraph 3., every application  
15 involving a foreign national shall be approved or denied  
16 within 1 year after receipt of the original application or any  
17 timely requested additional information or the correction of  
18 any errors or omissions, or within 30 days after the  
19 conclusion of the public hearing on the application, whichever  
20 is later.

21           (b) In any application for a license or merger  
22 pursuant to title XXXVIII which is referred by the agency to  
23 the division for hearing, the administrative law judge shall  
24 complete and submit to the agency and to all parties a written  
25 report consisting of findings of fact and rulings on  
26 evidentiary matters. The agency shall allow each party at  
27 least 10 days in which to submit written exceptions to the  
28 report.

29           (c) Notwithstanding s. 120.60(1), every application  
30 for a certificate of authority as required by s. 624.401 shall  
31 be approved or denied within 180 days after receipt of the

1 original application. Any application for a certificate of  
2 authority which is not approved or denied within the 180-day  
3 period, or within 30 days after conclusion of a public hearing  
4 held on the application, shall be deemed approved, subject to  
5 the satisfactory completion of conditions required by statute  
6 as a prerequisite to licensure.

7 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL  
8 REGULATION.--

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

19 1. Horse riding, harness riding, greyhound  
20 interference, and jai alai game actions in violation of  
21 chapter 550.

22 2. Application and usage of drugs and medication to  
23 horses, greyhounds, and jai alai players in violation of  
24 chapter 550.

25 3. Maintaining or possessing any device which could be  
26 used for the injection or other infusion of a prohibited drug  
27 to horses, greyhounds, and jai alai players in violation of  
28 chapter 550.

29 4. Suspensions under reciprocity agreements between  
30 the Division of Pari-mutuel Wagering and regulatory agencies  
31 of other states.

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

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

4           (b) Professional regulation.--Notwithstanding s.  
5 120.57(1)(a), formal hearings may not be conducted by the  
6 Secretary of Business and Professional Regulation or a board  
7 or member of a board within the Department of Business and  
8 Professional Regulation for matters relating to the regulation  
9 of professions, as defined by chapter 455.

10           (5) FLORIDA LAND AND WATER ADJUDICATORY  
11 COMMISSION.--Notwithstanding the provisions of s.  
12 120.57(1)(a), when the Florida Land and Water Adjudicatory  
13 Commission receives a notice of appeal pursuant to s. 380.07,  
14 the commission shall notify the division within 60 days after  
15 receipt of the notice of appeal if the commission elects to  
16 request the assignment of an administrative law judge.

17           (6) DEPARTMENT OF LAW ENFORCEMENT.--Law enforcement  
18 policies and procedures of the Department of Law Enforcement  
19 which relate to the following are not rules as defined by this  
20 chapter:

21           (a) The collection, management, and dissemination of  
22 active criminal intelligence information and active criminal  
23 investigative information; management of criminal  
24 investigations; and management of undercover investigations  
25 and the selection, assignment, and fictitious identity of  
26 undercover personnel.

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

29           (c) Surveillance techniques, the selection of  
30 surveillance personnel, and electronic surveillance, including  
31

1 court-ordered and consensual interceptions of communication  
2 conducted pursuant to chapter 934.

3 (d) The safety and release of hostages.

4 (e) The provision of security and protection to public  
5 figures.

6 (f) The protection of witnesses.

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

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

17 (a) Drivers' licenses.--

18 1. Notwithstanding s. 120.57(1)(a), hearings regarding  
19 drivers' licensing pursuant to chapter 322 need not be  
20 conducted by an administrative law judge assigned by the  
21 division.

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

26 (b) Wrecker operators.--Notwithstanding s.  
27 120.57(1)(a), hearings held by the Division of the Florida  
28 Highway Patrol of the Department of Highway Safety and Motor  
29 Vehicles to deny, suspend, or remove a wrecker operator from  
30 participating in the wrecker rotation system established by s.  
31 321.051 need not be conducted by an administrative law judge

1 assigned by the division. These hearings shall be held by a  
2 hearing officer appointed by the director of the Division of  
3 the Florida Highway Patrol.

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

14 (9)~~(10)~~ DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY.--

15 (a) Unemployment compensation.--

16 1. Notwithstanding s. 120.54, the rulemaking  
17 provisions of this chapter do not apply to unemployment  
18 compensation appeals referees.

19 2. Notwithstanding s. 120.57(1)(a), hearings may be  
20 conducted by the Unemployment Appeals Commission in  
21 unemployment compensation appeals, unemployment compensation  
22 appeals referees, and special deputies pursuant to s. 443.141.

23 (b) Workers' compensation.--Notwithstanding s.  
24 120.52(1), a judge of compensation claims, in the adjudication  
25 of matters pursuant to chapter 440, shall not be considered an  
26 agency or part of an agency for the purposes of this chapter.

27 (10)~~(11)~~ NATIONAL GUARD.--Notwithstanding s.  
28 120.52(15), the enlistment, organization, administration,  
29 equipment, maintenance, training, and discipline of the  
30 militia, National Guard, organized militia, and unorganized

31



1 militia, as provided by s. 2, Art. X of the State  
2 Constitution, are not rules as defined by this chapter.

3 (11)~~(12)~~ PUBLIC EMPLOYEES RELATIONS COMMISSION.--

4 (a) Notwithstanding s. 120.57(1)(a), hearings within  
5 the jurisdiction of the Public Employees Relations Commission  
6 need not be conducted by an administrative law judge assigned  
7 by the division.

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

10 (12)~~(13)~~ FLORIDA PUBLIC SERVICE COMMISSION.--

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

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

20 (c) The Florida Public Service Commission is exempt  
21 from the time limitations in s. 120.60(1) when issuing a  
22 license.

23 (d) Notwithstanding the provisions of this chapter, in  
24 implementing the Telecommunications Act of 1996, Pub. L. No.  
25 104-104, the Public Service Commission is authorized to employ  
26 procedures consistent with that act.

27 (e) Notwithstanding the provisions of this chapter, s.  
28 350.128, or s. 364.381, appellate jurisdiction for Public  
29 Service Commission decisions that implement the  
30 Telecommunications Act of 1996, Pub. L. No. 104-104, shall be  
31 consistent with the provisions of that act.

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

7 (13)~~(14)~~ DEPARTMENT OF REVENUE.--

8 (a) Assessments.--An assessment of tax, penalty, or  
9 interest by the Department of Revenue is not a final order as  
10 defined by this chapter. Assessments by the Department of  
11 Revenue shall be deemed final as provided in the statutes and  
12 rules governing the assessment and collection of taxes.

13 (b) Taxpayer contest proceedings.--

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

25 2. In any such administrative proceeding, the  
26 applicable department's burden of proof, except as otherwise  
27 specifically provided by general law, shall be limited to a  
28 showing that an assessment has been made against the taxpayer  
29 and the factual and legal grounds upon which the applicable  
30 department made the assessment.

31

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

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

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

19           5. The prevailing party, in a proceeding under ss.  
20 120.569 and 120.57 authorized by s. 72.011(1), may recover all  
21 legal costs incurred in such proceeding, including reasonable  
22 attorney's fees, if the losing party fails to raise a  
23 justiciable issue of law or fact in its petition or response.

24           6. Upon review pursuant to s. 120.68 of final agency  
25 action concerning an assessment of tax, penalty, or interest  
26 with respect to a tax imposed under chapter 212, or the denial  
27 of a refund of any tax imposed under chapter 212, if the court  
28 finds that the Department of Revenue improperly rejected or  
29 modified a conclusion of law, the court may award reasonable  
30 attorney's fees and reasonable costs of the appeal to the  
31 prevailing appellant.

1           (c) Proceedings for administrative child support  
2 orders.--Notwithstanding the provisions of s. 120.569 or s.  
3 120.57 to the contrary, in proceedings for the establishment  
4 of administrative support orders pursuant to s. 409.2563,  
5 final orders in cases referred by the Department of Revenue to  
6 the Division of Administrative Hearings shall be entered by  
7 the division's administrative law judge and transmitted to the  
8 Department of Revenue for filing and indexing. The Department  
9 of Revenue has the right to seek judicial review of a final  
10 order entered by an administrative law judge. Administrative  
11 support orders rendered pursuant to s. 409.2563 may be  
12 enforced pursuant to s. 120.69 or, alternatively, by any  
13 method prescribed by law for the enforcement of judicial  
14 support orders, except contempt.

15           (14)~~(15)~~ DEPARTMENT OF HEALTH.--Notwithstanding s.  
16 120.57(1)(a), formal hearings may not be conducted by the  
17 Secretary of Health, the Secretary of Health Care  
18 Administration, or a board or member of a board within the  
19 Department of Health or the Agency for Health Care  
20 Administration for matters relating to the regulation of  
21 professions, as defined by chapter 456. Notwithstanding s.  
22 120.57(1)(a), hearings conducted within the Department of  
23 Health in execution of the Special Supplemental Nutrition  
24 Program for Women, Infants, and Children; Child Care Food  
25 Program; Children's Medical Services Program; the Brain and  
26 Spinal Cord Injury Program; and the exemption from  
27 disqualification reviews for certified nurse assistants  
28 program need not be conducted by an administrative law judge  
29 assigned by the division. The Department of Health may  
30 contract with the Department of Children and Family Services  
31 for a hearing officer in these matters.

1           (15)~~(16)~~ DEPARTMENT OF ENVIRONMENTAL  
2 PROTECTION.--Notwithstanding the provisions of s.  
3 120.54(1)(d), the Department of Environmental Protection, in  
4 undertaking rulemaking to establish best available control  
5 technology, lowest achievable emissions rate, or case-by-case  
6 maximum available control technology for purposes of s.  
7 403.08725, shall not adopt the lowest regulatory cost  
8 alternative if such adoption would prevent the agency from  
9 implementing federal requirements.

10           (16)~~(17)~~ FLORIDA BUILDING COMMISSION.--

11           (a) Notwithstanding the provisions of s. 120.542, the  
12 Florida Building Commission may not accept a petition for  
13 waiver or variance and may not grant any waiver or variance  
14 from the requirements of the Florida Building Code.

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

24           Section 147. Section 121.0312, Florida Statutes, is  
25 amended to read:

26           121.0312 Review; actuarial valuation report;  
27 contribution rate determination process.--The Governor, Chief  
28 Financial Officer ~~Comptroller~~, and Attorney General ~~Treasurer~~,  
29 sitting as the ~~Board of Trustees of the~~ State Board of  
30 Administration, shall review the actuarial valuation report  
31 prepared in accordance with the provisions of this chapter.

1 The board shall review the process by which Florida Retirement  
2 System contribution rates are determined and recommend and  
3 submit any comments regarding the process to the Legislature.

4 Section 148. Paragraph (e) of subsection (1) of  
5 section 121.055, Florida Statutes, is amended to read:

6 121.055 Senior Management Service Class.--There is  
7 hereby established a separate class of membership within the  
8 Florida Retirement System to be known as the "Senior  
9 Management Service Class," which shall become effective  
10 February 1, 1987.

11 (1)

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

26 Section 149. Paragraph (a) of subsection (2) of  
27 section 121.061, Florida Statutes, is amended to read:

28 121.061 Funding.--

29 (2)(a) Should any employer other than a state employer  
30 fail to make the retirement and social security contributions,  
31 both member and employer contributions, required by this

1 chapter, then, upon request by the administrator, the  
2 Department of Revenue or the Department of Financial Services  
3 ~~Banking and Finance~~, as the case may be, shall deduct the  
4 amount owed by the employer from any funds to be distributed  
5 by it to the county, city, special district, or consolidated  
6 form of government. The amounts so deducted shall be  
7 transferred to the administrator for further distribution to  
8 the trust funds in accordance with this chapter.

9 Section 150. Section 121.133, Florida Statutes, is  
10 amended to read:

11 121.133 Cancellation of uncashed  
12 warrants.--Notwithstanding the provisions of s. 17.26 or s.  
13 717.123 to the contrary, ~~effective July 1, 1998~~, if any state  
14 warrant issued by the Chief Financial Officer ~~Comptroller~~ for  
15 the payment of retirement benefits from the Florida Retirement  
16 System Trust Fund, or any other pension trust fund  
17 administered by the department, is not presented for payment  
18 within 1 year after the last day of the month in which it was  
19 originally issued, the Chief Financial Officer ~~Comptroller~~  
20 shall cancel the benefit warrant and credit the amount of the  
21 warrant to the Florida Retirement System Trust Fund or other  
22 pension trust fund administered by the department, as  
23 appropriate. The department may provide for issuance of a  
24 replacement warrant when deemed appropriate.

25 Section 151. Paragraph (b) of subsection (12) of  
26 section 121.4501, Florida Statutes, is amended to read:

27 121.4501 Public Employee Optional Retirement  
28 Program.--

29 (12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND  
30 ASSISTANCE.--The Investment Advisory Council and the Public  
31 Employee Optional Retirement Program Advisory Committee shall

1 assist the board in implementing and administering the Public  
2 Employee Optional Retirement Program.

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

20 2. The advisory committee shall make recommendations  
21 on the selection of the third-party administrator, the  
22 education providers, and the investment products and  
23 providers. The committee's recommendations on the third-party  
24 administrator must be forwarded to the Trustees of the State  
25 Board of Administration by January 1, 2001. The  
26 recommendations on the education providers must be forwarded  
27 to the trustees by April 1, 2001.

28 3. The advisory committee's recommendations and  
29 activities shall be guided by the best interests of the  
30 employees, considering the interests of employers, and the  
31



1 intent of the Legislature in establishing the Public Employee  
2 Optional Retirement Program.

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

5 Section 152. Paragraphs (a) and (b) of subsection (11)  
6 of section 125.0104, Florida Statutes, are amended to read:

7 125.0104 Tourist development tax; procedure for  
8 levying; authorized uses; referendum; enforcement.--

9 (11) INTEREST PAID ON DISTRIBUTIONS.--

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

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

29 Section 153. Paragraph (b) of subsection (2) of  
30 section 129.201, Florida Statutes, is amended to read:

31

1           129.201 Budget of supervisor of elections; manner and  
2 time of preparation and presentation.--

3           (2)

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

9           Section 154. Section 131.05, Florida Statutes, is  
10 amended to read:

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

24           Section 155. Section 137.09, Florida Statutes, is  
25 amended to read:

26           137.09 Justification and approval of bonds.--Each  
27 surety upon every bond of any county officer shall make  
28 affidavit that he or she is a resident of the county for which  
29 the officer is to be commissioned, and that he or she has  
30 sufficient visible property therein unencumbered and not  
31 exempt from sale under legal process to make good his or her

1 bond. Every such bond shall be approved by the board of  
2 county commissioners and by the Department of Financial  
3 Services ~~Banking and Finance~~ when they and it are satisfied in  
4 their judgment that the same is legal, sufficient, and proper  
5 to be approved.

6 Section 156. Section 145.141, Florida Statutes, is  
7 amended to read:

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

17 Section 157. Subsections (1) and (2) of section  
18 154.02, Florida Statutes, are amended to read:

19 154.02 County Health Department Trust Fund.--

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

1 Financial Officer ~~Treasurer~~. However, the board of county  
2 commissioners may elect to pay in 12 equal monthly  
3 installments. Such funds in the hands of the Chief Financial  
4 Officer ~~Treasurer~~ shall be placed in the county health  
5 department trust funds of the county by which such funds were  
6 raised, and such funds shall be expended by the Department of  
7 Health solely for the purpose of carrying out the intent and  
8 object of the public health contract.

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

16 Section 158. Subsection (1) of section 154.03, Florida  
17 Statutes, is amended to read:

18 154.03 Cooperation with Department of Health and  
19 United States Government.--

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

1 States of funds of the United States in the study of causes of  
2 disease and prevention thereof in such full-time county health  
3 departments when and where established by the department under  
4 this part.

5 Section 159. Section 154.05, Florida Statutes, is  
6 amended to read:

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

1 cooperating; and the nature, extent, and location of such work  
2 shall be under the control and direction of the department.

3 Section 160. Subsection (2) of section 154.06, Florida  
4 Statutes, is amended to read:

5 154.06 Fees and services rendered; authority.--

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

23 Section 161. Paragraphs (d) and (e) of subsection (17)  
24 of section 154.209, Florida Statutes, are amended to read:

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

31

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

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

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

27           Section 162. Section 154.314, Florida Statutes, is  
28 amended to read:

29           154.314 Certification of the State of Florida.--

30           (1) In the event payment for the costs of services  
31 rendered by a participating hospital or a regional referral

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

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

21 Section 163. Paragraph (e) of subsection (7) of  
22 section 163.01, Florida Statutes, is amended to read:

23 163.01 Florida Interlocal Cooperation Act of 1969.--  
24 (7)

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



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

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

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

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

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

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

31

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

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

16           Section 164. Subsections (4), (5), (6), (7), (8), and  
17 (9) of section 163.05, Florida Statutes, are amended to read:

18           163.05 Small County Technical Assistance Program.--

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

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

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

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

28           (d) Annually submit information to assist the  
29 Legislative Committee on Intergovernmental Relations in  
30 preparing a performance review that will include an analysis  
31 of the effectiveness of the program.

1           (e) Assist small counties in developing alternative  
2 revenue sources.

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

8           (g) Provide for an annual independent financial audit  
9 of the program.

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

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

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

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

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

29           1. The demonstrated capacity of the provider to  
30 conduct needs assessments and implement the program as  
31 proposed.

1           2. The number of small counties to be served under the  
2 proposal.

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

5           4. The short-term and long-term benefits of the  
6 assistance to small counties.

7           5. The form and extent to which existing resources,  
8 services, and information that are available from state and  
9 local agencies, universities, and the private sector will be  
10 used by the provider under the contract.

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

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

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

24           (9) The Legislative Committee on Intergovernmental  
25 Relations shall annually conduct a performance review of the  
26 program. The findings of the review shall be presented in a  
27 report submitted to the Governor, the President of the Senate,  
28 the Speaker of the House of Representatives, and the Chief  
29 Financial Officer ~~Comptroller~~ by January 15 of each year.

30           Section 165. Subsections (4), (5), (6), (7), (8), and  
31 (9) of section 163.055, Florida Statutes, are amended to read:

1           163.055 Local Government Financial Technical  
2 Assistance Program.--

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

5           (a) Be a public agency or private, nonprofit  
6 corporation, association, or entity.

7           (b) Use existing resources, services, and information  
8 that are available from state or local agencies, universities,  
9 or the private sector.

10          (c) Seek and accept funding from any public or private  
11 source.

12          (d) Annually submit information to assist the  
13 Legislative Committee on Intergovernmental Relations in  
14 preparing a performance review that will include an analysis  
15 of the effectiveness of the program.

16          (e) Assist municipalities and independent special  
17 districts in developing alternative revenue sources.

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

20          (g) Provide assistance to municipalities and special  
21 districts in the areas of financial management, accounting,  
22 investing, budgeting, and debt issuance.

23          (h) Develop a needs assessment to determine where  
24 assistance should be targeted, and to establish a priority  
25 system to deliver assistance to those jurisdictions most in  
26 need through the most economical means available.

27          (i) Provide financial emergency assistance upon  
28 direction from the Executive Office of the Governor pursuant  
29 to s. 218.503.

30          (5)(a) The Chief Financial Officer ~~Comptroller~~ shall  
31 issue a request for proposals to provide assistance to

1 municipalities and special districts. At the request of the  
2 Chief Financial Officer ~~Comptroller~~, the Legislative Committee  
3 on Intergovernmental Relations shall assist in the preparation  
4 of the request for proposals.

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

7 (c) The Legislative Committee on Intergovernmental  
8 Relations shall review each contract proposal and submit to  
9 the Chief Financial Officer ~~Comptroller~~, in writing, advisory  
10 comments and recommendations, citing with specificity the  
11 reasons for its recommendations.

12 (d) The Chief Financial Officer ~~Comptroller~~ and the  
13 Legislative Committee on Intergovernmental Relations shall  
14 consider the following factors in reviewing contract  
15 proposals:

16 1. The demonstrated capacity of the provider to  
17 conduct needs assessments and implement the program as  
18 proposed.

19 2. The number of municipalities and special districts  
20 to be served under the proposal.

21 3. The cost of the program as specified in a proposed  
22 budget.

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

25 5. The form and extent to which existing resources,  
26 services, and information that are available from state and  
27 local agencies, universities, and the private sector will be  
28 used by the provider under the contract.

29 (6) A decision of the Chief Financial Officer  
30 ~~Comptroller~~ to award a contract under this section is final

31



1 and shall be in writing with a copy provided to the  
2 Legislative Committee on Intergovernmental Relations.

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

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

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

18 Section 166. Subsection (6) of section 163.3167,  
19 Florida Statutes, is amended to read:

20 163.3167 Scope of act.--

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

1 invoices for verifiable, direct costs involved with the  
2 governing body. Upon the failure of the local government to  
3 pay such invoices within 90 days, the regional planning agency  
4 may, upon filing proper vouchers with the Chief Financial  
5 Officer ~~State Comptroller~~, request payment by the Chief  
6 Financial Officer ~~State Comptroller~~ from unencumbered revenue  
7 or other tax sharing funds due such local government from the  
8 state for work actually performed, and the Chief Financial  
9 Officer ~~State Comptroller~~ shall pay such vouchers; however,  
10 the amount of such payment shall not exceed 50 percent of such  
11 funds due such local government in any one year.

12 Section 167. Subsection (1) of section 175.101,  
13 Florida Statutes, is amended to read:

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

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

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

19 Section 168. Subsection (2) of section 175.121,  
20 Florida Statutes, is amended to read:

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

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

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

20 Section 169. Section 175.151, Florida Statutes, is  
21 amended to read:

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

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

7 Section 170. Subsection (1) of section 185.08, Florida  
8 Statutes, is amended to read:

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

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

29 Section 171. Subsection (2) of section 185.10, Florida  
30 Statutes, is amended to read:

31

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

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

25           Section 172. Section 185.13, Florida Statutes, is  
26 amended to read:

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

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

12 Section 173. Subsections (2), (3), and (5) of section  
13 189.4035, Florida Statutes, are amended to read:

14 189.4035 Preparation of official list of special  
15 districts.--

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

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

31

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

10           Section 174. Subsection (1) of section 189.412,  
11 Florida Statutes, is amended to read:

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

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

30           Section 175. Section 189.427, Florida Statutes, is  
31 amended to read:



1           189.427 Fee schedule; Operating Trust Fund.--The  
2 Department of Community Affairs, by rule, shall establish a  
3 schedule of fees to pay one-half of the costs incurred by the  
4 department in administering this act, except that the fee may  
5 not exceed \$175 per district per year. The fees collected  
6 under this section shall be deposited in the Operating Trust  
7 Fund, which shall be administered by the Department of  
8 Community Affairs. Any fee rule must consider factors such as  
9 the dependent and independent status of the district and  
10 district revenues for the most recent fiscal year as reported  
11 to the Department of Financial Services ~~Banking and Finance~~.  
12 The department may assess fines of not more than \$25, with an  
13 aggregate total not to exceed \$50, as penalties against  
14 special districts that fail to remit required fees to the  
15 department. It is the intent of the Legislature that general  
16 revenue funds will be made available to the department to pay  
17 one-half of the cost of administering this act.

18           Section 176. Subsection (3) of section 190.007,  
19 Florida Statutes, is amended to read:

20           190.007 Board of supervisors; general duties.--

21           (3) The board is authorized to select as a depository  
22 for its funds any qualified public depository as defined in s.  
23 280.02 which meets all the requirements of chapter 280 and has  
24 been designated by the Chief Financial Officer ~~Treasurer~~ as a  
25 qualified public depository, upon such terms and conditions as  
26 to the payment of interest by such depository upon the funds  
27 so deposited as the board may deem just and reasonable.

28           Section 177. Subsection (16) of section 191.006,  
29 Florida Statutes, is amended to read:

30           191.006 General powers.--The district shall have, and  
31 the board may exercise by majority vote, the following powers:

1           (16) To select as a depository for its funds any  
2 qualified public depository as defined in s. 280.02 which  
3 meets all the requirements of chapter 280 and has been  
4 designated by the Chief Financial Officer ~~State Treasurer~~ as a  
5 qualified public depository, upon such terms and conditions as  
6 to the payment of interest upon the funds deposited as the  
7 board deems just and reasonable.

8           Section 178. Subsection (4) of section 192.091,  
9 Florida Statutes, is amended to read:

10           192.091 Commissions of property appraisers and tax  
11 collectors.--

12           (4) The commissions for collecting taxes assessed for  
13 or levied by the state shall be audited, and allowed, ~~by the~~  
14 ~~Comptroller~~ and ~~shall be paid by the~~ Chief Financial Officer  
15 ~~Treasurer~~ as other ~~Comptroller's~~ warrants are paid; and  
16 commissions for collecting the county taxes shall be audited  
17 and paid by the boards of county commissioners of the several  
18 counties of this state. The commissions for collecting all  
19 special school district taxes shall be audited by the school  
20 board of each respective district and taken out of the funds  
21 of the respective special school district under its control  
22 and allowed and paid to the tax collectors for collecting such  
23 taxes; and the commissions for collecting all other district  
24 taxes, whether special or not, shall be audited and paid by  
25 the governing board or commission having charge of the  
26 financial obligations of such district. All commissions for  
27 collecting special tax district taxes shall be paid at the  
28 time and in the manner now, or as may hereafter be, provided  
29 for the payment of the commissions for the collection of  
30 county taxes. All amounts paid as compensation to any tax  
31 collector under the provisions of this or any other law shall

1 be a part of the general income or compensation of such  
2 officer for the year in which received, and nothing contained  
3 in this section shall be held or construed to affect or  
4 increase the maximum salary as now provided by law for any  
5 such officer.

6 Section 179. Subsection (3) of section 192.102,  
7 Florida Statutes, is amended to read:

8 192.102 Payment of property appraisers' and  
9 collectors' commissions.--

10 (3) The Chief Financial Officer ~~Comptroller of the~~  
11 ~~state~~ shall issue to each of the county property appraisers  
12 and collectors of taxes, on the first Monday of January,  
13 April, July, and October, on demand of such county property  
14 appraisers and collectors of taxes after approval by the  
15 Department of Revenue, and shall pay, his or her warrant,  
16 ~~which shall be paid by the Treasurer of the state,~~ for an  
17 amount equal to one-fourth of four-fifths of the total amount  
18 of commissions received by such county property appraisers and  
19 collectors of taxes or their predecessors in office from the  
20 state during and for the preceding year, and the balance of  
21 the commissions earned by such county property appraiser and  
22 collector of taxes, respectively, during each year, over and  
23 above the amount of such installment payments herein provided  
24 for, shall be payable when a report of errors and double  
25 assessments is approved by the county commissioners and a copy  
26 thereof filed with the Department of Revenue.

27 Section 180. Subsection (1) of section 193.092,  
28 Florida Statutes, is amended to read:

29 193.092 Assessment of property for back taxes.--

30 (1) When it shall appear that any ad valorem tax might  
31 have been lawfully assessed or collected upon any property in

1 the state, but that such tax was not lawfully assessed or  
2 levied, and has not been collected for any year within a  
3 period of 3 years next preceding the year in which it is  
4 ascertained that such tax has not been assessed, or levied, or  
5 collected, then the officers authorized shall make the  
6 assessment of taxes upon such property in addition to the  
7 assessment of such property for the current year, and shall  
8 assess the same separately for such property as may have  
9 escaped taxation at and upon the basis of valuation applied to  
10 such property for the year or years in which it escaped  
11 taxation, noting distinctly the year when such property  
12 escaped taxation and such assessment shall have the same force  
13 and effect as it would have had if it had been made in the  
14 year in which the property shall have escaped taxation, and  
15 taxes shall be levied and collected thereon in like manner and  
16 together with taxes for the current year in which the  
17 assessment is made. But no property shall be assessed for  
18 more than 3 years' arrears of taxation, and all property so  
19 escaping taxation shall be subject to such taxation to be  
20 assessed in whomsoever's hands or possession the same may be  
21 found; provided, that the county property appraiser shall not  
22 assess any lot or parcel of land certified or sold to the  
23 state for any previous years unless such lot or parcel of  
24 lands so certified or sold shall be included in the list  
25 furnished by the Chief Financial Officer ~~Comptroller~~ to the  
26 county property appraiser as provided by law; provided, if  
27 real or personal property be assessed for taxes, and because  
28 of litigation delay ensues and the assessment be held invalid  
29 the taxing authorities, may reassess such property within the  
30 time herein provided after the termination of such litigation;  
31 provided further, that personal property acquired in good

1 faith by purchase shall not be subject to assessment for taxes  
2 for any time prior to the time of such purchase, but the  
3 individual or corporation liable for any such assessment shall  
4 continue personally liable for same.

5 Section 181. Section 195.101, Florida Statutes, is  
6 amended to read:

7 195.101 Withholding of state funds.--

8 (1) The Department of Revenue is hereby directed to  
9 determine each year whether the several counties of this state  
10 are assessing the real and tangible personal property within  
11 their jurisdiction in accordance with law. If the Department  
12 of Revenue determines that any county is assessing property at  
13 less than that prescribed by law, the Chief Financial Officer  
14 ~~Comptroller~~ shall withhold from such county a portion of any  
15 state funds to which the county may be entitled equal to the  
16 difference of the amount assessed and the amount required to  
17 be assessed by law.

18 (2) The Department of Revenue is hereby directed to  
19 determine each year whether the several municipalities of this  
20 state are assessing the real and tangible personal property  
21 within their jurisdiction in accordance with law. If the  
22 Department of Revenue determines that any municipality is  
23 assessing property at less than that prescribed by law, the  
24 Chief Financial Officer ~~Comptroller~~ shall withhold from such  
25 municipality a portion of any state funds to which that  
26 municipality may be entitled equal to the difference of the  
27 amount assessed and the amount required to be assessed by law.

28 Section 182. Subsection (1) of section 198.29, Florida  
29 Statutes, is amended to read:

30 198.29 Refunds of excess tax paid.--

31

1           (1) Whenever it appears, upon the examination of any  
2 return made under this chapter or upon proof submitted to the  
3 department by the personal representative, that an amount of  
4 estate tax has been paid in excess of the tax legally due  
5 under this chapter, the amount of such overpayment, together  
6 with any overpayment of interest thereon shall be refunded to  
7 the personal representative and paid by upon the warrant of  
8 the Chief Financial Officer ~~Comptroller, drawn upon the~~  
9 ~~Treasurer who shall honor and pay the same~~; such refund shall  
10 be made by the department as a matter of course regardless of  
11 whether or not the personal representative has filed a written  
12 claim therefor, except that upon request of the department,  
13 the personal representative shall file with the department a  
14 conformed copy of any written claim for refund of federal  
15 estate tax which has theretofore been filed with the United  
16 States.

17           Section 183. Paragraph (a) of subsection (7) of  
18 section 199.232, Florida Statutes, is amended to read:

19           199.232 Powers of department.--

20           (7)(a) If it appears, upon examination of an  
21 intangible tax return made under this chapter or upon proof  
22 submitted to the department by the taxpayer, that an amount of  
23 intangible personal property tax has been paid in excess of  
24 the amount due, the department shall refund the amount of the  
25 overpayment to the taxpayer by a warrant of the Chief  
26 Financial Officer ~~Comptroller, drawn upon the Treasurer~~. The  
27 department shall refund the overpayment without regard to  
28 whether the taxpayer has filed a written claim for a refund;  
29 however, the department may request that the taxpayer file a  
30 statement affirming that the taxpayer made the overpayment.

31

1           Section 184. Paragraph (a) of subsection (1) of  
2 section 203.01, Florida Statutes, is amended to read:

3           203.01 Tax on gross receipts for utility and  
4 communications services.--

5           (1)(a)1. Every person that receives payment for any  
6 utility service shall report by the last day of each month to  
7 the Department of Revenue, under oath of the secretary or some  
8 other officer of such person, the total amount of gross  
9 receipts derived from business done within this state, or  
10 between points within this state, for the preceding month and,  
11 at the same time, shall pay into the State Treasury an amount  
12 equal to a percentage of such gross receipts at the rate set  
13 forth in paragraph (b). Such collections shall be certified  
14 by the Chief Financial Officer ~~Comptroller~~ upon the request of  
15 the State Board of Education.

16           2. A tax is levied on communications services as  
17 defined in s. 202.11(3). Such tax shall be applied to the same  
18 services and transactions as are subject to taxation under  
19 chapter 202, and to communications services that are subject  
20 to the exemption provided in s. 202.125(1). Such tax shall be  
21 applied to the sales price of communications services when  
22 sold at retail and to the actual cost of operating substitute  
23 communications systems, as such terms are defined in s.  
24 202.11, shall be due and payable at the same time as the taxes  
25 imposed pursuant to chapter 202, and shall be administered and  
26 collected pursuant to the provisions of chapter 202.

27           Section 185. Subsection (1) of section 206.46, Florida  
28 Statutes, is amended to read:

29           206.46 State Transportation Trust Fund.--

30           (1) All moneys in the State Transportation Trust Fund,  
31 which is hereby created, shall be used for transportation

1 purposes, as provided by law, under the direction of the  
2 Department of Transportation, which department may from time  
3 to time make requisition on the Chief Financial Officer  
4 ~~Comptroller~~ for such funds. Moneys from such fund shall be  
5 drawn by the Chief Financial Officer ~~Comptroller~~ by warrant  
6 upon the State Treasury pursuant to vouchers and shall be paid  
7 in like manner as other state warrants are paid out of the  
8 appropriated fund against which the warrants are drawn. All  
9 sums of money necessary to provide for the payment of the  
10 warrants by the Chief Financial Officer ~~Comptroller~~ drawn upon  
11 such fund are appropriated annually out of the fund for the  
12 purpose of making such payments from time to time.

13 Section 186. Subsection (4) of section 210.16, Florida  
14 Statutes, is amended to read:

15 210.16 Revocation or suspension of permit.--

16 (4) In lieu of the suspension or revocation of  
17 permits, the division may impose civil penalties against  
18 holders of permits for violations of this part or rules and  
19 regulations relating thereto. No civil penalty so imposed  
20 shall exceed \$1,000 for each offense, and all amounts  
21 collected shall be deposited with the Chief Financial Officer  
22 ~~State Treasurer~~ to the credit of the General Revenue Fund. If  
23 the holder of the permit fails to pay the civil penalty, his  
24 or her permit shall be suspended for such period of time as  
25 the division may specify.

26 Section 187. Subsection (2) of section 210.20, Florida  
27 Statutes, is amended to read:

28 210.20 Employees and assistants; distribution of  
29 funds.--

30 (2) As collections are received by the division from  
31 such cigarette taxes, it shall pay the same into a trust fund



1 in the State Treasury designated "Cigarette Tax Collection  
2 Trust Fund" which shall be paid and distributed as follows:

3 (a) The division shall from month to month certify to  
4 the Chief Financial Officer ~~Comptroller~~ the amount derived  
5 from the cigarette tax imposed by s. 210.02, less the service  
6 charges provided for in s. 215.20 and less 0.9 percent of the  
7 amount derived from the cigarette tax imposed by s. 210.02,  
8 which shall be deposited into the Alcoholic Beverage and  
9 Tobacco Trust Fund, specifying the amounts to be transferred  
10 from the Cigarette Tax Collection Trust Fund and credited on  
11 the basis of 2.9 percent of the net collections to the Revenue  
12 Sharing Trust Fund for Counties and 29.3 percent of the net  
13 collections for the funding of indigent health care to the  
14 Public Medical Assistance Trust Fund.

15 (b) Beginning January 1, 1999, and continuing for 10  
16 years thereafter, the division shall from month to month  
17 certify to the Chief Financial Officer ~~Comptroller~~ the amount  
18 derived from the cigarette tax imposed by s. 210.02, less the  
19 service charges provided for in s. 215.20 and less 0.9 percent  
20 of the amount derived from the cigarette tax imposed by s.  
21 210.02 which shall be deposited into the Alcoholic Beverage  
22 and Tobacco Trust Fund, specifying an amount equal to 2.59  
23 percent of the net collections, and that amount shall be paid  
24 to the Board of Directors of the H. Lee Moffitt Cancer Center  
25 and Research Institute, established under s. 240.512, by  
26 warrant drawn by the Chief Financial Officer ~~Comptroller~~ upon  
27 the State Treasury. These funds are hereby appropriated  
28 monthly out of the Cigarette Tax Collection Trust Fund, to be  
29 used for the purpose of constructing, furnishing, and  
30 equipping a cancer research facility at the University of  
31 South Florida adjacent to the H. Lee Moffitt Cancer Center and

1 Research Institute. In fiscal years 1999-2000 and thereafter  
2 with the exception of fiscal year 2008-2009, the appropriation  
3 to the H. Lee Moffitt Cancer Center and Research Institute  
4 authorized by this paragraph shall not be less than the amount  
5 which would have been paid to the H. Lee Moffitt Cancer Center  
6 and Research Institute for fiscal year 1998-1999 had payments  
7 been made for the entire fiscal year rather than for a 6-month  
8 period thereof.

9 Section 188. Subsection (4) of section 210.50, Florida  
10 Statutes, is amended to read:

11 210.50 Revocation or suspension of license.--

12 (4) In lieu of the suspension or revocation of  
13 licenses, the division may impose civil penalties against  
14 holders of licenses for violations of this part or rules  
15 relating thereto. No civil penalty so imposed shall exceed  
16 \$1,000 for each offense, and all amounts collected shall be  
17 deposited with the Chief Financial Officer ~~State Treasurer~~ to  
18 the credit of the General Revenue Fund. If the holder of the  
19 license fails to pay the civil penalty, his or her license  
20 shall be suspended for such period of time as the division may  
21 specify.

22 Section 189. Subsection (1) of section 211.06, Florida  
23 Statutes, is amended to read:

24 211.06 Oil and Gas Tax Trust Fund; distribution of tax  
25 proceeds.--All taxes, interest, and penalties imposed under  
26 this part shall be collected by the department and placed in a  
27 special fund designated the "Oil and Gas Tax Trust Fund."

28 (1) There is hereby annually appropriated a sufficient  
29 amount from the Oil and Gas Tax Trust Fund for the Chief  
30 Financial Officer ~~Comptroller~~ to refund any overpayments that  
31 ~~which~~ have been properly approved.

1           Section 190. Paragraph (d) of subsection (1) of  
2 section 211.32, Florida Statutes, is amended to read:

3           211.32 Tax on solid minerals; Land Reclamation Trust  
4 Fund; refund for restoration and reclamation.--

5           (1)

6           (d) The Chief Financial Officer ~~Comptroller~~ shall,  
7 upon written verification of compliance with paragraph (a),  
8 paragraph (b), or paragraph (c) by the Department of  
9 Environmental Protection, and upon verification of the cost of  
10 the restoration and reclamation program or, if paragraph (c)  
11 is elected, the fair market value of the land, grant refunds,  
12 to be paid from the Land Reclamation Trust Fund, of the taxes  
13 paid under this part, in an amount equal to 100 percent of the  
14 costs incurred in complying with paragraph (a) or paragraph  
15 (b), or 100 percent of the fair market value of the land  
16 transferred in complying with paragraph (c), subject to the  
17 following limitations:

18           1. A taxpayer shall not be entitled to refunds in  
19 excess of the amount of taxes paid by the taxpayer under this  
20 part which are deposited in the Land Reclamation Trust Fund.

21           2. A taxpayer shall not be entitled to the payment of  
22 a refund for costs incurred in connection with a particular  
23 restoration and reclamation program unless and until the  
24 taxpayer is accomplishing the program in reasonable compliance  
25 with the criteria established by the Department of  
26 Environmental Protection.

27           Section 191. Paragraph (m) of subsection (5) of  
28 section 212.08, Florida Statutes, is amended to read:

29           212.08 Sales, rental, use, consumption, distribution,  
30 and storage tax; specified exemptions.--The sale at retail,  
31 the rental, the use, the consumption, the distribution, and

1 the storage to be used or consumed in this state of the  
2 following are hereby specifically exempt from the tax imposed  
3 by this chapter.

4 (5) EXEMPTIONS; ACCOUNT OF USE.--

5 (m) Educational materials purchased by certain child  
6 care facilities.--Educational materials, such as glue, paper,  
7 paints, crayons, unique craft items, scissors, books, and  
8 educational toys, purchased by a child care facility that  
9 meets the standards delineated in s. 402.305, is licensed  
10 under s. 402.308, holds a current Gold Seal Quality Care  
11 designation pursuant to s. 402.281, and provides basic health  
12 insurance to all employees are exempt from the taxes imposed  
13 by this chapter. For purposes of this paragraph, the term  
14 "basic health insurance" shall be defined and promulgated in  
15 rules developed jointly by the Department of Children and  
16 Family Services, the Agency for Health Care Administration,  
17 and the Department of Financial Services ~~Insurance~~.

18 Section 192. Paragraph (c) of subsection (6) of  
19 section 212.12, Florida Statutes, is amended to read:

20 212.12 Dealer's credit for collecting tax; penalties  
21 for noncompliance; powers of Department of Revenue in dealing  
22 with delinquents; brackets applicable to taxable transactions;  
23 records required.--

24 (6)

25 (c)1. If the records of a dealer are adequate but  
26 voluminous in nature and substance, the department may sample  
27 such records, except for fixed assets, and project the audit  
28 findings derived therefrom over the entire audit period to  
29 determine the proportion that taxable retail sales bear to  
30 total retail sales or the proportion that taxable purchases  
31 bear to total purchases. In order to conduct such a sample,

1 the department must first make a good faith effort to reach an  
2 agreement with the dealer, which agreement provides for the  
3 means and methods to be used in the sampling process. In the  
4 event that no agreement is reached, the dealer is entitled to  
5 a review by the executive director.

6           2. For the purposes of sampling pursuant to  
7 subparagraph 1., the department shall project any deficiencies  
8 and overpayments derived therefrom over the entire audit  
9 period. In determining the dealer's compliance, the department  
10 shall reduce any tax deficiency as derived from the sample by  
11 the amount of any overpayment derived from the sample. In the  
12 event the department determines from the sample results that  
13 the dealer has a net tax overpayment, the department shall  
14 provide the findings of this overpayment to the Chief  
15 Financial Officer ~~Comptroller~~ for repayment of funds paid into  
16 the State Treasury through error pursuant to s. 215.26.

17           Section 193. Subsection (1) of section 212.20, Florida  
18 Statutes, is amended to read:

19           212.20 Funds collected, disposition; additional powers  
20 of department; operational expense; refund of taxes  
21 adjudicated unconstitutionally collected.--

22           (1) The department shall pay over to the Chief  
23 Financial Officer ~~Treasurer~~ of the state all funds received  
24 and collected by it under the provisions of this chapter, to  
25 be credited to the account of the General Revenue Fund of the  
26 state.

27           Section 194. Subsections (4) and (6), paragraph (e) of  
28 subsection (7) and subsection (13) of section 213.053, Florida  
29 Statutes, are amended to read:

30           213.053 Confidentiality and information sharing.--

31

1           (4) Nothing contained in this section shall prevent  
2 the department from publishing statistics so classified as to  
3 prevent the identification of particular accounts, reports,  
4 declarations, or returns or prevent the department from  
5 disclosing to the Chief Financial Officer ~~Comptroller~~ the  
6 names and addresses of those taxpayers who have claimed an  
7 exemption pursuant to s. 199.185(1)(i) or a deduction pursuant  
8 to s. 220.63(5).

9           (6) Any information received by the Department of  
10 Revenue in connection with the administration of taxes,  
11 including, but not limited to, information contained in  
12 returns, reports, accounts, or declarations filed by persons  
13 subject to tax, shall be made available by the department to  
14 the Auditor General or his or her authorized agent, the  
15 director of the Office of Program Policy Analysis and  
16 Government Accountability or his or her authorized agent, the  
17 Chief Financial Officer ~~Comptroller~~ or his or her authorized  
18 agent, ~~the Insurance Commissioner or his or her authorized~~  
19 ~~agent, the Treasurer or his or her authorized agent,~~ or a  
20 property appraiser or tax collector or their authorized agents  
21 pursuant to s. 195.084(1), in the performance of their  
22 official duties, or to designated employees of the Department  
23 of Education solely for determination of each school  
24 district's price level index pursuant to s. 236.081(2);  
25 however, no information shall be disclosed to the Auditor  
26 General or his or her authorized agent, the director of the  
27 Office of Program Policy Analysis and Government  
28 Accountability or his or her authorized agent, the Chief  
29 Financial Officer ~~Comptroller~~ or his or her authorized agent,  
30 ~~the Insurance Commissioner or his or her authorized agent, the~~  
31 ~~Treasurer or his or her authorized agent,~~ or to a property

1 appraiser or tax collector or their authorized agents, or to  
2 designated employees of the Department of Education if such  
3 disclosure is prohibited by federal law. The Auditor General  
4 or his or her authorized agent, the director of the Office of  
5 Program Policy Analysis and Government Accountability or his  
6 or her authorized agent, the Chief Financial Officer  
7 ~~Comptroller~~ or his or her authorized agent, ~~the Treasurer or~~  
8 ~~his or her authorized agent~~, and the property appraiser or tax  
9 collector and their authorized agents, or designated employees  
10 of the Department of Education shall be subject to the same  
11 requirements of confidentiality and the same penalties for  
12 violation of the requirements as the department. For the  
13 purpose of this subsection, "designated employees of the  
14 Department of Education" means only those employees directly  
15 responsible for calculation of price level indices pursuant to  
16 s. 236.081(2). It does not include the supervisors of such  
17 employees or any other employees or elected officials within  
18 the Department of Education.

19 (7) Notwithstanding any other provision of this  
20 section, the department may provide:

21 (e) Names, addresses, taxpayer identification numbers,  
22 and outstanding tax liabilities to the Department of the  
23 Lottery and the Department of Financial Services ~~Banking and~~  
24 ~~Finance~~ in the conduct of their official duties.

25 (13) Notwithstanding the provisions of s. 896.102(2),  
26 the department may allow full access to the information and  
27 documents required to be filed with it under s. 896.102(1) to  
28 federal, state, and local law enforcement and prosecutorial  
29 agencies, and to the Department of Financial Services ~~Banking~~  
30 ~~and Finance~~, and any of those agencies may use the information  
31

1 and documents in any civil or criminal investigation and in  
2 any court proceedings.

3 Section 195. Section 213.054, Florida Statutes, is  
4 amended to read:

5 213.054 Persons claiming tax exemptions or deductions;  
6 annual report.--The Department of Revenue shall be responsible  
7 for monitoring the utilization of tax exemptions and tax  
8 deductions authorized pursuant to chapter 81-179, Laws of  
9 Florida. On or before September 1 of each year, the  
10 department shall report to the Chief Financial Officer  
11 ~~Comptroller~~ the names and addresses of all persons who have  
12 claimed an exemption pursuant to s. 199.185(1)(i) or a  
13 deduction pursuant to s. 220.63(5).

14 Section 196. Subsection (6) of section 213.255,  
15 Florida Statutes, is amended to read:

16 213.255 Interest.--Interest shall be paid on  
17 overpayments of taxes, payment of taxes not due, or taxes paid  
18 in error, subject to the following conditions:

19 (6) Interest shall be paid until a date determined by  
20 the department which shall be no more than 7 days prior to the  
21 date of the issuance of the refund warrant by the Chief  
22 Financial Officer ~~Comptroller~~.

23 Section 197. Subsection (9) of section 213.67, Florida  
24 Statutes, is amended to read:

25 213.67 Garnishment.--

26 (9) The department shall provide notice to the Chief  
27 Financial Officer ~~Comptroller~~, in electronic or other form  
28 specified by the Chief Financial Officer ~~Comptroller~~, listing  
29 the taxpayers for which tax warrants are outstanding. Pursuant  
30 to subsection (1), the Chief Financial Officer ~~Comptroller~~  
31 shall, upon notice from the department, withhold all payments



1 to any person or business, as defined in s. 212.02, which  
2 provides commodities or services to the state, leases real  
3 property to the state, or constructs a public building or  
4 public work for the state. The department may levy upon the  
5 withheld payments in accordance with subsection (3). The  
6 provisions of s. 215.422 do not apply from the date the notice  
7 is filed with the Chief Financial Officer ~~Comptroller~~ until  
8 the date the department notifies the Chief Financial Officer  
9 ~~Comptroller~~ of its consent to make payment to the person or 60  
10 days after receipt of the department's notice in accordance  
11 with subsection (1), whichever occurs earlier.

12 Section 198. Subsection (4) of section 213.75, Florida  
13 Statutes, is amended to read:

14 213.75 Application of payments.--

15 (4) Any surplus proceeds remaining after the  
16 application of subsection (3) shall, upon application and  
17 satisfactory proof thereof, be refunded by the Chief Financial  
18 Officer ~~Comptroller~~ to the person or persons legally entitled  
19 thereto pursuant to s. 215.26.

20 Section 199. Section 215.02, Florida Statutes, is  
21 amended to read:

22 215.02 Manner of paying money into the  
23 Treasury.--Whenever any officer of this state or other person  
24 desires to pay any money into the Treasury of the state on  
25 account of his or her indebtedness to the state, the person  
26 shall first go into the Department of Financial Services  
27 ~~Banking and Finance, and there~~ ascertain from the department's  
28 books the amount of his or her indebtedness to the state, and  
29 ~~thereupon the department shall give that person a memorandum~~  
30 ~~or certificate of the amount of such indebtedness, and on what~~  
31 ~~account. Second, the person shall take said certificate with~~

1 ~~him or her to the Department of Insurance and deliver the same~~  
2 ~~and pay over to the Chief Financial Officer Insurance~~  
3 ~~Commissioner and Treasurer the amount ascertained called for~~  
4 ~~in said certificate. Third, The Chief Financial Officer~~  
5 ~~Insurance Commissioner and Treasurer shall receive the money,~~  
6 ~~make a proper entry thereof, ~~file the certificate of the~~~~  
7 ~~Department of Banking and Finance, and give a certificate to~~  
8 ~~the party paying over the money, acknowledging the receipt of~~  
9 ~~the money, and on what account; which certificate thus~~  
10 ~~received, the party shall return to the Department of Banking~~  
11 ~~and Finance, on receipt of which the department shall give the~~  
12 ~~party a receipt for the amount, and enter a credit on the~~  
13 ~~party's account in his or her books for the amount thus paid~~  
14 ~~by him or her to the Insurance Commissioner and Treasurer, and~~  
15 ~~file the certificate received from the Insurance Commissioner~~  
16 ~~and Treasurer.~~

17 Section 200. Section 215.03, Florida Statutes, is  
18 amended to read:

19 215.03 Party to be reimbursed on reversal of judgment  
20 for state.--Whenever upon appeal in civil cases, any judgment  
21 in favor of the state has been or shall be reversed and set  
22 aside, which may have been paid in part by the appellant, the  
23 Chief Financial Officer ~~Comptroller~~ shall issue his or her  
24 warrant ~~upon the Treasurer~~ to reimburse the appellant for all  
25 sums paid in discharge of such judgment and cost, provided the  
26 appellant shall adduce satisfactory evidence to the Chief  
27 Financial Officer ~~Comptroller~~ of the sums paid as aforesaid.

28 Section 201. Section 215.04, Florida Statutes, is  
29 amended to read:

30 215.04 Department of Financial Services ~~Banking and~~  
31 ~~Finance~~ to report delinquents.--The Department of Financial

1 ~~Services Banking and Finance~~ shall report to the state  
2 attorney of the proper circuit the name of any delinquent  
3 officer whose delinquency concerns the department, so soon as  
4 such delinquency shall occur; and the state attorney shall  
5 proceed forthwith against such delinquent.

6 Section 202. Section 215.05, Florida Statutes, is  
7 amended to read:

8 215.05 Department of Financial Services ~~Banking and~~  
9 ~~Finance~~ to certify accounts of delinquents.--When any revenue  
10 officer or other person accountable for public money shall  
11 neglect or refuse to pay into the treasury the sum or balance  
12 reported to be due to the state, upon the adjustment of that  
13 person's account, the Department of Financial Services ~~Banking~~  
14 ~~and Finance~~ shall immediately hand over to the state attorney  
15 of the proper circuit the statement of the sum or balance  
16 certified under its seal of office, so due; and the state  
17 attorney shall institute suit for the recovery of the same,  
18 adding to the sum or balance stated to be due on such account  
19 the commissions of the delinquent, which shall be forfeited in  
20 every instance where suit is commenced and judgment is  
21 obtained thereon, and an interest of 8 percent per annum from  
22 the time of the delinquent's receiving the money until it  
23 shall be paid into the State Treasury.

24 Section 203. Section 215.11, Florida Statutes, is  
25 amended to read:

26 215.11 Defaulting officers; Department of Financial  
27 Services ~~Banking and Finance~~ to report to clerk.--The  
28 Department of Financial Services ~~Banking and Finance~~ shall,  
29 within 90 days after the expiration of the term of office of  
30 any tax collector, sheriff, clerk of the circuit or county  
31 court, treasurer, or any other officer of any county who has

1 the collection, custody, and control of any state funds, who  
2 shall be in arrears in his or her accounts with the state,  
3 make up and forward to the clerk of the circuit court of such  
4 county a statement of his or her accounts with the state.

5 Section 204. Paragraph (cc) of subsection (4) of  
6 section 215.20, Florida Statutes, is amended to read:

7 215.20 Certain income and certain trust funds to  
8 contribute to the General Revenue Fund.--

9 (4) The income of a revenue nature deposited in the  
10 following described trust funds, by whatever name designated,  
11 is that from which the deductions authorized by subsection (3)  
12 shall be made:

13 (cc) The Insurance ~~Commissioner's~~ Regulatory Trust  
14 Fund created by s. 624.523.

15  
16 The enumeration of the foregoing moneys or trust funds shall  
17 not prohibit the applicability thereto of s. 215.24 should the  
18 Governor determine that for the reasons mentioned in s. 215.24  
19 the money or trust funds should be exempt herefrom, as it is  
20 the purpose of this law to exempt income from its force and  
21 effect when, by the operation of this law, federal matching  
22 funds or contributions or private grants to any trust fund  
23 would be lost to the state.

24 Section 205. Paragraphs (e) and (g) of subsection (1)  
25 of section 215.22, Florida Statutes, is amended to read:

26 215.22 Certain income and certain trust funds  
27 exempt.--

28 (1) The following income of a revenue nature or the  
29 following trust funds shall be exempt from the deduction  
30 required by s. 215.20(1):

31

1           (e) State, agency, or political subdivision  
2 investments by the Chief Financial Officer ~~Treasurer~~.

3           (g) Self-insurance programs administered by the Chief  
4 Financial Officer ~~Treasurer~~.

5           Section 206. Section 215.23, Florida Statutes, is  
6 amended to read:

7           215.23 When contributions to be made.--The deductions  
8 required by s. 215.20 shall be paid into the appropriate fund  
9 by the Department of Financial Services ~~Banking and Finance~~ or  
10 by the Chief Financial Officer ~~State Treasurer~~, as the case  
11 may be, for quarterly periods ending March 31, June 30,  
12 September 30, and December 31 of each year, and when so paid  
13 shall thereupon become a part of that fund to be accounted for  
14 and disbursed as provided by law.

15           Section 207. Section 215.24, Florida Statutes, is  
16 amended to read:

17           215.24 Exemptions where federal contributions or  
18 private grants.--

19           (1) Should any state fund be the recipient of federal  
20 contributions or private grants, either by the matching of  
21 state funds or by a general donation to state funds, and the  
22 payment of moneys into the General Revenue Fund under s.  
23 215.20 should cause such fund to lose federal or private  
24 assistance, the Governor shall certify to the Department of  
25 Financial Services ~~Banking and Finance~~ and to the Chief  
26 Financial Officer ~~State Treasurer~~ that said income is for that  
27 reason exempt from the force and effect of s. 215.20.

28           (2) Should it be determined by the Governor that by  
29 reason of payments already made into the General Revenue Fund  
30 by any fund under this law, such fund is subject to the loss  
31 of federal or private assistance, then the Governor shall

1 certify to the Department of Financial Services ~~Banking and~~  
2 ~~Finance~~ and to the Chief Financial Officer ~~State Treasurer~~  
3 that the income from such assistance is exempt from the  
4 provisions of this law, and the Department of Financial  
5 Services ~~Banking and Finance~~ or the Chief Financial Officer  
6 ~~State Treasurer~~, as the case may be, shall thereupon refund  
7 and pay over to such fund any amount previously paid into the  
8 General Revenue Fund from such income.

9 Section 208. Section 215.25, Florida Statutes, is  
10 amended to read:

11 215.25 Manner of contributions; rules and  
12 regulations.--The Department of Financial Services ~~Banking and~~  
13 ~~Finance~~ and the Chief Financial Officer ~~State Treasurer~~ are  
14 hereby authorized to ascertain and determine the manner in  
15 which the required amounts shall be deducted and paid and to  
16 adopt and effectuate such rules and procedure as may be  
17 necessary for carrying out the provisions of this law. Such  
18 rules and procedure shall be approved by the Executive Office  
19 of the Governor.

20 Section 209. Subsections (1), (2), and (5) of section  
21 215.26, Florida Statutes, are amended to read:

22 215.26 Repayment of funds paid into State Treasury  
23 through error.--

24 (1) The Chief Financial Officer ~~Comptroller of the~~  
25 ~~state~~ may refund to the person who paid same, or his or her  
26 heirs, personal representatives, or assigns, any moneys paid  
27 into the State Treasury which constitute:

28 (a) An overpayment of any tax, license, or account  
29 due;

30 (b) A payment where no tax, license, or account is  
31 due; and

1           (c) Any payment made into the State Treasury in error;  
2  
3 and if any such payment has been credited to an appropriation,  
4 such appropriation shall at the time of making any such  
5 refund, be charged therewith. There are appropriated from the  
6 proper respective funds from time to time such sums as may be  
7 necessary for such refunds.

8           (2) Application for refunds as provided by this  
9 section must be filed with the Chief Financial Officer  
10 ~~Comptroller~~, except as otherwise provided in this subsection,  
11 within 3 years after the right to the refund has accrued or  
12 else the right is barred. Except as provided in chapter 198  
13 and s. 220.23, an application for a refund of a tax enumerated  
14 in s. 72.011, which tax was paid after September 30, 1994, and  
15 before July 1, 1999, must be filed with the Chief Financial  
16 Officer ~~Comptroller~~ within 5 years after the date the tax is  
17 paid, and within 3 years after the date the tax was paid for  
18 taxes paid on or after July 1, 1999. The Chief Financial  
19 Officer ~~Comptroller~~ may delegate the authority to accept an  
20 application for refund to any state agency, or the judicial  
21 branch, vested by law with the responsibility for the  
22 collection of any tax, license, or account due. The  
23 application for refund must be on a form approved by the Chief  
24 Financial Officer ~~Comptroller~~ and must be supplemented with  
25 additional proof the Chief Financial Officer ~~Comptroller~~ deems  
26 necessary to establish the claim; provided, the claim is not  
27 otherwise barred under the laws of this state. Upon receipt of  
28 an application for refund, the judicial branch or the state  
29 agency to which the funds were paid shall make a determination  
30 of the amount due. If an application for refund is denied, in  
31 whole or in part, the judicial branch or such state agency

1 shall notify the applicant stating the reasons therefor. Upon  
2 approval of an application for refund, the judicial branch or  
3 such state agency shall furnish the Chief Financial Officer  
4 ~~Comptroller~~ with a properly executed voucher authorizing  
5 payment.

6 (5) When a taxpayer has pursued administrative  
7 remedies before the Department of Revenue pursuant to s.  
8 213.21 and has failed to comply with the time limitations and  
9 conditions provided in ss. 72.011 and 120.80(14)(b), a claim  
10 of refund under subsection (1) shall be denied by the Chief  
11 Financial Officer ~~Comptroller~~. However, the Chief Financial  
12 Officer ~~Comptroller~~ may entertain a claim for refund under  
13 this subsection when the taxpayer demonstrates that his or her  
14 failure to pursue remedies under chapter 72 was not due to  
15 neglect or for the purpose of delaying payment of lawfully  
16 imposed taxes and can demonstrate reasonable cause for such  
17 failure.

18 Section 210. Section 215.29, Florida Statutes, is  
19 amended to read:

20 215.29 Classification of Chief Financial Officer's  
21 ~~Comptroller's~~ warrants; report.--All disbursements made by the  
22 state upon Chief Financial Officer's ~~Comptroller's~~ warrants  
23 shall be classified according to officers, offices, bureaus,  
24 divisions, boards, commissions, institutions, other agencies  
25 and undertakings, or the judicial branch, and shall be further  
26 classified according to personal services, contractual  
27 services, commodities, current charges, current obligations,  
28 capital outlays, debt payments, or investments or such  
29 additional classifications as may be prescribed or authorized  
30 by law. Such detail classifications shall be printed in the  
31 Chief Financial Officer's ~~Comptroller's~~ annual reports.



1           Section 211. Section 215.31, Florida Statutes, is  
2 amended to read:

3           215.31 State funds; deposit in State  
4 Treasury.--Revenue, including licenses, fees, imposts, or  
5 exactions collected or received under the authority of the  
6 laws of the state by each and every state official, office,  
7 employee, bureau, division, board, commission, institution,  
8 agency, or undertaking of the state or the judicial branch  
9 shall be promptly deposited in the State Treasury, and  
10 immediately credited to the appropriate fund as herein  
11 provided, properly accounted for by the Department of  
12 Financial Services ~~Banking and Finance~~ as to source and no  
13 money shall be paid from the State Treasury except as  
14 appropriated and provided by the annual General Appropriations  
15 Act, or as otherwise provided by law.

16           Section 212. Section 215.32, Florida Statutes, as  
17 amended by section 1 of chapter 2001-375, Laws of Florida, is  
18 amended to read:

19           215.32 State funds; segregation.--

20           (1) All moneys received by the state shall be  
21 deposited in the State Treasury unless specifically provided  
22 otherwise by law and shall be deposited in and accounted for  
23 by the Chief Financial Officer ~~Treasurer~~ and the Department of  
24 Financial Services ~~Banking and Finance~~ within the following  
25 funds, which funds are hereby created and established:

26           (a) General Revenue Fund.

27           (b) Trust funds.

28           (c) Working Capital Fund.

29           (d) Budget Stabilization Fund.

30           (2) The source and use of each of these funds shall be  
31 as follows:

1           (a) The General Revenue Fund shall consist of all  
2 moneys received by the state from every source whatsoever,  
3 except as provided in paragraphs (b) and (c). Such moneys  
4 shall be expended pursuant to General Revenue Fund  
5 appropriations acts or transferred as provided in paragraph  
6 (c). Annually, at least 5 percent of the estimated increase  
7 in General Revenue Fund receipts for the upcoming fiscal year  
8 over the current year General Revenue Fund effective  
9 appropriations shall be appropriated for state-level capital  
10 outlay, including infrastructure improvement and general  
11 renovation, maintenance, and repairs.

12           (b)1. The trust funds shall consist of moneys received  
13 by the state which under law or under trust agreement are  
14 segregated for a purpose authorized by law. The state agency  
15 or branch of state government receiving or collecting such  
16 moneys shall be responsible for their proper expenditure as  
17 provided by law. Upon the request of the state agency or  
18 branch of state government responsible for the administration  
19 of the trust fund, the Chief Financial Officer ~~Comptroller~~ may  
20 establish accounts within the trust fund at a level considered  
21 necessary for proper accountability. Once an account is  
22 established within a trust fund, the Chief Financial Officer  
23 ~~Comptroller~~ may authorize payment from that account only upon  
24 determining that there is sufficient cash and releases at the  
25 level of the account.

26           2. In order to maintain a minimum number of trust  
27 funds in the State Treasury, each state agency or the judicial  
28 branch may consolidate, if permitted under the terms and  
29 conditions of their receipt, the trust funds administered by  
30 it; provided, however, the agency or judicial branch employs  
31 effectively a uniform system of accounts sufficient to

1 preserve the integrity of such trust funds; and provided,  
2 further, that consolidation of trust funds is approved by the  
3 Governor or the Chief Justice.

4 3. All such moneys are hereby appropriated to be  
5 expended in accordance with the law or trust agreement under  
6 which they were received, subject always to the provisions of  
7 chapter 216 relating to the appropriation of funds and to the  
8 applicable laws relating to the deposit or expenditure of  
9 moneys in the State Treasury.

10 4.a. Notwithstanding any provision of law restricting  
11 the use of trust funds to specific purposes, unappropriated  
12 cash balances from selected trust funds may be authorized by  
13 the Legislature for transfer to the Budget Stabilization Fund  
14 and Working Capital Fund in the General Appropriations Act.

15 b. This subparagraph does not apply to trust funds  
16 required by federal programs or mandates; trust funds  
17 established for bond covenants, indentures, or resolutions  
18 whose revenues are legally pledged by the state or public body  
19 to meet debt service or other financial requirements of any  
20 debt obligations of the state or any public body; the State  
21 Transportation Trust Fund; the trust fund containing the net  
22 annual proceeds from the Florida Education Lotteries; the  
23 Florida Retirement System Trust Fund; trust funds under the  
24 management of the Board of Regents, where such trust funds are  
25 for auxiliary enterprises, self-insurance, and contracts,  
26 grants, and donations, as those terms are defined by general  
27 law; trust funds that serve as clearing funds or accounts for  
28 the Chief Financial Officer ~~Comptroller~~ or state agencies;  
29 trust funds that account for assets held by the state in a  
30 trustee capacity as an agent or fiduciary for individuals,  
31

1 private organizations, or other governmental units; and other  
2 trust funds authorized by the State Constitution.

3 (c)1. The Budget Stabilization Fund shall consist of  
4 amounts equal to at least 5 percent of net revenue collections  
5 for the General Revenue Fund during the last completed fiscal  
6 year. The Budget Stabilization Fund's principal balance shall  
7 not exceed an amount equal to 10 percent of the last completed  
8 fiscal year's net revenue collections for the General Revenue  
9 Fund. As used in this paragraph, the term "last completed  
10 fiscal year" means the most recently completed fiscal year  
11 prior to the regular legislative session at which the  
12 Legislature considers the General Appropriations Act for the  
13 year in which the transfer to the Budget Stabilization Fund  
14 must be made under this paragraph.

15 2. By September 15 of each year, the Governor shall  
16 authorize the Chief Financial Officer ~~Comptroller~~ to transfer,  
17 and the Chief Financial Officer ~~Comptroller~~ shall transfer  
18 pursuant to appropriations made by law, to the Budget  
19 Stabilization Fund the amount of money needed for the balance  
20 of that fund to equal the amount specified in subparagraph 1.,  
21 less any amounts expended and not restored. The moneys needed  
22 for this transfer may be appropriated by the Legislature from  
23 any funds.

24 3. Unless otherwise provided in this subparagraph, an  
25 expenditure from the Budget Stabilization Fund must be  
26 restored pursuant to a restoration schedule that provides for  
27 making five equal annual transfers from the General Revenue  
28 Fund, beginning in the fiscal year following that in which the  
29 expenditure was made. For any Budget Stabilization Fund  
30 expenditure, the Legislature may establish by law a different  
31 restoration schedule and such change may be made at any time

1 during the restoration period. Moneys are hereby appropriated  
2 for transfers pursuant to this subparagraph.

3 4. The Budget Stabilization Fund and the Working  
4 Capital Fund may be used as revolving funds for transfers as  
5 provided in s. 18.125; however, any interest earned must be  
6 deposited in the General Revenue Fund.

7 5. The Chief Financial Officer ~~Comptroller~~ and the  
8 Department of Management Services shall transfer funds to  
9 water management districts to pay eligible water management  
10 district employees for all benefits due under s. 373.6065, as  
11 long as funds remain available for the program described under  
12 s. 100.152.

13 (d) The Working Capital Fund shall consist of moneys  
14 in the General Revenue Fund which are in excess of the amount  
15 needed to meet General Revenue Fund appropriations for the  
16 current fiscal year. Each year, no later than the publishing  
17 date of the annual financial statements for the state by the  
18 Chief Financial Officer ~~Comptroller~~ under s. 216.102, funds  
19 shall be transferred between the Working Capital Fund and the  
20 General Revenue Fund to establish the balance of the Working  
21 Capital Fund for that fiscal year at the amount determined  
22 pursuant to this paragraph.

23 Section 213. Subsections (2) and (3) of section  
24 215.3206, Florida Statutes, are amended to read:

25 215.3206 Trust funds; termination or re-creation.--

26 (2) If the trust fund is terminated and not  
27 immediately re-created, all cash balances and income of the  
28 trust fund shall be deposited into the General Revenue Fund.  
29 The agency or Chief Justice shall pay any outstanding debts of  
30 the trust fund as soon as practicable, and the Chief Financial  
31 Officer ~~Comptroller~~ shall close out and remove the trust fund

1 from the various state accounting systems, using generally  
2 accepted accounting practices concerning warrants outstanding,  
3 assets, and liabilities. No appropriation or budget amendment  
4 shall be construed to authorize any encumbrance of funds from  
5 a trust fund after the date on which the trust fund is  
6 terminated or is judicially determined to be invalid.

7 (3) On or before September 1 of each year, the Chief  
8 Financial Officer ~~Comptroller~~ shall submit to the Executive  
9 Office of the Governor, the President of the Senate, and the  
10 Speaker of the House of Representatives a list of trust funds  
11 that are scheduled to terminate within 12 months after that  
12 date and also, beginning September 1, 1996, a list of all  
13 trust funds that are exempt from automatic termination  
14 pursuant to the provisions of s. 19(f)(3), Art. III of the  
15 State Constitution, listing revenues of the trust funds by  
16 major revenue category for each of the last 4 fiscal years.

17 Section 214. Paragraph (a) of subsection (2) of  
18 section 215.3208, Florida Statutes, is amended to read:

19 215.3208 Trust funds; legislative review.--

20 (2)(a) When the Legislature terminates a trust fund,  
21 the agency or branch of state government that administers the  
22 trust fund shall pay any outstanding debts or obligations of  
23 the trust fund as soon as practicable, and the Chief Financial  
24 Officer ~~Comptroller~~ shall close out and remove the trust fund  
25 from the various state accounting systems, using generally  
26 accepted accounting principles concerning assets, liabilities,  
27 and warrants outstanding.

28 Section 215. Section 215.321, Florida Statutes, is  
29 amended to read:

30 215.321 Regulatory trust fund.--All funds received  
31 pursuant to ss. 494.001-494.0077, chapter 497, chapter 516,

1 chapter 520, or part I of chapter 559 shall be deposited into  
2 the Banking and Finance Regulatory Trust Fund.

3 Section 216. Subsections (2), (3), and (4) of section  
4 215.322, Florida Statutes, are amended to read:

5 215.322 Acceptance of credit cards, charge cards, or  
6 debit cards by state agencies, units of local government, and  
7 the judicial branch.--

8 (2) A state agency as defined in s. 216.011, or the  
9 judicial branch, may accept credit cards, charge cards, or  
10 debit cards in payment for goods and services with the prior  
11 approval of the Chief Financial Officer ~~Treasurer~~. When the  
12 Internet or other related electronic methods are to be used as  
13 the collection medium, the State Technology Office shall  
14 review and recommend to the Chief Financial Officer ~~Treasurer~~  
15 whether to approve the request with regard to the process or  
16 procedure to be used.

17 (3) The Chief Financial Officer ~~Treasurer~~ shall adopt  
18 rules governing the establishment and acceptance of credit  
19 cards, charge cards, or debit cards by state agencies or the  
20 judicial branch, including, but not limited to, the following:

21 (a) Utilization of a standardized contract between the  
22 financial institution or other appropriate intermediaries and  
23 the agency or judicial branch which shall be developed by the  
24 Chief Financial Officer ~~Treasurer~~ or approval by the Chief  
25 Financial Officer ~~Treasurer~~ of a substitute agreement.

26 (b) Procedures which permit an agency or officer  
27 accepting payment by credit card, charge card, or debit card  
28 to impose a convenience fee upon the person making the  
29 payment. However, the total amount of such convenience fees  
30 shall not exceed the total cost to the state agency. A  
31 convenience fee is not refundable to the payor.

1 Notwithstanding the foregoing, this section shall not be  
2 construed to permit surcharges on any other credit card  
3 purchase in violation of s. 501.0117.

4 (c) All service fees payable pursuant to this section  
5 when practicable shall be invoiced and paid by state warrant  
6 or such other manner that is satisfactory to the Chief  
7 Financial Officer ~~Comptroller~~ in accordance with the time  
8 periods specified in s. 215.422.

9 (d) Submission of information to the Chief Financial  
10 Officer ~~Treasurer~~ concerning the acceptance of credit cards,  
11 charge cards, or debit cards by all state agencies or the  
12 judicial branch.

13 (e) A methodology for agencies to use when completing  
14 the cost-benefit analysis referred to in subsection (1). The  
15 methodology must consider all quantifiable cost reductions,  
16 other benefits to the agency, and potential impact on general  
17 revenue. The methodology must also consider nonquantifiable  
18 benefits such as the convenience to individuals and businesses  
19 that would benefit from the ability to pay for state goods and  
20 services through the use of credit cards, charge cards, and  
21 debit cards.

22 (4) The Chief Financial Officer may ~~Treasurer is~~  
23 ~~authorized to~~ establish contracts with one or more financial  
24 institutions, credit card companies, or other entities which  
25 may lawfully provide such services, in a manner consistent  
26 with chapter 287, for processing credit card, charge card, or  
27 debit card collections for deposit into the State Treasury or  
28 another qualified public depository. Any state agency, or the  
29 judicial branch, which accepts payment by credit card, charge  
30 card, or debit card shall use at least one of the contractors  
31 established by the Chief Financial Officer ~~Treasurer~~ unless



1 the state agency or judicial branch obtains authorization from  
2 the Chief Financial Officer ~~Treasurer~~ to use another  
3 contractor which is more advantageous to such state agency or  
4 the judicial branch. Such contracts may authorize a unit of  
5 local government to use the services upon the same terms and  
6 conditions for deposit of credit card, charge card, or debit  
7 card transactions into its qualified public depositories.

8 Section 217. Subsections (1) and (2) of section  
9 215.34, Florida Statutes, are amended to read:

10 215.34 State funds; noncollectible items; procedure.--

11 (1) Any check, draft, or other order for the payment  
12 of money in payment of any licenses, fees, taxes, commissions,  
13 or charges of any sort authorized to be made under the laws of  
14 the state and deposited in the State Treasury as provided  
15 herein, which may be returned for any reason by the bank or  
16 other payor upon which same shall have been drawn shall be  
17 forthwith returned by the Chief Financial Officer ~~State~~  
18 ~~Treasurer~~ for collection to the state officer, the state  
19 agency, or the entity of the judicial branch making the  
20 deposit. In such case, the Chief Financial Officer ~~may~~  
21 ~~Treasurer is hereby authorized to~~ issue a debit memorandum  
22 charging an account of the agency, officer, or entity of the  
23 judicial branch which originally received the payment. The  
24 original of the debit memorandum shall state the reason for  
25 the return of the check, draft, or other order and shall  
26 accompany the item being returned to the officer, agency, or  
27 entity of the judicial branch being charged, ~~and a copy of the~~  
28 ~~debit memorandum shall be sent to the Comptroller.~~ The  
29 officer, agency, or entity of the judicial branch receiving  
30 the charged-back item shall prepare a journal transfer which  
31 shall debit the charge against the fund or account to which

1 the same shall have been originally credited. Such procedure  
2 for handling noncollectible items shall not be construed as  
3 paying funds out of the State Treasury without an  
4 appropriation, but shall be considered as an administrative  
5 procedure for the efficient handling of state records and  
6 accounts.

7 (2) Whenever a check, draft, or other order for the  
8 payment of money is returned by the Chief Financial Officer  
9 ~~State Treasurer~~, or by a qualified public depository as  
10 defined in s. 280.02, to a state officer, a state agency, or  
11 the judicial branch for collection, the officer, agency, or  
12 judicial branch shall add to the amount due a service fee of  
13 \$15 or 5 percent of the face amount of the check, draft, or  
14 order, whichever is greater. An agency or the judicial branch  
15 may adopt a rule which prescribes a lesser maximum service  
16 fee, which shall be added to the amount due for the dishonored  
17 check, draft, or other order tendered for a particular  
18 service, license, tax, fee, or other charge, but in no event  
19 shall the fee be less than \$15. The service fee shall be in  
20 addition to all other penalties imposed by law, except that  
21 when other charges or penalties are imposed by an agency  
22 related to a noncollectible item, the amount of the service  
23 fee shall not exceed \$150. Proceeds from this fee shall be  
24 deposited in the same fund as the collected item. Nothing in  
25 this section shall be construed as authorization to deposit  
26 moneys outside the State Treasury unless specifically  
27 authorized by law.

28 Section 218. Section 215.35, Florida Statutes, is  
29 amended to read:

30 215.35 State funds; warrants and their issuance.--All  
31 warrants issued by the Chief Financial Officer ~~Comptroller~~

1 shall be numbered in chronological order commencing with  
2 number one in each fiscal year and each warrant shall refer to  
3 the Chief Financial Officer's ~~Comptroller's~~ voucher by the  
4 number thereof, which voucher shall also be numbered as above  
5 set forth. Each warrant shall state the name of the payee  
6 thereof and the amount allowed, and said warrant shall be  
7 stated in words at length. No warrant shall issue until same  
8 has been authorized by an appropriation made by law but such  
9 warrant need not state or set forth such authorization. The  
10 Chief Financial Officer ~~Comptroller~~ shall register and  
11 maintain a record of each warrant in his or her office. The  
12 record shall show the funds, accounts, purposes, and  
13 departments involved in the issuance of each warrant. In  
14 those instances where the expenditure of funds of regulatory  
15 boards or commissions has been provided for by laws other than  
16 the annual appropriations bill, warrants shall be issued upon  
17 requisition to the Chief Financial Officer ~~State Comptroller~~  
18 by the governing body of such board or commission.

19 Section 219. Section 215.405, Florida Statutes, is  
20 amended to read:

21 215.405 State agencies and the judicial branch  
22 authorized to collect costs of fingerprinting.--Any state  
23 agency, or the judicial branch, exercising regulatory  
24 authority and authorized to take fingerprints of persons  
25 within or seeking to come within such agency's or the judicial  
26 branch's regulatory power may collect from the person or  
27 entity on whose behalf the fingerprints were submitted the  
28 actual costs of processing such fingerprints including, but  
29 not limited to, any charges imposed by the Department of Law  
30 Enforcement or any agency or branch of the United States  
31 Government. This provision shall constitute express authority

1 for state agencies and the judicial branch to collect the  
2 actual costs of processing the fingerprints either prior to or  
3 subsequent to the actual processing and shall supersede any  
4 other law to the contrary. To administer the provisions of  
5 this section, a state agency, or the judicial branch, electing  
6 to collect the cost of fingerprinting is empowered to  
7 promulgate and adopt rules to establish the amounts and the  
8 methods of payment needed to collect such costs. Collections  
9 made under these provisions shall be deposited with the Chief  
10 Financial Officer ~~Treasurer~~ to an appropriate trust fund  
11 account to be designated by the Executive Office of the  
12 Governor.

13 Section 220. Section 215.42, Florida Statutes, is  
14 amended to read:

15 215.42 Purchases from appropriations, proof of  
16 delivery.--The Chief Financial Officer ~~State Comptroller~~ may  
17 require proof, as he or she deems necessary, of delivery and  
18 receipt of purchases before honoring any voucher for payment  
19 from appropriations made in the General Appropriations Act or  
20 otherwise provided by law.

21 Section 221. Section 215.422, Florida Statutes, is  
22 amended to read:

23 215.422 Warrants, vouchers, and invoices; processing  
24 time limits; dispute resolution; agency or judicial branch  
25 compliance.--

26 (1) The voucher authorizing payment of an invoice  
27 submitted to an agency of the state or the judicial branch,  
28 required by law to be filed with the Chief Financial Officer  
29 ~~Comptroller~~, shall be filed with the Chief Financial Officer  
30 ~~Comptroller~~ not later than 20 days after receipt of the  
31 invoice and receipt, inspection, and approval of the goods or

1 services, except that in the case of a bona fide dispute the  
2 voucher shall contain a statement of the dispute and authorize  
3 payment only in the amount not disputed. The Chief Financial  
4 Officer ~~Comptroller~~ may establish dollar thresholds and other  
5 criteria for all invoices and may delegate to a state agency  
6 or the judicial branch responsibility for maintaining the  
7 official vouchers and documents for invoices which do not  
8 exceed the thresholds or which meet the established criteria.  
9 Such records shall be maintained in accordance with the  
10 requirements established by the Secretary of State. The  
11 electronic payment request transmission to the Chief Financial  
12 Officer ~~Comptroller~~ shall constitute filing of a voucher for  
13 payment of invoices for which the Chief Financial Officer  
14 ~~Comptroller~~ has delegated to an agency custody of official  
15 records. Approval and inspection of goods or services shall  
16 take no longer than 5 working days unless the bid  
17 specifications, purchase order, or contract specifies  
18 otherwise. If a voucher filed within the 20-day period is  
19 returned by the Department of Financial Services ~~Banking and~~  
20 ~~Finance~~ because of an error, it shall nevertheless be deemed  
21 timely filed. The 20-day filing requirement may be waived in  
22 whole or in part by the Department of Financial Services  
23 ~~Banking and Finance~~ on a showing of exceptional circumstances  
24 in accordance with rules and regulations of the department.  
25 For the purposes of determining the receipt of invoice date,  
26 the agency or the judicial branch is deemed to receive an  
27 invoice on the date on which a proper invoice is first  
28 received at the place designated by the agency or the judicial  
29 branch. The agency or the judicial branch is deemed to  
30 receive an invoice on the date of the invoice if the agency or  
31 the judicial branch has failed to annotate the invoice with

1 the date of receipt at the time the agency or the judicial  
2 branch actually received the invoice or failed at the time the  
3 order is placed or contract made to designate a specific  
4 location to which the invoice must be delivered.

5 (2) The warrant in payment of an invoice submitted to  
6 an agency of the state or the judicial branch shall be issued  
7 not later than 10 days after filing of the voucher authorizing  
8 payment. However, this requirement may be waived in whole or  
9 in part by the Department of Financial Services ~~Banking and~~  
10 ~~Finance~~ on a showing of exceptional circumstances in  
11 accordance with rules and regulations of the department. If  
12 the 10-day period contains fewer than 6 working days, the  
13 Department of Financial Services ~~Banking and Finance~~ shall be  
14 deemed in compliance with this subsection if the warrant is  
15 issued within 6 working days without regard to the actual  
16 number of calendar days. For purposes of this section, a  
17 payment is deemed to be issued on the first working day that  
18 payment is available for delivery or mailing to the vendor.

19 (3)(a) Each agency of the state or the judicial branch  
20 which is required by law to file vouchers with the Chief  
21 Financial Officer ~~Comptroller~~ shall keep a record of the date  
22 of receipt of the invoice; dates of receipt, inspection, and  
23 approval of the goods or services; date of filing of the  
24 voucher; and date of issuance of the warrant in payment  
25 thereof. If the voucher is not filed or the warrant is not  
26 issued within the time required, an explanation in writing by  
27 the agency head or the Chief Justice shall be submitted to the  
28 Department of Financial Services ~~Banking and Finance~~ in a  
29 manner prescribed by it. Agencies and the judicial branch  
30 shall continue to deliver or mail state payments promptly.

31

1           (b) If a warrant in payment of an invoice is not  
2 issued within 40 days after receipt of the invoice and  
3 receipt, inspection, and approval of the goods and services,  
4 the agency or judicial branch shall pay to the vendor, in  
5 addition to the amount of the invoice, interest at a rate as  
6 established pursuant to s. 55.03(1) on the unpaid balance from  
7 the expiration of such 40-day period until such time as the  
8 warrant is issued to the vendor. Such interest shall be added  
9 to the invoice at the time of submission to the Chief  
10 Financial Officer ~~Comptroller~~ for payment whenever possible.  
11 If addition of the interest penalty is not possible, the  
12 agency or judicial branch shall pay the interest penalty  
13 payment within 15 days after issuing the warrant. The  
14 provisions of this paragraph apply only to undisputed amounts  
15 for which payment has been authorized. Disputes shall be  
16 resolved in accordance with rules developed and adopted by the  
17 Chief Justice for the judicial branch, and rules adopted by  
18 the Department of Financial Services ~~Banking and Finance~~ or in  
19 a formal administrative proceeding before an administrative  
20 law judge of the Division of Administrative Hearings for state  
21 agencies, provided that, for the purposes of ss. 120.569 and  
22 120.57(1), no party to a dispute involving less than \$1,000 in  
23 interest penalties shall be deemed to be substantially  
24 affected by the dispute or to have a substantial interest in  
25 the decision resolving the dispute. In the case of an error on  
26 the part of the vendor, the 40-day period shall begin to run  
27 upon receipt by the agency or the judicial branch of a  
28 corrected invoice or other remedy of the error. The provisions  
29 of this paragraph do not apply when the filing requirement  
30 under subsection (1) or subsection (2) has been waived in  
31 whole by the Department of Financial Services ~~Banking and~~

1 ~~Finance~~. The various state agencies and the judicial branch  
2 shall be responsible for initiating the penalty payments  
3 required by this subsection and shall use this subsection as  
4 authority to make such payments. The budget request submitted  
5 to the Legislature shall specifically disclose the amount of  
6 any interest paid by any agency or the judicial branch  
7 pursuant to this subsection. The temporary unavailability of  
8 funds to make a timely payment due for goods or services does  
9 not relieve an agency or the judicial branch from the  
10 obligation to pay interest penalties under this section.

11 (c) An agency or the judicial branch may make partial  
12 payments to a contractor upon partial delivery of goods or  
13 services or upon partial completion of construction when a  
14 request for such partial payment is made by the contractor and  
15 approved by the agency. Provisions of this section and rules  
16 of the Department of Financial Services ~~Banking and Finance~~  
17 shall apply to partial payments in the same manner as they  
18 apply to full payments.

19 (4) If the terms of the invoice provide a discount for  
20 payment in less than 30 days, agencies of the state and the  
21 judicial branch shall preferentially process it and use all  
22 diligence to obtain the saving by compliance with the invoice  
23 terms.

24 (5) All purchasing agreements between a state agency  
25 or the judicial branch and a vendor, applicable to this  
26 section, shall include a statement of the vendor's rights and  
27 the state's responsibilities under this section. The vendor's  
28 rights shall include being provided with the telephone number  
29 of the vendor ombudsman within the Department of Financial  
30 Services ~~Banking and Finance~~, which information shall also be  
31 placed on all agency or judicial branch purchase orders.



1           (6) The Department of Financial Services ~~Banking and~~  
2 ~~Finance~~ shall monitor each agency's and the judicial branch's  
3 compliance with the time limits and interest penalty  
4 provisions of this section. The department shall provide a  
5 report to an agency or to the judicial branch if the  
6 department determines that the agency or the judicial branch  
7 has failed to maintain an acceptable rate of compliance with  
8 the time limits and interest penalty provisions of this  
9 section. The department shall establish criteria for  
10 determining acceptable rates of compliance. The report shall  
11 also include a list of late vouchers or payments, the amount  
12 of interest owed or paid, and any corrective actions  
13 recommended. The department shall perform monitoring  
14 responsibilities, pursuant to this section, using the  
15 Management Services and Purchasing Subsystem or the Florida  
16 Accounting Information Resource Subsystem provided in s.  
17 215.94. Each agency and the judicial branch shall be  
18 responsible for the accuracy of information entered into the  
19 Management Services and Purchasing Subsystem and the Florida  
20 Accounting Information Resource Subsystem for use in this  
21 monitoring.

22           (7) There is created a vendor ombudsman within the  
23 Department of Financial Services ~~Banking and Finance~~ who shall  
24 be responsible for the following functions:

25           (a) Performing the duties of the department pursuant  
26 to subsection (6).

27           (b) Reviewing requests for waivers due to exceptional  
28 circumstances.

29           (c) Disseminating information relative to the prompt  
30 payment policies of this state and assisting vendors in  
31 receiving their payments in a timely manner.

1 (d) Performing such other duties as determined by the  
2 department.

3 (8) The Department of Financial Services ~~Banking and~~  
4 ~~Finance~~ is authorized and directed to adopt and promulgate  
5 rules and regulations to implement this section and for  
6 resolution of disputes involving amounts of less than \$1,000  
7 in interest penalties for state agencies. No agency or the  
8 judicial branch shall adopt any rule or policy that is  
9 inconsistent with this section or the Department of Financial  
10 Services ~~Banking and Finance's~~ rules or policies.

11 (9) Each agency and the judicial branch shall include  
12 in the official position description of every officer or  
13 employee who is responsible for the approval or processing of  
14 vendors' invoices or distribution of warrants to vendors that  
15 the requirements of this section are mandatory.

16 (10) Persistent failure to comply with this section by  
17 any agency of the state or the judicial branch shall  
18 constitute good cause for discharge of employees duly found  
19 responsible, or predominantly responsible, for failure to  
20 comply.

21 (11) Travel and other reimbursements to state officers  
22 and employees must be the same as payments to vendors under  
23 this section, except payment of Class C travel subsistence.  
24 Class C travel subsistence shall be paid in accordance with  
25 the schedule established by the Chief Financial Officer  
26 ~~Comptroller~~ pursuant to s. 112.061(5)(b). This section does  
27 not apply to payments made to state agencies, the judicial  
28 branch, or the legislative branch.

29 (12) In the event that a state agency or the judicial  
30 branch contracts with a third party, uses a revolving fund, or  
31 pays from a local bank account to process and pay invoices for

1 goods or services, all requirements for financial obligations  
2 and time processing set forth in this section shall be  
3 applicable and the state agency or the judicial branch shall  
4 be responsible for paying vendors the interest assessed for  
5 untimely payment. The state agency or the judicial branch may,  
6 through its contract with a third party, require the third  
7 party to pay interest from the third party's funds.

8 (13) Notwithstanding the provisions of subsections (3)  
9 and (12), in order to alleviate any hardship that may be  
10 caused to a health care provider as a result of delay in  
11 receiving reimbursement for services, any payment or payments  
12 for hospital, medical, or other health care services which are  
13 to be reimbursed by a state agency or the judicial branch,  
14 either directly or indirectly, shall be made to the health  
15 care provider not more than 35 days from the date eligibility  
16 for payment of such claim is determined. If payment is not  
17 issued to a health care provider within 35 days after the date  
18 eligibility for payment of the claim is determined, the state  
19 agency or the judicial branch shall pay the health care  
20 provider interest at a rate of 1 percent per month calculated  
21 on a calendar day basis on the unpaid balance from the  
22 expiration of such 35-day period until such time as payment is  
23 made to the health care provider, unless a waiver in whole has  
24 been granted by the Department of Financial Services ~~Banking~~  
25 ~~and Finance~~ pursuant to subsection (1) or subsection (2).

26 (14) The Chief Financial Officer ~~Comptroller~~ may adopt  
27 rules to authorize advance payments for goods and services,  
28 including, but not limited to, maintenance agreements and  
29 subscriptions. Such rules shall provide objective criteria  
30 for determining when it is in the best interest of the state  
31 to make payments in advance and shall also provide for

1 adequate protection to ensure that such goods or services will  
2 be provided.

3 (15) Nothing contained in this section shall be  
4 construed to be an appropriation. Any interest which becomes  
5 due and owing pursuant to this section shall only be payable  
6 from the appropriation charged for such goods or services.

7 (16) Notwithstanding the provisions of s. 24.120(3),  
8 applicable to warrants issued for payment of invoices  
9 submitted by the Department of the Lottery, the Chief  
10 Financial Officer ~~Comptroller~~ may, by written agreement with  
11 the Department of the Lottery, establish a shorter time  
12 requirement than the 10 days provided in subsection (2) for  
13 warrants issued for payment. Pursuant to such written  
14 agreement, the Department of the Lottery shall reimburse the  
15 Chief Financial Officer ~~Comptroller~~ for costs associated with  
16 processing invoices under the agreement.

17 Section 222. Subsection (1) of section 215.44, Florida  
18 Statutes, is amended to read:

19 215.44 Board of Administration; powers and duties in  
20 relation to investment of trust funds.--

21 (1) Except when otherwise specifically provided by the  
22 State Constitution and subject to any limitations of the trust  
23 agreement relating to a trust fund, the Board of  
24 Administration, hereinafter sometimes referred to as "board,"  
25 composed of the Governor as chair, the Chief Financial Officer  
26 ~~Treasurer~~, and the Attorney General ~~Comptroller~~, shall invest  
27 all the funds in the System Trust Fund, as defined in s.  
28 121.021(36), and all other funds specifically required by law  
29 to be invested by the board pursuant to ss. 215.44-215.53 to  
30 the fullest extent that is consistent with the cash  
31 requirements, trust agreement, and investment objectives of

1 the fund. Notwithstanding any other law to the contrary, the  
2 State Board of Administration may invest any funds of any  
3 state agency or any unit of local government pursuant to the  
4 terms of a trust agreement with the head of the state agency  
5 or the governing body of the unit of local government, which  
6 trust agreement shall govern the investment of such funds,  
7 provided that the board shall approve the undertaking of such  
8 investment before execution of the trust agreement by the  
9 State Board of Administration. The funds and the earnings  
10 therefrom are exempt from the service charge imposed by s.  
11 215.20. As used in this subsection, the term "state agency"  
12 has the same meaning as that provided in s. 216.001, and the  
13 terms "governing body" and "unit of local government" have the  
14 same meaning as that provided in s. 218.403.

15 Section 223. Section 215.50, Florida Statutes, is  
16 amended to read:

17 215.50 Custody of securities purchased; income.--

18 (1) All securities purchased or held may, with the  
19 approval of the board, be in the custody of the Chief  
20 Financial Officer ~~Treasurer~~ or the Chief Financial Officer  
21 ~~Treasurer~~ as treasurer ex officio of the board, or be  
22 deposited with a bank or trust company to be held in  
23 safekeeping by such bank or trust company for the collection  
24 of principal and interest or of the proceeds of the sale  
25 thereof.

26 (2) It shall be the duty of the board or of the Chief  
27 Financial Officer ~~Treasurer~~, as custodian of the securities of  
28 the board, to collect the interest or other income on, and the  
29 principal of, such securities in their custody as the sums  
30 become due and payable and to pay the same, when so collected,

31

1 into the investment account of the fund to which the  
2 investments belong.

3 (3) The Chief Financial Officer ~~Treasurer~~, as  
4 custodian of securities owned by the Florida Retirement System  
5 Trust Fund and the Florida Survivor Benefit Trust Fund, shall  
6 collect the interest, dividends, prepayments, maturities,  
7 proceeds from sales, and other income accruing from such  
8 assets. As such income is collected by the Chief Financial  
9 Officer ~~Treasurer~~, it shall be deposited directly into a  
10 commercial bank to the credit of the State Board of  
11 Administration. Such bank accounts as may be required for  
12 this purpose shall offer satisfactory collateral security as  
13 provided by chapter 280. In the event funds so deposited  
14 according to the provisions of this section are required for  
15 the purpose of paying benefits or other operational needs, the  
16 State Board of Administration shall remit to the Florida  
17 Retirement System Trust Fund in the State Treasury such  
18 amounts as may be requested by the Department of Management  
19 Services.

20 (4) Securities that the board selects to use for  
21 options operations under s. 215.45 or for lending under s.  
22 215.47(16) shall be registered by the Chief Financial Officer  
23 ~~Treasurer~~ in the name of a third-party nominee in order to  
24 facilitate such operations.

25 Section 224. Section 215.551, Florida Statutes, is  
26 amended to read:

27 215.551 Federal Use of State Lands Trust Fund; county  
28 distribution.--

29 (1) The Chief Financial Officer ~~Comptroller~~ may make  
30 distribution of the Federal Use of State Lands Trust Fund,

31

1 when so requested by the counties in interest, of such amounts  
2 as may be accumulated in that fund.

3 (2) The Chief Financial Officer ~~Comptroller~~ shall  
4 ascertain, from the records of the General Land Office or  
5 other departments in Washington, D.C., the number of acres of  
6 land situated in the several counties in which the  
7 Apalachicola, Choctawhatchee, Ocala, and Osceola Forest  
8 Reserves are located, the number of acres of land of such  
9 forest reserve embraced in each of the counties in each of the  
10 reserves, and, also, the amount of money received by the  
11 United States Government from each of the reserves,  
12 respectively. The Chief Financial Officer ~~Comptroller~~ shall  
13 apportion the money on hand to each county in each reserve,  
14 respectively and separately; such distribution shall be based  
15 upon the number of acres of land embraced in the Apalachicola  
16 Forest, Choctawhatchee Forest, Ocala Forest, and Osceola  
17 Forest, respectively, in each county and shall be further  
18 based upon the amount collected by the United States from each  
19 of such forests, so that such distribution, when made, will  
20 include for each county the amount due each county, based upon  
21 the receipts for the particular forest and the acreage in the  
22 particular county in which such forest is located. The Chief  
23 Financial Officer ~~Comptroller~~ shall issue two warrants ~~on the~~  
24 ~~Treasurer~~ in each case, the sum of which shall be the amount  
25 due each of such counties from the fund. One warrant shall be  
26 payable to the county for the county general road fund, and  
27 one warrant, of equal amount, shall be payable to such  
28 county's district school board for the district school fund.

29 (3) In the event that actual figures of receipts from  
30 different reserves cannot be obtained by counties, so as to  
31 fully comply with subsections (1) and (2), the Chief Financial

1 ~~Officer Comptroller~~ may adjust the matter according to the  
2 United States statutes, or as may appear to him or her to be  
3 just and fair, and with the approval of all counties in  
4 interest.

5 (4) The moneys that may be received and credited to  
6 the Federal Use of State Lands Trust Fund are appropriated for  
7 the payment of the warrants of the Chief Financial Officer  
8 ~~Comptroller drawn on the Treasurer~~ in pursuance of this  
9 section.

10 Section 225. Section 215.552, Florida Statutes, is  
11 amended to read:

12 215.552 Federal Use of State Lands Trust Fund; land  
13 within military installations; county distribution.--The Chief  
14 Financial Officer ~~Comptroller~~ shall distribute moneys from the  
15 Federal Use of State Lands Trust Fund when so requested by the  
16 counties so affected. The Chief Financial Officer ~~Comptroller~~  
17 shall apportion the money on hand equal to the percentage of  
18 land in each county within each military installation, and the  
19 amount so apportioned to each county shall be applied by such  
20 counties equally divided between the district school fund and  
21 the general road fund of such counties.

22 Section 226. Paragraph (c) of subsection (2),  
23 paragraph (d) of subsection (4), and paragraphs (a), (b), and  
24 (c) of subsection (6) of section 215.555, Florida Statutes,  
25 are amended to read:

26 215.555 Florida Hurricane Catastrophe Fund.--

27 (2) DEFINITIONS.--As used in this section:

28 (c) "Covered policy" means any insurance policy  
29 covering residential property in this state, including, but  
30 not limited to, any homeowner's, mobile home owner's, farm  
31 owner's, condominium association, condominium unit owner's,



1 tenant's, or apartment building policy, or any other policy  
2 covering a residential structure or its contents issued by any  
3 authorized insurer, including any joint underwriting  
4 association or similar entity created pursuant to law.  
5 Additionally, covered policies include policies covering the  
6 peril of wind removed from the Florida Residential Property  
7 and Casualty Joint Underwriting Association, created pursuant  
8 to s. 627.351(6), or from the Florida Windstorm Underwriting  
9 Association, created pursuant to s. 627.351(2), by an  
10 authorized insurer under the terms and conditions of an  
11 executed assumption agreement between the authorized insurer  
12 and either such association. Each assumption agreement between  
13 either association and such authorized insurer must be  
14 approved by the Florida Department of Financial Services  
15 ~~Insurance~~ prior to the effective date of the assumption, and  
16 the Department of Financial Services ~~Insurance~~ must provide  
17 written notification to the board within 15 working days after  
18 such approval. "Covered policy" does not include any policy  
19 that excludes wind coverage or hurricane coverage or any  
20 reinsurance agreement and does not include any policy  
21 otherwise meeting this definition which is issued by a surplus  
22 lines insurer or a reinsurer.

23 (4) REIMBURSEMENT CONTRACTS.--

24 (d)1. For purposes of determining potential liability  
25 and to aid in the sound administration of the fund, the  
26 contract shall require each insurer to report such insurer's  
27 losses from each covered event on an interim basis, as  
28 directed by the board. The contract shall require the insurer  
29 to report to the board no later than December 31 of each year,  
30 and quarterly thereafter, its reimbursable losses from covered  
31 events for the year. The contract shall require the board to

1 determine and pay, as soon as practicable after receiving  
2 these reports of reimbursable losses, the initial amount of  
3 reimbursement due and adjustments to this amount based on  
4 later loss information. The adjustments to reimbursement  
5 amounts shall require the board to pay, or the insurer to  
6 return, amounts reflecting the most recent calculation of  
7 losses.

8           2. In determining reimbursements pursuant to this  
9 subsection, the contract shall provide that the board shall:

10           a. First reimburse insurers writing covered policies,  
11 which insurers are in full compliance with this section and  
12 have petitioned the Department of Financial Services ~~Insurance~~  
13 and qualified as limited apportionment companies under s.  
14 627.351(2)(b)3. The amount of such reimbursement shall be the  
15 lesser of \$10 million or an amount equal to 10 times the  
16 insurer's reimbursement premium for the current year. The  
17 amount of reimbursement paid under this sub-subparagraph may  
18 not exceed the full amount of reimbursement promised in the  
19 reimbursement contract. This sub-subparagraph does not apply  
20 with respect to any contract year in which the year-end  
21 projected cash balance of the fund, exclusive of any bonding  
22 capacity of the fund, exceeds \$2 billion. Only one member of  
23 any insurer group may receive reimbursement under this  
24 sub-subparagraph.

25           b. Next pay to each insurer such insurer's projected  
26 payout, which is the amount of reimbursement it is owed, up to  
27 an amount equal to the insurer's share of the actual premium  
28 paid for that contract year, multiplied by the actual  
29 claims-paying capacity available for that contract year;  
30 provided, entities created pursuant to s. 627.351 shall be  
31 further reimbursed in accordance with sub-subparagraph c.

1           c. Thereafter, establish, based on reimbursable  
2 losses, the prorated reimbursement level at the highest level  
3 for which any remaining fund balance or bond proceeds are  
4 sufficient to reimburse entities created pursuant to s.  
5 627.351 for losses exceeding the amounts payable pursuant to  
6 sub-subparagraph b. for the current contract year.

7           (6) REVENUE BONDS.--

8           (a) General provisions.--

9           1. Upon the occurrence of a hurricane and a  
10 determination that the moneys in the fund are or will be  
11 insufficient to pay reimbursement at the levels promised in  
12 the reimbursement contracts, the board may take the necessary  
13 steps under paragraph (b) or paragraph (c) for the issuance of  
14 revenue bonds for the benefit of the fund. The proceeds of  
15 such revenue bonds may be used to make reimbursement payments  
16 under reimbursement contracts; to refinance or replace  
17 previously existing borrowings or financial arrangements; to  
18 pay interest on bonds; to fund reserves for the bonds; to pay  
19 expenses incident to the issuance or sale of any bond issued  
20 under this section, including costs of validating, printing,  
21 and delivering the bonds, costs of printing the official  
22 statement, costs of publishing notices of sale of the bonds,  
23 and related administrative expenses; or for such other  
24 purposes related to the financial obligations of the fund as  
25 the board may determine. The term of the bonds may not exceed  
26 30 years. The board may pledge or authorize the corporation to  
27 pledge all or a portion of all revenues under subsection (5)  
28 and under subparagraph 3. to secure such revenue bonds and the  
29 board may execute such agreements between the board and the  
30 issuer of any revenue bonds and providers of other financing  
31 arrangements under paragraph (7)(b) as the board deems

1 necessary to evidence, secure, preserve, and protect such  
2 pledge. If reimbursement premiums received under subsection  
3 (5) or earnings on such premiums are used to pay debt service  
4 on revenue bonds, such premiums and earnings shall be used  
5 only after the use of the moneys derived from assessments  
6 under subparagraph 3. The funds, credit, property, or taxing  
7 power of the state or political subdivisions of the state  
8 shall not be pledged for the payment of such bonds. The board  
9 may also enter into agreements under paragraph (b) or  
10 paragraph (c) for the purpose of issuing revenue bonds in the  
11 absence of a hurricane upon a determination that such action  
12 would maximize the ability of the fund to meet future  
13 obligations.

14           2. The Legislature finds and declares that the  
15 issuance of bonds under this subsection is for the public  
16 purpose of paying the proceeds of the bonds to insurers,  
17 thereby enabling insurers to pay the claims of policyholders  
18 to assure that policyholders are able to pay the cost of  
19 construction, reconstruction, repair, restoration, and other  
20 costs associated with damage to property of policyholders of  
21 covered policies after the occurrence of a hurricane. Revenue  
22 bonds may not be issued under this subsection until validated  
23 under chapter 75. The validation of at least the first  
24 obligations incurred pursuant to this subsection shall be  
25 appealed to the Supreme Court, to be handled on an expedited  
26 basis.

27           3. If the board determines that the amount of revenue  
28 produced under subsection (5) is insufficient to fund the  
29 obligations, costs, and expenses of the fund and the  
30 corporation, including repayment of revenue bonds, the board  
31 shall direct the Department of Financial Services ~~Insurance~~ to

1 | levy an emergency assessment on each insurer writing property  
2 | and casualty business in this state. Pursuant to the emergency  
3 | assessment, each such insurer shall pay to the corporation by  
4 | July 1 of each year an amount set by the board not exceeding 2  
5 | percent of its gross direct written premium for the prior year  
6 | from all property and casualty business in this state except  
7 | for workers' compensation, except that, if the Governor has  
8 | declared a state of emergency under s. 252.36 due to the  
9 | occurrence of a covered event, the amount of the assessment  
10 | for the contract year may be increased to an amount not  
11 | exceeding 4 percent of such premium. Any assessment authority  
12 | not used for the contract year may be used for a subsequent  
13 | contract year. If, for a subsequent contract year, the board  
14 | determines that the amount of revenue produced under  
15 | subsection (5) is insufficient to fund the obligations, costs,  
16 | and expenses of the fund and the corporation, including  
17 | repayment of revenue bonds for that contract year, the board  
18 | shall direct the Department of Financial Services ~~Insurance~~ to  
19 | levy an emergency assessment up to an amount not exceeding the  
20 | amount of unused assessment authority from a previous contract  
21 | year or years, plus an additional 2 percent if the Governor  
22 | has declared a state of emergency under s. 252.36 due to the  
23 | occurrence of a covered event. Any assessment authority not  
24 | used for the contract year may be used for a subsequent  
25 | contract year. As used in this subsection, the term "property  
26 | and casualty business" includes all lines of business  
27 | identified on Form 2, Exhibit of Premiums and Losses, in the  
28 | annual statement required by s. 624.424 and any rules adopted  
29 | under such section, except for those lines identified as  
30 | accident and health insurance. The annual assessments under  
31 | this subparagraph shall continue as long as the revenue bonds

1 issued with respect to which the assessment was imposed are  
2 outstanding, unless adequate provision has been made for the  
3 payment of such bonds pursuant to the documents authorizing  
4 issuance of the bonds. An insurer shall not at any time be  
5 subject to aggregate annual assessments under this  
6 subparagraph of more than 2 percent of premium, except that in  
7 the case of a declared emergency, an insurer shall not at any  
8 time be subject to aggregate annual assessments under this  
9 subparagraph of more than 6 percent of premium; provided, no  
10 more than 4 percent may be assessed for any one contract year.  
11 Any rate filing or portion of a rate filing reflecting a rate  
12 change attributable entirely to the assessment levied under  
13 this subparagraph shall be deemed approved when made, subject  
14 to the authority of the Department of Financial Services  
15 ~~Insurance~~ to require actuarial justification as to the  
16 adequacy of any rate at any time. If the rate filing reflects  
17 only a rate change attributable to the assessment under this  
18 paragraph, the filing may consist of a certification so  
19 stating. The assessments otherwise payable to the corporation  
20 pursuant to this subparagraph shall be paid instead to the  
21 fund unless and until the Department of Financial Services  
22 ~~Insurance~~ has received from the corporation and the fund a  
23 notice, which shall be conclusive and upon which the  
24 Department of Financial Services ~~Insurance~~ may rely without  
25 further inquiry, that the corporation has issued bonds and the  
26 fund has no agreements in effect with local governments  
27 pursuant to paragraph (b). On or after the date of such  
28 notice and until such date as the corporation has no bonds  
29 outstanding, the fund shall have no right, title, or interest  
30 in or to the assessments, except as provided in the fund's  
31 agreements with the corporation.

1 (b) Revenue bond issuance through counties or  
2 municipalities.--

3 1. If the board elects to enter into agreements with  
4 local governments for the issuance of revenue bonds for the  
5 benefit of the fund, the board shall enter into such contracts  
6 with one or more local governments, including agreements  
7 providing for the pledge of revenues, as are necessary to  
8 effect such issuance. The governing body of a county or  
9 municipality is authorized to issue bonds as defined in s.  
10 125.013 or s. 166.101 from time to time to fund an assistance  
11 program, in conjunction with the Florida Hurricane Catastrophe  
12 Fund, for the purposes set forth in this section or for the  
13 purpose of paying the costs of construction, reconstruction,  
14 repair, restoration, and other costs associated with damage to  
15 properties of policyholders of covered policies due to the  
16 occurrence of a hurricane by assuring that policyholders  
17 located in this state are able to recover claims under  
18 property insurance policies after a covered event.

19 2. In order to avoid needless and indiscriminate  
20 proliferation, duplication, and fragmentation of such  
21 assistance programs, any local government may provide for the  
22 payment of fund reimbursements, regardless of whether or not  
23 the losses for which reimbursement is made occurred within or  
24 outside of the territorial jurisdiction of the local  
25 government.

26 3. The state hereby covenants with holders of bonds  
27 issued under this paragraph that the state will not repeal or  
28 abrogate the power of the board to direct the Department of  
29 Financial Services ~~Insurance~~ to levy the assessments and to  
30 collect the proceeds of the revenues pledged to the payment of  
31 such bonds as long as any such bonds remain outstanding unless

1 adequate provision has been made for the payment of such bonds  
2 pursuant to the documents authorizing the issuance of such  
3 bonds.

4           4. There shall be no liability on the part of, and no  
5 cause of action shall arise against any members or employees  
6 of the governing body of a local government for any actions  
7 taken by them in the performance of their duties under this  
8 paragraph.

9           (c) Florida Hurricane Catastrophe Fund Finance  
10 Corporation.--

11           1. In addition to the findings and declarations in  
12 subsection (1), the Legislature also finds and declares that:

13           a. The public benefits corporation created under this  
14 paragraph will provide a mechanism necessary for the  
15 cost-effective and efficient issuance of bonds. This mechanism  
16 will eliminate unnecessary costs in the bond issuance process,  
17 thereby increasing the amounts available to pay reimbursement  
18 for losses to property sustained as a result of hurricane  
19 damage.

20           b. The purpose of such bonds is to fund reimbursements  
21 through the Florida Hurricane Catastrophe Fund to pay for the  
22 costs of construction, reconstruction, repair, restoration,  
23 and other costs associated with damage to properties of  
24 policyholders of covered policies due to the occurrence of a  
25 hurricane.

26           c. The efficacy of the financing mechanism will be  
27 enhanced by the corporation's ownership of the assessments, by  
28 the insulation of the assessments from possible bankruptcy  
29 proceedings, and by covenants of the state with the  
30 corporation's bondholders.

31



1           2.a. There is created a public benefits corporation,  
2 which is an instrumentality of the state, to be known as the  
3 Florida Hurricane Catastrophe Fund Finance Corporation.

4           b. The corporation shall operate under a five-member  
5 board of directors consisting of the Governor or a designee,  
6 the Chief Financial Officer ~~Comptroller~~ or a designee, the  
7 Attorney General ~~Treasurer~~ or a designee, the director of the  
8 Division of Bond Finance of the State Board of Administration,  
9 and the chief operating officer of the Florida Hurricane  
10 Catastrophe Fund.

11           c. The corporation has all of the powers of  
12 corporations under chapter 607 and under chapter 617, subject  
13 only to the provisions of this subsection.

14           d. The corporation may issue bonds and engage in such  
15 other financial transactions as are necessary to provide  
16 sufficient funds to achieve the purposes of this section.

17           e. The corporation may invest in any of the  
18 investments authorized under s. 215.47.

19           f. There shall be no liability on the part of, and no  
20 cause of action shall arise against, any board members or  
21 employees of the corporation for any actions taken by them in  
22 the performance of their duties under this paragraph.

23           3.a. In actions under chapter 75 to validate any bonds  
24 issued by the corporation, the notice required by s. 75.06  
25 shall be published only in Leon County and in two newspapers  
26 of general circulation in the state, and the complaint and  
27 order of the court shall be served only on the State Attorney  
28 of the Second Judicial Circuit.

29           b. The state hereby covenants with holders of bonds of  
30 the corporation that the state will not repeal or abrogate the  
31 power of the board to direct the Department of Financial

1 Services ~~Insurance~~ to levy the assessments and to collect the  
2 proceeds of the revenues pledged to the payment of such bonds  
3 as long as any such bonds remain outstanding unless adequate  
4 provision has been made for the payment of such bonds pursuant  
5 to the documents authorizing the issuance of such bonds.

6 4. The bonds of the corporation are not a debt of the  
7 state or of any political subdivision, and neither the state  
8 nor any political subdivision is liable on such bonds. The  
9 corporation does not have the power to pledge the credit, the  
10 revenues, or the taxing power of the state or of any political  
11 subdivision. The credit, revenues, or taxing power of the  
12 state or of any political subdivision shall not be deemed to  
13 be pledged to the payment of any bonds of the corporation.

14 5.a. The property, revenues, and other assets of the  
15 corporation; the transactions and operations of the  
16 corporation and the income from such transactions and  
17 operations; and all bonds issued under this paragraph and  
18 interest on such bonds are exempt from taxation by the state  
19 and any political subdivision, including the intangibles tax  
20 under chapter 199 and the income tax under chapter 220. This  
21 exemption does not apply to any tax imposed by chapter 220 on  
22 interest, income, or profits on debt obligations owned by  
23 corporations other than the Florida Hurricane Catastrophe Fund  
24 Finance Corporation.

25 b. All bonds of the corporation shall be and  
26 constitute legal investments without limitation for all public  
27 bodies of this state; for all banks, trust companies, savings  
28 banks, savings associations, savings and loan associations,  
29 and investment companies; for all administrators, executors,  
30 trustees, and other fiduciaries; for all insurance companies  
31 and associations and other persons carrying on an insurance

1 business; and for all other persons who are now or may  
2 hereafter be authorized to invest in bonds or other  
3 obligations of the state and shall be and constitute eligible  
4 securities to be deposited as collateral for the security of  
5 any state, county, municipal, or other public funds. This  
6 sub-subparagraph shall be considered as additional and  
7 supplemental authority and shall not be limited without  
8 specific reference to this sub-subparagraph.

9           6. The corporation and its corporate existence shall  
10 continue until terminated by law; however, no such law shall  
11 take effect as long as the corporation has bonds outstanding  
12 unless adequate provision has been made for the payment of  
13 such bonds pursuant to the documents authorizing the issuance  
14 of such bonds. Upon termination of the existence of the  
15 corporation, all of its rights and properties in excess of its  
16 obligations shall pass to and be vested in the state.

17           Section 227. Subsection (5) of section 215.559,  
18 Florida Statutes, is amended to read:

19           215.559 Hurricane Loss Mitigation Program.--

20           (5) Except for the program set forth in subsection  
21 (3), the Department of Community Affairs shall develop the  
22 programs set forth in this section in consultation with an  
23 advisory council consisting of a representative designated by  
24 the Department of Financial Services Insurance, a  
25 representative designated by the Florida Home Builders  
26 Association, a representative designated by the Florida  
27 Insurance Council, a representative designated by the  
28 Federation of Manufactured Home Owners, a representative  
29 designated by the Florida Association of Counties, and a  
30 representative designated by the Florida Manufactured Housing  
31 Association.

1           Section 228. Paragraph (c) of subsection (1) and  
2 paragraph (a) of subsection (3) of section 215.56005, Florida  
3 Statutes, are amended to read:

4           215.56005 Tobacco Settlement Financing Corporation.--

5           (1) DEFINITIONS.--As used in this section:

6           (c) "Department" means the Department of Financial  
7 Services ~~Banking and Finance~~ or its successor.

8           (3) POWERS OF THE DEPARTMENT.--

9           (a) The department is authorized, on behalf of the  
10 state, to do all things necessary or desirable to assist the  
11 corporation in the execution of the corporation's  
12 responsibilities, including, but not limited to, processing  
13 budget amendments against the Department of Financial Services  
14 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund,  
15 subject to the requirements of s. 216.177, for the costs and  
16 expenses of administration of the corporation in an amount not  
17 to exceed \$500,000; entering into one or more purchase  
18 agreements to sell to the corporation any or all of the  
19 state's right, title, and interest in and to the tobacco  
20 settlement agreement; executing any administrative agreements  
21 with the corporation to fund the administration, operation,  
22 and expenses of the corporation from moneys appropriated for  
23 such purpose; and executing and delivering any and all other  
24 documents and agreements necessary or desirable in connection  
25 with the sale of any or all of the state's right, title, and  
26 interest in and to the tobacco settlement agreement to the  
27 corporation or the issuance of the bonds by the corporation.  
28 The department's authority to sell any or all of the state's  
29 right, title, and interest in and to the tobacco settlement  
30 agreement is subject to approval by the Legislature in a  
31 regular, extended, or special session.

1           Section 229. Subsection (3) and paragraph (a) of  
2 subsection (5) of section 215.5601, Florida Statutes, are  
3 amended to read:

4           215.5601 Lawton Chiles Endowment Fund.--

5           (3) LAWTON CHILES ENDOWMENT FUND; CREATION;  
6 PRINCIPAL.--

7           (a) There is created the Lawton Chiles Endowment Fund,  
8 to be administered by the State Board of Administration. The  
9 endowment shall serve as a clearing trust fund, not subject to  
10 termination under s. 19(f), Art. III of the State  
11 Constitution. The endowment fund shall be exempt from the  
12 service charges imposed by s. 215.20.

13           (b) The endowment shall receive moneys from the sale  
14 of the state's right, title, and interest in and to the  
15 tobacco settlement agreement as defined in s. 215.56005,  
16 including the right to receive payments under such agreement,  
17 and from accounts transferred from the Department of Financial  
18 Services ~~Banking and Finance~~ Tobacco Settlement Clearing Trust  
19 Fund established under s. 17.41. Amounts to be transferred  
20 from the Department of Financial Services ~~Banking and Finance~~  
21 Tobacco Settlement Clearing Trust Fund to the endowment shall  
22 be in the following amounts for the following fiscal years:

- 23           1. For fiscal year 1999-2000, \$1.1 billion;
- 24           2. For fiscal year 2000-2001, \$200 million;
- 25           3. For fiscal year 2001-2002, \$200 million;
- 26           4. For fiscal year 2002-2003, \$200 million; and

27           (c) Amounts to be transferred under subparagraphs  
28 (b)2., 3., and 4. may be reduced by an amount equal to the  
29 lesser of \$200 million or the amount the endowment receives in  
30 that fiscal year from the sale of the state's right, title,  
31 and interest in and to the tobacco settlement agreement.

1           (d) For fiscal year 2001-2002, \$150 million of the  
2 existing principal in the endowment shall be reserved and  
3 accounted for within the endowment, the income from which  
4 shall be used solely for the funding for biomedical research  
5 activities as provided in s. 215.5602. The income from the  
6 remaining principal shall be used solely as the source of  
7 funding for health and human services programs for children  
8 and elders as provided in subsection (5). The separate account  
9 for biomedical research shall be dissolved and the entire  
10 principal in the endowment shall be used exclusively for  
11 health and human services programs when cures have been found  
12 for tobacco-related cancer, heart, and lung disease.

13           (5) AVAILABILITY OF FUNDS; USES.--

14           (a) Funds from the endowment which are available for  
15 legislative appropriation shall be transferred by the board to  
16 the Department of Financial Services ~~Banking and Finance~~  
17 Tobacco Settlement Clearing Trust Fund, created in s. 17.41,  
18 and disbursed in accordance with the legislative  
19 appropriation.

20           1. Appropriations by the Legislature to the Department  
21 of Health from endowment earnings from the principal set aside  
22 for biomedical research shall be from a category called the  
23 Florida Biomedical Research Program and shall be deposited  
24 into the Biomedical Research Trust Fund in the Department of  
25 Health established in s. 20.435.

26           2. Appropriations by the Legislature to the Department  
27 of Children and Family Services, the Department of Health, or  
28 the Department of Elderly Affairs for health and human  
29 services programs shall be from a category called the Lawton  
30 Chiles Endowment Fund Programs and shall be deposited into  
31

1 each department's respective Tobacco Settlement Trust Fund as  
2 appropriated.

3 Section 230. Section 215.58, Florida Statutes, is  
4 amended to read:

5 215.58 Definitions relating to State Bond Act.--The  
6 following words or terms when used in this act shall have the  
7 following meanings:

8 (1) "Governor" means ~~shall mean~~ the Governor of the  
9 state or any Acting Governor or other person then exercising  
10 the duties of the office of Governor.

11 ~~(2) "Treasurer" shall mean the Insurance Commissioner~~  
12 ~~and Treasurer.~~

13 ~~(3) "Comptroller" shall mean the State Comptroller.~~

14 ~~(2)~~(4) "State" means ~~shall mean~~ the State of Florida.

15 ~~(3)~~(5) "Division" means ~~shall mean~~ the Division of  
16 Bond Finance.

17 ~~(4)~~(6) "Board" means ~~shall mean~~ the governing board of  
18 the said division, which shall be composed of the Governor and  
19 Cabinet.

20 ~~(5)~~(7) "Director" means ~~shall mean~~ the chief  
21 administrator of the division, who shall act on behalf of the  
22 division when authorized by the board, as provided by this  
23 act.

24 ~~(6)~~(8) "State agency" means ~~shall mean~~ any board,  
25 commission, authority, or other state agency heretofore or  
26 hereafter created by the constitution or statutes of the  
27 state.

28 ~~(7)~~(9) "Bonds" means ~~shall mean~~ state bonds, or any  
29 revenue bonds, certificates or other obligations heretofore or  
30 hereafter authorized to be issued by said division or by any  
31 state agency.

1           ~~(8)(10)~~ "State bonds" means ~~shall mean~~ bonds pledging  
2 the full faith and credit of the State of Florida.

3           ~~(9)(11)~~ "Legislature" means ~~shall mean~~ the State  
4 Legislature.

5           ~~(11)(12)~~ "Constitution" means ~~shall mean~~ the existing  
6 constitution of the state, or any constitution hereafter  
7 adopted by the people of the state, together with all  
8 amendments thereof.

9           ~~(11)(13)~~ "Original issue discount" means the amount by  
10 which the par value of a bond exceeds its public offering  
11 price at the time it is originally offered to an investor.

12           ~~(12)(14)~~ "Governmental agency" means ~~shall mean~~:

13           (a) The state or any department, commission, agency,  
14 or other instrumentality thereof.

15           (b) Any county or municipality or any department,  
16 commission, agency, or other instrumentality thereof.

17           (c) Any school board or special district, authority,  
18 or governmental entity.

19           Section 231. Subsection (1) of section 215.62, Florida  
20 Statutes, is amended to read:

21           215.62 Division of Bond Finance.--

22           (1) There is ~~hereby~~ created a division of the State  
23 Board of Administration of the state to be known as the  
24 Division of Bond Finance. The Governor shall be the chair of  
25 the governing board of the division, the Attorney General  
26 ~~Comptroller~~ shall be the secretary of the board, and the Chief  
27 Financial Officer ~~Treasurer~~ shall be the treasurer of the  
28 board for the purposes of this act. The division shall be a  
29 public body corporate for the purposes of this act.

30           Section 232. Subsections (2), (3), (4), (5), and (8)  
31 of section 215.684, Florida Statutes, are amended to read:



1           215.684 Limitation on engaging services of securities  
2 broker or bond underwriter convicted of fraud.--

3           (2) Upon notification under chapter 517 that a person  
4 or firm has been convicted or has pleaded as provided in  
5 subsection (1), the Chief Financial Officer ~~Comptroller~~ shall  
6 issue a notice of intent to take action to disqualify such  
7 person or firm, which notice must state that:

8           (a) Such person or firm is considered a disqualified  
9 securities broker or bond underwriter;

10           (b) A state agency may not enter into a contract with  
11 such person or firm as a securities broker or bond underwriter  
12 for any new business for a period of 2 years;

13           (c) The substantial rights of such person or firm as a  
14 securities broker or bond underwriter are being affected and  
15 the person or firm has the rights accorded pursuant to ss.  
16 120.569 and 120.57; and

17           (d) Such person or firm may petition to mitigate the  
18 duration of his or her disqualification, based on the criteria  
19 established in subsection (3) and may request that such  
20 mitigation be considered as part of any hearing under ss.  
21 120.569 and 120.57.

22           (3) The Chief Financial Officer ~~Comptroller~~ shall  
23 decide, based on the following criteria, whether or not to  
24 mitigate the duration of the disqualification:

25           (a) The nature and details of the crime;

26           (b) The degree of culpability of the person or firm  
27 proposed to be requalified;

28           (c) Prompt or voluntary payment of any damages or  
29 penalty as a result of the conviction and disassociation from  
30 any other person or firm involved in the crimes of fraud;

31

1 (d) Cooperation with state or federal investigation or  
2 prosecution of the crime of fraud;

3 (e) Prior or future self-policing by the person or  
4 firm to prevent crimes of fraud; and

5 (f) Reinstatement or clemency in any jurisdiction in  
6 relation to the crime at issue in the proceeding.

7 (4) If the Chief Financial Officer ~~Comptroller~~ in his  
8 or her sole discretion decides to mitigate the duration of the  
9 disqualification based on the foregoing, the duration of  
10 disqualification shall be for any period the Chief Financial  
11 Officer ~~Comptroller~~ specifies up to 2 years from the date of  
12 the person's or firm's conviction or plea. If the Chief  
13 Financial Officer ~~Comptroller~~ refuses to mitigate the duration  
14 of the disqualification, such person or firm may again file  
15 for mitigation no sooner than 9 months after denial by the  
16 Chief Financial Officer ~~Comptroller~~.

17 (5) Notwithstanding subsection (4), a firm or person  
18 at any time may petition the Chief Financial Officer  
19 ~~Comptroller~~ for termination of the disqualification based upon  
20 a reversal of the conviction of the firm or person by an  
21 appellate court or a pardon.

22 (8) Except when otherwise provided by law for crimes  
23 of fraud with respect to the transaction of business with any  
24 public entity or with an agency or political subdivision of  
25 any other state or with the United States, this act  
26 constitutes the sole authorization for determining when a  
27 person or firm convicted or having pleaded guilty or nolo  
28 contendere to the crime of fraud may not be engaged to provide  
29 services as a securities broker or bond underwriter with the  
30 state. Nothing in this act shall be construed to affect the  
31 authority granted the Chief Financial Officer ~~Comptroller~~

1 under chapter 517 to revoke or suspend the license of such  
2 securities dealer or bond underwriter.

3 Section 233. Subsection (4) of section 215.70, Florida  
4 Statutes, is amended to read:

5 215.70 State Board of Administration to act in case of  
6 defaults.--

7 (4) Whenever it becomes necessary for state funds to  
8 be appropriated for the payment of principal or interest on  
9 bonds which have been issued by the Division of Bond Finance  
10 on behalf of any local government or authority and for which  
11 the full faith and credit of the state has been pledged, any  
12 state shared revenues otherwise earmarked for the local  
13 government or authority shall be used by the Chief Financial  
14 Officer ~~Comptroller~~ to reimburse the state, until the local  
15 government or authority has reimbursed the state in full.

16 Section 234. Subsection (4) of section 215.91, Florida  
17 Statutes, is amended to read:

18 215.91 Florida Financial Management Information  
19 System; board; council.--

20 (4) The council shall provide ongoing counsel to the  
21 board and act to resolve problems among or between the  
22 functional owner subsystems. The board, through the  
23 coordinating council, shall direct and manage the development,  
24 implementation, and operation of the information subsystems  
25 that together are the Florida Financial Management Information  
26 System. The coordinating council shall approve the  
27 information subsystems' designs prior to the development,  
28 implementation, and operation of the subsystems and shall  
29 approve subsequent proposed design modifications to the  
30 information subsystems subject to the guidelines issued by the  
31 council. The coordinating council shall ensure that the

1 information subsystems' operations support the exchange of  
2 unified and coordinated data between information subsystems.  
3 The coordinating council shall establish the common data codes  
4 for financial management, and it shall require and ensure the  
5 use of common data codes by the information subsystems that  
6 together constitute the Florida Financial Management  
7 Information System. The Chief Financial Officer ~~Comptroller~~  
8 shall adopt a chart of accounts consistent with the common  
9 financial management data codes established by the  
10 coordinating council. The board, through the coordinating  
11 council, shall establish the financial management policies and  
12 procedures for the executive branch of state government. The  
13 coordinating council shall notify in writing the chairs of the  
14 legislative fiscal committees and the Chief Justice of the  
15 Supreme Court regarding the adoption of, or modification to, a  
16 proposed financial management policy or procedure. The notice  
17 shall solicit comments from the chairs of the legislative  
18 fiscal committees and the Chief Justice of the Supreme Court  
19 at least 14 consecutive days before the final action by the  
20 coordinating council.

21 Section 235. Subsection (5) of section 215.92, Florida  
22 Statutes, is amended to read:

23 215.92 Definitions relating to Florida Financial  
24 Management Information System Act.--For the purposes of ss.  
25 215.90-215.96:

26 (5) "Design and coordination staff" means the  
27 personnel responsible for providing administrative and  
28 clerical support to the board, coordinating council, and  
29 secretary to the board. The design and coordination staff  
30 shall function as the agency clerk for the board and the  
31 coordinating council. For administrative purposes, the design

1 and coordination staff are assigned to the Department of  
2 Financial Services ~~Banking and Finance~~ but they are  
3 functionally assigned to the board.

4 Section 236. Subsection (3) of section 215.93, Florida  
5 Statutes, is amended to read:

6 215.93 Florida Financial Management Information  
7 System.--

8 (3) The Florida Financial Management Information  
9 System shall include financial management data and utilize the  
10 chart of accounts approved by the Chief Financial Officer  
11 ~~Comptroller~~. Common financial management data shall include,  
12 but not be limited to, data codes, titles, and definitions  
13 used by one or more of the functional owner subsystems. The  
14 Florida Financial Management Information System shall utilize  
15 common financial management data codes. The council shall  
16 recommend and the board shall adopt policies regarding the  
17 approval and publication of the financial management data.  
18 The Chief Financial Officer ~~Comptroller~~ shall adopt policies  
19 regarding the approval and publication of the chart of  
20 accounts. The Chief Financial Officer's ~~Comptroller's~~ chart  
21 of accounts shall be consistent with the common financial  
22 management data codes established by the coordinating council.  
23 Further, all systems not a part of the Florida Financial  
24 Management Information System which provide information to the  
25 system shall use the common data codes from the Florida  
26 Financial Management Information System and the Chief  
27 Financial Officer's ~~Comptroller's~~ chart of accounts. Data  
28 codes that cannot be supplied by the Florida Financial  
29 Management Information System and the Chief Financial  
30 Officer's ~~Comptroller's~~ chart of accounts and that are  
31 required for use by the information subsystems shall be

1 approved by the board upon recommendation of the coordinating  
2 council. However, board approval shall not be required for  
3 those data codes specified by the Auditor General under the  
4 provisions of s. 215.94(6)(c).

5 Section 237. Subsections (2) and (3) and paragraph (a)  
6 of subsection (5) of section 215.94, Florida Statutes, are  
7 amended to read:

8 215.94 Designation, duties, and responsibilities of  
9 functional owners.--

10 (2) The Department of Financial Services ~~Banking and~~  
11 ~~Finance~~ shall be the functional owner of the Florida  
12 Accounting Information Resource Subsystem established pursuant  
13 to ss. 17.03, 215.86, 216.141, and 216.151 and further  
14 developed in accordance with the provisions of ss.

15 215.90-215.96. The subsystem shall include, but shall not be  
16 limited to, the following functions:

17 (a) Accounting and reporting so as to provide timely  
18 data for producing financial statements for the state in  
19 accordance with generally accepted accounting principles.

20 (b) Auditing and settling claims against the state.

21 (3) The Chief Financial Officer ~~Treasurer~~ shall be the  
22 functional owner of the Cash Management Subsystem. The Chief  
23 Financial Officer ~~Treasurer~~ shall design, implement, and  
24 operate the subsystem in accordance with the provisions of ss.  
25 215.90-215.96. The subsystem shall include, but shall not be  
26 limited to, functions for:

27 (a) Recording and reconciling credits and debits to  
28 treasury fund accounts.

29 (b) Monitoring cash levels and activities in state  
30 bank accounts.

31 (c) Monitoring short-term investments of idle cash.

1 (d) Administering the provisions of the Federal Cash  
2 Management Improvement Act of 1990.

3 (5) The Department of Management Services shall be the  
4 functional owner of the Cooperative Personnel Employment  
5 Subsystem. The department shall design, implement, and  
6 operate the subsystem in accordance with the provisions of ss.  
7 110.116 and 215.90-215.96. The subsystem shall include, but  
8 shall not be limited to, functions for:

9 (a) Maintenance of employee and position data,  
10 including funding sources and percentages and salary lapse.  
11 The employee data shall include, but not be limited to,  
12 information to meet the payroll system requirements of the  
13 Department of Financial Services ~~Banking and Finance~~ and to  
14 meet the employee benefit system requirements of the  
15 Department of Management Services.

16 Section 238. Subsection (1) of section 215.95, Florida  
17 Statutes, is amended to read:

18 215.95 Financial Management Information Board.--

19 (1) There is created, as part of the Administration  
20 Commission, the Financial Management Information Board. The  
21 board shall be composed of the Governor, the Chief Financial  
22 Officer ~~Comptroller~~, and the Attorney General ~~Treasurer~~. The  
23 Governor shall be chair of the board. The Governor or the  
24 Chief Financial Officer ~~Comptroller~~ may call a meeting of the  
25 board at any time the need arises.

26 Section 239. Subsections (1) and (2) of section  
27 215.96, Florida Statutes, are amended to read:

28 215.96 Coordinating council and design and  
29 coordination staff.--

30 (1) The Chief Financial Officer ~~Comptroller~~, as chief  
31 fiscal officer of the state, shall establish a coordinating

1 council to function on a continuing basis. The coordinating  
2 council shall review and recommend to the board solutions and  
3 policy alternatives to ensure coordination between functional  
4 owners of the various information subsystems described in ss.  
5 215.90-215.96 to the extent necessary to unify all the  
6 subsystems into a financial management information system.

7 (2) The coordinating council shall consist of the  
8 Chief Financial Officer ~~Comptroller; the Treasurer;~~the  
9 secretary of the Department of Management Services; and the  
10 Director of Planning and Budgeting, Executive Office of the  
11 Governor, or their designees. The Chief Financial Officer  
12 ~~Comptroller~~, or his or her designee, shall be chair of the  
13 coordinating council, and the design and coordination staff  
14 shall provide administrative and clerical support to the  
15 council and the board. The design and coordination staff shall  
16 maintain the minutes of each meeting and shall make such  
17 minutes available to any interested person. The Auditor  
18 General, the State Courts Administrator, an executive officer  
19 of the Florida Association of State Agency Administrative  
20 Services Directors, and an executive officer of the Florida  
21 Association of State Budget Officers, or their designees,  
22 shall serve without voting rights as ex officio members on the  
23 coordinating council. The chair may call meetings of the  
24 coordinating council as often as necessary to transact  
25 business; however, the coordinating council shall meet at  
26 least once a year. Action of the coordinating council shall  
27 be by motion, duly made, seconded and passed by a majority of  
28 the coordinating council voting in the affirmative for  
29 approval of items that are to be recommended for approval to  
30 the Financial Management Information Board.

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1           Section 240. Section 215.965, Florida Statutes, is  
2 amended to read:

3           215.965 Disbursement of state moneys.--Except as  
4 provided in s. 17.076, s. 253.025(14), s. 259.041(18), s.  
5 717.124(5), s. 732.107(5), or s. 733.816(5), all moneys in the  
6 State Treasury shall be disbursed by state warrant, drawn by  
7 the Chief Financial Officer ~~Comptroller~~ upon the State  
8 Treasury and payable to the ultimate beneficiary. This  
9 authorization shall include electronic disbursement.

10           Section 241. Paragraphs (a), (c), (j), (n), (p), and  
11 (s) of subsection (2), subsections (3) and (4), paragraphs (a)  
12 and (b) of subsection (5), paragraphs (a) and (d) of  
13 subsection (6), paragraphs (a) and (c) of subsection (7),  
14 paragraphs (e) and (g) of subsection (8), paragraph (e) of  
15 subsection (9), and paragraphs (d) and (f) of subsection (10)  
16 of section 215.97, Florida Statutes, are amended to read:

17           215.97 Florida Single Audit Act.--

18           (2) Definitions; as used in this section, the term:

19           (a) "Audit threshold" means the amount to use in  
20 determining when a state single audit of a nonstate entity  
21 shall be conducted in accordance with this section. Each  
22 nonstate entity that expends a total amount of state financial  
23 assistance equal to or in excess of \$300,000 in any fiscal  
24 year of such nonstate entity shall be required to have a state  
25 single audit for such fiscal year in accordance with the  
26 requirements of this section. Every 2 years the Auditor  
27 General, after consulting with the Executive Office of the  
28 Governor, the Chief Financial Officer ~~Comptroller~~, and all  
29 state agencies that provide state financial assistance to  
30 nonstate entities, shall review the amount for requiring

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1 audits under this section and may adjust such dollar amount  
2 consistent with the purpose of this section.

3 (c) "Catalog of State Financial Assistance" means a  
4 comprehensive listing of state projects. The Catalog of State  
5 Financial Assistance shall be issued by the Executive Office  
6 of the Governor after conferring with the Chief Financial  
7 Officer ~~Comptroller~~ and all state agencies that provide state  
8 financial assistance to nonstate entities. The Catalog of  
9 State Financial Assistance shall include for each listed state  
10 project: the responsible state agency; standard state project  
11 number identifier; official title; legal authorization; and  
12 description of the state project, including objectives,  
13 restrictions, application and awarding procedures, and other  
14 relevant information determined necessary.

15 (j) "Major state project" means any state project  
16 meeting the criteria as stated in the rules of the Executive  
17 Office of the Governor. Such criteria shall be established  
18 after consultation with the Chief Financial Officer  
19 ~~Comptroller~~ and appropriate state agencies that provide state  
20 financial assistance and shall consider the amount of state  
21 project expenditures or expenses or inherent risks. Each major  
22 state project shall be audited in accordance with the  
23 requirements of this section.

24 (n) "Schedule of State Financial Assistance" means a  
25 document prepared in accordance with the rules of the Chief  
26 Financial Officer ~~Comptroller~~ and included in each financial  
27 reporting package required by this section.

28 (p) "State financial assistance" means financial  
29 assistance from state resources, not including federal  
30 financial assistance and state matching, provided to nonstate  
31 entities to carry out a state project. "State financial

1 assistance" includes all types of state assistance as stated  
2 in the rules of the Executive Office of the Governor  
3 established in consultation with the Chief Financial Officer  
4 ~~Comptroller~~ and appropriate state agencies that provide state  
5 financial assistance. It includes state financial assistance  
6 provided directly by state awarding agencies or indirectly by  
7 recipients of state awards or subrecipients. It does not  
8 include procurement contracts used to buy goods or services  
9 from vendors. Audits of such procurement contracts with  
10 vendors are outside of the scope of this section. Also, audits  
11 of contracts to operate state-government-owned and  
12 contractor-operated facilities are excluded from the audit  
13 requirements of this section.

14 (s) "State Projects Compliance Supplement" means a  
15 document issued by the Executive Office of the Governor, in  
16 consultation with the Chief Financial Officer ~~Comptroller~~ and  
17 all state agencies that provide state financial assistance.  
18 The State Projects Compliance Supplement shall identify state  
19 projects, the significant compliance requirements, eligibility  
20 requirements, matching requirements, suggested audit  
21 procedures, and other relevant information determined  
22 necessary.

23 (3) The Executive Office of the Governor shall:

24 (a) Upon conferring with the Chief Financial Officer  
25 ~~Comptroller~~ and all state awarding agencies, adopt rules  
26 necessary to provide appropriate guidance to state awarding  
27 agencies, recipients and subrecipients, and independent  
28 auditors of state financial assistance relating to the  
29 requirements of this section, including:

30 1. The types or classes of financial assistance  
31 considered to be state financial assistance which would be

1 subject to the requirements of this section. This would  
2 include guidance to assist in identifying when the state  
3 agency or recipient has contracted with a vendor rather than  
4 with a recipient or subrecipient.

5         2. The criteria for identifying a major state project.

6         3. The criteria for selecting state projects for  
7 audits based on inherent risk.

8         (b) Be responsible for coordinating the initial  
9 preparation and subsequent revisions of the Catalog of State  
10 Financial Assistance after consultation with the Chief  
11 Financial Officer ~~Comptroller~~ and all state awarding agencies.

12         (c) Be responsible for coordinating the initial  
13 preparation and subsequent revisions of the State Projects  
14 Compliance Supplement, after consultation with the Chief  
15 Financial Officer ~~Comptroller~~ and all state awarding agencies.

16         (4) The Chief Financial Officer ~~Comptroller~~ shall:

17         (a) Make enhancements to the state's accounting system  
18 to provide for the:

19             1. Recording of state financial assistance and federal  
20 financial assistance appropriations and expenditures within  
21 the state awarding agencies' operating funds.

22             2. Recording of state project number identifiers, as  
23 provided in the Catalog of State Financial Assistance, for  
24 state financial assistance.

25             3. Establishment and recording of an identification  
26 code for each financial transaction, including state agencies'  
27 disbursements of state financial assistance and federal  
28 financial assistance, as to the corresponding type or  
29 organization that is party to the transaction (e.g., other  
30 governmental agencies, nonprofit organizations, and for-profit  
31 organizations), and disbursements of federal financial

1 assistance, as to whether the party to the transaction is or  
2 is not a recipient or subrecipient.

3 (b) Upon conferring with the Executive Office of the  
4 Governor and all state awarding agencies, adopt rules  
5 necessary to provide appropriate guidance to state awarding  
6 agencies, recipients and subrecipients, and independent  
7 auditors of state financial assistance relating to the format  
8 for the Schedule of State Financial Assistance.

9 (c) Perform any inspections, reviews, investigations,  
10 or audits of state financial assistance considered necessary  
11 in carrying out the Chief Financial Officer's ~~Comptroller's~~  
12 legal responsibilities for state financial assistance or to  
13 comply with the requirements of this section.

14 (5) Each state awarding agency shall:

15 (a) Provide to a recipient information needed by the  
16 recipient to comply with the requirements of this section,  
17 including:

18 1. The audit and accountability requirements for state  
19 projects as stated in this section and applicable rules of the  
20 Executive Office of the Governor, rules of the Chief Financial  
21 Officer ~~Comptroller~~, and rules of the Auditor General.

22 2. Information from the Catalog of State Financial  
23 Assistance, including the standard state project number  
24 identifier; official title; legal authorization; and  
25 description of the state project including objectives,  
26 restrictions, and other relevant information determined  
27 necessary.

28 3. Information from the State Projects Compliance  
29 Supplement, including the significant compliance requirements,  
30 eligibility requirements, matching requirements, suggested  
31

1 audit procedures, and other relevant information determined  
2 necessary.

3 (b) Require the recipient, as a condition of receiving  
4 state financial assistance, to allow the state awarding  
5 agency, the Chief Financial Officer ~~Comptroller~~, and the  
6 Auditor General access to the recipient's records and the  
7 recipient's independent auditor's working papers as necessary  
8 for complying with the requirements of this section.

9 (6) As a condition of receiving state financial  
10 assistance, each recipient that provides state financial  
11 assistance to a subrecipient shall:

12 (a) Provide to a subrecipient information needed by  
13 the subrecipient to comply with the requirements of this  
14 section, including:

15 1. Identification of the state awarding agency.

16 2. The audit and accountability requirements for state  
17 projects as stated in this section and applicable rules of the  
18 Executive Office of the Governor, rules of the Chief Financial  
19 Officer ~~Comptroller~~, and rules of the Auditor General.

20 3. Information from the Catalog of State Financial  
21 Assistance, including the standard state project number  
22 identifier; official title; legal authorization; and  
23 description of the state project, including objectives,  
24 restrictions, and other relevant information.

25 4. Information from the State Projects Compliance  
26 Supplement including the significant compliance requirements,  
27 eligibility requirements, matching requirements, and suggested  
28 audit procedures, and other relevant information determined  
29 necessary.

30 (d) Require subrecipients, as a condition of receiving  
31 state financial assistance, to permit the independent auditor

1 of the recipient, the state awarding agency, the Chief  
2 Financial Officer ~~Comptroller~~, and the Auditor General access  
3 to the subrecipient's records and the subrecipient's  
4 independent auditor's working papers as necessary to comply  
5 with the requirements of this section.

6 (7) Each recipient or subrecipient of state financial  
7 assistance shall comply with the following:

8 (a) Each nonstate entity that receives state financial  
9 assistance and meets audit threshold requirements, in any  
10 fiscal year of the nonstate entity, as stated in the rules of  
11 the Auditor General, shall have a state single audit conducted  
12 for such fiscal year in accordance with the requirements of  
13 this act and with additional requirements established in rules  
14 of the Executive Office of the Governor, rules of the Chief  
15 Financial Officer ~~Comptroller~~, and rules of the Auditor  
16 General. If only one state project is involved in a nonstate  
17 entity's fiscal year, the nonstate entity may elect to have  
18 only a state project-specific audit of the state project for  
19 that fiscal year.

20 (c) Regardless of the amount of the state financial  
21 assistance, the provisions of this section do not exempt a  
22 nonstate entity from compliance with provisions of law  
23 relating to maintaining records concerning state financial  
24 assistance to such nonstate entity or allowing access and  
25 examination of those records by the state awarding agency, the  
26 Chief Financial Officer ~~Comptroller~~, or the Auditor General.

27 (8) The independent auditor when conducting a state  
28 single audit of recipients or subrecipients shall:

29 (e) Report on the results of any audit conducted  
30 pursuant to this section in accordance with the rules of the  
31 Executive Office of the Governor, rules of the Chief Financial

1 ~~Officer Comptroller~~, and rules of the Auditor General. Audit  
2 reports shall include summaries of the auditor's results  
3 regarding the nonstate entity's financial statements; Schedule  
4 of State Financial Assistance; internal controls; and  
5 compliance with laws, rules, and guidelines.

6 (g) Upon notification by the nonstate entity, make  
7 available the working papers relating to the audit conducted  
8 pursuant to the requirements of this section to the state  
9 awarding agency, the Chief Financial Officer ~~Comptroller~~, or  
10 the Auditor General for review or copying.

11 (9) The independent auditor, when conducting a state  
12 project-specific audit of recipients or subrecipients, shall:

13 (e) Upon notification by the nonstate entity, make  
14 available the working papers relating to the audit conducted  
15 pursuant to the requirements of this section to the state  
16 awarding agency, the Chief Financial Officer ~~Comptroller~~, or  
17 the Auditor General for review or copying.

18 (10) The Auditor General shall:

19 (d) Provide technical advice upon request of the Chief  
20 Financial Officer ~~Comptroller~~, Executive Office of the  
21 Governor, and state agencies relating to financial reporting  
22 and audit responsibilities contained in this section.

23 (f) Perform ongoing reviews of a sample of financial  
24 reporting packages filed pursuant to the requirements of this  
25 section to determine compliance with the reporting  
26 requirements of this section and applicable rules of the  
27 Executive Office of the Governor, rules of the Chief Financial  
28 Officer ~~Comptroller~~, and rules of the Auditor General.

29 Section 242. Paragraph (a) of subsection (2) of  
30 section 216.0442, Florida Statutes, is amended to read:

31



1           216.0442 Truth in bonding; definitions; summary of  
2 state debt; statement of proposed financing; truth-in-bonding  
3 statement.--

4           (2) When required by statute to support the proposed  
5 debt financing of fixed capital outlay projects or operating  
6 capital outlay requests or to explain the issuance of a debt  
7 or obligation, one or more of the following documents shall be  
8 developed:

9           (a) A summary of outstanding state debt as furnished  
10 by the Chief Financial Officer ~~Comptroller~~ pursuant to s.  
11 216.102.

12           Section 243. Section 216.102, Florida Statutes, is  
13 amended to read:

14           216.102 Filing of financial information; handling by  
15 Chief Financial Officer ~~Comptroller~~; penalty for  
16 noncompliance.--

17           (1) By September 30 of each year, each agency  
18 supported by any form of taxation, licenses, fees, imposts, or  
19 exactions, the judicial branch, and, for financial reporting  
20 purposes, each component unit of the state as determined by  
21 the Chief Financial Officer ~~Comptroller~~ shall prepare, using  
22 generally accepted accounting principles, and file with the  
23 Chief Financial Officer ~~Comptroller~~ the financial and other  
24 information necessary for the preparation of annual financial  
25 statements for the State of Florida as of June 30. In  
26 addition, each such agency and the judicial branch shall  
27 prepare financial statements showing the financial position  
28 and results of agency or branch operations as of June 30 for  
29 internal management purposes.

30           (a) Each state agency and the judicial branch shall  
31 record the receipt and disbursement of funds from federal

1 sources in a form and format prescribed by the Chief Financial  
2 Officer ~~Comptroller~~. The access to federal funds by the  
3 administering agencies or the judicial branch may not be  
4 authorized until:

5 1. The deposit has been recorded in the Florida  
6 Accounting Information Resource Subsystem using proper,  
7 consistent codes that designate deposits as federal funds.

8 2. The deposit and appropriate recording required by  
9 this paragraph have been verified by the Office of the Chief  
10 Financial Officer ~~Treasurer~~.

11 (b) The Chief Financial Officer ~~Comptroller~~ shall  
12 publish a statewide policy detailing the requirements for  
13 recording receipt and disbursement of federal funds into the  
14 Florida Accounting Information Resource Subsystem and provide  
15 technical assistance to the agencies and the judicial branch  
16 to implement the policy.

17 (2) Financial information must be contained within the  
18 Florida Accounting Information Resource Subsystem. Other  
19 information must be submitted in the form and format  
20 prescribed by the Chief Financial Officer ~~Comptroller~~.

21 (a) Each component unit shall file financial  
22 information and other information necessary for the  
23 preparation of annual financial statements with the agency or  
24 branch designated by the Chief Financial Officer ~~Comptroller~~  
25 by the date specified by the Chief Financial Officer  
26 ~~Comptroller~~.

27 (b) The state agency or branch designated by the Chief  
28 Financial Officer ~~Comptroller~~ to receive financial information  
29 and other information from component units shall include the  
30 financial information in the Florida Accounting Information  
31 Resource Subsystem and shall include the component units'

1 other information in its submission to the Chief Financial  
2 Officer ~~Comptroller~~.

3 (3) The Chief Financial Officer ~~Comptroller~~ shall:

4 (a) Prepare and furnish to the Auditor General annual  
5 financial statements for the state on or before December 31 of  
6 each year, using generally accepted accounting principles.

7 (b) Prepare and publish a comprehensive annual  
8 financial report for the state in accordance with generally  
9 accepted accounting principles on or before February 28 of  
10 each year.

11 (c) Furnish the Governor, the President of the Senate,  
12 and the Speaker of the House of Representatives with a copy of  
13 the comprehensive annual financial report prepared pursuant to  
14 paragraph (b).

15 (d) Notify each agency and the judicial branch of the  
16 data that is required to be recorded to enhance accountability  
17 for tracking federal financial assistance.

18 (e) Provide reports, as requested, to executive or  
19 judicial branch entities, the President of the Senate, the  
20 Speaker of the House of Representatives, and the members of  
21 the Florida Congressional Delegation, detailing the federal  
22 financial assistance received and disbursed by state agencies  
23 and the judicial branch.

24 (f) Consult with and elicit comments from the  
25 Executive Office of the Governor on changes to the Florida  
26 Accounting Information Resource Subsystem which clearly affect  
27 the accounting of federal funds, so as to ensure consistency  
28 of information entered into the Federal Aid Tracking System by  
29 state executive and judicial branch entities. While efforts  
30 shall be made to ensure the compatibility of the Florida  
31 Accounting Information Resource Subsystem and the Federal Aid

1 Tracking System, any successive systems serving identical or  
2 similar functions shall preserve such compatibility.

3

4 The Chief Financial Officer ~~Comptroller~~ may furnish and  
5 publish in electronic form the financial statements and the  
6 comprehensive annual financial report required under  
7 paragraphs (a), (b), and (c).

8 (4) If any agency or the judicial branch fails to  
9 comply with subsection (1) or subsection (2), the Chief  
10 Financial Officer ~~Comptroller~~ may refuse to honor salary  
11 claims for agency or branch fiscal and executive staff until  
12 the agency or branch corrects its deficiency.

13 (5) The Chief Financial Officer ~~Comptroller~~ may  
14 withhold any funds payable to a component unit that does not  
15 comply with subsection (1) or subsection (2) until the  
16 component unit corrects its deficiency.

17 (6) The Chief Financial Officer ~~Comptroller~~ may adopt  
18 rules to administer this section.

19 Section 244. Subsections (1) and (3) of section  
20 216.141, Florida Statutes, are amended to read:

21 216.141 Budget system procedures; planning and  
22 programming by state agencies.--

23 (1) The Executive Office of the Governor, in  
24 consultation with the appropriations committees of the Senate  
25 and House of Representatives, and by utilizing the Florida  
26 Financial Management Information System management data and  
27 the Chief Financial Officer's ~~Comptroller's~~ chart of accounts,  
28 shall prescribe a planning and budgeting system, pursuant to  
29 s. 215.94(1), to provide for continuous planning and  
30 programming and for effective management practices for the  
31 efficient operations of all state agencies and the judicial

1 branch. The Legislature may contract with the Executive Office  
2 of the Governor to develop the planning and budgeting system  
3 and to provide services to the Legislature for the support and  
4 use of the legislative appropriations system. The contract  
5 shall include the policies and procedures for combining the  
6 legislative appropriations system with the planning and  
7 budgeting information system established pursuant to s.  
8 215.94(1). At a minimum, the contract shall require the use of  
9 common data codes. The combined legislative appropriations and  
10 planning and budgeting information subsystem shall support the  
11 legislative appropriations and legislative oversight functions  
12 without data code conversion or modification.

13 (3) The Chief Financial Officer ~~Comptroller~~, as chief  
14 fiscal officer, shall use the Florida Accounting Information  
15 Resource Subsystem developed pursuant to s. 215.94(2) for  
16 account purposes in the performance of and accounting for all  
17 of his or her constitutional and statutory duties and  
18 responsibilities. However, state agencies and the judicial  
19 branch continue to be responsible for maintaining accounting  
20 records necessary for effective management of their programs  
21 and functions.

22 Section 245. Subsection (1) of section 216.177,  
23 Florida Statutes, is amended to read:

24 216.177 Appropriations acts, statement of intent,  
25 violation, notice, review and objection procedures.--

26 (1) When an appropriations act is delivered to the  
27 Governor after the Legislature has adjourned sine die, as soon  
28 as practicable, but no later than the 10th day before the end  
29 of the period allowed by law for veto consideration in any  
30 year in which an appropriation is made, the chairs of the  
31 legislative appropriations committees shall jointly transmit:

1 (a) The official list of General Revenue Fund  
2 appropriations determined in consultation with the Executive  
3 Office of the Governor to be nonrecurring; and

4 (b) The documents set forth in s. 216.0442(2)(a) and  
5 (c),

6  
7 to the Executive Office of the Governor, the Chief Financial  
8 Officer ~~Comptroller~~, the Auditor General, the director of the  
9 Office of Program Policy Analysis and Government  
10 Accountability, the Chief Justice of the Supreme Court, and  
11 each state agency. A request for additional explanation and  
12 direction regarding the legislative intent of the General  
13 Appropriations Act during the fiscal year may be made to the  
14 chair and vice chair of the Legislative Budget Commission or  
15 the President of the Senate and the Speaker of the House of  
16 Representatives only by and through the Executive Office of  
17 the Governor for state agencies, and by and through the Chief  
18 Justice of the Supreme Court for the judicial branch, as is  
19 deemed necessary. However, the Chief Financial Officer  
20 ~~Comptroller~~ may also request further clarification of  
21 legislative intent pursuant to the Chief Financial Officer's  
22 ~~Comptroller's~~ responsibilities related to his or her preaudit  
23 function of expenditures.

24 Section 246. Subsections (6), (12), and (14) and  
25 paragraph (b) of subsection (16) of section 216.181, Florida  
26 Statutes, are amended to read:

27 216.181 Approved budgets for operations and fixed  
28 capital outlay.--

29 (6)(a) The Executive Office of the Governor or the  
30 Chief Justice of the Supreme Court may require the submission  
31 of a detailed plan from the agency or entity of the judicial

1 branch affected, consistent with the General Appropriations  
2 Act, special appropriations acts, and the statement of intent  
3 before transferring and releasing the balance of a lump-sum  
4 appropriation. The provisions of this paragraph are subject to  
5 the notice and review procedures set forth in s. 216.177.

6 (b) The Executive Office of the Governor and the Chief  
7 Justice of the Supreme Court may amend, without approval of  
8 the Legislative Budget Commission, state agency and judicial  
9 branch entity budgets, respectively, to reflect the  
10 transferred funds based on the approved plans for lump-sum  
11 appropriations.

12  
13 The Executive Office of the Governor shall transmit to each  
14 state agency and the Chief Financial Officer ~~Comptroller~~, and  
15 the Chief Justice shall transmit to each judicial branch  
16 component and the Chief Financial Officer ~~Comptroller~~, any  
17 approved amendments to the approved operating budgets.

18 (12) There is appropriated nonoperating budget for  
19 refunds, payments to the United States Treasury, payments of  
20 the service charge to the General Revenue Fund, and transfers  
21 of funds specifically required by law. Such authorized budget,  
22 together with related releases, shall be transmitted by the  
23 state agency or by the judicial branch to the Chief Financial  
24 Officer ~~Comptroller~~ for entry in his or her ~~the Comptroller's~~  
25 records in the manner and format prescribed by the Executive  
26 Office of the Governor in consultation with the Chief  
27 Financial Officer ~~Comptroller~~. A copy of such authorized  
28 budgets shall be furnished to the Executive Office of the  
29 Governor or the Chief Justice, the chairs of the legislative  
30 committees responsible for developing the general  
31 appropriations acts, and the Auditor General. The Governor may

1 withhold approval of nonoperating investment authority for  
2 certain trust funds when deemed in the best interest of the  
3 state. The Governor for the executive branch, and the Chief  
4 Justice for the judicial branch, may establish nonoperating  
5 budgets for transfers, purchase of investments, special  
6 expenses, distributions, and any other nonoperating budget  
7 categories they deem necessary and in the best interest of the  
8 state and consistent with legislative intent and policy. The  
9 provisions of this subsection are subject to the notice,  
10 review, and objection procedures set forth in s. 216.177. For  
11 purposes of this section, the term "nonoperating budgets"  
12 means nonoperating disbursement authority for purchase of  
13 investments, refunds, payments to the United States Treasury,  
14 transfers of funds specifically required by law, distributions  
15 of assets held by the state in a trustee capacity as an agent  
16 of fiduciary, special expenses, and other nonoperating budget  
17 categories as determined necessary by the Executive Office of  
18 the Governor, not otherwise appropriated in the General  
19 Appropriations Act.

20 (14) The Executive Office of the Governor and the  
21 Chief Justice of the Supreme Court shall certify the amounts  
22 approved for operations and fixed capital outlay, together  
23 with any relevant supplementary materials or information, to  
24 the Chief Financial Officer ~~Comptroller~~; and such  
25 certification shall be the Chief Financial Officer's  
26 ~~Comptroller's~~ guide with reference to the expenditures of each  
27 state agency pursuant to s. 216.192.

28 (16)

29 (b) Any agency, or the judicial branch, that has been  
30 authorized by the General Appropriations Act or expressly  
31 authorized by other law to make advances for program startup



1 or advances for contracted services, in total or periodically,  
2 shall limit such disbursements to other governmental entities  
3 and not-for-profit corporations. The amount which may be  
4 advanced shall not exceed the expected cash needs of the  
5 contractor or recipient within the initial 3 months.  
6 Thereafter, disbursements shall only be made on a  
7 reimbursement basis. Any agreement that provides for  
8 advancements may contain a clause that permits the contractor  
9 or recipient to temporarily invest the proceeds, provided that  
10 any interest income shall either be returned to the agency or  
11 be applied against the agency's obligation to pay the contract  
12 amount. This paragraph does not constitute lawful authority  
13 to make any advance payment not otherwise authorized by laws  
14 relating to a particular agency or general laws relating to  
15 the expenditure or disbursement of public funds. The Chief  
16 Financial Officer ~~Comptroller~~ may, after consultation with the  
17 legislative appropriations committees, advance funds beyond a  
18 3-month requirement if it is determined to be consistent with  
19 the intent of the approved operating budget.

20 Section 247. Section 216.183, Florida Statutes, is  
21 amended to read:

22 216.183 Entities using performance-based program  
23 budgets; chart of accounts.--State agencies and the judicial  
24 branch for which a performance-based program budget has been  
25 appropriated shall utilize the chart of accounts used by the  
26 Florida Accounting Information Resource Subsystem in the  
27 manner described in s. 215.93(3). The chart of accounts for  
28 state agencies and the judicial branch for which a  
29 performance-based program budget has been appropriated shall  
30 be developed and amended, if necessary, in consultation with  
31 the Department of Financial Services ~~Banking and Finance~~, the

1 Executive Office of the Governor, and the chairs of the  
2 Legislative Budget Commission.

3 Section 248. Subsections (1) and (4) of section  
4 216.192, Florida Statutes, are amended to read:

5 216.192 Release of appropriations; revision of  
6 budgets.--

7 (1) Unless otherwise provided in the General  
8 Appropriations Act, on July 1 of each fiscal year, up to 25  
9 percent of the original approved operating budget of each  
10 agency and of the judicial branch may be released until such  
11 time as annual plans for quarterly releases for all  
12 appropriations have been developed, approved, and furnished to  
13 the Chief Financial Officer ~~Comptroller~~ by the Executive  
14 Office of the Governor for state agencies and by the Chief  
15 Justice of the Supreme Court for the judicial branch. The  
16 plans, including appropriate plans of releases for fixed  
17 capital outlay projects that correspond with each project  
18 schedule, shall attempt to maximize the use of trust funds and  
19 shall be transmitted to the Chief Financial Officer  
20 ~~Comptroller~~ by August 1 of each fiscal year. Such releases  
21 shall at no time exceed the total appropriations available to  
22 a state agency or to the judicial branch, or the approved  
23 budget for such agency or the judicial branch if less. The  
24 Chief Financial Officer ~~Comptroller~~ shall enter such releases  
25 in his or her records in accordance with the release plans  
26 prescribed by the Executive Office of the Governor and the  
27 Chief Justice, unless otherwise amended as provided by law.  
28 The Executive Office of the Governor and the Chief Justice  
29 shall transmit a copy of the approved annual releases to the  
30 head of the state agency, the chair and vice chair of the  
31 Legislative Budget Commission, and the Auditor General. The

1 Chief Financial Officer ~~Comptroller~~ shall authorize all  
2 expenditures to be made from the appropriations on the basis  
3 of such releases and in accordance with the approved budget,  
4 and not otherwise. Expenditures shall be authorized only in  
5 accordance with legislative authorizations. Nothing herein  
6 precludes periodic reexamination and revision by the Executive  
7 Office of the Governor or by the Chief Justice of the annual  
8 plans for release of appropriations and the notifications of  
9 the parties of all such revisions.

10 (4) The legislative appropriations committees may  
11 advise the Chief Financial Officer ~~Comptroller~~, the Executive  
12 Office of the Governor, or the Chief Justice relative to the  
13 release of any funds under this section.

14 Section 249. Subsection (1) of section 216.212,  
15 Florida Statutes, is amended to read:

16 216.212 Budgets for federal funds; restrictions on  
17 expenditure of federal funds.--

18 (1) The Executive Office of the Governor and ~~the~~  
19 office of the Chief Financial Officer ~~Comptroller~~, ~~and the~~  
20 ~~office of the Treasurer~~ shall develop and implement procedures  
21 for accelerating the drawdown of, and minimizing the payment  
22 of interest on, federal funds. The Executive Office of the  
23 Governor shall establish a clearinghouse for federal programs  
24 and activities. The clearinghouse shall develop the capacity  
25 to respond to federal grant opportunities and to coordinate  
26 the use of federal funds in the state.

27 (a) Every state agency, when making a request or  
28 preparing a budget to be submitted to the Federal Government  
29 for funds, equipment, material, or services, shall submit such  
30 request or budget to the Executive Office of the Governor for  
31 review before submitting it to the proper federal authority.

1 However, the Executive Office of the Governor may specifically  
2 authorize any agency to submit specific types of grant  
3 proposals directly to the Federal Government.

4 (b) Every office or court of the judicial branch, when  
5 making a request or preparing a budget to be submitted to the  
6 Federal Government for funds, equipment, material, or  
7 services, shall submit such request or budget to the Chief  
8 Justice of the Supreme Court for approval before submitting it  
9 to the proper federal authority. However, the Chief Justice  
10 may specifically authorize any court to submit specific types  
11 of grant proposals directly to the Federal Government.

12 Section 250. Subsections (8), (9), and (10) of section  
13 216.221, Florida Statutes, are amended to read:

14 216.221 Appropriations as maximum appropriations;  
15 adjustment of budgets to avoid or eliminate deficits.--

16 (8) The Chief Financial Officer ~~Comptroller~~ also has  
17 the duty to ensure that revenues being collected will be  
18 sufficient to meet the appropriations and that no deficit  
19 occurs in any fund of the state.

20 (9) If, in the opinion of the Chief Financial Officer  
21 ~~Comptroller~~, after consultation with the Revenue Estimating  
22 Conference, a deficit will occur, he or she ~~the Comptroller~~  
23 shall report his or her opinion to the Governor in writing. In  
24 the event the Governor does not certify a deficit within 10  
25 days after the Chief Financial Officer's ~~Comptroller's~~ report,  
26 the Chief Financial Officer ~~Comptroller~~ shall report his or  
27 her findings and opinion to the commission and the Chief  
28 Justice of the Supreme Court.

29 (10) When advised by the Revenue Estimating  
30 Conference, the Chief Financial Officer ~~Comptroller~~, or any  
31 agency responsible for a trust fund that a deficit will occur

1 with respect to the appropriations from a specific trust fund  
2 in the current fiscal year, the Governor for the executive  
3 branch, or the Chief Justice for the judicial branch, shall  
4 develop a plan of action to eliminate the deficit. Before  
5 implementing the plan of action, the Governor or the Chief  
6 Justice must comply with the provisions of s. 216.177(2). In  
7 developing the plan of action, the Governor or the Chief  
8 Justice shall, to the extent possible, preserve legislative  
9 policy and intent, and, absent any specific directions to the  
10 contrary in the General Appropriations Act, any reductions in  
11 appropriations from the trust fund for the fiscal year shall  
12 be prorated among the specific appropriations made from the  
13 trust fund for the current fiscal year.

14 Section 251. Paragraph (d) of subsection (4) of  
15 section 216.235, Florida Statutes, is amended to read:

16 216.235 Innovation Investment Program; intent;  
17 definitions; composition and responsibilities of State  
18 Innovation Committee; responsibilities of the Office of  
19 Tourism, Trade, and Economic Development and the review board;  
20 procedures for innovative project submission, review,  
21 evaluation, and approval; criteria to be considered.--

22 (4) There is hereby created the State Innovation  
23 Committee, which shall have final approval authority as to  
24 which innovative investment projects submitted under this  
25 section shall be funded. Such committee shall be comprised of  
26 seven members. Appointed members shall serve terms of 1 year  
27 and may be reappointed. The committee shall include:

28 (d) The Chief Financial Officer ~~Comptroller~~.

29 Section 252. Section 216.237, Florida Statutes, is  
30 amended to read:

31

1           216.237 Availability of any remaining funds; agency  
2 maintenance of accounting records.--Any remaining funds from  
3 the General Revenue Fund and trust fund spending authority not  
4 awarded to agencies pursuant to s. 216.236 shall be available  
5 to agencies for innovative projects which generate a cost  
6 savings, increase revenue, or improve service delivery.  
7 Innovative projects which generate a cost savings shall  
8 receive greater consideration when awarding innovation  
9 investment funds. Any trust fund authority granted under this  
10 program shall be utilized in a manner consistent with the  
11 statutory authority for the use of said trust fund. Any  
12 savings realized as a result of implementing the innovative  
13 project shall be used by the agency to establish an internal  
14 innovations fund. State agencies which are awarded funds for  
15 innovative projects shall utilize the chart of accounts used  
16 by the Florida Accounting Information Resource Subsystem in  
17 the manner described in s. 215.93(3). Such chart of accounts  
18 shall be developed and amended in consultation with the  
19 Department of Financial Services ~~Banking and Finance~~ and the  
20 Executive Office of the Governor to separate and account for  
21 the savings that result from the implementation of the  
22 innovative projects and to keep track of how the innovative  
23 funds are reinvested by the state agency to fund additional  
24 innovative projects, which may include, but not be limited to,  
25 expenditures for training and information technology  
26 resources. Guidelines for the establishment of such internal  
27 innovations fund shall be provided by the Department of  
28 Management Services. Any agency awarded funds under this  
29 section shall maintain detailed accounting records showing all  
30 expenses, loan transfers, savings, or other financial actions  
31 concerning the project. Any savings realized as a result of

1 implementing the innovative project shall be quantified,  
2 validated, and verified by the agency. A final report of the  
3 results of the implementation of each innovative project shall  
4 be submitted by each participating agency to the Governor's  
5 Office of Planning and Budgeting and the legislative  
6 appropriations committees by June 30 of the fiscal year in  
7 which the funds were received and ensuing fiscal years for the  
8 life of the project.

9 Section 253. Paragraph (b) of subsection (2) of  
10 section 216.251, Florida Statutes, is amended to read:

11 216.251 Salary appropriations; limitations.--

12 (2)

13 (b) Salary payments shall be made only to employees  
14 filling established positions included in the agency's or in  
15 the judicial branch's approved budgets and amendments thereto  
16 as may be provided by law; provided, however:

17 1. Reclassification of established positions may be  
18 accomplished when justified in accordance with the established  
19 procedures for reclassifying positions; or

20 2. When the Division of Risk Management of the  
21 Department of Financial Services ~~Insurance~~ has determined that  
22 an employee is entitled to receive a temporary partial  
23 disability benefit or a temporary total disability benefit  
24 pursuant to the provisions of s. 440.15 and there is medical  
25 certification that the employee cannot perform the duties of  
26 the employee's regular position, but the employee can perform  
27 some type of work beneficial to the agency, the agency may  
28 return the employee to the payroll, at his or her regular rate  
29 of pay, to perform such duties as the employee is capable of  
30 performing, even if there is not an established position in  
31 which the employee can be placed. Nothing in this

1 subparagraph shall abrogate an employee's rights under chapter  
2 440 or chapter 447, nor shall it adversely affect the  
3 retirement credit of a member of the Florida Retirement System  
4 in the membership class he or she was in at the time of, and  
5 during, the member's disability.

6 Section 254. Section 216.271, Florida Statutes, is  
7 amended to read:

8 216.271 Revolving funds.--

9 (1) No revolving fund may be established or increased  
10 in amount pursuant to s. 18.101(2), unless approved by the  
11 Chief Financial Officer ~~Comptroller~~. The purpose and uses of a  
12 revolving fund may not be changed without the prior approval  
13 of the Chief Financial Officer ~~Comptroller~~. As used in this  
14 section, the term "revolving fund" means a cash fund  
15 maintained within or outside the State Treasury and  
16 established from an appropriation, to be used by an agency or  
17 the judicial branch in making authorized expenditures.

18 (2) When the Chief Financial Officer ~~Comptroller~~  
19 approves a revolving or petty cash fund for making refunds or  
20 other payments, such fund shall be established from an account  
21 within the appropriate fund to be known as "payments for  
22 revolving funds from funds not otherwise appropriated."  
23 Reimbursements made from revolving or petty cash funds shall  
24 be made in strict accordance with the provisions of s.  
25 215.26(2). The Chief Financial Officer ~~Comptroller~~ may  
26 restrict the types of uses of any revolving fund established  
27 pursuant to this section.

28 (3) Vouchers for reimbursement of expenditures from  
29 revolving funds established under this section shall be  
30 presented in a routine manner to the Chief Financial Officer  
31 ~~Comptroller~~ for approval and payment, the proceeds of which



1 shall be returned to the revolving or petty cash fund  
2 involved.

3 (4) The revolving or petty cash fund authorized herein  
4 shall be properly maintained and accounted for by the agency  
5 or by the judicial branch requesting the fund and, upon the  
6 expiration of the need therefor, shall be returned in the  
7 amount originally established to the appropriate fund for  
8 credit to the payments for revolving funds account therein.

9 (5) Reimbursement to the revolving fund for uninsured  
10 losses and theft may be made from the fund in which the  
11 responsible operating department is budgeted. Such  
12 reimbursement shall be submitted consistent with procedures  
13 specified by the Chief Financial Officer ~~Comptroller~~.

14 Section 255. Section 216.275, Florida Statutes, is  
15 amended to read:

16 216.275 Clearing accounts.--No clearing account may be  
17 established outside the State Treasury pursuant to s.  
18 18.101(1) unless approved by the Chief Financial Officer  
19 ~~Treasurer~~ during the fiscal year. Each agency, or the judicial  
20 branch, desiring to maintain a clearing account outside the  
21 State Treasury shall submit a written request to do so to the  
22 Chief Financial Officer ~~Treasurer~~ in accordance with the  
23 format and manner prescribed by the Chief Financial Officer  
24 ~~Treasurer~~. The Chief Financial Officer ~~Treasurer~~ shall  
25 maintain a listing of all clearing accounts approved during  
26 the fiscal year.

27 Section 256. Subsections (2), (3), (6), (8), (9), and  
28 (10) of section 216.292, Florida Statutes, are amended to  
29 read:

30 216.292 Appropriations nontransferable; exceptions.--  
31

1           (2) A lump sum appropriated for a performance-based  
2 program must be distributed by the Governor for state agencies  
3 or the Chief Justice for the judicial branch into the  
4 traditional expenditure categories in accordance with s.  
5 216.181(6)(b). At any time during the year, the agency head  
6 or Chief Justice may transfer funds between those categories  
7 with no limit on the amount of the transfer. Authorized  
8 revisions of the original approved operating budget, together  
9 with related changes, if any, must be transmitted by the state  
10 agency or by the judicial branch to the Executive Office of  
11 the Governor or the Chief Justice, the chair and vice chair of  
12 the Legislative Budget Commission, the Office of Program  
13 Policy Analysis and Government Accountability, and the Auditor  
14 General. Such authorized revisions shall be consistent with  
15 the intent of the approved operating budget, shall be  
16 consistent with legislative policy and intent, and shall not  
17 conflict with specific spending policies specified in the  
18 General Appropriations Act. The Executive Office of the  
19 Governor shall forward a copy of the revisions within 7  
20 working days to the Chief Financial Officer ~~Comptroller~~ for  
21 entry in his or her records in the manner and format  
22 prescribed by the Executive Office of the Governor in  
23 consultation with the Chief Financial Officer ~~Comptroller~~.  
24 Such authorized revisions shall be consistent with the intent  
25 of the approved operating budget, shall be consistent with  
26 legislative policy and intent, and shall not conflict with  
27 specific spending policies specified in the General  
28 Appropriations Act.

29           (3) The head of each department or the Chief Justice  
30 of the Supreme Court, whenever it is deemed necessary by  
31 reason of changed conditions, may transfer appropriations

1 funded from identical funding sources, except appropriations  
2 for fixed capital outlay, and transfer the amounts included  
3 within the total original approved budget and releases as  
4 furnished pursuant to ss. 216.181 and 216.192, as follows:

5 (a) Between categories of appropriations within a  
6 budget entity, if no category of appropriation is increased or  
7 decreased by more than 5 percent of the original approved  
8 budget or \$150,000, whichever is greater, by all action taken  
9 under this subsection.

10 (b) Additionally, between budget entities within  
11 identical categories of appropriations, if no category of  
12 appropriation is increased or decreased by more than 5 percent  
13 of the original approved budget or \$150,000, whichever is  
14 greater, by all action taken under this subsection.

15 (c) Such authorized revisions must be consistent with  
16 the intent of the approved operating budget, must be  
17 consistent with legislative policy and intent, and must not  
18 conflict with specific spending policies specified in the  
19 General Appropriations Act.

20  
21 Such authorized revisions, together with related changes, if  
22 any, in the plan for release of appropriations, shall be  
23 transmitted by the state agency or by the judicial branch to  
24 the Chief Financial Officer ~~Comptroller~~ for entry in the Chief  
25 Financial Officer's ~~Comptroller's~~ records in the manner and  
26 format prescribed by the Executive Office of the Governor in  
27 consultation with the Chief Financial Officer ~~Comptroller~~. A  
28 copy of such revision shall be furnished to the Executive  
29 Office of the Governor or the Chief Justice, the chair and  
30 vice chair of the Legislative Budget Commission, the Auditor  
31

1 General, and the director of the Office of Program Policy  
2 Analysis and Government Accountability.

3 (6) Upon request of a department to, and approval by,  
4 the Chief Financial Officer ~~Comptroller~~, funds appropriated  
5 may be transferred to accounts established for disbursement  
6 purposes upon release of such appropriation. Such transfer  
7 may only be made to the same appropriation category and the  
8 same funding source from which the funds are transferred.

9 (8)(a) Should any state agency or the judicial branch  
10 become more than 90 days delinquent on reimbursements due to  
11 the Unemployment Compensation Trust Fund, the Department of  
12 Labor and Employment Security shall certify to the Chief  
13 Financial Officer ~~Comptroller~~ the amount due; and the Chief  
14 Financial Officer ~~Comptroller~~ shall transfer the amount due to  
15 the Unemployment Compensation Trust Fund from any funds of the  
16 agency available.

17 (b) Should any state agency or the judicial branch  
18 become more than 90 days delinquent in paying the Division of  
19 Risk Management of the Department of Financial Services  
20 ~~Insurance~~ for insurance coverage, the Department of Financial  
21 Services ~~Insurance~~ may certify to the Chief Financial Officer  
22 ~~Comptroller~~ the amount due; and the Chief Financial Officer  
23 ~~Comptroller~~ shall transfer the amount due to the Division of  
24 Risk Management from any funds of the agency or the judicial  
25 branch available.

26 (9) Moneys appropriated in the General Appropriations  
27 Act for the purpose of paying for services provided by the  
28 state communications system in the Department of Management  
29 Services shall be paid by the user agencies, or the judicial  
30 branch, within 45 days after the billing date. Billed amounts  
31 not paid by the user agencies, or by the judicial branch,

1 shall be transferred by the Chief Financial Officer  
2 ~~Comptroller~~ from the user agencies to the Communications  
3 Working Capital Trust Fund.

4 (10) The Chief Financial Officer ~~Comptroller~~ shall  
5 report all such transfers and the reasons for such transfers  
6 to the legislative appropriations committees and the Executive  
7 Office of the Governor.

8 Section 257. Paragraph (a) of subsection (1),  
9 paragraph (a) of subsection (2), and subsection (3) of section  
10 216.301, Florida Statutes, are amended to read:

11 216.301 Appropriations; undisbursed balances.--

12 (1)(a) Any balance of any appropriation, except an  
13 appropriation for fixed capital outlay, which is not disbursed  
14 but which is expended or contracted to be expended shall, at  
15 the end of each fiscal year, be certified by the head of the  
16 affected state agency or the judicial or legislative branches,  
17 on or before August 1 of each year, to the Executive Office of  
18 the Governor, showing in detail the obligees to whom obligated  
19 and the amounts of such obligations. On or before September 1  
20 of each year, the Executive Office of the Governor shall  
21 review and approve or disapprove, consistent with legislative  
22 policy and intent, any or all of the items and amounts  
23 certified by the head of the affected state agency and shall  
24 approve all items and amounts certified by the Chief Justice  
25 of the Supreme Court for the judicial branch and by the  
26 legislative branch and shall furnish the Chief Financial  
27 Officer ~~Comptroller~~, the legislative appropriations  
28 committees, and the Auditor General a detailed listing of the  
29 items and amounts approved as legal encumbrances against the  
30 undisbursed balance of such appropriation. The review shall  
31 assure that trust funds have been fully maximized. Any such

1 encumbered balance remaining undisbursed on December 31 of the  
2 same calendar year in which such certification was made shall  
3 revert to the fund from which appropriated and shall be  
4 available for reappropriation by the Legislature. In the  
5 event such certification is not made and an obligation is  
6 proven to be legal, due, and unpaid, then the obligation shall  
7 be paid and charged to the appropriation for the current  
8 fiscal year of the state agency or the legislative or judicial  
9 branch affected.

10 (2)(a) Any balance of any appropriation for fixed  
11 capital outlay not disbursed but expended or contracted or  
12 committed to be expended shall, at the end of each fiscal  
13 year, be certified by the head of the affected state agency or  
14 the legislative or judicial branch, on or before August 1 of  
15 each year, to the Executive Office of the Governor, showing in  
16 detail the commitment or to whom obligated and the amount of  
17 such commitment or obligation. On or before September 1 of  
18 each year, the Executive Office of the Governor shall review  
19 and approve or disapprove, consistent with legislative policy  
20 and intent, any or all of the items and amounts certified by  
21 the head of the affected state agency and shall approve all  
22 items and amounts certified by the Chief Justice of the  
23 Supreme Court and by the legislative branch and shall furnish  
24 the Chief Financial Officer ~~Comptroller~~, the legislative  
25 appropriations committees, and the Auditor General a detailed  
26 listing of the items and amounts approved as legal  
27 encumbrances against the undisbursed balances of such  
28 appropriations. In the event such certification is not made  
29 and the balance of the appropriation has reverted and the  
30 obligation is proven to be legal, due, and unpaid, then the  
31

1 same shall be presented to the Legislature for its  
2 consideration.

3 (3) Notwithstanding the provisions of subsection (2),  
4 the unexpended balance of any appropriation for fixed capital  
5 outlay subject to but not under the terms of a binding  
6 contract or a general construction contract prior to February  
7 1 of the second fiscal year, or the third fiscal year if it is  
8 for an educational facility as defined in chapter 235 or a  
9 construction project of the Board of Regents, of the  
10 appropriation shall revert on February 1 of such year to the  
11 fund from which appropriated and shall be available for  
12 reappropriation. The Executive Office of the Governor shall,  
13 not later than February 20 of each year, furnish the Chief  
14 Financial Officer ~~Comptroller~~, the legislative appropriations  
15 committees, and the Auditor General a report listing in detail  
16 the items and amounts reverting under the authority of this  
17 subsection, including the fund to which reverted and the  
18 agency affected.

19 Section 258. Section 217.07, Florida Statutes, is  
20 amended to read:

21 217.07 Transfer of surplus property assets to  
22 department.--The Chief Financial Officer ~~State Treasurer~~ is  
23 authorized to transfer to the department any funds unexpended  
24 in the Surplus Property Revolving Trust Fund account in the  
25 State Treasury. This revolving fund shall remain in existence  
26 as a separate trust fund as long as the surplus property  
27 program exists. Upon termination of the program any remaining  
28 funds shall be disposed of as provided by federal law.

29 Section 259. Section 218.06, Florida Statutes, is  
30 amended to read:

31

1           218.06 Transfer of funds by county commissioners with  
2 relation to public works grants.--

3           (1) Boards of county commissioners of the several  
4 counties of the state, whenever it may be necessary to meet  
5 the requirements of the United States Government with  
6 reference to obtaining grants of federal funds in connection  
7 with the program of the Public Works Administration, may by  
8 resolution of such board, transfer and expend such sums of  
9 money as may be necessary to obtain said grant, from any fund  
10 to such other fund as may be necessary to meet said  
11 requirements and carry out the intent and purposes of the said  
12 transfer; provided, however, that no such transfer may be made  
13 by any county of the state without first having obtained the  
14 approval of the Department of Financial Services ~~Banking and~~  
15 ~~Finance~~ thereto, and in the counties of the state where there  
16 is provision for a budget commission, without first having  
17 also obtained the approval of said budget commission to said  
18 transfer.

19           (2) The Department of Financial Services ~~Banking and~~  
20 ~~Finance~~ and the budget commissions of the several counties of  
21 the state in which there are provisions for such budget  
22 commissions, may approve such transfers whenever in their  
23 opinion such transfers are necessary and proper.

24           Section 260. Paragraph (a) of subsection (1) of  
25 section 218.23, Florida Statutes, is amended to read:

26           218.23 Revenue sharing with units of local  
27 government.--

28           (1) To be eligible to participate in revenue sharing  
29 beyond the minimum entitlement in any fiscal year, a unit of  
30 local government is required to have:

31



1 (a) Reported its finances for its most recently  
2 completed fiscal year to the Department of Financial Services  
3 ~~Banking and Finance~~, pursuant to s. 218.32.

4  
5 Additionally, to receive its share of revenue sharing funds, a  
6 unit of local government shall certify to the Department of  
7 Revenue that the requirements of s. 200.065, if applicable,  
8 were met. The certification shall be made annually within 30  
9 days of adoption of an ordinance or resolution establishing a  
10 final property tax levy or, if no property tax is levied, not  
11 later than November 1. The portion of revenue sharing funds  
12 which, pursuant to this part, would otherwise be distributed  
13 to a unit of local government which has not certified  
14 compliance or has otherwise failed to meet the requirements of  
15 s. 200.065 shall be deposited in the General Revenue Fund for  
16 the 12 months following a determination of noncompliance by  
17 the department.

18 Section 261. Subsection (4) of section 218.31, Florida  
19 Statutes, is amended to read:

20 218.31 Definitions.--As used in this part, except  
21 where the context clearly indicates a different meaning:

22 (4) "Department" means the Department of Financial  
23 Services ~~Banking and Finance~~.

24 Section 262. Subsections (1) and (4) of section  
25 218.321, Florida Statutes, are amended to read:

26 218.321 Annual financial statements; local  
27 governmental entities.--

28 (1) Each local governmental entity shall complete its  
29 financial statements for the previous fiscal year in  
30 compliance with generally accepted accounting principles and  
31

1 the uniform chart of accounts prescribed by the department of  
2 ~~Banking and Finance~~.

3 (4) The failure by any local governmental entity to  
4 complete its annual financial statements shall, in addition to  
5 any other penalties provided by law, authorize the department  
6 to employ personnel or send department personnel to such local  
7 governmental entity in order to complete such annual financial  
8 statements. The expenses related to the completion of the  
9 annual financial statements shall be charged to the local  
10 governmental entity. Upon failure by the local governmental  
11 entity to pay the charge within 15 days after billing, the  
12 department shall so certify to the Chief Financial Officer  
13 ~~Comptroller~~, who shall forward the amount so certified to the  
14 department from any funds due to the local governmental entity  
15 under any revenue-sharing or tax-sharing fund established by  
16 the state, except as otherwise provided by the State  
17 Constitution.

18 Section 263. Section 218.325, Florida Statutes, is  
19 amended to read:

20 218.325 Uniform chart of accounts and financial  
21 reporting for court and justice system costs and revenues.--

22 (1)(a) The Uniform Chart of Accounts Development  
23 Committee is hereby created to develop and implement a uniform  
24 chart of accounts. The committee shall work with the  
25 representatives of the designated end-user groups identified  
26 in subsection (3) in order to determine the specific financial  
27 data related to the operations of the circuit and county  
28 courts and justice-related agencies of the executive branch  
29 which must be accounted for and reported. The committee shall  
30 then work with the department of ~~Banking and Finance~~ to

31

1 develop the necessary rules required to implement the uniform  
2 chart of accounts. The committee shall include:

3 1. The Chief Financial Officer ~~Comptroller~~ or his or  
4 her ~~the Comptroller's~~ designee.

5 2. Three clerks of the circuit court or deputy clerks,  
6 appointed by the president of the Florida Association of Court  
7 Clerks.

8 3. Three elected county commissioners or county  
9 finance staff, appointed by the Florida Association of  
10 Counties.

11 4. Three elected sheriffs or their designees,  
12 appointed by the president of the Florida Sheriffs  
13 Association.

14 (b) The Chief Financial Officer ~~Comptroller~~ or his or  
15 her ~~the Comptroller's~~ designee shall serve as chairperson of  
16 the committee. The committee shall use the staff of the  
17 department ~~of Banking and Finance~~ for staff support and may  
18 also appoint technical support staff as designated by the  
19 Florida Association of Court Clerks, the Florida Association  
20 of Counties, and the Florida Sheriffs Association as needed  
21 for technical assistance and support. Members of the  
22 committee must be appointed within 30 days after June 18,  
23 1995. Within 60 days after the appointment of the membership,  
24 the committee shall meet to establish procedures for the  
25 conduct of its business.

26 (c) Members of the committee shall serve without  
27 compensation.

28 (2) The Uniform Chart of Accounts Development  
29 Committee shall make an analysis of the requirements for  
30 implementing a detailed, uniform chart of accounts and  
31 financial reporting system for court and justice-related

1 agency expenditures and revenues. The Chief Financial Officer  
2 ~~Comptroller~~ shall make a report to the Chief Justice of the  
3 Florida Supreme Court, the Governor, the Speaker of the House  
4 of Representatives, and the President of the Senate on such  
5 requirements, including a timetable for implementation and an  
6 assessment of fiscal impact, by January 1, 1996. The proposed  
7 uniform chart of accounts and financial reporting system must  
8 provide that all revenues received and expenditures incurred  
9 by county governments, clerks of court, the courts or other  
10 judicial entities that are related to the operations of the  
11 circuit courts and county courts, and other components of the  
12 justice system can be accounted for in sufficient detail to  
13 permit reporting for both discrete functions and  
14 organizational units.

15 (3) For purposes of this section, the collection of  
16 representatives of end-user groups, which shall assist the  
17 Uniform Chart of Accounts Development Committee on the process  
18 and procedures for implementing new accounting and reporting  
19 requirements and provide oversight and guidance for  
20 implementing activities, shall be formed by one representative  
21 each from the Office of the Governor, the Speaker of the House  
22 of Representatives, the President of the Senate, the Office of  
23 the Chief Financial Officer ~~Comptroller~~, the Office of the  
24 State Courts Administrator, the Florida Prosecuting Attorneys  
25 Association, the Florida Public Defenders Association, the  
26 Legislative Committee on Intergovernmental Relations, the  
27 Information Resource Committee, and The Florida Bar.

28 Section 264. Subsection (3) of section 220.62, Florida  
29 Statutes, is amended to read:

30 220.62 Definitions.--For purposes of this part:  
31

1           (3) The term "international banking facility" means a  
2 set of asset and liability accounts segregated on the books  
3 and records of a banking organization that includes only  
4 international banking facility deposits, borrowings, and  
5 extensions of credit, as those terms are defined by the  
6 Department of Financial Services ~~Banking and Finance~~, taking  
7 into account all transactions in which international banking  
8 facilities are permitted to engage by regulations of the Board  
9 of Governors of the Federal Reserve System, as from time to  
10 time amended. When providing such definitions, the Department  
11 of Financial Services ~~Banking and Finance~~ shall also consider  
12 the public interest, including the need to maintain a sound  
13 and competitive banking system, as well as the purpose of this  
14 act, which is to create an environment conducive to the  
15 conduct of an international banking business in the state.

16           Section 265. Subsection (2) of section 220.723,  
17 Florida Statutes, is amended to read:

18           220.723 Overpayments; interest.--

19           (2) Interest shall accrue from the date upon which the  
20 taxpayer files a written notice advising the department of the  
21 overpayment. Interest shall be paid until such date as  
22 determined by the department, which shall be no more than 7  
23 days prior to the date of the issuance by the Chief Financial  
24 Officer ~~Comptroller~~ of the refund warrant.

25           Section 266. Paragraph (g) of subsection (6) of  
26 section 228.2001, Florida Statutes, is amended to read:

27           228.2001 Discrimination against students and employees  
28 in state system of public education; prohibitions; equality of  
29 access; strategies to overcome underrepresentation;  
30 remedies.--

31

1           (6) The functions of the Office of Equal Educational  
2 Opportunity of the Department of Education shall include, but  
3 not be limited to:

4           (g) Beginning July 1, 1994, reporting to the  
5 Commissioner of Education any public community college or  
6 school district found to be out of compliance with rules of  
7 the State Board of Education adopted as required by paragraph  
8 (f) or paragraph (3)(d). To penalize the community college or  
9 school district, the commissioner shall:

10           1. Declare the educational agency ineligible for  
11 competitive state grants.

12           2. Notwithstanding the provisions of s. 216.192,  
13 direct the Chief Financial Officer ~~Comptroller~~ to withhold  
14 general revenue funds sufficient to obtain compliance from the  
15 educational agency.

16  
17 The educational agency shall remain ineligible and the funds  
18 shall not be paid until the agency comes into compliance or  
19 the commissioner approves a plan for compliance.

20           Section 267. Subsection (4) of section 229.0535,  
21 Florida Statutes, is amended to read:

22           229.0535 Authority to enforce school improvement.--It  
23 is the intent of the Legislature that all public schools be  
24 held accountable for students performing at acceptable levels.  
25 A system of school improvement and accountability that  
26 assesses student performance by school, identifies schools in  
27 which students are not making adequate progress toward state  
28 standards, institutes appropriate measures for enforcing  
29 improvement, and provides rewards and sanctions based on  
30 performance shall be the responsibility of the State Board of  
31 Education.

1           (4) The State Board of Education is authorized to  
2 require the Department of Education or Chief Financial Officer  
3 ~~Comptroller~~ to withhold any transfer of state funds to the  
4 school district if, within the timeframe specified in state  
5 board action, the school district has failed to comply with  
6 the action ordered to improve the district's low-performing  
7 schools. Withholding the transfer of funds shall occur only  
8 after all other recommended actions for school improvement  
9 have failed to improve performance. The State Board of  
10 Education may invoke the same penalty to any school board that  
11 fails to develop and implement a plan for assistance and  
12 intervention for low-performing schools as specified in s.  
13 230.23(16)(c).

14           Section 268. Paragraph (b) of subsection (6) of  
15 section 229.0537, Florida Statutes, is amended to read:

16           229.0537 Opportunity Scholarship Program.--

17           (6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.--

18           (b) Upon proper documentation reviewed and approved by  
19 the Department of Education, the Chief Financial Officer  
20 ~~Comptroller~~ shall make opportunity scholarship payments in  
21 four equal amounts no later than September 1, November 1,  
22 February 1, and April 1 of each academic year in which the  
23 opportunity scholarship is in force. The initial payment shall  
24 be made after Department of Education verification of  
25 admission acceptance, and subsequent payments shall be made  
26 upon verification of continued enrollment and attendance at  
27 the private school. Payment must be by individual warrant made  
28 payable to the student's parent or guardian and mailed by the  
29 Department of Education to the private school of the parent's  
30 or guardian's choice, and the parent or guardian shall  
31 restrictively endorse the warrant to the private school.

1           Section 269. Paragraph (f) of subsection (6) of  
2 section 229.05371, Florida Statutes, is amended to read:

3           229.05371 The John M. McKay Scholarships for Students  
4 with Disabilities Program.--There is established a program  
5 that is separate and distinct from the Opportunity Scholarship  
6 Program and is named the John M. McKay Scholarships for  
7 Students with Disabilities Program, pursuant to this section.

8           (6) SCHOLARSHIP FUNDING AND PAYMENT.--

9           (f) Upon proper documentation reviewed and approved by  
10 the Department of Education, the Chief Financial Officer  
11 ~~Comptroller~~ shall make scholarship payments in four equal  
12 amounts no later than September 1, November 1, February 1, and  
13 April 15 of each academic year in which the scholarship is in  
14 force. The initial payment shall be made after Department of  
15 Education verification of admission acceptance, and subsequent  
16 payments shall be made upon verification of continued  
17 enrollment and attendance at the private school. Payment must  
18 be by individual warrant made payable to the student's parent  
19 and mailed by the Department of Education to the private  
20 school of the parent's choice, and the parent shall  
21 restrictively endorse the warrant to the private school for  
22 deposit into the account of the private school.

23           Section 270. Subsection (2) of section 229.111,  
24 Florida Statutes, is amended to read:

25           229.111 Gifts to state public education system or  
26 school fund.--

27           (2) The Chief Financial Officer ~~State Treasurer~~ shall  
28 be treasurer and custodian of all such gifts and bequests of  
29 money, royalty, and other personal property given or  
30 bequeathed for the purposes designated herein. He or she  
31 shall receive and provide for the proper custody and



1 disbursement of any such funds, in accordance with the  
2 provisions of law and regulations of the state board.

3 Section 271. Subsection (2) of section 229.781,  
4 Florida Statutes, is amended to read:

5 229.781 Records; preservation; destruction.--

6 (2) After complying with the provisions of s. 257.37,  
7 the Department of Education is authorized, in its discretion,  
8 to destroy general correspondence which is over 3 years old;  
9 records of bills, accounts, vouchers and requisitions which  
10 are over 5 years old and copies of which have been filed with  
11 the Chief Financial Officer ~~Comptroller~~; and other records,  
12 papers and documents over 3 years old which do not serve as  
13 part of an agreement or understanding nor have value as  
14 permanent records.

15 Section 272. Subsection (9) of section 231.261,  
16 Florida Statutes, is amended to read:

17 231.261 Education Practices Commission;  
18 organization.--

19 (9) The commission shall make such expenditures as may  
20 be necessary in exercising its authority and powers and  
21 carrying out its duties and responsibilities, including  
22 expenditures for personal services, general counsel or access  
23 to counsel, and rent at the seat of government and elsewhere;  
24 for books of reference, periodicals, furniture, equipment, and  
25 supplies; and for printing and binding. The expenditures of  
26 the commission shall be subject to the powers and duties of  
27 the Department of Financial Services ~~Banking and Finance~~ as  
28 provided in s. 17.03.

29 Section 273. Subsection (2) of section 231.30, Florida  
30 Statutes, is amended to read:

31 231.30 Certification fees.--

1           (2) The proceeds from the collection of certification  
2 fees, fines, penalties, and costs levied pursuant to this  
3 chapter shall be remitted by the Department of Education to  
4 the Chief Financial Officer ~~Treasurer~~ for deposit into a  
5 separate fund to be known as the "Educational Certification  
6 and Service Trust Fund" and disbursed for the payment of  
7 expenses incurred by the Educational Standards Commission, by  
8 the Educational Practices Commission, and in the printing of  
9 forms and bulletins and the issuing of certificates, upon  
10 vouchers approved by the department.

11           Section 274. Subsection (3) of section 231.545,  
12 Florida Statutes, is amended to read:

13           231.545 Education Standards Commission;  
14 organization.--

15           (3) Members shall serve for 3-year staggered terms and  
16 shall be entitled to reimbursement for expenses of attending  
17 meetings of the commission. Reimbursement for such expenses  
18 shall be made by the Chief Financial Officer ~~Treasurer~~ from  
19 funds appropriated for the Department of Education, ~~on~~  
20 ~~warrants drawn by the Comptroller~~ upon requisitions approved  
21 by the Department of Education. School districts shall be  
22 reimbursed for substitute teachers required to replace  
23 commission members, when they are carrying out their official  
24 duties, at the rate established by the school district for  
25 substitute teachers. The department may reimburse local  
26 school districts for substitutes.

27           Section 275. Paragraph (b) of subsection (3) of  
28 section 233.063, Florida Statutes, is amended to read:

29           233.063 Instruction in operation of motor vehicles.--

30           (3)

31

1           (b) For the purpose of financing the Driver Education  
2 Program in the secondary schools, there shall be levied an  
3 additional 50 cents per year to the driver's license fee  
4 required by s. 322.21. The additional fee shall be promptly  
5 remitted to the Department of Highway Safety and Motor  
6 Vehicles, and the department shall transmit the fee to the  
7 Chief Financial Officer ~~Treasurer~~ to be deposited in the  
8 General Revenue Fund.

9           Section 276. Paragraph (c) of subsection (2) of  
10 section 233.07, Florida Statutes, is amended to read:

11           233.07 State instructional materials committees.--

12           (2)

13           (c) The district school board shall be reimbursed for  
14 the actual cost of substitute teachers for each workday that a  
15 member of its instructional staff is absent from his or her  
16 assigned duties for the purpose of rendering service to the  
17 state instructional materials committee. In addition,  
18 committee members shall be reimbursed for travel expenses, and  
19 per diem shall be paid to each committee member as provided in  
20 s. 112.061 for actual service in meetings of committees called  
21 by the Commissioner of Education. Payment of such travel  
22 expenses shall be made by the Chief Financial Officer  
23 ~~Treasurer~~ from the appropriation for the administration of the  
24 instructional materials program, ~~on warrants to be drawn by~~  
25 ~~the Comptroller~~ upon requisition approved by the commissioner.

26           Section 277. Section 233.15, Florida Statutes, is  
27 amended to read:

28           233.15 Deposit by publisher or manufacturer of  
29 instructional materials must accompany bid.--The Department of  
30 Education shall require each publisher or manufacturer of  
31 instructional materials who submits a bid or proposal under

1 the provisions of this chapter to deposit with the department  
2 such sum of money or certified check as may be determined by  
3 the department, the amount to be not less than \$500 and not  
4 more than \$2,500, according to the number of instructional  
5 materials covered by the proposal; which deposit shall be  
6 forfeited to the state and placed in the General Revenue Fund  
7 if the bidder making the deposit shall fail or refuse to  
8 execute the contract and bond within 30 days of receipt of  
9 such contract in case his or her bid or proposal is accepted.  
10 The Commissioner of Education shall, upon determining that the  
11 deposit is correct and proper, transmit the deposit to the  
12 Chief Financial Officer ~~Treasurer~~, who shall deposit such  
13 funds for credit to the Textbook Bid Trust Fund and issue his  
14 or her official receipt covering the same.

15 Section 278. Paragraphs (a) and (b) of subsection (5)  
16 and subsection (6) of section 233.16, Florida Statutes, are  
17 amended to read:

18 233.16 Powers and duties of the Commissioner of  
19 Education and the Department of Education in selecting and  
20 adopting instructional materials.--

21 (5) RETURN OF DEPOSITS.--

22 (a) The successful bidder shall be notified by  
23 registered mail of the award of contract; and such bidder  
24 shall, within 30 days of receipt of the contract, execute the  
25 proper contract and post the required bond. When such bond  
26 and contract have been executed, the department shall notify  
27 the Chief Financial Officer ~~Comptroller~~ and request that a  
28 warrant be issued against the Textbook Bid Trust Fund payable  
29 to the successful bidder in the amount deposited under the  
30 provisions of s. 233.15. The Chief Financial Officer

31

1 ~~Comptroller~~ shall issue and forward such warrant to the  
2 department for distribution to the bidder.

3 (b) At the same time or prior thereto, the department  
4 shall inform the Chief Financial Officer ~~Comptroller~~ of the  
5 names of the unsuccessful bidders. Upon receipt of such  
6 notice, the Chief Financial Officer ~~Comptroller~~ shall issue  
7 warrants against the Textbook Bid Trust Fund payable to the  
8 unsuccessful bidders in the amounts deposited under the  
9 provisions of s. 233.15 and shall forward such warrants to the  
10 department for distribution to the unsuccessful bidders.

11 (6) DEPOSITS FORFEITED.--Should any successful bidder  
12 fail or refuse to execute contract and bond within 30 days of  
13 receipt of the contract, the cash deposit shall be forfeited  
14 to the state and placed by the Chief Financial Officer  
15 ~~Treasurer~~ in the General Revenue Fund.

16 Section 279. Subsection (3) of section 233.255,  
17 Florida Statutes, is amended to read:

18 233.255 Production and dissemination of educational  
19 materials and products by department.--

20 (3) All proceeds from the sale of such educational  
21 materials and products shall be remitted to the Chief  
22 Financial Officer ~~Treasurer~~ and shall be kept in a separate  
23 fund to be known as the "Educational Media and Technology  
24 Trust Fund" and, when properly budgeted as approved by the  
25 Legislature and the Executive Office of the Governor, used to  
26 pay the cost of producing and disseminating educational  
27 materials and products to carry out the intent of this act.

28 Section 280. Subsection (2) of section 236.43, Florida  
29 Statutes, is amended to read:

30 236.43 Receiving bids and sale of bonds.--

31

1           (2) All bonds and refunding bonds issued as provided  
2 by law shall be sold to the highest and best bidder at such  
3 public sale unless sold at a better price or yield basis  
4 within 30 days after failure to receive an acceptable bid at a  
5 duly advertised public sale; provided, that at no time shall  
6 bonds or refunding bonds be sold or exchanged at less than par  
7 value except as specifically authorized by the department; and  
8 provided, further, that the school board shall have the right  
9 to reject all bids and cause a new notice to be given in like  
10 manner inviting other bids for such bonds, or to sell all or  
11 any part of such bonds to the state board at a price and yield  
12 basis which shall not be less advantageous to the school board  
13 than that represented by the highest and best bid received.  
14 In the marketing of said bonds the school board shall be  
15 entitled to have such assistance as can be rendered by the  
16 Governor, the Chief Financial Officer ~~State Treasurer~~, the  
17 Commissioner of Education, or any other public state officer  
18 or agency. In determining the highest and best bidder for  
19 bonds offered for sale, the net interest cost to the school  
20 board as shown in standard bond tables shall govern; provided,  
21 that the determination of the school board as to the highest  
22 and best bidder shall be final.

23           Section 281. Subsection (4) of section 236.601,  
24 Florida Statutes, is amended to read:

25           236.601 Board of Administration to act as fiscal agent  
26 in issuance and sale of motor vehicle anticipation  
27 certificates.--

28           (4) The proceeds of any sale of original bonds or  
29 original certificates shall be deposited in the State Treasury  
30 to the credit of the particular construction account for which  
31 the original bonds or original certificates were issued and

1 shall be under the direct control and supervision of the State  
2 Board of Education, and withdrawals from such construction  
3 accounts shall be made only upon warrants ~~signed by the~~  
4 ~~Comptroller and~~ drawn upon the Chief Financial Officer  
5 ~~Treasurer~~. Such warrants shall be issued by the Chief  
6 Financial Officer ~~Comptroller~~ only when the vouchers  
7 requesting such warrants are accompanied by the certificates  
8 of the State Board of Education to the effect that such  
9 withdrawals are proper expenditures for the cost of the  
10 particular construction account against which the requested  
11 warrants are to be drawn.

12 Section 282. Subsection (2) of section 237.121,  
13 Florida Statutes, is amended to read:

14 237.121 Penalty.--

15 (2) Each member of any school board voting to incur an  
16 indebtedness against the district school funds in excess of  
17 the expenditure allowed by law, or in excess of any  
18 appropriation as adopted in the original official budget or  
19 amendments thereto, or to approve or pay any illegal charge  
20 against the said funds, and any chair of a school board or  
21 superintendent who shall sign a warrant for payment of any  
22 such claim or bill of indebtedness against any of the said  
23 funds shall be personally liable for the amount, and shall be  
24 guilty of malfeasance in office and subject to removal by the  
25 Governor. It shall be the duty of the Auditor General or other  
26 state official charged by law with the responsibility for  
27 auditing school accounts, upon discovering any such illegal  
28 expenditure or expenditures in excess of the appropriations in  
29 the budget as officially amended, to certify such fact to the  
30 Department of Financial Services ~~Banking and Finance~~, which  
31 thereupon shall verify such fact and it shall be the duty of

1 the ~~said~~ Department of Financial Services ~~Banking and Finance~~  
2 to advise the Department of Legal Affairs thereof, and it  
3 shall be the duty of the ~~said~~ Department of Legal Affairs to  
4 cause to be instituted and prosecuted, either through its  
5 office or through any state attorney, proceedings at law or in  
6 equity against such member or members of a school board or  
7 superintendent; provided, that if either of the said officers  
8 do not institute proceedings within 90 days after the audit  
9 has been certified to them by the Department of Financial  
10 Services ~~Banking and Finance~~ then any taxpayer may institute  
11 suit in his or her own name in behalf of the district.

12 Section 283. Section 237.181, Florida Statutes, is  
13 amended to read:

14 237.181 School funds to be paid to Chief Financial  
15 Officer ~~Treasurer~~ or into depository.--

16 (1) Every tax collector, or other person having moneys  
17 which by law go to any district school fund shall at least  
18 once each month pay the same over to the depository or  
19 depositories designated by the school board for such purpose,  
20 and shall provide the school board with a duplicate of the  
21 deposit slip. Every officer having moneys which by law go to  
22 any state school fund, shall pay the same to the Chief  
23 Financial Officer ~~Treasurer of the state~~, and he or she ~~the~~  
24 ~~Treasurer~~ shall see that these moneys are deposited to the  
25 credit of the proper state school fund.

26 (2) The school board shall have the authority to  
27 designate that funds due it be placed for investment for its  
28 account with the State Board of Administration rather than be  
29 deposited, and the school board may direct those persons  
30 having moneys due it or due any state school fund to pay out  
31



1 such funds to the State Board of Administration to make  
2 authorized investments for its account.

3 Section 284. Paragraph (b) of subsection (6) of  
4 section 237.211, Florida Statutes, is amended to read:

5 237.211 School depositories; payments into and  
6 withdrawals from depositories.--

7 (6) EXEMPTION FOR SELF-INSURANCE PROGRAMS AND  
8 THIRD-PARTY ADMINISTERED EMPLOYEES' FRINGE BENEFIT PROGRAMS.--

9 (b) The school board is authorized to contract with an  
10 insurance company or professional administrator who holds a  
11 valid certificate of authority issued by the Department of  
12 Financial Services Insurance to provide any or all services  
13 that a third-party administrator is authorized by law to  
14 perform. Pursuant to such contract, the school board may  
15 advance or remit money to the administrator to be deposited in  
16 a designated special checking account for paying claims  
17 against the school board under its self-insurance programs,  
18 and remitting premiums to the providers of insured benefits on  
19 behalf of the school board and the participants in such  
20 programs, and otherwise fulfilling the obligations imposed  
21 upon the administrator by law and the contractual agreements  
22 between the school board and the administrator. The special  
23 checking account shall be maintained in a designated district  
24 school depository. The school board may replenish such account  
25 as often as necessary upon the presentation by the service  
26 organization of documentation for claims or premiums due paid  
27 equal to the amount of the requested reimbursement. Such  
28 replenishment shall be made by a warrant signed by the chair  
29 of the board and countersigned by the superintendent. Such  
30 replenishment may be made by electronic, telephonic, or other  
31 medium, and each transfer shall be confirmed in writing and

1 signed by the superintendent or his or her designee. The  
2 provisions of strict accountability of all funds and an annual  
3 audit by an independent certified public accountant as  
4 provided in s. 230.23(10)(k) shall apply to this subsection.

5 Section 285. Paragraph (b) of subsection (1) and  
6 paragraph (b) or subsection (2) of section 238.11, Florida  
7 Statutes, are amended to read:

8 238.11 Collection of contributions.--

9 (1) The collection of contributions shall be as  
10 follows:

11 (b) Each employer shall transmit monthly to the  
12 Department of Management Services a warrant for the total  
13 amount of such deductions. Each employer shall also transmit  
14 monthly to the department a warrant for such employer  
15 contribution set aside as provided for in paragraph (a) of  
16 this subsection. The department, after making records of all  
17 such warrants, shall transmit them to the Department of  
18 Financial Services ~~Banking and Finance~~ for delivery to the  
19 Chief Financial Officer ~~Treasurer of the state~~ who shall  
20 collect them.

21 (2) The collection of the state contribution shall be  
22 made as follows:

23 (b) The Department of Management Services shall  
24 certify one-fourth of the amount so ascertained for each year  
25 to the Chief Financial Officer ~~Comptroller~~ on or before the  
26 last day of July, October, January, and April of each year.  
27 The Chief Financial Officer ~~Comptroller~~ shall, on or before  
28 the first day of August, November, February, and May of each  
29 year, ~~draw his or her warrant or warrants on the Treasurer for~~  
30 ~~the respective amounts due the several funds of the retirement~~  
31 ~~system. On the receipt of the warrant or warrants of the~~

1 ~~Comptroller, the Treasurer shall~~ immediately transfer to the  
2 several funds of the retirement system the amounts due.

3 Section 286. Section 238.15, Florida Statutes, is  
4 amended to read:

5 238.15 Exemption of funds from taxation, execution,  
6 and assignment.--The pensions, annuities or any other benefits  
7 accrued or accruing to any person under the provisions of this  
8 chapter and the accumulated contributions and cash securities  
9 in the funds created under this chapter are exempted from any  
10 state, county or municipal tax of the state, and shall not be  
11 subject to execution or attachment or to any legal process  
12 whatsoever, and shall be unassignable, except:

13 (1) That any teacher who has retired shall have the  
14 right and power to authorize in writing the Department of  
15 Management Services to deduct from his or her monthly  
16 retirement allowance money for the payment of the premiums on  
17 group insurance for hospital, medical and surgical benefits,  
18 under a plan or plans for such benefits approved in writing by  
19 the Chief Financial Officer ~~Insurance Commissioner and~~  
20 ~~Treasurer of the state~~, and upon receipt of such request the  
21 department shall make the monthly payments as directed; and

22 (2) As may be otherwise specifically provided for in  
23 this chapter.

24 Section 287. Section 238.172, Florida Statutes, is  
25 amended to read:

26 238.172 Proof required.--For any person to obtain the  
27 allowance as set forth in s. 238.171 the ~~said~~ person shall  
28 make such proof of the facts and conditions entitling him or  
29 her to the ~~said~~ allowance as shall reasonably be required by  
30 the state board, and when such proof has been submitted to the  
31 satisfaction of the state board, the Chief Financial Officer

1 ~~State Treasurer~~ shall pay to such person the monthly allowance  
2 herein provided for ~~on warrants drawn by the Comptroller.~~

3 Section 288. Section 238.173, Florida Statutes, is  
4 amended to read:

5 238.173 Monthly allowance to widows or widowers of  
6 pensioners.--When any teacher, drawing pension under s.  
7 238.171, shall die leaving surviving a widow or widower to  
8 whom such pensioner has been married for a continuous period  
9 of at least 10 years immediately prior to his or her death,  
10 and from whom no dissolution of marriage is obtained, such  
11 widow or widower, upon proof of marriage to and continuation  
12 of marriage for the minimum period with, and death of, said  
13 pensioner, shall be granted a pension payable from the date of  
14 the death of said pensioner, and at the same time and rate as  
15 other pensions paid under s. 238.171. The Chief Financial  
16 Officer ~~Comptroller~~ is hereby authorized and directed to draw  
17 his or her warrants in payment of such pensions so long as  
18 such widow or widower shall remain unmarried and continue to  
19 be a resident of the state; provided, however, that nothing  
20 herein contained shall be so construed as to allow such  
21 pension to be paid to any widow or widower where such widow or  
22 widower of a deceased pensioner under this section receives a  
23 like pension in his or her own right as a retired school  
24 teacher.

25 Section 289. Paragraph (b) of subsection (5) and  
26 paragraph (f) of subsection (6) of section 240.551, Florida  
27 Statutes, are amended to read:

28 240.551 Florida Prepaid College Program.--

29 (5) PROGRAM ADMINISTRATION.--

30 (b) The board shall consist of six ~~seven~~ members to be  
31 composed of the Chief Financial Officer ~~Insurance Commissioner~~

1 ~~and Treasurer, the Comptroller,~~the Chancellor of the Board of  
2 Regents, the Executive Director of the State Board of  
3 Community Colleges, and three members appointed by the  
4 Governor and subject to confirmation by the Senate. Each  
5 member appointed by the Governor shall possess knowledge,  
6 skill, and experience in the areas of accounting, actuary,  
7 risk management, or investment management. Each member of the  
8 board not appointed by the Governor may name a designee to  
9 serve the board on behalf of the member; however, any designee  
10 so named shall meet the qualifications required of  
11 gubernatorial appointees to the board. Members appointed by  
12 the Governor shall serve terms of 3 years. Any person  
13 appointed to fill a vacancy on the board shall be appointed in  
14 a like manner and shall serve for only the unexpired term.  
15 Any member shall be eligible for reappointment and shall serve  
16 until a successor qualifies. Members of the board shall serve  
17 without compensation but shall be reimbursed for per diem and  
18 travel in accordance with s. 112.061. Each member of the  
19 board shall file a full and public disclosure of his or her  
20 financial interests pursuant to s. 8, Art. II of the State  
21 Constitution and corresponding statute.

22 (6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.--The board  
23 shall:

24 (f) Solicit proposals and contract, pursuant to s.  
25 287.057, for product providers to develop investment  
26 portfolios on behalf of the board to achieve the purposes of  
27 this section. Product providers shall be limited to authorized  
28 insurers as defined in s. 624.09, banks as defined in s.  
29 658.12, associations as defined in s. 665.012, authorized  
30 Securities and Exchange Commission investment advisers, and  
31 investment companies as defined in the Investment Company Act

1 of 1940. All product providers shall have their principal  
2 place of business and corporate charter located and registered  
3 in the United States. In addition, each product provider shall  
4 agree to meet the obligations of the board to qualified  
5 beneficiaries if moneys in the fund fail to offset the  
6 obligations of the board as a result of imprudent investing by  
7 such provider. Each authorized insurer shall evidence superior  
8 performance overall on an acceptable level of surety in  
9 meeting its obligations to its policyholders and other  
10 contractual obligations. Only qualified public depositories  
11 approved by the Chief Financial Officer ~~Insurance Commissioner~~  
12 ~~and Treasurer~~ shall be eligible for board consideration. Each  
13 investment company shall provide investment plans as specified  
14 within the request for proposals. The goals of the board in  
15 selecting a product provider company shall be to provide all  
16 purchasers with the most secure, well-diversified, and  
17 beneficially administered postsecondary education expense plan  
18 possible, to allow all qualified firms interested in providing  
19 such services equal consideration, and to provide such  
20 services to the state at no cost and to the purchasers at the  
21 lowest cost possible. Evaluations of proposals submitted  
22 pursuant to this paragraph shall include, but not be limited  
23 to, the following criteria:

24 1. Fees and other costs charged to purchasers that  
25 affect account values or operational costs related to the  
26 program.

27 2. Past and current investment performance, including  
28 investment and interest rate history, guaranteed minimum rates  
29 of interest, consistency of investment performance, and any  
30 terms and conditions under which moneys are held.

31

1           3. Past experience and ability to provide timely and  
2 accurate service in the areas of records administration,  
3 benefit payments, investment management, and complaint  
4 resolution.

5           4. Financial history and current financial strength  
6 and capital adequacy to provide products, including operating  
7 procedures and other methods of protecting program assets.

8           Section 290. Subsection (2) of section 242.331,  
9 Florida Statutes, is amended to read:

10           242.331 Florida School for the Deaf and the Blind;  
11 board of trustees.--

12           (2) The board of trustees shall elect a chair  
13 annually. The trustees shall be reimbursed for travel expenses  
14 as provided in s. 112.061, the accounts of which shall be paid  
15 by the Chief Financial Officer ~~Treasurer~~ upon itemized  
16 vouchers duly approved by the chair.

17           Section 291. Subsection (2) of section 242.341,  
18 Florida Statutes, is amended to read:

19           242.341 Florida School for the Deaf and the Blind;  
20 board of trustees; management flexibility.--

21           (2) Notwithstanding the provisions of s. 216.181 and  
22 pursuant to the provisions of s. 216.351, but subject to any  
23 requirements imposed in the General Appropriations Act, no  
24 lump-sum plan is required to implement the special categories,  
25 program categories, or lump-sum appropriations. Upon release  
26 of the special categories, program categories, or lump-sum  
27 appropriations to the board of trustees, the Chief Financial  
28 Officer ~~Comptroller~~, upon the request of the board of  
29 trustees, shall transfer or reallocate funds to or among  
30 accounts established for disbursement purposes. The board of  
31

1 trustees shall maintain records to account for the original  
2 appropriation.

3 Section 292. Subsection (2) of section 245.13, Florida  
4 Statutes, is amended to read:

5 245.13 Fees; authority to accept additional funds;  
6 annual audit.--

7 (2) The anatomical board is hereby empowered to  
8 receive money from public or private sources in addition to  
9 the fees collected from the institution or association to  
10 which the bodies are distributed to be used to defray the  
11 costs of embalming, handling, shipping, storage, cremation,  
12 and other costs relating to the obtaining and use of such  
13 bodies as described in this chapter; the anatomical board is  
14 empowered to pay the reasonable expenses incurred by any  
15 person delivering the bodies as described in this chapter to  
16 the anatomical board and is further empowered to enter into  
17 contracts and perform such other acts as are necessary to the  
18 proper performance of its duties; a complete record of all  
19 fees and other financial transactions of said anatomical board  
20 shall be kept and audited annually by the Department of  
21 Financial Services ~~Banking and Finance~~, and a report of such  
22 audit shall be made annually to the University of Florida.

23 Section 293. Subsection (3) of section 250.22, Florida  
24 Statutes, is amended to read:

25 250.22 Retirement.--

26 (3) Sufficient money to meet the requirements of this  
27 section is hereby appropriated out of any moneys in the State  
28 Treasury not otherwise appropriated, and payments under this  
29 section will be made to those eligible to receive the same on  
30 the first day of each calendar month from the General Revenue  
31 Fund by the Chief Financial Officer ~~Comptroller~~ upon



1 prescribed pay vouchers certified to by the Adjutant General  
2 of the state.

3 Section 294. Subsections (3), (4), and (5) of section  
4 250.24, Florida Statutes, are amended to read:

5 250.24 Pay and expenses; appropriation; procedures.--

6 (3) Notwithstanding the provision of s. 216.271,  
7 moneys for pay and allowances of the troops ordered out in  
8 active service of the state shall be deposited in a separate  
9 revolving fund, which shall be approved by the Chief Financial  
10 Officer ~~Comptroller~~ and shall be subject to the provisions of  
11 s. 18.101(2). The Department of Military Affairs shall  
12 administer the fund. Frequency of payments to such troops  
13 shall be at the discretion of the Adjutant General. The  
14 Department of Military Affairs shall present to the Chief  
15 Financial Officer ~~Comptroller~~ audit documentation of such  
16 payments. The Department of Military Affairs shall maintain  
17 all employee records relating to payments made pursuant to  
18 this subsection and shall furnish to the Chief Financial  
19 Officer ~~Comptroller~~ the information necessary to update the  
20 payroll master record of each employee.

21 (4) The fund balance remaining in this separate  
22 revolving fund after a final accounting of all expenditures  
23 for pay and allowances of the troops shall be returned for  
24 deposit to the State Treasury within 45 days after the  
25 termination of active duty of the troops, except that an  
26 operating balance in an amount mutually agreed upon by the  
27 Chief Financial Officer ~~Comptroller~~ and the Department of  
28 Military Affairs shall be retained in the fund.

29 (5) Vouchers for expenditures other than such pay and  
30 allowances shall be presented to the Chief Financial Officer  
31 ~~Comptroller~~ for approval and payment as prescribed by law.

1           Section 295. Section 250.25, Florida Statutes, is  
2 amended to read:

3           250.25 Governor and Chief Financial Officer  
4 ~~Comptroller~~ authorized to borrow money.--When there is no  
5 state appropriation available for the pay and expenses of  
6 troops called out in active service to preserve the peace or  
7 in aid of civil authorities, and funds are not immediately  
8 available for this purpose, the Governor and Chief Financial  
9 Officer ~~Comptroller~~ may borrow money to make such payments, in  
10 such sum or sums as may from time to time be required, and any  
11 such loans, so obtained, shall be promptly repaid out of the  
12 first funds that become available for such use.

13           Section 296. Section 250.26, Florida Statutes, is  
14 amended to read:

15           250.26 Transfer of funds.--Where the available funds  
16 are not sufficient for the purposes specified in ss. 250.23,  
17 250.24, and 250.34, the Governor and Chief Financial Officer  
18 ~~Comptroller~~ may transfer from any available fund in the State  
19 Treasury, such sum as may be necessary to meet such emergency,  
20 and the said moneys, so transferred, shall be repaid to the  
21 fund from which transferred when moneys become available for  
22 that purpose by legislative appropriation or otherwise.

23           Section 297. Subsection (3) of section 250.34, Florida  
24 Statutes, is amended to read:

25           250.34 Injury or death in active service.--

26           (3) After the expiration of 1 year from the date of  
27 injury or disability, such individual shall be provided  
28 hospitalization, medical services and supplies, and  
29 compensation for wages and compensation for disability based  
30 on the average weekly wages of such injured individual on pay  
31 status in the active service of the state or in his or her

1 civilian occupation or employment, whichever is greater, in  
2 amounts provided under chapter 440 [F. S. 1973], as if such  
3 individual were covered under the Workers' Compensation Law,  
4 except that payments made during the first year after such  
5 injury shall not be duplicated after the expiration of that  
6 year. The Division of Risk Management of the Department of  
7 Financial Services ~~Insurance~~ is responsible for processing all  
8 claims for benefits under this subsection.

9 Section 298. Section 252.62, Florida Statutes, is  
10 amended to read:

11 252.62 Chief Financial Officer's ~~Comptroller's~~ powers  
12 in a state of emergency.--

13 (1) It is the purpose and intent of this section to  
14 provide the Chief Financial Officer ~~Comptroller~~, as head of  
15 the Department of Financial Services ~~Banking and Finance~~, the  
16 authority to make temporary modifications to or suspensions of  
17 the financial institutions codes in order to expedite the  
18 recovery of communities affected by a disaster or other  
19 emergency and in order to encourage financial institutions to  
20 meet the credit, deposit, and other financial needs of such  
21 communities.

22 (2)(a) When the Governor declares a state of emergency  
23 pursuant to s. 252.36, the Chief Financial Officer ~~Comptroller~~  
24 may issue:

25 1. One or more general orders applicable to all  
26 financial institutions that are subject to the financial  
27 institutions codes and that serve any portion of the area of  
28 the state under the state of emergency; or

29 2. One or more specific orders to particular financial  
30 institutions that are subject to the financial institution  
31 codes and that normally derive more than 60 percent of their

1 deposits from persons in the area of the state under the state  
2 of emergency,

3  
4 which orders may modify or suspend, as to those institutions,  
5 all or any part of the financial institutions codes, as  
6 defined in s. 655.005, or any applicable rule, consistent with  
7 the stated purposes of the financial institutions codes and  
8 with maintaining the safety and soundness of the financial  
9 institutions system in this state.

10 (b) An order issued by the Chief Financial Officer  
11 ~~Comptroller~~ under this section becomes effective upon issuance  
12 and continues for 120 days unless it is terminated by the  
13 Chief Financial Officer ~~Comptroller~~. The Chief Financial  
14 Officer ~~Comptroller~~ may extend an order for one additional  
15 period of 120 days if he or she ~~the Comptroller~~ determines  
16 that the emergency conditions that gave rise to the  
17 ~~Comptroller's~~ initial order still exist. The Legislature, by  
18 concurrent resolution, may terminate any order issued under  
19 this section.

20 (3) The Chief Financial Officer ~~Comptroller~~ shall  
21 publish, in the next available publication of the Florida  
22 Administrative Weekly, a copy of the text of any order issued  
23 under this section, together with a statement describing the  
24 modification or suspension and explaining how the modification  
25 or suspension will facilitate recovery from the emergency and  
26 maintain the safety and soundness of financial institutions in  
27 this state.

28 Section 299. Subsection (7) of section 252.87, Florida  
29 Statutes, is amended to read:

30 252.87 Supplemental state reporting requirements.--

31

1           (7) The department shall avoid duplicative reporting  
2 requirements by utilizing the reporting requirements of other  
3 state agencies that regulate hazardous materials to the extent  
4 feasible and shall request the information authorized under  
5 EPCRA. With the advice and consent of the State Emergency  
6 Response Commission for Hazardous Materials, the department  
7 may require by rule that the maximum daily amount entry on the  
8 chemical inventory report required under s. 312 of EPCRA  
9 provide for reporting in estimated actual amounts. The  
10 department may also require by rule an entry for the Federal  
11 Employer Identification Number on this report. To the extent  
12 feasible, the department shall encourage and accept required  
13 information in a form initiated through electronic data  
14 interchange and shall describe by rule the format, manner of  
15 execution, and method of electronic transmission necessary for  
16 using such form. To the extent feasible, the Department of  
17 Financial Services ~~Insurance~~, the Department of Agriculture  
18 and Consumer Services, the Department of Environmental  
19 Protection, the Public Service Commission, the Department of  
20 Revenue, the Department of Labor and Employment Security, and  
21 other state agencies which regulate hazardous materials shall  
22 coordinate with the department in order to avoid duplicative  
23 requirements contained in each agency's respective reporting  
24 or registration forms. The other state agencies that inspect  
25 facilities storing hazardous materials and suppliers and  
26 distributors of covered substances shall assist the department  
27 in informing the facility owner or operator of the  
28 requirements of this part. The department shall provide the  
29 other state agencies with the necessary information and  
30 materials to inform the owners and operators of the  
31

1 requirements of this part to ensure that the budgets of these  
2 agencies are not adversely affected.

3 Section 300. Subsection (1) of section 253.02, Florida  
4 Statutes, is amended to read:

5 253.02 Board of trustees; powers and duties.--

6 (1) For the purpose of assuring the proper application  
7 of the Internal Improvement Trust Fund and the Land  
8 Acquisition Trust Fund for the purposes of this chapter, the  
9 land provided for in ss. 253.01 and 253.03, and all the funds  
10 arising from the sale thereof, after paying the necessary  
11 expense of selection, management, and sale, are irrevocably  
12 vested in a board of four ~~seven~~ trustees, to wit: The  
13 Governor, ~~the Secretary of State,~~ the Attorney General, the  
14 Chief Financial Officer ~~Comptroller, the State Treasurer, the~~  
15 ~~Commissioner of Education,~~ and the Commissioner of Agriculture  
16 and their successors in office, to hold the same in trust for  
17 the uses and purposes provided in this chapter, with the power  
18 to sell and transfer said lands to the purchasers and receive  
19 payment for the same, and invest the surplus moneys arising  
20 therefrom, from time to time, in stocks of the United States,  
21 stocks of the several states, or the internal improvement  
22 bonds issued under the provisions of law; also, the surplus  
23 interest accruing from such investments. Said board of  
24 trustees have all the rights, powers, property, claims,  
25 remedies, actions, suits, and things whatsoever belonging to  
26 them, or appertaining before and at the time of the enactment  
27 hereof, and they shall remain subject to and pay, fulfill,  
28 perform, and discharge all debts, duties, and obligations of  
29 their trust, existing at the time of the enactment hereof or  
30 provided in this chapter.

31

1           Section 301. Subsection (14) of section 253.025,  
2 Florida Statutes, is amended to read:

3           253.025 Acquisition of state lands for purposes other  
4 than preservation, conservation, and recreation.--

5           (14) Any agency that acquires land on behalf of the  
6 board of trustees is authorized to request disbursement of  
7 payments for real estate closings in accordance with a written  
8 authorization from an ultimate beneficiary to allow a third  
9 party authorized by law to receive such payment provided the  
10 Chief Financial Officer ~~Comptroller~~ determines that such  
11 disbursement is consistent with good business practices and  
12 can be completed in a manner minimizing costs and risks to the  
13 state.

14           Section 302. Subsection (1) of section 255.03, Florida  
15 Statutes, is amended to read:

16           255.03 Proceeds of insurance to be paid into State  
17 Treasury; disbursement of funds.--

18           (1) The proceeds from the insurance of any state  
19 building or state property covered by insurance which may be  
20 destroyed in whole or in part by fire, or other damage, shall  
21 be paid into the State Treasury and constitute a fund for the  
22 rebuilding or replacing of such property, and the Chief  
23 Financial Officer ~~Comptroller~~ may draw his or her warrant ~~on~~  
24 ~~the State Treasurer~~ for such amounts, not to exceed the  
25 proceeds so paid in, as may be approved by the board or  
26 persons having the direct supervision and control of such  
27 buildings or property for the purpose of rebuilding or  
28 replacing the same.

29           Section 303. Subsections (1) and (2) of section  
30 255.052, Florida Statutes, are amended to read:

31

1           255.052 Substitution of securities for amounts  
2 retained on public contracts.--

3           (1) Under any contract made or awarded by the state or  
4 any county, city, or political subdivision thereof, or other  
5 public authority, the contractor may, from time to time,  
6 withdraw the whole or any portion of the amount retained for  
7 payments to the contractor pursuant to the terms of the  
8 contract, upon depositing with the Chief Financial Officer  
9 ~~State Treasurer~~:

10           (a) United States Treasury bonds, United States  
11 Treasury notes, United States Treasury certificates of  
12 indebtedness, or United States Treasury bills;

13           (b) Bonds or notes of the State of Florida; or

14           (c) Bonds of any political subdivision in the state;

15 or

16           (d) Cash delivered to the State Treasury for the  
17 Treasury Cash Deposit Trust Fund; or

18           (e) Certificates of deposit from state or national  
19 banks or state or federal savings and loan associations in the  
20 state. Certificates of deposit shall possess the eligibility  
21 characteristics defined in s. 625.52.

22  
23 No amount shall be withdrawn in excess of the market value of  
24 the securities listed in paragraphs (a), (b), and (c) at the  
25 time of withdrawal or of the par value of such securities,  
26 whichever is lower.

27           (2) The Chief Financial Officer ~~Treasurer~~ shall  
28 regularly, ~~on a regular basis~~, collect all interest or income  
29 on the obligations so deposited, and shall pay the same, when  
30 and as collected, to the contractor who deposited the  
31 obligations. If the deposit is in the form of coupon bonds,



1 the Chief Financial Officer ~~Treasurer~~ shall deliver each  
2 coupon as it matures to the contractor.

3  
4 Nothing in this section shall be construed to require the  
5 state or any county, city, or political subdivision thereof,  
6 or other public authority, to allow the contractor to withdraw  
7 the whole or any portion of the amount retained for payments  
8 to the contractor except pursuant to the terms of the  
9 contract.

10 Section 304. Subsection (2) of section 255.258,  
11 Florida Statutes, is amended to read:

12 255.258 Shared savings financing of energy  
13 conservation in state-owned buildings.--

14 (2) Except as noted in subsection (4), state agency  
15 shared savings contracts shall be developed in accordance with  
16 a model contract to be developed by the department in  
17 cooperation with the Attorney General, the Chief Financial  
18 Officer ~~Comptroller~~, and the Department of Community Affairs.  
19 The model contract shall include the methodology for  
20 calculating base line energy costs, a procedure for revising  
21 these costs should the state institute additional energy  
22 conservation features or building use change, a requirement  
23 for a performance bond guaranteeing that the facility will be  
24 restored to the original condition in the event of default, a  
25 provision for early buy-out, a clause specifying who will be  
26 responsible for maintaining the equipment, and a provision  
27 allowing the disposal of equipment at the end of the contract.  
28 No agency shall substantially alter the provisions described  
29 in the model without the permission of the department.

30 Section 305. Subsection (8) of section 255.503,  
31 Florida Statutes, is amended to read:

1           255.503 Powers of the Department of Management  
2 Services.--The Department of Management Services shall have  
3 all the authority necessary to carry out and effectuate the  
4 purposes and provisions of this act, including, but not  
5 limited to, the authority to:

6           (8) Create and establish funds and accounts for the  
7 purpose of debt service reserves, for the matching of the  
8 timing and the amount of available funds and debt service  
9 charges, for sinking funds, for capital depreciation reserves,  
10 for operating reserves, for capitalized interest and moneys  
11 not required for immediate disbursement to acquire all or a  
12 portion of any facility, and for any other reserves, funds, or  
13 accounts reasonably necessary to carry out the provisions of  
14 this act and to invest in authorized investments any moneys  
15 held in such funds and accounts, provided such investments  
16 will be made on behalf of the Department of Management  
17 Services by the State Board of Administration or the Chief  
18 Financial Officer ~~Treasurer~~, as appropriate.

19           Section 306. Section 255.521, Florida Statutes, is  
20 amended to read:

21           255.521 Failure of payment.--Should an agency fail to  
22 make a timely payment of the pool pledged rentals or charges  
23 as required by this act, the Chief Financial Officer  
24 ~~Comptroller~~ shall withhold general revenues of the agency in  
25 an amount sufficient to pay the rentals and charges due and  
26 unpaid from such agency. The Chief Financial Officer  
27 ~~Comptroller~~ shall forward such ~~said~~ general revenue amounts to  
28 the Department of Management Services in payment of such  
29 rents.

30           Section 307. Section 257.22, Florida Statutes, is  
31 amended to read:

1           257.22 Division of Library and Information Services;  
2 allocation of funds.--Any moneys that may be appropriated for  
3 use by a county, a municipality, a special district, or a  
4 special tax district for the maintenance of a library or  
5 library service shall be administered and allocated by the  
6 Division of Library and Information Services in the manner  
7 prescribed by law. On or before December 1 of each year, the  
8 division shall certify to the Chief Financial Officer  
9 ~~Comptroller~~ the amount to be paid to each county,  
10 municipality, special district, or special tax district, and  
11 the Chief Financial Officer ~~Comptroller~~ shall issue warrants  
12 to the respective boards of county commissioners or chief  
13 municipal executive authorities for the amount so allocated.

14           Section 308. Subsection (2) of section 258.014,  
15 Florida Statutes, is amended to read:

16           258.014 Fees for use of state parks.--

17           (2) Any moneys received in trust by the division by  
18 gift, devise, appropriation, or otherwise shall, subject to  
19 the terms of such trust, be deposited with the Chief Financial  
20 Officer ~~State Treasurer~~ in a fund to be known as the "State  
21 Park Trust Fund," and shall be subject to withdrawal upon  
22 application of such ~~said~~ division for expenditure or  
23 investment in accordance with the terms of the ~~said~~ trust.  
24 Unless prohibited by the terms of the trust by which the ~~said~~  
25 moneys are derived, all of such moneys may be invested as  
26 provided by law.

27           Section 309. Subsection (6) and paragraph (e) of  
28 subsection (12) of section 259.032, Florida Statutes, are  
29 amended to read:

30           259.032 Conservation and Recreation Lands Trust Fund;  
31 purpose.--

1           (6) Moneys in the fund not needed to meet obligations  
2 incurred under this section shall be deposited with the Chief  
3 Financial Officer ~~Treasurer~~ to the credit of the fund and may  
4 be invested in the manner provided by law. Interest received  
5 on such investments shall be credited to the Conservation and  
6 Recreation Lands Trust Fund.

7           (12)

8           (e) Payment in lieu of taxes pursuant to this  
9 subsection shall be made annually to qualifying counties and  
10 local governments after certification by the Department of  
11 Revenue that the amounts applied for are reasonably  
12 appropriate, based on the amount of actual taxes paid on the  
13 eligible property, and after the Department of Environmental  
14 Protection has provided supporting documents to the Chief  
15 Financial Officer ~~Comptroller~~ and has requested that payment  
16 be made in accordance with the requirements of this section.

17  
18 For the purposes of this subsection, "local government"  
19 includes municipalities, the county school board, mosquito  
20 control districts, and any other local government entity which  
21 levies ad valorem taxes, with the exception of a water  
22 management district.

23           Section 310. Subsection (18) of section 259.041,  
24 Florida Statutes, is amended to read:

25           259.041 Acquisition of state-owned lands for  
26 preservation, conservation, and recreation purposes.--

27           (18) Any agency authorized to acquire lands on behalf  
28 of the board of trustees is authorized to request disbursement  
29 of payments for real estate closings in accordance with a  
30 written authorization from an ultimate beneficiary to allow a  
31 third party authorized by law to receive such payment provided

1 the Chief Financial Officer ~~Comptroller~~ determines that such  
2 disbursement is consistent with good business practices and  
3 can be completed in a manner minimizing costs and risks to the  
4 state.

5 Section 311. Subsection (2) of section 265.53, Florida  
6 Statutes, is amended to read:

7 265.53 Application for indemnity agreement.--

8 (2) The Department of Financial Services ~~Insurance~~  
9 shall determine whether applicants qualify for indemnity  
10 coverage under ss. 265.51-265.56. Qualification criteria,  
11 which shall be set by rule, shall include factors such as:

12 (a) Physical security of an applicant's exhibition  
13 facilities and of the means of transportation of the eligible  
14 items from the borrower to the lender.

15 (b) Experience and qualifications of an applicant's  
16 director, curator, registrar, or other staff.

17 (c) Eligibility of an applicant's exhibition  
18 facilities for commercial insurance coverage of works of art  
19 displayed there.

20 (d) Availability of proper equipment to protect works  
21 of art from damage from extremes of temperature or humidity or  
22 exposure to glare, dust, or corrosion.

23  
24 The department may consult with such private insurance and art  
25 experts as reasonably necessary to carry out the intent of  
26 this subsection.

27 Section 312. Subsections (1) and (3) of section  
28 265.55, Florida Statutes, are amended to read:

29 265.55 Claims.--

30 (1) The Division of Risk Management of the Department  
31 of Financial Services ~~Insurance~~ may prescribe rules providing

1 for prompt adjustment of valid claims for losses which are  
2 covered by an indemnity agreement made pursuant to the  
3 provisions of ss. 265.51-265.56, including rules providing for  
4 the employment of consultants and for the arbitration of  
5 issues relating to the dollar value of damages involving less  
6 than total loss or destruction of such covered objects.

7 (3) The authorization for payment delineated in  
8 subsection (2) shall be forwarded to the Chief Financial  
9 Officer ~~Comptroller~~. The Chief Financial Officer ~~Comptroller~~  
10 shall take appropriate action to execute authorized payment of  
11 the claim from the Working Capital Fund, as defined in s.  
12 215.32.

13 Section 313. Paragraph (d) of subsection (3) of  
14 section 267.075, Florida Statutes, is amended to read:

15 267.075 The Grove Advisory Council; creation;  
16 membership; purposes.--

17 (3)

18 (d) Members of the council shall serve without  
19 compensation or honorarium but shall be entitled to receive  
20 reimbursement for per diem and travel expenses as provided in  
21 s. 112.061. All expenses of the council shall be paid from  
22 appropriations to be made by the Legislature to the Department  
23 of State. All vouchers shall be approved by the Division of  
24 Historical Resources before being submitted to the Chief  
25 Financial Officer ~~Comptroller~~ for payment.

26 Section 314. Paragraph (c) of subsection (2) of  
27 section 272.18, Florida Statutes, is amended to read:

28 272.18 Governor's Mansion Commission.--

29 (2)

30 (c) Members of the commission 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 commission shall be paid from  
3 appropriations to be made by the Legislature to the Department  
4 of Management Services for that purpose. The commission shall  
5 submit its budgetary requests to the Department of Management  
6 Services for approval and inclusion in the legislative budget  
7 request of the department. All vouchers shall be approved by  
8 the secretary of the Department of Management Services before  
9 being submitted to the Chief Financial Officer ~~Comptroller~~ for  
10 payment.

11 Section 315. Subsections (9), (11), (17), (18), (19),  
12 and (24), paragraph (f) of subsection (26), and subsections  
13 (29), (30), and (31) of section 280.02, Florida Statutes, are  
14 amended to read:

15 280.02 Definitions.--As used in this chapter, the  
16 term:

17 (9) "Custodian" means the Chief Financial Officer  
18 ~~Treasurer~~ or any bank, savings association, or trust company  
19 that:

20 (a) Is organized and existing under the laws of this  
21 state, any other state, or the United States;

22 (b) Has executed all forms required under this chapter  
23 or any rule adopted hereunder;

24 (c) Agrees to be subject to the jurisdiction of the  
25 courts of this state, or of courts of the United States which  
26 are located within this state, for the purpose of any  
27 litigation arising out of this chapter; and

28 (d) Has been approved by the Chief Financial Officer  
29 ~~Treasurer~~ to act as a custodian.

30 (11) "Effective date of notice of withdrawal or order  
31 of discontinuance" pursuant to s. 280.11(3) means that date

1 which is set out as such in any notice of withdrawal or order  
2 of discontinuance from the Chief Financial Officer ~~Treasurer~~.

3 (17) "Operating subsidiary" means the qualified public  
4 depository's 100-percent owned corporation that has ownership  
5 of pledged collateral. The operating subsidiary may have no  
6 powers beyond those that its parent qualified public  
7 depository may itself exercise. The use of an operating  
8 subsidiary is at the discretion of the qualified public  
9 depository and must meet the Chief Financial Officer's  
10 ~~Treasurer's~~ requirements.

11 (18) "Oversight board" means the qualified public  
12 depository oversight board created in s. 280.071 for the  
13 purpose of safeguarding the integrity of the public deposits  
14 program and preventing the realization of loss assessments  
15 through standards, policies, and recommendations for actions  
16 to the Chief Financial Officer ~~Treasurer~~.

17 (19) "Pledged collateral" means securities or cash  
18 held separately and distinctly by an eligible custodian for  
19 the benefit of the Chief Financial Officer ~~Treasurer~~ to be  
20 used as security for Florida public deposits. This includes  
21 maturity and call proceeds.

22 (24) "Public depositor" means the official custodian  
23 of funds for a governmental unit who is ~~Treasurer or other~~  
24 ~~Chief Financial Officer or designee~~ responsible for handling  
25 public deposits.

26 (26) "Qualified public depository" means any bank,  
27 savings bank, or savings association that:

28 (f) Has been designated by the Chief Financial Officer  
29 ~~Treasurer~~ as a qualified public depository.

30 ~~(29) "Treasurer" means the Treasurer of the State of~~  
31 ~~Florida.~~



1           ~~(29)(30)~~ "Chief Financial Officer's~~Treasurer's~~  
2 custody" is a collateral arrangement governed by a contract  
3 between a designated Chief Financial Officer's ~~Treasurer's~~  
4 custodian and the Chief Financial Officer ~~Treasurer~~. This  
5 arrangement requires collateral to be in the Chief Financial  
6 Officer's ~~Treasurer's~~ name in order to perfect the security  
7 interest.

8           ~~(30)(31)~~ "Triggering events" are events set out in s.  
9 280.041 which give the Chief Financial Officer ~~Treasurer~~ the  
10 right to:

11           (a) Instruct the custodian to transfer securities  
12 pledged, interest payments, and other proceeds of pledged  
13 collateral not previously credited to the pledgor.

14           (b) Demand payment under letters of credit.

15           Section 316. Subsections (1), (2), (5), (6), (7), and  
16 (9) of section 280.04, Florida Statutes, are amended to read:

17           280.04 Collateral for public deposits; general  
18 provisions.--

19           (1) The Chief Financial Officer ~~Treasurer~~ shall  
20 determine the collateral requirements and collateral pledging  
21 level for each qualified public depository following  
22 procedures established by rule. These procedures shall include  
23 numerical parameters for 25-percent, 50-percent, 125-percent,  
24 and 200-percent pledge levels based on nationally recognized  
25 financial rating services information and established  
26 financial performance guidelines.

27           (2) A qualified public depository may not accept or  
28 retain any public deposit which is required to be secured  
29 unless it has deposited with the Chief Financial Officer  
30 ~~Treasurer~~ eligible collateral at least equal to the greater  
31 of:

1 (a) The average daily balance of public deposits that  
2 does not exceed the lesser of its capital account or 20  
3 percent of the pool figure multiplied by the depository's  
4 collateral-pledging level, plus the greater of:

5 1. One hundred twenty-five percent of the average  
6 daily balance of public deposits in excess of capital  
7 accounts; or

8 2. One hundred twenty-five percent of the average  
9 daily balance of public deposits in excess of 20 percent of  
10 the pool figure.

11 (b) Twenty-five percent of the average monthly balance  
12 of public deposits.

13 (c) One hundred twenty-five percent of the average  
14 daily balance of public deposits if the qualified public  
15 depository:

16 1. Has been established for less than 3 years;

17 2. Has experienced material decreases in its capital  
18 accounts; or

19 3. Has an overall financial condition that is  
20 materially deteriorating.

21 (d) Two hundred percent of an established maximum  
22 amount of public deposits that has been mutually agreed upon  
23 by and between the Chief Financial Officer ~~Treasurer~~ and the  
24 qualified public depository.

25 (e) Minimum required collateral of \$100,000.

26 (f) An amount as required in special instructions from  
27 the Chief Financial Officer ~~Treasurer~~ to protect the integrity  
28 of the public deposits program.

29 (5) Additional collateral of 20 percent of required  
30 collateral is necessary if a valuation date other than the  
31 close of business as described below has been approved for the

1 qualified public depository and the required collateral is  
2 found to be insufficient based on the Chief Financial  
3 Officer's ~~Treasurer's~~ valuation.

4 (6) Each qualified public depository shall value its  
5 collateral in the following manner; it must:

6 (a) Use a nationally recognized source.

7 (b) Use market price, quality ratings, and pay-down  
8 factors as of the close of business on the last banking day in  
9 the reported month, or as of a date approved by the Chief  
10 Financial Officer ~~Treasurer~~.

11 (c) Report any material decline in value that occurs  
12 before the date of mailing the monthly report, required in s.  
13 280.16, to the Chief Financial Officer ~~Treasurer~~.

14 (d) Use 100 percent of the maximum amount available  
15 under Federal Home Loan Bank letters of credit as market  
16 value.

17 (7) A qualified public depository shall pledge,  
18 deposit, or issue additional eligible collateral between  
19 filing periods of the monthly report required in s. 280.16  
20 when notified by the Chief Financial Officer ~~Treasurer~~ that  
21 current market value of collateral does not meet required  
22 collateral. The pledge, deposit, or issuance of such  
23 additional collateral shall be made within 2 business days  
24 after the Chief Financial Officer's ~~Treasurer's~~ notification.

25 (9) The Chief Financial Officer ~~Treasurer~~ shall adopt  
26 rules for the establishment of collateral requirements,  
27 collateral pledging levels, required collateral calculations,  
28 and market value and clarifying terms.

29 Section 317. Section 280.041, Florida Statutes, is  
30 amended to read:

31

1           280.041 Collateral arrangements; agreements,  
2 provisions, and triggering events.--

3           (1) Eligible collateral listed in s. 280.13 may be  
4 pledged, deposited, or issued using the following collateral  
5 arrangements as approved by the Chief Financial Officer  
6 ~~Treasurer~~ for a qualified public depository or operating  
7 subsidiary, if one is used, to meet required collateral:

8           (a) Regular custody arrangement for collateral pledged  
9 to the Chief Financial Officer ~~Treasurer~~ pursuant to  
10 subsection (2).

11           (b) Federal Reserve Bank custody arrangement for  
12 collateral pledged to the Chief Financial Officer ~~Treasurer~~  
13 pursuant to subsection (3).

14           (c) Chief Financial Officer's ~~Treasurer's~~ custody  
15 arrangement for collateral deposited in the Chief Financial  
16 Officer's ~~Treasurer's~~ name pursuant to subsection (4).

17           (d) Federal Home Loan Bank letter of credit  
18 arrangement for collateral issued with the Chief Financial  
19 Officer ~~Treasurer~~ as beneficiary pursuant to subsection (5).

20           (e) Cash arrangement for collateral held by the Chief  
21 Financial Officer ~~Treasurer~~ or a custodian.

22           (2) With the approval of the Chief Financial Officer  
23 ~~Treasurer~~, a qualified public depository or operating  
24 subsidiary, as pledgor, may deposit eligible collateral with a  
25 custodian. A qualified public depository shall not act as its  
26 own custodian. Except in the case of using a Federal Reserve  
27 Bank as custodian, the following are necessary for the Chief  
28 Financial Officer's ~~Treasurer's~~ approval:

29           (a) A completed collateral agreement in a form  
30 prescribed by the Chief Financial Officer ~~Treasurer~~ in which  
31 the pledgor agrees to the following provisions:

1           1. The pledgor shall own the pledged collateral and  
2 acknowledge that the Chief Financial Officer ~~Treasurer~~ has a  
3 perfected security interest. The pledged collateral shall be  
4 eligible collateral and shall be at least equal to the amount  
5 of required collateral.

6           2. The pledgor shall grant to the Chief Financial  
7 Officer ~~Treasurer~~ an interest in pledged collateral for the  
8 purposes of this section. The pledgor shall not enter into or  
9 execute any other agreement related to the pledged collateral  
10 that would create an interest in or lien on that collateral in  
11 any manner in favor of any third party without the written  
12 consent of the Chief Financial Officer ~~Treasurer~~.

13           3. The pledgor shall not grant the custodian any lien  
14 that attaches to the collateral in favor of the custodian that  
15 is superior or equal to the security interest of the Chief  
16 Financial Officer ~~Treasurer~~.

17           4. The pledgor shall agree that the Chief Financial  
18 Officer ~~Treasurer~~ may, without notice to or consent by the  
19 pledgor, require the custodian to comply with and perform any  
20 and all requests and orders directly from the Chief Financial  
21 Officer ~~Treasurer~~. These include, but are not limited to,  
22 liquidating all collateral and submitting the proceeds  
23 directly to the Chief Financial Officer ~~Treasurer~~ in the name  
24 of the Chief Financial Officer ~~Treasurer~~ only or transferring  
25 all collateral into an account designated solely by the Chief  
26 Financial Officer ~~Treasurer~~.

27           5. The pledgor shall acknowledge that the Chief  
28 Financial Officer ~~Treasurer~~ may, without notice to or consent  
29 by the pledgor, require the custodian to hold principal  
30 payments and income for the benefit of the Chief Financial  
31 Officer ~~Treasurer~~.

1           6. The pledgor shall initiate collateral transactions  
2 on forms prescribed by the Chief Financial Officer ~~Treasurer~~  
3 in the following manner:

4           a. A deposit transaction of eligible collateral may be  
5 made without prior approval from the Chief Financial Officer  
6 ~~Treasurer~~ provided: security types that have restrictions have  
7 been approved in advance of the transaction by the Chief  
8 Financial Officer ~~Treasurer~~ and simultaneous notification is  
9 given to the Chief Financial Officer ~~Treasurer~~; and the  
10 custodian has not received notice from the Chief Financial  
11 Officer ~~Treasurer~~ prohibiting deposits without prior approval.

12           b. A substitution transaction of eligible collateral  
13 may be made without prior approval from the Chief Financial  
14 Officer ~~Treasurer~~ provided: security types that have  
15 restrictions have been approved in advance of the transaction  
16 by the Chief Financial Officer ~~Treasurer~~; the market value of  
17 the securities to be substituted is at least equal to the  
18 amount withdrawn; simultaneous notification is given to the  
19 Chief Financial Officer ~~Treasurer~~; and the custodian has not  
20 received notice from the Chief Financial Officer ~~Treasurer~~  
21 prohibiting substitution.

22           c. A transfer of collateral between accounts at a  
23 custodian requires the Chief Financial Officer's ~~Treasurer's~~  
24 prior approval. The collateral shall be released subject to  
25 redeposit in the new account with a pledge to the Chief  
26 Financial Officer ~~Treasurer~~ intact.

27           d. A transfer of collateral from a custodian to  
28 another custodian requires the Chief Financial Officer's  
29 ~~Treasurer's~~ prior approval and a valid collateral agreement  
30 with the new custodian. The collateral shall be released  
31

1 subject to redeposit at the new custodian with a pledge to the  
2 Chief Financial Officer ~~Treasurer~~ intact.

3 e. A withdrawal transaction requires the Chief  
4 Financial Officer's ~~Treasurer's~~ prior approval. The market  
5 value of eligible collateral remaining after the withdrawal  
6 shall be at least equal to the amount of required collateral.  
7 A withdrawal transaction shall be executed for any release of  
8 collateral including maturity or call proceeds.

9 f. Written notice shall be sent to the Chief Financial  
10 Officer ~~Treasurer~~ to remove from the inventory of pledged  
11 collateral a pay-down security that has paid out with zero  
12 principal remaining.

13 7. If pledged collateral includes definitive  
14 (physical) securities in registered form which are in the name  
15 of the pledgor or a nominee, the pledgor shall deliver the  
16 following documents when requested by the Chief Financial  
17 Officer ~~Treasurer~~:

18 a. A separate certified power of attorney in a form  
19 prescribed by the Chief Financial Officer ~~Treasurer~~ for each  
20 issue of securities.

21 b. Separate bond assignment forms as required by the  
22 bond agent or trustee.

23 c. Certified copies of resolutions adopted by the  
24 pledgor's governing body authorizing execution of these  
25 documents.

26 8. The pledgor shall be responsible for all costs  
27 necessary to the functioning of the collateral agreement or  
28 associated with confirmation of pledged collateral to the  
29 Chief Financial Officer ~~Treasurer~~ and acknowledges that these  
30 costs shall not be a charge against the Chief Financial  
31

1 Officer ~~Treasurer~~ or his or her interests in the pledged  
2 collateral.

3           9. The pledgor, if notified by the Chief Financial  
4 Officer ~~Treasurer~~, shall not be allowed to use a custodian if  
5 that custodian fails to complete the collateral agreement,  
6 releases pledged collateral without the Chief Financial  
7 Officer's ~~Treasurer's~~ approval, fails to properly complete  
8 confirmations of pledged collateral, fails to honor a request  
9 for examination of definitive pledged collateral and records  
10 of book-entry securities, or fails to provide requested  
11 documents on definitive securities. The period for disallowing  
12 the use of a custodian shall be 1 year.

13           10. The pledgor shall be subject to the jurisdiction  
14 of the courts of the State of Florida, or of courts of the  
15 United States located within the State of Florida, for the  
16 purpose of any litigation arising out of the act.

17           11. The pledgor is responsible and liable to the Chief  
18 Financial Officer ~~Treasurer~~ for any action of agents the  
19 pledgor uses to execute collateral transactions or submit  
20 reports to the Chief Financial Officer ~~Treasurer~~.

21           12. The pledgor shall agree that any information,  
22 forms, or reports electronically transmitted to the Chief  
23 Financial Officer ~~Treasurer~~ shall have the same enforceability  
24 as a signed writing.

25           13. The pledgor shall submit proof that authorized  
26 individuals executed the collateral agreement on behalf of the  
27 pledgor.

28           14. The pledgor shall agree by resolution of the board  
29 of directors that collateral agreements entered into for  
30 purposes of this section have been formally accepted and  
31 constitute official records of the pledgor.



1           15. The pledgor shall be bound by any other provisions  
2 found necessary for a perfected security interest in  
3 collateral under the Uniform Commercial Code.

4           (b) A completed collateral agreement in a form  
5 prescribed by the Chief Financial Officer ~~Treasurer~~ in which  
6 the custodian agrees to the following provisions:

7           1. The custodian shall have no responsibility to  
8 ascertain whether the pledged securities are at least equal to  
9 the amount of required collateral nor whether the pledged  
10 securities are eligible collateral.

11           2. The custodian shall hold pledged collateral in a  
12 custody account for the Chief Financial Officer ~~Treasurer~~ for  
13 purposes of this section. The custodian shall not enter into  
14 or execute any other agreement related to the collateral that  
15 would create an interest in or lien on that collateral in any  
16 manner in favor of any third party without the written consent  
17 of the Chief Financial Officer ~~Treasurer~~.

18           3. The custodian shall agree that any lien that  
19 attaches to the collateral in favor of the custodian shall not  
20 be superior or equal to the security interest of the Chief  
21 Financial Officer ~~Treasurer~~.

22           4. The custodian shall, without notice to or consent  
23 by the pledgor, comply with and perform any and all requests  
24 and orders directly from the Chief Financial Officer  
25 ~~Treasurer~~. These include, but are not limited to, liquidating  
26 all collateral and submitting the proceeds directly to the  
27 Chief Financial Officer ~~Treasurer~~ in the name of the Chief  
28 Financial Officer ~~Treasurer~~ only or transferring all  
29 collateral into an account designated solely by the Chief  
30 Financial Officer ~~Treasurer~~.

31

1           5. The custodian shall consider principal payments on  
2 pay-down securities and income paid on pledged collateral as  
3 the property of the pledgor and shall pay thereto provided the  
4 custodian has not received written notice from the Chief  
5 Financial Officer ~~Treasurer~~ to hold such principal payments  
6 and income for the benefit of the Chief Financial Officer  
7 ~~Treasurer~~.

8           6. The custodian shall process collateral transactions  
9 on forms prescribed by the Chief Financial Officer ~~Treasurer~~  
10 in the following manner:

11           a. A deposit transaction of eligible collateral may be  
12 made without prior approval from the Chief Financial Officer  
13 ~~Treasurer~~ unless the custodian has received notice from the  
14 Chief Financial Officer ~~Treasurer~~ requiring the Chief  
15 Financial Officer's ~~Treasurer's~~ prior approval.

16           b. A substitution transaction of eligible collateral  
17 may be made without prior approval from the Chief Financial  
18 Officer ~~Treasurer~~ provided the pledgor certifies the market  
19 value of the securities to be substituted is at least equal to  
20 the market value amount of the securities to be withdrawn and  
21 the custodian has not received notice from the Chief Financial  
22 Officer ~~Treasurer~~ prohibiting substitution.

23           c. A transfer of collateral between accounts at a  
24 custodian requires the Chief Financial Officer's ~~Treasurer's~~  
25 prior approval. The collateral shall be released subject to  
26 redeposit in the new account with a pledge to the Chief  
27 Financial Officer ~~Treasurer~~ intact. Confirmation from the  
28 custodian to the Chief Financial Officer ~~Treasurer~~ must be  
29 received within 5 business days of the redeposit.

30           d. A transfer of collateral from a custodian to  
31 another custodian requires the Chief Financial Officer's

1 ~~Treasurer's~~ prior approval. The collateral shall be released  
2 subject to redeposit at the new custodian with a pledge to the  
3 Chief Financial Officer ~~Treasurer~~ intact. Confirmation from  
4 the new custodian to the Chief Financial Officer ~~Treasurer~~  
5 must be received within 5 business days of the redeposit.

6 e. A withdrawal transaction requires the Chief  
7 Financial Officer's ~~Treasurer's~~ prior approval. A withdrawal  
8 transaction shall be executed for the release of any pledged  
9 collateral including maturity or call proceeds.

10 7. If pledged collateral includes definitive  
11 (physical) securities in registered form, which are in the  
12 name of the custodian or a nominee, the custodian shall  
13 deliver the following documents when requested by the Chief  
14 Financial Officer ~~Treasurer~~:

15 a. A separate certified power of attorney in a form  
16 prescribed by the Chief Financial Officer ~~Treasurer~~ for each  
17 issue of securities.

18 b. Separate bond assignment forms as required by the  
19 bond agent or trustee.

20 c. Certified copies of resolutions adopted by the  
21 custodian's governing body authorizing execution of these  
22 documents.

23 8. The custodian shall acknowledge that the pledgor is  
24 responsible for all costs necessary to the functioning of the  
25 collateral agreement or associated with confirmation of  
26 securities pledged to the Chief Financial Officer ~~Treasurer~~  
27 and that these costs shall not be a charge against the Chief  
28 Financial Officer ~~Treasurer~~ or his or her interests in the  
29 pledged collateral.

30 9. The custodian shall agree to provide confirmation  
31 of pledged collateral upon request from the Chief Financial

1 Officer ~~Treasurer~~. This confirmation shall be provided within  
2 15 working days after the request, in a format prescribed by  
3 the Chief Financial Officer ~~Treasurer~~, and shall require no  
4 identification other than the pledgor name and location,  
5 unless the special identification is provided in the  
6 collateral agreement.

7 10. The custodian shall be subject to the jurisdiction  
8 of the courts of the State of Florida, or of courts of the  
9 United States located within the State of Florida, for the  
10 purpose of any litigation arising out of the act.

11 11. The custodian shall be responsible and liable to  
12 the Chief Financial Officer ~~Treasurer~~ for any action of agents  
13 the custodian uses to hold and service collateral pledged to  
14 the Chief Financial Officer ~~Treasurer~~.

15 12. The custodian shall agree that any information,  
16 forms, or reports electronically transmitted to the Chief  
17 Financial Officer ~~Treasurer~~ shall have the same enforceability  
18 as a signed writing.

19 13. The Chief Financial Officer ~~Treasurer~~ shall have  
20 the right to examine definitive pledged collateral and records  
21 of book-entry securities during the regular business hours of  
22 the custodian without cost to the Chief Financial Officer  
23 ~~Treasurer~~.

24 14. The responsibilities of the custodian for the  
25 safekeeping of the pledged collateral shall be limited to the  
26 diligence and care usually exercised by a banking or trust  
27 institution toward its own property.

28 15. If there is any change in the Uniform Commercial  
29 Code, as adopted by law in this state, which affects the  
30 requirements for a perfected security interest in collateral,  
31 the Chief Financial Officer ~~Treasurer~~ shall notify the

1 | custodian of such change. The custodian shall have a period of  
2 | 180 calendar days after such notice to withdraw as custodian  
3 | if the custodian cannot provide the required custodial  
4 | services.

5 |         (3) With the approval of the Chief Financial Officer  
6 | ~~Treasurer~~, a pledgor may deposit eligible collateral pursuant  
7 | to an agreement with a Federal Reserve Bank. The Federal  
8 | Reserve Bank agreement may require terms not consistent with  
9 | subsection (2) but may not subject the Chief Financial Officer  
10 | ~~Treasurer~~ to any costs or indemnification requirements.

11 |         (4) The Chief Financial Officer ~~Treasurer~~ may require  
12 | deposit or transfer of collateral into a custodial account  
13 | established in the Chief Financial Officer's ~~Treasurer's~~ name  
14 | at a designated custodian. This requirement for Chief  
15 | Financial Officer's ~~Treasurer's~~ custody shall have the  
16 | following characteristics:

17 |             (a) One or more triggering events must have occurred.

18 |             (b) The custodian used must be a Chief Financial  
19 | Officer's ~~Treasurer's~~ approved custodian that must:

20 |                 1. Meet the definition of custodian.

21 |                 2. Not be an affiliate of the qualified public  
22 | depository.

23 |                 3. Be bound under a distinct Chief Financial Officer's  
24 | ~~Treasurer's~~ custodial contract.

25 |             (c) All deposit transactions require the approval of  
26 | the Chief Financial Officer ~~Treasurer~~.

27 |             (d) All collateral must be in book-entry form.

28 |             (e) The qualified public depository shall be  
29 | responsible for all costs necessary to the functioning of the  
30 | contract or associated with the confirmation of securities in  
31 | the name of the Chief Financial Officer ~~Treasurer~~ and

1 acknowledges that these costs shall not be a charge against  
2 the Chief Financial Officer ~~Treasurer~~ and may be deducted from  
3 the collateral or income earned if unpaid.

4 (5) With the approval of the Chief Financial Officer  
5 ~~Treasurer~~, a qualified public depository may use Federal Home  
6 Loan Bank letters of credit to meet collateral requirements.  
7 A completed agreement that includes the following provisions  
8 is necessary for the Chief Financial Officer's ~~Treasurer's~~  
9 approval:

10 (a) The letter of credit shall meet the definition of  
11 eligible collateral.

12 (b) The qualified public depository shall agree that  
13 the Chief Financial Officer ~~Treasurer~~, as beneficiary, may,  
14 without notice to or consent by the qualified public  
15 depository, demand payment under the letter of credit if any  
16 of the triggering events listed in this section occur.

17 (c) The qualified public depository shall agree that  
18 funds received by the Chief Financial Officer ~~Treasurer~~ due to  
19 the occurrence of one or more triggering events may be  
20 deposited in the Treasury Cash Deposit Trust Fund for purposes  
21 of eligible collateral.

22 (d) The qualified public depository shall arrange for  
23 the issue of letters of credit which meet the requirements of  
24 s. 280.13 and delivery to the Chief Financial Officer  
25 ~~Treasurer~~. All transactions involving letters of credit  
26 require the Chief Financial Officer's ~~Treasurer's~~ approval.

27 (e) The qualified public depository shall be  
28 responsible for all costs necessary in the use or confirmation  
29 of letters of credit issued on behalf of the Chief Financial  
30 Officer ~~Treasurer~~ and acknowledges that these costs shall not  
31 be a charge against the Chief Financial Officer ~~Treasurer~~.

1           (f) The qualified public depository shall be subject  
2 to the jurisdiction of the courts of this state, or of courts  
3 of the United States which are located within this state, for  
4 the purpose of any litigation arising out of the act.

5           (g) The qualified public depository shall agree that  
6 any information, form, or report electronically transmitted to  
7 the Chief Financial Officer ~~Treasurer~~ shall have the same  
8 enforceability as a signed writing.

9           (h) The qualified public depository shall submit proof  
10 that authorized individuals executed the letters of credit  
11 agreement on its behalf.

12           (i) The qualified public depository shall agree by  
13 resolution of the board of directors that the letters of  
14 credit agreements entered into for purposes of this section  
15 have been formally accepted and constitute official records of  
16 the qualified public depository.

17           (6) The Chief Financial Officer ~~Treasurer~~ may demand  
18 payment under a letter of credit or direct a custodian to  
19 deposit or transfer collateral and proceeds of securities not  
20 previously credited upon the occurrence of one or more  
21 triggering events provided that, to the extent not  
22 incompatible with the protection of public deposits, as  
23 determined in the Chief Financial Officer's ~~Treasurer's~~ sole  
24 and absolute discretion, the Chief Financial Officer ~~Treasurer~~  
25 shall provide a custodian and the qualified public depository  
26 with 48 hours' advance notice before directing such deposit or  
27 transfer. These events include:

28           (a) The Chief Financial Officer ~~Treasurer~~ determines  
29 that an immediate danger to the public health, safety, or  
30 welfare exists.

31

1           (b) The qualified public depository fails to have  
2 adequate procedures and practices for the accurate  
3 identification, classification, reporting, and  
4 collateralization of public deposits.

5           (c) The custodian fails to provide or allow inspection  
6 and verification of documents, reports, records, or other  
7 information dealing with the pledged collateral or financial  
8 information.

9           (d) The qualified public depository or its operating  
10 subsidiary fails to provide or allow inspection and  
11 verification of documents, reports, records, or other  
12 information dealing with Florida public deposits, pledged  
13 collateral, or financial information.

14           (e) The custodian fails to hold income and principal  
15 payments made on securities held as collateral or fails to  
16 deposit or transfer such payments pursuant to the Chief  
17 Financial Officer's ~~Treasurer's~~ instructions.

18           (f) The qualified public depository defaults or  
19 becomes insolvent.

20           (g) The qualified public depository fails to pay an  
21 assessment.

22           (h) The qualified public depository fails to pay an  
23 administrative penalty.

24           (i) The qualified public depository fails to meet  
25 financial condition standards.

26           (j) The qualified public depository charges a  
27 withdrawal penalty to public depositors when the qualified  
28 public depository is suspended, disqualified, or withdrawn  
29 from the public deposits program.

30  
31



1           (k) The qualified public depository does not provide,  
2 as required, the public depositor with annual confirmation  
3 information on all open Florida public deposit accounts.

4           (l) The qualified public depository pledges, deposits,  
5 or has issued insufficient or unacceptable collateral to meet  
6 required collateral within the required time.

7           (m) Collateral, other than a proper substitution, is  
8 released without the prior approval of the Chief Financial  
9 Officer ~~Treasurer~~.

10           (n) The qualified public depository, custodian,  
11 operating subsidiary, or agent violates any provision of the  
12 act and the Chief Financial Officer ~~Treasurer~~ determines that  
13 such violation may be remedied by a move of collateral.

14           (o) The qualified public depository, custodian,  
15 operating subsidiary, or agent fails to timely cooperate in  
16 resolving problems by the date established in written  
17 communication from the Chief Financial Officer ~~Treasurer~~.

18           (p) The custodian fails to provide sufficient  
19 confirmation information.

20           (q) The Federal Home Loan Bank or the qualified public  
21 depository gives notification that a letter of credit will not  
22 be extended or renewed and other eligible collateral equal to  
23 required collateral has not been deposited within 30 days  
24 after the notice or 30 days before expiration of the letter of  
25 credit.

26           (r) The qualified public depository, if involved in a  
27 merger, acquisition, consolidation, or other organizational  
28 change, fails to notify the Chief Financial Officer ~~Treasurer~~  
29 or ensure that required collateral is properly maintained by  
30 the depository holding the Florida public deposits.

31

1 (s) Events that would bring about an administrative or  
2 legal action by the Chief Financial Officer ~~Treasurer~~.

3 (7) The Chief Financial Officer ~~Treasurer~~ shall adopt  
4 rules to identify forms and establish procedures for  
5 collateral agreements and transactions, furnish confirmation  
6 requirements, establish procedures for using an operating  
7 subsidiary and agents, and clarify terms.

8 Section 318. Section 280.05, Florida Statutes, is  
9 amended to read:

10 280.05 Powers and duties of the Chief Financial  
11 Officer ~~Treasurer~~.--In fulfilling the requirements of this  
12 act, the Chief Financial Officer ~~Treasurer~~ has the power to  
13 take the following actions he or she deems necessary to  
14 protect the integrity of the public deposits program:

15 (1) Identify representative qualified public  
16 depositories and furnish notification for the qualified public  
17 depository oversight board selection pursuant to s. 280.071.

18 (2) Provide data for the qualified public depository  
19 oversight board duties pursuant to s. 280.071 regarding:

20 (a) Establishing standards for qualified public  
21 depositories and custodians.

22 (b) Evaluating requests for exceptions to standards  
23 and alternative participation agreements.

24 (c) Reviewing and recommending action for qualified  
25 public depository or custodian violations.

26 (3) Review, implement, monitor, evaluate, and modify  
27 all or any part of the standards, policies, or recommendations  
28 of the qualified public depository oversight board.

29 (4) Perform financial analysis of any qualified public  
30 depositories.

31

1           (5) Require collateral, or increase the  
2 collateral-pledging level, of any qualified public depository.

3           (6) Decline to accept, or reduce the reported value  
4 of, collateral in order to ensure the pledging or depositing  
5 of sufficient marketable collateral and acceptable letters of  
6 credit.

7           (7) Maintain perpetual inventory of collateral and  
8 perform monthly market valuations and quality ratings.

9           (8) Monitor and confirm collateral with custodians and  
10 letter of credit issuers.

11           (9) Move collateral into an account established in the  
12 Chief Financial Officer's ~~Treasurer's~~ name upon the occurrence  
13 of one or more triggering events.

14           (10) Issue notice to a qualified public depository  
15 that use of a custodian will be disallowed when the custodian  
16 has failed to follow collateral agreement terms.

17           (11) Furnish written notice to custodians of  
18 collateral to hold interest and principal payments made on  
19 securities held as collateral and to deposit or transfer such  
20 payments pursuant to the Chief Financial Officer's ~~Treasurer's~~  
21 instructions.

22           (12) Release collateral held in the Chief Financial  
23 Officer's ~~Treasurer's~~ name, subject to sale and transfer of  
24 funds directly from the custodian to public depositors of a  
25 withdrawing depository.

26           (13) Demand payment under letters of credit for any of  
27 the triggering events listed in s. 280.041 and deposit the  
28 funds in:

29           (a) The Public Deposits Trust Fund for purposes of  
30 paying losses to public depositors.

31

1           (b) The Treasury ~~Treasurer's~~ Administrative and  
2 Investment Trust Fund for receiving payment of administrative  
3 penalties.

4           (c) The Treasury Cash Deposit Trust Fund for purposes  
5 of eligible collateral.

6           (14) Sell securities for the purpose of paying losses  
7 to public depositors not covered by deposit insurance.

8           (15) Transfer funds directly from the custodian to  
9 public depositors or the receiver in order to facilitate  
10 prompt payment of claims.

11           (16) Require the filing of the following reports which  
12 the Chief Financial Officer ~~Treasurer~~ shall process as  
13 provided:

14           (a) Qualified public depository monthly reports and  
15 schedules. The Chief Financial Officer ~~Treasurer~~ shall review  
16 the reports of each qualified public depository for material  
17 changes in capital accounts or changes in name, address, or  
18 type of institution; record the average daily balances of  
19 public deposits held; and monitor the collateral-pledging  
20 levels and required collateral.

21           (b) Quarterly regulatory reports from qualified public  
22 depositories. The Chief Financial Officer ~~Treasurer~~ shall  
23 analyze qualified public depositories ranked in the lowest  
24 category based on established financial condition criteria.

25           (c) Qualified public depository annual reports and  
26 public depositor annual reports. The Chief Financial Officer  
27 ~~Treasurer~~ shall compare public deposit information reported by  
28 qualified public depositories and public depositors. Such  
29 comparison shall be conducted for qualified public  
30 depositories which are ranked in the lowest category based on  
31 established financial condition criteria of record on

1 September 30. Additional comparison processes may be performed  
2 as public deposits program resources permit.

3 (d) Any related documents, reports, records, or other  
4 information deemed necessary by the Chief Financial Officer  
5 ~~Treasurer~~ in order to ascertain compliance with this chapter.

6 (17) Verify the reports of any qualified public  
7 depository relating to public deposits it holds when necessary  
8 to protect the integrity of the public deposits program.

9 (18) Confirm public deposits, to the extent possible  
10 under current law, when needed.

11 (19) Require at his or her discretion the filing of  
12 any information or forms required under this chapter to be by  
13 electronic data transmission. Such filings of information or  
14 forms shall have the same enforceability as a signed writing.

15 (20) Suspend or disqualify or disqualify after  
16 suspension any qualified public depository that has violated  
17 any of the provisions of this chapter or of rules adopted  
18 hereunder.

19 (a) Any qualified public depository that is suspended  
20 or disqualified pursuant to this subsection is subject to the  
21 provisions of s. 280.11(2) governing withdrawal from the  
22 public deposits program and return of pledged collateral. Any  
23 suspension shall not exceed a period of 6 months. Any  
24 qualified public depository which has been disqualified may  
25 not reapply for qualification until after the expiration of 1  
26 year from the date of the final order of disqualification or  
27 the final disposition of any appeal taken therefrom.

28 (b) In lieu of suspension or disqualification, impose  
29 an administrative penalty upon the qualified public depository  
30 as provided in s. 280.054.

31

1           (c) If the Chief Financial Officer ~~Treasurer~~ has  
2 reason to believe that any qualified public depository or any  
3 other financial institution holding public deposits is or has  
4 been violating any of the provisions of this chapter or of  
5 rules adopted hereunder, he or she may issue to the qualified  
6 public depository or other financial institution an order to  
7 cease and desist from the violation or to correct the  
8 condition giving rise to or resulting from the violation. If  
9 any qualified public depository or other financial institution  
10 violates a cease-and-desist or corrective order, the Chief  
11 Financial Officer ~~Treasurer~~ may impose an administrative  
12 penalty upon the qualified public depository or other  
13 financial institution as provided in s. 280.054 or s. 280.055.  
14 In addition to the administrative penalty, the Chief Financial  
15 Officer ~~Treasurer~~ may suspend or disqualify any qualified  
16 public depository for violation of any order issued pursuant  
17 to this paragraph.

18           Section 319. Section 280.051, Florida Statutes, is  
19 amended to read:

20           280.051 Grounds for suspension or disqualification of  
21 a qualified public depository.--A qualified public depository  
22 may be suspended or disqualified or both if the Chief  
23 Financial Officer ~~Treasurer~~ determines that the qualified  
24 public depository has:

25           (1) Violated any of the provisions of this chapter or  
26 any rule adopted by the Chief Financial Officer ~~Treasurer~~  
27 pursuant to this chapter.

28           (2) Submitted reports containing inaccurate or  
29 incomplete information regarding public deposits or collateral  
30 for such deposits, capital accounts, or the calculation of  
31 required collateral.

- 1           (3) Failed to maintain required collateral.
- 2           (4) Grossly misstated the market value of the  
3 securities pledged as collateral.
- 4           (5) Failed to pay any administrative penalty.
- 5           (6) Failed to furnish the Chief Financial Officer  
6 ~~Treasurer~~ with prompt and accurate information, or failed to  
7 allow inspection and verification of any information, dealing  
8 with public deposits or dealing with the exact status of its  
9 capital accounts, or any other financial information that the  
10 Chief Financial Officer ~~Treasurer~~ determines necessary to  
11 verify compliance with this chapter or any rule adopted  
12 pursuant to this chapter.
- 13           (7) Failed to furnish the Chief Financial Officer  
14 ~~Treasurer~~, when the Chief Financial Officer ~~Treasurer~~  
15 requested, with a power of attorney or bond power or other  
16 bond assignment form required by the bond agent, bond trustee,  
17 or other transferor for each issue of registered certificated  
18 securities pledged.
- 19           (8) Failed to furnish any agreement, report, form, or  
20 other information required to be filed pursuant to s. 280.16,  
21 or when requested by the Chief Financial Officer ~~Treasurer~~.
- 22           (9) Submitted reports signed by an unauthorized  
23 individual.
- 24           (10) Submitted reports without a certified or verified  
25 signature, or both, if required by law.
- 26           (11) Released a security without notice or approval.
- 27           (12) Failed to execute or have the custodian execute a  
28 public depository pledge agreement prior to using a custodian.
- 29           (13) Failed to give notification as required by s.  
30 280.10.
- 31

1           Section 320. Section 280.052, Florida Statutes, is  
2 amended to read:

3           280.052 Order of suspension or disqualification;  
4 procedure.--

5           (1) The suspension or disqualification of a bank or  
6 savings association as a qualified public depository must be  
7 by order of the Chief Financial Officer ~~Treasurer~~ and must be  
8 mailed to the qualified public depository by registered or  
9 certified mail.

10           (2) The Chief Financial Officer ~~Treasurer~~ shall  
11 notify, by first-class mail, all public depositories that have  
12 complied with s. 280.17 of any such disqualification or  
13 suspension.

14           (3) The procedures for suspension or disqualification  
15 shall be as set forth in chapter 120 and in the rules of the  
16 Chief Financial Officer ~~Treasurer~~ adopted pursuant to this  
17 section.

18           (4) Whenever the Chief Financial Officer ~~Treasurer~~  
19 determines that an immediate danger to the public health,  
20 safety, or welfare exists, the Chief Financial Officer  
21 ~~Treasurer~~ may take any appropriate action available to her or  
22 him under the provisions of chapter 120.

23           Section 321. Paragraphs (a) and (c) of subsection (1)  
24 and paragraph (c) of subsection (2) of section 280.053,  
25 Florida Statutes, is amended to read:

26           280.053 Period of suspension or disqualification;  
27 obligations during period; reinstatement.--

28           (1)(a) The Chief Financial Officer ~~Treasurer~~ may  
29 suspend a qualified public depository for any period that is  
30 fixed in the order of suspension, not exceeding 6 months. For  
31 the purposes of this section and ss. 280.051 and 280.052, the



1 effective date of suspension or disqualification is that date  
2 which is set out as such in any order of suspension or  
3 disqualification.

4 (c) Upon expiration of the suspension period, the bank  
5 or savings association may, by order of the Chief Financial  
6 Officer ~~Treasurer~~, be reinstated as a qualified public  
7 depository, unless the cause of the suspension has not been  
8 corrected or the bank or savings association is otherwise not  
9 in compliance with this chapter or any rule adopted pursuant  
10 to this chapter.

11 (2)

12 (c) Upon expiration of the disqualification period,  
13 the bank or savings association may reapply for qualification  
14 as a qualified public depository. If a disqualified bank or  
15 savings association is purchased or otherwise acquired by new  
16 owners, it may reapply to the Chief Financial Officer  
17 ~~Treasurer~~ to be a qualified public depository prior to the  
18 expiration date of the disqualification period. Redesignation  
19 as a qualified public depository may occur only after the  
20 Chief Financial Officer ~~Treasurer~~ has determined that all  
21 requirements for holding public deposits under the law have  
22 been met.

23 Section 322. Section 280.054, Florida Statutes, is  
24 amended to read:

25 280.054 Administrative penalty in lieu of suspension  
26 or disqualification.--

27 (1) If the Chief Financial Officer ~~Treasurer~~ finds  
28 that one or more grounds exist for the suspension or  
29 disqualification of a qualified public depository, the Chief  
30 Financial Officer ~~Treasurer~~ may, in lieu of suspension or  
31

1 disqualification, impose an administrative penalty upon the  
2 qualified public depository.

3 (a) With respect to any nonwillful violation, such  
4 penalty may not exceed \$250 for each violation, exclusive of  
5 any restitution found to be due. If a qualified public  
6 depository discovers a nonwillful violation, the qualified  
7 public depository shall correct the violation; and, if  
8 restitution is due, the qualified public depository shall make  
9 restitution upon the order of the Chief Financial Officer  
10 ~~Treasurer~~ and shall pay interest on such amount at the legal  
11 rate from the date of the violation. Each day a violation  
12 continues constitutes a separate violation.

13 (b) With respect to any knowing and willful violation  
14 of a lawful order or rule, the Chief Financial Officer  
15 ~~Treasurer~~ may impose a penalty upon the qualified public  
16 depository in an amount not exceeding \$1,000 for each  
17 violation. If restitution is due, the qualified public  
18 depository shall make restitution upon the order of the Chief  
19 Financial Officer ~~Treasurer~~ and shall pay interest on such  
20 amount at the legal rate. Each day a violation continues  
21 constitutes a separate violation.

22 (2) The failure of a qualified public depository to  
23 make restitution when due as required under this section  
24 constitutes a willful violation of this chapter. However, if  
25 a qualified public depository in good faith is uncertain  
26 whether any restitution is due or as to the amount of  
27 restitution due, it shall promptly notify the Chief Financial  
28 Officer ~~Treasurer~~ of the circumstances. The failure to make  
29 restitution pending a determination of whether restitution is  
30 due or the amount of restitution due does not constitute a  
31 violation of this chapter.

1           (3) A qualified public depository is subject to an  
2 administrative penalty in an amount not exceeding the greater  
3 of \$1,000 or 10 percent of the amount of withdrawal, not  
4 exceeding \$10,000, if the depository fails to provide required  
5 collateral using eligible collateral and prescribed collateral  
6 agreements or withdraws collateral without the Chief Financial  
7 Officer's ~~Treasurer's~~ approval.

8           Section 323. Section 280.055, Florida Statutes, is  
9 amended to read:

10           280.055 Cease and desist order; corrective order;  
11 administrative penalty.--

12           (1) The Chief Financial Officer ~~Treasurer~~ may issue a  
13 cease and desist order and a corrective order upon determining  
14 that:

15           (a) A qualified public depository has requested and  
16 obtained a release of pledged collateral without approval of  
17 the Chief Financial Officer ~~Treasurer~~;

18           (b) A bank, savings association, or other financial  
19 institution is holding public deposits without a certificate  
20 of qualification issued by the Chief Financial Officer  
21 ~~Treasurer~~;

22           (c) A qualified public depository pledges, deposits,  
23 or arranges for the issuance of unacceptable collateral;

24           (d) A custodian has released pledged collateral  
25 without approval of the Chief Financial Officer ~~Treasurer~~;

26           (e) A qualified public depository or a custodian has  
27 not furnished to the Chief Financial Officer ~~Treasurer~~, when  
28 the Chief Financial Officer ~~Treasurer~~ requested, a power of  
29 attorney or bond power or bond assignment form required by the  
30 bond agent or bond trustee for each issue of registered  
31 certificated securities pledged and registered in the name, or

1 nominee name, of the qualified public depository or custodian;  
2 or

3 (f) A qualified public depository; a bank, savings  
4 association, or other financial institution; or a custodian  
5 has committed any other violation of this chapter or any rule  
6 adopted pursuant to this chapter that the Chief Financial  
7 Officer ~~Treasurer~~ determines may be remedied by a cease and  
8 desist order or corrective order.

9 (2) Any qualified public depository or other bank,  
10 savings association, or financial institution or custodian  
11 that violates a cease and desist order or corrective order of  
12 the Chief Financial Officer ~~Treasurer~~ is subject to an  
13 administrative penalty not exceeding \$1,000 for each violation  
14 of the order. Each day the violation of the order continues  
15 constitutes a separate violation.

16 Section 324. Subsections (1) and (2) of section  
17 280.06, Florida Statutes, are amended to read:

18 280.06 Penalty for violation of law, rule, or order to  
19 cease and desist or other lawful order.--

20 (1) The violation of any provision of this chapter, or  
21 any order or rule of the Chief Financial Officer ~~Treasurer~~, or  
22 any order to cease and desist or other lawful order is a  
23 misdemeanor of the second degree, punishable as provided in s.  
24 775.082 or s. 775.083.

25 (2) It is a felony of the third degree, punishable as  
26 provided in s. 775.082 or s. 775.083, to knowingly and  
27 willfully give false information on any form made under oath  
28 and filed pursuant to this chapter with the intent to mislead  
29 the Chief Financial Officer ~~Treasurer~~ in the administration or  
30 enforcement of this chapter.

31

1           Section 325. Section 280.07, Florida Statutes, is  
2 amended to read:

3           280.07 Mutual responsibility and contingent  
4 liability.--Any bank or savings association that is designated  
5 as a qualified public depository and that is not insolvent  
6 shall guarantee public depositors against loss caused by the  
7 default or insolvency of other qualified public depositories.  
8 Each qualified public depository shall execute a form  
9 prescribed by the Chief Financial Officer ~~Treasurer~~ for such  
10 guarantee which shall be approved by the board of directors  
11 and shall become an official record of the institution.

12           Section 326. Subsections (1), (2), (3), and (5),  
13 paragraph (e) of subsection (9), paragraphs (b), (c), (d), and  
14 (e) of subsection (10), paragraphs (a) and (b) of subsection  
15 (11), and subsection (12) of section 280.071, Florida  
16 Statutes, are amended to read:

17           280.071 Qualified Public Depository Oversight Board;  
18 purpose; identifying representative qualified public  
19 depositories; member selection; responsibilities.--A Qualified  
20 Public Depository Oversight Board is created comprised of six  
21 members and six alternate members who represent the interests  
22 of all qualified public depositories in safeguarding the  
23 integrity of the public deposits program and preventing the  
24 realization of loss assessments.

25           (1) On July 31 of each year and as vacancies occur,  
26 the Chief Financial Officer ~~Treasurer~~ shall initiate the  
27 selection of oversight board representation in the following  
28 manner:

29           (a) Categorize eligible qualified public depositories  
30 into three groups according to average asset size. Eligible  
31 qualified public depositories must be in compliance with all

1 requirements and shall not be suspended, disqualified,  
2 withdrawn, or under an alternative participation agreement in  
3 the public deposits program.

4 (b) Identify the two qualified public depositories in  
5 each of the three groups that have the greatest shares of  
6 contingent liability based on the average monthly balances of  
7 public deposits reported pursuant to s. 280.16.

8 (c) Send notification to the six qualified public  
9 depositories that have been identified.

10 (2) Each of the six representative qualified public  
11 depositories shall select a member and alternate member for  
12 the oversight board and give the Chief Financial Officer  
13 ~~Treasurer~~ written information on the selections within 30  
14 calendar days of the Chief Financial Officer's ~~Treasurer's~~  
15 notice.

16 (3) If an identified qualified public depository  
17 declines to select a member, does not respond within 30  
18 calendar days, or becomes ineligible, the Chief Financial  
19 Officer ~~Treasurer~~ shall furnish notice to the Florida Bankers  
20 Association which shall select a member and alternate member  
21 to represent that average asset category within 30 calendar  
22 days.

23 (5) The oversight board members and alternate members  
24 shall be subject to the Chief Financial Officer's ~~Treasurer's~~  
25 approval.

26 (9) The oversight board shall organize, communicate,  
27 and conduct meetings as follows:

28 (e) Take no official action in the absence of a  
29 quorum.

30 1. A quorum shall consist of the majority of voting  
31 members of the oversight board.

- 1           2. Each member shall have one vote.
- 2           3. A member shall not vote on issues directly related  
3 to the qualified public depository he or she represents.
- 4           4. The Chief Financial Officer ~~Treasurer~~ or his or her  
5 representative shall vote as a member of the oversight board  
6 in the absence of a quorum.
- 7           (10) The oversight board has the power and  
8 responsibility to safeguard the integrity of the public  
9 deposits program and prevent the realization of loss  
10 assessments by:
- 11           (b) Recommending approval or rejection to the Chief  
12 Financial Officer ~~Treasurer~~ for exceptions that do not meet  
13 established standards. These requests for exceptions may be:
- 14           1. Referred by the Chief Financial Officer ~~Treasurer~~;  
15 or
- 16           2. Submitted directly by the qualified public  
17 depository seeking exception.
- 18           (c) Issuing approvals or rejections for alternative  
19 participation agreements referred by the Chief Financial  
20 Officer ~~Treasurer~~.
- 21           (d) Reviewing program violations and recommending that  
22 the Chief Financial Officer ~~Treasurer~~ impose penalties and  
23 fines or issue corrective actions and administrative orders.
- 24           (e) Studying public deposit program areas referred by  
25 the Chief Financial Officer ~~Treasurer~~.
- 26           (11) Official actions of the oversight board regarding  
27 the establishment of standards, exception and alternate  
28 participation agreement decisions, and recommendations  
29 concerning violations shall be:
- 30           (a) Communicated to the Chief Financial Officer  
31 ~~Treasurer~~ in writing.

1           (b) Subject to approval of the Chief Financial Officer  
2 ~~Treasurer~~.

3           (12) The Chief Financial Officer ~~Treasurer~~ may adopt  
4 rules to establish procedures and forms for oversight board  
5 member and alternate member selection and oversight board  
6 functions.

7           Section 327. Section 280.08, Florida Statutes, is  
8 amended to read:

9           280.08 Procedure for payment of losses.--When the  
10 Chief Financial Officer ~~Treasurer~~ determines that a default or  
11 insolvency has occurred, he or she shall provide notice as  
12 required in s. 280.085 and implement the following procedures:

13           (1) The Division of Treasury ~~Treasurer~~, in cooperation  
14 with the Division of Financial Institutions ~~Department of~~  
15 ~~Banking and Finance~~ or the receiver of the qualified public  
16 depository in default, shall ascertain the amount of funds of  
17 each public depositor on deposit at such depository and the  
18 amount of deposit insurance applicable to such deposits.

19           (2) The potential loss to public depositors shall be  
20 calculated by compiling claims received from such depositors.  
21 The Chief Financial Officer ~~Treasurer~~ shall validate claims on  
22 public deposit accounts which meet the requirements of s.  
23 280.17 and are confirmed as provided in subsection (1).

24           (3)(a) The loss to public depositors shall be  
25 satisfied, insofar as possible, first through any applicable  
26 deposit insurance and then through demanding payment under  
27 letters of credit or the sale of collateral pledged or  
28 deposited by the defaulting depository. The Chief Financial  
29 Officer ~~Treasurer~~ may assess qualified public depositories as  
30 provided in paragraph (b) for the total loss if the demand for  
31



1 payment or sale of collateral cannot be accomplished within 7  
2 business days.

3 (b) The Chief Financial Officer ~~Treasurer~~ shall  
4 provide coverage of any remaining loss by assessment against  
5 the other qualified public depositories. The Chief Financial  
6 Officer ~~Treasurer~~ shall determine such assessment for each  
7 qualified public depository by multiplying the total amount of  
8 any remaining loss to all public depositors by a percentage  
9 which represents the average monthly balance of public  
10 deposits held by each qualified public depository during the  
11 previous 12 months divided by the total average monthly  
12 balances of public deposits held by all qualified public  
13 depositories, excluding the defaulting depository, during the  
14 same period. The assessment calculation shall be computed to  
15 six decimal places.

16 (4) Each qualified public depository shall pay its  
17 assessment to the Chief Financial Officer ~~Treasurer~~ within 7  
18 business days after it receives notice of the assessment. If a  
19 depository fails to pay its assessment when due, the Chief  
20 Financial Officer ~~Treasurer~~ shall satisfy the assessment by  
21 demanding payment under letters of credit or selling  
22 collateral pledged or deposited by that depository.

23 (5) The Chief Financial Officer ~~Treasurer~~ shall  
24 distribute the funds to the public depositors of the qualified  
25 public depository in default according to their validated  
26 claims. The Chief Financial Officer ~~Treasurer~~, at his or her  
27 discretion, may make partial payments to public depositors  
28 that have experienced a loss of public funds which payments  
29 are critical to the immediate operations of the public entity.  
30 The public depositor requesting partial payment of a claim  
31

1 shall provide the Chief Financial Officer ~~Treasurer~~ with  
2 written documentation justifying the need for partial payment.

3 (6) Public depositors receiving payment under the  
4 provisions of this section shall assign to the Chief Financial  
5 Officer ~~Treasurer~~ any interest they may have in funds that may  
6 subsequently be made available to the qualified public  
7 depository in default. If the qualified public depository in  
8 default or its receiver provides the funds to the Chief  
9 Financial Officer ~~Treasurer~~, the Chief Financial Officer  
10 ~~Treasurer~~ shall distribute the funds, plus all accrued  
11 interest which has accumulated from the investment of the  
12 funds, if any, to the depositories which paid assessments on  
13 the same pro rata basis as the assessments were paid.

14 (7) Expenses incurred by the Chief Financial Officer  
15 ~~Treasurer~~ in connection with a default or insolvency which are  
16 not normally incurred by the Chief Financial Officer ~~Treasurer~~  
17 in the administration of this act must be paid out of the  
18 amount paid under letters of credit or proceeds from the sale  
19 of collateral.

20 Section 328. Subsection (1) of section 280.085,  
21 Florida Statutes, is amended to read:

22 280.085 Notice to claimants.--

23 (1) Upon determining the default or insolvency of a  
24 qualified public depository, the Chief Financial Officer  
25 ~~Treasurer~~ shall notify, by first-class mail, all public  
26 depositors that have complied with s. 280.17 of such default  
27 or insolvency. The notice shall direct all public depositors  
28 having claims or demands against the Public Deposits Trust  
29 Fund occasioned by the default or insolvency to file their  
30 claims with the Chief Financial Officer ~~Treasurer~~ within 30  
31 days after the date of the notice.

1           Section 329. Section 280.09, Florida Statutes, is  
2 amended to read:

3           280.09 Public Deposits Trust Fund.--

4           (1) In order to facilitate the administration of this  
5 chapter, there is created the Public Deposits Trust Fund,  
6 hereafter in this section designated "the fund." The proceeds  
7 from the sale of securities or draw on letters of credit held  
8 as collateral or from any assessment pursuant to s. 280.08  
9 shall be deposited into the fund. Any administrative penalty  
10 collected pursuant to this chapter shall be deposited into the  
11 Treasury ~~Treasurer's~~ Administrative and Investment Trust Fund.

12           (2) The Chief Financial Officer ~~Treasurer~~ is  
13 authorized to pay any losses to public depositors from the  
14 fund, and there are hereby appropriated from the fund such  
15 sums as may be necessary from time to time to pay the losses.  
16 The term "losses," for purposes of this chapter, shall also  
17 include losses of interest or other accumulations to the  
18 public depositor as a result of penalties for early withdrawal  
19 required by Depository Institution Deregulatory Commission  
20 Regulations or applicable successor federal laws or  
21 regulations because of suspension or disqualification of a  
22 qualified public depository by the Chief Financial Officer  
23 ~~Treasurer~~ pursuant to s. 280.05 or because of withdrawal from  
24 the public deposits program pursuant to s. 280.11. In that  
25 event, the Chief Financial Officer ~~Treasurer~~ is authorized to  
26 assess against the suspended, disqualified, or withdrawing  
27 public depository, in addition to any amount authorized by any  
28 other provision of this chapter, an administrative penalty  
29 equal to the amount of the early withdrawal penalty and to pay  
30 that amount over to the public depositor as reimbursement for  
31 such loss. Any money in the fund estimated not to be needed

1 for immediate cash requirements shall be invested pursuant to  
2 s. 18.125.

3 Section 330. Paragraphs (d) and (e) of subsection (1)  
4 and subsections (2), (3), (4), (5), and (6) of section 280.10,  
5 Florida Statutes, are amended to read:

6 280.10 Effect of merger, acquisition, or  
7 consolidation; change of name or address.--

8 (1) When a qualified public depository is merged into,  
9 acquired by, or consolidated with a bank, savings bank, or  
10 savings association that is not a qualified public depository:

11 (d) The resulting institution shall, within 90  
12 calendar days after the effective date of the merger,  
13 acquisition, or consolidation, deliver to the Chief Financial  
14 Officer ~~Treasurer~~:

15 1. Documentation in its name as required for  
16 participation in the public deposits program; or

17 2. Written notice of intent to withdraw from the  
18 program as provided in s. 280.11 and a proposed effective date  
19 of withdrawal which shall be within 180 days after the  
20 effective date of the acquisition, merger, or consolidation of  
21 the former institution.

22 (e) If the resulting institution does not meet  
23 qualifications to become a qualified public depository or does  
24 not submit required documentation within 90 calendar days  
25 after the effective date of the merger, acquisition, or  
26 consolidation, the Chief Financial Officer ~~Treasurer~~ shall  
27 initiate mandatory withdrawal actions as provided in s. 280.11  
28 and shall set an effective date of withdrawal that is within  
29 180 days after the effective date of the acquisition, merger,  
30 or consolidation of the former institution.

31

1           (2) When a qualified public depository disposes of any  
2 of its Florida public deposits or collateral securing such  
3 deposits in a manner not covered by subsection (1), the  
4 qualified public depository originally holding the public  
5 deposits shall be responsible for:

6           (a) Ensuring the institution receiving such public  
7 deposits becomes a qualified public depository and meets  
8 collateral requirements with the Chief Financial Officer  
9 ~~Treasurer~~ as part of the transaction.

10           (b) Notifying the Chief Financial Officer ~~Treasurer~~  
11 within 30 calendar days after the final approval by the  
12 appropriate regulator.

13  
14 A qualified public depository that fails to meet such  
15 responsibilities shall continue to collateralize and report  
16 such public deposits until the receiving institution becomes a  
17 qualified public depository and collateralizes the deposits or  
18 the deposits are returned to the governmental unit.

19           (3) The qualified public depository shall notify the  
20 Chief Financial Officer ~~Treasurer~~ of any acquisition or merger  
21 within 30 calendar days after the final approval of the  
22 acquisition or merger by its appropriate regulator.

23           (4) Collateral subject to a collateral agreement may  
24 not be released by the Chief Financial Officer ~~Treasurer~~ or  
25 the custodian until the assumed liability is evidenced by the  
26 deposit of collateral pursuant to the collateral agreement of  
27 the successor entity. The reporting requirement and pledge of  
28 collateral will remain in force until the Chief Financial  
29 Officer ~~Treasurer~~ determines that the liability no longer  
30 exists. The surviving or new qualified public depository  
31 shall be responsible and liable for all of the liabilities and

1 obligations of each qualified public depository merged with or  
2 acquired by it.

3 (5) Each qualified public depository shall report any  
4 change of name and address to the Chief Financial Officer  
5 ~~Treasurer~~ on a form provided by the Chief Financial Officer  
6 ~~Treasurer~~ regardless of whether the name change is a result of  
7 an acquisition, merger, or consolidation. Notification of such  
8 change must be made within 30 calendar days after the  
9 effective date of the change.

10 (6) The Chief Financial Officer ~~Treasurer~~ shall adopt  
11 rules establishing procedures for mergers, acquisitions,  
12 consolidations, and changes in name and address, providing  
13 forms, and clarifying terms.

14 Section 331. Section 280.11, Florida Statutes, is  
15 amended to read:

16 280.11 Withdrawal from public deposits program; return  
17 of pledged collateral.--

18 (1) A qualified public depository may withdraw from  
19 the public deposits program by giving written notice to the  
20 Chief Financial Officer ~~Treasurer~~. The contingent liability,  
21 required collateral, and reporting requirements of the  
22 depository withdrawing from the program shall continue for a  
23 period of 12 months after the effective date of the  
24 withdrawal, except that the filing of reports may no longer be  
25 required when the average monthly balance of public deposits  
26 is equal to zero. Notice of withdrawal shall be mailed or  
27 delivered in sufficient time to be received by the Chief  
28 Financial Officer ~~Treasurer~~ at least 30 days before the  
29 effective date of withdrawal. The Chief Financial Officer  
30 ~~Treasurer~~ shall timely publish the withdrawal notice in the  
31 Florida Administrative Weekly which shall constitute notice to

1 all depositors. The withdrawing depository shall not receive  
2 or retain public deposits after the effective date of the  
3 withdrawal until such time as it again becomes a qualified  
4 public depository. The Chief Financial Officer ~~Treasurer~~  
5 shall, upon request, return to the depository that portion of  
6 the collateral pledged that is in excess of the required  
7 collateral as reported on the current public depository  
8 monthly report. Losses of interest or other accumulations, if  
9 any, because of withdrawal under this section shall be  
10 assessed and paid as provided in s. 280.09.

11 (2) A qualified public depository which has been  
12 disqualified pursuant to s. 280.051 shall not receive or  
13 retain public deposits after the effective date of the  
14 disqualification. Notice of and procedures for  
15 disqualification shall be made in accordance with ss. 280.052  
16 and 280.053. The Chief Financial Officer ~~Treasurer~~ shall, upon  
17 request, return to the depository that portion of the  
18 collateral pledged that is in excess of the required  
19 collateral as reported on the current public depository  
20 monthly report. Losses of interest or other accumulation, if  
21 any, because of disqualification shall be paid as provided in  
22 s. 280.09(2).

23 (3) A qualified public depository which is required to  
24 withdraw from the public deposits program pursuant to s.  
25 280.05(1)(b) shall not receive or retain public deposits after  
26 the effective date of withdrawal. The contingent liability,  
27 required collateral, and reporting requirements of the  
28 withdrawing depository shall continue until the effective date  
29 of withdrawal. Notice of withdrawal (order of discontinuance)  
30 from the Chief Financial Officer ~~Treasurer~~ shall be mailed to  
31 the qualified public depository by registered or certified

1 mail. Penalties incurred because of withdrawal from the public  
2 deposits program shall be the responsibility of the  
3 withdrawing depository.

4 Section 332. Subsection (2), paragraphs (a), (b), (d),  
5 and (f) of subsection (5), and subsections (6), (7), and (8)  
6 of section 280.13, Florida Statutes, are amended to read:

7 280.13 Eligible collateral.--

8 (2) In addition to the securities listed in subsection  
9 (1), the Chief Financial Officer ~~Treasurer~~ may, in his or her  
10 discretion, allow the pledge of the following types of  
11 securities. The Chief Financial Officer ~~Treasurer~~ shall, by  
12 rule, define any restrictions, specific criteria, or  
13 circumstances for which these instruments will be acceptable.

14 (a) Securities of, or other interests in, any open-end  
15 management investment company registered under the Investment  
16 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended  
17 from time to time, provided the portfolio of such investment  
18 company is limited to direct obligations of the United States  
19 Government and to repurchase agreements fully collateralized  
20 by such direct obligations of the United States Government and  
21 provided such investment company takes delivery of such  
22 collateral either directly or through an authorized custodian.

23 (b) Collateralized Mortgage Obligations.

24 (c) Real Estate Mortgage Investment Conduits.

25 (5) Letters of credit issued by a Federal Home Loan  
26 Bank are eligible as collateral under this section provided  
27 that:

28 (a) The letter of credit has been delivered to the  
29 Chief Financial Officer ~~Treasurer~~ in the standard format  
30 approved by the Chief Financial Officer ~~Treasurer~~.

31 (b) The letter of credit meets required conditions of:



- 1           1. Being irrevocable.
- 2           2. Being clean and unconditional and containing a
- 3 statement that it is not subject to any agreement, condition,
- 4 or qualification outside of the letter of credit and providing
- 5 that a beneficiary need only present the original letter of
- 6 credit with any amendments and the demand form to promptly
- 7 obtain funds, and that no other document need be presented.
- 8           3. Being issued, presentable, and payable at a Federal
- 9 Home Loan Bank in United States dollars. Presentation may be
- 10 made by the beneficiary submitting the original letter of
- 11 credit, including any amendments, and the demand in writing,
- 12 by overnight delivery.
- 13           4. Containing a statement that identifies and defines
- 14 the Chief Financial Officer ~~Treasurer~~ as beneficiary.
- 15           5. Containing an issue date and a date of expiration.
- 16           6. Containing a term of at least 1 year and an
- 17 evergreen clause that provides at least 60 days written notice
- 18 to the beneficiary prior to expiration date for nonrenewal.
- 19           7. Containing a statement that it is subject to and
- 20 governed by the laws of the State of Florida and that, in the
- 21 event of any conflict with other laws, the laws of the State
- 22 of Florida will control.
- 23           8. Containing a statement that the letter of credit is
- 24 an obligation of the Federal Home Loan Bank and is in no way
- 25 contingent upon reimbursement.
- 26           9. Any other provision found necessary under the
- 27 Uniform Commercial Code--Letters of Credit.
- 28           (d) The Federal Home Loan Bank issuing the letter of
- 29 credit agrees to provide confirmation upon request from the
- 30 Chief Financial Officer ~~Treasurer~~. Such confirmation shall be
- 31 provided within 15 working days after the request, in a format

1 prescribed by the Chief Financial Officer ~~Treasurer~~, and shall  
2 require no identification other than the qualified public  
3 depository's name and location.

4 (f) The qualified public depository, if notified by  
5 the Chief Financial Officer ~~Treasurer~~, shall not be allowed to  
6 use letters of credit if the Federal Home Loan Bank fails to  
7 pay a draw request as provided for in the letters of credit or  
8 fails to properly complete a confirmation of such letters of  
9 credit.

10 (6) Cash held by the Chief Financial Officer ~~Treasurer~~  
11 in the Treasury Cash Deposit Trust Fund or by a custodian is  
12 eligible as collateral under this section. Interest earned on  
13 cash deposits that is in excess of required collateral shall  
14 be paid to the qualified public depository upon request.

15 (7) The Chief Financial Officer ~~Treasurer~~ may  
16 disapprove any security or letter of credit that does not meet  
17 the requirements of this section or any rule adopted pursuant  
18 to this section or any security for which no current market  
19 price can be obtained from a nationally recognized source  
20 deemed acceptable to the Chief Financial Officer ~~Treasurer~~ or  
21 cannot be converted to cash.

22 (8) The Chief Financial Officer ~~Treasurer~~ shall adopt  
23 rules defining restrictions and special requirements for  
24 eligible collateral and clarifying terms.

25 Section 333. Paragraphs (a), (b), (d), and (e) of  
26 subsection (1) and subsection (3) of section 280.16, Florida  
27 Statutes, are amended to read:

28 280.16 Requirements of qualified public depositories;  
29 confidentiality.--

30 (1) In addition to any other requirements specified in  
31 this chapter, qualified public depositories shall:

1           (a) Take the following actions for each public deposit  
2 account:

3           1. Identify the account as a "Florida public deposit"  
4 on the deposit account record with the name of the public  
5 depositor or provide a unique code for the account for such  
6 designation.

7           2. When the form prescribed by the Chief Financial  
8 Officer ~~Treasurer~~ for acknowledgment of receipt of each public  
9 deposit account is presented to the qualified public  
10 depository by the public depositor opening an account, the  
11 qualified public depository shall execute and return the  
12 completed form to the public depositor.

13           3. When the acknowledgment of receipt form is  
14 presented to the qualified public depository by the public  
15 depositor due to a change of account name, account number, or  
16 qualified public depository name on an existing public deposit  
17 account, the qualified public depository shall execute and  
18 return the completed form to the public depositor within 45  
19 calendar days after such presentation.

20           4. When the acknowledgment of receipt form is  
21 presented to the qualified public depository by the public  
22 depositor on an account existing before July 1, 1998, the  
23 qualified public depository shall execute and return the  
24 completed form to the public depositor within 45 calendar days  
25 after such presentation.

26           (b) Within 15 days after the end of each calendar  
27 month, or when requested by the Chief Financial Officer  
28 ~~Treasurer~~, submit to the Chief Financial Officer ~~Treasurer~~ a  
29 written report, under oath, indicating the average daily  
30 balance of all public deposits held by it during the reported  
31 month, required collateral, a detailed schedule of all

1 securities pledged as collateral, selected financial  
2 information, and any other information that the Chief  
3 Financial Officer's ~~Treasurer~~ determines necessary to  
4 administer this chapter.

5 (d) Submit to the Chief Financial Officer ~~Treasurer~~  
6 annually, not later than November 30, a report of all public  
7 deposits held for the credit of all public depositors at the  
8 close of business on September 30. Such annual report shall  
9 consist of public deposit information in a report format  
10 prescribed by the Chief Financial Officer ~~Treasurer~~. The  
11 manner of required filing may be as a signed writing or  
12 electronic data transmission, at the discretion of the  
13 Treasurer.

14 (e) Submit to the Chief Financial Officer ~~Treasurer~~  
15 not later than the date required to be filed with the federal  
16 agency:

17 1. A copy of the quarterly Consolidated Reports of  
18 Condition and Income, and any amended reports, required by the  
19 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if  
20 such depository is a bank; or

21 2. A copy of the Thrift Financial Report, and any  
22 amended reports, required to be filed with the Office of  
23 Thrift Supervision if such depository is a savings and loan  
24 association.

25 (3) Any information contained in a report of a  
26 qualified public depository required under this chapter or any  
27 rule adopted under this chapter, together with any information  
28 required of a financial institution that is not a qualified  
29 public depository, shall, if made confidential by any law of  
30 the United States or of this state, be considered confidential  
31 and exempt from the provisions of s. 119.07(1) and not subject

1 to dissemination to anyone other than the Chief Financial  
2 Officer ~~Treasurer~~ under the provisions of this chapter;  
3 however, it is the responsibility of each qualified public  
4 depository and each financial institution from which  
5 information is required to inform the Chief Financial Officer  
6 ~~Treasurer~~ of information that is confidential and the law  
7 providing for the confidentiality of that information, and the  
8 Chief Financial Officer ~~Treasurer~~ does not have a duty to  
9 inquire into whether information is confidential.

10 Section 334. Paragraphs (b) and (c) of subsection (2),  
11 subsections (3), (4), and (6), and paragraph (c) of subsection  
12 (7) of section 280.17, Florida Statutes, are amended to read:

13 280.17 Requirements for public depositors; notice to  
14 public depositors and governmental units; loss of  
15 protection.--In addition to any other requirement specified in  
16 this chapter, public depositors shall comply with the  
17 following:

18 (2) Beginning July 1, 1998, each public depositor  
19 shall take the following actions for each public deposit  
20 account:

21 (b) Execute a form prescribed by the Chief Financial  
22 Officer ~~Treasurer~~ for identification of each public deposit  
23 account and obtain acknowledgment of receipt on the form from  
24 the qualified public depository at the time of opening the  
25 account. Such public deposit identification and acknowledgment  
26 form shall be replaced with a current form as required in  
27 subsection (3). A public deposit account existing before July  
28 1, 1998, must have a form completed before September 30, 1998.

29 (c) Maintain the current public deposit identification  
30 and acknowledgment form as a valuable record. Such form is  
31 mandatory for filing a claim with the Chief Financial Officer

1 ~~Treasurer~~ upon default or insolvency of a qualified public  
2 depository.

3 (3) Each public depositor shall review the Chief  
4 Financial Officer's ~~Treasurer's~~ published list of qualified  
5 public depositories and ascertain the status of depositories  
6 used. A public depositor shall, for status changes of  
7 depositories:

8 (a) Execute a replacement public deposit  
9 identification and acknowledgment form, as described in  
10 subsection (2), for each public deposit account when there is  
11 a merger, acquisition, name change, or other event which  
12 changes the account name, account number, or name of the  
13 qualified public depository.

14 (b) Move and close public deposit accounts when an  
15 institution is not included in the authorized list of  
16 qualified public depositories or is shown as withdrawing.

17 (4) Whenever public deposits are in a qualified public  
18 depository that has been declared to be in default or  
19 insolvent, each public depositor shall:

20 (a) Notify the Chief Financial Officer ~~Treasurer~~  
21 immediately by telecommunication after receiving notice of the  
22 default or insolvency from the receiver of the depository with  
23 subsequent written confirmation and a copy of the notice.

24 (b) Submit to the Chief Financial Officer ~~Treasurer~~  
25 for each public deposit, within 30 days after the date of  
26 official notification from the Chief Financial Officer  
27 ~~Treasurer~~, the following:

28 1. A claim form and agreement, as prescribed by the  
29 Chief Financial Officer ~~Treasurer~~, executed under oath,  
30 accompanied by proof of authority to execute the form on  
31 behalf of the public depositor.

1           2. A completed public deposit identification and  
2 acknowledgment form, as described in subsection (2).

3           3. Evidence of the insurance afforded the deposit  
4 pursuant to the Federal Deposit Insurance Act.

5           (6) Each public depositor shall submit, not later than  
6 November 30, an annual report to the Chief Financial Officer  
7 ~~Treasurer~~ which shall include:

8           (a) The official name, mailing address, and federal  
9 employer identification number of the public depositor.

10           (b) Verification that confirmation of public deposit  
11 information as of September 30, as described in subsection  
12 (5), has been completed.

13           (c) Public deposit information in a report format  
14 prescribed by the Chief Financial Officer ~~Treasurer~~. The  
15 manner of required filing may be as a signed writing or  
16 electronic data transmission, at the discretion of the Chief  
17 Financial Officer ~~Treasurer~~.

18           (d) Confirmation that a current public deposit  
19 identification and acknowledgment form, as described in  
20 subsection (2), has been completed for each public deposit  
21 account and is in the possession of the public depositor.

22           (7) Notices relating to the public deposits program  
23 shall be mailed to public depositors and governmental units  
24 from a list developed annually from:

25           (c) Governmental units established during the year  
26 that filed an annual report as a new governmental unit or  
27 otherwise furnished in writing to the Chief Financial Officer  
28 ~~Treasurer~~ its official name, address, and federal employer  
29 identification number.

30           Section 335. Subsection (2) of section 280.18, Florida  
31 Statutes, is amended to read:

1           280.18 Protection of public depositors; liability of  
2 the state.--

3           (2) The liability of the state, the Chief Financial  
4 Officer ~~Treasurer~~, or any state agency, or any employee or  
5 agent of the state, the Chief Financial Officer ~~Treasurer~~, or  
6 a state agency, for any action taken in the performance of  
7 their powers and duties under this chapter shall be limited to  
8 that as a public depositor.

9           Section 336. Section 280.19, Florida Statutes, is  
10 amended to read:

11           280.19 Rules.--The Chief Financial Officer ~~Treasurer~~  
12 shall adopt rules pursuant to ss. 120.536(1) and 120.54 to  
13 administer the provisions of this chapter.

14           Section 337. Paragraph (a) of subsection (2) of  
15 section 282.1095, Florida Statutes, is amended to read:

16           282.1095 State agency law enforcement radio system.--

17           (2)(a) The Joint Task Force on State Agency Law  
18 Enforcement Communications shall consist of eight members, as  
19 follows:

20           1. A representative of the Division of Alcoholic  
21 Beverages and Tobacco of the Department of Business and  
22 Professional Regulation who shall be appointed by the  
23 secretary of the department.

24           2. A representative of the Division of Florida Highway  
25 Patrol of the Department of Highway Safety and Motor Vehicles  
26 who shall be appointed by the executive director of the  
27 department.

28           3. A representative of the Department of Law  
29 Enforcement who shall be appointed by the executive director  
30 of the department.

31



1           4. A representative of the Fish and Wildlife  
2 Conservation Commission who shall be appointed by the  
3 executive director of the commission.

4           5. A representative of the Division of Law Enforcement  
5 of the Department of Environmental Protection who shall be  
6 appointed by the secretary of the department.

7           6. A representative of the Department of Corrections  
8 who shall be appointed by the secretary of the department.

9           7. A representative of the Division of State Fire  
10 Marshal of the Department of Financial Services ~~Insurance~~ who  
11 shall be appointed by the State Fire Marshal.

12           8. A representative of the Department of  
13 Transportation who shall be appointed by the secretary of the  
14 department.

15           Section 338. Subsections (2) and (3) of section  
16 284.02, Florida Statutes, are amended to read:

17           284.02 Payment of premiums by each agency; handling of  
18 funds; payment of losses and expenses.--

19           (2) All premiums paid into the fund and all moneys  
20 received by the fund from investment or any other source  
21 pursuant to said program shall be held by the Department of  
22 Financial Services ~~Insurance~~ and used for the purpose of  
23 paying losses, expenses incurred in adjustment of losses,  
24 premiums for reinsurance, and operating expenses.

25           (3) The Department of Financial Services ~~Insurance~~ is  
26 authorized to employ a director of the fund and necessary  
27 administrative and clerical personnel, actuaries, consultants,  
28 and adjusters to maintain, operate, and administer the fund  
29 and to underwrite all certificates of insurance issued by the  
30 fund. All salaries and expenses of administration and  
31 operation shall be paid from the fund.

1           Section 339. Section 284.04, Florida Statutes, is  
2 amended to read:

3           284.04 Notice and information required by Department  
4 of Financial Services Insurance of all newly erected or  
5 acquired state property subject to insurance.--The Department  
6 of Management Services and all agencies in charge of state  
7 property shall notify the Department of Financial Services  
8 ~~Insurance~~ of all newly erected or acquired property subject to  
9 coverage as soon as erected or acquired, giving its value,  
10 type of construction, location, whether inside or outside of  
11 corporate limits, occupancy, and any other information the  
12 Department of Financial Services Insurance may require in  
13 connection with such property. Such department or agency  
14 shall also notify the Department of Financial Services  
15 ~~Insurance~~ immediately of any change in value or occupancy of  
16 any property covered by the fund. Unless the above data is  
17 submitted in writing within a reasonable time following such  
18 erection, acquisition, or change, the Department of Financial  
19 Services Insurance shall provide insurance coverage to the  
20 extent shown by the last notification in writing to the fund  
21 or in accordance with the last valuation shown by fund  
22 records. In case of disagreement between the Department of  
23 Financial Services Insurance and the agency or person in  
24 charge of any covered state property as to its true value, the  
25 amount of the insurance to be carried thereon, the proper  
26 premium rate or rates, or amount of loss settlement, the  
27 matter in disagreement shall be determined by the Department  
28 of Management Services.

29           Section 340. Section 284.05, Florida Statutes, is  
30 amended to read:

31

1           284.05 Inspection of insured state property.--The  
2 Department of Financial Services Insurance shall inspect all  
3 permanent buildings insured by the State Risk Management Trust  
4 Fund, and whenever conditions are found to exist which, in the  
5 opinion of the Department of Financial Services Insurance, are  
6 hazardous from the standpoint of destruction by fire or other  
7 loss, the Department of Financial Services Insurance may order  
8 the same repaired or remedied, and the agency, board, or  
9 person in charge of such property is required to have such  
10 dangerous conditions immediately repaired or remedied upon  
11 written notice from the Department of Financial Services  
12 ~~Insurance~~ of such hazardous conditions. Such amounts as may  
13 be necessary to comply with such notice or notices shall be  
14 paid by the Department of Management Services or by the  
15 agency, board, or person in charge of such property out of any  
16 moneys appropriated for the maintenance of the respective  
17 agency or for the repairs or permanent improvement of such  
18 properties or from any incidental or contingent funds they may  
19 have on hand. In the event of a disagreement between the  
20 Department of Financial Services Insurance and the agency,  
21 board, or person having charge of such property as to the  
22 necessity of the repairs or remedies ordered, the matter in  
23 disagreement shall be determined by the Department of  
24 Management Services.

25           Section 341. Section 284.06, Florida Statutes, is  
26 amended to read:

27           284.06 Annual report to Governor.--The Department of  
28 Financial Services Insurance shall report annually to the  
29 Governor the investigations which have been made and the  
30 actions which have been taken to decrease the fire hazard of  
31

1 the various insurable properties of the state, together with  
2 its recommendations as to further safeguards and improvements.

3 Section 342. Section 284.08, Florida Statutes, is  
4 amended to read:

5 284.08 Reinsurance on excess coverage and approval by  
6 Department of Management Services.--The Department of  
7 Financial Services ~~Insurance~~ shall determine what excess  
8 coverage is necessary and may purchase reinsurance thereon  
9 upon approval by the Department of Management Services.

10 Section 343. Section 284.14, Florida Statutes, is  
11 amended to read:

12 284.14 State Risk Management Trust Fund; leasehold  
13 interest.--In the event the state or any department or agency  
14 thereof has acquired or hereafter acquires a leasehold  
15 interest in any improved real property and by the terms and  
16 provisions of said lease it is obligated to insure such  
17 premises against loss by fire or other hazard to such  
18 premises, it shall insure such premises in the State Risk  
19 Management Trust Fund as required by the terms of said lease  
20 or as required by the provisions of this chapter. No state  
21 agency shall enter into or acquire any such leasehold interest  
22 until the coverages required to be maintained by the  
23 provisions of the lease are approved in writing by the  
24 Department of Financial Services ~~Insurance~~.

25 Section 344. Section 284.17, Florida Statutes, is  
26 amended to read:

27 284.17 Rules.--The Department of Financial Services  
28 ~~Insurance~~ has authority to adopt rules pursuant to ss.  
29 120.536(1) and 120.54 to implement the provisions of this  
30 chapter.

31

1           Section 345. Section 284.30, Florida Statutes, is  
2 amended to read:

3           284.30 State Risk Management Trust Fund; coverages to  
4 be provided.--A state self-insurance fund, designated as the  
5 "State Risk Management Trust Fund," is created to be set up by  
6 the Department of Financial Services ~~Insurance~~ and  
7 administered with a program of risk management, which fund is  
8 to provide insurance, as authorized by s. 284.33, for workers'  
9 compensation, general liability, fleet automotive liability,  
10 federal civil rights actions under 42 U.S.C. s. 1983 or  
11 similar federal statutes, and court-awarded attorney's fees in  
12 other proceedings against the state except for such awards in  
13 eminent domain or for inverse condemnation or for awards by  
14 the Public Employees Relations Commission. A party to a suit  
15 in any court, to be entitled to have his or her attorney's  
16 fees paid by the state or any of its agencies, must serve a  
17 copy of the pleading claiming the fees on the Department of  
18 Financial Services ~~Insurance~~; and thereafter the department  
19 shall be entitled to participate with the agency in the  
20 defense of the suit and any appeal thereof with respect to  
21 such fees.

22           Section 346. Section 284.31, Florida Statutes, is  
23 amended to read:

24           284.31 Scope and types of coverages; separate  
25 accounts.--The insurance risk management trust fund shall,  
26 unless specifically excluded by the Department of Financial  
27 Services ~~Insurance~~, cover all departments of the State of  
28 Florida and their employees, agents, and volunteers and shall  
29 provide separate accounts for workers' compensation, general  
30 liability, fleet automotive liability, federal civil rights  
31 actions under 42 U.S.C. s. 1983 or similar federal statutes,

1 and court-awarded attorney's fees in other proceedings against  
2 the state except for such awards in eminent domain or for  
3 inverse condemnation or for awards by the Public Employees  
4 Relations Commission. Unless specifically excluded by the  
5 Department of Financial Services Insurance, the insurance risk  
6 management trust fund shall provide fleet automotive liability  
7 coverage to motor vehicles titled to the state, or to any  
8 department of the state, when such motor vehicles are used by  
9 community transportation coordinators performing, under  
10 contract to the appropriate department of the state, services  
11 for the transportation disadvantaged under part I of chapter  
12 427. Such fleet automotive liability coverage shall be primary  
13 and shall be subject to the provisions of s. 768.28 and parts  
14 II and III of chapter 284, and applicable rules adopted  
15 thereunder, and the terms and conditions of the certificate of  
16 coverage issued by the Department of Financial Services  
17 Insurance.

18 Section 347. Section 284.32, Florida Statutes, is  
19 amended to read:

20 284.32 Department of Financial Services Insurance to  
21 implement and consolidate.--The Department of Financial  
22 Services Insurance is hereby authorized to effect a  
23 consolidation and combination of all insurance coverages  
24 provided herein into one insurance program in accordance with  
25 the provisions of part I of chapter 287.

26 Section 348. Subsection (1) of section 284.33, Florida  
27 Statutes, is amended to read:

28 284.33 Purchase of insurance, reinsurance, and  
29 services.--

30 (1) The Department of Financial Services Insurance is  
31 authorized to provide insurance, specific excess insurance,

1 and aggregate excess insurance through the Department of  
2 Management Services, pursuant to the provisions of part I of  
3 chapter 287, as necessary to provide insurance coverages  
4 authorized by this part, consistent with market availability.  
5 However, the Department of Financial Services ~~Insurance~~ may  
6 directly purchase annuities by using a structured settlement  
7 insurance consulting firm selected by the department to assist  
8 in the settlement of claims being handled by the Division of  
9 Risk Management. The selection of the structured settlement  
10 insurance services consultant shall be made by using  
11 competitive sealed proposals. The consulting firm shall act as  
12 an agent of record for the department in procuring the best  
13 annuity products available to facilitate structured settlement  
14 of claims, considering price, insurer financial strength, and  
15 the best interests of the state risk management program.  
16 Purchase of annuities by the department using a structured  
17 settlement method is excepted from competitive sealed bidding  
18 or proposal requirements. The Department of Financial Services  
19 ~~Insurance~~ is further authorized to purchase such risk  
20 management services, including, but not limited to, risk and  
21 claims control; safety management; and legal, investigative,  
22 and adjustment services, as may be required and pay claims.  
23 The department may contract with a service organization for  
24 such services and advance money to such service organization  
25 for deposit in a special checking account for paying claims  
26 made against the state under the provisions of this part. The  
27 special checking account shall be maintained in this state in  
28 a bank or savings association organized under the laws of this  
29 state or of the United States. The department may replenish  
30 such account as often as necessary upon the presentation by  
31

1 the service organization of documentation for payments of  
2 claims equal to the amount of the requested reimbursement.

3 Section 349. Section 284.34, Florida Statutes, is  
4 amended to read:

5 284.34 Professional medical liability of the Board of  
6 Regents and nuclear energy liability excluded.--Unless  
7 specifically authorized by the Department of Financial  
8 Services Insurance, no coverages shall be provided by this  
9 fund for professional medical liability insurance for the  
10 Board of Regents or the physicians, officers, employees, or  
11 agents of the board or for liability related to nuclear energy  
12 which is ordinarily subject to the standard nuclear energy  
13 liability exclusion of conventional liability insurance  
14 policies. This section shall not be construed as affecting  
15 the self-insurance programs of the Board of Regents  
16 established pursuant to s. 240.213.

17 Section 350. Section 284.35, Florida Statutes, is  
18 amended to read:

19 284.35 Administrative personnel; expenses to be paid  
20 from fund.--The Department of Financial Services Insurance is  
21 ~~hereby~~ authorized, in accordance with current budget and  
22 personnel requirements, to employ necessary administrative and  
23 clerical personnel and actuarial consultants, as necessary to  
24 maintain, operate, and administer the fund. All salaries and  
25 expenses of administration and operation shall be paid from  
26 the fund.

27 Section 351. Section 284.37, Florida Statutes, is  
28 amended to read:

29 284.37 Premium and investment accruals used for fund  
30 purposes.--All premiums paid into the fund and all moneys from  
31 investments or any other source pursuant to said program shall



1 be held by the Department of Financial Services ~~Insurance~~ and  
2 used for the purpose of paying losses, premiums for insurance,  
3 risk and claims management services, and operating expenses.

4 Section 352. Section 284.385, Florida Statutes, is  
5 amended to read:

6 284.385 Reporting and handling of claims.--All  
7 departments covered by the State Risk Management Trust Fund  
8 under this part shall immediately report all known or  
9 potential claims to the Department of Financial Services  
10 ~~Insurance~~ for handling, except employment complaints which  
11 have not been filed with the Florida Human Relations  
12 Commission, Equal Employment Opportunity Commission, or any  
13 similar agency. When deemed necessary, the Department of  
14 Financial Services ~~Insurance~~ shall assign or reassign the  
15 claim to counsel. The assigned counsel shall report regularly  
16 to the Department of Financial Services ~~Insurance~~ or to the  
17 covered department on the status of any such claims or  
18 litigation as required by the Department of Financial Services  
19 ~~Insurance~~. No such claim shall be compromised or settled for  
20 monetary compensation without the prior approval of the  
21 Department of Financial Services ~~Insurance~~ and prior  
22 notification to the covered department. All departments shall  
23 cooperate with the Department of Financial Services ~~Insurance~~  
24 in its handling of claims. The Department of Financial  
25 Services and Insurance, the Department of Management Services,  
26 ~~and the Department of Banking and Finance~~, with the  
27 cooperation of the state attorneys and the clerks of the  
28 courts, shall develop a system to coordinate the exchange of  
29 information concerning claims for and against the state, its  
30 agencies, and its subdivisions, to assist in collection of  
31 amounts due to them. The covered department shall have the

1 responsibility for the settlement of any claim for injunctive  
2 or affirmative relief under 42 U.S.C. s. 1983 or similar  
3 federal or state statutes. The payment of a settlement or  
4 judgment for any claim covered and reported under this part  
5 shall be made only from the State Risk Management Trust Fund.

6 Section 353. Section 284.39, Florida Statutes, is  
7 amended to read:

8 284.39 Adoption ~~Promulgation~~ of rules.--The Department  
9 of Financial Services may adopt ~~insurance is authorized to~~  
10 ~~promulgate~~ rules ~~and regulations~~ for the proper management and  
11 maintenance of the fund.

12 Section 354. Subsections (1) and (2) of section  
13 284.40, Florida Statutes, are amended to read:

14 284.40 Division of Risk Management.--

15 (1) It shall be the responsibility of the Division of  
16 Risk Management of the Department of Financial Services  
17 ~~insurance~~ to administer this part and the provisions of s.  
18 287.131.

19 (2) The claim files maintained by the Division of Risk  
20 Management shall be confidential, shall be only for the usage  
21 by the Department of Financial Services ~~insurance~~ in  
22 fulfilling its duties and responsibilities under this part,  
23 and shall be exempt from the provisions of s. 119.07(1).

24 Section 355. Subsection (1) of section 284.41, Florida  
25 Statutes, is amended to read:

26 284.41 Transfer of personnel and funds to the Division  
27 of Risk Management.--

28 (1) All personnel and funds otherwise allocated to the  
29 Department of Financial Services ~~insurance~~ for this purpose  
30 are transferred to the Division of Risk Management.

31

1           Section 356. Subsection (1) of section 284.42, Florida  
2 Statutes, is amended to read:

3           284.42 Reports on state insurance program.--

4           (1) The Department of Financial Services ~~Insurance~~,  
5 with the Department of Management Services, shall make an  
6 analysis of the state insurance program annually, which shall  
7 include:

8           (a) Complete underwriting information as to the nature  
9 of the risks accepted for self-insurance and those risks that  
10 are transferred to the insurance market.

11           (b) The funds allocated to the Florida Casualty Risk  
12 Management Trust Fund and premiums paid for insurance through  
13 the market.

14           (c) The method of handling legal matters and the cost  
15 allocated.

16           (d) The method and cost of handling inspection and  
17 engineering of risks.

18           (e) The cost of risk management service purchased.

19           (f) The cost of managing the State Insurance Program  
20 by the Department of Financial Services ~~Insurance~~ and the  
21 Department of Management Services.

22           Section 357. Subsections (4) and (7) of section  
23 284.44, Florida Statutes, are amended to read:

24           284.44 Salary indemnification costs of state  
25 agencies.--

26           (4) For the purpose of administering this section, the  
27 Division of Risk Management of the Department of Financial  
28 Services ~~Insurance~~ shall continue to pay all claims, but shall  
29 be periodically reimbursed from funds of state agencies for  
30 initial salary indemnification costs for which they are  
31 responsible.

1           (7) If a state agency fails to pay casualty increase  
2 premiums or salary indemnification reimbursements within 30  
3 days after being billed, the Division of Risk Management shall  
4 advise the Chief Financial Officer ~~Comptroller~~. After  
5 verifying the accuracy of the billing, the Chief Financial  
6 Officer ~~Comptroller~~ shall transfer the appropriate amount from  
7 any available funds of the delinquent state agency to the  
8 State Risk Management Trust Fund.

9           Section 358. Subsection (1) of section 284.50, Florida  
10 Statutes, is amended to read:

11           284.50 Loss prevention program; safety coordinators;  
12 Interagency Advisory Council on Loss Prevention; employee  
13 recognition program.--

14           (1) The head of each department of state government,  
15 except the Legislature, shall designate a safety coordinator.  
16 Such safety coordinator must be an employee of the department  
17 and must hold a position which has responsibilities comparable  
18 to those of an employee in the Senior Management System. The  
19 Department of Financial Services ~~Insurance~~ shall provide  
20 appropriate training to the safety coordinators to permit them  
21 to effectively perform their duties within their respective  
22 departments. Each safety coordinator shall, at the direction  
23 of his or her department head:

24           (a) Develop and implement the loss prevention program,  
25 a comprehensive departmental safety program which shall  
26 include a statement of safety policy and responsibility.

27           (b) Provide for regular and periodic facility and  
28 equipment inspections.

29           (c) Investigate job-related employee accidents of his  
30 or her department.

31

1 (d) Establish a program to promote increased safety  
2 awareness among employees.

3 Section 359. Subsection (9) and paragraph (c) of  
4 subsection (16) of section 287.042, Florida Statutes, are  
5 amended to read:

6 287.042 Powers, duties, and functions.--The department  
7 shall have the following powers, duties, and functions:

8 (9) To furnish copies of any commodity and contractual  
9 service purchasing rules to the Chief Financial Officer  
10 ~~Comptroller~~ and all agencies affected thereby. The Chief  
11 Financial Officer ~~Comptroller~~ shall not approve any account or  
12 direct any payment of any account for the purchase of any  
13 commodity or the procurement of any contractual service  
14 covered by a purchasing or contractual service rule except as  
15 authorized therein. The department shall furnish copies of  
16 rules adopted by the department to any county, municipality,  
17 or other local public agency requesting them.

18 (16)

19 (c) Agencies that sign such joint agreements are  
20 financially obligated for their portion of the agreed-upon  
21 funds. If any agency becomes more than 90 days delinquent in  
22 paying such funds, the Department of Management Services shall  
23 certify to the Chief Financial Officer ~~Comptroller~~ the amount  
24 due, and the Chief Financial Officer ~~Comptroller~~ shall  
25 transfer the amount due to the Grants and Donations Trust Fund  
26 of the department from any of the agency's available funds.  
27 The Chief Financial Officer ~~Comptroller~~ shall report all such  
28 transfers and the reasons for such transfers to the Executive  
29 Office of the Governor and the legislative appropriations  
30 committees.

31

1           Section 360. Paragraph (a) of subsection (4) of  
2 section 287.057, Florida Statutes, is amended to read:

3           287.057 Procurement of commodities or contractual  
4 services.--

5           (4) When the purchase price of commodities or  
6 contractual services exceeds the threshold amount provided in  
7 s. 287.017 for CATEGORY TWO, no purchase of commodities or  
8 contractual services may be made without receiving competitive  
9 sealed bids, competitive sealed proposals, or responses to an  
10 invitation to negotiate or a request for a quote unless:

11           (a) The agency head determines in writing that an  
12 immediate danger to the public health, safety, or welfare or  
13 other substantial loss to the state requires emergency action.  
14 After the agency head makes such a written determination, the  
15 agency may proceed with the procurement of commodities or  
16 contractual services necessitated by the immediate danger,  
17 without competition. However, such emergency procurement shall  
18 be made with such competition as is practicable under the  
19 circumstances. The agency shall furnish copies of the written  
20 determination certified under oath and any other documents  
21 relating to the emergency action to the department. A copy of  
22 the statement shall be furnished to the Chief Financial  
23 Officer ~~Comptroller~~ with the voucher authorizing payment. The  
24 individual purchase of personal clothing, shelter, or supplies  
25 which are needed on an emergency basis to avoid  
26 institutionalization or placement in a more restrictive  
27 setting is an emergency for the purposes of this paragraph,  
28 and the filing with the department of such statement is not  
29 required in such circumstances. In the case of the emergency  
30 purchase of insurance, the period of coverage of such

31

1 insurance shall not exceed a period of 30 days, and all such  
2 emergency purchases shall be reported to the department.  
3 Section 361. Subsections (2) and (5) of section  
4 287.058, Florida Statutes, are amended to read:  
5 287.058 Contract document.--  
6 (2) The written agreement shall be signed by the  
7 agency head and the contractor prior to the rendering of any  
8 contractual service the value of which is in excess of the  
9 threshold amount provided in s. 287.017 for CATEGORY TWO,  
10 except in the case of a valid emergency as certified by the  
11 agency head. The certification of an emergency shall be  
12 prepared within 30 days after the contractor begins rendering  
13 the service and shall state the particular facts and  
14 circumstances which precluded the execution of the written  
15 agreement prior to the rendering of the service. If the  
16 agency fails to have the contract signed by the agency head  
17 and the contractor prior to rendering the contractual service,  
18 and if an emergency does not exist, the agency head shall, no  
19 later than 30 days after the contractor begins rendering the  
20 service, certify the specific conditions and circumstances to  
21 the department as well as describe actions taken to prevent  
22 recurrence of such noncompliance. The agency head may delegate  
23 the certification only to other senior management agency  
24 personnel. A copy of the certification shall be furnished to  
25 the Chief Financial Officer ~~Comptroller~~ with the voucher  
26 authorizing payment. The department shall report repeated  
27 instances of noncompliance by an agency to the Auditor  
28 General. Nothing in this subsection shall be deemed to  
29 authorize additional compensation prohibited by s. 215.425.  
30 The procurement of contractual services shall not be divided  
31 so as to avoid the provisions of this section.

1           (5) Unless otherwise provided in the General  
2 Appropriations Act or the substantive bill implementing the  
3 General Appropriations Act, the Chief Financial Officer  
4 ~~Comptroller~~ may waive the requirements of this section for  
5 services which are included in s. 287.057(4)(f).

6           Section 362. Subsections (1) and (2) of section  
7 287.063, F.S., are amended to read:

8           287.063 Deferred-payment commodity contracts; preaudit  
9 review.--

10           (1)(a) When any commodity contract requires deferred  
11 payments and the payment of interest, such contract shall be  
12 submitted to the Chief Financial Officer ~~Comptroller~~ for the  
13 purpose of preaudit review and approval prior to acceptance by  
14 the state.

15           (b) Contracts executed pursuant to this subsection may  
16 bear interest at a rate not to exceed an average net interest  
17 cost rate which shall be computed by adding 150 basis points  
18 to the 20 "bond buyer" average yield index published  
19 immediately preceding the first day of the calendar month in  
20 which the contract is submitted to the Chief Financial Officer  
21 ~~Comptroller~~ for preaudit review and approval.

22           (2)(a) No funds appropriated shall be used to acquire  
23 equipment through a lease or deferred-payment purchase  
24 arrangement unless approved by the Chief Financial Officer  
25 ~~Comptroller~~ as economically prudent and cost-effective.

26           (b) The Chief Financial Officer ~~Comptroller~~ shall  
27 establish, by rule, criteria for approving purchases made  
28 under deferred-payment contracts which require the payment of  
29 interest. Criteria shall include, but not be limited to, the  
30 following provisions:

31



1           1. No contract shall be approved in which interest  
2 exceeds the statutory ceiling contained in this section.  
3 However, the interest component of any master equipment  
4 financing agreement entered into for the purpose of  
5 consolidated financing of a deferred-payment, installment  
6 sale, or lease-purchase shall be deemed to comply with the  
7 interest rate limitation of this section so long as the  
8 interest component of every interagency agreement under such  
9 master equipment financing agreement complies with the  
10 interest rate limitation of this section.

11           2. No deferred-payment purchase for less than \$30,000  
12 shall be approved, unless it can be satisfactorily  
13 demonstrated and documented to the Chief Financial Officer  
14 ~~Comptroller~~ that failure to make such deferred-payment  
15 purchase would adversely affect an agency in the performance  
16 of its duties. However, the Chief Financial Officer  
17 ~~Comptroller~~ may approve any deferred-payment purchase if the  
18 Chief Financial Officer ~~Comptroller~~ determines that such  
19 purchase is economically beneficial to the state.

20           3. No agency shall obligate an annualized amount of  
21 payments for deferred-payment purchases in excess of current  
22 operating capital outlay appropriations, unless specifically  
23 authorized by law or unless it can be satisfactorily  
24 demonstrated and documented to the Chief Financial Officer  
25 ~~Comptroller~~ that failure to make such deferred-payment  
26 purchase would adversely affect an agency in the performance  
27 of its duties.

28           4. No contract shall be approved which extends payment  
29 beyond 5 years, unless it can be satisfactorily demonstrated  
30 and documented to the Chief Financial Officer ~~Comptroller~~ that  
31

1 failure to make such deferred-payment purchase would adversely  
2 affect an agency in the performance of its duties.

3 (c) The Chief Financial Officer ~~Comptroller~~ shall  
4 require written justification based on need, usage, size of  
5 the purchase, and financial benefit to the state for  
6 deferred-payment purchases made pursuant to this subsection.

7 Section 363. Section 287.064, Florida Statutes, is  
8 amended to read:

9 287.064 Consolidated financing of deferred-payment  
10 purchases.--

11 (1) The Division of Bond Finance of the State Board of  
12 Administration and the Chief Financial Officer ~~Comptroller~~  
13 shall plan and coordinate deferred-payment purchases made by  
14 or on behalf of the state or its agencies or by or on behalf  
15 of state community colleges participating under this section  
16 pursuant to s. 240.319(4)(p). The Division of Bond Finance  
17 shall negotiate and the Chief Financial Officer ~~Comptroller~~  
18 shall execute agreements and contracts to establish master  
19 equipment financing agreements for consolidated financing of  
20 deferred-payment, installment sale, or lease purchases with a  
21 financial institution or a consortium of financial  
22 institutions. As used in this act, the term "deferred-payment"  
23 includes installment sale and lease-purchase.

24 (a) The period during which equipment may be acquired  
25 under any one master equipment financing agreement shall be  
26 limited to not more than 3 years.

27 (b) Repayment of the whole or a part of the funds  
28 drawn pursuant to the master equipment financing agreement may  
29 continue beyond the period established pursuant to paragraph  
30 (a).

31

1           (c) The interest rate component of any master  
2 equipment financing agreement shall be deemed to comply with  
3 the interest rate limitation imposed in s. 287.063 so long as  
4 the interest rate component of every interagency or community  
5 college agreement entered into under such master equipment  
6 financing agreement complies with the interest rate limitation  
7 imposed in s. 287.063. Such interest rate limitation does not  
8 apply when the payment obligation under the master equipment  
9 financing agreement is rated by a nationally recognized rating  
10 service in any one of the three highest classifications, which  
11 rating services and classifications are determined pursuant to  
12 rules adopted by the Chief Financial Officer ~~Comptroller~~.

13           (2) Unless specifically exempted by the Chief  
14 Financial Officer ~~Comptroller~~, all deferred-payment purchases,  
15 including those made by a community college that is  
16 participating under this section, shall be acquired by funding  
17 through master equipment financing agreements. The Chief  
18 Financial Officer ~~Comptroller~~ is authorized to exempt any  
19 purchases from consolidated financing when, in his or her  
20 judgment, alternative financing would be cost-effective or  
21 otherwise beneficial to the state.

22           (3) The Chief Financial Officer ~~Comptroller~~ may  
23 require agencies to enter into interagency agreements and may  
24 require participating community colleges to enter into  
25 systemwide agreements for the purpose of carrying out the  
26 provisions of this act.

27           (a) The term of any interagency or systemwide  
28 agreement shall expire on June 30 of each fiscal year but  
29 shall automatically be renewed annually subject to  
30 appropriations and deferred-payment schedules. The period of  
31 any interagency or systemwide agreement shall not exceed the

1 useful life of the equipment for which the agreement was made  
2 as determined by the Chief Financial Officer ~~Comptroller~~.

3 (b) The interagency or systemwide agreements may  
4 include, but are not limited to, equipment costs, terms, and a  
5 pro rata share of program and issuance expenses.

6 (4) Each community college may choose to have its  
7 purchasing agreements involving administrative and  
8 instructional materials consolidated under this section.

9 (5) The Chief Financial Officer ~~Comptroller~~ is  
10 authorized to automatically debit each agency's funds and each  
11 community college's portion of the Community College Program  
12 Fund consistently with the deferred-payment schedules.

13 (6) There is created the Consolidated Payment Trust  
14 Fund in the Chief Financial Officer's ~~Comptroller's~~ office for  
15 the purpose of implementing the provisions of this act. All  
16 funds debited from each agency and each community college may  
17 be deposited in the trust fund and shall be used to meet the  
18 financial obligations incurred pursuant to this act. Any  
19 income from the investment of funds may be used to fund  
20 administrative costs associated with this program.

21 (7) The Chief Financial Officer ~~Comptroller~~ may borrow  
22 sufficient amounts from trust funds to pay issuance expenses  
23 for the purposes of administering this section. Such amounts  
24 shall be subject to approval of the Executive Office of the  
25 Governor and subject to the notice, review, and objection  
26 procedures of s. 216.177. The amounts approved pursuant to  
27 this subsection are hereby appropriated for transfer to the  
28 Consolidated Payment Trust Fund and appropriated from the  
29 Consolidated Payment Trust Fund to pay issuance expenses.  
30 Amounts loaned shall be repaid as soon as practicable not to  
31

1 exceed the length of time obligations are issued to establish  
2 the master equipment financing agreement.

3 (8) The State Board of Administration and the Chief  
4 Financial Officer ~~Comptroller~~, individually, shall adopt rules  
5 to implement their respective responsibilities under this  
6 section.

7 Section 364. Paragraph (d) of subsection (4) of  
8 section 287.09451, Florida Statutes, is amended to read:

9 287.09451 Office of Supplier Diversity; powers,  
10 duties, and functions.--

11 (4) The Office of Supplier Diversity shall have the  
12 following powers, duties, and functions:

13 (d) To monitor the degree to which agencies procure  
14 services, commodities, and construction from minority business  
15 enterprises in conjunction with the Department of Financial  
16 Services ~~Banking and Finance~~ as specified in s. 17.11.

17 Section 365. Section 287.115, Florida Statutes, is  
18 amended to read:

19 287.115 Chief Financial Officer ~~Comptroller~~; annual  
20 report.--The Chief Financial Officer ~~Comptroller~~ shall submit  
21 to the office of the Auditor General an annual report on those  
22 contractual service contracts disallowed by the Chief  
23 Financial Officer ~~Comptroller~~, which report shall include, but  
24 is not limited to, the name of the user agency, the name of  
25 the firm or individual from which the contractual service was  
26 to be acquired, a description of the contractual service, the  
27 financial terms of the contract, and the reason for rejection.

28 Section 366. Section 287.131, Florida Statutes, is  
29 amended to read:

30 287.131 Assistance of Department of Financial Services  
31 ~~Insurance~~.--The Department of Financial Services ~~Insurance~~

1 shall provide the Department of Management Services with  
2 technical assistance in all matters pertaining to the purchase  
3 of insurance for all agencies, and shall make surveys of the  
4 insurance needs of the state and all departments thereof,  
5 including the benefits, if any, of self-insurance.

6 Section 367. Section 287.175, Florida Statutes, is  
7 amended to read:

8 287.175 Penalties.--A violation of this part or a rule  
9 adopted hereunder, pursuant to applicable constitutional and  
10 statutory procedures, constitutes misuse of public position as  
11 defined in s. 112.313(6), and is punishable as provided in s.  
12 112.317. The Chief Financial Officer ~~Comptroller~~ shall report  
13 incidents of suspected misuse to the Commission on Ethics, and  
14 the commission shall investigate possible violations of this  
15 part or rules adopted hereunder when reported by the Chief  
16 Financial Officer ~~Comptroller~~, notwithstanding the provisions  
17 of s. 112.324. Any violation of this part or a rule adopted  
18 hereunder shall be presumed to have been committed with  
19 wrongful intent, but such presumption is rebuttable. Nothing  
20 in this section is intended to deny rights provided to career  
21 service employees by s. 110.227.

22 Section 368. Paragraph (f) of subsection (5) of  
23 section 288.1045, Florida Statutes, is amended to read:

24 288.1045 Qualified defense contractor tax refund  
25 program.--

26 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE  
27 CONTRACTOR.--

28 (f) Upon approval of the tax refund pursuant to  
29 paragraphs (c) and (d), the Chief Financial Officer  
30 ~~Comptroller~~ shall issue a warrant for the amount included in  
31 the final order. In the event of any appeal of the final

1 order, the Chief Financial Officer ~~Comptroller~~ may not issue a  
2 warrant for a refund to the qualified applicant until the  
3 conclusion of all appeals of the final order.

4 Section 369. Paragraph (g) of subsection (5) of  
5 section 288.106, Florida Statutes, is amended to read:

6 288.106 Tax refund program for qualified target  
7 industry businesses.--

8 (5) ANNUAL CLAIM FOR REFUND.--

9 (g) Upon approval of the tax refund under paragraphs  
10 (c), (d), and (e), the Chief Financial Officer ~~Comptroller~~  
11 shall issue a warrant for the amount specified in the final  
12 order. If the final order is appealed, the Chief Financial  
13 Officer ~~Comptroller~~ may not issue a warrant for a refund to  
14 the qualified target industry business until the conclusion of  
15 all appeals of that order.

16 Section 370. Paragraph (d) of subsection (5) of  
17 section 288.109, Florida Statutes, is amended to read:

18 288.109 One-Stop Permitting System.--

19 (5) By January 1, 2001, the following state agencies,  
20 and the programs within such agencies which require the  
21 issuance of licenses, permits, and approvals to businesses,  
22 must also be integrated into the One-Stop Permitting System:

23 (d) The Department of Financial Services ~~Insurance~~.

24 Section 371. Paragraphs (b) and (d) of subsection (1)  
25 and subsection (2) of section 288.1253, Florida Statutes, are  
26 amended to read:

27 288.1253 Travel and entertainment expenses.--

28 (1) As used in this section:

29 (b) "Entertainment expenses" means the actual,  
30 necessary, and reasonable costs of providing hospitality for  
31 business clients or guests, which costs are defined and

1 prescribed by rules adopted by the Office of Tourism, Trade,  
2 and Economic Development, subject to approval by the Chief  
3 Financial Officer ~~Comptroller~~.

4 (d) "Travel expenses" means the actual, necessary, and  
5 reasonable costs of transportation, meals, lodging, and  
6 incidental expenses normally incurred by a traveler, which  
7 costs are defined and prescribed by rules adopted by the  
8 Office of Tourism, Trade, and Economic Development, subject to  
9 approval by the Chief Financial Officer ~~Comptroller~~.

10 (2) Notwithstanding the provisions of s. 112.061, the  
11 Office of Tourism, Trade, and Economic Development shall adopt  
12 rules by which it may make expenditures by advancement or  
13 reimbursement, or a combination thereof, to:

14 (a) The Governor, the Lieutenant Governor, security  
15 staff of the Governor or Lieutenant Governor, the Commissioner  
16 of Film and Entertainment, or staff of the Office of Film and  
17 Entertainment for travel expenses or entertainment expenses  
18 incurred by such individuals solely and exclusively in  
19 connection with the performance of the statutory duties of the  
20 Office of Film and Entertainment.

21 (b) The Governor, the Lieutenant Governor, security  
22 staff of the Governor or Lieutenant Governor, the Commissioner  
23 of Film and Entertainment, or staff of the Office of Film and  
24 Entertainment for travel expenses or entertainment expenses  
25 incurred by such individuals on behalf of guests, business  
26 clients, or authorized persons as defined in s. 112.061(2)(e)  
27 solely and exclusively in connection with the performance of  
28 the statutory duties of the Office of Film and Entertainment.

29 (c) Third-party vendors for the travel or  
30 entertainment expenses of guests, business clients, or  
31 authorized persons as defined in s. 112.061(2)(e) incurred



1 solely and exclusively while such persons are participating in  
2 activities or events carried out by the Office of Film and  
3 Entertainment in connection with that office's statutory  
4 duties.

5  
6 The rules shall be subject to approval by the Chief Financial  
7 Officer ~~Comptroller~~ prior to promulgation. The rules shall  
8 require the submission of paid receipts, or other proof of  
9 expenditure prescribed by the Chief Financial Officer  
10 ~~Comptroller~~, with any claim for reimbursement and shall  
11 require, as a condition for any advancement of funds, an  
12 agreement to submit paid receipts or other proof of  
13 expenditure and to refund any unused portion of the  
14 advancement within 15 days after the expense is incurred or,  
15 if the advancement is made in connection with travel, within  
16 10 working days after the traveler's return to headquarters.  
17 However, with respect to an advancement of funds made solely  
18 for travel expenses, the rules may allow paid receipts or  
19 other proof of expenditure to be submitted, and any unused  
20 portion of the advancement to be refunded, within 10 working  
21 days after the traveler's return to headquarters. Operational  
22 or promotional advancements, as defined in s. 288.35(4),  
23 obtained pursuant to this section shall not be commingled with  
24 any other state funds.

25 Section 372. Subsection (10) of section 288.709,  
26 Florida Statutes, is amended to read:

27 288.709 Powers of the Florida Black Business  
28 Investment Board.--The board shall have all the powers  
29 necessary or convenient to carry out and effectuate the  
30 purposes and provisions of ss. 9-21, chapter 85-104, Laws of  
31 Florida, including, but not limited to, the power to:

1           (10) Invest any funds held in reserves or sinking  
2 funds, or any funds not required for immediate disbursement,  
3 in such investments as may be authorized for trust funds under  
4 s. 215.47; provided, such investments will be made on behalf  
5 of the board by the Chief Financial Officer ~~Office of State~~  
6 ~~Treasurer~~ or by another trustee appointed for that purpose.

7           Section 373. Paragraph (b) of subsection (4) of  
8 section 288.712, Florida Statutes, is amended to read:

9           288.712 Florida guarantor funds.--

10           (4)

11           (b) If the board chooses to establish a loan guaranty  
12 program, it shall utilize the Black Business Loan Guaranty  
13 Trust Fund in the State Treasury, consisting of moneys  
14 deposited or credited to the Black Business Loan Guaranty  
15 Trust Fund pursuant to appropriation made by law; any grants,  
16 gifts, and contributions received pursuant to ss. 9-21,  
17 chapter 85-104, Laws of Florida; all moneys recovered  
18 following defaults; and any other moneys obtained by the board  
19 for this purpose. The Black Business Loan Guaranty Trust Fund  
20 shall be administered by the board in trust for the purposes  
21 of this section and shall at no time be part of general public  
22 funds under the following procedures:

23           1. The board shall utilize the Black Business Loan  
24 Guaranty Program Administrative and Loss Reserve Fund in the  
25 State Treasury, consisting of all premiums charged and  
26 collected in accordance with this section and any income  
27 earned from the moneys in the account. All expenses of the  
28 board in carrying out the purposes of this subsection shall be  
29 paid from the Black Business Loan Guaranty Program  
30 Administrative and Loss Reserve Fund. Any moneys to the  
31 credit of the Black Business Loan Guaranty Program

1 Administrative and Loss Reserve Fund in excess of the amount  
2 necessary to fund the board's activity shall be held as a loss  
3 reserve to pay claims arising from defaults on loans  
4 underwritten in accordance with this section.

5         2. Any claims against the state arising from defaults  
6 shall be payable initially from the Black Business Loan  
7 Guaranty Program Administrative and Loss Reserve Fund and,  
8 secondarily, from the Black Business Loan Guaranty Trust Fund.

9         3. The board as loan guarantor may exercise all rights  
10 and powers of a company authorized by the Department of  
11 Financial Services Insurance to guarantee loans but shall not  
12 be subject to any requirements of an insurance company under  
13 the Florida Insurance Code, nor to any rules of the Department  
14 of Financial Services Insurance; however, the board shall  
15 refer to the insurance code and rules thereunder when  
16 designing and administering such program. The board shall  
17 follow sound actuarial principles when administering this  
18 program. The board shall establish a premium for the loan  
19 guaranty and such rules as may be necessary to carry out the  
20 purposes of this section.

21         4. The board may guarantee no more than 20 percent of  
22 the principal of a loan to a black business enterprise.

23         Section 374. Paragraph (a) of subsection (1) of  
24 section 288.776, Florida Statutes, is amended to read:

25         288.776 Board of directors; powers and duties.--

26         (1)(a) The corporation shall have a board of directors  
27 consisting of 15 members representing all geographic areas of  
28 the state. Minority and gender representation must be  
29 considered when making appointments to the board. The board  
30 membership must include:

31

1           1. A representative of the following businesses, all  
2 of which must be registered to do business in this state: a  
3 foreign bank, a state bank, a federal bank, an insurance  
4 company involved in covering trade financing risks, and a  
5 small or medium-sized exporter.

6           2. The following persons or their designee: the  
7 President of Enterprise Florida, Inc., the Chief Financial  
8 Officer ~~Comptroller~~, the Secretary of State, a senior official  
9 of the United States Department of Commerce, and the chair of  
10 the Florida Black Business Investment Board.

11           Section 375. Section 288.778, Florida Statutes, is  
12 amended to read:

13           288.778 Department of Financial Services ~~Banking and~~  
14 ~~Finance~~.--The Department of Financial Services ~~Banking and~~  
15 ~~Finance~~ shall review the corporation's activities once every  
16 24 months to determine compliance with this part and other  
17 related laws and rules and to evaluate the corporation's  
18 operations. The department shall prepare a report based on  
19 its review and evaluation with recommendation for any  
20 corrective action. The president shall submit to the  
21 department regular reports on the corporation's activities.  
22 The content and frequency of such reports shall be determined  
23 by the department. The department shall charge a fee for  
24 conducting the review and evaluation and preparing the related  
25 report, which fee shall not be in excess of the examination  
26 fee paid by financial institutions chartered or licensed under  
27 the financial institutions code of this state.

28           Section 376. Paragraph (e) of subsection (3) and  
29 paragraph (b) of subsection (10) of section 288.99, Florida  
30 Statutes, are amended to read:

31           288.99 Certified Capital Company Act.--

1 (3) DEFINITIONS.--As used in this section, the term:

2 (e) "Department" means the Department of Financial  
3 Services ~~Banking and Finance~~.

4 (10) DECERTIFICATION.--

5 (b) Nothing contained in this subsection shall be  
6 construed to limit the Chief Financial Officer's ~~Comptroller's~~  
7 authority to conduct audits of certified capital companies as  
8 deemed appropriate and necessary.

9 Section 377. Paragraph (c) of subsection (1) of  
10 section 289.051, Florida Statutes, is amended to read:

11 289.051 Membership of financial institutions; loans to  
12 corporation, limitations.--

13 (1) Any financial institution may request membership  
14 in the corporation by making application to the board of  
15 directors on such form and in such manner as said board of  
16 directors may require, and membership shall become effective  
17 upon acceptance of such application by said board. Each  
18 member of the corporation shall make loans to the corporation  
19 as and when called upon by it to do so, on such terms and  
20 other conditions as shall be approved from time to time by the  
21 board of directors, subject to the following conditions:

22 (c) The total amount outstanding on loans to the  
23 corporation made by any member at any one time, when added to  
24 the amount of the investment in the capital stock of the  
25 corporation then held by such member, shall not exceed:

26 1. Twenty percent of the total amount then outstanding  
27 on loans to the corporation by all members, including, in said  
28 total amount outstanding, amounts validly called for loan but  
29 not yet loaned.

30 2. The following limit, to be determined as of the  
31 time such member becomes a member on the basis of the audited

1 balance sheet of such member at the close of its fiscal year  
2 immediately preceding its application for membership, or, in  
3 the case of an insurance company, its last annual statement to  
4 the Department of Financial Services ~~Insurance~~: 2.5 percent of  
5 the capital and surplus of commercial banks and trust  
6 companies; 0.5 percent of the total outstanding loans made by  
7 savings and loan associations and building and loan  
8 associations; 2.5 percent of the capital and unassigned  
9 surplus of stock insurance companies, except fire insurance  
10 companies; 2.5 percent of the unassigned surplus of mutual  
11 insurance companies, except fire insurance companies; 0.1  
12 percent of the assets of fire insurance companies; and such  
13 limits as may be approved by the board of directors of the  
14 corporation for other financial institutions.

15 Section 378. Subsection (1) of section 289.081,  
16 Florida Statutes, is amended to read:

17 289.081 Amendments to articles of incorporation.--

18 (1) The articles of incorporation may be amended by  
19 the votes of the stockholders and the members of the  
20 corporation, voting separately by classes, and such amendments  
21 shall require approval by the affirmative vote of two-thirds  
22 of the votes to which the stockholders shall be entitled and  
23 two-thirds of the votes to which the members shall be  
24 entitled. No amendment of the articles of incorporation which  
25 is inconsistent with the general purposes expressed herein, or  
26 which authorizes any additional class of capital stock to be  
27 issued, or which eliminates or curtails the right of the  
28 Department of Financial Services ~~Banking and Finance~~ to  
29 examine the corporation or the obligation of the corporation  
30 to make reports as provided in s. 289.121, shall be made. No  
31 amendment of the articles of incorporation which increases the

1 obligation of a member to make loans to the corporation, or  
2 makes any change in the principal amount, interest rate,  
3 maturity date, or in the security or credit position of any  
4 outstanding loan of a member to the corporation, or affects a  
5 member's right to withdraw from membership as provided herein,  
6 or affects a member's voting rights as provided herein, shall  
7 be made without the consent of each member affected by such  
8 amendment.

9           Section 379. Section 289.121, Florida Statutes, is  
10 amended to read:

11           289.121 Periodic examinations; reports.--The  
12 corporation shall be examined at least once annually by the  
13 Department of Financial Services ~~Banking and Finance~~ and shall  
14 make reports of its condition not less than annually to that  
15 ~~said~~ department and more frequently upon call of the  
16 department, which in turn shall make copies of such reports  
17 available to the ~~Department of Insurance and the~~ Governor; and  
18 the corporation shall also furnish such other information as  
19 may from time to time be required by the Department of  
20 Financial Services ~~Banking and Finance~~ and Department of  
21 State. The corporation shall pay the actual cost of ~~said~~  
22 examinations. The Department of Financial Services ~~Banking~~  
23 ~~and Finance~~ shall exercise the same power and authority over  
24 corporations organized under this act as is exercised over  
25 financial institutions under the provisions of the financial  
26 institutions codes, when such codes are not in conflict with  
27 this act.

28           Section 380. Section 292.085, Florida Statutes, is  
29 amended to read:

30           292.085 Department of Veterans' Affairs Tobacco  
31 Settlement Trust Fund.--

1           (1) The Department of Veterans' Affairs Tobacco  
2 Settlement Trust Fund is created within that department. Funds  
3 to be credited to the trust fund shall consist of funds  
4 disbursed, by nonoperating transfer, from the Department of  
5 Financial Services ~~Banking and Finance~~ Tobacco Settlement  
6 Clearing Trust Fund in amounts equal to the annual  
7 appropriations made from this trust fund.

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

14           Section 381. Section 313.02, Florida Statutes, is  
15 amended to read:

16           313.02 Bond.--Every harbormaster appointed for any  
17 port shall give an approved bond in the sum of \$500, payable  
18 to the Governor of the state, for the faithful performance of  
19 the harbormaster's duty, such bond to be approved by the  
20 county commissioners of the county in which the port is  
21 situated, and by the Department of Financial Services ~~Banking~~  
22 ~~and Finance~~, and to be filed with the Department of State.

23           Section 382. Section 314.02, Florida Statutes, is  
24 amended to read:

25           314.02 Bond.--Each harbormaster so appointed shall  
26 enter into a bond in the penal sum of \$2,000, with two or more  
27 sureties, payable to the Governor of the state and the  
28 Governor's successors in office, conditioned for the faithful  
29 discharge of the duties of the harbormaster's office, by the  
30 harbormaster and his or her deputies, and for the payment of  
31 any damage any person may sustain in consequence of any



1 wrongful act of such officer or deputy under color of the  
2 harbormaster's office; such bond to be approved by the county  
3 commissioners of the county in which is situated said port and  
4 by the Department of Financial Services ~~Banking and Finance~~,  
5 and to be filed with the Department of State.

6 Section 383. Paragraph (b) of subsection (5) of  
7 section 316.3025, Florida Statutes, is amended to read:

8 316.3025 Penalties.--

9 (5)

10 (b) All penalties imposed and collected under this  
11 section by any state agency having jurisdiction shall be paid  
12 to the Chief Financial Officer ~~Treasurer~~, who shall credit the  
13 total amount collected to the State Transportation Trust Fund  
14 for use in repairing and maintaining the roads of this state.

15 Section 384. Subsection (6) of section 316.545,  
16 Florida Statutes, is amended to read:

17 316.545 Weight and load unlawful; special fuel and  
18 motor fuel tax enforcement; inspection; penalty; review.--

19 (6) Any officer or agent collecting the penalties  
20 herein imposed shall give to the owner or driver of the  
21 vehicle an official receipt for all penalties collected. Such  
22 officers or agents of the state departments shall cooperate  
23 with the owners or drivers of motor vehicles so as not to  
24 delay unduly the vehicles. All penalties imposed and collected  
25 under this section by any state agency having jurisdiction  
26 shall be paid to the Chief Financial Officer ~~Treasurer~~, who  
27 shall credit the total amount thereof to the State  
28 Transportation Trust Fund, which shall be used to repair and  
29 maintain the roads of this state and to enforce this section.

30 Section 385. Paragraph (c) of subsection (5) of  
31 section 320.02, Florida Statutes, is amended to read:

1           320.02 Registration required; application for  
2 registration; forms.--

3           (5)

4           (c) For purposes of providing proof of purchase of  
5 required insurance coverage under this subsection, the  
6 Department of Financial Services ~~Insurance~~ shall require that  
7 uniform proof-of-purchase cards specified by the Department of  
8 Highway Safety and Motor Vehicles be furnished by insurers  
9 writing motor vehicle liability insurance in this state. Any  
10 person altering or counterfeiting such a card or making a  
11 false affidavit in order to furnish false proof or to  
12 knowingly permit another person to furnish false proof is  
13 guilty of a misdemeanor of the first degree, punishable as  
14 provided in s. 775.082 or s. 775.083.

15           Section 386. Subsection (5) of section 320.081,  
16 Florida Statutes, is amended to read:

17           320.081 Collection and distribution of annual license  
18 tax imposed on the following type units.--

19           (5) The department shall keep records showing the  
20 total number of stickers issued to each type unit governed by  
21 this section, the total amount of license taxes collected, and  
22 the county or city wherein each such unit is located and shall  
23 from month to month certify to the Chief Financial Officer  
24 ~~Comptroller~~ the amount derived from license taxes in each  
25 county and each city within the county. Such amount, less the  
26 amount of \$1.50 collected on each license, shall be paid to  
27 the counties and cities within the counties wherein the unit  
28 or units are located as follows: one-half to the district  
29 school board and the remainder either to the board of county  
30 commissioners, for units which are located within the  
31 unincorporated areas of the county, or to any city within such

1 county, for units which are located within its corporate  
2 limits. Payment shall be by warrant drawn by the Chief  
3 Financial Officer ~~Comptroller~~ upon the treasury, which amount  
4 is hereby appropriated monthly out of the License Tax  
5 Collection Trust Fund.

6 Section 387. Paragraphs (b) and (c) of subsection (5)  
7 of section 320.20, Florida Statutes, are amended to read:

8 320.20 Disposition of license tax moneys.--The revenue  
9 derived from the registration of motor vehicles, including any  
10 delinquent fees and excluding those revenues collected and  
11 distributed under the provisions of s. 320.081, must be  
12 distributed monthly, as collected, as follows:

13 (5)

14 (b) The Chief Financial Officer ~~State Comptroller~~ each  
15 month shall deposit in the State Transportation Trust Fund an  
16 amount, drawn from other funds in the State Treasury which are  
17 not immediately needed or are otherwise in excess of the  
18 amount necessary to meet the requirements of the State  
19 Treasury, which when added to such remaining revenues each  
20 month will equal one-twelfth of the amount of the anticipated  
21 annual revenues to be deposited in the State Transportation  
22 Trust Fund under paragraph (a) as estimated by the most recent  
23 revenue estimating conference held pursuant to s. 216.136(3).  
24 The transfers required hereunder may be suspended by action of  
25 the Legislative Budget Commission in the event of a  
26 significant shortfall of state revenues.

27 (c) In any month in which the remaining revenues  
28 derived from the registration of motor vehicles exceed  
29 one-twelfth of those anticipated annual remaining revenues as  
30 determined by the revenue estimating conference, the excess  
31 shall be credited to those state funds in the State Treasury

1 from which the amount was originally drawn, up to the amount  
2 which was deposited in the State Transportation Trust Fund  
3 under paragraph (b). A final adjustment must be made in the  
4 last months of a fiscal year so that the total revenue  
5 deposited in the State Transportation Trust Fund each year  
6 equals the amount derived from the registration of motor  
7 vehicles, less the amount distributed under subsection (1).  
8 For the purposes of this paragraph and paragraph (b), the term  
9 "remaining revenues" means all revenues deposited into the  
10 State Transportation Trust Fund under paragraph (a) and  
11 subsections (2) and (3). In order that interest earnings  
12 continue to accrue to the General Revenue Fund, the Department  
13 of Transportation may not invest an amount equal to the  
14 cumulative amount of funds deposited in the State  
15 Transportation Trust Fund under paragraph (b) less funds  
16 credited under this paragraph as computed on a monthly basis.  
17 The amounts to be credited under this and the preceding  
18 paragraph must be calculated and certified to the Chief  
19 Financial Officer ~~Comptroller~~ by the Executive Office of the  
20 Governor.

21 Section 388. Subsection (1) of section 320.71, Florida  
22 Statutes, is amended to read:

23 320.71 Nonresident motor vehicle, mobile home, or  
24 recreational vehicle dealer's license.--

25 (1) Any person who is a nonresident of the state, who  
26 does not have a dealer's contract from the manufacturer or  
27 manufacturer's distributor of motor vehicles, mobile homes, or  
28 recreational vehicles authorizing the sale thereof in definite  
29 Florida territory, and who sells or engages in the business of  
30 selling said vehicles at retail within the state shall  
31 register with the Department of Revenue for a sales tax dealer

1 registration number and comply with chapter 212, and pay a  
2 license tax of \$2,000 per annum in each county where such  
3 sales are made; \$1,250 of said tax shall be transmitted to the  
4 Department of Financial Services ~~Banking and Finance~~ to be  
5 deposited in the General Revenue Fund of the state, and \$750  
6 thereof shall be returned to the county. The license tax  
7 shall cover the period from January 1 to the following  
8 December 31, and no such license shall be issued for any  
9 fractional part of a year.

10 Section 389. Subsection (2) of section 320.781,  
11 Florida Statutes, is amended to read:

12 320.781 Mobile Home and Recreational Vehicle  
13 Protection Trust Fund.--

14 (2) Beginning October 1, 1990, the department shall  
15 charge and collect an additional fee of \$1 for each new mobile  
16 home and new recreational vehicle title transaction for which  
17 it charges a fee. This additional fee shall be deposited into  
18 the trust fund. The Department of Highway Safety and Motor  
19 Vehicles shall charge a fee of \$40 per annual dealer and  
20 manufacturer license and license renewal, which shall be  
21 deposited into the trust fund. The sums deposited in the trust  
22 fund shall be used exclusively for carrying out the purposes  
23 of this section. These sums may be invested and reinvested by  
24 the Chief Financial Officer ~~Treasurer~~ under the same  
25 limitations as apply to investment of other state funds, with  
26 all interest from these investments deposited to the credit of  
27 the trust fund.

28 Section 390. Subsection (5) of section 322.21, Florida  
29 Statutes, is amended to read:

30 322.21 License fees; procedure for handling and  
31 collecting fees.--

1           (5) The department shall collect and transmit all fees  
2 received by it under this section to the Chief Financial  
3 Officer ~~Treasurer~~ to be placed in the General Revenue Fund of  
4 the state, and sufficient funds for the necessary expenses of  
5 the department shall be included in the appropriations act.  
6 The fees shall be used for the maintenance and operation of  
7 the department.

8           Section 391. Subsection (1) of section 324.032,  
9 Florida Statutes, is amended to read:

10           324.032 Manner of proving financial responsibility;  
11 for-hire passenger transportation vehicles.--

12           (1) Notwithstanding the provisions of s. 324.031, a  
13 person who is either the owner or a lessee required to  
14 maintain insurance under s. 324.021(9)(b) and who operates at  
15 least 300 taxicabs, limousines, jitneys, or any other for-hire  
16 passenger transportation vehicles may prove financial  
17 responsibility by satisfying the following:

18           (a) Furnishing satisfactory evidence of holding a  
19 motor vehicle liability policy as defined in s. 324.031; or

20           (b) Complying with the provisions of s. 324.171, such  
21 compliance to be demonstrated by maintaining at its principal  
22 place of business an audited financial statement, prepared in  
23 accordance with generally accepted accounting principles, and  
24 providing to the department a certification issued by a  
25 certified public accountant that the applicant's net worth is  
26 at least equal to the requirements of s. 324.171 as determined  
27 by the Department of Financial Services ~~Insurance~~, including  
28 claims liabilities in an amount certified as adequate by a  
29 Fellow of the Casualty Actuarial Society.

30  
31

1 Upon request by the department, the applicant must provide the  
2 department at the applicant's principal place of business in  
3 this state access to the applicant's underlying financial  
4 information and financial statements that provide the basis of  
5 the certified public accountant's certification. The  
6 applicant shall reimburse the requesting department for all  
7 reasonable costs incurred by it in reviewing the supporting  
8 information. The maximum amount of self-insurance permissible  
9 under this subsection is \$100,000 and must be stated on a  
10 per-occurrence basis, and the applicant shall maintain  
11 adequate excess insurance issued by an authorized or eligible  
12 insurer licensed or approved by the Department of Financial  
13 Services Insurance. All risks self-insured shall remain with  
14 the owner or lessee providing it, and the risks are not  
15 transferable to any other person, unless a policy complying  
16 with paragraph (a) is obtained.

17 Section 392. Paragraph (b) of subsection (1) of  
18 section 324.171, Florida Statutes, is amended to read:

19 324.171 Self-insurer.--

20 (1) Any person may qualify as a self-insurer by  
21 obtaining a certificate of self-insurance from the department  
22 which may, in its discretion and upon application of such a  
23 person, issue said certificate of self-insurance when such  
24 person has satisfied the requirements of this section to  
25 qualify as a self-insurer under this section:

26 (b) A person, including any firm, partnership,  
27 association, corporation, or other person, other than a  
28 natural person, shall:

29 1. Possess a net unencumbered worth of at least  
30 \$40,000 for the first motor vehicle and \$20,000 for each  
31 additional motor vehicle; or

1           2. Maintain sufficient net worth, as determined  
2 annually by the department, pursuant to rules promulgated by  
3 the department, with the assistance of the Department of  
4 Financial Services Insurance, to be financially responsible  
5 for potential losses. The rules shall take into consideration  
6 excess insurance carried by the applicant. The department's  
7 determination shall be based upon reasonable actuarial  
8 principles considering the frequency, severity, and loss  
9 development of claims incurred by casualty insurers writing  
10 coverage on the type of motor vehicles for which a certificate  
11 of self-insurance is desired.

12           Section 393. Paragraph (d) of subsection (2) of  
13 section 326.006, Florida Statutes, is amended to read:

14           326.006 Powers and duties of division.--

15           (2) The division has the power to enforce and ensure  
16 compliance with the provisions of this chapter and rules  
17 adopted under this chapter relating to the sale and ownership  
18 of yachts and ships. In performing its duties, the division  
19 has the following powers and duties:

20           (d) Notwithstanding any remedies available to a yacht  
21 or ship purchaser, if the division has reasonable cause to  
22 believe that a violation of any provision of this chapter or  
23 rule adopted under this chapter has occurred, the division may  
24 institute enforcement proceedings in its own name against any  
25 broker or salesperson or any of his or her assignees or  
26 agents, or against any unlicensed person or any of his or her  
27 assignees or agents, as follows:

28           1. The division may permit a person whose conduct or  
29 actions are under investigation to waive formal proceedings  
30 and enter into a consent proceeding whereby orders, rules, or  
31



1 letters of censure or warning, whether formal or informal, may  
2 be entered against the person.

3           2. The division may issue an order requiring the  
4 broker or salesperson or any of his or her assignees or  
5 agents, or requiring any unlicensed person or any of his or  
6 her assignees or agents, to cease and desist from the unlawful  
7 practice and take such affirmative action as in the judgment  
8 of the division will carry out the purposes of this chapter.

9           3. The division may bring an action in circuit court  
10 on behalf of a class of yacht or ship purchasers for  
11 declaratory relief, injunctive relief, or restitution.

12           4. The division may impose a civil penalty against a  
13 broker or salesperson or any of his or her assignees or  
14 agents, or against an unlicensed person or any of his or her  
15 assignees or agents, for any violation of this chapter or a  
16 rule adopted under this chapter. A penalty may be imposed for  
17 each day of continuing violation, but in no event may the  
18 penalty for any offense exceed \$10,000. All amounts collected  
19 must be deposited with the Chief Financial Officer ~~Treasurer~~  
20 to the credit of the Division of Florida Land Sales,  
21 Condominiums, and Mobile Homes Trust Fund. If a broker,  
22 salesperson, or unlicensed person working for a broker, fails  
23 to pay the civil penalty, the division shall thereupon issue  
24 an order suspending the broker's license until such time as  
25 the civil penalty is paid or may pursue enforcement of the  
26 penalty in a court of competent jurisdiction. The order  
27 imposing the civil penalty or the order of suspension may not  
28 become effective until 20 days after the date of such order.  
29 Any action commenced by the division must be brought in the  
30 county in which the division has its executive offices or in  
31 the county where the violation occurred.

1           Section 394. Subsections (8) and (24) of section  
2 331.303, Florida Statutes, are amended to read:

3           331.303 Definitions.--

4           (8) "Entertainment expenses" means the actual,  
5 necessary, and reasonable costs of providing hospitality for  
6 business clients or guests, which costs are defined and  
7 prescribed by rules adopted by the authority, subject to  
8 approval by the Chief Financial Officer ~~Comptroller~~.

9           (24) "Travel expenses" means the actual, necessary,  
10 and reasonable costs of transportation, meals, lodging, and  
11 incidental expenses normally incurred by a traveler, which  
12 costs are defined and prescribed by rules adopted by the  
13 authority, subject to approval by the Chief Financial Officer  
14 ~~Comptroller~~.

15           Section 395. Subsection (2) of section 331.309,  
16 Florida Statutes, is amended to read:

17           331.309 Treasurer; depositories; fiscal agent.--

18           (2) The board is authorized to select as depositories  
19 in which the funds of the board and of the authority shall be  
20 deposited any qualified public depository as defined in s.  
21 280.02, upon such terms and conditions as to the payment of  
22 interest by such depository upon the funds so deposited as the  
23 board may deem just and reasonable. Funds of the authority may  
24 also be deposited with the Florida Commercial Space Financing  
25 Corporation created by s. 331.407. The funds of the authority  
26 may be kept in or removed from the State Treasury upon written  
27 notification from the chair of the board to the Chief  
28 Financial Officer ~~State Comptroller~~.

29           Section 396. Subsection (2) of section 331.3101,  
30 Florida Statutes, is amended to read:

31

1           331.3101 Spaceport Florida Authority; travel and  
2 entertainment expenses.--

3           (2) The rules shall be subject to approval by the  
4 Chief Financial Officer ~~Comptroller~~ prior to promulgation.

5 The rules shall require the submission of paid receipts, or  
6 other proof prescribed by the Chief Financial Officer  
7 ~~Comptroller~~, with any claim for reimbursement, and shall  
8 require, as a condition for any advancement, an agreement to  
9 submit paid receipts or other proof and to refund any unused  
10 portion of the advancement within 15 days after the expense is  
11 incurred or, if the advancement is made in connection with  
12 travel, within 15 days after completion of the travel.

13 However, with respect to an advancement made solely for travel  
14 expenses, the rules may allow paid receipts or other proof to  
15 be submitted, and any unused portion of the advancement to be  
16 refunded, within 30 days after completion of the travel.

17           Section 397. Section 331.348, Florida Statutes, is  
18 amended to read:

19           331.348 Investment of funds.--The board may in its  
20 discretion invest funds of the authority through the Chief  
21 Financial Officer ~~Treasurer~~ or in:

22           (1) Direct obligations of or obligations guaranteed by  
23 the United States or for the payment of the principal and  
24 interest of which the faith and credit of the United States is  
25 pledged;

26           (2) Bonds or notes issued by any of the following  
27 federal agencies: Bank for Cooperatives; federal intermediate  
28 credit banks; federal home loan bank system; federal land  
29 banks; or the Federal National Mortgage Association (including  
30 debentures or participating certificates issued by such  
31 association);

1           (3) Public housing bonds issued by public housing  
2 authorities and secured by a pledge or annual contributions  
3 under an annual contribution contract or contracts with the  
4 United States;

5           (4) Bonds or other interest-bearing obligations of any  
6 county, district, city, or town located in the state for which  
7 the full faith and credit of such political subdivision is  
8 pledged;

9           (5) Any investment authorized for insurers by ss.  
10 625.306-625.316 and amendments thereto; or

11           (6) Any investment authorized under s. 18.10 and  
12 amendments thereto.

13           Section 398. Subsection (3) of section 331.419,  
14 Florida Statutes, is amended to read:

15           331.419 Reports and audits.--

16           (3) The ~~Division of Banking of the~~ Department of  
17 Financial Services ~~Banking and Finance~~ shall review the  
18 corporation's activities once every 24 months to determine  
19 compliance with this part and related laws and rules and to  
20 evaluate the corporation's operations. The department ~~division~~  
21 shall prepare a report based on its review and evaluation with  
22 recommendation for any corrective action. The president shall  
23 submit to the department ~~division~~ regular reports on the  
24 corporation's activities. The content and frequency of such  
25 reports shall be determined by the department ~~division~~. The  
26 department ~~division~~ may charge a fee for conducting the review  
27 and evaluation and preparing the related report, which fee  
28 shall not be in excess of the examination fee paid by  
29 chartered or licensed financial institutions.

30           Section 399. Subsection (1) of section 336.022,  
31 Florida Statutes, is amended to read:

1           336.022 County transportation trust fund; controls and  
2 administrative remedies.--

3           (1) Each county shall establish and maintain a  
4 transportation trust fund for all transportation-related  
5 revenues and expenditures. All funds received by a county for  
6 transportation shall be deposited into this fund. No  
7 expenditures other than transportation expenditures authorized  
8 by law shall be made from such fund. Each county shall use a  
9 uniform accounts classification system approved by the Chief  
10 Financial Officer ~~Comptroller~~.

11           Section 400. Subsection (9) of section 337.25, Florida  
12 Statutes, is amended to read:

13           337.25 Acquisition, lease, and disposal of real and  
14 personal property.--

15           (9) The department, with the approval of the Chief  
16 Financial Officer ~~State Comptroller~~, is authorized to disburse  
17 state funds for real estate closings in a manner consistent  
18 with good business practices and in a manner minimizing costs  
19 and risks to the state.

20           Section 401. Section 339.035, Florida Statutes, is  
21 amended to read:

22           339.035 Expenditures.--All expenditures by the  
23 department shall be made upon vouchers issued and certified by  
24 the department in such manner as the department may, by rule  
25 or internal management memorandum as required by chapter 120,  
26 provide and shall be paid by warrants issued by the Chief  
27 Financial Officer ~~Comptroller upon the Treasurer~~.

28           Section 402. Section 339.081, Florida Statutes, is  
29 amended to read:

30  
31

1           339.081 Department trust funds.--The Chief Financial  
2 Officer ~~Comptroller~~ shall maintain within the State Treasury  
3 the following trust funds for the department:

4           (1) The State Transportation Trust Fund, to which  
5 shall be credited the proceeds of the gas tax as authorized by  
6 chapter 83-3, Laws of Florida, and such other funds which  
7 accrue to the department which are not required to be  
8 maintained in separate trust funds.

9           (2) Such other funds as may be authorized by bond  
10 resolutions or agreements with any other public bodies or  
11 agencies.

12           Section 403. Section 344.17, Florida Statutes, is  
13 amended to read:

14           344.17 Depositories and investments.--All moneys  
15 received by the Chief Financial Officer as treasurer of the  
16 State Board of Administration, a body corporate under s. 9,  
17 Art. XII of the State Constitution, shall be deposited by the  
18 treasurer in a solvent bank or banks, to be approved and  
19 accepted for such purposes by the board. In making such  
20 deposits, he or she shall follow the method for the deposit of  
21 state funds. Each bank receiving any portion of such funds  
22 shall be required to deposit with such treasurer satisfactory  
23 bonds or treasury certificates of the United States; bonds of  
24 the several states; special tax school district bonds; bonds  
25 of any municipality eligible to secure state deposits as  
26 provided by law; bonds of any county or special road and  
27 bridge district of this state entitled to participate under  
28 the provisions of s. 16, Art. IX of the State Constitution of  
29 1885, as adopted by the 1968 revised constitution, and of s.  
30 9, Art. XII of that revision; bonds issued under the  
31 provisions of s. 18, Art. XII of the State Constitution of

1 1885, as adopted by s. 9, Art. XII of the 1968 revised  
2 constitution; or bonds, notes, or certificates issued by the  
3 Florida State Improvement Commission or its successors, the  
4 Florida Development Commission and the Division of Bond  
5 Finance of the State Board of Administration, which contain a  
6 pledge of the 80-percent surplus 2-cent constitutional  
7 gasoline tax accruing under s. 16, Art. IX of the State  
8 Constitution of 1885, as adopted by the 1968 revised  
9 constitution, and under s. 9, Art. XII of that revision, which  
10 shall be equal to the amount deposited with such bank. Such  
11 security shall be in the possession of such treasurer; or the  
12 treasurer is authorized to accept, in lieu of the actual  
13 depositing with him or her of such security, trust or  
14 safekeeping receipts issued by any Federal Reserve Bank, or  
15 member bank thereof, or by any bank incorporated under the  
16 laws of the United States; provided the member bank or bank  
17 incorporated under the laws of the United States has been  
18 previously approved and accepted for such purposes by the  
19 State Board of Administration and the trust or safekeeping  
20 receipts are in substantially the same form as that which the  
21 Chief Financial Officer ~~State Treasurer~~ is authorized to  
22 accept in lieu of securities given to cover deposits of state  
23 funds.

24 Section 404. Subsections (2) and (9) of section  
25 350.06, Florida Statutes, are amended to read:

26 350.06 Place of meeting; expenditures; employment of  
27 personnel; records availability and fees.--

28 (2) All sums of money authorized to be paid on account  
29 of said commissioners shall be paid out of the State Treasury  
30 only on the order of the Chief Financial Officer ~~Comptroller~~.

31

1           (9) The commission shall keep a book in which all fees  
2 collected by it as provided for herein shall be recorded,  
3 together with the amount and purpose for which collected.  
4 This book shall be a public record. The commission shall  
5 prepare a statement of these fees in duplicate each month and  
6 remit one copy of the statement, together with all fees  
7 collected by it, to the Chief Financial Officer ~~Treasurer~~.  
8 All moneys collected pursuant to this section by the  
9 commission shall be deposited in the State Treasury to the  
10 credit of the Florida Public Service Regulatory Trust Fund.

11           Section 405. Section 354.03, Florida Statutes, is  
12 amended to read:

13           354.03 Bond.--Before entering into the performance of  
14 his or her duties every such special officer shall enter into  
15 a good and sufficient bond payable to the Governor of Florida,  
16 and the Governor's successors, in the penal sum of \$5,000,  
17 with some surety company authorized to do business in this  
18 state as surety thereon, conditioned for the faithful  
19 performance of his or her duties, and to pay any and all  
20 damage done by any illegal act committed by him or her, to be  
21 approved by the Department of Financial Services ~~Banking and~~  
22 ~~Finance~~.

23           Section 406. Subsection (1) of section 365.173,  
24 Florida Statutes, is amended to read:

25           365.173 Wireless Emergency Telephone System Fund.--

26           (1) All revenues derived from the E911 fee levied on  
27 subscribers under s. 365.172 must be paid into the State  
28 Treasury on or before the 15th day of each month. Such moneys  
29 must be accounted for in a special fund to be designated as  
30 the Wireless Emergency Telephone System Fund, a fund created  
31 in the State Technology Office and must be invested by the



1 Chief Financial Officer ~~State Treasurer~~ pursuant to s. 18.125.  
2 All moneys in such fund are to be expended by the State  
3 Technology Office for the purposes provided in this section  
4 and s. 365.172. These funds are not subject to s. 215.20.

5 Section 407. Subsection (8) of section 370.06, Florida  
6 Statutes, is amended to read:

7 370.06 Licenses.--

8 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise  
9 provided by law, all license taxes or fees provided for in  
10 this chapter shall be collected by the commission or its duly  
11 authorized agents or deputies to be deposited by the Chief  
12 Financial Officer ~~Comptroller~~ in the Marine Resources  
13 Conservation Trust Fund. The commission may by rule establish  
14 a reasonable processing fee for any free license or permit  
15 required under this chapter. The commission is authorized to  
16 accept payment by credit card for fees, fines, and civil  
17 penalties levied pursuant to this chapter.

18 Section 408. Subsection (6) of section 370.16, Florida  
19 Statutes, is amended to read:

20 370.16 Noncultured shellfish harvesting.--

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

1 be disposed of by the sheriff, for account of whom it may  
2 concern. Should the master or any of the crew of said vessel  
3 be found guilty of using dredges or other instruments in  
4 fishing oysters on natural reefs contrary to law, or fishing  
5 on the natural oyster or clam reefs out of season, or  
6 unlawfully taking oysters or clams belonging to a lessee, such  
7 vessel shall be declared forfeited by the court, and ordered  
8 sold and the proceeds of the sale shall be deposited with the  
9 Chief Financial Officer ~~Treasurer~~ to the credit of the General  
10 Revenue Fund; any person guilty of such violations shall not  
11 be permitted to have any license provided for in this chapter  
12 within a period of 1 year from the date of conviction.

13 Pending proceedings such vessel may be released upon the owner  
14 furnishing bond, with good and solvent security in double the  
15 value of the vessel, conditioned upon its being returned in  
16 good condition to the sheriff to abide the judgment of the  
17 court.

18 Section 409. Paragraph (b) of subsection (5) and  
19 subsection (6) of section 370.19, Florida Statutes, are  
20 amended to read:

21 370.19 Atlantic States Marine Fisheries Compact;  
22 implementing legislation.--

23 (5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.--

24 (b) The Department of Financial Services ~~Banking and~~  
25 ~~Finance~~ is hereby authorized and empowered from time to time  
26 to examine the accounts and books of the commission, including  
27 its receipts, disbursements and such other items referring to  
28 its financial standing as such department deems ~~may deem~~  
29 proper and to report the results of such examination to the  
30 governor of such state.

31

1           (6) APPROPRIATION FOR EXPENSES OF COMMISSION.--The sum  
2 of \$600, annually, or so much thereof as may be necessary, is  
3 hereby appropriated out of any moneys in the State Treasury  
4 not otherwise appropriated, for the expenses of the commission  
5 created by the compact authorized by this law. The moneys  
6 hereby appropriated shall be paid out of the State Treasury on  
7 the audit and warrant of the Chief Financial Officer  
8 ~~Comptroller~~ upon vouchers certified by the chair of the  
9 commission in the manner prescribed by law.

10           Section 410. Subsection (5) of section 370.20, Florida  
11 Statutes, is amended to read:

12           370.20 Gulf States Marine Fisheries Compact;  
13 implementing legislation.--

14           (5) ACCOUNTS TO BE KEPT BY COMMISSION;  
15 EXAMINATION.--The commission shall keep accurate accounts of  
16 all receipts and disbursements and shall report to the  
17 Governor and the Legislature of the State of Florida on or  
18 before the 10th day of December in each year, setting forth in  
19 detail the transactions conducted by it during the 12 months  
20 preceding December 1 of that year and shall make  
21 recommendations for any legislative action deemed by it  
22 advisable, including amendments to the statutes of the State  
23 of Florida which may be necessary to carry out the intent and  
24 purposes of the compact between the signatory states.

25           The Department of Financial Services ~~Banking and~~  
26 ~~Finance~~ is hereby authorized and empowered from time to time  
27 to examine the accounts and books of the commission, including  
28 its receipts, disbursements and such other items referring to  
29 its financial standing as such department deems ~~may deem~~  
30 proper and to report the results of such examination to the  
31 governor of such state.

1           Section 411. Subsection (5) of section 373.503,  
2 Florida Statutes, is amended to read:

3           373.503 Manner of taxation.--

4           (5) Each water management district created under this  
5 chapter which does not receive state shared revenues under  
6 part II of chapter 218 shall, before January 1 of each year,  
7 certify compliance or noncompliance with s. 200.065 to the  
8 Department of Financial Services ~~Banking and Finance~~.  
9 Specific grounds for noncompliance shall be stated in the  
10 certification. In its annual report required by s. 218.32(2),  
11 the Department of Financial Services ~~Banking and Finance~~ shall  
12 report to the Governor and the Legislature those water  
13 management districts certifying noncompliance or not  
14 reporting.

15           Section 412. Paragraph (e) of subsection (10) of  
16 section 373.59, Florida Statutes, is amended to read:

17           373.59 Water Management Lands Trust Fund.--

18           (10)

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 water management districts  
25 have provided supporting documents to the Chief Financial  
26 Officer ~~Comptroller~~ and have requested that payment be made in  
27 accordance with the requirements of this section.

28           Section 413. Subsection (2) of section 373.6065,  
29 Florida Statutes, is amended to read:

30           373.6065 Adoption benefits for water management  
31 district employees.--

1           (2) The Chief Financial Officer ~~Comptroller~~ and the  
2 Department of Management Services shall transfer funds to  
3 water management districts to pay eligible water management  
4 district employees for these child adoption monetary benefits  
5 in accordance with s. 215.32(1)(c)5., as long as funds remain  
6 available for the program described under s. 110.152.

7           Section 414. Subsection (2) of section 374.983,  
8 Florida Statutes, is amended to read:

9           374.983 Governing body.--

10           (2) The present board of commissioners of the district  
11 shall continue to hold office until their respective terms  
12 shall expire. Thereafter the members of the board shall  
13 continue to be appointed by the Governor for a term of 4 years  
14 and until their successors shall be duly appointed.

15 Specifically, commencing on January 10, 1997, the Governor  
16 shall appoint the commissioners from Broward, Indian River,  
17 Martin, St. Johns, and Volusia Counties and on January 10,  
18 1999, the Governor shall appoint the commissioners from  
19 Brevard, Dade, Duval, Flagler, Palm Beach, and St. Lucie  
20 Counties. Each new appointee must be confirmed by the Senate.  
21 Whenever a vacancy occurs among the commissioners, the person  
22 appointed to fill such vacancy shall hold office for the  
23 unexpired portion of the term of the commissioner whose place  
24 he or she is selected to fill. Each commissioner under this  
25 act before he or she assumes office shall be required to give  
26 a good and sufficient surety bond in the sum of \$10,000  
27 payable to the Governor and his or her successors in office,  
28 conditioned upon the faithful performance of the duties of his  
29 or her office, such ~~said~~ bond to be approved by and filed with  
30 the Chief Financial Officer ~~Comptroller~~. Any and all premiums  
31 upon such ~~said~~ surety bonds shall be paid by the board of

1 commissioners of such ~~said~~ district as a necessary expense of  
2 the district.

3 Section 415. Subsection (2) of section 374.986,  
4 Florida Statutes, is amended to read:

5 374.986 Taxing authority.--

6 (2) The board may annually assess and levy against the  
7 taxable property in the district a tax not to exceed one-tenth  
8 mill on the dollar for each year, and the proceeds from such  
9 tax shall be used by the district for all expenses of the  
10 district including the purchase price of right-of-way and  
11 other property. The board shall, on or before the 31st day of  
12 July of each year, prepare a tentative annual written budget  
13 of the district's expected income and expenditures. In  
14 addition, the board shall compute a proposed millage rate to  
15 be levied as taxes for that year upon the taxable property in  
16 the district for the purposes of said district. The proposed  
17 budget shall be submitted to the Department of Environmental  
18 Protection for its approval. Prior to adopting a final budget,  
19 the district shall comply with the provisions of s. 200.065,  
20 relating to the method of fixing millage, and shall fix the  
21 final millage rate by resolution of the district and shall  
22 also, by resolution, adopt a final budget pursuant to chapter  
23 200. Copies of such resolutions executed in the name of the  
24 board by its chair, and attested by its secretary, shall be  
25 made and delivered to the county officials specified in s.  
26 200.065 of each and every county in the district, to the  
27 Department of Revenue, and to the Chief Financial Officer  
28 ~~Comptroller~~. Thereupon, it shall be the duty of the property  
29 assessor of each of said counties to assess, and the tax  
30 collector of each of said counties to collect, a tax at the  
31 rate fixed by said resolution of the board upon all of the

1 real and personal taxable property in said counties for said  
2 year (and such officers shall perform such duty) and said levy  
3 shall be included in the warrant of the tax assessors of each  
4 of said counties and attached to the assessment roll of taxes  
5 for each of said counties. The tax collectors of each of said  
6 counties shall collect such taxes so levied by the board in  
7 the same manner as other taxes are collected, and shall pay  
8 the same within the time and in the manner prescribed by law,  
9 to the treasurer of the board. It shall be the duty of the  
10 Chief Financial Officer ~~Comptroller~~ to assess and levy on all  
11 railroad lines and railroad property and telegraph lines and  
12 telegraph property in the district a tax at the rate  
13 prescribed by resolution of the board, and to collect the tax  
14 thereon in the same manner as he or she is required by law to  
15 assess and collect taxes for state and county purposes and to  
16 remit the same to the treasurer of the board. All such taxes  
17 shall be held by the treasurer of the district for the credit  
18 of the district and paid out by him or her as provided herein.  
19 The tax assessor and property appraiser of each of said  
20 counties shall be entitled to payment as provided for by  
21 general laws.

22 Section 416. subsection (3) of section 376.11, Florida  
23 Statutes, is amended to read:

24 376.11 Florida Coastal Protection Trust Fund.--

25 (3) Moneys in the fund that are not needed currently  
26 to meet the obligations of the department in the exercise of  
27 its responsibilities under ss. 376.011-376.21 shall be  
28 deposited with the Chief Financial Officer ~~Treasurer~~ to the  
29 credit of the fund and may be invested in such manner as is  
30 provided for by statute. Interest received on such investment  
31

1 shall be credited to the fund, except as otherwise specified  
2 herein.

3 Section 417. Subsection (5) of section 376.123,  
4 Florida Statutes, is amended to read:

5 376.123 Claims against the Florida Coastal Protection  
6 Trust Fund.--

7 (5) The secretary shall establish the amount to be  
8 awarded and shall certify the amount of the award and the name  
9 of the claimant to the Chief Financial Officer ~~State~~  
10 ~~Treasurer~~, who shall pay the award from the fund, subject to  
11 the provisions of subsection (12). If the claimant agrees  
12 with the established amount of award, the settlement shall be  
13 binding upon both parties as to all issues and cannot be  
14 further attacked, collaterally or by separate action, in the  
15 future.

16 Section 418. Subsection (6) of section 376.307,  
17 Florida Statutes, is amended to read:

18 376.307 Water Quality Assurance Trust Fund.--

19 (6) Moneys in the fund which are not needed currently  
20 to meet the obligations of the department in the exercise of  
21 its responsibilities under this section shall be deposited  
22 with the Chief Financial Officer ~~Treasurer~~ to the credit of  
23 the fund and may be invested in such manner as is provided for  
24 by statute. The interest received on such investment shall be  
25 credited to the fund. Any provisions of law to the contrary  
26 notwithstanding, such interest may be freely transferred  
27 between this trust fund and the Inland Protection Trust Fund,  
28 in the discretion of the department.

29 Section 419. Subsection (8) and paragraph (k) of  
30 subsection (12) of section 376.3071, Florida Statutes, are  
31 amended to read:



1           376.3071 Inland Protection Trust Fund; creation;  
2 purposes; funding.--

3           (8) INVESTMENTS; INTEREST.--Moneys in the fund which  
4 are not needed currently to meet the obligations of the  
5 department in the exercise of its responsibilities under this  
6 section and s. 376.3073 shall be deposited with the Chief  
7 Financial Officer ~~Treasurer~~ to the credit of the fund and may  
8 be invested in such manner as is provided for by statute. The  
9 interest received on such investment shall be credited to the  
10 fund. Any provisions of law to the contrary notwithstanding,  
11 such interest may be freely transferred between this trust  
12 fund and the Water Quality Assurance Trust Fund, in the  
13 discretion of the department.

14           (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as  
15 provided in s. 2(3), chapter 95-2, Laws of Florida, this  
16 subsection shall not apply to any site rehabilitation program  
17 task initiated after March 29, 1995. Effective August 1, 1996,  
18 no further site rehabilitation work on sites eligible for  
19 state-funded cleanup from the Inland Protection Trust Fund  
20 shall be eligible for reimbursement pursuant to this  
21 subsection. The person responsible for conducting site  
22 rehabilitation may seek reimbursement for site rehabilitation  
23 program task work conducted after March 28, 1995, in  
24 accordance with s. 2(2) and (3), chapter 95-2, Laws of  
25 Florida, regardless of whether the site rehabilitation program  
26 task is completed. A site rehabilitation program task shall  
27 be considered to be initiated when actual onsite work or  
28 engineering design, pursuant to chapter 62-770, Florida  
29 Administrative Code, which is integral to performing a site  
30 rehabilitation program task has begun and shall not include  
31 contract negotiation and execution, site research, or project

1 planning. All reimbursement applications pursuant to this  
2 subsection must be submitted to the department by January 3,  
3 1997. The department shall not accept any applications for  
4 reimbursement or pay any claims on applications for  
5 reimbursement received after that date; provided, however if  
6 an application filed on or prior to January 3, 1997, was  
7 returned by the department on the grounds of untimely filing,  
8 it shall be refiled within 30 days after the effective date of  
9 this act in order to be processed.

10 (k) Audits.--

11 1. The department is authorized to perform financial  
12 and technical audits in order to certify site restoration  
13 costs and ensure compliance with this chapter. The department  
14 shall seek recovery of any overpayments based on the findings  
15 of these audits. The department must commence any audit within  
16 5 years after the date of reimbursement, except in cases where  
17 the department alleges specific facts indicating fraud.

18 2. Upon determination by the department that any  
19 portion of costs which have been reimbursed are disallowed,  
20 the department shall give written notice to the applicant  
21 setting forth with specificity the allegations of fact which  
22 justify the department's proposed action and ordering  
23 repayment of disallowed costs within 60 days of notification  
24 of the applicant.

25 3. In the event the applicant does not make payment to  
26 the department within 60 days of receipt of such notice, the  
27 department shall seek recovery in a court of competent  
28 jurisdiction to recover reimbursement overpayments made to the  
29 person responsible for conducting site rehabilitation, unless  
30 the department finds the amount involved too small or the  
31 likelihood of recovery too uncertain.

1           4. In addition to the amount of any overpayment, the  
2 applicant shall be liable to the department for interest of 1  
3 percent per month or the prime rate, whichever is less, on the  
4 amount of overpayment, from the date of overpayment by the  
5 department until the applicant satisfies the department's  
6 request for repayment pursuant to this paragraph. The  
7 calculation of interest shall be tolled during the pendency of  
8 any litigation.

9           5. Financial and technical audits frequently are  
10 conducted under this section many years after the site  
11 rehabilitation activities were performed and the costs  
12 examined in the course of the audit were incurred by the  
13 person responsible for site rehabilitation. During the  
14 intervening span of years, the department's rule requirements  
15 and its related guidance and other nonrule policy directives  
16 may have changed significantly. The Legislature finds that it  
17 may be appropriate for the department to provide relief to  
18 persons subject to such requirements in financial and  
19 technical audits conducted pursuant to this section.

20           a. The department is authorized to grant variances and  
21 waivers from the documentation requirements of subparagraph  
22 (e)2. and from the requirements of rules applicable in  
23 technical and financial audits conducted under this section.  
24 Variances and waivers shall be granted when the person  
25 responsible for site rehabilitation demonstrates to the  
26 department that application of a financial or technical  
27 auditing requirement would create a substantial hardship or  
28 would violate principles of fairness. For purposes of this  
29 subsection, "substantial hardship" means a demonstrated  
30 economic, technological, legal, or other type of hardship to  
31 the person requesting the variance or waiver. For purposes of

1 this subsection, "principles of fairness" are violated when  
2 the application of a requirement affects a particular person  
3 in a manner significantly different from the way it affects  
4 other similarly situated persons who are affected by the  
5 requirement or when the requirement is being applied  
6 retroactively without due notice to the affected parties.

7 b. A person whose reimbursed costs are subject to a  
8 financial and technical audit under this section may file a  
9 written request to the department for grant of a variance or  
10 waiver. The request shall specify:

11 (I) The requirement from which a variance or waiver is  
12 requested.

13 (II) The type of action requested.

14 (III) The specific facts which would justify a waiver  
15 or variance.

16 (IV) The reason or reasons why the requested variance  
17 or waiver would serve the purposes of this section.

18 c. Within 90 days after receipt of a written request  
19 for variance or waiver under this subsection, the department  
20 shall grant or deny the request. If the request is not granted  
21 or denied within 90 days of receipt, the request shall be  
22 deemed approved. An order granting or denying the request  
23 shall be in writing and shall contain a statement of the  
24 relevant facts and reasons supporting the department's action.  
25 The department's decision to grant or deny the petition shall  
26 be supported by competent substantial evidence and is subject  
27 to ss. 120.569 and 120.57. Once adopted, model rules  
28 promulgated by the Administration Commission under s. 120.542  
29 shall govern the processing of requests under this provision.

30 6. The Chief Financial Officer ~~Comptroller~~ may audit  
31 the records of persons who receive or who have received

1 payments pursuant to this chapter in order to verify site  
2 restoration costs, ensure compliance with this chapter, and  
3 verify the accuracy and completeness of audits performed by  
4 the department pursuant to this paragraph. The Chief  
5 Financial Officer ~~Comptroller~~ may contract with entities or  
6 persons to perform audits pursuant to this subparagraph. The  
7 Chief Financial Officer ~~Comptroller~~ shall commence any audit  
8 within 1 year after the department's completion of an audit  
9 conducted pursuant to this paragraph, except in cases where  
10 the department or the Chief Financial Officer ~~Comptroller~~  
11 alleges specific facts indicating fraud.

12 Section 420. Paragraphs (b) and (c) of subsection (5)  
13 of section 376.3072, Florida Statutes, are amended to read:

14 376.3072 Florida Petroleum Liability and Restoration  
15 Insurance Program.--

16 (5)

17 (b) The Department of Financial Services ~~Insurance~~  
18 shall offer assistance as requested by the department to  
19 implement the program.

20 (c) Any insurance company, reinsurance company, or  
21 other entity contracted with by the department shall be  
22 subject to the same rules and regulations of the Department of  
23 Financial Services ~~Insurance~~ applicable to other insurers,  
24 reinsurers, and other entities.

25 Section 421. Subsection (2) of section 376.3075,  
26 Florida Statutes, is amended to read:

27 376.3075 Inland Protection Financing Corporation.--

28 (2) The corporation shall be governed by a board of  
29 directors consisting of the Governor or the Governor's  
30 designee, the Chief Financial Officer ~~Comptroller~~ or the Chief  
31 Financial Officer's ~~Comptroller's~~ designee, ~~the Treasurer or~~

1 ~~the Treasurer's designee~~, the chair of the Florida Black  
2 Business Investment Board, and the secretary of the Department  
3 of Environmental Protection. The executive director of the  
4 State Board of Administration shall be the chief executive  
5 officer of the corporation and shall direct and supervise the  
6 administrative affairs of the corporation and shall control,  
7 direct, and supervise the operation of the corporation. The  
8 corporation shall also have such other officers as may be  
9 determined by the board of directors.

10 Section 422. Subsection (10) of section 376.3078,  
11 Florida Statutes, is amended to read:

12 376.3078 Drycleaning facility restoration; funds;  
13 uses; liability; recovery of expenditures.--

14 (10) INSURANCE REQUIREMENTS.--The owner or operator of  
15 an operating drycleaning facility or wholesale supply facility  
16 shall, by January 1, 1999, have purchased third-party  
17 liability insurance for \$1 million of coverage for each  
18 operating facility. The owner or operator shall maintain such  
19 insurance while operating as a drycleaning facility or  
20 wholesale supply facility and provide proof of such insurance  
21 to the department upon registration renewal each year  
22 thereafter. Such requirement applies only if such insurance  
23 becomes available to the owner or operator at a reasonable  
24 rate and covers liability for contamination subsequent to the  
25 effective date of the policy and prior to the effective date,  
26 retroactive to the commencement of operations at the  
27 drycleaning facility or wholesale supply facility. Such  
28 insurance may be offered in group coverage policies with a  
29 minimum coverage of \$1 million for each member of the group  
30 per year. For the purposes of this subsection, reasonable rate  
31 means the rate developed based on exposure to loss and

1 underwriting and administrative costs as determined by the  
2 Department of Financial Services Insurance, in consultation  
3 with representatives of the drycleaning industry.

4 Section 423. Paragraphs (b) and (c) of subsection (4)  
5 of section 376.3079, Florida Statutes, are amended to read:

6 376.3079 Third-party liability insurance.--

7 (4)

8 (b) The Department of Financial Services Insurance  
9 shall offer assistance as requested by the department to  
10 implement the program.

11 (c) Any insurance company, reinsurance company, or  
12 other entity contracted with by the department shall be  
13 subject to the same rules of the Department of Financial  
14 Services Insurance applicable to other insurers, reinsurers,  
15 and other entities.

16 Section 424. Subsection (6) of section 376.40, Florida  
17 Statutes, is amended to read:

18 376.40 Petroleum exploration and production; purposes;  
19 funding.--

20 (6) INVESTMENTS; INTEREST.--Moneys in the trust fund  
21 which are not needed currently to meet the obligations of the  
22 department in the exercise of its responsibilities under this  
23 section shall be deposited with the Chief Financial Officer  
24 ~~Treasurer~~ to the credit of the trust fund and may be invested  
25 as provided by law.

26 Section 425. Section 377.23, Florida Statutes. is  
27 amended to read:

28 377.23 Monthly reports to division.--Every producer of  
29 oil or gas in the state shall submit to the division, on forms  
30 prescribed by the division, a monthly report of the actual  
31 production from each and every oil and gas well operated by

1 him or her. Such ~~said~~ producer shall submit a duplicate copy  
2 of such ~~said~~ report at the same time to the Department of  
3 Financial Services ~~Banking and Finance~~; and such ~~said~~ reports  
4 shall be submitted through the medium of the United States  
5 mails, and it shall be unlawful for the same to be transmitted  
6 or received in any other way.

7 Section 426. Paragraph (a) of subsection (1) of  
8 section 377.2425, Florida Statutes, is amended to read:

9 377.2425 Manner of providing security for geophysical  
10 exploration, drilling, and production.--

11 (1) Prior to granting a permit to conduct geophysical  
12 operations; drilling of exploratory, injection, or production  
13 wells; producing oil and gas from a wellhead; or transporting  
14 oil and gas through a field-gathering system, the department  
15 shall require the applicant or operator to provide surety that  
16 these operations will be conducted in a safe and  
17 environmentally compatible manner.

18 (a) The applicant for a drilling, production, or  
19 injection well permit or a geophysical permit may provide the  
20 following types of surety to the department for this purpose:

21 1. A deposit of cash or other securities made payable  
22 to the Minerals Trust Fund. Such cash or securities so  
23 deposited shall be held at interest by the Chief Financial  
24 Officer ~~Comptroller~~ to satisfy safety and environmental  
25 performance provisions of this chapter. The interest shall be  
26 credited to the Minerals Trust Fund. Such cash or other  
27 securities shall be released by the Chief Financial Officer  
28 ~~Comptroller~~ upon request of the applicant and certification by  
29 the department that all safety and environmental performance  
30 provisions established by the department for permitted  
31 activities have been fulfilled.



1           2. A bond of a surety company authorized to do  
2 business in the state in an amount as provided by rule.

3           3. A surety in the form of an irrevocable letter of  
4 credit in an amount as provided by rule guaranteed by an  
5 acceptable financial institution.

6           Section 427. Paragraph (c) of subsection (4) of  
7 section 377.705, Florida Statutes, is amended to read:

8           377.705 Solar Energy Center; development of solar  
9 energy standards.--

10          (4) FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS,  
11 REQUIRE DISCLOSURE, SET TESTING FEES.--

12          (c) The center shall be entitled to receive a testing  
13 fee sufficient to cover the costs of such testing. All  
14 testing fees shall be transmitted by the center to the Chief  
15 Financial Officer ~~State Treasurer~~ to be deposited in the Solar  
16 Energy Center Testing Trust Fund, which is hereby created in  
17 the State Treasury, and disbursed for the payment of expenses  
18 incurred in testing solar energy systems.

19          Section 428. Paragraph (a) of subsection (2) of  
20 section 378.035, Florida Statutes, is amended to read:

21          378.035 Department responsibilities and duties with  
22 respect to Nonmandatory Land Reclamation Trust Fund.--

23          (2)(a) The department shall verify that reclamation  
24 activities or portions thereof have been accomplished in  
25 accordance with the reclamation contract and shall certify the  
26 cost of such reclamation activities to the Chief Financial  
27 Officer ~~Comptroller~~ for reimbursement.

28          Section 429. Section 378.037, Florida Statutes, is  
29 amended to read:

30  
31

1           378.037 Chief Financial Officer ~~Comptroller~~;  
2 responsibilities and duties with respect to reimbursement of  
3 reclamation costs.--

4           (1) The Chief Financial Officer ~~Comptroller~~ shall  
5 reimburse approved reclamation costs, less any amount  
6 reasonably retained to ensure completion of the approved  
7 reclamation program, subject to the following limitations:

8           (a) A landowner shall not be entitled to payments in  
9 excess of the funds available in the Nonmandatory Land  
10 Reclamation Trust Fund.

11           (b) Cost reimbursement shall not exceed the least of:

12           1. The amount actually expended and reasonably  
13 necessary to effect the reclamation consistent with the  
14 standards of the approved master reclamation plan;

15           2. The reclamation contract amount; or

16           3. The amount allowed based on prereclamation land  
17 form, to include mined-out areas at \$4,000 per reclaimed acre  
18 and clay settling areas and other land forms at \$2,500 per  
19 reclaimed acre adjusted annually by the appropriate  
20 inflationary index for construction.

21           (2) The Chief Financial Officer ~~Comptroller~~ shall  
22 adopt rules to implement the payment provisions of the master  
23 reclamation plan and this section, including, but not limited  
24 to, periodic reimbursements and competitive procurement of  
25 services and commodities to the extent practicable, unless a  
26 landowner elects to utilize his or her own personnel and  
27 equipment. The landowner may select a method of reimbursement  
28 from the alternatives adopted by the Chief Financial Officer  
29 ~~Comptroller~~.

30           Section 430. Subsection (3) of section 378.208,  
31 Florida Statutes, is amended to read:

1           378.208 Financial responsibility.--

2           (3) The amount of financial responsibility shall be  
3 established by the secretary and shall not exceed \$4,000 per  
4 acre for each reclamation program, adjusted annually by the  
5 appropriate inflationary index for construction. The  
6 Department of Financial Services ~~Insurance~~ shall be available  
7 to assist the secretary in making this determination. In  
8 establishing the amount of financial responsibility, the  
9 secretary shall consider:

- 10           (a) The amount and type of reclamation involved.  
11           (b) The probable cost of proper reclamation.  
12           (c) Inflation rates.  
13           (d) Changes in mining operations.

14           Section 431. Subsection (2) of section 381.765,  
15 Florida Statutes, is amended to read:

16           381.765 Retention of title to and disposal of  
17 equipment.--

18           (2) The department may offer for sale any surplus  
19 items acquired in operating the brain and spinal cord injury  
20 program when they are no longer necessary or exchange them for  
21 necessary items that may be used to greater advantage. When  
22 any such surplus equipment is sold or exchanged, a receipt for  
23 the equipment shall be taken from the purchaser showing the  
24 consideration given for such equipment and forwarded to the  
25 Chief Financial Officer ~~Treasurer~~, and any funds received by  
26 the brain and spinal cord injury program pursuant to any such  
27 transaction shall be deposited in the Brain and Spinal Cord  
28 Injury Rehabilitation Trust Fund and shall be available for  
29 expenditure for any purpose consistent with this part.

30           Section 432. Subsection (3) of section 381.90, Florida  
31 Statutes, is amended to read:

1           381.90 Health Information Systems Council; legislative  
2 intent; creation, appointment, duties.--  
3           (3) The council shall be composed of the following  
4 members or their senior executive-level designees:  
5           (a) The secretary of the Department of Health;  
6           (b) The secretary of the Department of Business and  
7 Professional Regulation;  
8           (c) The secretary of the Department of Children and  
9 Family Services;  
10          (d) The Secretary of Health Care Administration;  
11          (e) The secretary of the Department of Corrections;  
12          (f) The Attorney General;  
13          (g) The executive director of the Correctional Medical  
14 Authority;  
15          (h) Two members representing county health  
16 departments, one from a small county and one from a large  
17 county, appointed by the Governor;  
18          (i) A representative from the Florida Association of  
19 Counties;  
20          (j) The Chief Financial Officer ~~State Treasurer and~~  
21 ~~Insurance Commissioner~~;  
22          (k) A representative from the Florida Healthy Kids  
23 Corporation;  
24          (l) A representative from a school of public health  
25 chosen by the Board of Regents;  
26          (m) The Commissioner of Education;  
27          (n) The secretary of the Department of Elderly  
28 Affairs; and  
29          (o) The secretary of the Department of Juvenile  
30 Justice.  
31

1 Representatives of the Federal Government may serve without  
2 voting rights.

3 Section 433. Subsection (5) of section 388.201,  
4 Florida Statutes, is amended to read:

5 388.201 District budgets; hearing.--

6 (5) County commissioners' mosquito and arthropod  
7 control budgets shall be made and adopted as prescribed by  
8 subsections (1) and (2); summary figures shall be incorporated  
9 into the county budgets as prescribed by the Department of  
10 Financial Services ~~Banking and Finance~~.

11 Section 434. Section 388.301, Florida Statutes, is  
12 amended to read:

13 388.301 Payment of state funds; supplies and  
14 services.--State funds shall be payable quarterly, in  
15 accordance with the rules of the department, upon requisition  
16 by the department to the Chief Financial Officer ~~Comptroller~~.  
17 The department is authorized to furnish insecticides,  
18 chemicals, materials, equipment, vehicles, and personnel in  
19 lieu of state funds where mass purchasing may save funds for  
20 the state, or where it would be more practical and economical  
21 to use equipment, supplies, and services between two or more  
22 counties or districts.

23 Section 435. Subsection (3) of section 391.025,  
24 Florida Statutes, is amended to read:

25 391.025 Applicability and scope.--

26 (3) The Children's Medical Services program shall not  
27 be deemed an insurer and is not subject to the licensing  
28 requirements of the Florida Insurance Code or the rules of the  
29 Department of Financial Services ~~Insurance~~, when providing  
30 services to children who receive Medicaid benefits, other  
31

1 Medicaid-eligible children with special health care needs, and  
2 children participating in the Florida Kidcare program.

3 Section 436. Subsection (2) of section 391.221,  
4 Florida Statutes, is amended to read:

5 391.221 Statewide Children's Medical Services Network  
6 Advisory Council.--

7 (2) The council shall be composed of 12 members  
8 representing the private health care provider sector, families  
9 with children who have special health care needs, the Agency  
10 for Health Care Administration, the Department of Financial  
11 Services Insurance, the Florida Chapter of the American  
12 Academy of Pediatrics, an academic health center pediatric  
13 program, and the health insurance industry. Members shall be  
14 appointed for 4-year, staggered terms. In no case shall an  
15 employee of the Department of Health serve as a member or as  
16 an ex officio member of the advisory council. A vacancy shall  
17 be filled for the remainder of the unexpired term in the same  
18 manner as the original appointment. A member may not be  
19 appointed to more than two consecutive terms. However, a  
20 member may be reappointed after being off the council for at  
21 least 2 years.

22 Section 437. Subsection (2) of section 392.69, Florida  
23 Statutes, is amended to read:

24 392.69 Appropriation, sinking, and maintenance trust  
25 funds; additional powers of the department.--

26 (2) All moneys required to be paid by the several  
27 counties and patients for the care and maintenance of patients  
28 hospitalized by the department for tuberculosis shall be paid  
29 to the department, and the department shall immediately  
30 transmit these moneys to the Chief Financial Officer  
31 ~~Treasurer~~, who shall deposit the moneys in the Operations and

1 Maintenance Trust Fund, which shall contain all moneys  
2 appropriated by the Legislature or received from patients or  
3 other third parties and shall be expended for the operation  
4 and maintenance of the state-operated tuberculosis hospital.

5 Section 438. Subsection (5) of section 393.002,  
6 Florida Statutes, is amended to read:

7 393.002 Transfer of Florida Developmental Disabilities  
8 Council as formerly created in this chapter to private  
9 nonprofit corporation.--

10 (5) Pursuant to the applicable provisions of chapter  
11 284, the Division of Risk Management of the Department of  
12 Financial Services Insurance is authorized to insure this  
13 nonprofit corporation under the same general terms and  
14 conditions as the Florida Developmental Disabilities Council  
15 was insured in the Department of Children and Family Services  
16 by the division prior to the transfer of its functions  
17 authorized by this section.

18 Section 439. Subsection (2) of section 393.075,  
19 Florida Statutes, is amended to read:

20 393.075 General liability coverage.--

21 (2) The Division of Risk Management of the Department  
22 of Financial Services Insurance shall provide coverage through  
23 the Department of Children and Family Services to any person  
24 who owns or operates a foster care facility or group home  
25 facility solely for the Department of Children and Family  
26 Services, who cares for children placed by developmental  
27 services staff of the department, and who is licensed pursuant  
28 to s. 393.067 to provide such supervision and care in his or  
29 her place of residence. The coverage shall be provided from  
30 the general liability account of the State Risk Management  
31 Trust Fund. The coverage is limited to general liability

1 claims arising from the provision of supervision and care of  
2 children in a foster care facility or group home facility  
3 pursuant to an agreement with the department and pursuant to  
4 guidelines established through policy, rule, or statute.  
5 Coverage shall be subject to the limits provided in ss. 284.38  
6 and 284.385, and the exclusions set forth therein, together  
7 with other exclusions as may be set forth in the certificate  
8 of coverage issued by the trust fund. A person covered under  
9 the general liability account pursuant to this subsection  
10 shall immediately notify the Division of Risk Management of  
11 the Department of Financial Services ~~Insurance~~ of any  
12 potential or actual claim.

13 Section 440. Section 394.482, Florida Statutes, is  
14 amended to read:

15 394.482 Payment of financial obligations imposed by  
16 compact.--The compact administrator, subject to the approval  
17 of the Chief Financial Officer ~~Comptroller~~, may make or  
18 arrange for any payments necessary to discharge any financial  
19 obligations imposed upon this state by the compact or by any  
20 supplementary agreement entered into thereunder.

21 Section 441. Paragraphs (a) and (c) of subsection (4)  
22 of section 400.0238, Florida Statutes, are amended to read:

23 400.0238 Punitive damages; limitation.--

24 (4) Notwithstanding any other law to the contrary, the  
25 amount of punitive damages awarded pursuant to this section  
26 shall be equally divided between the claimant and the Quality  
27 of Long-Term Care Facility Improvement Trust Fund, in  
28 accordance with the following provisions:

29 (a) The clerk of the court shall transmit a copy of  
30 the jury verdict to the Chief Financial Officer ~~State~~  
31 ~~Treasurer~~ by certified mail. In the final judgment, the court



1 shall order the percentages of the award, payable as provided  
2 herein.

3 (c) The Department of Financial Services ~~Banking and~~  
4 ~~Finance~~ shall collect or cause to be collected all payments  
5 due the state under this section. Such payments are made to  
6 the Chief Financial Officer ~~Comptroller~~ and deposited in the  
7 appropriate fund specified in this subsection.

8 Section 442. Subsection (2) of section 400.063,  
9 Florida Statutes, is amended to read:

10 400.063 Resident Protection Trust Fund.--

11 (2) The agency is authorized to establish for each  
12 facility, subject to intervention by the agency, a separate  
13 bank account for the deposit to the credit of the agency of  
14 any moneys received from the Resident Protection Trust Fund or  
15 any other moneys received for the maintenance and care of  
16 residents in the facility, and the agency is authorized to  
17 disburse moneys from such account to pay obligations incurred  
18 for the purposes of this section. The agency is authorized to  
19 requisition moneys from the Resident Protection Trust Fund in  
20 advance of an actual need for cash on the basis of an estimate  
21 by the agency of moneys to be spent under the authority of  
22 this section. Any bank account established under this section  
23 need not be approved in advance of its creation as required by  
24 s. 18.101, but shall be secured by depository insurance equal  
25 to or greater than the balance of such account or by the  
26 pledge of collateral security in conformance with criteria  
27 established in s. 18.11. The agency shall notify the Chief  
28 Financial Officer ~~Treasurer and the Comptroller~~ of any such  
29 account so established and shall make a quarterly accounting  
30 to the Chief Financial Officer ~~Comptroller~~ for all moneys  
31 deposited in such account.

1           Section 443. Paragraph (c) of subsection (4) of  
2 section 400.071, Florida Statutes, as amended by section 18 of  
3 chapter 2001-377, Laws of Florida, is amended to read:

4           400.071 Application for license.--

5           (4) Each applicant for licensure must comply with the  
6 following requirements:

7           (c) Proof of compliance with the level 2 background  
8 screening requirements of chapter 435 which has been submitted  
9 within the previous 5 years in compliance with any other  
10 health care or assisted living licensure requirements of this  
11 state is acceptable in fulfillment of paragraph (a). Proof of  
12 compliance with background screening which has been submitted  
13 within the previous 5 years to fulfill the requirements of the  
14 Department of Financial Services ~~Insurance~~ pursuant to chapter  
15 651 as part of an application for a certificate of authority  
16 to operate a continuing care retirement community is  
17 acceptable in fulfillment of the Department of Law Enforcement  
18 and Federal Bureau of Investigation background check.

19           Section 444. Paragraph (b) of subsection (1) of  
20 section 400.4174, Florida Statutes, is amended to read:

21           400.4174 Background screening; exemptions.--

22           (1)

23           (b) Proof of compliance with level 2 screening  
24 standards which has been submitted within the previous 5 years  
25 to meet any facility or professional licensure requirements of  
26 the agency or the Department of Health satisfies the  
27 requirements of this subsection, provided that such proof is  
28 accompanied, under penalty of perjury, by an affidavit of  
29 compliance with the provisions of chapter 435. Proof of  
30 compliance with the background screening requirements of the  
31 Department of Financial Services ~~Insurance~~ for applicants for

1 a certificate of authority to operate a continuing care  
2 retirement community under chapter 651, submitted within the  
3 last 5 years, satisfies the Department of Law Enforcement and  
4 Federal Bureau of Investigation portions of a level 2  
5 background check.

6 Section 445. Paragraphs (a) and (c) of subsection (4)  
7 of section 400.4298, Florida Statutes, are amended to read:

8 400.4298 Punitive damages; limitation.--

9 (4) Notwithstanding any other law to the contrary, the  
10 amount of punitive damages awarded pursuant to this section  
11 shall be equally divided between the claimant and the Quality  
12 of Long-Term Care Facility Improvement Trust Fund, in  
13 accordance with the following provisions:

14 (a) The clerk of the court shall transmit a copy of  
15 the jury verdict to the Chief Financial Officer State  
16 ~~Treasurer~~ by certified mail. In the final judgment, the court  
17 shall order the percentages of the award, payable as provided  
18 herein.

19 (c) The Department of Financial Services ~~Banking and~~  
20 ~~Finance~~ shall collect or cause to be collected all payments  
21 due the state under this section. Such payments are made to  
22 the Chief Financial Officer ~~Comptroller~~ and deposited in the  
23 appropriate fund specified in this subsection.

24 Section 446. Paragraph (c) of subsection (4) of  
25 section 400.471, Florida Statutes, is amended to read:

26 400.471 Application for license; fee; provisional  
27 license; temporary permit.--

28 (4) Each applicant for licensure must comply with the  
29 following requirements:

30 (c) Proof of compliance with the level 2 background  
31 screening requirements of chapter 435 which has been submitted

1 within the previous 5 years in compliance with any other  
2 health care or assisted living licensure requirements of this  
3 state is acceptable in fulfillment of paragraph (a). Proof of  
4 compliance with background screening which has been submitted  
5 within the previous 5 years to fulfill the requirements of the  
6 Department of Financial Services ~~Insurance~~ pursuant to chapter  
7 651 as part of an application for a certificate of authority  
8 to operate a continuing care retirement community is  
9 acceptable in fulfillment of the Department of Law Enforcement  
10 and Federal Bureau of Investigation background check.

11 Section 447. Paragraph (c) of subsection (10) of  
12 section 400.962, Florida Statutes, is amended to read:

13 400.962 License required; license application.--  
14 (10)

15 (c) Proof of compliance with the level 2 background  
16 screening requirements of chapter 435 which has been submitted  
17 within the previous 5 years in compliance with any other  
18 licensure requirements under this chapter satisfies the  
19 requirements of paragraph (a). Proof of compliance with  
20 background screening which has been submitted within the  
21 previous 5 years to fulfill the requirements of the Department  
22 of Financial Services ~~Insurance~~ under chapter 651 as part of  
23 an application for a certificate of authority to operate a  
24 continuing care retirement community satisfies the  
25 requirements for the Department of Law Enforcement and Federal  
26 Bureau of Investigation background checks.

27 Section 448. Paragraph (b) of subsection (2) of  
28 section 401.245, Florida Statutes, is amended to read:

29 401.245 Emergency Medical Services Advisory Council.--  
30 (2)

31

1           (b) Representation on the Emergency Medical Services  
2 Advisory Council shall include: two licensed physicians who  
3 are "medical directors" as defined in s. 401.23(15) or whose  
4 medical practice is closely related to emergency medical  
5 services; two emergency medical service administrators, one of  
6 whom is employed by a fire service; two certified paramedics,  
7 one of whom is employed by a fire service; two certified  
8 emergency medical technicians, one of whom is employed by a  
9 fire service; one emergency medical services educator; one  
10 emergency nurse; one hospital administrator; one  
11 representative of air ambulance services; one representative  
12 of a commercial ambulance operator; and two laypersons who are  
13 in no way connected with emergency medical services, one of  
14 whom is a representative of the elderly. Ex officio members of  
15 the advisory council from state agencies shall include, but  
16 shall not be limited to, representatives from the Department  
17 of Education, the Department of Management Services, the  
18 Department of Financial Services ~~Insurance~~, the Department of  
19 Highway Safety and Motor Vehicles, the Department of  
20 Transportation, and the Department of Community Affairs.

21           Section 449. Paragraph (c) of subsection (2) of  
22 section 401.25, Florida Statutes, is amended to read:

23           401.25 Licensure as a basic life support or an  
24 advanced life support service.--

25           (2) The department shall issue a license for operation  
26 to any applicant who complies with the following requirements:

27           (c) The applicant has furnished evidence of adequate  
28 insurance coverage for claims arising out of injury to or  
29 death of persons and damage to the property of others  
30 resulting from any cause for which the owner of such business  
31 or service would be liable. The applicant must provide

1 insurance in such sums and under such terms as required by the  
2 department. In lieu of such insurance, the applicant may  
3 furnish a certificate of self-insurance evidencing that the  
4 applicant has established an adequate self-insurance plan to  
5 cover such risks and that the plan has been approved by the  
6 Department of Financial Services Insurance.

7 Section 450. Section 402.04, Florida Statutes, is  
8 amended to read:

9 402.04 Award of scholarships and stipends;  
10 disbursement of funds; administration.--The award of  
11 scholarships or stipends provided for herein shall be made by  
12 the Department of Children and Family Services, hereinafter  
13 referred to as the department. The department shall handle the  
14 administration of the scholarship or stipend and the  
15 Department of Education shall, for and on behalf of the  
16 department, handle the notes issued for the payment of the  
17 scholarships or stipends provided for herein and the  
18 collection of same. The department shall prescribe  
19 regulations governing the payment of scholarships or stipends  
20 to the school, college, or university for the benefit of the  
21 scholarship or stipend holders. All scholarship awards,  
22 expenses and costs of administration shall be paid from moneys  
23 appropriated by the Legislature and shall be paid upon  
24 vouchers approved by the department and properly certified by  
25 the Chief Financial Officer ~~Comptroller~~.

26 Section 451. Paragraph (b) of subsection (1) and  
27 subsection (4) of section 402.17, Florida Statutes, are  
28 amended to read:

29 402.17 Claims for care and maintenance; trust  
30 property.--The Department of Children and Family Services  
31 shall protect the financial interest of the state with respect

1 to claims which the state may have for the care and  
2 maintenance of clients of the department. The department  
3 shall, as trustee, hold in trust and administer money of  
4 clients and property designated for the personal benefit of  
5 clients. The department shall act as trustee of clients' money  
6 and property entrusted to it in accordance with the usual  
7 fiduciary standards applicable generally to trustees, and  
8 shall act to protect both the short-term and long-term  
9 interests of the clients for whose benefit it is holding such  
10 money and property.

11 (1) CLAIMS FOR CARE AND MAINTENANCE.--

12 (b) The Department of Children and Family Services may  
13 charge off accounts if it certifies that the accounts are  
14 uncollectible after diligent efforts have been made to collect  
15 them. If the department certifies an account to the  
16 Department of Financial Services ~~Banking and Finance~~, setting  
17 forth the circumstances upon which it predicates the  
18 uncollectibility, and if, pursuant to s. 17.04, the Department  
19 of Financial Services ~~Banking and Finance~~ concurs, the account  
20 shall be charged off.

21 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the  
22 death of any client affected by the provisions of this  
23 section, any unclaimed money held in trust by the department  
24 or by the Chief Financial Officer ~~Treasurer~~ for him or her  
25 shall be applied first to the payment of any unpaid claim of  
26 the state against the client, and any balance remaining  
27 unclaimed for a period of 1 year shall escheat to the state as  
28 unclaimed funds held by fiduciaries.

29 Section 452. Paragraph (a) of subsection (8) of  
30 section 402.33, Florida Statutes, is amended to read:

31

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 453. 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 454. 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 455. 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 456. 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 457. 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 458. 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 459. 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 460. 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 461. 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 462. 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 463. 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 464. 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 465. 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 466. 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 467. 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 468. 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 469. 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 470. 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 471. 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 472. 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 473. 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 474. Paragraph (a) of subsection (3),  
5 subsections (5), (14), and (17), and paragraph (a) of  
6 subsection (35) of section 409.912, Florida Statutes, as  
7 amended by sections 8 and 9 of chapter 2001-377, Laws of  
8 Florida, are amended to read:

9           409.912 Cost-effective purchasing of health care.--The  
10 agency shall purchase goods and services for Medicaid  
11 recipients in the most cost-effective manner consistent with  
12 the delivery of quality medical care. The agency shall  
13 maximize the use of prepaid per capita and prepaid aggregate  
14 fixed-sum basis services when appropriate and other  
15 alternative service delivery and reimbursement methodologies,  
16 including competitive bidding pursuant to s. 287.057, designed  
17 to facilitate the cost-effective purchase of a case-managed  
18 continuum of care. The agency shall also require providers to  
19 minimize the exposure of recipients to the need for acute  
20 inpatient, custodial, and other institutional care and the  
21 inappropriate or unnecessary use of high-cost services. The  
22 agency may establish prior authorization requirements for  
23 certain populations of Medicaid beneficiaries, certain drug  
24 classes, or particular drugs to prevent fraud, abuse, overuse,  
25 and possible dangerous drug interactions. The Pharmaceutical  
26 and Therapeutics Committee shall make recommendations to the  
27 agency on drugs for which prior authorization is required. The  
28 agency shall inform the Pharmaceutical and Therapeutics  
29 Committee of its decisions regarding drugs subject to prior  
30 authorization.

31           (3) The agency may contract with:

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 475. 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 476. 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 477. 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 478. 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 479. 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 480. 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 481. 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 482. 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 483. 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 484. 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 485. 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 486. 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 487. 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 488. 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 489. 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 490. 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 491. 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 492. 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 493. 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 494. 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 495. 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 496. 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 497. 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 498. 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 499. 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 500. 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 501. 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 502. 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 503. 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 504. 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 505. 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 506. 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 507. 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 508. 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 509. 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 510. 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 511. 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 512. 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 513. 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 514. 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 515. 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 516. 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 517. 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 518. 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 519. 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 520. 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 521. 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 522. 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 523. 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 524. 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 525. 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 526. 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 527. 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 528. 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 529. 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.

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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 530. 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 531. 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 532. 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 533. 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 534. 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 535. 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 536. 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 537. 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 538. 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 539. 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 540. 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 541. 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 542. 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 543. 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 544. 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 545. 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 546. 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 547. 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 548. 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 549. 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 550. 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 551. 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 552. 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 553. 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 554. 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 555. 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 556. 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 557. 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 558. 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 559. 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 560. 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 561. 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 562. 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 563. 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 564. 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 565. 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 566. 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 567. 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 568. 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 569. 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 570. 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 571. 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 572. 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 573. 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 574. 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 575. 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 576. 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 577. 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 578. 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 579. 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 580. 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 581. 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 582. 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 583. 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 584. 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 585. 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 586. 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 587. 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 588. 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 589. 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 590. 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 591. 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 592. 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 593. 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 594. 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 595. 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 596. 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 597. 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 598. 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 599. 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 600. 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 601. 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 602. 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 603. 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 604. 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 605. 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 606. 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 607. 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 608. 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 609. 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 610. 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 611. 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 612. 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 613. 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 614. 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 615. 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 616. 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. 17.61 ~~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 617. 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 618. 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 619. 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 620. 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 621. 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 622. 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 623. 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 624. 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 625. 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 626. 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 627. 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 628. 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 629. 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 630. 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 631. 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 632. 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 633. 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 634. 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 635. 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 636. 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 637. 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 638. 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 639. 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 640. 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 641. 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 642. 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 643. 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 644. 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 645. 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 646. 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 647. 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 648. 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 649. 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 650. 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 651. 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 652. 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 653. 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 654. 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 655. 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 656. 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, as amended  
6 by section 20 of chapter 2001-377, Laws of Florida, are  
7 amended to read:

8 624.91 The Florida Healthy Kids Corporation Act.--

9 (4) CORPORATION AUTHORIZATION, DUTIES, POWERS.--

10 (b) The Florida Healthy Kids Corporation shall phase  
11 in a program to:

12 1. Organize school children groups to facilitate the  
13 provision of comprehensive health insurance coverage to  
14 children;

15 2. Arrange for the collection of any family, local  
16 contributions, or employer payment or premium, in an amount to  
17 be determined by the board of directors, to provide for  
18 payment of premiums for comprehensive insurance coverage and  
19 for the actual or estimated administrative expenses;

20 3. Establish the administrative and accounting  
21 procedures for the operation of the corporation;

22 4. Establish, with consultation from appropriate  
23 professional organizations, standards for preventive health  
24 services and providers and comprehensive insurance benefits  
25 appropriate to children; provided that such standards for  
26 rural areas shall not limit primary care providers to  
27 board-certified pediatricians;

28 5. Establish eligibility criteria which children must  
29 meet in order to participate in the program;

30 6. Establish procedures under which applicants to and  
31 participants in the program may have grievances reviewed by an

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; and

5           17. Notwithstanding the requirements of subparagraph  
6 15. to the contrary, establish a local matching requirement of  
7 \$0.00 for the Title XXI program in each county of the state  
8 for the 2001-2002 fiscal year. This subparagraph shall take  
9 effect upon becoming a law and shall operate retroactively to  
10 July 1, 2001. This subparagraph expires July 1, 2002.

11 (5) BOARD OF DIRECTORS.--

12           (a) The Florida Healthy Kids Corporation shall operate  
13 subject to the supervision and approval of a board of  
14 directors chaired by the Chief Financial Officer ~~Insurance~~  
15 ~~Commissioner~~ or her or his designee, and composed of 12 other  
16 members selected for 3-year terms of office as follows:

17           1. One member appointed by the Commissioner of  
18 Education from among three persons nominated by the Florida  
19 Association of School Administrators;

20           2. One member appointed by the Commissioner of  
21 Education from among three persons nominated by the Florida  
22 Association of School Boards;

23           3. One member appointed by the Commissioner of  
24 Education from the Office of School Health Programs of the  
25 Florida Department of Education;

26           4. One member appointed by the Governor from among  
27 three members nominated by the Florida Pediatric Society;

28           5. One member, appointed by the Governor, who  
29 represents the Children's Medical Services Program;

30  
31

1           6. One member appointed by the Chief Financial Officer  
2 ~~Insurance Commissioner~~ from among three members nominated by  
3 the Florida Hospital Association;

4           7. Two members, appointed by the Chief Financial  
5 Officer ~~Insurance Commissioner~~, who are representatives of  
6 authorized health care insurers or health maintenance  
7 organizations;

8           8. One member, appointed by the Chief Financial  
9 Officer ~~Insurance Commissioner~~, who represents the Institute  
10 for Child Health Policy;

11           9. One member, appointed by the Governor, from among  
12 three members nominated by the Florida Academy of Family  
13 Physicians;

14           10. One member, appointed by the Governor, who  
15 represents the Agency for Health Care Administration; and

16           11. The State Health Officer or her or his designee.

17           (6) LICENSING NOT REQUIRED; FISCAL OPERATION.--

18           (a) The corporation shall not be deemed an insurer.  
19 The officers, directors, and employees of the corporation  
20 shall not be deemed to be agents of an insurer. Neither the  
21 corporation nor any officer, director, or employee of the  
22 corporation is subject to the licensing requirements of the  
23 insurance code or the rules of the Department of Financial  
24 Services ~~Insurance~~. However, any marketing representative  
25 utilized and compensated by the corporation must be appointed  
26 as a representative of the insurers or health services  
27 providers with which the corporation contracts.

28           (c) The Department of Financial Services ~~Insurance~~  
29 shall supervise any liquidation or dissolution of the  
30 corporation and shall have, with respect to such liquidation  
31



1 or dissolution, all power granted to it pursuant to the  
2 insurance code.

3 Section 657. Subsection (5) of section 625.161,  
4 Florida Statutes, is amended to read:

5 625.161 Valuation of property.--

6 (5) In carrying out its responsibilities under this  
7 section, in the event that the department and the insurer do  
8 not agree on the value of real or personal property of such  
9 insurer, the department may retain the services of a qualified  
10 real or personal property appraiser. In the event it is  
11 subsequently determined that the insurer has overvalued  
12 assets, the department shall be reimbursed for the costs of  
13 the services of any such appraiser incurred with respect to  
14 its responsibilities under this section regarding an insurer  
15 by said insurer and any reimbursement shall be deposited in  
16 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

17 Section 658. Section 625.317, Florida Statutes, is  
18 amended to read:

19 625.317 Corporate bonds and debentures.--An insurer  
20 may invest in bonds, notes, or other interest-bearing or  
21 interest-accruing obligations of any solvent corporation  
22 organized under the laws of the United States or Canada or  
23 under the laws of any state, the District of Columbia, any  
24 territory or possession of the United States, or any Province  
25 of Canada or in bonds or notes issued by the Florida Windstorm  
26 Underwriting Association or a private nonprofit corporation, a  
27 private nonprofit unincorporated association, or a nonprofit  
28 mutual company organized by that association, all as  
29 authorized in s. 627.351(2)(c), or any subsidiary or affiliate  
30 thereof authorized by the Department of Insurance or the  
31 Department of Financial Services to issue such bonds or notes.

1           Section 659. Paragraph (d) of subsection (3) of  
2 section 625.52, Florida Statutes, is amended to read:

3           625.52 Securities eligible for deposit.--

4           (3) To be eligible for deposit under paragraph (1)(h),  
5 any certificate of deposit must have the following  
6 characteristics:

7           (d) The issuing bank, savings bank, or savings  
8 association must agree to the terms and conditions of the  
9 Chief Financial Officer ~~State Treasurer~~ regarding the rights  
10 to the certificate of deposit and must have executed a written  
11 certificate of deposit agreement with the Chief Financial  
12 Officer ~~State Treasurer~~. The terms and conditions of such  
13 agreement shall include, but need not be limited to:

14           1. Exclusive authorized signature authority for the  
15 Chief Financial Officer ~~State Treasurer~~.

16           2. Agreement to pay, without protest, the proceeds of  
17 its certificate of deposit to the department within 30  
18 business days after presentation.

19           3. Prohibition against levies, setoffs, survivorship,  
20 or other conditions that might hinder the department's ability  
21 to recover the full face value of a certificate of deposit.

22           4. Instructions regarding interest payments, renewals,  
23 taxpayer identification, and early withdrawal penalties.

24           5. Agreement to be subject to the jurisdiction of the  
25 courts of this state, or those of the United States which are  
26 located in this state, for the purposes of any litigation  
27 arising out of this section.

28           6. Such other conditions as the department requires.

29           Section 660. Subsection (2) of section 625.53, Florida  
30 Statutes, is amended to read:

31           625.53 Depository.--

1           (2) The Division of Treasury shall manage ~~department~~  
2 ~~shall hold~~ all such deposits pursuant to s. 17.59 in  
3 ~~safekeeping in the vaults located in the offices of the~~  
4 ~~Treasurer.~~

5           Section 661. Section 625.83, Florida Statutes, is  
6 amended to read:

7           625.83 Failure to file reporting forms.--Any insurer  
8 who knowingly fails to file information, documents, or reports  
9 required to be filed under s. 625.75 or any rule thereunder  
10 shall forfeit to the state the sum of \$100 for each day such  
11 failure to file continues. Such forfeiture shall be payable  
12 to the Chief Financial Officer ~~Treasurer~~ to be deposited in  
13 the Insurance ~~Commissioner's~~ Regulatory Trust Fund and shall  
14 be recoverable in a civil suit in the name of the state. A  
15 time for filing may be extended for a reasonable period by the  
16 department.

17           Section 662. Section 626.266, Florida Statutes, is  
18 amended to read:

19           626.266 Printing of examinations or related materials  
20 to preserve examination security.--A contract let for the  
21 development, administration, or grading of examinations or  
22 related materials by the Department of Financial Services  
23 ~~Insurance~~ pursuant to the various agent, customer  
24 representative, solicitor, or adjuster licensing and  
25 examination provisions of this code may include the printing  
26 or furnishing of these examinations or related materials in  
27 order to preserve security. Any such contract shall be let as  
28 a contract for a contractual service pursuant to s. 287.057.

29           Section 663. Subsections (5) and (6) of section  
30 626.2815, Florida Statutes, are amended to read:

31

1           626.2815 Continuing education required; application;  
2 exceptions; requirements; penalties.--

3           (5) The Department of Financial Services ~~Insurance~~  
4 shall refuse to renew the appointment of any agent who has not  
5 had his or her continuing education requirements certified  
6 unless the agent has been granted an extension by the  
7 department. The department may not issue a new appointment of  
8 the same or similar type, with any insurer, to an agent who  
9 was denied a renewal appointment for failure to complete  
10 continuing education as required until the agent completes his  
11 or her continuing education requirement.

12           (6)(a) There is created an 11-member continuing  
13 education advisory board to be appointed by the Chief  
14 Financial Officer ~~Insurance Commissioner and Treasurer~~.  
15 Appointments shall be for terms of 4 years. The purpose of  
16 the board is to advise the department in determining standards  
17 by which courses may be evaluated and categorized as basic,  
18 intermediate, or advanced. The board shall establish such  
19 criteria and the department shall implement such criteria by  
20 January 1, 1997. The board shall submit recommendations to  
21 the department of changes needed in such criteria not less  
22 frequently than every 2 years thereafter. The department shall  
23 require all approved course providers to submit courses for  
24 approval to the department using the criteria. All materials,  
25 brochures, and advertisements related to the approved courses  
26 must specify the level assigned to the course.

27           (b) The board members shall be appointed as follows:  
28           1. Seven members representing agents of which at least  
29 one must be a representative from each of the following  
30 organizations: the Florida Association of Insurance Agents;  
31 the Florida Association of Life Underwriters; the Professional

1 Insurance Agents of Florida, Inc.; the Florida Association of  
2 Health Underwriters; the Specialty Agents' Association; the  
3 Latin American Agents' Association; and the National  
4 Association of Insurance Women. Such board members must  
5 possess at least a bachelor's degree or higher from an  
6 accredited college or university with major coursework in  
7 insurance, risk management, or education or possess the  
8 designation of CLU, CPCU, CHFC, CFP, AAI, or CIC. In addition,  
9 each member must possess 5 years of classroom instruction  
10 experience or 5 years of experience in the development or  
11 design of educational programs or 10 years of experience as a  
12 licensed resident agent. Each organization may submit to the  
13 department a list of recommendations for appointment. If one  
14 organization does not submit a list of recommendations, the  
15 Chief Financial Officer ~~Insurance Commissioner~~ may select more  
16 than one recommended person from a list submitted by other  
17 eligible organizations.

18           2. Two members representing insurance companies at  
19 least one of whom must represent a Florida Domestic Company  
20 and one of whom must represent the Florida Insurance Council.  
21 Such board members must be employed within the training  
22 department of the insurance company. At least one such member  
23 must be a member of the Society of Insurance Trainers and  
24 Educators.

25           3. One member representing the general public who is  
26 not directly employed in the insurance industry. Such board  
27 member must possess a minimum of a bachelor's degree or higher  
28 from an accredited college or university with major coursework  
29 in insurance, risk management, training, or education.

30           4. One member, appointed by the Chief Financial  
31 Officer ~~Insurance Commissioner~~, who represents the department.

1 (c) The members of the board shall serve at the  
2 pleasure of the Chief Financial Officer ~~Insurance Commissioner~~  
3 ~~and Treasurer~~. Each board member shall be entitled to  
4 reimbursement for expenses pursuant to s. 112.061. The board  
5 shall designate one member as chair. The board shall meet at  
6 the call of the chair or the Chief Financial Officer ~~Insurance~~  
7 ~~Commissioner and Treasurer~~.

8 Section 664. Section 626.322, Florida Statutes, is  
9 amended to read:

10 626.322 License, appointment; certain military  
11 installations.--A natural person, not a resident of this  
12 state, may be licensed and appointed to represent an  
13 authorized life insurer domiciled in this state or an  
14 authorized foreign life insurer which maintains a regional  
15 home office in this state, provided such person represents  
16 such insurer exclusively at a United States military  
17 installation located in a foreign country. The department may,  
18 upon request of the applicant and the insurer on application  
19 forms furnished by the department and upon payment of fees as  
20 prescribed in s. 624.501, issue a license and appointment to  
21 such person. The insurer shall certify to the department that  
22 the applicant has the necessary training to hold himself or  
23 herself out as a life insurance representative, and the  
24 insurer shall further certify that it is willing to be bound  
25 by the acts of such applicant within the scope of his or her  
26 employment. Appointments shall be continued as prescribed in  
27 s. 626.381 and upon payment of a fee as prescribed in s.  
28 624.501, unless sooner terminated. Such fees received shall  
29 be credited to the Insurance ~~Commissioner's~~ Regulatory Trust  
30 Fund as provided for in s. 624.523.

31

1           Section 665. Subsection (1) of section 626.592,  
2 Florida Statutes, is amended to read:

3           626.592 Primary agents.--

4           (1) Each person operating an insurance agency and each  
5 location of a multiple location agency shall designate a  
6 primary agent for each insurance agency location and shall  
7 file the name of the person so designated, and the address of  
8 the insurance agency location where he or she is primary  
9 agent, with the Department of Financial Services ~~Insurance~~, on  
10 a form approved by the department. The designation of the  
11 primary agent may be changed at the option of the agency, and  
12 any change shall be effective upon notification to the  
13 department. Notice of change must be sent to the department  
14 within 30 days after such change.

15           Section 666. Section 626.742, Florida Statutes, is  
16 amended to read:

17           626.742 Nonresident agents; service of process.--

18           (1) Each licensed nonresident agent shall appoint the  
19 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~  
20 as his or her attorney to receive service of legal process  
21 issued against the agent in this state, upon causes of action  
22 arising within this state out of transactions under the  
23 agent's license and appointment. Service upon the Chief  
24 Financial Officer ~~Insurance Commissioner and Treasurer~~ as  
25 attorney shall constitute effective legal service upon the  
26 agent.

27           (2) The appointment of the Chief Financial Officer  
28 ~~Insurance Commissioner and Treasurer~~ for service of process  
29 shall be irrevocable for as long as there could be any cause  
30 of action against the agent arising out of his or her  
31 insurance transactions in this state.

1           (3) Duplicate copies of such legal process against  
2 such agent shall be served upon the Chief Financial Officer  
3 ~~Insurance Commissioner and Treasurer~~ by a person competent to  
4 serve a summons.

5           (4) Upon receiving such service, the Chief Financial  
6 Officer ~~Insurance Commissioner and Treasurer~~ shall forthwith  
7 send one of the copies of the process, by registered mail with  
8 return receipt requested, to the defendant agent at his or her  
9 last address of record with the department.

10           (5) The Chief Financial Officer ~~Insurance Commissioner~~  
11 ~~and Treasurer~~ shall keep a record of the day and hour of  
12 service upon him or her of all such legal process.

13           Section 667. Paragraph (e) of subsection (3) of  
14 section 626.7492, Florida Statutes, is amended to read:

15           626.7492 Reinsurance intermediaries.--

16           (3) LICENSURE.--

17           (e) If the applicant for a reinsurance intermediary  
18 license is a nonresident, the applicant, as a condition  
19 precedent to receiving or holding a license, must designate  
20 the Chief Financial Officer ~~Insurance Commissioner~~ as agent  
21 for service of process in the manner, and with the same legal  
22 effect, provided for by this section for designation of  
23 service of process upon unauthorized insurers. Such applicant  
24 shall also furnish the department with the name and address of  
25 a resident of this state upon whom notices or orders of the  
26 department or process affecting the nonresident reinsurance  
27 intermediary may be served. The licensee shall promptly  
28 notify the department in writing of each change in its  
29 designated agent for service of process, and the change shall  
30 not become effective until acknowledged by the department.

31



1           Section 668. Subsection (1) of section 626.8427,  
2 Florida Statutes, is amended to read:

3           626.8427 Number of applications for licensure  
4 required; exemption; effect of expiration of license.--

5           (1) After a license as a title insurance agent has  
6 been issued to a title insurance agent, the agent is not  
7 required to file another license application for a similar  
8 license, irrespective of the number of insurers to be  
9 represented by the agent, unless:

10           (a) The agent is specifically ordered by the  
11 department to complete a new application; or

12           (b) During any period of 48 months since the filing of  
13 the original license application, the agent was not appointed,  
14 unless in the case of individuals the failure to be so  
15 appointed was due to military service, in which event the  
16 period within which a new application is not required may, in  
17 the discretion of the Department of Financial Services  
18 ~~Insurance~~, be extended for 12 months following the date of  
19 discharge from military service if the military service does  
20 not exceed 3 years, but in no event shall the period be  
21 extended under this clause for a period of more than 6 years  
22 from the date of filing the original application.

23           Section 669. Subsection (1) of section 626.8463,  
24 Florida Statutes, is amended to read:

25           626.8463 Witnesses and evidence.--

26           (1) As to the subject of any examination,  
27 investigation, or hearing being conducted by him or her under  
28 s. 624.5015, ss. 626.8417-626.847, or s. 627.791, an examiner  
29 appointed by the Department of Financial Services ~~Insurance~~  
30 may administer oaths, examine and cross-examine witnesses, and  
31 receive oral and documentary evidence and shall have the power

1 to subpoena witnesses, compel their attendance and testimony,  
2 and require by subpoena the production of books, papers,  
3 records, files, correspondence, documents, or other evidence  
4 which the examiner deems relevant to the inquiry.

5 Section 670. Section 626.8467, Florida Statutes, is  
6 amended to read:

7 626.8467 Testimony compelled; immunity from  
8 prosecution.--

9 (1) If a person asks to be excused from attending or  
10 testifying or from producing any books, papers, records,  
11 contracts, documents, or other evidence in connection with any  
12 examination, hearing, or investigation being conducted under  
13 s. 624.5015, ss. 626.8417-626.847, or s. 627.791 by the  
14 department or its examiner on the ground that the testimony or  
15 evidence required of the person may tend to incriminate him or  
16 her or subject him or her to a penalty or forfeiture and  
17 notwithstanding is directed to give such testimony or produce  
18 such evidence, the person must, if so directed by the  
19 Department of Financial Services ~~Insurance~~ and the Department  
20 of Legal Affairs, nonetheless comply with such direction, but  
21 he or she shall not thereafter be prosecuted or subjected to  
22 any penalty or forfeiture for or on account of any  
23 transaction, matter, or thing concerning which he or she may  
24 have so testified or produced evidence, and no testimony so  
25 given or evidence produced shall be received against the  
26 person upon any criminal action, investigation, or proceeding.  
27 However, a person so testifying shall not be exempt from  
28 prosecution or punishment for any perjury committed by him or  
29 her in such testimony, and the testimony or evidence so given  
30 or produced shall be admissible against him or her upon any  
31 criminal action, investigation, or proceeding concerning such

1 perjury; and such person shall not be exempt from the refusal,  
2 suspension, or revocation of any license or appointment,  
3 permission, or authority conferred or to be conferred pursuant  
4 to s. 624.5015, ss. 626.8417-626.847, or s. 627.791.

5 (2) Any such person may execute, acknowledge, and file  
6 in the office of the Department of Financial Services  
7 ~~Insurance~~ a statement expressly waiving such immunity or  
8 privilege with respect to any transaction, matter, or thing  
9 specified in the statement, and thereupon the testimony of  
10 such person or such evidence in relation to such transaction,  
11 matter, or thing may be received or produced before any judge  
12 or justice, court, tribunal, or grand jury or otherwise and,  
13 if so received or produced, such person shall not be entitled  
14 to any immunity or privilege on account of any testimony he or  
15 she may so give or evidence so produced.

16 Section 671. Section 626.847, Florida Statutes, is  
17 amended to read:

18 626.847 Penalty for refusal to testify.--A person who  
19 refuses or fails, without lawful cause, to testify relative to  
20 the affairs of any title insurer or other person when  
21 subpoenaed under s. 626.8463 and requested by the Department  
22 of Financial Services ~~Insurance~~ to so testify is guilty of a  
23 misdemeanor of the second degree and, upon conviction, is  
24 punishable as provided in s. 775.082 or s. 775.083.

25 Section 672. Section 626.8736, Florida Statutes, is  
26 amended to read:

27 626.8736 Nonresident independent or public adjusters;  
28 service of process.--

29 (1) Each licensed nonresident independent or public  
30 adjuster shall appoint the Chief Financial Officer ~~Insurance~~  
31 ~~Commissioner and Treasurer~~ and his or her successors in office

1 as his or her attorney to receive service of legal process  
2 issued against the nonresident independent or public adjuster  
3 in this state, upon causes of action arising within this state  
4 out of transactions under his license and appointment. Service  
5 upon the Chief Financial Officer ~~Insurance Commissioner and~~  
6 ~~Treasurer~~ as attorney shall constitute effective legal service  
7 upon the nonresident independent or public adjuster.

8 (2) The appointment of the Chief Financial Officer  
9 ~~Insurance Commissioner and Treasurer~~ for service of process  
10 shall be irrevocable for as long as there could be any cause  
11 of action against the nonresident independent or public  
12 adjuster arising out of his or her insurance transactions in  
13 this state.

14 (3) Duplicate copies of legal process against the  
15 nonresident independent or public adjuster shall be served  
16 upon the Chief Financial Officer ~~Insurance Commissioner and~~  
17 ~~Treasurer~~ by a person competent to serve a summons.

18 (4) Upon receiving the service, the Chief Financial  
19 ~~Officer Insurance Commissioner and Treasurer~~ shall forthwith  
20 send one of the copies of the process, by registered mail with  
21 return receipt requested, to the defendant nonresident  
22 independent or public adjuster at his or her last address of  
23 record with the department.

24 (5) The Chief Financial Officer ~~Insurance Commissioner~~  
25 ~~and Treasurer~~ shall keep a record of the day and hour of  
26 service upon him or her of all legal process received under  
27 this section.

28 Section 673. Section 626.906, Florida Statutes, is  
29 amended to read:

30 626.906 Acts constituting Chief Financial Officer  
31 ~~Insurance Commissioner and Treasurer~~ as process agent.--Any of

1 the following acts in this state, effected by mail or  
2 otherwise, by an unauthorized foreign insurer, alien insurer,  
3 or person representing or aiding such an insurer is equivalent  
4 to and shall constitute an appointment by such insurer or  
5 person representing or aiding such insurer of the Chief  
6 Financial Officer ~~Insurance Commissioner and Treasurer~~, and  
7 his or her successor or successors in office, to be its true  
8 and lawful attorney, upon whom may be served all lawful  
9 process in any action, suit, or proceeding instituted by or on  
10 behalf of an insured or beneficiary, arising out of any such  
11 contract of insurance; and any such act shall be signification  
12 of the insurer's or person's agreement that such service of  
13 process is of the same legal force and validity as personal  
14 service of process in this state upon such insurer or person  
15 representing or aiding such insurer:

16 (1) The issuance or delivery of contracts of insurance  
17 to residents of this state or to corporations authorized to do  
18 business therein;

19 (2) The solicitation of applications for such  
20 contracts;

21 (3) The collection of premiums, membership fees,  
22 assessments, or other considerations for such contracts; or

23 (4) Any other transaction of insurance.

24 Section 674. Subsection (1) of section 626.907,  
25 Florida Statutes, is amended to read:

26 626.907 Service of process; judgment by default.--

27 (1) Service of process upon an insurer or person  
28 representing or aiding such insurer pursuant to s. 626.906  
29 shall be made by delivering to and leaving with the Chief  
30 Financial Officer ~~Insurance Commissioner and Treasurer~~ or some  
31 person in apparent charge of his or her office two copies

1    thereof.  The Chief Financial Officer ~~Insurance Commissioner~~  
2    ~~and Treasurer~~ shall forthwith mail by registered mail one of  
3    the copies of such process to the defendant at the defendant's  
4    last known principal place of business and shall keep a record  
5    of all process so served upon him or her.  The service of  
6    process is sufficient, provided notice of such service and a  
7    copy of the process are sent within 10 days thereafter by  
8    registered mail by plaintiff or plaintiff's attorney to the  
9    defendant at the defendant's last known principal place of  
10   business, and the defendant's receipt, or receipt issued by  
11   the post office with which the letter is registered, showing  
12   the name of the sender of the letter and the name and address  
13   of the person to whom the letter is addressed, and the  
14   affidavit of the plaintiff or plaintiff's attorney showing a  
15   compliance herewith are filed with the clerk of the court in  
16   which the action is pending on or before the date the  
17   defendant is required to appear, or within such further time  
18   as the court may allow.

19           Section 675.  Section 626.912, Florida Statutes, is  
20   amended to read:

21           626.912 Exemptions from ss. 626.904-626.911.--The  
22   provisions of ss. 626.904-626.911 do not apply to any action,  
23   suit, or proceeding against any unauthorized foreign insurer,  
24   alien insurer, or person representing or aiding such an  
25   insurer arising out of any contract of insurance:

26           (1) Covering reinsurance, wet marine and  
27   transportation, commercial aircraft, or railway insurance  
28   risks;

29           (2) Against legal liability arising out of the  
30   ownership, operation, or maintenance of any property having a  
31   permanent situs outside this state;

1           (3) Against loss of or damage to any property having a  
2 permanent situs outside this state; or

3           (4) Issued under and in accordance with the Surplus  
4 Lines Law, when such insurer or person representing or aiding  
5 such insurer enters a general appearance or when such contract  
6 of insurance contains a provision designating the Chief  
7 Financial Officer ~~Insurance Commissioner and Treasurer~~ and his  
8 or her successor or successors in office or designating a  
9 Florida resident agent to be the true and lawful attorney of  
10 such unauthorized insurer or person representing or aiding  
11 such insurer upon whom may be served all lawful process in any  
12 action, suit, or proceeding instituted by or on behalf of an  
13 insured or person representing or aiding such insurer or  
14 beneficiary arising out of any such contract of insurance; and  
15 service of process effected on such Chief Financial Officer  
16 ~~Insurance Commissioner and Treasurer~~, his or her successor or  
17 successors in office, or such resident agent shall be deemed  
18 to confer complete jurisdiction over such unauthorized insurer  
19 or person representing or aiding such insurer in such action.

20           Section 676. Subsections (5) and (6) of section  
21 626.918, Florida Statutes, are amended to read:

22           626.918 Eligible surplus lines insurers.--

23           (5) When it appears that any particular insurance risk  
24 which is eligible for export, but on which insurance coverage,  
25 in whole or in part, is not procurable from the eligible  
26 surplus lines insurers, after a search of eligible surplus  
27 lines insurers, then the surplus lines agent may file a  
28 supplemental signed statement setting forth such facts and  
29 advising the department that such part of the risk as shall be  
30 unprocurable, as aforesaid, is being placed with named  
31 unauthorized insurers, in the amounts and percentages set

1 | forth in the statement. Such named unauthorized insurer  
2 | shall, however, before accepting any risk in this state,  
3 | deposit with the department cash or securities acceptable to  
4 | the department of the market value of \$50,000 for each  
5 | individual risk, contract, or certificate, which deposit shall  
6 | be held by the department for the benefit of Florida  
7 | policyholders only; and the surplus lines agent shall procure  
8 | from such unauthorized insurer and file with the department a  
9 | certified copy of its statement of condition as of the close  
10 | of the last calendar year. If such statement reveals,  
11 | including both capital and surplus, net assets of at least  
12 | that amount required for licensure of a domestic insurer, then  
13 | the surplus lines agent may proceed to consummate such  
14 | contract of insurance. Whenever any insurance risk, or any  
15 | part thereof, is placed with an unauthorized insurer, as  
16 | provided herein, the policy, binder, or cover note shall  
17 | contain a statement signed by the insured and the agent with  
18 | the following notation: "The insured is aware that certain  
19 | insurers participating in this risk have not been approved to  
20 | transact business in Florida nor have they been declared  
21 | eligible as surplus lines insurers by the Department of  
22 | Financial Services ~~Insurance of Florida~~. The placing of such  
23 | insurance by a duly licensed surplus lines agent in Florida  
24 | shall not be construed as approval of such insurer by the  
25 | Department of Financial Services ~~Insurance of Florida~~.  
26 | Consequently, the insured is aware that the insured has  
27 | severely limited the assistance available under the insurance  
28 | laws of Florida. The insured is further aware that he or she  
29 | may be charged a reasonable per policy fee, as provided in s.  
30 | 626.916(4), Florida Statutes, for each policy certified for  
31 | export." All other provisions of this code shall apply to such



1 placement the same as if such risks were placed with an  
2 eligible surplus lines insurer.

3 (6) When any particular insurance risk subject to  
4 subsection (5) is eligible for placement with an unauthorized  
5 insurer and not more than 12.5 percent of the risk is so  
6 subject, the Department of Financial Services ~~Insurance~~ may,  
7 at its discretion, permit the agent to obtain from the insured  
8 a signed statement as indicated in subsection (5). All other  
9 provisions of this code apply to such placement the same as if  
10 such risks were placed with an eligible surplus lines insurer.

11 Section 677. Subsection (5) of section 626.931,  
12 Florida Statutes, is amended to read:

13 626.931 Agent affidavit and insurer reporting  
14 requirements.--

15 (5) The Chief Financial Officer may ~~Insurance~~  
16 ~~Commissioner shall have the authority to~~ waive the filing  
17 requirements described in subsections (3) and (4).

18 Section 678. Paragraph (a) of subsection (2) and  
19 subsection (5) of section 626.932, Florida Statutes, are  
20 amended to read:

21 626.932 Surplus lines tax.--

22 (2)

23 (a) The surplus lines agent shall make payable to the  
24 Department of Financial Services ~~Insurance~~ the tax related to  
25 each calendar quarter's business as reported to the Florida  
26 Surplus Lines Service Office, and remit the tax to the Florida  
27 Surplus Lines Service Office at the same time as provided for  
28 the filing of the quarterly affidavit, under s. 626.931. The  
29 Florida Surplus Lines Service Office shall forward to the  
30 department the taxes and any interest collected pursuant to  
31 paragraph (b), within 10 days of receipt.

1           (5) The department shall deposit 55 percent of all  
2 taxes collected under this section to the credit of the  
3 Insurance ~~Commissioner's~~ Regulatory Trust Fund. Forty-five  
4 percent of all taxes collected under this section shall be  
5 deposited into the General Revenue Fund.

6           Section 679. Section 626.936, Florida Statutes, is  
7 amended to read:

8           626.936 Failure to file reports or pay tax or service  
9 fee; administrative penalty.--

10           (1) Any licensed surplus lines agent who neglects to  
11 file a report or an affidavit in the form and within the time  
12 required or provided for in the Surplus Lines Law may be fined  
13 up to \$50 per day for each day the neglect continues,  
14 beginning the day after the report or affidavit was due until  
15 the date the report or affidavit is received. All sums  
16 collected under this section shall be deposited into the  
17 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

18           (2) Any licensed surplus lines agent who neglects to  
19 pay the taxes or service fees as required under the Surplus  
20 Lines Law and within the time required may be fined up to \$500  
21 per day for each day the failure to pay continues, beginning  
22 the day after the tax or service fees were due. The agent  
23 shall pay interest on the amount of any delinquent tax due, at  
24 the rate of 9 percent per year, compounded annually, beginning  
25 the day the amount becomes delinquent. The department shall  
26 deposit all sums collected under this section into the  
27 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

28           Section 680. Section 626.9361, Florida Statutes, is  
29 amended to read:

30           626.9361 Failure to file report; administrative  
31 penalty.--Any eligible surplus lines insurer who fails to file

1 a report in the form and within the time required or provided  
2 for in the Surplus Lines Law may be fined up to \$500 per day  
3 for each day such failure continues, beginning the day after  
4 the report was due, until the date the report is received.  
5 Failure to file a report may also result in withdrawal of  
6 eligibility as a surplus lines insurer in this state. All sums  
7 collected by the department under this section shall be  
8 deposited into the Insurance ~~Commissioner's~~ Regulatory Trust  
9 Fund.

10 Section 681. Subsections (2), (3), and (4) of section  
11 626.937, Florida Statutes, are amended to read:

12 626.937 Actions against insurer; service of process.--

13 (2) The unauthorized insurer accepting the risk or  
14 issuing the policy shall be deemed thereby to have authorized  
15 service of process against it in the manner and to the effect  
16 as provided in this section, and to have appointed the Chief  
17 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its  
18 agent for service of process issuing upon any cause of action  
19 arising in this state under any such policy, contract, or  
20 insurance.

21 (3) Each unauthorized insurer requesting eligibility  
22 pursuant to s. 626.918 shall file with the department its  
23 appointment of the Chief Financial Officer ~~Insurance~~  
24 ~~Commissioner and Treasurer~~ and his or her successors in  
25 office, on a form as furnished by the department, as its  
26 attorney to receive service of all legal process issued  
27 against it in any civil action or proceeding in this state,  
28 and agreeing that process so served shall be valid and binding  
29 upon the insurer. The appointment shall be irrevocable, shall  
30 bind the insurer and any successor in interest as to the  
31 assets or liabilities of the insurer, and shall remain in

1 effect as long as there is outstanding in this state any  
2 obligation or liability of the insurer resulting from its  
3 insurance transactions therein.

4 (4) At the time of such appointment of the Chief  
5 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its  
6 process agent, the insurer shall file with the department  
7 designation of the name and address of the person to whom  
8 process against it served upon the Chief Financial Officer  
9 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The  
10 insurer may change the designation at any time by a new  
11 filing.

12 Section 682. Subsections (3) and (7) of section  
13 626.938, Florida Statutes, are amended to read:

14 626.938 Report and tax of independently procured  
15 coverages.--

16 (3) For the general support of the government of this  
17 state, there is levied upon the obligation, chose in action,  
18 or right represented by the premium charged for such insurance  
19 a tax at the rate of 5 percent of the gross amount of such  
20 premium and a 0.3 percent service fee pursuant to s. 626.9325.  
21 The insured shall withhold the amount of the tax and service  
22 fee from the amount of premium charged by and otherwise  
23 payable to the insurer for such insurance. Within 30 days  
24 after the insurance is procured, continued, or renewed, and  
25 simultaneously with the filing of the report provided for in  
26 subsection (1) with the Florida Surplus Lines Service Office,  
27 the insured shall make payable to the Department of Financial  
28 Services ~~Insurance~~ the amount of the tax and make payable to  
29 the Florida Surplus Lines Service Office the amount of the  
30 service fee. The insured shall remit the tax and the service  
31 fee to the Florida Surplus Lines Service Office. The Florida

1 Surplus Lines Service Office shall forward to the department  
2 the taxes, and any interest collected pursuant to subsection  
3 (5), within 10 days after receipt.

4 (7) The department shall deposit 55 percent of all  
5 taxes and interest collected under this section to the credit  
6 of the Insurance ~~Commissioner's~~ Regulatory Trust Fund.  
7 Forty-five percent of all taxes and interest collected under  
8 this section shall be deposited into the General Revenue Fund.

9 Section 683. Subsection (2) of section 626.9511,  
10 Florida Statutes, is amended to read:

11 626.9511 Definitions.--When used in this part:

12 (2) "Department" means the Department of Financial  
13 Services Insurance of this state.

14 Section 684. Paragraph (w) of subsection (1) of  
15 section 626.9541, Florida Statutes, is amended to read:

16 626.9541 Unfair methods of competition and unfair or  
17 deceptive acts or practices defined.--

18 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR  
19 DECEPTIVE ACTS.--The following are defined as unfair methods  
20 of competition and unfair or deceptive acts or practices:

21 (w) Soliciting or accepting new or renewal insurance  
22 risks by insolvent or impaired insurer prohibited; penalty.--

23 1. Whether or not delinquency proceedings as to the  
24 insurer have been or are to be initiated, but while such  
25 insolvency or impairment exists, no director or officer of an  
26 insurer, except with the written permission of the department  
27 ~~of Insurance~~, shall authorize or permit the insurer to solicit  
28 or accept new or renewal insurance risks in this state after  
29 such director or officer knew, or reasonably should have  
30 known, that the insurer was insolvent or impaired. "Impaired"

31

1 includes impairment for capital or surplus, as defined in s.  
2 631.011(9) and (10).

3 2. Any such director or officer, upon conviction of a  
4 violation of this paragraph, is guilty of a felony of the  
5 third degree, punishable as provided in s. 775.082, s.  
6 775.083, or s. 775.084.

7 Section 685. Paragraph (a) of subsection (3) of  
8 section 626.9543, Florida Statutes, is amended to read:

9 626.9543 Holocaust victims.--

10 (3) DEFINITIONS.--For the purpose of this section:

11 (a) "Department" means the Department of Financial  
12 Services Insurance.

13 Section 686. Paragraph (e) of subsection (4) and  
14 subsection (9) of section 626.989, Florida Statutes, are  
15 amended to read:

16 626.989 Investigation by department or Division of  
17 Insurance Fraud; compliance; immunity; confidential  
18 information; reports to division; division investigator's  
19 power of arrest.--

20 (4)

21 (e) The Chief Financial Officer ~~Insurance Commissioner~~  
22 and any employee or agent of the department or division, when  
23 acting without malice and in the absence of fraud or bad  
24 faith, is not subject to civil liability for libel, slander,  
25 or any other relevant tort, and no civil cause of action of  
26 any nature exists against such person by virtue of the  
27 execution of official activities or duties of the department  
28 under this section or by virtue of the publication of any  
29 report or bulletin related to the official activities or  
30 duties of the department or division under this section.

31

1           (9) In recognition of the complementary roles of  
2 investigating instances of workers' compensation fraud and  
3 enforcing compliance with the workers' compensation coverage  
4 requirements under chapter 440, the Division of Insurance  
5 Fraud of the Department of Financial Services Insurance and  
6 the Division of Workers' Compensation of the Department of  
7 Labor and Employment Security are directed to prepare and  
8 submit a joint performance report to the President of the  
9 Senate and the Speaker of the House of Representatives by  
10 November 1 of each year for each of the next 2 years, and then  
11 every 3 years thereafter, describing the results obtained in  
12 achieving compliance with the workers' compensation coverage  
13 requirements and reducing the incidence of workers'  
14 compensation fraud.

15           Section 687. Subsection (1) of section 626.9892,  
16 Florida Statutes, is amended to read:

17           626.9892 Anti-Fraud Reward Program; reporting of  
18 insurance fraud.--

19           (1) The Anti-Fraud Reward Program is ~~hereby~~  
20 established within the department, to be funded from the  
21 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

22           Section 688. Subsections (1) and (4) of section  
23 626.9911, Florida Statutes, are amended to read:

24           626.9911 Definitions.--As used in this act, the term:

25           (1) "Department" means the Department of Financial  
26 Services Insurance.

27           (4) "Viatical settlement broker" means a person who,  
28 on behalf of a viator and for a fee, commission, or other  
29 valuable consideration, offers or attempts to negotiate  
30 viatical settlement contracts between a viator resident in  
31 this state and one or more viatical settlement providers.

1 Notwithstanding the manner in which the viatical settlement  
2 broker is compensated, a viatical settlement broker is deemed  
3 to represent only the viator and owes a fiduciary duty to the  
4 viator to act according to the viator's instructions and in  
5 the best interest of the viator. The term does not include an  
6 attorney, licensed Certified Public Accountant, or investment  
7 adviser lawfully registered with the department of ~~Banking and~~  
8 ~~Finance~~ under chapter 517, who is retained to represent the  
9 viator and whose compensation is paid directly by or at the  
10 direction and on behalf of the viator.

11 Section 689. Paragraph (e) of subsection (5) of  
12 section 626.9912, Florida Statutes, is amended to read:

13 626.9912 Viatical settlement provider license  
14 required; application for license.--

15 (5) Upon the filing of a sworn application and the  
16 payment of the license fee, the department shall investigate  
17 each applicant and may issue the applicant a license if the  
18 department finds that the applicant:

19 (e) Has designated the Chief Financial Officer  
20 ~~Insurance Commissioner and Treasurer~~ as its agent for service  
21 of process.

22 Section 690. Paragraph (e) of subsection (7) and  
23 subsection (8) of section 626.9916, Florida Statutes, are  
24 amended to read:

25 626.9916 Viatical settlement broker license required;  
26 application for license.--

27 (7) Upon the filing of a sworn application and the  
28 payment of the license fee and all other applicable fees under  
29 this act, the department shall investigate each applicant and  
30 may issue the applicant a license if the department finds that  
31 the applicant:



1           (e) Has designated the Chief Financial Officer  
2 ~~Insurance Commissioner and Treasurer~~ as its agent for service  
3 of process.

4           (8) An applicant for a nonresident viatical settlement  
5 broker license must, in addition to designating the Chief  
6 Financial Officer ~~Insurance Commissioner and Treasurer~~ as  
7 agent for service of process as required by this section, also  
8 furnish the department with the name and address of a resident  
9 of this state upon whom notices or orders of the department or  
10 process affecting the applicant or licensee may be served.  
11 After issuance of the license, the licensee must also notify  
12 the department of change of the person to receive such  
13 notices, orders, or process; such change is not effective  
14 until acknowledged by the department.

15           Section 691. Section 627.0613, Florida Statutes, is  
16 amended to read:

17           627.0613 Consumer advocate.--The Chief Financial  
18 Officer ~~Insurance Commissioner~~ must appoint a consumer  
19 advocate who must represent the general public of the state  
20 before the department. The consumer advocate must report  
21 directly to the Chief Financial Officer ~~Insurance~~  
22 ~~Commissioner~~, but is not otherwise under the authority of the  
23 department or of any employee of the department. The consumer  
24 advocate has such powers as are necessary to carry out the  
25 duties of the office of consumer advocate, including, but not  
26 limited to, the powers to:

27           (1) Recommend to the department, by petition, the  
28 commencement of any proceeding or action; appear in any  
29 proceeding or action before the department; or appear in any  
30 proceeding before the Division of Administrative Hearings

31

1 relating to subject matter under the jurisdiction of the  
2 department.

3 (2) Have access to and use of all files, records, and  
4 data of the department.

5 (3) Examine rate and form filings submitted to the  
6 department, hire consultants as necessary to aid in the review  
7 process, and recommend to the department any position deemed  
8 by the consumer advocate to be in the public interest.

9 (4) Prepare an annual budget for presentation to the  
10 Legislature by the department, which budget must be adequate  
11 to carry out the duties of the office of consumer advocate.

12 Section 692. Paragraphs (b) and (c) of subsection (2)  
13 of section 627.0628, Florida Statutes, are amended to read:

14 627.0628 Florida Commission on Hurricane Loss  
15 Projection Methodology.--

16 (2) COMMISSION CREATED.--

17 (b) The commission shall consist of the following 11  
18 members:

19 1. The insurance consumer advocate.

20 2. The Chief Operating Officer of the Florida  
21 Hurricane Catastrophe Fund.

22 3. The Executive Director of the Residential Property  
23 and Casualty Joint Underwriting Association.

24 4. The Director of the Division of Emergency  
25 Management of the Department of Community Affairs.

26 5. The actuary member of the Florida Hurricane  
27 Catastrophe Fund Advisory Council.

28 6. Six members appointed by the Chief Financial  
29 Officer ~~Insurance Commissioner~~, as follows:

30  
31

1           a. An employee of the Department of Financial Services  
2 ~~Insurance~~ who is an actuary responsible for property insurance  
3 rate filings.

4           b. An actuary who is employed full time by a property  
5 and casualty insurer which was responsible for at least 1  
6 percent of the aggregate statewide direct written premium for  
7 homeowner's insurance in the calendar year preceding the  
8 member's appointment to the commission.

9           c. An expert in insurance finance who is a full time  
10 member of the faculty of the State University System and who  
11 has a background in actuarial science.

12           d. An expert in statistics who is a full time member  
13 of the faculty of the State University System and who has a  
14 background in insurance.

15           e. An expert in computer system design who is a full  
16 time member of the faculty of the State University System.

17           f. An expert in meteorology who is a full time member  
18 of the faculty of the State University System and who  
19 specializes in hurricanes.

20           (c) Members designated under subparagraphs (b)1.-5.  
21 shall serve on the commission as long as they maintain the  
22 respective offices designated in subparagraphs (b)1.-5.  
23 Members appointed by the Chief Financial Officer ~~Insurance~~  
24 ~~Commissioner~~ under subparagraph (b)6. shall serve on the  
25 commission until the end of the term of office of the Chief  
26 Financial officer ~~Insurance Commissioner~~ who appointed them,  
27 unless earlier removed by the Chief Financial Officer  
28 ~~Insurance Commissioner~~ for cause. Vacancies on the commission  
29 shall be filled in the same manner as the original  
30 appointment.  
31

1           Section 693. Paragraph (b) of subsection (5) of  
2 section 627.0651, Florida Statutes, is amended to read:

3           627.0651 Making and use of rates for motor vehicle  
4 insurance.--

5           (5)

6           (b) The department ~~Insurance Commissioner~~ shall have  
7 the responsibility to ensure that rates for private passenger  
8 vehicle insurance are adequate. To that end, the department  
9 shall adopt ~~promulgate~~ rules ~~and regulations~~ establishing  
10 standards defining inadequate rates on private passenger  
11 vehicle insurance as defined in s. 627.041(8). In the event  
12 that the department finds that a rate or rate change is  
13 inadequate, the department shall order that a new rate or rate  
14 schedule be thereafter filed by the insurer and shall further  
15 provide information as to the manner in which noncompliance of  
16 the standards may be corrected. When a violation of this  
17 provision occurs, the department shall impose an  
18 administrative fine pursuant to s. 624.4211.

19           Section 694. Section 627.06535, Florida Statutes, is  
20 amended to read:

21           627.06535 Electric vehicles; restrictions on imposing  
22 surcharges.--An insurer may not impose a surcharge on the  
23 premium for motor vehicle insurance written on an electric  
24 vehicle, as defined in s. 320.01, if the surcharge is based on  
25 a factor such as new technology, passenger payload,  
26 weight-to-horsepower ratio, or types of materials, including  
27 composite materials or aluminum, used to manufacture the  
28 vehicle, unless the Department of Financial Services ~~Insurance~~  
29 determines from actuarial data submitted to it that the  
30 surcharge is justified.

31

1           Section 695. Section 627.0915, Florida Statutes, is  
2 amended to read:

3           627.0915 Rate filings; workers' compensation,  
4 drug-free workplace, and safe employers.--The Department of  
5 Financial Services Insurance shall approve rating plans for  
6 workers' compensation insurance that give specific  
7 identifiable consideration in the setting of rates to  
8 employers that either implement a drug-free workplace program  
9 pursuant to rules adopted by the Division of Workers'  
10 Compensation of the Department of Labor and Employment  
11 Security or implement a safety program pursuant to provisions  
12 of the rating plan or implement both a drug-free workplace  
13 program and a safety program. The plans must be actuarially  
14 sound and must state the savings anticipated to result from  
15 such drug-testing and safety programs.

16           Section 696. Section 627.0916, Florida Statutes, is  
17 amended to read:

18           627.0916 Agricultural horse farms.--Notwithstanding  
19 any other provision of this chapter to the contrary, any  
20 rates, rating schedules, or rating manuals for workers'  
21 compensation and employer's liability insurance filed with the  
22 Department of Financial Services Insurance shall provide for  
23 the rates of an agricultural horse farm engaged in breeding or  
24 training to be separated into the following three rate  
25 classifications and the premium paid shall be applied  
26 proportionately according to payroll: breeding activity  
27 involving stallions; breeding activity not involving  
28 stallions, including but not limited to boarding and foaling;  
29 and training.

30           Section 697. Section 627.092, Florida Statutes, is  
31 amended to read:

1           627.092 Workers' Compensation Administrator.--There is  
2 created within the Division of Insurer Services of the  
3 Department of Financial Services ~~Insurance~~ the position of  
4 Workers' Compensation Administrator to monitor carrier  
5 practices in the field of workers' compensation.

6           Section 698. Subsection (2) of section 627.096,  
7 Florida Statutes, is amended to read:

8           627.096 Workers' Compensation Rating Bureau.--

9           (2) The acquisition by the Department of Management  
10 Services of data processing software, hardware, and services  
11 necessary to carry out the provisions of this act for the  
12 Chief Financial Officer's ~~Treasurer's~~ Management Information  
13 Center of the Department of Financial Services ~~Insurance~~ shall  
14 be exempt from the provisions of part I of chapter 287.

15           Section 699. Subsection (3) of section 627.221,  
16 Florida Statutes, is amended to read:

17           627.221 Rating organizations; licensing; fee.--

18           (3) The fee for the license shall be in the amount  
19 specified therefor in s. 624.501. This fee, when collected,  
20 shall be deposited to the credit of the Insurance  
21 ~~Commissioner's~~ Regulatory Trust Fund.

22           Section 700. Paragraph (e) of subsection (3) and  
23 paragraph (b) of subsection (4) of section 627.311, Florida  
24 Statutes, are amended to read:

25           627.311 Joint underwriters and joint reinsurers.--

26           (3) The department may, after consultation with  
27 insurers licensed to write automobile insurance in this state,  
28 approve a joint underwriting plan for purposes of equitable  
29 apportionment or sharing among insurers of automobile  
30 liability insurance and other motor vehicle insurance, as an  
31 alternate to the plan required in s. 627.351(1). All insurers

1 authorized to write automobile insurance in this state shall  
2 subscribe to the plan and participate therein. The plan shall  
3 be subject to continuous review by the department which may at  
4 any time disapprove the entire plan or any part thereof if it  
5 determines that conditions have changed since prior approval  
6 and that in view of the purposes of the plan changes are  
7 warranted. Any disapproval by the department shall be subject  
8 to the provisions of chapter 120. If adopted, the plan and  
9 the association created under the plan:

10 (e) Must provide that the joint underwriting  
11 association will operate subject to the supervision and  
12 approval of a board of governors consisting of 11 individuals,  
13 including 1 who will be elected as chair. Five members of the  
14 board must be appointed by the Chief Financial Officer  
15 ~~Insurance Commissioner~~. Two of those ~~the commissioner's~~  
16 appointees must be chosen from the insurance industry. Any  
17 board member appointed by the Chief Financial Officer  
18 ~~Insurance Commissioner~~ may be removed and replaced by her or  
19 him at any time without cause. Six members of the board must  
20 be appointed by the participating insurers, two of whom must  
21 be from the insurance agents' associations. All board  
22 members, including the chair, must be appointed to serve for  
23 2-year terms beginning annually on a date designated by the  
24 plan.

25 (4)

26 (b) The operation of the plan is subject to the  
27 supervision of a 13-member board of governors. The board of  
28 governors shall be comprised of:

29 1. Five of the 20 domestic insurers, as defined in s.  
30 624.06(1), having the largest voluntary direct premiums  
31 written in this state for workers' compensation and employer's

1 liability insurance, which shall be elected by those 20  
2 domestic insurers;

3           2. Five of the 20 foreign insurers as defined in s.  
4 624.06(2) having the largest voluntary direct premiums written  
5 in this state for workers' compensation and employer's  
6 liability insurance, which shall be elected by those 20  
7 foreign insurers;

8           3. One person, who shall serve as the chair, appointed  
9 by the Chief Financial Officer ~~Insurance Commissioner~~;

10           4. One person appointed by the largest property and  
11 casualty insurance agents' association in this state; and

12           5. The consumer advocate appointed under s. 627.0613  
13 or the consumer advocate's designee.

14

15 Each board member shall serve a 4-year term and may serve  
16 consecutive terms. No board member shall be an insurer which  
17 provides service to the plan or which has an affiliate which  
18 provides services to the plan or which is serviced by a  
19 service company or third-party administrator which provides  
20 services to the plan or which has an affiliate which provides  
21 services to the plan. The minutes, audits, and procedures of  
22 the board of governors are subject to chapter 119.

23           Section 701. Paragraph (b) of subsection (2),  
24 paragraph (a) of subsection (3), paragraphs (a) and (e) of  
25 subsection (5), and paragraph (c) of subsection (6) of section  
26 627.351, Florida Statutes, are amended to read:

27           627.351 Insurance risk apportionment plans.--

28           (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

29           (b) The department shall require all insurers holding  
30 a certificate of authority to transact property insurance on a  
31 direct basis in this state, other than joint underwriting



1 associations and other entities formed pursuant to this  
2 section, to provide windstorm coverage to applicants from  
3 areas determined to be eligible pursuant to paragraph (c) who  
4 in good faith are entitled to, but are unable to procure, such  
5 coverage through ordinary means; or it shall adopt a  
6 reasonable plan or plans for the equitable apportionment or  
7 sharing among such insurers of windstorm coverage, which may  
8 include formation of an association for this purpose. As used  
9 in this subsection, the term "property insurance" means  
10 insurance on real or personal property, as defined in s.  
11 624.604, including insurance for fire, industrial fire, allied  
12 lines, farmowners multiperil, homeowners' multiperil,  
13 commercial multiperil, and mobile homes, and including  
14 liability coverages on all such insurance, but excluding  
15 inland marine as defined in s. 624.607(3) and excluding  
16 vehicle insurance as defined in s. 624.605(1)(a) other than  
17 insurance on mobile homes used as permanent dwellings. The  
18 department shall adopt rules that provide a formula for the  
19 recovery and repayment of any deferred assessments.

20         1. For the purpose of this section, properties  
21 eligible for such windstorm coverage are defined as dwellings,  
22 buildings, and other structures, including mobile homes which  
23 are used as dwellings and which are tied down in compliance  
24 with mobile home tie-down requirements prescribed by the  
25 Department of Highway Safety and Motor Vehicles pursuant to s.  
26 320.8325, and the contents of all such properties. An  
27 applicant or policyholder is eligible for coverage only if an  
28 offer of coverage cannot be obtained by or for the applicant  
29 or policyholder from an admitted insurer at approved rates.

30         2.a.(I) All insurers required to be members of such  
31 association shall participate in its writings, expenses, and

1 losses. Surplus of the association shall be retained for the  
2 payment of claims and shall not be distributed to the member  
3 insurers. Such participation by member insurers shall be in  
4 the proportion that the net direct premiums of each member  
5 insurer written for property insurance in this state during  
6 the preceding calendar year bear to the aggregate net direct  
7 premiums for property insurance of all member insurers, as  
8 reduced by any credits for voluntary writings, in this state  
9 during the preceding calendar year. For the purposes of this  
10 subsection, the term "net direct premiums" means direct  
11 written premiums for property insurance, reduced by premium  
12 for liability coverage and for the following if included in  
13 allied lines: rain and hail on growing crops; livestock;  
14 association direct premiums booked; National Flood Insurance  
15 Program direct premiums; and similar deductions specifically  
16 authorized by the plan of operation and approved by the  
17 department. A member's participation shall begin on the first  
18 day of the calendar year following the year in which it is  
19 issued a certificate of authority to transact property  
20 insurance in the state and shall terminate 1 year after the  
21 end of the calendar year during which it no longer holds a  
22 certificate of authority to transact property insurance in the  
23 state. The commissioner, after review of annual statements,  
24 other reports, and any other statistics that the commissioner  
25 deems necessary, shall certify to the association the  
26 aggregate direct premiums written for property insurance in  
27 this state by all member insurers.

28 (II) The plan of operation shall provide for a board  
29 of directors consisting of the Insurance Consumer Advocate  
30 appointed under s. 627.0613, 1 consumer representative  
31 appointed by the Chief Financial Officer ~~Insurance~~

1 ~~Commissioner~~, 1 consumer representative appointed by the  
2 Governor, and 12 additional members appointed as specified in  
3 the plan of operation. One of the 12 additional members shall  
4 be elected by the domestic companies of this state on the  
5 basis of cumulative weighted voting based on the net direct  
6 premiums of domestic companies in this state. Nothing in the  
7 1997 amendments to this paragraph terminates the existing  
8 board or the terms of any members of the board.

9 (III) The plan of operation shall provide a formula  
10 whereby a company voluntarily providing windstorm coverage in  
11 affected areas will be relieved wholly or partially from  
12 apportionment of a regular assessment pursuant to  
13 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

14 (IV) A company which is a member of a group of  
15 companies under common management may elect to have its  
16 credits applied on a group basis, and any company or group may  
17 elect to have its credits applied to any other company or  
18 group.

19 (V) There shall be no credits or relief from  
20 apportionment to a company for emergency assessments collected  
21 from its policyholders under sub-sub-subparagraph d.(III).

22 (VI) The plan of operation may also provide for the  
23 award of credits, for a period not to exceed 3 years, from a  
24 regular assessment pursuant to sub-sub-subparagraph d.(I) or  
25 sub-sub-subparagraph d.(II) as an incentive for taking  
26 policies out of the Residential Property and Casualty Joint  
27 Underwriting Association. In order to qualify for the  
28 exemption under this sub-sub-subparagraph, the take-out plan  
29 must provide that at least 40 percent of the policies removed  
30 from the Residential Property and Casualty Joint Underwriting  
31 Association cover risks located in Dade, Broward, and Palm

1 Beach Counties or at least 30 percent of the policies so  
2 removed cover risks located in Dade, Broward, and Palm Beach  
3 Counties and an additional 50 percent of the policies so  
4 removed cover risks located in other coastal counties, and  
5 must also provide that no more than 15 percent of the policies  
6 so removed may exclude windstorm coverage. With the approval  
7 of the department, the association may waive these geographic  
8 criteria for a take-out plan that removes at least the lesser  
9 of 100,000 Residential Property and Casualty Joint  
10 Underwriting Association policies or 15 percent of the total  
11 number of Residential Property and Casualty Joint Underwriting  
12 Association policies, provided the governing board of the  
13 Residential Property and Casualty Joint Underwriting  
14 Association certifies that the take-out plan will materially  
15 reduce the Residential Property and Casualty Joint  
16 Underwriting Association's 100-year probable maximum loss from  
17 hurricanes. With the approval of the department, the board  
18 may extend such credits for an additional year if the insurer  
19 guarantees an additional year of renewability for all policies  
20 removed from the Residential Property and Casualty Joint  
21 Underwriting Association, or for 2 additional years if the  
22 insurer guarantees 2 additional years of renewability for all  
23 policies removed from the Residential Property and Casualty  
24 Joint Underwriting Association.

25       b. Assessments to pay deficits in the association  
26 under this subparagraph shall be included as an appropriate  
27 factor in the making of rates as provided in s. 627.3512.

28       c. The Legislature finds that the potential for  
29 unlimited deficit assessments under this subparagraph may  
30 induce insurers to attempt to reduce their writings in the  
31 voluntary market, and that such actions would worsen the

1 availability problems that the association was created to  
2 remedy. It is the intent of the Legislature that insurers  
3 remain fully responsible for paying regular assessments and  
4 collecting emergency assessments for any deficits of the  
5 association; however, it is also the intent of the Legislature  
6 to provide a means by which assessment liabilities may be  
7 amortized over a period of years.

8           d.(I) When the deficit incurred in a particular  
9 calendar year is 10 percent or less of the aggregate statewide  
10 direct written premium for property insurance for the prior  
11 calendar year for all member insurers, the association shall  
12 levy an assessment on member insurers in an amount equal to  
13 the deficit.

14           (II) When the deficit incurred in a particular  
15 calendar year exceeds 10 percent of the aggregate statewide  
16 direct written premium for property insurance for the prior  
17 calendar year for all member insurers, the association shall  
18 levy an assessment on member insurers in an amount equal to  
19 the greater of 10 percent of the deficit or 10 percent of the  
20 aggregate statewide direct written premium for property  
21 insurance for the prior calendar year for member insurers. Any  
22 remaining deficit shall be recovered through emergency  
23 assessments under sub-sub-subparagraph (III).

24           (III) Upon a determination by the board of directors  
25 that a deficit exceeds the amount that will be recovered  
26 through regular assessments on member insurers, pursuant to  
27 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the  
28 board shall levy, after verification by the department,  
29 emergency assessments to be collected by member insurers and  
30 by underwriting associations created pursuant to this section  
31 which write property insurance, upon issuance or renewal of

1 property insurance policies other than National Flood  
2 Insurance policies in the year or years following levy of the  
3 regular assessments. The amount of the emergency assessment  
4 collected in a particular year shall be a uniform percentage  
5 of that year's direct written premium for property insurance  
6 for all member insurers and underwriting associations,  
7 excluding National Flood Insurance policy premiums, as  
8 annually determined by the board and verified by the  
9 department. The department shall verify the arithmetic  
10 calculations involved in the board's determination within 30  
11 days after receipt of the information on which the  
12 determination was based. Notwithstanding any other provision  
13 of law, each member insurer and each underwriting association  
14 created pursuant to this section shall collect emergency  
15 assessments from its policyholders without such obligation  
16 being affected by any credit, limitation, exemption, or  
17 deferment. The emergency assessments so collected shall be  
18 transferred directly to the association on a periodic basis as  
19 determined by the association. The aggregate amount of  
20 emergency assessments levied under this sub-sub-subparagraph  
21 in any calendar year may not exceed the greater of 10 percent  
22 of the amount needed to cover the original deficit, plus  
23 interest, fees, commissions, required reserves, and other  
24 costs associated with financing of the original deficit, or 10  
25 percent of the aggregate statewide direct written premium for  
26 property insurance written by member insurers and underwriting  
27 associations for the prior year, plus interest, fees,  
28 commissions, required reserves, and other costs associated  
29 with financing the original deficit. The board may pledge the  
30 proceeds of the emergency assessments under this  
31 sub-sub-subparagraph as the source of revenue for bonds, to

1 retire any other debt incurred as a result of the deficit or  
2 events giving rise to the deficit, or in any other way that  
3 the board determines will efficiently recover the deficit. The  
4 emergency assessments under this sub-sub-subparagraph shall  
5 continue as long as any bonds issued or other indebtedness  
6 incurred with respect to a deficit for which the assessment  
7 was imposed remain outstanding, unless adequate provision has  
8 been made for the payment of such bonds or other indebtedness  
9 pursuant to the document governing such bonds or other  
10 indebtedness. Emergency assessments collected under this  
11 sub-sub-subparagraph are not part of an insurer's rates, are  
12 not premium, and are not subject to premium tax, fees, or  
13 commissions; however, failure to pay the emergency assessment  
14 shall be treated as failure to pay premium.

15 (IV) Each member insurer's share of the total regular  
16 assessments under sub-sub-subparagraph (I) or  
17 sub-sub-subparagraph (II) shall be in the proportion that the  
18 insurer's net direct premium for property insurance in this  
19 state, for the year preceding the assessment bears to the  
20 aggregate statewide net direct premium for property insurance  
21 of all member insurers, as reduced by any credits for  
22 voluntary writings for that year.

23 (V) If regular deficit assessments are made under  
24 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by  
25 the Residential Property and Casualty Joint Underwriting  
26 Association under sub-subparagraph (6)(b)3.a. or  
27 sub-subparagraph (6)(b)3.b., the association shall levy upon  
28 the association's policyholders, as part of its next rate  
29 filing, or by a separate rate filing solely for this purpose,  
30 a market equalization surcharge in a percentage equal to the  
31 total amount of such regular assessments divided by the

1 aggregate statewide direct written premium for property  
2 insurance for member insurers for the prior calendar year.  
3 Market equalization surcharges under this sub-sub-subparagraph  
4 are not considered premium and are not subject to commissions,  
5 fees, or premium taxes; however, failure to pay a market  
6 equalization surcharge shall be treated as failure to pay  
7 premium.

8 e. The governing body of any unit of local government,  
9 any residents of which are insured under the plan, may issue  
10 bonds as defined in s. 125.013 or s. 166.101 to fund an  
11 assistance program, in conjunction with the association, for  
12 the purpose of defraying deficits of the association. In order  
13 to avoid needless and indiscriminate proliferation,  
14 duplication, and fragmentation of such assistance programs,  
15 any unit of local government, any residents of which are  
16 insured by the association, may provide for the payment of  
17 losses, regardless of whether or not the losses occurred  
18 within or outside of the territorial jurisdiction of the local  
19 government. Revenue bonds may not be issued until validated  
20 pursuant to chapter 75, unless a state of emergency is  
21 declared by executive order or proclamation of the Governor  
22 pursuant to s. 252.36 making such findings as are necessary to  
23 determine that it is in the best interests of, and necessary  
24 for, the protection of the public health, safety, and general  
25 welfare of residents of this state and the protection and  
26 preservation of the economic stability of insurers operating  
27 in this state, and declaring it an essential public purpose to  
28 permit certain municipalities or counties to issue bonds as  
29 will provide relief to claimants and policyholders of the  
30 association and insurers responsible for apportionment of plan  
31 losses. Any such unit of local government may enter into such



1 contracts with the association and with any other entity  
2 created pursuant to this subsection as are necessary to carry  
3 out this paragraph. Any bonds issued under this  
4 sub-subparagraph shall be payable from and secured by moneys  
5 received by the association from assessments under this  
6 subparagraph, and assigned and pledged to or on behalf of the  
7 unit of local government for the benefit of the holders of  
8 such bonds. The funds, credit, property, and taxing power of  
9 the state or of the unit of local government shall not be  
10 pledged for the payment of such bonds. If any of the bonds  
11 remain unsold 60 days after issuance, the department shall  
12 require all insurers subject to assessment to purchase the  
13 bonds, which shall be treated as admitted assets; each insurer  
14 shall be required to purchase that percentage of the unsold  
15 portion of the bond issue that equals the insurer's relative  
16 share of assessment liability under this subsection. An  
17 insurer shall not be required to purchase the bonds to the  
18 extent that the department determines that the purchase would  
19 endanger or impair the solvency of the insurer. The authority  
20 granted by this sub-subparagraph is additional to any bonding  
21 authority granted by subparagraph 6.

22         3. The plan shall also provide that any member with a  
23 surplus as to policyholders of \$20 million or less writing 25  
24 percent or more of its total countrywide property insurance  
25 premiums in this state may petition the department, within the  
26 first 90 days of each calendar year, to qualify as a limited  
27 apportionment company. The apportionment of such a member  
28 company in any calendar year for which it is qualified shall  
29 not exceed its gross participation, which shall not be  
30 affected by the formula for voluntary writings. In no event  
31 shall a limited apportionment company be required to

1 participate in any apportionment of losses pursuant to  
2 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)  
3 in the aggregate which exceeds \$50 million after payment of  
4 available plan funds in any calendar year. However, a limited  
5 apportionment company shall collect from its policyholders any  
6 emergency assessment imposed under sub-sub-subparagraph  
7 2.d.(III). The plan shall provide that, if the department  
8 determines that any regular assessment will result in an  
9 impairment of the surplus of a limited apportionment company,  
10 the department may direct that all or part of such assessment  
11 be deferred. However, there shall be no limitation or  
12 deferment of an emergency assessment to be collected from  
13 policyholders under sub-sub-subparagraph 2.d.(III).

14         4. The plan shall provide for the deferment, in whole  
15 or in part, of a regular assessment of a member insurer under  
16 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),  
17 but not for an emergency assessment collected from  
18 policyholders under sub-sub-subparagraph 2.d.(III), if, in the  
19 opinion of the commissioner, payment of such regular  
20 assessment would endanger or impair the solvency of the member  
21 insurer. In the event a regular assessment against a member  
22 insurer is deferred in whole or in part, the amount by which  
23 such assessment is deferred may be assessed against the other  
24 member insurers in a manner consistent with the basis for  
25 assessments set forth in sub-sub-subparagraph 2.d.(I) or  
26 sub-sub-subparagraph 2.d.(II).

27         5.a. The plan of operation may include deductibles and  
28 rules for classification of risks and rate modifications  
29 consistent with the objective of providing and maintaining  
30 funds sufficient to pay catastrophe losses.

31

1           b. The association may require arbitration of a rate  
2 filing under s. 627.062(6). It is the intent of the  
3 Legislature that the rates for coverage provided by the  
4 association be actuarially sound and not competitive with  
5 approved rates charged in the admitted voluntary market such  
6 that the association functions as a residual market mechanism  
7 to provide insurance only when the insurance cannot be  
8 procured in the voluntary market. The plan of operation shall  
9 provide a mechanism to assure that, beginning no later than  
10 January 1, 1999, the rates charged by the association for each  
11 line of business are reflective of approved rates in the  
12 voluntary market for hurricane coverage for each line of  
13 business in the various areas eligible for association  
14 coverage.

15           c. The association shall provide for windstorm  
16 coverage on residential properties in limits up to \$10 million  
17 for commercial lines residential risks and up to \$1 million  
18 for personal lines residential risks. If coverage with the  
19 association is sought for a residential risk valued in excess  
20 of these limits, coverage shall be available to the risk up to  
21 the replacement cost or actual cash value of the property, at  
22 the option of the insured, if coverage for the risk cannot be  
23 located in the authorized market. The association must accept  
24 a commercial lines residential risk with limits above \$10  
25 million or a personal lines residential risk with limits above  
26 \$1 million if coverage is not available in the authorized  
27 market. The association may write coverage above the limits  
28 specified in this subparagraph with or without facultative or  
29 other reinsurance coverage, as the association determines  
30 appropriate.

31

1           d. The plan of operation must provide objective  
2 criteria and procedures, approved by the department, to be  
3 uniformly applied for all applicants in determining whether an  
4 individual risk is so hazardous as to be uninsurable. In  
5 making this determination and in establishing the criteria and  
6 procedures, the following shall be considered:

7           (I) Whether the likelihood of a loss for the  
8 individual risk is substantially higher than for other risks  
9 of the same class; and

10           (II) Whether the uncertainty associated with the  
11 individual risk is such that an appropriate premium cannot be  
12 determined.

13  
14 The acceptance or rejection of a risk by the association  
15 pursuant to such criteria and procedures must be construed as  
16 the private placement of insurance, and the provisions of  
17 chapter 120 do not apply.

18           e. The policies issued by the association must provide  
19 that if the association obtains an offer from an authorized  
20 insurer to cover the risk at its approved rates under either a  
21 standard policy including wind coverage or, if consistent with  
22 the insurer's underwriting rules as filed with the department,  
23 a basic policy including wind coverage, the risk is no longer  
24 eligible for coverage through the association. Upon  
25 termination of eligibility, the association shall provide  
26 written notice to the policyholder and agent of record stating  
27 that the association policy must be canceled as of 60 days  
28 after the date of the notice because of the offer of coverage  
29 from an authorized insurer. Other provisions of the insurance  
30 code relating to cancellation and notice of cancellation do  
31 not apply to actions under this sub-subparagraph.

1           f. Association policies and applications must include  
2 a notice that the association policy could, under this  
3 section, be replaced with a policy issued by an authorized  
4 insurer that does not provide coverage identical to the  
5 coverage provided by the association. The notice shall also  
6 specify that acceptance of association coverage creates a  
7 conclusive presumption that the applicant or policyholder is  
8 aware of this potential.

9           6.a. The plan of operation may authorize the formation  
10 of a private nonprofit corporation, a private nonprofit  
11 unincorporated association, a partnership, a trust, a limited  
12 liability company, or a nonprofit mutual company which may be  
13 empowered, among other things, to borrow money by issuing  
14 bonds or by incurring other indebtedness and to accumulate  
15 reserves or funds to be used for the payment of insured  
16 catastrophe losses. The plan may authorize all actions  
17 necessary to facilitate the issuance of bonds, including the  
18 pledging of assessments or other revenues.

19           b. Any entity created under this subsection, or any  
20 entity formed for the purposes of this subsection, may sue and  
21 be sued, may borrow money; issue bonds, notes, or debt  
22 instruments; pledge or sell assessments, market equalization  
23 surcharges and other surcharges, rights, premiums, contractual  
24 rights, projected recoveries from the Florida Hurricane  
25 Catastrophe Fund, other reinsurance recoverables, and other  
26 assets as security for such bonds, notes, or debt instruments;  
27 enter into any contracts or agreements necessary or proper to  
28 accomplish such borrowings; and take other actions necessary  
29 to carry out the purposes of this subsection. The association  
30 may issue bonds or incur other indebtedness, or have bonds  
31 issued on its behalf by a unit of local government pursuant to

1 subparagraph (g)2., in the absence of a hurricane or other  
2 weather-related event, upon a determination by the association  
3 subject to approval by the department that such action would  
4 enable it to efficiently meet the financial obligations of the  
5 association and that such financings are reasonably necessary  
6 to effectuate the requirements of this subsection. Any such  
7 entity may accumulate reserves and retain surpluses as of the  
8 end of any association year to provide for the payment of  
9 losses incurred by the association during that year or any  
10 future year. The association shall incorporate and continue  
11 the plan of operation and articles of agreement in effect on  
12 the effective date of chapter 76-96, Laws of Florida, to the  
13 extent that it is not inconsistent with chapter 76-96, and as  
14 subsequently modified consistent with chapter 76-96. The board  
15 of directors and officers currently serving shall continue to  
16 serve until their successors are duly qualified as provided  
17 under the plan. The assets and obligations of the plan in  
18 effect immediately prior to the effective date of chapter  
19 76-96 shall be construed to be the assets and obligations of  
20 the successor plan created herein.

21 c. In recognition of s. 10, Art. I of the State  
22 Constitution, prohibiting the impairment of obligations of  
23 contracts, it is the intent of the Legislature that no action  
24 be taken whose purpose is to impair any bond indenture or  
25 financing agreement or any revenue source committed by  
26 contract to such bond or other indebtedness issued or incurred  
27 by the association or any other entity created under this  
28 subsection.

29 7. On such coverage, an agent's remuneration shall be  
30 that amount of money payable to the agent by the terms of his  
31 or her contract with the company with which the business is

1 placed. However, no commission will be paid on that portion of  
2 the premium which is in excess of the standard premium of that  
3 company.

4           8. Subject to approval by the department, the  
5 association may establish different eligibility requirements  
6 and operational procedures for any line or type of coverage  
7 for any specified eligible area or portion of an eligible area  
8 if the board determines that such changes to the eligibility  
9 requirements and operational procedures are justified due to  
10 the voluntary market being sufficiently stable and competitive  
11 in such area or for such line or type of coverage and that  
12 consumers who, in good faith, are unable to obtain insurance  
13 through the voluntary market through ordinary methods would  
14 continue to have access to coverage from the association. When  
15 coverage is sought in connection with a real property  
16 transfer, such requirements and procedures shall not provide  
17 for an effective date of coverage later than the date of the  
18 closing of the transfer as established by the transferor, the  
19 transferee, and, if applicable, the lender.

20           9. Notwithstanding any other provision of law:

21           a. The pledge or sale of, the lien upon, and the  
22 security interest in any rights, revenues, or other assets of  
23 the association created or purported to be created pursuant to  
24 any financing documents to secure any bonds or other  
25 indebtedness of the association shall be and remain valid and  
26 enforceable, notwithstanding the commencement of and during  
27 the continuation of, and after, any rehabilitation,  
28 insolvency, liquidation, bankruptcy, receivership,  
29 conservatorship, reorganization, or similar proceeding against  
30 the association under the laws of this state or any other  
31 applicable laws.

1           b. No such proceeding shall relieve the association of  
2 its obligation, or otherwise affect its ability to perform its  
3 obligation, to continue to collect, or levy and collect,  
4 assessments, market equalization or other surcharges,  
5 projected recoveries from the Florida Hurricane Catastrophe  
6 Fund, reinsurance recoverables, or any other rights, revenues,  
7 or other assets of the association pledged.

8           c. Each such pledge or sale of, lien upon, and  
9 security interest in, including the priority of such pledge,  
10 lien, or security interest, any such assessments, emergency  
11 assessments, market equalization or renewal surcharges,  
12 projected recoveries from the Florida Hurricane Catastrophe  
13 Fund, reinsurance recoverables, or other rights, revenues, or  
14 other assets which are collected, or levied and collected,  
15 after the commencement of and during the pendency of or after  
16 any such proceeding shall continue unaffected by such  
17 proceeding.

18           d. As used in this subsection, the term "financing  
19 documents" means any agreement, instrument, or other document  
20 now existing or hereafter created evidencing any bonds or  
21 other indebtedness of the association or pursuant to which any  
22 such bonds or other indebtedness has been or may be issued and  
23 pursuant to which any rights, revenues, or other assets of the  
24 association are pledged or sold to secure the repayment of  
25 such bonds or indebtedness, together with the payment of  
26 interest on such bonds or such indebtedness, or the payment of  
27 any other obligation of the association related to such bonds  
28 or indebtedness.

29           e. Any such pledge or sale of assessments, revenues,  
30 contract rights or other rights or assets of the association  
31 shall constitute a lien and security interest, or sale, as the



1 case may be, that is immediately effective and attaches to  
2 such assessments, revenues, contract, or other rights or  
3 assets, whether or not imposed or collected at the time the  
4 pledge or sale is made. Any such pledge or sale is effective,  
5 valid, binding, and enforceable against the association or  
6 other entity making such pledge or sale, and valid and binding  
7 against and superior to any competing claims or obligations  
8 owed to any other person or entity, including policyholders in  
9 this state, asserting rights in any such assessments,  
10 revenues, contract, or other rights or assets to the extent  
11 set forth in and in accordance with the terms of the pledge or  
12 sale contained in the applicable financing documents, whether  
13 or not any such person or entity has notice of such pledge or  
14 sale and without the need for any physical delivery,  
15 recordation, filing, or other action.

16 f. There shall be no liability on the part of, and no  
17 cause of action of any nature shall arise against, any member  
18 insurer or its agents or employees, agents or employees of the  
19 association, members of the board of directors of the  
20 association, or the department or its representatives, for any  
21 action taken by them in the performance of their duties or  
22 responsibilities under this subsection. Such immunity does not  
23 apply to actions for breach of any contract or agreement  
24 pertaining to insurance, or any willful tort.

25 (3) POLITICAL SUBDIVISION; CASUALTY INSURANCE RISK  
26 APPORTIONMENT.--

27 (a) The department shall, after consultation with the  
28 casualty insurers licensed in this state, adopt a plan or  
29 plans for the equitable apportionment among them of casualty  
30 insurance coverage which may be afforded political  
31 subdivisions which are in good faith entitled to, but are

1 unable to, procure such coverage through the voluntary market  
2 at standard rates or through a statutorily approved plan  
3 authorized by the department. The department may adopt a  
4 joint underwriting plan which shall provide for one or more  
5 designated insurers able and willing to provide policyholder  
6 and claims service, including the issuance of insurance  
7 policies, to act on behalf of all other insurers required to  
8 participate in the joint underwriting plan. Any joint  
9 underwriting plan adopted shall provide for the equitable  
10 apportionment of any profits realized, or of losses and  
11 expenses incurred, among participating insurers. The plan  
12 shall include, but shall not be limited to:

13 1. Rules for the classification of risks and rates  
14 which reflect the past loss experience and prospective loss  
15 experience in different geographic areas.

16 2. A rating plan which reasonably reflects the prior  
17 claims experience of the insureds.

18 3. Excess coverage by insurers if the department  
19 ~~Insurance Commissioner~~, in its ~~his or her~~ discretion, requires  
20 such coverage by insurers participating in the joint  
21 underwriting plan.

22 (5) PROPERTY AND CASUALTY INSURANCE RISK  
23 APPORTIONMENT.--The department shall adopt by rule a joint  
24 underwriting plan to equitably apportion among insurers  
25 authorized in this state to write property insurance as  
26 defined in s. 624.604 or casualty insurance as defined in s.  
27 624.605, the underwriting of one or more classes of property  
28 insurance or casualty insurance, except for the types of  
29 insurance that are included within property insurance or  
30 casualty insurance for which an equitable apportionment plan,  
31 assigned risk plan, or joint underwriting plan is authorized

1 under s. 627.311 or subsection (1), subsection (2), subsection  
2 (3), subsection (4), or subsection (6) and except for risks  
3 eligible for flood insurance written through the federal flood  
4 insurance program to persons with risks eligible under  
5 subparagraph (a)1. and who are in good faith entitled to, but  
6 are unable to, obtain such property or casualty insurance  
7 coverage, including excess coverage, through the voluntary  
8 market. For purposes of this subsection, an adequate level of  
9 coverage means that coverage which is required by state law or  
10 by responsible or prudent business practices. The Joint  
11 Underwriting Association shall not be required to provide  
12 coverage for any type of risk for which there are no insurers  
13 providing similar coverage in this state. The department may  
14 designate one or more participating insurers who agree to  
15 provide policyholder and claims service, including the  
16 issuance of policies, on behalf of the participating insurers.

17 (a) The plan shall provide:

18 1. A means of establishing eligibility of a risk for  
19 obtaining insurance through the plan, which provides that:

20 a. A risk shall be eligible for such property  
21 insurance or casualty insurance as is required by Florida law  
22 if the insurance is unavailable in the voluntary market,  
23 including the market assistance program and the surplus lines  
24 market.

25 b. A commercial risk not eligible under  
26 sub-subparagraph a. shall be eligible for property or casualty  
27 insurance if:

28 (I) The insurance is unavailable in the voluntary  
29 market, including the market assistance plan and the surplus  
30 lines market;

31

1           (II) Failure to secure the insurance would  
2 substantially impair the ability of the entity to conduct its  
3 affairs; and

4           (III) The risk is not determined by the Risk  
5 Underwriting Committee to be uninsurable.

6           c. In the event the Federal Government terminates the  
7 Federal Crime Insurance Program established under 44 C.F.R.  
8 ss. 80-83, Florida commercial and residential risks previously  
9 insured under the federal program shall be eligible under the  
10 plan.

11           d.(I) In the event a risk is eligible under this  
12 paragraph and in the event the market assistance plan receives  
13 a minimum of 100 applications for coverage within a 3-month  
14 period, or 200 applications for coverage within a 1-year  
15 period or less, for a given class of risk contained in the  
16 classification system defined in the plan of operation of the  
17 Joint Underwriting Association, and unless the market  
18 assistance plan provides a quotation for at least 80 percent  
19 of such applicants, such classification shall immediately be  
20 eligible for coverage in the Joint Underwriting Association.

21           (II) Any market assistance plan application which is  
22 rejected because an individual risk is so hazardous as to be  
23 practically uninsurable, considering whether the likelihood of  
24 a loss for such a risk is substantially higher than for other  
25 risks of the same class due to individual risk  
26 characteristics, prior loss experience, unwillingness to  
27 cooperate with a prior insurer, physical characteristics and  
28 physical location shall not be included in the minimum  
29 percentage calculation provided above. In the event that there  
30 is any legal or administrative challenge to a determination by  
31 the department that the conditions of this subparagraph have

1 | been met for eligibility for coverage in the Joint  
2 | Underwriting Association for a given classification, any  
3 | eligible risk may obtain coverage during the pendency of any  
4 | such challenge.

5 |       e. In order to qualify as a quotation for the purpose  
6 | of meeting the minimum percentage calculation in this  
7 | subparagraph, the quoted premium must meet the following  
8 | criteria:

9 |           (I) In the case of an admitted carrier, the quoted  
10 | premium must not exceed the premium available for a given  
11 | classification currently in use by the Joint Underwriting  
12 | Association or the premium developed by using the rates and  
13 | rating plans on file with the department by the quoting  
14 | insurer, whichever is greater.

15 |           (II) In the case of an authorized surplus lines  
16 | insurer, the quoted premium must not exceed the premium  
17 | available for a given classification currently in use by the  
18 | Joint Underwriting Association by more than 25 percent, after  
19 | consideration of any individual risk surcharge or credit.

20 |       f. Any agent who falsely certifies the unavailability  
21 | of coverage as provided by sub-subparagraphs a. and b., is  
22 | subject to the penalties provided in s. 626.611.

23 |       2. A means for the equitable apportionment of profits  
24 | or losses and expenses among participating insurers.

25 |       3. Rules for the classification of risks and rates  
26 | which reflect the past and prospective loss experience.

27 |       4. A rating plan which reasonably reflects the prior  
28 | claims experience of the insureds. Such rating plan shall  
29 | include at least two levels of rates for risks that have  
30 | favorable loss experience and risks that have unfavorable loss  
31 | experience, as established by the plan.

1           5. Reasonable limits to available amounts of  
2 insurance. Such limits may not be less than the amounts of  
3 insurance required of eligible risks by Florida law.

4           6. Risk management requirements for insurance where  
5 such requirements are reasonable and are expected to reduce  
6 losses.

7           7. Deductibles as may be necessary to meet the needs  
8 of insureds.

9           8. Policy forms which are consistent with the forms in  
10 use by the majority of the insurers providing coverage in the  
11 voluntary market for the coverage requested by the applicant.

12           9. A means to remove risks from the plan once such  
13 risks no longer meet the eligibility requirements of this  
14 paragraph. For this purpose, the plan shall include the  
15 following requirements: At each 6-month interval after the  
16 activation of any class of insureds, the board of governors or  
17 its designated committee shall review the number of  
18 applications to the market assistance plan for that class. If,  
19 based on these latest numbers, at least 90 percent of such  
20 applications have been provided a quotation, the Joint  
21 Underwriting Association shall cease underwriting new  
22 applications for such class within 30 days, and notification  
23 of this decision shall be sent to the Chief Financial Officer  
24 ~~Insurance Commissioner~~, the major agents' associations, and  
25 the board of directors of the market assistance plan. A  
26 quotation for the purpose of this subparagraph shall meet the  
27 same criteria for a quotation as provided in sub-subparagraph  
28 d. All policies which were previously written for that class  
29 shall continue in force until their normal expiration date, at  
30 which time, subject to the required timely notification of  
31 nonrenewal by the Joint Underwriting Association, the insured

1 may then elect to reapply to the Joint Underwriting  
2 Association according to the requirements of eligibility. If,  
3 upon reapplication, those previously insured Joint  
4 Underwriting Association risks meet the eligibility  
5 requirements, the Joint Underwriting Association shall provide  
6 the coverage requested.

7       10. A means for providing credits to insurers against  
8 any deficit assessment levied pursuant to paragraph (c), for  
9 risks voluntarily written through the market assistance plan  
10 by such insurers.

11       11. That the Joint Underwriting Association shall  
12 operate subject to the supervision and approval of a board of  
13 governors consisting of 13 individuals appointed by the Chief  
14 Financial Officer ~~Insurance Commissioner~~, and shall have an  
15 executive or underwriting committee. At least four of the  
16 members shall be representatives of insurance trade  
17 associations as follows: one member from the American  
18 Insurance Association, one member from the Alliance of  
19 American Insurers, one member from the National Association of  
20 Independent Insurers, and one member from an unaffiliated  
21 insurer writing coverage on a national basis. Two  
22 representatives shall be from two of the statewide agents'  
23 associations. Each board member shall be appointed to serve  
24 for 2-year terms beginning on a date designated by the plan  
25 and shall serve at the pleasure of the commissioner. Members  
26 may be reappointed for subsequent terms.

27       (e) A Risk Underwriting Committee of the Joint  
28 Underwriting Association composed of three members experienced  
29 in evaluating insurance risks is created to review risks  
30 rejected by the voluntary market for which application is made  
31 for insurance through the joint underwriting plan. The

1 committee shall consist of a representative of the market  
2 assistance plan created under s. 627.3515, a member selected  
3 by the insurers participating in the Joint Underwriting  
4 Association, and a member named by the Chief Financial Officer  
5 ~~Insurance Commissioner~~. The Risk Underwriting Committee shall  
6 appoint such advisory committees as are provided for in the  
7 plan and are necessary to conduct its functions. The salaries  
8 and expenses of the members of the Risk Underwriting Committee  
9 and its advisory committees shall be paid by the joint  
10 underwriting plan. The plan approved by the department shall  
11 establish criteria and procedures for use by the Risk  
12 Underwriting Committee for determining whether an individual  
13 risk is so hazardous as to be uninsurable. In making this  
14 determination and in establishing the criteria and procedures,  
15 the following shall be considered:

16 1. Whether the likelihood of a loss for the individual  
17 risk is substantially higher than for other risks of the same  
18 class; and

19 2. Whether the uncertainty associated with the  
20 individual risk is such that an appropriate premium cannot be  
21 determined.

22  
23 The acceptance or rejection of a risk by the underwriting  
24 committee shall be construed as the private placement of  
25 insurance, and the provisions of chapter 120 shall not apply.

26 (6) RESIDENTIAL PROPERTY AND CASUALTY JOINT  
27 UNDERWRITING ASSOCIATION.--

28 (c) The plan of operation of the association:

29 1. May provide for one or more designated insurers,  
30 able and willing to provide policy and claims service, to act  
31 on behalf of the association to provide such service. Each



1 licensed agent shall be entitled to indicate the order of  
2 preference regarding who will service the business placed by  
3 the agent. The association shall adhere to each agent's  
4 preferences unless after consideration of other factors in  
5 assigning agents, including, but not limited to, servicing  
6 capacity and fee arrangements, the association has reason to  
7 believe it is in the best interest of the association to make  
8 a different assignment.

9           2. Must provide for adoption of residential property  
10 and casualty insurance policy forms, which forms must be  
11 approved by the department prior to use. The association  
12 shall adopt the following policy forms:

13           a. Standard personal lines policy forms including wind  
14 coverage, which are multiperil policies providing what is  
15 generally considered to be full coverage of a residential  
16 property similar to the coverage provided under an HO-2, HO-3,  
17 HO-4, or HO-6 policy.

18           b. Standard personal lines policy forms without wind  
19 coverage, which are the same as the policies described in  
20 sub-subparagraph a. except that they do not include wind  
21 coverage.

22           c. Basic personal lines policy forms including wind  
23 coverage, which are policies similar to an HO-8 policy or a  
24 dwelling fire policy that provide coverage meeting the  
25 requirements of the secondary mortgage market, but which  
26 coverage is more limited than the coverage under a standard  
27 policy.

28           d. Basic personal lines policy forms without wind  
29 coverage, which are the same as the policies described in  
30 sub-subparagraph c. except that they do not include wind  
31 coverage.

1 e. Commercial lines residential policy forms including  
2 wind coverage that are generally similar to the basic perils  
3 of full coverage obtainable for commercial residential  
4 structures in the admitted voluntary market.

5 f. Commercial lines residential policy forms without  
6 wind coverage, which are the same as the policies described in  
7 sub-subparagraph e. except that they do not include wind  
8 coverage.

9 3. May provide that the association may employ or  
10 otherwise contract with individuals or other entities to  
11 provide administrative or professional services that may be  
12 appropriate to effectuate the plan. The association shall  
13 have the power to borrow funds, by issuing bonds or by  
14 incurring other indebtedness, and shall have other powers  
15 reasonably necessary to effectuate the requirements of this  
16 subsection. The association may issue bonds or incur other  
17 indebtedness, or have bonds issued on its behalf by a unit of  
18 local government pursuant to subparagraph (g)2., in the  
19 absence of a hurricane or other weather-related event, upon a  
20 determination by the association, subject to approval by the  
21 department, that such action would enable it to efficiently  
22 meet the financial obligations of the association and that  
23 such financings are reasonably necessary to effectuate the  
24 requirements of this subsection. The association is  
25 authorized to take all actions needed to facilitate tax-free  
26 status for any such bonds or indebtedness, including formation  
27 of trusts or other affiliated entities. The association shall  
28 have the authority to pledge assessments, projected recoveries  
29 from the Florida Hurricane Catastrophe Fund, other reinsurance  
30 recoverables, market equalization and other surcharges, and  
31 other funds available to the association as security for bonds

1 or other indebtedness. In recognition of s. 10, Art. I of the  
2 State Constitution, prohibiting the impairment of obligations  
3 of contracts, it is the intent of the Legislature that no  
4 action be taken whose purpose is to impair any bond indenture  
5 or financing agreement or any revenue source committed by  
6 contract to such bond or other indebtedness.

7 4. Must require that the association operate subject  
8 to the supervision and approval of a board of governors  
9 consisting of 13 individuals, including 1 who is elected as  
10 chair. The board shall consist of:

11 a. The insurance consumer advocate appointed under s.  
12 627.0613.

13 b. Five members designated by the insurance industry.

14 c. Five consumer representatives appointed by the  
15 Chief Financial Officer ~~Insurance Commissioner~~. Two of the  
16 consumer representatives must, at the time of appointment, be  
17 holders of policies issued by the association, who are  
18 selected with consideration given to reflecting the geographic  
19 balance of association policyholders. Two of the consumer  
20 members must be individuals who are minority persons as  
21 defined in s. 288.703(3). One of the consumer members shall  
22 have expertise in the field of mortgage lending.

23 d. Two representatives of the insurance industry  
24 appointed by the Chief Financial Officer ~~Insurance~~  
25 ~~Commissioner~~. Of the two insurance industry representatives  
26 appointed by the Chief Financial Officer ~~Insurance~~  
27 ~~Commissioner~~, at least one must be an individual who is a  
28 minority person as defined in s. 288.703(3).

29  
30 Any board member may be disapproved or removed and replaced by  
31 the commissioner at any time for cause. All board members,

1 including the chair, must be appointed to serve for 3-year  
2 terms beginning annually on a date designated by the plan.  
3         5. Must provide a procedure for determining the  
4 eligibility of a risk for coverage, as follows:  
5             a. With respect to personal lines residential risks,  
6 if the risk is offered coverage from an authorized insurer at  
7 the insurer's approved rate under either a standard policy  
8 including wind coverage or, if consistent with the insurer's  
9 underwriting rules as filed with the department, a basic  
10 policy including wind coverage, the risk is not eligible for  
11 any policy issued by the association. If the risk accepts an  
12 offer of coverage through the market assistance plan or an  
13 offer of coverage through a mechanism established by the  
14 association before a policy is issued to the risk by the  
15 association or during the first 30 days of coverage by the  
16 association, and the producing agent who submitted the  
17 application to the plan or to the association is not currently  
18 appointed by the insurer, the insurer shall either appoint the  
19 agent to service the risk or, if the insurer places the  
20 coverage through a new agent, require the new agent who then  
21 writes the policy to pay not less than 50 percent of the first  
22 year's commission to the producing agent who submitted the  
23 application to the plan or the association, except that if the  
24 new agent is an employee or exclusive agent of the insurer,  
25 the new agent shall pay a policy fee of \$50 to the producing  
26 agent in lieu of splitting the commission. If the risk is not  
27 able to obtain any such offer, the risk is eligible for either  
28 a standard policy including wind coverage or a basic policy  
29 including wind coverage issued by the association; however, if  
30 the risk could not be insured under a standard policy  
31 including wind coverage regardless of market conditions, the

1 risk shall be eligible for a basic policy including wind  
2 coverage unless rejected under subparagraph 8. The association  
3 shall determine the type of policy to be provided on the basis  
4 of objective standards specified in the underwriting manual  
5 and based on generally accepted underwriting practices.

6           b. With respect to commercial lines residential risks,  
7 if the risk is offered coverage under a policy including wind  
8 coverage from an authorized insurer at its approved rate, the  
9 risk is not eligible for any policy issued by the association.  
10 If the risk accepts an offer of coverage through the market  
11 assistance plan or an offer of coverage through a mechanism  
12 established by the association before a policy is issued to  
13 the risk by the association, and the producing agent who  
14 submitted the application to the plan or the association is  
15 not currently appointed by the insurer, the insurer shall  
16 either appoint the agent to service the risk or, if the  
17 insurer places the coverage through a new agent, require the  
18 new agent who then writes the policy to pay not less than 50  
19 percent of the first year's commission to the producing agent  
20 who submitted the application to the plan, except that if the  
21 new agent is an employee or exclusive agent of the insurer,  
22 the new agent shall pay a policy fee of \$50 to the producing  
23 agent in lieu of splitting the commission. If the risk is not  
24 able to obtain any such offer, the risk is eligible for a  
25 policy including wind coverage issued by the association.

26           c. This subparagraph does not require the association  
27 to provide wind coverage or hurricane coverage in any area in  
28 which such coverage is available through the Florida Windstorm  
29 Underwriting Association.

30           6. Must include rules for classifications of risks and  
31 rates therefor.

1           7. Must provide that if premium and investment income  
2 attributable to a particular plan year are in excess of  
3 projected losses and expenses of the plan attributable to that  
4 year, such excess shall be held in surplus. Such surplus shall  
5 be available to defray deficits as to future years and shall  
6 be used for that purpose prior to assessing member insurers as  
7 to any plan year.

8           8. Must provide objective criteria and procedures to  
9 be uniformly applied for all applicants in determining whether  
10 an individual risk is so hazardous as to be uninsurable. In  
11 making this determination and in establishing the criteria and  
12 procedures, the following shall be considered:

13           a. Whether the likelihood of a loss for the individual  
14 risk is substantially higher than for other risks of the same  
15 class; and

16           b. Whether the uncertainty associated with the  
17 individual risk is such that an appropriate premium cannot be  
18 determined.

19  
20 The acceptance or rejection of a risk by the association shall  
21 be construed as the private placement of insurance, and the  
22 provisions of chapter 120 shall not apply.

23           9. Must provide that the association shall make its  
24 best efforts to procure catastrophe reinsurance at reasonable  
25 rates, as determined by the board of governors.

26           10. Must provide that in the event of regular deficit  
27 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
28 (b)3.b., or by the Florida Windstorm Underwriting Association  
29 under sub-sub-subparagraph (2)(b)2.d.(I) or  
30 sub-sub-subparagraph (2)(b)2.d.(II), the association shall  
31 levy upon association policyholders in its next rate filing,

1 or by a separate rate filing solely for this purpose, a market  
2 equalization surcharge in a percentage equal to the total  
3 amount of such regular assessments divided by the aggregate  
4 statewide direct written premium for subject lines of business  
5 for member insurers for the prior calendar year. Market  
6 equalization surcharges under this subparagraph are not  
7 considered premium and are not subject to commissions, fees,  
8 or premium taxes; however, failure to pay a market  
9 equalization surcharge shall be treated as failure to pay  
10 premium.

11 11. The policies issued by the association must  
12 provide that, if the association or the market assistance plan  
13 obtains an offer from an authorized insurer to cover the risk  
14 at its approved rates under either a standard policy including  
15 wind coverage or a basic policy including wind coverage, the  
16 risk is no longer eligible for coverage through the  
17 association. However, if the risk is located in an area in  
18 which Florida Windstorm Underwriting Association coverage is  
19 available, such an offer of a standard or basic policy  
20 terminates eligibility regardless of whether or not the offer  
21 includes wind coverage. Upon termination of eligibility, the  
22 association shall provide written notice to the policyholder  
23 and agent of record stating that the association policy shall  
24 be canceled as of 60 days after the date of the notice because  
25 of the offer of coverage from an authorized insurer. Other  
26 provisions of the insurance code relating to cancellation and  
27 notice of cancellation do not apply to actions under this  
28 subparagraph.

29 12. Association policies and applications must include  
30 a notice that the association policy could, under this section  
31 or s. 627.3511, be replaced with a policy issued by an

1 admitted insurer that does not provide coverage identical to  
2 the coverage provided by the association. The notice shall  
3 also specify that acceptance of association coverage creates a  
4 conclusive presumption that the applicant or policyholder is  
5 aware of this potential.

6           13. May establish, subject to approval by the  
7 department, different eligibility requirements and operational  
8 procedures for any line or type of coverage for any specified  
9 county or area if the board determines that such changes to  
10 the eligibility requirements and operational procedures are  
11 justified due to the voluntary market being sufficiently  
12 stable and competitive in such area or for such line or type  
13 of coverage and that consumers who, in good faith, are unable  
14 to obtain insurance through the voluntary market through  
15 ordinary methods would continue to have access to coverage  
16 from the association. When coverage is sought in connection  
17 with a real property transfer, such requirements and  
18 procedures shall not provide for an effective date of coverage  
19 later than the date of the closing of the transfer as  
20 established by the transferor, the transferee, and, if  
21 applicable, the lender.

22           Section 702. Subsection (5) of section 627.413,  
23 Florida Statutes, is amended to read:

24           627.413 Contents of policies, in general;  
25 identification.--

26           (5) Any policy that is a minimum premium policy issued  
27 by an insurer pursuant to the minimum premium provisions of  
28 rules adopted by rating organizations licensed by the  
29 Department of Financial Services Insurance, shall have typed,  
30 printed, stamped, or legibly handwritten on the certificate  
31 the words "minimum premium policy" or equivalent language.



1 The department may impose an administrative fine pursuant to  
2 s. 624.4211 if the department finds any violation of this  
3 subsection.

4 Section 703. Paragraph (a) of subsection (3) of  
5 section 627.4236, Florida Statutes, is amended to read:

6 627.4236 Coverage for bone marrow transplant  
7 procedures.--

8 (3)(a) The Agency for Health Care Administration shall  
9 adopt rules specifying the bone marrow transplant procedures  
10 that are accepted within the appropriate oncological specialty  
11 and are not experimental for purposes of this section. The  
12 rules must be based upon recommendations of an advisory panel  
13 appointed by the secretary of the agency, composed of:

14 1. One adult oncologist, selected from a list of three  
15 names recommended by the Florida Medical Association;

16 2. One pediatric oncologist, selected from a list of  
17 three names recommended by the Florida Pediatric Society;

18 3. One representative of the J. Hillis Miller Health  
19 Center at the University of Florida;

20 4. One representative of the H. Lee Moffitt Cancer  
21 Center and Research Institute, Inc.;

22 5. One consumer representative, selected from a list  
23 of three names recommended by the Chief Financial Officer  
24 ~~Insurance Commissioner~~;

25 6. One representative of the Health Insurance  
26 Association of America;

27 7. Two representatives of health insurers, one of whom  
28 represents the insurer with the largest Florida health  
29 insurance premium volume and one of whom represents the  
30 insurer with the second largest Florida health insurance  
31 premium volume; and

1           8. One representative of the insurer with the largest  
2 Florida small group health insurance premium volume.

3           Section 704. Paragraph (c) of subsection (14) of  
4 section 627.6472, Florida Statutes, is amended to read:

5           627.6472 Exclusive provider organizations.--

6           (14)

7           (c) The failure of the insurer to pay the assessment  
8 within the time specified in s. 641.58 constitutes grounds for  
9 suspension or revocation of the insurer's certificate of  
10 authority by the Department of Financial Services ~~Insurance~~.

11           Section 705. Subsection (11) of section 627.6482,  
12 Florida Statutes, is amended to read:

13           627.6482 Definitions.--As used in ss.

14 627.648-627.6498, the term:

15           (11) "Plan" means the comprehensive health insurance  
16 plan adopted by the association or by rule of the Department  
17 of Financial Services ~~Insurance~~.

18           Section 706. Paragraph (a) of subsection (2) and  
19 paragraph (j) of subsection (4) of section 627.6488, Florida  
20 Statutes, are amended to read:

21           627.6488 Florida Comprehensive Health Association.--

22           (2)(a) The association shall operate subject to the  
23 supervision and approval of a three-member board of directors.  
24 The board of directors shall be appointed by the Chief  
25 Financial Officer ~~Insurance Commissioner~~ as follows:

26           1. The chair of the board shall be the Chief Financial  
27 Officer ~~Insurance Commissioner~~ or his or her designee.

28           2. One representative of policyholders who is not  
29 associated with the medical profession, a hospital, or an  
30 insurer.

31           3. One representative of insurers.

1  
2 The administrator or his or her affiliate shall not be a  
3 member of the board. Any board member appointed by the  
4 commissioner may be removed and replaced by him or her at any  
5 time without cause.

6 (4) The association shall:

7 (j) Make a report to the Governor, the Chief Financial  
8 Officer ~~Insurance Commissioner~~, the President of the Senate,  
9 the Speaker of the House of Representatives, and the Minority  
10 Leaders of the Senate and House of Representatives, not later  
11 than 45 days after the close of each calendar quarter, which  
12 includes, for the prior quarter, current data and estimates of  
13 net written and earned premiums, the expenses of  
14 administration, and the paid and incurred losses. The report  
15 shall identify any statutorily mandated program that has not  
16 been fully implemented by the board.

17 Section 707. Subsection (20) of section 627.6675,  
18 Florida Statutes, is amended to read:

19 627.6675 Conversion on termination of  
20 eligibility.--Subject to all of the provisions of this  
21 section, a group policy delivered or issued for delivery in  
22 this state by an insurer or nonprofit health care services  
23 plan that provides, on an expense-incurred basis, hospital,  
24 surgical, or major medical expense insurance, or any  
25 combination of these coverages, shall provide that an employee  
26 or member whose insurance under the group policy has been  
27 terminated for any reason, including discontinuance of the  
28 group policy in its entirety or with respect to an insured  
29 class, and who has been continuously insured under the group  
30 policy, and under any group policy providing similar benefits  
31 that the terminated group policy replaced, for at least 3

1 months immediately prior to termination, shall be entitled to  
2 have issued to him or her by the insurer a policy or  
3 certificate of health insurance, referred to in this section  
4 as a "converted policy." A group insurer may meet the  
5 requirements of this section by contracting with another  
6 insurer, authorized in this state, to issue an individual  
7 converted policy, which policy has been approved by the  
8 department under s. 627.410. An employee or member shall not  
9 be entitled to a converted policy if termination of his or her  
10 insurance under the group policy occurred because he or she  
11 failed to pay any required contribution, or because any  
12 discontinued group coverage was replaced by similar group  
13 coverage within 31 days after discontinuance.

14 (20) Nothing in this section or in the incorporation  
15 of it into insurance policies shall be construed to require  
16 insurers to provide benefits equal to those provided in the  
17 group policy from which the individual converted; provided,  
18 however, that comprehensive benefits are offered which shall  
19 be subject to approval by the department ~~Insurance~~  
20 ~~Commissioner~~.

21 Section 708. Section 627.7012, Florida Statutes, is  
22 amended to read:

23 627.7012 Pools of insurance adjusters.--The Department  
24 of Financial Services ~~Insurance~~ may, by rule, establish a pool  
25 of qualified insurance adjusters. The rules must provide that,  
26 if a hurricane occurs or an emergency is declared, the  
27 department may assign members of the pool to the affected area  
28 and that an insurer may request that a member of the pool  
29 adjust claims in the assigned area. The rules may not require  
30 that an insurer use those adjusters assigned by the  
31 department.

1           Section 709. Subsection (3) of section 627.7015,  
2 Florida Statutes, is amended to read:

3           627.7015 Alternative procedure for resolution of  
4 disputed property insurance claims.--

5           (3) The costs of mediation shall be reasonable, and  
6 the insurer shall bear all of the cost of conducting mediation  
7 conferences, except as otherwise provided in this section. If  
8 an insured fails to appear at the conference, the conference  
9 shall be rescheduled upon the insured's payment of the costs  
10 of a rescheduled conference. If the insurer fails to appear at  
11 the conference, the insurer shall pay the insured's actual  
12 cash expenses incurred in attending the conference if the  
13 insurer's failure to attend was not due to a good cause  
14 acceptable to the department. An insurer will be deemed to  
15 have failed to appear if the insurer's representative lacks  
16 authority to settle the full value of the claim. The insurer  
17 shall incur an additional fee for a rescheduled conference  
18 necessitated by the insurer's failure to appear at a scheduled  
19 conference. The fees assessed by the administrator shall  
20 include a charge necessary to defray the expenses of the  
21 department related to its duties under this section and shall  
22 be deposited in the Insurance ~~Commissioner's~~ Regulatory Trust  
23 Fund.

24           Section 710. Subsection (1) of section 627.727,  
25 Florida Statutes, is amended to read:

26           627.727 Motor vehicle insurance; uninsured and  
27 underinsured vehicle coverage; insolvent insurer protection.--

28           (1) No motor vehicle liability insurance policy which  
29 provides bodily injury liability coverage shall be delivered  
30 or issued for delivery in this state with respect to any  
31 specifically insured or identified motor vehicle registered or

1 principally garaged in this state unless uninsured motor  
2 vehicle coverage is provided therein or supplemental thereto  
3 for the protection of persons insured thereunder who are  
4 legally entitled to recover damages from owners or operators  
5 of uninsured motor vehicles because of bodily injury,  
6 sickness, or disease, including death, resulting therefrom.  
7 However, the coverage required under this section is not  
8 applicable when, or to the extent that, an insured named in  
9 the policy makes a written rejection of the coverage on behalf  
10 of all insureds under the policy. When a motor vehicle is  
11 leased for a period of 1 year or longer and the lessor of such  
12 vehicle, by the terms of the lease contract, provides  
13 liability coverage on the leased vehicle, the lessee of such  
14 vehicle shall have the sole privilege to reject uninsured  
15 motorist coverage or to select lower limits than the bodily  
16 injury liability limits, regardless of whether the lessor is  
17 qualified as a self-insurer pursuant to s. 324.171. Unless an  
18 insured, or lessee having the privilege of rejecting uninsured  
19 motorist coverage, requests such coverage or requests higher  
20 uninsured motorist limits in writing, the coverage or such  
21 higher uninsured motorist limits need not be provided in or  
22 supplemental to any other policy which renews, extends,  
23 changes, supersedes, or replaces an existing policy with the  
24 same bodily injury liability limits when an insured or lessee  
25 had rejected the coverage. When an insured or lessee has  
26 initially selected limits of uninsured motorist coverage lower  
27 than her or his bodily injury liability limits, higher limits  
28 of uninsured motorist coverage need not be provided in or  
29 supplemental to any other policy which renews, extends,  
30 changes, supersedes, or replaces an existing policy with the  
31 same bodily injury liability limits unless an insured requests

1 higher uninsured motorist coverage in writing. The rejection  
2 or selection of lower limits shall be made on a form approved  
3 by the department ~~Insurance Commissioner~~. The form shall fully  
4 advise the applicant of the nature of the coverage and shall  
5 state that the coverage is equal to bodily injury liability  
6 limits unless lower limits are requested or the coverage is  
7 rejected. The heading of the form shall be in 12-point bold  
8 type and shall state: "You are electing not to purchase  
9 certain valuable coverage which protects you and your family  
10 or you are purchasing uninsured motorist limits less than your  
11 bodily injury liability limits when you sign this form. Please  
12 read carefully." If this form is signed by a named insured, it  
13 will be conclusively presumed that there was an informed,  
14 knowing rejection of coverage or election of lower limits on  
15 behalf of all insureds. The insurer shall notify the named  
16 insured at least annually of her or his options as to the  
17 coverage required by this section. Such notice shall be part  
18 of, and attached to, the notice of premium, shall provide for  
19 a means to allow the insured to request such coverage, and  
20 shall be given in a manner approved by the department. Receipt  
21 of this notice does not constitute an affirmative waiver of  
22 the insured's right to uninsured motorist coverage where the  
23 insured has not signed a selection or rejection form. The  
24 coverage described under this section shall be over and above,  
25 but shall not duplicate, the benefits available to an insured  
26 under any workers' compensation law, personal injury  
27 protection benefits, disability benefits law, or similar law;  
28 under any automobile medical expense coverage; under any motor  
29 vehicle liability insurance coverage; or from the owner or  
30 operator of the uninsured motor vehicle or any other person or  
31 organization jointly or severally liable together with such

1 owner or operator for the accident; and such coverage shall  
2 cover the difference, if any, between the sum of such benefits  
3 and the damages sustained, up to the maximum amount of such  
4 coverage provided under this section. The amount of coverage  
5 available under this section shall not be reduced by a setoff  
6 against any coverage, including liability insurance. Such  
7 coverage shall not inure directly or indirectly to the benefit  
8 of any workers' compensation or disability benefits carrier or  
9 any person or organization qualifying as a self-insurer under  
10 any workers' compensation or disability benefits law or  
11 similar law.

12 Section 711. Subsections (7) and (9) of section  
13 627.728, Florida Statutes, are amended to read:

14 627.728 Cancellations; nonrenewals.--

15 (7) Except in the case of cancellation for nonpayment  
16 of premium or nonrenewal of the policy, the notice of  
17 cancellation as provided by this section must contain the  
18 following words which are to be prominently displayed: "You  
19 are permitted by law to appeal this cancellation. An appeal  
20 must be filed no later than 20 days before the effective date  
21 of cancellation set forth in this notice. Forms for such  
22 appeal and the regulations pertaining thereto may be obtained  
23 from the offices of the Department of Financial Services  
24 ~~Insurance~~. The Department of Financial Services ~~Insurance~~ does  
25 not have the authority to extend the effective date of  
26 cancellation; therefore you should obtain replacement coverage  
27 prior to the effective date of cancellation."

28 (9) The department shall deposit all fees provided for  
29 in this section into the Insurance ~~Commissioner's~~ Regulatory  
30 Trust Fund.

31



1           Section 712. Paragraph (c) of subsection (4) and  
2 paragraph (a) of subsection (5) of section 627.736, Florida  
3 Statutes, are amended to read:

4           627.736 Required personal injury protection benefits;  
5 exclusions; priority; claims.--

6           (4) BENEFITS; WHEN DUE.--Benefits due from an insurer  
7 under ss. 627.730-627.7405 shall be primary, except that  
8 benefits received under any workers' compensation law shall be  
9 credited against the benefits provided by subsection (1) and  
10 shall be due and payable as loss accrues, upon receipt of  
11 reasonable proof of such loss and the amount of expenses and  
12 loss incurred which are covered by the policy issued under ss.  
13 627.730-627.7405. When the Agency for Health Care  
14 Administration provides, pays, or becomes liable for medical  
15 assistance under the Medicaid program related to injury,  
16 sickness, disease, or death arising out of the ownership,  
17 maintenance, or use of a motor vehicle, benefits under ss.  
18 627.730-627.7405 shall be subject to the provisions of the  
19 Medicaid program.

20           (c) All overdue payments shall bear simple interest at  
21 the rate established by the Chief Financial Officer  
22 ~~Comptroller~~ under s. 55.03 or the rate established in the  
23 insurance contract, whichever is greater, for the year in  
24 which the payment became overdue, calculated from the date the  
25 insurer was furnished with written notice of the amount of  
26 covered loss. Interest shall be due at the time payment of the  
27 overdue claim is made.

28           (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

29           (a) Any physician, hospital, clinic, or other person  
30 or institution lawfully rendering treatment to an injured  
31 person for a bodily injury covered by personal injury

1 protection insurance may charge only a reasonable amount for  
2 the services and supplies rendered, and the insurer providing  
3 such coverage may pay for such charges directly to such person  
4 or institution lawfully rendering such treatment, if the  
5 insured receiving such treatment or his or her guardian has  
6 countersigned the invoice, bill, or claim form approved by the  
7 Department of Financial Services ~~Insurance~~ upon which such  
8 charges are to be paid for as having actually been rendered,  
9 to the best knowledge of the insured or his or her guardian.  
10 In no event, however, may such a charge be in excess of the  
11 amount the person or institution customarily charges for like  
12 services or supplies in cases involving no insurance.

13 Section 713. Section 627.849, Florida Statutes, is  
14 amended to read:

15 627.849 Fees.--

16 (1) The department shall collect in advance, and the  
17 persons so served shall pay to it in advance, the following  
18 fees:

- 19 (a) Annual license fee.....\$250.  
20 (b) Investigation fee.....100.  
21 (c) Annual report filing fee.....25.  
22 (d) Form filing fee.....10.

23 (2) The fees received under this section shall be  
24 credited to the Insurance ~~Commissioner's~~ Regulatory Trust  
25 Fund.

26 Section 714. Subsections (1) and (5) of section  
27 627.912, Florida Statutes, are amended to read:

28 627.912 Professional liability claims and actions;  
29 reports by insurers.--

30 (1) Each self-insurer authorized under s. 627.357 and  
31 each insurer or joint underwriting association providing

1 professional liability insurance to a practitioner of medicine  
2 licensed under chapter 458, to a practitioner of osteopathic  
3 medicine licensed under chapter 459, to a podiatric physician  
4 licensed under chapter 461, to a dentist licensed under  
5 chapter 466, to a hospital licensed under chapter 395, to a  
6 crisis stabilization unit licensed under part IV of chapter  
7 394, to a health maintenance organization certificated under  
8 part I of chapter 641, to clinics included in chapter 390, to  
9 an ambulatory surgical center as defined in s. 395.002, or to  
10 a member of The Florida Bar shall report in duplicate to the  
11 Department of Financial Services ~~Insurance~~ any claim or action  
12 for damages for personal injuries claimed to have been caused  
13 by error, omission, or negligence in the performance of such  
14 insured's professional services or based on a claimed  
15 performance of professional services without consent, if the  
16 claim resulted in:

- 17 (a) A final judgment in any amount.  
18 (b) A settlement in any amount.

19  
20 Reports shall be filed with the department and, if the insured  
21 party is licensed under chapter 458, chapter 459, chapter 461,  
22 or chapter 466, with the Department of Health, no later than  
23 30 days following the occurrence of any event listed in  
24 paragraph (a) or paragraph (b). The Department of Health shall  
25 review each report and determine whether any of the incidents  
26 that resulted in the claim potentially involved conduct by the  
27 licensee that is subject to disciplinary action, in which case  
28 the provisions of s. 456.073 shall apply. The Department of  
29 Health, as part of the annual report required by s. 456.026,  
30 shall publish annual statistics, without identifying  
31 licensees, on the reports it receives, including final action

1 taken on such reports by the Department of Health or the  
2 appropriate regulatory board.

3 (5) Any self-insurance program established under s.  
4 240.213 shall report in duplicate to the Department of  
5 Financial Services ~~Insurance~~ any claim or action for damages  
6 for personal injuries claimed to have been caused by error,  
7 omission, or negligence in the performance of professional  
8 services provided by the Board of Regents through an employee  
9 or agent of the Board of Regents, including practitioners of  
10 medicine licensed under chapter 458, practitioners of  
11 osteopathic medicine licensed under chapter 459, podiatric  
12 physicians licensed under chapter 461, and dentists licensed  
13 under chapter 466, or based on a claimed performance of  
14 professional services without consent if the claim resulted in  
15 a final judgment in any amount, or a settlement in any amount.  
16 The reports required by this subsection shall contain the  
17 information required by subsection (3) and the name, address,  
18 and specialty of the employee or agent of the Board of Regents  
19 whose performance or professional services is alleged in the  
20 claim or action to have caused personal injury.

21 Section 715. Subsection (1) of section 627.9122,  
22 Florida Statutes, is amended to read:

23 627.9122 Officers' and directors' liability claims;  
24 reports by insurers.--

25 (1) Each insurer providing coverage for officers' and  
26 directors' liability coverage shall report to the Department  
27 of Financial Services ~~Insurance~~ any claim or action for  
28 damages claimed to have been caused by error, omission, or  
29 negligence in the performance of the officer's or director's  
30 services, if the claim resulted in:

31 (a) A final judgment in any amount.

1 (b) A settlement in any amount.

2 (c) A final disposition not resulting in payment on  
3 behalf of the insured.

4

5 Reports shall be filed with the department no later than 60  
6 days following the occurrence of any event listed in paragraph  
7 (a), paragraph (b), or paragraph (c).

8 Section 716. Section 627.919, Florida Statutes, is  
9 amended to read:

10 627.919 Maintenance of insurance data.--The department  
11 shall maintain data elements required in insurers' annual  
12 statements and information reported by insurers pursuant to  
13 this part in a computer file which will be available for the  
14 generation of reports and calculations on a scheduled or  
15 demand basis by the department and Legislature. The  
16 acquisition by the department of data processing software,  
17 hardware, and services necessary to carry out the provisions  
18 of this section by the Chief Financial Officer's ~~Treasurer's~~  
19 Management Information Center shall be exempt from the  
20 provisions of part I of chapter 287.

21 Section 717. Subsection (1) of section 627.94074,  
22 Florida Statutes, is amended to read:

23 627.94074 Standards for benefit triggers.--

24 (1)(a) A long-term care insurance policy shall  
25 condition the payment of benefits on a determination of the  
26 insured's ability to perform activities of daily living and on  
27 cognitive impairment. Eligibility for the payment of benefits  
28 shall not be more restrictive than requiring either a  
29 deficiency in the ability to perform not more than three of  
30 the activities of daily living or the presence of cognitive  
31 impairment; or

1 (b) If a policy is a qualified long-term care  
2 insurance policy, the policy shall condition the payment of  
3 benefits on a determination of the insured's being chronically  
4 ill; having a level of disability similar, as provided by rule  
5 of the department ~~Insurance Commissioner~~, to the insured's  
6 ability to perform activities of daily living; or being  
7 cognitively impaired as described in paragraph (6)(b).  
8 Eligibility for the payment of benefits shall not be more  
9 restrictive than requiring a deficiency in the ability to  
10 perform not more than three of the activities of daily living.

11 Section 718. Paragraph (c) of subsection (1) of  
12 section 627.944, Florida Statutes, is amended to read:

13 627.944 Risk retention groups not certificated in this  
14 state.--Risk retention groups certificated or licensed in  
15 states other than this state and seeking to do business as a  
16 risk retention group in this state must observe and abide by  
17 the laws of this state as follows:

18 (1) NOTICE OF OPERATIONS AND DESIGNATION OF  
19 COMMISSIONER AS AGENT.--Before offering insurance in this  
20 state, a risk retention group shall submit to the department:

21 (c) A statement of registration which designates the  
22 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~  
23 or her or his designee as its agent for the purpose of  
24 receiving service of legal documents of process.

25 Section 719. Subsection (2) of section 627.948,  
26 Florida Statutes, is amended to read:

27 627.948 Notice and registration requirements of  
28 purchasing groups.--

29 (2) The purchasing group shall register with and  
30 designate the Chief Financial Officer ~~Insurance Commissioner~~  
31 ~~and Treasurer~~ or her or his designee as its agent solely for

1 the purpose of receiving service of legal documents or  
2 process. This requirement shall not apply in the case of a  
3 purchasing group:

4 (a) Which:

5 1. Was domiciled before April 1, 1986.

6 2. Is domiciled on and after October 27, 1986, in any  
7 state of the United States.

8 (b) Which:

9 1. Before October 27, 1986, purchased insurance from  
10 an insurance carrier licensed in any state; and

11 2. Since October 27, 1986, purchased its insurance  
12 from an insurance carrier licensed in any state.

13 (c) Which was a purchasing group under the  
14 requirements of the Product Liability Risk Retention Act of  
15 1981 before October 27, 1986.

16 (d) Which does not purchase insurance that was not  
17 authorized for purposes of an exemption under that act, as in  
18 effect before October 27, 1986.

19 Section 720. Subsection (8) of section 628.461,  
20 Florida Statutes, is amended to read:

21 628.461 Acquisition of controlling stock.--

22 (8) No vote by the stockholder of record, or by any  
23 other person, of any security acquired in contravention of the  
24 provisions of this section is valid. Any acquisition of any  
25 security contrary to the provisions of this section is void.  
26 Upon the petition of the domestic stock insurer or controlling  
27 company, the circuit court for the county in which the  
28 principal office of such domestic stock insurer is located  
29 may, without limiting the generality of its authority, order  
30 the issuance or entry of an injunction or other order to  
31 enforce the provisions of this section. There shall be a

1 private right of action in favor of the domestic stock insurer  
2 or controlling company to enforce the provisions of this  
3 section. No demand upon the department that it perform its  
4 functions shall be required as a prerequisite to any suit by  
5 the domestic stock insurer or controlling company against any  
6 other person, and in no case shall the department be deemed a  
7 necessary party to any action by such domestic stock insurer  
8 or controlling company to enforce the provisions of this  
9 section. Any person who makes or proposes an acquisition  
10 requiring the filing of a statement pursuant to this section,  
11 or who files such a statement, shall be deemed to have thereby  
12 designated the Chief Financial Officer ~~Insurance Commissioner~~  
13 ~~and Treasurer~~, or his or her assistant or deputy or another  
14 person in charge of his or her office, as such person's agent  
15 for service of process under this section, and shall thereby  
16 be deemed to have submitted himself or herself to the  
17 administrative jurisdiction of the department and to the  
18 jurisdiction of the circuit court.

19 Section 721. Subsection (9) of section 628.4615,  
20 Florida Statutes, is amended to read:

21 628.4615 Specialty insurers; acquisition of  
22 controlling stock, ownership interest, assets, or control;  
23 merger or consolidation.--

24 (9) No vote by the stockholder of record, or by any  
25 other person, of any security acquired in contravention of the  
26 provisions of this section is valid. Any acquisition contrary  
27 to the provisions of this section is void. Upon the petition  
28 of the specialty insurer or the controlling company, the  
29 circuit court for the county in which the principal office of  
30 the specialty insurer is located may, without limiting the  
31 generality of its authority, order the issuance or entry of an



1 injunction or other order to enforce the provisions of this  
2 section. There shall be a private right of action in favor of  
3 the specialty insurer or controlling company to enforce the  
4 provisions of this section. No demand upon the department that  
5 it perform its functions shall be required as a prerequisite  
6 to any suit by the specialty insurer or controlling company  
7 against any other person, and in no case shall the department  
8 be deemed a necessary party to any action by the specialty  
9 insurer or controlling company to enforce the provisions of  
10 this section. Any person who makes or proposes an acquisition  
11 requiring the filing of an application pursuant to this  
12 section, or who files such an application, shall be deemed to  
13 have thereby designated the Chief Financial Officer ~~Insurance~~  
14 ~~Commissioner and Treasurer~~, or his or her assistant or deputy  
15 or another person in charge of his or her office, as such  
16 person's agent for service of process under this section and  
17 shall thereby be deemed to have submitted himself or herself  
18 to the administrative jurisdiction of the department and to  
19 the jurisdiction of the circuit court.

20 Section 722. Subsection (2), paragraph (a) of  
21 subsection (3), and paragraph (b) of subsection (6) of section  
22 629.401, Florida Statutes, are amended to read:

23 629.401 Insurance exchange.--

24 (2) The operation of this subsection shall become  
25 effective with respect to any exchange only after a  
26 determination by the Chief Financial Officer ~~Insurance~~  
27 ~~Commissioner and Treasurer~~ that the exchange may operate in an  
28 economic and beneficial manner. A committee shall be appointed  
29 to write the constitution and bylaws of the proposed exchange,  
30 to make such other recommendations as may be necessary to  
31 assure maximum coordination of the operations of the exchange

1 with existing insurance industry operations, and to assure  
2 maximum economic benefits to the state from the operations of  
3 the exchange. The committee shall consist of 13 members, 6 to  
4 be appointed by the Chief Financial Officer Insurance  
5 ~~Commissioner and Treasurer~~, 2 each to be appointed by the  
6 Speaker of the House of Representatives and the President of  
7 the Senate, 1 each to be appointed by the minority leader of  
8 the House of Representatives and the minority leader of the  
9 Senate, and 1 to be the Insurance Commissioner and Treasurer  
10 or his or her designated representative. The chair shall be  
11 elected by a majority of the committee. The committee shall  
12 transmit such proposed constitution and bylaws and such other  
13 recommendations to the Chief Financial Officer Insurance  
14 ~~Commissioner and Treasurer~~ and to the Legislature no later  
15 than 5 days prior to the adjournment of a regular annual  
16 legislative session or no later than 5 days prior to the  
17 commencement of any special or organizational legislative  
18 session. Subject to the disapproval of the constitution and  
19 bylaws by either house of the Legislature by resolution before  
20 the end of such legislative session, the exchange shall have  
21 full authority to function pursuant to its constitution and  
22 bylaws 60 days after the end of the session. The initial board  
23 of governors of the exchange shall consist of 14 members, 3  
24 appointed by the Chief Financial Officer Insurance  
25 ~~Commissioner and Treasurer~~, 3 by the Speaker of the House of  
26 Representatives, 3 by the President of the Senate, 1 by the  
27 minority leader of the House of Representatives, 1 by the  
28 minority leader of the Senate, and 3 by the Governor, to serve  
29 until the first election pursuant to the constitution or  
30 bylaws.  
31

1           (3) The constitution and bylaws of the exchange shall  
2 provide for, but shall not be limited to:

3           (a) The selection of 13 governors, at least 7 of whom  
4 shall be appointed by and serve at the pleasure of the Chief  
5 Financial Officer ~~Insurance Commissioner~~. Five of the  
6 governors appointed by the Chief Financial Officer ~~Insurance~~  
7 ~~Commissioner~~ shall not be members of the exchange. One of the  
8 remaining two governors appointed by the Chief Financial  
9 Officer ~~Insurance Commissioner~~ shall be a broker member, and  
10 one shall be a representative of an underwriting member. The  
11 remainder of the governors shall be elected by the membership  
12 of the exchange in accordance with the constitution and  
13 bylaws, except that at least five governors shall be elected  
14 by the underwriting members of the exchange.

15           (6)

16           (b) In addition to the insurance laws specified in  
17 paragraph (a), the department shall regulate the exchange  
18 pursuant to the following powers, rights, and duties:

19           1. General examination powers.--The department shall  
20 examine the affairs, transactions, accounts, records, and  
21 assets of any security fund, exchange, members, and associate  
22 brokers as often as it deems advisable. The examination may  
23 be conducted by the accredited examiners of the department at  
24 the offices of the entity or person being examined. The  
25 department shall examine in like manner each prospective  
26 member or associate broker applying for membership in an  
27 exchange.

28           2. Departmental approval and applications of  
29 underwriting members.--No underwriting member shall commence  
30 operation without the approval of the department. Before  
31

1 commencing operation, an underwriting member shall provide a  
2 written application containing:

3       a. Name, type, and purpose of the underwriting member.  
4       b. Name, residence address, business background, and  
5 qualifications of each person associated or to be associated  
6 in the formation or financing of the underwriting member.  
7       c. Full disclosure of the terms of all understandings  
8 and agreements existing or proposed among persons so  
9 associated relative to the underwriting member, or the  
10 formation or financing thereof, accompanied by a copy of each  
11 such agreement or understanding.  
12       d. Full disclosure of the terms of all understandings  
13 and agreements existing or proposed for management or  
14 exclusive agency contracts.

15       3. Investigation of underwriting member  
16 applications.--In connection with any proposal to establish an  
17 underwriting member, the department shall make an  
18 investigation of:

19       a. The character, reputation, financial standing, and  
20 motives of the organizers, incorporators, or subscribers  
21 organizing the proposed underwriting member.  
22       b. The character, financial responsibility, insurance  
23 experience, and business qualifications of its proposed  
24 officers.  
25       c. The character, financial responsibility, business  
26 experience, and standing of the proposed stockholders and  
27 directors, or owners.

28       4. Notice of management changes.--An underwriting  
29 member shall promptly give the department written notice of  
30 any change among the directors or principal officers of the  
31 underwriting member within 30 days after such change. The

1 department shall investigate the new directors or principal  
2 officers of the underwriting member. The department's  
3 investigation shall include an investigation of the character,  
4 financial responsibility, insurance experience, and business  
5 qualifications of any new directors or principal officers. As  
6 a result of the investigation, the department may require the  
7 underwriting member to replace any new directors or principal  
8 officers.

9           5. Alternate financial statement.--In lieu of any  
10 financial examination, the department may accept an audited  
11 financial statement.

12           6. Correction and reconstruction of records.--If the  
13 department finds any accounts or records to be inadequate, or  
14 inadequately kept or posted, it may employ experts to  
15 reconstruct, rewrite, post, or balance them at the expense of  
16 the person or entity being examined if such person or entity  
17 has failed to maintain, complete, or correct such records or  
18 accounts after the department has given him or her or it  
19 notice and reasonable opportunity to do so.

20           7. Obstruction of examinations.--Any person or entity  
21 who or which willfully obstructs the department or its  
22 examiner in an examination is guilty of a misdemeanor of the  
23 second degree, punishable as provided in s. 775.082 or s.  
24 775.083.

25           8. Filing of annual statement.--Each underwriting  
26 member shall file with the department a full and true  
27 statement of its financial condition, transactions, and  
28 affairs. The statement shall be filed on or before March 1 of  
29 each year, or within such extension of time as the department  
30 for good cause grants, and shall be for the preceding calendar  
31 year. The statement shall contain information generally

1 included in insurer financial statements prepared in  
2 accordance with generally accepted insurance accounting  
3 principles and practices and in a form generally utilized by  
4 insurers for financial statements, sworn to by at least two  
5 executive officers of the underwriting member. The form of the  
6 financial statements shall be the approved form of the  
7 National Association of Insurance Commissioners or its  
8 successor organization. The department may by rule require  
9 each insurer to submit any part of the information contained  
10 in the financial statement in a computer-readable form  
11 compatible with the department's electronic data processing  
12 system. In addition to information furnished in connection  
13 with its annual statement, an underwriting member must furnish  
14 to the department as soon as reasonably possible such  
15 information about its transactions or affairs as the  
16 department requests in writing. All information furnished  
17 pursuant to the department's request must be verified by the  
18 oath of two executive officers of the underwriting member.

19       9. Record maintenance.--Each underwriting member shall  
20 have and maintain its principal place of business in this  
21 state and shall keep therein complete records of its assets,  
22 transactions, and affairs in accordance with such methods and  
23 systems as are customary for or suitable to the kind or kinds  
24 of insurance transacted.

25       10. Examination of agents.--If the department has  
26 reason to believe that any agent, as defined in s. 626.041, s.  
27 626.051, s. 626.062, or s. 626.914, has violated or is  
28 violating any provision of the insurance law, or upon receipt  
29 of a written complaint signed by any interested person  
30 indicating that any such violation may exist, the department  
31 shall conduct such examination as it deems necessary of the

1 accounts, records, documents, and transactions pertaining to  
2 or affecting the insurance affairs of such agent.

3           11. Written reports of department.--The department or  
4 its examiner shall make a full and true written report of any  
5 examination. The report shall contain only information  
6 obtained from examination of the records, accounts, files, and  
7 documents of or relative to the person or entity examined or  
8 from testimony of individuals under oath, together with  
9 relevant conclusions and recommendations of the examiner based  
10 thereon. The department shall furnish a copy of the report to  
11 the person or entity examined not less than 30 days prior to  
12 filing the report in its office. If such person or entity so  
13 requests in writing within such 30-day period, the department  
14 shall grant a hearing with respect to the report and shall not  
15 file the report until after the hearing and after such  
16 modifications have been made therein as the department deems  
17 proper.

18           12. Admissibility of reports.--The report of an  
19 examination when filed shall be admissible in evidence in any  
20 action or proceeding brought by the department against the  
21 person or entity examined, or against his or her or its  
22 officers, employees, or agents. The department or its  
23 examiners may at any time testify and offer other proper  
24 evidence as to information secured or matters discovered  
25 during the course of an examination, whether or not a written  
26 report of the examination has been either made, furnished, or  
27 filed in the department.

28           13. Publication of reports.--After an examination  
29 report has been filed, the department may publish the results  
30 of any such examination in one or more newspapers published in  
31 this state whenever it deems it to be in the public interest.

1           14. Consideration of examination reports by entity  
2 examined.--After the examination report of an underwriting  
3 member has been filed, an affidavit shall be filed with the  
4 department, not more than 30 days after the report has been  
5 filed, on a form furnished by the department and signed by the  
6 person or a representative of any entity examined, stating  
7 that the report has been read and that the recommendations  
8 made in the report will be considered within a reasonable  
9 time.

10           15. Examination costs.--Each person or entity examined  
11 by the department shall pay to the department the expenses  
12 incurred in such examination.

13           16. Exchange costs.--An exchange shall reimburse the  
14 department for any expenses incurred by it relating to the  
15 regulation of the exchange and its members, except as  
16 specified in subparagraph 15.

17           17. Powers of examiners.--Any examiner appointed by  
18 the department, as to the subject of any examination,  
19 investigation, or hearing being conducted by him or her, may  
20 administer oaths, examine and cross-examine witnesses, and  
21 receive oral and documentary evidence, and shall have the  
22 power to subpoena witnesses, compel their attendance and  
23 testimony, and require by subpoena the production of books,  
24 papers, records, files, correspondence, documents, or other  
25 evidence which the examiner deems relevant to the inquiry. If  
26 any person refuses to comply with any such subpoena or to  
27 testify as to any matter concerning which he or she may be  
28 lawfully interrogated, the Circuit Court of Leon County or the  
29 circuit court of the county wherein such examination,  
30 investigation, or hearing is being conducted, or of the county  
31 wherein such person resides, on the department's application



1 may issue an order requiring such person to comply with the  
2 subpoena and to testify; and any failure to obey such an order  
3 of the court may be punished by the court as a contempt  
4 thereof. Subpoenas shall be served, and proof of such service  
5 made, in the same manner as if issued by a circuit court.  
6 Witness fees and mileage, if claimed, shall be allowed the  
7 same as for testimony in a circuit court.

8       18. False testimony.--Any person willfully testifying  
9 falsely under oath as to any matter material to any  
10 examination, investigation, or hearing shall upon conviction  
11 thereof be guilty of perjury and shall be punished  
12 accordingly.

13       19. Self-incrimination.--

14       a. If any person asks to be excused from attending or  
15 testifying or from producing any books, papers, records,  
16 contracts, documents, or other evidence in connection with any  
17 examination, hearing, or investigation being conducted by the  
18 department or its examiner, on the ground that the testimony  
19 or evidence required of the person may tend to incriminate him  
20 or her or subject him or her to a penalty or forfeiture, and  
21 the person notwithstanding is directed to give such testimony  
22 or produce such evidence, he or she shall, if so directed by  
23 the department and the Department of Legal Affairs,  
24 nonetheless comply with such direction; but the person shall  
25 not thereafter be prosecuted or subjected to any penalty or  
26 forfeiture for or on account of any transaction, matter, or  
27 thing concerning which he or she may have so testified or  
28 produced evidence, and no testimony so given or evidence so  
29 produced shall be received against him or her upon any  
30 criminal action, investigation, or proceeding; except that no  
31 such person so testifying shall be exempt from prosecution or

1 punishment for any perjury committed by him or her in such  
2 testimony, and the testimony or evidence so given or produced  
3 shall be admissible against him or her upon any criminal  
4 action, investigation, or proceeding concerning such perjury,  
5 nor shall he or she be exempt from the refusal, suspension, or  
6 revocation of any license, permission, or authority conferred,  
7 or to be conferred, pursuant to the insurance law.

8         b. Any such individual may execute, acknowledge, and  
9 file in the office of the department a statement expressly  
10 waiving such immunity or privilege in respect to any  
11 transaction, matter, or thing specified in such statement, and  
12 thereupon the testimony of such individual or such evidence in  
13 relation to such transaction, matter, or thing may be received  
14 or produced before any judge or justice, court, tribunal,  
15 grand jury, or otherwise; and if such testimony or evidence is  
16 so received or produced, such individual shall not be entitled  
17 to any immunity or privileges on account of any testimony so  
18 given or evidence so produced.

19         20. Penalty for failure to testify.--Any person who  
20 refuses or fails, without lawful cause, to testify relative to  
21 the affairs of any member, associate broker, or other person  
22 when subpoenaed and requested by the department to so testify,  
23 as provided in subparagraph 17., shall, in addition to the  
24 penalty provided in subparagraph 17., be guilty of a  
25 misdemeanor of the second degree, punishable as provided in s.  
26 775.082 or s. 775.083.

27         21. Name selection.--No underwriting member shall be  
28 formed or authorized to transact insurance in this state under  
29 a name which is the same as that of any authorized insurer or  
30 is so nearly similar thereto as to cause or tend to cause  
31 confusion or under a name which would tend to mislead as to

1 the type of organization of the insurer. Before incorporating  
2 under or using any name, the underwriting syndicate or  
3 proposed underwriting syndicate shall submit its name or  
4 proposed name to the department for the approval of the  
5 department.

6           22. Capitalization.--An underwriting member approved  
7 on or after July 2, 1987, shall provide an initial paid-in  
8 capital and surplus of \$3 million and thereafter shall  
9 maintain a minimum policyholder surplus of \$2 million in order  
10 to be permitted to write insurance. Underwriting members  
11 approved prior to July 2, 1987, shall maintain a minimum  
12 policyholder surplus of \$1 million. After June 29, 1988,  
13 underwriting members approved prior to July 2, 1987, must  
14 maintain a minimum policyholder surplus of \$1.5 million to  
15 write insurance. After June 29, 1989, underwriting members  
16 approved prior to July 2, 1987, must maintain a minimum  
17 policyholder surplus of \$1.75 million to write insurance.  
18 After December 30, 1989, all underwriting members, regardless  
19 of the date they were approved, must maintain a minimum  
20 policyholder surplus of \$2 million to write insurance. Except  
21 for that portion of the paid-in capital and surplus which  
22 shall be maintained in a security fund of an exchange, the  
23 paid-in capital and surplus shall be invested by an  
24 underwriting member in a manner consistent with ss.  
25 625.301-625.340. The portion of the paid-in capital and  
26 surplus in any security fund of an exchange shall be invested  
27 in a manner limited to investments for life insurance  
28 companies under the Florida insurance laws.

29           23. Limitations on coverage written.--

30           a. Limit of risk.--No underwriting member shall expose  
31 itself to any loss on any one risk in an amount exceeding 10

1 percent of its surplus to policyholders. Any risk or portion  
2 of any risk which shall have been reinsured in an assuming  
3 reinsurer authorized or approved to do such business in this  
4 state shall be deducted in determining the limitation of risk  
5 prescribed in this section.

6           b. Restrictions on premiums written.--If the  
7 department has reason to believe that the underwriting  
8 member's ratio of actual or projected annual gross written  
9 premiums to policyholder surplus exceeds 8 to 1 or the  
10 underwriting member's ratio of actual or projected annual net  
11 premiums to policyholder surplus exceeds 4 to 1, the  
12 department may establish maximum gross or net annual premiums  
13 to be written by the underwriting member consistent with  
14 maintaining the ratios specified in this sub-subparagraph.

15           (I) Projected annual net or gross premiums shall be  
16 based on the actual writings to date for the underwriting  
17 member's current calendar year, its writings for the previous  
18 calendar year, or both. Ratios shall be computed on an  
19 annualized basis.

20           (II) For purposes of this sub-subparagraph, the term  
21 "gross written premiums" means direct premiums written and  
22 reinsurance assumed.

23           c. Surplus as to policyholders.--For the purpose of  
24 determining the limitation on coverage written, surplus as to  
25 policyholders shall be deemed to include any voluntary  
26 reserves, or any part thereof, which are not required by or  
27 pursuant to law and shall be determined from the last sworn  
28 statement of such underwriting member with the department, or  
29 by the last report or examination filed by the department,  
30 whichever is more recent at the time of assumption of such  
31 risk.

1           24. Unearned premium reserves.--All unearned premium  
2 reserves for business written on the exchange shall be  
3 calculated on a monthly or more frequent basis or on such  
4 other basis as determined by the department; except that all  
5 premiums on any marine or transportation insurance trip risk  
6 shall be deemed unearned until the trip is terminated.

7           25. Loss reserves.--All underwriting members of an  
8 exchange shall maintain loss reserves, including a reserve for  
9 incurred but not reported claims. The reserves shall be  
10 subject to review by the department, and, if loss experience  
11 shows that an underwriting member's loss reserves are  
12 inadequate, the department shall require the underwriting  
13 member to maintain loss reserves in such additional amount as  
14 is needed to make them adequate.

15           26. Distribution of profits.--An underwriting member  
16 shall not distribute any profits in the form of cash or other  
17 assets to owners except out of that part of its available and  
18 accumulated surplus funds which is derived from realized net  
19 operating profits on its business and realized capital gains.  
20 In any one year such payments to owners shall not exceed 30  
21 percent of such surplus as of December 31 of the immediately  
22 preceding year, unless otherwise approved by the department.  
23 No distribution of profits shall be made that would render an  
24 underwriting member either impaired or insolvent.

25           27. Stock dividends.--A stock dividend may be paid by  
26 an underwriting member out of any available surplus funds in  
27 excess of the aggregate amount of surplus advanced to the  
28 underwriting member under subparagraph 29.

29           28. Dividends from earned surplus.--A dividend  
30 otherwise lawful may be payable out of an underwriting  
31 member's earned surplus even though the total surplus of the

1 underwriting member is then less than the aggregate of its  
2 past contributed surplus resulting from issuance of its  
3 capital stock at a price in excess of the par value thereof.

4 29. Borrowing of money by underwriting members.--

5 a. An underwriting member may borrow money to defray  
6 the expenses of its organization, provide it with surplus  
7 funds, or for any purpose of its business, upon a written  
8 agreement that such money is required to be repaid only out of  
9 the underwriting member's surplus in excess of that stipulated  
10 in such agreement. The agreement may provide for interest not  
11 exceeding 15 percent simple interest per annum. The interest  
12 shall or shall not constitute a liability of the underwriting  
13 member as to its funds other than such excess of surplus, as  
14 stipulated in the agreement. No commission or promotion  
15 expense shall be paid in connection with any such loan. The  
16 use of any surplus note and any repayments thereof shall be  
17 subject to the approval of the department.

18 b. Money so borrowed, together with any interest  
19 thereon if so stipulated in the agreement, shall not form a  
20 part of the underwriting member's legal liabilities except as  
21 to its surplus in excess of the amount thereof stipulated in  
22 the agreement, nor be the basis of any setoff; but until  
23 repayment, financial statements filed or published by an  
24 underwriting member shall show as a footnote thereto the  
25 amount thereof then unpaid, together with any interest thereon  
26 accrued but unpaid.

27 30. Liquidation, rehabilitation, and  
28 restrictions.--The department, upon a showing that a member or  
29 associate broker of an exchange has met one or more of the  
30 grounds contained in part I of chapter 631, may restrict sales  
31 by type of risk, policy or contract limits, premium levels, or

1 policy or contract provisions; increase surplus or capital  
2 requirements of underwriting members; issue cease and desist  
3 orders; suspend or restrict a member's or associate broker's  
4 right to transact business; place an underwriting member under  
5 conservatorship or rehabilitation; or seek an order of  
6 liquidation as authorized by part I of chapter 631.

7 31. Prohibited conduct.--The following acts by a  
8 member, associate broker, or affiliated person shall  
9 constitute prohibited conduct:

10 a. Fraud.

11 b. Fraudulent or dishonest acts committed by a member  
12 or associate broker prior to admission to an exchange, if the  
13 facts and circumstances were not disclosed to the department  
14 upon application to become a member or associate broker.

15 c. Conduct detrimental to the welfare of an exchange.

16 d. Unethical or improper practices or conduct,  
17 inconsistent with just and equitable principles of trade as  
18 set forth in, but not limited to, ss. 626.951-626.9641 and  
19 626.973.

20 e. Failure to use due diligence to ascertain the  
21 insurance needs of a client or a principal.

22 f. Misstatements made under oath or upon an  
23 application for membership on an exchange.

24 g. Failure to testify or produce documents when  
25 requested by the department.

26 h. Willful violation of any law of this state.

27 i. Failure of an officer or principal to testify under  
28 oath concerning a member, associate broker, or other person's  
29 affairs as they relate to the operation of an exchange.

30 j. Violation of the constitution and bylaws of the  
31 exchange.

1           32. Penalties for participating in prohibited  
2 conduct.--

3           a. The department may order the suspension of further  
4 transaction of business on the exchange of any member or  
5 associate broker found to have engaged in prohibited conduct.  
6 In addition, any member or associate broker found to have  
7 engaged in prohibited conduct may be subject to reprimand,  
8 censure, and/or a fine not exceeding \$25,000 imposed by the  
9 department.

10           b. Any member which has an affiliated person who is  
11 found to have engaged in prohibited conduct shall be subject  
12 to involuntary withdrawal or in addition thereto may be  
13 subject to suspension, reprimand, censure, and/or a fine not  
14 exceeding \$25,000.

15           33. Reduction of penalties.--Any suspension,  
16 reprimand, censure, or fine may be remitted or reduced by the  
17 department on such terms and conditions as are deemed fair and  
18 equitable.

19           34. Other offenses.--Any member or associate broker  
20 that is suspended shall be deprived, during the period of  
21 suspension, of all rights and privileges of a member or of an  
22 associate broker and may be proceeded against by the  
23 department for any offense committed either before or after  
24 the date of suspension.

25           35. Reinstatement.--Any member or associate broker  
26 that is suspended may be reinstated at any time on such terms  
27 and conditions as the department may specify.

28           36. Remittance of fines.--Fines imposed under this  
29 section shall be remitted to the department and shall be paid  
30 into the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

31



1           37. Failure to pay fines.--When a member or associate  
2 broker has failed to pay a fine for 15 days after it becomes  
3 payable, such member or associate broker shall be suspended,  
4 unless the department has granted an extension of time to pay  
5 such fine.

6           38. Changes in ownership or assets.--In the event of a  
7 major change in the ownership or a major change in the assets  
8 of an underwriting member, the underwriting member shall  
9 report such change in writing to the department within 30 days  
10 of the effective date thereof. The report shall set forth the  
11 details of the change. Any change in ownership or assets of  
12 more than 5 percent shall be considered a major change.

13           39. Retaliation.--

14           a. When by or pursuant to the laws of any other state  
15 or foreign country any taxes, licenses, or other fees, in the  
16 aggregate, and any fines, penalties, deposit requirements, or  
17 other material obligations, prohibitions, or restrictions are  
18 or would be imposed upon an exchange or upon the agents or  
19 representatives of such exchange which are in excess of such  
20 taxes, licenses, and other fees, in the aggregate, or which  
21 are in excess of such fines, penalties, deposit requirements,  
22 or other obligations, prohibitions, or restrictions directly  
23 imposed upon similar exchanges or upon the agents or  
24 representatives of such exchanges of such other state or  
25 country under the statutes of this state, so long as such laws  
26 of such other state or country continue in force or are so  
27 applied, the same taxes, licenses, and other fees, in the  
28 aggregate, or fines, penalties, deposit requirements, or other  
29 material obligations, prohibitions, or restrictions of  
30 whatever kind shall be imposed by the department upon the  
31 exchanges, or upon the agents or representatives of such

1 exchanges, of such other state or country doing business or  
2 seeking to do business in this state.

3 b. Any tax, license, or other obligation imposed by  
4 any city, county, or other political subdivision or agency of  
5 a state, jurisdiction, or foreign country on an exchange, or  
6 on the agents or representatives on an exchange, shall be  
7 deemed to be imposed by such state, jurisdiction, or foreign  
8 country within the meaning of sub-subparagraph a.

9 40. Agents.--

10 a. Agents as defined in ss. 626.041, 626.051, 626.062,  
11 and 626.914 who are broker members or associate broker members  
12 of an exchange shall be allowed only to place on an exchange  
13 the same kind or kinds of business that the agent is licensed  
14 to place pursuant to Florida law. Direct Florida business as  
15 defined in s. 626.916 or s. 626.917 shall be written through a  
16 broker member who is a surplus lines agent as defined in s.  
17 626.914. The activities of each broker member or associate  
18 broker with regard to an exchange shall be subject to all  
19 applicable provisions of the insurance laws of this state, and  
20 all such activities shall constitute transactions under his or  
21 her license as an insurance agent for purposes of the Florida  
22 insurance law.

23 b. Premium payments and other requirements.--If an  
24 underwriting member has assumed the risk as to a surplus lines  
25 coverage and if the premium therefor has been received by the  
26 surplus lines agent who placed such insurance, then in all  
27 questions thereafter arising under the coverage as between the  
28 underwriting member and the insured, the underwriting member  
29 shall be deemed to have received the premium due to it for  
30 such coverage; and the underwriting member shall be liable to  
31 the insured as to losses covered by such insurance, and for

1 unearned premiums which may become payable to the insured upon  
2 cancellation of such insurance, whether or not in fact the  
3 surplus lines agent is indebted to the underwriting member  
4 with respect to such insurance or for any other cause.

5 41. Improperly issued contracts, riders, and  
6 endorsements.--

7 a. Any insurance policy, rider, or endorsement issued  
8 by an underwriting member and otherwise valid which contains  
9 any condition or provision not in compliance with the  
10 requirements of this section shall not be thereby rendered  
11 invalid, except as provided in s. 627.415, but shall be  
12 construed and applied in accordance with such conditions and  
13 provisions as would have applied had such policy, rider, or  
14 endorsement been in full compliance with this section. In the  
15 event an underwriting member issues or delivers any policy for  
16 an amount which exceeds any limitations otherwise provided in  
17 this section, the underwriting member shall be liable to the  
18 insured or his or her beneficiary for the full amount stated  
19 in the policy in addition to any other penalties that may be  
20 imposed.

21 b. Any insurance contract delivered or issued for  
22 delivery in this state governing a subject or subjects of  
23 insurance resident, located, or to be performed in this state  
24 which, pursuant to the provisions of this section, the  
25 underwriting member may not lawfully insure under such a  
26 contract shall be cancelable at any time by the underwriting  
27 member, any provision of the contract to the contrary  
28 notwithstanding; and the underwriting member shall promptly  
29 cancel the contract in accordance with the request of the  
30 department therefor. No such illegality or cancellation shall  
31 be deemed to relieve the underwriting syndicate of any

1 liability incurred by it under the contract while in force or  
2 to prohibit the underwriting syndicate from retaining the pro  
3 rata earned premium thereon. This provision does not relieve  
4 the underwriting syndicate from any penalty otherwise incurred  
5 by the underwriting syndicate.

6 42. Satisfaction of judgments.--

7 a. Every judgment or decree for the recovery of money  
8 heretofore or hereafter entered in any court of competent  
9 jurisdiction against any underwriting member shall be fully  
10 satisfied within 60 days from and after the entry thereof or,  
11 in the case of an appeal from such judgment or decree, within  
12 60 days from and after the affirmance of the judgment or  
13 decree by the appellate court.

14 b. If the judgment or decree is not satisfied as  
15 required under sub-subparagraph a., and proof of such failure  
16 to satisfy is made by filing with the department a certified  
17 transcript of the docket of the judgment or the decree  
18 together with a certificate by the clerk of the court wherein  
19 the judgment or decree remains unsatisfied, in whole or in  
20 part, after the time provided in sub-subparagraph a., the  
21 department shall forthwith prohibit the underwriting member  
22 from transacting business. The department shall not permit  
23 such underwriting member to write any new business until the  
24 judgment or decree is wholly paid and satisfied and proof  
25 thereof is filed with the department under the official  
26 certificate of the clerk of the court wherein the judgment was  
27 recovered, showing that the judgment or decree is satisfied of  
28 record, and until the expenses and fees incurred in the case  
29 are also paid by the underwriting syndicate.

30 43. Tender and exchange offers.--No person shall  
31 conclude a tender offer or an exchange offer or otherwise

1 acquire 5 percent or more of the outstanding voting securities  
2 of an underwriting member or controlling company or purchase 5  
3 percent or more of the ownership of an underwriting member or  
4 controlling company unless such person has filed with, and  
5 obtained the approval of, the department and sent to such  
6 underwriting member a statement setting forth:

7       a. The identity of, and background information on,  
8 each person by whom, or on whose behalf, the acquisition is to  
9 be made; and, if the acquisition is to be made by or on behalf  
10 of a corporation, association, or trust, the identity of and  
11 background information on each director, officer, trustee, or  
12 other natural person performing duties similar to those of a  
13 director, officer, or trustee for the corporation,  
14 association, or trust.

15       b. The source and amount of the funds or other  
16 consideration used, or to be used, in making the acquisition.

17       c. Any plans or proposals which such person may have  
18 to liquidate such member, to sell its assets, or to merge or  
19 consolidate it.

20       d. The percentage of ownership which such person  
21 proposes to acquire and the terms of the offer or exchange, as  
22 the case may be.

23       e. Information as to any contracts, arrangements, or  
24 understandings with any party with respect to any securities  
25 of such member or controlling company, including, but not  
26 limited to, information relating to the transfer of any  
27 securities, option arrangements, or puts or calls or the  
28 giving or withholding of proxies, naming the party with whom  
29 such contract, arrangements, or understandings have been  
30 entered and giving the details thereof.

31

1 f. The department may disapprove any acquisition  
2 subject to the provisions of this subparagraph by any person  
3 or any affiliated person of such person who:

4 (I) Willfully violates this subparagraph;

5 (II) In violation of an order of the department issued  
6 pursuant to sub-subparagraph j., fails to divest himself or  
7 herself of any stock obtained in violation of this  
8 subparagraph, or fails to divest himself or herself of any  
9 direct or indirect control of such stock, within 25 days after  
10 such order; or

11 (III) In violation of an order issued by the  
12 department pursuant to sub-subparagraph j., acquires  
13 additional stock of the underwriting member or controlling  
14 company, or direct or indirect control of such stock, without  
15 complying with this subparagraph.

16 g. The person or persons filing the statement required  
17 by this subparagraph have the burden of proof. The department  
18 shall approve any such acquisition if it finds, on the basis  
19 of the record made during any proceeding or on the basis of  
20 the filed statement if no proceeding is conducted, that:

21 (I) Upon completion of the acquisition, the  
22 underwriting member will be able to satisfy the requirements  
23 for the approval to write the line or lines of insurance for  
24 which it is presently approved;

25 (II) The financial condition of the acquiring person  
26 or persons will not jeopardize the financial stability of the  
27 underwriting member or prejudice the interests of its  
28 policyholders or the public;

29 (III) Any plan or proposal which the acquiring person  
30 has, or acquiring persons have, made:

31

1           (A) To liquidate the insurer, sell its assets, or  
2 merge or consolidate it with any person, or to make any other  
3 major change in its business or corporate structure or  
4 management; or

5           (B) To liquidate any controlling company, sell its  
6 assets, or merge or consolidate it with any person, or to make  
7 any major change in its business or corporate structure or  
8 management which would have an effect upon the underwriting  
9 member

10  
11 is fair and free of prejudice to the policyholders of the  
12 underwriting member or to the public;

13           (IV) The competence, experience, and integrity of  
14 those persons who will control directly or indirectly the  
15 operation of the underwriting member indicate that the  
16 acquisition is in the best interest of the policyholders of  
17 the underwriting member and in the public interest;

18           (V) The natural persons for whom background  
19 information is required to be furnished pursuant to this  
20 subparagraph have such backgrounds as to indicate that it is  
21 in the best interests of the policyholders of the underwriting  
22 member, and in the public interest, to permit such persons to  
23 exercise control over such underwriting member;

24           (VI) The officers and directors to be employed after  
25 the acquisition have sufficient insurance experience and  
26 ability to assure reasonable promise of successful operation;

27           (VII) The management of the underwriting member after  
28 the acquisition will be competent and trustworthy and will  
29 possess sufficient managerial experience so as to make the  
30 proposed operation of the underwriting member not hazardous to  
31 the insurance-buying public;

1           (VIII) The management of the underwriting member after  
2 the acquisition will not include any person who has directly  
3 or indirectly through ownership, control, reinsurance  
4 transactions, or other insurance or business relations  
5 unlawfully manipulated the assets, accounts, finances, or  
6 books of any insurer or underwriting member or otherwise acted  
7 in bad faith with respect thereto;

8           (IX) The acquisition is not likely to be hazardous or  
9 prejudicial to the underwriting member's policyholders or the  
10 public; and

11           (X) The effect of the acquisition of control would not  
12 substantially lessen competition in insurance in this state or  
13 would not tend to create a monopoly therein.

14           h. No vote by the stockholder of record, or by any  
15 other person, of any security acquired in contravention of the  
16 provisions of this subparagraph is valid. Any acquisition of  
17 any security contrary to the provisions of this subparagraph  
18 is void. Upon the petition of the underwriting member or  
19 controlling company, the circuit court for the county in which  
20 the principal office of such underwriting member is located  
21 may, without limiting the generality of its authority, order  
22 the issuance or entry of an injunction or other order to  
23 enforce the provisions of this subparagraph. There shall be a  
24 private right of action in favor of the underwriting member or  
25 controlling company to enforce the provisions of this  
26 subparagraph. No demand upon the department that it perform  
27 its functions shall be required as a prerequisite to any suit  
28 by the underwriting member or controlling company against any  
29 other person, and in no case shall the department be deemed a  
30 necessary party to any action by such underwriting member or  
31 controlling company to enforce the provisions of this



1 subparagraph. Any person who makes or proposes an acquisition  
2 requiring the filing of a statement pursuant to this  
3 subparagraph, or who files such a statement, shall be deemed  
4 to have thereby designated the Chief Financial Officer  
5 ~~Insurance Commissioner~~ or his or her assistant or deputy or  
6 another person in charge of his or her office, as such  
7 person's agent for service of process under this subparagraph  
8 and shall thereby be deemed to have submitted himself or  
9 herself to the administrative jurisdiction of the department  
10 and to the jurisdiction of the circuit court.

11 i. Any approval by the department under this  
12 subparagraph does not constitute a recommendation by the  
13 department for an acquisition, tender offer, or exchange  
14 offer. It is unlawful for a person to represent that the  
15 department's approval constitutes a recommendation. A person  
16 who violates the provisions of this sub-subparagraph is guilty  
17 of a felony of the third degree, punishable as provided in s.  
18 775.082, s. 775.083, or s. 775.084. The  
19 statute-of-limitations period for the prosecution of an  
20 offense committed under this sub-subparagraph is 5 years.

21 j. Upon notification to the department by the  
22 underwriting member or a controlling company that any person  
23 or any affiliated person of such person has acquired 5 percent  
24 or more of the outstanding voting securities of the  
25 underwriting member or controlling company without complying  
26 with the provisions of this subparagraph, the department shall  
27 order that the person and any affiliated person of such person  
28 cease acquisition of any further securities of the  
29 underwriting member or controlling company; however, the  
30 person or any affiliated person of such person may request a  
31 proceeding, which proceeding shall be convened within 7 days

1 after the rendering of the order for the sole purpose of  
2 determining whether the person, individually or in connection  
3 with any affiliated person of such person, has acquired 5  
4 percent or more of the outstanding voting securities of an  
5 underwriting member or controlling company. Upon the failure  
6 of the person or affiliated person to request a hearing within  
7 7 days, or upon a determination at a hearing convened pursuant  
8 to this sub-subparagraph that the person or affiliated person  
9 has acquired voting securities of an underwriting member or  
10 controlling company in violation of this subparagraph, the  
11 department may order the person and affiliated person to  
12 divest themselves of any voting securities so acquired.

13 k.(I) The department shall, if necessary to protect  
14 the public interest, suspend or revoke the certificate of  
15 authority of any underwriting member or controlling company:

16 (A) The control of which is acquired in violation of  
17 this subparagraph;

18 (B) That is controlled, directly or indirectly, by any  
19 person or any affiliated person of such person who, in  
20 violation of this subparagraph, has obtained control of an  
21 underwriting member or controlling company; or

22 (C) That is controlled, directly or indirectly, by any  
23 person who, directly or indirectly, controls any other person  
24 who, in violation of this subparagraph, acquires control of an  
25 underwriting member or controlling company.

26 (II) If any underwriting member is subject to  
27 suspension or revocation pursuant to sub-sub-subparagraph (I),  
28 the underwriting member shall be deemed to be in such  
29 condition, or to be using or to have been subject to such  
30 methods or practices in the conduct of its business, as to  
31 render its further transaction of insurance presently or

1 prospectively hazardous to its policyholders, creditors, or  
2 stockholders or to the public.

3 1.(I) For the purpose of this sub-sub-subparagraph,  
4 the term "affiliated person" of another person means:

5 (A) The spouse of such other person;

6 (B) The parents of such other person and their lineal  
7 descendants and the parents of such other person's spouse and  
8 their lineal descendants;

9 (C) Any person who directly or indirectly owns or  
10 controls, or holds with power to vote, 5 percent or more of  
11 the outstanding voting securities of such other person;

12 (D) Any person 5 percent or more of the outstanding  
13 voting securities of which are directly or indirectly owned or  
14 controlled, or held with power to vote, by such other person;

15 (E) Any person or group of persons who directly or  
16 indirectly control, are controlled by, or are under common  
17 control with such other person; or any officer, director,  
18 partner, copartner, or employee of such other person;

19 (F) If such other person is an investment company, any  
20 investment adviser of such company or any member of an  
21 advisory board of such company;

22 (G) If such other person is an unincorporated  
23 investment company not having a board of directors, the  
24 depositor of such company; or

25 (H) Any person who has entered into an agreement,  
26 written or unwritten, to act in concert with such other person  
27 in acquiring or limiting the disposition of securities of an  
28 underwriting member or controlling company.

29 (II) For the purposes of this section, the term  
30 "controlling company" means any corporation, trust, or  
31

1 association owning, directly or indirectly, 25 percent or more  
2 of the voting securities of one or more underwriting members.

3 m. The department is authorized to adopt, amend, or  
4 repeal rules that are necessary to implement the provisions of  
5 this subparagraph, pursuant to chapter 120.

6 44. Background information.--The information as to the  
7 background and identity of each person about whom information  
8 is required to be furnished pursuant to sub-subparagraph 43.a.  
9 shall include, but shall not be limited to:

10 a. Such person's occupations, positions of employment,  
11 and offices held during the past 10 years.

12 b. The principal business and address of any business,  
13 corporation, or other organization in which each such office  
14 was held or in which such occupation or position of employment  
15 was carried on.

16 c. Whether, at any time during such 10-year period,  
17 such person was convicted of any crime other than a traffic  
18 violation.

19 d. Whether, during such 10-year period, such person  
20 has been the subject of any proceeding for the revocation of  
21 any license and, if so, the nature of such proceeding and the  
22 disposition thereof.

23 e. Whether, during such 10-year period, such person  
24 has been the subject of any proceeding under the federal  
25 Bankruptcy Act or whether, during such 10-year period, any  
26 corporation, partnership, firm, trust, or association in which  
27 such person was a director, officer, trustee, partner, or  
28 other official has been subject to any such proceeding, either  
29 during the time in which such person was a director, officer,  
30 trustee, partner, or other official, or within 12 months  
31 thereafter.

1           f. Whether, during such 10-year period, such person  
2 has been enjoined, either temporarily or permanently, by a  
3 court of competent jurisdiction from violating any federal or  
4 state law regulating the business of insurance, securities, or  
5 banking, or from carrying out any particular practice or  
6 practices in the course of the business of insurance,  
7 securities, or banking, together with details of any such  
8 event.

9           45. Security fund.--All underwriting members shall be  
10 members of the security fund of any exchange.

11           46. Underwriting member defined.--Whenever the term  
12 "underwriting member" is used in this subsection, it shall be  
13 construed to mean "underwriting syndicate."

14           47. Offsets.--Any action, requirement, or constraint  
15 imposed by the department shall reduce or offset similar  
16 actions, requirements, or constraints of any exchange.

17           48. Restriction on member ownership.--

18           a. Investments existing prior to July 2, 1987.--The  
19 investment in any member by brokers, agents, and  
20 intermediaries transacting business on the exchange, and the  
21 investment in any such broker, agent, or intermediary by any  
22 member, directly or indirectly, shall in each case be limited  
23 in the aggregate to less than 20 percent of the total  
24 investment in such member, broker, agent, or intermediary, as  
25 the case may be. After December 31, 1987, the aggregate  
26 percent of the total investment in such member by any broker,  
27 agent, or intermediary and the aggregate percent of the total  
28 investment in any such broker, agent, or intermediary by any  
29 member, directly or indirectly, shall not exceed 15 percent.  
30 After June 30, 1988, such aggregate percent shall not exceed  
31

1 10 percent and after December 31, 1988, such aggregate percent  
2 shall not exceed 5 percent.

3 b. Investments arising on or after July 2, 1987.--The  
4 investment in any underwriting member by brokers, agents, or  
5 intermediaries transacting business on the exchange, and the  
6 investment in any such broker, agent, or intermediary by any  
7 underwriting member, directly or indirectly, shall in each  
8 case be limited in the aggregate to less than 5 percent of the  
9 total investment in such underwriting member, broker, agent,  
10 or intermediary.

11 49. "Underwriting manager" defined.--"Underwriting  
12 manager" as used in this subparagraph includes any person,  
13 partnership, corporation, or organization providing any of the  
14 following services to underwriting members of the exchange:

15 a. Office management and allied services, including  
16 correspondence and secretarial services.

17 b. Accounting services, including bookkeeping and  
18 financial report preparation.

19 c. Investment and banking consultations and services.

20 d. Underwriting functions and services including the  
21 acceptance, rejection, placement, and marketing of risk.

22 50. Prohibition of underwriting manager  
23 investment.--Any direct or indirect investment in any  
24 underwriting manager by a broker member or any affiliated  
25 person of a broker member or any direct or indirect investment  
26 in a broker member by an underwriting manager or any  
27 affiliated person of an underwriting manager is prohibited.  
28 "Affiliated person" for purposes of this subparagraph is  
29 defined in subparagraph 43.

30 51. An underwriting member may not accept reinsurance  
31 on an assumed basis from an affiliate or a controlling

1 company, nor may a broker member or management company place  
2 reinsurance from an affiliate or controlling company of theirs  
3 with an underwriting member. "Affiliate and controlling  
4 company" for purposes of this subparagraph is defined in  
5 subparagraph 43.

6 52. Premium defined.--"Premium" is the consideration  
7 for insurance, by whatever name called. Any "assessment" or  
8 any "membership," "policy," "survey," "inspection," "service"  
9 fee or charge or similar fee or charge in consideration for an  
10 insurance contract is deemed part of the premium.

11 53. Rules.--The department shall promulgate rules  
12 necessary for or as an aid to the effectuation of any  
13 provision of this section.

14 Section 723. Subsection (2) of section 631.001,  
15 Florida Statutes, is amended to read:

16 631.001 Title, construction, and purpose.--

17 (2) This part may not be interpreted to limit the  
18 powers granted the Department of Financial Services ~~Insurance~~  
19 by other provisions of law.

20 Section 724. Section 631.221, Florida Statutes, is  
21 amended to read:

22 631.221 Deposit of moneys collected.--The moneys  
23 collected by the department in a proceeding under this chapter  
24 shall be deposited in a qualified public depository as defined  
25 in s. 280.02, which depository with regards to such funds  
26 shall conform to and be bound by all the provisions of chapter  
27 280, or invested with the Chief Financial Officer ~~State~~  
28 ~~Treasurer~~ pursuant to chapter 17 ~~18~~. For the purpose of  
29 accounting for the assets and transactions of the estate, the  
30 receiver shall use such accounting books, records, and systems

31

1 as the court directs after it hears and considers the  
2 recommendations of the receiver.

3 Section 725. Section 631.392, Florida Statutes, is  
4 amended to read:

5 631.392 Immunity.--There shall be no liability on the  
6 part of, and no cause of action of any nature shall arise  
7 against, the Chief Financial Officer ~~Insurance Commissioner~~ or  
8 the department or its employees or agents for any action taken  
9 by them in the performance of their powers and duties under  
10 this chapter.

11 Section 726. Subsection (4) of section 631.54, Florida  
12 Statutes, is amended to read:

13 631.54 Definitions.--As used in this part:

14 (4) "Department" means the Department of Financial  
15 Services ~~Insurance~~.

16 Section 727. Paragraph (e) of subsection (3) of  
17 section 631.57, Florida Statutes, is amended to read:

18 631.57 Powers and duties of the association.--

19 (3)

20 (e)1.

21 a. In addition to assessments otherwise authorized in  
22 paragraph (a), as a temporary measure related to insolvencies  
23 caused by Hurricane Andrew, and to the extent necessary to  
24 secure the funds for the account specified in s. 631.55(2)(c),  
25 or to retire indebtedness, including, without limitation, the  
26 principal, redemption premium, if any, and interest on, and  
27 related costs of issuance of, bonds issued under s.  
28 166.111(2), and the funding of any reserves and other payments  
29 required under the bond resolution or trust indenture pursuant  
30 to which such bonds have been issued, the department, upon  
31 certification of the board of directors, shall levy



1 assessments upon insurers holding a certificate of authority  
2 as follows:

3 (I) Except as provided in sub-sub-subparagraph (II),  
4 the assessments payable under this paragraph by any insurer  
5 shall not exceed in any 1 year more than 2 percent of that  
6 insurer's direct written premiums, net of refunds, in this  
7 state during the preceding calendar year for the kinds of  
8 insurance within the account specified in s. 631.55(2)(c).

9 (II) If the amount levied under sub-sub-subparagraph  
10 (I) is less than 2 percent of the insurer's direct written  
11 premiums, net of refunds, in this state during calendar year  
12 1991 for the kinds of insurance within the account specified  
13 in s. 631.55(2)(c), in addition to and separate from such  
14 assessment, the assessment shall also include the difference  
15 between the amount calculated based on calendar year 1991 and  
16 the amount determined under sub-sub-subparagraph (I). If this  
17 sub-sub-subparagraph is held invalid, the invalidity shall not  
18 affect other provisions of this section, and to this end the  
19 provisions of this section are declared severable.

20 (III) In addition to any other insurers subject to  
21 this subparagraph, this subparagraph also applies to any  
22 insurer that held a certificate of authority on August 24,  
23 1992. If this sub-sub-subparagraph is held invalid, the  
24 invalidity shall not affect other provisions of this section,  
25 and to this end the provisions of this section are declared  
26 severable.

27 b. Any assessments authorized under this paragraph  
28 shall be levied by the department upon insurers referred to in  
29 sub-subparagraph a., upon certification as to the need  
30 therefor by the board of directors, in 1992 and in each year  
31 that bonds issued under s. 166.111(2) are outstanding, in such

1 amounts up to such 2 percent limit as required in order to  
2 provide for the full and timely payment of the principal of,  
3 redemption premium, if any, and interest on, and related costs  
4 of, issuance of bonds issued under s. 166.111(2). The  
5 assessments provided for in this paragraph are hereby assigned  
6 and pledged to a municipality issuing bonds under s.  
7 166.111(2)(b), for the benefit of the holders of such bonds,  
8 in order to enable such municipality to provide for the  
9 payment of the principal of, redemption premium, if any, and  
10 interest on such bonds, the cost of issuance of such bonds,  
11 and the funding of any reserves and other payments required  
12 under the bond resolution or trust indenture pursuant to which  
13 such bonds have been issued, without the necessity of any  
14 further action by the association, the department, or any  
15 other party. To the extent that bonds are issued under s.  
16 166.111(2), the proceeds of assessments levied under this  
17 paragraph shall be remitted directly to and administered by  
18 the trustee appointed for such bonds.

19 c. Assessments under this paragraph shall be payable  
20 in 12 monthly installments with the first installment being  
21 due and payable at the end of the month after an assessment is  
22 levied, and subsequent installments being due not later than  
23 the end of each succeeding month.

24 d. The association shall issue a monthly report on the  
25 status of the use of the bond proceeds as related to  
26 insolvencies caused by Hurricane Andrew. The report must  
27 contain the number of claims paid and the amount of claims  
28 paid. The association shall also include an analysis of the  
29 revenue generated from the additional assessment levied under  
30 this subsection. The report must be sent to the Legislature  
31

1 and the Chief Financial Officer ~~Insurance Commissioner~~  
2 monthly.

3           2. In order to assure that insurers paying assessments  
4 levied under this paragraph continue to charge rates that are  
5 neither inadequate nor excessive, within 90 days after being  
6 notified of such assessments, each insurer that is to be  
7 assessed pursuant to this paragraph shall make a rate filing  
8 for coverage included within the account specified in s.  
9 631.55(2)(c) and for which rates are required to be filed  
10 under s. 627.062. If the filing reflects a rate change that,  
11 as a percentage, is equal to the difference between the rate  
12 of such assessment and the rate of the previous year's  
13 assessment under this paragraph, the filing shall consist of a  
14 certification so stating and shall be deemed approved when  
15 made, subject to the department's continuing authority to  
16 require actuarial justification as to the adequacy of any rate  
17 at any time. Any rate change of a different percentage shall  
18 be subject to the standards and procedures of s. 627.062.

19           Section 728. Section 631.59, Florida Statutes, is  
20 amended to read:

21           631.59 Duties and powers of Department of Financial  
22 Services Insurance.--

23           (1) The department shall:

24           (a) Notify the association of the existence of an  
25 insolvent insurer not later than 3 days after it receives  
26 notice of the determination of the insolvency; and

27           (b) Upon request of the board of directors, provide  
28 the association with a statement of the net direct written  
29 premiums of each member insurer.

30           (2) The department may:

31

1           (a) Require that the association notify the insureds  
2 of the insolvent insurer and any other interested parties of  
3 the determination of insolvency and of their rights under this  
4 part. Such notification shall be by mail at their last known  
5 addresses, when available, but if sufficient information for  
6 notification by mail is not available, notice by publication  
7 in a newspaper of general circulation shall be sufficient.

8           (b) Suspend or revoke the certificate of authority to  
9 transact insurance in this state of any member insurer which  
10 fails to pay an assessment when due or fails to comply with  
11 the plan of operation. As an alternative, the department may  
12 levy a fine on any member insurer which fails to pay an  
13 assessment when due. Such fine may not exceed 5 percent of  
14 the unpaid assessment per month, except that no fine shall be  
15 less than \$100 per month.

16           (c) Revoke the designation of any servicing facility  
17 if it finds claims are being handled unsatisfactorily.

18           Section 729. Subsection (5) of section 631.714,  
19 Florida Statutes, is amended to read:

20           631.714 Definitions.--As used in this part:

21           (5) "Department" means the Department of Financial  
22 Services Insurance.

23           Section 730. Subsection (3) of section 631.72, Florida  
24 Statutes, is amended to read:

25           631.72 Premium or income tax credits for assessments  
26 paid.--

27           (3) Any sums acquired by refund pursuant to s.  
28 631.718(6) from the association which have theretofore been  
29 written off by contributing insurers and offset against  
30 premium or corporate income taxes as provided in subsection  
31 (1) and which are not needed for purposes of this part shall

1 be paid by the insurer to the Department of Revenue for  
2 deposit with the Chief Financial Officer ~~Treasurer~~ to the  
3 credit of the General Revenue Fund.

4 Section 731. Subsection (3) of section 631.723,  
5 Florida Statutes, is amended to read:

6 631.723 Prevention of insolvencies.--To aid in the  
7 detection and prevention of insurer insolvencies or  
8 impairments:

9 (3) The board of directors may, upon majority vote,  
10 request that the department order an examination of any member  
11 insurer which the board in good faith believes may be an  
12 impaired or insolvent insurer. Within 30 days of the receipt  
13 of such a request, the department shall begin such an  
14 examination. The examination may be conducted as a National  
15 Association of Insurance Commissioners examination or may be  
16 conducted by such persons as the Chief Financial Officer  
17 ~~Insurance Commissioner~~ designates. The cost of such  
18 examination shall be paid by the association, and the  
19 examination report shall be treated in a manner similar to  
20 other examination reports pursuant to s. 624.319. In no event  
21 may such examination report be released to the board of  
22 directors before its release to the public, but this does not  
23 preclude the department from complying with s. 631.398(2). The  
24 department shall notify the board of directors when the  
25 examination is completed. The request for an examination shall  
26 be kept on file by the department; such request is  
27 confidential and exempt from the provisions of s. 119.07(1)  
28 until the examination report is released to the public.

29 Section 732. Section 631.813, Florida Statutes, is  
30 amended to read:

31

1           631.813 Application of part.--This part shall apply to  
2 HMO contractual obligations to residents of Florida by HMOs  
3 possessing a valid certificate of authority issued by the  
4 ~~Florida~~ Department of Financial Services Insurance as provided  
5 by part I of chapter 641. The provisions of this part shall  
6 not apply to persons participating in medical assistance  
7 programs under the Medicaid program.

8           Section 733. Subsection (6) of section 631.814,  
9 Florida Statutes, is amended to read:

10           631.814 Definitions.--As used in this part:

11           (6) "Department" means the ~~Florida~~ Department of  
12 Financial Services Insurance.

13           Section 734. Subsections (2) and (3) of section  
14 631.904, Florida Statutes, are amended to read:

15           631.904 Definitions.--As used in this part, the term:

16           (2) "Covered claim" means an unpaid claim, including a  
17 claim for return of unearned premiums, which arises out of, is  
18 within the coverage of, and is not in excess of the applicable  
19 limits of, an insurance policy to which this part applies,  
20 which policy was issued by an insurer and which claim is made  
21 on behalf of a claimant or insured who was a resident of this  
22 state at the time of the injury. The term does not include any  
23 amount due any reinsurer, insurer, insurance pool, or  
24 underwriting association, as subrogation recoveries or  
25 otherwise. Member insurers have no right of subrogation  
26 against the insured of any insolvent insurer. This provision  
27 shall be applied retroactively to cover claims of an insolvent  
28 self-insurance fund resulting from accidents or losses  
29 incurred prior to January 1, 1994, regardless of the date the  
30 Department of Insurance or the Department of Financial

31

1 Services filed a petition in circuit court alleging insolvency  
2 and the date the court entered an order appointing a receiver.

3 (3) "Department" means the Department of Financial  
4 Services Insurance.

5 Section 735. Paragraph (c) of subsection (1) of  
6 section 631.911, Florida Statutes, is amended to read:

7 631.911 Creation of the Florida Workers' Compensation  
8 Insurance Guaranty Association, Incorporated; merger; effect  
9 of merger.--

10 (1)

11 (c) Prior to the effective date of the merger, the  
12 Florida Self-Insurance Fund Guaranty Association shall be the  
13 entity responsible for the claims of insolvent self-insurance  
14 funds resulting from accidents or losses incurred prior to  
15 January 1, 1994, regardless of the date the Department of  
16 Insurance or the Department of Financial Services filed a  
17 petition in circuit court alleging insolvency and the date the  
18 court entered an order appointing a receiver.

19 Section 736. Subsection (1) of section 631.912,  
20 Florida Statutes, is amended to read:

21 631.912 Board of directors.--

22 (1) The board of directors of the corporation shall  
23 consist of 11 persons, 1 of whom is the insurance consumer  
24 advocate appointed under s. 627.0613 or designee and 1 of whom  
25 is designated by the Chief Financial Officer Insurance  
26 ~~Commissioner~~. The department shall appoint to the board 6  
27 persons selected by private carriers from among the 20  
28 workers' compensation insurers with the largest amount of net  
29 direct written premium as determined by the department, and 3  
30 persons selected by the self-insurance funds. At least two of  
31 the private carriers shall be foreign carriers authorized to

1 do business in this state. The board shall elect a chairperson  
2 from among its members. The commissioner may remove any board  
3 member for cause. Each board member shall serve for a 4-year  
4 term and may be reappointed, except that four members of the  
5 initial board shall have 2-year terms so as to stagger the  
6 periods of service. A vacancy on the board shall be filled for  
7 the remaining period of the term in the same manner by which  
8 the original appointment was made.

9 Section 737. Subsection (4) of section 631.917,  
10 Florida Statutes, is amended to read:

11 631.917 Prevention of insolvencies.--To aid in the  
12 detection and prevention of insolvencies or impairments:

13 (4) The board of directors, in its discretion, may  
14 request that the department order an examination of any member  
15 insurer which the board in good faith believes may be an  
16 impaired or insolvent insurer. Within 30 days after receipt of  
17 such a request, the department shall begin such an  
18 examination. The examination may be conducted as a National  
19 Association of Insurance Commissioners examination or may be  
20 conducted by such persons as the Chief Financial Officer  
21 ~~Insurance Commissioner~~ designates. The cost of such  
22 examination shall be paid by the corporation, and the  
23 examination report shall be treated in a manner similar to  
24 other examination reports pursuant to s. 624.319. In no event  
25 may such examination report be released to the board of  
26 directors before its release to the public, but this  
27 requirement does not preclude the department from complying  
28 with s. 631.398(2). The department shall notify the board of  
29 directors when the examination is completed. The request for  
30 an examination shall be kept on file by the department.

31



1           Section 738. Section 631.931, Florida Statutes, is  
2 amended to read:

3           631.931 Reports and recommendations by board; public  
4 records exemption.--Reports and recommendations made by the  
5 Board of Directors of the Florida Workers' Compensation  
6 Insurance Guaranty Association to the Department of Insurance  
7 or the Department of Financial Services under s. 631.917 upon  
8 any matter germane to the solvency, liquidation,  
9 rehabilitation, or conservation of any member insurer are  
10 confidential and exempt from the provisions of s. 119.07(1)  
11 and s. 24(a), Art. I of the State Constitution until the  
12 termination of a delinquency proceeding.

13           Section 739. Subsection (4) of section 632.628,  
14 Florida Statutes, is amended to read:

15           632.628 Reports.--

16           (4) The department shall deposit all fees received  
17 under this section to the credit of the Insurance  
18 ~~Commissioner's~~ Regulatory Trust Fund.

19           Section 740. Subsection (1) of section 633.01, Florida  
20 Statutes, is amended to read:

21           633.01 State Fire Marshal; powers and duties; rules.--

22           (1) The head of the Department of Financial Services  
23 ~~is Insurance shall be~~ designated as "State Fire Marshal." The  
24 State Fire Marshal has authority to adopt rules pursuant to  
25 ss. 120.536(1) and 120.54 to implement the provisions of this  
26 chapter conferring powers or duties upon the department. Rules  
27 shall be in substantial conformity with generally accepted  
28 standards of firesafety; shall take into consideration the  
29 direct supervision of children in nonresidential child care  
30 facilities; and shall balance and temper the need of the State  
31 Fire Marshal to protect all Floridians from fire hazards with

1 the social and economic inconveniences that may be caused or  
2 created by the rules. The department shall adopt the Florida  
3 Fire Prevention Code and the Life Safety Code.

4 Section 741. Subsection (1) of section 633.022,  
5 Florida Statutes, is amended to read:

6 633.022 Uniform firesafety standards.--The Legislature  
7 hereby determines that to protect the public health, safety,  
8 and welfare it is necessary to provide for firesafety  
9 standards governing the construction and utilization of  
10 certain buildings and structures. The Legislature further  
11 determines that certain buildings or structures, due to their  
12 specialized use or to the special characteristics of the  
13 person utilizing or occupying these buildings or structures,  
14 should be subject to firesafety standards reflecting these  
15 special needs as may be appropriate.

16 (1) The Department of Financial Services ~~Insurance~~  
17 shall establish uniform firesafety standards that apply to:

18 (a) All new, existing, and proposed state-owned and  
19 state-leased buildings.

20 (b) All new, existing, and proposed hospitals, nursing  
21 homes, assisted living facilities, adult family-care homes,  
22 correctional facilities, public schools, transient public  
23 lodging establishments, public food service establishments,  
24 elevators, migrant labor camps, mobile home parks, lodging  
25 parks, recreational vehicle parks, recreational camps,  
26 residential and nonresidential child care facilities,  
27 facilities for the developmentally disabled, motion picture  
28 and television special effects productions, and self-service  
29 gasoline stations, of which standards the State Fire Marshal  
30 is the final administrative interpreting authority. With  
31 respect to public schools, the department shall utilize

1 firesafety standards that have been adopted by the State Board  
2 of Education.

3  
4 In the event there is a dispute between the owners of the  
5 buildings specified in paragraph (b) and a local authority  
6 requiring a more stringent uniform firesafety standard for  
7 sprinkler systems, the State Fire Marshal shall be the final  
8 administrative interpreting authority and the State Fire  
9 Marshal's interpretation regarding the uniform firesafety  
10 standards shall be considered final agency action.

11 Section 742. Subsection (4) of section 633.025,  
12 Florida Statutes, is amended to read:

13 633.025 Minimum firesafety standards.--

14 (4) Such codes shall be minimum codes and a  
15 municipality, county, or special district with firesafety  
16 responsibilities may adopt more stringent firesafety  
17 standards, subject to the requirements of this subsection.  
18 Such county, municipality, or special district may establish  
19 alternative requirements to those requirements which are  
20 required under the minimum firesafety standards on a  
21 case-by-case basis, in order to meet special situations  
22 arising from historic, geographic, or unusual conditions, if  
23 the alternative requirements result in a level of protection  
24 to life, safety, or property equal to or greater than the  
25 applicable minimum firesafety standards. For the purpose of  
26 this subsection, the term "historic" means that the building  
27 or structure is listed on the National Register of Historic  
28 Places of the United States Department of the Interior.

29 (a) The local governing body shall determine,  
30 following a public hearing which has been advertised in a  
31 newspaper of general circulation at least 10 days before the

1 hearing, if there is a need to strengthen the requirements of  
2 the minimum firesafety code adopted by such governing body.  
3 The determination must be based upon a review of local  
4 conditions by the local governing body, which review  
5 demonstrates that local conditions justify more stringent  
6 requirements than those specified in the minimum firesafety  
7 code for the protection of life and property or justify  
8 requirements that meet special situations arising from  
9 historic, geographic, or unusual conditions.

10 (b) Such additional requirements shall not be  
11 discriminatory as to materials, products, or construction  
12 techniques of demonstrated capabilities.

13 (c) Paragraphs (a) and (b) apply solely to the local  
14 enforcing agency's adoption of requirements more stringent  
15 than those specified in the Florida Fire Prevention Code and  
16 the Life Safety Code that have the effect of amending building  
17 construction standards. Upon request, the enforcing agency  
18 shall provide a person making application for a building  
19 permit, or any state agency or board with construction-related  
20 regulation responsibilities, a listing of all such  
21 requirements and codes.

22 (d) A local government which adopts amendments to the  
23 minimum firesafety code must provide a procedure by which the  
24 validity of such amendments may be challenged by any  
25 substantially affected party to test the amendment's  
26 compliance with the provisions of this section.

27 1. Unless the local government agrees to stay  
28 enforcement of the amendment, or other good cause is shown,  
29 the challenging party shall be entitled to a hearing on the  
30 challenge within 45 days.

31

1           2. For purposes of such challenge, the burden of proof  
2 shall be on the challenging party, but the amendment shall not  
3 be presumed to be valid or invalid.

4  
5 This subsection gives local government the authority to  
6 establish firesafety codes that exceed the minimum firesafety  
7 codes and standards adopted by the State Fire Marshal. The  
8 Legislature intends that local government give proper public  
9 notice and hold public hearings before adopting more stringent  
10 firesafety codes and standards. A substantially affected  
11 person may appeal, to the Department of Financial Services  
12 ~~insurance~~, the local government's resolution of the challenge,  
13 and the department shall determine if the amendment complies  
14 with this section. Actions of the department are subject to  
15 judicial review pursuant to s. 120.68. The department shall  
16 consider reports of the Florida Building Commission, pursuant  
17 to part VII of chapter 553, when evaluating building code  
18 enforcement.

19           Section 743. Paragraph (a) of subsection (1) of  
20 section 633.052, Florida Statutes, is amended to read:

21           633.052 Ordinances relating to firesafety;  
22 definitions; penalties.--

23           (1) As used in this section:

24           (a) A "firesafety inspector" is an individual  
25 certified by the Division of State Fire Marshal of the  
26 Department of Financial Services ~~insurance~~, officially  
27 assigned the duties of conducting firesafety inspections of  
28 buildings and facilities on a recurring or regular basis,  
29 investigating civil infractions relating to firesafety, and  
30 issuing citations pursuant to this section on behalf of the

31

1 state or any county, municipality, or special district with  
2 firesafety responsibilities.

3 Section 744. Subsection (7) of section 633.061,  
4 Florida Statutes, is amended to read:

5 633.061 License or permit required of organizations  
6 and individuals servicing, recharging, repairing, testing,  
7 marking, inspecting, installing, or hydrotesting fire  
8 extinguishers and preengineered systems.--

9 (7) The fees collected for any such licenses and  
10 permits and the filing fees for license and permit examination  
11 are hereby appropriated for the use of the State Fire Marshal  
12 in the administration of this chapter and shall be deposited  
13 in the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

14 Section 745. Paragraphs (4) and (7) of section  
15 633.081, Florida Statutes, are amended to read:

16 633.081 Inspection of buildings and equipment; orders;  
17 firesafety inspection training requirements; certification;  
18 disciplinary action.--The State Fire Marshal and her or his  
19 agents shall, at any reasonable hour, when the department has  
20 reasonable cause to believe that a violation of this chapter  
21 or s. 509.215, or a rule promulgated thereunder, or a minimum  
22 firesafety code adopted by a local authority, may exist,  
23 inspect any and all buildings and structures which are subject  
24 to the requirements of this chapter or s. 509.215 and rules  
25 promulgated thereunder. The authority to inspect shall extend  
26 to all equipment, vehicles, and chemicals which are located  
27 within the premises of any such building or structure.

28 (4) A firefighter certified pursuant to s. 633.35 may  
29 conduct firesafety inspections, under the supervision of a  
30 certified firesafety inspector, while on duty as a member of a  
31 fire department company conducting inservice firesafety

1 inspections without being certified as a firesafety inspector,  
2 if such firefighter has satisfactorily completed an inservice  
3 fire department company inspector training program of at least  
4 24 hours' duration as provided by rule of the Department of  
5 Financial Services Insurance.

6 (7) The Department of Financial Services Insurance  
7 shall provide by rule for the certification of firesafety  
8 inspectors.

9 Section 746. Section 633.111, Florida Statutes, is  
10 amended to read:

11 633.111 State Fire Marshal to keep records of fires;  
12 reports of agents.--The State Fire Marshal shall keep in her  
13 or his office a record of all fires occurring in this state  
14 upon which she or he had caused an investigation to be made  
15 and all facts concerning the same. These records, obtained or  
16 prepared by the State Fire Marshal pursuant to her or his  
17 investigation, include documents, papers, letters, maps,  
18 diagrams, tapes, photographs, films, sound recordings, and  
19 evidence. These records are confidential and exempt from the  
20 provisions of s. 119.07(1) until the investigation is  
21 completed or ceases to be active. For purposes of this  
22 section, an investigation is considered "active" while such  
23 investigation is being conducted by the department with a  
24 reasonable, good faith belief that it may lead to the filing  
25 of administrative, civil, or criminal proceedings. An  
26 investigation does not cease to be active if the department is  
27 proceeding with reasonable dispatch, and there is a good faith  
28 belief that action may be initiated by the department or other  
29 administrative or law enforcement agency. Further, these  
30 documents, papers, letters, maps, diagrams, tapes,  
31 photographs, films, sound recordings, and evidence relative to

1 the subject of an investigation shall not be subject to  
2 subpoena until the investigation is completed or ceases to be  
3 active, unless the State Fire Marshal consents. These records  
4 shall be made daily from the reports furnished the State Fire  
5 Marshal by her or his agents or others. Whenever the State  
6 Fire Marshal releases an investigative report, any person  
7 requesting a copy of the report shall pay in advance, and the  
8 State Fire Marshal shall collect in advance, notwithstanding  
9 the provisions of s. 624.501(20)(a) and (b), a fee of \$10 for  
10 the copy of the report, which fee shall be deposited into the  
11 Insurance ~~Commissioner's~~ Regulatory Trust Fund. The State Fire  
12 Marshal may release the report without charge to any state  
13 attorney or to any law enforcement agency or fire department  
14 assisting in the investigation.

15 Section 747. Subsection (1) of section 633.161,  
16 Florida Statutes, is amended to read:

17 633.161 Cease and desist orders; orders to correct  
18 hazardous conditions; orders to vacate; violation;  
19 penalties.--

20 (1) If it is determined by the Department of Financial  
21 Services ~~Insurance~~ that a violation specified in this  
22 subsection exists, the State Fire Marshal or her or his deputy  
23 may issue and deliver to the person committing the violation  
24 an order to cease and desist from such violation, to correct  
25 any hazardous condition, to preclude occupancy of the affected  
26 building or structure, or to vacate the premises of the  
27 affected building or structure. Such violations are:

28 (a) Except as set forth in paragraph (b), a violation  
29 of any provision of this chapter, of any rule adopted pursuant  
30 thereto, of any applicable uniform firesafety standard adopted  
31 pursuant to s. 633.022 which is not adequately addressed by



1 any alternative requirements adopted on a local level, or of  
2 any minimum firesafety standard adopted pursuant to s.  
3 394.879.

4 (b) A substantial violation of an applicable minimum  
5 firesafety standard adopted pursuant to s. 633.025 which is  
6 not reasonably addressed by any alternative requirement  
7 imposed at the local level, or an unreasonable interpretation  
8 of an applicable minimum firesafety standard, and which  
9 violation or interpretation clearly constitutes a danger to  
10 lifesafety.

11 (c) A building or structure which is in a dilapidated  
12 condition and as a result thereof creates a danger to life,  
13 safety, or property.

14 (d) A building or structure which contains explosive  
15 matter or flammable liquids or gases constituting a danger to  
16 life, safety, or property.

17 Section 748. Subsection (5) of section 633.162,  
18 Florida Statutes, is amended to read:

19 633.162 Disciplinary action; fire extinguisher or  
20 preengineered systems; grounds for denial, nonrenewal,  
21 suspension, or revocation of license or permit.--

22 (5) In addition, the Department of Financial Services  
23 ~~Insurance~~ shall not issue a new license or permit if it finds  
24 that the circumstance or circumstances for which the license  
25 or permit was previously revoked or suspended still exist or  
26 are likely to recur.

27 Section 749. Subsections (3) and (5) of section  
28 633.30, are amended to read:

29 633.30 Standards for firefighting; definitions.--As  
30 used in this chapter:

31

1           (3) "Department" means the Department of Financial  
2 Services Insurance.

3           (5) "Division" means the Division of State Fire  
4 Marshal of the department ~~of Insurance~~.

5           Section 750. Subsection (1) of section 633.31, Florida  
6 Statutes, is amended to read:

7           633.31 Firefighters Standards and Training Council.--

8           (1) There is created within the department ~~of~~  
9 ~~Insurance~~ a Firefighters Standards and Training Council of  
10 nine members appointed by the State Fire Marshal. Two members  
11 shall be fire chiefs, two members shall be firefighters who  
12 are not officers, two members shall be firefighter officers  
13 who are not fire chiefs, and one member shall be a director or  
14 instructor of a state-certified firefighting training  
15 facility. To be eligible for appointment as a fire chief  
16 member, firefighter officer member, firefighter member, or a  
17 director or instructor of a state-certified firefighting  
18 facility, a person shall have had at least 4 years' experience  
19 in the firefighting profession. The remaining two members  
20 shall not be members of the firefighting profession. Members  
21 shall serve only as long as they continue to meet the criteria  
22 under which they were appointed, or unless a member has failed  
23 to appear at three consecutive and properly noticed meetings  
24 unless excused by the chair.

25           Section 751. Section 633.353, Florida Statutes, is  
26 amended to read:

27           633.353 Falsification of qualifications.--Any person  
28 who willfully and knowingly falsifies the qualifications of a  
29 new employee to the Bureau of Fire Standards and Training of  
30 the division ~~of State Fire Marshal of the Department of~~  
31

1 ~~Insurance~~ is guilty of a misdemeanor of the second degree,  
2 punishable as provided in s. 775.082 or s. 775.083.

3 Section 752. Paragraph (a) of subsection (1) of  
4 section 633.382, Florida Statutes, is amended to read:

5 633.382 Firefighters; supplemental compensation.--

6 (1) DEFINITIONS.--As used in this section, the term:

7 (a) "Division" means the Division of State Fire  
8 Marshal of the Department of Financial Services Insurance  
9 created and existing under the provisions of this chapter.

10 Section 753. Section 633.43, Florida Statutes, is  
11 amended to read:

12 633.43 Florida State Fire College established.--There  
13 is hereby established a state institution to be known as the  
14 Florida State Fire College, to be located at or near Ocala,  
15 Marion County. The institution shall be operated by the  
16 ~~division of State Fire Marshal of the Department of Insurance.~~

17 Section 754. Subsections (1), (2), (3), (7), (8), (9),  
18 and (10) of section 633.445, Florida Statutes, are amended to  
19 read:

20 633.445 State Fire Marshal Scholarship Grant  
21 Program.--

22 (1) All payments, gifts, or grants received pursuant  
23 to this section shall be deposited in the State Treasury to  
24 the credit of the Insurance ~~Commissioner's~~ Regulatory Trust  
25 Fund for the State Fire Marshal Scholarship Grant Program.  
26 Such funds shall provide, from grants to the state from moneys  
27 raised from public and private sources, scholarships for  
28 qualified applicants to the Florida State Fire College as  
29 created by s. 633.43.

30 (2) The Chief Financial Officer ~~Comptroller~~ shall  
31 authorize expenditures from the Insurance ~~Commissioner's~~

1 Regulatory Trust Fund upon receipt of vouchers approved by the  
2 State Fire Marshal. All moneys collected from public and  
3 private sources pursuant to this section shall be deposited  
4 into the trust fund. Any balance in the trust fund at the end  
5 of any fiscal year shall remain therein and shall be available  
6 for carrying out the purposes of the fund in the ensuing year.

7 (3) All funds deposited into the Insurance  
8 ~~Commissioner's~~ Regulatory Trust Fund shall be invested  
9 pursuant to s. 18.125. Interest income accruing to moneys so  
10 invested shall increase the total funds available for the  
11 purposes for which the trust fund is created.

12 (7) The criteria and procedures for establishing  
13 standards of eligibility shall be recommended by the council  
14 to the department of ~~Insurance~~. The council shall recommend  
15 to the department of ~~Insurance~~ a rating system upon which to  
16 base the approval of scholarship grants. However, to be  
17 eligible to receive a scholarship pursuant to this section, an  
18 applicant must:

19 (a) Be a full-time employee or volunteer of a local  
20 municipal, county, regional or district firefighter unit;

21 (b) Have graduated from high school, have earned an  
22 equivalency diploma issued by the Department of Education  
23 pursuant to s. 229.814, or have earned an equivalency diploma  
24 issued by the United States Armed Forces Institute;

25 (c) Be accepted for full-time enrollment, with the  
26 intent to maintain such enrollment at the Florida State Fire  
27 College;

28 (d) Have the firefighter unit by whom the applicant is  
29 employed or for which the applicant is a volunteer, recommend  
30 her or him and certify that, because of financial need, the  
31

1 scholarship is necessary for her or him to attend the State  
2 Fire College; and

3 (e) Agree that she or he intends to return to duty  
4 with the firefighter unit by whom she or he was recommended,  
5 or, by agreement with such unit, that she or he will remain in  
6 some capacity relating to the firefighting profession for a  
7 period of at least 1 year.

8 (8) The department ~~of Insurance~~ may adopt rules to  
9 implement this section, including rules detailing the  
10 eligibility standards and an approval rating system which are  
11 based on financial need, need for additional certified  
12 firefighters from the applicant's community, and the  
13 applicant's employment record.

14 (9) After selection and approval of an applicant for a  
15 grant by the council, payment in the applicant's name for  
16 scholarship funds shall be transmitted from the Insurance  
17 ~~Commissioner's~~ Regulatory Trust Fund by the Chief Financial  
18 Officer ~~Comptroller~~ upon receipt of vouchers authorized by the  
19 State Fire Marshal. If a recipient terminates her or his  
20 enrollment during the course of her or his curriculum at the  
21 State Fire College, unless excused by the council and allowed  
22 to resume training at a later time, any unused portion of the  
23 scholarship funds shall be refunded to the trust fund. A  
24 recipient who terminates her or his enrollment is not liable  
25 for any portion of a scholarship.

26 (10) The council may accept payments, gifts, and  
27 grants of money from any federal agency, private agency,  
28 county, city, town, corporation, partnership, or individual  
29 for deposit in the Insurance ~~Commissioner's~~ Regulatory Trust  
30 Fund to implement this section and for authorized expenses  
31 incurred by the council in performing its duties.

1           Section 755. Subsection (1) of section 633.45, Florida  
2 Statutes, is amended to read:

3           633.45 Division of State Fire Marshal; powers,  
4 duties.--

5           (1) The division ~~of State Fire Marshal of the~~  
6 ~~Department of Insurance~~ shall:

7           (a) Establish uniform minimum standards for the  
8 employment and training of firefighters.

9           (b) Establish minimum curriculum requirements for  
10 schools operated by or for any employing agency for the  
11 specific purpose of training firefighter recruits or  
12 firefighters.

13           (c) Approve institutions, instructors, and facilities  
14 for school operation by or for any employing agency for the  
15 specific purpose of training firefighters and firefighter  
16 recruits.

17           (d) Specify, by rule, standards for the approval,  
18 denial of approval, probation, and revocation of approval of  
19 institutions, instructors, and facilities for training  
20 firefighters and firefighter recruits; including a rule that  
21 an instructor must complete 40 hours of continuing education  
22 every 3 years in order to maintain the approval of the  
23 department.

24           (e) Issue certificates of competency to persons who,  
25 by reason of experience and completion of basic inservice  
26 training, advanced education, or specialized training, are  
27 especially qualified for particular aspects or classes of  
28 firefighter duties.

29           (f) Establish minimum training qualifications for  
30 persons serving as firesafety coordinators for their  
31

1 respective departments of state government and certify all  
2 persons who satisfy such qualifications.

3 (g) Establish a uniform lesson plan to be followed by  
4 firesafety instructors in the training of state employees in  
5 firesafety and emergency evacuation procedures.

6 (h) Have complete jurisdiction over, and complete  
7 management and control of, the Florida State Fire College and  
8 be invested with full power and authority to make all rules  
9 and regulations necessary for the governance of said  
10 institution.

11 (i) Appoint a superintendent of the Florida State Fire  
12 College and such other instructors, experimental helpers, and  
13 laborers as may be necessary and remove the same as in its  
14 judgment and discretion may be best, fix their compensation,  
15 and provide for their payment.

16 (j) Have full management, possession, and control of  
17 the lands, buildings, structures, and property belonging to  
18 the Florida State Fire College.

19 (k) Provide for the courses of study and curriculum of  
20 the Florida State Fire College.

21 (l) Make rules and regulations for the admission of  
22 trainees to the Florida State Fire College.

23 (m) Visit and inspect the Florida State Fire College  
24 and every department thereof and provide for the proper  
25 keeping of accounts and records thereof.

26 (n) Make and prepare all necessary budgets of  
27 expenditures for the enlargement, proper furnishing,  
28 maintenance, support, and conduct of the Florida State Fire  
29 College.

30  
31

1           (o) Select and purchase all property, furniture,  
2 fixtures, and paraphernalia necessary for the Florida State  
3 Fire College.

4           (p) Build, construct, change, enlarge, repair, and  
5 maintain any and all buildings or structures of the Florida  
6 State Fire College that may at any time be necessary for said  
7 institution and purchase and acquire all lands and property  
8 necessary for same, of every nature and description  
9 whatsoever.

10           (q) Care for and maintain the Florida State Fire  
11 College and do and perform every other matter or thing  
12 requisite to the proper management, maintenance, support, and  
13 control of said institution, necessary or requisite to carry  
14 out fully the purpose of this act and for raising it to, and  
15 maintaining it at, the proper efficiency and standard as  
16 required in and by the provisions of ss. 633.43-633.49.

17           Section 756. Section 633.46, Florida Statutes, is  
18 amended to read:

19           633.46 Fees.--The division may fix and collect  
20 admission fees and other fees which it deems necessary to be  
21 charged for training given. All fees so collected shall be  
22 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust  
23 Fund.

24           Section 757. Section 633.461, Florida Statutes, is  
25 amended to read:

26           633.461 Insurance ~~Commissioner's~~ Regulatory Trust  
27 Fund.--The funds received from the Insurance ~~Commissioner's~~  
28 Regulatory Trust Fund shall be used by the staff of the  
29 Florida State Fire College to provide all necessary services,  
30 training, equipment, and supplies to carry out the college's  
31 responsibilities, including, but not limited to, the State



1 Fire Marshal Scholarship Grant Program and the procurement of  
2 training films, videotapes, audiovisual equipment, and other  
3 useful information on fire, firefighting, and fire prevention,  
4 including public fire service information packages.

5 Section 758. Section 633.47, Florida Statutes, is  
6 amended to read:

7 633.47 Procedure for making expenditures.--No moneys  
8 shall be spent for and on behalf of the Florida State Fire  
9 College except upon a written voucher drawn by the division,  
10 stating the nature of the expenditures and the person to whom  
11 the same shall be made payable, which voucher shall be  
12 submitted to the Chief Financial Officer ~~Comptroller~~ and  
13 audited for approval by her or him; upon such approval, the  
14 Chief Financial Officer ~~Comptroller~~ shall draw a warrant ~~upon~~  
15 ~~the Treasurer~~ for the payment thereof, filing the original  
16 voucher in her or his office.

17 Section 759. Section 633.50, Florida Statutes, is  
18 amended to read:

19 633.50 Division powers and duties; Florida State Fire  
20 College.--

21 (1) The division ~~of State Fire Marshal of the~~  
22 ~~Department of Insurance~~, in performing its duties related to  
23 the Florida State Fire College, specified in ss.

24 633.43-633.49, shall:

25 (a) Enter into agreements with public or private  
26 school districts, community colleges, junior colleges, or  
27 universities to carry out its duties and responsibilities.

28 (b) Review and approve budget requests for the fire  
29 college educational program.

30 (c) Prepare the legislative budget request for the  
31 Florida State Fire College education program. The

1 superintendent is responsible for all expenditures pursuant to  
2 appropriations.

3 (d) Implement procedures to obtain appropriate  
4 entitlement funds from federal and state grants to supplement  
5 the annual legislative appropriation. Such funds must be used  
6 expressly for the fire college educational programs.

7 (e) Develop a staffing and funding formula for the  
8 Florida State Fire College. The formula shall include  
9 differential funding levels for various types of programs,  
10 shall be based on the number of full-time equivalent students  
11 and information obtained from scheduled attendance counts  
12 taken the first day of each program, and shall provide the  
13 basis for the legislative budget request. As used in this  
14 section, a full-time equivalent student is equal to a minimum  
15 of 900 hours in a vocational program and 400 hours in a  
16 degree-seeking program. The funding formula shall be as  
17 prescribed pursuant to s. 236.081, shall include procedures to  
18 document daily attendance, and shall require that attendance  
19 records be retained for audit purposes.

20 (2) Funds generated by the formula per full-time  
21 equivalent student may not exceed the level of state funding  
22 per full-time equivalent student generated through the Florida  
23 Education Finance Program or the State Community College  
24 Program Fund for students enrolled in comparable education  
25 programs provided by public school districts and community  
26 colleges. Funds appropriated for education and operational  
27 costs shall be deposited in the Insurance ~~Commissioner's~~  
28 Regulatory Trust Fund to be used solely for purposes specified  
29 in s. 633.461 and may not be transferred to any other budget  
30 entity for purposes other than education.

31

1           Section 760. Subsection (2) of section 633.524,  
2 Florida Statutes, is amended to read:  
3           633.524 Certificate fees; use and deposit of collected  
4 funds.--

5           (2) All moneys collected by the State Fire Marshal  
6 pursuant to this chapter are ~~hereby~~ appropriated for the use  
7 of the State Fire Marshal in the administration of this  
8 chapter and shall be deposited in the Insurance ~~Commissioner's~~  
9 Regulatory Trust Fund.

10           Section 761. Subsection (4) of section 634.011,  
11 Florida Statutes, is amended to read:

12           634.011 Definitions.--As used in this part, the term:

13           (4) "Department" means the Department of Financial  
14 Services Insurance.

15           Section 762. Subsection (3) of section 634.137,  
16 Florida Statutes, is amended to read:

17           634.137 Financial and statistical reporting  
18 requirements.--

19           (3) Any service agreement company that does not file  
20 an annual statement in the form and within the time provided  
21 by this section shall forfeit up to \$100 for each day during  
22 which the default continues, and, upon notice by the  
23 department, the authority of the company to do business in  
24 this state shall cease while the default continues. The  
25 department shall deposit all sums collected under this  
26 subsection in the Insurance ~~Commissioner's~~ Regulatory Trust  
27 Fund.

28           Section 763. Section 634.151, Florida Statutes, is  
29 amended to read:

30           634.151 Service of process; appointment of  
31 commissioner as process agent.--

1           (1) Each company applying for authority to transact  
2 business in this state, whether domestic or foreign, shall  
3 file with the department its appointment of the Chief  
4 Financial Officer ~~Insurance Commissioner and Treasurer~~ and her  
5 or his successors in office, on a form as furnished by the  
6 department, as its attorney to receive service of all legal  
7 process issued against it in any civil action or proceeding in  
8 this state and agreeing that process so served shall be valid  
9 and binding upon the company. The appointment shall be  
10 irrevocable, shall bind the company and any successor in  
11 interest as to the assets or liabilities of the company, and  
12 shall remain in effect as long as there is outstanding in this  
13 state any obligation or liability of the company resulting  
14 from its service agreement transactions therein.

15           (2) At the time of such appointment of the Chief  
16 Financial Officer ~~Insurance Commissioner and Treasurer~~ as its  
17 process agent the company shall file with the department a  
18 designation of the name and address of the person to whom  
19 process against it served upon the Chief Financial Officer  
20 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The  
21 company may change the designation at any time by a new  
22 filing.

23           Section 764. Section 634.161, Florida Statutes, is  
24 amended to read:

25           634.161 Service of process; method.--

26           (1) Service of process upon the Chief Financial  
27 Officer ~~Insurance Commissioner and Treasurer~~ as process agent  
28 of the company shall be made by serving copies in triplicate  
29 of the process upon the Chief Financial Officer ~~Insurance~~  
30 ~~Commissioner and Treasurer~~ or upon her or his assistant,  
31 deputy, or other person in charge of her or his office. Upon

1 receiving such service, the Chief Financial Officer ~~Insurance~~  
2 ~~Commissioner and Treasurer~~ shall file one copy with the  
3 department, return one copy with her or his admission of  
4 service, and promptly forward one copy of the process by  
5 registered or certified mail to the person last designated by  
6 the company to receive the same, as provided under s. 634.151.

7 (2) Process served upon the Chief Financial Officer  
8 ~~Insurance Commissioner and Treasurer~~ and copy thereof  
9 forwarded as in this section provided shall for all purposes  
10 constitute valid and binding service thereof upon the company.

11 Section 765. Section 634.221, Florida Statutes, is  
12 amended to read:

13 634.221 Disposition of taxes and fees.--All license  
14 taxes, taxes on premiums and assessments, registration fees,  
15 and administrative fines and penalties collected under this  
16 act from motor vehicle service agreement companies shall be  
17 deposited to the credit of the Insurance ~~Commissioner's~~  
18 Regulatory Trust Fund.

19 Section 766. Subsection (1) of section 634.301,  
20 Florida Statutes, is amended to read:

21 634.301 Definitions.--As used in this part, the term:

22 (1) "Department" means the Department of Financial  
23 Services ~~Insurance~~.

24 Section 767. Subsections (1) and (3) of section  
25 634.313, Florida Statutes, are amended to read:

26 634.313 Tax on premiums; annual statement; reports.--

27 (1) In addition to paying the license taxes provided  
28 for in this part for home warranty associations and license  
29 taxes provided in the insurance code as to insurers, each such  
30 association and each such insurer must, annually on or before  
31 March 1, file with the department its annual statement, in the

1 form prescribed by the department, showing all premiums  
2 received by it in connection with the issuance of warranties  
3 in this state during the preceding calendar year and using  
4 accounting principles that will enable the department to  
5 ascertain whether the reserve required by s. 634.3077 has been  
6 maintained. Each annual statement must contain a balance  
7 sheet listing all assets and liabilities; a statement of  
8 operations and retained earnings; and a schedule used to  
9 report all claims statistics. The annual statement must be  
10 completed using generally accepted accounting principles  
11 except as otherwise provided in this part. Further, each  
12 association and each insurer must pay to the Chief Financial  
13 Officer ~~Treasurer~~ a tax in an amount equal to 2 percent of the  
14 amount of such premiums so received.

15 (3) Any association or insurer neglecting to file the  
16 annual statement in the form and within the time provided by  
17 this section shall forfeit up to \$100 for each day during  
18 which such neglect continues; and, upon notice by the  
19 department to that effect, its authority to do business in  
20 this state shall cease while such default continues. The  
21 department shall deposit all sums collected by it under this  
22 section to the credit of the Insurance ~~Commissioner's~~  
23 Regulatory Trust Fund.

24 Section 768. Section 634.324, Florida Statutes, is  
25 amended to read:

26 634.324 Disposition of taxes and fees.--All license  
27 taxes, taxes on premiums, license and appointment fees, and  
28 administrative fines and penalties collected under this part  
29 from home warranty associations and sales representatives  
30 shall be deposited to the credit of the Insurance  
31 ~~Commissioner's~~ Regulatory Trust Fund.

1           Section 769. Section 634.327, Florida Statutes, is  
2 amended to read:

3           634.327 Applicability to warranty on new home.--This  
4 part shall not apply to any program offering a warranty on a  
5 new home which is underwritten by an insurer licensed to do  
6 business in the state when the insurance policy underwriting  
7 such program has been filed with and approved by the  
8 department ~~of Insurance~~ as required by law.

9           Section 770. Subsection (4) of section 634.3284,  
10 Florida Statutes, is amended to read:

11           634.3284 Civil remedy.--

12           (4) This section shall not be construed to authorize a  
13 class action suit against a home warranty association or a  
14 civil action against the department, its employees, or the  
15 Chief Financial Officer ~~Insurance Commissioner~~.

16           Section 771. Subsection (2) of section 634.401,  
17 Florida Statutes, is amended to read:

18           634.401 Definitions.--As used in this part, the term:

19           (2) "Department" means the Department of Financial  
20 Services ~~Insurance~~.

21           Section 772. Subsection (3) of section 634.415,  
22 Florida Statutes, is amended to read:

23           634.415 Tax on premiums; annual statement; reports;  
24 quarterly statements.--

25           (3) The department may levy a fine of up to \$100 a day  
26 for each day an association neglects to file the annual  
27 statement in the form and within the time provided by this  
28 part. The amount of the fine shall be established by rules  
29 promulgated by the department. The department shall deposit  
30 all sums collected by it under this section to the credit of  
31 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

1           Section 773. Subsection (1) of section 634.416,  
2 Florida Statutes, is amended to read:

3           634.416 Examination of associations.--

4           (1) Service warranty associations licensed under this  
5 part are subject to periodic examination by the department, in  
6 the same manner and subject to the same terms and conditions  
7 that apply to insurers under part II of chapter 624. However,  
8 the rate charged a service warranty association by the  
9 department for examination may be adjusted to reflect the  
10 amount collected for the Form 10-K filing fee as provided in  
11 this section. On or before May 1 of each year, an association  
12 may submit to the department the Form 10-K, as filed with the  
13 United States Securities and Exchange Commission pursuant to  
14 the Securities Exchange Act of 1934, as amended. Upon receipt  
15 and review of the most current Form 10-K, the department may  
16 waive the examination requirement; if the department  
17 determines not to waive the examination, such examination will  
18 be limited to that examination necessary to ensure compliance  
19 with this part. The Form 10-K shall be accompanied by a  
20 filing fee of \$2,000 to be deposited into the Insurance  
21 ~~Commissioner's~~ Regulatory Trust Fund.

22           Section 774. Section 634.427, Florida Statutes, is  
23 amended to read:

24           634.427 Disposition of taxes and fees.--All license  
25 fees, taxes on premiums, registration fees, and administrative  
26 fines and penalties collected under this part from service  
27 warranty associations and sales representatives shall be  
28 deposited to the credit of the Insurance ~~Commissioner's~~  
29 Regulatory Trust Fund.

30           Section 775. Subsection (4) of section 634.433,  
31 Florida Statutes, is amended to read:



1           634.433 Civil remedy.--

2           (4) This section shall not be construed to authorize a  
3 class action suit against a service warranty association or a  
4 civil action against the department, its employees, or the  
5 Chief Financial Officer ~~Insurance Commissioner~~.

6           Section 776. Subsection (3) of section 635.011,  
7 Florida Statutes, is amended to read:

8           635.011 Definitions.--As used in this chapter, the  
9 term:

10           (3) "Department" means the Department of Financial  
11 Services ~~Insurance of this state~~.

12           Section 777. Subsection (2) of section 635.041,  
13 Florida Statutes, is amended to read:

14           635.041 Contingency reserve.--

15           (2) Subject to approval by the insurance department of  
16 the insurer's state of domicile and upon 30 days' prior notice  
17 to the Department of Financial Services ~~Insurance~~ of this  
18 state, the contingency reserve shall be available for loss  
19 payments only when the insurer's incurred losses in any one  
20 calendar year exceed 35 percent of the corresponding earned  
21 premiums.

22           Section 778. Subsections (2) and (3) of section  
23 636.003, Florida Statutes, are amended to read:

24           636.003 Definitions.--As used in this act, the term:

25           ~~(2) "Commissioner" means the Commissioner of~~  
26 ~~Insurance.~~

27           (2)(3) "Department" means the Department of Financial  
28 Services ~~Insurance~~.

29           Section 779. Subsection (3) of section 636.043,  
30 Florida Statutes, is amended to read:

31

1           636.043 Annual, quarterly, and miscellaneous  
2 reports.--

3           (3) Every prepaid limited health service organization  
4 which fails to file an annual report or quarterly report in  
5 the form and within the time required by this section shall  
6 forfeit up to \$500 for each day for the first 10 days during  
7 which the neglect continues and shall forfeit up to \$1,000 for  
8 each day after the first 10 days during which the neglect  
9 continues; and, upon notice by the department to that effect,  
10 the organization's authority to enroll new subscribers or to  
11 do business in this state ceases while such default continues.  
12 The department shall deposit all sums collected by it under  
13 this section to the credit of the Insurance ~~Commissioner's~~  
14 Regulatory Trust Fund. The department may not collect more  
15 than \$50,000 for each report.

16           Section 780. Subsection (2) of section 636.047,  
17 Florida Statutes, is amended to read:

18           636.047 Officers' and employees' fidelity bond.--

19           (2) In lieu of the bond specified in subsection (1), a  
20 prepaid limited health service organization may deposit with  
21 the department cash or securities or other investments of the  
22 types set forth in s. 636.042. Such a deposit must be  
23 maintained in joint custody with the Chief Financial Officer  
24 ~~commissioner~~ in the amount and subject to the same conditions  
25 required for a bond under this subsection.

26           Section 781. Section 636.052, Florida Statutes, is  
27 amended to read:

28           636.052 Civil remedy.--In any civil action brought to  
29 enforce the terms and conditions of a prepaid limited health  
30 service organization contract, the prevailing party is  
31 entitled to recover reasonable attorney's fees and court

1 costs. This section does not authorize a civil action against  
2 the department, its employees, or the Chief Financial Officer  
3 ~~commissioner~~ or against the Agency for Health Care  
4 Administration, its employees, or the director of that agency.

5 Section 782. Subsection (1) of section 641.185,  
6 Florida Statutes, is amended to read:

7 641.185 Health maintenance organization subscriber  
8 protections.--

9 (1) With respect to the provisions of this part and  
10 part III, the principles expressed in the following statements  
11 shall serve as standards to be followed by the Department of  
12 Financial Services Insurance and the Agency for Health Care  
13 Administration in exercising their powers and duties, in  
14 exercising administrative discretion, in administrative  
15 interpretations of the law, in enforcing its provisions, and  
16 in adopting rules:

17 (a) A health maintenance organization shall ensure  
18 that the health care services provided to its subscribers  
19 shall be rendered under reasonable standards of quality of  
20 care which are at a minimum consistent with the prevailing  
21 standards of medical practice in the community pursuant to ss.  
22 641.495(1) and 641.51.

23 (b) A health maintenance organization subscriber  
24 should receive quality health care from a broad panel of  
25 providers, including referrals, preventive care pursuant to s.  
26 641.402(1), emergency screening and services pursuant to ss.  
27 641.31(12) and 641.513, and second opinions pursuant to s.  
28 641.51.

29 (c) A health maintenance organization subscriber  
30 should receive assurance that the health maintenance  
31 organization has been independently accredited by a national

1 review organization pursuant to s. 641.512, and is financially  
2 secure as determined by the state pursuant to ss. 641.221,  
3 641.225, and 641.228.

4 (d) A health maintenance organization subscriber  
5 should receive continuity of health care, even after the  
6 provider is no longer with the health maintenance organization  
7 pursuant to s. 641.51(8).

8 (e) A health maintenance organization subscriber  
9 should receive timely, concise information regarding the  
10 health maintenance organization's reimbursement to providers  
11 and services pursuant to ss. 641.31 and 641.31015.

12 (f) A health maintenance organization subscriber  
13 should receive the flexibility to transfer to another Florida  
14 health maintenance organization, regardless of health status,  
15 pursuant to ss. 641.228, 641.3104, 641.3107, 641.3111,  
16 641.3921, and 641.3922.

17 (g) A health maintenance organization subscriber  
18 should be eligible for coverage without discrimination against  
19 individual participants and beneficiaries of group plans based  
20 on health status pursuant to s. 641.31073.

21 (h) A health maintenance organization that issues a  
22 group health contract must: provide coverage for preexisting  
23 conditions pursuant to s. 641.31071; guarantee renewability of  
24 coverage pursuant to s. 641.31074; provide notice of  
25 cancellation pursuant to s. 641.3108; provide extension of  
26 benefits pursuant to s. 641.3111; provide for conversion on  
27 termination of eligibility pursuant to s. 641.3921; and  
28 provide for conversion contracts and conditions pursuant to s.  
29 641.3922.

30 (i) A health maintenance organization subscriber  
31 should receive timely and, if necessary, urgent grievances and

1 appeals within the health maintenance organization pursuant to  
2 ss. 641.228, 641.31(5), 641.47, and 641.511.

3 (j) A health maintenance organization should receive  
4 timely and, if necessary, urgent review by an independent  
5 state external review organization for unresolved grievances  
6 and appeals pursuant to s. 408.7056.

7 (k) A health maintenance organization subscriber shall  
8 be given written notice at least 30 days in advance of a rate  
9 change pursuant to s. 641.31(3)(b). In the case of a group  
10 member, there may be a contractual agreement with the health  
11 maintenance organization to have the employer provide the  
12 required notice to the individual members of the group  
13 pursuant to s. 641.31(3)(b).

14 (l) A health maintenance organization subscriber shall  
15 be given a copy of the applicable health maintenance contract,  
16 certificate, or member handbook specifying: all the  
17 provisions, disclosure, and limitations required pursuant to  
18 s. 641.31(1) and (4); the covered services, including those  
19 services, medical conditions, and provider types specified in  
20 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and  
21 641.513; and where and in what manner services may be obtained  
22 pursuant to s. 641.31(4).

23 Section 783. Subsections (6) and (11) of section  
24 641.19, Florida Statutes, are amended to read:

25 641.19 Definitions.--As used in this part, the term:

26 (6) "Department" means the Department of Financial  
27 Services ~~Insurance~~.

28 (11) "Guaranteeing organization" is an organization  
29 that ~~which~~ is domiciled in the United States; that ~~which~~ has  
30 authorized service of process against it; and that ~~which~~ has  
31 appointed the Chief Financial Officer ~~Insurance Commissioner~~

1 ~~and Treasurer~~ as its agent for service of process issuing upon  
2 any cause of action arising in this state, based upon any  
3 guarantee entered into under this part.

4 Section 784. Subsection (1) of section 641.23, Florida  
5 Statutes, is amended to read:

6 641.23 Revocation or cancellation of certificate of  
7 authority; suspension of enrollment of new subscribers; terms  
8 of suspension.--

9 (1) The maintenance of a valid and current health care  
10 provider certificate issued pursuant to part III of this  
11 chapter is a condition of the maintenance of a valid and  
12 current certificate of authority issued by the department to  
13 operate a health maintenance organization. Denial or  
14 revocation of a health care provider certificate shall be  
15 deemed to be an automatic and immediate cancellation of a  
16 health maintenance organization's certificate of authority.  
17 At the discretion of the department ~~of Insurance~~, nonrenewal  
18 of a health care provider certificate may be deemed to be an  
19 automatic and immediate cancellation of a health maintenance  
20 organization's certificate of authority if the Agency for  
21 Health Care Administration notifies the department ~~of~~  
22 ~~Insurance~~, in writing, that the health care provider  
23 certificate will not be renewed.

24 Section 785. Subsection (4) of section 641.26, Florida  
25 Statutes, is amended to read:

26 641.26 Annual report.--

27 (4) Any health maintenance organization that neglects  
28 to file an annual report or quarterly report in the form and  
29 within the time required by this section shall forfeit up to  
30 \$1,000 for each day for the first 10 days during which the  
31 neglect continues and shall forfeit up to \$2,000 for each day

1 after the first 10 days during which the neglect continues;  
2 and, upon notice by the department to that effect, the  
3 organization's authority to enroll new subscribers or to do  
4 business in this state shall cease while such default  
5 continues. The department shall deposit all sums collected by  
6 it under this section to the credit of the Insurance  
7 ~~Commissioner's~~ Regulatory Trust Fund. The department shall not  
8 collect more than \$100,000 for each report.

9 Section 786. Section 641.28, Florida Statutes, is  
10 amended to read:

11 641.28 Civil remedy.--In any civil action brought to  
12 enforce the terms and conditions of a health maintenance  
13 organization contract, the prevailing party is entitled to  
14 recover reasonable attorney's fees and court costs. This  
15 section shall not be construed to authorize a civil action  
16 against the department, its employees, or the Chief Financial  
17 Officer ~~Insurance Commissioner~~ or against the Agency for  
18 Health Care Administration, its employees, or the director of  
19 the agency.

20 Section 787. Subsection (1) of section 641.39001,  
21 Florida Statutes, is amended to read:

22 641.39001 Soliciting or accepting new or renewal  
23 health maintenance contracts by insolvent or impaired health  
24 maintenance organization prohibited; penalty.--

25 (1) Whether or not delinquency proceedings as to a  
26 health maintenance organization have been or are to be  
27 initiated, a director or officer of a health maintenance  
28 organization, except with the written permission of the  
29 department of ~~Insurance~~, may not authorize or permit the  
30 health maintenance organization to solicit or accept new or  
31 renewal health maintenance contracts or provider contracts in

1 this state after the director or officer knew, or reasonably  
2 should have known, that the health maintenance organization  
3 was insolvent or impaired. As used in this section, the term  
4 "impaired" means that the health maintenance organization does  
5 not meet the requirements of s. 641.225.

6 Section 788. Subsections (2) and (3) of section  
7 641.402, Florida Statutes, are amended to read:

8 641.402 Definitions.--As used in this part, the term:

9 (2) "Department" means the Department of Financial  
10 Services Insurance.

11 (3) "Guaranteeing organization" means an organization  
12 that which is domiciled in the United States; that which has  
13 authorized service of process against it; and that which has  
14 appointed the Chief Financial Officer Insurance Commissioner  
15 and Treasurer as its agent for service of process in  
16 connection with any cause of action arising in this state,  
17 based upon any guarantee entered into under this part.

18 Section 789. Section 641.403, Florida Statutes, is  
19 amended to read:

20 641.403 Rulemaking authority.--The department may of  
21 ~~insurance has authority to~~ adopt rules pursuant to ss.  
22 120.536(1) and 120.54 to implement the provisions of this  
23 part.

24 Section 790. Subsection (2) of section 641.412,  
25 Florida Statutes, is amended to read:

26 641.412 Fees.--

27 (2) The fees charged under this section shall be  
28 distributed as follows:

29 (a) One-third of the total amount of fees shall be  
30 distributed to the Agency for Health Care Administration; and  
31



1 (b) Two-thirds of the total amount of fees shall be  
2 distributed to the department of ~~Insurance~~.

3 Section 791. Section 641.454, Florida Statutes, is  
4 amended to read:

5 641.454 Civil action to enforce prepaid health clinic  
6 contract; attorney's fees; court costs.--In any civil action  
7 brought to enforce the terms and conditions of a prepaid  
8 health clinic contract, the prevailing party is entitled to  
9 recover reasonable attorney's fees and court costs. This  
10 section shall not be construed to authorize a civil action  
11 against the department, its employees, or the Chief Financial  
12 Officer ~~Insurance Commissioner and Treasurer~~ or against the  
13 Agency for Health Care Administration, the employees of the  
14 Agency for Health Care Administration, or the Secretary of  
15 Health Care Administration.

16 Section 792. Section 641.455, Florida Statutes, is  
17 amended to read:

18 641.455 Disposition of moneys collected under this  
19 part.--Fees, administrative penalties, examination expenses,  
20 and other sums collected by the department under this part  
21 shall be deposited to the credit of the Insurance  
22 ~~Commissioner's~~ Regulatory Trust Fund; however, fees,  
23 examination expenses, and other sums collected by, or  
24 allocated to, the Agency for Health Care Administration under  
25 this part shall be deposited to the credit of the General  
26 Revenue Fund.

27 Section 793. Section 641.48, Florida Statutes, is  
28 amended to read:

29 641.48 Purpose and application of part.--The purpose  
30 of this part is to ensure that health maintenance  
31 organizations and prepaid health clinics deliver high-quality

1 health care to their subscribers. To achieve this purpose,  
2 this part requires all such organizations to obtain a health  
3 care provider certificate from the agency as a condition  
4 precedent to obtaining a certificate of authority to do  
5 business in Florida from the Department of Financial Services  
6 ~~Insurance~~, under part I or part II of this chapter.

7 Section 794. Subsection (2) of section 641.49, Florida  
8 Statutes, is amended to read:

9 641.49 Certification of health maintenance  
10 organization and prepaid health clinic as health care  
11 providers; application procedure.--

12 (2) The Department of Financial Services ~~Insurance~~  
13 shall not issue a certificate of authority under part I or  
14 part II of this chapter to any applicant which does not  
15 possess a valid health care provider certificate issued by the  
16 agency under this part.

17 Section 795. Subsection (7), paragraph (a) of  
18 subsection (8), and subsection (11) of section 641.511,  
19 Florida Statutes, are amended to read:

20 641.511 Subscriber grievance reporting and resolution  
21 requirements.--

22 (7) Each organization shall send to the agency a copy  
23 of its quarterly grievance reports submitted to the Department  
24 of Financial Services ~~Insurance~~ pursuant to s. 408.7056(12).

25 (8) The agency shall investigate all reports of  
26 unresolved quality of care grievances received from:

27 (a) Annual and quarterly grievance reports submitted  
28 by the organization to the Department of Financial Services  
29 ~~Insurance~~.

30 (11) Each organization, as part of its contract with  
31 any provider, must require the provider to post a consumer

1 assistance notice prominently displayed in the reception area  
2 of the provider and clearly noticeable by all patients. The  
3 consumer assistance notice must state the addresses and  
4 toll-free telephone numbers of the Agency for Health Care  
5 Administration, the Statewide Provider and Subscriber  
6 Assistance Program, and the Department of Financial Services  
7 ~~insurance~~. The consumer assistance notice must also clearly  
8 state that the address and toll-free telephone number of the  
9 organization's grievance department shall be provided upon  
10 request. The agency is authorized to promulgate rules to  
11 implement this section.

12 Section 796. Section 641.52, Florida Statutes, is  
13 amended to read:

14 641.52 Revocation of certificate; suspension of new  
15 enrollment; suspension of the health care provider  
16 certificate; administrative fine; notice of action to the  
17 Department of Financial Services ~~insurance~~; penalty for use of  
18 unlicensed providers.--

19 (1) The agency may suspend the authority of an  
20 organization to enroll new subscribers or revoke the health  
21 care provider certificate of any organization, or order  
22 compliance within a time certain, if it finds that any of the  
23 following conditions exist:

24 (a) The organization is in substantial violation of  
25 its contracts.

26 (b) The organization is unable to fulfill its  
27 obligations under outstanding contracts entered into with its  
28 subscribers.

29 (c) The organization knowingly utilizes a provider who  
30 is furnishing or has furnished health care services and who  
31

1 does not have a subsisting license or other authority to  
2 practice or furnish health care services in this state.

3 (d) The organization no longer meets the requirements  
4 for the certificate as originally issued.

5 (e) The organization has violated any lawful rule or  
6 order of the agency or any provision of this part.

7 (f) The organization has refused to be examined or to  
8 produce its accounts, records, and files for examination or to  
9 perform any other legal obligation as to such examination,  
10 when required by the agency.

11 (g) The organization has not, after given reasonable  
12 notice, maintained accreditation or received favorable  
13 external quality assurance reviews under s. 641.512 or,  
14 following an investigation under s. 641.515, has been  
15 determined to not materially meet requirements under this  
16 part.

17 (2) Revocation of an organization's certificate shall  
18 be for a period of 2 years. After 2 years, the organization  
19 may apply for a new certificate by compliance with all  
20 application requirements applicable to first-time applicants.

21 (3) Suspension of an organization's authority to  
22 enroll new subscribers shall be for such period, not to exceed  
23 1 year, as is fixed by the agency. The agency shall, in its  
24 order suspending the authority of an organization to enroll  
25 new subscribers, specify the period during which the  
26 suspension is to be in effect and the conditions, if any,  
27 which must be met by the organization prior to reinstatement  
28 of its authority to enroll new subscribers. The order of  
29 suspension is subject to rescission or modification by further  
30 order of the agency prior to the expiration of the suspension  
31 period. Authority to enroll new subscribers shall not be

1 reinstated unless requested by the organization; however, the  
2 agency may not grant reinstatement if it finds that the  
3 circumstances for which the suspension of authority to enroll  
4 new subscribers occurred still exist or are likely to recur.

5 (4) The agency may suspend the health care provider  
6 certificate issued to an organization. The agency shall, in  
7 its order suspending the health care provider certificate,  
8 specify the period during which the suspension is to be in  
9 effect and the conditions, if any, which must be met by the  
10 organization for reinstatement. Upon expiration of the  
11 suspension period, the organization's certificate  
12 automatically reinstates unless the agency finds that the  
13 causes of the suspension have not been removed or that the  
14 organization is otherwise not in compliance with this part.  
15 If the agency makes such a finding, the health care provider  
16 certificate shall not be reinstated and is considered to have  
17 expired as of the end of the suspension period.

18 (5) If the agency finds that one or more grounds exist  
19 for the revocation or suspension of a certificate issued under  
20 this part, the agency may, in lieu of such revocation or  
21 suspension, impose a fine upon the organization. With respect  
22 to any nonwillful violation, the fine may not exceed \$2,500  
23 per violation. Such fines may not exceed an aggregate amount  
24 of \$25,000 for all nonwillful violations arising out of the  
25 same action. With respect to any knowing and willful  
26 violation of a lawful order or rule of the agency or a  
27 provision of this part, the agency may impose a fine upon the  
28 organization in an amount not to exceed \$20,000 for each such  
29 violation. Such fines may not exceed an aggregate amount of  
30 \$250,000 for all knowing and willful violations arising out of  
31 the same action. The agency shall, by January 1, 1997, adopt

1 by rule penalty categories that specify varying ranges of  
2 fines for willful violations and for nonwillful violations.

3 (6) The agency shall immediately notify the Department  
4 of Financial Services ~~Insurance~~ whenever it issues an  
5 administrative complaint or an order or otherwise initiates  
6 legal proceedings resulting in or which may result in  
7 suspension or revocation of an organization's health care  
8 provider certificate or suspension of new enrollment.

9 (7) Any organization that knowingly utilizes the  
10 services of a provider who is not licensed or otherwise  
11 authorized by law to provide such services is guilty of a  
12 felony of the third degree, punishable as provided in s.  
13 775.082, s. 775.083, or s. 775.084.

14 Section 797. Subsection (4) of section 641.55, Florida  
15 Statutes, is amended to read:

16 641.55 Internal risk management program.--

17 (4) The Agency for Health Care Administration shall  
18 adopt rules necessary to carry out the provisions of this  
19 section, including rules governing the establishment of  
20 required internal risk management programs to meet the needs  
21 of individual organizations and each specific organization  
22 type governed by this part. The Department of Financial  
23 Services ~~Insurance~~ shall assist the agency in preparing these  
24 rules. Each internal risk management program shall include the  
25 use of incident reports to be filed with the risk manager.  
26 The risk manager shall have free access to all organization or  
27 provider medical records. The incident reports shall be  
28 considered to be a part of the workpapers of the attorney  
29 defending the organization in litigation relating thereto and  
30 shall be subject to discovery, but not be admissible as  
31 evidence in court, nor shall any person filing an incident

1 report be subject to civil suit by virtue of the incident  
2 report and the matters it contains. As a part of each  
3 internal risk management program, the incident reports shall  
4 be utilized to develop categories of incidents which identify  
5 problem areas. Once identified, procedures must be adjusted to  
6 correct these problem areas.

7  
8 The gross data compiled under this section or s. 395.0197  
9 shall be furnished by the agency upon request to organizations  
10 to be utilized for risk management purposes. The agency shall  
11 adopt rules necessary to carry out the provisions of this  
12 section.

13 Section 798. Subsection (2) of section 641.58, Florida  
14 Statutes, is amended to read:

15 641.58 Regulatory assessment; levy and amount; use of  
16 funds; tax returns; penalty for failure to pay.--

17 (2) The Department of Financial Services ~~Insurance~~  
18 shall determine the amount of gross premiums for the purposes  
19 of the regulatory assessment, and then the agency shall  
20 determine on or before December 1 of each year the regulatory  
21 assessment percentage necessary to be imposed for that  
22 calendar year, payable on or before the following April 1, as  
23 herein prescribed, to provide the funds appropriated to the  
24 agency to carry out the provisions of subsection (4).

25 Section 799. Subsection (1) of section 642.015,  
26 Florida Statutes, is amended to read:

27 642.015 Definitions.--As used in ss. 642.011-642.049,  
28 the term:

29 (1) "Department" means the Department of Financial  
30 Services ~~Insurance~~.

31

1           Section 800. Subsection (4) of section 642.0475,  
2 Florida Statutes, is amended to read:

3           642.0475 Civil remedy.--

4           (4) This section shall not be construed to authorize a  
5 class action suit against a legal expense insurance  
6 corporation or a civil action against the department, its  
7 employees, or the Chief Financial Officer ~~Insurance~~  
8 ~~Commissioner~~.

9           Section 801. Subsection (2) of section 648.25, Florida  
10 Statutes, is amended to read:

11           648.25 Definitions.--The following words when used in  
12 this chapter have the meanings respectively ascribed to them  
13 in this section:

14           (2) "Department" means the Department of Financial  
15 Services ~~Insurance~~.

16           Section 802. Section 648.26, Florida Statutes, is  
17 amended to read:

18           648.26 Department of Financial Services ~~Insurance~~;  
19 administration.--

20           (1) The department shall administer the provisions of  
21 this chapter as provided in this chapter.

22           (a) The department has authority to adopt rules  
23 pursuant to ss. 120.536(1) and 120.54 to implement the  
24 provisions of this chapter conferring powers or duties upon  
25 it.

26           (b) The department may employ and discharge such  
27 employees, examiners, counsel, and other assistants as shall  
28 be deemed necessary, and it shall prescribe their duties;  
29 their compensation shall be the same as other state employees  
30 receive for similar services.

31



1           (2) The department shall adopt a seal by which its  
2 proceedings are authenticated. Any written instrument  
3 purporting to be a copy of any action, proceeding, or finding  
4 of fact by the department, or any record of the department  
5 authenticated by the seal, shall be accepted by all the courts  
6 of this state as prima facie evidence of the contents thereof.

7           (3) The papers, documents, reports, or any other  
8 investigatory records of the department are confidential and  
9 exempt from the provisions of s. 119.07(1) until such  
10 investigation is completed or ceases to be active. For the  
11 purpose of this section, an investigation is considered  
12 "active" while the investigation is being conducted by the  
13 department with a reasonable, good faith belief that it may  
14 lead to the filing of administrative, civil, or criminal  
15 proceedings. An investigation does not cease to be active if  
16 the department is proceeding with reasonable dispatch and  
17 there is good faith belief that action may be initiated by the  
18 department or other administrative or law enforcement agency.

19           Section 803. Subsection (3) of section 648.34, Florida  
20 Statutes, is amended to read:

21           648.34 Bail bond agents; qualifications.--

22           (3) 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. Any information so  
27 furnished is confidential and exempt from the provisions of s.  
28 119.07(1).

29           Section 804. Subsection (5) of section 648.355,  
30 Florida Statutes, is amended to read:

31

1           648.355 Temporary limited license as limited surety  
2 agent or professional bail bond agent; pending examination.--

3           (5) The department may collect a fee necessary to  
4 cover the cost of a character and credit report made by an  
5 established and reputable independent reporting service. The  
6 fee shall be deposited to the credit of the Insurance  
7 ~~Commissioner's~~ Regulatory Trust Fund.

8           Section 805. Subsection (3) of section 648.37, Florida  
9 Statutes, is amended to read:

10           648.37 Runners; 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 806. Paragraph (b) of subsection (1) and  
19 paragraph (b) of subsection (2) of section 648.386, Florida  
20 Statutes, are amended to read:

21           648.386 Qualifications for prelicensing and continuing  
22 education schools and instructors.--

23           (1) SCHOOLS AND CURRICULUM FOR PRELICENSING  
24 SCHOOLS.--In order to be considered for approval and  
25 certification as an approved limited surety agent and  
26 professional bail bond agent prelicensing school, such entity  
27 must:

28           (b) Submit a prelicensing course curriculum to the  
29 Department of Financial Services ~~Insurance~~ for approval.

30           (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION  
31 SCHOOLS.--In order to be considered for approval and

1 certification as an approved limited surety agent and  
2 professional bail bond agent continuing education school, such  
3 entity must:

4 (b) Submit a course curriculum to the Department of  
5 Financial Services ~~Insurance~~ for approval.

6 Section 807. Subsection (9) of section 648.442,  
7 Florida Statutes, is amended to read:

8 648.442 Collateral security.--

9 (9) An indemnity agreement may not be entered into  
10 between a principal and either a surety or any agent of the  
11 surety, and an application may not be accepted either by a  
12 bail bond agent engaged in the bail bond business or by a  
13 surety company for a bail bond in which an indemnity agreement  
14 is required between a principal and either a surety or any  
15 agent of such surety, unless the indemnity agreement reads as  
16 follows: "For good and valuable consideration, the  
17 undersigned principal agrees to indemnify and hold harmless  
18 the surety company or its agent for all losses not otherwise  
19 prohibited by law or by rules of the Department of Financial  
20 Services Insurance."

21 Section 808. Subsection (4) of section 650.06, Florida  
22 Statutes, is amended to read:

23 650.06 Social Security Contribution Trust Fund.--

24 (4) The Chief Financial Officer ~~Treasurer of the state~~  
25 shall be ex officio treasurer and custodian of the Social  
26 Security Contribution Trust Fund and shall administer such  
27 fund in accordance with the provisions of this chapter and the  
28 directions of the state agency. The Chief Financial Officer  
29 ~~Treasurer~~ shall pay all warrants drawn ~~by the Comptroller~~ upon  
30 the fund in accordance with the provisions of this section and  
31

1 with such regulations as the state agency may prescribe  
2 pursuant thereto.

3 Section 809. Subsection (3) of section 651.011,  
4 Florida Statutes, is amended to read:

5 651.011 Definitions.--For the purposes of this  
6 chapter, the term:

7 (3) "Department" means the Department of Financial  
8 Services Insurance of this state.

9 Section 810. Subsection (5) of section 651.015,  
10 Florida Statutes, is amended to read:

11 651.015 Administration; forms; fees; rules;  
12 fines.--The administration of this chapter is vested in the  
13 department, which shall:

14 (5) Deposit all fees and fines collected under the  
15 provisions of this chapter into the Insurance ~~Commissioner's~~  
16 Regulatory Trust Fund.

17 Section 811. Subsection (3) of section 651.0235,  
18 Florida Statutes, is amended to read:

19 651.0235 Validity of provisional certificates of  
20 authority and certificates of authority.--

21 (3) The department ~~of Insurance~~ shall notify the  
22 Agency for Health Care Administration of any facility for  
23 which a provisional certificate of authority or certificate of  
24 authority is no longer valid.

25 Section 812. Paragraph (b) of subsection (1) of  
26 section 651.035, Florida Statutes, is amended to read:

27 651.035 Minimum liquid reserve requirements.--

28 (1)

29 (b) A provider which has outstanding indebtedness  
30 which requires what is normally referred to as a "debt service  
31 reserve" to be held in escrow pursuant to a trust indenture or

1 mortgage lien on the facility and for which the debt service  
2 reserve may only be used to pay principal and interest  
3 payments on the debt which the debtor is obligated to pay, and  
4 which may include taxes and insurance, may include such debt  
5 service reserve in its computation of its minimum liquid  
6 reserve to satisfy this subsection, provided that the provider  
7 furnishes to the department ~~of insurance~~ a copy of the  
8 agreement under which such debt service is held, together with  
9 a statement of the amount being held in escrow for the debt  
10 service reserve, certified by the lender or trustee and the  
11 provider to be correct. The trustee shall provide the  
12 department with any information concerning the debt service  
13 reserve account upon request of the provider or the  
14 department.

15 Section 813. Subsection (1) of section 651.121,  
16 Florida Statutes, is amended to read:

17 651.121 Advisory council.--

18 (1) The Continuing Care Advisory Council to the  
19 Department of Financial Services ~~Insurance~~ is created to  
20 consist of 10 members who are residents of this state  
21 appointed by the Governor and geographically representative of  
22 this state. Three members shall be administrators of  
23 facilities which hold valid certificates of authority under  
24 this chapter and shall have been actively engaged in the  
25 offering of continuing care agreements in this state for 5  
26 years before appointment. The remaining members shall include:

27 (a) A representative of the business community whose  
28 expertise is in the area of management.

29 (b) A representative of the financial community who is  
30 not a facility owner or administrator.

31 (c) A certified public accountant.

1 (d) An attorney.

2 (e) Three residents who hold continuing care  
3 agreements with a facility certified in this state.

4 Section 814. Subsection (4) of section 651.125,  
5 Florida Statutes, is amended to read:

6 651.125 Criminal penalties; injunctive relief.--

7 (4) Any action brought by the department against a  
8 provider shall not abate by reason of a sale or other transfer  
9 of ownership of the facility used to provide care, which  
10 provider is a party to the action, except with the express  
11 written consent of the Chief Financial Officer ~~Treasurer and~~  
12 ~~Insurance Commissioner~~.

13 Section 815. Subsection (1) of section 655.001,  
14 Florida Statutes, is amended to read:

15 655.001 Purpose; application.--The purposes of the  
16 financial institutions codes are to:

17 (1) Provide general regulatory powers to be exercised  
18 by the Department of Financial Services ~~Banking and Finance~~ in  
19 relation to the regulation of financial institutions. The  
20 financial institutions codes apply to all state-authorized or  
21 state-chartered financial institutions and to the enforcement  
22 of all laws relating to state-authorized or state-chartered  
23 financial institutions.

24 Section 816. Paragraph (e) of subsection (1) of  
25 section 655.005, Florida Statutes, is amended to read:

26 655.005 Definitions.--

27 (1) As used in the financial institutions codes,  
28 unless the context otherwise requires, the term:

29 (e) "Department" means the Department of Financial  
30 Services ~~Banking and Finance~~.

31

1           Section 817. Paragraph (f) of subsection (3) of  
2 section 655.057, Florida Statutes, is amended to read:

3           655.057 Records; limited restrictions upon public  
4 access.--

5           (3) The provisions of this section do not prevent or  
6 restrict:

7           (f) Furnishing information upon request to the  
8 Division of Treasury ~~State Treasurer~~ regarding the financial  
9 condition of any financial institution that is, or has applied  
10 to be, designated as a qualified public depository pursuant to  
11 chapter 280.

12

13 Any confidential information or records obtained from the  
14 department pursuant to this subsection shall be maintained as  
15 confidential and exempt from the provisions of s. 119.07(1).

16           Section 818. Paragraph (a) of subsection (1) of  
17 section 655.90, Florida Statutes, is amended to read:

18           655.90 Closing during emergencies and other special  
19 days.--

20           (1) DEFINITIONS.--As used in this section, the term:

21           (a) "Commissioner" means the officer of this state  
22 designated by law as the head of the department ~~of Banking and~~  
23 ~~Finance~~ and any other person lawfully exercising such powers,  
24 whether as a deputy to such officer, as a director, bureau  
25 chief, or financial administrator of or within such  
26 department, or otherwise.

27           Section 819. Subsection (7) of section 657.002,  
28 Florida Statutes, is amended to read:

29           657.002 Definitions.--As used in this part:

30           (7) "Department" means the Department of Financial  
31 Services ~~Banking and Finance~~.

1           Section 820. Subsection (3) of section 657.253,  
2 Florida Statutes, is amended to read:

3           657.253 Definitions.--As used in this part:

4           (3) "Department" means the Department of Financial  
5 Services ~~Banking and Finance~~.

6           Section 821. Subsection (3) of section 658.23, Florida  
7 Statutes, is amended to read:

8           658.23 Submission of articles of incorporation;  
9 contents; form; approval; filing; commencement of corporate  
10 existence; bylaws.--

11           (3) Within 30 days of receipt of the executed articles  
12 of incorporation in the form previously approved, and the  
13 required filing fees, the department shall place the following  
14 legend upon the articles of incorporation and affix the seal  
15 of the Office of the Chief Financial Officer ~~Comptroller of~~  
16 ~~Florida~~ thereto. The legend shall in substance read:  
17 "Approved by the Department of Financial Services ~~Banking and~~  
18 ~~Finance~~ this .... day of .... ...(herein the name and  
19 signature of the head of the department)...." Thereafter, the  
20 articles of incorporation shall be filed with the Department  
21 of State.

22           Section 822. Paragraph (k) of subsection (2) of  
23 section 658.295, Florida Statutes, is amended to read:

24           658.295 Interstate banking.--

25           (2) DEFINITIONS.--For purposes of this section, the  
26 term:

27           (k) "Department" means the Department of Financial  
28 Services ~~Banking and Finance~~.

29           Section 823. Paragraph (e) of subsection (4) of  
30 section 658.2953, Florida Statutes, is amended to read:

31           658.2953 Interstate branching.--



1           (4) DEFINITIONS.--As used in this section, unless a  
2 different meaning is required by the context:

3           (e) "Department" means the Department of Financial  
4 Services ~~Banking and Finance~~.

5           Section 824. Subsection (3) of section 658.83, Florida  
6 Statutes, is amended to read:

7           658.83 Liquidator; powers and duties.--

8           (3) Such liquidator shall pay all moneys received to  
9 the Chief Financial Officer ~~Treasurer~~ to be held as a special  
10 deposit for the use and benefit of the creditors subject to  
11 the order of the department and also shall make reports  
12 quarterly, or when called upon, to the department of all her  
13 or his acts and proceedings.

14           Section 825. Section 660.27, Florida Statutes, is  
15 amended to read:

16           660.27 Deposit of securities with Chief Financial  
17 Officer ~~Treasurer~~.--

18           (1) Before transacting any trust business in this  
19 state, every trust company and every state or national bank or  
20 state or federal association having trust powers shall give  
21 satisfactory security by the deposit or pledge of security of  
22 the kind or type provided in this section having at all times  
23 a market value in an amount equal to 25 percent of the issued  
24 and outstanding capital stock of such trust company, bank, or  
25 state or federal stock association or, in the case of a  
26 federal mutual association, an equivalent amount determined by  
27 the department, or the sum of \$25,000, whichever is greater.  
28 However, the value of the security deposited or pledged  
29 pursuant to the provisions of this section shall not be  
30 required to exceed \$500,000. Any notes, mortgages, bonds, or  
31 other securities, other than shares of stock, eligible for

1 investment by a state bank, state association, or state trust  
2 company, or eligible for investment by fiduciaries, shall be  
3 accepted as satisfactory security for the purposes of this  
4 section.

5 (2) The trust company, bank, or association shall  
6 provide to the Chief Financial Officer ~~Treasurer~~ the  
7 following:

8 (a) Written information which includes full legal  
9 name; federal employer identification number; principal place  
10 of business; amount of capital stock; and amount of required  
11 collateral.

12 (b) The required information listed in paragraph (a)  
13 shall be provided annually as of September 30 and shall be due  
14 November 15.

15 (3) The Chief Financial Officer ~~Treasurer~~ shall  
16 determine whether the security deposited or pledged pursuant  
17 to this section, or tendered for such deposit or pledge, is of  
18 the kind or type permitted, and has a market value in the  
19 amount required, by subsection (1). The security required by  
20 this section shall be deposited with or to the credit of, or  
21 pledged to, the Chief Financial Officer ~~Treasurer~~ for the  
22 account of each state or national bank, state or federal  
23 association, or trust company depositing or pledging the same  
24 and shall be used, if at all, by the liquidator of such bank,  
25 association, or trust company with first priority being given  
26 to claims on account of the trust business or fiduciary  
27 functions of such bank, association, or trust company or,  
28 prior to liquidation, for the payment of any judgment or  
29 decree which may be rendered against such bank, association,  
30 or trust company in connection with its trust business or its  
31 fiduciary functions if such judgment or decree is not

1 otherwise paid by, or out of other assets of, such bank,  
2 association, or trust company.

3 (4) Any security of any kind which has been deposited  
4 or pledged as provided in this section may at any time, by or  
5 upon the direction of such bank, association, or trust company  
6 which deposited or pledged such security, be withdrawn and  
7 released from such pledge provided that simultaneously  
8 therewith satisfactory security as provided in this section,  
9 in such amount, if any, as may be necessary in order to comply  
10 with the requirements of this section, is substituted for the  
11 security so withdrawn and released.

12 (5) With the approval of the Chief Financial Officer  
13 ~~Treasurer~~, each trust company, bank, or association as pledgor  
14 may deposit eligible collateral with a custodian. This  
15 custodian shall not be affiliated or related to the trust  
16 company, bank, or association. Collateral must be deposited  
17 using the collateral agreements and provisions as set forth in  
18 s. 280.041(1) and (2).

19 Section 826. Section 660.28, Florida Statutes, is  
20 amended to read:

21 660.28 Exemption from bond and other security as  
22 fiduciary.--A trust company or trust department maintaining  
23 security with the Chief Financial Officer ~~Treasurer~~ as  
24 required by s. 660.27 shall not be required by the state or  
25 any of its political subdivisions or by a court of this state  
26 to furnish any bond or other security as a condition of, or in  
27 connection with, acting in any fiduciary capacity which such  
28 trust company or trust department is lawfully permitted to  
29 accept or assume.

30 Section 827. Subsection (2) of section 687.13, Florida  
31 Statutes, is amended to read:

1           687.13 International transactions.--

2           (2) The provisions of this chapter shall not apply to  
3 any international banking facility "deposit," "borrowing," or  
4 "extension of credit," as those terms are defined by the  
5 Department of Financial Services ~~Banking and Finance~~ pursuant  
6 to s. 655.071.

7           Section 828. Subsection (3) of section 687.14, Florida  
8 Statutes, is amended to read:

9           687.14 Definitions.--As used in this act, unless the  
10 context otherwise requires:

11           (3) "Department" means the Department of Financial  
12 Services ~~Banking and Finance~~.

13           Section 829. Subsection (2) of section 697.202,  
14 Florida Statutes, is amended to read:

15           697.202 Definitions of terms used in ss.  
16 697.20-697.206.--As used in ss. 697.20-697.206, the term:

17           (2) "Department" means the Department of Financial  
18 Services ~~Insurance~~.

19           Section 830. Section 697.205, Florida Statutes, is  
20 amended to read:

21           697.205 Recoveries from the trust fund.--

22           (1)(a) Any person is eligible to seek recovery from  
23 the Treasury ~~Treasurer's~~ Administrative and Investment Trust  
24 Fund if:

25           1. Such person was the mortgagee of a home equity  
26 conversion mortgage which was foreclosed upon termination, and  
27 the proceeds from the foreclosure sale were insufficient to  
28 repay the full loan amount due;

29           2. Such person has caused to be issued a writ of  
30 execution upon a decree rendered pursuant to chapter 702, and  
31 the officer executing the writ has made a return showing that

1 no real or personal property of the judgment debtor can be  
2 found which is liable to be levied upon in satisfaction of the  
3 decree or that the amount realized on the sale of the judgment  
4 debtor's property pursuant to such execution was insufficient  
5 to satisfy the judgment;

6           3. Such person has made all searches and inquiries  
7 which are reasonable to ascertain whether the judgment debtor  
8 possesses real or personal property or other assets subject to  
9 being sold or applied in satisfaction of the judgment, and  
10 such person through her or his search has discovered no  
11 property or assets or has discovered property and assets and  
12 taken all necessary action and proceedings for the application  
13 of such property and assets in satisfaction of the judgment  
14 but the amounts thereby realized were insufficient to satisfy  
15 the judgment;

16           4. Such person has applied any amounts recovered from  
17 the judgment debtor, or from any other source, to the  
18 deficiency decree; or

19           5. The mortgage on which recovery is sought was  
20 insured pursuant to s. 697.204 prior to July 1, 1993.

21           (b) Any person who meets all of the conditions  
22 prescribed in subsection (1) may apply to the department for  
23 payment to be made to such person from the Treasury  
24 ~~Treasurer's~~ Administrative and Investment Trust Fund in an  
25 amount equal to the unsatisfied portion of such person's  
26 deficiency decree. Such amount may not exceed the difference  
27 between the amount of the proceeds from a foreclosure sale and  
28 the loan amount due, including principal and interest.

29           (c) Upon receipt by the mortgagee of the payment from  
30 the Treasury ~~Treasurer's~~ Administrative and Investment Trust  
31 Fund, the mortgagee shall assign to the department any

1 additional right, title, and interest in the judgment, to the  
2 extent of such payment.

3 (2)(a) If a search is made by the mortgagee to  
4 determine all of the debtor's real and personal property which  
5 may be applied towards payment of the debt and it is  
6 determined that foreclosure of the home equity conversion  
7 mortgage would not result in recovering any significant  
8 additional assets of the debtor which may be used to satisfy  
9 the mortgage, the mortgagee may still be able to recover from  
10 the fund without having to foreclose, provided that such  
11 mortgage was insured pursuant to s. 697.204 prior to July 1,  
12 1993.

13 (b) Any person who meets all of the conditions set by  
14 rule for recovery under this subsection may apply to the  
15 department for payment to be made to such person from the  
16 Treasury ~~Treasurer's~~ Administrative and Investment Trust Fund  
17 in an amount equal to the maximum recovery as provided herein.

18 Section 831. Section 697.206, Florida Statutes, is  
19 amended to read:

20 697.206 Department of Financial Services ~~Insurance~~;  
21 powers and duties.--

22 (1) The Department of Financial Services ~~Insurance~~  
23 shall have all the powers necessary or appropriate to carry  
24 out the purposes and provisions of ss. 697.20-697.206,  
25 including the power to:

26 (a) Make contracts and agreements with other agencies  
27 of the state, the Federal Government, any other public agency,  
28 or any other public person, association, corporation, local  
29 government, or other entity in exercising its powers and  
30 performing its duties under ss. 697.20-697.206.

31

1 (b) Seek and accept funding from any public or private  
2 source.

3 (2) On or before March 1 of each year, the Department  
4 of Financial Services Insurance shall make a report to the  
5 Legislature on the activities undertaken pursuant to ss.  
6 697.20-697.206.

7 Section 832. Paragraph (c) of subsection (3) of  
8 section 713.596, Florida Statutes, is amended to read:

9 713.596 Molder's liens.--

10 (3) SALE.--

11 (c)1. The proceeds of the sale must be paid first to  
12 any holder of a security interest perfected in this state. Any  
13 excess must be paid to the molder holding the lien created by  
14 this section. Any remaining amount is to be paid to the  
15 customer, if the customer's address is known, or to the Chief  
16 Financial Officer ~~State Treasurer~~ for deposit in the General  
17 Revenue Fund if the customer's address is unknown to the  
18 molder at the time of the sale.

19 2. A sale may not be made under this section if it  
20 would be in violation of any right of a customer under federal  
21 patent or copyright law.

22 Section 833. Subsection (4) of section 716.02, Florida  
23 Statutes, is amended to read:

24 716.02 Escheat of funds in the possession of federal  
25 agencies.--All property within the provisions of subsections  
26 (1), (2), (3), (4) and (5), are declared to have escheated, or  
27 to escheat, including all principal and interest accruing  
28 thereon, and to have become the property of the state.

29 (4) In the event any money is due to any resident of  
30 this state as a refund, rebate or tax rebate from the United  
31 States Commissioner of Internal Revenue, the United States

1 Treasurer, or other governmental agency or department, which  
2 said resident will, or is likely to have her or his rights to  
3 apply for and secure such refund or rebate barred by any  
4 statute of limitations or, in any event, has failed for a  
5 period of 1 year after said resident could have filed a claim  
6 for said refund or rebate, the Department of Financial  
7 Services ~~Banking and Finance~~ is hereby appointed agent of such  
8 resident to demand, file and apply for said refund or rebate,  
9 and is hereby appointed to do any act which a natural person  
10 could do to recover such ~~said~~ money, and it is hereby declared  
11 that when the department files such ~~said~~ application or any  
12 other proceeding to secure such ~~said~~ refund or rebate, its  
13 agency is coupled with an interest in the money sought and  
14 money recovered.

15 Section 834. Section 716.03, Florida Statutes, is  
16 amended to read:

17 716.03 Department to institute proceedings to recover  
18 escheated property.--When there exists, or may exist,  
19 escheated funds or property under this chapter, the Department  
20 of Financial Services ~~Banking and Finance~~ shall demand or  
21 institute proceedings in the name of the state for an  
22 adjudication that an escheat to the state of such funds or  
23 property has occurred; and shall take appropriate action to  
24 recover such funds or property.

25 Section 835. Section 716.04, Florida Statutes, is  
26 amended to read:

27 716.04 Jurisdiction.--Whenever the Department of  
28 Financial Services ~~Banking and Finance~~ is of the opinion an  
29 escheat has occurred, or shall occur, of any money or other  
30 property deposited in the custody of, or under the control of,  
31 any court of the United States, in and for any district within



1 the state, or in the custody of any depository, registry or  
2 clerk or other officer of such court, or the treasury of the  
3 United States, it shall cause to be filed a complaint in the  
4 Circuit Court of Leon County, or in any other court of  
5 competent jurisdiction, to ascertain if any escheat has  
6 occurred, and to cause said court to enter a judgment or  
7 decree of escheat in favor of the state, with costs,  
8 disbursements, and attorney fee.

9 Section 836. Section 716.05, Florida Statutes, is  
10 amended to read:

11 716.05 Money recovered to be paid into State  
12 Treasury.--When any funds or property which has escheated  
13 within the meaning of this chapter has been recovered by the  
14 Department of Financial Services ~~Banking and Finance~~, the  
15 department shall first pay all costs incident to the  
16 collection and recovery of such funds or property and shall  
17 promptly deposit the remaining balance of such funds or  
18 property with the Chief Financial Officer ~~Treasurer of the~~  
19 ~~state~~, to be distributed in accordance with law.

20 Section 837. Section 716.06, Florida Statutes, is  
21 amended to read:

22 716.06 Public records.--All records in the office of  
23 the Chief Financial Officer ~~State Treasurer~~ or the Department  
24 of Financial Services ~~Banking and Finance~~ relating to federal  
25 funds, pursuant to this chapter, shall be public records.

26 Section 838. Section 716.07, Florida Statutes, is  
27 amended to read:

28 716.07 Recovery of escheated property by claimant.--

29 (1) Any person who claims any property, funds, or  
30 money delivered to the ~~State Treasurer~~ or Chief Financial  
31 Officer under this chapter, shall, within 5 years from the

1 date of receipt of such ~~said~~ property, funds, or money, file a  
2 verified claim with the Chief Financial Officer State  
3 ~~Treasurer~~, setting forth the facts upon which such ~~said~~ party  
4 claims to be entitled to recover such ~~said~~ money or property.  
5 The Chief Financial Officer State Treasurer, within 5 days  
6 after receipt of such claim, shall submit the ~~said~~ verified  
7 claim or a verified copy thereof, to the Department of  
8 Financial Services Banking and Finance. All claims made for  
9 recovery of property, funds, or money, not filed within 5  
10 years from the date that such ~~said~~ property, funds, or money  
11 is received by the Chief Financial Officer State Treasurer,  
12 shall be forever barred, and the Chief Financial Officer  
13 ~~Treasurer of the state~~ shall be without power to consider or  
14 determine any claims so made by any claimant after 5 years  
15 from the date that the property, funds, or money was received  
16 by the Chief Financial Officer State Treasurer.

17 (2) The Chief Financial Officer Comptroller shall  
18 approve or disapprove the claim. If the claim is approved,  
19 the funds, money, or property of the claimant, less any  
20 expenses and costs which shall have been incurred by the state  
21 in securing the possession of said property, as provided by  
22 this chapter, shall be delivered to the claimant by the Chief  
23 Financial Officer State Treasurer upon warrant issued  
24 according to law and her or his receipt taken therefor. If  
25 the court finds, upon any judicial review, that the claimant  
26 is entitled to the property, money, or funds claimed, and  
27 shall render judgment in her or his or its favor, declaring  
28 that the claimant is entitled to such ~~said~~ property, funds, or  
29 money, then upon presentation of said judgment or a certified  
30 copy thereof to the Chief Financial Officer State Comptroller,  
31 the Chief Financial Officer ~~said Comptroller~~ shall draw her or

1 his warrant for the amount of money stated in such ~~said~~  
2 judgment, without interest or cost to the state, less any sum  
3 paid by the state as costs or expenses in securing possession  
4 of such ~~said~~ property, funds, or money. When payment has been  
5 made to any claimant, no action thereafter shall be maintained  
6 by any other claimant against the state or any officer  
7 thereof, for or on account of such ~~said~~ money, property, or  
8 funds.

9 Section 839. Subsection (6) of section 717.101,  
10 Florida Statutes, is amended to read:

11 717.101 Definitions.--As used in this chapter, unless  
12 the context otherwise requires:

13 (6) "Department" means the Department of Financial  
14 Services ~~Banking and Finance~~.

15 Section 840. Subsection (1) of section 717.135,  
16 Florida Statutes, is amended to read:

17 717.135 Agreement to locate reported property.--

18 (1) All agreements between an owner's representative  
19 and an owner for compensation to recover or assist in the  
20 recovery of property reported to the department under s.  
21 717.117 shall either:

22 (a) Limit the fees for services for each owner  
23 contract to \$25 for all contracts relating to unclaimed  
24 property with a dollar value below \$250. For all contracts  
25 relating to unclaimed property with a dollar value of \$250 and  
26 above, fees shall be limited to 15 percent on property held by  
27 the department for 24 months or less and 25 percent on  
28 property held by the department for more than 24 months. Fees  
29 for cash accounts shall be based on the value of the property  
30 at the time the agreement for recovery is signed by the  
31 apparent owner. Fees for accounts containing securities or

1 other intangible ownership interests, which securities or  
2 interests are not converted to cash, shall be based on the  
3 purchase price of the security as quoted on a national  
4 exchange or other market on which the ownership interest is  
5 regularly traded at the time the securities or other ownership  
6 interest is remitted to the owner or the owner's  
7 representative. Fees for tangible property or safe-deposit box  
8 accounts shall be based on the value of the tangible property  
9 or contents of the safe-deposit box at the time the ownership  
10 interest is transferred or remitted to the owner or the  
11 owner's representative; or

12 (b) Disclose that the property is held by the  
13 Department of Financial Services ~~Banking and Finance~~ pursuant  
14 to this chapter, the person or name of the entity that held  
15 the property prior to the property becoming unclaimed, the  
16 date of the holder's last contact with the owner, if known,  
17 and the approximate value of the property, and identify which  
18 of the following categories of unclaimed property the owner's  
19 representative is seeking to recover:

- 20 1. Cash accounts.
- 21 2. Stale dated checks.
- 22 3. Life insurance or annuity contract assets.
- 23 4. Utility deposits.
- 24 5. Securities or other interests in business  
25 associations.
- 26 6. Wages.
- 27 7. Accounts receivable.
- 28 8. Contents of safe-deposit boxes.

29  
30  
31

1 However, this section shall not apply to contracts made in  
2 connection with guardianship proceedings or the probate of an  
3 estate.

4 Section 841. Section 717.138, Florida Statutes, is  
5 amended to read:

6 717.138 Rulemaking authority.--The Department of  
7 Financial Services ~~Banking and Finance~~ shall administer and  
8 provide for the enforcement of this chapter. The department  
9 has authority to adopt rules pursuant to ss. 120.536(1) and  
10 120.54 to implement the provisions of this chapter. The  
11 department may adopt rules to allow for electronic filing of  
12 fees, forms, and reports required by this chapter.

13 Section 842. Paragraph (d) of subsection (1) of  
14 section 718.501, Florida Statutes, is amended to read:

15 718.501 Powers and duties of Division of Florida Land  
16 Sales, Condominiums, and Mobile Homes.--

17 (1) The Division of Florida Land Sales, Condominiums,  
18 and Mobile Homes of the Department of Business and  
19 Professional Regulation, referred to as the "division" in this  
20 part, in addition to other powers and duties prescribed by  
21 chapter 498, has the power to enforce and ensure compliance  
22 with the provisions of this chapter and rules promulgated  
23 pursuant hereto relating to the development, construction,  
24 sale, lease, ownership, operation, and management of  
25 residential condominium units. In performing its duties, the  
26 division has the following powers and duties:

27 (d) Notwithstanding any remedies available to unit  
28 owners and associations, if the division has reasonable cause  
29 to believe that a violation of any provision of this chapter  
30 or rule promulgated pursuant hereto has occurred, the division  
31 may institute enforcement proceedings in its own name against

1 any developer, association, officer, or member of the board of  
2 administration, or its assignees or agents, as follows:

3 1. The division may permit a person whose conduct or  
4 actions may be under investigation to waive formal proceedings  
5 and enter into a consent proceeding whereby orders, rules, or  
6 letters of censure or warning, whether formal or informal, may  
7 be entered against the person.

8 2. The division may issue an order requiring the  
9 developer, association, officer, or member of the board of  
10 administration, or its assignees or agents, to cease and  
11 desist from the unlawful practice and take such affirmative  
12 action as in the judgment of the division will carry out the  
13 purposes of this chapter. Such affirmative action may include,  
14 but is not limited to, an order requiring a developer to pay  
15 moneys determined to be owed to a condominium association.

16 3. The division may bring an action in circuit court  
17 on behalf of a class of unit owners, lessees, or purchasers  
18 for declaratory relief, injunctive relief, or restitution.

19 4. The division may impose a civil penalty against a  
20 developer or association, or its assignee or agent, for any  
21 violation of this chapter or a rule promulgated pursuant  
22 hereto. The division may impose a civil penalty individually  
23 against any officer or board member who willfully and  
24 knowingly violates a provision of this chapter, a rule adopted  
25 pursuant hereto, or a final order of the division. The term  
26 "willfully and knowingly" means that the division informed the  
27 officer or board member that his or her action or intended  
28 action violates this chapter, a rule adopted under this  
29 chapter, or a final order of the division and that the officer  
30 or board member refused to comply with the requirements of  
31 this chapter, a rule adopted under this chapter, or a final

1 order of the division. The division, prior to initiating  
2 formal agency action under chapter 120, shall afford the  
3 officer or board member an opportunity to voluntarily comply  
4 with this chapter, a rule adopted under this chapter, or a  
5 final order of the division. An officer or board member who  
6 complies within 10 days is not subject to a civil penalty. A  
7 penalty may be imposed on the basis of each day of continuing  
8 violation, but in no event shall the penalty for any offense  
9 exceed \$5,000. By January 1, 1998, the division shall adopt,  
10 by rule, penalty guidelines applicable to possible violations  
11 or to categories of violations of this chapter or rules  
12 adopted by the division. The guidelines must specify a  
13 meaningful range of civil penalties for each such violation of  
14 the statute and rules and must be based upon the harm caused  
15 by the violation, the repetition of the violation, and upon  
16 such other factors deemed relevant by the division. For  
17 example, the division may consider whether the violations were  
18 committed by a developer or owner-controlled association, the  
19 size of the association, and other factors. The guidelines  
20 must designate the possible mitigating or aggravating  
21 circumstances that justify a departure from the range of  
22 penalties provided by the rules. It is the legislative intent  
23 that minor violations be distinguished from those which  
24 endanger the health, safety, or welfare of the condominium  
25 residents or other persons and that such guidelines provide  
26 reasonable and meaningful notice to the public of likely  
27 penalties that may be imposed for proscribed conduct. This  
28 subsection does not limit the ability of the division to  
29 informally dispose of administrative actions or complaints by  
30 stipulation, agreed settlement, or consent order. All amounts  
31 collected shall be deposited with the Chief Financial Officer

1 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,  
2 Condominiums, and Mobile Homes Trust Fund. If a developer  
3 fails to pay the civil penalty, the division shall thereupon  
4 issue an order directing that such developer cease and desist  
5 from further operation until such time as the civil penalty is  
6 paid or may pursue enforcement of the penalty in a court of  
7 competent jurisdiction. If an association fails to pay the  
8 civil penalty, the division shall thereupon pursue enforcement  
9 in a court of competent jurisdiction, and the order imposing  
10 the civil penalty or the cease and desist order will not  
11 become effective until 20 days after the date of such order.  
12 Any action commenced by the division shall be brought in the  
13 county in which the division has its executive offices or in  
14 the county where the violation occurred.

15 Section 843. Paragraph (d) of subsection (1) of  
16 section 719.501, Florida Statutes, is amended to read:

17 719.501 Powers and duties of Division of Florida Land  
18 Sales, Condominiums, and Mobile Homes.--

19 (1) The Division of Florida Land Sales, Condominiums,  
20 and Mobile Homes of the Department of Business and  
21 Professional Regulation, referred to as the "division" in this  
22 part, in addition to other powers and duties prescribed by  
23 chapter 498, has the power to enforce and ensure compliance  
24 with the provisions of this chapter and rules promulgated  
25 pursuant hereto relating to the development, construction,  
26 sale, lease, ownership, operation, and management of  
27 residential cooperative units. In performing its duties, the  
28 division shall have the following powers and duties:

29 (d) Notwithstanding any remedies available to unit  
30 owners and associations, if the division has reasonable cause  
31 to believe that a violation of any provision of this chapter



1 or rule promulgated pursuant hereto has occurred, the division  
2 may institute enforcement proceedings in its own name against  
3 a developer, association, officer, or member of the board, or  
4 its assignees or agents, as follows:

5 1. The division may permit a person whose conduct or  
6 actions may be 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 developer, association, officer, or member of the board, or  
12 its assignees or agents, to cease and desist from the unlawful  
13 practice and take such affirmative action as in the judgment  
14 of the division will carry out the purposes of this chapter.  
15 Such affirmative action may include, but is not limited to, an  
16 order requiring a developer to pay moneys determined to be  
17 owed to a condominium association.

18 3. The division may bring an action in circuit court  
19 on behalf of a class of unit owners, lessees, or purchasers  
20 for declaratory relief, injunctive relief, or restitution.

21 4. The division may impose a civil penalty against a  
22 developer or association, or its assignees or agents, for any  
23 violation of this chapter or a rule promulgated pursuant  
24 hereto. The division may impose a civil penalty individually  
25 against any officer or board member who willfully and  
26 knowingly violates a provision of this chapter, a rule adopted  
27 pursuant to this chapter, or a final order of the division.  
28 The term "willfully and knowingly" means that the division  
29 informed the officer or board member that his or her action or  
30 intended action violates this chapter, a rule adopted under  
31 this chapter, or a final order of the division, and that the

1 officer or board member refused to comply with the  
2 requirements of this chapter, a rule adopted under this  
3 chapter, or a final order of the division. The division, prior  
4 to initiating formal agency action under chapter 120, shall  
5 afford the officer or board member an opportunity to  
6 voluntarily comply with this chapter, a rule adopted under  
7 this chapter, or a final order of the division. An officer or  
8 board member who complies within 10 days is not subject to a  
9 civil penalty. A penalty may be imposed on the basis of each  
10 day of continuing violation, but in no event shall the penalty  
11 for any offense exceed \$5,000. By January 1, 1998, the  
12 division shall adopt, by rule, penalty guidelines applicable  
13 to possible violations or to categories of violations of this  
14 chapter or rules adopted by the division. The guidelines must  
15 specify a meaningful range of civil penalties for each such  
16 violation of the statute and rules and must be based upon the  
17 harm caused by the violation, the repetition of the violation,  
18 and upon such other factors deemed relevant by the division.  
19 For example, the division may consider whether the violations  
20 were committed by a developer or owner-controlled association,  
21 the size of the association, and other factors. The guidelines  
22 must designate the possible mitigating or aggravating  
23 circumstances that justify a departure from the range of  
24 penalties provided by the rules. It is the legislative intent  
25 that minor violations be distinguished from those which  
26 endanger the health, safety, or welfare of the cooperative  
27 residents or other persons and that such guidelines provide  
28 reasonable and meaningful notice to the public of likely  
29 penalties that may be imposed for proscribed conduct. This  
30 subsection does not limit the ability of the division to  
31 informally dispose of administrative actions or complaints by

1 stipulation, agreed settlement, or consent order. All amounts  
2 collected shall be deposited with the Chief Financial Officer  
3 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,  
4 Condominiums, and Mobile Homes Trust Fund. If a developer  
5 fails to pay the civil penalty, the division shall thereupon  
6 issue an order directing that such developer cease and desist  
7 from further operation until such time as the civil penalty is  
8 paid or may pursue enforcement of the penalty in a court of  
9 competent jurisdiction. If an association fails to pay the  
10 civil penalty, the division shall thereupon pursue enforcement  
11 in a court of competent jurisdiction, and the order imposing  
12 the civil penalty or the cease and desist order shall not  
13 become effective until 20 days after the date of such order.  
14 Any action commenced by the division shall be brought in the  
15 county in which the division has its executive offices or in  
16 the county where the violation occurred.

17 Section 844. Subsection (3) of section 721.24, Florida  
18 Statutes, is amended to read:

19 721.24 Firesafety.--

20 (3) The Division of State Fire Marshal of the  
21 Department of Financial Services ~~Insurance~~ may prescribe  
22 uniform standards for firesafety equipment for timeshare units  
23 of timeshare plans for which the construction contracts were  
24 let before October 1, 1983. An entire building shall be  
25 equipped as outlined, except that the approved sprinkler  
26 system may be delayed by the Division of State Fire Marshal  
27 until October 1, 1991, on a schedule for complete compliance  
28 in accordance with rules adopted by the Division of State Fire  
29 Marshal, which schedule shall include a provision for a 1-year  
30 extension which may be granted not more than three times for  
31 any individual requesting an extension. The entire system

1 must be installed and operational by October 1, 1994. The  
2 Division of State Fire Marshal shall not grant an extension  
3 for the approved sprinkler system unless a written request for  
4 the extension and a construction work schedule is submitted.  
5 The Division of State Fire Marshal may grant an extension upon  
6 demonstration that compliance with this section by the date  
7 required would impose an extreme hardship and a  
8 disproportionate financial impact. Any establishment that has  
9 been granted an extension by the Division of State Fire  
10 Marshal shall post, in a conspicuous place on the premises, a  
11 public notice stating that the establishment has not yet  
12 installed the approved sprinkler system required by law.

13 Section 845. Paragraph (e) of subsection (5) of  
14 section 721.26, Florida Statutes, is amended to read:

15 721.26 Regulation by division.--The division has the  
16 power to enforce and ensure compliance with the provisions of  
17 this chapter, except for parts III and IV, using the powers  
18 provided in this chapter, as well as the powers prescribed in  
19 chapters 498, 718, and 719. In performing its duties, the  
20 division shall have the following powers and duties:

21 (5) Notwithstanding any remedies available to  
22 purchasers, if the division has reasonable cause to believe  
23 that a violation of this chapter, or of any division rule or  
24 order promulgated or issued pursuant to this chapter, has  
25 occurred, the division may institute enforcement proceedings  
26 in its own name against any regulated party, as such term is  
27 defined in this subsection:

28 (e)1. The division may impose a penalty against any  
29 regulated party for a violation of this chapter or any rule  
30 adopted thereunder. A penalty may be imposed on the basis of  
31 each day of continuing violation, but in no event may the

1 penalty for any offense exceed \$10,000. All accounts  
2 collected shall be deposited with the Chief Financial Officer  
3 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,  
4 Condominiums, and Mobile Homes Trust Fund.

5 2.a. If a regulated party fails to pay a penalty, the  
6 division shall thereupon issue an order directing that such  
7 regulated party cease and desist from further operation until  
8 such time as the penalty is paid; or the division may pursue  
9 enforcement of the penalty in a court of competent  
10 jurisdiction.

11 b. If an association or managing entity fails to pay a  
12 civil penalty, the division may pursue enforcement in a court  
13 of competent jurisdiction.

14 Section 846. Paragraph (e) of subsection (5) of  
15 section 723.006, Florida Statutes, is amended to read:

16 723.006 Powers and duties of division.--In performing  
17 its duties, the division has the following powers and duties:

18 (5) Notwithstanding any remedies available to mobile  
19 home owners, mobile home park owners, and homeowners'  
20 associations, if the division has reasonable cause to believe  
21 that a violation of any provision of this chapter or any rule  
22 promulgated pursuant hereto has occurred, the division may  
23 institute enforcement proceedings in its own name against a  
24 developer, mobile home park owner, or homeowners' association,  
25 or its assignee or agent, as follows:

26 (e)1. The division may impose a civil penalty against  
27 a mobile home park owner or homeowners' association, or its  
28 assignee or agent, for any violation of this chapter, a  
29 properly promulgated park rule or regulation, or a rule or  
30 regulation promulgated pursuant hereto. A penalty may be  
31 imposed on the basis of each separate violation and, if the

1 violation is a continuing one, for each day of continuing  
2 violation, but in no event may the penalty for each separate  
3 violation or for each day of continuing violation exceed  
4 \$5,000. All amounts collected shall be deposited with the  
5 Chief Financial Officer ~~Treasurer~~ to the credit of the  
6 Division of Florida Land Sales, Condominiums, and Mobile Homes  
7 Trust Fund.

8         2. If a violator fails to pay the civil penalty, the  
9 division shall thereupon issue an order directing that such  
10 violator cease and desist from further violation until such  
11 time as the civil penalty is paid or may pursue enforcement of  
12 the penalty in a court of competent jurisdiction. If a  
13 homeowners' association fails to pay the civil penalty, the  
14 division shall thereupon pursue enforcement in a court of  
15 competent jurisdiction, and the order imposing the civil  
16 penalty or the cease and desist order shall not become  
17 effective until 20 days after the date of such order. Any  
18 action commenced by the division shall be brought in the  
19 county in which the division has its executive offices or in  
20 which the violation occurred.

21         Section 847. Subsections (2) and (3) and paragraph (a)  
22 of subsection (5) of section 732.107, Florida Statutes, are  
23 amended to read:

24         732.107 Escheat.--

25         (2) Property that escheats shall be sold as provided  
26 in the Florida Probate Rules and the proceeds paid to the  
27 Chief Financial Officer ~~Treasurer~~ of the state and deposited  
28 in the State School Fund.

29         (3) At any time within 10 years after the payment to  
30 the Chief Financial Officer ~~Treasurer~~, a person claiming to be  
31 entitled to the proceeds may reopen the administration to

1 assert entitlement to the proceeds. If no claim is timely  
2 asserted, the state's rights to the proceeds shall become  
3 absolute.

4 (5)(a) If a person entitled to the proceeds assigns  
5 the rights to receive payment to an attorney,  
6 Florida-certified public accountant, or private investigative  
7 agency which is duly licensed to do business in this state  
8 pursuant to a written agreement with that person, the  
9 Department of Financial Services ~~Banking and Finance~~ is  
10 authorized to make distribution in accordance with the  
11 assignment.

12 Section 848. Subsections (1), (2), and (3) and  
13 paragraph (a) of subsection (5) of section 733.816, Florida  
14 Statutes, are amended to read:

15 733.816 Disposition of unclaimed property held by  
16 personal representatives.--

17 (1) In all cases in which there is unclaimed property  
18 in the hands of a personal representative that cannot be  
19 distributed or paid because of the inability to find the  
20 lawful owner or because no lawful owner is known or because  
21 the lawful owner refuses to accept the property after a  
22 reasonable attempt to distribute it and after notice to that  
23 lawful owner, the court shall order the personal  
24 representative to sell the property and deposit the proceeds  
25 and cash already in hand, after retaining those amounts  
26 provided for in subsection (4), with the clerk and receive a  
27 receipt, and the clerk shall deposit the funds in the registry  
28 of the court to be disposed of as follows:

29 (a) If the value of the funds is \$500 or less, the  
30 clerk shall post a notice for 30 days at the courthouse door  
31 giving the amount involved, the name of the personal

1 representative, and the other pertinent information that will  
2 put interested persons on notice.

3 (b) If the value of the funds is over \$500, the clerk  
4 shall publish the notice once a month for 2 consecutive months  
5 in a newspaper of general circulation in the county.

6  
7 After the expiration of 6 months from the posting or first  
8 publication, the clerk shall deposit the funds with the Chief  
9 Financial Officer ~~State Treasurer~~ after deducting the clerk's  
10 fees and the costs of publication.

11 (2) Upon receipt of the funds, the Chief Financial  
12 Officer ~~State Treasurer~~ shall deposit them to the credit of  
13 the State School Fund, to become a part of the school fund.  
14 All interest and all income that may accrue from the money  
15 while so deposited shall belong to the fund. The funds so  
16 deposited shall constitute and be a permanent appropriation  
17 for payments by the Chief Financial Officer ~~State Treasurer~~ in  
18 obedience to court orders entered as provided by subsection  
19 (3).

20 (3) Within 10 years from the date of deposit with the  
21 Chief Financial Officer ~~State Treasurer~~, on written petition  
22 to the court that directed the deposit of the funds and  
23 informal notice to the Department of Legal Affairs, and after  
24 proof of entitlement, any person entitled to the funds before  
25 or after payment to the Chief Financial Officer ~~State~~  
26 ~~Treasurer~~ and deposit as provided by subsection (1) may obtain  
27 a court order directing the payment of the funds to that  
28 person. All funds deposited with the Chief Financial Officer  
29 ~~State Treasurer~~ and not claimed within 10 years from the date  
30 of deposit shall escheat to the state for the benefit of the  
31 State School Fund.



1           (5)(a) If a person entitled to the funds assigns the  
2 right to receive payment or part payment to an attorney or  
3 private investigative agency which is duly licensed to do  
4 business in this state pursuant to a written agreement with  
5 that person, the Department of Financial Services ~~Banking and~~  
6 ~~Finance~~ is authorized to make distribution in accordance with  
7 the assignment.

8           Section 849. Paragraphs (a), (b), and (c) of  
9 subsection (2) of section 744.534, Florida Statutes, are  
10 amended to read:

11           744.534 Disposition of unclaimed funds held by  
12 guardian.--

13           (2)(a) In those cases in which it is appropriate for  
14 the guardianship to terminate pursuant to s. 744.521 and in  
15 which property in the hands of a guardian cannot be  
16 distributed to the ward or the ward's estate solely because  
17 the guardian is unable to locate the ward through diligent  
18 search, the court shall order the guardian of the property to  
19 sell the property of the ward and deposit the proceeds and  
20 cash already on hand after retaining those amounts provided  
21 for in paragraph (e) with the clerk of the court exercising  
22 jurisdiction over the guardianship and receive a receipt. The  
23 clerk shall deposit the funds in the registry of the court, to  
24 be disposed of as follows:

25           1. If the value of the funds is \$50 or less, the clerk  
26 shall post a notice for 30 days at the courthouse door giving  
27 the amount involved, the name of the ward, and other pertinent  
28 information that will put interested persons on notice.

29           2. If the value of the funds is over \$50, the clerk  
30 shall publish the notice once a month for 2 consecutive months  
31 in a newspaper of general circulation in the county.

1           3. After the expiration of 6 months from the posting  
2 or first publication, the clerk shall deposit the funds with  
3 the Chief Financial Officer ~~State Treasurer~~ after deducting  
4 his or her fees and the costs of publication.

5           (b) Upon receipt of the funds, the Chief Financial  
6 Officer ~~State Treasurer~~ shall deposit them to the credit of  
7 public guardianship. All interest and all income that may  
8 accrue from the money while so deposited shall belong to the  
9 fund. The funds so deposited shall constitute and be a  
10 permanent appropriation for payments by the Chief Financial  
11 Officer ~~State Treasurer~~ in obedience to court orders entered  
12 as provided by paragraph (c).

13           (c) Within 10 years from the date of deposit with the  
14 Chief Financial Officer ~~State Treasurer~~, on written petition  
15 to the court that directed the deposit of the funds and  
16 informal notice to the Department of Legal Affairs, and after  
17 proof of his or her right to them, any person entitled to the  
18 funds, before or after payment to the Chief Financial Officer  
19 ~~State Treasurer~~ and deposit as provided for in paragraph (a),  
20 may obtain a court order directing the payment of the funds to  
21 him or her. All funds deposited with the Chief Financial  
22 Officer ~~State Treasurer~~ and not claimed within 10 years from  
23 the date of deposit shall escheat to the state for the benefit  
24 of public guardianship.

25           Section 850. Paragraphs (b), (c), (d), and (e) of  
26 subsection (3) of section 766.105, Florida Statutes, are  
27 amended to read:

28           766.105 Florida Patient's Compensation Fund.--

29           (3) THE FUND.--

30           (b) Fund administration and operation.--

31

1           1. The fund shall operate subject to the supervision  
2 and approval of a board of governors consisting of a  
3 representative of the insurance industry appointed by the  
4 Chief Financial Officer ~~Insurance Commissioner~~, an attorney  
5 appointed by The Florida Bar, a representative of physicians  
6 appointed by the Florida Medical Association, a representative  
7 of physicians' insurance appointed by the Chief Financial  
8 Officer ~~Insurance Commissioner~~, a representative of  
9 physicians' self-insurance appointed by the Chief Financial  
10 Officer ~~Insurance Commissioner~~, two representatives of  
11 hospitals appointed by the Florida Hospital Association, a  
12 representative of hospital insurance appointed by the Chief  
13 Financial Officer ~~Insurance Commissioner~~, a representative of  
14 hospital self-insurance appointed by the Chief Financial  
15 Officer ~~Insurance Commissioner~~, a representative of the  
16 osteopathic physicians' or podiatric physicians' insurance or  
17 self-insurance appointed by the Chief Financial Officer  
18 ~~Insurance Commissioner~~, and a representative of the general  
19 public appointed by the Chief Financial Officer ~~Insurance~~  
20 ~~Commissioner~~. The board of governors shall, during the first  
21 meeting after June 30 of each year, choose one of its members  
22 to serve as chair of the board and another member to serve as  
23 vice chair of the board. The members of the board shall be  
24 appointed to serve terms of 4 years, except that the initial  
25 appointments of a representative of the general public by the  
26 Chief Financial Officer ~~Insurance Commissioner~~, an attorney by  
27 The Florida Bar, a representative of physicians by the Florida  
28 Medical Association, and one of the two representatives of the  
29 Florida Hospital Association shall be for terms of 3 years;  
30 thereafter, such representatives shall be appointed for terms  
31 of 4 years. Subsequent to initial appointments for 4-year

1 terms, the representative of the osteopathic physicians' or  
2 podiatric physicians' insurance or self-insurance appointed by  
3 the Chief Financial Officer ~~Insurance Commissioner~~ and the  
4 representative of hospital self-insurance appointed by the  
5 Chief Financial Officer ~~Insurance Commissioner~~ shall be  
6 appointed for 2-year terms; thereafter, such representatives  
7 shall be appointed for terms of 4 years. Each appointed member  
8 may designate in writing to the chair an alternate to act in  
9 the member's absence or incapacity. A member of the board, or  
10 the member's alternate, may be reimbursed from the assets of  
11 the fund for expenses incurred by him or her as a member, or  
12 alternate member, of the board and for committee work, but he  
13 or she may not otherwise be compensated by the fund for his or  
14 her service as a board member or alternate.

15           2. There shall be no liability on the part of, and no  
16 cause of action of any nature shall arise against, the fund or  
17 its agents or employees, professional advisers or consultants,  
18 members of the board of governors or their alternates, or the  
19 Department of Financial Services ~~Insurance~~ or its  
20 representatives for any action taken by them in the  
21 performance of their powers and duties pursuant to this  
22 section.

23           (c) Powers of the fund.--The fund has the power to:

24           1. Sue and be sued, and appear and defend, in all  
25 actions and proceedings in its name to the same extent as a  
26 natural person.

27           2. Adopt, change, amend, and repeal a plan of  
28 operation, not inconsistent with law, for the regulation and  
29 administration of the affairs of the fund. The plan and any  
30 changes thereto shall be filed with the Chief Financial  
31 Officer ~~Insurance Commissioner~~ and are all subject to his or

1 her approval before implementation by the fund. All fund  
2 members, board members, and employees shall comply with the  
3 plan of operation.

4 3. Have and exercise all powers necessary or  
5 convenient to effect any or all of the purposes for which the  
6 fund is created.

7 4. Enter into such contracts as are necessary or  
8 proper to carry out the provisions and purposes of this  
9 section.

10 5. Employ or retain such persons as are necessary to  
11 perform the administrative and financial transactions and  
12 responsibilities of the fund and to perform other necessary or  
13 proper functions unless prohibited by law.

14 6. Take such legal action as may be necessary to avoid  
15 payment of improper claims.

16 7. Indemnify any employee, agent, member of the board  
17 of governors or his or her alternate, or person acting on  
18 behalf of the fund in an official capacity, for expenses,  
19 including attorney's fees, judgments, fines, and amounts paid  
20 in settlement actually and reasonably incurred by him or her  
21 in connection with any action, suit, or proceeding, including  
22 any appeal thereof, arising out of his or her capacity in  
23 acting on behalf of the fund, if he or she acted in good faith  
24 and in a manner he or she reasonably believed to be in, or not  
25 opposed to, the best interests of the fund and, with respect  
26 to any criminal action or proceeding, he or she had reasonable  
27 cause to believe his or her conduct was lawful.

28 (d) Fees and assessments.--Each health care provider,  
29 as set forth in subsection (2), electing to comply with  
30 paragraph (2)(b) for a given fiscal year shall pay the fees  
31 and any assessments established under this section relative to

1 such fiscal year, for deposit into the fund. Those entering  
2 the fund after the fiscal year has begun shall pay a prorated  
3 share of the yearly fees for a prorated membership.  
4 Actuarially sound membership fees payable annually,  
5 semiannually, or quarterly with appropriate service charges  
6 shall be established by the fund before January 1 of each  
7 fiscal year, based on the following considerations:

- 8 1. Past and prospective loss and expense experience in  
9 different types of practice and in different geographical  
10 areas within the state;
- 11 2. The prior claims experience of the members covered  
12 under the fund; and
- 13 3. Risk factors for persons who are retired,  
14 semiretired, or part-time professionals.

15

16 Such fees shall be based on not more than three geographical  
17 areas, not necessarily contiguous, with five categories of  
18 practice and with categories which contemplate separate risk  
19 ratings for hospitals, for health maintenance organizations,  
20 for ambulatory surgical facilities, and for other medical  
21 facilities. The fund is authorized to adjust the fees of an  
22 individual member to reflect the claims experience of such  
23 member. Each fiscal year of the fund shall operate  
24 independently of preceding fiscal years. Participants shall  
25 only be liable for assessments for claims from years during  
26 which they were members of the fund; in cases in which a  
27 participant is a member of the fund for less than the total  
28 fiscal year, a member shall be subject to assessments for that  
29 year on a pro rata basis determined by the percentage of  
30 participation for the year. The fund shall submit to the  
31 Chief Financial Officer ~~Insurance Commissioner~~ the

1 classifications and membership fees to be charged, and the  
2 Chief Financial Officer ~~Insurance Commissioner~~ shall review  
3 such fees and shall approve them if they comply with all the  
4 requirements of this section and fairly reflect the  
5 considerations provided for in this section. If the  
6 classifications or membership fees do not comply with this  
7 section, the Chief Financial Officer ~~Insurance Commissioner~~  
8 shall set classifications or membership fees which do comply  
9 and which give due recognition to all considerations provided  
10 for in this section. Nothing contained herein shall be  
11 construed as imposing liability for payment of any part of a  
12 fund deficit on the Joint Underwriting Association authorized  
13 by s. 627.351(4) or its member insurers. If the fund  
14 determines that the amount of money in an account for a given  
15 fiscal year is in excess of or not sufficient to satisfy the  
16 claims made against the account, the fund shall certify the  
17 amount of the projected excess or insufficiency to the Chief  
18 Financial Officer ~~Insurance Commissioner~~ and request the Chief  
19 Financial Officer ~~Insurance Commissioner~~ to levy an assessment  
20 against or refund to all participants in the fund for that  
21 fiscal year, prorated, based on the number of days of  
22 participation during the year in question. The Chief Financial  
23 Officer ~~Insurance Commissioner~~ shall approve the request of  
24 the fund to refund to, or levy any assessment against, the  
25 participants, provided the refund or assessment fairly  
26 reflects the same considerations and classifications upon  
27 which the membership fees were based. The assessment shall be  
28 in an amount sufficient to satisfy reserve requirements for  
29 known claims, including expenses to satisfy the claims, made  
30 against the account for a given fiscal year. In any  
31 proceeding to challenge the amount of the refund or

1 assessment, it is to be presumed that the amount of refund or  
2 assessment requested by the fund is correct, if the fund  
3 demonstrates that it has used reasonable claims handling and  
4 reserving procedures. Additional assessments may be certified  
5 and levied in accordance with this paragraph as necessary for  
6 any fiscal year. If a fund member objects to his or her  
7 assessment, he or she shall, as a condition precedent to  
8 bringing legal action contesting the assessment, pay the  
9 assessment, under protest, to the fund. The fund may borrow  
10 money needed for current operations, if necessary to pay  
11 claims and related expenses, fees, and costs timely for a  
12 given fiscal year, from an account for another fiscal year  
13 until such time as sufficient funds have been obtained through  
14 the assessment process. Any such money, together with  
15 interest at the mean interest rate earned on the investment  
16 portfolio of the fund, shall be repaid from the next  
17 assessment for the given fiscal year. If any assessments are  
18 levied in accordance with this subsection as a result of  
19 claims in excess of \$500,000 per occurrence, and such  
20 assessments are a result of the liability of certain  
21 individuals and entities specified in paragraph (2)(e), only  
22 hospitals shall be subject to such assessments. Before  
23 approving the request of the fund to charge membership fees,  
24 issue refunds, or levy assessments, the Chief Financial  
25 Officer ~~Insurance Commissioner~~ shall publish notice of the  
26 request in the Florida Administrative Weekly. Pursuant to  
27 chapter 120, any party substantially affected may request an  
28 appropriate proceeding. Any petition for such a proceeding  
29 shall be filed with the Department of Financial Services  
30 ~~Insurance~~ within 21 days after the date of publication of the  
31 notice in the Florida Administrative Weekly.



- 1 (e) Fund accounting and audit.--
- 2 1. Money shall be withdrawn from the fund only upon a
- 3 voucher as authorized by the board of governors.
- 4 2. All books, records, and audits of the fund shall be
- 5 open for reasonable inspection to the general public, except
- 6 that a claim file in possession of the fund, fund members, and
- 7 their insurers is confidential and exempt from the provisions
- 8 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
- 9 until termination of litigation or settlement of the claim,
- 10 although medical records and other portions of the claim file
- 11 may remain confidential and exempt as otherwise provided by
- 12 law. Any book, record, document, audit, or asset acquired by,
- 13 prepared for, or paid for by the fund is subject to the
- 14 authority of the board of governors, which shall be
- 15 responsible therefor.
- 16 3. Persons authorized to receive deposits, issue
- 17 vouchers, or withdraw or otherwise disburse any fund moneys
- 18 shall post a blanket fidelity bond in an amount reasonably
- 19 sufficient to protect fund assets. The cost of such bond shall
- 20 be paid from the fund.
- 21 4. Annually, the fund shall furnish, upon request,
- 22 audited financial reports to any fund participant and to the
- 23 Department of Financial Services ~~Insurance~~ and the Joint
- 24 Legislative Auditing Committee. The reports shall be prepared
- 25 in accordance with accepted accounting procedures and shall
- 26 include income and such other information as may be required
- 27 by the Department of Financial Services ~~Insurance~~ or the Joint
- 28 Legislative Auditing Committee.
- 29 5. Any money held in the fund shall be invested in
- 30 interest-bearing investments by the board of governors of the
- 31 fund as administrator. However, in no case may any such money

1 be invested in the stock of any insurer participating in the  
2 Joint Underwriting Association authorized by s. 627.351(4) or  
3 in the parent company of, or company owning a controlling  
4 interest in, such insurer. All income derived from such  
5 investments shall be credited to the fund.

6           6. Any health care provider participating in the fund  
7 may withdraw from such participation only at the end of a  
8 fiscal year; however, such health care provider shall remain  
9 subject to any assessment or any refund pertaining to any year  
10 in which such member participated in the fund.

11           Section 851. Subsection (7) of section 766.1115,  
12 Florida Statutes, is amended to read:

13           766.1115 Health care providers; creation of agency  
14 relationship with governmental contractors.--

15           (7) RISK MANAGEMENT REPORT.--The Division of Risk  
16 Management of the Department of Financial Services ~~Insurance~~  
17 shall annually compile a report of all claims statistics for  
18 all entities participating in the risk management program  
19 administered by the division, which shall include the number  
20 and total of all claims pending and paid, and defense and  
21 handling costs associated with all claims brought against  
22 contract providers under this section. This report shall be  
23 forwarded to the department and included in the annual report  
24 submitted to the Legislature pursuant to this section.

25           Section 852. Paragraph (c) of subsection (2),  
26 subsection (5), paragraph (a) of subsection (6), subsection  
27 (7), and paragraph (c) of subsection (9) of section 766.314,  
28 Florida Statutes, are amended to read:

29           766.314 Assessments; plan of operation.--

30           (2) The assessments and appropriations dedicated to  
31 the plan shall be administered by the Florida Birth-Related

1 Neurological Injury Compensation Association established in s.  
2 766.315, in accordance with the following requirements:  
3 (c) Amendments to the plan of operation may be made by  
4 the directors of the plan, subject to the approval of the  
5 Department of Financial Services Insurance.  
6 (5)(a) Beginning January 1, 1990, the persons and  
7 entities listed in paragraphs (4)(b) and (c), except those  
8 persons or entities who are specifically excluded from said  
9 provisions, as of the date determined in accordance with the  
10 plan of operation, taking into account persons licensed  
11 subsequent to the payment of the initial assessment, shall pay  
12 an annual assessment in the amount equal to the initial  
13 assessments provided in paragraphs (4)(b) and (c). On ~~January~~  
14 ~~1, 1991, and on~~ each January 1 ~~thereafter~~, the association  
15 shall determine the amount of additional assessments necessary  
16 pursuant to subsection (7), in the manner required by the plan  
17 of operation, subject to any increase determined to be  
18 necessary by the Department of Financial Services Insurance  
19 pursuant to paragraph (7)(b). On July 1, 1991, and on each  
20 July 1 thereafter, the persons and entities listed in  
21 paragraphs (4)(b) and (c), except those persons or entities  
22 who are specifically excluded from said provisions, shall pay  
23 the additional assessments which were determined on January 1.  
24 Beginning January 1, 1990, the entities listed in paragraph  
25 (4)(a), including those licensed on or after October 1, 1988,  
26 shall pay an annual assessment of \$50 per infant delivered  
27 during the prior calendar year. The additional assessments  
28 which were determined on January 1, 1991, pursuant to the  
29 provisions of subsection (7) shall not be due and payable by  
30 the entities listed in paragraph (4)(a) until July 1.  
31

1 (b) If the assessments collected pursuant to  
2 subsection (4) and the appropriation of funds provided by s.  
3 76, chapter 88-1, Laws of Florida, as amended by s. 41,  
4 chapter 88-277, Laws of Florida, to the plan from the  
5 Insurance ~~Commissioner's~~ Regulatory Trust Fund are  
6 insufficient to maintain the plan on an actuarially sound  
7 basis, there is hereby appropriated for transfer to the  
8 association from the Insurance ~~Commissioner's~~ Regulatory Trust  
9 Fund an additional amount of up to \$20 million.

10 (c)1. Taking into account the assessments collected  
11 pursuant to subsection (4) and appropriations from the  
12 Insurance ~~Commissioner's~~ Regulatory Trust Fund, if required to  
13 maintain the plan on an actuarially sound basis, the  
14 Department of Financial Services Insurance shall require each  
15 entity licensed to issue casualty insurance as defined in s.  
16 624.605(1)(b), (k), and (q) to pay into the association an  
17 annual assessment in an amount determined by the department  
18 pursuant to paragraph (7)(a), in the manner required by the  
19 plan of operation.

20 2. All annual assessments shall be made on the basis  
21 of net direct premiums written for the business activity which  
22 forms the basis for each such entity's inclusion as a funding  
23 source for the plan in the state during the prior year ending  
24 December 31, as reported to the Department of Financial  
25 Services Insurance, and shall be in the proportion that the  
26 net direct premiums written by each carrier on account of the  
27 business activity forming the basis for its inclusion in the  
28 plan bears to the aggregate net direct premiums for all such  
29 business activity written in this state by all such entities.

30  
31

1           3. No entity listed in this paragraph shall be  
2 individually liable for an annual assessment in excess of 0.25  
3 percent of that entity's net direct premiums written.

4           4. Casualty insurance carriers shall be entitled to  
5 recover their initial and annual assessments through a  
6 surcharge on future policies, a rate increase applicable  
7 prospectively, or a combination of the two.

8           (6)(a) The association shall make all assessments  
9 required by this section, except initial assessments of  
10 physicians licensed on or after October 1, 1988, which  
11 assessments will be made by the Department of Business and  
12 Professional Regulation, and except assessments of casualty  
13 insurers pursuant to subparagraph (5)(c)1., which assessments  
14 will be made by the Department of Financial Services  
15 ~~Insurance~~. Beginning October 1, 1989, for any physician  
16 licensed between October 1 and December 31 of any year, the  
17 Department of Business and Professional Regulation shall make  
18 the initial assessment plus the assessment for the following  
19 calendar year. The Department of Business and Professional  
20 Regulation shall provide the association, with such frequency  
21 as determined to be necessary, a listing, in a  
22 computer-readable form, of the names and addresses of all  
23 physicians licensed under chapter 458 or chapter 459.

24           (7)(a) The Department of Insurance shall undertake an  
25 actuarial investigation of the requirements of the plan based  
26 on the plan's experience in the first year of operation and  
27 any additional relevant information, including without  
28 limitation the assets and liabilities of the plan. Pursuant to  
29 such investigation, the Department of Insurance shall  
30 establish the rate of contribution of the entities listed in  
31 paragraph (5)(c) for the tax year beginning January 1, 1990.

1 Following the initial valuation, the Department of Financial  
2 Services Insurance shall cause an actuarial valuation to be  
3 made of the assets and liabilities of the plan no less  
4 frequently than biennially. Pursuant to the results of such  
5 valuations, the Department of Financial Services Insurance  
6 shall prepare a statement as to the contribution rate  
7 applicable to the entities listed in paragraph (5)(c).  
8 However, at no time shall the rate be greater than 0.25  
9 percent of net direct premiums written.

10 (b) If the Department of Financial Services Insurance  
11 finds that the plan cannot be maintained on an actuarially  
12 sound basis based on the assessments and appropriations listed  
13 in subsections (4) and (5), the department shall increase the  
14 assessments specified in subsection (4) on a proportional  
15 basis as needed.

16 (9)

17 (c) In the event the total of all current estimates  
18 equals 80 percent of the funds on hand and the funds that will  
19 become available to the association within the next 12 months  
20 from all sources described in subsections (4) and (5) and  
21 paragraph (7)(a), the association shall not accept any new  
22 claims without express authority from the Legislature. Nothing  
23 herein shall preclude the association from accepting any claim  
24 if the injury occurred 18 months or more prior to the  
25 effective date of this suspension. Within 30 days of the  
26 effective date of this suspension, the association shall  
27 notify the Governor, the Speaker of the House of  
28 Representatives, the President of the Senate, the Department  
29 of Financial Services Insurance, the Agency for Health Care  
30 Administration, the Department of Health, and the Department  
31 of Business and Professional Regulation of this suspension.

1           Section 853. Paragraph (c) of subsection (1),  
2 subsection (2), and paragraph (d) of subsection (5) of section  
3 766.315, Florida Statutes, are amended to read:

4           766.315 Florida Birth-Related Neurological Injury  
5 Compensation Association; board of directors.--

6           (1)

7           (c) The directors shall be appointed by the Chief  
8 Financial Officer ~~Insurance Commissioner~~ as follows:

- 9           1. One citizen representative.
- 10          2. One representative of participating physicians.
- 11          3. One representative of hospitals.
- 12          4. One representative of casualty insurers.
- 13          5. One representative of physicians other than  
14 participating physicians.

15          (2)(a) The Chief Financial Officer ~~Insurance~~  
16 ~~Commissioner~~ may select the representative of the  
17 participating physicians from a list of at least three names  
18 to be recommended by the Florida Obstetric and Gynecologic  
19 Society; the representative of hospitals from a list of at  
20 least three names to be recommended by the Florida Hospital  
21 Association; the representative of casualty insurers from a  
22 list of at least three names, one of which is recommended by  
23 the American Insurance Association, one by the Alliance of  
24 American Insurers, and one by the National Association of  
25 Independent Insurers; and the representative of physicians  
26 other than participating physicians from a list of three names  
27 to be recommended by the Florida Medical Association and a  
28 list of three names to be recommended by the Florida  
29 Osteopathic Medical Association. In no case shall the Chief  
30 Financial Officer ~~Insurance Commissioner~~ be bound to make any  
31

1 appointment from among the nominees of such respective  
2 associations.

3 (b) The Chief Financial Officer ~~Insurance Commissioner~~  
4 shall promptly notify the appropriate medical association upon  
5 the occurrence of any vacancy, and like nominations may be  
6 made for the filling of the vacancy.

7 (5)

8 (d) Annually, the association shall furnish audited  
9 financial reports to any plan participant upon request, to the  
10 Department of Financial Services ~~Insurance~~, and to the Joint  
11 Legislative Auditing Committee. The reports must be prepared  
12 in accordance with accepted accounting procedures and must  
13 include such information as may be required by the Department  
14 of Financial Services ~~Insurance~~ or the Joint Legislative  
15 Auditing Committee. At any time determined to be necessary,  
16 the Department of Financial Services ~~Insurance~~ or the Joint  
17 Legislative Auditing Committee may conduct an audit of the  
18 plan.

19 Section 854. Subsection (3), paragraphs (a) and (d) of  
20 subsection (6), and subsection (7) of section 768.28, Florida  
21 Statutes, are amended to read:

22 768.28 Waiver of sovereign immunity in tort actions;  
23 recovery limits; limitation on attorney fees; statute of  
24 limitations; exclusions; indemnification; risk management  
25 programs.--

26 (3) Except for a municipality and the Spaceport  
27 Florida Authority, the affected agency or subdivision may, at  
28 its discretion, request the assistance of the Department of  
29 Financial Services ~~Insurance~~ in the consideration, adjustment,  
30 and settlement of any claim under this act.

31



1           (6)(a) An action may not be instituted on a claim  
2 against the state or one of its agencies or subdivisions  
3 unless the claimant presents the claim in writing to the  
4 appropriate agency, and also, except as to any claim against a  
5 municipality or the Spaceport Florida Authority, presents such  
6 claim in writing to the Department of Financial Services  
7 ~~insurance~~, within 3 years after such claim accrues and the  
8 Department of Financial Services ~~insurance~~ or the appropriate  
9 agency denies the claim in writing; except that, if such claim  
10 is for contribution pursuant to s. 768.31, it must be so  
11 presented within 6 months after the judgment against the  
12 tortfeasor seeking contribution has become final by lapse of  
13 time for appeal or after appellate review or, if there is no  
14 such judgment, within 6 months after the tortfeasor seeking  
15 contribution has either discharged the common liability by  
16 payment or agreed, while the action is pending against her or  
17 him, to discharge the common liability.

18           (d) For purposes of this section, complete, accurate,  
19 and timely compliance with the requirements of paragraph (c)  
20 shall occur prior to settlement payment, close of discovery or  
21 commencement of trial, whichever is sooner; provided the  
22 ability to plead setoff is not precluded by the delay. This  
23 setoff shall apply only against that part of the settlement or  
24 judgment payable to the claimant, minus claimant's reasonable  
25 attorney's fees and costs. Incomplete or inaccurate  
26 disclosure of unpaid adjudicated claims due the state, its  
27 agency, officer, or subdivision, may be excused by the court  
28 upon a showing by the preponderance of the evidence of the  
29 claimant's lack of knowledge of an adjudicated claim and  
30 reasonable inquiry by, or on behalf of, the claimant to obtain  
31 the information from public records. Unless the appropriate

1 agency had actual notice of the information required to be  
2 disclosed by paragraph (c) in time to assert a setoff, an  
3 unexcused failure to disclose shall, upon hearing and order of  
4 court, cause the claimant to be liable for double the original  
5 undisclosed judgment and, upon further motion, the court shall  
6 enter judgment for the agency in that amount. The failure of  
7 the Department of Financial Services Insurance or the  
8 appropriate agency to make final disposition of a claim within  
9 6 months after it is filed shall be deemed a final denial of  
10 the claim for purposes of this section. For purposes of this  
11 subsection, in medical malpractice actions, the failure of the  
12 Department of Financial Services Insurance or the appropriate  
13 agency to make final disposition of a claim within 90 days  
14 after it is filed shall be deemed a final denial of the claim.  
15 The provisions of this subsection do not apply to such claims  
16 as may be asserted by counterclaim pursuant to s. 768.14.

17 (7) In actions brought pursuant to this section,  
18 process shall be served upon the head of the agency concerned  
19 and also, except as to a defendant municipality or the  
20 Spaceport Florida Authority, upon the Department of Financial  
21 Services Insurance; and the department or the agency concerned  
22 shall have 30 days within which to plead thereto.

23 Section 855. Subsection (5) of section 790.001,  
24 Florida Statutes, is amended to read:

25 790.001 Definitions.--As used in this chapter, except  
26 where the context otherwise requires:

27 (5) "Explosive" means any chemical compound or mixture  
28 that has the property of yielding readily to combustion or  
29 oxidation upon application of heat, flame, or shock, including  
30 but not limited to dynamite, nitroglycerin, trinitrotoluene,  
31 or ammonium nitrate when combined with other ingredients to

1 form an explosive mixture, blasting caps, and detonators; but  
2 not including:  
3 (a) Shotgun shells, cartridges, or ammunition for  
4 firearms;  
5 (b) Fireworks as defined in s. 791.01;  
6 (c) Smokeless propellant powder or small arms  
7 ammunition primers, if possessed, purchased, sold,  
8 transported, or used in compliance with s. 552.241;  
9 (d) Black powder in quantities not to exceed that  
10 authorized by chapter 552, or by any rules adopted ~~or~~  
11 ~~regulations promulgated~~ thereunder by the Department of  
12 Financial Services Insurance, when used for, or intended to be  
13 used for, the manufacture of target and sporting ammunition or  
14 for use in muzzle-loading flint or percussion weapons.  
15  
16 The exclusions contained in paragraphs (a)-(d) do not apply to  
17 the term "explosive" as used in the definition of "firearm" in  
18 subsection (6).  
19 Section 856. Section 790.1612, Florida Statutes, is  
20 amended to read:  
21 790.1612 Authorization for governmental manufacture,  
22 possession, and use of destructive devices.--The governing  
23 body of any municipality or county and the Division of State  
24 Fire Marshal of the Department of Financial Services Insurance  
25 have the power to authorize the manufacture, possession, and  
26 use of destructive devices as defined in s. 790.001(4).  
27 Section 857. Subsection (2) of section 791.01, Florida  
28 Statutes, is amended to read:  
29 791.01 Definitions.--As used in this chapter, the  
30 term:  
31

1           (2) "Division" means the Division of the State Fire  
2 Marshal of the Department of Financial Services ~~Insurance~~.

3           Section 858. Paragraph (b) of subsection (3) of  
4 section 791.015, Florida Statutes, is amended to read:

5           791.015 Registration of manufacturers, distributors,  
6 wholesalers, and retailers of sparklers.--

7           (3) FEES.--

8           (b) Revenue from registration fee payments shall be  
9 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust  
10 Fund for the purposes of implementing the registration and  
11 testing provisions of this chapter.

12           Section 859. Section 817.16, Florida Statutes, is  
13 amended to read:

14           817.16 False reports, etc., by officers of banks,  
15 trust companies, etc., ~~under supervision of Department of~~  
16 ~~Banking and Finance~~ with intent to defraud.--Any officer,  
17 director, agent or clerk of any bank, trust company, building  
18 and loan association, small loan licensee, credit union, or  
19 other similar corporation under the supervision of the  
20 Department of Financial Services or formerly the Department of  
21 Banking and Finance, who willfully and knowingly subscribes or  
22 exhibits any false paper with intent to deceive any person  
23 authorized to examine as to the records of such bank, trust  
24 company, building and loan association, small loan licensee,  
25 credit union, or other corporation under the supervision of  
26 the Department of Financial Services or formerly the  
27 Department of Banking and Finance, or willfully and knowingly  
28 subscribes to or makes any false reports to the Department of  
29 Financial Services or subscribed to or made any such false  
30 report to the Department of Banking and Finance or causes to  
31 be published any false report, shall be guilty of a felony of

1 the third degree, punishable as provided s. 775.082 or s.  
2 775.083.

3 Section 860. Paragraph (b) of subsection (1) and  
4 subsection (10) of section 817.234, Florida Statutes, are  
5 amended to read:

6 817.234 False and fraudulent insurance claims.--

7 (1)

8 (b) All claims and application forms shall contain a  
9 statement that is approved by the Department of Financial  
10 Services which ~~insurance that~~ clearly states in substance the  
11 following: "Any person who knowingly and with intent to  
12 injure, defraud, or deceive any insurer files a statement of  
13 claim or an application containing any false, incomplete, or  
14 misleading information is guilty of a felony of the third  
15 degree." This paragraph shall not apply to reinsurance  
16 contracts, reinsurance agreements, or reinsurance claims  
17 transactions.

18 (10) As used in this section, the term "insurer" means  
19 any insurer, health maintenance organization, self-insurer,  
20 self-insurance fund, or other similar entity or person  
21 regulated under chapter 440 or chapter 641 or by the  
22 Department of Financial Services ~~insurance~~ under the Florida  
23 Insurance Code.

24 Section 861. Section 839.06, Florida Statutes, is  
25 amended to read:

26 839.06 Collectors not to deal in warrants, etc.;  
27 removal.--No tax collector of any county shall, either  
28 directly or indirectly, purchase or receive in exchange any  
29 Chief Financial Officer's ~~Comptroller's~~ warrants, county  
30 orders, jurors' certificates or school district orders for a  
31 less amount than expressed on the face of such orders or

1 demand, and any such person so offending shall, for each  
2 offense, be deemed guilty of a misdemeanor of the first  
3 degree, punishable as provided in s. 775.083, and be removed  
4 from office.

5 Section 862. Paragraph (d) of subsection (5) and  
6 paragraph (c) of subsection (13) of section 849.086, Florida  
7 Statutes, are amended to read:

8 849.086 Cardrooms authorized.--

9 (5) LICENSE REQUIRED; APPLICATION; FEES.--No person  
10 may operate a cardroom in this state unless such person holds  
11 a valid cardroom license issued pursuant to this section.

12 (d) The annual cardroom license fee shall be \$1,000  
13 for the first table and \$500 for each additional table to be  
14 operated at the cardroom. This license fee shall be deposited  
15 by the division with the Chief Financial Officer ~~Treasurer~~ to  
16 the credit of the Pari-mutuel Wagering Trust Fund.

17 (13) TAXES AND OTHER PAYMENTS.--

18 (c) Payment of the admission tax and gross receipts  
19 tax imposed by this section shall be paid to the division. The  
20 division shall deposit these sums with the Chief Financial  
21 Officer ~~Treasurer~~, one-half being credited to the Pari-mutuel  
22 Wagering Trust Fund and one-half being credited to the General  
23 Revenue Fund. The cardroom licensee shall remit to the  
24 division payment for the admission tax, the gross receipts  
25 tax, and the licensee fees. Such payments shall be remitted  
26 to the division on the fifth day of each calendar month for  
27 taxes and fees imposed for the preceding month's cardroom  
28 activities. Licensees shall file a report under oath by the  
29 fifth day of each calendar month for all taxes remitted during  
30 the preceding calendar month. Such report shall, under oath,  
31 indicate the total of all admissions, the cardroom activities

1 for the preceding calendar month, and such other information  
2 as may be prescribed by the division.

3 Section 863. Section 849.33, Florida Statutes, is  
4 amended to read:

5 849.33 Judgment and collection of money;  
6 execution.--Any judgment recovered in such a suit shall  
7 adjudge separately the amounts recovered for the use of the  
8 state, and the plaintiff shall not have execution therefor,  
9 and such amounts shall not be paid to the plaintiff, but shall  
10 be payable to the state attorney, who shall promptly transmit  
11 the sums collected by him or her to the Chief Financial  
12 Officer ~~State Treasurer~~. The state attorney shall diligently  
13 seek the collection of such amounts and may cause a separate  
14 execution to issue for the collection thereof.

15 Section 864. Subsection (1) of section 860.154,  
16 Florida Statutes, is amended to read:

17 860.154 Florida Motor Vehicle Theft Prevention  
18 Authority.--

19 (1) There is ~~hereby~~ established within the Department  
20 of Legal Affairs the Florida Motor Vehicle Theft Prevention  
21 Authority, which shall exercise its powers, duties, and  
22 responsibilities independently of the department. The  
23 purposes, powers, and duties of the authority shall be vested  
24 in and exercised by a board of directors. There shall be nine  
25 members of the board, consisting of the Chief Financial  
26 Officer ~~commissioner of the Department of Insurance~~ or his or  
27 her ~~the commissioner's~~ designee; the executive director of the  
28 Department of Highway Safety and Motor Vehicles; the executive  
29 director of the Department of Law Enforcement; six additional  
30 members, each of whom shall be appointed by the Attorney  
31 General: a state attorney or city or county executive, a chief

1 executive law enforcement official, a sheriff, one  
2 representative of companies authorized to sell motor vehicle  
3 insurance, one representative of insurers authorized to write  
4 motor vehicle insurance in this state, and one representative  
5 of purchasers of motor vehicle insurance in this state who is  
6 not employed by or connected with the business of insurance.

7 Section 865. Subsection (7) of section 860.157,  
8 Florida Statutes, is amended to read:

9 860.157 Powers and duties of the authority.--The  
10 authority shall have the following powers, duties, and  
11 responsibilities:

12 (7) To report annually, on or before January 1, to the  
13 Governor, Attorney General, Chief Financial Officer ~~Insurance~~  
14 ~~Commissioner~~, President of the Senate, Speaker of the House of  
15 Representatives, Minority Leader of the House of  
16 Representatives, Minority Leader of the Senate, and  
17 appropriate committee chairs in the House of Representatives  
18 and the Senate, and, upon request, to members of the general  
19 public on the authority's activities in the preceding year.

20 Section 866. Subsections (1) and (2) of section  
21 896.102, Florida Statutes, are amended to read:

22 896.102 Currency more than \$10,000 received in trade  
23 or business; report required; noncompliance penalties.--

24 (1) All persons engaged in a trade or business, except  
25 for those financial institutions that report to the Chief  
26 Financial Officer ~~Comptroller~~ pursuant to s. 655.50, who  
27 receive more than \$10,000 in currency, including foreign  
28 currency, in one transaction, or who receive this amount  
29 through two or more related transactions, must complete and  
30 file with the Department of Revenue the information required  
31 pursuant to 26 U.S.C. s. 6050I., concerning returns relating



1 to currency received in trade or business. Any person who  
2 willfully fails to comply with the reporting requirements of  
3 this subsection is guilty of a misdemeanor of the first  
4 degree, punishable as provided in s. 775.082, or by a fine not  
5 exceeding \$250,000 or twice the value of the amount of the  
6 currency transaction involved, whichever is greater, or by  
7 both such imprisonment and fine. For a second or subsequent  
8 conviction of a violation of the provisions of this  
9 subsection, the maximum fine that may be imposed is \$500,000  
10 or quintuple the value of the amount of the currency  
11 transaction involved, whichever is greater.

12 (2) The Department of Revenue shall enforce compliance  
13 with the provisions of subsection (1) and is to be the  
14 custodian of all information and documents filed pursuant to  
15 subsection (1). Such information and documents are  
16 confidential and exempt from the provisions of s. 119.07(1)  
17 and s. 24(a), Art. I of the State Constitution; however, the  
18 department must provide any report filed under this section,  
19 or information contained therein, to federal, state, and local  
20 law enforcement and prosecutorial agencies and to the  
21 Department of Financial Services ~~Banking and Finance~~, and the  
22 information is subject to disclosure pursuant to subpoena as  
23 provided in s. 213.053(8).

24 Section 867. Section 903.101, Florida Statutes, is  
25 amended to read:

26 903.101 Sureties; licensed persons; to have equal  
27 access.--Subject to rules adopted ~~regulations promulgated~~ by  
28 the Department of Financial Services ~~Insurance~~, every surety  
29 who meets the requirements of ss. 903.05, 903.06, 903.08, and  
30 903.09, and every person who is currently licensed by the  
31 Department of Financial Services ~~Insurance~~ and registered as

1 required by s. 648.42 shall have equal access to the jails of  
2 this state for the purpose of making bonds.

3 Section 868. Subsection (1) of section 903.27, Florida  
4 Statutes, is amended to read:

5 903.27 Forfeiture to judgment.--

6 (1) If the forfeiture is not paid or discharged by  
7 order of a court of competent jurisdiction within 60 days and  
8 the bond is secured other than by money and bonds authorized  
9 in s. 903.16, the clerk of the circuit court for the county  
10 where the order was made shall enter a judgment against the  
11 surety for the amount of the penalty and issue execution.  
12 Within 10 days, the clerk shall furnish the Department of  
13 Financial Services ~~Insurance~~ with a certified copy of the  
14 judgment docket and shall furnish the surety company at its  
15 home office a copy of the judgment, which shall include the  
16 power of attorney number of the bond and the name of the  
17 executing agent. If the judgment is not paid within 35 days,  
18 the clerk shall furnish the Department of Financial Services  
19 ~~Insurance~~ and the sheriff of the county in which the bond was  
20 executed, or the official responsible for operation of the  
21 county jail, if other than the sheriff, two copies of the  
22 judgment and a certificate stating that the judgment remains  
23 unsatisfied. When and if the judgment is properly paid or an  
24 order to vacate the judgment has been entered by a court of  
25 competent jurisdiction, the clerk shall immediately notify the  
26 sheriff, or the official responsible for the operation of the  
27 county jail, if other than the sheriff, and the Department of  
28 Financial Services ~~Insurance~~, if the department had been  
29 previously notified of nonpayment, of such payment or order to  
30 vacate the judgment. The clerk shall also immediately prepare  
31 and record in the public records a satisfaction of the

1 judgment or record the order to vacate judgment. If the  
2 defendant is returned to the county of jurisdiction of the  
3 court, whenever a motion to set aside the judgment is filed,  
4 the operation of this section is tolled until the court makes  
5 a disposition of the motion.

6 Section 869. Paragraphs (a) and (b) of subsection (5)  
7 of section 925.037, Florida Statutes, are amended to read:

8 925.037 Reimbursement of counties for fees paid to  
9 appointed counsel; circuit conflict committees.--

10 (5)(a) The clerk of the circuit court in each county  
11 shall submit to the Justice Administrative Commission a  
12 statement of conflict counsel fees at least annually. Such  
13 statement shall identify total expenditures incurred by the  
14 county on fees of counsel appointed by the court pursuant to  
15 this section where such fees are taxed against the county by  
16 judgment of the court. On the basis of such statement of  
17 expenditures, the Justice Administrative Commission shall pay  
18 state conflict case appropriations to the county. The  
19 statement of conflict counsel fees shall be on a form  
20 prescribed by the Justice Administrative Commission in  
21 consultation with the Legislative Committee on  
22 Intergovernmental Relations and the Chief Financial Officer  
23 ~~Comptroller~~. Such form also shall provide for the separate  
24 reporting of total expenditures made by the county on attorney  
25 fees in cases in which other counsel were appointed by the  
26 court where the public defender was unable to accept the case  
27 as a result of a stated lack of resources. To facilitate such  
28 expenditure identification and reporting, the public defender,  
29 within 7 days of the appointment of such counsel by the court,  
30 shall report to the clerk of circuit court case-related  
31 information sufficient to permit the clerk to identify

1 separately county expenditures on fees of such counsel. No  
2 county shall be required to submit any additional information  
3 to the commission on an annual or other basis in order to  
4 document or otherwise verify the expenditure information  
5 provided on the statement of conflict counsel fees form,  
6 except as provided in paragraph (c).

7 (b) Before September 30 of each year, the clerk of the  
8 circuit court in each county shall submit to the Justice  
9 Administrative Commission a report of conflict counsel  
10 expenses and costs for the previous local government fiscal  
11 year. Such report shall identify expenditures incurred by the  
12 county on expenses and costs of counsel appointed by the court  
13 pursuant to this section where such expenses and costs are  
14 taxed against the county by judgment of the court. Such report  
15 of expenditures shall be on a form prescribed by the  
16 commission in consultation with the Legislative Committee on  
17 Intergovernmental Relations and the Chief Financial Officer  
18 ~~Comptroller~~, provided that such form shall at a minimum  
19 separately identify total county expenditures for witness fees  
20 and expenses, court reporter fees and costs, and defense  
21 counsel travel and per diem. Such form also shall provide for  
22 the separate reporting of total county expenditures on  
23 attorney expenses and costs in cases in which other counsel  
24 were appointed by the court where the public defender was  
25 unable to accept the case as a result of a stated lack of  
26 resources. To facilitate such expenditure identification and  
27 reporting, the public defender, within 7 days of the  
28 appointment of such counsel by the court, shall report to the  
29 clerk of the circuit court case-related information sufficient  
30 to permit the clerk to identify separately county expenditures  
31 on expenses and costs of such counsel. No county shall be

1 required to submit any additional information to the Justice  
2 Administrative Commission on an annual or other basis in order  
3 to document or otherwise verify the expenditure information  
4 provided on the report of conflict counsel expenses and costs  
5 form, except as provided in paragraph (c).

6 Section 870. Paragraph (b) of subsection (8) of  
7 section 932.7055, Florida Statutes, is amended to read:

8 932.7055 Disposition of liens and forfeited  
9 property.--

10 (8)

11 (b) The Department of Law Enforcement shall submit an  
12 annual report to the criminal justice committees of the House  
13 of Representatives and of the Senate compiling the information  
14 and data related in the semiannual reports submitted by the  
15 law enforcement agencies. The annual report shall also  
16 contain a list of law enforcement agencies which have failed  
17 to meet the reporting requirements and a summary of any action  
18 which has been taken against the noncomplying agency by the  
19 Office of the Chief Financial Officer ~~Comptroller~~.

20 Section 871. Section 932.707, Florida Statutes, is  
21 amended to read:

22 932.707 Penalty for noncompliance with reporting  
23 requirements.--Any seizing agency which fails to comply with  
24 the reporting requirements as described in s. 932.7055(8)(a),  
25 is subject to a civil fine of \$5,000 payable to the General  
26 Revenue Fund. However, such agency will not be subject to the  
27 fine if, within 60 days of receipt of written notification  
28 from the Department of Law Enforcement of the noncompliance  
29 with the reporting requirements of the Florida Contraband  
30 Forfeiture Act, the agency substantially complies with said  
31 requirements. The Department of Law Enforcement shall submit

1 any substantial noncompliance to the Office of the Chief  
2 Financial Officer ~~Comptroller~~, which shall be responsible for  
3 the enforcement of this section.

4 Section 872. Subsection (1) of section 938.27, Florida  
5 Statutes, is amended to read:

6 938.27 Judgment for costs on conviction.--

7 (1) In all criminal cases the costs of prosecution,  
8 including investigative costs incurred by law enforcement  
9 agencies, by fire departments for arson investigations, and by  
10 investigations of the Division of Financial Investigations of  
11 the Department of Financial Services ~~Banking and Finance~~, if  
12 requested and documented by such agencies, shall be included  
13 and entered in the judgment rendered against the convicted  
14 person.

15 Section 873. Section 939.13, Florida Statutes, is  
16 amended to read:

17 939.13 Power of Chief Financial Officer

18 ~~Comptroller~~.--The Chief Financial Officer ~~Comptroller~~ may  
19 audit and approve or disapprove any claim or any item thereof  
20 against the state for costs, fees or expenses of criminal  
21 cases prosecuted in the name of the state, and for which the  
22 state is liable, if the Chief Financial Officer ~~Comptroller~~ is  
23 satisfied that the same is legal, just, necessary and correct  
24 or otherwise, and may prescribe forms and methods for the  
25 same. The Chief Financial Officer ~~Comptroller~~ shall not  
26 dispense with any of the requirements of law relative to the  
27 auditing and payment of such accounts, but may prescribe  
28 additional requirements.

29 Section 874. Paragraph (h) of subsection (1) of  
30 section 943.031, Florida Statutes, is amended to read:

31

1           943.031 Florida Violent Crime and Drug Control  
2 Council.--The Legislature finds that there is a need to  
3 develop and implement a statewide strategy to address violent  
4 criminal activity and drug control efforts by state and local  
5 law enforcement agencies, including investigations of illicit  
6 money laundering. In recognition of this need, the Florida  
7 Violent Crime and Drug Control Council is created within the  
8 department. The council shall serve in an advisory capacity to  
9 the department.

10           (1) MEMBERSHIP.--The council shall consist of 14  
11 members, as follows:

12           (h) The Chief Financial Officer ~~Comptroller~~, or a  
13 designate.

14  
15 The Governor, when making appointments under this subsection,  
16 must take into consideration representation by geography,  
17 population, ethnicity, and other relevant factors to ensure  
18 that the membership of the council is representative of the  
19 state at large. Designates appearing on behalf of a council  
20 member who is unable to attend a meeting of the council are  
21 empowered to vote on issues before the council to the same  
22 extent the designating council member is so empowered.

23           Section 875. Subsection (2) of section 943.032,  
24 Florida Statutes, is amended to read:

25           943.032 Financial Crime Analysis Center and Financial  
26 Transaction Database.--

27           (2) The department shall compile information and data  
28 available from financial transaction reports required to be  
29 submitted by state or federal law that are provided to the  
30 Department of Financial Services ~~Banking and Finance~~, to the  
31 Department of Revenue, or to which the department otherwise

1 has access. Information and data so received shall be utilized  
2 by the department in the Financial Transaction Database. The  
3 department shall implement a system utilizing the database  
4 that allows data review and processing to reveal patterns,  
5 trends, and correlations that are indicative of money  
6 laundering or other financial transactions indicative of  
7 criminal activity. The department shall, in consultation with  
8 the Department of Financial Services ~~Banking and Finance~~ and  
9 the Department of Revenue, establish the methods and  
10 parameters by which information and data received by the  
11 Department of Financial Services ~~Banking and Finance~~ or the  
12 Department of Revenue are transferred to the department for  
13 inclusion in the database. Information developed in or  
14 through the use of the database shall be made available to law  
15 enforcement agencies and prosecutors in this state in a manner  
16 defined by the department and as allowed by state or federal  
17 law or regulation. All information contained in the database  
18 shall be considered "active criminal intelligence" or "active  
19 criminal investigative information" as defined in s. 119.011.

20 Section 876. Subsections (3) and (4) of section  
21 944.516, Florida Statutes, are amended to read:

22 944.516 Money or other property received for personal  
23 use or benefit of inmate; deposit; disposition of unclaimed  
24 trust funds.--The Department of Corrections shall protect the  
25 financial interest of the state with respect to claims which  
26 the state may have against inmates in state institutions under  
27 its supervision and control and shall administer money and  
28 other property received for the personal benefit of such  
29 inmates. In carrying out the provisions of this section, the  
30 department may delegate any of its enumerated powers and  
31 duties affecting inmates of an institution to the warden or



1 regional director who shall personally, or through designated  
2 employees of his or her personal staff under his or her direct  
3 supervision, exercise such powers or perform such duties.

4 (3) Moneys received by the department in payment of  
5 claims of the state against inmates shall be transmitted to  
6 the Chief Financial Officer ~~Treasurer~~ for deposit into the  
7 General Revenue Fund.

8 (4) Upon the death of any inmate in an institution  
9 affected by the provisions of this section, any unclaimed  
10 money held for the inmate in trust by the department or by the  
11 Chief Financial Officer ~~Treasurer~~ shall be applied first to  
12 the payment of any unpaid state claim against the inmate, and  
13 any balance remaining unclaimed for a period of 1 year shall  
14 escheat to the state as unclaimed funds held by fiduciaries.

15 Section 877. Section 946.33, Florida Statutes, is  
16 amended to read:

17 946.33 Disbursements from fund.--The funds in the  
18 Correctional Work Program Trust Fund shall be deposited in the  
19 State Treasury and paid out only on warrants drawn by the  
20 Chief Financial Officer ~~Comptroller~~, duly approved by the  
21 Department of Corrections. The department shall maintain all  
22 necessary records and accounts relative to such funds.

23 Section 878. Subsection (2) of section 946.509,  
24 Florida Statutes, is amended to read:

25 946.509 Insurance of property leased or acquired by  
26 the corporation.--

27 (2) Coverage under the State Risk Management Trust  
28 Fund of property leased to or otherwise acquired by the  
29 corporation shall be secured and maintained through the  
30 existing policy and account of the Department of Corrections  
31 with the Division of Risk Management of the Department of

1 Financial Services Insurance. All matters, including premium  
2 calculations, assessments and payments, retrospective premium  
3 adjustments, reporting requirements, and other requirements,  
4 concerning coverage of such property under the State Risk  
5 Management Trust Fund shall be conducted as if all such  
6 property were owned solely by the department. Except as  
7 required by chapter 284, if the corporation finds that it is  
8 more economical to do so, the corporation may secure private  
9 insurance coverage on all or a portion of the activities of or  
10 properties used by the corporation. If coverage through the  
11 State Risk Management Trust Fund is not secured, the  
12 corporation must present documentation of insurance coverage  
13 to the Division of Risk Management equal to the coverage that  
14 could otherwise be provided by the State Risk Management Trust  
15 Fund.

16 Section 879. Section 946.510, Florida Statutes, is  
17 amended to read:

18 946.510 Insurance by Division of Risk  
19 Management.--Pursuant to the applicable provisions of chapter  
20 284, the Division of Risk Management of the Department of  
21 Financial Services Insurance is authorized to insure the  
22 corporation under the same general terms and conditions as the  
23 Department of Corrections was insured by the division prior to  
24 the corporation leasing the correctional work programs as  
25 authorized by this chapter.

26 Section 880. Section 946.517, Florida Statutes, is  
27 amended to read:

28 946.517 Corporation records.--Corporation records are  
29 public records; however, proprietary confidential business  
30 information shall be confidential and exempt from the  
31 provisions of s. 119.07(1) and s. 24(a), Art. I of the State

1 Constitution. However, the Legislature, the Chief Financial  
2 Officer ~~Comptroller~~, and the Governor, pursuant to their  
3 oversight and auditing functions, shall have access to all  
4 proprietary confidential business information upon request and  
5 without subpoena and shall retain the confidentiality of  
6 information so received. "Proprietary confidential business  
7 information" means information regardless of form or  
8 characteristics, that is owned or controlled by the  
9 corporation; is intended to be and is treated by the  
10 corporation as private and the disclosure of the information  
11 would cause harm to the corporation's business operations; has  
12 not been disclosed unless disclosed pursuant to a statutory  
13 provision, an order of a court or administrative body, a  
14 legislative proceeding pursuant to s. 5, Art. III of the State  
15 Constitution, or a private agreement that provides that the  
16 information may be released to the public; and, which is  
17 information regarding:

18 (1) Internal auditing controls and reports of internal  
19 auditors.

20 (2) Matters reasonably encompassed in privileged  
21 attorney-client communications.

22 (3) Security measures, systems, or procedures.

23 (4) Information concerning bids or other contractual  
24 data, banking records, and credit agreements, the disclosure  
25 of which would impair the efforts of the corporation to  
26 contract for goods or services on favorable terms.

27 (5) Information relating to private contractual data,  
28 the disclosure of which would impair the competitive interest  
29 of the provider of the information.

30  
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1           (6) Corporate officer, employee personnel, or inmate  
2 worker information unrelated to compensation, duties,  
3 qualifications, or responsibilities.

4           Section 881. Subsections (1) and (2) of section  
5 946.522, Florida Statutes, are amended to read:

6           946.522 Prison Industries Trust Fund.--

7           (1) The Prison Industries Trust Fund is created, to be  
8 administered by the Department of Financial Services ~~Banking~~  
9 ~~and Finance~~. The trust fund shall consist of moneys authorized  
10 to be deducted pursuant to 18 U.S.C. s. 1761(c) and the  
11 applicable federal guidelines, to be appropriated by the  
12 Legislature, and moneys deposited by the corporation  
13 authorized under this part to manage and operate correctional  
14 work programs. The appropriated funds shall be used by the  
15 corporation for purposes of construction or renovation of its  
16 facilities or for the expansion or establishment of  
17 correctional work programs as described in this part or for  
18 prison industries enhancement (PIE) programs as authorized  
19 under s. 946.523.

20           (2) The funds must be deposited in the State Treasury  
21 and may be paid out only on warrants drawn by the Chief  
22 Financial Officer ~~Comptroller~~ upon receipt of a corporate  
23 resolution that has been duly authorized by the board of  
24 directors of the corporation authorized under this part to  
25 manage and operate correctional work programs. The corporation  
26 shall maintain all necessary records and accounts relative to  
27 such funds.

28           Section 882. Paragraph (f) of subsection (3) of  
29 section 946.525, Florida Statutes, is amended to read:

30           946.525 Participation by the corporation in the state  
31 group health insurance and prescription drug programs.--

1           (3) If the Department of Management Services  
2 determines that the corporation is eligible to enroll, the  
3 corporation must agree to the following terms and conditions:

4           (f) If the corporation fails to make the payments  
5 required by this section to fully reimburse the state, the  
6 Department of Revenue or the Department of Financial Services  
7 ~~Banking and Finance~~ shall, upon the request of the Department  
8 of Management Services, deduct the amount owed by the employer  
9 from any funds to be distributed by it to the corporation. The  
10 amounts so deducted shall be transferred to the Department of  
11 Management Services for further distribution to the trust  
12 funds in accordance with this chapter.

13           Section 883. Subsection (1) of section 947.12, Florida  
14 Statutes, is amended to read:

15           947.12 Members, employees, expenses.--

16           (1) The members of the commission and its employees  
17 shall be reimbursed for travel expenses as provided in s.  
18 112.061. All bills for expenses shall be properly receipted,  
19 audited, and approved and forwarded to the Chief Financial  
20 Officer ~~Comptroller~~ and shall be paid in a manner and form as  
21 the bills for the expenses of the several departments of the  
22 state government are paid. All expenses, including salaries  
23 and other compensation, shall be paid from the General Revenue  
24 Fund and within the appropriation as fixed therefor by the  
25 Legislature. Such expenses shall be paid by the Chief  
26 Financial Officer ~~Treasurer~~ upon proper warrants ~~issued by the~~  
27 ~~Comptroller of the state~~, drawn upon vouchers and requisitions  
28 approved by the commission, ~~and signed by the Comptroller.~~

29           Section 884. Subsection (8) of section 950.002,  
30 Florida Statutes, is amended to read:

31           950.002 County work camps.--

1           (8) Pursuant to the applicable provisions of chapter  
2 284, the Division of Risk Management of the Department of  
3 Financial Services Insurance is authorized to insure any  
4 county work camp facility established pursuant to this act  
5 under the same general terms and conditions as the Department  
6 of Corrections is insured by the division for any of its  
7 comparable work camps.

8           Section 885. Paragraph (b) of subsection (1) of  
9 section 957.04, Florida Statutes, is amended to read:

10           957.04 Contract requirements.--

11           (1) A contract entered into under this chapter for the  
12 operation of private correctional facilities shall maximize  
13 the cost savings of such facilities and shall:

14           (b) Indemnify the state and the department, including  
15 their officials and agents, against any and all liability,  
16 including, but not limited to, civil rights liability. Proof  
17 of satisfactory insurance is required in an amount to be  
18 determined by the commission, following consultation with the  
19 Division of Risk Management of the Department of Financial  
20 Services Insurance. Not less than 30 days prior to the  
21 release of each request for proposals by the commission, the  
22 commission shall request the written recommendation of the  
23 division regarding indemnification of the state and the  
24 department under this paragraph. Within 15 days after such  
25 request, the division shall provide a written recommendation  
26 to the commission regarding the amount and manner of such  
27 indemnification. The commission shall adopt the division's  
28 recommendation unless, based on substantial competent  
29 evidence, the commission determines a different amount and  
30 manner of indemnification is sufficient.

31

1           Section 886. Paragraph (a) of subsection (6) and  
2 subsection (8) of section 985.406, Florida Statutes, are  
3 amended to read:

4           985.406 Juvenile justice training academies  
5 established; Juvenile Justice Standards and Training  
6 Commission created; Juvenile Justice Training Trust Fund  
7 created.--

8           (6) SCHOLARSHIPS AND STIPENDS.--

9           (a) By rule, the commission shall establish criteria  
10 to award scholarships or stipends to qualified juvenile  
11 justice personnel who are residents of the state who want to  
12 pursue a bachelor's or associate in arts degree in juvenile  
13 justice or a related field. The department shall handle the  
14 administration of the scholarship or stipend. The Department  
15 of Education shall handle the notes issued for the payment of  
16 the scholarships or stipends. All scholarship and stipend  
17 awards shall be paid from the Juvenile Justice Training Trust  
18 Fund upon vouchers approved by the Department of Education and  
19 properly certified by the Chief Financial Officer ~~Comptroller~~.  
20 Prior to the award of a scholarship or stipend, the juvenile  
21 justice employee must agree in writing to practice her or his  
22 profession in juvenile justice or a related field for 1 month  
23 for each month of grant or to repay the full amount of the  
24 scholarship or stipend together with interest at the rate of 5  
25 percent per annum over a period not to exceed 10 years.  
26 Repayment shall be made payable to the state for deposit into  
27 the Juvenile Justice Training Trust Fund.

28           (8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE  
29 RISK MANAGEMENT TRUST FUND.--Pursuant to s. 284.30, the  
30 Division of Risk Management of the Department of Financial  
31 Services ~~Insurance~~ is authorized to insure a private agency,

1 individual, or corporation operating a state-owned training  
2 school under a contract to carry out the purposes and  
3 responsibilities of any program of the department. The  
4 coverage authorized herein shall be under the same general  
5 terms and conditions as the department is insured for its  
6 responsibilities under chapter 284.

7 Section 887. Section 985.409, Florida Statutes, is  
8 amended to read:

9 985.409 Participation of certain programs in the State  
10 Risk Management Trust Fund.--Pursuant to s. 284.30, the  
11 Division of Risk Management of the Department of Financial  
12 Services Insurance is authorized to insure a private agency,  
13 individual, or corporation operating a state-owned training  
14 school under a contract to carry out the purposes and  
15 responsibilities of any program of the department. The  
16 coverage authorized herein shall be under the same general  
17 terms and conditions as the department is insured for its  
18 responsibilities under chapter 284.

19 Section 888. Sections 18.03, 18.07, 18.09, 18.091,  
20 18.22, and 657.067, Florida Statutes, are repealed.

21 Section 889. Except as otherwise expressly provided in  
22 this act, this act shall take effect January 7, 2003.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bills 662 and 232

4 The committee substitute provides the following changes:

- 5 1. The membership of the board of directors for the Florida  
6 Hurricane Catastrophe Fund Finance Corporation is  
7 revised by substituting the Attorney General (or  
8 designee) for the Director of Insurer Services of the  
9 Department of Financial Services in recognition of the  
10 fact that the Attorney General will become a member of  
11 the State Board of Administration (with the Governor and  
12 Chief Financial Officer).
- 13 2. Numerous provisions relating to the public deposit  
14 program are revised. The current practice of paying  
15 interest on public deposits on a semiannual, rather than  
16 a quarterly, basis is codified. The term, "Division of  
17 Treasury," is substituted for the term, "Chief Financial  
18 Officer," in various sections to clarify the division's  
19 responsibilities. The bill also clarifies that the  
20 definition of the term, "public depositor," as used in  
21 chapter 280, F.S., means the official custodian of funds  
22 for a governmental unit who is responsible for handling  
23 public deposits.
- 24 3. Technical and conforming changes are made to implement  
25 the transfer of programs and functions of the  
26 departments, the elimination of the Comptroller and  
27 Treasurer positions, and the creation of the Chief  
28 Financial Officer position.
- 29 4. The bill clarifies that any agency contract in effect on  
30 the bill's effective date would remain in effect for the  
31 successor agency.